

Looking Back to See Forward: The 1959 Zurich and London Accords and the Constitutional Order of Cyprus

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RÉSUMÉ

Cet article est une tentative de présenter la structure constitutionnelle de la République de Chypre telle qu'elle a résulté des accords de Zurich-Londres de 1959 et les crises politiques successives qu'a connu Chypre, en particulier la crise constitutionnelle de 1963 et l'invasion de l'île par la Turquie en 1974. L'auteur tente de cerner la situation actuelle et les efforts d'inventer un nouvel ordre constitutionnel en se référant à la structure constitutionnelle originale et les difficultés qu'on a rencontré lors de son application.

ABSTRACT

This article attempts to present the constitutional structure of the Republic of Cyprus as it developed following the Zurich and London Accords of 1959 and the successive political crises which ensued in the island, in particular the constitutional crisis of 1963 and the 1974 invasion by Turkey. The author outlines the current situation and the efforts to create a new constitutional order. In doing so, he refers to the original constitutional structure and problems experienced in applying the constitution at that juncture in Cypriot history.

Historical developments impacted heavily on the initial Cypriot arrangement as serious political difficulties and constitutional dysfunction led to the withdrawal of the Turkish Cypriot community from the organs of the Republic in 1963. Eleven years later the Turkish invasion and the ensuing occupation of the 37 percent of the Cypriot territory by the Turkish military dealt a heavy blow to the body politic of the Cyprus Republic.¹ The constitutional picture of Cyprus was further blurred and distorted with the proclamation of the Unilateral Declaration of Independence (UDI) of the so-called Turkish Republic of Northern Cyprus in 1983.²

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Since then the efforts to rebuild the Republic following its first collapse have been intensified. The involvement of the United Nations gave further impetus to these efforts leading to tangible progress.³ Under the circumstances, it seems timely to reassess the size and complexity of the Cyprus problem by looking back to the original constitutional structure of the Republic.

In late 1960, just a year after the signing of the Zurich and London Accords, the UN General Assembly adopted Resolution 1514, which granted independence to colonial territories. Through this resolution the right of self-determination was given effect and defined the right of the peoples of each colonial territory to determine their political status. This right was recognised as a universal principle of international law. In this way, the colonial territory was upgraded to an independent, sovereign and integral nation. This resolution not only terminated colonial status of the territory but also recognised self-determination as the right of the majority of the population to exercise authority on behalf of the whole population.⁴ The process of independence of Cyprus differs in comparison to the process followed in the case of independence of colonies that fell under the UN auspices in absolute application of the decolonization resolution of 1960. Cyprus had already been declared an independent country when decolonization was decided under the scheme of the United Nations.

In 1954, the UN General Assembly rejected Greece's application demanding the union with the island as an expression of the wish of the Greek-Cypriot population, as a means of the application of the right to self-determination. In 1955 the General Assembly called upon Greece, Turkey and the United Kingdom to convene a tripartite Conference. This policy was regarded as the only way to find a negotiated solution of the Cyprus question. Although the UN General Assembly did not deal with the Cyprus question directly, even after 1955, in several occasions, it expressed its insistence on the principle of self-determination, but it diluted any expectation that the principle of self-determination would apply to Cyprus under its aegis.

In the tripartite Conference, it was agreed that the status of Cyprus would be created through the process of negotiations between Greece, Turkey and the United Kingdom. With regard to this unwilling outcome for the expectations of the Greek majority, it has been noted that the activities of the revolting national liberation group, the known EOKA (Armed Organization of Cypriot Liberators), along with Greece's diplomatic efforts for union of the island with Greece forced towards the establishment of the Cypriot state through international settlement.⁵

Establishing independence and the constitutional structure of the Cypriot Republic resulted from the settlement of the conflicting claims which Greece and Turkey had maintained. In spite of the fact that the United Kingdom, as a stepping down colonial administration had an interest in the outcome, it merely expressed a vital interest in maintaining two sovereign military bases on the island.

The initial aim of Greece's diplomacy was to promote the demand for union of the island with Greece. Since Greece was perceived by the Greek-Cypriots as the parental state, union was set as their highest goal. After the rejection of this demand by the UN in 1954, the Greek side was forced to adjust its policy towards the gaining of an independent status of the island. However, according to the Greek expectations it would have been a state controlled by the Greek-Cypriot community. In this perceived state the numerically inferior Turkish-Cypriot community, would have constituted a minority, in its legal term.

