DOES CYPRUS NEED A TRUTH AND RECONCILIATION COMMISSION?

Erol Kaymak

Abstract

One of the unexplored questions in Cyprus relates to the means of reconciliation, prior to or in conjunction with a political settlement to the Cyprus problem. Now that bodies of the missing persons in Cyprus are finally being exhumed and identified through DNA testing, it is reasonable to ask whether there is a need to consider the establishment of bodies authorised to seek both truth and reconciliation.

The short answer is 'no'. The Reconciliation Commission that was envisaged in the failed Annan Plan would serve the end of reconciliation better than a full blown truth and reconciliation commission. The paper explores the matter and potential problems, offering some suggestions for a more fruitful future Reconciliation Commission that goes beyond the confines of the original mandate (as described in the Annan Plan) to write an official historical text to embrace the wider challenge of contributing to the construction and maintenance of a viable society and polity. Further, now that a settlement on the island is less imminent given the rejection of the Annan Plan, there is also a need to consider pursuing reconciliation independent of a comprehensive settlement.

Introduction

Although there are many victims of inter (and intra) ethnic violence, including individuals missing since the events of 1974, official and public demand for 'truth' regarding the fate of such persons has been limited. Partly as a result, the UN blueprint to reunite Cyprus in time for European Union accession, the Annan Plan, bifurcated the function of ascertaining 'truth' regarding the fate of the missing, on the one hand, and reconciliation, on the other. Given the failure of the Annan Plan it is now possible to reflect on alternatives. Moreover, now that bodies of the missing persons are finally being exhumed, identified through DNA testing, and returned to families it is reasonable to ask whether there is a need to consider the establishment of bodies authorised to seek both truth and reconciliation. In other words, does Cyprus need a Truth and Reconciliation Commission a la South Africa?

Indeed, is there a need for 'truth' in Cyprus regarding past acts? Would this aid in the process of reconciliation in Cyprus, whether prior to or as part of a political settlement? The question is more relevant today given the failure of the UN to reunite Cyprus in time for EU accession in 2004. The UN blueprint known as the Annan Plan that failed in 2004 had envisioned the establishment of a Reconciliation Commission, but did not have the authority to ascertain facts regarding victims of inter and intra-ethnic violence. Ultimately the bias of the Annan Plan was in favour of intercommunal reconciliation in lieu of restitutive justice that may be possible for individuals through an accounting of past acts.

Our primary reference to this question is the South African experience, where in the aftermath of the apartheid regime a Truth and Reconciliation Commission (TRC) was established through the Promotion of National Unity and Reconciliation Act signed by President Nelson Mandela in May 1995. Its mandate was to foster reconciliation through the dissemination of 'truth', be it factual or emotional in nature, culminating in a five volume Final Report including recommendations for reparations to victims. The TRC offered amnesty to individuals providing full disclosure of all relevant facts, thus immunity from prosecution in South African civil or criminal courts. In this way, the TRC created a linkage between amnesty granting and truth telling.

In Cyprus, by contrast, the Annan Plan, a UN blueprint to reunite Cyprus in time for EU accession, provided for a more limited institution. The envisioned Reconciliation Commission (RC) was to be mandated with the promotion of "understanding, tolerance and mutual respect between Greek Cypriots and Turkish Cypriots".[1] In particular the RC would have worked on a "report regarding the history of the Cyprus problem as experienced and interpreted by Greek Cypriots and Turkish Cypriots".[2] Based on the report specific recommendations would be made to both federal and constituent government authorities to incorporate new guidelines for school textbooks on history.

In short, in the case of the United Cyprus Republic there would not have been any subpoenas of alleged criminals with respect to their role in inter or intra-ethnic human right violations and other activities. The Annan Plan made clear that "[t]he Commission shall have no prosecutorial or other criminal legal function or powers".[3]

Truth regarding the fate of the approximately 2000 'missing' persons in Cyprus would have been ascertained independent of the RC,[4] through the Committee on Missing Persons in Cyprus, whereby work would be conducted through constituent state authorities.[5] The powers of the RC would be rather limited to "requesting" participation of individuals under oath. To a great extent, expediency dictates the dual nature of ascertaining facts, especially those that pertain to the fate of the

missing persons, on the one hand, and the building of societal trust and reconciliation, on the other. Whereas the political impasse continues, efforts to locate suspected sites of burial of victims of inter (as well as intra) communal murder have been continuing for many years. In fact, since the failed referenda of 2004, the Committee for Missing Persons has been more active in locating and determining identities of missing persons.

Limits on the Reconciliation Commission's envisioned agenda did not preclude, however, the examination of acts by authorities – either of the internationally recognised government of the Republic of Cyprus or the unrecognised 'Turkish Republic of Northern Cyprus' – deemed "inconsistent with or repugnant to any other provision of [the Annan Plan] or international law".[6] However, liability was circumscribed and liability or compensation claims would have to be dealt with by the constituent state from which the claimant hails. Generally, though, the plan suggested a blanket exoneration of individuals who may have or will be alleged to have partaken in criminal activity.

