

## Symposium Article

### Gendering the Law of Occupation: The Case of Cyprus

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#### Abstract

*The long-term occupation of Northern Cyprus provides some valuable insights into the gendered dimensions of the law of occupation. Specifically, close analysis of conflict-related patterns of sexual violence, the regulation of family relationships, and the challenge of sexual trafficking allows for a broader reassessment of the extent to which occupation law is 'fit for purpose' specifically as it regulates long-term transformative occupations. The law of occupation, in its original conceptualization, was assumed to have a short-term and utilitarian function, designed for the protection of land and people until the disputed territory was returned to its rightful sovereign. Long-term and belligerent territorial control of occupied territory has meant expanded patterns of exclusions and under-enforcement of law for women, and in particular illustrates the opaque under-regulation of the private sphere under occupation, generally to the detriment of women's*

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*protection and entitlements. This article exposes those gendered tensions with a focus on one case-study but with broader reach to multiple sites of occupation.*

## INTRODUCTION

The law of occupation can rightly be considered a highly specialized sub-division of the law of armed conflict.<sup>1</sup> Its genealogy is long, and its content, like much of the law that regulates the conduct of hostilities between states or between state and non-state actors, is routine, pedantic, and highly ritualized.<sup>2</sup> Despite its long history, the law of occupation has received much less scholarly and policy attention than other parts of the law regulating war. While the law of armed conflict has historically ignored the experiences and challenges faced by women—whether as civilians or combatants—in situations of armed conflict, the law of occupation has been distinctly bereft of scholarly and policy interest.<sup>3</sup> Thus, there is little sustained legal analysis of women's rights, obligations and challenges under occupation as well as no lasting analysis of the structural limits and gender capture of the law of occupation.<sup>4</sup> This article addresses that gap with a focus on the long-term occupation of Northern Cyprus by Turkish forces, emphasizing the experiences of women during hostilities and the ongoing occupation. Based on fieldwork conducted in Cyprus in the autumn of 2016, the article draws on interview data, field observations, and secondary sources. Section I of the article addresses the history of the invasion of Cyprus by Turkey in 1974. Section II outlines the protracted process of peace negotiations on the Island, and

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1. *Occupation and International Humanitarian Law: Questions and Answers*, INT'L COMM. OF THE RED CROSS (Aug. 4, 2014), <https://www.icrc.org/eng/resources/documents/misc/634kfc.htm>.

2. See, e.g., *id.*; *International law on the conduct of hostilities: overview*, INT'L COMM. OF THE RED CROSS (Oct. 29, 2010), <https://www.icrc.org/eng/war-and-law/conduct-hostilities/overview-conduct-of-hostilities.htm> (discussing various dimensions of the applicable law of occupation).

3. Judith Gardam, *Women and the Law of Armed Conflict: Why the Silence?*, 46 INT'L & COMP. L. Q. 55 (1997).

4. See, e.g., Jody M. Prescott, *NATO Gender Mainstreaming and the Feminist Critique of the Law of Armed Conflict*, 14 GEO. J. GENDER & L. 83 (2013); CHARLOTTE LINDSEY, INT'L COMM. OF THE RED CROSS, *WOMEN FACING WAR*, 22 (2002); JUDITH GARDAM, *A New Frontline for Feminism and International Humanitarian Law*, in *THE ASHGATE RESEARCH COMPANION TO FEMINIST LEGAL THEORY* 217–32 (Margaret Davies & Vanessa Munro eds., 2013) (discussing gender and the law of armed conflict generally).

the consistent failure to reach a comprehensive peace settlement among the parties. The failure to substantively include women in the negotiation process, as well as the lack of a gender dimension to the negotiation content, is also highlighted. The article then proceeds to Section III, outlining the history of gendered violence during and after the invasion of the Island. This sets the stage to discuss the gendered exclusions that shape women's experiences of the occupation since 1974 in Section IV. Here, the focus is on private and family life, demonstrating how the law of occupation fails to regulate the private sphere, thereby creating significant regulatory gaps for women. The lack of regulation is compounded by the transformative and sustained nature of the occupation impinging on every aspect of public and private life. In exposing the centrality of the public/private divide to the structure of occupation law, the article underscores the exclusion and marginalization experienced by women living under occupation. Section V concludes the substantive analysis by addressing the ongoing complexity of violence and harm against women in the occupied territory, with a focus on trafficking under occupation. The gaps in the regulatory scope of the fourth Geneva Convention allied with the lack of international recognition for the territory demonstrate the ways in which the limits of the law itself can be a grave impediment to engaging the rights and protections due to women during occupation.

### I. A BRIEF HISTORY OF THE CONFLICT

The Cyprus Occupation formally began on July 20, 1974, when Turkish forces, citing the Treaty of Guarantee under the London and Geneva Agreements of 1959–1960 and in response to a Greek junta-supported coup to topple the elected President of the Republic of Cyprus, invaded the Island to ostensibly protect the Turkish Cypriots. By August 15<sup>th</sup> Turkey occupied thirty-seven percent of territory in the Northeastern part of the Island of Cyprus.<sup>5</sup> During the invasion, the forces expelled Greek Cypriots from the North and took “effective control” of that part of the Island.<sup>6</sup> Immediately after the invasion, the U.N. Security

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5. David Wippman, *International Law, Ethnic Conflict, and the Example of Cyprus*, 22 CORNELL L.F. 9, 10 (1995).

6. PANKYPRIOS DIKĒGORIKOS SYLLOGOS, EUROPEAN COMM'N H.R., HUMAN RIGHTS: TURKEY'S VIOLATIONS OF HUMAN RIGHTS IN CYPRUS: FINDINGS OF THE EUROPEAN COMMISSION OF HUMAN RIGHTS AND CONTINUING

Council adopted a resolution that called for “all states to respect the sovereignty, independence, and territorial integrity of Cyprus” and called for “an immediate end to foreign intervention” from the Island.<sup>7</sup> Based on the resolution, the governments of Britain, Greece, and Turkey engaged in talks for the withdrawal of Turkish troops and the preservation of Cypriot sovereignty.<sup>8</sup> Following differences in opinion over the reunification of Cyprus, Turkey broke off negotiations on August 14, 1974, and has since held a third of the Island.<sup>9</sup> This occupation continues to provoke condemnation and Turkey remains the only country to recognize the subsequent formation of the Turkish Republic of Northern Cyprus (TRNC) within the occupied area.<sup>10</sup> The terminology of occupation is somewhat fraught on the Island; anecdotally, during fieldwork, I was told that a singular preoccupation with the occupation characterization of conflict involves narrative complexities which overplay who was a victim and who was a perpetrator in the conflict,<sup>11</sup> emphasizing externalities rather than on the bi-communal nature of co-existence challenges and broader issues of discrimination and equality between Greek and Turkish

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VIOLATIONS BY TURKEY ¶ 8 (1986) (estimating that 140,000-200,000 Greek Cypriots were removed from Northern Cyprus immediately or right after the occupation started, among whom thousands were wounded and many were missing); JAMES KER-LINDSAY, *THE CYPRUS PROBLEM: WHAT EVERYONE NEEDS TO KNOW* 41–42 (2011); Eugene Rossides, *Cyprus and the Rule of Law*, 17 *Syracuse J. Int'l L. & Com.* 21, 24 (1991) (discussing that the United Nation Committee for Missing Persons has worked to identify the remains of missing persons); *Northern Cyprus*, WIKIPEDIA, [https://en.wikipedia.org/wiki/Northern\\_Cyprus](https://en.wikipedia.org/wiki/Northern_Cyprus) (lasted visited Oct. 29, 2017) (“Northern Cyprus extends from the tip of the Karpass Peninsula in the northeast to Morphou Bay, Cape Kormakitis and its westernmost point, the Kokkina exclave in the west. Its southernmost point is the village of Lourouijna.”).

7. S.C. Res. 353, ¶ 1–3 (July 20, 1974). *See also* S.C. Res. 353, U.N. SCOR, 29th Sess., 1781st mtg. at 7, U.N. Doc. S/11350 (July 20, 1974).

8. David Wippman, *International Law and Ethnic Conflict on Cyprus*, 31 *TEX. INT'L L.J.* 141, 145 (1996).

9. *Id.* at 147.

10. *See* Rossides, *supra* note 6, at 25–26.

11. This terminology is used largely by nationalist Greek Cypriots, and not by Turkish Cypriots. There is also a discourse around two occupations—the first ‘occupation of the government’ followed by military occupation by the Turks. More recently, tensions in Northern Cyprus have taken on another layer, as secular Cypriot Turks are chafing under the increased Islamic emphasis from Turkey. As McGarry points out, “[f]or Turkish Cypriots to abandon their single region would be to jeopardize not just collective self-determination, but their security, and would be seen as a step backward, reviving their traumatic memories of being enclaved.” John McGarry, *Centripetalism, Consociationalism and Cyprus: The “Adoptability” Question*, 65 *POL. STUD.* 512, 523 (2017).

Cypriots. As in every ethno-national conflict, there exist different and often competing narratives and the case of Cyprus is no exception.

The territory is distinctly divided by a physical buffer zone (called the demilitarized zone or “Green Line”), which is manned both militarily and electronically by military personnel from the Greek Cypriot and the Turkish Cypriot soldiers (bolstered by Turkish military personnel).<sup>12</sup> The ceasefire lines extend approximately 180 miles and cover about three percent of the Island.<sup>13</sup> A United Nations Peacekeeping Force in Cyprus (UNFICYP) has been deployed to Cyprus under United Nations Security Council Resolution 186 since March 1964, with troop levels broadly held around 850.<sup>14</sup> The UNFICYP maintains a surveillance system through observation posts many of which involve electronic surveillance, complicated by the absence of a formal ceasefire agreement between the parties.<sup>15</sup> Approximately 30,000–35,000 Turkish troops are estimated to be currently occupying the territory of Northern Cyprus.<sup>16</sup> Access to either side required passing through a security and passport checkpoint. The conflict can be described as “frozen,” where despite high levels of political engagement from multiple actors over many decades, territorial and political antagonisms have remained static.<sup>17</sup> The inter-communal exchange is limited

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12. See *About the Buffer Zone*, UNITED NATIONS PEACEKEEPING FORCE IN CYPRUS, <https://unficyp.unmissions.org/about-buffer-zone> (last visited Oct. 30, 2017).

13. *Id.*

14. *United Nations Peacekeeping Force in Cyprus*, U.N. PEACEKEEPING FORCE IN CYPRUS: ABOUT, <https://unficyp.unmissions.org/about> (last visited Oct. 30, 2017).

15. A. Walter Dorn, *Electronic Eyes on the Green Line: Surveillance by the United Nations Peacekeeping Force in Cyprus*, 29 INTELLIGENCE & NAT'L SEC. 184, 185, 188 (2014).

16. *Renewed Cyprus Talks Set to Begin in Switzerland*, AL JAZEERA (June 27, 2017), <http://www.aljazeera.com/news/2017/06/renewed-cyprus-talks-set-switzerland-170627175135875.html> (discussing that “[t]erritory, property, governance and power-sharing were ‘make or break’ issues” and that “[t]he two sides have also been diametrically opposed on security, especially the presence of about 30,000 Turkish troops in northern Cyprus.”). See also Arthur Beesley & Kerin Hope, *Cyprus Rivals Restart Talks over Reuniting Island*, FIN. TIMES (June 25, 2017), <https://www.ft.com/content/ad4494c4-599f-11e7-b553-e2df1b0c3220> (“The presence of up to 35,000 Turkish troops Cyprus remains the most contentious question. After talks in January Turkey’s president Recep Tayyip Erdogan insisted on his country’s right to maintain troops in Cyprus ‘for ever.’”).

