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TURKISH REPUBLIC OF NORTHERN CYPRUS IN PERSPECTIVE



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**THE TURKISH REPUBLIC OF NORTHERN CYPRUS
IN PERSPECTIVE**

by

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AUTHOR'S NOTE

This booklet includes a section on the developments which led to the proclamation of the Turkish Republic of Northern Cyprus on 15 November 1983 and a reproduction of an article on self-determination of the Turkish Cypriot people which was published in *The Northern Cyprus Weekly Mail* a few days before the proclamation.

Turkish Nicosia,
22nd November 1983

Z.M.N.

EVENTS IN RETROSPECT

On 15 November 1983 the Turkish Republic of Northern Cyprus was proclaimed by the unanimous vote of the Legislative Assembly of the hitherto Turkish Federated State of Cyprus. The proclamation stressed that the Republic would adhere to all Treaties and Agreements binding on it, including the Treaty of Guarantee, would follow a policy of non-alignment, would remain faithful to the principles of the United Nations Charter and would endeavour to facilitate the establishment of a bi-zonal, bi-communal Federal Republic where Turkish Cypriots and Greek Cypriots could co-exist in peace and harmony.

The Turkish Federated State was set up in 1975 even though no federal structure existed to which it could be federated. The reason behind such a move was to keep the door open for a federation of two federated States. However, in the international field the Turkish Cypriots remained "stateless" because the Turkish "Federated" State did not, and could not, ask for international recognition. Paradoxically, the Greek Cypriot administration claimed to be the "Government" of the whole of Cyprus even though its writ has not run in Turkish areas since December 1963 as confirmed by the then U.N. Secretary-General in his report S/6228 of 11 March 1965. Clarifying the mandate of the U.N. Force in Cyprus, he said that this did not mean the restoration of the constitutional situation as interpreted by the Turkish Cypriots. Nor could the Force act as an instrument of the Government in helping to extend its authority by force over the Turkish Cypriots.

All through the process of the intercommunal talks conducted under the auspices of the United Nations since 1975, the Greek Cypriot side assumed, in complete disregard of the present realities, that a unitary "Government of Cyprus" still existed and that the Greek Cypriot administration was that "Government". This attitude

has been a dominant factor especially in respect to the constitutional aspects of the problem and on the matter of practical measures that should be considered by both sides to promote good will, mutual confidence and the return to normal conditions.

On the other hand, the Turkish Cypriot concept has been that there does exist two de facto administrations which would be legalized with the agreed solution of the Cyprus problem. Within the federal Republic the equal co-founder partnership status of the Turkish Cypriot people must be maintained.

In their public statements the Greek Cypriot leaders have stated that they had accepted federation but not two States. They were aiming at a united State and united people, an allusion to a "unitary State", which is incompatible with the principle of federation. According to the Greek Cypriot side, the Turkish Cypriot proposals did not provide for the setting up of a genuine federal State, but for a sui generis association of two States at the confederal end of the spectrum of federalism. On the other hand, the Turkish Cypriot side held the conviction that the other side, by proposing the creation of a strong central government with powers to override the units, was aiming at the creation of a "unitary State" and not a genuine federation.

In the meantime the Turkish Cypriots were being pushed into the position of political and economic isolation. The fact of the continued recognition of the Greek Cypriot administration as the formal "Government of Cyprus" was seriously prejudicing them. They received practically no benefits from foreign aid and were becoming subjects of an economic war of attrition. The Greek Cypriot authorities, with the aim of damaging the economy of the North, had taken steps to hinder communications and trade with this territory through the air and sea ports and pressure was brought to bear on those who intended to call at these ports or who intended to trade with this part of Cyprus.

In 1983 the Greek Cypriot side, in their effort to internationalize further the Cyprus problem, brought the question of Cyprus to the General Assembly of the United Nations. The Turkish Cypriot side became more and more aware that attempts were being made to push them into the status of a "minority" and by virtue of the decisions of the General Assembly, before which they had no right of address, their negotiating status was being eroded. Paragraph 2 of the U.N. General Assembly Resolution (A/37/L.63) of 10 May 1983 affirmed "the right of the Republic of Cyprus and its people to full and effective sovereignty and control over the entire territory of Cyprus and its natural and other resources" and called upon all States to support and help the "Government of the Republic of Cyprus to exercise these rights." Even though this Resolution referred to the high-level agreements of 12 February 1977 and 19 May 1979, as well as to the intercommunal negotiations "to be conducted freely on an equal footing", it said in para.12 that the Assembly considered that "the de facto situation should not be allowed to influence or in any way affect the solution of the problem of Cyprus." This Resolution, taken at the instigation of the Greek Cypriot side and sponsored by the non-aligned movement, has contributed to the disruption of the atmosphere of the intercommunal talks.