Of course Turkey had initially expressed a maximalist attitude toward the restoration of Turkish sovereignty over Cyprus, thus ignoring the Greek demand of union. Their further goal was the disruption of Cyprus and the concentration of the Turkish-Cypriot population in areas that could have been brought under Turkey's control. At the same time Turkey proved a tough negotiator as far as achieving its goals. The Turkish target was to ensure secured status for the Turkish community, which would be constitutionally safeguarded. In this framework, Turkey aimed at the establishment of a partnership in Cyprus in which the Turkish Cypriot Community would be an equal

partner. Turkey also continued to ward off the development of Greek sovereignty in Cyprus and backed up the political and institutional separation of the Turkish-Cypriot community from the Greek-Cypriot counterpart. In order to achieve this goal, Turkey claimed that the right to self-determination should be applied to both communities equally with the aim of creating two separate states in Cyprus, each one of them representing the respective claimant community. This kind of claim would have culminated in either the creation of two states thus dividing the island, or unifying each territorial community with the corresponding state, Greece and Turkey. This claim underlines the so-called model of double union (*taksim*).

The negotiation ranged, on the one hand, between the creation of a single state, through constitutional arrangements, and on the other hand the creation of two states through the policy of dichotomy. The establishment of an agreement became a matter of absolute priority for reasons of security in eastern Mediterranean. In 1959 the initial Agreement was adopted in Zurich and a few days later it was officially signed in London. The texts were endorsed, as a signal of acceptance, by Archbishop Makarios on behalf of the Greek-Cypriot community and by Dr. Kucuk on behalf of the Turkish-Cypriot community. Through these agreements both union and dichotomy were outlawed.

The Agreements of Establishment

The Agreements of Establishment consist of five texts. The first, The Basic Structure of the Republic of Cyprus, specifically concerns the constitutional organisation of the Republic. It is comprised of 27 articles — the final clauses included — which were incorporated verbatim in the fundamental provisions of the Republic's Constitution. As reiterated in the final clauses, the Basic Structure's provisions would constitute non-amendable provisions of the Constitution. The way the Cypriot Republic has been formed as a unitary state was set forth in these fundamental provisions. The Greek-Cypriots (80%) and the Turk-Cypriots (18%) organise themselves in the corresponding com-

munities which constitute the components of the Republic.⁶ As it has been noted by a constitutional law professor, the existing social dualism defined the establishment of the newly born Republic. The structure of the power allocation between the two communities apparently reflected the bi-communal character of the composition of the Republic. In separate elections, each community would elect the constitutive organs that correspond to each community; i.e., the president and the vice-president as well as the deputies of the House of Representatives. The participation of the two communities defined the exercise of authority, in Government and House of Representatives at the percentages of 70%-30%, whereas the ratio of representation was equally shared at the level of the Presidency.

The meaning of *the community* was incorporated into the constitutional text in place of the meaning *people* so that the Turkish demand that the Turkish-Cypriot side should be represented in the executive organs and parliamentary seats could be satisfied. The legislation concerning the Communal Chambers and Township of the five major Towns of the island, which was eagerly demanded by the Turkish-Cypriot community, as provided by the Constitution was the key to the constitutional arrangement. What arises from the totality of the provisions is: firstly, the status of the Turkish-Cypriot community was constitutionally secured as the co-governing, equivalent, co-founding and component community of Cyprus, and secondly, the institutional co-operation of the two communities establishes the legal foundation of the Republic. The partial or total unification with another state or territorial disruption were unequivocally forbidden. In addition to the Basic Structure, the Treaty of Guarantee and the Treaty of Alliance which were concluded between Greece, Turkey, the United Kingdom and Cyprus form part of the Agreements. Through the Treaty of Guarantee, Cyprus undertakes the obligation to maintain the territorial integrity of the Republic. Whereas, the three Guarantor Powers undertake the obligation to safeguard the integrity and independence of Cyprus, and to prohibit the unification with any country or the secession of any part of the island. In case of violation of the Treaty or in case the independence of the Republic is at stake, the three coun-

tries are to come to an agreement in order to take collective measures, which are deemed necessary for the restoration of the Republic which was established through the Basic Structure.

Article 4 of the said Treaty provides for the case in which common action can not be achieved, unilateral action would be reserved to each of the three states with a view to restoring the constitutional order and integrity of the Republic.⁷ At first glance, the ultimate goal of this Treaty was to ensure the observance of the arrangement of the Basic Structure under the control of the guarantors. This Treaty came under severe criticism as it militates against the notion of sovereignty and the sovereign equality of Cyprus, to the degree that as a mechanism of control it could permit the intervention of the guarantors. In this regard, we call to mind the fact that in 1974 Turkey invoked Article 4 of the Treaty in order to carry out the first military invasion in Cyprus. Finally, through the Treaty of Alliance, Greece and Turkey undertook the obligation to provide support to the defense of Cyprus through the presence of military staff from Greece (ELDYK, 950) and Turkey (TOYRDYK, 650).

