

The British role in creating Greek-Turkish Divisions in Colonial Cyprus and an Analysis into the Subsequent Breaches of the 1960 Treaty of Guarantee in Post-Colonial Cyprus – A Public International Law Perspective

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Abstract

The article firstly focuses on the British colonial era in Cyprus, predominantly from the 1950s to the implementation of the Treaty of Guarantee. It argues that Britain played an active role in Greek-Turkish divisions, shown in particular by events between 1954 and 1958. The article then takes a legal analysis, focussing on the Treaty of Guarantee in 1960. It discusses British (and American) involvement in post-colonial Cyprus in the 1960s and 1970s, notably their support for a Turkish invasion. Crucially, it examines potential breaches of Public International Law through British actions, addressing both Treaty Law and Customary International Law. It is accepted amongst the international community that Turkey breached the Treaty of Guarantee when they invaded Cyprus in 1974. This is uncontroversial and will be briefly discussed, but the main intention of this article is to provide an original perspective on how the British also breached the Treaty of Guarantee.

Keywords: Treaty of Guarantee, public international law, Greek-Turkish relations, British colonial rule, British foreign policy

Introduction

Cyprus' colonial era ended in 1960, when the Treaty of Guarantee was signed by the United Kingdom, Turkey and Greece, which of course granted Cyprus independence. However, just 14 years later, Cyprus was invaded by Turkey and the Turkish Republic of Northern Cyprus (TRNC) was formed, dividing the island into the Greek and Turkish parts. The aim of this article is to expose British involvement throughout this era, ultimately arguing that their interference and support for one side actually breached international law, and cannot simply be seen as a diplomatic policy, but

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rather contravention with the Treaty of Guarantee. For this to be proven, the article must explore the entire era, from the 1950s up to the Turkish invasion.

The article firstly focuses on the end of the British colonial era in Cyprus, predominantly from the 1950s to the implementation of the Treaty of Guarantee. It argues that the British played an active role in Greek-Turkish relations and divisions, shown in particular by events between 1954 and 1958, and through the use of diplomatic primary sources. This laid the platform for later conflicts between Greeks and Turks, but were not breaches of international law.

The article proceeds to take a legal analysis, focussing on the Treaty of Guarantee in 1960, and its precise drafting and wording in 1959. It progresses to discuss British (and American) involvement in post-colonial Cyprus in the 1960s and 1970s, notably their support for a Turkish invasion. Crucially, it examines potential breaches of international law through British actions, most importantly the breach of the Treaty of Guarantee. It also examines other relevant treaties and conventions that the nations had signed and ratified at that time, as well as breaches of customary international law. It is widely accepted amongst the international community that Turkey breached the Treaty of Guarantee when they invaded Cyprus in 1974, and thus international law. This is relatively uncontroversial and will be briefly discussed, but the crux and main intention of this article is to provide an original perspective on how the British also breached the Treaty of Guarantee.

Cyprus under Colonial British Rule and Greek-Turkish Divisions

Colonial Cyprus in Context – Pre-1950s

Understanding British colonial rule helps our understanding of Cyprus' mindset as a nation in 1974 – one that was used to foreign rule and thus potentially susceptible to it. Its strategic position and thus attraction did not change either, and whilst the British prioritisation of retaining Cyprus may have fluctuated over the years, its perception as a crucial asset by them and others was still evident in 1974, just as it had been when Britain colonised it. However, the three decades prior to the invasion saw the start of Greek-Turkish divisions, and this is where the British responsibility must be examined further.

Britain did categorise inhabitants of Cyprus into Greek and Turkish Cypriots, leading to nationalist feelings, even during their early years of colonisation. Perhaps there was no malice involved in this approach initially, however nonetheless it encouraged a divide. Cypriots were divided unequally – in the Legislative Council, there

were the same amount of British officials and Muslim representatives as those that were Christian Orthodox, thus 18% of the population (Turkish) had virtually equal rights as the Greeks who were of course the majority. This enhanced the focus of being Greek or Turkish, and nationalism increased. Again, this was an inadvertent approach by the British, perhaps keen on positive discrimination and encouraging the notion of equality. At this point, it may be fair to state that Britain did not really consider the consequences of their acts – WW1 and WW2, plus other colonial conflicts, were of course prioritised. Inter-ethnic violence occurred in the form of rioting in 1897 and 1912, which only stirred up tensions. During the inter-war years, there was rioting in 1931 when Government House was burnt down and the Colonial Constitution was revoked.

Britain's role in the Second World War has relevance in Cyprus, not due to the obvious enemy at the time (Germany) but due to the development of Britain's anti-communist and thus anti-Soviet obsession, which of course became part of the Western mindset during the Cold War post-1945. However, whilst the Cold War made strategic assets, in the form of nations, even more importantly, the trend was in fact paradoxical to this – decolonisation. Britain let many countries leave the Empire amidst the pressures of self-determination. However, the British found Cyprus slightly harder to set free, or at least handing over to Greece, one of the reasons being that they feared that if Greece became communist then Cyprus could become pro-Soviet. This was a mindset which would turn into a policy to play a part throughout the 1950s. Minister Geoffrey Wallinger stated in 1947 that 'the early cession of Cyprus might well be a wise policy, justified by considerations not only of justice, but also of expediency. But present circumstances are not normal...control of the island by a foreign power would be a danger to us.'² The Greek civil war was sufficient justification for the British to not relinquish Cyprus, given the instability to a nation who could not be trusted to rule a strategically essential State.

Cyprus was thus still considered to be a strategic asset. In an interview, Lieutenant-commander Martin Packard stated that:

Cyprus is the only bit of ground in the Middle East left to our strategic planners. From the purely strategic point of view, to sacrifice this one remaining asset at a time when it is not even certain that we shall get any strategic rights or facilities

² Geoffrey Wallinger, 24 October 1947, memo on file jacket, FO371/67084, file R 13462/9 in William Mallinson, *Kissinger and the Invasion of Cyprus: Diplomacy in the Eastern Mediterranean* (Newcastle; Cambridge Scholars Publishing, 2016).

in any part of Libya would seem inconsistent with the policy of the firm hold on the Middle East which has been endorsed by the Prime Minister and Secretary of State, as well as by the Chiefs of Staff...with Cyprus ceded to a Greece gone communist, we should not only have created a vacuum in the Middle East, we should have gone halfway towards letting the Russians fill it.³

Therefore, in the immediate post WW2 era, it seems that Cyprus remained key to Britain's Middle Eastern policy and desire to keep Soviet influence away.

