



TURKEY, CYPRUS, AND THE TURKISH REPUBLIC OF NORTHERN CYPRUS

MARSHALL H. GOLDMAN*

INTRODUCTION

Over the last one hundred years, extensive political changes have occurred, altering the territorial landscape in many parts of the world. Such changes have often been the result of civil wars, world wars, coups, or attempted coups. Turkey, Greece, and Cyprus faced such challenges, particularly with respect to their struggle over control of the northern and southern portions of the island of Cyprus. This struggle led to the self-declared state of the Turkish Republic of Northern Cyprus (TRNC) in the northern territory of the island.

*Mr Goldman is a Senior Research Associate of the Centre for the Study of Law & Public Policy at Oxford. He is also Senior Associate Counsel at the American Center for Law & Justice. Mr Goldman received his Bachelor of Arts (B.A.) degree (*cum laude*) from Oral Roberts University in Tulsa, Oklahoma; his Master of Arts in Public Policy (M.A.) degree from the Robertson School of Government at Regent University, Virginia Beach, Virginia (where he was the recipient of the Outstanding Research Award for distinction in scholarship); and his Juris Doctor (J.D.) degree from Regent University School of Law, Virginia Beach, Virginia.

The purpose of this paper is to provide the relevant context to the Cyprus question as well as to apply the Montevideo Convention criteria for statehood to determine whether the TRNC, at the time of its “inception”, constituted a state under international law. Section I includes a brief history of Turkey following World Wars I and II. Section II discusses the recent history of Cyprus leading up to the creation of the TRNC in 1983. Section III examines the Montevideo Convention criteria for statehood as applied to the TRNC.

I. TURKEY AND ITS NATIONAL INTERESTS

The Ottoman Empire was decisively defeated by the Allies in World War I. The 1920 Treaty of Sèvres was negotiated to end the conflict with the Ottoman Empire. This treaty “contained Allied wishes first, the wishes of Greece and Armenia second. Neither the needs of Turks nor the political and demographic realities of Turkey were considered. . .”¹. The Treaty of Sèvres has been compared to the Treaty of Versailles as both “were punitive treaties, imposed by victors who adopted a high moral tone to hide self-interest. Both treaties contained economic clauses intended to ensure that the vanquished would never rise again. Both limited the military strength and territory of the loser. However, the Sèvres treaty was the harsher”². Turkish leader Mustafa Kemal Atatürk strongly denounced the terms of this treaty³.

¹ JUSTIN MCCARTHY, *THE OTTOMAN TURKS: AN INTRODUCTORY HISTORY TO 1923*, at 374 (1997).

² *Id.*

³ See, e.g., A.E. Montgomery, *The Making of the Treaty of Sèvres of 10 August 1920*, 15 *HIST. J.* 775, 775 (1972) (explaining that the treaty was signed on 10 August 1920 but was never ratified. The success of Atatürk over the next two years rendered the projected peace terms obsolete, leading to the negotiation of an entirely new treaty: Lausanne).

The Treaty of Sèvres was negotiated with representatives of Farid Pasha, who was installed as vizier by Britain in March 1919. Atatürk mocked him as a “prisoner of the allies, rejecting his authority to negotiate on behalf of Turkey.” Sèvres was signed by Pasha’s proxies, Minister Resid Halis, Ambassador Hadi Pasha, Riza Tevfik, and Dama Ferid Pasha. Atatürk immediately denounced Sevres [because of its harsh terms], and

Atatürk did, however, agree to the terms of the 1923 Treaty of Lausanne which, in his view, was a great victory⁴. This treaty, which was signed by Great Britain, France, Italy, Japan, Greece, Romania, and the Serb-Croat-Slovene State on one side and Turkey on the other⁵, delineated the boundaries of the modern state of Turkey⁶. For the Turks, the Treaty of Lausanne stood “as a milestone and validation of their continued national existence”⁷.

Moreover, the establishment of Turkey as a state “crystallized the ideological orientation of the republican elite aimed at reshaping the state and its institutions on the basis of a secular model inspired by the West”⁸. Atatürk, the first President of modern Turkey, “introduced sweeping changes in Turkish society”⁹.

used it to animate the War of Independence.

DAVID L. PHILLIPS, *THE KURDISH SPRING: A NEW MAP OF THE MIDDLE EAST 7–8* (2015). In the Turkish War of Independence, Atatürk “mobilized his nation around a politico-military strategy of war that, in the final analysis, achieved an astounding success. Under his leadership, the Turkish people thwarted Britain, France, Italy, and Greece in their designs to impose a harsh treaty [i.e., the Treaty of Sèvres] on the defeated Ottoman Empire. . .”. George W. Gawrych, *Kemal Atatürk’s Politico-Military Strategy in the Turkish War of Independence, 1919–1922: From Guerilla Warfare to the Decisive Battle*, 11 J. STRATEGIC STUD. 318, 318 (1988).

⁴ Atatürk stated, “I don’t think it is necessary any further to compare the principles underlying the Lausanne Peace Treaty with other proposals for peace. This treaty, is a document declaring that all efforts, prepared over centuries, and thought to have been accomplished through the SEVRES [sic] Treaty to crush the Turkish nation have been in vain. It is a diplomatic victory unheard of in the Ottoman history!” *Lausanne Peace Treaty*, REPUBLIC TURK. MINISTRY FOREIGN AFF., <http://www.mfa.gov.tr/lausanne-peace-treaty.en.mfa> (last visited 30 Mar. 2016).

⁵ Treaty of Peace with Turkey, and Other Instruments, signed at Lausanne, pmb., 24 July 1923, 28 L.N.T.S. 11, <http://www.mfa.gov.tr/lausanne-peace-treaty----pre-ambale.en.mfa>.

⁶ Helen Chapin Metz, ed., *Atatürk and the Turkish Nation*, in *Turkey: A Country Study*, U.S. LIBR. CONGRESS (1995), <http://countrystudies.us/turkey/13.htm>.

⁷ TANER AKÇAM, FROM EMPIRE TO REPUBLIC: TURKISH NATIONALISM & THE ARMENIAN GENOCIDE 180 (2004).

⁸ Talip Kucukcan, *State, Islam, and Religious Liberty in Modern Turkey: Reconfiguration of Religion in the Public Sphere*, 2003 BYU L. REV. 475, 485 (2003), <http://digitalcommons.law.byu.edu/cgi/viewcontent.cgi?article=2156&context=law-review>.

⁹ *Id.*

Atatürk's main aim in the process of modernization during the early years of the Turkish Republic was to change the basic structure of Turkish society and to redefine the political community. He tried to remove society from an Islamic framework and introduce society to a sense of belonging to a newly defined "Turkish nation." To achieve this goal, Atatürk launched a movement of cultural westernization to provide the Turkish nation with a new worldview that would replace its religious worldview and culture. Atatürk viewed the separation of religion and politics as a prerequisite to opening the doors to Western values¹⁰.

Specifically, Atatürk sought to "establish an inherently capitalist nation-state based on the principle of popular sovereignty"; he also sought to encourage "loyalty to country—which was already beginning to overcome traditional loyalty to the sultanate during the National Struggle—into an intense Turkish nationalism, whether combined with the traditional bond of Muslim society or, preferably, replacing it; nationalism would be the Turks' rediscovery and reassertion of their Turkishness"; and he "aimed to educate individuals to undertake control of their own affairs, to stimulate a nationalist economy free from foreign dominance, and, significantly, to secularize the polity. . ." ¹¹. Further, "[i]n an ambitious drive to import European civilization, the republic disposed of the governing caliphate, the Arabic alphabet, [and] Islamic education. . ." ¹². Also, Turkey joined the League of Nations in 1932¹³; and in the late 1930s, for pragmatic reasons, Turkey "maintain[ed] a fully mobilised army"¹⁴.

¹⁰ *Id.* at 485–86 (citations omitted).

¹¹ M. Naim Turfan, *Atatürk, Mustafa Kemal*, OXFORD ISLAMIC STUDIES ONLINE, <http://www.oxfordislamicstudies.com/article/opr/t236/e0083> (last visited 30 Mar. 2016).

¹² Ömer Taşpınar, *Turkey: the New Model?*, BROOKINGS INST. (Apr. 2012), <http://www.brookings.edu/research/papers/2012/04/24-turkey-new-model-taspinar>.

¹³ DILEK BARLAS, *ETATISM & DIPLOMACY IN TURKEY* 127 (1998).

¹⁴ JACOB M. LANDAU, *ATATÜRK AND THE MODERNIZATION OF TURKEY* 113 (1984).

During this period, Turkey's international policies were changing as well. With respect to Turkey's relationship with Greece, for example, the two states

have rarely enjoyed good relations, and current tensions are fueled by historical grievances. Nevertheless, there was a brief period of cooperation between World Wars I and II. After the consolidation of Turkey's independence, Greece under President [sic] Venizelos and Turkey under Atatürk negotiated population transfers and property issues in an agreement that was further solidified with the signing of the Friendship Treaty in 1930. The treaty guaranteed the inviolability of their borders, marking what is considered the high point in Greek–Turkish relations. The situation soured at the time of World War II, however, when Greece became angered over Turkey's refusal to enter the conflict on the allied side, opting instead to remain neutral. Relations went downhill from there and have yet to recover¹⁵.

The following provides further insight into Turkey's evolving strategic diplomatic relations. First, Turkey's exceptional geographic location enabled “her to have an influential voice in the foreign affairs arena, it also enable[d] her to attract strong friends”¹⁶. For example, “Turkey managed to manoeuvre herself into a position where she had a formal and explicit Treaty of Mutual Assistance with Great Britain as well as a Friendship and Non-Aggression Pact with Germany”¹⁷. Second, Turkey's strategic location was also a disadvantage because it made “it more difficult for Turkey to avoid confrontation with major powers”¹⁸. Third, and perhaps, most important for purposes of this paper, Turkey rec-

¹⁵ Patricia Carley, *U.S. Foreign Policy and the Future of Greek-Turkish Relations*, 17 PEACEWORKS 1, 1 (1997), <http://www.usip.org/sites/default/files/pwks17.pdf>.

