

Cyprus: A federal or two-state solution?

Kıbrıs: Federal yoksa İki-Devletli Çözüm

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Abstract

The Republic of Cyprus came into existence in 1960 as a Greek-Turkish bi-communal partnership. Intercommunal strife and the ultimate coup against the first president prompted Turkey's intervention in 1974 which quelled the violence since but partitioned the island. Despite repeated and often encouraging promises, endeavours to reunite the island have so far been in vain. In the context of the accumulative respect for human rights sanctioning secession as the exercise of the right of self-determination, the potential contribution which political dynamism in the Eastern Mediterranean and the discovery of energy reserves in the Levant can make to a future settlement, this article reconciles statehood with the status of the Turkish Republic of Northern Cyprus (TRNC;) analyses the question of secession as it relates to Northern Cyprus; and discusses the prospect for a federal or a two-state solution. It concludes that exporting Levant energy to Europe via Turkey is economically the most viable option and that a unified Federal Republic of Cyprus, with a constitutional right of secession, or two fully independent states within the supra-national framework of the European Union (EU) are viable alternatives.

Keywords: Cyprus, disenfranchisement, energy, geo-politics, self-determination

Özet

Kıbrıs Cumhuriyeti 1960'da Rum-Türk ortaklığı olarak İngiltere, Yunanistan ve Türkiye garantisi altında kuruldu. Kuruluşundan 3 yıl sonra başlayan halklar arası mücadele, 1974'de zamanın cumhurbaşkanına karşı darbeye ve can güvenliğini sağlayan ama aynı zamanda adayı bölen Türkiye'nin müdahalesine yol açmış. Bu güne dek sulh korunmuş olsa da, ümit verici birçok görüşmelere rağmen, bölünen adada federe devlet kurulamamıştır. Konu edilen araştırma uluslararası gelişmekte olan insan haklarını, Doğu Akdeniz'de keşfedilen enerji kaynaklarını ve siyasi gelişmeleri konu eder ve Kıbrıs'ın iki bölümlü federe devlet olanağını veya Kuzey Kıbrıs Türk Cumhuriyeti'nin (KKTC'nin) tanımını inceler. Araştırma Doğu Akdeniz Bilâdü'sh-Şâm (Levant) bölgesinde keşfedilen enerjinin Karpaz-Türkiye boru hattı üzerinden Avrupa'ya dağıtımını en uygun seçenek olduğunu ve Kıbrıs Federe Devletinin kuruluşu veya iki özgür devletli Kıbrıs'ın Avrupa Birliği'ne (AB) üye olabileceğini savunur.

Anahtar Kelimeler: Kıbrıs, temsil-dışlanması, enerji, küresel-siyaset, özgür-yönetim

Cyprus and Statehood

Given that the notion of a Federal Republic of Cyprus has dominated the agenda for more than 40 years and that only Turkey recognises the Turkish Republic of Northern Cyprus (TRNC), pertinent questions are: what underlies the struggle in Cyprus; what are the requirements of statehood and; is “Northern Cyprus” a state?

The Cyprus Problem

Cyprus, the third largest island and located 600 miles from mainland Greece but 44 miles off the coast of Turkey, attracted traders and settlers from different suzerains since the 9th millennium BC, from the Phoenicians to the Venetians from whom the Ottoman Turks took over in 1571. Mainland Greek-Turkish hostilities started when in 1814 a secret society established under the patronage of Tsar Nicholas I avowed to secure the independence of Greece, and sow the seeds for future expansion. Since Archbishop Kyprianos of Cyprus was a founding member of the secret society, he advocated union of Cyprus with Greece –enosis. The Convention of Defensive Alliance between Great Britain and Turkey with respect to the Asiatic Provinces of Turkey, 1878 June 4, transferred the island from the Ottoman Turks to Great Britain in order to enhance her interests in Egypt and help defend the Asiatic possessions of the Sultan against Russia. In 1914, Britain annexed Cyprus, and in 1925 the island became a Crown colony.

Greek Cypriot demands for union with Greece during the colonial rule spurred violence, initially against the British but later both against the British and Turkish Cypriots. The 1960 Treaties of Establishment, Guarantee and Alliance (London and Zurich multilateral treaties) established the Republic of Cyprus (RoC) as a Greek-Turkish bicomunal partnership guaranteed by Greece, Turkey and the United Kingdom. The republic born out of violence lasted only 3 years; nationalistic aspirations of Greek Cypriot (enosis) and Turkish Cypriot (taksim –

partition) translated into intercommunal hostilities (U.S Library of Congress, n.d.), was made worst by the power struggle within the Greek community in Cyprus and the Junta taking control in Greece in 1967, culminated in the 1974 coup intended to hasten the union of Cyprus with Greece. Relying on Article 4 of the Treaty of Guarantee, Turkey intervened in 1964, 1967 and finally in 1974. Turkey’s intervention in 1974 secured the peace but divided the island. Whereas Greek Cypriots in the South continue to represent the RoC, after experimenting with different modalities, Turkish Cypriots formed the breakaway TRNC in 1983. Hence, the time has come to consider the future of the island.

Requirements of Statehood

The criteria for statehood have been formulated in different ways, but all share the common premise of independent and sovereign governmental control. Article 1 of the Montevideo Convention on the Rights and Duties of States 1933 describes “the state” as a person of international law should possess a) a permanent population; b) a defined territory; c) a government; and d) the capacity to enter into relations with other states. Though there is no legal hierarchy amongst them, the four pre-requisites are inseparably interrelated.

A “permanent population” simply denotes the presence of a group of people who have an appreciable association with a specific geographical locality, but does not exclude migratory or fluctuating population. For instance, Sudan, Iraq and Syria, to name but a few, have all experienced significant refugee crises and shifts in their respective population without losing their status as states. Moreover, there is no prescriptive number of individuals that make up a population. The Pacific island of Nauru has a population of 10,000 and the city-state of San-Marino a population of 24,000; the Vatican consists of a city with a small and essentially “professional, non-permanent -transitory” population, yet all three

are and functions as states. Save the usual migration common to all countries across the globe, Northern Cyprus has had a permanent population within its borders since 1975.

The requirement of a “defined territory” is satisfied so long as the people can demonstrate habitation over a specific region no matter how amorphous, even if an entity has no rigidly demarcated boundaries and has a boundary dispute with a neighbour. North and South Korea have been battling their boundaries for decades; the borders of Israel are disputed by its Arab neighbours, and the areas of Gaza and West Bank constitute the Palestinian state notwithstanding Israel’s presence in the region. Although Greek and Turkish Cypriots have been negotiating where the boundary should lie in the event of a settlement, together with a small cluster of Greek Cypriots and Maronites, Turkish Cypriots inhabit the territory lying north of the Green Line.

In context, “a government” suggests the presence of an executive body having control over a population within a defined territory. Some writers add independence to the criteria required for statehood, but effective governmental authority is closely related to the notions of independence and sovereignty. That said, entities with collapsed governments have continued to be states. Afghanistan had no stable government throughout the 1990s but retained her seat in all major international organisations. Somalia is recognised as a state despite the anarchy and lack of a functioning government. By contrast, Taiwan which exerts control over its territory and appears to be a functioning state is not recognised as a state under international law. It is universally accepted that the RoC has no writ over Northern Cyprus thus confirming that, as the successor of the autonomous and later the elected federal government, the TRNC has had control over its territory for nearly half a century.

Finally, irrespective of the entity’s ability in practice, possessing the theoretical “legal capacity” to conduct international relations autonomously free

from the sovereign authority of another state meets the requirement of capacity (Dixon, 2000: 109). The capacity of a state to enter into relations with other states is a function of effective government combined with independence. State practice suggests that customary international law allows states to be substantially dependent on external bodies. The Dayton Agreement granting governmental power in Palestine to the Palestinian Liberation Organisation, which was neither a state nor a government-in-exile yet recognized by over 100 states and represented in all activities of the UN, are a perfect example demonstrating first, that capacity to enter into relations with other states or organisations is no longer the exclusive domain of a state and, second, that independence and capacity are essentially two sides of the same coin (Crawford, 2006: 62). Likewise, Turkey is the only country to recognise the TRNC, and the TRNC has representative offices in many capitals including London and New York. Moreover, though by itself not implying recognition, in *Emin v Yeldağ*, [2002] 1 Family Law Reports, 956, English courts acknowledged the validity of a divorce effected under TRNC laws; and Northern Cyprus is an observer member of the Organisation of Islamic Countries and of the Economic Cooperation Organisation under the name “Turkish Cypriot State.”