At the root of all these differences lies the disagreement of the two ethnic peoples of Cyprus as to the sovereignty of the future federation. Will that sovereignty derive from the sovereign peoples of the two communities previously organised in States of their own or will that sovereignty be derived from a single central Government? In other words, will the government of a future federal republic of Cyprus be the successor of the two communal administrations that now exist de facto on the island, or of the Greek Cypriot regime which is passing itself off as "the Government of Cyprus"? It is

submitted that there can be no genuine equality of status of the two communities in negotiating a settlement as co-founders of the Cyprus Republic, or as co-founders of the future federal republic, so long as the Greek Cypriot regime in Nicosia regards itself and is regarded internationally as the "Government of Cyprus" and ignoring the realities insists that sovereignty of the future federal republic of Cyprus will derive from itself.

The aim of the Turkish Cypriots in declaring, on 15 November 1983, an independent State, i.e., the Turkish Republic of Northern Cyprus, is to assert their status as co-founders of the future federal republic of Cyprus and to ensure that the sovereignty of that republic will derive from the existing two States joining together as equals to form the future federal republic.

The Greek Cypriot leadership have likened the declaration of the Turkish Republic of Northern Cyprus to Unilateral Declaration of Independence (UDI) in Southern Rhodesia. They have also argued that this act is contrary to the Treaty of Guarantee. In fact, UDI implies a breakaway from a legitimate exclusive sovereignty (government). The declaration of the Turkish Republic is not a breakaway from a legitimate sovereign government but an overt assertion of an already exercised share of sovereignty and independence. For the same reason, it is not contrary to the Treaty of Guarantee, because the bi-communal Republic envisaged by the 1960 Constitution has, due to evolutionary developments, been implanted by two autonomous administrations. The Greek Cypriots should perhaps be reminded that their Attorney-General has invariably argued since December 1963, and formally in a publication of 1977, that the obligation of the Treaty of Guarantee "to keep unalterable in perpetuity the constitutional structure and order" purports to deprive Cyprus of one of the "fundamental requirements of a state as an

integral person, internal independence and territorial supremacy." He further elaborated this point by argument to the effect that Article IV of that Treaty conflicts both with customary international law and with Article 103 of the Charter of the United Nations for violating the principle of "sovereign equality". The Greek Cypriots are now relying on a treaty which previously they thought was invalid.

Another reason why the declaration of the Turkish Republic of Northern Cyprus is not a UDI, is that a UDI implies a final secession whereas the declaration of the Turkish Republic is not a final solution of the Cyprus problem but leaves the door open for a federal solution.

On 17 November 1983 the Security Council of the United Nations adopted a resolution (S/16149) sponsored by Britain whereby the Council deplored the declaration of the Turkish Republic of Northern Cyprus and considered the declaration as legally invalid and incompatible with the 1960 Treaty of Establishment of the Republic of Cyprus and the 1960 Treaty of Guarantee, and called on it to withdraw its declaration of independence.

The Security Council resolution clearly shows how principles of law can be overshadowed by politics. First, the resolution presupposes wrongly that the "state of affairs", created by the Treaty of Establishment and guaranteed under the Treaty of Guarantee, still exists. The treaties themselves are valid and in force, but the bi-communal Republic, legitimacy of which was based on the bi-communality of the State, its Government and its organs, came to an end in December, 1963 when the Turkish Cypriot co-founder partner was ousted by force from all organs of the Government and the administration and was deprived of all its constitutional rights, as a prelude to amending the 1960 Constitution by unconstitutional means and to establishing a purely Greek Cypriot administration. Secondly, the Security Council is not a court of law, therefore it cannot adjudicate upon legal questions such as the legality or otherwise of the declaration of the Turkish Republic of Northern Cyprus.

Thirdly, it is submitted that the resolution, in calling upon other States not to recognise this newly declared State, interferes with the internal affairs of other States. It is a principle of the United Nations Charter that there must be no interference in the internal affairs of other States. Therefore, a State, in the exercise of its sovereign rights, should be able to decide freely whether or not to recognise another State or have dealings with it, without any fetter being placed on this right by the Security Council.