Despite the post WW2 trend of decolonisation, Britain ultimately had the power to ignore any pressures with regards to Cyprus, given its proximity to the Middle East and importance as a link to a part of the world which was vulnerable to succumb to Soviet ideological influences. This is the logic behind geopolitics. However, why did Cyprus then gain independence just over a decade later in 1960, during the height of the Cold War? Surprisingly, the answer to this question lies in the very nation whose covert role in the invasion of Cyprus in 1974 (which will later be explored) and a country whose Cold War aims seemingly took prominence over all other policies at this time – the United States.

Britain were keen on American support and intervention in the Balkans, and despite initial reluctance, they provided massive exportation of arms to Greece during the civil war. However, with regards to Cyprus, the US opposed Britain's refusal to give it up. In the mid-1950s, American lip-service to self-determination took priority and Cyprus' perception as a key strategic asset was perhaps not as strong as a decade later. The US already had power in the Middle East following the Suez Crises. Furthermore, and importantly, the potential damage to NATO was too risky if Cyprus remained a British colony. Thus, Britain's stringent approach on Cyprus contradicted this.

The US thus exerted pressure on Britain to be flexible with regards to decolonisation. After Britain declared a state of emergency and deported Archbishop Makarios to the Seychelles in a bid to discard potential threats to British rule, the US and President Eisenhower forced Britain to free him. In his diary, Eisenhower stated:

I had certain important messages, particularly from the Greeks, asking me to urge upon Macmillan the importance of freeing Archbishop Makarios. I told

³ Lieutenant-commander Martin Packard, in Mallinson (no 1).

them that in my opinion I didn't believe they were gaining much by keeping him prisoner, so I would just turn him loose on the world.⁴

This was not only a statement of the US intention to make Cyprus independent, but an indication of the balance of power shifting to the US in the US-British 'special relationship'. This was the first sign of US influence on Britain in Cyprus, which was the backdrop behind the decolonisation of Cyprus and essentially led to its independence in 1960.

1954-1958 British Actions

For as long as Britain could, i.e. for as long as they could claim their status as a world power despite their economic weakness and hold off American pressures, they refused to give up Cyprus despite the growth of Greek requests for them to do so. The Americans were not happy, but in 1954 were convinced by the British that the Cyprus question should not be placed on the UN General Assembly agenda. It is important to consider the part Britain played during this time and the impact it had on Cyprus in the long term.

In fact, Britain were covertly and quietly creating a Greek-Turkish divide in Cyprus from the late 1940s. In 1947, John Peck from the Foreign Office stated that 'although the Turkish Government has never raised with us any questions affecting the Turkish minority in Cyprus, this minority should be protected'.⁵ The British were thus creating nationalistic feelings amongst the Greeks and Turks at this point, when there were no such strong sentiments. By 1950, the divide was apparent amongst the Greeks too, when a plebiscite revealed that 96% of Greeks voted for enosis.

By September 1954, the British were publicly encouraging these divisions at the UN General Assembly, where Selwyn Lloyd stated that 'the Turkish speaking Cypriots...are bitterly opposed to Enosis...there has up to now been no communal strife. Does the assembly really want to stir it up by keeping this matter on the agenda.'⁶ By stating this, Lloyd was essentially advising the UN to forget the divisions and let them flourish.

⁴ Foreign Relations of the United States 1955-1957, Vol. 24 (Washington: United States Government Printing Office).

⁵ John Peck, Internal Foreign Office Paper on Cyprus, 22 December 1947, BNA FO 371/67084, file R-1683/8/G in Mallinson (no 1).

⁶ Report on Cyprus, Agenda, Ninth Session of the General Assembly of the United Nations, New York, 23-24 September 1954, BNA FO 953/1964, file G-11926/20 in Mallinson (no 1).

In 1955, Britain's actions were even more vicious, overt and would arguably have a long-standing impact on Greek-Turkish relations. They convened a tri-partite conference between Britain, Greece and Turkey on Cyprus. Art 16 of the Treaty of Lausanne⁷ forbade Turkey from having any rights regarding Cyprus but the conference clearly ignored this. Permanent Under Secretary of the Foreign Office Kirkpatrick stated that he had 'always been attracted by the idea of a 3 Power Conference, simply because I believe it would seriously embarrass the Greek Government...I shall not produce any British plan until a Greek-Turkish difference has been exposed'.⁸ Furthermore, British Foreign Secretary stated that 'throughout the negotiations, our aim would be to bring the Greeks up against the Turkish refusal to accept enosis and so condition them to accept a solution, which would leave sovereignty in our hands'.⁹ As a result, the conference inevitably failed and Greek-Turkish relations were damaged – in Istanbul, 29 Greek Christian Orthodox churches were destroyed. These were not conflicts that would simply be forgotten by 1974.¹⁰

There is thus clear evidence that Britain not only encouraged these divisions in the 1950s, but created and defined them. The US did not encourage this, yet both Britain and the US had the same Cold War aims at this time. Thus, British actions must be attributed to the vested interest of needing a reason and justification to retain Cyprus as part of its Empire. Simply, Britain did not intend to decolonise Cyprus and weaken their power, thus the creation of Greek-Turkish divisions was their route to remain – justifying their colonial presence as a stable, controlling super power who could control two volatile, conflicting ethnic groups.

Historian Mallinson states it perfectly when he argues that:

The seeds of dismemberment in 1974 were sown by Britain in the early fifties. It was the cynically conceived tripartite conference in September 1955 that only bedevilled Greek-Turkish relations until today, but which set the tone for the dismemberment of Cyprus, so subtly engineered by Henry Kissinger in 1974.

⁷ Treaty of Peace with Turkey Signed at Lausanne, July 24, 1923, The British Empire, France, Italy, Japan, Greece, Roumania and The Serb-Croat-Slovene State, of the one part, and Turkey, of the other part.

⁸ Kirkpatrick to Nutting, 26 June 1955, memo, BNA FO-37117640, file RG 1081/535 in Mallinson (no 1).

⁹ P. 21, Brendan O'Malley and Ian Craig, *The Cyprus Conspiracy: America, Espionage and the Turkish Invasion* (London: I.B. Tauris; 2001).

¹⁰ British Consul General, Istanbul, to Foreign Office, 7 September 1955, telegram, BNA FO 371/117721, RG 10110/1 in Mallinson (no 1).

Historically speaking, Kissinger was merely dealing with, rather than causing, a problem that Britain had itself initiated twenty years previously.¹¹

One would possibly not go quite as far as Mallinson as it somewhat downplays Kissinger's role in the invasion in 1974. In fact, given Mallinson's book focusses on Kissinger's role too, this extract may not be a fair reflection of his views or at least are not intended to diminish Kissinger's responsibility. However, the essence of his point is that Kissinger acted on divisions created by Britain, thus the latter's role should not be forgotten, an argument which seems very strong given the archival evidence.

