**UNIVERSITY OF HULL**

**MIDDLE EAST STUDY GROUP SEMINAR**

**Wednesday 4TH March 2020**

**MAKARIOS’ 13 POINTS. - THE 1960 CONSTITUTION OF THE REPUBLIC OF CYPRUS**

**Introduction.**

* Who was Archbishop Makarios III? – Who was Dr Fazil Kutchuk?
* The end of the British rule in 1960 (Cyprus no longer a British Colony)
* Population composition - roughly 70% Greek Cypriots; 29% Turkish Cypriots and 1% others (Armenians, Maronites, British, Lebanese *et al*.)
* ENOSIS explained (Union with Greece) and EOKA during British occupation and thereafter explained briefly
* TAXIM explained briefly (Partition between Greek and Turkish Cypriots.)
* Turkish Cypriots v Turks and Greek Cypriots v Greeks

**The Backcloth- Setting the sceen.**

* The original Constitution of the Republic of Cyprus came into force on 16th August1960
* The basis of the Constitution was the Zurich Agreement of 11th February 1959 (drafted by Greece and Turkey. Cyprus was not a party to the drafting) followed by the London Treaty of 19th February 1959 with Greece, Turkey and the UK and Cyprus signing it (without agreeing to the terms according to Makarios who said he was forced to!)
* The aims of the Constitution were (a) to provide a framework for the running of the new Republic of Cyprus and (b) to secure unity between the Cypriot Greek and Turkish communities.
* Makarios considered the constitution to be unworkable
* In November1963, Makarios (the President of Cyprus) without consulting Dr Kutchuk the Vice President, or anyone else UNILATERALLY proposes his 13 key amendments to the 1960 Constitution. The pretext? Facilitating the running of the Republic.
* The Turkish Cypriots and Turkey immediately rejected the 13 points
* Resulting in communal violence between Greek and Turkish Cypriots
* The Greek Cypriots continued with ENOSIS while the Turkish Cypriots wanted TAXIM
* Turkish Cypriots absented themselves from their respective constitutional offices (Parliament, government, etc..)
* Communal violence between Turkish and Greek Cypriots
* Cyprus divided into two hostile camps.
* Massacres in abundance
* Turkey invades Cyprus in July1974 because of the Greek military junta activities and occupies 37% of the territory in violation of the United Natioons Charter and all legal principles which govern international relations.
* The TRNC not rfecognised bgy any country on the planet.
* Thus the original 1960 Constitution was short lived to last only for three years.

**Makarios’ 13 Points**

*Some general remarks*

* Makarios unilaterally and without consultation with the Turkish Cypriot leadership made 13 fundamental changes to the 1960 Constitution by reason of “difficulties in the smooth running of the of the State”
* Makarios had serious misgivings on the 1959 London Treaty agreed by the Greek and Turkish governments and accepted by the British government.
* Makarios’ dilemma of either signing the agreement or rejecting it with all the grave consequences which would have ensued. He therefore HAD to sign the agreement.
* The Greek Cypriots were never happy with the terms of the Constitution because the Turkish Cypriots had under the Constitution a disproportionate powerful representation.
* The Turkish Cypriots welcomed the rights, guarantees and prerogatives granted to them by the Constitution.

*The 13 points in greater detail*

* Makarios’ 13 points were aimed at scrapping some privileges from the Turkish Cypriot community.
* Some of those 13 points were neutral
* Greek Cypriots were benefiting from the 13 point amendments
* An analysis of each of the 13 points on how detrimental they were for the Turkish Cypriots or how neutral they were would constitute a futile exercise for our purposes. [It would take at least 7 hours to explain the complicated structures of Cypriot municipalities, of the House of Representatives and their Presidents and Vice Presidents, the Cypriot civil service, the Cypriot army and its composition, the Cypriot police, communal chambers, the courts, etc…all of which are included in the 13 points]

The document was entitled “**Suggested measures for the removal of causes of friction between the two communities.**” (1963)

Point 1. The right of veto of the President and the Vice President of the Republic to be abolished.

Point 2. The Vice President of the Republic to deputise for or replace the President of the Republic when he is temporarily absent or incapacitated to carry out his duties. In consequence therefore. All the constitutional provisions in respect of joint action by the President and Vice President of the Republic to be modified accordingly

Point 3. The Greek President of the House of Representatives and its Turkish Vice President to be elected by the House as a whole and not as at present, the President by the Greek members of the House and the Vice President by the Turkish members of the House.

