

# **An International Relations Debacle: The UN Secretary-General's Mission of Good Offices in Cyprus 1999 - 2004.**

**Claire Palley**

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**xiii + 395 pp.**

This is a detailed, erudite, dense and earnest book. What lends it its edge is that the author completely declines to accept that just because Cyprus is small and occupied, it should be treated by different human rights standards and standards of respect for her sovereignty and of the niceties of international law; different to what other states have a right to.

In her Introduction Claire Palley says that "she has striven to provide an accurate account from the available information and has sought to refrain from mere propaganda" and I agree that advocacy, which is a fully respectable activity for a lawyer, is not the same as propaganda. In one sense, this book is the complete opposite of David Hannay's recent book on the negotiations, which seems to only to be concerned with the procedural aspects of reaching a solution, and appears to be completely indifferent to the content, and is certainly not concerned with the content measured against legal or other principles.

One of the aspects of the book that I appreciated most was her clear description and documentation of what I personally had clearly and frustratingly felt in my efforts to understand the Annan Plan: That the principles enunciated in the Foundation Agreement, which, especially in the earlier versions of the plan, appeared almost straight-forward and acceptable, frequently suffered from successive limitations in the subsequent sections, addenda and legislation, so that they were frequently negated. The way she puts it on page 33, "The Foundation Agreement was written as the Plan's international marketing tool" is fair.

Thus for example on page 108 Claire Palley describes how hidden away in a law regarding the Continental Shelf, prepared by the UN, there is a provision resulting in a situation such that, in the area opposite Turkey, Cyprus would have no continental shelf.

All the basic concepts of the Cyprus Problem and of the Annan Plan are there, and are discussed in an erudite and detailed way. I can not imagine that anyone

will be able to write about the Cyprus problem ever again without referring to this book. And clearly this is the book to go to if you wish to learn about the differences between "good offices", "mediation" and "arbitration", and which side refused which, at different stages of the negotiations.

I myself learnt quite a lot. Firstly the author makes a strong case that the UN Secretary General should never engage in arbitration or even in making "bridging proposals" or in "completing gaps", because such an activity immediately makes the UN Secretariat a party, in a sense, to the negotiations, rather than an impartial facilitator of negotiations.

I wonder whether, and I think that Claire Palley at some point implies this, such a degree of commitment, and the frustration on the part of the UN Secretariat, resulting from its own excessive involvement, and the disappointment resulting from the rejection of Annan V by the Greek-Cypriot referendum, may to some extent be responsible for that paragraph, which is hard to reconcile with objectivity, or with detachment, which the Secretary-General inserted in his Report of 28 May 2004, which recommends in paragraph 93, that the Security Council should "give a strong lead to all states to cooperate both bilaterally and in international bodies to eliminate unnecessary restrictions and barriers that have the effect of isolating the Turkish Cypriots, deeming such a move as consistent with Security Council Resolution 541(1983) and 550 (1984)."

This paragraph is the one which could be used to steer things to an alternative solution to the Cyprus problem, alternative to the one provided for in Security Council Resolutions, including 541 and 550; it is alternative because it follows the "Taiwan model" or the "Independent region of the EU" model as a long-term method of attempting to defuse the situation. And it is a model which, though not giving Turkish Cypriots participation in the Republic of Cyprus, or in EU institutions, also does not give Greek Cypriots any of their land or property back, and leaves the northern part of Cyprus dominated by settlers and the Turkish army.

But let me return to further interesting facts that I learned from Claire Palley's book: There have only been two mediators appointed by the UN. The first was the Finn, Sakari Tuomioja (under whose auspices the Acheson plans were worked out in Geneva), and Galo Plaza, whose report so strengthened the unity of Cyprus by rejecting all forms of division, that after him the Turkish side refused the appointment of another UN mediator.

However, I also learnt from this book that at his famous, but hitherto quite mysterious meeting at Davos, on 24 January 2004, Erdogan raised the question of the United Nations appointing a mediator, or the acceptance of arbitration by the

Secretary-General. (Let me say that I also learn from this book that the Secretary-General indicated to Mr. Erdogan that no such function was envisioned by his mandate).

My aside would be this: Had our side known this at the time, together with other more public indications at that time, they would have taken Erdogan's intentions more seriously and would not have counted on being saved from a largely unworkable plan by the rejectionism of the Turkish side.

Going back to the theme of good offices, mediation and arbitration, I also learnt that in the Paris discussions of September 2002, (hitherto also quite mysterious), the Greek- and Turkish-Cypriot sides agreed with the Secretary-General that he should make "bridging proposals", thus opening the door to a certain amount of mediation and arbitration, and ultimately, arguably, to the five models of the Annan Plan.

Continuing on the theme of good offices, mediation and arbitration, we come to the New York meeting of February 2004, but here I have to be a little critical of Claire Palley, because in the book she fails to resolve my basic unanswered question of recent Cypriot History which is this: We went to New York opposed to the Secretary-General even completing the gaps in the Annan Plan. (Designated points, usually figures, which the Secretary-General had not completed, but left to the two sides, presumably so that they would feel they had done some negotiating.) And we came away, not only accepting that the Secretary-General could complete the gaps, but also as the Secretary-General says in his Report, that the procedure agreed in New York "enlarged the role for me, from completing any unfinished part of the Plan, ('filling of the blanks'), to resolving any continuing and persistent deadlocks in the negotiations." In other words after New York, the Secretary-General could not only fill in the blanks, he could change the plan at any point on which there was not agreement between the two sides, in other words at any point where one side disagreed.