One positive aspect of the Security Council resolution is that it calls upon the parties to co-operate fully with the Secretary-General in his mission of good offices. It is hoped that both sides will negotiate, before it is too late, for the establishment of a bi-zonal Republic where both peoples of Cyprus can co-exist in peace and harmony.

22nd November, 1983

Z.M.N.

THE RIGHT TO SELF-DETERMINATION OF THE TURKISH CYPRIOT PEOPLE

I SELF-DETERMINATION UNDER INTERNATIONAL INSTRUMENTS

One of the purposes of the U.N. Charter as expressed in Article 1 (2) thereof is "to develop friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples, and to take other appropriate measures to strengthen universal peace." In Article 35 of the Charter, reference is again made to "self-determination" to express the general aims of the United Nations in the fields of social and economic development and respect for human rights. By elaborating these rather cryptic references, the General Assembly has attempted in a very large number of resolutions to define more precisely the content of the principle. Thus, the Colonial Declaration (clause 2) stated that

"All peoples have the right to self-determination; by virtue of that right they freely determine their political status and freely pursue their economic, social, and cultural development."¹

The International Covenant on Civil and Political Rights, as well as the International Covenant on Economic, Social and Cultural Rights, which were proclaimed by the General Assembly of the

1. General Assembly Resolution 1514(XV), 14 December, 1960, "Declaration on the Granting of Independence to Colonial Countries and Peoples".

United Nations on 16 December 1966, say in their identical article 1(1) that:

"All peoples have the right to self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development."

The principle has also been affirmed by the Security Council, for example, by Resolution 183 of 11 December 1963, and by the General Assembly, by Resolution 2625 (XXV) of 24 October 1970. The latter instrument is known as the Declaration of Principles of International Law Concerning Friendly Relations and Cooperation Among States in Accordance with the Charter of the United Nations.² In its Declaration of Principles annexed to this Resolution, the Assembly dealt in the following terms with "The Principle of Equal Rights and Self-determination of Peoples":

"By virtue of the principle of equal rights and self-determination of peoples enshrined in the Charter.... all peoples have the right freely to determine, without external interference, their political status and to pursue their economic, social and cultural development, and every State has the duty to respect this right in accordance with the provisions of the Charter....

The territory of a colony or other non-self-governing territory has, under the Charter, a status separate and distinct from the territory of the State administering it; and such separate and distinct status under the Charter shall exist until the people of the colony or non-self-governing territory have exercised their right of self-determination in accordance with the Charter... Every State shall refrain from any action

2. Hereafter to be referred to in this article as "Declaration of Friendly Relations".

aimed at the partial or total disruption of the national unity or territorial integrity of any other State or country."

By its resolution 3382(XXX) of 10 November 1975, the General Assembly reaffirmed the importance of the universal realization of the right of peoples to self-determination, national sovereignty and territorial integrity and of the speedy granting of independence to colonial countries and peoples as imperatives for the enjoyment of human rights, and it further reaffirmed the legitimacy of the people's struggle for independence, territorial integrity and liberation from colonial and foreign domination by all available means, including armed struggle.³

At the thirty-second session of the Commission on Human Rights in 1976, in the course of the debate on the question, it was said that the right to self-determination, an essential prerequisite for the enjoyment of other human rights, had become a basic rule of international law.⁴

The principle of self-determination has in fact two quite distinct meanings. It can mean the sovereign equality of existing States, and in particular the right of a State to choose its own form of government without intervention. It can also mean the right of a specific territory (people) to choose its own form of government irrespective of the wishes of the rest of the State of which the territory is a part.⁵ However, the scope of the principle of self-determina-

3. See *Official Records of the General Assembly*, Thirtieth Session, Annexes, agenda item 77, document A/10309.

4. See *Official Records of the Economic and Social Council*, Sixtieth Session, Supplement No.3 (E/5768), paras.36-43, and E/CN.4SR.1342-1345.

5. J. Crawford, *The Criteria of Statehood in International Law*, *The British Year Book of International Law*, vol.48 (1975-1976) pp.149-164, at p.152.

tion is not uncontroversial, and furthermore according to the opinion of the International Court in *Namibia* the principle is not static but is open to change.⁶ It seems that judicial reference made to this principle so far has been in the context of territories whose peoples had not attained a full measure of self-government.⁷

II APPLICATION OF THE PRINCIPLE TO STATES AND "PEOPLES".