As is widely known, the Cyprus problem remains unresolved, as the Annan Plan was rejected by a significant majority of the Greek-Cypriot community.[7] As a result the Republic of Cyprus acceded to the European Union as a divided state. Whereas the European Union would have preferred a united island upon accession, the suboptimal outcome was accommodated through Protocol 10 to the Accession Treaty, which stipulates that the acquis communautaire of the European Union remains suspended north of the Green Line pending a political settlement (or, short of this, parts thereof may be implemented with the unanimous consent of EU members in the interim).

As the Annan Plan was a package the United Cyprus Republic and its particular elements were also rejected in the referendum. In this way the Reconciliation Commission was also shelved. However, the fundamental need for reconciliation in Cyprus remains, and to that end the proposed Reconciliation Commission and its attributes still deserve consideration as a model.

An analysis of the proposed Reconciliation Commission reveals that the intent was to deal with a societal or inter-communal need for reconciliation rather than individual needs for truth on the fate of the missing or for restitutive (as opposed to retributive) justice. The question that the communities in Cyprus are faced with is whether there is an ultimate need to go further than this and approximate, presumably, the South African model, if not retributive justice models.

My short answer to this complex and – in some ways – vexing problem is 'no'. The specific circumstances of South Africa (and other countries where similar

approaches have been employed) differ from that of Cyprus in several ways. In this paper I will examine those peculiar circumstances and argue that RC as was envisioned in the Annan Plan was probably more appropriate to reconciliation in Cyprus. At the same time, I will point out some potential weaknesses of the Annan Plan RC that might have been addressed through a more robust TRC type commission.

The Case for TRC

It bears noting that TRC itself is a compromise method of dealing with human rights violations which may otherwise be dealt with through ad hoc or permanent war crimes tribunals. It is, in fact, one of various possible models to be employed in post-conflict societies. Whether through criminal trials or historical commissions, the general thrust behind all forms of 'truth-telling' and 'truth-seeking' methods are various assumptions regarding the role of 'truth' in ensuring or consolidating subsequent peace in previously war-torn societies. Formal truth-telling mechanisms are considered to be crucial in discrediting chauvinist 'myth-making' that apparently contributes to civil strife. Researchers associated with numerous organisations, including the International Institute for Democracy and Electoral Assistance (IDEA)[8] and the Centre for Strategic and International Studies (CSIS),[9] consider truth-telling to be an important pillar of post-conflict peacebuilding.

As a form of post-conflict justice, TRC shies away from trials and purges (i.e. retributive justice), instead favouring truth-commissions and reparations to victims, and amnesties in return for 'truth' confessions (i.e. non-retributive or restorative justice). As a matter of policy, the question is whether TRC, as opposed to more retributive models, is of greater utility in consolidating peace than alternatives.

In the case of South Africa the price for peace – that is ending what was in essence a civil war – was to provide an avenue for amnesty to agents of the outgoing apartheid regime. By contrast, the wars in former Yugoslavia and elsewhere have culminated in the criminal prosecution of individuals indicted by war crimes tribunals, including, notably, Slobodan Milosevic. Indeed, one of the goals of the International Criminal Tribunal for the Former Yugoslavia (ICTY) was the uncovering of truth.

The victims of crimes in South Africa had to settle for an account of their suffering (not to mention reparations, of course) rather than retributive justice. Yet, truth in and of itself may be of significant value to the process of reconciliation. It is this very virtue of TRC that makes it an attractive alternative to war crimes tribunals and thus the evasive tactics of the accused.

The cynical proverb that what one does not know cannot hurt them is generally specious. There are no 'white lies' when it comes to atrocities and violations of human rights. The full disclosure of relevant facts reveals what had been shrouded in secrecy. It might be argued that the South African TRC had the benefit of encouraging perpetrators of crimes to come forward with details on their particular misdeeds, which in turn helped explode myths that are necessarily sustained through concealment.

Proponents of 'truth-telling' have touted the virtues of South African style TRC.[10] The benefits of 'truth-telling' are said to be therapeutic,[11] and in emphasising individual over collective guilt, promotion of social reconciliation.[12] Further, through the publication of an agreeable historical accounting of the past, truth-telling may delimit the acceptable public discourses that contribute to polarising 'myth-making',[13] among others.

In applying this to the case of Cyprus, it is conceivable, for instance, that greater light would be shed on the fate of the missing persons should the threat of litigation be used to coerce the revelation of such information.

