Entrenching Hegemony in Cyprus: The Doctrine of Necessity and the Principle of Bicommmunality

Nasia Hadjigeorgiou and Nikolas Kyriakou

Abstract When Cyprus became an independent state, newly-drafted constitutional provisions sought to safeguard the rights of the different communities that made up its population – Greek Cypriots, Turkish Cypriots, Maronites, Armenians and Latins. Nevertheless, most political power since then has been concentrated in the hands of the Greek Cypriot majority, with the other groups remaining largely marginalised. This hegemony of the Greek Cypriot political elite has been the result of a dual, and rather contradictory approach. On the one hand, the constitutional protections for the different groups have been eroded through the application of the doctrine of necessity, a mechanism intended to keep the Constitution up to date with the political developments in the country. Conversely, in cases where the doctrine could be used to safeguard the minorities’ rights, the government has highlighted the unamendable nature of the Constitution and relied on the obsolete constitutional provisions that the doctrine of necessity was designed to avoid.

1 Introduction

The 1960 Constitution of the Republic of Cyprus (henceforth, RoC or Republic), with its rigid and numerous unamendable provisions intended to protect the two communities that live on the island, has been described as one of the strictest constitutions in the world. In addition to its community-specific protections, the Constitution

1 Constitution of the RoC, signed on 16 August 1960 (henceforth, ‘Constitution’).
2 de Smith (1964), 296.
includes a long Bill of Rights, which should be read alongside the Republic’s obliga-
tions as a signatory to the European Convention on Human Rights (ECHR) and the
Framework Convention for the Protection of National Minorities. Yet, even a cursory
look at Cyprus’ sociopolitical scene today shows a very different picture from the one
envisioned by the drafters of the Constitution. Rather than the Republic’s state bodies
reflecting the letter and spirit of the Constitution by protecting the communities and
religious groups that make up its population – Greek Cypriots (GC), Turkish Cypriots
(TC), Maronites, Armenians and Latins – the political power is largely exercised by
the GC majority, with the three smaller religious groups being mostly marginalised
and the members of the larger, TC community being almost completely ignored.
This hegemony of the GC political elite is not an accident; rather, the erosion of the
rights of TC and the religious groups has partly been the result of a dual, and rather
contradictory, strategy. On the one hand, the legislature has restricted their rights
by arguing that the special political circumstances that exist on the island justify
the departure from constitutional protections through the doctrine of necessity. On
the other, and in cases where the doctrine of necessity could have been used as a
tool to promote, rather than restrict, human rights, the argument has been that any
limitations on these rights are mandated by the Constitution itself, whose relevant
provisions are impossible to amend.

The article supports this argument by examining in a critical light the jurisprudence
of the Supreme Court of Cyprus and the country-specific reports of the Advisory
Committee on the Implementation of the Framework Convention for the Protection
of National Minorities. Section 2 briefly outlines Cyprus’ political and constitutional
context and Sect. 3 explains how the rigid constitutional provisions, coupled with
the unstable political situation on the island, led to the birth and development of
the doctrine of necessity. Section 4 discusses the theoretical criticisms that have
been made against it, while Sect. 5 explores the way in which it has been applied in
practice. Combined, these two sections contend that the use of the doctrine has indeed
been necessary and can be defended from principled criticisms, but that its practical
application over the years has been problematic. In particular, the uncritical use of
the doctrine has contributed to the erosion of human rights and other constitutional
provisions that were designed to protect the rights of TC and members of the three
religious groups. Finally, Sect. 6 explores the other side of the coin by showing how,
in cases where the doctrine of necessity could have been used for the protection
of human rights, the government has chosen to rely instead on the bicommunal
and unamendable nature of different constitutional provisions. As a result, these
provisions, which were originally intended to protect the rights of minorities, have
backfired and been used to their detriment.

3It has also partly been the result of the invasion and ongoing occupation of the island by Turkey.


2 The Constitutional Background of Cyprus

The Constitution of the Republic was negotiated and drafted by the governments of Greece, Turkey and the UK, together with the involvement of GC and TC representatives. In 1960, Cyprus ceased being a British colony and was declared a sovereign and independent state. The Constitution’s main consideration and objective was to balance the competing interests of the different groups in the population, and especially the GC and TC, who make up the two larger communities on the island. An estimated 1 million people live in Cyprus, with approximately 80% being GC and 18% TC. The remaining 2% consists of religious minorities, which are officially acknowledged as ‘religious groups’ in the Constitution. There are three such recognised religious groups in Cyprus, namely Maronites, Armenians and Latins.

In light of the above, Article 2 of the Constitution defines the constituency of the two communities in the following terms:

the Greek Community comprises all citizens of the Republic who are of Greek origin and whose mother tongue is Greek or who share the Greek cultural traditions or who are members of the Greek-Orthodox Church,

while:

the Turkish Community comprises all citizens of the Republic who are of Turkish origin and whose mother tongue is Turkish or who share the Turkish cultural traditions or who are Moslems.

Contrary to the classical liberal tradition, which endows individuals with the capacity of ‘citizen’ based solely on their relationship to the State and is colourblind to other identities they may have, the Cypriot paradigm is premised on an ethnically mediated citizenship. In other words, to be a citizen of the Republic, an individual must first demonstrate possession of at least one characteristic that places him or her within one of the two communities. This division of the population along ethnic lines is not only limited to Article 2; it runs through the entire text of the Constitution and is prevalent in every aspect of its provisions. To give but one example, recruitment to the public service is regulated on a ratio of 7:3 for GC and TC respectively.

Allocation by quotas is also the rule of thumb for independent institutions and other

---

4 Polyviou (2015), 6.
5 Crawford (2006), 242.
6 For a theoretical analysis of the challenges faced by multinational societies and the responses they tend to adopt to these, in the form of constitutional asymmetry, as in the case of Cyprus, see in this volume Sahadžić (2020).
7 Department of Statistics and Research (1963). This is the last reliable census that took place in Cyprus.
8 Constitution, Article 2(1).
9 Ibid., Article 2(2).
10 For a discussion and partial challenge of the classical liberal tradition, see Kymlicka (1995).
11 Constitution, Article 62(2).
Moreover, the system includes many checks and balances, such as the veto power granted both to the (GC) President and the (TC) Vice-President, and the requirement for double majorities in the House of Representatives on a range of issues that seek to protect the interests of the numerically smaller TC community.

While the Constitution pays sufficient – or even, one could say, excessive – attention to the protection of GC and TC, it adopts a diametrically opposite approach to the rights of Maronites, Armenians and Latins. Most problematically, it does not envision the option of non-participation in either of the two dominant communities. Citizens are free to opt to belong to the community of their choice and exit from it, but should they decide to exit one, they would automatically be delegated to the other community. Due to this, soon after independence, the three religious minority groups were asked to choose membership in either of the two dominant communities, with all three opting for inclusion in the GC majority. The principal repercussion of this was that the political participation of the three groups was mediated solely through the dominant segment of the population. However, since their members could not fully satisfy the definitions of either of the two dominant communities found in Article 2, the requirement that they participate in the polity through one of these, put a straitjacket to the development of their identity.