¹⁶ SELIM DERINGIL, *TURKISH FOREIGN POLICY DURING THE SECOND WORLD WAR: AN 'ACTIVE' NEUTRALITY* 3 (1989).

¹⁷ *Id.* at 1.

¹⁸ *Id.* at 3.

ognised that a “small power ultimately stands or falls only according to the efficiency of its own resources”¹⁹. Turkey would “always be prepared to fight for the defence of her rights and territory”²⁰. This third reality would eventually apply to Cyprus, as will be discussed below.

Following World War II, “Turkey took a resolutely pro-Western stance as the Cold War developed in the late 1940s. . .”²¹. In 1945, Turkey joined the United Nations²², and in 1952, Turkey joined the North Atlantic Treaty Organization²³. Also during the 1950s, the Cyprus question intensified primarily because of Greece’s efforts to end British rule and unify the island with the Greek mainland²⁴.

In sum, the geopolitical climate in the twentieth century was changing, and Turkey was attempting to navigate its way through such changes. The next section focuses on similar issues with respect to Cyprus, beginning around World War I and concluding in 1983, the year in which the TRNC proclaimed itself to be a state. Both of these sections lead into Section III which looks at the Montevideo Convention criteria for statehood as applied to the TRNC.

II. THE CYPRUS QUESTION

In this section, Cyprus’s recent history is examined with special emphasis on how it relates to Turkey. Though this paper focuses primarily on Turkey’s relationship with Cyprus, aspects of British and Greek history are interwoven in this article’s analysis as well. With this in mind, the strategic location of Cyprus must first be addressed.

¹⁹ *Id.* at 4.

²⁰ *Id.*

²¹ Helen Chapin Metz, ed., *Turkey after Atatürk*, in *Turkey: A Country Study*, U.S. LIBR. CONGRESS (1995), <http://countrystudies.us/turkey/15.htm>.

²² *Member States of the United Nations*, UNITED NATIONS, <http://www.un.org/en/members/index.shtml> (last visited 30 Mar. 2016).

²³ LAWRENCE S. KAPLAN, *THE UNITED STATES AND NATO: THE FORMATIVE YEARS* 219 (1984).

²⁴ CARTER VAUGHN FINDLEY, *TURKEY, ISLAM, NATIONALISM, AND MODERNITY: A HISTORY* (2010).

Cyprus “is on the sea lane of the great maritime highway connecting the Mediterranean Sea through two sea gates—the Suez and Bab al-Mandab—with the Indian Ocean”²⁵. It links to “the Strait of Hormuz, leading to the Persian Gulf, and the Strait of Malacca, connecting to the Pacific”²⁶. Cyprus is only 3,572 square miles in size²⁷. Turkey “lies just forty miles from its northern coast. To the east, Syria is only seventy-five miles away. . . . Mainland Greece lies approximately five hundred miles west”²⁸. Cyprus “has been regarded as vital territory by almost every empire that has wished to assert control over the wider Eastern Mediterranean region”²⁹. A brief recent history of Cyprus follows.

In 1878, Great Britain took administrative control of Cyprus from Turkey³⁰. In 1914, Great Britain completely annexed Cyprus³¹. In 1915, Great Britain offered to cede Cyprus to Greece “if Greece were to join her in the war, but as Greece did not join until 1917, Britain did not grant Greece’s request, made at the Versailles negotiations in 1919. . .”³². In fact, under the terms of the 1923 Treaty of Lausanne, Turkey “formally ceded Cyprus to Britain, which declared it a Crown Colony in 1925”³³. Turkey “supported British rule of the island as the best guarantee that the position of the Turkish Cypriots would be secure from the Greek threat of Enosis”³⁴. Enosis refers to Greece’s desire

²⁵ James Leigh & Predrag Vukovic, *A Geopolitics of Cyprus*, 15 MERIA J., no. 4 (Dec. 2011), <http://www.gloria-center.org/2011/12/a-geopolitics-of-cyprus/>. Bāb al-Mandab is the name of the straight between Arabia and Africa that connects the Red Sea with the Gulf of Aden and the Indian Ocean.

²⁶ *Id.*

²⁷ JAMES KER-LINDSAY, *BRITAIN AND THE CYPRUS CRISIS, 1963–1964*, at 8 (2004), http://www.academia.edu/199221/Britain_and_the_Cyprus_Crisis_1963–1964.

²⁸ *Id.*

²⁹ *Id.*

³⁰ IAN HENDRY & SUSAN DICKSON, *BRITISH OVERSEAS TERRITORIES LAW* 340 (2011).

³¹ *Id.*

³² WILLIAM MALLINSON, *CYPRUS: A MODERN HISTORY* 11 (2005) (footnote omitted).

³³ *Id.*

³⁴ Bestami Sadi Bilgiç, *The Cyprus Crisis of October 1931 and Greece’s Reaction: The Place of Turkey and Turkish Cypriots in the Eyes of Greek and Greek Cypriot Leadership*, 1 REV. INT’L L. & POL., ANKARA, no 2, 91, 92 (2005), <http://www.usak>.

for “the union of Cyprus with Greece”³⁵.

Greek and Turkish Cypriots³⁶ were not satisfied with the arrangement with Britain as Greek Cypriots wanted Enosis and Turkish Cypriots were considering partition³⁷. In 1931, “riots broke out on the island against the British regime”³⁸ following (and, perhaps, as a consequence of) the Metropolitan of Kytion’s Proclamation which emphasised the Greek Cypriot desire for Enosis³⁹. By the end of October 1931, “order was restored almost completely over the island. The leaders of the rebellion were arrested and deported”⁴⁰.

The Metropolitan’s proclamation and the resulting riots revealed that “the Cyprus question was seen in Greece as a matter among Greece, Greek Cypriots and Britain. There was almost no mention about Turkey or Turkish interests on the island”⁴¹. But the fact that the Turkish Cypriots did not support the British position did not mean that they supported the union of the island with Greece. “Every time the Greek Cypriot dignitaries submitted to the British authorities their demands for *enosis*, petitions by the leaders of the Turkish Cypriot

org.tr/dosyalar/dergi/pBh18Jh1jTQkEneYC2XdYTOmpbnIzk.pdf (footnote omitted).

³⁵ *Cyprus in the Period 1571–1959*, REPUBLIC TURK. MINISTRY FOREIGN AFF., <http://www.mfa.gov.tr/cyprus-in-the-period-1571---1959.en.mfa> (last visited 30 Mar. 2016).

³⁶ Turkish Cypriots are ethnic Turks living in or originating from Cyprus. See *Policy Towards Turkish Cypriots*, EMBASSY REPUBLIC CYPRUS WASH. D.C., <http://www.cypriusembassy.net/home/index.php?module=page&pid=23> (last visited 30 Mar. 2016). Greek Cypriots are a separate ethnicity. See *Cyprus Ethnicity*, LIBR. CONGRESS COUNTRY STUD. (Jan. 1991), [http://lcweb2.loc.gov/cgi-bin/query/r?frd/cstdy:@field\(DOCID+cy0053\)](http://lcweb2.loc.gov/cgi-bin/query/r?frd/cstdy:@field(DOCID+cy0053)).

³⁷ *Independence*, BBC NEWS, <http://news.bbc.co.uk/2/shared/spl/hi/europe/04/cyprus/html/independence.stm> (last visited 30 Mar. 2016).

³⁸ Bilgiç, *supra* note 34, at 95.

³⁹ *Id.* at 96 (Ambassador Skinner wrote: “During this dark period of fifty years we have let no opportunity pass of proclaiming our sacred desire to be united to Mother Greece, an inspiration which England was the first to recognize as just and sacred when in 1915 she offered Cyprus to the Hellenic Government of that time”).

⁴⁰ *Id.* at 97.

⁴¹ *Id.* at 100.

community countered these”⁴².

The years leading up to World War II “were quieter, with the British and Greeks in Cyprus retreating into their respective social and mental compartments”⁴³. The end of World War II, however, “brought renewed and more widespread demands for enosis, in Greece . . .”⁴⁴. Also, in 1946, “the British government announced plans to liberalize the colonial administration of Cyprus and to invite Cypriots to form a Consultative Assembly for the purpose of discussing a new constitution”⁴⁵. The Church of Cyprus was not satisfied, “and twenty-two Greek Cypriots declined to appear, stating that enosis was their sole political aim”⁴⁶. The British proposals “did not come near fulfilling the expectations and aspirations of the Greek Cypriots. The idea of ‘enosis and only enosis’ became even more attractive to the general population”⁴⁷.

Matters in Cyprus became even more strained in the 1950s. In 1950, “more than 95% of the indigenous Greek population voted in favour of the Union (Enosis) of the island with Greece, demanding that the people of Cyprus be allowed to exercise their right to self-determination; however, the British colonial Government rejected the Greek position”⁴⁸. In August of 1954, “Greece’s UN representative formally requested that self-determination for the people of Cyprus be included on the agenda of the General Assembly’s next session. That request was seconded by a petition to the secretary general from Archbishop Ma-

⁴² *Id.* at 101.

⁴³ MALLINSON, *supra* note 32, at 11 (footnote omitted).

⁴⁴ *Id.*

⁴⁵ Eric Solsten, ed. *World War II and Postwar Nationalism*, in *Cyprus: A Country Study*, U.S. LIBR. CONGRESS (1991) [hereinafter Solsten, *World War II*], <http://countrystudies.us/cyprus/10.htm>.

⁴⁶ *Id.*

⁴⁷ *Id.*

⁴⁸ Achilles C. Emilianides, *The Cyprus Questions before the House of Commons: 1954-1955*, in GREAT POWER POLITICS IN CYPRUS: FOREIGN INTERVENTIONS AND DOMESTIC PERCEPTIONS 11, 13 (Michalis Kontos, et al., eds. 2014), <http://www.cambridgescholars.com/download/sample/58990> (footnote omitted).

karios”⁴⁹. Turkey, however, “rejected the idea of the union of Cyprus and Greece; its UN representative maintained that ‘the people of Cyprus were no more Greek than the territory itself’”⁵⁰.