In the case of a sovereign State the principle of self-determination requires that there must not be intervention in the internal affairs of that State, and in particular in the choice of the form of government of the State.

Apart from the above, whether the principle can be invoked by a sovereign State to justify its union with another State is doubtful. However, Dr. Galo Plaza, one-time U.N. Mediator in Cyprus, in para. 143 of his Report submitted to the Secretary-General on 26 March 1965, suggested that the people of an independent country possess the right to determine their own future, including their relationship with any other State. This right follows naturally from the fact of sovereign independence. According to Dr. Plaza, if Cyprus should become "fully independent" by being freed from the 1960 treaty limitations it would automatically acquire at the same time the right of self-determination. He acknowledged in para. 135 of the same Report that the Greek Cypriots had coupled their aspiration for "unfettered independence" with the demand for the right of

self-determination, the purpose and result of the exercise of which would be to realize union (*Enosis*) with Greece.

The most important aspect of the principle of self-determination is its application to the "people" of a specific territory. In this context, self-determination implies the right of such people to choose its own political organisation. Such a right, in view of its close connection with fundamental human rights, is to be exercised by the people of the relevant unit without coercion and on the basis of equality.⁸ In this connection self-determination can result either in the independence of the self-determining unit as a separate State, or in its incorporation into or association with another State on a basis of political equality for the people of the unit.⁹

To characterise self-determination as a collective right possessed by peoples raises awkward theoretical problems because of the difficulty of defining the concept of a people and drawing a clear distinction between that and other similar concepts. Self-determination is a right of peoples, in other words, of a specific type of human community sharing a common desire to establish an entity capable of functioning to ensure a common future. It is Peoples as such which are entitled to self-determination. Under contemporary international law minorities do not have that right. People and Nation are two closely related concepts; they may be one and the same, but they are not synonymous. Modern international law has deliberately attributed the right to Peoples, and not to Nations and States. However, when People and the Nation are

6. I.C.J. Reports, 1971, p.16, at p. 31.

7. As, for instance, the *Namibia* (referred to above) and the *Western Sahara* (I.C.J. Reports, 1975 p.12, at p.33) situations.

8. Crawford, *op. cit.* at p.160.

9. Crawford, *op. cit.* p.161.
Cf. Principle VI of Annex to General Assembly Res. 1542(XV), cited with approval in the *Western Sahara* opinion, I.C.J. Reports, 1975, p.12, at p.32.

one and the same, and when a People has established itself as a State, clearly that Nation and that State are, as forms or manifestations of the same People, implicitly entitled to the right to self-determination.¹⁰

III ARE THE TURKISH CYPRIOTS A "PEOPLE"?

There is little jurisprudence defining the term "peoples" which appear in the international texts referred to above. It is submitted that the Turkish Cypriots are not a "minority", but can properly be described as a "people" in the above sense. The reasons for this proposition are given in the following paragraphs:

The 1960 Constitution envisaged two "Communities", the Greek Cypriot Community and the Turkish Cypriot Community. Furthermore, the same Constitution provided for the participation of the two Communities in the running of the affairs of the Republic on an agreed ratio and partnership basis. The system envisaged can be described as a "functional federation."¹¹

There are references to the two "Communities" in a number of United Nations resolutions. The General Assembly has always encouraged the continuation of the talks between the two sides, the Greek Cypriot and the Turkish Cypriot sides. For instance, section 6 of the General Assembly Resolution 33/15 of 9 November 1978, calls for urgent resumption in a meaningful and constructive manner

of the negotiations under the auspices of the Secretary-General between the representatives of the two communities, to be conducted freely on an equal footing. Similarly, section 6 of the General Assembly Resolution 34/30 of 20 November 1979 requests the Secretary-General to continue to provide his good offices for the negotiations between the representatives of the two communities. Furthermore, the Secretary-General of the U.N. always seeks the leave of both administrations for renewal of the mandate of the U.N. peace keeping force. This renewal takes place on a six-month basis. The New York representative of the Turkish Federated State is entitled on this occasion to address the Security Council.

