ZfWT Vol 11, No. 2 (2019) 123-146

AN INTERNATIONALLY RECOGNIZED NATIONAL LIBERATION MOVEMENT – TMT

ULUSLARARASI TANINMIŞ BİR ULUSAL KURTULUŞ HAREKETİ - TMT

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Abstract

The legality of the use of force of the Turkish Cypriot community against the Greek Cypriot government is the key issue to define the legal status of the Turkish Republic of Northern Cyprus within the United Nations law system. If the Turkish Cypriots have a legal right to use force against the so-called Greek Cypriot government within the system of decolonization of the United Nations, then the so-called Greek Cypriots government thesis against the Turkish Cypriots on defining the situation in Cyprus as belligerency of the Turkish Cypriots against the government will be eliminated. The situation in Cyprus will change and the Turkish Republic of Northern Cyprus can become a member of the United Nations within the United Nations decolonization system.

Keywords: National Liberation Movements, Türk Mukavemet Teşkilatı, Self-Determination, Cyprus, Decolonization.

Özet

Kıbrıs Türk toplumunun, Güney Kıbrıs Rum yönetimine karşı olarak güç kullanma hakkının varlığının ispatı Kuzey Kıbrıs Türk Cumhuriyeti'nin Birleşmiş Milletler hukuk sisteminde tanımlanması açısından temel noktayı oluşturmaktadır. Eğer Kıbrıs Türk toplumunun, sözde Güney Kıbrıs yönetimine karşı Birleşmiş Milletler dekolonizasyon sistemi içerisinde yasal olarak güç kullanmak hakkı varlığı durumunda, sözde Güney Kıbrıs yönetiminin, Türk toplumuna karşı kullanmış oldukları hukuki olarak isyancı tanımı ortadan kalkacaktır. Bu durumda ise Kıbrıs'tada ki hukuku statü değişecek ve Kuzey Kıbrıs Türk Cumhuriyeti'nin Birleşmiş Milletlere Birleşmiş Milletler dekolonizasyon sistemi içerisinde üyeliği gerçekleşecektir.

Anahtar Kelimeler: Ulusal Kurtuluş Hareketleri, Türk Mukavemet Teşkilatı, Kendi Kaderini Tayin Hakkı, Kıbrıs, Dekolonizasyon.

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INTRODUCTION

The Cyprus conflict celebrates its 71st anniversary in 2019 while negotiations are still going on between the Turkish and the Greek Cypriots on a different ground today than when it had first politically started in 1948. In 1948, Fazıl Küçük, the communal leader of the Turkish Cypriots, sent a telegram to the president and prime minister of Turkey on their opposition of the Greek Cypriots policy on *Enosis* in the name of self-determination under the British colonial rule. This telegram was the critical date that is the date of the crystallization of the conflict on two different approaches on the right to self-determination of the two communities in the island for the implementation of the Article 73 of the UN Charter.

The origin of the ongoing conflict is the demand of the Greek Cypriot`s unification of Cyprus with Greece in the name of right to self-determination which had created its counter-argument from the Turkish Cypriots as their demand for *Taksim*, partition of the island between the two communities as two different states at the time of independence from the colonial administration.

The Greek Cypriots today try to define the conflict as a belligerency issue against the so-called legal government of Cyprus after they proposed amendments to the constitution, known as the "*Thirteen Points*" that entailed usurping the rights of the Turkish Cypriots and degrading their equal co-founder status to that of a minority on the island and at the same time the Greek Cypriots do not accept the Turkish community's recognized equal right to self-determination under Article 73 of the UN Charter within the Cyprus Republic in 1960. The Greek Cypriot's definition of belligerency for the Turkish Cypriots means illegal use of force under the UN system.

Traditional international law distinguishes between three categories, or indeed, stages, of challenges to established state authority as 1. rebellion, 2. insurgency and 3. belligerency. The act of belligerency is clearly defined in international law pointing out certain material conditions to be fulfilled first in order for a case of belligerency to be present; (1) the existence of an armed conflict; (2) occupation by the insurgents of a significant part of the national territory;(3) an internal organization exercising sovereignty on that part of territory; (4) the same organization is keen on conducting the armed conflict in accordance with International Humanitarian Law; and (5) circumstances which

make it necessary for outside States to define their attitude by means of recognition of belligerency. A state of belligerency can only be recognized if the conflict takes on the characteristics of war, such recognition means simply the recognition of the existence of a war. However, the recognition of belligerency rarely took place (Jadarian, 2008, p.13-15).

Other than rebellion, insurgency, and belligerency, there exists another internationally accepted armed conflict with a right to use of force: the wars of national liberations. *Jus ad bellum* refers to the conditions under which States may resort to war or to the use of armed force in general. The prohibition against the use of force among States and the exceptions to it, the self-defence and the authorization by the UN Security Council as set out in the United Nations Charter, are the core ingredients of *Jus ad bellum (*ICRC, 2019).

The United Nations defines the struggle to the alien domination, colonizer and racist states as a right to self-defence under article 51 of the UN Charter and legitimizes the use of force by the national liberation movements against the against colonial domination and alien occupation and against racist regimes in the exercise of their right to self-determination.

To find a legal solution for the ongoing Cyprus conflict for decades under the UN Charter, in fact, can be very simple by asking a very simple question. The question is: "*Does the ongoing the military resistance of the Turkish community after 1964 against the Greek Cypriot Government under the definition of Jus ad bellum, that is a legal right to resort use of force in the UN system?".* If the answer of the question is yes, than the answer yes leads us to another. The new question is *"Does the military organization of the Turkish Cypriots under the definition of a national movement or not?".* The answers to these two questions are the legal solution to the Cyprus conflict under the UN law system. The answers of these two questions lays on the legality of the use of force by the Turkish Cypriots before the establishment of the Cyprus republic during the colonial administration era.