The operation of such strict constitutional provisions rendered necessary the existence of a surplus of goodwill and mutual trust, as sine qua non conditions. Due to the lack thereof, soon after the Constitution’s adoption, and before it even became fully operational, problems arose between the governing GC and TC elites and poisoned inter-communal relations. Reflecting the GC dissatisfaction with the then state of affairs, in 1963, President (and Archbishop) Makarios submitted a proposal for amendments to the Constitution that are widely referred to as the ‘13 points’. The main thrust of this proposal, which sought to radically change the Constitution, was the abolition of the TC Vice-President’s veto and of the double majorities in the House of Representatives, as well as a downward revision of TC representation in the public service and security forces to reflect the actual population ratio.

In response to this proposal for amendments, towards the end of 1963, all TC civil servants and officials ceased to attend their posts, and an estimated 25,000 TC moved to various geographical enclaves created around the island, which were controlled by their community. At this point, the TC community started creating separate administrative structures, parallel to those of the RoC, while disputing the

---

12 See, for example, ibid., Part 6.
13 Constitution, Articles 50 and 57.
14 Constitution, Article 78(2).
15 Constitution, Article 2(5).
16 Constitution, Article 2(3).
17 This criticism should not be interpreted as support for the inclusion of even more extensive group rights in the Constitution. Rather, more nuanced and less crude protections could have been adopted; the question of what such protections should look like, falls outside the ambit of this chapter.
18 Soulioti (2006).
19 Polyviou (2015), 27.
legal claim of GC over the Republic. It is through this volatile context that the doctrine of necessity emerged.

3 The Birth of the Doctrine of Necessity

The non-participation of TC in the affairs of the State in 1963, which continues to this day, created a constitutional conundrum: how to ensure the survival of the RoC and the smooth running of government when the Constitution itself is premised on the cooperation of the two communities? The solution to this was given in The Attorney-General of the Republic v. Mustafa Ibrahim and Others, in which the Supreme Court decided that the doctrine of necessity could be used to essentially amend or disapply constitutional provisions that could no longer be complied with. Ibrahim has been cited with approval by apex courts around the world and the doctrine of necessity is today the unwritten cornerstone of the Cypriot legal order. However, the effects of the doctrine should be assessed in light of the developments that have taken place in the Republic over the years. In particular, it should be recalled that the majority of the population has been identifying itself and the RoC, not as Cypriot, but as Greek. As a result, the survival of the state, which the doctrine of necessity sought to achieve, has often been attained to the detriment of those who have a different identity to the Greek one, namely TC and members of the three religious minorities.

The facts that gave rise to Ibrahim are interlinked with Cyprus’ legal and political history. From 1963 to 1974, TC remained isolated in enclaves around the island, while GC were in exclusive control of the Republic. One of the first actions of the (now exclusively GC) House of Representatives was to pass the Administration of Justice (Miscellaneous Provisions) Law 33 of 1964. The Law established a new Supreme Court and provided that temporarily and ‘until such time as the people of Cyprus may determine such matters’, this Court would exercise the jurisdiction of both the Supreme Constitutional Court and the High Court. These two Courts, according to Articles 133 and 153 of the Constitution, were staffed by GC, TC and international

---

20 Drousiotis (2008), 151.
21 Mahmoud (2020) in this volume argues that a constitution-making (or constitution-amending) process can be reconciliatory when it entails the participation of the communities and relies on a national dialogue based on principles of mutual respect, inclusivity, deliberation and justice. Neither of these conditions were satisfied in 1960 or 1963.
22 The Attorney-General of the Republic v. Mustafa Ibrahim and Others (1964) CLR 195 (henceforth, Ibrahim).
23 Ibrahim has been cited in Canada (Re Manitoba Language Rights [1985] SCR 721), Pakistan (Bhutto v. The Chief of the Army Staff and the Federation of Pakistan PLD 1977 SC 710), Lesotho (Mokotso and Others v. King Moshoeshoe II and Others, 5 Aug. 1988, (1992) 90 ILR 427) and Grenada (Mitchell and Others v. Director of Public Prosecutions and Another 45 (1986) LRC 86).
24 Preamble of the Administration of Justice (Miscellaneous Provisions) Law 33/1964.
judges. Since their international members had either retired or resigned, the concern was that their incomplete composition would render them unable to function; thus, the rationale of the Law was to device a solution that addressed this. Ibrahim arose when a TC defendant argued before the newly merged Supreme Court that it had no jurisdiction to hear the criminal case against him, since its existence was not provided by the Constitution. In their seminal judgments, the three (GC) judges that heard the case justified the existence of the Court and the constitutionality of the Law by relying on the doctrine of necessity.

Referring to the Latin legal maxim *salus populi suprema lex esto*, Judge Triantafyllides argued that a Constitution operates for the well-being of the State, rather than the other way round; ‘to hold otherwise’, he concluded, ‘would amount to the absurd proposition that the Constitution itself ordains the destruction of the State which it has been destined to serve.’ Thus, it was imperative to use the doctrine of necessity in order to make the Constitution and the country functional again. Similarly, Judge Josephides read the doctrine of necessity in the constitutional architecture in the following terms:

I interpret our constitution to include the doctrine of necessity in exceptional circumstances, which is an implied exception to particular provisions of the constitution; and this in order to ensure the very existence of the State. The following prerequisites must be satisfied before this doctrine may become applicable:

(a) an imperative and inevitable necessity or exceptional circumstances;
(b) no other remedy to apply;
(c) the measure taken must be proportionate to the necessity; and
(d) it must be of a temporary character limited to the duration of the exceptional circumstances.

As a result of this decision, the doctrine of necessity has been used to fill vacant TC governmental positions in two ways. Generally speaking, positions that are elected have remained vacant and those that are appointed have been filled by GC. Both are instances where the bicomunal character of the Constitution has been restricted through the doctrine of necessity. Moreover, Ibrahim was the first of many cases in which the doctrine was used to address unforeseen situations that do not have to do with the bicomunal nature of the Constitution. It has been employed, *inter alia*, to justify the abolition and/or replacement of bodies found in the Constitution.

---

25 Contrary to all other TC officials who resigned their posts in 1963, TC judges stayed in their positions until 1966. See Pikis (2006), 26.
26 Ibrahim.
27 Ibid.
28 Ibrahim.
29 E.g. Chimonides v. Manglis (1967) 1 CLR 125; Alloupas v. National Bank of Greece (1983) 1 CLR 55; Adrian Holdings Ltd v. The Republic [1999] 3 CLR 828. Also, see the case law discussed in Emilianides (2013), 38–50 and Pikis (2006), 27–36.
30 Bagdassarian v. Electricity Authority of Cyprus (1968) 3 CLR 736.
to make fundamental changes to the family courts in the country and to lower the voting age for legislative elections from 21 to 18 years of age. Nevertheless, despite the practical importance, and indeed necessity of Ibrahim, the doctrine has been criticised as being unprincipled and fundamentally flawed. We address this issue in the next section.