17. See McGarry, *supra* note 11, at 513 (“Cyprus is a partitioned polity which currently lacks any common power-sharing institutions. Indeed, no

and fraught on both sides.<sup>18</sup> Over the decades, however, many inter-ethnic contacts and conflict resolution groups have worked together on different projects and produced alternative narratives and documents to the official discourse across the divide. Not coincidentally, the membership of these groups has been dominated by women.<sup>19</sup>

Membership of the European Community has been singularly important not only in shaping peace negotiations but also in defined debates concerning citizenship and identity on the Island.<sup>20</sup> Both Turkish Cypriots and Greek Cypriots are considered European Union (EU) citizens, but 'settlers' to Turkish occupied Cyprus are not entitled to European identity cards.<sup>21</sup> Because of the continued division of Cyprus, however, Turkish Cypriots have little voice within the EU and are not represented within the Cypriot delegation.<sup>22</sup> In addition to its representation in the EU, the Cypriot delegation is also entitled to nominate three representatives and three substitutes to the Parliamentary Assembly of the Council of Europe.<sup>23</sup> Within this

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functioning common institutions have existed in Cyprus since its consociational arrangements collapsed in December 1963, 11 years before Turkey's partition in 1974.")

18. During my fieldwork, I attended a major but unusual inter-communal event that was the presentation of the play *Antigone* in an old Roman amphitheatre in the North. Dozens of buses and cars departed from the town of Nicosia taking attendants to this cultural event. Notably, attendance in this bi-communal cultural event was critiqued by nationalist and conservative Greek Cypriot commentators. See Angelos Anastasiou, *Cypriots, foreigners pack Salamina Theatre Amid Criticism*, CYPRUS MAIL ONLINE (Sept. 29, 2016), <http://cyprus-mail.com/2016/09/29/cypriots-foreigners-pack-salamina-theatre-amid-criticism/>.

19. One such project is the Home of Cooperation in the buffer zone between the two sides in Nicosia which houses the Bicomunal NGO the Association of Historical Dialogue and Research. See Maria Hadjipavlou, *The "Crossings" along the Divide: The Cypriot Experience*, in *THE WALLS BETWEEN CONFLICT AND PEACE 197–216* (Alberto Gasparini ed., 2017); Maria Hadjipavlou, *Cypriot Citizens' Peacebuilding Efforts towards Reconciliation*, 19(1) AUSTRIAN REV. OF INT'L & EURO. L. 133 (2017).

20. Andreas Rinke & Gulsen Solaker, *Cyprus Remains Stumbling Block in Turkey's EU Ambition: Merkel*, REUTERS (Feb. 25, 2013 1:05 PM), <http://www.reuters.com/article/us-germany-turkey-eu/cyprus-remains-stumbling-block-in-turkeys-eu-ambition-merkel-idUSBRE91O10L20130225>.

21. *Cyprus*, EUR. UNION, [http://europa.eu/european-union/about-eu/countries/member-countries/cyprus\\_en](http://europa.eu/european-union/about-eu/countries/member-countries/cyprus_en) (last visited Oct. 30, 2017).

22. *Internet to Inform the Turkish Cypriots on European Union Matters*, PERMANENT MISSION OF THE REPUBLIC OF CYPRUS TO THE U.N. (Mar. 9, 1999) <http://www.cyprusun.org/?p=159>.

23. *PACE: Relations with Parliamentary Assembly of Council of Europe*, TURKISH REPUBLIC OF N. CYPRUS: MINISTRY OF FOREIGN AFF.,

delegation, the Council of Europe has granted two seats to Greek Cypriots and one seat to Turkish Cypriots.<sup>24</sup> Despite this allotment, the current Cyprus delegation only includes two Greek Cypriot representatives and two substitutes.<sup>25</sup> There have been repeated attempts, namely after the Greek Cypriots voted against ratifying negotiations, to work more closely with the Turkish Cypriot community and include them in debates on European Political affairs, but none have come to fruition.<sup>26</sup>

Despite the lack of progress on comprehensive settlement of the conflict, legal challenges to the occupation have framed the ways in which the occupier discharges its legal obligations. Much of this litigation has taken place at the European Court of Human Rights (ECtHR). For example, in *Loizidou v. Turkey* (1996), the ECtHR ruled that Turkey was responsible for violating the rights of Greek Cypriots who were displaced during the 1974 Turkish invasion of Northern Cyprus.<sup>27</sup> In *Xenides-Arestis v. Turkey* (2005) the ECtHR found that the remedies put in place by the TRNC, following the *Loizidou* decision, were inadequate to address such property claims.<sup>28</sup> The ECtHR ordered Turkey to introduce a remedy for effective redress.<sup>29</sup> In response, the TRNC passed Law 67/2005 Compensation, Exchange and Restitution of Immovable Properties, which created the Immovable Property Commission (IPC) as a means of settling such property disputes.<sup>30</sup> The IPC officially began its

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<http://mfa.gov.ct.tr/foreign-policy/international-organisations/council-of-europe/pace/> (lasted visited Oct. 30, 2017).

24. Eur. Parl. Ass. Res. 1113 ¶ 10 (Jan. 29, 1997).

25. “*Elected Representatives of the Turkish Cypriot Community*” Will Be Able to Sit in the Chamber, COUNCIL OF EUR. PARLIAMENTARY ASSEMBLY: NEWS (Apr. 10, 2004), <http://assembly.coe.int/nw/xml/News/News-View-EN.asp?newsid=331&lang=2>. See also *Cyprus*, COUNCIL OF EUR. PARLIAMENTARY ASSEMBLY, <http://www.assembly.coe.int/nw/xml/AssemblyList/AL-XML2HTML-EN.asp?lang=en&XmIID=NationalDelegation-cy> (last visited Oct. 30, 2017).

26. See, e.g., Eur. Parl. Ass. Res. 1376 (Apr. 29, 2004); Eur. Parl. Ass. Res. 1628 (Oct. 1, 2008).

27. *Loizidou v. Turkey*, 1996-VI Eur. Ct. H.R. 2236.

28. *Xenides Arestis v. Turkey*, App. No. 46347/99, 2005 Eur. Ct. H.R. (Dec. 22, 2005), <http://hudoc.echr.coe.int/eng?i=001-71800>.

29. *Id.*

30. See, e.g., Nasia Hadjigeorgiou, *Remedying Displacement in Frozen Conflict: Lessons from the Case of Cyprus*, 18 CAMBRIDGE Y.B. EUR. LEGAL STUD. 152, 158–59 (2016) (“[T]he Commission is an organ that is clouded in secrecy, which creates difficulties if one’s objective is to examine its practical effectiveness . . . . Few applicants openly admit that they have gone to the IPC because those who do are labelled among many in the GC community as ‘traitors,’ as collaborating with the ‘enemy’ and selling their patrimonial land

activities on March 17, 2006. In *Demopoulos v. Turkey* (2010), the ECtHR ruled that the IPC was an effective local remedy that must be exhausted before claims can be brought before the ECtHR.<sup>31</sup>

## II. HISTORY OF PEACE NEGOTIATIONS IN CYPRUS

The European Union, the Council of Europe, and the United Nations have made ongoing efforts to bring about a negotiated settlement in the Cypriot conflict. Since the start of the occupation, international actors have also put pressure on Turkey to withdraw forces and recognize the legitimacy of the Cypriot government.<sup>32</sup> In addition, throughout Cypriot history, the United Nations (U.N.) has played an active role in preserving peace and relations between the two communities.<sup>33</sup> Since 1964, citing their Article 2 (4) obligations under the U.N. Charter and to preserve peace between the Greek and Turkish Cypriot communities, the U.N. has maintained a peacekeeping force on the Island.<sup>34</sup> These efforts represent the largest direct intervention that international actors have made in Cyprus.<sup>35</sup> Since the start of the occupation, the UNFICYP has repeatedly

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for financial gain.”). *Contra* Elena Katselli Proukaki, *The Right of Displaced Persons to Property and to Return Home after Demopoulos*, 14 HUM. RTS. L. REV. 701, 702–03 (2014) (arguing that the decisions of European Court of Human Rights only provide a framework on property and not a resolution of the thornier issues); Rhodri C. Williams & Ayla Gürel, *The European Court of Human Rights and the Cyprus Property Issues: Charting a Way Forward* 1 (PEACE RES. INST. OSLO CYPRUS CTR., Paper 1/2011), <https://www.prio.org/utility/DownloadFile.ashx?id=388&type=publicationfile> (“[T]he decisions of the Court serve only to define the outer parameters within which the parties have a degree of political space to arrive at a mutually acceptable compromise. In seeking to contribute to a better appreciation of these parameters, we maintain that the Court’s recent judgments do no more—and no less—than to exclude the more extreme aspects of the proposals that have been put forward by both sides.”).

31. *Demopoulos v. Turkey*, 2010-I Eur. Ct. H.R. 365.

32. *See, e.g.*, Resolution on Cyprus, EUR. PARL. O.J. (C 117) 15 1996 (encouraging Turkey to allow greater European access to Northern Cyprus); Motion for a Resolution to Wind up the Debate on the Statement by the Vice-President of the Commission/High Representative of the Union for Foreign Affairs and Security Policy on Turkish Actions Creating Tensions in the Exclusive Economic Zone of Cyprus (2014/2921(RSP)), EUR. PARL. DOC. B8-0211/2014 (2014) (calling Turkey to recognize Cypriot sovereignty as a matter of international law).

33. S.C. Res. 186, ¶ 4 (Feb. 27, 1964).

34. *Id.*

35. *See* Norrie MacQueen, *The UN Force in Cyprus (UNFICYP)*, 5 CABLE (Nov. 1, 2017), <https://www.cablemagazine.scot/cyprus/>.

shifted its strategies to maintain the ceasefire line and preserve the existing peace with the final goal of reaching a resolution for foreign troop withdrawal.<sup>36</sup> The ceasefire line was drawn in 1974 and remains frozen in time.<sup>37</sup> The UNFICYP forces are currently active in Cyprus and have stated that they plan to remain active until an agreement between the two Cypriot communities is reached.<sup>38</sup> A status of force agreement has been consistently renewed to maintain the presence of peacekeeping troops on the Island.<sup>39</sup> Over the years, the UNFICYP has negotiated “mini” agreements with the respective militaries to lower the potential for an unexpected escalation of military tensions; the agreements include patrolling of the demilitarized zone, demarcating the zone, and installing CCTV cameras and electronic surveillance with agreed access to de-escalate or prevent firefights among the trigger-happy sentries placed by the military authorities on both sides.<sup>40</sup>

In addition to its work through the UNFICYP, the U.N. has also facilitated peace talks between the two sides. In 1999, the U.N. Security Council called upon the two sides “to work constructively” with the Secretary-General to reach a comprehensive peace agreement.<sup>41</sup> This culminated in an agreement in 2004, known as the “Comprehensive Settlement of the Cyprus Problem.”<sup>42</sup> The plan called for the withdrawal of Turkish troops, resettlement for displaced persons during the

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36. See, e.g., S.C. Res. 365, ¶ 4 (Dec. 13, 1974); S.C. Res. 1251, ¶ 8 (June 29, 1999) (reiterating UNFICYP role in preserving peace at ceasefire line); S.C. Res. 1486, ¶ 3 (May 27, 2003) (extending civilian troops to ease restrictions on civilian restrictions on travel across the ceasefire).