In 1955, when their demands for self-determination were not addressed⁵¹, the Greek Cypriots “embarked upon a militant struggle to free the country from colonial rule. . . . Turkey’s declared policy toward Cyprus, which had until the early fifties been one of support toward the colonial status quo, began to shift toward a policy of partition of the island along ethnic lines”⁵². In November 1956, Professor Nihad Erim submitted a confidential memo to Turkish Prime Minister Menderes, “proposing the geographical division of the island coupled with the transfer of populations. This straightforward proposal for ethnic cleansing would result in the formation of two separate political entities, one Greek and one Turkish, each of which would then proceed to political union with Greece and Turkey respectively”⁵³. This memo “formed the basis of Ankara’s policy for the next twenty years”⁵⁴. Erim believed that partition was “the ‘second best solution’, provided that, in his assessment, Turkey could not achieve, through political means, repossession of the whole of Cyprus”⁵⁵.

Such rising tensions between Turkey, Greece, and Great Britain are further explained in the following way:

The shift of events toward partition was the outcome of a complex, multifaceted process. It was connected with Turkey’s ‘pre-emptive defence’ strategy aimed at preventing *enosis*, in

⁴⁹ Solsten, *World War II*, *supra* note 45.

⁵⁰ *Id.*

⁵¹ *Historical Review*, MINISTRY FOREIGN AFF. REPUBLIC CYPRUS, http://www.mfa.gov.cy/mfa/mfa2006.nsf/cyprus01_en/cyprus01_en?OpenDocument (last updated 15 Jan. 2008).

⁵² *Id.*

⁵³ *Id.*

⁵⁴ *Id.*

⁵⁵ CHRYSOSTOMOS PERICLEOUS, *THE CYPRUS REFERENDUM: A DIVIDED ISLAND AND THE CHALLENGE OF THE ANNAN PLAN 147* (2009) (footnote omitted).

some respects an undercover of expansionist ambitions to take control of Cyprus in the event of Britain's withdrawal. It was also connected with an internal nationalist pressure in Turkey and the demagogic exploitation of nationalism by the Men-deres government. It was also further connected with Britain's tactical manoeuvring intended as a counterweight to the *enosis* movement. It was finally, and perhaps more significantly, the ultimate outcome of unyielding *enosis* targeting by the Greek Cypriot leadership, which tended to ignore the existence of the Turkish Cypriot community and failed to realize and realistically assess the dangers posed by Turkey's determination to foil *enosis*⁵⁶.

These tensions led to a meeting in Zurich, Switzerland, on 11 February 1959 with representatives from Great Britain, Greece, and Turkey to discuss a plan for Cyprus's independence⁵⁷. Following the Zurich meeting, various leaders met on 19 February 1959 in London, England, where a final agreement was reached with Turkey, Greece, Great Britain, and the Greek and Turkish Cypriots⁵⁸. The London Agreement "essentially incorporated and finalized the Zurich Agreement of 1959 [and] created the Republic of Cyprus as an independent state. . ." ⁵⁹. These agreements "provided for a presidential republic with a Greek president and a Turkish vice president. . ." ⁶⁰. The newly elected president was Archbishop Makarios, and the newly elected vice-president was Dr Fazil Küçük⁶¹.

⁵⁶ *Id.* at 148–49 (footnote omitted).

⁵⁷ John Milios & Tasos Kypriandis, *Greek and Greek-Cypriot Political Strategies on Independence: Class, Nation, and Statehood*, in *BEYOND A DIVIDED CYPRUS: A STATE AND SOCIETY IN TRANSFORMATION* 99, 112 (Nicos Trimikliniotis & Umut Bozkurt eds., 2012).

⁵⁸ *Id.*

⁵⁹ HARALAMBOS ATHANASOPOULOS, *GREECE, TURKEY, AND THE AEGEAN SEA* 19 (2001).

⁶⁰ Milios & Kypriandis, *supra* note 57.

⁶¹ Eric Solsten, ed. *The Republic of Cyprus*, in *Cyprus: A Country Study*, U.S. LIBR. CONGRESS (1991) [hereinafter Solsten, *Republic*], <http://countrystudies.us/cyprus/12.htm>.

Three important treaties, the Treaty of Establishment⁶², the Treaty of Guarantee⁶³, and the Treaty of Alliance⁶⁴, were also negotiated. The Treaty of Establishment designated Cyprus's sovereign territory, among other rights and protections⁶⁵. In the Treaty of Guarantee, Greece, Turkey, and the United Kingdom agreed to "recognise and guarantee the independence" of Cyprus, but continued to hold the authority to consult and take action to restore the *status quo*⁶⁶. In this respect, Article II reads, in part, "Greece, Turkey and the United Kingdom likewise undertake to prohibit, so far as concerns them, any activity aimed at promoting, directly or indirectly, either union of Cyprus with any other State or partition of the Island"⁶⁷. The Treaty of Alliance provided for the defence of Cyprus in the event of an attack or aggression⁶⁸. Within this treaty, Article II reads, "[t]he High Contracting Parties undertake to resist any attack or aggression, direct or indirect, directed against the independence or the territorial integrity of the Republic of Cyprus"⁶⁹.

Despite the adoption of the three treaties, on November 30, 1963, "Makarios advanced a thirteen-point proposal designed, in his view, to eliminate impediments to the functioning of the government. The thirteen points involved constitutional revisions, including the aban-

⁶² Treaty Concerning the Establishment of the Republic of Cyprus (Treaty of Nicosia), 16 Aug. 1960, 382 U.N.T.S. 8, No. 5476, http://peacemaker.un.org/sites/peacemaker.un.org/files/CY_600816_Treaty Nicosia.pdf [hereinafter Treaty of Establishment].

⁶³ Treaty of Guarantee, 16 Aug. 1960, 382 U.N.T.S. 3, No. 5475, http://peacemaker.un.org/sites/peacemaker.un.org/files/CY%20GR%20TR_600816_Treaty%20of%20Guarantee.pdf.

⁶⁴ Treaty of Alliance (with Additional Protocols), 16 Aug. 1960, 397 U.N.T.S. 289, No. 5712, [http://peacemaker.un.org/sites/peacemaker.un.org/files/CY%20GR%20TR_600816_Treaty%20of%20Alliance%20\(with%20additional%20protocols\).pdf](http://peacemaker.un.org/sites/peacemaker.un.org/files/CY%20GR%20TR_600816_Treaty%20of%20Alliance%20(with%20additional%20protocols).pdf) [hereinafter Treaty of Alliance].

⁶⁵ Treaty of Establishment, *supra* note 62.

⁶⁶ Treaty of Guarantee, *supra* note 63, art. 2, 4 (The clause reads in pertinent part, "In so far as common or concerted action may not prove possible, each of the three guaranteeing powers reserves the right to take action with the sole aim of re-establishing the state of affairs created by the present Treaty").

⁶⁷ *Id.* art. 2.

⁶⁸ See Treaty of Alliance, *supra* note 64, art. 2.

⁶⁹ *Id.*

donment of the veto power by both the president and the vice president. . . .”⁷⁰. On December 16, Turkey rejected it, “declaring the proposal an attempt to undermine the constitution”⁷¹. As a “consequence of the ensuing standoff, the Turkish Cypriot ministers withdrew from the Council of Ministers, and Turkish Cypriot civil servants ceased attending their offices”⁷². Immediately following such action by the Turkish Cypriots, “there was a marked heightening of tensions on the island. . . . Two days later, fighting finally broke out between the Greek and Turkish Cypriots”⁷³.

It quickly became clear that outside peacekeeping assistance was necessary. In January of 1964, UN Secretary General U Thant “sent a special representative to the island. After receiving a firsthand report in February, the Security Council authorized a peace-keeping force under the direction of the secretary general. Advance units reached Cyprus in March, and by May the United Nations Peace-keeping Force in Cyprus (UNFICYP) totaled about 6,500 troops”⁷⁴. Also in March of 1964, the UN Security Council (UNSC) adopted Resolution 186, which requested that the Cypriot government “take all additional measures necessary to stop violence and bloodshed in Cyprus”⁷⁵.

The Greek Cypriots and Turkish Cypriots responded in different ways to the presence of the UN forces and UNSC Resolution 186. The Greek Cypriot leaders set forth that the “establishment of UNFICYP by the UN Security Council had set aside the rights of intervention

⁷⁰ Solsten, *Republic*, *supra* note 61.

⁷¹ *Id.*

⁷² *History of Cyprus*, HIGH COMMISSION REPUBLIC CYPRUS CANBERRA, http://www.mfa.gov.cy/mfa/highcom/highcomcanberra.nsf/cyprus02_en/cyprus02_en?OpenDocument (last visited 30 Mar. 2016).

⁷³ KER-LINDSAY, *supra* note 27, at 23.

⁷⁴ Eric Solsten, ed., *Intercommunal Violence*, in *Cyprus: A Country Study*, U.S. LIBR. CONGRESS (1991) [hereinafter Solsten, *Intercommunal Violence*], <http://countrystudies.us/cyprus/13.htm>.

⁷⁵ S.C. Res. 186, para. 2, U.N. SCOR, 19th Year, U.N. Doc. S/INF/19, at 2–4 (4 Mar. 1964), http://www.un.org/en/ga/search/view_doc.asp?symbol=S/RES/186 (1964).

granted to the guarantor powers—Britain, Greece, and Turkey—by the Treaty of Guarantee. The Turkish leadership, on the other hand, contended that the Security Council action had reinforced the provisions of the treaty⁷⁶.

Problems in the region continued when, in April of 1967, “a military junta seized power in Greece”⁷⁷ due to the “failure of both the Monarch and the caretaker governments. . .”⁷⁸. President Makarios’ relationship with Greece’s new regime “was tense from the outset and became increasingly strained. President Makarios made it known that he was convinced that the Athens junta was involved in efforts to undermine his authority and policies through extremist underground organizations in Cyprus conspiring against his government and against his life”⁷⁹. His instincts proved to be correct.