Britain did not only create and define the Greek-Turkish divisions. As the 1950s progressed, it is evident that Britain actively took the Turkish side, collaborating with them, arguably as they knew the Greeks were far stronger in terms of population size, thus mobilization for an independent State. In 1956 they admitted this in commenting on Turkish weaknesses, stating that a report 'shows a decline of the Turkish population from about one quarter to about one fifth – which does not really help the Turkish case very much'.¹² In July 1954, the Cabinet stated that 'we must...act on the assumption that deterioration in our relations with Greece is the price we must pay to keep Cyprus, A point may even come at we should have to decide whether Cyprus is strategically more important to us than Greece'.¹³ This shows Britain knew divisions meant they could keep Cyprus but if they were to encourage these divisions, they had to ally with the Turks to prevent them being overran. In doing so, Britain banned Greek Cypriot political parties but not the Turkish ones for example.

The anti-Greek rioting of the summer of 1958 provides a clear example of a pro-Turkish policy by the British. They were aware of the possibility of Turkish acts of violence from 1957, when a British Intelligence Report stated that 'a fairly reliable source has said that they Turkish house at OMORFITA where the explosion took place on 31st August has used as a bomb making factory for some time. Twelve persons worked there in shifts and 'thousands of bombs' have been made and distributed to various parts of the islands.'¹⁴ Just a few days before the riots, the Governor wrote to the Secretary of State that the 'Turks are prepared for further violence and

¹¹ P. 43, William Mallinson, *Kissinger and the Invasion of Cyprus: Diplomacy in the Eastern Mediterranean* (Newcastle; Cambridge Scholars Publishing, 2016).

¹² Glass to Fletcher-Cooke, letter, 9 August 1956, BNA FO 953/1695, file PG-11926-50 in Mallinson (no 10).

¹³ Secretary of State for the Colonies, paper, July 1954, BNA CAB 129/69 in Mallinson (no 10).

¹⁴ Phantom Secret Report by Security Intelligence on 'Volkan' activities, 9 September 1957, FCO 141/3840 in Mallinson (no 10).

this may occur before the statement of policy is made in Parliament'.¹⁵ On 8 June, anti-Greek riots broke out following a bomb at the Turkish press counsellor's residence.

In a telegram between the Governor and Secretary of State on 10 June 1958, not released until 2014, Britain showed they knew this was not the Greeks, stating:

It seems unlikely that Greek Cypriot terrorists would have attacked Turkish Government property at this time and in this way...expert examination of the explosive charge and fragments indicates that they were of a different kind from any known to have been used in the past by Greek Cypriot terrorists, but were of a kind known to have been used recently in bombs of Turkish Cypriot manufacture.¹⁶

Even Rauf Denktash, founding member of the Turkish Resistance Organisation (TMT) and who represented Turkish Cypriots at the UN Assembly admitted to the British that it was not the Greeks, stating 'of course it was a Turkish bomb...the Greeks would not dare do it',¹⁷ according to the same telegram.

Turkish Cypriots had planted a bomb in the house of one of their own representatives, in order to stir riots, and the British had no intention of disclosing this as it would have strengthened the view internationally, and more importantly domestically amongst the Greek Cypriots, that Makarios, rather than Britain, was the leader that should take Cyprus forward amidst the turmoil that Turkish Cypriots were causing. It would also strengthen the notion on enosis – union with Greece, which would be a pressure that Britain could not withstand to prevent decolonisation. British encouragement of Turkish nationalism had led to Turkish extremism and an act which Britain had to hide if they wanted to remain in Cyprus. The intention to create divisions which would justify British rule had backfired.

In a Cabinet meeting in July 1958, the British stated:

It was right that Greek and Turkish terrorists should receive impartial treatment; but it might be unwise, in view of the present situation in the Middle East, to take action which might alienate Turkish and Moslem sentiment or

¹⁵ BNA-FCO 141/3848, Governor to Secretary of State, 4 June 1958, telegram no. 724 in Mallinson (no 10).

¹⁶ Situation Report, 8 June 1958, 02.30 hours in in Mallinson (no 10).

¹⁷ Ibid.

provoke further Turkish disorders in Cyprus at a time when the number of British troops available for internal security might have to be reduced.¹⁸

In light of this, the British arrested Greek Cypriot terrorist group members for an act which they knew full well they were not guilty of. This meeting occurred just six months before it was agreed in February 1959 that Cyprus would become independent. Thus, by July 1958, Britain must have accepted defeat in losing its colony, mainly due to US pressure, and was thus a turning point in British ideology in Cyprus.

However, rather than attempting to diffuse divisions and be objective, Britain still remained clearly pro-Turkish for the very geopolitical reasons stated in the meeting – retaining Turkish support in Cyprus even beyond decolonisation, as it could have an impact on support for Britain across the Muslim areas of Middle East. Decolonisation was now inevitable by the late 1950s, and thus British priorities switched to maintaining the balance of power in the Middle East against the Soviets – the Cold War aims shared by the US.

The US were content that independence portrayed NATO in a positive light, supportive of self-determination, the precise provisions of the treaty lacked importance to them. Britain refused Cyprus' entry into NATO, which may have prevented an invasion later as they would have gained protection, on grounds of Cyprus having access to NATO plans and documents as a 'serious security risk'¹⁹ according to the Ministry of Defence.

However, despite allowing independence, one should appreciate the turmoil Britain left behind in Cyprus before 1960. Indeed, it was America who decided their fate but at least their preferred fate was independence in the 1950s, even if it was for their own vested interests of promoting self-determination, protect NATO and the desire to not appear hypocritical with respect to a tiny island. However, Britain showed no regard for a nation they saw as merely a part of their Empire, a base for their military and a Cold War pawn.

It would possibly not even be fair to say that the British simply highlighted and worsened the Greek-Turkish divisions in Cyprus during the period. It would be fairer and more accurate to conclude that divisions were created by the British, and it was of course these divisions which were the basis for 1960s conflicts and the invasion

¹⁸ Conclusions of Cabinet Meeting, 16 July 1958, CAB 128/32 in Mallinson (no 10).

¹⁹ Ministry of Defence Paper, JP 59/163, 1 January 1960, BNA-DEFE 13/99/MO/5/1/5 in Mallinson (no 10).

in 1974. Furthermore, they showed clear, biased support for Turkey, which incited violence from both sides – the incensed Greeks and overconfident Turks, and set up conditions in Cyprus ideal for conflict in the 1960s.

British acts in the 1950s thus provided the perfect platform for independence to fail and partition to occur. Cyprus' weakness in 1974 and thus vulnerability to invasion also has to be linked back to the 1950s. Thus, Britain must bear serious responsibility for this and this is important to note historically.