4 Principled Disagreements with the Doctrine of Necessity

The first criticism, voiced by TC academics, is that the changes that took place in 1963 in the country were so drastic that the doctrine of necessity could not justify them sufficiently. Rather, the argument goes, only Kelsen’s (1961) theory of revolution could be used to legitimate the continued existence of the RoC. Since this was not used, and indeed doubts are raised as to whether it could be used, the Republic has ceased to exist; Ibrahim, and all of the Republic’s actions since then, lack both legality and legitimacy. Yet, this argument fails to take into account the realities on the ground: since 1963, Cyprus has joined international organisations, participated in international forums and been the subject of numerous UN resolutions, all of which confirm its existence as a state. Moreover, state practice in international law, and in particular the events that unfolded after the collapse of the USSR, suggest that even fundamental constitutional changes do not necessarily affect an entity’s status as a recognised state.

The second principled argument against Ibrahim is that it carves out a hole in the overall legal regime by overriding Article 183 of the Constitution. Article 183 allows for a declaration of a state of emergency, which in turn, can result in the suspension of certain of the Constitution’s guarantees. Thus, the fallacy of the doctrine of necessity is premised on the argument that the Constitution already provided an available legal route to the GC community, that of declaring a state of emergency, which was not put to the test. This argument draws support from The Turkish Communal Chamber v. Council of Ministers, a case that was decided by the Constitutional Supreme Court

---

31 Νικολάου καὶ άλλων v. Νικολάου καὶ άλλου (1992) 1 CLR 1338 [Nicolaou and Others v. Nicolaou and Other (1992) 1 CLR 1338].
32 Προέδρου της Δημοκρατίας v. Βουλής των Αντιπροσώπων [1986] 3 CLR 1439 [President of the Republic v. House of Representatives [1986] 3 CLR 1439].
33 Necatigil (1993), 64–65; Özursay (2004–2005), 31.
34 Kelsen (1961).
35 For a selection of UN documents and resolutions on Cyprus, see Security Council Report. ‘UN Documents for Cyprus’ available at http://www.securitycouncilreport.org/un-documents/cyprus/ [accessed 27/05/2019].
36 For instance, the USSR underwent significant constitutional changes in the beginning of the 1990s, but the Russian Federation, as its successor, remained an internationally recognised state and maintained its permanent seat at the UN Security Council.
a few months before the withdrawal of the TC officials from the government. In that case, the majority of the Court unequivocally stated that under a written Constitution, such as that of the Republic of Cyprus, which expressly provides for extraordinary competences to overcome certain defined situations of emergency, there can be no implied power, outside of such express constitutional provisions, of any organ of the Republic to override, in a case of "necessity", competences of other organs, and to step beyond the limits of its own competences or to act without the basis of a law.

However, the problem with relying on Article 183, rather than the doctrine of necessity, is that it is itself dependent on the cooperation of the two communities. The power to issue a Proclamation of Emergency under Article 183 belongs to the Council of Ministers, which consists, according to the Constitution, of 7 GC and 3 TC members. Moreover, the decision of the Council of Ministers is subject to the veto power of the President and/or the Vice President. Considering that by the time Ibrahim was decided, both the Vice-President and the TC Ministers had already left their posts, it was practically impossible to use Article 183.

The final principled criticism of the doctrine of necessity is that while it is based on the premise that the State is faced with a calamity of such magnitude that it is permissible to ignore certain provisions of the Constitution, no declaration of emergency has been made to the Council of Europe under Article 15 of the ECHR. Thus, the use of this doctrine creates a judicially sponsored situation, which justifies derogation from, or non-application of, human rights without following the internationally prescribed legal path. Despite the merit of this argument, it is not something that has been picked up by the European Court of Human Rights itself. In fact, the Court has implicitly approved the existence of the doctrine in Aziz v. Cyprus when it referred to, and accepted the need for, legal mechanisms designed to address ‘the anomalous situation that began in 1963’. It appears therefore that the problem with the doctrine of necessity is not so much one of principle; rather, as the next section suggests, it is one of application.

5 Applying the Doctrine of Necessity

Judge Josephides had made it clear in Ibrahim that any derogation from the Constitution would have to be necessary and proportionate to the need that has arisen. Despite the Courts mentioning these conditions in all subsequent cases where the doctrine was used, they have only paid lip service to them, thus essentially giving the legislative and executive a carte blanche as to when they could depart from the provisions of the Constitution. Illustrative of this is the case of Ibrahim itself: after

---

37 The Turkish Communal Chamber v. Council of Ministers [1963] 5 CLR 59.
38 Ibid.
39 Constitution, Article 46.
40 Ibid.
41 Aziz v. Cyprus (2005) 41 E.H.R.R. 11, para 26.
exhaustively analysing the existence of ‘an imperative and inevitable necessity or exceptional circumstances’, the judges paid no attention to the question of whether it was indeed proportionate, or even necessary, to merge the Constitutional Supreme and High Courts into a single Supreme Court. Thus, it is to this day still unclear why the House of Representatives could operate and pass laws with only its GC members in attendance, but the two Courts could not deliver judgments in the same way.

A similar example where the strict conditions set out by Judge Josephides were not followed, resulting in serious problems with the application of the doctrine, is Ambrosia Oils v. Bank of Cyprus. The case concerned the constitutionality of the Debtors’ Relief (Temporary Provisions) Law 24 of 1979, which was passed in order to address the calamities that took place in 1974. In the summer of 1974, the Greek Junta government and right-wing GC paramilitaries orchestrated an unsuccessful military coup against President Makarios. A few days later, and with the pretext that it was protecting the TC and that it was exercising its rights as a guarantor power, Turkey invaded Cyprus. As a result of the Turkish invasion, a population transfer ensued and more than 200,000 Cypriots became displaced: as 165,000 GC were fleeing to safety in the south of the island, 45,000 TC trekked to the Turkish-controlled north. In response to these facts, Law 24/1979 provided that the right of creditors to recover debt from displaced debtors and to charge interest was suspended during the period between 1974 and 1982. The Court, deciding on the constitutionality of the Law, held that even if these provisions entailed limitations beyond the acceptable ones to the creditors’ right to property, they were justified by the doctrine of necessity. While fundamental rights should be respected ‘during a period of normality’, the exceptional circumstances that existed (and still do exist) in Cyprus because of the 1974 invasion, called for their restriction.

Ambrosia Oils developed the doctrine of necessity in two important new ways: first, it established that the ‘Turkish invasion threatened the existence of society and social institutions with collapse’; as a result, like the events of 1963, it warranted, and in fact justified to an even greater degree than before, the use of the doctrine of necessity. On the face of it, this is a persuasive argument: the 1974 war resulted in an unprecedented humanitarian catastrophe, to which the state’s institutions were asked to respond. If ever there was an emergency and a necessity to address it, this was it. Nevertheless, despite the significant human cost of the Turkish invasion, there were no additional legal or institutional changes to the ones that took place in 1963 that made it even harder to comply with the Constitution. Constitutionally speaking, after the war, the Cypriot state institutions could – and should – continue operating using the same procedures and respecting the same safeguards as they did before the war. While therefore the Supreme Court was right to use the doctrine of necessity after the events of 1963, it was wrong to extend the same reasoning to those of 1974.

