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EDITORIAL

BEITRÄGE

AKTUELLES

Recognition, Responsibility and Reconciliation

The Trinity of the Armenian Genocide

By Vahagn Avedian*)

The 24th of April 2015 will mark the centennial commemoration of the Armenian genocide and is expected to be a worldwide ceremony. Hundred years will have passed since the start of the state orchestrated massacres and deportations in 1915 which emptied the majority of historical Armenia from its native population. A century has passed, but ironically, the Armenian genocide seems to become more topical and significant the farther we have moved from the events.

Even though the issue was quite topical and widely covered in the contemporary media and within political and diplomatic circles, especially in Western Europe and USA, it was efficiently silenced for almost half a century. Even the Armenians seem to have suppressed the genocide and it took them three generations to process the events of WWI. The phenomenon of "the third generation" was obvious in the Armenian case where the immediate survivors, traumatized by the genocide were unwilling to talk about the killings, the raping and being thrown out from their homes. The second generation was probably too close to the victims and did not dare to ask their parents about the horrific events they had experienced. The third generation, however, had the distance and the curiosity to confront their grandparents and ask them about why and how.[1]) This, along with the lack of Armenian independence and statehood, was mainly the reason why the Armenian genocide was quite unspoken internationally until its 50th commemoration in 1965 when, as an unprecedented event in Soviet Union, about 100,000 demonstrators took to the streets demanding an official Soviet recognition of the genocide.[2])

In mid-1970s, the Armenian frustration with the international amnesia resulted in the waves of assassination of Turkish diplomats and officials around the world which brought the dormant issue back on international agenda. By mid 1980s, the Armenian genocide also entered the international scholarly community, becoming the most research case of genocide in modern time, second only to the Holocaust. Yet, the international recognition is lagging behind and there are only twenty or so countries and official institutions which have officially recognized the Armenian genocide.[3]) The reason for this disparity can be attributed mainly to the active genocide denial conducted by the Turkish State. In turn, this denial can be ascribed chiefly to the knowledge and the fear of the consequences of such a recognition and admission of guilt. Thus, both Turkey, but also the major players on the international arena, e.g. USA, UK and France, were better off burying the question. The general advice was that, for the sake of progress, let the bygones be bygones and one should not dwell too much in the past. This "forgive and forget" policy is one of the arguments invoked by the denialist side, mostly when the presented evidence can no longer be ignored. However, as argued in this paper, a sincere and durable reconciliation implies the former two, i.e. recognition and reparation. This reconciliation is not only necessary between the perpetrator and the victim, but also for the internal tranquility of the respective group itself. Without coming in terms with the past, neither part will be able to achieve a closure in order to put it behind and move forward.

The presence of the Armenian genocide and its influence in our time is tangible in so many levels and different aspects which would not fit into the space given to this article. Nonetheless, a number of issues are worth mentioning. The infamous Paragraph 301 in the Turkish Penal Code has been invoked frequently to silence the growing knowledge of the genocide inside Turkey.[4]) Among others, the Turkish Nobel laureate Orhan Pamuk was prosecuted for having "insulted the Turkishness" by mentioning the genocide,[5]) while the same charges against the Armenian editor of the Agos newspaper, Hrant Dink, resulted in his stigmatization as "traitor" and "enemy of the Turks" and finally his assassination in bright daylight in Istanbul.[6]) While being outspoken about the genocide inside Turkey is punishable by the law, so can its denial be abroad. That was the case when a Swiss court in 2007 convicted a Turkish politician, Doğu Perinçek, of denying the Armenian genocide, a crime punishable under Swiss law of genocide denial in general, ordering him to pay a fine of $2,450.[7]) In 2012, a Swiss prosecutor opened a criminal case on the same basis against the Turkish EU Minister, Egemen Bağış, who during his visit to Switzerland had denied the Armenian genocide, adding "Let them come and arrest me."[8]) The charges were later dropped due to his diplomatic immunity.

Economic and diplomatic sanctions are additional measures of Turkey's denialist policy and frequently implemented as a last resort against any country considering recognition of the genocide. When the US Congress, in October 2010, was planning to vote on the recognition of the Armenian genocide, Turkey threatened retaliation with "serious consequences," including

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1) See e.g. Klas-Göran Karlsson, *De som är skyldiga idag kan bli skyldiga imorgon: Det armeniska folkmordet och dess efterbörd*, 2012, Stockholm, p. 250–252.

2) Mark R. Beissinger, Nationalist mobilization and the collapse of the Soviet State, (Cambridge: Cambridge University Press, 2002), p. 71.

