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BALKAN AND CYPRIOT TEACHINGS

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TEACHINGS FROM BOSNIA AND KOSOVO

Recent events should lead us to draw important conclusions about bi-ethnic or bi-cultural conflicts.

We all feel attacked by violations of human rights; we all understand the need to improve conventions to protect the rights of minorities, but most of us reject the methods used in the Kosovo case.

First, the pretension of replacing international law by an order based on legitimacy or morality is simply a megalomaniacal pretension that is characteristic of a policy of power. It consists of replacing the conventional order, universally accepted, with a complex structure full of temporary and subjective political appraisals. During critical periods, the first victims are law and the truth. Thus, they are substituted by principles based on criteria of legitimacy to facilitate political behaviour, that is, to be used by the stronger ones. It is a simple way of disguising the policy of power, of which we have had many examples throughout history, ranging from Western pseudo humanitarian interventions to Soviet fraternal pseudo assistance. The fact is that it is an attempt to justify the unjustifiable.

Second, nobody can deny that states behave according to their own interests, they do not think of applying universal ethical principles. Thus, talking about humanitarian interventions is to admit the utopia of behaviour that is altruistic.

There is an undeniable premise in international policy, the fundamental good is the national common welfare and the prevailing psychological stream is that of self-respect.

In fact, the behaviour of the state only pursues the achievement of goals appropriate to its interests. Therefore, the will of the state is only directed to ascertain its own goals without depending on a priori principles.

I consider it difficult to speak about an ethic of the state as a phenomenon divorced from the need to favour its own people. Often, there appears as a kind of a posteriori ethic desire, restricted to the attempt of explaining behaviour by recourse to tendencies of prevailing feelings and political preferences.

This psychological phenomenon of moralising conduct not always ethically shared, is just a

propaganda manoeuvre, a relatively sophisticated way of hiding real reasons.

Then, the state making appraisals is more than a product of cultural evolution; it is rather a phenomenon inspired by the desire to achieve goals, that is, a kind of moral of success to satisfy domestic fronts. Certainly, this approach is not principled and leads to contradictory behaviour. A temporary and thus multifaceted moral is established. Then, what internationalists call a double moral or moral inspired by double standards is produced. For example, similar behaviour shall be generally considered legal if fulfilled by an ally and illegal if fulfilled by an antagonist.

Anyway, in practice, only the great powers can impose sanctions on what they, reasonably or not, consider immoral actions. In other words, it is an exclusive privilege of the powerful. The appraisals that lead us to unfairness are only useful to judge minor or military weak countries. On the other hand, this policy of power is frustrated when it is faced by another country able to paralyse it or make it difficult.

Third, violations of human rights cannot be justified, but in order to prosecute them, preliminary punitive measures and decisions are needed from accepted conventional bodies.

It is clear that the Serbians had more rights in Kosovo and committed fewer outrages than did the Indonesians in East Timor and others in situations of recent and public knowledge.

Considering these situations, the actions taken by NATO are diminished by its own political and strategic self-limitations. On account of its role as universal police officer, the most important military organisation of our times would have to face many situations difficult to solve due to its own complex nature.

It is necessary to recognise that in spite of its hegemony, NATO cannot avoid balances of power and cannot impose an absolute mono-polarity without incurring great costs.

Fourth, it is necessary to admit that the conditions of the world have changed since the Yalta period, during which two superpowers shared world hegemony. Notwithstanding this political mutation, the juridical order of the world remains unchangeable in spite of the so-called theory of due interference.

This risk originates at a time when only one hegemonic state or military organisation plans to abandon the system. Their leaders forget that, notwithstanding the current supremacy of their state, there subsists an order and a relative balance of power.

NATO considers the present order obsolete as it establishes a legality that corsets it, constraining the possibility of imposing its power and consequently its capacity to act. That is why Washington does not allow appraisals implying contradictory conduct to its decisions, does not economically co-operate with the UN, does not accept the International Court's jurisdiction, the conventions on human rights or recognise that its temporary conception of legitimacy is affected by the established juridical order.