On 15 July 1974, “the Greek military junta and its Greek Cypriot collaborators carried out a coup against” President Makarios in Cyprus⁸⁰. In response, Turkish Prime Minister Ecevit declared that Turkey would not “permit anyone to intervene in the rights of the Cypriot Turks”⁸¹ and issued the following statement: “The coup in Cyprus is a Greek intervention in Cyprus. The constitutional system in Cyprus was destroyed and an illegal military government was established. Turkey considers this act a violation of international agreements and guarantees on Cyprus”⁸².

⁷⁶ Solsten, *Intercommunal Violence*, *supra* note 74.

⁷⁷ Tom Housden, *Cyprus: How the Crisis Unfolded*, BBC NEWS (1 Apr. 2004, 10:06 AM), <http://news.bbc.co.uk/2/hi/europe/1760565.stm>.

⁷⁸ Christos Kassimeris, *Causes of the 1967 Greek Coup*, 3, ROUTLEDGE, https://www.researchgate.net/publication/250893576_Causes_of_the_1967_Greek_Coup (originally published in 2 DEMOCRACY & SECURITY 1 (2006)).

⁷⁹ *The 1974 Turkish Invasion and its Consequences*, PRESS AND INFO. OFF., REPUBLIC OF CYPRUS (Dec. 2010), <http://www.moi.gov.cy/moi/pio/pio.nsf/All/6F5DD418DD053ED1C2256D6D001E7571?OpenDocument>.

⁸⁰ *Id.*

⁸¹ NASUH USLU, *THE CYPRUS QUESTION AS AN ISSUE OF TURKISH FOREIGN POLICY AND TURKISH-AMERICAN RELATIONS 1959-2003*, at 124 (2003) (footnote omitted).

⁸² *Id.* at 124–25 (footnote omitted).

On 20 July 1974 and 14 August 1974, the Turkish military intervened relying on “Article IV of the Treaty of Guarantee of 1960”⁸³. Greece believed that the Turkish intervention, particularly the intervention in August of 1974, exceeded the scope of the Treaty of Guarantee in that it “was undertaken when the Greek junta, which had engineered the coup in Cyprus, had collapsed, the Cyprus constitutional order had been re-established and negotiations were pending in Geneva between Greece, Turkey, and the United Kingdom”⁸⁴. The UNSC was similarly concerned as evidenced by Resolution 353, adopted on 20 July 1974, which called “upon all States to respect the sovereignty, independence and territorial integrity of Cyprus”⁸⁵.

On 16 August 1974, Turkish forces declared a ceasefire after “they had secured 37 percent of the island”⁸⁶. They also decided to maintain about “35,000 Turkish troops . . . in the north”⁸⁷. A comprehensive agreement between the Greek and Turkish Cypriots could not be reached⁸⁸. As such, “*in the absence of a formal cease-fire agreement, the military status quo, as recorded by UNFICYP at the time, became the standard by which it was judged whether any changes constituted*

⁸³ *Historical Background*, TURKISH REPUBLIC N. CYPRUS MINISTRY FOREIGN AFF., <http://mfa.gov.ct.tr/cyprus-negotiation-process/historical-background/> (last visited 30 Mar. 2016); see also Treaty of Guarantee, *supra* note 63, art. 4 (“In so far as common or concerted action may not prove possible, each the three guaranteeing Powers reserves the right to take action with the sole aim of re-establishing the state of affairs created by the present Treaty”).

⁸⁴ Gillian M. White, *The Turkish Federated State of Cyprus: A Lawyer's View*, 37 WORLD TODAY 135, 137 (1981), <http://www.jstor.org/stable/40395280>.

⁸⁵ S.C. Res. 353, para. 1, U.N. SCOR, 29th Year, U.N. Doc. S/INF/30, at 7 (20 July 1974), http://www.un.org/en/ga/search/view_doc.asp?symbol=S/RES/353 (1974).

⁸⁶ *Special Research Report No. 3: Cyprus: New Hope after 45 Years on the Security Council Agenda*, SECURITY COUNCIL REPORT (4 Sept. 2008), <http://www.security-councilreport.org/special-research-report/lookup-c-gIKWLEMTISG-b-4474149.php> [hereinafter *Cyprus: New Hope*]; see also *UNFICYP Background*, UNFICYP UNITED NATIONS PEACEKEEPING FORCE IN CYPRUS, <http://www.un.org/en/peacekeeping/missions/unficypr/background.shtml> (last visited 30 Mar. 2016); SATISH CHANDRA & MALA CHANDRA, INTERNATIONAL CONFLICTS AND PEACE MAKING PROCESS: ROLE OF THE UNITED NATIONS 284 (2006).

⁸⁷ *Cyprus: New Hope*, *supra* note 86.

⁸⁸ *Id.*

violations of the cease-fire”⁸⁹.

On 13 February 1975, the Turkish Federated State of Cyprus (TFSC) was “proclaimed . . . by the Council of Ministers and the Legislative Assembly of the Turkish Cypriot Administration”⁹⁰. This proclamation “was intended to serve as a bargaining chip in negotiating a higher degree of autonomy for the Turkish Cypriot community, but subsequent negotiations under UN auspices were unsuccessful”⁹¹. The TFSC “failed to secure even a limited degree of international acceptance and [was] consequentially hampered in its efforts to promote the economic and political interests of the Turkish Cypriot community”⁹².

Following several years of minimal progress, on 15 November 1983, Turkish Cypriot leaders issued a unilateral declaration of independence and “the TFSC was dissolved and replaced by the Turkish Republic of Northern Cyprus (TRNC)”⁹³. The declaration was issued by the Turkish Cypriot parliament and described why the Turkish Cypriot leaders made such a decision⁹⁴. The 1983 Turkish Cypriot declaration of independence was the culmination of decades of conflict from external as well as internal forces (and is a contributing factor to the conflict even at the time of this article)⁹⁵. With this background

⁸⁹ See CHANDRA & CHANDRA, *supra* note 86, at 286 (emphasis added). This is relevant with respect to whether the TRNC has a defined territory under the Montevideo Convention criteria to be discussed in the following section.

⁹⁰ White, *supra* note 84, at 135.

⁹¹ YAËL RONEN, *TRANSITION FROM ILLEGAL REGIMES UNDER INTERNATIONAL LAW* 63 (2011).

⁹² White, *supra* note 84, at 139.

⁹³ RONEN, *supra* note 91.

⁹⁴ *Id.* Such reasons included the following: “the usurpation of the legislature, executive and judiciary by Greek Cypriots; the domination and exploitation of Turkish Cypriots by their Greek Cypriot compatriots; and the discrimination to which Turkish Cypriots were subject”. *Id.*

⁹⁵ The 1983 Turkish Cypriot declaration of independence complicated long-term peace efforts.

[S]uccessive initiatives throughout the 1980s and 1990s failed to produce any results. This was largely due to the intransigence of the Turkish Cypriot leadership and successive Turkish governments. . . . However, towards the end of the 1990s, the situation changed dramatically after the

in mind, Section III addresses whether the TRNC satisfied the four Montevideo Convention criteria for statehood when it proclaimed itself to be a state in 1983.

III. THE MONTEVIDEO CONVENTION CRITERIA AS APPLIED TO THE TRNC

The Montevideo Convention on the Rights and Duties of States (1933) contains the “best known formulation of the basic criteria for statehood”⁹⁶, and these criteria are considered to reflect the requirements for statehood under customary international law⁹⁷. Article 1 of

European Union decided to open accession talks with the Cypriot government. . . . Realizing that any decision to accept Cyprus would inevitably harm its own accession process, Turkey threatened to annex northern Cyprus. Undeterred, the EU insisted that it would not give Ankara a veto over who could and could not become a member. . . . [F]ollowing a general election in Turkey in November 2002, which brought to power a more moderate government, attitudes in Ankara began to change. . . . On 24 April, 2004, the two communities voted on the proposals. . . . [I]t was rejected by three-quarters of the Greek Cypriot community. Just one week later, on 1 May 2004, Cyprus joined the EU as a divided island. In 2008, the UN launched a fresh initiative. . . . [but] they failed to make an early breakthrough. . . . [A]t the end of 2011, [Turkey] called for a ‘Taiwan-style’ diplomatic arrangement for Northern Cyprus to help end its isolation and further the ailing talks.

JAMES KER-LINDSAY, *THE FOREIGN POLICY OF COUNTER SECESSION: PREVENTING THE RECOGNITION OF CONTESTED STATES* 42–43 (2012) (citation omitted). More strongly stated, the “breakaway state in northern Cyprus not only is not an independent State founded as an expression of the right of self-determination of the Turkish Cypriot People, but rather it is the result of a secessionist act that has created a Turkish local administration in northern Cyprus”. NIKOS SKOUTARIS, *THE CYPRUS ISSUE: THE FOUR FREEDOMS IN A MEMBER STATE UNDER SIEGE* 29–30 (2011).

⁹⁶ James Crawford, *The Criteria for Statehood in International Law*, 48 *BRIT. Y.B. INT’L L.* 93, 111 (1976–1977); see also Convention on Rights and Duties of States art. 1, 26 Dec. 1933, 49 *Stat.* 3097, http://avalon.law.yale.edu/20th_century/intam03.asp.

⁹⁷ See, e.g., JOSHUA CASTELLINO, *INTERNATIONAL LAW AND SELF-DETERMINATION* 77 (2000) (citing D.J. HARRIS, *CASES AND MATERIALS OF INTERNATIONAL LAW* 102 (5th ed. 1997)) (“The Montevideo Convention is considered to be reflecting, in general terms, the requirements of statehood in customary international law”.); Tzu-wen Lee, *The International Legal Status of the Republic of China on Taiwan*, 1 *UCLA J. INT’L L. & FOREIGN AFF.* 351, 387 n.70 (1996–1997) (“[The Montevideo] Con-

the Montevideo Convention established the following four prerequisites to statehood: “(a) a permanent population; (b) a defined territory; (c) government; and (d) capacity to enter into relations with other states”⁹⁸. “At the crux of the Montevideo criteria lay the concepts of effectiveness, population, and territoriality”⁹⁹.