37. See *About the Buffer Zone*, *supra* note 12.

38. See S.C. Res. 2234, ¶ 7 (July 29, 2015).

39. See, e.g., S.C. Res. 1847 (Dec. 12, 2008); S.C. Res. 1873 (May 29, 2009); S.C. Res. 1898 (Dec. 14, 2009); S.C. Res. 1930 (June 15, 2010); S.C. Res. 1953 (Dec. 14, 2010); S.C. Res. 1986 (June 13, 2011); S.C. Res. 2026 (Dec. 14, 2011); S.C. Res. 2058 (July 19, 2012); S.C. Res. 2089 (Jan. 24, 2013); S.C. Res. 2114 (July 30, 2013); S.C. Res. 2135 (Jan. 30, 2014); S.C. Res. 2168 (July 30, 2014); S.C. Res. 2197 (Jan. 29, 2015); S.C. Res. 2234 (July 29, 2015); S.C. Res. 2263 (Jan. 28, 2016); S.C. Res. 2300 (July 26, 2016) (each resolution extending the mandate for six months at a time, evidencing the solution’s highly impermanent nature to a quasi-permanent peacekeeping presence).

40. Interview with U.N. Peacekeeping Force in Cyprus (UNFICYP) personnel that the author wishes to keep anonymous. Sources verified by the *Journal*. (Sept. 28, 2016).

41. S.C. Res. 1250, ¶ 8 (June 29, 1999).

42. UN Comprehensive Settlement Plan of the Cyprus Question (Mar. 31, 2004), <http://www.mfa.gov.tr/un-comprehensive-settlement-plan-of-the-cyprus-question.en.mfa>.

original period of conflict, the citizenship of Turkish immigrants, and a strengthening of a bizonal character of a unified Cyprus.<sup>43</sup> The Security Council unanimously adopted the proposal and gave their full support to the negotiated settlement.<sup>44</sup> The European Parliament, with the Cypriot ascension into the EU looming, also voiced unequivocal support of the plan and stated that it could serve as a “shining example for handling . . . difficult international issues.”<sup>45</sup> Ultimately, the resolution failed after Greek Cypriots overwhelmingly voted against the agreement.<sup>46</sup>

Four years later, in September 2008, the Secretary-General assisted the two Cypriot communities in negotiating another comprehensive settlement.<sup>47</sup> The settlement focused on a reduction in military exercises, freedom of civilian movement between the two sides of the federation, and reduced tensions along the green line.<sup>48</sup> Some have attributed the failure of this negotiation to the world recession and the changing economic conditions in Cyprus, which limited tolerance for a peace deal with considerable economic costs.<sup>49</sup> Since these talks, there have been further efforts to negotiate a settlement, but none have yet reached a solution.<sup>50</sup> At the time of writing this Article, the peace talks are currently at a stand-still.<sup>51</sup> The parties remain unable to reach an agreement, despite the “shuttle diplomacy” efforts provided by the Special Adviser of the U.N. Secretary-General on Cyprus, Mr. Espen Barth Eide, during the last round of

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43. *Id.* at annex 4, art. 3; arts. 7(3), 3, 2(1)(a).

44. S.C. Res. 1475, ¶ 4 (Apr. 14, 2003).

45. EUR. PARL. DOC. (P5\_TA) 0347 (2004).

46. See Ahmet Sözen, *The Cyprus Question in Turkey—EU Relations*, in THE POLITICS OF EU ACCESSION: TURKISH CHALLENGES AND CENTRAL EUROPEAN EXPERIENCES 72–89, 78–81 (Lucie Tunkrová & Pavel Šaradín eds., 2010).

47. S.C. Res. 1847 (Dec. 12, 2008).

48. *Id.*

49. *What Happened in Cyprus*, ECONOMIST (Mar. 28, 2013), <https://www.economist.com/blogs/freeexchange/2013/03/interview-athanasios-orphanides>. See also CAROL MIGDALOVITZ, CONG. RESEARCH SERV., RL33497, CYPRUS: STATUS OF U.N. NEGOTIATIONS AND RELATED ISSUES 10 (July 20, 2007), <https://fas.org/sgp/crs/row/RL33497.pdf> (listing “doubt about the economic viability of the Plan and the concern about its harm to the Greek Cypriot standard of living” as a reason for rejecting the Plan).

50. MIGDALOVITZ, *supra* note 49, at 1.

51. Helena Smith, *Cyprus Reunification Talks to Resume, Says UN Secretary-General*, GUARDIAN (June 5, 2017, 8:32 EDT), <https://www.theguardian.com/world/2017/jun/05/cyprus-reunification-talks-to-resume-says-un-chief-security-power-sharing-divided-island>.

negotiations (May 17–26, 2017).<sup>52</sup> In 2017, Secretary-General Guterres announced he would host a joint meeting in June 2017, between the Turkish Cypriot leader, Mustafa Akinci, the Greek Cypriot leader, Nicos Anastasiades, and Mr. Eide.<sup>53</sup> Progress towards formal talks remains in “stop-start” mode.<sup>54</sup> These recent efforts have given renewed optimism for an agreed settlement, but no tangible outcome has been reached.<sup>55</sup>

During these multiple mediation attempts, no female negotiator has been appointed to the Cyprus conflict.<sup>56</sup> In underscoring the exclusion of women from the negotiation process, I caution on an essential proposition that more women in the negotiation process would necessarily mean better peace or a gender-friendly peace settlement. Women hold a variety of views on war and peace, and this is no less true of Cyprus than it is of any other conflict.<sup>57</sup> Nonetheless, rigid constructions defining the narrative of the causes and fixes of the conflict dominate the portrayal of gender and the Cyprus conflict. Women are stereotypically portrayed as mothers, and helpless victims of the war, affirming masculine virtues of security and

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52. *Statement by the Special Adviser of the Secretary-General on Cyprus, Mr. Espen Barth Eide*, UN CYPRUS TALKS (May 26, 2017), <http://www.uncyprustalks.org/statement-by-the-special-adviser-of-the-secretary-general-on-cyprus-mr-espen-barth-eide-2/>.

53. *UN Chief Announces New Talks on Cyprus Reunification in June*, DAILY MAIL (June 4, 2017), <http://www.dailymail.co.uk/wires/ap/article-4572002/UN-chief-hosts-peace-talks-rival-Cypriot-leaders.html>.

54. Tony Barber, *Europe’s Coming War over Cyprus*, INDEPENDENT, Jan. 23, 1997, at 16.

55. Smith, *supra* note 51.

56. PEACE RESEARCH INST. OSLO (PRIO) CYPRUS CENTRE, WOMEN’S PEACE IN CYPRUS: RECOMMENDATIONS OF THE GENDER ADVISORY TEAM (GAT) ON IMPLEMENTING UNSCR 1325 PROVISIONS ON WOMEN, PEACE AND SECURITY 8 (2012), <https://www.prio.org/utility/DownloadFile.ashx?id=442&type=publicationfile> [hereinafter PRIO]. See generally Christine Bell & Catherine O’Rourke, *Peace Agreements or Pieces of Paper? The Impact of UNSC Resolution 1325 on Peace Processes and Their Agreements*, 59 INT’L & COMP. L.Q. 941, 948 n.26 (2010) (finding that 99% of mediators who negotiate in peace processes are male).

57. A 2012 study by the Interpeace Initiative, Cyprus 2015, and the Centre for Sustainable Peace and Democratic Development (SeeD) found significant gender discrepancies over the political impact of a settlement. Specifically, among Turkish Cypriot women, as opposed to Turkish Cypriot men, there were significantly higher concerns that a settlement could lead to economic failure. Among Greek Cypriot women, there were significantly higher concerns that further negotiation could lead to renewed conflict. In this survey, women were found to be less open to reconciliation than men. See *Gender Participation in the Peace Talks*, INTERPEACE 6 (Nov. 22, 2012), <http://www.interpeace.org/resource/gender-participation-in-the-peace-talks/>.

militarism to protect them, translating into peace agreement positions that are highly protectionist towards women but do not take a transformative approach to the necessity of protecting women's rights in a post-conflict Cyprus.<sup>58</sup>

#### A. GENDER DIMENSIONS OF PEACE NEGOTIATIONS IN CYPRUS

Cyprus remains a highly traditional hetero-patriarchal society. Despite its membership of the European Union, it faces broad challenges in achieving gender equality and in meeting European notions of political equality.<sup>59</sup> Cyprus ranks among the three lowest countries in the European Union for the representation of women in politics; only 10.7 percent of all political offices are held by women.<sup>60</sup> Society remains culturally conservative, with expectations of marriage and motherhood dominant in social expectations for women's lives.<sup>61</sup>

Women's experience of the conflict and occupation of Cyprus has been largely absent from conflict narratives. In turn, women have struggled to have the gender dimensions of the conflict, occupation, and peace process reflect their experiences and civil society roles. Even following the passage of U.N. Security Council Resolution 1325 in 2001, which mandated the greater

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58. FIONNUALA NÍ AOLÁIN ET AL., ON THE FRONTLINE: GENDER, WAR, AND THE POST-CONFLICT PROCESS 49–55 (2011); *see also* Laura Sjoberg, *Gendered Realities of the Immunity Principle: Why Gender Analysis Needs Feminism*, 50(4) INT'L STUD. Q. 889, 897 (2006); *Women and War*, INT'L COMM. OF THE RED CROSS 2–3 (June 19, 2015), <https://www.icrc.org/en/publication/0944-women-and-war>. In the context of Cyprus, Olga Demetriou notes:

In Cyprus, women are not depicted as agents in the war effort, neither for the Turkish-Cypriots in the 1960s, nor for Greek-Cypriots in 1974. The acknowledgment of their involvement, rare as it is, extends normally to feeding and sheltering: in commemorative TV programs, mention is made of Greek-Cypriot women who hid soldiers at home, fed them, or helped them escape into safe territory as the Turkish army was advancing.

OLGA DEMETRIOU, REFUGEEHOOD AND THE POST-CONFLICT SUBJECT: RECONSIDERING MINOR LOSSES, (forthcoming 2018) (Chapter 7: Unhomly Subjects) (on file with author).

59. *See* Kathambi Kinoti, *The State of Women's Rights in Cyprus*, EUROPEAN WOMEN'S LOBBY (Aug. 20, 2010), <http://www.womenlobby.org/The-State-of-Women-s-Rights-in-Cyprus>.

60. Susana Pavlou, *The Gender Gap in Women's Leadership in Cyprus*, MEDITERRANEAN INST. GENDER STUD. 3 (Mar. 16, 2015), [http://thehubcy.org/media/files/Women's%20Leadership%20and%20Participation%20in%20Decision-making\(1\).pdf](http://thehubcy.org/media/files/Women's%20Leadership%20and%20Participation%20in%20Decision-making(1).pdf).