Fifth, they overestimate the impact of aerial raids. Off-target bombings do not only destroy military and civil structures but also bring serious suffering to defenceless people. They do not change internal political systems and, sometimes, they have the peculiarity of making them stronger. The opposition to or criticism of the local government at these dramatic moments becomes national

treason. In Kosovo's case, under the pretension of punishing Milosevic, they temporarily strengthened his regime, and punished and mistreated the Serbian people. Exclusive aerial military raids are carried out to try to avoid their own casualties and prevent hurting domestic public opinion. The powerful countries govern culturally developed people who may be ready to die defending their country but do not easily accept becoming a victim of a conflict abroad. The criterion that imposes no death, also called 0-death, constitutes a strict limit to the capacity of the powerful countries to act. This limitation leads to a merciless aerial military campaign with missiles that finally causes collateral damage. Furthermore, in this case, NATO made a serious strategic mistake because it believed that the bombing would be immediately effective. However, 75 days and minor adjustments were needed to achieve this Pyrrhic victory. These adjustments were important notwithstanding their classification as minor.

To destroy a country casts an image of cruelty over the intervening government and its nationals do not always applaud it: a fearful factor for future political ambitions.

The powerful usually make the mistake of being exclusively concerned about the problems of domestic image. Their international image will take second place if an order of precedence is assigned. From the political point of view, a certain connection with another important issue is established, one related to the fact that only conflicts that create national insecurity move popular emotions. They have to realise that democratic regimes have less capacity to use force.

Finally, it is obvious that some European regimes have been electoral victims of NATO's Pyrrhic victory in Kosovo and now they are even considering the creation of their own forces other than NATO's. This is a praiseworthy wish from the political point of view but very difficult to be carried out.

BALKAN TEACHINGS FOR CYPRUS

Another important consequence that can be drawn from these events is that foreign proposals do not necessarily lead to the proposed objective: complete pacification and multiethnic harmony. Neither the Albanian-Kosovars nor Serbians who were the victims of attacks and were forced to emigrate (and, therefore, find themselves living in seventeenth century conditions) were satisfied with the agreement. If the Kosovo and Bosnia-Herzegovina cases are analysed, we see that the socio-political future of the region is far from promising. The Dayton Agreement and foreign military forces on its territory govern Bosnia. It has become a NATO Protectorate. However, it is easy to perceive that all the agreements imposed have an essential fragility which lies in the fact that they do not completely reflect the positions of the ethnic, or much better to say cultural, communities that co-exist there.

Almost half of the population who faced exile has not returned home. About 600,000 refugees out of a population of 1,200,000 have emigrated.

Kosovo has become another NATO Protectorate. The multinational force has not achieved the eradication of guerrilla warfare or violence in the region. It has allowed the return of Albanian-Kosovars to isolated regions and destroyed homes, and has forced Serbian emigration (an inverse ethnic cleansing) and consequently more than a quarter of the Serbian population, 50,000 out of 200,000 inhabitants, has been forced to emigrate.

What is important is that most of them have not returned because they do not want to go into areas of cultural confrontation where their fellows cannot protect them. They reject resettlement in areas

where the desire for the confrontation that originated the bloody disagreements still exists.

All foreign efforts to bring about peace, possible in some aspects, confirm that the heart of the conflict is not solved or exhausted. Notwithstanding the dissuasive military presence, the emigrations and other imposed social adjustments, the multi-ethnic future of such regions is not secured. The desire for confrontation and the difficulty or impossibility of creating an atmosphere of mutual tolerance survives all these important mutations.

It is very clear that after many years of conflicts and at the end of a bloody struggle, rationality can not be injected in an essentially irrational atmosphere. Neither can the dispute be coldly analysed by way of only determining its reasons. It would be useful to intellectually distinguish if we are facing ancestral racial hatreds, socio-economic and cultural differences or religious intolerance. Nevertheless, though the anachronistic motivations of the inter-communal conflict are stressed and shown, they survive with a stubbornness difficult to eradicate.

An unquestionable experience of the Balkan events is that the coexistence of multiethnic sectors that are not politically integrated does not secure a prosperous future of society. There only survive integrated multicultural societies such as those of the United States and Latin America, among many others. European societies, in spite of strong national agglutination characteristics are starting a seismic period.

CYPRIOI TEACHINGS

Cyprus is not a separate case that escapes the parameters of the present world and its intrastate conflicts.

As Perez de Cuellar said, the two societies play a competitive role. The social atmosphere is controversial and difficult or impossible to solve due to the ethnic, religious and linguistic differences accompanied by past resentments. In spite of the complexity of finding solutions, the main characteristics of the controversy are easy to describe because they have been clearly stated. They shall be outlined briefly, leaving the colonial period apart (although there are interesting points in it that could lead us to understand the problem).

The starting point is the last and most important stage in which the 1959-1960 three basic documents, called the Zurich and London agreements, were established. They established the Republic of Cyprus by creating first, the Constitution, second, the Treaty of Guarantees and third, the Alliance Treaty.