The Constitution of the Republic of Cyprus

As provided for by the treaties, the Constitution was drawn up by the representatives of Greece and Turkey having the predominance of the dualism as a basic axis in the structure of the Constitution. The reality of the bi-communal character determined the organisational basis of the sovereignty and that of government; i.e., the institutional coexistence of the two communities. The Constitution provides for the powers of the executive and legislative branch. According to the Constitution, Cyprus enjoys a presidential system. There is provided a Greek-Cypriot president and Turkish-Cypriot vice-president, each will be elected by the corresponding community. In addition, it is stipulated that both the president and the vice-president should enjoy the right of veto over decisions concerning basically foreign affairs and defense issues. In addition, there were powers provided that would be

exercised by the president and by the vice-president, as well as powers exercised solely by the president and those exercised only by the vice president. The Constitution provides for a single ten-member government, consisting of seven Greek-Cypriots and three Turkish-Cypriots ministers. The president appoints the seven Greek-Cypriot ministers, the vice-president, and the three Turkish-Cypriot ministers. As far as legislative power is concerned, what was provided for was a Parliament of representatives consisting of 70% Greek-Cypriot and 30% Turkish-Cypriot MPs. The election of the members of Parliament is held separately for each community.

The constitutional adoption of the Community Chambers was an element favouring the Turkish-Cypriot community in the legal order of the Republic. According to the constitutional provisions, each community elects its own Community Chamber which exercises local powers in particular with regard to matters of private law as well as religious and educational matters.

As regards judicial powers, there has been a single Supreme Court provided, which consists of a president, a neutral judge, and members: two Greek-Cypriots and one Turkish-Cypriot. The public administration as provided is to be staffed by citizens coming from both communities on a quota basis. The civil service is staffed by Greek-Cypriots at the percentage of 60% and the Turkish-Cypriots at 40%.

Finally, an army was equipped, staffed 60% by Greek-Cypriots and 40% by Turkish-Cypriots. This particular army is different from the ELDYK and TOURDYK armies, which according to the 1959 Treaty of Alliance, were to be sent by Greece and Turkey respectively. In the final clauses the Constitution refers to the fundamental non-amendable provisions. Besides, the Constitution provides that the 1959 Accords form part of it. Further, we refer to two of the non-amendable provisions. First there is the prohibition of the partial or total unification of Cyprus with some other state as well as secession; i.e., the territorial disruption of the island. Second, it is stipulated that the fundamental provisions of the Constitution could not be amended. Both fundamental die-hard provisions targeted the superiority of the Greek-

Cypriot community and rendered it ineffective in the legal order of the Republic. Certainly the imposed Constitution did not correspond to the characteristics of a sovereign State. Finally, what is worth mentioning is a particular provision according to which separate Town Halls were to be founded by the Turkish inhabitants of five large towns.

As mentioned, the Constitution was imposed by the three countries party to the Agreements of Establishment. For that reason, the imposed constitutional legal order was received by the Greek population of the island with some sort of reluctance. In any case authors usually refer to the Constitution with definitions such as "conceded". This kind of constitutional order runs contrary to the practice followed by democratic countries, according to the principle that the state's sovereign authority derives from the expressed will of the population. In Cyprus the Constitution was drafted by the representatives of Greece and Turkey, it entered into force upon the birth of the Republic, but the population elected the state's organs according to the provisions of the draft text, which may amount to its indirect admissibility.⁸

The Constitution was formally in force at the same time as the official birthday of the independent state. Since the Constitution was conceded and the nation was not defined as a source of power, what has been considered is that the population of Cyprus has not exercised the primary power, which is considered fundamental to the sovereign power of the population. However, it has been claimed that the sovereign will of the population was expressly in an indirect manner. The fact that the Cypriot people proceeded to the ballot box for the first time in order to show the authorities according to the draft Constitution is a sign of indirect acceptance and approval of the Constitution.