The Case against TRC in Cyprus

The case for 'truth-telling' as a panacea to transitional, post-conflict societies, however, is debatable.[14] The empirical evidence supporting the utility of 'truth' may be limited and anecdotal.[15] This in turn raises the empirical question as to whether reconciliation actually requires 'truth'.

This paper cannot hope to contribute to this broader debate on the utility of 'truth-telling' more generally. However, the debate does relate to how 'truth' is interpreted in the case of Cyprus. The discussion below makes the case that TRC is probably inappropriate for Cyprus. Reconciliation, it is suggested, is not a process of objective fact revealing (i.e. truth-telling), but of social construction of identities, which is a form of myth-making in itself. Sometimes this entails a reinterpretation of history, as has been the case in post Franco Spain where the civil war came to be treated as a "tragedy", thus attribution for past acts was laid at the feet of a wider context of societal and international forces, as opposed to persons and groups.[16]

Facts do not speak for themselves. They are interpreted within a particular social context. Agents of social reproduction are mandated – officially or even through their own volition – with the task of creating and maintaining myths that sustain society. In the case of Cyprus, the official representations of the 'Cyprus problem' have no doubt contributed to the problem itself. In circumstances where political values are contested the 'truth' is quite subjective. Anyone familiar with

contemporary epistemological debate is aware that 'truth' and 'facts' are subject to contestation, especially in the social realm. The situation in Cyprus is such that the past is interpreted through distinct lenses, and the task of the RC must be to reconcile these often mutually exclusive visions.

It might be argued that to further this end a TRC, as opposed to the RC stipulated in the Annan Plan, might be more effective. However, given the ambiguity of the Annan Plan itself, there would be practical difficulties in ascertaining 'facts'. The adage that one man's terrorist is another man's freedom fighter could not be more apt under the circumstances. Much unlike South Africa – where the apartheid regime came to be widely vilified and treated as the antithesis of democracy, and presumably the ethos of the new South Africa – in Cyprus two regimes, hence two competing theses, have to be reconciled.

The case of Cyprus differs from South Africa and other cases of interethnic warring in various ways. These particularities make the RC envisioned in the Annan Plan more appropriate than the TRC employed in South Africa.

Ambiguity in the 'New State of Affairs'
The most significant difference stems from the ontology of the 'new state of affairs' that would have been the United Cyprus Republic as proposed by the Annan Plan. The final stage negotiations on the plan that began anew in February 2004 demonstrated that the sides still contested significant aspects of the Annan Plan that they supposedly accepted to submit to simultaneous referenda unprovisionally in April 2004. The sides seemed to believe that the plan could be interpreted in substantially different ways.

Much of this emanated from the ambiguity in the establishment of the 'new state of affairs', which was itself a diplomatic means of avoiding the problem of state succession (i.e. how we got to the 'new state of affairs') to which both sides are highly sensitive. The UN considered this a "virgin birth" (a form of 'constructive ambiguity'), but with such indistinctness there is a need for constructive thinking on how to articulate and promote the United Cyprus Republic through various institutions, such as media and education.

Thus, in many ways the Annan Plan remained especially unpopular in the South of Cyprus, where few politicians risked much political capital in promoting it. Within the Greek Cypriot community the plan, with its various derogations from the EU acquis communautaire was depicted as a form of apartheid in and of itself. Thus, if Greek Cypriots were to come to accept the plan as a basis for a reunited island they would have had to accept the various compromises entailed in the plan.

The Turkish-Cypriot community, more internally divided than the Greek-Cypriot community overall, nevertheless sought the fulfilment of 'political equality', the debating point within the community being whether or not the plan actually satisfied this and other needs. In accepting the plan as the basis of a reunified island – as verified by the positive outcome in the referendum held in the north of Cyprus on 24 April 2004 – the community did so with the understanding that its 'state' and 'sovereignty' was not superseded by the 'new state of affairs'.

In this way neither side has dealt empathetically with the others needs and concerns regarding the future in a reunified island, or not reunified as the case may be. Depending on one's view the 'new state of affairs' would have had the effect of nullifying the Republic of Cyprus, or of negating the 'Turkish Republic of Northern Cyprus'. Indeed, these were the respective views of the chief negotiators of either side, respectively.

Historical Narratives
Similarly the historical understandings (or historiographies) of the complex history that unfolded on the island are presented through essentialist representations of the 'other' without pause for critical thought. Thus, the agents of either regime, that is the EOKA and TMT organisations, are treated as heroes or villains by the communities, respectively. This tends to hold for the majority in either community, in spite of a small but significant movement of civil society associations determined to overcome the essentialist representations that are pervasive.

In these ways the envisioned United Cyprus Republic did not provide a clear view of the past. In South Africa the interpretation of the past was clear, yet the details of the regime, its procedures, and specific violations of human rights attributed to it were shrouded in secrecy. Apartheid was evil and its perpetrators and their deeds had to be exposed. In South Africa there were more clearly designated social roles of aggressor and victim.