61. *Id.* at 14.

inclusion of women in peace-processes and peace negotiations,<sup>62</sup> the gendered dimensions of the conflict and occupation have struggled to gain any traction in the negotiation process.<sup>63</sup> Cyprus represents a valuable case study of the rhetorical tension in conflict management between claims of urgency, security and conflict resolution, given that Cyprus' conflict has always been "presented as 'urgent' and everything else 'secondary', and because, despite the persistence over three generations now, 'the Cyprus problem' is likely to be outlived by the problem of gender inequality."<sup>64</sup> Women's peace activism in Cyprus has a long and distinguished history.<sup>65</sup> For example, in 2002 and 2003, as peace negotiations stalled, a bicomunal women's non-governmental organization (NGO) staged peaceful protests in the northern and southern parts of Nicosia (crossing the Green line was forbidden at that time), demanding a negotiated settlement and an end to militarism.<sup>66</sup> Consistent with many other conflicts and occupation contexts, women remained formally side-lined in negotiations, until 2012 when the U.N.'s Good Offices mission in Cyprus supported the incorporation of gender concerns in the peace negotiations.<sup>67</sup> The establishment of a Gender Advisory Team (GAT) in 2009 enabled a channel of communication to the negotiation process that enabled a feminist and gender perspective on issues as diverse as governance, citizenship, and property.<sup>68</sup> It constitutes a loose network of women, Greek-

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62. See generally NI AOLAIN ET AL., *supra* note 58, at 107–08 (acknowledging that although the resolution was influential, it did not affect actual practices).

63. See *id.*, at 207–210.

64. PRIO, *supra* note 56, at 16 (building on a broader commitment to ensuring the participation of civil society in the conflict resolution process in Cyprus). See S.C. Res. 1818, Preamble (June 13, 2008).

65. See Myria Vassiliadou, *Questioning Nationalism: The Patriarchal and National Struggles of Cypriot Women Within a European Context*, 9(4) EURO. J. WOMEN'S STUD. 459, 460 (2002).

66. PRIO, *supra* note 56, at 2.

67. *Id.* at 5–6. See also S.C. Res. 2106 (June 24, 2013).

68. PRIO, *supra* note 56, at 5. GAT is made up of civil society activists, academics and policy makers. GAT's recommendations include provisions for strong, constitutionally entrenched equal rights and non-discrimination language in the Constitution of a United Federal Cyprus; health and social security for all women including homemakers; securing sexual and reproductive rights; equal gender representation in all levels of government as enabled by temporary special measures; gender balanced public decision-making bodies, including courts; the creation of special mechanisms to ensure gender equality across federal entities; and a demand for equal rights for men to acquire, change, or retain their citizenship (presently not the case under the 1960 Cyprus Constitution which holds that 'the wide belongs to the community of the

Cypriots and Turkish Cypriots who have a variety of backgrounds including political advocacy, NGO work and academics. This channel comes in a context where no Cypriot women have sat at the negotiation table, and few women have significant leadership roles in institutions or structures that feed into the negotiation process.<sup>69</sup> While the GAT represents an advance on the hitherto exclusion of women from the negotiation process, the composition of the group is privileged, and the GAT has struggled to incorporate the grassroots.<sup>70</sup> Conversely, the Gender Equality Technical Committee, attached to the negotiations and providing input to negotiators as an official committee constrained by all the formal rules of the negotiation process and bi-communal engagement, means that in reality it has been given an enormous mandate with no meaningful authority.<sup>71</sup> All members of the Committee undertake their work in a voluntary capacity and are checked in their ability to 'do' conflict-related work, as Committee members require collective approval to engage in activities.<sup>72</sup> GAT members have reflected on whether the gender "capture" of the Committee reflects a tension of engagement "inside" rather than "outside" peace processes, and tension between process and substantive outcomes when women engage in formal peace making at the expense of their external advocacy.<sup>73</sup>

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husband.'). See Olga Demetriou & Maria Hadipaviou, *The Impact of Women's Activism on the Peace Negotiation in Cyprus* (Working Paper, 2017) (on file with author).

69. PRIO, *supra* note 56, at 8. It should also be noted that the post 2004 position that all negotiations be Cypriot led has significant gender implications. In practice, it means that the agreement will not be gender proofed by mediators with international expertise, advice can be given to the key (male) negotiators but there is no obligation to take account of any gender considerations in a Final Status agreement.

70. Interview with Maria Hadjipavlou-Trigeoris, Professor, Soc. and Political Sci. Dep't at the Univ. of Cyprus, in Nicosia, Cyprus (Sept. 29, 2016). See also Maria Hadjipavlou, *No Permission to Cross: Cypriot Women's Dialogue Across the Divide*, 13(4) *Gender, Place & Culture* 329, 347 (2006).

71. See *Statement by the Technical Committee on Gender Equality on the Occasion of International Women's Day 2016*, UNITED NATIONS PEACEKEEPING FORCE IN CYPRUS, <https://unfcyp.unmissions.org/statement-technical-committee-gender-equality-occasion-international-womens-day-2016> (last visited Dec. 24, 2017); *Gender Equality*, UN Cyprus Talks, <http://www.uncyprus.org/gender-activities/> (last visited Dec. 24, 2017).

72. There is currently no published protocol on the Committee's work, but members explained that the modalities of engagement are informally agreed and reported that they are working voluntarily. Interview with two serving Committee members, in Cyprus (Sept. 29, 2016).

73. Interview with Olga Demetriou, Senior Research Consultant, Peace

The engagement of women in conflict process and occupation regulation has been stymied by a number of intersecting factors including 1) a historical context which has not taken account of the specificity of women's experiences (occupation, colonialism and ethnic nationalism)<sup>74</sup> 2) structural challenges including embedded patriarchy and hierarchical gender roles<sup>75</sup> 3) a highly masculine political culture, the deep public/private division in Cypriot life and the traction of gender stereotypes<sup>76</sup> and 4) the internalization by women of their secondary and supportive roles, and social and personal barriers to public political engagement.<sup>77</sup> Despite a strong emphasis in the Cypriot peace negotiations on 'equality' and 'human rights',<sup>78</sup> meaning specifically ethnic and political identity-based equality and a narrowly defined set of civil and political rights, there has been a complete evacuation of gender equality and gendered human rights from the conception and implementation of substantive equality that has been dominant in the peace talks to date.<sup>79</sup> The Cypriot political settlement in progress is generally unmoored from gender concerns and remains a vehicle for sustained patriarchal dialogue even as the language of human rights and transformation litter the landscape.<sup>80</sup>

A defining element of the conflict and occupation in Cyprus has been the ways in which definition of discrimination and equality frame the negotiations towards a final settlement, and have in part defined the nature of the highly militarised occupation. An emphasis on identity is to be expected, given the modern history of exclusions which are ethnically determined on

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Research Inst. Oslo (PRIO), in Nicosia, Cyprus (Sept. 29, 2016).

74. See generally CYNTHIA COCKBURN, *THE SPACE BETWEEN US: NEGOTIATING GENDER AND NATIONAL IDENTITIES IN CONFLICT* 40–45 (1998) (exploring the relationship between nationalism and feminism); NIRA YUVAL-DAVIS, *GENDER AND NATION* 119–20 (1977) (discussing feminism through a lens of identity politics and multi-culturalism).

75. See Lori Handrahan, *Conflict, Gender, Ethnicity and Post-Conflict Reconstruction*, 35(4) *SEC. DIALOGUE* 429, 431 (2004).

76. MARIA HADJIPAVLOU, *WOMEN AND CHANGE IN CYPRUS: FEMINISMS AND GENDER IN CONFLICT* 19–26 (2010). See generally Judy El-Bushra, *Transforming Conflict: Some Thoughts on a Gendered Understanding of Conflict Process*, in *STATE OF CONFLICT: GENDER, VIOLENCE AND RESISTANCE* 66–86, 80–82 (Susie Jacobs et al. eds., 2000) (exploring the range of identities both *within* and *between* genders).

77. PRIO, *supra* note 56, at 5.

78. UN Comprehensive Settlement Plan of the Cyprus Question, *supra* note 42, at arts. 2(1)(a), 2(1)(c), 4(1), 11(1), attachment 5.

79. PRIO, *supra* note 56, at 8.

80. See Maria Hadjipavlou, *supra* note 70, at 347.

the Island (specifically minority groups, and the effacement of hybrid identities). But the emphasis on identity as a result of conflict and occupation has excluded gender identity in distinct ways. First, identity is presumed to distribute along ethnic lines, entirely side-lining gender identity, or the intersection of gender identity with ethnic identity.<sup>81</sup> Second, commentators have identified the dominance of “ideal” citizen; “this ideal citizen, in Cyprus, is male, belongs to a majority ethnicity (Greek-Cypriot / Turkish-Cypriot), and is the protector of the nation – thus, able-bodied, masculine, heterosexual, and combat-ready.”<sup>82</sup> In parallel, women are perceived as weaker, in need of protection,<sup>83</sup> vulnerable to the enemy and reproducers of two nations in military opposition.<sup>84</sup> One outworking of these gender ideologies has been the privileging of the army, and the ways in which a long-standing occupation has framed the military as the central institution of the Cypriot state and territory under Turkish occupation on the Island.<sup>85</sup> Given the masculinity of the military, its exclusion of women and the close connection between political power and military service, women’s non-status in the military has broader effects on their status and power in the civic and political affairs of the Island.<sup>86</sup>

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81. See Stacey Burlet & Helen Reid, *A Gendered Uprising: Political Representation and Minority Ethnic Communities*, 21(2) ETHNIC & RACIAL STUD. 270, 271 (1998); V. Spike Peterson, *The Politics of Identity and Gendered Nationalism*, in FOREIGN POLICY ANALYSIS: CONTINUITY AND CHANGE IN ITS SECOND GENERATION 167, 180 (Laura Neack, Jeanne A. K. Hey & Patrick J. Haney eds., 1995) (Explaining a possible intersection of gender and ethnic identity by discussing how women are used to police the border of ethnic identity).

82. PRIO, *supra* note 56, at 24.

83. *Id.*

84. See Floya Anthias, *Women and Nationalism in Cyprus*, in WOMEN—NATION—STATE 150, 155–60 (Nira Yuval-Davis et al. eds., 1989) (showing how women are perceived as reproducers who can reproduce for either side).

85. See PRIO, *supra* note 56, at 24 (showing that the privileged army is a “ideal citizen”).

86. See, e.g., Anthias, *supra* note 84, at 159–64 (discussing how women’s link to the family has affected their participation in the liberation struggle). See generally Stratis-Andreas Efthymiou, *Nationalism, Militarism and Masculinity in Post-2003 Cyprus* 54, 229, 290 (2015) (unpublished Ph.D. thesis, University of Sussex).

### III. GENDER-BASED VIOLENCE DURING THE INVASION AND OCCUPATION

While the Cyprus conflict has broadly faded from public view, displaced by post-Cold War territorial disputes, genocides and asymmetrical conflicts in which a deadly mix of sectarian violence, terrorism, inter-state hostilities and low-high thresholds of violence are experienced, in its time the conflict was intense and riveting.<sup>87</sup> While recent wars have brought significant attention to the experience of women as victims of conflict, Cyprus provided early motifs for much of the preoccupations that make women visible in contemporary wars.<sup>88</sup> Significant evidence emerged early on that women were targeted for sexual and gender-based violence in the hostilities following Turkish military invasion of the Island.<sup>89</sup> The early territorial gains by the Turkish army as it invaded Cyprus set the stage for significant and reported sexual violence against women.<sup>90</sup> As reported by Roussou:

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87. See Miltos Miltiadou, Letter to the Editor, *Cyprus Continues to Be Victimized by Turkey*, ST. PETERSBURG TIMES (Florida), Aug. 12, 1994, at 23A (explaining how Turkey continues to occupy Cyprus with impunity).

88. See generally Doris E. Buss, *Rethinking 'Rape as a Weapon of War'*, 17 FEMINIST LEGAL STUD. 145 (2009) (discussing the recent interest in finding rape as a weapon of war among feminists); Rhonda Copelon, *Surfacing Gender: Re-Engraving Crimes Against Women in Humanitarian Law*, 5(2) HASTINGS WOMEN'S L.J. 243 (1994) (explaining how the interest in rape as a weapon of war has only recently begun receiving international attention).