The Constitution included safety valves. Firstly, the constitutional organisation of the Republic does not stipulate that in the established bi-communal state each of the communities enjoy sovereignty, nor the powers of the Republic are assumed by the communities. It is explici-

tly provided in the Constitution that only a single state can be considered sovereign. Secondly, the two communities were prohibited to proceed to the modification of the hard-shell fundamental provisions; i.e., in the 27 articles of the 1959 Basic Structure of the Agreements, which define the structure and the organisational basis of the polity. This specific regulation confined the sovereignty of the Republic according to the prescribed will of its founders, rendering the nation static. This regulation struck mainly the power of the majority. Thirdly, the 1959 Treaties of the Establishment and Guarantee obtained constitutional power and formally bind the Cypriot state, applying the Basic Structure; i.e., the Constitution, under the control of the guarantors with regard to the Accords' observance.

Fourthly, the unification of Cyprus with another state or any kind of secession was declared legally excluded by all means. It was at this point that the Constitution averted any attempt through which either the Greek-Turkish or Turkish-Cypriot community would attempt to alter the legal nature of the Republic. Moreover, through the Treaty of Guarantee, already incorporated in the Constitution, in order to be binding on the Cypriot Republic, the three Guarantors undertook the obligation to prohibit every activity which would threaten the inviolability of the island's legal charter. Equally, the Turkish Cypriot community was vested with the right to block any decision which would run contrary to the initial legal scheme. The legal ground of the Constitution is the binary principle or otherwise the principle of bi-communalism. This binary principle runs, as the basic concept, the organisation of the State and its organs. The constitutional order founded upon this axiomatic binary principle reflects the reality of the two communities. On purpose population did not constitute the basis of legal organisation, but instead the Turkish population, although a numerical minority, was elevated to a partner with some equal right of veto in cases of high policies. These rights were provided fundamental constitutional safeguards. Accordingly, the population is organised in the corresponding communities. It was for this reason that the people as a source of power were deliberately omitted from the general provisions of the Constitution as well as any explicit or indirect reference to

the notion of people's sovereignty. Through the enactment of the communities the democratic principle, which is considered the foundation of the people's sovereignty, was set aside by the binary principle. The system of diarchy with increased or exclusive competencies, as well as the right of both the president and the vice-president to exercise a veto power, in conjunction with their direct election separately from the corresponding community, prove the establishment of a bi-communal state. Furthermore, the executive power is organised according to the binary principle as well as the principle of the political equality. What is evident from the provisions is that instead of the relation of majority and minority, the binary principle was developed, of which the main expression is the right of exercising a veto power in decision making. The equivalent power of the president and vice-president as a result of the right of veto denotes the political equality of the communities through which these organs come from. Particularly, the executive power is on the one hand allocated between the two communities in percentage but the powers between the president and the vice-president are equally shared, due to the right of veto. From another perspective, the right of veto would precisely result in the malfunction of the Republic, in an institutional impasse as well as in the domination of the majority by the volition of the numerically minor community. However, it was imposed in order to foil any decision made by the president on issues of high political importance without the assent of the vice-president, acting in this way as a safety valve of the constitutional status of the Turkish-Cypriot community. This provision proved to be exceptionally inflexible for the function of the Republic, particularly in issues where a consent of a particular type would play a determinative role in decision making.

Lastly, the institutional co-existence and cooperation of the two communities as far as the administration of power is concerned was not likened, from the point of view of the organisation of the state, to the federal principle. The Turkish-Cypriot side usually claims that the Constitution has established a functional federation. Indeed, the Constitution provides for a bi-communal state, based on checks and balances. However, it must be noted that the established Republic

does not resemble to a federation, since federation presupposes territorial division between the two communities, a fact which did not exist at any time prior to independence, and clear reference to the Constitution, which was absent.

Concluding remarks

The creation of the Cyprus Republic differs from that of states which became independent through the process of decolonization, during the early 1960s. Thus the rule of self-determination, a right reserved to be exercised by the majority of the population, did not apply in the same manner as it occurred with the rest of the colonies. In that sense it has been argued that the population of Cyprus has not exercised self-determination. All the same, as self-determination coincided with the granting of independence to the ex-colonies, it can be argued that in the case of Cyprus this right was exercised in a peculiar and *sui generis* manner. Firstly, the independence was a product of the will of the three contracting countries, namely Greece, Turkey and United Kingdom. Secondly, the people were not considered as the subject of self-determination and they were not allowed to exercise the primary constitutive authority. Otherwise it would have resulted to a right of the majority. On the contrary, the meaning of the notion of community predominated, but this did not mean that every community was equated to the nation, because in this way the result would have been the creation of two states. The fact that the Republic of Cyprus was bi-communal in nature meant that the Turkish-Cypriot community was upgraded through constitutional guarantees and it obtained a status of political equality. Governance was not assigned to the Greek-Cypriot majority, but it was distributed between the two communities.