The four criteria focus on whether “an entity [becomes] a state, not with how an entity might cease to be a state”¹⁰⁰. These criteria “only matter at the initial stage, when a self-determination-seeking entity is seeking to attain statehood. . .”¹⁰¹. If non-state entities “became states and then lost their label of statehood due to a territorial dispute, the lack of government, a migratory shift in population, or the inability to conduct foreign relations in some manner, the end result would consist of endless chaos and violence”¹⁰². Clearly then, “statehood matters at the time of state creation; it no longer matters during state existence, absent convention is regarded as representing in general terms the criteria of statehood under customary international law”).

Customary international law is made up of rules that come from “a general practice accepted as law” and that exist independent of treaty law. Customary international humanitarian law (IHL) is of crucial importance in today’s armed conflicts because it fills gaps left by treaty law in both international and non-international conflicts and so strengthens the protection offered to victims.

International law comes from both treaty law and rules of what is known as customary international law. Treaties are written conventions in which States formally establish certain rules. Customary international law, on the other hand, is not written but derives from “a general practice accepted as law”. To prove that a certain rule is customary, one has to show that it is reflected in state practice and that the international community believes that such practice is required as a matter of law.

Customary International Humanitarian Law, INT’L COMMITTEE RED CROSS (29 Dec. 2010), <https://www.icrc.org/eng/war-and-law/treaties-customary-law/customary-law/overview-customary-law.htm>.

⁹⁸ Crawford, *supra* note 96, at 111 (citation omitted).

⁹⁹ Thomas D. Grant, *Defining Statehood: the Montevideo Convention and its Discontents*, 37 COLUM. J. TRANSNAT’L L. 403, 416 (1999).

¹⁰⁰ *Id.* at 435.

¹⁰¹ MILENA STERIO, THE RIGHT TO SELF-DETERMINATION UNDER INTERNATIONAL LAW: “SELFISTANS,” SECESSION, AND THE RULE OF THE GREAT POWERS 47 (2013).

¹⁰² *Id.*

truly exceptional circumstances”¹⁰³. Also, these criteria “are found not to prescribe specific rights, powers or liberties which all States must, to be States, possess; rather they are presumptions as to the existence of such rights, powers or liberties. . .”¹⁰⁴.

Lastly, as the *In re Citizenship of X* case demonstrates, “artificially creating the Montevideo factors” is not sufficient for statehood¹⁰⁵. In this case, a British army officer took possession of a former anti-aircraft platform, proclaimed it the “Duchy of Sealand”¹⁰⁶, and designated himself as the “Roy of Sealand”¹⁰⁷. The plaintiff, who was a German citizen by birth and who held the positions of “Foreign Secretary and Chairman of the Council of State of the ‘Duchy’”¹⁰⁸, sought a determination on his citizenship. In this regard, he “was notified that he had not lost his German citizenship because the ‘Duchy of Sealand’ *did not constitute a State within the meaning of international law*”¹⁰⁹. He then challenged this decision arguing that the Duchy of Sealand was, in fact, a state¹¹⁰. The Administrative Court of Cologne did not agree and held that “to constitute a state under international law three essential attributes had to be present: territory, population, and government [and] [t]he Duchy of Sealand lacked at least two of these”¹¹¹.

With respect to territory, the Administrative Court reasoned that the former anti-aircraft platform was “not situated on any fixed point of the surface of the earth. . . . The preponderant view of legal writers is that only a part of the surface of the earth can be regarded as State territory”¹¹². Therefore, the man-made artificial platform (i.e., the “Duchy

¹⁰³ *Id.*

¹⁰⁴ Crawford, *supra* note 96, at 110.

¹⁰⁵ CHRISTOPHER L. BLAKESLEY ET. AL., *THE INTERNATIONAL LEGAL SYSTEM: CASES AND MATERIALS* 188 (2001).

¹⁰⁶ Monroe Leigh, *Judicial Decisions*, 77 AM. J. INT’L L. 144, 160 (1983).

¹⁰⁷ VG, 3 May 1978, 9 K 2565/77, <http://www.uniset.ca/naty/80ILR683.htm>.

¹⁰⁸ *Id.*

¹⁰⁹ *Id.* (emphasis added).

¹¹⁰ *Id.*

¹¹¹ Leigh, *supra* note 106, at 161.

¹¹² VG, 3 May 1978, 9 K 2565/77, <http://www.uniset.ca/naty/80ILR683.htm>.

of Sealand”), “cannot be called either a ‘part of the earth’s surface’ or ‘land territory’ because it does not constitute a segment of the earth’s surface”¹¹³.

With respect to a State’s people, the Administrative Court explained that the State “complements the family . . . and has the duty to promote community life”¹¹⁴. This duty “must be aimed at the maintenance of an essentially permanent form of communal life in the sense of sharing a common destiny”¹¹⁵. The court further reasoned that a community “must play a more decisive role in serving the other vital human needs of people . . . includ[ing] education and professional training, assistance in all the eventualities of life and the provision of subsistence allowances where necessary”¹¹⁶. In the court’s view, the “nationals” of the “Duchy of Sealand” failed to satisfy the population requirement necessary for statehood as well¹¹⁷. As such, this case demonstrates that statehood criteria analysis must be legally and factually based and not based on artificial creations of the law. With these background points in mind, a look at the Montevideo Convention criteria as applied to the TRNC follows.

A. DID THE TRNC POSSESS A PERMANENT POPULATION?

Arguably, there was a permanent population in northern Cyprus and the fact that there were fewer than 100,000 Turkish Cypriots in 1983 would not have changed this¹¹⁸. Some states “exist with rather few inhabitants, e.g., Tuvalu and Nauru (about 12,000 and 10,000 inhabitants, respectively). So far, in no case has statehood been denied on the

¹¹³ *Id.*

¹¹⁴ *Id.*

¹¹⁵ *Id.*

¹¹⁶ *Id.*

¹¹⁷ *Id.*

¹¹⁸ FRANK HOFFMEISTER, LEGAL ASPECTS OF THE CYPRUS PROBLEM: ANNAN PLAN AND EU ACCESSION 50 (2006).

grounds of the small number of people”¹¹⁹. Also, the population “does not have to be homogeneous racially, ethnically, tribally, religiously, linguistically, or otherwise. But, it must be a settled population . . .”¹²⁰, and it should be “more or less stable”¹²¹.

In the instant matter, following Turkey’s 1974 Cyprus intervention, more than 200,000 Greek and Turkish Cypriots were transferred to the north and south of the island respectively which “resulted in the all-but-complete separation of the two rival communities”¹²². “By mid-1975, the bulk of the Turkish Cypriot population scattered throughout Cyprus had been transferred north. . .”¹²³. By 1983, the Turkish Cypriot population was relatively stable. The TRNC, therefore, likely would have satisfied the first Montevideo Convention criterion for statehood.

Despite this reasoning, one could argue that there was not a permanent population in the TRNC because of the questionable way in which the population transfers were handled following Turkey’s 1974 intervention¹²⁴. Greek leaders “regularly complained that the Turkish military intervention in 1974 caused the displacement of 200,000 Greek Cypriots and resulted in 1,600 Greek Cypriot missing”¹²⁵ (though the validity of such numbers has been questioned¹²⁶). Greeks and Greek Cypriots alike claimed that the Turkish intervention “resulted in ethnic cleansing and eventually de facto partition”¹²⁷. None-

¹¹⁹ Ruth Lapidoth, *When Is an Entity Entitled to Statehood?*, 6 ISR. J. FOREIGN AFF. 77, 78 (2012), [http://www.israelcfr.com/documents/6-3/6-3-5-Ruth Lapidoth.pdf](http://www.israelcfr.com/documents/6-3/6-3-5-Ruth%20Lapidoth.pdf).

¹²⁰ ANTHONY AUST, *HANDBOOK OF INTERNATIONAL LAW* 15–16 (2d ed. 2010).

¹²¹ Lapidoth, *supra* note 119, at 78.

¹²² EYAL BENVENISTI, *THE INTERNATIONAL LAW OF OCCUPATION* 192 (2d ed. 2012).

¹²³ ANDREW BOROWIEC, *CYPRUS: A TROUBLED ISLAND* 2 (2000).

¹²⁴ “Both the displacement of Greek Cypriot inhabitants of the area of Cyprus occupied by Turkey and the transfer into this area of Turks from Turkey are acts which are forbidden by” Article 49, par. 6 of the Geneva Conventions. LOUKIS G. LOUCAIDES, *ESSAYS ON THE DEVELOPING LAW OF HUMAN RIGHTS* 118 (1995).

¹²⁵ ADEL SAFTY, *THE CYPRUS QUESTION: DIPLOMACY AND INTERNATIONAL LAW* 246 (2011).

¹²⁶ *Id.*

¹²⁷ Barry Bartmann, *Political Realities and Legal Anomalies: Revisiting the Politics of International Recognition*, in *DE FACTO STATES: THE QUEST FOR SOVEREIGNTY*

theless, the TRNC likely still would have satisfied the first Montevideo Convention criterion for the initial reasons set forth¹²⁸.

B. DID THE TRNC HAVE A DEFINED TERRITORY?

The TRNC likely would have satisfied the second criterion for statehood, which is that the state must have a defined territory. In the *Island of Palmas* case, the Permanent Court of Arbitration noted that, “[t]erritorial sovereignty involves the exclusive right to display the activities of a State”¹²⁹. In another sense, the “potential state has to have

12, 25 (Tozun Bahcheli et al. eds., 2004).