Ambrosia Oils v. Bank of Cyprus [1983] 1 CLR 55.
Global IDP Database (2003), 6.
Ambrosia Oils.
Ibid.
The second, and more fundamental, way in which the Supreme Court developed the doctrine of necessity in *Ambrosia Oils* was by accepting that it could be used, even if this resulted in a restriction of human rights. Failing to take into account the anti-majoritarian features that characterise human rights, the Court brushed aside concerns that Law 24/1979 resulted in undue restrictions of the right to property by reasoning that ‘[f]rom these measures everybody stood to gain.’ The use of the doctrine of necessity in this novel, rights-limiting way becomes even more surprising when one considers that the Court was originally persuaded to rely on it in *Ibrahim* precisely because this was to the benefit of human rights protection, and in particular the right to a fair trial. Moreover, this development is also problematic in that it ignores Article 33 of the Constitution, which provides that fundamental rights shall not be subject to any restrictions other than those that are explicitly stated therein. It is the Court’s failure to take into account these considerations that has resulted in a problematic application of the doctrine of necessity, especially in cases that concern the rights of non-GC.

The tendency of the judiciary to downplay the corrosive effects of the doctrine of necessity and offer less than satisfactory protection to the rights of TC was apparent from the attitude of the Supreme Court in *Ibrahim* itself. One of the arguments that had been presented to the Court was that the Law in question was unconstitutional because it had only been published in Greek and had not been translated in Turkish, as per the requirements of Article 3 of the Constitution. The government’s position was that it was difficult to translate official documents since Turkish-speaking officials were no longer working for the government. Of the three members of the Court, Judges Triantafyllides and Josephides quickly dismissed this as a procedural argument of little importance. Only Judge Vasiliades pointed to the fact that many TC still lived in the Republic-controlled areas, thus making it possible to accept the government’s argument only with the greatest of difficulties. Nevertheless, ultimately, he, too, dismissed the argument.

At a theoretical level, the doctrine of necessity has configured into a meta-constitutional value that is the ultimate guarantor for the existence and operation of the Constitution. By consequence, the checks and balances provided for in the constitutional text are altered or set aside in the name of this meta-value, thus changing in a profound, fundamental and not always warranted for way, the original constitutional design and mechanics. The doctrine therefore, signifies a departure from the original agreement, while claiming at the same time, abidance by the spirit of the Constitution. Thus, although the Republic officially claims that it is representing all Cypriots, since the population under its effective control is almost exclusively

---

46 *Ambrosia Oils*.
47 Reference was made to the fact that, due to the resignation of the international judges, there were more than 400 cases pending, thus potentially resulting in unreasonable delays (*Ibrahim*).
48 Ibid.
49 *Ibrahim*.
50 It is because of this reason, for example, that TC vote in the European Parliament elections, irrespective of whether they reside in the RoC-controlled areas of Cyprus or not. (Ο Περί της Εκλογής
Greek-speaking, it has become easier to marginalise and further restrict the rights of non-GC. This, coupled with the judiciary’s unwillingness to properly examine the necessity and proportionality of the use of the doctrine has resulted in an even greater unchecked limitation of the rights of TC and members of the religious minorities.

5.1 The Doctrine of Necessity and the TC’s Right to Property

Perhaps the clearest illustration of the detrimental effects that the ill-application of the doctrine of necessity has had on the rights of TC emerges through the Supreme Court’s jurisprudence on the right to property. The population transfer that took place in 1974 meant that there were (empty) TC properties in areas in which the RoC government exercises effective control. 51 Law 139/1991, which was promulgated to manage these properties, assigns their protection and administration to the RoC Minister of the Interior, as their ‘Custodian’. 52 This arrangement does not affect the ownership, which remains de jure with the TC original owner. The Custodian, however, restricts the return to, and use of, these properties by their owners until the end of the ‘abnormal situation […] created as a result of the Turkish invasion’. 53 The enforcement of this Law has prompted a number of applications before the Supreme Court by TC owners wishing to challenge its constitutionality and alleging a violation of their right to property. 54 The Supreme Court has consistently rejected these applications basing its reasoning on the doctrine of necessity.

The authority for the proposition that the doctrine can limit the property rights of TC, which has been cited in subsequent challenges since, is Solomonides v. Minister των Μελών του Ευρωπαϊκού Κοινοβουλίου Νόμος (10(I)/2004), όπως τροποποιήθηκε από τον 35(I)2014 [The Election of Members of the European Parliament Law (10(I)/2004), as amended by 35(I)2014)].

51 While Cyprus remains a single recognised state, the European Court of Human Rights (ECtHR) has confirmed that the RoC is only in effective control of, and therefore legally responsible for, the south of the island. The north of the island is under the military, economic and political control of Turkey. (Loizidou v. Turkey (Preliminary Objections) (1995) 20 E.H.R.R. 99.).

52 Ο περί Τουρκοκυπριακών Περιουσιών (Διαχείριση και Άλλα Θέματα) (Προσωρινές Διατάξεις) Νόμος [The Law Concerning Turkish-Cypriot Properties (Administration and Other Matters) (Temporary Provisions)] 139/1991.

53 Ibid., Section 2.

54 See, for example, Ahmet Mulla Suleyman (Μέσω της Πληρεξόσιον Αντιπροσώπου του Sahiba Ahmet Suleyman) v. Κυπριακής Δημοκρατίας, μέσω (1) Υπουργού Εσωτερικών (Υπό την Προάστιση του Κράτους Τουρκοκυπριακών Περιουσιών), (2) Διευθυντή Υπηρεσίας Διαχείρισης Τουρκοκυπριακών Περιουσιών (2007) 4Α Α.Α.Δ 312 [Ahmet Mulla Suleyman v. the Republic of Cyprus, through (i) the Minister of the Interior as the Custodian of Turkish-Cypriot properties; and (ii) the Director of Management of Turkish-Cypriot properties (2007) 4Α CLR 312].
of the Interior as the Custodian of Turkish Cypriot Properties.\textsuperscript{55} The Court, adopting a \textit{prima facie} liberal approach, started by declaring that

there can be no question of subjecting, during a period of normality, the fundamental rights and liberties guaranteed in Part II of the Constitution to any limitations or restrictions other than those provided in such Part, in a manner contrary to Article 33 of the Constitution.\textsuperscript{56}

Like in \textit{Abrosia Oils} however, it went on to add that the situation that exists in Cyprus since 1963, and more so since 1974, is not normal. As a result of this abnormal situation, the State, through the Custodian, had the duty to take measures in order to protect the properties of TC, which laid abandoned.\textsuperscript{57} According to the Court therefore, the doctrine of necessity not only justified, but in fact mandated the restriction of TC’s property rights. Nevertheless, three gaps in the Court’s reasoning have led to a problematic application of the doctrine of necessity, with detrimental consequences for the well-being of the property right-holders.

The first lies with the fact that although the Court in \textit{Solomonides} accepted the paternalistic argument that it was necessary to restrict TC’s rights for their own protection, it never made clear what these properties were being protected from. In turn, this lack of clarity has made it very difficult for the Court to engage in a proportionality analysis. Thus, even if it could be accepted that it was necessary to protect TC properties, the Court never seriously questioned whether Law 139/1991 achieved this objective. Moreover, even if the Custodian was indeed the best institution to protect the properties in the absence of their owners, it was never explained why this remained the case, even after they declared their wish and ability to take up this responsibility themselves. These questions became increasingly difficult to answer when the Supreme Court accepted in a subsequent case, that Law 139/1991 was justified under the doctrine of necessity, not only because it protected TC properties, but also because it was in the interest of GC displaced people, who were housed there.\textsuperscript{58}

The argument here is not that the Court’s ultimate conclusion in \textit{Solomonides} was necessarily wrong. It might indeed be the case that restricting the TC’s property rights was both a necessary and proportionate response. However, the Court’s open-ended reasoning in reaching this conclusion was unpersuasive because it did not explain why this was the case. It did not clarify whether Law 139/1991 sought to protect the interests of TC or GC and, crucially, it did not question whether these two objectives contradicted with each other. In turn, this made it even more difficult to delineate and tightly control the restriction of the right to property in subsequent cases, with even more detrimental effects for the right holders themselves.