A system of checks and balances was created between the communities. This complicated system would obligate the two communities to be in continuous constitutional co-existence and cooperation with regard to the exercise of the power of the Republic. In conclusion, the question which arises with regard to this brief reference is whether the legal status of the Republic could have been formed differently. Firstly, the independence of Cyprus was agreed a year before the adoption of

the resolution of the UN General Assembly by which colonial territories were granted independence. It is certain that in the decolonization process under the UN auspices the will of the majority would be dominant in the granting of independence. Union (*Enosis*) would have been a tangible outcome. On the other hand, even if Cyprus did not achieve enosis it would have been led to the creation of a state under majority rule. The Greek policy of the union of Cyprus with Greece had already met with the strong British and Turkish reaction well before the formation of a favourable international environment on the issue of self-determination. The direct involvement of Great Britain, Greece and Turkey led to an imposed solution on the Cypriot people through tripartite negotiations on the future independent status of Cyprus. In these negotiations Turkey played a determining role so that the Turkish-Cypriot community would benefit.

If Cyprus' road to independence had not been different from that of other colonies, the country would have come under the expected application of de-colonization within the framework of the UN. In such a process, had Turkey been involved in the granting of independence, it would have been less successful when vindicating on behalf of the Turkish-Cypriot community than in a tripartite negotiation. In addition, Cyprus would have been regarded as a colony according to the UN. Consequently it would have obtained the status reflecting the wish of the majority. In that case, union would have been the most obvious possibility. Even if the demand for union were not resulted to the satisfaction of the Greek-Cypriot side, the policy which had been applied to other ex-colonies would have prevailed; i.e., the Greek-Cypriot majority would have ruled the Republic. However, the resolution of decolonization was adopted in 1960, after the independence of Cyprus had been established. This outcome has been recorded in history as a lost opportunity. The opportunity would have been won if in the early 1950s the Greek governments had foreseen and evaluated the impending international developments in relation to decolonization as it was shaped within the framework of UN. It was in the early 1950s when the General Assembly expressed its interest and spelled out its obligation towards the independence of the colonies. Specifically, in 1950, the UN General Assembly requested that the

Economic and Social Council carry out a study of the means which would guarantee the application of self-determination with the view that it would include all colonial territories. In 1952, the UN General Assembly adopted a recommendation according to which all the territories should gain independence. With a series of resolutions it gradually formulated the content of self-determination until it would obtain a definite content. The final version of the relevant proclamation rendering the colonies independent was formulated and officially adopted in December 1960. Since the first announcement of intended decolonization was made at the beginning of 1950, ample opportunity was given to successive Greek governments to develop the appropriate strategies and necessary diplomatic manoeuvring, both abroad and domestically, to safeguard and promote Greek and Greek Cypriot interests in Cyprus. Secondly, there was certainly a genuine demand for union with Greece amongst the Greek Cypriot majority. While Greek diplomacy was unable to make positive use of this factor either in international organised arenas or in the negotiating table, the Turkish side took advantage of the union demand in order to safeguard Turkish interests by committing the Greeks to a system of checks and balances as well as to the right of veto of the Turkish-Cypriot community. In this way, Turkey imposed its policy with the pretence that the Greek-Cypriot side should be averted to materialise the old plan of union of Cyprus with Greece. Further to these, Greek policy on Cyprus continued to be contradictory even after the establishment of the Republic of Cyprus.

In an attempt to placate Greek Cypriot sensibilities, President Makarios publicly paid lip service to the Greek-Cypriot demand for union with Greece both directly or indirectly even after the independence was achieved. And this, when he knew very well that union after independence was diplomatically and politically unattainable. Under the circumstances, inter-communal suspicion and mistrust in the island intensified offering to the Turks the possibility to interfere more actively in Cypriot internal affairs. This was amply demonstrated in 1963 when Makarios proposed the amendment of some fundamental provisions of the Constitution, among which was the Turkish Cypriot right of veto. Prompted by Turkey, the Turkish-Cypriot community

reacted by withdrawing from the bi-communal government causing a prolonged constitutional anomaly that is extended up to the present. The Turkish-Cypriot community justified this withdrawal on the grounds that the proposed Greek-Cypriot amendments intended to realise the union with Greece. In this way it attributed the responsibility for its withdrawal from the government to the Greek-Cypriot side.