Is “Northern Cyprus” a State?

Somalia, Taiwan, Palestine and others illustrate that the legal criteria for statehood as enshrined in the Montevideo Convention, exhibits the essential characteristics but does not prescribe the definitive requirements of a state. The century old test that a political entity able to establish itself “safely and permanently” and to exclude the authority of the territorial State has a claim to be accepted as a State remains valid (Oppenheim, 1905: 112-3). If so, with reference to the fundamental connection between independence and statehood clarified by Judge Huber in the *Island of Palmas Case*

(Netherlands v. U.S) (R.I.A.A., 1928: 829, 838) the TRNC possesses the pre-requisites of the Convention and therefore the attributes which bestows “the right to exercise therein, to the exclusion of any other State, the functions of a State.”

That said the question is not whether Northern Cyprus satisfies the Montevideo Convention and is therefore a state, but whether it can exercise the right of self-determination and be the subject of recognition.

The Position of Turkish Cypriots

Whether the TRNC is a state or violates the integrity of the RoC depends on one’s understanding of the legitimacy of a state created as a bi-communal partnership, but the partnership has since come to exclusively represent only one of the two communities. Hence, the undertaking recorded (Hansard, 19 December 1956 col 1272 & 1276), “the Turkish Cypriot community, no less than the Greek Cypriot community, in the special circumstances of Cyprus be given freedom to decide for themselves their future status;” and reading of the UN Charter reinforced by international support for human rights makes secession more likely (Horowitz, 2006: 10).¹

The United Nations Charter

The modern right of self-determination rests on the UN Charter, which itself derived from President Woodrow Wilson’s proposal for the political independence and territorial integrity of states. The Wilsonian principles embodied in a speech to Congress in 1918, that took the form of Article 10 of The Covenant of the League of Nations, hinged on external (territorial integrity) and internal (political unity:) the ideas that there (a) is a right of people to be free from foreign domination –external self-determination; (b) should be a right of people to choose its own form of government –internal self-determination; and, (c) should be a continuous

consent of the governed by way of a representative democratic government –an aspect of human rights.

Replacing the League of Nations, at the 1945 San Francisco formulating Articles 1 & 2 of the Charter, conference members declared one of UN’s purposes as the development of friendly relations among nations “based on respect for the principle of equal rights and self-determination of peoples” and resolved to “refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state.” By the 1960s the Wilsonian “principle” of allowing people with shared attributes as ethnicity, culture and religion to self-determine their affiliation and status on the World stage evolved into a “right.” Accordingly, with the (former) colonies in mind, the UN General Assembly declared that “[A]ny attempt aimed at the partial or total disruption of the national unity and the territorial integrity of a country is incompatible with the purposes and principles of the Charter of the United Nations” (UNGAR, 1960: 1514(15), Clause 6). Clearly, the 1960 Declaration preserved the “national unity” of a state, and by inference exhausted the right of the people. However, the problem was that in some instances there were different communities but not a “nation” as anticipated by the Declaration. Minority groups in these territories found themselves trapped and subjugated by the majority within the newly created states. Thus, separatist groups challenged the concept of territorial integrity, which historically derived from having a representative government validated by the consent of the governed, designed to “to maintain international peace and security” but now conflicted with the nascent “fundamental freedoms for all without distinction as to race, sex, language, or religion” (UN Charter, Article 1). The individual’s fundamental right to participate in a democratic process formed the basis for ethnic groups able to determine their social, cultural, political and economic future. The struggle for freedom by ethnic groups exemplified in case law like The Aaland Islands Question, Report by the

Commission of Rapporteurs, League of Nations Doc. B7 [C] 21/68/106 (1921) and that of the Canadian Supreme Court in *re Secession of Quebec* (1998) 2 S.C.R. 217) prompted scholars to distinguish between internal and external self-determination (Hannum, 1996; Musgrave, 2000). It came to be accepted that where the people are oppressed, “the right of the victims to defend themselves voids the state’s claim to the territory and this makes it morally permissible for them to join together to secede” (Buchanan, 2004: 354). Indeed, Wellman (2005: 3) further suggests that ‘all separatist groups that can adequately perform the requisite political functions (and would leave their remainder states politically viable) have a primary right to secede’.

Whilst both liberal and reluctant theorists see secession as an answer to problems of ethnic conflict and violence, others argued that articulating a right to secede will undermine attempts to achieve interethnic accommodation within states. In due course, the international community came to place a number of conditions on the affirmation of territorial integrity. Since the emergence of self-determination derived from the movement for decolonisation during the 1960s, the legal right to self-determination favoured the idea of freedom from subjugation. Hence, the 1960 Declaration asserted that “[t]he subjection of peoples to alien subjugation, domination and exploitation constitutes a denial of fundamental human rights” affirming that “[a]ll peoples have the right to self-determination; by virtue of their right they freely determine their political status” (1960 Declaration, Clauses 1 & 2). Six years later, the General Assembly stressed that “All peoples have the right of self-determination. ... minorities shall not be denied the right” of self-determination (1966 International Covenant on Civil and Political Rights, Articles 1 & 2). In 1970, the Appendix to Resolution 2625 justified the right to succession where there is a systematic violation of human rights; an unfair representation within the encompassing state; or a violation of the right to internal self-determination; added that “every state has the duty to

respect this right in accordance with the provision of the Charter” and, in a “safeguard clause,” implicitly authorised the violation of territorial integrity where a state is not “in compliance with the principle of equal rights and self-determination of peoples ... and thus possessed of a government representing the whole people belonging to the territory without distinction as to race, creed or colour” (1970 Declaration on Principles of International Law Concerning Friendly Relations and Co-operation among states in accordance with the Charter of the United Nations -UNGAR 2625, Clause 5(7)).²

Although each international instrument was written for a different audience, for instance the 1960 Declaration intended for the former colonies, it is generally accepted that today the legal right to self-determination articulated in each document applies beyond their context (Gareu, 2005: 505 cf. Van den Driest, 2015:335) and embraces the “whole people belonging to the territory –emphasis added” in question. Declarations and Conventions reveal a common objective; namely, respect for fundamental human rights, the freedom of the people to determine their political status, and power to govern themselves. Even though Declarations do not have the same binding authority, read together the different instruments confirm the right of oppressed people to exercise their right of self-determination through secession as an aspect of human rights (Brilmayer, 1991: 177; Saul, 2011: 626). Predictably, while the international community has consistently emphasised the significance of internal self-determination (respect for human rights,) the reality of minorities within their own state compelled it to pursue shared self-interest and thus resist the public endorsement of external self-determination as a right. Instead, governments preferred the politics of recognition as a means of accepting or rejecting unilateral declaration of independence, where the “Great Powers” deemed that serious and persistent injustices “oppressed” the people. With politics of recognition in mind, Sterio (2010: 138) traces the evolution of internal

and external self-determination and the claim to independence in Bangladesh (1970), Eritrea (1991), East Timor (2002), Kosovo (2008) as well as the failed attempts in Chechnya, South Ossetia, and Abkhazia. Demonstrably, the right of self-determination is not static, and by definition is evolutionary (ICJ Reports, 1971: 16, 31 para.53). Whereas internal self-determination is available to all people, external self-determination applies only restrictively and in circumstances as yet debated. If so, are Turkish Cypriots “oppressed” enough to constitute the “self” in self-determination?