89. See Anna M Agathangelou, *Nationalist Narratives and (Dis)Appearing Women: State-Sanctioned Sexual Violence*, 19(4) CANADIAN WOMEN STUD. 12, 12–14 (2000) [hereinafter Agathangelou]; Anna M. Agathangelou & Kyle D. Killian, *The Discourse of Refugee Trauma: Epistemologies of the Displaced, the State, and Mental Health Practitioners*, 21(1) CYPRUS REV. 19, 43 (2009) [hereinafter Killian]; Olga Demetriou, *The Militarization of Opulence: Engendering a Conflict Heritage Site*, 14(1) INT'L FEMINIST J. POL. 56, 63–64 (2012); *Villagers Driven from Cyprus Homes Charge Murder and Rape by Turks*, N.Y. TIMES, Aug. 6, 1974, at 70; Alexander Cockburn, *How About Turkey's 'Aggression' Against Cyprus?: Viewpoint*, WALL ST. J., May 13, 1982, at 27; Joseph Fitchett, *Pressure Builds for Council of Europe to Condemn Turkish Acts on Cyprus*, WASH. POST, Jan. 24, 1977, at B4; *Girl Tells of Rapes, Killings on Cyprus*, CHI. TRIB., Sept. 1, 1974, at 33; Miltiadou, *supra* note 87; Gene Rossides, *What About Turkey's War Criminals?*, HELLENIC TIMES (N.Y.C.), July 25, 2008, at 4.

90. See Maria Roussou, *War in Cyprus: Patriarchy and the Penelope Myth*, in WOMEN & POLITICAL CONFLICT: PORTRAITS OF STRUGGLE IN TIMES OF CRISIS 25, 25–26 (Rosemary Ridd & Helen Callaway eds., 1987) (recounting the Turkish invasion of Cyprus and the immediate aftermath).

In the summer of 1974, the Turkish army invaded Cyprus . . . Greek Cypriots living in this northern section fled for their lives—on foot, in cars, in tractors, or by whatever means of transport they could find. Over 200,000 became refugees. The 20,000 left behind—mainly women, children and the elderly—found themselves “enclaved” (the official term used by the Greek Cypriot government to describe those Greek Cypriots who remained or were forced to remain in the Turkish-controlled area) at the mercy of the Turkish soldiers.<sup>91</sup>

Evidence of sexual violence against Greek Cypriot women was contained in the legal arguments advanced in the interstate *Cyprus v. Turkey* case, which addressed a range of European Convention violations instigated by the invasion and its aftermath.<sup>92</sup>

On 21 March 1975, the applicant Government submitted this application to the Commission in the following terms:

. . . 3. In the said Turkish occupied areas the following atrocities and crimes were committed by way of systematic conduct by Turkey’s state organs in flagrant violation of the obligations of Turkey under the European Convention on Human Rights during the period from 19 September 1974 until the filing of the present Application:

. . . (b) Wholesale and repeated rapes. Even women of ages up to 80 were savagely raped by members of the Turkish forces. In some areas forced prostitution of Greek Cypriot girls continues to be practiced. Many women who remained in the Turkish occupied areas became pregnant as a result of the rapes committed by the Turkish troops.<sup>93</sup>

In the course of its submissions, the Cypriot government complained of “wholesale and repeated rapes of women of all ages from twelve to seventy-one, sometimes to such an extent

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91. *Id.*

92. *Cyprus v. Turkey*, App. No. 6780/74 & 6950/75, 1 Eur. Comm’n H.R. Dec. & Rep. 1, 10–14 (1976).

93. *Id.* at 11.

that the victims suffered hemorrhages [sic] or became mental wrecks.”<sup>94</sup> The government also claimed that in areas under Turkish occupation enforced prostitution was practiced, systematic rape (multiple rape of the same victim by multiple perpetrators), public rape (including women experiencing rape in front of their children and family members), aggravated rape (sexual violence accompanied by severe violence including but not limited to head trauma and near suffocation), and rape/murder nexus (where women were immediately killed following their sexual violation) were common.<sup>95</sup> Those targeted included pregnant women and women who were mentally retarded.<sup>96</sup> The government pleadings also included claims that women who were victims of rape by Turkish soldiers noted several recorded cases of abortion at the British base.<sup>97</sup> In total, the European Commission addressed “written statements of 41 alleged victims of rape . . . of four alleged eye-witnesses of rape . . . and of 24 hearsay witnesses of rape . . . .”<sup>98</sup> In its formal findings, the Commission held that the rapes were committed by soldiers, including Turkish officers, and that the rapes were not “isolated cases of indiscipline.”<sup>99</sup> The Commission held that the Turkish authorities did not take any action to prevent sexual violence, nor punish its occurrence, and considered the non-prevention imputable to Turkey under the Convention.<sup>100</sup> The Commission concluded that the incidents of rape established in the factual findings constituted “inhuman treatment” under Article 3 of the Convention.<sup>101</sup>

Secondary sources affirm and provide greater detail on the experiences of women including harrowing detail on the efforts made by women to avoid sexual assault:

One woman related her experience: I saw him (the Turkish soldier) still over me and I noticed others showing that they approved of what he had done to me . . . . Then he took my watch and engagement ring.

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94. *Id.* at 120.

95. *Id.*

96. *Id.*

97. *Id.* at 122.

98. *Id.* at 123; *see also* Roussou, *supra* note 90, at 33 (detailing the testimony of rape victims and eye-witnesses to rape).

99. *Cyprus v. Turkey*, App. No. 6780/74 & 6980/75, 1 Eur. Comm’n H.R. Dec. & Rep. 1, 124 (1976).

100. *Id.*

101. *Id.*

Immediately afterwards another threw me to the ground and started to undress me, with the same intention as the first . . . I staggered in the direction of the other women, and caught up with them. I saw a two year old [sic] boy and took him in my arms, even though I was losing my strength, hoping this would save my life. While I was holding the little boy, some Turks surrounded us again, and one of them started pulling me . . . . As we were walking towards Six Mile Beach, we found some charcoal and I used it to make my face black, to look old, hoping to avoid being raped again.<sup>102</sup>

A few notable features of the account of extensive rape in Cyprus bear closer examination. First, there are no comprehensive statistics available on the total number of victims.<sup>103</sup> Despite widespread knowledge of these harms, quantification has remained elusive.<sup>104</sup> Second, the lack of confirmed data connects to the challenges in tracing women who scattered during the invasion and remained in various parts of the south of the island thereafter.<sup>105</sup> The lack of exposure is compounded by the accounts that note that “[t]hose Cypriot women who survived these dreadful experiences, particularly those who did not become pregnant, hid their ‘painful secret’ deep within themselves and tried to start a new life.”<sup>106</sup> Notably, while sexual violence threaded through the accounts of the conflict in important and legally significant ways at the time of the invasion, it was erased in memory and political discussions soon thereafter.<sup>107</sup> More recent attempts to address the needs of rape victims have demonstrated both erasure of narratives and the inter-ethnic blame game being deployed to shut down public dialogue. Olga Demetriou demonstrates that conversations about rape devolve into either charged defences of militaries and the reverse charge of ethnic slurring, or impassioned pleas for

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102. Roussou, *supra* note 90, at 33.

103. See Convention on the Elimination of All Forms of Discrimination Against Women, Concluding Observations on the Combined Sixth and Seventh Periodic Reports of Cyprus, ¶ 37, U.N. Doc. CEDAW/C/CYP/CO/6–7 (2013) (expressing concerns about inadequate statistical data).

104. *Id.* See also Agathangelou, *supra* note 89, at 13–14.

105. Agathangelou, *supra* note 89, at 13–14; Killian, *supra* note 89, at 11–12.

106. Roussou, *supra* note 90, at 34.

107. See INTERPEACE, *supra* note 57, at 2–3 (explaining how women are excluded from the peace talks in Cyprus).

better social support to rape victims by the states.<sup>108</sup> As the account of the nascent peace process details above, women are barely visible in the negotiations, and sexual violence and its long-term consequences for victims and communities are scarcely mentioned as part of the accounting that would be necessary in a new political dispensation.<sup>109</sup> Moreover, despite providing early legal recognition of sexual violence in conflict as a human rights violation, the Cyprus experience provided little lasting impact upon international legal norms related to conflict-related sexual violence.<sup>110</sup> Rather, that heavy lifting was done by another European conflict decades later, as the collapse of the Former Yugoslavia gave rise to systematic and sustained sexual violence.<sup>111</sup> Moreover, the attention to sexual violence during the invasion and any link to ongoing issues of sexual exploitation on the island, particularly in respect of human trafficking (detailed below), has been largely ignored.<sup>112</sup> It should be noted that we

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108. Demetriou states “And yet, when questions about the rehabilitation of actual victims of war rapes were raised by feminist parliamentarians on both sides, alongside acknowledgements of the existence of Other victims, public opinion was scandalized. The Turkish-Cypriot parliamentarian Doğuş Derya who swore on her own oath in 2013, brought up the issue in 2014 and was castigated by colleagues and in social media for suggesting, ‘treasonously’, that Turkish soldiers raped. Having brought the threats she received to court, she was asked, as she took the stand, to explain ‘who raped who in 1974’: ‘men raped women’, she replied.” DEMETRIOU, *supra* note 58.

109. See *id.* at 3–4 (explaining how not including women in the process has long term consequences); Killian, *supra* note 89, at 41–45 (showing how narratives of sexual violence can be used to support patriarchy).

110. See Miltiadou, *supra* note 87 (showing that Cyprus has not engaged in the international legal process).

111. See WOMEN AID INT’L, WARBURTON MISSION II REPORT: EC INVESTIGATIVE MISSION INTO THE TREATMENT OF MUSLIM WOMEN IN THE FORMER YUGOSLAVIA ¶¶ 14–20 (Feb. 1993), <http://www.womenaid.org/press/info/humanrights/warburtonfull.htm#Findings> (concluding the rape of Muslim women was part of a “systematic” pattern of abuse); Kirsten Campbell, *The Gender of Transitional Justice: Law, Sexual Violence and the International Criminal Tribunal for the Former Yugoslavia*, INT’L J. TRANSITIONAL JUST. 411, 413 (2007) (discussing the ICTY jurisprudence that shaped sexual violence crimes as prohibited by international humanitarian law); Rana Jaleel, *Weapons of Sex, Weapons of War: Feminism, Ethnic Conflict and the Rise of Rape and Sexual Violence in Public International Law During the 1990s*, 27(1) CULTURAL STUD. 115, 120–21 (2013) (discussing the enshrinement of “violence against women” within the international human rights framework); Mary Valentich, *Rape Revisited: Sexual Violence Against Women in the Former Yugoslavia*, 3(1) CANADIAN J. HUM. SEXUALITY 53, 53–56 (1994) (providing an overview of the sexual violence endured by the estimated 20,000 to 50,000 women raped in Yugoslavia).

112. See U.S. DEPT OF STATE, *Cyprus: Trafficking in Persons Report* (2016), <http://www.state.gov/j/tip/rls/tiprpt/countries/2016/258754.htm> (designating

have no reliable statistics of levels of sexual and intimate partner violence in the TRNC, and limited means to gauge the effectiveness of legal remedies for crimes of sexual violence in the jurisdiction. This means that despite the links now being demonstrated in other jurisdictions about the relationship between pre and post-conflict violence for women,<sup>113</sup> the capacity to undertake that assessment in Cyprus is very limited.