The inability of both sides to come to terms with the constitutional arrangement of 1960, coupled with the narrow and rigid framework of the Zurich and London agreements, led to a series of mismanaged crises and lost opportunities for establishing a viable and stable bi-communal system based on coexistence and institutional cooperation. Instead the history of Cyprus is noted by the inter-communal competition either for Greek-Cypriot domination or for Turkish-Cypriot equal partnership status in a separate territorial entity leaving side-by-side with the Greek-Cypriot counterpart. The conflicting interests led to a deadlock. The interference of external factors complicated even more the fragile Cyprus equation causing additional suffering and disruption.

NOTES

Editor's Note We would like to point out that one has to take into consideration the strategic interest which Cyprus holds, as evoked by Turkey, for Turkish insistence in intervening in the Island's affairs. In this sense, the constitutional crisis of 1963, must also be attributed to Turkey. Especially because the British encouraged Archbishop Makarios to propose the constitutional amendments in that year. It has since been documented that Turkey was prepared to impose partition of the island from the very beginning of the establishment of the Republic. On the other hand, speaking of a bi-communal institutional system, one has to remember the demographic realities of the times and of today: Turkish Cypriots constitute 18% of the population; Greek Cypriots, 80%; and others, 2%. Of course in 1963, the population was more mixed geographically since it was only after the Turkish invasion of 1974 that Turkish Cypriots were transferred to the north of the island by force and Greeks expelled from the same area.

1. See A. Mark Weisburd, *Use of Force, The Practice of States Since World War II*, University Park, The Pennsylvania State University Press, 1997, pp. 76, 152, 108.
2. John Dugard, *Recognition and the United Nations*, Hersh Lauterpacht Memorial Lecture, Cambridge, Grotius Publ., 1987, pp.108-111.
3. Thomas Franck, *Fairness in International Law and Institutions*, New York, Oxford University Press, 1997, pp. 193-195.
4. See Antonio Cassese, *Self-Determination of peoples, A legal Reappraisal*, Cambridge University Press, 1995, p. 170.
5. Farid Mirbagheri, *Cyprus and International Peacemaking*, London, Hurst & Co., 1998, p.12.
6. G. Papademetriou, *The Constitutional Problem of the Republic of Cyprus* Athens, A Sakkoulas, 1997, pp. 36-40 (in Greek).
7. Thomas Ehrlich, *Cyprus 1958-1967*, Oxford University Press, 1974, pp. 61-70.
8. This view is shared by Kypros Chrysostomides, *The Republic of Cyprus, A Study in International Law*, The Hague, Kluwer International, 1999, pp. 58-62.

DOCUMENTS ON THE CONSTITUTIONAL ORDER OF CYPRUS

I. THE 13 PROPOSALS TO AMEND THE CONSTITUTION OF THE REPUBLIC OF CYPRUS(1963)

The 13 Proposals put forward by President Makarios were not accompanied by any measures to impose them, nor were any procedures put in motion towards their implementation. As can be seen from official and other records, these proposals were aimed at amending provisions that accentuated the constitutional malfunctioning. What went on behind the scenes whilst these proposals were being drawn up, as well as the participation in their drafting by the then British High Commissioner, Sir Arthur Clark, is described first hand by Glafcos Clerides. (in his book, *Cyprus : My Deposition*, Nicosia, 1989).

The 13 Proposals were as follows :

1. The right of veto of the President and the Vice-President of the Republic to be abolished.
2. The Vice-President of the Republic to deputise for or replace the President of the Republic in case of his temporary absence or incapacity to perform his duties.
3. The Greek President of the House of Representatives and the Turkish Vice-President to be elected by the House as a whole and not, as at present, the President by the Greek Members of the House and the Vice-President by the Turkish Members of the House.
4. The Vice-President of the House of Representatives to deputise for or replace the President of the House in case of his temporary absence or incapacity to perform his duties.

5. The constitutional provisions regarding separate majority for enactment of certain laws by the House of Representatives to be abolished.
6. Unified municipalities to be established.
7. The administration of justice to be unified.
8. The division of the Security Forces into Police and Gendarmerie to be abolished.
9. The numerical strength of the Security Forces and of the Defence Forces to be determined by a law.
10. The proportion of the participation of Greek and Turkish Cypriots in the composition of the Public Services and the Forces of the Republic to be modified in proportion to the ratio of the population of Greek and Turkish Cypriots.
11. The number of Members of the Public Service Commission to be reduced from ten to five or seven.
12. All decisions of the Public Service Commission to be taken by simple majority.
13. The Greek Communal Chamber to be abolished.

Source : Kypros CHRYSOSTOMIDES, *The Republic of Cyprus, A Study in International Law*, Martinus Nijhoff Publishers, Hague, The Netherlands, 2000, p. 33-34.