Self in Self-Determination

It is worth remembering that, as the colonial power, the United Kingdom affirmed the right of self-determination of both Greek and Turkish communities, which was ultimately granted to and jointly exercised by them. Yet, notwithstanding its bi-communal character, Turkish Cypriots have been denied representation in the RoC since 1963. Moreover, the *de facto* partition of the island and the existence of two administrations cannot be disputed; nor can the relationship between fundamental freedoms, external self-determination, and humanitarian intervention in international law. While granting that the 1970 instrument is a mere Declaration and that the empirical evidence is thin on the ground, in their written Statements in April 2009 Albania, Denmark, Estonia, Finland, Germany, Ireland, Latvia, the Netherlands, Poland, Slovenia and Switzerland submitted that the independence of Kosovo could be justified on the basis of remedial secession. Amongst others, Buchheit (1978: 220-223), Frank (1993: 13) and Dugard & Raič (2012:109) maintain that a unilateral right of “remedial secession” (external self-determination) trumps territorial integrity where there are a “people” –in the ethnographic sense; which though a minority in relation to the parent State, forms a majority within a part of the territory of that State; the state has seriously denied the right to participate

or be represented in the democratic process (internal self-determination) through, for instance, a pattern of discrimination, or subjected the minority to widespread violations of fundamental human rights; and there are no other realistic and effective remedies for the peaceful settlement of the conflict, under either domestic law or international law.

Whilst according to constitutive theorists a new state is created only when recognised as such by other states, declaratory theorists maintain that an entity becomes a state merely by declaring itself as a state, thus recognition does not create statehood but rather gives an international effect to its consequences. Crawford (2006: 21-22) argues that constitutive theory of statehood where a political entity is a State in relation to those States that recognized it but not in relation to other States is ‘a violation of common sense;’ hence, if the inconsistency cannot be explained ‘the position itself must be flawed,’ in which case it is reasonable to conclude that “[A]n entity is not a State because it is recognized; it is recognized because it is a State” (Crawford, 2011: para.44). Nevertheless, conceding that remedial secession is not firmly established and that the constitutive (status-creating) and declaratory (status-confirming) theories of statehood are much debated, but accepting the primacy of human rights, the issues are whether Turkish Cypriots are an organised segment of a population who had been persistently and systematically oppressed by a central government and therefore entitled to secede, thus making the TRNC the subject of recognition. Hence:

Are Turkish Cypriots a “People?”

While there is no generally accepted definition of the “peoples” entitled to exercise the right of self-determination, before a community may legitimately claim to be a “self” and therefore entitled to the process of “determination,” there must exist a group identity distinct from the ambient population. One possibility is that, unless the state

defines itself as constituted by a plurality of peoples, “people” denotes only one “people” within a territory wherein the minority form part of the majority of people. Gudeleviciute (2005: 49) suggests that that definition applies only in cases of non-self-governing peoples, such as colonies or occupied territories. However, whilst every international pronouncement on the subject refers to a “people” no instrument since the 1960 Declaration restricted the term to the colonies. By contrast, for example, the Covenant on Civil and Political Rights of 1966 refers to “all peoples ... including those of [colonial] territories,” and indeed, Germany and Netherlands strongly objected to India’s suggestion that the term did not apply “to sovereign independent States or to a section of a people or nation.” Since “all peoples” in the plural signifies a reference to more than one community, and since “all States parties to the Covenant should take positive action to facilitate realization of and respect for the right of peoples to self-determination” (McCorquodale, 1994: 860), “people” cannot logically refer to one people within a territory. Instead, it must define a community with shared culture, religion and a traditional territorial connection, forming the majority within a part of a state, such as the Welsh or Scots in Britain. In the Greco-Bulgarian Communities case, 1920 PCIJ, ser. B. No.17, 19, the Permanent Court of International Justice identified the objective and subjective characteristics of a community as “a group of persons living in a given country or locality, having a race, religion, language and traditions of their own, and united by the identity of such a race, religion, language and traditions in a sentiment of solidarity.” In re Secession of Quebec, [1998] 2 S.C.R. 217 (Can.) para.124, concerning the right of the province of Quebec to secede from Canada, the Canadian Supreme Court ruled that a right to secession may arise under the principle of self-determination “where a people is denied any meaningful exercise of its right to self-determination within the state of which it forms a part.” Admittedly, the Supreme Court noted that “it remains unclear

whether [this right] actually reflects an established international law standard.” However, given the progression regarding the right of self-determination and its affiliation to human rights, it is reasonable to conclude that “today” many “peoples” may exist within the territory of a single state, and that the juxtaposition of “nation” and “state” is indicative that the reference to “people” does not necessarily mean the entirety of a state’s population. Indeed, this interpretation of the Canadian Supreme Court’s opinion appears to be reinforced by the advisory opinion of the International Court of Justice (ICJ) in respect of the 2008 Kosovo Declaration of Independence confirming that the term no longer represents a complete ethnic nation but merely defines a *homogenous group*.³

Another way of defining “self” is to consider an objective and subjective assessment. Objectively, the group must have certain common characteristics such as ethnicity, language, religion and like attributes (Hannum, 1993: 35), which had been the case since Ottoman times when the two communities “remained separate and distinct ethnic groups divided along linguistic, religious, cultural, and political lines” as well as in their system of education (Joseph, 1985: 41-42). Subjectively, a “people” may exist “if the group perceives itself as existing, or because outsiders define the group as distinct from them, or some mixture of internal and external identification” (Roethke, 2011: 42). Notwithstanding centuries of coexistence and physical intermingling, “[T]he Greeks and Turks of Cyprus had never accepted themselves as part of an imagined ‘Cypriot nation’” (Reddaway, 1950: 8 para. 13). The Prosecutor v. Jelicic, Case No. IT-95-10-T, Judgment, 1999 December 14, para 70, found that ‘it is more appropriate to evaluate the status of a national, ethnical or racial group from the point of view of those persons who wish to single that group out from the rest of the community.’ In this context, Turkish Cypriots both consider themselves and are considered in Articles 1 and 2 of the 1960 Constitution of Cyprus; for instance UN documents

including UNSG' Rept. S/12323, 1977, para.5; as well as by politicians and academics as a distinct group. Clearly, as *Cyprus Mail*, 28 March 1963, citing Makarios reminded us “[T]he Agreements of 1960 have created a state but not a nation.”

Turkish Cypriots are of a different ethnic origin from Greek Cypriots; they share a history and culture with mainland Turks, speak Turkish as opposed to Greek and are Muslims not Orthodox Christians. Accordingly, Turkish Cypriots fulfil the UN definition as well as the subjective and objective sense of identity of a “people” who exercised their separate right of self-determination in the formation the partnership state in 1960.

Were there Serious Human Rights Violations or Denial of Representation?

The 1960 bi-communal republic was based on an unamendable constitution meeting the dual aims of self-determination and human rights protection, and provided for a Greek President and Turkish Vice-President, each having a right of veto. The President, Vice-President and members of the two House of Representatives were to be elected by their respective communities. Whereas the Legislature and the Judiciary were functions of central government, in matters relating to religion, education, family affairs and the like each community exercised autonomy in separate municipalities through their respective Communal Chamber. Effectively, the Constitution established a functional federation; it contained checks and balances in order to ensure coexistence in harmony with divergent ideologies and philosophies, without one community dominating or encroaching on the rights of the other. The then Prime Minister of Greece, Konstantinos Karamanlis believed the 1960 Agreements offered “the best solution because its main function (was) co-operation between Greeks and Turks in the island” (Cmnd.680 –HMSO, 1959). Nevertheless, true to his oath at his enthronement as Archbishop on 20 October 1950, “never to waiver from the

policy of uniting Cyprus with mother Greece,” the first President, Archbishop Makarios, adopted a strategy to eliminate all the constitutional rights of the Turkish community and then Turkish presence over time (Reddaway, 1987: 126). The Akritas Plan drawn up “by the Greek Cypriot minister of the interior,” set out first, to convince the World that the constitution of Cyprus was unjust and had to be re-written and, second, to secure the revocation of the Treaty of Guarantee, but if the Turks objected then they should be violently subjugated before foreign powers could intervene (U.S. Library of Congress, n.d.). “When in fact unworkability (of the Constitution) could not be established” (Clerides, 1989: Vol. 1, 130), on 30 November 1963, Makarios presented to the Turkish Vice-president Dr. Küçük with his thirteen point revision to the constitution designed to transform the republic from a bi-communal partnership into a Greek Cypriot unitary state with Turkish Cypriot minority rights. Rejection of the proposals by Turkish Cypriots immediately unleashed the bloody Christmas of 1963. In Nicosia and Morphou, “correspondents watched Greek arsonists burn Turkish houses under the eyes of the local Greek police” (*The Observer*, 1964) elsewhere, the “slaughter” of Turkish Cypriots was “too frightful to be described in print” (*Daily Express*, 1963). The terror unleashed led George Ball from the US State Department to conclude that the Greeks’ “only desire is to liquidate the Turkish Cypriot population” (United Kingdom Foreign Office Doc. 371/174747/Cc 1015/577). The crises brought restrictions on the movement of and forced 25,000 Turkish Cypriots to become refugees (UNSG Rept.’ S/5959, 1964, para.189).