Before the independence of Cyprus from colonial rule, the two communities had their own political leaders and military organizations. Greek Cypriots had military organization EOKA (Ethniki Organosis Kyprion Agoniston or the National Organisation of Cypriot Combatants) and the Turkish Cypriots had, Türk Mukavemet Teşkilatı (TMT). EOKA is defined as a national liberation

movement by the Greek Cypriot government for his military struggle before the establishment of the Republic of Cyprus. The Greek Cypriot government defines the resort to use of force of EOKA as *Jus ad bellum*. If the Turkish Cypriots military organization TMT, is under the definition of a national liberation movement, which gives right to use of force as *Jus ad bellum* as EOKA before the establishment of the Cyprus Republic than, there exists no belligerency statue of the Turkish Cypriots when they first resisted by TMT their inherent right to use of force for self-defence for protecting the life of their nation when they resisted the amendments to the constitution known as the "*Thirteen Points*" which was the meaning of taking their **inalienable** right to self-determination from them by a racist regime.

This article examines the national liberation movements and the legality of using force in the first part and examines the decolonization of Cyprus and the two different national liberation movements in the second part. In the conclusion, the article is believed to prove that TMT is a recognized national liberation movement by the constitution of Cyprus that means that TMT is a recognized national liberation movement by the UN when Cyprus was admitted to the UN as a member state with the constitution, UN recognized the international legal personality of the Turkish Cypriot as a result of the *Jus ad bellum* use of force of TMT.

1. NATIONAL LIBERATION MOVEMENTS

A war of national liberation is an armed conflict contested between members of a stateless people, or a national liberation movement seeking their independence, and colonial or occupying power, or racist regime, controlling the territory for which independence is sought. The concept was developed during the 20th century in the context of competition between socialist and capitalist States and between colonial powers and emerging nationalist movements (Max Planck Encyclopaedia of Public International Law, 2019). A liberation movement can be understood as a movement asking for the independence of a particular nation to fight for the right to self-determination.

National liberation movements constitute a category of armed non-state actors that appeared predominantly in the decolonization period and relate to peoples' self-determination with their objective (self-determination), the quality of their constituency (peoples) and the conduct and/or quality of the opposing

government. In essence, national liberation movements constitute the self-help vehicle of peoples to achieve self-determination (Mastorodimos, 2015, p.72). Decolonization concerned territories that are "*geographically separate and distinct ethnically and/or culturally from the state administering it*" and the groups or communities living in these territories.

Wars of national liberation were historically classified by international law as civil wars but are now regarded as international armed conflict and therefore regulated as such by international humanitarian law after the formation of the United Nations (Mastorodimos, 2015, p.72). A war of national liberation has been described as: "*the armed struggle waged by a people through its liberation movement against the established government to reach self-determination*" (Higgins ,2011).

Recognition of national liberation movements differs substantially from classic forms of recognition in international law, although it resembled recognition of the government in line with its legitimacy or a government-in-exile, in the event of total lack of territorial control (Mastorodimos, 2015, p.81).

2. LEGALITY OF THE USE OF FORCE BY THE NATIONAL LIBERATION MOVEMENTS

Having declared colonialism illegal and recognized the legitimacy of armed struggle for national liberation, the question arises as to the compatibility of this with the relevant provisions of the Charter denouncing the use of force. First national liberation movements are not members of the United Nations and it would, therefore, seem that its provisions prohibiting the use of force do not apply to them. But the United Nations has an objective personality and its General Assembly and Security Council are charged with the function of maintaining world peace and security. Some academicians defines the maintenance of colonialism as an "'*aggressive war*", and comes to the conclusition that the legality of armed struggle for national liberation would securely rest on self-defence recognized in Article 51 of the Charter. It is; however, one thing to say that colonialism and its practice is illegal, and it is another thing to say its armed support constitutes aggression. In any event, self-defence as contained in the Charter and in traditional law is a right appertaining to states and not to quasi-international persons. Perhaps the illegality of colonialism would provide a legal cover for states that openly support liberation movements for then, they could

argue that their actions no longer constitute intervention since the practice of colonialism has been outlawed (Uchegbu, 1977, p.78).

The UN General Assembly was the ideal forum where its declarations and resolutions supported the military and legal struggles these peoples were facing. The 1960 Declaration on the Granting of Independence to Colonial Countries and Peoples endorsed the right to self-determination of all peoples in order for them to exercise their sovereignty among the other members of the international community of States.

The UN General Assembly itself has tried, since the resolution 1514, to work out "*a legal statute"* for wars of national liberation, submitting them to a different discipline from those regulating civil wars. Numerous resolutions were adopted within the framework of "*the implementation of the Declaration on the granting of independence to colonial countries and peoples*"; their aim was to "*legitimize*" anti-colonial struggles, to legalize aid given to liberation movements by third States, to provide the so-called freedom-fighters with adequate protection; this was to be done by requesting the government in power to comply with humanitarian law including the 1949 Geneva Conventions. Such resolutions clearly confine the concept of wars of national liberation to anti-colonial struggles both when the resolutions concern, implicitly or explicitly, well-defined territories or situations and when they are drawn up in more general and abstract terms (Olalia, 2019).