II. THE TURKISH DOCUMENT OF 1963

(This document signed by the Vice-President of the Republic of Cyprus and leader of the Turkish Community and the president of the Turkish Cypriot Communal Chamber Rauf Denktash is setting out the parameters of the Turkish policy on Cyprus)

1. We accepted the Zurich and London Agreements as a "temporary, interim halting place" and for this reason we signed.

If they had not been a "temporary halting place" but a final solution, we would not have accepted them; we would have continued the conflict between the two communities and would have left the question of partition to the United Nations, saying "It cannot work, the agreements are inapplicable".

The reason why we accepted the temporary halting place is that the Zurich Agreements have brought about the following two points in the administration of the Republic:

(a) Turkey's rights on Cyprus have been recognised on an international plane:

(b) We shall profit from the blunders and mistakes of the Greeks and, once we have prepared better in the time gained, we shall wait for the day when they decide to abrogate the agreements, whereupon we shall obtain our full freedom.

During the interim period our position and activities must be in accordance with (a) and (b) above, and we shall proceed directly to the solution which, in our view, is acceptable as a final solution.

2. The reasons why we cannot accept as a "final solution" the Zurich Agreements and the Republic created by these agreements are the following :

(a) An administration based on a 7:3 ratio is a Greek administration, despite existing guarantees, and under such an administration the Turkish element is destined to be dissolved in time.

(b) The Cypriotisation of the Turks, that is co-operation with the Greeks to the maximum degree, being on good terms with them, accepting the caprices of the Greeks and not creating difficulties, co-operating for unity so that there may be no Turkish national claim left, all these mean nothing else but the extermination of the Turks of Cyprus.

(c) Economic weaknesses and materials needs will in a very short time abolish the status of our community.

(d) The agreements were made on the basis that the two communities, because of suspicion and enmity existing between them, would be able to live together as separate and equal communities.

(e) During the 85 years of British rule, the aim of the economists of our community, who did not raise their heads, was to develop a community obedient and loyal to the British Government, so that our community would not be destroyed. And now, those who accept the agreements as a final solution are causing the eternal subjugation of our community to the Greeks at any price.

3. Under these terms, to accept the Zurich Agreements as a final solution means that we ourselves are causing the extermination of the Turks of the island. For this reason and before the agreements came into being, it was agreed with the Turkish Government at the time that during this period we should be given maximum economic and other aid to achieve our final goal.

It is worth mentioning that on the first contacts we had with President Gursel, after the formation of a new government, the same things were agreed and we were told in the most concrete manner that "for us and Turkey the agreements were nothing but a temporary halting place".

4. There is a very important reason why we should keep our eyes open and not fall asleep, because the Greeks too, as a large majority, consider the administration of the Republic temporary and all their efforts have, from the start, been directed towards the abolition of the agreements.

(a) Their newspapers, in their official and unofficial articles, say that the agreements are temporary, that no free man could

accept these agreements and that they were forced to accept them. Foreign correspondents visiting the island swallow this propaganda like a pill and write that the Turks must give up the rights artificially acquired by them.

(b) The Greeks (rightists and leftists) are arming themselves with unimaginable speed.

(c) Police and customs organisations, as well as the administrative machinery, have been so shaped that the Turks cannot breathe.

(d) Almost none of the rights given to the Turks by the Zurich Agreements have been handed over to them. The Greeks are busy trying to wear out, tire and destroy the Turks through delaying tactics and make Turkish leaders accept that the said rights are indeed arbitrary.

(1) Municipalities have not been separated. The fresh demarcation of boundaries may take years. We must rise as a community and not wait for injustice to continue. The attrition tactics going on for a year and a half will wipe out the fighting spirit of the Turks.

The question of separate municipalities and the separate community status form the basis. Thus separation must be proceeded with, although materially it is an arduous and expensive project for the Turks.

Today those in opposition try their best to destroy this separation and unify the municipalities, arguing that because of separation some - a limited number - have suffered losses and they must, at any price, be on good terms with the Greeks. Opposition members Mr. Ahmet Muzafer Gurkan and Mr. Ayhan Hikmet have stated to foreign correspondents that modification of municipalities is indispensable and the reason why Mr. Denktash and Dr Kutchuk want separate municipalities is that partition may thus be advanced.

We request that definite instructions may be given on whether or not legal action should be taken in respect of the separate municipalities question. We are of the opinion that we shall achieve a strong case on which to base "the separate community status".

