



*End discrimination against Turkish Cypriots*



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# Rule of Law I and Turkish Cypriots

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## **Democratic Lawmaking**

- In democratic societies, citizens are expected to play an active role in helping to shape its laws and those laws are to be enforced until such time they are dissolved or updated in accordance with the Law. The Republic of Cyprus has failed to uphold this fundamental basic principle of the Rule of Law.
- Cyprus has failed in democratic lawmaking processes since 1964, when essentially Greek Cypriots sought to eliminate the rights and political equality of Turkish Cypriots, even though these were enshrined in the Republic of Cyprus' 1960 constitution.
- The island gained its independence from the UK in 1960. Greek & Turkish Cypriots created the Republic of Cyprus, in which they shared power as two political equals which included jointly being responsible for the law making functions of the newly independent state.
- The Greek Cypriots resented this arrangement because they were the numerical majority:
  - They tried to persuade Turkish Cypriots to accept a minority status.
  - When this failed, they brutally attacked them in December 1963 & seized control of the organs of state and the Government.





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### **Democratic Lawmaking 2**

- Since 1964, no Turkish Cypriot has sat in the Parliament & none have served as Ministers in the RoC Government and since 1966 no Turkish Cypriot Judge has sat in any Court of the Republic of Cyprus.
- Important laws have been passed about the future of the island, that impact on the lives and rights of Turkish Cypriots without any prior input or consent on their part.
  - '13 Amendments' to Constitution, which removed the political equality of Turkish Cypriots; entry into the EU; gas drilling off the island's Southern coast, etc.
- The EU & wider world chooses to ignore the bitter Cyprus conflict, its root causes and outcomes, as well as the moral, legal and democratic rights of the Turkish Cypriot people, treating the Greek-run Republic of Cyprus as the sole representative of the whole island.
- The reality is that there are now two states in Cyprus, both with democratically elected representatives that pass their own laws.
  - OSCE members must treat both sides in a way which recognises this position.





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## Independence of the Judiciary

➤ Under the 1960 RoC Constitution, Turkish was an official language & the bi-communal arrangements stated court cases affecting Turkish Cypriots were to be tried in Turkish in the presence of Turkish Cypriot judges. These practices were abandoned in 1964 when Greek Cypriots forced through Constitutional changes.

- Turkish Cypriots in South Cyprus are now disadvantaged through the denial of their constitutional rights.
- There are no Turkish Cypriot judges on the RoC bench today & Greek is the official language of RoC courts.

➤ It is now very difficult if not impossible for Turkish Cypriots to gain fair access to justice in the Courts of the RoC. This will be highlighted by way of reference to the emotive issues of refugees and land in Cyprus in the rest of my submissions.

➤ The Greek Cypriot judiciary will say that they operate in a fair and independent way, but on matters relating to the Cyprus Conflict, their decisions are dictated to by the State, compromising their ability to pass / uphold good law.

- They approved compulsory purchase & redevelopment of huge tracts of Turkish Cypriot land in South Cyprus, without providing any opportunity for owners to defend their interests. The land has been used for airports, power plants, schools, roads, car parks, making it impossible to return to their former owners.
- They acted contrary to EU laws, preventing Turkish Cypriot refugees from enjoying their property rights, which came to the fore in the Nezire Sofi case. It was resolved at the ECHR in January 2010 when Greek Cypriot authorities accepted they had prevented the 84-year-old Turkish Cypriot from exercising her ownership rights.
- Following the Sofi case, the RoC promised was forced by cases brought before the ECHR to amend its property laws. Many Turkish Cypriots, including the residents of Vroisha Village forced out in 1964, are now putting this to the test.

➤ It should be noted, the RoC judiciary has a different property regime for refugees to the courts in North Cyprus, which have been forced to comply with international norms by creating the Immovable Property Commission.

- IPC criteria includes: judges & their relatives cannot occupy former Greek land; & refugees are entitled to their property rights (compensation, exchange or restitution) immediately – they are not obliged to wait for a political solution, as Turkish Cypriot refugees have been repeatedly told in the South.







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## Right to a Fair Trial

- The Cyprus property issue is both complex and sensitive, especially where it relates to refugees, which there are of Greek and Turkish Cypriots in large numbers. This has been so skewed by the ROCs' willingness to adhere to a democratic Rule of Law that it is becoming increasingly difficult to resolve the Cyprus conflict.
- North Cyprus now resolves these issues through the IPC, which has been upheld by the ECHR as a valid & fair local remedy for all affected parties.
- The courts in South Cyprus are seemingly oblivious to such and past ECHR rulings on this matter, using propaganda to treat those using the land former Greek Cypriot land in the North as "thieves", although Turkish Cypriot land has been used in South including to build Larnaca and Paphos airports and the Vassilikos Power Plant.
  - The ECHR landmark Demopoulos Ruling in 2010 reflected on the passage of time since the Cyprus conflict ended & stated refugees no longer had the automatic right of return & current land users also had rights.
- **The Orams, a retired British couple who had bought a home in Lapta, North Cyprus, were persecuted through the Greek Cypriot courts.**
  - They were served papers in Greek in 2004 with 12 days to respond – an insufficient period for the defendant to organise a defence in Greek in a foreign territory.
  - The South Cyprus courts found against the Orams & the verdict was registered with the British High Court in 2005. Using an EU Regulation on mutual enforceability, the plaintiff demanded damages against the Orams be enforced against their UK home & assets.
  - In his summary at a hearing at the British High Court in 2006, Justice Jack said the case "*is an international problem ill-suited to be resolved by private litigation*" and that the issue needed, "*a proper diplomatic answer granted fairly for both sides of the island, as this is not just a North problem*".
  - Subsequently, the European Court of Justice, headed by a **Greek judge** decorated by the RoC, demanded the British courts uphold the RoC verdict. They did not assess the quality of lawmaking or if the Orams had received a fair trial, merely the technical requirements of mutual enforceability between two EU member states.
  - They Orams have waived their right to their Lapta home. The threat to their UK home & assets remains.
- **These are just some of the issues I can highlight on this subject in this short time.**





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## Contact Us

- To contact us:

- A: Embargoed! , PO Box 100, Morden, Surrey, SM4 9DH, UK
- E: [info@embargoed.org](mailto:info@embargoed.org)
- T: +44 (0)7806 932 966

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