3) For a list of the countries and organizations see Recognitions and Resolutions: Official International Recognitions, *Genocide1915.org*, retrieved on 2 July 2013; www.genocide1915.org/eor_off_intl_res.html

4) For the Paragraph 301 in the Turkish Penal Code e.g. see Turkey: Article 301: How the law on "denigrating Turkishness" is an insult to free expression, *Amnesty International*, March 2006; www.amnesty.org/en/library/asset/EUR44/003/2006/en/1a24fcc9-d44b-11dd-8743-d305bea2b2c7/eur440032006en.pdf

5) Sarah Rainsford, Author's trial set to test Turkey, *BBC*, 14 December 2005; news.bbc.co.uk/2/hi/europe/4527318.stm

6) Sarah Rainsford, Killing of Dink shocks Turkey, *BBC*, 22 January 2007; news.bbc.co.uk/2/hi/europe/6288419.stm

7) Swiss Convict Turkish Politician for Denying Armenian Genocide, *The New York Times*, 10 March 2007; www.nytimes.com/2007/03/10/world/europe/10swiss.html

8) Swiss Probe Turkish Official Over Armenia Genocide Remarks, *Radio Free Europe Radio Liberty*, 6 February 2012; www.rferl.org/content/swiss_probe_turkish_official_over_armenia_genocide_remarks/24475686.html

closing the İncirlik Air Base which USA uses for troop and material transports to its forces in Iraq, effectively making White House to once more meddle in the process of US recognition, urging the Congress to refrain from any such steps for the sake of its military operations in the region.[9]) The same diplomatic and economic intimidation was used when the French Parliament, much like the Swiss legislation, considered including the denial of the Armenian genocide in the existing French law criminalizing Holocaust denial.[10]) Following the recognition by the Swedish Parliament on 11 March, 2010, Turkey not only recalled its ambassador, but also cancelled the anticipated visit by its Prime Minister Recep Tayyip Erdoğan and a large trade delegation scheduled for the following week.[11]) Yet another economic and financial aspect, beside the potentially more potent issue of territory, is the question of reparations, encompassing tens of billions of dollars which will be discussed more in detail later on.

Turkey has also implemented other domestic measures where numerous Armenian churches, monasteries etc. have been destroyed and eradicated. In addition all Armenian names of cities, villages, landmarks and monuments have been changed to Turkish ones.[12]) A more bizarre case, coinciding with 95th commemoration of the genocide, was the Turkish Environment and Forest Ministry's attempt to change the "separatist animal names", by erasing any occurrence of "Armenia" in the Latin names of the domestic animals in Turkey (e.g. the wild sheep called *Ovis Armeniana* would become *Ovis Orientalis Anatolicus*). However, UNDP, the international authority in charge of approving this kind of changes, rejected the proposal.[13])

The genocide has naturally had immense effects on the Armenian nation itself. Other than being a remnant from the post-genocide era, the early days of the Karabakh conflict reminded many of the initial phases of the WWI genocide.[14]) Many compared the pogroms in the Azerbaijani city of Sumgait with the killings in the Ottoman Empire, but this time Armenians did not intend to allow history to repeat itself.[15]) The Armenian-Azerbaijani conflict became also the pretense used by Turkey for closing its borders with Armenia, imposing an embargo on the country and excluding it from any regional projects. One example is the Baku-Ceyhan oil pipeline, transporting Azeri oil from Baku to the Turkish port of Ceyhan on the Mediterranean Coast. The shortest route would have been to draw the pipeline straight through Nagorno-Karabakh and Armenia. However, Azerbaijan refused to approve this shortest route that would pass through Armenia. At the end they chose (1 August 2002) the route Baku-Tbilisi-Ceyhan, where the pipeline would be routed around Armenia and through Georgia. This meant a longer distance of 210 km and an additional cost of at least half a billion dollars.[16]) These aspects will be elaborated further ahead.