In October 1964, the Greek side declared that it no longer recognised the office of the Turkish Vice-President; posted only Greek diplomats to a number of capitals; made the participation in government by Turkish Members of the House of Representatives conditional on acceptance of the constitutional amendment unilaterally implemented by Greek Cypriots (UNSG' Rept. S/6569, 1965,

paras.7-11); refused to pay the salaries of Turkish civil servants (UNSG' Rept. S/5950, 1964 September 10, para.108) and contrary to Article 3 of the Constitution removed Turkish from the official language. By 1966, a substantial number of "Greek officers and other categories of military personnel from Greece" integrated into the (Greek) National Guard (UNSG' Rept. S/7350, 1966, para.19). Meanwhile, the plight of Turkish Cypriots refugees progressively worsened because of the Greek authorities' policy of "establishing military presence in the Turkish Cypriot areas" (UNSG' Rept. S/7001, 1965, para.73), and prohibiting access to row material in order "to prevent them from building permanent accommodation for the 20,000 or so Turkish Cypriot refugees" (UNSG' Rept. S/8286, 1967, para.114).

Intercommunal strife was hardly one sided, but there is "little doubt that much of the violence was either directly inspired by, or certainly connived at by the Greek Cypriot leadership" (House of Commons Foreign Affairs Committee, 1987 July 2). In the words of a former president of the RoC, "If, during the period 1968-70, the government and opposition had made a realistic evaluation of what constituted a feasible solution, the situation in Cyprus today would have been different" (Clerides, 1989: (3)105). Admittedly, the extent of human rights violations justifying secession is unclear, but the reality of intercommunal strife dating back to the 1950s, the non-representation of Turkish Cypriots in the de jure RoC since 1963, and more than 40 years of de facto partition of the island sufficiently demonstrate "serious" human rights violations. Seymour (2007: 410) argues that the right of people to 'choose its own favoured constitutional, institutional and administrative arrangements within the encompassing state' confers a primary general right to self-determination even in the absence of past injustices, without the need to invoke any remedial considerations. That said, do renewed negotiations project a ray of hope or will they once again end in a deadlock?

Are there No Credible and Effective Remedies?

Several attempts to re-unite the island had been punctuated by worsening Greek-Turkish relations,⁴ the shifting of alliances,⁵ and the progressive intransigence of the parties. Nevertheless, to assert that a resolution is unlikely is to admit defeat, but in looking forward it is important to recall the past and outline the stance taken by the interlocutors throughout the copious negotiations. The imminent issue for Turkish Cypriots was and is "their ejection by force of arms from all the organs of the RoC, the takeover of the Republic by the Greek Cypriot side, the pretention of that side to represent the RoC" (Necatigil, 1993: 75).

July 1975 witnessed the voluntary transfer of Greek Cypriots from the north to the south and Turkish Cypriots from the south to the north. On 1977 February 27, Denktas and Makarios agreed four guidelines for the resumption of negotiations:

- We are seeking an independent, non-aligned, bi-communal Federal Republic.
- The territory under the administration of each community should be discussed in the light of economic viability or productivity of land ownership.
- Questions of principle like freedom of movement, freedom of settlement, the right of property and other specific matters, are open for discussion taking into consideration the fundamental basis of a bi-communal federal system and certain practical difficulties which may arise for the Turkish Cypriot community.
- The powers and functions of the central federal government will be such as to safeguard the unity of the country, having regard to the bi-communal character of the State (UNSG' Rept. S/12323, 1977, para.5).

Focusing on key post-1974 dialogue, in November 1978, a twelve clause American plan was forwarded to the parties through the offices of the Secretary General. The plan met the Turkish demands for bi-zonal federation and bi-cameral legislature, with equal representation at the upper chamber and proportional representation at the lower chamber. It addressed the demands of the Greek

side by offering significant territorial adjustments and envisaging a federal state which allowed for freedom of movement, settlement and property ownership. It came to pass. On 1979 May 19, a Denktaş-Kyprianou summit under the auspices of the UN Secretary General Kurt Waldheim confirmed that “[T]he basis for the talks will be the Makarios-Denktaş guidelines of 1977 February 12 ... (and give priority) to reaching an agreement on the resettlement of Varosha under UN auspices ...” (UNSG’ Rept. S/13369, 1979, para. 51:5). Their ten-point agreement included the progressive demilitarisation of the island and support for “the establishment of a federation that will be bi-communal as regards the constitutional aspects and bi-zonal as regards the territorial aspects” (UNSG’ Res.649 1990, para. 3.) but Greeks and Turks had and continue to have different understanding of concepts fundamental to a settlement. For Greek Cypriots “unity” is the operative word; they persist on having one sovereignty, one territory meaning no boundaries and one citizenship, encompassing the so-called three freedoms of movement, settlement and property ownership as a central plank of a settlement. Turkish Cypriots resist the concept of “one sovereignty” on the basis that, since no “unitary federation” is possible, by definition a federation excludes a unitary state. Moreover, they argue that “a bi-zonal solution” challenges the Greek Cypriot understanding of “one territory;” and that whereas “land” as used in private law refers to an area or a plot of property, “territory” as used in public law includes land, sea and air space of a given geographic region. Therefore, “territory under the administration of each community” can only denote “a bi-zonal solution” with boundaries for each component of the federation. An equally obstinate issue was and still is the sovereignty of the future federation. Greek Cypriots rejected all but a “strong” central government with powers to override its constituent parts, born out of the re-styling of the RoC. Turkish Cypriots pursue a “loose” federation, but leave the door open for co-operation particularly

in areas of economic development.

With yet another opportunity lost, 1983 February 28, President Kyprianou avowed to further internationalize the Cyprus problem as part of the Greek-Greek Cypriot “strategy to be followed for the national struggle” (Cyprus Weekly, 1981 October 30- November 5). On March 12, Kyprianou secured the support of the Non-aligned and on 1 November, at a debate from which the Turkish Cypriots were denied access and Turkey’s delegates walked out in protest, the Assembly affirmed the sovereignty and control of the RoC over the territory of Cyprus; called for the voluntary return of refugees; and demanded the immediate withdrawal of Turkish forces (UNGAR A/37/253, 1983, paras. 2, 8). By so doing, the international community disregarded the joint assertion regarding the existence of “two autonomous administrations, that of the Greek Cypriot community and that of the Turkish Cypriot community” (Geneva Declaration of three Guarantors on 1974 July 30). In effect, the international community denied not merely their political representation, the enjoyment of their culture or use of their language (Covenant of Civil and Political Rights, Article 27), but the very existence of the Turkish Cypriot people. The inevitable followed; the TRNC was declared on 1983 November 13. Lacher and Kaymak (2005: 153) suggest that “the true aim of the Turkish Cypriot negotiation strategy has been to prevent any settlement short of the legalization of the status quo.”

