13 Points (30 November 1963)

An Introduction

The constitutional structure of the Republic of Cyprus which resulted from the 1960 Zurich and London Agreements suffered from fundamental defects which impeded the smooth functioning of the State.

The fact that the Constitution did not emanate from the free will of the Cyprus people but was imposed upon them by virtue of the agreements was at the origin of feelings of discontent among Cypriots. Moreover many of the constitutional provisions conflicted with international law e.g. the fact that the Constitution could not be amended, rendering the Republic of Cyprus subject to the will of the guarantor powers and depriving it of the fundamental requirements of the state such as internal independence and territorial supremacy.

Other provisions promoting communal segregation prevented the smooth functioning and development of the country and created permanent sources of friction between Greek and Turkish Cypriots.

The ratio of participation in the public service attaining 30 per cent for the Turkish Cypriot community (which represented 18 per cent of the population) constituted one of the causes of discontent for Greek Cypriots as it offended the international accepted principle of the right of everyone of equal access to the public service of his country.

The constitutional provision relating to separate majorities for the enactment of certain laws in the House of Representatives was another source of serious problems affecting the smooth functioning of the state which was left without any taxation legislation for several months.

Another element that created problems was the right of final veto accorded to the President and the Vice-President of the Republic against any law or decision both in the House of Representatives and the Council of Ministers.

Faced with this complex situation, the President of the Republic Archbishop Makarios III, by his letter of 30 November 1963 to the Vice President, suggested a series of

measures to facilitate the smooth functioning of the State and remove certain causes of intercommunal friction.

In his proposed amendments, President Makarios attempted to abolish the dividing elements of the Constitutions that kept Greek and Turkish Cypriots apart, fostering conflict and intolerance and replace them with provisions that would promote the well-being of the people of Cyprus as a whole.

The thirteen points set forth by President Makarios in his letter provided, inter alia, for the abolishment of the President's and Vice President's right of veto (Point 1), and for the election of both the Greek President of the House of Representatives and its Turkish Vice-President by the House as a whole and not by separate majorities (Point 3). They also provided for the establishment of unified municipalities and for the unification of the administration of justice (Point 6). Other points were the following, The numerical strength of the Security Forces and of the Defence Forces should be determined by a Law (Point 9), and, The proportion of Greek and Turkish Cypriots in the composition of the Public Service should be modified in proportion to the ratio of the population of Greek and Turkish Cypriots (Point 10).

The Turkish Government immediately rejected the proposals before the Turkish Cypriot community had commented on them.

A few weeks later, on 21st December 1963 intercommunal fighting broke out.

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SUGGESTED MEASURES FOR FACILITATING THE SMOOTH FUNCTIONING OF THE STATE AND FOR THE REMOVAL OF CERTAIN CAUSES OF INTER- COMMUNAL FRICTION (1963)

The Constitution of the Republic of Cyprus, in its present form, creates many difficulties in the smooth government of the State and impedes the development and progress of the country. It contains many sui generis provisions conflicting with internationally accepted democratic principles and creates sources of friction between Greek and Turkish Cypriots.

At the Conference at Lancaster House in February, 1959, which I was invited to attend as leader of the Greek Cypriots, I raised a number of objections and expressed strong misgivings regarding certain provisions of the Agreement arrived at in Zurich between the Greek and the Turkish Governments and adopted by the British Government. I tried

very hard to bring about the change of at least some provisions of that Agreement. I failed, however, in that effort and I was faced with the dilemma either of signing the Agreement as it stood or of rejecting it with all the grave consequences which would have ensued. In the circumstances I had no alternative but to sign the Agreement. This was the course dictated to me by necessity.

The three years' experience since the coming into operation of the Constitution, which was based on the Zurich and London Agreements, has made clear the necessity for revision of at least some of those provisions which impede the smooth functioning and development of the State.

I believe that the intention of those who drew up the Agreement at Zurich was to create an independent State, in which the interests of the Turkish Community were safeguarded, but it could not have been their intention that the smooth functioning and development of the country should be prejudiced or thwarted, as has in fact been the case.