Treaty of Guarantee 1959-1960 and Cypriot Independence

Having explored the period directly leading up to the Treaty of Guarantee which determined Cypriot independence, the next part of this article will explore the precise terms of the Treaty of Guarantee 1960, which forms the basis of the argument that Britain may in fact have breached international law, specifically treaty law.

Treaties are of course a major source of international law, effectively a contract between States, which has more of a binding nature but is difficult to enforce. The Treaty of Guarantee consists of just five articles. Article 1 states:

The Republic of Cyprus undertakes to ensure the maintenance of its independence, territorial integrity and security, as well as respect for its Constitution. It undertakes not to participate, in whole or in part, in any political or economic union with any State whatsoever. It accordingly declares prohibited any activity likely to promote, directly or indirectly, either union with any other State or partition of the Island.²⁰

Article 2 then states:

Greece, Turkey and the United Kingdom, taking note of the undertakings of the Republic of Cyprus set out in Article I of the present Treaty, recognise and guarantee the independence, territorial integrity and security of the Republic of Cyprus, and also the state of affairs established by the Basic Articles of its Constitution. Greece, Turkey and the United Kingdom likewise undertake to prohibit, so far as concerns them, any activity aimed at promoting, directly or indirectly, either union of Cyprus with any other State or partition of the Island.²¹

²⁰ Treaty of Guarantee between United Kingdom of Great Britain And Northern Ireland, Greece And Turkey And Cyprus, Signed at Nicosia on 16 August 1960.

²¹ Ibid.

It is worth focusing on the wording in Article 2 – it effectively states that any activity which promotes the partition Turkey is prohibited, crucially including both direct and indirect activity. The discussion of ‘direct activity’ is quite uncontroversial and will be addressed initially.

Direct Activity

Turkey quite clearly directly breached article 2 by invading Cyprus in 1974, partitioning it and uniting the North with Turkey. Turkey argued that their invasion was lawful in light of Article 4, which states:

In the event of a breach of the provisions of the present Treaty, Greece, Turkey and the United Kingdom undertake to consult together with respect to the representations or measures necessary to ensure observance of those provisions. In so far as common or concerted action may not prove possible, each the three guaranteeing Powers reserves the right to take action with the sole aim of re-establishing the state of affairs created by the present Treaty.²²

The Article thus allegedly authorised Turkey to ‘take action’ in Cyprus if joint consultations between Greece and Turkey failed, and the action aimed to retain Cypriot independence. There is doubt over whether ‘take action’ could be defined as military action (as Turkey took in 1974) and whether their actions could possibly be depicted as retaining Cypriot independence, particularly as the end result was to partition Cyprus, a complete contradiction to Cypriot independence. Turkey argued that the Greek coup of Makarios and aim of ‘enosis’ with Cyprus triggered a threat to Cypriot independence, thus making their action lawful. This ambiguity and thus the Turkish justification that lives on today could be blamed on a lack of diligence in the construction of the treaty by Britain. However, it is accepted in the international community and amongst scholars that Turkey did in fact breach the treaty with their military action and thus acted unlawfully, reflected by the fact that the TRNC remains an unrecognised State today.²³ But this also illustrates the inability to enforce and thus weaknesses of international law (to be discussed later). There are also signs that the West could be starting to accept the TRNC, for example in recognising TRNC law (in

²² Treaty of Guarantee between United Kingdom of Great Britain And Northern Ireland, Greece And Turkey And Cyprus, Signed at Nicosia on 16 August 1960.

²³ Iakovos Kareklas, ‘International Law & Diplomacy on the Turkish Military Intervention of Cyprus’, *Hellenic Foundation for European & Foreign Policy, Working Paper No 18* (April 2011).

family, property law cases), such as *Hesperides Hotels v Aegean Turkish Holidays*;²⁴ and *Emin V Yeldag*,²⁵ thus consolidating the partition.

Indirect Activity

The notion of ‘indirect activities’ aimed at partitioning Cyprus and role of other State actors, notably the British, has not however been explored in academic literature. Of course, in order to see if an international treaty law has been breached, the precise wording of this treaty must be examined, as one would if one was dissecting a contract for breach in private law. Before doing this, looking at Article 3 of the treaty shows slightly more about the British intentions behind its construction. Article 3 states:

The Republic of Cyprus, Greece and Turkey undertake to respect the integrity of the areas retained under United Kingdom sovereignty at the time of the establishment of the Republic of Cyprus, and guarantee the use and enjoyment by the United Kingdom of the rights to be secured to it by the Republic of Cyprus in accordance with the Treaty concerning the Establishment of the Republic of Cyprus signed at Nicosia on to-day's date.²⁶

Importantly therefore, as part of the treaty, the British retained military bases in Cyprus and this shows that Britain still viewed Cyprus as a country of great geopolitical significance, implying that the sentiments that they had during the 1940s and 1950s already explored in this article, were still existent during the drafting and consultation of this Treaty.

During the negotiations, Britain’s permanent retention of two substantial parts of Cyprus dominated the Treaty, most of which was made up of clauses relating to British territories and connected rights which detracted from true sovereignty. The Cypriots were barely involved, but Britain ensured Turkish involvement in the agreement, to the anger of the Greeks, with British Ambassador to Greece stating that the ‘Greeks are angry at the UK plan to involve the Turks...on the grounds that it introduced an element of Turkish governmental intervention...and since it must lead

²⁴ *Hesperides Hotels v Aegean Turkish Holidays* [1978] 1 QB 205.

²⁵ *Emin V Yeldag* (Attorney-General and Secretary of State For Foreign and Commonwealth Affairs Intervening) Family Division [2002] 1 Flr 956, 5 October 2001.

²⁶ Treaty of Guarantee between United Kingdom of Great Britain And Northern Ireland, Greece And Turkey And Cyprus, Signed at Nicosia on 16 August 1960.

to further antagonism and eventually to partition'.²⁷ The Turks were awarded disproportionate representation in the Civil Service, House of Representatives, and police and armed forces – as high as 40% for the latter two,²⁸ when the population was not even half that.

However, more specifically, it must also be considered whether Britain breached the Treaty of Guarantee through 'indirect activities.' The Treaty does not define what an 'indirect activity' may consist of. Revisiting Article 2, it states the Treaty 'undertake to prohibit, so far as concerns them, any activity aimed at promoting, directly or indirectly, either union of Cyprus with any other State or partition of the Island'. Thus, British support for a Turkish invasion must be interpreted as an indirect activity aimed at promoting the partition of Cyprus. British support for the Turks has already been explored in the colonial era but of course this has no relevance here, as Britain cannot be held accountable for breaching a Treaty by actions they took before the Treaty existed. Therefore, British support for the Turkish invasion in the 1960s and 1970s, after the Treaty of Guarantee and Cypriot independence but prior to the invasion and partition, must be examined to determine if the British could be accused of breaching the Treaty of Guarantee. For this, there must be some examination of the primary and secondary literature on this topic.