The second problem with the Court’s reasoning in \textit{Solomonides} relates to the claim that the doctrine’s restrictions on the right to property were proportionate

\textsuperscript{55}Σολωμονίδης \textit{v. Υπουργός Εσωτερικών ως Κηδεμόνα Τουρκοκυπριακών Περιουσιών} (2003) 1B A.A.Δ 1275 [Solomonides \textit{v. Minister of the Interior as the Custodian of Turkish-Cypriot properties} (2003) 1B CLR 1275].

\textsuperscript{56}Ibid. [authors’ translation].

\textsuperscript{57}Solomonides.

\textsuperscript{58}Suleyman.
because they were temporary, imposed only until the end of the abnormal situation.\textsuperscript{59} However, in reaching this conclusion, no acknowledgement was made of the fact that \textit{Solomonides} was decided in 2003, some 40 years after \textit{Ibrahim}. While the judiciary was justified in considering the doctrine a temporary measure in the 1960s and 1970s, as the decades passed, this argument became less persuasive. Arguably, the Court could have upheld the constitutionality of the Custodian’s powers by reasoning that the limitation of the right to property was necessary and proportionate for the public interest, without invoking the doctrine of necessity, and its temporary nature, at all. Therefore, the judges’ decision to rely on the doctrine, rather than Article 33 of the Constitution, potentially detracted from, rather than enhanced, the persuasiveness of their argument.

The final criticism of \textit{Solomonides} concerns the Court’s assertion that the restriction on the applicants’ rights was a minor one because TC remain the legal owners of their properties; accordingly, all the Law is doing, is limiting the way in which this legal right can be used by them.\textsuperscript{60} However, this is an artificial way of conceptualising the problem since the Law prevents the owner from legally residing, selling, renting, mortgaging or, in fact, using the property in any way at all; the only thing that s/he retains is a property title on paper.\textsuperscript{61} Thus, when making this argument and relying on the doctrine of necessity, the Court did not satisfy the required rigorous observance of the principles of proportionality. Rather, it impliedly accepted that the continuing occupation of the northern part of Cyprus suffices as a justification for the introduction and validity of the impugned Law and failed to consider the RoC’s obligation to seek new mechanisms to avoid the deprivation of the \textit{effet utile} of the right.\textsuperscript{62}

\section*{5.2 The Doctrine of Necessity and the Rights of Religious Minorities}

The unchecked use of the doctrine of necessity does not only operate to the detriment of the rights of TC, but also of the members of the three religious minorities. As mentioned already, Maronites, Armenians and Latins had to assert their citizenship by joining one of the two larger communities. Since all three groups opted for membership in the GC community, they were given the right to be represented in the GC Communal Chamber.\textsuperscript{63} This Chamber, like its TC counterpart, was made up of 20 members of the House of Representatives and had the authority to decide on

\textsuperscript{59}\textit{Solomonides}.
\textsuperscript{60}\textit{Ibid}.
\textsuperscript{61} Hadjigeorgiou (2013), 103.
\textsuperscript{62} TC challenges of the Custodianship legislation eventually reached the ECtHR (\textit{Kazali v. Cyprus} (App no 49247/08) (ECtHR, 6 March 2012)), which found the case inadmissible due to the applicants’ failure to exhaust domestic remedies.
\textsuperscript{63} Constitution, Article 109.
matters that were of particular importance to each community, such as religion and education.\footnote{Ibid., Article 87.} By being allowed to participate in one of the two Communal Chambers, the representatives of the three religious minorities could be easily consulted as to whether proposed legislation was contrary to the interests of their members.

While the TC Communal Chamber ceased to exist in 1963 after the withdrawal of its members from the House of Representatives, the GC one continued with business as usual until 1965, at which time its members voted to dissolve it. Representatives of the religious minorities had a right to be consulted during the proceedings of the Communal Chamber, but did not have any voting rights\footnote{The Law on Religious Groups} (Article 87).\footnote{Eκλογής (Βουλή των Αντιπροσώπων και Κοινοτικής Συνέλευσης) Νόμος του 1959 [Election (House of Representatives and Communal Chambers Law) of 1959].}\footnote{Metabíbasís tis Ἀσκησης των Αρμόδιων τῆς Ελληνικής Κοινοτικῆς Συνέλευσης καὶ περὶ Τύπουργείου Παιδείας Νόμος [Law concerning the Transfer of Exercise of Responsibilities of the Greek Communal Chamber and the Ministry of Education] 12/1965.} The Chamber’s self-dissolution therefore, was exclusively the decision of its GC members. As a result of this decision, the (GC) House of Representatives decided to allocate the Chamber’s powers partly to itself and partly to a newly formed Ministry of Education.\footnote{Cypiom Ltd. v. Αστυνομίας (2003) Α.Α.Δ. 459 [Cypiom Ltd v. Police [2003] 2 CLR 459]. See also Georgehidas v. The Republic [1966] 3 CLR 252; President of the Republic v. House of Representatives [1985] 3 CLR 2801; Πρόεδρος τῆς Δημοκρατίας v. Βουλής των Αντιπροσώπων [1994] 3 Α.Α.Δ. 167 [President of the Republic v. House of Representatives [1994] 3 CLR 167].} The Supreme Court has ruled on several occasions that the self-dissolution of the GC Communal Chamber was justified under the doctrine of necessity.\footnote{This argument was put to the Court in Cypiom (ibid.), but the Court did not address it at all.} Yet, this is a surprising conclusion considering that the GC Communal Chamber did not consist of any TC and it could – and in fact did – continue operating even after the events of 1963.\footnote{Ο περί Θρησκευτικών Ομάδων Νόμος [Law on Religious Groups] 58/1970.} When deciding on the matter, the Court has limited itself to declaring that the House of Representatives has relied on the doctrine of necessity. Yet, it has not engaged in even a rudimentary assessment of whether the criteria set out in \textit{Ibrahim} have been satisfied. Moreover, the Court has never mentioned, let alone evaluated using the \textit{Ibrahim} proportionality test, how the dissolution of the Communal Chamber has affected the interests of the Maronites, Armenians and Latins, who were relying on it to communicate their views.