One of the consequences of the difficulties created by certain constitutional provisions is to prevent the Greeks and Turks of Cyprus from co-operating in a spirit of understanding and friendship, to undermine the relations between them and cause them to draw further apart instead of closer together, to the detriment of the wellbeing of the people of Cyprus as a whole.

This situation causes me, as President of the State, great concern. It is necessary to resolve certain of the difficulties by the removal of some at least of the obstacles to the smooth functioning and development of the State.

With this end in view I have outlined below the immediate measures which I propose to be taken.

- **Point 1. The right of veto of the President and the Vice-President of the Republic to be abandoned**

  The right of veto given under the Constitution of the Republic to the President and the Vice-President can be exercised separately by each one of them against:-

  (a) laws or decisions of the House of Representatives concerning foreign affairs, defence and security; and

  (b) decisions of the Council of Ministers concerning foreign affairs, defence and security.

  It is a right of final veto and, therefore, different from any other measure provided in certain Constitutions whereby the President of the country has a right of limited veto in the sense that he is entitled not to promulgate a law immediately, but to return it for

reconsideration. Provisions for the return of laws and decisions for reconsideration exist in the Cyprus Constitution independently from the provision of final veto.

The Constitution of Cyprus has been based on the doctrine of separation of powers between the Executive and the Legislature. The balance between them must be carefully maintained and friction avoided, if it is to work. The right of veto cuts right across the principles involved and could bring the President and Vice-President into direct conflict with the Legislature.

The exercise of the right of veto is a negative power in the sense that it does not enable the President or the Vice-President to take decisions, but it gives them the power to prevent a decision of the Council of Ministers or of the House of Representatives, on matters of foreign policy, defence or security, from taking effect. It is obvious that it cannot be considered as a power which affords the President or the Vice-President the opportunity to deal with an existing situation in a constructive manner.

More difficulties are encountered because of the fact that the right of veto is not vested only in one person but in two persons, the President and the Vice-President of the Republic, thus increasing the occasions when a deadlock may occur. An example in point is the use of the veto by the Vice-President on the subject of the composition of the units of the Army of the Republic.

Under the Constitution the Army of the Republic must consist of 60% Greeks and 40% Turks. The Council of Ministers, by majority, decided that the organizational structure of the Army should be based throughout on mixed units comprising both Greeks and Turks. The Vice-President, who wanted the structure to be based on separate units of Greeks and Turks, exercised his right of veto against the above decision of the Council, with the result that there is no decision on this matter and the Army has remained ineffective.

In the case of the Army, no great harm has resulted, since it is doubtful whether the Republic can really afford its expansion to 2,000 men at present and cope simultaneously with the heavy financial burdens of economic development and expansion of educational and social services. But it is easy to envisage situations where exercise of the veto could result in more far-reaching and damaging repercussions.

Therefore, the right of veto should be abandoned and reliance placed instead on the provisions for the return of laws and decisions for reconsideration, and the various other relevant safeguards.

- **Point 2. The Vice-President of the Republic to deputise for the President of the Republic in case of his temporary absence or incapacity to perform his duties**

Under the provisions of the Constitution, the Vice-President of the Republic does not deputise for the President in the event of his absence or incapacity to act, but the President of the House of Representatives does so instead.

This provision creates the impression that a person belonging to the Turkish community and elected by it cannot deputise in a post the nature of which bears responsibility to Cyprus as a whole. It produces a situation whereby, in the absence of the President of the Republic, the Vice-President is overlooked and the President of the House of Representatives steps above him.

The practical effect of this is that it hinders the continuity of the smooth functioning of the executive power. The Vice-President of the Republic is a member of the Executive, he participates in the deliberations of the Council of Ministers, he knows the reasons and background of decisions taken and, is, therefore, in a much better position to continue with the implementation of such decisions than the President of the House of Representatives, who is not a member of the Executive, and on whom the burden of acting as Head of the Executive is suddenly thrust.

It is for the above reasons that the Vice-President should deputise for the President of the Republic during his temporary absence or incapacity to perform his duties.

As a result of the new status of the Vice-President certain consequential or relative amendments have to be made.