Two further attempts failed: In March 1986, Secretary General Javier de Cuéllar presented the two sides with a Draft Framework Agreement which envisaged the creation of an independent, non-aligned, bi-communal, bi-zonal state. In August 1992, the UN Secretary-General Boutros Boutros-Ghali submitted his Set of Ideas encompassing a solution based on “two politically equal communities ... in a bi-communal, bi-zonal federation” (UNSC’ Res. 774/92, 1992, para.2), enhanced in 1993 by a number of confidence-building-measures. That negotiations continued suggested at least

the potential for a settlement. Hence, the most promising Annan Plan and beyond.

Annan Plan and Beyond

Regrettably, in Cyprus, just as violence and blame had not been one sided, “neither side had openly refused to keep talking, but both realise that if negotiations were to produce results, then they would have to make concessions - territorial ones on the Turkish side, and constitutional ones on the Greek side” (Hale, n.d.). Accordingly, in close consultation with the two parties in Cyprus, Greece and Turkey the Annan Plan proposed “a bi-communal, bizonal, federal system, a state of Cyprus with a single international legal personality, sovereignty, and citizenship ... (as) the only opportunity the Cypriots have to see their island reunited within the European Union” (UNSG’s Special Advisor on Cyprus briefing to the Security Council on 2004 April 2). The loose federation was to be the Greek Cypriot constituent state covering 71.5% of the south and the Turkish Cypriot constituent state reduced to about 28.5% of the north of the island. Moreover, the plan aimed to return all properties in Güzelyurt (Morphu) and Maraş (Varosha) and accommodate former Greek occupants of Girne (Kyrenia) and Karpaz Peninsular, and resettle Turks living in areas to be transferred to Greek Cypriots. It provided for executive power vested in a presidential council having a rotating chairman and, much like the 1960 agreement granted each community a right of veto within a bicameral parliament. Despite strong opposition from both sides, 75.83% of Greek Cypriots voted “no” while 64.90% voted in favour of the plan.

The first concrete post-Annan commitment to a Federal Government with a single international personality, as well as Turkish Cypriot Constituent State and a Greek Cypriot Constituent State came in September 2006, between Talat and Papadopoulos. Next, in 2008, Talat and Christofias advocated a bizonal, bicomunal federation but Christofias bowed to harsh criticism from Papadopoulos

and held “back in fear that an agreement baring provisions reminiscent of the Annan Plan might be demonized and rejected” (Pericleous, 2012: 93). In April 2010 the rightist Eroğlu with an entrenched vision of a sovereign Turkish Cypriot mono-ethnic state was elected as the President of the Turkish side and equally rightist Anastasiades became the President in the south 2013. Mutual mistrust of the other resulted in both parties tolerated talks punctuated by a series of fruitless negotiations. In April 2015 Mustafa Akinci, a leftist and passionate supporter of a unified Cyprus, had been elected as the President of the TRNC. Is there finally a settlement in sight? Perhaps, but so far there are no outward signs of sacrifice or even compromise promising a settlement anytime soon. For instance, Greeks demand and the Turks are receptive to the opening of Maraş (Varosha) for Greek settlement as part of the confidence building measures, but Greeks refuse to reciprocate by resuming services at the abandoned airport of Nicosia or sanction an international status for the Turkish airport of Ercan. Nevertheless, the 18 month UN sponsored negotiations remained optimistic; the parties travelled to Mont Pèlerin in Switzerland expecting to produce a map of the internal boundaries and a structure for a future federation on Cyprus. The two-day session broke up without progress because the Greek side vowed to abolish Turkey’s guarantee, insisted on charting an internal map and stipulated the number of Greek Cypriots to be allowed to settle in the north, but refused to discuss a revolving presidency that acknowledges political equality.

“In short, the Constitution was put aside in favour of de facto tyranny of Greek over Turk” (Scruton, 1993) “The republic broke down in 1963, when the Greek Cypriots drove the Turkish Cypriots out of government amid more intercommunal violence ... between 1963 and 1974, the Greek Cypriots monopolised the internationally recognised Republic of Cyprus, and the Turkish Cypriots lived in ghettos or isolated villages” (International Crisis Group, 2009:1). Despite the drumbeat of expert

opinion urging Greek Cypriots to consider outcomes beyond the apparently discredited federal goal, their membership of the EU and unconstitutional usurpation of the RoC reinforce their intransigence. “In the view of most Greek Cypriots, an ideally just solution to the Cyprus problem - a solution that, so to speak, deserves to last - would be one in which they are able to establish their domination over a unified state embracing the whole of the island and its people” (Stavrinides, 1999: 34). By contrast, notwithstanding the strong public and Presidential backing for a unified Cyprus, the violence, disenfranchisement and EU betrayal following the 2004 referendum infused in Turkish Cypriots a sense of security in the presence of the Turkish army, moral objection to Greek domination and an innate urge for self-government. In step with Turkish Cypriot’s rationale, along with the UN Special Advisor and the EU Commissioner, Lord Hannay, the United Kingdom’s former Special Representative for Cyprus, addressing the House of Lords, 2004 May 22 added that Greek Cypriots “can expect no support for their case and should get none.” Consequently, while Turkish Cypriots insist on Turkey’s guarantee, if only for the Turkish North,⁶ the Greek side reject outright any form of guarantee or self-governance. The problem of Cyprus cannot “be resolved by attempting to restore the situation which existed before December 1963” (UN Mediator Dr. Plaza’s Report, UN Doc. S/6252, 1965 March 26), because the intervening years “abrogated and buried the Zurich and London Agreements ... [in a way that] no power can breathe life into them” (Makarios, 1966 February 1, Philefteros). “Whenever there are developments in the Cyprus issue, dark and extremist forces immediately take action and try to create difficulties and impede progress ... to propagate for the rejection of the (Turkish) proposals and to instigate the people against any agreement” (1978 February 6, Greek Cypriot weekly *Alithia*). In the words of a former negotiator and two term President of the RoC, the impasse persisted because “[J]ust as the Greek Cypriot preoccupation was that Cyprus

should be a Greek Cypriot state, with a protected Turkish Cypriot minority, the Turkish preoccupation was to defeat any such effort and to maintain the partnership concepts ... The same principle is still in conflict, even though a federal solution has been accepted and though a federation is nothing more than a constitutional partnership –emphasis added” (Clerides, 1989: Vol.3, 105). The talks in Mont Pèlerin were not make-or-break; reportedly, a meeting between Greece’s premier Alexis Tsipras and Turkey’s president Recep Tayyip Erdogan has been set for 4th December to discuss a way forward. Numerous earlier attempts have failed, but this time round the parties negotiate against the background of potential shale and off-shore energy in the US; geo-political implications of Russia’s efforts to access the Mediterranean; departure of the UN General Secretary; the Trump presidency in the US; the presidential election campaigns on the Greek Cypriot side by mid-2017 and the fact that the expected commencement of exploration for gas in early 2017 is unlikely to proceed. Hence, the status of the TRNC and the question of what possible scenarios await Cyprus will inevitably stalk or even dominate future discourse.

A Unified Republic or a Two-State Solution?

It is hardly worth restating that Turkish Cypriots constitute a “people” and that the RoC does not represent the “whole of the people” in Cyprus, but neither side has the monopoly of truth or justice. Moreover, international law suggests the requirements of statehood and in practice regulates the recognition of states, but whether a state constitutes itself as a unitary, federal, confederal, or any other form of a state is determined by the people populating the relevant territory.⁷ Accordingly, if indeed “the centuries-old doctrine of absolute and exclusive sovereignty no longer stands” (Boutros, 1992/93: 88), it is necessary to jettison past xenophobic sentiments, assess the consociation agreements of 1960 and debate the potential of a

confederation endowed with a constitutional right of secession, or the creation of two independent states.