The 1965 Declaration of UN on the Inadmissibility of Intervention in the Domestic Affairs of States and the Protection of Their Independence and Sovereignty (UNGA Resolution 2131)1 reiterated the need to eliminate "*colonialism in all its forms and manifestations*". The Declaration on Principles of International Law Concerning Friendly Relations and Co-operation among States in Accordance with the Charter of the UN contained in General Assembly resolution 2625 of October 24, 1970, regonize self-determination as principle of international law, and it gave rise to a right of peoples and the corresponding duty of every state to respect it. The Declaration has been construed to have legalized

[1] UN General Assembly Resolution 2131, 21 December 1965: "All States shall respect the right of self-determination and independence of peoples and nations, to be freely exercised without any foreign pressure, and with absolute respect for human rights and fundamental freedoms. Consequently, all States shall contribute to the complete elimination of racial discrimination and colonialism in all its forms and manifestations."

the use of armed means to asserting the right to self-determination. The "*forcible action*" which is prohibited under Article 2(4) of the Charter comprehends the use of force by colonial governments to deny a people of their right to self-determination. The wording of the Declaration has been interpreted to exclude the armed means ascertaining the right to self-determination from the general prohibition on the use of force. In short, the Charter proscribes the forcible denial but permits the forcible assertion of the right to self-determination (Augiling, 1983, p.57-58). Another significant development based on the 1970 Declaration is the affirmation that liberation movements had *locus standi* in international law and that wars of national liberation were armed conflicts of an international character (Dabone, 2011, p.402).

Under the 1970 Declaration, a movement representing a people in their actions against, and resistance to, such forcible action used to deny them their right to self-determination, are entitled to seek and receive outside support. Furthermore, third parties who assist such liberation struggles are not deemed to have breached the duty of non-intervention in the domestic affairs of another state, for such assistance is precisely in accordance with the purposes and principles of the Charter itself. The text of the 1970 Declaration shows that both non-intervention and self-determination is enshrined as principles of international law in the same instrument, such that the exercise of one cannot possibly be deemed to be in breach of the other co-equal principle. There is, therefore, a built-in "*exception*" in favour of self-determination. The 1970 Declaration, therefore, implies that such a movement is capacitated as an international actor to deal directly with outside states. And, regardless of the 1970 Declaration grants international *locus standi* to those movements, at the very least, it expressly and effectively cracks the protective shell of domestic jurisdiction. This whole chain of development was recognized by the International Court of Justice in its dictum in the 1970 Advisory Opinion on Namibia (Dabone, 2011, p.407) as: "*the Court must take into consideration the changes which have occurred in the supervening period, and its interpretation cannot- remain unaffected by the subsequent development of law, through the Charter of the United Nations and by way of customary law. Moreover, an international instrument has to be interpreted and applied within the framework of "the entire legal system prevailing at the time of interpretation*" (Augiling, 1983, p.70).

The Declaration, as it was observed, resolves several intricate and controversial problems posed by cases of violent self-determination, to with: (a) It clearly states that the "*forcible action*" or force which is prohibited by Article 2, paragraph 4 of the Charter is not to be used for the peoples struggling for self-determination but that which is resorted to by the colonial or alien governments to deny them self-determination. (b) Conversely, by armed resistance to forcible denial of self-determination - by imposing or maintaining by force colonial or alien domination - is legitimate under the Charter, according to the Declaration. (c) The right of liberation movements representing peoples struggling for self-determination to seek and receive support and assistance necessarily implies that they have a *locus standi* in international law and relations. (d) This right also necessarily implies that the third States can treat with liberation movements, assist and even recognize them, without this being considered a premature recognition or constituting an intervention in the domestic affairs of the colonial or alien government" (Olalia, 2019).

In 1970, the General Assembly adopted a resolution on the Programme of Action for the Full Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples (UNGA Resolution 2621) where it reaffirmed "*the inherent right of colonial peoples to struggle by all necessary means at their disposal against colonial Powers which suppress their aspiration for freedom and independence*" (Vanhullebusch, 2012-2013, p.8). Resolution 2621 affirmed that all freedom fighters under detention shall be treated in accordance with the relevant provisions of the Geneva Convention relating to the Treatment of Prisoners of War of 12 August 1949.

The UN General Assembly resolution 2649 on "*The Importance of the Universal Realization of the Right of Peoples to Self-Determination and of the Speedy Granting of Independence to Colonial Countries and Peoples for the Effective Guarantee and Observance of Human Rights* (1970)" declared that the legitimacy of the struggle of peoples under colonial and alien domination recognized as the right to self-determination to restore to themselves by any means at their disposal. It also allowed these peoples to have recourse to self-defence under Article 51 of the UN Charter against such forcible actions, usually under the form of armed aggression by the colonial powers (Vanhullebusch, 2012-2013, p.8). In resolution 2787 of December 6, 1971, the General Assembly confirmed the legality of the people's struggle for self-determination. In resolution 3070 of

30 November 1973, the General Assembly categorically affirmed the right to pursue self-determination "by all available means, including armed struggle (Ronzitti,1975, p.198). General Assembly resolution 3103 on the "*Basic Principles of the Legal Status of the Combatants struggling against Colonial and Alien Domination and Racist Regimes"* (1973) proclaimed that the armed conflicts involving the struggle of peoples against colonial and alien domination and racist regimes are to be regarded as international armed conflicts in the sense of the 1949 Geneva Conventions (Augiling, 1983, p.198).

Closer to the end of the decolonization process, in 1973, the General Assembly adopted a resolution on the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples (UNGS Resolution 3163)2 where it called for further "*moral and material assistance*" to the peoples who were still fighting against colonialism. In 1977, the General Assembly adopted another resolution on the *Importance of the Universal Realization of the Right of Peoples to Self-Determination and the Speedy Granting of Independence to Colonial Countries and Peoples for the Effective Guarantee and Observance of Human Rights* (UNGA Resolution 32/14)3 where it urged the international community of States to remain committed to respect the right of self-determination for the remainder of "*oppressed peoples*", such as in South West Africa, Southern Rhodesia, Western Sahara, and Palestine. All these declarations and resolutions were constantly reminding the international community of States of the principle of equal rights and self-determination of all peoples and the respect they owed to those fundamental principles, which forms the basis of the international legal and political order (Vanhullebusch, 2012-2013, p.9).