Nowadays, the three religious groups can each elect one person to the House of Representatives, a much larger body than the Communal Chambers were, and one where their voices are more likely to be drowned out by those of the majority.\footnote{Τροποποίηση 66(Ι)/2011 του Θρησκευτικών Ομάδων (Εκπροσώπηση) Νόμου 58/1970 [Amendment 66(I)/2011 of Law 58/1970 concerning Religious Groups (Representation)].} Moreover, since 2011 the representatives have been given the right to present the views of their respective groups to any public body of the RoC.\footnote{Ο περί Θρησκευτικών Ομάδων Νόμος [Law on Religious Groups] 58/1970.} However, they cannot cast a vote or address the House of Representatives, a fact that leaves them with no effective political power and marginalises their role. Thus, when interviewed for the purposes of a report by Minority Rights Group International, the Maronite
representative regretted the fact that decisions on affairs affecting his group were taken even before he had been consulted. 71 While the doctrine of necessity did not have such a direct role in limiting the rights of religious minorities as it had with the property rights of TC, it was still used to legitimise a decision that made the consultation requirements included in the Constitution, which were intended to safeguard their interests, a lot less effective.

6 Using Bicommunality as a Sword

While the Cypriot Constitution is in theory a very rigid one, in practice the doctrine of necessity has been used to depart from its strict letter and allow it to reflect the changing political situation on the ground since 1963. 72 The extensive use of the doctrine by the legislature and its unchecked application by the judiciary have resulted in a considerable interference with the rights of non-GC. Yet, the Supreme Court has maintained that such departures from constitutional protections are necessary for the continued survival of the State. At the same time, neither the Supreme Court nor the executive have been as quick to depart from the letter of the Constitution or extensively use the doctrine of necessity when this would have led to the protection, rather than restriction, of these groups’ members’ rights. This has resulted in a double standard with state authorities oscillating between strictly adhering to, and virtually ignoring the Constitution, depending on the political background of each case.

The first example of this contradictory application of the doctrine concerns the right of TC to vote in all elections of the Republic. The 1960 Constitution, with its emphasis on the protection of GC and TC, included quotas and reserved seats for the elected representatives of the two communities. 73 In order to make their election possible in practice, it called for the creation of two electoral rolls – one for GC and the other for TC voters. 74 When the Vice-President and TC members of the House of Representatives left their positions in 1963, and the Supreme Court decided that the Republic could operate without them, the TC electoral roll became obsolete and stopped being used. 75 Conversely, over the years, its GC counterpart came to include, in addition to the GC and members of the three religious minorities, all naturalised citizens of the Republic. It is in light of these facts, that one applicant, a Cypriot citizen residing in the areas controlled by the Republic and belonging to the Turkish community, requested his registration to the GC electoral roll. The argument was that the applicant’s continued registration in the TC electoral register, coupled with the fact that that this remained inactive since 1963, essentially resulted in his

71 Kyriakou and Kaya (2011).
72 The ‘basic articles’ of the Constitution, which can never be amended, are listed in Article 182 and Annex III of the Constitution.
73 Constitution, Articles 46, 62, 123 and 130.
74 Constitution, Article 94.
75 Aziz, para 26.
disenfranchisement. His request was rejected by the Minister of the Interior, who chose to adhere to the obsolete constitutional provisions, thus signaling in essence that the applicant was an equal citizen of the Republic only on paper.

The case eventually reached the Supreme Court where the applicant argued that since there was for all intents and purposes a single electoral roll in the Republic, it would be a violation of his right to vote under Article 31 of the Constitution, if he was not allowed to register.\(^{76}\) He accepted that his request was contrary to the letter of the Constitution, but contended that departing from it could be justified using the doctrine of necessity. The Court, rather surprisingly considering its extensive use of the doctrine in the TC right to property cases, rejected the application by using two arguments. The first focused on the fact that the Constitution already provided mechanisms through which TC could be allowed to vote.\(^{77}\) Little attention was paid to the substance of the applicant’s claim, namely that these mechanisms had not been used – and indeed could not have been used because of the application of the doctrine of necessity – since 1963. While in its right to property case law the Court did not refer to the need to maintain the bicomunal character of the Constitution, here it was quick to point out that ‘the right to vote is directly related to the communal provisions that provide for the creation of separate electoral rolls and separate elections for the representatives from each community.’\(^{78}\) The ideal of one person-one vote, the Court continued, did not allow it to amend the Constitution.

The Court’s second argument related directly to the doctrine of necessity. It held in essence, that it was impossible to rely on this legal mechanism because the only body that could signify the existence of a need to be addressed using the doctrine, was the legislature. Since the House of Representatives was aware of the applicant’s – and others’ in a similar position – disenfranchisement, yet decided to do nothing, the judiciary could not use the doctrine of necessity on its own to fix the problem. Exhibiting a newly-found attachment to the Constitution, the Court concluded that ‘the nature of the doctrine of necessity does not intend the bending or setting aside of the Constitutional order, but only its support.’\(^{79}\) Thus, instead of the bicomunality provisions in the Constitution being used as a shield to protect the rights of TC, they were transformed into a sword and in effect justified the restriction of these very rights.\(^{80}\)

It is not only the rights of TC that have been limited due to a strict adherence to the Constitution. While the RoC is a signatory to the Framework Convention for the Protection of National Minorities (FCNM), it has resisted any calls for change in the status of the three religious groups by pointing to the rigidity and unamendability of

\(^{76}\) Ιμπραχίμ Αζίζ v. Κυπριακή Δημοκρατίας, μέσω Υπουργείου Εσωτερικών (2001) 3A A.A.Δ 501 [Ibrahim Aziz v. Republic of Cyprus, through the Ministry of the Interior (2001) 3A CLR 501].

\(^{77}\) Ibid.

\(^{78}\) Ibrahim Aziz [authors’ translation].

\(^{79}\) Ibid., 502 [authors’ translation].

\(^{80}\) The case was eventually heard by the ECtHR, which held that the disenfranchisement of TC residing in the areas controlled by the Republic on the ground of their ethnic origin constitutes both a violation of the right to vote and of freedom from discrimination (Aziz).
certain constitutional provisions.\textsuperscript{81} One of the most long-standing complaints of these groups, for which the FCNM Advisory Committee has also expressed concern, is that the constitutional requirement to be considered members of either the GC or TC community, unduly restricts their right to self-identify.\textsuperscript{82} Linked to this, is the additional concern that because of this provision, the Constitution does not include effective mechanisms through which Maronites, Armenians and Latins can be effectively consulted for matters that relate to them.

The Republic’s response to these criticisms, which are equally applicable to the full spectrum of different groups on the island, and not only to the three recognised minorities,\textsuperscript{83} has evolved around the argument that this state of affairs is mandated by the Constitution, which is impossible to amend due to the specific situation that exists on the island. Illustrative of this is the response of the government to the first report of the FCNM Advisory Committee, which acknowledges the restrictions on the right to self-identify, explains them through the prism of the bicomunal nature of the Constitution, yet ultimately concludes that ‘[t]he issue of affiliation cannot be a priority at present, but it could be examined in any future revision of the Constitution’.\textsuperscript{84} Such a revision however, ‘is definitely inappropriate at this point in time in view of the fact that in the case of Cyprus there are, admittedly, particular circumstances to be taken into account’\textsuperscript{85} (meaning the unresolved Cyprus issue).