A Republic was created then, on a very clear basis and with undeniable characteristics:

a) From the legal point of view, it was founded by the agreement of the two main communities: the Greek Cypriots and the Turkish Cypriots. They mutually granted or awarded powers and the necessary co-participation in decision-making to the demographic minority. In other words, the demographic minority was given special status. The dominant nature that the demographic majority could have had or wished to have had was dissolved through an international commitment. Clause 5 of the Constitution, which assigns veto powers to the Vice-President, gives the less numerous ethnic group, the Turkish Cypriots, an essential role in governmental matters. That is, it is a social group or community that does not operate as a minority. Polivio* himself, who wrote a very important juridical work in which several unbiased concepts on the conflict can be found, recognises that the

Constitution is unfair as inherent rights of majorities were taken away from the Greek-Cypriot group. He forgets that the concept of majority is not always linked to demography, nor was it in this particular agreement. Polivio's appraisal is evidence of two phenomena: first, the disappearance of a dominant majority that he considers was due to an anti-democratic and unfair regulation and, second, the equality in which the group operated within the legal framework established in the agreement. Makarios's later efforts to amend this very serious mistake, which was made by the negotiators of the community, and to recreate the concept of dominant majority, were unfeasible.

The first conclusion is that the approval of that constitutional scheme, just or unfair, was the legal order approved by both parties before the ex-colonial power. It was not a system imposed by force. It was aimed to legally regulate the life of all Cypriots.

b) From the social point of view, a unity that required a great deal of mutual understanding and tolerance to succeed was established. The free determination necessary to govern the Republic was not an exclusive attribute of one of these communities; it was a phenomenon of solidarity. That is, the two communities had to make common decisions to build a Cypriot national destiny. I do not want to make any historical considerations or assign responsibilities to any of the communities for the faulty constitutional system chosen.

The sad truth is that the solidarity needed to build a common future never existed. Thus, followed the collapse of the Constitution and so the collapse of the Republic of Cyprus.

So, inter alia, the Cypriot and Balkan experiences show that politically non-integrated multicultural groups do not always have a stable and prosperous future.

c) It was not established that there should be a bi-zonal arrangement as there is at present. Nevertheless, it was, in certain measure and in a particular way conceived in an embryonic state when considering separate municipalities. On the other hand, the recent Yugoslavian experience, the impossibility of refugees returning to Bosnia and the Serbians' emigration from Kosovo show a rejection of living in multicultural areas where there is disharmony or conflict.

Later, the current bi-zonal situation was accepted when the evaluation and the set of ideas that had established it were approved, although its jurisdictional scope was not accepted.

It is theoretically very easy and even ethically praiseworthy to preach tolerance and mutual understanding and to favour coexistence in common areas, however very difficult in practice. On many occasions, it could be easily verified through studies that these misunderstandings are nurtured by past heritage and irrational motives. The fundamental problem is that, despite these circumstances, nowadays, mutual suspicions are still vigorous in Cyprus and in many other parts of the planet.

There are two powerful arguments in favour of a bi-zonal arrangement. The first one is that both communities have their own sphere of self-determination and can foresee a future in agreement with their respective values and traditions. Another relevant factor has to be added: avoidance of inter-community disputes. That is, assurance in their respective freedom of decision and in protection of a fundamental evident value, security.

This enormous privilege of eluding confrontations and ruling their destiny without approval other than that of their own community has not been yet duly considered in some sectors. I think, without

any doubt, that this shows a serious lack of understanding in a time in which self-determination and security are two of the most prized objectives of contemporary cultural groups. The only solution to this problem is a flexible confederation or an association of member states. Both systems could keep their mutual self-determination, avoid misunderstandings and put an end to this intra-Cypriot cold war.

It is essential to avoid common areas in order to prevent a renewal of hostilities. The hypersensitivity of the environment could turn simple accidents into political ones.

d) The only question that I think must be solved is about the boundaries and the extent of the bi-zonal areas. The limit problem was decided by a military event, not by agreement. Maybe an adequate adjustment of this particular problem could favour a considerable number of refugees. It must be noticed that, although this is a delicate matter, it can be negotiated as it is not in opposition to the essential principles the parties argue for and it facilitates the self-determination processes. Two powerful legal arguments could be cited against: non-respect for original properties and an attempt against the territorial integrity of the state. The first one could be reconciled by way of a compensation system. The second one, a more sensible argument, relates to territorial integrity. This problem must be sensibly analysed because it is a universally accepted legal principle. Could we say that a territorial unity in Cyprus has been consolidated by a non-respected international agreement?