3. DECOLONIZATION AND THE PRINCIPLE *UTI POSSIDETIS*

2 UN General Assembly Resolution 3163, 14 December 1973: "Urges all states and the specialized agencies and other organization within the United Nations system to provide moral and material assistance to all peoples struggling for their freedom and independence in the colonial Territories and to those living under alien domination - in particular to the national liberation movements of the Territories in Africa - in consultation, as appropriate, with the Organization of African Unity."

3 UN General Assembly Resolution 32/14 7 November 1977: "Strongly condemns all Governments which do not recognize the right to self-determination and independence of all peoples still under colonial and foreign domination and alien subjugation, notably the peoples of Africa and the Palestinian people."

The right to self-determination by the colonial peoples in the decolonization context, was understood to be realized, against the former colonial powers within the doctrine of *uti possidetis.* The doctrine of *uti possidetis* which has frozen the colonial boundaries of the decolonized territories in their process toward independence stood central in a post-colonial world order as a principal. After decolonization, peoples are still able to exercise their self-determination only internally against their central government.

Similarly, the principle of territorial integrity lies at the basis of the contemporary international system, which is state oriented. Any measures, which tend to encourage territorial separation, would be considered disruptive of the system and therefore unacceptable. Paragraph 6 of the Declaration on the Granting of Independence to Colonial Countries and Peoples, considered by most African and Asian nations "*as a document only slightly less sacred than the Charter*," states: "*Any attempts 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*". The prohibition on the use of force as contained in Article 2(4) of the UN Charter and the doctrine of non-intervention could also be invoked to discourage outside groups from giving assistance to those demanding secession. Nevertheless, as the subsequent discussion will show, there are equally persuasive legal prescriptions under which a qualified right to secede could be considered valid (Nanda, 1981, p.264).

4. TERRITORY AND THE PEOPLES

There is no settled definition of the term "*people*" in international law. The concept of people in international law has traditionally referred to the "*territorial unit of self-determination*." This "*whole people*" approach can be seen in the penultimate paragraph on self-determination in the UN Declaration on Friendly Relations, referring to people as "*the whole people belonging to a territory.*"

The people does not necessarily include the whole population of an existing state. As the Canadian Supreme Court in its Advisory Opinion on the legality of the (possible) secession of Quebec has put it: *"... the reference to "people" does not necessarily mean the entirety of a state's population. To restrict the definition of the term to the population of existing states would render the granting of the right of self-determination largely duplicative,... and would frustrate its remedial purpose.*" The separation of 'state' (population of the state) and people raised new

and difficult questions: if the people could not be equated with the population living under the jurisdiction of an existing state, how would it then be possible to identify the existence of a people entitled to self-determination? In international practice, (at least) three criteria have been suggested to identify "*a people*": objective criteria (common language, culture, history etc.), subjective criteria (the will to be recognized as a people) and territorial grievances. It goes without saying that the above-mentioned criteria still leave the precise meaning of the term "*people*" uncertain. In the colonial context, this problem could be "*solved*" by characterizing the inhabitants of a separate colonial territory as "*a people*" entitled to self-determination, irrespective of the possible ethical and cultural differences between the groups living on that territory (Werner, 2001, 1975-1976).

5. SELF-DETERMINATION OF TERRITORIES UNDER THE PRINCIPLES OF *UTI POSSIDETIS*

The problem is that, during this transition, the United Nations continued to refer rhetorically to the right of all peoples to self-determination when what it really meant was the right of colonial territories to independence (Hannum, 1998, p.775). A territorial right to independence for former colonies replaced the nineteenth-century principle of allowing ethnic, linguistic, or religious groups to form various kinds of political units that might or might not become independent states. In the postcolonial period, what I would identify as the third phase of self-determination, some are attempting to join those two principles in order to create a new right in international law: the right of every people - defined ethnically, culturally, or religiously - to have its own independent state (Hannum, 1998, p.776).

6. THE DEMAND FOR *ENOSIS* AND *TAKSIM* IN CYPRUS

Cyprus first came under Britain's control in 1878 through the Treaty of Berlin from the Ottoman Empire. When the Ottoman Empire joined the Central Powers in World War I. Till the World War I, the peoples living in Cyprus were the citizens of the Ottoman Empire. Britain formally annexed the island in 1925 and, it became a crown colony. In 1928, the Cyprus Government staged celebrations on the island's fiftieth anniversary of English occupation. The Greeks-Cypriots took no part. The Archbishop of Cyprus Kyrillos III sent a memorandum to the British Government in which among other things he said: "*For 50 years we have been kept away from the motherly arms, we are being kept*

away even now, despite the unanimous opinion we expressed many times, on many occasions and in as many ways, to unite with our Motherland Greece." The British government officially refused the request of a Greek Cypriot delegation for union between Greece and Cyprus in 1929. In 1929 a Cyprus deputation headed by the Bishop of Kition Nicodemus Mylonas, went to London to petition for the union of Cyprus with Greece. The Colonial Secretary Lord Passfield on 28 November stated the following on the issue: "*My answer on the enosis issue cannot but be the same as the one given by successive Colonial Secretaries to similar demands in the past, that His Majesty's Government is unable to accede to it. This matter has, in their opinion, definitely closed and can no longer be usefully discussed*" (Varnavas, 2018, p.15-16). *Enosis* is the movement to secure the political union of Greece and Cyprus. Origin of the word Enosis comes from modern from Greek *henõsis* union, from *henoun* to unite, and from *hen-, heis* one.