#### IV. FAMILY, MARRIAGE AND DIVORCE UNDER OCCUPATION

Challenges of marriage, divorce, and inheritance in the context of the occupation are real and under-appreciated. In the broader literature on the law of occupation, they scarcely merit consideration.<sup>114</sup> The Cypriot occupation thus offers insight into the complexity of these issues for women's lived lives under occupation, which have relevance to multiple global sites of occupation. I suggest that these gendered aspects of day-to-day life are excluded from the law of occupation for three overlapping reasons. First, the law of occupation has broadly omitted issues of family, private life and sexual harm from its regulatory scope. The explanations for such absences are explained in part by the patriarchal and masculine sensibilities of these legal norms shaped by a broader historic absence of gender concerns from the law of armed conflict. Second, the law of occupation expressly functions in a frame of legal pluralism,<sup>115</sup> whereby occupation law affirms the ongoing application of 'local' civil law to matters of intimate and family life ceding the private (in principle) to the prevailing legal order when territory is captured and occupied.

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Cyprus as a Tier 1 anti-trafficking country that fully complies with standards).

113. See Romi Sigsworth & Nahla Valji, *Violence Against Women and the Limitations of Transitional Justice*, in GENDER IN TRANSITIONAL JUSTICE 115–35, 115–19 (Susanne Buckley-Zistel & Ruth Stanley eds., 2012); see also Rashida Manjoo & Calleigh McRaith, *Gender-Based Violence and Justice in Conflict and Post-Conflict Areas*, 44 CORNELL L. J. 11 (2011) (asserting women are targeted for gender-based violence during conflicts and remain vulnerable to violence post-conflict).

114. See, e.g., Adam Roberts, *Transformative Military Occupation: Applying the Laws of War and Human Rights*, 100 AM. J. INT'L L. 580 (2006) (omitting any discussion of divorce, marriage, or human rights).

115. See generally Holly Dunn, *The Transitional Justice Gap: Exploring 'Everyday' Gendered Harms and Customary Justice in South Kivu, DR Congo*, FEMINIST LEGAL STUDIES, 1 (2016) (linking transitional justice measures with the co-existence of other legal systems, showing how women in particular move between the systems).

As will be addressed further below, this separation is often meaningless in practice as the legal fact of occupation invariably tests and limits the capacity of the prevailing legal order to function effectively or develop progressively. Finally, in transformative long-term occupations the legal gaps occasioned by the duration of the occupation can be theoretically remedied by the application of international human rights law.<sup>116</sup> Here the progressive dimensions of human rights norms and jurisprudence could be used to ameliorate the limitations occasioned by the conservation principle contained in the law of armed conflict.<sup>117</sup> However, states have positively resisted this move, notably the state of Israel's undulating position that human rights norms do not apply in the Occupied Palestinian Territories,<sup>118</sup> despite consistent international legal jurisprudence which affirms otherwise.<sup>119</sup>

All of these intersecting aspects contribute to the absence of a regulatory content for 'private' regulation in the law of armed conflict. In each occupation setting, other variables can contribute to the marginalization of gender and the under-regulation of women's lives. In Cyprus, the conflict intersection of 'private' matters has been elevated by the emphasis on property rights in the political negotiations to end the Cyprus

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116. See e.g. Human Rights Council, *Situation of Human Rights in the Temporarily Occupied Autonomous Republic of Crimea and the City of Sevastopol (Ukraine)*, U.N. Doc. A/HRC/36/CRP.3 (Sept. 25, 2017). The Human Rights Council tied the idea of family unity during occupation to the "right to family life" embedded within international instruments. *Id.*

117. See e.g. Kristin Boon, *Obligations of the New Occupier: Contours of Jus Post Bellum* Loyola of Los Angeles International and Comparative Law Review (2009). [Boon argues that a core aspect of the law of armed conflict is its conservatism. Boon argues that this principle is regressing particularly in the context of international administrations overlap with occupation law. This article argues that gender norms in occupation buck this trend and remain highly static.

118. Note recent position of Israel in its reporting to the CEDAW Committee: "It is Israel's position that the CEDAW is not applicable beyond a State's national territory," and thus not applicable in the "Occupied Palestinian Territory." Israel Report: Committee on the Elimination of Discrimination Against Women, *Consideration of Reports Submitted by State Parties under Article 18 of the Convention Pursuant to the Simplified Reporting Procedure*, ¶¶ 8–13, U.N. Doc. CEDAW/C/ISR/6 (July 14, 2017).

119. This view is affirmed in the position of the ICJ on the parallel application of Human Rights and Law of Armed conflict in situations of occupation. *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory (Palestinian Wall Case)*, Advisory Opinion, I.C.J. Rep. 2004 (July 9).

conflict and the occupation.<sup>120</sup> To state the obvious, if there are issues of title concerning a disputed property that is subject to testy political negotiation then the significance of marital breakdown has a visibility in the conflict settings that it would otherwise lack, notwithstanding that the fact that conflict may significantly order the ways in which relationships are ended, and in which rights (including property rights) are enforced, or not.<sup>121</sup> Anecdotally, in contrast with the occupation in Israel/Palestine, marriage across the divide is occurring (though infrequently),<sup>122</sup> and there are no formal barriers to marriage and/or to living with one's spouse post marriage on either side of the territorial divide.<sup>123</sup> However, the reality of a formal border, passport checks and the complexity of managing legal relationships across these boundaries clearly affects the choice to marry and the 'ease' of private relationships and private ordering under occupation. The lack of common legal system across Cyprus and Occupied Territory is a formidable barrier to the resolution of family and women's rights issues and enables a range of gendered abuses. In both parts of the Island, marriage is highly valued and deeply embedded in cultural-religious

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120. See Security Council, *Report of the Secretary-General on His Mission of Good Offices in Cyprus* ¶ 6 U.N. Doc. S/2016/15 (Jan. 7, 2016); Agathangelou, *supra* note 89, at 15.

121. See generally Proukaki, *supra* note 30 (showing how diaspora has affected property rights); Williams, *supra* note 30 (explaining how property rights have been affected by international involvement in Cyprus as a result of occupation).

122. See Judy Maltz, *Why Interfaith Marriage Is on the Rise in Israel—and Why It's a Problem*, HAARETZ (June 2, 2014, 10:19PM), <https://www.haaretz.com/jewish/shavuot/.premium-1.596678> (estimating 5-10% of all Israeli couples are in interfaith marriages and of the estimated almost 9,000 couples married overseas, Jewish-Arab couples made up only 0.03%); Raf Sanchez, *What Is It Like to Be Married to an Arab in Israel?*, TELEGRAPH (Jan. 11, 2016, 12:00PM GMT), <http://www.telegraph.co.uk/news/worldnews/middleeast/israel/12090439/What-is-it-like-to-be-a-Jew-married-to-an-Arab-in-Israel.html> (estimating there are only a few hundred Jewish-Arab married couples in Israel).

123. See Jan Asmussen, *Intermarriages and Interethnic Love Stories in Cyprus*, HALKBILIMI (Jan. 2010), [http://www.academia.edu/30910399/Intermarriages\\_and\\_interethnic\\_love\\_stories\\_in\\_Cyprus](http://www.academia.edu/30910399/Intermarriages_and_interethnic_love_stories_in_Cyprus) (explaining the historical status of interfaith marriages in Cyprus). Compare Areti Dimosphenus, *Marriages Between Christians and Muslims on Cyprus: Rights and Obligations of Women in a Muslim Family*, ORTHOCHRISTIAN.COM (last visited Oct. 25, 2017), <http://orthochristian.com/97969.html> (discussing how 1950s legislation concerning interfaith marriages has effected Christian women in Cyprus), with H CJ 466.07 MK Zahava Gal-On v. Attorney General 65(2) PD 44 (2007) (Isr.) (preventing spouses in Israel from living within the Green Line if they are from Gaza).

identity.<sup>124</sup> Hence, ramifications of the breakdown take on a visibility and significance that might not otherwise be the case in a non-conflict site. Moreover, functional relationships, despite the occupation, speak to the capacity of overcoming the religious and ethnic difference in the most intimate sites of life. Their failure can be read as illustrating not just the end of a particular marriage but rather a broader impossibility of a relationship between communities. Here the personal is potentially highly political.

In the context of marriage breakdown, one of the issues strongly reported during my fieldwork was the practical issues that arose when navigating the end of or difficulties within a marital relationship across occupied and non-occupied territory. The obvious first challenge—given the lack of a common legal system—is that legal process to address dissolution, domestic violence, rights of access to children, financial maintenance or barring a spouse from home due to the threat or actuality of violence must be processed concurrently in two legal systems.<sup>125</sup> This invariably requires dual legal representation, as legal representation in both systems are entirely separate, and lawyers qualified to practice on Greek Cypriot territory are not recognized in the Occupied Territory and visa-versa. Leaving aside issues of duplication, the costs of paying lawyers in two jurisdictions can be prohibitively expensive for the average litigant, and women may suffer specific disadvantages in having access to funds because they may not have title to common marriage property, or may have difficulty accessing bank and

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124. Note that Paragraph 7 of Article 2 of the Republic's Constitution reads:

(a) a married woman shall belong to the Community to which her husband belongs.

(b) a male or female child under the age of twenty-one who is not married shall belong to the Community to which his or her father belongs, or, if the father is unknown and he or she has not been adopted, to the Community to which his or her mother belongs.

Rep. Cyprus Const. art. 2, ¶ 7.

[This provision enables] . . . via the logic of patriliney, women as the property of men, law has come to mediate ethnicity and family life. Inter-ethnic marriages were effectively prohibited under the above provisions. The moment they took place they were no longer *inter-ethnic*: Article 2.7 rendered the wife a co-ethnic of her husband.

DEMETRIOU, *supra* note 58.

125. See Nikitas E. Hatzimihail, *Cyprus as A Mixed Legal System*, J. CIV. L. STUD. 38, 66–70 (2013); MARTHA HAYES SAMPSON, ASSER INSTITUUT, ENFORCEMENT OF FAMILY LAW JUDGMENTS IN THE EUROPEAN UNION: REPORT FOR THE REPUBLIC OF CYPRUS, T.M.C. 4–5 (2005), [http://ec.europa.eu/civiljustice/publications/docs/family\\_rights/cyprus\\_en.pdf](http://ec.europa.eu/civiljustice/publications/docs/family_rights/cyprus_en.pdf).

other accounts in one part of the Island if living in another.<sup>126</sup> In an interview with a prominent feminist lawyer, she described the process of constantly “manoeuvring around the rules.”<sup>127</sup> This lawyer describes her willingness to travel to the North to be in the Courts where her clients were engaging the Northern legal system in divorce or custody proceedings, as an “act of solidarity;” her presence had a psychological effect on the court as she served as a witness to the proceedings. However, the same lawyers also reported “not feeling protected” in the North and understood that there were psychological and practical challenges for lawyers to engage in this kind of advocacy for their clients across the occupation lines.<sup>128</sup> Moreover, in contentious divorce or domestic violence proceedings, a social worker will be designated in each jurisdiction for any children, but welfare officers in each part of the divided island do not have the authority to visit the other part, so any assessment of family life is only applicable in its own part of the Island.<sup>129</sup> Where there are conflicted assessments there exists no agreed mechanism to resolve them, only the unpredictability of court proceedings. In the best-case scenario, there will be informal information sharing between legal officers; and in the worst-case scenario, none at all.