A similar adherence to the letter of the Constitution is recorded, even when the religious groups make mere symbolic demands that would have been easy to meet, had the political willingness been present. For example, the Latins have requested that they are referred to in a term that reflects their Roman Catholic religion more accurately.\textsuperscript{86} Similarly, the Maronites and Armenians have argued that they should be regarded as ethnic groups or national minorities rather than religious groups, since religion is not their only distinguishing characteristic.\textsuperscript{87} The FCNM Advisory Committee has noted that these demands could be met even without constitutional amendments, yet this possibility has not been entertained by the Cypriot government.\textsuperscript{88} In any case, despite the RoC’s statements to the contrary, it is possible to amend, or at least circumvent the Constitution, through the doctrine of necessity. This was the view of the Supreme Court, which, following a long saga of cases,

\textsuperscript{81}The Convention applies to the three religious groups, which are considered a ‘minority’, but not the TC because under the Constitution, they have a different status as a ‘community’.
\textsuperscript{82}FCNM Advisory Committee (2010), para 187.
\textsuperscript{83}For example, the Roma citizens of the Republic.
\textsuperscript{84}Comments of the Government of Cyprus on the Third Opinion of the Advisory Committee on the Implementation of the FCNM by Cyprus (2010), para 14.
\textsuperscript{85}Comments of the Government of Cyprus on the First Opinion of the Advisory Committee on the Implementation of the FCNM by Cyprus (2001) Concluding Remarks.
\textsuperscript{86}FCNM Advisory Committee, para 31.
\textsuperscript{87}Ibid. Maronites, Armenians and Latins are defined as ‘religious’, instead of ‘ethnic’ groups under Article 2 of the Constitution.
\textsuperscript{88}FCNM Advisory Committee. The recommendation of finding a solution through a route that does not require the amendment of the Constitution is not something that is discussed in the RoC’s response.
concluded that the doctrine could be used to amend the Constitution itself, rather than merely pass legislation that was not in line with constitutional provisions. It is ironic that, rather than choosing this route, the RoC has justified the restrictions on minority rights by effectively invoking the most essential and prominent bicommunality provisions that exist in the text of the Constitution. Therefore, the practice of the RoC, taken as a whole, is arguably contradictory. On the one hand, since the proposal to amend the Constitution on the basis of the ‘13 points’, the GC political elite has mostly attempted to sideline the bicommunal facets of the Constitution by using the doctrine of necessity. On other occasions, it has invoked the very bicomunal nature of the Constitution in order to confront the criticism addressed to the State for its refusal to amend problematic constitutional provisions.

7 Concluding Remarks

What emerges from the judicially sanctioned application of the doctrine of necessity is that it has often been used to provide a legal gloss for the exclusion of non-GC from the public sphere, as well as deprive them of their individual constitutional rights. Following the events of 1963 and 1974, the automatic application of the doctrine has resulted in asymmetrical results. Although on the domestic plane it was initially used as a shield, devised to safeguard the effective functioning of the institutions of the Republic, it was later transformed into a sword, serving the assertive exclusion of non-GC from participating in the structures and being protected by the laws of the RoC. At the same time, internationally, and particularly when addressing the rights of religious minorities, the doctrine has remained completely dormant with all attention being focused on the need to respect the bicomunal character of the Constitution. Especially after the failed reunification referenda for the adoption of a UN-sanctioned comprehensive peace settlement, the feeling of ownership of the Republic has been on the rise within the GC community, which has lent support to the phenomena described above. In this sense, (GC) President Papadopoulos’ statement on the eve of the referenda is both telling and emblematic of this turn: ‘I was given an internationally recognised state. I am not going to give back a community’.

In Cyprus’ case, monopolising power and dominating the law were conflated into a single mechanism and were inextricably linked to each other. Arguably, the majority’s attempt to rid of the ‘dysfunctional’ parts of the 1960 Constitution by sideling the principle of bicommunality, initially through the ‘13 points’, was later transformed into the doctrine of necessity. In other words, the doctrine was not a value-free judicial choice made in the course of the criminal proceedings for the Ibrahim case, but the

89 Kouλouντη v. Βουλή των Αντιπροσώπων και Άλλων (1997) 1 Α.Α.Δ 1026 [Kouλouντη v. House of Representatives and Others (1997) 1 CLR 1026].
90 UN Secretary-General (2004), para 72.
91 Loizides (2007), 172.
92 Televised speech of the President of the Republic, Tassos Papadopoulos (2004).
continuation of the politics of ethnic antagonism by other means. The doctrine of necessity has indeed served the existence and effective operation of the institutions of the Republic, but it has also provided a justification for the implicit claim over the whole Republic by the GC political elite.\textsuperscript{93} Little, if any, of these problems concern, or are even noticed by, the average GC. The Constitution and the practices that stem from it ‘though illiberal, [are] experienced as liberal by those who benefit from’ them.\textsuperscript{94} This state of affairs has gone unnoticed, undiscussed and unchallenged for so long precisely because it has, slowly but surely, entrenched the position, power and sense of entitlement of the majority.

\textbf{References}

\textit{Journals and Articles}

Constantinou C (2008) On the Cypriot states of exception. Int Polit Soc 2:145–164
Hadjigeorgiou N (2013) Case note on Kazali and Others v. Cyprus. Cyprus Human Rights Law Rev 2:103–112
Loizides N (2007) Ethnic nationalism and adaptation in Cyprus. Int Stud Perspect 8:172–189
\Özersay K (2004–2005) The excuse of state necessity and its implications on the Cyprus conflict. Perceptions 9:31–71

\textit{Books and Chapters}

Adamides C, Constantinou C (2012) Comfortable conflict and (Il)liberal peace in Cyprus. In: Richmond O, Mitchell A (eds) Hybrid forms of peace: from everyday agency to post-liberalism. Palgrave Macmillan, Houndmills, pp 242–259
Crawford J (2006) The creation of states in international law, 2nd edn. Oxford University Press, Oxford
De Smith SA (1964) The new commonwealth and its constitutions. Stevens & Sons, London
Drousiotis M (2008) The first partition: Cyprus 1963–1964. Alfadi Publications, Nicosia
Emilianides A (2013) Cyprus. Wolters Kluwer, Surrey
Kelsen H (1961) General theory of law and state. Russell and Russell, New York
Kymlicka W (1995) Multicultural citizenship: a liberal theory of minority rights. Clarendon Press, Oxford
Necatigil Z (1993) The Cyprus question and the Turkish position in International law. OUP, Oxford
Pikis G (2006) Constitutionalism—human rights—separation of powers: the Cyprus precedent. Martinus Nijhoff, The Hague
Polyviou P (2015) Cyprus—a study in theory, structure and method of the legal system of the Republic of Cyprus. Cryssaffinis & Polyviou, Nicosia
Soulioti S (2006) Fettered independence: Cyprus 1878–1964. University of Minnesota Press, Minneapolis

\textsuperscript{93}Constantinou (2008), 145. Similarly, Kuo M-S (2020) in this volume makes the case that ‘The ‘state of exception’ appears to be turning into a permanent condition […]’.