Enosis agitation against the British first became violent in 1931. In October 1931, colony government attempts to balance the budget and revamp the education system led to disturbances, a refusal to pay taxes, and the boycott of British goods by the Greek Cypriots. Greek Cypriots burned a police car and the governor's residence. Governor of Cyprus at the time Sir Ronald Storrs called out the police force and army units to restore order. Six civilians were killed, thirty were wounded, and four hundred arrested. Thirty-eight policemen were injured. Several high-ranking members of the Greek-Cypriot clergy, who were thought to have been involved in inciting the crowd, were exiled. This display of force temporarily restored order, but the events of 1931 were a harbinger of the violence to come. The end of World War II reinvigorated the enosis movement. In the aftermath of the Second World War, the Greek Cypriot majority on the island of Cyprus voiced the desire for enosis in the name of self-determination as written in the Charter of the UN. Contrary to the aspirations of most colonies, this claim did not mean independence, but the union of the island with an already existing state, Greece. While a preponderance of the island's Greek Cypriot majority of nearly eighty percent supported becoming part of the Greek state, the Turkish Cypriot minority of nearly twenty percent (a holdover from three centuries of Ottoman control) opposed it with near unanimity. This fundamental divide pitted Greece and Turkey against each other (Novo, 2010).

In 1948, the British government offered to give Cyprus a new constitution with self-administration. It was a kind of genuine autonomy in favour of Greek Cypriot majority. There was no prospect of a change in the international status of the island as a British colony. Nevertheless, it was rejected by both the Turkish and Greek sides. Greek Cypriots wanted self-determination that is union with Greece, not self-administration. Turkish Cypriots also opposed to such a demand. Therefore, the inter-communal struggle was triggered by its own momentum (Çalışkan, 2019).

The Turkish Cypriots mounted a powerful political campaign. Turkish Cypriot leadership organized a meeting with 15,000 people, which made a great impression on the motherland press and youth, to condemn the rising demand for *Enosis* on 28 November 1948. Turkish Cypriots had publicly expressed that they would contest the idea of *Enosis* whatever it might cost. Meanwhile, Fazıl Küçük, the communal leader, sent a telegram to the president and prime minister of Turkey claiming that:"*Fifteen thousand Turkish Cypriots decided unanimously to reject the Greek demand for the annexation of Cyprus by Greece. They believed that annexation would result in the annihilation of Turks"* (Çalışkan, 2019).

On 5 December of that 1950, the archbishop and the ethnarchy council took their agenda to the people, announcing a plebiscite on enosis for the middle of January 1950. Through this plebiscite, Greek-Cypriots would be given the chance to express openly their unyielding desire for union with Greece. The plebiscite's organizers hoped that an overwhelming "*yes*" vote would clearly demonstrate the unified desire of the Greek-Cypriot population to the British government. At the same time, it was hoped that the result would draw criticism of British colonialism from all over the world. A communique issued by the ethnarchy council on 27 January 1950 proudly announced that 215,108 of the 224,744 Greek-Cypriot voters – almost ninety-six percent – had signed their names in support of union with Greece (Novo, 2010).

7. DECOLONIZATION OF CYPRUS BY THE UNITED NATIONS

On 16 August 1954, Greece requested on the agenda of the UN General Assembly's ninth session that: "*Application, under the auspices of the United Nations, of the principle of equal rights and self-determination of peoples in the case of the population of the Island of Cyprus*". The General Assembly by his resolution 814, as recommended by First Committee, A/2881, adopted by the

Assembly on 17 December by 50 votes to none, with 8 abstentions that:" The General Assembly, "*Considering that, for the time being, it does not appear appropriate to adopt a resolution on the question of Cyprus, "Decides not to consider further the item entitled 'Application, under the auspices of the United Nations, of the principle of equal rights and self-determination of peoples in the case of the population of the Island of Cyprus'*" (UN Yearbook 1954, 1955, p.94-96).

One year after, Greece demanded on the tenth session of the UN General Assembly for the consideration of the decolonization of Cyprus on more time. The General Committee on 21 September 1955 discussed the question of the inclusion of the item on the agenda. The Chairman invited the representatives of Greece and Turkey to participate in the discussions. The representative of the United Kingdom stated that: "*his Government had invited the Greek and Turkish Governments to a conference in London to examine the question of Cyprus, despite the fact that it was exclusively a British responsibility. The conference had led to no agreement, but the United Kingdom was convinced that a solution could be worked out if negotiations could be pursued in an atmosphere free of political activity. The United Nations was not competent to deal with this matter. Turkey had assigned the island to Britain in 1878, and British sovereignty over it had been confirmed by the Lausanne Treaty in 1923 to which Greece was a party. Greece was now seeking to establish its own sovereignty over Cyprus through a campaign of incitement to violence and subversion. The United Nations would be taking a dangerous course if it supported such ambitions.*" By 7 votes to 4, with 4 abstentions, the General Committee decided to recommend to the General Assembly not to include the decolonization question of Cyprus oin its agenda. The General Assembly adopted by 28 votes to 22, with 10 abstentions, the recommendation of the General Committee. No decision was taken in 1955 for the decolonization question of Cyprus (UN Yearbook, 1955, 1956, p.77-78).