One highly charged issue that has emerged in marriage dissolution is the issue of child access. For example, issues arise where parents live on different sides of the buffer/demilitarized zone, or where one holds a foreign passport, or where a child lives on one side of the demilitarized zone but attends school on the other. Anecdotal reports indicate that there has been a practice for alienated spouses (mostly men) to place their children on a “stop list” with local authorities.<sup>130</sup> This mechanism, which is a procedure under the Hague Convention, is intended to be a safety mechanism to prevent a child from exiting a jurisdiction

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126. Interview with Cyprian personnel that the author wishes to keep anonymous. Sources verified by the *Journal*. (Sept. 29, 2016).

127. Interview with Cyprian lawyer that the author wishes to keep anonymous. Sources verified by the *Journal*. (Sept. 29, 2016) [hereinafter Cyprian Lawyer Interview].

128. *Id.*

129. *Id.*

130. See *MPs Call for Action Over Abducted Children*, CYPRUS MAIL ONLINE (June 3, 2014), <http://cyprus-mail.com/2014/06/03/mps-call-for-action-over-abducted-children/>; *Travel Documents for Minors—Cyprus*, EUROPA, [http://europa.eu/youreurope/citizens/travel/entry-exit/eu-citizen/cyprus/index\\_en.htm](http://europa.eu/youreurope/citizens/travel/entry-exit/eu-citizen/cyprus/index_en.htm).

without the consent of a parent.<sup>131</sup> The stop list only formally applies to legal ports of entry. In the North, however, a father does not have to go to Court to prevent travel of a child from the North to the South; the father can simply give a notarized note to the border crossing agents because the Northern Cypriot authorities view the border as an ‘international’ border, and to cross this border a child must be accompanied by a parent or authorized adult, with the consent of both parents.<sup>132</sup> This would prevent a child from crossing to attend school, to live with her mother (if her home was in the Greek Cypriot part of the Island) or visit extended family. The individual (often the male spouse) in the North thus has the effective power of the state, in a context where the state itself is not recognized beyond its borders. To lift the ban, a plaintiff must go to court, and generally, this process takes about eighteen months, with all of the attendant costs and challenges involved.<sup>133</sup> Practically, a court Bailiff in the Greek Cypriot part of the Island cannot deliver or enforce legal orders in the North. E-mail may be the only form of communication but is not effective for legal enforcement.<sup>134</sup> This particular issue underscores the lived consequences of the occupation and division that accompanies it for the regulation of family life, and the harsh consequences for women when marriages end. The invisibility of these issues to the legal regulation of sites of occupation is also striking, and the relative disinterest of legal scholars in the nexus between domestic civil law and the overlay of the occupation regimes ignored.

Broadly defined, the family law provisions to be followed in both parts of the Island are the same, and are drawn from British colonial legislation<sup>135</sup> and the binding precedent in

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131. See Convention on the Civil Aspects of International Child Abduction art. 1, Oct. 25, 1980, 1343 U.N.T.S. 89.

132. Cyprian lawyer Interview, *supra* note 127.

133. See Maria Pilikou, *The International Comparative Legal Guide to: Litigation & Dispute Resolution 2011*, GLOBAL LEGAL GROUP 75, [http://www.chrysostomides.com.cy/assets/modules/chr/publications/14/docs/cyp rus\\_chapter.pdf](http://www.chrysostomides.com.cy/assets/modules/chr/publications/14/docs/cyp rus_chapter.pdf) (2011) (“Normally, civil proceedings take between 2-3 years, depending on the Court’s workload and/or delaying tactics of the Defendant.”).

134. Civil Procedure Rules Order 2 (Cyprus) [http://www.cypruslaw.narod.ru/laws/CYPRUS\\_CIVIL\\_PROCEDURE\\_RULES.doc](http://www.cypruslaw.narod.ru/laws/CYPRUS_CIVIL_PROCEDURE_RULES.doc). See Christos Clerides, *Civil Law and Procedures*, CYPRUS L. DIG. (Dec. 13, 2012) <http://www.cypruslawdigest.com/topics/judicial-system/item/133-civil-law-and-procedures>.

135. Until 1990, all the relevant “family law” provisions were enacted during British sovereignty in Cyprus. See Eliana Nicolaou, *Cyprus: Recent Developments in Family Law*, in THE INTERNATIONAL SURVEY OF FAMILY LAW:

British and Cypriot systems. Once a legal action has commenced in divorce or family law proceedings, there is no formal system of sharing information across the legal systems in place in the occupied and non-occupied portions of the territory. In situations of domestic violence, this informal sharing is at best insufficient, and at worst can contribute to the legal isolation and physical vulnerability of the battered woman. In the best cases, lawyers will share information informally. Because divorce proceedings and decrees and/or barring orders issued in the North are not binding in the Greek Cypriot territory, legal actors are not incentivized to cooperate. Conversely, if a domestic dispute or divorce involves proceedings in the Greek Cypriot territory and one party chooses not to attend, the Court has the authority to proceed in his/her absence.<sup>136</sup> Moreover, any orders issued including the provisions of maintenance, safety or barring orders, payment of fees, custodial arrangements as regards children have no mechanism of enforcement across the demilitarised zone, making the Court orders extremely difficult to administer in practice.<sup>137</sup> Thus, maintenance orders across the divide do not specify the means to enforce them, resulting in dysfunctional payment methods and this means that there is no formal means to track payment or non-payment, further weakening enforcement.<sup>138</sup> To compound matters, one cannot easily transfer monies from a bank account in the South to the North, making the provision of maintenance across the divide extremely fraught.<sup>139</sup> For Judges in family law cases who are

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1996 121, 121–34 (Andrew Bainham ed., 1998). The Turkish community initially had their own provisions under the Turkish Family and Divorce Law of 1951. *Id.* With the adoption of civil marriage in Greece, Cyprus underwent modernization and streamlined “family law” in 1990. *Id.* at 125–26. Although the Civil Marriage Law of 1990 initially defined “marriage” as between persons who belong to the Greek community, it was amended in 2002 to include any parties married under the law. O Peri Efarmogis tou peri Gamou Nomou, Kef. 279, se Meli tis Tourkikis Koinotitas [The Implementation of the Marriage Law, Cap. 279, to Members of the Turkish Community], (Law 46(I)/2002) (Cyprus). See Sampson, *supra* note 125, at 4–5.

136. See, e.g., *Zenonos v. Zissaki*, (2009) 1 A.A.D. 661, (Cyprus) (detailing a case where the father contested the mother’s actions, and the mother never appeared; The district court continued without her and ordered the mother to return the children to Cyprus from Greece).

137. See *D v. D* [2016] EWHC 3546, [3]–[5] (Fam) (Eng.) (discussing child support payments ordered in TRNC).

138. *Id.*

139. See, e.g., *TRNC Banks Will Monitor All Transfers from the South*, LGC NEWS (Mar. 21, 2013) <http://www.lgcnews.com/trnc-banks-will-monitor-all-transfers-from-the-south/>.

aware of the dual proceedings, there is an informal practice of asking legal counsel what stage the process may be at; occasionally, judges may be willing to lock-step proceedings across the divide. But such lock-stepping is highly dependent on each judge's individualized decision; judges are more likely to let parallel proceedings in both jurisdictions, even if both proceedings may move at the same pace and produce similar findings/outcomes likely.<sup>140</sup> Where this is not the case, the individual plaintiff is at a significant disadvantage. Notably, any decision from a Greek Cypriot court has legal validity outside the Island and is internationally enforceable; decisions from the Occupied Northern Territory do not have international legal recognition.<sup>141</sup> Interviews revealed how the nonrecognition of legal orders in the occupied territory had been used to slow down, or create further uncertainty in highly contentious divorce and / or domestic violence proceedings.<sup>142</sup>

The fact of separate legal systems, a product of long-term and sustained occupation, has deep consequences across all facets of the legal system, including for family law practices. At a human level, the best interest of the child in family matters is clearly compromised.<sup>143</sup> There is also increasing awareness that marital disputes and family law arrangements, which are often gender-stratified, compound gender-based dispossession for women, leaving little or no access to the financial resources of the marriage, including property.<sup>144</sup> It is only relatively recently

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140. Interview with Cyprian lawyer that the author wishes to keep anonymous. Sources verified by the *Journal*. (Sept. 29, 2016) (revealing how the lack of recognition for legal orders in the occupied territory had been used to slow down, or create further uncertainty in highly contentious divorce and/or domestic violence proceedings).

141. Anastasios A. Antoniou, *Litigation and Enforcement in Cyprus: Overview*, THOMSON REUTERS: PRACTICAL LAW (Sep. 1, 2015) [https://uk.practicallaw.thomsonreuters.com/7-502-0202?transitionType=Default&contextData=\(sc.Default\)&firstPage=true&bhcp=1.y](https://uk.practicallaw.thomsonreuters.com/7-502-0202?transitionType=Default&contextData=(sc.Default)&firstPage=true&bhcp=1.y).

142. Cyprian Lawyer Interview, *supra* note 127.

143. *Id.*

144. See generally Richard Hauser & Roland Berntsen, *Wife of Frau, Women Do Worse: A Comparison of Men and Women in the United States and Germany After Marital Dissolution*, 28(3) DEMOGRAPHY 353 (1991) (concluding that family income for women undergoing divorce fell significantly more than family income for men in both the United States and Germany); Karen C. Holden, *The Economic Costs of Marital Dissolution: Why Do Women Bear a Disproportionate Cost?*, 17 ANNUAL REV. SOCIOLOGY 51, 51 (1991) (exploring why divorce and widowhood have "negative and prolonged consequences for women's economic well-being"); Wilfred Uunk, *The Economic Consequences of Divorce for Women in the European Union: The Impact of Welfare State Arrangements*, 20 EUR. J.

that these issues have emerged in the Gender Equality Technical Committee, and the Gender Advisory Team as both assess how in a post-conflict Cyprus such challenges be ameliorated taking account of the effects of the conflict. The Committee and women's organizations recognize that in the context of challenges for women in divorce, family law, and custodial rights, the issues are not merely dismissed as individual patriarchal behavior; rather, individual behavior is supported by the occupation and the impunity for male behavior and control is enabled by the occupation.<sup>145</sup>

As illustrated above, challenges faced by women as a result of the occupation and separation of Cyprus are numerous. For Turkish Cypriot women, there are the burdens of living in a territory which is not internationally recognized, being a minority community on the Island of Cyprus and not having the legal status of European Union citizens.<sup>146</sup> For both Turkish and Greek Cypriot women there are deep commonalities of gendered exclusion, frozen patriarchies that accompany a frozen conflict, and the insidious ways in which the application of the law of armed conflict in a long-term transformative occupation means that the day-to-day issues that dominate women's lives are either under-regulated or not regulated at all.<sup>147</sup> Moreover, "the contradictions and weaknesses of international humanitarian law" enable the wholesale exclusion of many of the practices and issues that most concern women's lives from regulation.<sup>148</sup>

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POPULATION 251 (2004) (discussing the economic consequences of divorce for women and subsequent increased dependence on social welfare in the EU).

145. See U.N. Secretary-General, Report of the Secretary-General on his Mission of Good Offices in Cyprus, ¶ 13, U.N. Doc. S/2016/15 (Jan. 7, 2016) (explaining the composition of the Committee).

146. Fatma Güven Lisaniler, *Gender Equality in North Cyprus (Turkish Republic of Northern Cyprus)*, 7 QUADERNS DE LA MEDITERRÀNIA [NOTEBOOKS OF THE MEDITERRANEAN] 133, 136 [http://www.iemed.org/publicacions/quaders/7/133\\_Guven.pdf](http://www.iemed.org/publicacions/quaders/7/133_Guven.pdf) (2006).