The Standing of the TRNC

In Cyprus, the consociation arrangement of 1960 creating a strange mixture of a protectorate, condominium, and qualified independent statehood did not work. Today, Greek Cypriots genuinely fear that the Turkish army will one day advance and take the rest of (their) Cyprus. On the other hand, given the intervening history, Turkish Cypriots will not accept minority status in a centralised (Greek) Cypriot state. Furthermore, after failed promises following the rejection of the Annan Plan, they fear that without the protection of the Turkish army Turkish Cypriots will once again be at the mercy of Greek nationalism. Whether well founded or not, the fear and mistrust of the other means that “future attempts to re-enact that [1960] constitution would be destined to fail” (Meier, 2001: 479). On the other hand, bicomunal and bizonal federation incorporating both the Turkish Cypriots’ elastic “confederation” and the Greek Cypriots’ freedoms of movement, settlement and property ownership is possible; more so if the right and circumstances of secession is written into the constitution. Of course, a constitutional right of secession could equally fail as did the secession of South Sudan from Sudan and Montenegro from Serbia, where the respective constitutions provided for the right and mechanism for effectuating secession. Arguably, constitutional right of secession could harden the lines between the two communities making it no more likely to succeed than the 1960 consociation arrangement, or similar constitutional arrangements that failed. However, given the right of the people to determine their own political structures, it is effectively no different from the creative consociation arrangement across the globe or any consensual secession. Moreover, unlike the 1960s, the North-South divide ensures greater security of life and the accumulated governmental experience on both sides

might enhance their capacity for power sharing. After all, the circumstances justifying secession could be part of the political negotiation, sponsored by the UN, and be the subject of a referendum, as was the Annan Plan. If such proposal were implemented, it might one day generate mutual trust as to enable the federation to evolve into a democratic unitary state. For that to happen, the negotiators will need to take account of the fact that the south shares the euro, but the Turkish Lira is the currency of the north; and that the assets, economies and national debts of the two administrations are at different levels. The EU will have to lift the isolation of the north and ensure fair representation of Turkish Cypriots within the EU institutions; the UN will need to adopt an even handed approach and, possibly, be part of negotiations setting the terms of right of secession; Greece and Greek Cypriots must pro-actively support the Annan Plan as the basis of a solution; and Turkey and Turkish Cypriots must make territorial concessions, address the outstanding property claims and strengthen the rights of Orthodox communities in the Karpaz peninsula. While resolving property claims and agreeing the staged withdrawal of Turkish troops in line with the Annan Plan will allay Greek Cypriot concerns, lifting of the embargo will revive the economy and a right of secession will advance the security of Turkish Cypriot. Regrettably, “THE HISTORY of the Cyprus problem has taught the same thing over the years – namely it teaches us nothing. Our insistence on not seeing ... the painful realities ... has contributed to our problem remaining unsolved for over 50 years” (Charalambous, 2015). If so, the important question is whether a Cyprus federation offers an appropriate solution.

Turkish Cypriots might contend that as the United States of America (US), Canada, Germany, Switzerland and others exemplify, Cyprus lacks the criteria for a successful federation. In Cyprus, a separation of opposing groups into demographically defensible enclaves within which people are able to control their own destiny through regional autonomy already exists. However, crosscutting of cleavages,

strong political commitment and the existence of numerous composite states are further requirements of a successful federation. Officially, while Greek Cypriots call for a united Cyprus federation with a strong central government, Turkish Cypriots insist on political equality and reject majority rule. Admittedly, vesting the central government with substantial powers and decision making strengthens the sovereignty of the federal state, but Turkish Cypriots are concerned that a rigid centripetal structure weakens the democratic ethos of citizens, erodes the autonomy of composite units and vitiates the balance necessary for a successful federation. Unlike, for instance, Switzerland where the language, religion and socio-economic character of the cantons overlap, in Cyprus, Orthodox Greek Cypriots populate the south while Muslim Turkish Cypriots inhabit the north. Nor are there the cross cutting of cleavages needed to reduce conflict and enhance cooperation. The lack of multiple constitutive entities means that the conflict between the two parts is institutionally reinforced because it diminishes the opportunity to affect coalitions between several composite units. Numerous false starts and failed attempts make it clear that there is not the political commitment for a federal solution; nor is there a balanced population, shared national identity, common vision, or indeed trust and cooperation from either side. As instances of US and Switzerland compared with USSR and Yugoslavia shows, whereas federations that have grown organically survived the test of time, those artificially created failed the democratic challenges of our times and crumbled. Additionally, whereas as former UN resident representative states “partition can be a civilised way to finish ethnic struggles ... unification in Cyprus go against the grain of contemporary history” (Gobbi, 1998). Though the complexities of a federal solution are not insurmountable, at least on face value, “without the presence of a shared identity and trust between the two communities, there is no reason to expect that a bicomunal federation would fare any better than the power-sharing experiment of 1960” (Solomonides, 2008: 73).

“In the light of historical realities and continued intransigence by Greek Cypriots, the establishment of federation or confederation in Cyprus is neither possible nor feasible” (Ahmad, 2000: 59). If a bizonal, bicomunal federation is just whistling in the wind, then it is time to “try another model” (Downer, A –Special Adviser to the UN Secretary-General, speech to the House of Lords, 2012 June 13. “The time has come to at least consider other options, including a mutually agreed separation” (Pope, 2014). That is, as UK Secretary of State for Justice states “if ‘political equality’ cannot be achieved within one state, then it could with two states” – north and south (Straw, 2010); “both within the European Union” (International Crisis Group, 2014: 23-24). For a two (fully independent) state solution Turkish Cypriots would have to procure Greek Cypriot approval, or justify a claim to remedial secession (as people oppressed by the RoC, or reclaiming territory over which they share sovereignty), thereby overcome UN Security Council resolution which opposed the unilateral declaration of independence of 1983. “If Greek Cypriots support the idea of consensual separation, nobody else in the EU can really object, since the whole island is already theoretically in the union and most Turkish Cypriots already have EU passports” (Pope, 2014). Greek Cypriots might view this as rewarding aggression, but given the post-independence history of Cyprus, the fact that there already exists a de facto separation and two autonomous authorities, a two-state or confederal solution is not rewarding one side or another. Dr. Christian, H (1986: 3) suggests that since a federation envisages the political unity of two or more ‘existing’ states, by discussing a federal solution Greek Cypriots implicitly accept the existence of the TRNC as a state. Significantly, a two-state solution could limit Turkey’s guarantee to the territory controlled by the TRNC, which could end if and when Greece demilitarizes the Aegean islands, purge the problematic structure of 1960 and with it the allegedly awkward right of veto.

The political environment today is not the same as it was in 2004 when Greek Cypriots were looking forward to joining the EU and felt safe in rejecting the Annan plan. Yet, if Greek Cypriots cannot be persuaded, they will have the UN Security Council resolution 541 (1983) of 1983 November 18 on their side. A number of observations are pertinent. First, the Treaty of Establishment of 1960 endowed Greek and Turkish Cypriots as partners of the RoC, but that RoC has since malformed into “two autonomous authorities.” “The Turkish intervention could not and did not alter the equal legal status of the two communities, which derived from the earlier treaties and Constitution” (Leigh, 1990). Second, to date, “the contacts and negotiations taking place [are] on an equal footing” (UNGAR 3212 (XXIX), 1974; UNSC Res. 774/92, 1992; UNSC Res. 2168, 2014), and aims a federal solution acceptable to “the people of Cyprus as a whole.” Third, neither the unilateral declaration of independence itself nor its acceptance by other states is *per se* illegal under international law. With reference to the Kosovo case (2010: para.79), though the ICJ had not applied itself to the issue of secession, having surveyed State practice concerning declarations of independence often strenuously opposed by the State from which independence was being declared concluded that “general international law contains no applicable prohibition of declarations of independence.” The ICJ opined that the declaration of independence would have been illegal if it ‘were, or would have been, connected with the unlawful use of force or other egregious violations of norms of general international law,’ but being in conformity with the Treaty of Guarantee Turkey’s intervention in Cyprus was not unlawful. Moreover, as with Greek aggression against Turkish Cypriots, “... a party which disowns or does not fulfil its obligations cannot be recognised as retaining the rights which it claims to derive from the relationship” (Namibia Advisory Opinion, 1971). Indeed, given that the right of self-determination was attributed to and exercised by both communities, as with the