1960s – 1970s: British (and American) Support for Turkish Invasion

There is much evidence, which one has been collating and scholars such as Mallinson and Burke²⁹ agree with, that the British (and West) did indeed provide both diplomatic and financial support for Turkey in 1974, which contributed to and encouraged the Turkish invasion. As stated above, the Treaty of Guarantee makes specific reference to prohibiting such indirect action by parties to the agreement in Article 2, thus one would argue this potentially makes the British in breach of the treaty and international law. It is important to outline the British (and American) actions in Cyprus during their 14 year period of independence, which indicate Turkish support.

In 1967 to 1974, a military junta ruled Greece, who promoted the concept of 'Enosis' as one its many nationalist policies – the proposed union of Greece and the Greek communities in Cyprus. Leader of Cyprus at the time, Archbishop Makarios, opposed

²⁷ British Ambassador, Athens, to Secretary of State, 16 January 1959, BNA-FO 371/144516, file RG-1011/1 in Mallinson (no 10).

²⁸ P. 51, Mallinson (no 10).

²⁹ John Burke, *Britain and the Cyprus Crisis of 1974: conflict, colonialism and the politics of remembrance in Greek Cypriot society* (London: Routledge; 2017).

Enosis and the threat it posed to Cypriot independence. Therefore, on 15 July 1974, the Greek military junta, led by Dimitrios Ioannidis, conducted a coup and overthrew Makarios. This triggered a response from Turkey five days later on 20 July 1974, allegedly acting in self-defence to protect the Turkish community of Cyprus. Turkey continued to invade Cyprus in August 1974, fighting with the Cypriot and Greek armies, which led to the Turkish occupation of Northern Cyprus. Over 40 years later, the Turkish occupation of Cyprus still exists, with the Turkish Republic of Northern Cyprus remaining as an unrecognised State in the eyes of the United Nations, and Cyprus remaining a split nation, with the Greek community in the recognised south.

At the time of the invasion of Cyprus, Britain were in a weaker position than they had been in previous decades. As stated earlier, from the 1950s, Britain were no longer a super power and their decision-making and foreign policies were effectively determined by the United States foreign policy, given the nature of their 'special relationship' in the Cold War era. It is beyond the scope of this article to discuss US-British relations in detail; however, it is fair to argue that Britain generally followed US actions. Thus, in determining the degree of British support for a Turkish invasion, it is firstly important to analyse the US stance on this.

American Support

The United States was led by Richard Nixon, who resigned in August 1974 to be replaced by Gerald Ford. Henry Kissinger was Secretary of State, and it was Kissinger who arguably played a pivotal role in US foreign policy in Cyprus. The early to mid-1970s was an important time in US Cold War politics. The US promoted 'détente' – an attempted relaxation of Soviet conflict – in the late 1960s, before commencing a period of Sino-American rapprochement in the early 1970s. 1973 signalled the end of the Vietnam War and Kissinger's much reported involvement in the overthrow of communist Salvador Allende in Chile. Kissinger and the US were thus certainly active in global Cold War politics at this time and Cyprus was no exception. However, the precise extent of the US and Kissinger's role in the invasion of Cyprus, as well as the intentions behind their foreign policy, is subject to much scholarly debate. There have arguably been three waves of historiographical debate since 1974, which shall be explored.

In the years following the invasion, however prior to the release of any primary documents, the first wave of scholarly opinion broke through, which focussed on a criticism towards Kissinger's role in the invasion and an assertion that both the Greek

and Turkish invasions of Cyprus were a deliberate and supported US foreign policy, promoted by Kissinger. The late and renowned Christopher Hitchens, perhaps unsurprisingly, was one of the first to release a critique of Kissinger's role in Cyprus, in his book 'Hostage to History' in 1997.³⁰ Hitchens argues that the intervention of four major foreign powers, Turkey, Greece, Britain and the United States, turned a local dispute into a major disaster. Hitchens' incisive journalistic approach certainly cannot be ignored however he has released many publications which surround anti-US, and anti-Kissinger in particular, sentiments, especially in South East Asia (Vietnam and Cambodia). Thus, naturally, Hitchens' predictable conclusions fall into the bracket of anti-US journalism during the Cold War. Furthermore, Hitchens relies on the fact that Kissinger kept many documents classified after leaving, implying, but not confirming that he had something to hide.

In 1999, Brendan O'Malley and Ian Craig released a book which argued the bold view that the US and Kissinger were involved in a 'calculated conspiracy' in the Turkish invasion of Cyprus in 1974.³¹ These authors have less of an anti-US reputation as Hitchens, however again they write with little source evidence to back up their views, given that primary sources were still yet to be released at this time. In fact, it could be argued that the book was actually ahead of its time and uncovered some credible conclusions about Kissinger's intentions in 1974. However, the book suffers from the odd slip and as a result these conclusions are undermined. Furthermore, its publication prior to the release of primary documents led many to, probably unfairly, simply categorise the work as one of that of a 'conspiracy theorist', and led the book to be overlooked and disregarded.

Somewhat surprisingly, in 2014, Eugene Rossides released a book³² which shared the views of Hitchens, O'Malley and Craig, yet fail to draw on the primary sources which were now available. The decision to ignore these documents meant his viewpoint had little significance, if anything undermining the first wave of historiography by implying that it could not be backed up by the released sources which were available at the time of writing his book.

³⁰ Christopher Hitchens, *Hostage to History: Cyprus from the Ottomans to Kissinger* (London: Farrar Straus & Giroux; 1989).

³¹ O'Malley and Craig (no 8).

³² Eugene Rossides, *Kissinger and Cyprus: a study in Lawlessness* (Washington D.C.: American Hellenic Institute Foundation; 2014).

In the mid-2000s, following the release of many US foreign policy documents, the second wave of historiography began to prevail. They follow Kissinger's claims that he was not properly focused on Cyprus during the crisis that led to its illegal dismemberment. In Kissinger's book, 'Years of Renewal', he wrote:

If success is measured by 'solving' every problem, America's Cyprus policy failed in restoring a unitary Cypriot State...However, preserving the general peace and the structure of the Western Alliance on which peace depended were important objectives in their own right. And those objectives the Ford Administration did achieve in the Cyprus crisis of 1974.³³

In fact, Kissinger here, by admitting some deliberate policy in Cyprus, goes further than his apologists are prepared to go, who represent the second wave of historiography.