- **Point 3. The Greek President of the House of Representatives and the 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.**

Under the provisions of the Constitution the President of the House of Representatives, who must be a Greek, is elected by the Greek Members of the House and the Vice-President, who must be a Turk, is elected by the Turkish Members. Further, the Turkish Vice-President cannot deputise for the President in case of his temporary absence or incapacity.

The function of the President of the House, who presides over the entire Assembly, is one which bears responsibility to the House as a whole and not to a particular section of it. It is, therefore, improper that the election of the President of the House should be carried out by the Greek Members only. As far as can be ascertained there is no

other Constitution where the President of the Legislative Assembly is elected by one section of the Assembly.

The participation of Representatives of both communities in electing the President of the House will also create conditions which will gradually train the two communities to co-operate in electing persons to political officers. It will lead both Greek and Turkish Representatives to closer contact with the office of the President of the House and will facilitate the solution of problems which arise in considering legislative measures.

For the same reasons the Vice-President of the House should be elected by the House as a whole and not by the Turkish Members only.

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

Under the provisions of the Constitution the Vice-President of the House cannot deputise for the President of the House of Representatives. In case of temporary absence or incapacity of the President of the House his duties are entrusted to the eldest Greek Representative or to such Greek Member of the House as the Greek Members may decide. In the case of the Vice-President his duties are performed by the eldest Turkish Representative or by such other Turkish Member as the Turkish Members may decide.

The fact that the Vice-President never presides over the House and never deputises for the President creates a situation whereby neither does he feel that he owes responsibility to the whole House nor do the Greek Members feel that they owe any duty or responsibility towards the Vice-President.

Apart from the fact that this provision of the Constitution tends to show that the Vice-President is a figure Vice-Head it also affects the smooth functioning of the House. It may occur that the eldest Greek or Turkish Member is not the right person to perform the duties of President or Vice-President of the House. If, on the other hand, the Greek or the Turkish Members of the House nominate other Greek and Turkish Representatives to act as President and Vice-President, respectively, by decisions taken on each occasion, there will be no experienced Acting President or Vice-President to take over at a given time.

Finally, in view of the non-existence of a permanent Vice-President of the House entitled to deputise for the President, there is no one familiar with the work involved either in regard to the political aspect of the functions of the President or to the duties connected with the administration of the House.

- **Point 5. The constitutional provisions regarding separate majorities for enactment of certain laws by the House of Representatives to be abolished.**

The Constitution provides that any law imposing taxation and any law relating to Municipalities and any modification of the Electoral Law requires separate majorities of the Greek and Turkish Members of the House of Representatives taking part in the vote.

This provision is obviously contrary to all democratic principles. Its effect is that, though a Bill may be unanimously approved by the Council of Ministers and though it may receive the overwhelming majority of votes in the House of Representatives, nevertheless it is defeated if it does not receive the separate majority of the Greek or Turkish Representatives taking part in the vote.

The House of Representatives consists of 35 Greek Members and 15 Turkish Members. If, for example, 35 Greek Members and 7 Turkish Members vote in favour of a Bill, i.e. the Bill receives a total of 42 votes in favour, it can be defeated by 8 Turkish votes. Even 2 Turkish Representatives can defeat a Bill if only 3 Turkish Representatives take part in the vote.

This provision obstructs the enactment of vital legislation, generally, and impedes the development of the country. In particular, it has already caused serious adverse effects on the State by preventing or delaying the enactment of taxation legislation. Thus, on one occasion, by the exercise of the right of separate majorities, the State remained completely without taxation legislation for several months.

When, subsequently, an Income Tax Bill was introduced to the House the Turkish Representatives again used their right of separate majority to defeat the Bill, with the result that the State remained without an Income Tax Law.