Baltic Republics’ secession from the Soviet Union in 1991, Turkish Cypriots could maintain to be merely reclaiming territory over which they had “shared” sovereign but which had unjustly been taken from them. Yet, contradicting the findings of the ICJ, *inter alia*, resolution 541 “... consider[ed] the declaration referred to above as legally invalid and call[ed] for its withdrawal.” The UN regarded the TRNC to be incompatible with the Treaty of Establishment, but did not attribute the same incompatibility to the RoC, which prevented the Turkish Cypriots participation in government. Interestingly, in 1975, the UN merely “regret[ed] the unilateral decision” bringing into existence the Turkish Federated State of Cyprus, but called for “negotiations between the representatives of the two communities on an equal footing ... to reach ... a mutually acceptable constitutional arrangement” (UNSC Res. 367, 1975). Logically, the transformation from the Turkish Federated State of Cyprus to a TRNC was a change of name but nothing else. The range of language used suggests that UN resolutions were “tainted by such a degree of selectivity and incompleteness as to render them arbitrary and discriminatory, and thus not well founded in law. ... the Security Council express[ed] legal opinions more suited to a judicial body than a political body” (Lauterpacht, 1990).

The fact remains that while declaring the TRNC illegal, the UN has consistently affirmed the right of Turkish Cypriots to determine their political future in conjunction or on an equal footing with Greek Cypriot. Accordingly, the declaration of November 1983 did not violate the territorial integrity of the RoC; instead, the TRNC was an “interim” exercise of democratic choice of political and economic structures by the Turkish people of Cyprus (UN Doc. A/38/586/16148, 1983 November 16). A rational explanation of resolution 541 is that the UN was “making a determination as regards the concrete situation existing at the time” (Kosovo Case, 2010: para. 81), which must now be viewed in the context of reviving nationalism as the Kurdish

struggle in Iraq and Turkey, Catalanian calls for independence in Spain as well as the re-emergence of the Cold War.

Regional Politico-Economic Perspective

The background to the stalemate in Cyprus is much more complex than the one portrayed thus far, suffice to say that it is inextricable from the subtle interplay of Western and Russian interests with consequences for recognition, and discovery of energy reserves in the region. Recent economic crises in the West levelled the playing fields with the East, thereby, as the Iraq, Ukraine and Syria proxy wars suggests, facilitated the revival of the Cold War that appeared to have ended with the demise of the Soviet Union in 1992. In response, the US and Russia are focusing their attention on the Middle East that commands access to the Mediterranean and beyond; the US and NATO supporting Iraq, coaxing Egypt and renewing relations with Iran, who is a strong supporter of the Assad regime but equally strong opponent of the ISIS; Russia holding on to Ukraine, gesturing Estonia, and prizing away Syria. Furthermore, recognition of new states, which used to be subject to a relatively concise and clear-cut fact based normative framework, has since the dissolution of former Yugoslavia given way to a new set of moral norms and a high level of uncertainty. How the strategic location or discovery of energy reserves in Cyprus, will play out in the realignment of superpowers remains to be seen, but a brief look to ethnic conflicts and recognition of emerging states elsewhere might be instructive.

Arguably, France's willingness to support secessionists in 1967 may have aimed to weaken the United Kingdom's influence in Nigeria and, possibly, provide access to oil fields in Biafra (Bon & Mingst, 1980: 13-14). In 1975, the West acquiesced to Indonesia's invasion of East Timor in order to stop the Communist Party of Indonesia in its track. Yet, political dynamics of the 1990s led to East Timor's independence in 1999. When

the former Soviet Federal Republic of Yugoslavia finally dissolved in 1992, the Albanian community in Kosovo favored greater autonomy, but the Serbs favored closer ties with the rest of Serbia. After the displacement of nearly half a million of people and NATO bombing, in March 2007, the UN General Secretary advised that for the previous eight years, Serbia had "not exercised any governing authority over Kosovo. ... Belgrade could not regain its authority without provoking violent opposition" (SC Doc. S/2007/168, para.7). In February 2008, Kosovo unilaterally declared independence; the international community accepted the independence of Kosovo not because Kosovars constituted a nation, but because of the "unusual combination of factors found in the Kosovo situation -- including ... the history of ethnic cleansing and crimes against civilians in Kosovo (US Secretary Condoleezza Rice, 2008), which co-existence with Serbia was no longer a realistic option. By contrast, Chechenia, South Ossetia and Abkhazia where the people have been routinely oppressed by their mother states were denied any form of self-determination. Other instances include the breakaway of Baltic States from the Soviet Union which were considered to be re-establishing their independence, and Croatia and Slovenia secession from Yugoslavia which has been characterised as dissolution. The list is endless and the analogy might appear inappropriate but, as with other hotspots around the world, in Cyprus too are the energy reserves estimated to be in the region of 3.7 billion barrels of oil and 3,450 billion cubic meters of natural gas; the RoC has no writ in the north; and there is a large communist party in the south --at the time of his presidency Christofias being the only communist leader in the EU. What practice suggests is that states "switch from a theory of constrained power to unlimited power, from the creation of a new state to the acknowledgement of a pre-existing state, to justify desired political outcomes" (Worster, 2009: 169). This is because, "the sovereignty of particular states, in the sense of their freedom of action, is often greatly limited by political

realities” (Koskenniemi, 1994: 28), which cannot be divorced from the re-emergence of Cold War, trade, or energy reserves.

Strategically, the United Kingdom retained her military presence in Cyprus; the US has bases in Turkey and wants to use facilities in Cyprus and Russia is keen to establish a foothold in Cyprus. More recently, Britain extended her military operations from Iraq to Syria; France and Germany obtained permission to use Turkey’s Incirlik Air Base, against the Islamic State of Iraq and the Levant in Syria (ISIS); Turkey soured relations with Israel since 2010 and downed a Russian fighter jet in 2015. By contrast, the RoC renewed a Defence Cooperation Agreement with Russia and held joint military exercises with Israel in August 2015. At least for a time, Turkey appeared isolated, excluded from the Syrian equation and seemed to have received a blow to her presence in the Eastern Mediterranean.

Economically, Greece and Greek Cypriots expect to benefit from the vast energy resources in the Levant, but the banking crises collapsed their economies forcing both to rely on EU bailouts. Snap elections in September 2015 returned the same anti-austerity Syriza party to power, with little prospect for her economy. With Russian money accounting up to 57% of foreign money in Greek Cypriot banks at the end of the first trimester (Cohen & Ben, 2013), the €10 billion bailout of Greek Cypriot banks, subject to Cyprus taxing account holders to the tune of €5.8 billion, angered the largely Russian investors. In Turkey, the economy boosted by President Erdoğan’s ruling Justice and Development Party victory in November general elections is in decline threatened by internal resignations, Russian economic sanctions and Western displeasure of her purge against alleged perpetrators of July 2016 coup.

