



Cypriot constitution and it's main characteristics

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INTRODUCTION

The case of the Cypriot constitution is a typical example of constitutional design involving deeply divided societies. Deeply divided societies are those in which ethnic, religious, or linguistic identities dominate political identity, with the result a political conflict is determined not by political divisions between political subjects but by the subject's integration in a group with ethnic, linguistic, or religious characteristics. The existence of different ethnic, religious, or linguistic identities does not automatically make a political entity a divided society. A typical example is the United States of America. For a state to be considered divided such identities must be the determining factor in the political mobilization and identity formation of the politically active agents (political parties, trade unions, political associations).

The Establishment of a Constitution

The establishment of a constitution in a divided society serves a dual function. The constitution creates institutions and procedures that allow or prevent decision-making by the organs of the state like any other constitution (regulatory function). However, in the constitution of deeply divided society this dimension serves a different logic than in the constitutions of entities that are not considered as divided. While in the constitutions of non-divided societies the permissive and deterrent rules of decision-making are intended to prevent excesses/abuses of the organs of one power by organs of the other, in the constitutions of divided societies the purpose of the corresponding rules is to prevent excesses/abuses of the state organs controlled by one community at the expense of

the organs controlled by the other communities. Namely, the purpose is to prevent the majority community from exploiting its demographically dominant position to dominate the other communities politically. At the same time, it must also perform a constitutive function. It creates the conditions for the development of a political identity which by surpassing individual ethnic, linguistic or religious identities makes the constitutional order that has been created to operate smoothly.

The constitution of these states must contribute both to the legitimacy and the stability of the constitutional order. Usually the constitutions of deeply divided societies are the result of negotiations after war or civil conflict and aim to promote the stability and durability of state institutions by negotiating for the distribution of power between the formerly belligerent communities. The negotiations that are made and reflected in the constitution are intended to prevent an abusive use of majority rule that would make the minority communities "hostage" to the disposition of the demographically dominant community. In these states there is a lack of trust between the communities which makes ineffective conflict resolution mechanisms that are charged with the duty to create conditions of trust towards the institutions and perform this role in non-divided states with relative success as to achieve conditions of stability, such as the courts. In deeply divided societies individual self-determination is synonymous with collective self-determination of the group to which one belongs. Without achieving collective self-determination and its accompanying guarantees (arrangements for the distribution of political power), the achievement of individual self-determination is impossible. The collective dimension of self-determination is a concept which attributes to communities an intrinsic value separate

from the individuals who make them up and therefore considers communities as actors with a distinct status, which requires the protection not only of their members but of communities themselves as a whole from the arbitrary acts of political power framework for resolving conflicts by reference to claims of a universal nature.

CONCLUSION

The constitutional model of the Cypriot state under the 1960 Constitution is the bi-communal model of full power sharing between the two communities (Greek and Turkish Cypriots). A characteristic of the Cyprus Constitution is the complete absence of the concept of people from its text. The citizens of Cyprus are not members of the Cypriot people, but members of two separate communities to which they belong on the basis of certain criteria, such as origin, language, cultural traditions and religion. It should be noted that citizens who could not join one of the two communities according to the above criteria were invited to choose individually which community they would join. This dual structure was also followed in determining the bodies exercising the executive function (President from the Greek community, Vice-President from the Turkish community) and their powers were distinguished

between those exercised jointly and those exercised exclusively by each of them individually (see Articles 47-49 Constitution). As regards the Council of Ministers, its composition is determined by a specific ratio between the Ministers belonging to the two groups (7:3). This dual structure is also evident in the legislative function, as Greek Cypriot MPs are elected only by members of the Greek community, while Turkish Cypriot MPs are elected only by members of the Turkish community. Similar provisions are contained in the Constitution with regard to the composition of other basic organs of the state, such as the Supreme and Constitutional Courts, the staffing of the positions of the Attorney General, the Auditor General, the Governor of the Central Bank and their assistants. In all cases it is provided that the assistants must belong to a different community from that to which the head belongs. This is a model of constitutional state structure which takes the identities of the two communities for granted and is limited to a conciliatory distribution of power between the two groups to ensure stability. However, It does not provide the means to transcend these identities. The constitutive function of the constitution remains "incomplete" and does not contribute to the formation of a new common identity.