147. Office of the Law Comm'r, *Cyprus: Third, Fourth and Fifth Periodic Report (1993-2003) on the Implementation of the United Nations Convention on the Elimination of All Forms of Discrimination Against Women*, ¶¶ 9–10, U.N. Doc. CEDAW/C/CYP/3-5 (Feb. 16, 2004).

148. GERSHON SHAFIR, *A HALF CENTURY OF OCCUPATION: ISRAEL, PALESTINE, AND THE WORLD'S MOST INTRACTABLE CONFLICT* 166 (2017).

## A. TRAFFICKING AND OCCUPATION

One highly insidious practice that has accompanied the occupation in Northern Cyprus is the emergence and consolidation of human trafficking as an established practice. The Fourth Geneva Convention does not regulate human trafficking in situations of occupation, nor was the existence of trafficking a meaningful issue in the negotiations of the Conventions or the Additional Protocols.<sup>149</sup> However, as an opaque legal space in which local law and international law are in constant interaction and contestation, practices such as trafficking often thrive precisely because there is a legal grey zone that enables them to.<sup>150</sup> The lack of legal recognition for the status of the territory in Northern Cyprus creates a gap in enforcement capacity for international organizations and NGO's.<sup>151</sup> With the state in abeyance, legal enforcement slips.<sup>152</sup> Moreover, Turkey continues to maintain a chimera of distance from the day-to-day administration of justice in the TRNC and its claims that the TRNC is an independent governance structure, which has control and responsibility for the enforcement of laws national and international further weakens the rule of law, and the meaningful enforcement of human rights and international norms.<sup>153</sup> In this context, legal protection for a range of rights, including the right to be free from slavery, forced prostitution, sexual exploitation and gender-based

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149. See Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of International Armed Conflicts, June 8, 1977, 1125 U.N.T.S. 3; Protocol II Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of Non-International Armed Conflicts, June 8, 1977, 1125 U.N.T.S. 609; Geneva Convention Relative to the Protection of Civilian Persons in Time of War, Aug. 12, 1949, 75 U.N.T.S. 287; INT'L COMM. OF THE RED CROSS, COMMENTARY ON THE ADDITIONAL PROTOCOLS OF 8 JUNE 1977 TO THE GENEVA CONVENTIONS OF 12 AUGUST 1949 (Yves Sandoz et al. eds., 1987).

150. See Olivia Enos, *Human Trafficking Thrives Where Rule of Law Ends*, HERITAGE FOUND. <http://www.heritage.org/asia/commentary/human-trafficking-thrives-where-rule-law-ends>, (Mar. 17, 2015).

151. U.S. DEP'T OF STATE, *supra* note 112.

152. *Id.*

153. See *How Did the Situation Change After July 1974?*, Republic of Turkey, Ministry of Foreign Affairs, <http://www.mfa.gov.tr/how-did-the-situation-change-after-july-1974-.en.mfa> (describing how the "Turkish Cypriot people re-organized itself as a federated state . . ."); Ministry of Foreign Affairs, *Cyprus Issue*, REPUBLIC OF TURKEY: FOREIGN POLICY, <http://www.mfa.gov.tr/cyprus-issue-summary.en.mfa> ("Cyprus is the home of two nations and there exist two democratically organized states in the island.").

violence is constrained.<sup>154</sup> These are also the kinds of conditions in which human trafficking thrives.<sup>155</sup>

In 2013, the United States State Department placed Cyprus on the tier two watch-list for human trafficking, making it the only EU nation to be placed in this category.<sup>156</sup> Since 2013, the Republic of Cyprus has worked along with European institutions to strengthen laws against human trafficking.<sup>157</sup> Among the key provisions of the law has been a new National Act Plan to Combat Trafficking in Human Beings.<sup>158</sup> This new National Action Plan provides specific targets and measures to seek to improve coordination, prevention, identification and recognition of victims, protection and support of victims, suppression and prosecution, data collection, training, international cooperation, and evaluation.<sup>159</sup> In addition, following directives by the EU (2011/36/EU), Cyprus has established funds to assist victims of human trafficking and has participated in the EU program, “Towards a Pan European Monitoring System” that seeks to use an online platform to monitor human trafficking.<sup>160</sup> Because of these efforts, the United States State Department has deemed that Cyprus is meeting the minimum standards for the elimination of trafficking and is taking positive steps towards eliminating human trafficking.<sup>161</sup> Notably, all of the efforts have been pursued in the Greek Cypriot part of the Island, which continues to underscore the enforcement gap in the TRNC.<sup>162</sup>

Thus, the European Commission has stated that “the occupied part of Cyprus, in which the Republic of Cyprus does not exercise effective control, is increasingly a destination for

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154. U.S. DEP'T OF STATE, *supra* note 112.

155. Enos, *supra* note 150.

156. Nikolaj Nielsen, *Cyprus Ranks with Afghanistan on Human Trafficking*, EU OBSERVER (June 21, 2012), <https://euobserver.com/justice/116698>.

157. EU Network of National Rapporteurs, *Together Against Human Trafficking in Human Beings: Cyprus*, EUR. COMM., [https://ec.europa.eu/anti-trafficking/content/nip/cyprus\\_en#4](https://ec.europa.eu/anti-trafficking/content/nip/cyprus_en#4) (last updated June 11, 2017).

158. *Id.*

159. *Id.*

160. *Id.*

161. U.S. DEP'T OF STATE, *supra* note 112.

162. U.S. DEP'T OF STATE, TRAFFICKING IN PERSONS REPORT 139–40 (2015) (“The area administered by Turkish Cypriots continues to be a zone of impunity for human trafficking . . . Turkish Cypriot authorities do not fully meet the minimum standards for the elimination of trafficking and are not making significant efforts to do so. The area administered by the Turkish Cypriots lacked an anti-trafficking ‘law.’”).

women from Central Asia, Eastern Europe, and Africa who are subjected to forced prostitution in nightclubs.”<sup>163</sup> Within Northern Cyprus, these nightclubs provide approximately \$7 million to \$10 million annually in tax revenue.<sup>164</sup> Furthermore, the State Department found that Turkish Cypriots do not have any specific laws against human trafficking and that the minimal laws in place against forced labor are not enforced and that victims who spoke out against trafficking were deported.<sup>165</sup> Northern Cyprus has yet to adopt any of the provisions recommended by the EU or the laws that have been implemented by the Republic of Cyprus and have been found to have done nothing to address these issues.<sup>166</sup> To meet their obligations under the Council of Europe and the EU, it is likely that Northern Cyprus will have to take necessary steps to combat human trafficking, domestic violence, and other human rights violations.

## V. CONCLUSION

The Cyprus case provides some valuable insights into the gendered dimensions of occupation, relevant for a broader reassessment of the extent to which occupation law is “fit for purpose” specifically as it regulates long-term transformative occupations.<sup>167</sup> A key element of the Cyprus occupation is that it has been protracted and sustained.<sup>168</sup> The law of occupation, in its original conceptualization, was assumed to have a short-term and utilitarian function, designed for the protection of land and people until the disputed territory was returned to its rightful sovereign.<sup>169</sup> Long-term and belligerent territorial control of occupied territory has meant expanded patterns of exclusions and under-enforcement of law for women, and in particular, illustrates the opaque under-regulation of the private sphere under occupation, generally to the detriment of women’s

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163. EU Network of National Rapporteurs, *supra* note 157.

164. See U.S. DEP’T OF STATE, TRAFFICKING IN PERSONS REPORT, *supra* 162. See also Interview with Cyprian personnel that the author wishes to keep anonymous. Sources verified by the *Journal*. (Oct. 29, 2016) (providing insight into the practical dynamics of trafficking in the space).

165. *Id.*

166. *Id.*

167. Roberts, *supra* note 114, at 580 (2006).

168. *Id.* at 596.

169. See EYAL BENVENISTI, THE INTERNATIONAL LAW OF OCCUPATION (2d ed. 2012).

protection and entitlements.<sup>170</sup> Hence, fundamental questions as to the adequacy of the law of occupation to address women's needs and rights are exposed.

In respect of the invasion and armed conflict that gave rise to occupation, the evidence of widespread sexual violence accentuates the relationship in many conflict sites between territorial conquest and sexual violence against women.<sup>171</sup> Much less clear is the extent to which patterns of sexual violence in conflict persist in long-term and transformative occupations. The lack of data from the TRNC makes mapping those connections difficult, compounded by the lack of formal international recognition for the occupied territory limiting the extent of external legal and political oversight. This underscores a theme of this article, namely that the structure of the law of occupation can serve to occlude and compound harms against women rather than expose and open them up to scrutiny. Occupation can function as a shield to scrutiny rather than a sword of protection, notwithstanding its overt protective function under the laws of war. This Article sheds light on important aspects of family and personal life which are routinely ignored in accounts of occupation, and generally viewed as irrelevant to the protective function of this body of legal norms. The significance of this is more obvious with long-term 'frozen' conflicts when every aspect of human life is to some degree impinged upon by the occupation. It reveals further important distinctions between public and private regulation in the laws of war,<sup>172</sup> whereby the private (here family life and intimate violence) are excluded from the regulatory sphere. This leaves these issues and the lives affected by them to the vicissitudes of the occupying power, who may not always be benevolent, but can reliably be assumed to be patriarchal. While the law of occupation is seen as peripheral to the bulk of armed conflict regulation, recall the number of recent and ongoing occupations

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170. See, e.g., Press Release, General Assembly, Negative Impact of Military Occupation on Women's Rights Stressed in Third Committee, U.N. Press Release GA/SHC/3417 (Oct. 21, 1997) (mentioning various negative impacts of military occupation on women's rights).

171. See Dara Kay Cohen, *Explaining Rape during Civil War: Cross-National Evidence (1980–2009)*, 107(3) AM. POL. SCI. REV. 461 (2013); Elisabeth Jean Wood, *Conflict-Related Sexual Violence and the Policy Implications of Recent Research*, 96 INT'L REV. RED CROSS 457 (2014).

172. See, e.g., Valerie Oosterveldt, *Feminist Debates on Civilian Women and International Humanitarian Law*, 27(2) WINDSOR Y.B. ACCESS TO JUST. 385, 385 (2009) (examining the sufficiency of the international humanitarian law provisions to address the situation of civilian women caught in armed conflict).

where lives are affected in similar ways including Israel-Palestine, Iraq, Afghanistan, Western Sahara, and the Crimea.<sup>173</sup> Closer gendered analysis of the law of occupation is long-overdue, as is timely reform of those aspects which are most detrimental to women's lives, and augmentation to make the law relevant to the lives subject to its oversight in contemporary conflicts.

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173. See Hannah Rought-Brooks, *Gaza: The Impact of Conflict on Women*, NORWEGIAN REFUGEE COUNCIL (2015) <https://www.nrc.no/globalassets/pdf/reports/gaza--the-impact-of-conflict-on-women.pdf>; HUMAN RIGHTS WATCH, BRIEFING PAPER: BACKGROUND ON WOMEN'S STATUS IN IRAQ PRIOR TO THE FALL OF THE SADDAM HUSSEIN GOVERNMENT (2003); Erica Vasquez, *Living Under Occupation in the Western Sahara: Women, Resistance, and Self-Determination*, GEORGETOWN INST. FOR WOMEN, PEACE & SECURITY (2014); Human Rights Council, *Report of the Office of the United Nations High Commission for Human Rights: Conflict-Related Sexual Violence in Ukraine*, U.N. Doc. A/HRC/34/CRP.4 (Mar. 16, 2017).