In an attempt to minimize the grave consequences of the situation thus created, an unorthodox system has been devised whereby one Income Tax Law was enacted by the House imposing taxation on non-citizens of the Republic and two separate Income Tax Laws were enacted by the Greek and Turkish Communal Chambers imposing a form of income tax on Greeks and Turks respectively. Thus, the Republic has three income tax systems, which cause administrative dislocation and give rise to a multitude of legal contentions. Further, in view of the fact that the Government has no control over the Communal Chambers, any amendment may at any time be made by the respective Communal Chamber in its income tax legislation, thereby creating incalculable difficulties for assessment purposes. The existence of three separately controlled tax systems requires separate accounting; the consequent slow rate of assessment and collection of the income taxes encourages tax evasion to a level unknown before in Cyprus.

Past experience has shown that the right of separate majorities was not exercised by the Turkish Representatives because of disagreement with provisions of the taxation legislation before the House. The Turkish Members used this right against taxation Bills neither because they disagreed with their provisions nor because such Bills were discriminatory against their community, but for matters unconnected with taxation legislation.

A further difficulty in the enactment of taxation legislation, arising out of the separate majorities provisions, is demonstrated by the fact that such legislation submitted to the House requires months of frustrating negotiations.

Even if one assumes that in the future a more prudent use will be made of the right of separate majorities, the application of this procedure will always cause serious difficulties. It may well make it impossible for the Government to effect proper development of the direct taxes as revenue procedure and also as unified instruments of social and economic policy. No Government is able to carry out a programme of development unless it can also plan and control its resources.

There is no justification at all for the provision of separate majorities. If such provision were intended as a safeguard against discriminatory legislation, then it is completely unnecessary because there are other provisions in the Constitution affording adequate safeguards and remedy. Any legislation which is discriminatory can be challenged before the Constitutional Court by the Vice-President of the Republic. Furthermore, Article 6 of the Constitution provides that no law or decision of the House of Representatives shall discriminate against any of the two communities or any person as a person or as a member of a community. Any citizen has a right given to him by the Constitution to challenge any law or decision which discriminates in such a manner as to affect his interests directly.

- **Point 6. Unified Municipalities to be established.**

The Constitution provides that separate Municipalities shall be created in the five main towns of the Republic.

Not only does this provision not serve any useful purpose but it has also proved to be unworkable.

The impossibility of finding a way to define geographical areas and create separate Municipalities, based on communal criteria, is due to the fact that never before did the Greek and Turkish Cypriots contemplate living in separate areas.

A factual examination will show that there are many areas in which Greeks and Turks live side by side and that the ownership of property by the two communities does not follow the pattern of communal areas. This fact is clearly apparent from the proposed

principles formulated by the Vice-President of the Republic for determining which streets will fall within the Greek Municipality and which will fall within the Turkish Municipality. The Vice-President proposed that:

"The frontage of all property abutting on any street will be measured and if the total length of the frontage of the property belonging to the members of the Greek community in that street is greater, then that street will be included in the sector of the Greek Municipality. The same principle will apply in the case of a street where the total length of the frontage of the property belonging to the members of the Turkish community is greater."

It should be observed that by this proposal, the Vice-President has tried to find a solution by distinguishing ownership of property on the basis of communal criteria without taking into consideration the occupants of such property. It is an undisputed fact that there are many properties belonging to Turks which have Greek tenants and vice versa. Many streets abutting on or leading into each other will fall in the area of one or the other Municipality and thus the resulting two municipal areas will not have any territorial cohesion. This fact alone demonstrates the impracticability of the division of the town into separate areas on the basis of communal criteria.

Apart, however, from the fact that geographical separation is not feasible, the separation of Municipalities will be financially detrimental to the townsmen. There would be duplication of municipal services and the cost of their running might become so prohibitive as to render their proper functioning almost impossible.

The impossibility of agreeing on the separate areas became apparent during the year-long deliberations of the Constitutional Commission. In view of the inability of the Constitutional Commission to reach agreement on this point, the responsibility was transferred to the President and the Vice-President of the Republic by the insertion of Article 177 of the Constitution, whereby the President and the Vice-President were empowered to define boundaries of the areas of each Municipality. Owing to the above difficulties, however, they failed to reach an agreement on the determination of the boundaries.

Under the provision of Article 173.1 of the Constitution the President and the Vice-President of the Republic have a duty, within a period of four years from the date of the coming into operation of the Constitution, to examine the question whether or not the separation of the Municipalities in the five main towns shall continue.