On 13 March 1956, Greece requested the General Assembly to put the question of decolonization of Cyprus on the agenda of its eleventh session. In an explanatory memorandum, the Greek Government ascribed the breakdown of negotiations between the Governor of Cyprus and the Cypriot leader, Archbishop Makarios, to the refusal of the United Kingdom Government to recognize the right of self-determination of the people of Cyprus. On 12 October 1956, the United Kingdom proposed a new item, entitled "*Support from Greece for terrorism in*

Cyprus", for the agenda of the eleventh session of the General Assembly. In an explanatory memorandum, the United Kingdom charged Greece with inciting and materially supporting terrorism in the island over a considerable period. It added that by 6 November 1956, terrorist organizations in Cyprus had murdered 196 persons, of whom 114 were Cypriots. The obvious objective of terrorism was not to secure democracy but to secure the annexation of Cyprus to Greece by force. This objective had not been disguised by Athens Radio. The time had thus come for the United Nations to consider this external attempt to change the status of Cyprus by force and subversion. On 14 November, the General Assembly considered a recommendation from its General Committee to merge the Greek and British complaints into a single item for inclusion on the Assembly's agenda. The General Assembly by resolution 1013, on 26 February 1957 as recommended by First Committee, A/3559, by 57 votes to 0, with 1 abstention adopted that: "*Having considered the question of Cyprus, "Believing that the solution of this problem requires an atmosphere of peace and freedom of expression, "Expresses the earnest desire that a peaceful, democratic and just solution will be found in accord with the purposes and principles of the Charter of the United Nations, and the hope that negotiations will be resumed and continued to this end.*" (UN Yearbook 1956, 1957, p.121-124).

On 12 July 1957, Greece requested that the question of Cyprus be included oin the agenda of the twelfth session of the General Assembly under the title "*Cyprus: (a) Application, under the auspices of the United Nations, of the principle of equal rights and self-determination of peoples in the case of the population of the island of Cyprus; (b) Violations of human rights and atrocities by the British Colonial Administration against the Cyprians*". A Greek explanatory memorandum of 13 September 1957 stated that no progress had been made since 26 February 1957—the date of the last Assembly resolution on the Cyprus question (1013 (XI)—towards a solution of the main problem. The Turkish representative also noted, that the terrorists in Cyprus, had consistently committed crimes against the Turkish population, and against Greek Cypriots who opposed annexation by Greece. The Greek Government's wish to annex Cyprus was expressed in its first request for United Nations intervention in Cyprus when the words "*union with Greece*" and "*self-determination*" were used interchangeably. The final goal of Greece obviously remained the total annexation of Cyprus (UN Yearbook 1957, 1958, p.73-75). During the debates of the twelfth

session of the UN General Assembly, no decision was adopted on the decolonization problem of Cyprus.

During the year 1958, the question of decolonization of Cyprus was brought to the attention of the United Nations in various communications from Greece and Turkey and was again discussed by the General Assembly at its thirteenth session. On 15 August 1958, Greece asked that the question of Cyprus to be included in the agenda of the General Assembly's thirteenth session. On 28 September, the Assembly decided to include the item on its agenda and referred it to the First (Political and Security) Committee. The UN General Assembly adopted resolution 1287, as submitted by Mexico, A/L.252, without objection, on 5 December 1958, as: "*The General Assembly, "Having considered the question of Cyprus, "Recalling its resolution 1013(XI) of 26 February 1957, "Expresses its confidence that continued efforts will be made by the parties to reach a peaceful, democratic and just solution in accordance with the Charter of the United Nations*" (UN Yearbook, 1959, p.72-76).

With the authorization from the General Assembly by the resolution 1287, Turkish Prime Minister Menderes and Greek counterpart Karamanlis met in the Zurich on 5 January 1959 and formulated the independence of Cyprus without *Enosis* or *Taksim*. After the declaration of a joint notification in 11 February, Turkey (Prime Minister Menderes), Greece (Prime Minister Karamanlis), United Kingdom (Prime Minister Macmillan) and leaders of Turkish and Greek Cypriot communities (Archbishop Makarios III for Greek Cypriots and Dr. Fazıl Küçük for Turkish Cypriots) met in the Lancaster House of London on 19 February 1959. The draft version of the constitution (including the treaty of the establishment4, the treaty of alliance5 and the treaty of guarantees6) was accepted. On 23

4 Treaty of establishment recognized that the island became an independent republic except two sovereign areas. It was the basic structure of the republic including 27 articles (Basic structure of the Republic of Cyprus).

5 Treaty of alliance (six articles) provided the station of Greek (950 officers) and Turkish military contingent (650 officers) oin the island. They would be under joint command and be responsible for the training of proposed Cyprus Army. The agreement also recognized two sovereign British bases and use of Famagusta harbor by British on the island.

6 Treaty of guarantee (four articles) pointed out that Greece, Turkey and Great Britain would guarantee the independence, territorial integrity and security of the Republic of Cyprus, the provisions of the basic articles of the constitution (Article 2). Treaty of guarantee agrees not to participate, in whole or in part, in ‘‘any political’’ or ‘‘economic’’ union with any state whatsoever. Article 4 pointed out that any of the guarantor nations should consult each other and act jointly in the event of a constitutional break-down. If joint action is not possible, any of guarantors was allowed to act unilaterally.

February 1959, the covenant text was published in London, Ankara, Athens, and Nicosia. The basic standards of the constitution were devolved from "the European Human Rights Convention of 1950, the Paris Protocol of 1952" and the "draft Constitution of Lord Radchliffe"(Çalışkan, 2019). The constitution of Cyprus was one of the most complex ethno-confessional systems. The Republic of Cyprus emerged as a bi-communal republic where two communities were to be the co-founder of the state (Adams, 1966, p.481).