¹²⁸ As a brief aside, the question of implantation of settlers is an ongoing issue for the TRNC, Turkey, and Greece. A December 2013 article, for example, commented that the TRNC “has been accused of artificially increasing the number of TRNC citizens by readily granting citizenship to mainly peasant Turkish mainlanders, thus altering the demographics in the North”. *No repatriation of TRNC citizens: Eroglu*, LGC NEWS (12 Dec. 2013), [http:// www.lgcnews.com/repatriation-trnc-citizens-eroglu/](http://www.lgcnews.com/repatriation-trnc-citizens-eroglu/). Tied to this issue is the issue of repatriation. Though these two issues are beyond the scope of this paper, the following question is included for further discussion:

The question arises, whether the process of Turkish settlement may finally result in *faits accomplis*, which may confer legal rights on the settlers and their recognition as part of the Cypriot population; or alternatively, whether these *faits accomplis* may constitute legal grounds which will prevent compulsory repatriation of the settlers. In this respect it may be argued that the stay of the settlers in Cyprus for a long time, their intermingling with the Cypriot population, the creation by them of families and descendants, possibly also through marriages between them and the local Cypriot population, their settlement in houses and properties and their professional and family stabilization in Cyprus will on humanitarian grounds prevent their expulsion. The argument may also be put forward that the settlers’ stay in Cyprus for many years and the factual situations that such stay entails may result in their acquiring certain human rights that would prevent their expulsion in spite of the fact that their original entry and the continuation of their stay was against the will of the lawful Government of Cyprus and contrary to the Laws of the Republic of Cyprus.

LOUCAIDES, *supra* note 124, at 113.

¹²⁹ *The Island of Palmas* (U.S. v. Neth.), Hague Ct. Rep. 2d (Scott) 83 (Perm. Ct. Arb. 1928), reprinted in *Judicial Decisions Involving Questions of International Law*, 22 AM. J. INT’L L. 867, 867 (1928); Crawford, *supra* note 96, at 111.

a more or less defined area—‘a consistent band of territory’¹³⁰. The size of the territory should not matter¹³¹.

The following three points must also be noted. First, the definitive “establishment of a new State on certain territory defeats claims by other States which relate to the whole of the territory so occupied; and where the claims relate to part only of the territory, makes them dependent for settlement on the consent of the new State”¹³². Second, a new “State may exist despite claims to its territory, just as an existing State continues despite such claims”¹³³. Third, “the State must consist of a certain coherent territory *effectively governed*”¹³⁴.

With respect to the Cyprus matter, if the 1974 Turkish intervention was viewed as illegal, then the resulting self-proclaimed TRNC could similarly be viewed as illegal. One could argue that no “territorial acquisition or special advantages obtained by the illicit use of force” should be recognised as legal¹³⁵. Other states would, therefore, be under a duty not to recognise the TRNC as a state¹³⁶. But this conclusion depends, in part, on the premise that “the Turkish action was illegal, a matter which is less clear than some have admitted. . . .”¹³⁷.

Northern and southern Cyprus is currently divided by the ‘Green Line’ which “was first established in 1964, when Major-General Peter Young was the commander of a ‘peace force,’ a predecessor of the

¹³⁰ Lapidoth, *supra* note 119 (citations omitted).

¹³¹ AUST, *supra* note 120, at 16.

¹³² Crawford, *supra* note 96, at 112 (footnote omitted).

¹³³ *Id.* (footnote omitted).

¹³⁴ *Id.* at 114 (emphasis added).

¹³⁵ Stefan Talmon, *The Duty Not to ‘Recognize as Lawful’ a Situation Created by the Illegal Use of Force or Other Serious Breaches of a Jus Cogens Obligation: An Obligation without Real Substance?*, in *THE FUNDAMENTAL RULES OF THE INTERNATIONAL LEGAL ORDER: JUS COGENS AND OBLIGATIONS ERGA OMNES* 99, 109 (Christian Tomuschat & Jean Marc Thouvenin eds., 2006) (citing U.N. Doc. A/7326, p. 41, para. 111, item 7), <http://users.ox.ac.uk/~sann2029/6.%20Talmon%2099-126.pdf>.

¹³⁶ White, *supra* note 84, at 138.

¹³⁷ *Id.*

present UNFICYP”¹³⁸. Since 1974, “Cyprus has been divided into a Turkish-Cypriot northern region and a Greek-Cypriot southern region. . . . UNFICYP is responsible for [the area] that separates the two sides. . . .”¹³⁹. The zone (i.e., the Green Line), “extends approximately 180 [kilometers] across the island. In some parts of old Nicosia it is only a few meters wide. In other places it is a few kilometers wide. . . . Its northern and southern limits are the lines where the belligerents stood following the ceasefire of 16 August 1974. . . .”¹⁴⁰. “UNFICYP maintains the *status quo* (including innocent civilian activity and the exercise of property rights) without prejudice to an eventual political settlement concerning the disposition of the area”¹⁴¹. Despite several unsuccessful attempts by the UN to resolve such issues within Cyprus¹⁴², UNFICYP essentially became a “*de facto* partition”¹⁴³.

In this regard,

the Turkish Cypriot territorial claim, although not strong from a legal perspective, is based on two main factors. One of them is the belief that since the Greek and Turkish Cypriots cannot live together peacefully, in order to ensure their communal safety, the Turkish Cypriots require a separate territory of their own. The second claim, which is more logical, is that the Turkish Cypriots, although illegitimate and not recognized [by any state except Turkey], have had their own separate territory in the northern part of the island since 1974. Thus, the extent of territory that they control has remained constant for more

¹³⁸ *Green Line - Crossing Points Regulations*, REPUBLIC CYPRUS CUSTOMS & EXCISE DEPT, <http://www.mof.gov.cy/mof/customs/customs.nsf/All/05AEEF243C9BFC8BC22572BF002D0A28?OpenDocument> (last updated 15 Apr. 2014).

¹³⁹ *About the Buffer Zone*, UNITED NATIONS PEACEKEEPING FORCE CYPRUS, <http://unficypr.unmissions.org/about-buffer-zone> (last visited 30 Mar. 2016).

¹⁴⁰ *Id.*

¹⁴¹ CHANDRA & CHANDRA, *supra* note 86, at 286 (emphasis added).

¹⁴² ETAIN TANNAM, *INTERNATIONAL INTERVENTION IN ETHNIC CONFLICT: A COMPARISON OF THE EUROPEAN UNION AND THE UNITED NATIONS* 88 (2014).

¹⁴³ *Id.* (citing OLIVER P. RICHMOND, *MEDIATING IN CYPRUS: THE CYPRIOT COMMUNITIES AND THE UNITED NATIONS* 103 (1998)).

than [40] years now. Similarly, its existence in this sense was recognized with the 1974 Geneva Agreement, signed by the Foreign Ministers of Greece, Turkey and the UK in the period between the two Turkish invasions, which noted the “*existence in practice in the Republic of Cyprus of two autonomous administrations, that of the Greek Cypriot community and that of the Turkish Cypriot community*”¹⁴⁴.

The question then is whether the ‘Green Line’ was a sufficient boundary such that the TRNC would have satisfied the territorial requirement for statehood.

Not surprisingly, each interested party offers a different perspective. Turkey, for example, is the only state to recognise the TRNC¹⁴⁵, and, as such, “has shown continuous support for the autonomous existence of the Turkish Cypriots”¹⁴⁶. In 2002, former Turkish leader Mesut Yılmaz reconfirmed Turkey’s view that “there exist[s] two different nations and two sovereign states in the island. . .”¹⁴⁷. Turkey and the Turkish Cypriots contend that the 1974 Turkish military response was necessary and lawful to protect the Turkish Cypriot community in response to the unstable political climate in both Greece and Cyprus at the time:

From the perspective of the Turkish Cypriot community, the Turkish intervention of 1974, coming after the crisis that erupted in the island, was not an illegal intervention because it is based on Article 4 of the Treaty of Guarantee under

¹⁴⁴ Cansu Akgün, *The Case of TRNC in the Context of Recognition of States Under International Law*, 3 ANKARA BAR REV. 7, 14 (2010), <http://www.ankarabaru.org.tr/siteiler/AnkaraBarReview/tekmakale/2010-1/1.pdf> (emphasis added) (footnotes omitted).

¹⁴⁵ DAVID RAIČ, STATEHOOD AND THE LAW OF SELF-DETERMINATION 122 (2002).

¹⁴⁶ George Kyris, *The European Union, Turkey, and the Cyprus Problem: the Failure of a Catalyst*, in *TURKEY AND THE EUROPEAN UNION: FACING NEW CHALLENGES AND OPPORTUNITIES* 11, 14 (Firat Cengiz & Lars Hoffmann eds., 2013).

¹⁴⁷ *Id.* at 15.

which Turkey, as one of the guarantor powers, had a right and obligation to intervene, reestablish the *status quo* and protect the Turkish Cypriots. Therefore, they argue that the Turkish intervention was in response to prior Greek interventions¹⁴⁸.

The TRNC would likely submit that it had territorial sovereignty in northern Cyprus, at least to the extent necessary to satisfy this aspect of the Montevideo Convention criteria.

Greece, in contrast to the Turkish position, argues that,

as [to] the illegal Turkish invasion in July 1974 and the occupation, since then, of some 37% of the territory of the Republic of Cyprus, it is a classic case of an international problem of the invasion and occupation by foreign forces of territory of a UN and EU member-state, in direct violation of the UN Charter and a plethora of UN Security Council resolutions.

Turkey refuses to withdraw its illegal occupation force from Cyprus; a force which, according to Turkish statements, consist[s] of some 43,000 Turkish troops¹⁴⁹.

The Greek Cypriot view aligns with Greece with respect to the territorial question as evident by the following governmental statement: "The political situation in the occupied area of Cyprus, which is not under the effective control of the Government of the Republic of Cyprus, is dominated by the presence of the Turkish occupation forces, the Turkish mainland settlers and the overwhelming influence of Ankara"¹⁵⁰.

Also, the international community, in 1983, did not and still has

¹⁴⁸ Akgün, *supra* note 144, at 16 (footnote omitted).

¹⁴⁹ *The Cyprus Issue*, HELLENIC REPUBLIC MINISTRY FOREIGN AFF., <http://www.mfa.gr/en/the-cyprus-issue/> (last visited 30 Mar. 2016).