Claire Palley gives explanations for this change of attitude of the Greek-Cypriot side in New York which I find rather weak: In a footnote (11 on p.101), "subject ... to duress occasioned by international pressures". In another footnote (19 on p. 103) she notes: "The international furore had his good offices (confusingly meaning arbitration) been rejected would have been so damaging that the Republic of Cyprus's position as the State of Cyprus could have been thrown open to reconsideration by angered states".

Though the author considers, and I agree with her, that the \$64,000 question is "Why did the Greek-Cypriot side agree to the Secretary-General finalizing the text

then putting it to referendum..." I do not consider the above explanations adequate, and nor do I consider her other explanation adequate, which is basically, in her own words, that "they believed that he (the Secretary-General) would be persuaded by reasonable argument to make the changes the Greek-Cypriot side urged in order to have a functional settlement." In other words, the Greek-Cypriot side believed that once everything had been reopened to renegotiation, its own view of functionality would predominate over that of Turkey. One wonders how.

My guess would be neither of these explanations, though both are based on valid assessments. My guess would be that our team went to New York not having fully incorporated into their thinking the real changes on the Turkish side, particularly in Ankara, with the Erdogan government, and were therefore wrong-footed by Denktash's overnight change of position and acceptance of arbitration by the Secretary-General. They then followed in order not to be dubbed the politically intransigent side. Had they done their political homework more thoroughly they would have been better prepared. They might not have known at that stage about Erdogan's offer to Annan, but the debate and change in climate in Ankara was evident, as well as the crucial significance for the Erdogan government (as against Ecevit) of EU membership, and the need to clean up or appear to clean up their act on Cyprus.

This being the case though, with the history of an active role for the Secretary-General, it could be that the author might be a little less critical of the UN Secretariat, in her photo captions, particularly. When she does give serious consideration to the Secretariat's behaviour, a serious and, I think valid, analysis does come out both about the tilt towards Turkey, and the "slippage of the secretariat" as far as the content of the Annan Plan is concerned. I will just quote her on the latter: "... it was perhaps too easy in applying ingenuity to find ways around the two sides competing claims to occupancy and ownership of property to move by one degree after another so far from the principles governing the right to property and the right of refugees to return to their homes in safety that these principles were no longer applicable in reality, lip service merely being paid to them."

Claire Palley also illustrates, and clearly documents the successive compromises of the Greek-Cypriot side, in contrast to the Turkish position, which hardened and became more extreme, while also the divergent positions gained in United Nations eyes "equal validity". The author documents this very well through the Secretary-General's report of April 2003, where he writes about the "visions" of the two sides being wide apart. What the Secretary-General does not comment on is that the Greek-Cypriot "vision" as the Secretary-General describes it, at that stage, was not a vision but a previous compromise for "bizonal federation".

Denktash by contrast at this stage had a new vision, which was not the compromise of bizonal federation, but a further retreat from this, to quote the Secretary-General's report the vision of a "Confederation of Cyprus founded on two pre-existing sovereign states" or his new term "partnership state".

Appendix 6 is an extremely useful table comparing modifications of the various provisions through the four successive versions of the Annan Plan (she leaves out Annan IV for reasons which she explains). Only Claire Palley with her vast legal knowledge and her extensive immersion in the Cyprus problem over many years could have prepared this table.

Clearly this book takes a side. And the side taken clearly justifies the right of the majority of Greek Cypriots to say no to the Annan Plan, and the book castigates the behaviour of the UN Secretariat, EU officials and foreign governments. I would urge particularly those who disagree with this position politically to read this book. It brings so much to light, that it could form the basis of a beginning of a real dialogue about what the solution of the Cyprus problem should and could look like.

Finally, I would like to express some reservations:

- (a) I would have enjoyed the erudition, the cross referencing, and the painstaking detail in the book without some rather exaggerated comments which are interspersed here and there, and which I do not think add to the weight of the book, such as references to the UN secretariat "debasing itself", or "demeaning itself in a petty spat" or references to a "peevish descent" on the part of the secretariat or its "cynicism". Or her statement that UK Embassies should have fluttering on their flag poles not only the Union Jack, but also the Turkish crescent and star.
- (b) For the same kind of reason I do not find that the numerous photographs and the frequently sarcastic captions add to the book. To the serious reader, the photographs are an encumbrance. The non-serious reader will not learn much from the captions, but is likely to have prejudices reinforced.
- (c) Thirdly, the rather simplified account of the events in the sixties is not really necessary in the book.
- (d) Nor was it really necessary to adopt government views on all issues, including casting aspersions on citizens who chose to seek a grant of 14 000 pounds from UNOPS in order to advocate a "yes" vote in the referendum.

In conclusion, I would like to make a general comment which is connected, not with the academic quality of the book, but with some of its political implications.

I do not find one of the assertions which is repeated from time to time, i.e. that the UN Secretariat was from 1974 until Annan 11, basically fair-minded and attempting to do justice to Human Rights, and the basic UN principles, and then suddenly became lop-sidedly pro-Turkish, under the influence of its own vanity, and Anglo-American pressures, and EU indifference.

The drifting towards Turkey's positions, has, since 1974, been part of the tragic geopolitics of the Cyprus situation. When you are weak you not only lose territory, respect for your sovereignty, and safeguards for the human rights of your people, you also have an uphill struggle to win the battle of ideas: the ideological battle, the legal battle, the battle to persuade, and in the end the negotiations' battle. This has always been the case, and is so today.

The political as against the legal question is how a small and weak country handles these battles in the best interests of its citizens. I would venture to say that this is the challenge for the political class of Cyprus, not just the winning of legal and moral points of argument.

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