IV EVOLUTIONARY DEVELOPMENTS IN CYPRUS AND THE QUESTION OF REPRESENTATION OF THE TURKISH CYPRIOT PEOPLE

The 1960 Constitution of Cyprus provided for a Presidential regime, the President being Greek Cypriot and the Vice-President being Turkish Cypriot elected on the basis of separate Greek Cypriot and Turkish Cypriot electoral rolls respectively. It envisaged the participation of the two national Communities in the Central Government, the Legislature, the Judiciary, the Public Service and the Army. Communal affairs were left within the domain of the Communal Chambers of each Community. These Chambers had executive as well as legislative competence in respect of their own Communities. However, since December 1963, the partnership rights and status of the Turkish Cypriot people have been assailed and denied for the sake of a "national cause", i.e. union of Cyprus with Greece (*Enosis*).

The Turkish Cypriots, having been completely disenfranchised of all their partnership rights under the 1960 Constitution

10. Study prepared by Héctor Gros Espiell, *The Right of Self-Determination: Implementation of United Nations Resolutions*, E/CN.4/Sub.2/405/Rev.1 (1977), p.9, para.56.

11. It is not possible within the scope of this concise article to study the characteristics of the 1960 Constitution, in any detail. For further information see the same author's, *The Cyprus Conflict: A Lawyer's View*, 2nd ed. (1982) pp. 5-10.

and having been ejected by force of arms from the "Government of the Republic of Cyprus", have since 1963 administered themselves in line with their partnership rights under the 1960 Constitution.

The 1960 Constitution has been in a state of flux as it has been amended since 1963 by the Greek Cypriot House of Representatives by ordinary legislation even though Article 182 thereof provides that the basic articles cannot in any way be amended.¹² Since December 1963, the participation of the two Communities in the running of the affairs of the Republic came to an end and each Community established its own separate organs of government. Ever since, the Turkish Cypriot people owed no allegiance to the Greek Cypriot administration. They have consistently pointed out that their allegiance was to a bi-communal partnership Government; Turkish Cypriots would never accept to be ruled by Greek Cypriot leaders in whose elections they had no say. Even though the world community, for the sake of political expedience, recognised the Greek Cypriot administration as "the Government of Cyprus", Turkish Cypriots owe no allegiance to it and cannot be represented by it.

In 1974 there was a *coup d'etat* against the government of Archbishop Makarios with the aim of uniting Cyprus with Greece. Turkey intervened militarily in Cyprus under the Treaty of Guarantee.¹³

Due to evolutionary developments, the 1960 Constitution

12. See the same author's *op. cit.* pp.31-33, for a list of laws enacted by the Greek Cypriot House of Representatives which violated the 1960 Constitution.

13. For the right of intervention under the Treaty of Guarantee see this author's *op. cit.* pp.73-92.

of Cyprus has been implanted by two autonomous administrations, one of the Greek Cypriot Community and the other of the Turkish Cypriot Community. The existence in practice in the Republic of Cyprus of these two autonomous administrations was also accepted by section 5 of the Geneva Declaration of 30 July 1974 issued jointly on behalf of the Governments of Greece, Turkey and the United Kingdom.¹⁴

The Greek Cypriot "government" in the South has no authority or say over the Turkish Cypriots in the North. In fact, the Greek Cypriot administration's writ has not run in Turkish areas since 1963 as confirmed by the U.N. Secretary-General's reports.

There is at present a boundary line dividing the north and south territories in Cyprus. The Turkish Cypriots have their own homogeneous geographical area in North Cyprus. There was a population exchange agreement reached in 1975 between the two sides which was fully carried out under the auspices of the United Nations.

In short, the Turkish people of Cyprus have their own territory, (political unit) and government in North Cyprus.

Since 1975, the administration of the Turkish Cypriots was put on a constitutional basis and adopted the style and title of the Turkish Federated State of Cyprus, still keeping the re-establishment of the intercommunal partnership open to negotiation with a view to the establishment of a federal republic of Cyprus. Though the Turkish Federated State of Cyprus possessed nearly all the criteria of "statehood", such as, people, territory and government, it did not ask for international recognition. On the

14. H.M. Stationery Office, Miscellaneous No.30 (1974), Cmnd. 5712. See also, *Hesperides Hotels and Another v. Aegean Holidays and Another* (1978) 1 All E.R. 277).

international plane, a political unit cannot be regarded as a "State" unless it claims to be so. Such a claim is manifested by seeking recognition, and/or by assuming capacity to enter into international relations.