It is obvious that the reason why this provision was inserted was that, even at the time when the Zurich Agreement was drafted, doubts were entertained as to the desirability or practicability of such an arrangement and it was, therefore, thought necessary to give the President and the Vice-President power to reconsider the position within a specified period from the date of Independence.

If it were put forward that the separation of the Municipalities in the five main towns was provided for in order to protect the Turkish inhabitants of such towns against any discrimination, other safeguards may be provided in this respect, such as:-

(a) the municipal council in each of the five main towns should consist of Greek and Turkish councillors in proportion to the number of the Greek and Turkish inhabitants of such town by whom they shall be elected respectively;

(b) there should be earmarked in the annual budget of each such town, after deducting any expenditure for common services, a sum proportionate to the ratio of the Turkish population of such town. This sum should be disposed of for municipal purposes recommended by the Turkish councillors.

- **Point 7. The administration of Justice to be unified.**

The Constitution separates the administration of Justice on the basis of communal criteria by providing that in all cases, civil and criminal, a Greek must be tried by a Greek Judge, a Turk by a Turkish Judge and that cases, however trivial, involving both Greeks and Turks, must be tried by a mixed Court composed of Greek and Turkish Judges.

This division is not only entirely unnecessary but, what is more important, is detrimental to the cause of Justice. The very concept of Justice defies separation.

The mere fact that a Greek must be tried by a Greek and a Turk by a Turk is in itself a slur on the impartiality and integrity of the Judges. It is inevitable that when a Judge assumes jurisdiction on the basis of communal criteria he begins to think that the interests of his community stand in danger of being jeopardized and that he is there to protect such interests. The Judge will, therefore, gradually lose the sense of being a judge above communal criteria. This is particularly so in mixed cases, where each Judge will eventually come to feel that his presence is necessary in order to protect the party belonging to his community from possible injustice by his brother Judge. As a consequence of this, Judges will lose their respect for each other, will begin to regard each other with suspicion and may develop the mentality, not of a judge, but of an arbitrator appointed by one of the parties to a dispute. This mentality will inevitably seep into the minds of the people as a whole, who will consider Judges as advocates in the cause of their community and expect them to act as such.

It is another consequence of the dichotomy of Justice that the public is bound to compare sentences imposed by Greek Judges on Greeks and by Turkish Judges on Turks and to draw conclusions from such comparisons. In view of the fact that the jurisdiction of Judges is based on communal criteria, the result of such comparisons will be to foster the belief that there exists separate Justice for Greeks and Turks. This will diminish the respect of the people for the administration of Justice.

Thus Justice will not only cease to be done but will also cease to be seen to be done. Nothing is more certain to undermine Justice and to bring it into disrepute than the situation described above.

Apart from the aforesaid most important considerations, the system which has had to be devised in order to implement these provisions of the Constitution is also unnecessarily costly.

In view of the fact that Greek cases are more numerous than Turkish cases, the Greek Judges are burdened with a much larger volume of work than the Turkish Judges. Due to the separation imposed by the Constitution, Turkish Judges, even if not fully occupied and although willing, cannot relieve their Greek colleagues by taking cases in which the parties involved are Greek. There must, therefore, be maintained a greater number of Judges than would be warranted by the number of cases if they could be evenly distributed. The fact that even a trivial case, as well as a preliminary enquiry, must be heard by two Judges if the parties belong to different communities results in unnecessary waste of time and money, delay and hardship to the litigant, and is yet another reason for having a greater number of Judges than would otherwise be necessary.

A further result of the separation of the administration of Justice is the duplication of registry work and therefore of court personnel, thus creating an additional financial burden.

The measure of civilization of a country and its stability greatly depend on the fair administration of Justice and on the confidence enjoyed by its judiciary. If the principle of Justice is undermined the consequences to the State cannot but be serious and, in Cyprus, if the present system continues, Justice is certain to suffer.