Whether and how the economies of Cyprus, Greece and Turkey or discord in the Balkans, the Shia-Sunni conflict in the Middle East and search for dwindling energy reserves will influence the politics of recognition is unclear. However, a study of recent literature may suggest three possible scenarios for the Levant energy reserves, with potential consequences for

the TRNC. Since on the face of it support for a bizonal, bicomunal federal solution is receding on both sides, the first option would be for Greek Cypriots to fortify support from Israel and Russia in order to deny Turkey the benefits of energy reserves and isolate Turkey’s role in the region. This would mean exporting energy in liquid form which would involve liquidization installations in Cyprus and deliquidization installations at the country of destination in Europe. Apart from being costly, thus decreasing competitiveness, this method cannot rationally manage large quantities. The second would be to build a pipeline from southern Cyprus to Rhodes, and from there to Europe through mainland Greece. The depth of the sea between Southern Cyprus and Rhodes, the risks of a possible disaster owing to seismic activity of the seabed, and the fact that the pipeline will have to pass through the Exclusive Economic Zone of Turkey challenges the viability of this option. A third scenario would be to build a pipeline from the shallow waters of the Karpaz peninsula in North Cyprus to Ceyhan in southern Turkey and follow the Nabucco pipeline, stalled for inadequate supplies to justify construction, through to Europe. The Karpaz-Ceyhan line is both cost effective and able to direct all Eastern Mediterranean energy reserves to the Nabucco line thus reduce European dependence on Russia. Cyprus does not currently have enough funds to finance either the first or second project but, although the most profitable route for Israel is also through Turkey, Israel seems willing to build a pipeline from the Israeli Levantine fields across Cyprus waters onto Greece, and Russian Gazprom looks eager to finance a Liquefied Natural Gas plant either in Cyprus, Greece or Israel (Morely, 2013). A Greek-Israel-Russian partnership would see Greece and Cyprus slip further out of the grasp of Europe to the detriment of US-Israel-Turkey alliance; risk a split in NATO; strain US relations in the eastern Mediterranean, and anger both the EU and Arab states. That said the potential of as much as 30 trillion cubic feet of gas reserves at the Zohr field off the coast of Egypt and strategic activity in the region could easily change the picture in the Mediterranean (BBC News, 2015). Egypt’s gas production may

surpass its consumption by 2020 leaving a surplus for export in which case ENI and British gas might make use of dormant liquefied natural gas terminals at Damietta and in Idku, Egypt (The Economist, 2015). The discovery of gas might so stimulate economic revival as to free Egypt of financial dependency on Saudi funding, secure political stability, help improve Egypt-Israel relations and loosen ties with Russia. Clearly, discovered oil reserves may be in the south, but economic viability of routes to export that oil lies in the north. Although Turkey's policy vis-à-vis the Eastern Mediterranean and Cyprus in particular are opaque, Turkey is simultaneously the Eastern bastion of NATO and still the biggest importer of Russian natural gas. At the time of writing, Russia-Turkey rapprochement appears imminent; Israel and Turkey have had talks on a possible natural gas pipeline (Liebermann & Labott, 2016) and; in a change of policy, Turkish forces joined the anti-ISIS war in Syria. At least for now, the Greek-Israel-Russia partnership is suspect, but Turkey's position is far from clear. Turkey might keep aligned to the West, but equally the West might still shun Turkey's purge against the July coup's alleged perpetrators or thwart Turkey's efforts to stop Kurdish YPG progress in northern Syria, in which case Turkey might default to the Russian side.

Essentially, events in Syria and energy reserves in the Levant are likely to dominate geopolitics causing shifts in regional alliances with consequences for the politics of recognition. Like Egypt and Syria which once formed part of the United Arab Republic, or East Timor's independence after Indonesian invasion, and dissolution of Yugoslavia, Cyprus appears to be and likely to remain one of former unions that failed. In the absence of settlement for a united federal republic, recognition of the TRNC may come about when the politico-economic situation existing in the Eastern Mediterranean sanctions recognition because the international community accepts the TRNC as the exercise of remedial secession, or the reclaimed exclusive sovereignty over territory which they would have had but for the "shared sovereignty" of the 1960 Agreements.

Conclusion

"The rejection of such (Annan) plan by the Greek Cypriot electorate is a major setback. What was rejected was the solution itself" (UNSG' Rept. 2004/437, 2014, para.83). High-blown rhetoric backed by business oligarchies keen to cash in on the prospective energy bonanza continues to inflate Greek-Turkish animosity etched on the national psyche of both people. Greek Cypriots have the advantage of being recognised as the legitimate representatives of the RoC but are concerned about the presence of Turkish troops. By contrast, the fear of being dominated by Greek Cypriots has made territorial integrity and political equality a central pillar of Turkish Cypriot demands. While Russia envisages access to the Mediterranean; the US endeavours to impede the spread of communism; Europe covets influence over the Middle East, Greece and South Cyprus strives to exploit their EU membership; Turkey whose refugee management program and war against ISIS have both compromised and furthered her geopolitical status appears determined to cautiously protect her southern flank, along the Syrian border and in Cyprus.

Whether by design or default, "the Cyprus problem has become overlain with legalistic abstractions and artificial labels, which are more and more difficult to disentangle and which would appear increasingly removed from the actual needs of both communities" (UNSG' Rept. S/1999/707, 1999, para.7). It is time both communities cease nationalistic blowhard posturing and engage the geopolitical dynamics in the eastern Mediterranean. A federal solution is attainable particularly if backed by constitutional right of secession, or limited guarantee by Turkey. Despite failure of the Mont Pèlerin talks, there still remains the most residual optimism but a federal solution seems to recede by the day. Realities may soon suggest "another model" vindicating the UK's submission to ICJ on the advisory opinion on Kosovo not to pressure "estranged spouses to continue in a broken marriage." Ultimately, a two state solution might come about because Turkish Cypriots lay claim to secession either as the "oppressed people"

or as “people” who share the de jure sovereignty over the territory which they claim for themselves, or because the de facto TRNC is recognized as a state. The reality is that a “de facto situation which is perpetuated for many years inevitably leads to international recognition and in the case of Cyprus to partition” (Clerides, 1989: Vol.3, 365). Many Greek Cypriots might struggle with the idea but, given the potential of new sources of energy, and the Trump presidency ostensibly distancing the US from Eastern Mediterranean geo-politics a two-state solution highlights “anew the painful and hard decisions which will in the end have to be made for a Cyprus solution to come about” (1998, February 26, Cyprus Mail).

Notes

1. ‘Secession’ is the act of a group unilaterally withdrawing from the state in order to create a new state on part of the territory of which it belongs. It is different from devolution or grant of independence where the new state results from a bilateral and consensual process.
2. ‘Secession’ is the act of a group unilaterally withdrawing from the state in order to create a new state on part of the territory of which it belongs. It is different from devolution or grant of independence where the new state results from a bilateral and consensual process.
3. The question in Accordance with International Law of the Unilateral Declaration of Independence in Respect of Kosovo, Advisory Opinion, I.C.J. Reports 2010, 403 posed to the by the General Assembly for the non-binding opinion of the ICJ was: *‘Is the unilateral declaration of independence by the Provisional Institutions of Self-Government of Kosovo in accordance with international law?’*
4. Post-1974, to the Cyprus problem appended such disputes as the legal status and illegal militarisation of some island, the continental shelf, Greece’s threatened extension of territorial waters to 12 nautical miles, claims over Exclusive Economic Zone and presently dormant but potentially explosive subject of Flight

Information Region.

Heraclides, Alexis, *The Essence of the Greek-Turkish Rivalry: National Narrative and Identity*, concludes that Greece is ‘attempting to grab the whole of Cyprus ... and to expand piecemeal in the Aegean by using legalistic stratagems.’

5. Greeks of Greece and Cyprus have a spiritual bond with their Orthodox brethren in the Slavic world, but their racial and cultural ties with Protestant and Catholic Europe has historically made Christian Greece a natural choice against their common enemy the Muslim Turks. Hence, the revolving regional loyalties to protect self-interests: the West allying with Greece against Turkey and with Turkey against Russia, and Greece swaying between Russia and Europe as the circumstances demand.

6. The call for Turkey’s guarantee is because Turkey and Turkish Cypriots are wary of Greek disregard for international obligations such as the militarisation of some Aegean islands contrary to Articles 13 & 14 of the Lausanne Treaty 1923, the clandestine posting of troops to Cyprus, the continued violation of human rights of Turks living in Greece, the pre-1974 attempted annihilation of Turkish Cypriots and the 1997-8 bid to install air defence missiles in Cyprus, which would have jeopardised the security of the region.

7. A ‘unitary’ system is one where the central government holds all the power and state functions. A ‘confederation’ denotes a loose relationship where state governments retain all internal and external powers of an independent state, but agree to act in common over defined area. In between is a ‘federation’ where the central government trumps local governments over defence and foreign policy, such as signing of treaties.

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Biographic Sketch

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