The intercommunal negotiations between the two Communities under the auspices of the United Nations, on and off since 1975, run into serious difficulties especially since the Greek Cypriot side brought the question of Cyprus to the General Assembly of the United Nations in May 1983 and showed that it looks upon the Turkish Cypriots as a "minority" or an "ethnic group".¹⁵ At the root of all these differences lies the disagreement of the two ethnic peoples of Cyprus as to the sovereignty of the future Federation. Will the sovereignty derive from the sovereign peoples of the two communities previously organised in States of their own or will that sovereignty be derived from a single central Government? In other words, will the government of a future Federal Republic of Cyprus be the successor of the two communal administrations that now exist *de facto* on the island, or of the Greek Cypriot regime which is passing itself off as "the Government of Cyprus"? It is submitted that there can be no genuine equality of status of the two communities in negotiating a settlement as co-founders of the Cyprus Republic, or as co-founders of the future Federal Republic, as long as the Greek Cypriot regime in Nicosia regards itself and is regarded internationally as the "Government of Cyprus" and, ignoring the realities, insists that sovereignty of the future Federal Republic of Cyprus will derive from itself.

15. See the General Assembly Resolution (A/37/L.63) of 10 May 1983.

V SCOPE OF THE PRINCIPLE

It is clear from the foregoing that self-determination is recognised by international law as a right of peoples struggling for independence and liberation from colonial and foreign domination. It covers national liberation movements, primarily the struggles of peoples under colonial rule. This right has been expressly recognised, for instance, for the peoples of the former Portuguese territories, such as Angola, Mozambique and Guinea-Bissau.¹⁶ The legal nature of the principle in the colonial sphere has also been confirmed by an advisory opinion of the International Court of Justice in *Namibia*.¹⁷ Referring to the developments of international law in respect of non-self-governing territories, the Court mentions the principle of self-determination and cites the Declaration 1514(XV) of 1960 on the granting of independence to colonial peoples.

In addition to its scope in the colonial context, the principle of self-determination has also acquired legal status in respect of an independent State when its government exercises racial discrimination such as, for example, racial segregation or *apartheid*, on a large scale. Such exercise, when viewed as State activity, is regarded as contrary to international law because it constitutes a flagrant violation of human rights and particularly of the principle of self-determination sanctioned by Article 1 of the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights.¹⁸ The condemnation

16. S/PV.1639, p.67 (1972). See further U.N. Doc. A/C.6/SR.1179, p.6.

17. See footnote 6.

18. N. Ronzitti, "Resort to Force in Wars of National Liberation", in *Current Problems of International Law: Essays on U.N. Law of Armed Conflicts*. A Cassese, ed., Milano, Giuffrè, 1975, p.319 (Pisa Università, Facoltà di giurisprudenza. Pubblicazioni 60, pp.341-345 and the authorities cited on p.341.

of apartheid is to be found in numerous resolutions passed by the U.N. General Assembly and the Security Council¹⁹ and in certain conventional instruments.²⁰ The International Court of Justice has recognised that rules and principles concerning racial discrimination pertain to general international law.²¹

In Cyprus, the Greek Cypriot administration, in addition to defying the letter and spirit of the European Convention on Human Rights, has also flouted International Agreements from December 1963 to July 1974 and has passed itself off as "the Government of Cyprus".

Basic human rights of Turkish Cypriots were continuously being violated during the years 1963 to 1974 by the Greek Cypriot Administration, whereas the non-existence of a lawful government of Cyprus prevented Turkey from raising the sufferings of the Turkish Cypriots before the European Commission of Human Rights during the years 1963-1974. During this period the constitutional rights and guarantees of the Turkish Cypriots were systematically violated.²² The perpetrators of crimes against the Turkish

19. See e.g. General Assembly Resolutions: A/Res. 2646-XXV, 3057-XXVIII, 3324E-XXIX, and Security Council Resolutions: S/Res. 282(1970), and 311 (1972).

20. See e.g. International Convention on the Elimination of All Forms of Racial Discrimination, 1966, and International Convention on the Suppression and Punishment of the Crime of Apartheid, 1973.

21. *Case Concerning the Barcelona Traction, Light and Power Company Limited, Second Phase*, 5 February, 1970, I.C.J. Rep.1970, p.32. paras.33-34.