Reality has shown that a unified state never existed there, that it was only a simple aspiration. Cyprus's Constitution was a mere wish. We should also wonder if an association or flexible confederation of states would not be better to maintain integrity than the current separation.

In relation to the dispute of the boundaries of each zone, the set of ideas, according to an idea of one of my projects, tries to make a new demarcation. Camilion thought that Morfou and Varosha should be returned to the hands of the important group that lived in these cities. This change would require an equivalent urban development for the current inhabitants of Morfou.

The only two unsolved problems would be: the boundaries (the simplest one to solve) and the jurisdictional scope of the bi-zonal areas (a more complex matter that has been difficult to agree on but that should be treated without being prisoners of prejudice).

e) The stances of both the United Nations and the European Union make two similar mistakes. The United Nations wishes to recover the original Cyprus, changing some rules and unifying the two ethnic groups. I consider the approach of the United Nations valuable as it tries to save territorial integrity and thus establish a common life. But, it seems to ignore the failure of the system initially established. It does not understand that it subsequently accepted the bi-zonal arrangement when it accepted a certain mono-zone. That is, it created an institutional asymmetry when it acknowledged as the government only one of the parties in the conflict, punishing the other party and considering the past mistakes as its exclusive responsibility. It forgets that the Cypriot Republic was a bi-national state and that even Polivio recognises mutual faults. It is true that the sector chosen is demographically and socio-economically more important, but these circumstances were not contemplated in the same way in the constitutional pact of the Republic of Cyprus.

We have to add the intention of unification although ignoring the differences and the enormous prejudices of the parties that do not make possible the *affectio societatis*, as it is called in commercial law. It is necessary to surrender to reality. Except for the basic agreements established in

Zurich and London, experience shows that a determination of solidarity was never reached and thus the state's unity was never consolidated. Both communities co-existed, enclosed within their cultural prejudices and traditions.

The European Union has decided to take a similar position, although it goes far beyond, making the socio-economic differences increase. It ignores one of the groups in the conflict; a group that is also one of the parties that created Cyprus by way of the agreement of Zurich and London. It superficially forgets that the economic advantages do not weaken national pride, but increase the current tension and separation.

It could be said that this attitude is based on the acknowledgement of the United Nations of the government of the current Cyprus and that this means its condemnation of the Turkish military intervention. However, in the light of recent events, new assessments should be made. The intervention, debatable or not, had similar motives and more legal support than NATO's interference in Yugoslavia.

In an attitude the logic of which is difficult to understand, the Washington administration gave the green light to intervention and then decided to support its condemnation with energy. This duplicitous attitude leads to a partial analysis of the whole legal problem and shuns a group that also determined the existence of the Republic of Cyprus created in 1960 by way of several international agreements.

The recent proposal of the Group of Eight has not been accepted either.

CONCLUSION

The proposals elaborated in my 'Contemporary Cyprus' can be a basis for future negotiations for a simple reason: they acknowledge the parties' will, admitted or not, to be the architect of the destiny of their communities. Likewise, a flexible confederation or an association of states sets up certain links in the present that can increase in the future.

It is neither intelligent nor honest to criticise this statement. Establishing a centralised regime having a new common determination is to go back to the past and revive the dispute. Winning territory while losing the capacity to rule one's own destiny is an underdeveloped and dangerously silly policy.

Respecting values and traditions simultaneously inspired in George Grivas or Kemal Atatürk is a hypothesis impossible to carry out. Building a Hellenic-Turkish future while taking into account the elements of reality is unthinkable at this historical moment in which there are hundreds of cultural misunderstandings and in which even the Scottish doubt the agreement of 1707 (the Acts of Union, politically unifying Scotland and England).

Thus, I have always considered the possibility of two associated autonomous communities, each able to forge their respective futures. Paradoxically, the party that stubbornly opposes this idea has taken advantage of its free determination and, thanks to this, has developed its economy and domestic security to a level that most prosperous countries would envy.

I also think that only the parties themselves can elaborate a future stable understanding, conscious of their respective identities. The objective of my proposals is to respect two valuable communities and

allow them to mutually reconcile themselves by the only way currently possible, although this may seem paradoxical. At present, they cannot swiftly integrate as both communities are prisoners of the images of past misunderstandings.

* P. Polivio, *Cyprus in Search of a Constitution*, Nicosia, 1976.