¹⁵⁰ *Political Situation in the Occupied Areas*, MINISTRY FOREIGN AFF. REPUBLIC CYPRUS (Aug. 2007), http://www.mfa.gov.cy/mfa/mfa2006.nsf/cyprus08_en/cyprus08_en?OpenDocument (last updated 11 Feb. 2011).

not recognised the TRNC as an independent state. Nevertheless, since the ‘Green Line’ has acted as a *de facto* partition of the island since at least 1974, the TRNC could have satisfied the second criterion for statehood.

C. DID THE TRNC HAVE AN EFFECTIVE GOVERNMENT?

The TRNC likely would have satisfied the third Montevideo Convention criterion for statehood which is that a state must have an effective government. Interestingly, “international law defines ‘territory’ . . . by reference to the extent of governmental power exercised, or capable of being exercised, with respect to some territory and population”¹⁵¹. The “point about government’ is that it has two aspects: the actual exercise of authority, and the right or title to exercise that authority”¹⁵². Though this second aspect may not have helped the TRNC with respect to satisfying the third criterion, it should not be definitive either, as the analysis seems to focus on a government’s *effectiveness*. Also, “the existence of a system of government, in and referable to, a specific territory indicates without more a certain legal status, and is in general a precondition for statehood. Continuity of government in a territory is one factor determining continuity of the State concerned. . . .”¹⁵³ (to this point, the Palestinian Authority, for example, has lacked actual and consistent rule for decades)¹⁵⁴.

The effectiveness of the TRNC government must, therefore, be examined. As set forth in the TRNC constitution, the government is a “secular republic based on the principles of democracy” and sovereignty is vested in the TRNC citizens¹⁵⁵. The legislative power is vested in the

¹⁵¹ Crawford, *supra* note 96, at 116.

¹⁵² *Id.* at 117.

¹⁵³ *Id.* at 118–19.

¹⁵⁴ Israel retains responsibilities and jurisdiction over Israeli settlements that are within what is widely referred to as “Palestinian territories”, although Israel insists that such territories are “disputed”. Israel retains control over external security. The parties agreed that they still must negotiate Palestinian borders.

¹⁵⁵ Constitution of the Turkish Republic of Northern Cyprus, 5 May 1985, pt. I, arts.

“Assembly of the Republic on behalf of” the TRNC people, executive powers are “carried out and exercised by the President of the Republic and the Council of Ministers . . .”, and the judicial powers are “exercised on behalf of the people of the Turkish Republic of Northern Cyprus by independent courts”¹⁵⁶. Such a framework would seem to indicate that the TRNC government is effective.

[F]rom an internal perspective, the TRNC has a government which in practice is able to exercise effective and exclusive control of its own territory and has a constitution which grants its citizens an extensive range of civil and political liberties. According to Article 1 of the TRNC Constitution, the state is a secular republic based on the principles of democracy and the supremacy of law. In terms of its governing capability, the TRNC clearly meets or exceeds any plausible criteria for effective governance. Although the TRNC officials who are active in the decision-making process consult closely with their Turkish counterparts on a number of matters, and despite the fact that the TRNC has kept adapting economic policies in its history in line with Turkish direction or control in important matters, in broader terms it does maintain effective territorial control of a given area over which it provides governance services and has sovereign authority with democratic structures¹⁵⁷.

However, the extent of Turkish control over the northern portion of the island must also be considered. In 1984, for example, “Turkey provided two-thirds of its budget. Militarily it had full control since 1974, with some 40,000 troops stationed there, while in terms of communication it has been the only route to the outside world for northern Cyprus because of the international boycott of the TRNC”¹⁵⁸.

1, 3, <http://www1.umn.edu/humanrts/research/cyprus-constitution.html>.

¹⁵⁶ *Id.* arts. 4, 5, 6.

¹⁵⁷ Akgün, *supra* note 144, at 14–15 (footnotes omitted).

¹⁵⁸ FARID MIRBAGHERI, *CYPRUS AND INTERNATIONAL PEACEMAKING* 141 (1998)

The *Loizidou* case¹⁵⁹, though a dispute about property rights, offers an insightful discussion about whether Turkey or the TRNC control northern Cyprus. In this case, the Cypriot government (i.e., the Republic of Cyprus) set forth that “Turkey is in effective military and political control of northern Cyprus”¹⁶⁰. In contrast to the Greek Cypriot position, Turkey emphasised that the TRNC

is a democratic and constitutional State which is politically independent of all other sovereign States including Turkey. The administration in northern Cyprus has been set up by the Turkish Cypriot people in the exercise of its right to self-determination and not by Turkey. Moreover, the Turkish forces in northern Cyprus are there for the protection of the Turkish Cypriots and with the consent of the ruling authority of the

(footnote omitted). As recently as 2008, Turkey provided about one-third of the TRNC’s budget. CENT. INTELLIGENCE AGENCY, *THE CIA WORLD FACTBOOK 2010* 184 (2009). Though this would indicate that Turkey now has less control over the TRNC’s budget, control in this context (i.e., whether an entity has an effective government) is determined at the initial stage when an entity is seeking to be recognised as a state. With respect to current troop levels, as recently as December 2015, about 35,000 Turkish troops were stationed on the island. Ben Wright, *Cyprus May Be Small, But Its Reunification Could Have Huge Global Ramifications*, *THE TELEGRAPH* (Dec. 14, 2015), <http://www.telegraph.co.uk/finance/economics/12050149/Cyprus-may-be-small-but-its-reunification-could-have-huge-global-ramifications.html>.

¹⁵⁹ *Loizidou v. Turkey*, 1996-VI Eur. Ct. H.R. 2216, <http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-58007>. The applicant, Mrs Titina Loizidou, was a Cypriot national. *Id.* at para. 11. She grew up in Kyrenia in northern Cyprus, where she claimed to own certain plots of land. *Id.* at paras. 11–12. In 1972, she got married and moved to Nicosia. *Id.* at para. 11. She also claimed that she was no longer able to return to her property due to the Turkish forces on the island following the 1974 Turkish intervention. *Id.* at para. 12. According to the Turkish Government, she had lost ownership on or about 7 May 1985 as a result of the operation of Article 159 of the TRNC Constitution. *Id.* at para. 18, 30. The Court held that because the international community does not regard the TRNC as a State under international law, the Court could not “attribute legal validity for purposes of the Convention to such provisions as Article 159” of the TRNC Constitution. *Id.* at paras. 36, 44. Therefore, Mrs Loizidou could not be “deemed to have lost title to her property as a result of Article 159 . . .”. *Id.* at para. 46.

¹⁶⁰ *Id.* at para. 50; see also OLIVIER DE SCHUTTER, *INTERNATIONAL HUMAN RIGHTS LAW: CASES, MATERIALS, COMMENTARY* 151 (2d ed., 2014).

“TRNC”. Neither the Turkish forces nor the Turkish government in any way exercise governmental authority in northern Cyprus. Furthermore, in assessing the independence of the “TRNC” it must also be borne in mind that there are political parties as well as democratic elections in northern Cyprus and that the Constitution was drafted by a constituent assembly and adopted by way of referendum¹⁶¹.

The European Court of Human Rights, the court before which the *Loizidou* case was brought, ultimately decided that the property at issue in northern Cyprus was a matter which fell “within Turkey’s ‘jurisdiction’”¹⁶². Though the facts and outcome of this case exceed the scope of this paper, the arguments presented, particularly by Turkey, are worth considering with respect to whether the TRNC had an effective government.

Despite the question of the TRNC’s right to exercise its authority, and despite the *Loizidou* court’s decision, the TRNC, arguably, would have satisfied the third Montevideo Convention criterion for statehood since the TRNC had an operational constitution and a functioning and *effective* government.

D. DID THE TRNC HAVE THE CAPACITY TO ENTER RELATIONS WITH OTHER STATES?

The TRNC would not have satisfied the fourth criterion for statehood as the following discussion will show. With respect to the capacity to enter relations with other states, capacity “depends partly

¹⁶¹ *Loizidou v. Turkey*, 1996-VI Eur. Ct. H.R. 2216, at para. 51.

¹⁶² *Id.* at para. 57.

It is obvious from the large number of troops engaged in active duties in northern Cyprus . . . that her army exercises effective overall control over that part of the island. Such control, according to the relevant test and in the circumstances of the case, entails her responsibility for the policies and actions of the “TRNC”. . . .

Id. at para. 56.

on the power of internal government of a territory, without which international obligations may not be carried into effect, and partly on the entity concerned being separate for the purpose of international relations so that no other entity both carries out and accepts responsibility for them”¹⁶³.

Turkey’s relationship with the TRNC will be addressed first. Turkey is the only state that recognises the TRNC’s sovereignty¹⁶⁴, and, as such, “is with no doubt the most important supporter of the TRNC in every field. . .”¹⁶⁵. For example,

[t]he Embassy of the Republic of Turkey in Lefkoşa and the Embassy of the TRNC in Ankara, together with its Consulate-General in İstanbul and the Consulates in İzmir and Mersin undertake the usual diplomatic and bureaucratic relations of their countries. . . .

Many protocols have been signed between the TRNC and the Republic of Turkey to regulate the existing trade and economic relations. The Trade and Payment Protocol was the first to be signed among these documents in 1975. This Protocol was signed with the aim of strengthening [sic] the economic and trade relations between the two countries. The Protocol also aimed at solving the import and export problems faced by the TRNC in cooperation with Turkey. . . .

In 1997, the formation of a Partnership Council between the TRNC and Turkey on economic and financial matters was decided. The Council also aimed to work on cooperation in the fields of security, defence and foreign policy¹⁶⁶.

¹⁶³ JAMES R. CRAWFORD, *THE CREATION OF STATES IN INTERNATIONAL LAW* 62 (2007).

¹⁶⁴ RAIČ, *supra* note 145, at 25.

¹⁶⁵ *Relations with Turkey*, TURKISH REPUBLIC N. CYPRUS MINISTRY FOREIGN AFF., <http://mfa.gov.ct.tr/foreign-policy/relations-with-turkey/> (last visited 30 Mar. 2016).