Before the Constitution came into force, the court system prevailing in Cyprus had been operating extremely well for many years, Justice being administered by Greek and Turkish Judges, honourably and impartially, irrespective of community. There can be no greater proof of this than the fact that even at the height of intercommunal strife, when Justice was still unified, never was a shadow of doubt cast on the integrity of the Judges or any complaint made about their impartiality.

There is, therefore, no reason for the imposition of restrictions on the jurisdiction of the Judges of the Republic, on communal criteria, thus establishing a system which is bound to undermine justice and is most impracticable in its application.

- **Point 8. The division of the Security Forces into Police and Gendarmerie to be abolished**

Since the establishment of Independence the Security Forces of the Republic have been divided into Police and Gendarmerie and operate as two separate and distinct Forces in defined areas and under separate command.

This division of the Security Forces is entirely unnecessary and should be abolished for the following reasons:-

(a) with the existence of two Forces under separate command, separate Headquarters for each Force had to be established. This has led to unnecessary financial expenditure;

(b) the creation of separate commands necessitates concentration of many officers at Headquarters and causes a waste of manpower, especially in the higher ranks. At least 200 officers are engaged 16 in additional administrative posts due to the division and duplication of the administration. There now also exists a greater ratio of officers vis-a-vis men without a corresponding increase in the total numerical strength. This increase in personnel costs the State an additional expenditure of at least 150,000 Cyprus pounds per annum;

(c) due to the division of the Security Forces and their command into two, both at Headquarters level and at Divisional level, the cohesion and strength of the Security Forces is adversely affected and results, inter alia, in lack of uniformity of discipline and in friction between the two separate Forces;

(d) in case of an emergency or other grave situation neither Force will have readily available for immediate use the full strength of the Security Forces and their reserves.

Finally, the experience gained in having only one Force, the Police Force, which worked efficiently and effectively for so many years proves that there is no valid reason for the division of the Security Forces into Police and Gendarmerie, a course not even warranted by the size of the Island.

- **Point 9. The numerical strength of the Security Forces and of the Defence Forces to be determined by a Law.**

The Constitution provides that the Security Forces of the Republic shall consist of the Police and the Gendarmerie and shall have a contingent of 2,000 men which may be reduced or increased by agreement of the President and the Vice-President of the Republic.

This is an unworkable provision because, even if the President and the Vice-President agree to increase the numerical strength of the Security Forces, such agreement will be completely ineffectual unless the House of Representatives approves the resulting increase in budgetary expenditure. Under the Constitution the President and the Vice-

President cannot, by agreeing to increase the Security Forces, create a charge on the Consolidated Fund.

The question of increasing or decreasing the numerical strength of the Security Forces should, in the first instance, be decided by the Council of Ministers in the normal way and legislation be introduced to the House for enactment.

The Constitution also provides that the Republic shall have an Army of 2,000 men. This provision is impracticable as no implementation of the numerical strength of the Army can take place unless the House of Representatives approves the financial expenditure required. Furthermore, no provision exists for the increase or decrease, depending on ordinary requirements, of the numerical strength of the Army. Constitutional provision should, therefore, be made that the Republic shall have such Defence Forces as may be regulated by Law.

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

The Constitution provides that 70% of the Public Service shall be composed of Greek Cypriots and that 30% shall be composed of Turkish Cypriots. It further provides that this ratio shall be applied, as far as practicable, in all grades of the Public Service.

The Constitution also provides that the Security Forces shall be composed of 70% Greek Cypriots and 30% Turkish Cypriots and that the Army shall be composed of 60% Greek Cypriots and 40% Turkish Cypriots.

It is an accepted fact that the proper administration of a country depends on the efficiency of its Public Service. This is of particular importance in Cyprus owing to the fact that, as a result of Independence, new institutions have been created adding further complexities to the normal problems of administering the country. Furthermore, the Government, by undertaking a five-year development plan which provides for a Government expenditure of approximately 10 million Cyprus pounds per year, is casting an additional burden on the Public Service.

The percentages of participation of the two communities in the Public Service as fixed by the Constitution bear no relation to the true ratio of the Greek and Turkish inhabitants of the Island which is 81.14% Greeks and 18.86% Turks.