22. Following the intercommunal hostilities of December 1963, Professor Thomas Buergenthal in an article published in 1965 observed that, "in view of the existing civil war in Cyprus and the de

Community were not only unpunished, but they even used to be praised. Turkish Cypriots were humiliated at check-points and their freedom of movement curtailed. They were denied the right of correspondence and communication. Newly-born Turkish babies could not be registered in the Register of Births for 11 years. The payment of salaries to Turkish civil servants was suspended and payment of social insurance benefits withheld. Furthermore, the Greek Cypriot Administration outlawed the sale of Greek Cypriot owned immovable property to Turkish Cypriots. Turkish enclaves were sealed off by armed Greek Cypriot elements soon after the outbreak of violence and economic blockade was enforced by the Greek Cypriot Government on the Turkish Community.²³

More importantly, the Declaration of Friendly Relations conceives the right of self-determination in universal terms because it requires every State, be it colonial and racist or not, to conform to the principle and because it designates any people as the beneficiary of the principle. In view of this, outside the sphere of co-

facto suspension of the Constitution, it is apparent that the Convention is not being applied in Cyprus". This statement appeared in an article entitled: *The Effect of the European Convention on Human Rights on the Internal Law of Member States*, published in *The International and Comparative Law Quarterly Supplementary Publication No.11* (1965), p.79, at p.94. The same observation is also made in an article entitled: *The Domestic Status of the European Convention on Human Rights*, in *The Journal of the International Commission of Jurists*, vol.vii, No.1, at p.66. Lord Home (a former Prime Minister of the United Kingdom) in *The Way the Wind Blows*, at p.242 states: "I was early convinced of the view that.. Archbishop Makarios, unless he could bring himself to treat the Turkish minority as human beings, was inviting the invasion and partition of the island."

23. U.N. Secretary-General's Report No. S/5950 of 10 September 1964, para.191.

lonialism and apartheid (or racism), the principle of self-determination can be construed as a principle of international social ethics till such time as it is rendered legally binding. Indeed, impetus to a move in this direction may be forthcoming as a result of developments in conventional law and stands taken on the occasion of the secession of Biafra and of Bangladesh, as well as the recent resolutions of the U.N. General Assembly which attribute the right of self-determination to the Palestinian people.²⁴ This development is in line with the directive of article 1(3) of the International Covenant on Civil and Political Rights and of Economic, Social and Cultural Rights of 1966.

VI INTEGRITY OF STATES AND SELF-DETERMINATION

The Declaration of Friendly Relations,²⁵ while spelling out the principle of self-determination, reaffirms the need to preserve the territorial integrity of sovereign and independent States, but ties this concept to the requirement that the State must be "possessed of a government representing the whole people belonging to the territory without distinction as to race, creed or colour."

The principle of self-determination cannot be construed as authorising or encouraging any action which would dismember or impair, totally or in part, the territorial integrity or political unity of sovereign and independent States conducting themselves in compliance with the principle of equal right and self-determination of peoples thus possessed of a government representing the whole

24. See footnote 18.

25. U.N. General Assembly Resolution No.2625 of 24 October 1970.

people belonging to the territory, without distinction as to race, creed or colour. However, the territorial integrity that is to be respected, must be real and not merely a legal fiction.²⁶

The above principle prohibiting secession from the territory of a sovereign State is subject to the condition that there must be a representative government of that State, representing the whole of the people belonging to the territory without distinction as to race, creed or colour. In the case of Cyprus, the Greek Cypriot government does not represent the whole of Cyprus as has already been indicated above.

VII CONCLUSIONS

It is deduced from the foregoing that the Turkish Cypriot people, organised in their territory in North Cyprus, have the right to self-determination which has been affirmed by the Legislative Assembly of the Turkish Federated State by its resolution of 17 June 1983. This resolution declares that the Turkish Cypriot People of Cyprus have equal rights and status in the independence and sovereignty of Cyprus. The basis of this proposition is that when the colonial regime ended in the Island, sovereignty was not transferred exclusively to one of the two Communities but to both of them conjointly as co-founder partners of the Republic. Moreover, the Greek Cypriot administrators who have not been elected by the Turkish People of Cyprus and do not represent them, cannot impose on them any resolution adopted in their absence and against their free will.

26. See the study (staff report) referred to in footnote 10, p.6, para.44 of the report.

In view of the above, self-determination means that the Turkish Cypriot people have the right to choose their political organisation. With this in mind, they can opt to continue to use this right through the intercommunal talks for the establishment of a federal republic of Cyprus comprising two political units, or, by popular consent, may opt for unlimited independence. This would imply the dropping of the word "Federated" from the title of the State and asking for international recognition, and/or entering into international relations.

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