The 1960 constitution categorized citizens as Greeks or Turks. Elected positions were filled by separate elections. Separate municipalities were established in each town and separate elections were to be held for all elected public posts. Posts filled by appointment and promotion, such as the civil service and police, were to be shared between Greeks and Turks at a ratio of 70 to 30. In the army, this ratio rose to 60 to 40. The President was designated Greek and the Vice-President Turkish, each elected by their respective community. The Turkish Cypriot community had veto power in both the executive and legislative branches of the government. The Turkish-Vice President could block the decisions of the President whereas, in the House of Representatives fiscal, municipal and electoral legislation required separate majorities (Leigh, 1990).

In Article 1 of the 1960 constitution, it is written that: "*The State of Cyprus is an independent and sovereign Republic with a presidential regime, the President being Greek and the Vice President being Turk elected by the Greek and the Turkish Communities of Cyprus respectively as hereinafter in this Constitution provided.*"

Article 1 of the 1960 Constitution is in fact officially the recognition of the right of the Turkish community to self-determination which is used in a bi-communal state. The Republic of Cyprus was established as a bi-communal state based on a partnership between Turkish Cypriots and Greek Cypriots. Through this compromise, Cyprus gained its independence, while Britain retained two military bases on the island. The 1960 Republic of Cyprus recognized the political equality of Turkish Cypriots and Greek Cypriots as the co-founding partners of the new republic. The Constitution of the Republic of Cyprus was designed, in effect, as a functional federation. Communal affairs, such as birth, death, marriage, education, culture, sporting foundations and associations, some municipal duties as well as taxes, were managed separately by the respective administrations of each community. At the international level, the Republic of

Cyprus became a member of the United Nations and maintained one legal personality.

8. GREEK CYPRIOTS` NATIONAL LIBERATION MOVEMENT – EOKA

EOKA (Ethniki Organosis Kyprion Agoniston or the National Organisation of Cypriot Combatants), was organized by Colonel George Grivas, an officer in the Greek army, with the support of Archbishop Makarios III. In 1950, the political leader of the Greek Cypriot community was Archbishop Makarios III, the head of the Greek Orthodox Church on the island. In 1952, during a visit to Athens, Makarios and a group of like-minded individuals had established the Liberation Committee. A year later, they swore a binding oath to pursue Enosis. Makarios automatically became the political leader of this new underground movement. Its military leader was Colonel George Grivas. Grivas was born in Cyprus but left to become a regular officer in the Greek army. He saw an active service against the Turks in Asia Minor in the early 1920s, and against the Italians and Germans in 1940-41, before going underground for the remainder of the Axis occupation. At the end of that period he emerged as the leader of an extreme right-wing organization, Khi, sometimes also known as the 'X' organization, to join the fight against the Greek communists. Grivas put his experience of underground warfare to good use in the cause of Enosis. He visited Cyprus in July 1951, and again between October 1952 and February 1953. The result was that on his return to Athens he was able to put a comprehensive plan for an armed insurrection on the island before the Liberation Committee. Through a combination of wide-scale sabotage operations supported by guerrilla bands operating in remote locations in the Troodos Mountains and the Kyrenia range, and riots in the major towns, he would undermine the prestige of the administration and force the British to accede to their demands. Makarios was reluctant to sanction the shedding of blood and hoped that a brief sabotage campaign would suffice to persuade the British to be more reasonable. It was only after the Greek government had failed to raise the Cyprus question at the United Nations in December 1954 that he finally gave Grivas permission to proceed (French, 2015).

In the first two weeks of October 1954, Archbishop Makarios and Colonel George Grivas met four times in Athens and exchanged views on matters relating to the preparation of the revolutionary movement in Cyprus (Varnavas, 2018, p.40).

Two arms shipments reached the island, the first one in March 1954 and the second one in October from Greece. Grivas himself returned to the island in November 1954 and began to recruit and train the men who would conduct the sabotage campaign. Most were young men, and often teenagers. They were either member of two right-wing youth organizations sponsored by the Orthodox Church, OHEN (Orthodox Christian Union of Youth) and PEON (Pan-Cyprian National Organisation of Youth), or of PEK (Pan-agrarian Union of Cyprus), the right-wing farmers' union (Karyos, 2009, p.40).

On 1 April 1955, EOKA opened a campaign against the British rile in a well-coordinated series of attacks on police, military, and other government installations in Nicosia, Famagusta, Larnaca, and Limassol. This resulted in the deaths of over hundred British servicemen and personnel and Greek Cypriots suspected of collaboration. EOKA proclaimed that it was acting to induce the British to grant Enosis, that is union between Cyprus and Greece (French). The military campaign of EOKA displayed the characteristics of an urban guerrilla warfare. The island-wide act of violence including sabotages, the bombing of public buildings, radio stations, and military installations, setting up ambushes and assassinations of British, Greek and Turkish targets were the methods of EOKA (Çalışkan, 2019).

The records of a meeting of historians on the EOKA struggle held in Nicosia on 15 October 2005 (with the participation of EOKA veterans) are more specific about the meaning of "*self-determination*" amongst the active members of the revolutionary organization. These interpretations insist that the implementation of self-determination to Cyprus would lead eventually to national completion and incorporation of the island to the Greek mainland. For instance, Thassos Sophocleous (former section-leader of EOKA and President of the Union of EOKA Fighters-1955-59) considered that after the British would be driven out, the right of full self-determination would be exercised, leaving the Greek-Cypriots to choose their desired future, which was union with Greece. Demos Hatzimiltis (former section-leader of EOKA and diplomat) added that "*Self-determination… for us [the EOKA cadres] meant Enosis*". Finally, Lucis Avgoustidis (former EOKA fighter, retired Army officer) offered a slightly different interpretation stating that the EOKA struggle aimed at the first stage at the liberation of Cyprus

and only eventually at enosis, thus viewing *''independence*" as an interim towards the inclusion of Cyprus into the Greek state (Karyos, 2009, p.7).