Generally speaking any provision the effect of which is that certain posts in the Public Service or a certain percentage of such posts are reserved for persons belonging to a community, religious group or ethnic minority is contrary to the internationally accepted principles of Human Rights. Thus under Article 21(2) of the Universal

Declaration of Human Rights of the United Nations it is provided that "Everyone has the right of equal access to the Public Service of his country".

It can, of course, be argued that the fixing of a percentage of participation of a community in the Public Service of a country is for the purpose of securing to the citizens constituting such community a right of equal access to the Public Service of the country.

The best way of securing the right of equal participation in the Public Service is not by fixing a percentage, but by provisions in the Constitution giving the right to citizens, who applied and were not appointed to the Public Service, to challenge the decision of the appointing authority before the competent court on the ground that they were discriminated against.

If, however, the method to be followed for securing equality of access is by fixing the ratio of participation of a community in the Public Service, then, in order to minimize discrimination, such ratio must be a fair one so as to afford an equal opportunity to the community constituting the minority to participate in the Public Service, without at the same time preventing the majority of the population from having an equal opportunity of participation in the Public Service of the country.

The present constitutional provision, by specifying that 70% of the Public Service shall be composed of Greek Cypriots, when in fact the Greek Cypriots constitute more than 81% of the population, and that 30% of the Public Service shall be composed of Turkish Cypriots, when in fact the Turkish Cypriots constitute less than 19% of the population, does not afford an equal opportunity to the majority of the citizens of the Republic to participate in the Public Service. It is, therefore, clearly discriminatory.

The implementation of the above provision of the Constitution creates serious problems for the State.

It makes it necessary, in considering appointments and promotions, to use criteria other than those universally accepted, such as qualifications, efficiency and suitability of the candidate, because the appointing authority has to take into consideration the community to which the candidate belongs. As a result the best candidates cannot always be selected. Further, particular hardship is created in the case of promotions. Public servants who possess all the required qualifications and experience for promotion to higher grades may have to be overlooked in favour of less qualified or efficient public servants, solely in order to give effect to an artificially fixed communal ratio of participation in the Public Service. The result of the situation thus created is that the efficiency of the Public Service is adversely affected.

If the provision is to be implemented without affecting the promotion of public servants, the alternative is to create unnecessary posts and impose a further financial burden on the State. The Government now spends 31% of its Ordinary Budget for

salaries and other allowances to public servants, not including pensions. It is clear, therefore, that any increase of unnecessary expenditure in expanding the Public Service would be highly detrimental to the economy of the country.

In addition to what is stated above this provision cannot be implemented for the following reasons:-

In many cases in which the Public Service Commission decided to allocate posts to the Turkish community, it was found that no qualified Turks were available for appointment, with the result that a number of posts remained vacant and in some cases the Commission had to appoint Greeks on a temporary basis until qualified Turkish candidates might become available.

In some instances the minimum qualifications specified in the schemes of service were lowered in order to enable Turkish candidates to enter the Public Service, but even with such lower standards no Turkish qualified candidate could be found.

The fact that the Commission had to draw from a population forming less than 19% of the population of the Island in order to fill the 30% of the posts in the Public Service made it very difficult to find qualified Turks for many posts.

Further, the exigencies of public business and the pattern of business and professional activity in the Island require that the Public Service should contain an adequate proportion of Greek officers. The language problem of itself demands this.

It can be seen from what is stated above that not only is the provision that the Public Service shall be composed of 30% Turks unjust and discriminatory against the Greeks, but it is also impracticable, it creates serious difficulties and impedes the efficient functioning of the Public Service.

The reasons given above regarding the ratio of participation of the two communities in the Public Service apply to a great extent to the ratio fixed for the participation of the two communities in the Security Forces.

It must be stated that the 60:40 ratio of participation of Greeks and Turks in the Army discriminates to an even greater extent against the Greeks.

Nevertheless, in so far as the present ratio of Greeks and Turks in the Public Service, the Security Forces and the Army exceeds the population ratio, no abrupt steps should be taken to reduce it. The proper balance can be achieved over a period of time through normal appointments, thus avoiding hardship or unfairness to existing members of the Services of the Republic.