(2) You are aware of the difficulties we are encountering with regard to the 70:30 ratio. Two and a half months have gone by out of the five months period fixed for the implementation of this ratio.

The Greeks do not intend to finish this job in five months. As can be seen from talks between Makarios and Kutchuk, the mode of implementation and the degree of implementation have been thrown in the wastepaper basket by civil servants. And Makarios has gone as far as to say that these agreements are not binding.

If by the end of the fifth month the 70:30 ratio is not implemented, what should the Turkish community do? Should it apply to the Constitutional Court and fight for another five years? Or could we not go ahead and seize our rights as a community?

Let us not forget the 70:30 ratio, under the London Agreements, should have been implemented by the time of the establishment of the Republic. We have fallen victims to the caprices of the Greeks. If this job is not over by the end of the five months, Dr Kutchuk and his associates, who promised implementation of the ratio within five months, will find themselves in a very difficult position.

(3) Turkish business is being delayed in the ministries because of the Greeks. Greek policemen and employees do everything they can to give us the impression that we live under Greek rule. The principle whereby Turkish villages should be served by Turkish employees, which is one of the conditions of the separate community status, is not applied anywhere. We must insist on its application.

(4) In the Council of Ministers no project for the Turks has been approved. They do all they can not to let the Cyprus army be established. For the Commander and Deputy Commander of the army they suggest salaries even lower than those paid to the Commander and Deputy Commander of the police, while for soldiers they suggest ridiculous salaries.

They do not intend adding a single piastre to the 400,000 cypriot pounds aid guaranteed in the constitution by the Central Government for our community's educational budget amounting to 800,000 cypriot pounds. On the other hand, 6m. cypriot pounds has been given so far to the Greek Communal Chamber. We believe that the mother country, making a maximum financial sacrifice will help us face up to the Greeks, who have set out to extinguish our community, whose only slogan is a separate community status.

(5) Development votes in the budget are spent on Greek villages in a manner hardly noticed. No money is allocated for any purpose deemed useful by Turkish ministers and an effort is being made to use Turkish ministers as puppets.

(6) Appointments in the police have been made in such a way as not to affect Turkish officers. Turkish Cypriots are like puppets in the hands of the Greek leaders.

5. The only way out we see is the following :

(a) We must let it be known throughout the island so that it may be handed from one generation to the other that every Turk, young or old, feels convinced that it is imperative to confirm that the agreements are a temporary halting place and our community is a separate state.

(b) We must oppose to the utmost any activity of the Greeks, who are trying to destroy our separate community status.

(c) Those propagating and writing in a manner likely to disrupt our national struggle must be prevented from doing so and those in opposition within our community must be told that their activities regarding our national struggle are a basic mistake.

Dr Ihsan Ali, who is charmed by the Greeks and whose bonds of friendship with the Enosis leaders of the extremist Greeks and the British have been found out, and his associate Muzaffer Gurkan, whose relations with the communists have also been found out, as well as Ayhan Hikmet, who by his writings and activities helps the efforts of the Greeks, all these must stop doing so and if they do not believe in our national struggle, they must be silenced.¹

The Turks of Cyprus are at an impasse. Unemployment, lack of credit, lack of room for action, questions as to whether they will be given work by the Greeks and whether theirs is a national struggle, all these have put the Turks in grave doubt and they do not know what to do. In view of this situation and in answer to those who say "why a separate community?", there are no institutions to give us work, there is no credit, relying on the Greeks we can live and the door to life is shut for those turning away from the Greeks, we have this to say: this feeling must be eradicated and, as in the 1955-58 period, we shall confront poverty and shall create a society that has faith in itself.

In brief, a national plan must be given to the organisers so that we are able to regulate our words and activities in accordance with this national plan. If the basic outline of this national plan is given, if the status of a separate community continues and takes root and the day comes when the Turks dominate Cyprus, we could carry on with the struggle and restrain the people. If again this plan takes the following form: "We have reached the limit, see that we keep on good terms with the Greeks, don't be impertinent, Mr. Kutchuk, don't make such a fuss because insignificant rights of yours have been usurped and don't

displease your friends, the Greeks, then we must consider our position afresh and think whether we shall be able to shoulder responsibility in such circumstances".

NOTES

1. Both Muzafer Gurkan and Ayhan Hikmet, were murdered in 1962 ; the Coroner's investigation which followed was particularly revealing. Dr. Ihsan Ali died of natural causes.

Source : Kypros CHRYSOSTOMIDES, *The Republic of Cyprus, A Study in International Law*, Martinus Nijhoff Publishers, Hague, The Netherlands, 2000, p. 515-519.