In 2008, Dan Lindley and Caroline Wenzke³⁴ took the view that Kissinger did not see Cyprus as a priority. In the same year, Jan Asmussen asserted that there was no British-American involvement in the coup that overthrew Archbishop Makarios in July 1974, stretching only to state that some members of British and American intelligence knew about Athens' plans for a coup would occur at some point in the autumn of 1974 but were surprised by the earlier timetable. Asmussen also explores why both the British and the Americans decided not to inform the Cyprus government as well as the reasons behind Britain's surprising reluctance to exercise her right of intervention on the island. He states that there was no communication between Kissinger and British Foreign Minister, Callaghan, on 20 July 1974 – the day of the Turkish invasion.³⁵ The book received plaudits for its intricate review of the newly released primary sources and in turn its interpretation of these, to essentially discard any intentional or extensive US or British involvement.

In 2012, Andreas Constandinos argued in his book on the Cyprus Crisis, that Secretary of State Henry Kissinger was so pre-occupied with other issues (mostly domestic) that he did not have the knowledge on or time to deal with the possible invasion of Cyprus.³⁶ Constandinos relies on many recently released documents where Kissinger

³³ Henry Kissinger, *Years of Renewal* (London: Simon and Schuster UK Ltd; 2012)

³⁴ Dan Lindley and Caroline Wenzke, *Dismantling the Cyprus Conspiracy: The US Role in the Cyprus Crises of 1963, 1967 and 1974* (Indiana: University of Notre Dame; 2008)

³⁵ Jan Asmussen, *Cyprus at War: Diplomacy and Conflict During the 1974 Crisis* (London: I.B. Tauris; 2008)

³⁶ Andreas Constandinos, *Examining the Role of the British and American Government's During 1974*

appears oblivious to the situation in Cyprus, as well as Kissinger's later admission and apology on his foreign policy failure in Cyprus.

This school of thought and second wave of historiography, which essentially promotes the concept of US non-involvement in the Turkish invasion of Cyprus, became favoured and prevalent after the release of the US documents, with an influx of literature taking variations of this same approach, released throughout the 2000s and still today. However, rather than simply latching on to these sources as proving that neither the US nor Kissinger had any calculated involvement in the invasion of Cyprus as Kissinger's above apologists have, one saw an opportunity to interpret the foreign policy documents in an original manner and tap into the vast amount of evidence, such as memorandums and documentation, to prove US and Kissinger collusion in this. For example, there is evidence of Kissinger stating in a meeting that there was 'no US reason' why the Turks should not gain a third of Cyprus.³⁷

In 2016, William Mallinson, writing his fourth book on Cypriot history, made a breakthrough in his book 'Kissinger and the Invasion of Cyprus', which may represent a welcome third wave of historiography, proving that Kissinger's actions, or inaction, was not so innocent and passive as Kissinger's apologists seem to claim. Mallinson wrote:

'Conspiracy theorists' is a label often applied unfairly by sloppy academics and government information departments...The Cyprus Conspiracy (O'Malley & Craig) has in fact been proven to have been fairly accurate in some of its evaluation...since then, he has documents which show not only how important Kissinger considered the bases (British base in Cyprus), but how he pressurised Britain into keeping them. The documents suggest that far from being a conspiracy, there was simply a secret high-level idea to allow Turkey to invade and keep over one third of Cyprus, a plan which initially only Kissinger (and perhaps a small coterie) and his former student, the Turkish Prime Minister Bulent Ecevit, were really focussed on.' Mallinson went to argue that 'this passion with Cyprus' position as a Cold War asset will crop up as we proceed, reaching a climax in the mid-Seventies. Kissinger is a prime example of those who consider Cyprus as a cat's paw of great power diplomacy'.³⁸

(Plymouth UK: Plymouth University Press; 2012)

³⁷ *Foreign Relations of the United States 1973-1976, Vol. 30: Greece; Cyprus; Turkey* (Washington: United States Government Printing Office, 2007).

³⁸ Mallinson (no 10).

Mallinson's well written book, backed up by the sources, is arguably the most reliable, innovative and ground-breaking view on the US and Kissinger's role in Cyprus, arguing that Kissinger and the US did have a pre-meditated plan in Cyprus and that Turkey's invasion was indeed a calculated part of that plan.

One book of this nature is not however enough to change the tide of literature. This third wave must at least match the second wave, and there is still more to be expanded on from Mallinson's work. As Mallinson states 'we still do not know whether the invasion was agreed well in advance or whether it was agreed on the hoof. We need more documents, and in particular all of the above-mentioned telephone transcripts, unexpurgated.'³⁹ Thus, much of this topic is yet to be explored in extensive detail. There are still many classified documents that specifically relate to Kissinger and may only be released upon Kissinger's death in the upcoming years. These may reveal further information on Kissinger's actions in Cyprus.

British Support

Most of the historiography on the British involvement in Cyprus surrounds the period of colonialism⁴⁰ and independence, thus there is not as much focus on Britain in the 1960s to 1974. However, it is fair to argue that the interpretation and historiography behind Britain's involvement in the invasion is very similar to the American 'waves', predominantly due to Foreign Minister Callaghan's obedience and submissive attitude towards the US, as stated earlier with regards to the 'special relationship'. This is why it was so important to analyse the US's support for the Turkish invasion in the previous section – this would generally be illustrative of the British stance. However, there has been some literature on the British support for a Turkish invasion.

Van der Bijl's 2010 book takes a pretty sympathetic view towards British non-involvement, stating that the British faced two serious problems - the Greek Cypriots' desire for Enosis and, the intense rivalry and antipathy between the Greek and Turkish communities, thus it was a difficult scenario to be faced with.⁴¹ This view fits within the second wave described above with regards to the US.

However, scholar Burke takes crucial strides towards the third wave of historiography on Britain's involvement in his 2017 book, to fall in line with Mallinson's views

³⁹ Mallinson (no 10).

⁴⁰ Philip Newman, *A Short History of Cyprus* (London: Longmans; 1953).

⁴¹ Nick Van Der Bijl, *The Cyprus Emergency: The Divided Island 1955 – 1974* (Barnsley UK: Pen & Sword; 2010).

on Kissinger and the US involvement in Cyprus. The book shows that a suspicion born out of Britain's long (neo-) colonial connection to Cyprus frame an understanding of British actions associated with the events, and lasting consequences, of 1974. Burke recognises that no study has yet sought to systematically analyse and understand the influences shaping the history and memory of British actions on Cyprus in 1974. However, Burke argues that there is an existence of 'partitionist' conspiracies, collusive accusations and a series of memory distortions which continue to resonate strongly irrespective of the evidence that is now available.⁴²

The scope of this article is not to regurgitate Burke's findings in detail – it is to importantly make the point that this third wave of historiography on the US's involvement in Cyprus is also apparent with regards to British diplomatic and financial support for the Turkish invasion of Cyprus in 1974, through their actions in the 1960s up to 1974. This essentially backs up the views of the first wave in 1990s, but with the use of the important recently released foreign policy documents. Burke's analysis is thus built on primary evidence and is certainly convincing. However, Burke is a historian, and whilst the analysis is immensely significant, he does not make the legal link in identifying how important this evidence of British support for the Turkish invasion actually is. In combination with the examination of Article 2 of the Treaty of Guarantee discussed earlier, this actually shows that Britain breached international treaty law.