In Cyprus the past is opaque and in need of interpretation. At the societal or inter-communal level, all sides conceive of themselves of victims of aggression. Neither side has acknowledged its role in contributing to what is known as the 'Cyprus problem'.

In Cyprus, Greek Cypriots and Turkish Cypriots have emphasised their "freedom defined ethnically".[17] The ethnic narratives, in turn, make truth very difficult to negotiate. Primordialist historiographies especially in the case of Greek Cypriots (with Turks as eternal enemies), proved difficult to reconcile with lived experience of sharing villages and space with Turkish Cypriots. Ultimately, the goal of enosis (union with motherland Greece) was one and the same as freedom, but freedom in

Cyprus would come at the expense of the other. The division of Cyprus, thus, tends to be perceived as a serious injustice, and resistance to the Annan Plan, as personified by President Tassos Papadopoulos, came to signify the 'dignity' of the Greek-Cypriot people.[18]

This is not to say that historiographies are homogeneous within communities. Particularly in the Greek-Cypriot community, narratives and participation in commemorations serves to divide left (i.e. AKEL) and right (DISY), with the interpretation of 1974 being quite distinct, with AKEL's emphasis on the 'treachery' that led to the coup of 15 July, and DISI focusing on the Turkish invasion days later.[19] Whereas Turkish-Cypriot commemorations tend to be superficially more homogeneous, the left (i.e. CTP) are much less interested in commemorating the past than the right (i.e. UBP).

With respect to attribution, Cypriots of the left, Greek and Turkish, have much in common in pointing to the culpability of nationalists and unwanted 'motherlands' in the division of the island. Ultimately, though, the Greek Cypriots are unified in their narrative that views that end as a sad division of the island, and whereas Turkish Cypriots are less united on the end, differences are nuanced.

Returning to the issue of the missing persons, it is plausible to argue that revelation of truth would suggest that various versions of history prove to be erroneous or omitted, however, it is unlikely that these facts would help anyone adjudicate between the contending perspectives on sovereignty.

Problems with Reparations
On an individual basis, along the lines of procedure followed by the South African TRC through its Human Rights Violation Committee, the challenge of assessing the claims and counterclaims (of what would clearly be sides) would be taxing and might aggravate rather than alleviate interethnic tensions, especially if such claims entailed reparations. The question as to who (i.e. which community) suffered 'more' would become problematic. In fact, as can be seen from the negotiations, the chronology of the Cyprus dispute comes into play often, with the Turkish side claiming that the events of 1963 through 1974 had such a detrimental affect on the Turkish-Cypriot community and its economic welfare that any assessment of property values and other matters pertaining to restitution of human rights must take these facts into consideration.

Related to this is the problem with the TRC in general, and thus for Cyprus, of the cost of its implementation. Whereas the South African TRC Final Report recommended billions of South African Rands to be paid out in reparation to victims of apartheid the government dragged its feet when it came time to provide compensation. In Cyprus the cost of reconstructing in the United Cyprus Republic

was considered dear enough. Even the more rosy forecasts[20] predicted that costs for new housing and infrastructure would run into billions of dollars. Saddling the new federal government with more debt would be a great strain on the economy.

As the RC stood in the Annan Plan funding for the RC would not be problematic, and the UN even envisioned contributions emanating from the guarantor powers and international donors.

The Lack of the Immediacy Factor

Another way in which Cyprus differs is that the specific events of relevance are often decades old, notwithstanding the 'continuing violation' of human rights as pertains to the rights of individuals to property and freedom of movement as ascertained by the European Court of Human Rights (ECHR) as violations of specified articles of the European Convention on Human Rights.[21] With respect to property rights, many hundreds of cases remaining pending with the ECHR, as Turkey seeks to establish a local court in the 'TRNC' to serve as a domestic remedy. Meanwhile, isolated events, including the deaths of two Greek Cypriots who crossed into the buffer zone in the mid 1990s are exceptional cases. In short, Cyprus is a 'frozen' conflict. The lack of contact and intimacy from 1974 through 2003 confined the conflict to the corridors of diplomacy and to courts.

If there is a case for 'immediacy' it would relate to the opening of crossings since 2003. Many Turkish Cypriots and Greek Cypriots took advantage of the crossings, for varying reasons. For instance, in the case of the Turkish-Cypriot community, one impulse is economic, with hundreds of daily wage earners crossing south to work on construction sites. Other middle class Turkish Cypriots, meanwhile, have been enrolling their children in primary and secondary educational institutions, including the English School, founded in 1900 by the then British colonial administration.