- **Point 11. The number of the Members of the Public Service Commission to be reduced from ten to five.**

The Constitution provides that there shall be a Public Service Commission consisting of a Chairman and nine other Members appointed jointly by the President and Vice-President of the Republic and that seven Members of the Commission shall be Greeks and three Members shall be Turks.

Practical experience has shown that, for the purposes for which the Public Service Commission is intended and bearing in mind the nature of the duties it has to perform, it is too large a body to work efficiently.

A smaller body will have a better chance of securing closer co-operation and understanding amongst its Members, and valuable time, wasted in lengthy arguments resulting from the divergence of opinion of its many Members, will be saved. Generally, a more constructive approach to the problems facing the Commission will result.

- **Point 12. All decisions of the Public Service Commission to be taken by simple majority.**

The Constitution provides that any decision of the Public Service Commission shall be taken by an absolute majority vote of its Members.

This general provision, however, is qualified by other provisions making it necessary that in matters of appointments, promotions, transfers and discipline such majority must include a certain minimum number of Greek and Turkish votes depending on whether the decision relates to a Greek or a Turk. In short, a power of veto is given to a section of the Greek or Turkish Members to negative majority decisions.

It is obvious that this procedure for taking decisions by the Public Service Commission creates a situation whereby the Greek and Turkish Members feel that their paramount purpose, as Members of the Commission, is to protect Greek and Turkish interests and not to serve the true interests of the Public Service. Thus, even in the mode of deciding an issue communal criteria are superimposed on the universally accepted criteria adopted by similar bodies elsewhere. This is of particular significance in view of the fact that the Public Service Commission, in addition to being the appointing authority, is also the disciplinary body for the Public Service.

Furthermore, the procedure laid down in the Constitution creates situations leading to deadlock resulting in a state of uncertainty amongst the public servants and often preventing the speedy appointment of officers to vital posts. If this situation is allowed to continue, it will result in undermining the efficiency of the Public Service.

It may be argued that, in taking decisions, the Public Service Commission may act in a discriminatory manner. In such a case there is adequate remedy provided by Articles 6 and 146 of the Constitution. The former Article prohibits discrimination against any of the two communities or any person as a person or by virtue of being a member of a community, while the latter Article provides that any person may make a recourse to the Constitutional Court against any decision, act or emission contrary to any of the provisions of the Constitution, one of which is Article 6, if any legitimate interest, which he has either as a person or by virtue of being a member of a community, is adversely affected.

- **Point 13. The Greek Communal Chamber to be abolished**

The Constitution provides that there shall be two Communal Chambers, one Greek and one Turkish, each having jurisdiction in matters of religion, education, cultural affairs and personal status over members of its respective community, as well as control over communal co-operative societies.

This provision appears to have its origin in the concept that the Republic ought not to interfere with religious, educational, cultural and other cognate matters the administration of which should be regarded as a safeguarded right in the case of the minority.

When this concept was extended to the Greek majority the result was to place the entire education of the country outside the sphere of Government economic and social policies and to create financial problems and other difficulties for the Communal Chambers, reflecting adversely on the State. With a view to minimizing these difficulties the Communal Chambers should be abolished and a new system should be devised providing for their substitution by appropriate authorities and institutions.

Should the Turkish community, however, desire to retain its Chamber, in the new system, such a course is open to it.

I have dealt with certain of the difficulties created by our Constitution.

In conclusion I would stress that it is not my intention by any of these proposals to deprive the Turkish community of their just rights and interests or proper safeguards. The purpose is to remove certain causes of friction and obstacles to the smooth working of the State.

The main object of a Constitution should be to secure, within its framework, the proper functioning of the State and not to create sources of anomaly and conflict. Experience has proved that our Constitution falls short of this object, and certain of its provisions have created great difficulties in practice. In the interests of our people we must remedy this. I earnestly believe that the proposed settlement of the various

points of difficulty will be to the benefit of the people of Cyprus as a whole. I hope that the Turkish Cypriots will share this view.

Archbishop Makarios
President of the Republic of Cyprus

Nicosia,
30th November, 1963