Nonetheless, EOKA did not use the term *Enosis* publicly but instead, replaced it in its political rhetoric with the principle of self-determination. The tactical thinking of EOKA in order to make acceptable to global opinion in the world and not to be seen as a nineteenth-century-style irredentism, , EOKA asked the right to self-determination instead of demanding enosis.

According to the government of the Greek Cypriots, Archbishop Makarios III was the political leader of the national liberation movement of the Greek-Cypriots7 whereas EOKA is accepted as the military wing of the national liberation movement of the Greek Cypriots by the Greek Cypriot government.8

9. TURKISH CYPRIOTS ` NATIONAL LIBERATION MOVEMENT -TMT

In 1957, the TMT, was formed to fight EOKA. In a response to the growing demand for *Enosis*, from a number of Turkish Cypriots who believed that the only way to protect the interests and identity of the Turkish Cypriot population in the event of enosis would be to divide the island into a Greek and a Turkish sector, a policy known as *Taksim* as a right to self-determination for the Turkish Cypriots.

TMT is an association of self-defence which aims to protect Turkish Cypriots from the cruelty of Greeks. When EOKA started to impel their attacks on Turkish Cypriots, they founded different resistance organizations at different times. Some of these Resistance organizations are Volkan, Kara Çete, 9 Eylül. bBut these troops were disorganized and they could not be very efficient. Turkish Resistance Organization which could unite these disorganized troops was founded. Turkish Resistance Organization started actual tasks on 1 August 1958. The duties of the organization were:

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7 In 1958, following the eruption of inter-communal clashes and the proposal of a partitionist plan by the British government, the national liberation movement in Cyprus, led by Archbishop Makarios, accepted a solution of limited independence the premises of which was elaborated in Zurich by the governments of Greece and Turkey. (http://www.mfa.gov.cy/mfa/mfa2016.nsf/mfa08_en/mfa08_en?OpenDocument, retrieved on 28.07.2019)

8 In 1955, when all their demands for self-determination were ignored, the Greek Cypriots embarked upon a militant struggle to free the country from colonial rule, (http://www.mfa.gov.cy/mfa/mfa2016.nsf/mfa08_en/mfa08_en?OpenDocument retrieved on 28.07.2019).

1. To protecting the wealth, lives and honour of Turkish Cypriots and to provide the freedom of the Turkish Cypriots in their homeland.

2.To resist the attacks of EOKA and beat them.

3.To protect the unity and togetherness of the people of Cyprus Turks.

4.To sustain the allegiance of Turkish Cypriots and fatherland Turkey.

TMT is a disciplined organization which was born out of the right of self-defence. The organization protected the Turkish Cypriots under very harsh circumstances with the help of Turkish society. As an outcome of the warrior and organizational side of Turkish society, it did its best while protecting and giving their lives to Cyprus Turkish society (Künter, 2019).

10. CONCLUSION

The Republic of Cyprus was established as a bi-communal state based on the partnership between Turkish Cypriots and Greek Cypriots with the authorization of the UN General Assembly resolution 1287. With this resolution, the General Assembly of the UN capacitated not only Turkey, Greece and the United Kingdom for a peaceful solution of the decolonization problem of Cyprus within the principle of *Uti Possidetis* but also the Turkish and Greek Cypriots. The Republic of Cyprus was established by the signatures of the representatives of Greek Cypriot and Turkish Cypriot with the three governments.

It was the 1959/1960 Agreement that facilitated independence from Britain and that gave international legal personality to the Greek Cypriot community and the Turkish Cypriot community (both were signatories to the Agreement) as two distinct and equal constituent peoples (Olgun, 1999).

The international legal personality of the Greek Cypriot community was achieved according to the Greek Cypriot government by the Greek Cypriots` national liberation movement EOKA`s use of force whereas the 1960 Republic of Cyprus recognized the political equality of Turkish Cypriots and Greek Cypriots as the co-founding partners of the new republic. The Constitution of the Republic of Cyprus was designed, as a functional federation and with this constitution Republic of Cyprus became a member of the UN and the international legal personality of the Turkish Cypriot community was recognized by the UN, not as a minority.

The international legal personality of the Turkish Cypriot community and the legality of the Turkish Cypriots' national liberation movement TMT`s *Jus ad bellum* use of force as well accepted by the UN when Cyprus became a member of the UN with its bi-communal constitution.

The Greek Cypriots proposed amendments to the constitution, known as the Thirteen Points that entailed usurping the rights of Turkish Cypriots and degrading their equal co-founder status to that of a minority on the Island. Turkish Cypriots refused the Thirteen Points as an obligation to protect their treaty rights of recognized right to self-determination and do not recognize the situation created by the abuse of rights as legal. The international community has an obligation not to recognize it as lawful within the principle of *ex injuria jus non oritur* based on the peremptory norm of self-determination of peoples under Article 73 of the United Nations Charter, the situation created by the Greek Cypriots with the amendments to the Constitutional Treaty of 16 August 1960.

The legal solution for the ongoing the Cyprus for decade is detecting that there exists no belligerency according to the 1960 constitution of Cyprus and the use of force of TMT after 1964 is under the definition of *Jus ad bellum* use of force of a national liberation movement to protect the inalienable right to self-determination of the Turkish community, recognized by the constitution of Cyprus and the UN General Assembly resolution 1287 against a racist regime

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