However, crossings in and of themselves have not served to reconcile the communities. If anything, the crossings may even have had an adverse impact on inter-societal trust. A poll conducted by the UN in Cyprus suggests that as a result of crossings many persons now have a more negative view of persons from the other community.[22] This is especially true of Greek Cypriots who report to have only crossed one or a few times, so a straightforward interpretation may not be valid. However, the paucity of crossings and the negativity associated with limited crossings itself supports the view that the immediate cause for concern is how recent developments contribute to mistrust.

Events in late 2006 where a group of Greek-Cypriot youths entered the campus and attacked some of the Turkish-Cypriot students, stemming from tensions related

to an event reported in the Greek-Cypriot press, can either be treated as 'isolated' or as part of a larger societal problem to be addressed in a broader context.

The phenomenon may relate to real frustration with the continuing Cyprus problem impasse, as well as resentment at the communal level directed at organisations or groups associated with the 'other side'. This public frustration is exacerbated by the lack of official level progress in either the substantive elements of the Cyprus problem, as well as failure to implement confidence building measures.

Frustration among Greek Cypriots may relate to 'facts on the ground', including the continuing presence of thousands of troops from Turkey, as well as the continuing flow of persons from Turkey into the north of Cyprus. Moreover, a building boom in the north, often on Greek-Cypriot properties, also contributes to frustration.

Frustration among Turkish Cypriots may relate to an expectations gap following the community's approval of the Annan Plan. This frustration emanates not only from intercommunal mistrust, but is also due to the fact that European Union promises to "lift the isolations" on the Turkish-Cypriot community have either stalled or not manifested in line with expectations.

Tensions between the respective leaderships have often degenerated in what UN Under-Secretary-General for Political Affairs Ibrahim Gambari referred to as "the blame game", serving to erode trust further. Efforts at apparently benign confidence building, including – notably – efforts to open the Ledra Street to pedestrian crossings, have broken down in acrimony and recriminations.

Polling data since the referenda of 2004 suggest that intercommunal relations are increasingly strained, with large numbers of individuals preferring not to live with members of the other community as neighbours. Specific evidence of declining levels of intercommunal trust can be gleaned from survey results, including a survey conducted by the Cyprus Broadcasting Corporation in 2006 that revealed that the vast majority of young Greek Cypriots (under the age of 35) were opposed to living together with Turkish Cypriots, thus throwing into question the viability of 'reunification' of the island as a realisable political project.[23] Similar, but more nuanced, results can be gleaned from the UN poll.[24]

Remarkably, coinciding with the negative developments, the effort of the Committee of Missing Persons (CMP) to locate and exhume bodies of missing persons has been moving along with greater vigour than at any previous period in the Cyprus dispute. By April 2007 the CMP hopes to begin returning remains to

affected families. The CMP has much work to conclude, but only a fraction of the 2000 plus missing persons have been located thus far. Moreover, without a formal process of reconciliation, it is unlikely that the circumstances under which the victims were killed can be addressed.

Of course, there may be potential demand for 'truth'. The UN poll suggests that majorities in either community support the exhumations and identification of missing persons, although the questionnaire does not explicitly ask whether respondents would be interested in a more elaborate criminal inquiry.[25]

All of this suggests the wisdom of pursuing some form of societal reconciliation project to restore trust. The question is whether 'truth' is necessary for reconciliation. It may be argued that what is required is a full accounting of the past, since "amnesia is the enemy of reconciliation".[26] However, since as I have argued, 'facts' do not speak for themselves, the problem is not amnesia but interpretation. Perhaps the term 'omission' would be more useful in this context, since the respective communities may very much be in denial regarding culpability for specific atrocities. That is, it is not a mutually exclusive relationship. Truth, to the extent that it actually contributes to inter-group harmony and cooperation, beyond non-lethal coexistence, may be useful.

In South Africa and Rwanda, as well as in other parts of Africa the conflicts and the wounds were relatively new. The same is true of the former Yugoslavia. In Cyprus the old wounds fester at the behest of ethno-nationalism, hence sustaining it through cultural reproduction. The kind of inquiries pursued in South Africa would undoubtedly stir passions based not on knowledge but prejudice. Whereas living memory may bear testimony to facts, and various perpetrators would still be alive and accountable some thirty to forty or more years on, the facts are no longer as fresh or certain as they might be. For sure, the facts related to acts committed in South Africa in the 1960s might also be of less resonance, but there the conflict itself, hence violence, persisted through the 1990s. The need for accountability would be of greater urgency whereas in Cyprus the needs are somewhat different.

Therefore the Annan Plan and the RC were based on the premise that in Cyprus there will emerge – it must be hoped – a new generation of Cypriots unburdened by history and not directly involved in the conflicts of the past. Therefore, the individuals who otherwise would be subject to criminal proceedings are exonerated of their misdeeds.