\textsuperscript{94}Adamides and Constantinou (2012).
Judgments by Cypriot Courts

Adrian Holdings Ltd v. The Republic [1999] 3 CLR 828
Ahmet Mulla Suleyman (Μέσω της Πληρεξόδου Αντιπροσώπου του Sahiba Ahmet Suleyman) v. Κυπριακής Δημοκρατίας, μέσω (1) Υπουργού Εσωτερικών (Την Ιδιότητα του Κηδεμόνα Τουρκοκυπριακών Περιουσιών), (2) Διευθυντή Υπηρεσίας Διαχείρισης Τουρκοκυπριακών Περιουσιών (2007) 4A A.Α.Δ 312 [Ahmet Mulla Suleyman v. the Republic of Cyprus, through (i) the Minister of the Interior as the Custodian of Turkish-Cypriot properties; and (ii) the Director of Management of Turkish-Cypriot properties (2007) 4A CLR 312]
Alloupas v. National Bank of Greece (1983) 1 CLR 55
Ambrosia Oils v. Bank of Cyprus (1983) 1 CLR 55
Bagdassarian v. Electricity Authority of Cyprus (1968) 3 CLR 736
Chimonides v. Manglis (1967) 1 CLR 125
Cypiom Ltd. v. Αστυνομίας (2003) A.Α.Δ. 459 [Cypiom Ltd v. Police (2003) 2 CLR 459]
Georghiades v. The Republic (1966) 3 CLR 252
Ιμπραχίμ Αζίζ v. Κυπριακής Δημοκρατίας, μέσω Υπουργείου Εσωτερικών (2001) 3A A.Α.Δ 501 [Ibrahim Aziz v. Republic of Cyprus, through the Ministry of the Interior (2001) 3A CLR 501]
Κουλουντή v. Βουλή των Αντιπροσώπων και Άλλων (1997) 1 A.Α.Δ 1026 [Koulounti v. House of Representatives and Others (1997) 1 CLR 1026]
Νικολάου και άλλων v. Νικολάου και άλλοι (1992) 1 CLR 1338 [Nicolau and Others v. Nicolau and Other (1992) 1 CLR 1338]
Πρόεδρος της Δημοκρατίας v. Βουλής των Αντιπροσώπων [1994] 3 A.Α.Δ. 167 [President of the Republic v. House of Representatives [1994] 3 CLR 167]
President of the Republic v. House of Representatives [1985] 3 CLR 2801
Σολωμονίδης v. Υπουργό Εσωτερικών ως Κηδεμόνα Τουρκοκυπριακών Περιουσιών (2003) 1B A.Α.Δ 1275 [Solomonides v. Minister of the Interior as the Custodian of Turkish-Cypriot properties (2003) 1B CLR 1275]
The Attorney-General of the Republic v. Mustafa Ibrahim and Others (1964) CLR 195
The Turkish Communal Chamber v. Council of Ministers [1963] 5 CLR 59

Judgments by the European Court of Human Rights

Aziz v. Cyprus (2005) 41 E.H.R.R. 11
Kazali v. Cyprus (App no 49247/08) (ECtHR, 6 March 2012)
Loizidou v. Turkey (Preliminary Objections) (1995) 20 E.H.R.R. 99

Other Judgments

Re Manitoba Language Rights [1985] SCR 721 [Canada]
Mokotsi and Others v. King Moshoeshoe II and Others, 5 Aug. 1988, (1992) 90 ILR 427 [Lesotho]
Mitschell and Others v. Director of Public Prosecutions and Another 45 (1986) LRC 86 [Grenada]
Bhutto v. The Chief of the Army Staff and the Federation of Pakistan PLD 1977 SC 710 [Pakistan]
Other

Constitution of the Republic of Cyprus, signed on 16 August 1960
Department of Statistics and Research (1963) Census of Population and Agriculture 1960. RoC
Department of Statistics and Research
Security Council Report, ‘UN Documents for Cyprus’ available at http://www.securitycouncilrep
ort.org/un-documents/cyprus/
Global IDP Database (2003) ‘Profile of Internal Displacement: Cyprus’. Norwegian Refugee
Council/GLOBAL IDP Project
Kyriakou N, Kaya, N (2011) Minority Rights: Solutions to the Cyprus Conflict. London: Minority
Rights Group International
FCNM Advisory Committee, Third Opinion on Cyprus adopted on 19 March 2010. Strasbourg. 8
October 2010
Comments of the Government of Cyprus on the Third Opinion of the Advisory Committee on the
Implementation of the FCNM by Cyprus. Strasbourg. 8 October 2010
Comments of the Government of Cyprus on the First Opinion of the Advisory Committee on the
Implementation of the FCNM by Cyprus. Strasbourg. 19 November 2001. Concluding Remarks
UN Secretary-General (2004) Report of the Secretary-General on his Mission of Good Offices in
Cyprus. New York: United Nations

Cypriot Laws

Ο περί Εκλογής (Βουλή των Αντιπροσώπων και Κοινοτικά Συνελεύσεις) Νόμος του 1959
[Election (House of Representatives and Communal Chambers Law) of 1959]
Ο περί Απονομής της Δικαιοσύνης (Ποικίλες Διευθύνσεις) Νόμος του 1964, N. 33/1964 [The
Administration of Justice (Miscellaneous Provisions) Law 33/1964]
Ο περί Μεταβίβασης της Άσκησης των Αρμοδιοτήτων της Ελληνικής Κοινοτικής
Συνελεύσης και περί Υπουργείου Παιδείας Νόμος [Law concerning the Transfer of Exercise
of Responsibilities of the Greek Communal Chamber and the Ministry of Education] 12/1965
Ο περί Θρησκευτικών Ομάδων Νόμος [Law on Religious Groups] 58/1970
Τροποποίηση 66(I)/2011 του Θρησκευτικών Ομάδων (Εκπροσώπηση) Νόμου 58/1970
[Amendment 66(I)/2011 of Law 58/1970 concerning Religious Groups (Representation)]
Ο περί Τουρκοκυπριακών Περιουσιών (Διαχείριση και Άλλα Θέματα) (Προσωρινές
Διευθύνσεις) Νόμος [The Law Concerning Turkish-Cypriot Properties (Administration and Other
Matters) (Temporary Provisions)] 139/1991
Ο περί της Εκλογής των Μελών του Ευρωπαϊκού Κοινοβουλίου Νόμος (10(I)/2004), όπως
τροποποιήθηκε από τον 35(I)2014 [The Election of Members of the European Parliament Law
(10(I)/2004), as amended by 35(I)2014]
Πρεσβεία της Δημοκρατίας ν. Βουλής των Αντιπροσώπων [1986] 3 CLR 1439 [President of
the Republic v. House of Representatives [1986] 3 CLR 1439]

Dr. Nasia Hadjigeorgiou is an Assistant Professor of Transitional Justice and Human Rights
at the University of Central Lancashire (Cyprus campus). Her research focuses on the protec-
tion of human rights in post-violence societies. She has published several articles, among them
in the Cambridge Yearbook of European Legal Studies and the European Human Rights Law
Review, edited a volume on Identity, Belonging and Human Rights (Brill, 2019) and is the author
of Protecting Human Rights and Building Peace in Post-violence Societies: An Underexplored
Relationship (Hart Publishing, 2020).
Nikolas Kyriacou holds an LL.M. from the University of Leiden and a Ph.D. from the EUI. His doctorate thesis was on the practice of enforced disappearances, viewed from an international human rights law perspective. He worked in private practice as human rights lawyer and as lawyer for the government of Cyprus. Currently, he works as legal administrator at the Court of Justice of the EU.