¹⁶⁶ *Id.*

Therefore, the TRNC had the capacity to and does, in fact, engage in international relations with Turkey.

Britain's relationship with the TRNC is not nearly as strong.

One may take into account that the British Government in parliamentary statements regularly refers to 'Turkish Cypriot authorities'. The British Government's opinion on the legal status of the Turkish Cypriot authorities may also be manifested in the nature of the relations with these authorities. For example, . . . [t]he British Government has presented claims for compensating for loss and damage suffered by British citizens during the fighting in 1974 to the Turkish Cypriot authorities, has maintained a general informal dialogue with them through the British High Commission in Nicosia, and has maintained a 'residual presence' of the British High Commission in the Turkish sector of Nicosia. . . . On the other hand, the British Government does not recognize travel documents issued by the Turkish Cypriot authorities and does not endorse them with entrance clearances¹⁶⁷.

Such acts are likely not sufficient to conclude that the TRNC and the British engage in foreign relations.

The TRNC's *inability* to engage in foreign relations is more pronounced with respect to most other states.

States regard northern Cyprus as either a territory occupied by Turkey and/or a territory under the control of a Turkish Cypriot local *de facto* government. As a consequence of the nonrecognition of their state, Turkish Cypriots are to a large extent politically and economically isolated. There are no direct flight connections or postal links with northern Cyprus,

¹⁶⁷ STEFAN TALMON, RECOGNITION OF GOVERNMENTS IN INTERNATIONAL LAW: WITH PARTICULAR REFERENCE TO GOVERNMENTS IN EXILE 31–32 (1998) (citations omitted).

Turkish Cypriots are banned from taking part in international sporting events, they are denied access to the international financial markets, they cannot export agricultural products to the European Union and even some divorce decrees by Turkish Cypriot courts are not recognised¹⁶⁸.

Moreover, the TRNC's Foreign Ministry

is a relatively unimportant ministry, primarily because the TRNC lacks international recognition. Likewise, its various 'diplomatic missions' abroad are of limited value. In fact, many of the TRNC 'embassies' are registered as companies, and 'diplomats' are often provided temporary business related visas by host countries. . . . The Foreign Ministry was also sidelined because the Cyprus Problem has been formally negotiated through the President's office. Thus, the ministry does not play an autonomous role in policy development or implementation¹⁶⁹.

Clearly, the TRNC's capacity to engage in international relations has been stifled by most states.

Also, three days after the Turkish Cypriots unanimously proclaimed the TRNC to be an independent state, the UNSC adopted Resolution 541, which stated that "the attempt to create a 'Turkish Republic of Northern Cyprus' [was] invalid"¹⁷⁰. In May of 1984, in UNSC Resolution 550, the Council repeated its earlier call in Resolution 541 for all states not to recognise the "purported State of the

¹⁶⁸ Stefan Talmon, *Air Traffic with Non-Recognised States: the Case of Northern Cyprus*, U. OXFORD, 1 http://users.ox.ac.uk/~sann2029/FCO_Paper%20by%20Dr%20Stefan%20Talmon.pdf (citation omitted) (last visited 30 Mar. 2016).

¹⁶⁹ Erol Kaymak, *The Development of Turkish Cypriot Politics, in THE GOVERNMENT AND POLITICS OF CYPRUS* 231, 239 (James Ker-Lindsay & Hubert Faustmann eds., 2008) (footnotes omitted).

¹⁷⁰ S.C. Res. 541, U.N. SCOR, 38th Year, U.N. Doc. S/INF/39, at 15–16 (18 Nov. 1983), [http://www.un.org/en/ga/search/view_doc.asp?symbol=S/RES/541\(1983\)](http://www.un.org/en/ga/search/view_doc.asp?symbol=S/RES/541(1983)).

Turkish Republic of Northern Cyprus”¹⁷¹. In addition to such UN resolutions, the independence of the TRNC was “rejected by the Committee of Ministers of the Council of Europe, the European Communities, and the Commonwealth Heads of Government”¹⁷². From a practical view, therefore, the TRNC’s ability to engage in international relations was virtually non-existent. As such, the TRNC would have failed to satisfy the fourth Montevideo criterion for statehood.

CONCLUSION

In the twentieth century, extensive political changes occurred, altering the territorial landscape in various parts of the world. Turkey’s relationship with Cyprus and Greece demonstrates how these changes are difficult to navigate. Despite such challenges, President Erdoğan’s recent victory in Turkey and the island’s current unification efforts, led by Nicos Anastasiades, President of the Greek Cypriot community, and Mustafa Akinci, President of the Turkish Cypriot community, suggest that the north and south may be closer to settling these matters¹⁷³.

The way in which the Greek Cypriots are responding to Greece’s fi-

¹⁷¹ RAIČ, *supra* note 145, at 124; see S.C. Res. 550, para. 3, U.N. SCOR, 39th Year, U.N. Doc. S/INF/40, at 12–13 (11 May 1984), [http://www.un.org/en/ga/search/view_doc.asp?symbol=S/RES/550\(1984\)](http://www.un.org/en/ga/search/view_doc.asp?symbol=S/RES/550(1984)).

¹⁷² RAIČ, *supra* note 145, at 124–25 (footnotes omitted).

¹⁷³ Though President Erdoğan may be considered authoritarian, his recent victory could benefit Cyprus since he has “repeatedly spoken of the need for a solution, expressing frustration over Turkish Cypriots’ secular ways and the cost of bankrolling their mini-state”. Helena Smith, *Time for Cyprus’s Reunification Has Come – But Erdogan Holds the Key*, GUARDIAN (30 Oct. 2015, 7:16 AM), <http://www.theguardian.com/world/2015/oct/30/cyprus-reunification-erdogan-economic-gains-settlement-election-turkey>. Moreover, because of Nicos Anastasiades, President of the Greek Cypriot community, and Mustafa Akinci, President of the Turkish Cypriot community, “Cyprus has politicians determined to end its ethnic partition”. *Id.* The two sides have made progress, for example, “on how to share power in a future decentralized Cypriot state, on the nature of its legislative and judicial institutions and on the political equality of the two communities. . .”. See also Tony Barber, *Cyprus: Crossing the Divide*, Financial Times (25 Jan. 2016, 7:09 PM), <http://www.ft.com/cms/s/0/083fa076-bf91-11e5-846f-79b0e3d20eaf.html#axzz42zYyqXfx>.

nancial problems may also demonstrate that Cyprus is learning from its past, at least regarding financial matters. “In early 2013, Cyprus’s massively unbalanced banking sector collapsed, as foreign capital fled and left much of the financial sector insolvent. . . . In March 2013, Cyprus received a \$13 billion bailout that required the country’s largest bank, Laiki, to close, forcing heavy losses on wealthy depositors”¹⁷⁴. Cyprus, though, “has been largely diligent in implementing reforms required in return for an international bailout it received in 2013”, and “wants to reverse a perception that the two countries [Cyprus and Greece] are inextricably linked. . .”¹⁷⁵.

The TRNC is still navigating through challenging waters. As explained herein, in 1983, the TRNC would not have satisfied all four Montevideo Convention criteria necessary for statehood. With respect to a permanent population, there was a permanent population in northern Cyprus when the TRNC was declared due to the island’s partition following the 1974 Turkish intervention. With respect to a defined territory, since the ‘Green Line’ has acted as a *de facto* partition of the island since 1974, the TRNC likely would have satisfied the second criterion for statehood. With respect to a government, the TRNC did have a government which operated effectively. Finally, though the TRNC may have had the *capacity* to enter relations with other states, the reality was that all states, other than Turkey, would not engage the TRNC. As such, the fourth criterion for statehood would not have been satisfied.

Currently, the TRNC is entangled in the Syrian refugee crisis and has been affected by fallout from the Arab Spring, as well.

¹⁷⁴ Christopher Alessi & James McBride, *The Eurozone in Crisis*, COUNCIL ON FOREIGN REL. (11 Feb. 2015), <http://www.cfr.org/eu/eurozone-crisis/p22055>.

¹⁷⁵ John O’Donnell & Michele Kambas, *Cyprus Seeks Distance from Greek Euro Drama*, REUTERS (11 Mar. 2015), <http://www.reuters.com/article/eurozone-greece-cyprus-idUSL5N0WC44Q20150311>; see also Holly Ellyatt, *That Was Quick! Cyprus Exits Bailout with Cash to Spare*, CNBC (8 Mar. 2016, 1:51 AM), <http://www.cnbc.com/2016/03/08/that-was-quick-cyprus-exits-bailout-with-cash-to-spare.html>.

While Lebanon and Turkey are often cited as nations hosting the maximum number of Syrian refugees from the ongoing civil war there, followed by Jordan, Iraq and Egypt in that order; the Turkish Republic of Northern Cyprus is playing a significant role in their transit to safety. . . . Northern Cyprus has also been hit hard by the widespread violence in the region from Libya to Iraq in the aftermath of the so-called Arab Spring and the advent of the Islamic State extremist group¹⁷⁶.

In sum, both internationally recognised and aspiring states face challenges that require a delicate balance between their self-interests and international engagement. In light of the foregoing, when one considers other states and entities struggling to resolve similar statehood issues, the Montevideo Convention criteria as applied to the TRNC offers a unique perspective and sheds light on this complex and fact-driven issue.

¹⁷⁶ Abhishek G. Bhaya, *Mideast Violence, Refugee Crisis Take a Toll on Northern Cyprus*, TURKISH REPUBLIC OF NORTHERN CYPRUS: MINISTRY OF FOREIGN AFF. (4 Mar. 2015), <http://mfa.gov.ct.tr/mideast-violence-refugee-crisis-take-a-toll-on-northern-cyprus-2/>. The TRNC is working closely with the United Nations High Commissioner for Refugees “to provide the necessary facilitation to the refugees who apply to seek refuge” there. *Regarding the Refugee Issue*, TURKISH REPUBLIC OF NORTHERN CYPRUS: MINISTRY OF FOREIGN AFF. (22 Sept. 2015), <http://mfa.gov.ct.tr/press-statement-on-the-refugee-issue/>.