No doubt this is partly done for purposes of political expediency. It would be very difficult to get the sides to endorse a plan that might lead to the conviction of individuals who may in certain circumstances continue to hold high office in either

community. The practical problem here is that while the ranks of the generation of TMT and EOKA paramilitary are thinning, there are still enough of them enjoying privileged status. New recruits to such associations and their offshoots sustain political support and make an in-depth inquiry politically problematic. In South Africa, by contrast, the surrender of the former apartheid regime to accountability was relatively complete.

The Reconciliation Commission in the Annan Plan

The details of how the RC would have been organised and its specific procedures would have emerged in the course of technical negotiation, if ever. As envisioned, the RC would have been an independent and impartial body, and federal and constituent state authorities would have been obliged to cooperate with it.[27] As opposed to singling out individuals as culprits and dwelling on specific cases of violations of human rights, the RC would have been mandated with the promotion of "understanding, tolerance and mutual respect". Discussions of history would be on an intercommunal level of "dispassionate" discourse with a view to reconciliation and a "comprehensive report on the history of the Cyprus Problem as experienced and interpreted by Greek Cypriots and Turkish Cypriots".[28] Clearly then, the goal would not have been to ascertain 'facts' as such, but to construct an historical account based on subjective experience and empathy. The resulting report would then be the basis of recommendations for policy to promote reconciliation.

The goal of the RC would not include discrediting or 'blowing up' of any myths. Indeed, the RC would have assumed responsibility for the safeguarding of monuments and memorial sites in areas subject to territorial adjustment that may be deemed offensive to members of the other community. For instance, Greek Cypriots are made symbolically aware of the division of the island on a daily basis when they direct their gaze toward the Kyrenia mountain range where reputably the largest flag on earth has been painted on the mountainside. It is also lit at night. Nowhere in the Annan Plan was there any suggestion that these sorts of symbols would be removed. In fact, it was plausible that the Turkish-Cypriot State (i.e. the constituent state in the north envisioned in the Annan Plan) would have adopted the existing 'TRNC' flag as its symbol.

Procedurally, the various sensitive tasks aimed at reconciliation would have been undertaken by Cypriots themselves with the aid of the United Nations Secretary General, who would appoint all seven members of the RC (three Turkish Cypriots, three Greek Cypriots, and one non-Cypriot).

The RC was designed to promote mutual understanding and reconciliation between the communities on the island rather than to uncover 'truth'. This paper

has argued that there are good reasons for this and that overall the RC approach is probably better suited to Cyprus than the TRC model applied in South Africa. Nevertheless, there are some areas where the RC may run into practical difficulties in fulfilling its mandate.

Potential Problems

From day one the particular appointments of individuals to be members of the Commission could have sparked some controversy, given the perceived inclinations of such persons and the impact this might have on the final report. This might have made the job of the UN Secretary General more difficult, in that he might have found himself compromising for the sake of political expediency in the form of a more 'representative' body.

This further implies that members of the Commission might have considered themselves vanguards of jealously held versions of 'truth' emanating from within their respective communities. That is, the composition of the RC would have much bearing on the degree to which it functions as a unit with a common purpose or whether it devolved into an arena for competing perspectives on the past that lobby for space in the 'new' historical account. It would have been hoped, therefore, that the selection of such members would be based very much on meritorious criteria.

Beyond the politicisation of the RC membership there could have been the problem of compromise on matters of substance. Specific events might prove too divisive or sensitive for the Commission to deal with in a meaningful way, given its implications for the interpretation of the final report. The need for balance might have led the RC to whitewash various events to the satisfaction of nobody.

This could have been further complicated by the fact that the antagonists that have themselves been exonerated might be expected to continue to provide their own versions of truth, if no longer the official version perpetrated in school curricula. The tendency to gloss over details could have become problematic since the versions presented by the TMT and EOKA elements would not have shied away from the alleged atrocities committed against their own communities, respectively. Without the kind of 'truth' extracting powers of the South African TRC the RC would have been in a less credible position of challenging the other versions so righteously proclaimed.

On balance, though, the risks here were limited by the fact that the official version propagated in the school curricula would have been that of the RC, not of the ethno-nationalists or other groups opposed to the RC version. At that point the merits of the RC version itself would have been scrutinised.

These potential pitfalls are of course not necessarily the sole fault of the foreseen structure and mandate of the RC as prescribed in the Annan Plan. Rather they relate to the complexity of that particular 'new state of affairs'. At the end of the day the educational systems would have been governed "sovereignly" by the respective constituent state governments and authorities. Whereas curricular changes would have been mandated by the RC, the implementation of such matters would have proven a matter of political will. The Annan Plan called for follow-up measures whereby constituent state authorities regularly report on the progress of implementation, but there were no penalties for failing to observe such guidelines.