The Legal Link: British Support for the Turkish invasion – Does this Equate to 'Indirect Activity' that was Prohibited in the Treaty of Guarantee?

The point of exploring the literature that has recently prevailed on British (and American) support for the Turkish invasion in a historical context in the previous section, is relevant in a legal context, but has not yet been highlighted by any scholars and is thus the main and original aim of this article. To provide insight of this in a legal context, one must link the literature that is becoming prevalent that the British (and Americans) did in fact provide support for the Turkish invasion and thus promoted division of Cyprus, with Article 2 of the Treaty of Guarantee, which prohibits any 'indirect activity' by the parties of the treaty to promote partition of Cyprus. If this third wave of literature is accurate, and in particular Burke's view of British collaboration with the US in the Turkish invasion, then Britain did indeed breach the Treaty of

⁴² Burke (no 28).

Guarantee with their support for an invasion – ie ‘indirect activity’. Before exploring this, it is worth considering if any other areas of international law were breached too.

Customary international law

It should be mentioned that international law is also composed of ‘customary international law’ (as well as treaty law) – a set of uncodified customs and general international law that governs UN States, which is however difficult to enforce and certainly not applied consistently, particularly when it comes to acts of intervention by the West. However, can the West’s actions in Cyprus be interpreted as a clear breach of customary international law, which has gone unpunished? This is dependent on two main questions - whether the West did in fact play a major role in the Turkish invasion of Cyprus (which has already been argued above) but also whether a covert and non-military intervention, e.g. US and British diplomatic and financial support for an unlawful Turkish invasion, is enough to hold the US and Britain culpable of breaching a customary international law.

Nicholas Tsagourias states that intervention which breaches international law refers to interference in the affairs of a State and can take many different forms: political or military, direct or indirect, but that international law is mainly concerned with dictatorial or coercive interference in a State’s affairs, which is, crucially, in principle prohibited. He however goes on to state that the scope of the prohibition is affected by the political, legal, or normative changes taking place in the international society at different stages of its development.⁴³ Thus, Tsagourias seems to imply that interference by way of diplomatic or financial support may not in fact be classed as an interference which is a breach of international law, but rather a form of coercive action is needed. Thus, the British and Western discrete role in Cyprus perhaps is not a breach, according to current customary international legal principles. This is certainly consistent with a lack of vindication for similar acts of covert support (mainly by the US) for other military coercive acts of interference into a State’s affairs.

However, there are counter arguments to this – firstly, to what extent is this lack of vindication for such acts of support due to the fact that, as Tsagourias argues, they do not breach customary international law, or perhaps controversially is this due to the fact that those nations who have the financial strength to interfere in this covert manner are likely the same world powers that control the climate of international law

⁴³ Nicholas Tsagourias and Alasdair Morrison, *International Humanitarian Law* (Cambridge: Cambridge University Press, 2018).

and the way in which it is enforced, particularly given the undefinable nature of customary international law, as discussed earlier? When exploring actual US acts of military interference, best evidenced by US military action across Latin America and Asia perhaps, and the lack of condemnation of these by international law, it is perhaps fair to imply that the latter is correct – i.e. that the US are exempt from breaching international law, due to their world status and power. However, in the case of Nicaragua, the US were found guilty of being in breach of its obligations under Article XIX of the Treaty of Friendship, Commerce and Navigation between the Parties signed at Managua on 21 January 1956.⁴⁴

The scope of this article is not to explore this immensely broad point of US breach of customary international law, which if proven in Cyprus, would be applicable to many examples of US intervention. In fact, this also includes a debate on which theory on international law one takes. Whether the US are punished for their arguably unlawful actions according to customary international law, depends on how one defines international law and thus the theory one adopts or form international law takes. Indeed, there has been a lack of prosecution or even publication or knowledge of US actions in Cyprus in 1974, which have undoubtedly been branded as ‘lawful’ by default according to international law today. Thus, this implies that international law could still be interpreted as a form of US hegemonic power rather than defence against imperialism, which is controlled and formulated by the US (via using the flexible nature of customary international law for example). It would draw upon theoretical debates, whereby for example Kitisiotis argues international law has become institutionalised and less voluntarist⁴⁵ whereas B.S. Chimni states international law provides more efficient support to Western-dominated global order.⁴⁶ This would require an analysis which certainly goes beyond the scope of this article and journal, on Britain’s role in colonial Cyprus. Thus, one appreciates that this counter-argument is perhaps quite far-fetched or at least one that requires far more extensive analysis given that it would have much wider implications, that cannot be discussed in this article.

Regardless of the above and whether the US and Britain can be considered to have interfered coercively in a State’s affairs and thus breached customary international

⁴⁴ Nicaragua v United States of America - Military and Paramilitary Activities in and against Nicaragua - Judgment of 27 June 1986 - Merits - Judgments [1986] ICJ 1; ICJ Reports 1986, p 14; [1986] ICJ Rep 14 (27 June 1986).

⁴⁵ Dino Kritsiotis, ‘International law and the relativities of enforcement’, in James Crawford, *The Cambridge Companion to International Law* (Cambridge: Cambridge University Press, 2015)

⁴⁶ B.S Chimni, ‘Legitimizing the international rule of law’, in Crawford (no 44).

law through their covert diplomatic and financial support for the Turkish invasion, there is another angle by which the US and Britain may have breached customary international law – by threatening Cyprus’ self-determination. A people can be said to have realised its right to self-determination when they have either (1) established a sovereign and independent State; (2) freely associated with another State or (3) integrated with another State after freely having expressed their will to do so.⁴⁷ In 1960, following their independence from Britain, Cyprus can be clearly argued to have satisfied the first of these, thus should be seen to have realised their right to self-determination.

The principle of self-determination outlines not just the duty of States to respect and promote the right, but also the obligation to refrain from any forcible action which deprives peoples of the enjoyment of such a right. In particular, the use of force to prevent a people from exercising their right of self-determination is regarded as illegal and has been consistently condemned by the international community.⁴⁸ Thus, the US and Britain could be seen to have acted forcibly through their support of a Turkish invasion (including financial thus tangible) to deprive the Cypriot people of their right to self-determination, and which in turn threatened the independence of the State. This is again a point that needs to be fleshed out and is not within the scope of this article, given that the notion of self-determination is perhaps slightly more complex than in other States, as the Turkish people now use this same principle of self-determination to claim that Northern Cyprus is a recognised State and entitled to de facto independence, which has however not been accepted by the UN and international community.