Point 4. The Vice President of the House of Representatives to deputise for or replace the President of the House in case of his temporary absence or incapacity to perform his duties.

Point 5. The constitutional provisions regarding separate majority for the enactment of laws by the House of Representatives to be abolished.

Point 6. The constitutional provision regarding the establishment of separate municipalities in the five main towns to be abolished. Provision should be made so that:

1. The Municipal Council of each of the aforesaid five towns shall consist of Greek and Tirkish Councillors in proportion to the number of the Greek and Turkish inhabitants of such town by whom they shall be elected respectively
2. In the budget of each of such aforesaid towns, after deducting any expenditure required for common services, a percentage of the balance proportionate to the number of the Turkish inhabitants of such town shall be earmarked and disposed of in accordance with the wishes of the Turkish Councillors.

Point 7. The constitutional provision regarding courts consisting of Greek judges to try Greeks and Turkish judges to try Turks and the mixed courts consisting of Greek and Turkish judges to try cases where litigants are Greeks and Turks to be abolished.

Point 8. The division of the Security Forces into Police and Gendarmerie to be abolished. (Provision to be made in case the Head of the Police is a Greek and the Deputy Head to be a Turk and vice versa)

Point 9. The numerical strength of the Security Forces and the Army to be determined by Law and not by agreement between the President and Vice-President of the Republic.

Point 10. The proportion of the participation of Greek and Turkish Cypriots in the composition of the Public Service and the Army to be modified in proportion to the ratio of the population of Greek and Turkish Cypriots.

Point 11. The number of the Members of the Public Service Commission to be reduced from 10 to either 5 or 7

Point 12. All the decisions of the |Public Service |Commission to be taken by simple majority. If there is an allegation of discrimination on the unanimous request either of the Greek or the Turkish members of the Commission. Its Chairman to be bound the matter to the Supreme Constitutional Court.

Point 13. The Greek Communal Chamber to be abolished.

*Summing up the 13 points*.

* Makarios’ justification for the 13 points was that the 1960 Constitution in its original form created numerous difficulties in the smooth running of the Republic and impeded the development and progress of the State.
* It will be generally noticed (leaving aside the political overtones) that Makarios’ arguments made a great deal of sense constitutionally speaking and certainly removed a number of obstacles which the Constitution, as it originally stood, created.

**The Aftermath Following the 13 Point Announcement.**

* Both Turkey and the Turkish Cypriots *rejected outright* the 13 Points on the grounds that it was an attempt to solve the constitutional dispute in favour of the Greek Cypriots. They considered those amendments as a *demotion* of the Turkish Cypriot status.
* The Turkish Cypriots filed a legal action in the Supreme Constitutional Court of Cyprus against the 13 Points.
* Makarios stated that he would not abide by the decision of the Supreme Constitutional Court of Cyprus.
* On 15th April 1963 the Supreme Constitutional Court held that Makarios acted illegally on his 13 Points and ordered their withdrawal because Makarios *violated* the Constitution by failing to implement its measures. Furthermore, the Court held that the Turkish Cypriots were *not allowed to return* to their positions in Government without accepting the 13 points.
* Makarios having decided to ignore the Court order (for he was in contempt of court) the German President of the Supreme Constitutional Court of Cyprus resigned on31st May, 1963
* On 15th July 1960 Makarios *officially* ignored the Court’s decision.
* On 3th November, 1963 the 13 Points were legislated by the House of Representatives (without the Turkish Cypriots taking part as their seats were vacant
* Soon thereafter the Supreme Constitutional Court of Cyprus was abolished and its functions merged with those of the High Court of Cyprus.

**Concluding thoughts.**

* The conflict between the Greek and Turkish ethnic groups was based on *mistrust.*
* The Greek Cypriots supported *complete integration* between the two ethnic groups whereas the Turkish Cypriots supported *increased separation*.
* Makarios’ 13 points had the effect of *degrading* the Turkish Cypriots’ constitutional rights which constituted the last straw in the breakup of the 1960 Constitution.
* The *complexity* of the Constitution itself and the *multiplicity of safeguards* in favour of the Turkish Cypriots also had an effect on breaking up the 1960 Constitution
* Did Makarios’ act in disobeying and ignoring the judgment of the Supreme Constitutional Court of Cyprus amount to *contempt of court*? Was the *rule of law* breached by Makarios’ 13 Points? *Quid Juris*?

Jo Carby-Hall