Suggestions (Beyond the Failed Referenda)

The point of reference for this paper has been the Reconciliation Commission as envisioned in the Annan Plan. The contemporary question is whether there is a need to consider such an institution despite the continuing political impasse regarding a formal, comprehensive settlement to the Cyprus problem. The plan's namesake, Mr Kofi Annan, no longer serves as UN Secretary General. It remains to be seen what his successor, Ban Ki-moon, will do to bring the sides closer to a settlement.

Short of a negotiated comprehensive settlement to the Cyprus settlement, there is the need to pursue these matters in the interim. Exactly how the sides reconcile, however, given the historical ambiguities referred to throughout this essay, would continue to prove to be a hindrance.

This, in turn, requires consideration of whether it is even possible to contemplate a Reconciliation Commission, let alone whether it is desirable. If the efforts of Ibrahim Gambari, UN Under-Secretary-General for Political Affairs, in the summer of 2006 are anything to go by, the UN would prefer that the sides in Cyprus deal with reconciliation, sooner rather than later. To that end, the "set of principles" brokered by Mr Gambari and signed by the Greek-Cypriot and Turkish-Cypriot leaders, respectively, envisions "bi-communal discussion" of both 'day to day' issues, as well as 'substantive' matters. The latter would be matters to be dealt with through what Gambari termed "expert bi-communal working groups", whereas the 'day to day' issues would be tackled through "Technical Committees".

The agreement also called on the sides to refrain from engaging in the "blame game", but in the ensuing months it became clear that the sides would not keep their commitments. This seems to be largely driven by the asymmetry in the relationship, where the Greek-Cypriot leadership remains the recognised government of the Republic of Cyprus. Thus, the issue of Turkey's bid to join the

European Union, and its legal obligation to extend customs union to (southern) Cyprus proved to undermine intercommunal efforts to build momentum on issues in Cyprus. Turkey, for its part, citing the European Union's own pledges to "lift the isolation" of the Turkish-Cypriot community, has failed to ratify an extension of the Ankara Protocol regarding trade, and refused to open its ports to Greek-Cypriot (i.e. Republic of Cyprus) vessels. The Greek-Cypriot leadership considers this critical, since in failing to extend customs union, Turkey remains committed to its policy of non-recognition of the Republic of Cyprus government. Thus, the Republic of Cyprus authorities demand normalisation of relations between Ankara and Nicosia (in the form of customs union as indirect political recognition).

With respect to intercommunal talks in Cyprus, the issue leading up to the 2006 EU Summit was whether a deal could be brokered regarding the opening of Turkish ports to Greek-Cypriot vessels in return for the opening of the Famagusta sea port for trade with the EU. However, the deal that was to be brokered by the Finnish Presidency never materialised, and led to more acrimony regarding issues of "substance", including the status of the ghost town of Varosha that would be returned to Greek-Cypriot administration in the Annan Plan and since the 1979 High Level Agreement.

However, the specific issue of Varosha is also related to property issues more generally, with the Arestis case in the ECHR to serve as precedent for other former property owners and residents in Varosha. Diplomatic efforts to link property to confidence building measures, in turn, are deemed asymmetric by the Turkish-Cypriot leadership, thus the Turkish Cypriots have argued that property (and by extension, the return of territory, including Varosha) be treated as 'substantive' matters to be dealt with as part of a comprehensive settlement package.

Property, thus, has become another front in a cold war between the sides, with the Greek-Cypriot administration attempting to deter developments on properties formerly owned by Greek Cypriots through criminalising construction on such properties. This, in turn, increases tensions and mistrust, with the Turkish-Cypriot side encouraging such development arguing that only through something akin to Zartman's 'mutual hurting stalemate' could negotiations begin in earnest.

Whereas this dire picture may suggest limited opportunities, it is still possible – if not probable – that civil society could prove impetus where officialdom fails. Should members of both communities take the initiative and take advantage of the ability to cross, as well as of new technologies, it is conceivable that efforts at reconciliation could move from the margins to the centre. One avenue is the promotion of unofficial, Track II type initiatives through NGOs. It is plausible that the various envisioned working groups of the 8 July agreement could be simulated.

The precedent for this is the fairly recent civil society led Turkish-Cypriot "yes" campaign for the Annan Plan. Whereas the movement was subsequently co-opted by political parties (with Talat and the Republican Turkish Party the principal beneficiaries) the experience nonetheless points to means by which political impasse may be harnessed to engender alternative discourses that are supported by mass media. The weakness of civil society overall, and its subservience to political elites mitigates against the potential.[29] Moreover, there remain fundamental doubts about the efficacy of NGO led conflict resolution.[30]

It is possible to engender technical help from organisations that have been established precisely for the purposes of aiding reconciliation in divided societies. One such organisation is Interpeace – The International Peacebuilding Alliance – a Swiss association with links to the UN. In particular, in aiding the process of 'ownership' such organisations may help the communities in Cyprus engage the process more directly. One way of empowering society, in turn, is to provide knowledge, such as through the utilisation of polling as a means of finding areas of consensus, as was done in the Northern Ireland conflict.