Finally, on this point of breaching customary international law, relating to crimes against humanity, Sotiris Rizas argues that whenever a choice had to be made between realpolitik and human rights, the former was the main consideration of American policy-makers in Cyprus and Greece.⁴⁹ Although committed to the recalibration of US foreign policy toward human rights, the Carter administration did not depart from these premises in the formulation of its policy in the Eastern Mediterranean.⁵⁰ Of course, this potential breach of human rights could be argued to have also

⁴⁷ James Crawford, *The Creation of States in International Law* (Oxford: OUP, 2007)

⁴⁸ Crawford (no 46).

⁴⁹ Sotiris Rizas, *Realism and Human Rights in US Policy Toward Greece, Turkey, and Cyprus* (UK: Lexington, Oct 2018).

⁵⁰ *Ibid.*

breached the UN's Universal Declaration of Human Rights or the ECHR as discussed in the next section. However, more specifically, it is more relevant to discuss whether Britain breached the Treaty of Guarantee 1960, and this is the main point of International Law that must be examined, from a breach of treaty perspective.

Treaty law

The second counter argument to Tsagourias' point is crucial and more specific to the case of Cyprus, where the issues do not just relate to support and interference breaching customary international law. Rather, this British support breaches the terms of the Treaty of Guarantee, which prohibits indirect activity by any members of the treaty which may partition Cyprus. The British support, whilst led by the Americans, for the Turkish invasion, in the 1960s but also during the immediate years prior to the invasion in 1974, outlined in the previous section and highlighted by scholars such as Burke, should be classed as 'indirect activity', therefore an example of a breach of international treaty law.

Scholars such as Constandinos argue that Western actions in Cyprus in the 1960s should be examined independently from the 1970s due to the differing administrations and foreign policy approaches. Whilst he is correct that the Turkish invasion of Cyprus in 1974 cannot be politically blamed on the approach of a British or US administration in the 1960s, the construction and repercussions of this Treaty had direct legal connections with the Turkish invasion in 1974. Any British plans or support for a Turkish invasion in the 1960s, even if distinctly separate to the invasion in 1974, would also be seen as prohibited in contravention of Article 2 of the Treaty of Guarantee. Thus, some responsibility must lie with the British and Western actions in the 1960s.⁵¹

Have any other treaties in international law been breached by the British via their support for the Turkish invasion? Perhaps the first broader international treaty that one may consider is the European Convention of Human Rights.⁵² The UK, Turkey, Greece and Cyprus have all signed and ratified this treaty, thus are all subject to its terms. However, whilst the British may have provided diplomatic and financial support for the Turkish invasion, it was arguably not engaged in the invasion itself from a military perspective, and thus cannot be accused of breaching human rights. Con-

⁵¹ Constandinos (no 35).

⁵² Convention for the Protection of Human Rights and Fundamental Freedoms (signed 4 November 1950, entered into force 3 September 1953), CETS No. 5, 213 UNTS 221 (henceforth ECHR).

versely, the Turks may in fact be more likely to have breached human rights, with reports of torture against civilians for example (prohibited under Article 3) needing to be addressed by the European Court of Human Rights. However, this is also beyond the scope of this article. The most relevant treaty to consider that has been breached is undoubtedly the Treaty of Guarantee and Article 2 - this is sufficient to claim that Britain have breached international law in Cyprus.

Enforcement of breach of Treaty of Guarantee

This article has thus far aimed to prove that Britain breached Article 2 of the Treaty of Guarantee, by covertly supporting a Turkish invasion of Cyprus in 1974. However, even if this is the case, what next? There are two important problems in any instance of the breach of international law – who has the jurisdiction to make a decision on the case and how is this decision enforced?

As stated earlier, any individual or State claiming that the European Convention of Human Rights has been breached can take their case against a State who is party to the Convention to the European Court of Human Rights. But there is difficulty in claiming that Britain breached this Convention. Another option is to take the case to the International Criminal Court (ICC). However, the ICC only has the jurisdiction to deal with cases relating to Genocide (art 6), Crimes against Humanity (art 7), War Crimes (art 8) or Crime of Aggression (art 8 bis).⁵³ Again, whilst a case may be viable against Turkey in any of these areas, the notion of British support cannot be categorised as any of these. Thus, the only remaining option appears to be the International Court of Justice (ICJ), where the US were tried for their actions in Nicaragua, as stated above.

Assuming that a case of this nature could be taken to the ICJ in The Hague, and the judiciary found that Britain had indeed breached the Treaty of Guarantee, there are inherent flaws in the enforcement of international law in general, which means that it would be hard to enforce this decision. Whilst Treaties and Judgments are intended to be binding, States can opt to ignore these and face little consequences. For example, President Trump has recently stated that he does not even acknowledge the jurisdiction of the ICC. Furthermore, Turkey have been held to have breached international law by invading Cyprus, but nothing has changed on the island. The TRNC is not a recognised State in law but in reality it has not ceased to exist. Attempted

⁵³ Rome Statute of the International Criminal Court, Done at Rome on 17 July 1998, in force on 1 July 2002, United Nations, Treaty Series, vol. 2187, No. 38544.

sanctions against Turkey has not impacted this and there are even indications that the West are starting to recognise the TRNC. Perhaps if Britain were held to have breached international law, they would face financial penalties and sanctions, but it would make no difference to the lives of Greek Cypriots and there would be no way of enforcing any judgment on Britain. Again, the issue of enforceability of international law is beyond the scope of an article of this size, but is worth noting.

Conclusion

This article has aimed to prove two points. Firstly, through focussing on an original historical analysis of primary material at the UN General Assembly in 1954; the tri-partite conference between Britain, Greece and Turkey in 1955; and diplomatic correspondence on Cyprus during the anti-Greek rioting in 1958 for example, it has shown the development in British ideology on Cyprus during this short but crucial period in the 1950s, whereby they switched from aims to keep colonial control over Cyprus by creating divisions which 'justified' their presence, to accepting the loss of its colony, but maintaining a covert pro-Turkish policy for geopolitical reasons. Importantly, Britain created and encouraged Greek-Turkish divisions during this period.

Secondly and more importantly, this article has proven that international law issues are engrained in Cyprus, partly due to the fact that the Turkish invasion in 1974 was unlawful as it breached the Treaty of Guarantee, as is universally accepted. However, the most innovative and original aspect of this article is that it argued that British actions also breached international law, particularly in relation to codified international law, in particular Article 2 of the Treaty of Guarantee. British support of a Turkish should be seen as an 'indirect activity' aimed at promoting the partition of Cyprus, which was prohibited by the Treaty. This has been previously unexplored and further adds to the long-standing breaches of international law that remain part of the Cyprus problem today.

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