Should organisational handicaps be overcome, perhaps it would be wise for the active participants in reconciliation projects, be they official or unofficial, to take a fairly liberal interpretation of their mandate and push beyond the confines of the historical project to a more overt society, the real aim of any formal Commission in its essence and inception. By this I mean a broader conceptualisation of the challenge that is before both communities, that of constructing a viable Cypriot society and polity. The task itself is daunting, since the international community, including the European Union, provides few clues as to how to achieve 'post-national' democracy. Although much lip service is paid to a multicultural ethos, the dominance of nation-state based identities cannot be denied.

One advantage such groups and other elements of society might enjoy and thus tap into is the relative dynamism that had been evident in the run-up to the 2004 referenda in the Turkish-Cypriot community in imagining new forms of political community apart from officially constructed identities. If a similar future oriented dynamic emerges or is nurtured in the Greek-Cypriot community perhaps reconciliation can be fostered through reciprocation.

The biggest obstacle in this regard is inertia with too many Cypriots, either Greek or Turkish, not especially galvanised to act. The Annan Plan was exceptional for the Turkish-Cypriot community, where the opportunity for real change manifested. However, the plan may have also entailed real threats that deterred the Greek-Cypriot community from sharing the enthusiasm of their counterparts. The hope is that greater degrees of interdependencies, with more Turkish Cypriots

enrolled in schools in the south of the island, for instance, could induce greater demand for discourse and mediating institutions.

However, this might require a more fundamental discourse than one based on the interpretations of the past, but include discussion on the society of present and visions of the future. Currently the various monuments and other symbols of national identity are overbearing for either community, and this needs to be addressed. One way of achieving this dialogue is to see to it that much of the work is transparent and that the process of drafting reports entails significant input from society.

Conclusion

This paper has tried to address the question as to whether Cyprus needs a Truth and Reconciliation Commission. I have argued that the Reconciliation Commission provided for in the Annan Plan and its aim of providing for a more empathetic treatment of Cyprus history is more appropriate for Cyprus than the South African model of Truth and Reconciliation. The reasons for this are varied, but boil down to the lapse of time and the lesser need to account for individual cases of human rights violations. Therefore, 'truth' is a less pressing matter in the Cypriot context than it may be in parts of the world where wounds are more recent. No doubt there would still be a need for closure for many who have lost loved ones and desire an accounting, but the process of ascertaining reparations in the Cypriot context would prove divisive as the members of the respective communities would prefer a higher price for their particular grievances and the costs of such a process might prove too prohibitive for the economy.

The more urgent need in the United Cyprus Republic would be the construction of an historical account that would be inclusive. Moreover, it is the contemporary problems related to the current crossings, not the past, which should form the inducement for reconciliation.

Whereas the need for an official or unofficial Reconciliation Commission is beyond doubt, the paper explored some of the potential problems or pitfalls that may await the Commission. In the case of the Annan Plan, the major pitfall was not only the limited remit of the Commission, but the potential for politicisation. In the contemporary, post-Annan Plan, period, the problem is that there may be a lack of sufficient political cooperation for the formal establishment of a reconciliation commission through political authorities.

I suggested that whether an official commission was established or not, efforts toward reconciliation could be achieved through civil society initiatives. Such

initiatives would do well to push the limits of the mandate (as described in the Annan Plan) of the Reconciliation Commission in the knowledge that the ultimate goal is not to rewrite history but to come up with the means to sustain a viable political society on the island. To this end the process of drafting reports and other activities should be as inclusive and participatory as possible.

Overall the conclusion is that despite some risks the Reconciliation Commission in its form in the Annan Plan, or with modest revision, should serve the United Cyprus Republic and its citizens well.

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Notes

1. Main Articles, Article 11.
2. See Annan's report to the UN Security Council on his mission of good offices in Cyprus of 1 April 2003 (S/2003/398), paragraph 125.
3. Annex VIII, Article 3, section 2.
4. See Annex VIII, Article 3, section 4 where it stipulates that "[t]he work, proceedings, reports and recommendations of the Commission shall be without prejudice to the work of other existing bodies or committees, including the Committee on Missing Persons in Cyprus".
5. Constitution, Part VII (Transitional Provisions), Article 54.
6. Main Articles, Article 12.
7. Separate and simultaneous referenda were held on either side of the Green Line on 24 April 2004. Whereas nearly 65 per cent of those voting in the Turkish controlled north approved the plan, more than 75 per cent of the Greek-Cypriot voters rejected the plan in the south. Accordingly the Annan Plan was declared null and void. The current political impasse on the island relates to the bases for new negotiations and to what extent various provisions foreseen in the Annan Plan may carry over to new talks.
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