The genocide has had its toll on other aspects as well. Besides being home-wrecked and forced to an immigrant life in foreign countries, the genocide and the struggle for its international recognition has left its marks on the Armenian community. One example would be the massive space it occupies within Armenia and Armenian related research, which in fact also affect the international community. In respect to the rich Armenian history and culture, when putting the genocide into perspective, one starts to ask if we should not start paying more attention to the other aspects of the Armenian history and its heritage. The Armenian genocide, with its peak spanning between 1915 and 1916, could also be said to have occurred between 1894 and 1923, during which the Armenian population was subjected to massacres and ethnic cleansing of variable severity. If we then assume that the "Armenian" nation is about 2,500 years old,[17]) then the genocide constitutes only one per cent of the Armenian history. However, if one would either limit the genocide to the years 1915–1916 alone or include the Urartuian heritage into the history of Armenia as its rightful native ancestor, then the one percent diminishes even further. Looking at the research done in reference to Armenia and Armenians, especially the international one, it becomes quite clear that it would not be an exaggeration to assert that the dark 1% spectrum of the Armenian history makes up almost 99% of the conducted research. The Armenian history and its unique culture, created by melting together the Western and Eastern civilizations, has not only survived the past three millennia, but has also succeeded to influence and enrich the global culture and its civilization.[18]) Nonetheless, that 1% overshadows efficiently the remaining shining 99% and will probably continue to do so unless a proper closure is offered.

Today, due to the apparent lack of closure and reconciliation, the century old genocide is still a highly topical issue and subject to heated debates and diplomatic skirmish. Thus, despite being known as the "forgotten genocide," this designation is becoming less and less suitable for the Armenian case. The obvious question would then be: How come? Why is this "historical" event still keeping the borders closed between Armenia and Turkey and engages foreign parliaments, diplomatic corps and other institutions in heated debates? What can be expected from an internationally unanimous recognition and condemnation of the Armenian genocide? Can the genocide just be "left to the pages of history" in order to start on a clean slate, looking into the future rather than the past? The simple and short answer elaborated in this article would be that it is utterly naïve to expect that the Armenian genocide needs to be left to historians, since it is a highly unresolved legal matter and until justice is served, this issue will keep tormenting the relations between the perpetrator and the victim as well as the respective group in itself.

9) Turkey threatens 'serious consequences' after US vote on Armenian genocide, *The Guardian*, 5 March 2010; www.theguardian.com/world/2010/mar/05/turkey-us-vote-armenian-genocide

10) France Has Angered Turkey By Passing A Bill Recognizing The Armenian Genocide, *Business Insider*, 23 January 2012; www.businessinsider.com/france-turkey-armenian-genocide–2012–1

11) Turkey protests Sweden Armenia 'genocide' vote, *BBC*, 11 March 2010; news.bbc.co.uk/2/hi/europe/8563483.stm

12) Cengiz Çandar, The so-called 'Akdamar museum', *Hürriyet Daily News*, 30 March 2007; www.hurriyetdailynews.com/the-so-called-akdamar-museum.aspx?pageID=438&n=the-so-called-8216akdamar-museum8217-2007-03-30

13) Separatist animals curbed, *Hürriyet Daily News*, 7 March 2005; www.hurriyetdailynews.com/default.aspx?pageid=438&n=separatist-animals-curbed-2005-03-07

14) For the Turkish-Soviet agreements about favoring Azerbaijani territorial claims towards Armenia see Claude Mutafian, Karabakh in the Twentieth Century, in Chorbajian Levon, Patrick Donabedian and Claude Mutafian, *The Caucasian Knot – the History and Geo-Politics of Nagorno-Karabakh* (London: Zed, 1994); p. 112–113. 42) Svante E. Cornell, *The Nagorno-Karabakh conflict* (Uppsala: Institute of Eastern European Studies, 1999), p. 8.

15) E.g. see Press Release, Reps. Berman, Peters, Schiff, and Eshoo Offer Congressional Statements Marking Sumgait Massacres, *Armenian National Committee of America*, 28 February 1012; www.anca.org/press_releases/press_releases.php?prid=2108

16) Baku-Ceyhan Energy Transportation Route through Armenia, *Armenian Assembly of America*, Washington DC, 12 April 2002.

17) The mentioned period is merely in demonstration purpose, counting from the vicinity of the time for the first documented occurrence of "Armenia" as a country of its own in Persian King Darius cuneiform at Bisotun.

18) For the entire article see Vahagn Avedian, Editorial: Armenian History is far more than just Genocide, *Armenica.org* Uppsala, 12 March 2007; www.armenica.org/editorial/ledare070312.html

1 Denial as Rule Setter

The field of genocide research is highly suitable for comparative studies to emphasize the general patterns used in the different cases. The Armenian genocide is often compared with the Jewish genocide, the Holocaust. Quite often the comparison is made in order to outline the differences. However, a comparative study could very well be implemented to outline the numerous similarities, showing the common denominator for most of the cases of genocide in modern time.[19]) Nonetheless, if there is one aspect which makes the Armenian case to stand out, if not unique, is its denial. The Armenian genocide is by far the case which is systematically and officially denied by a state, namely the Republic of Turkey, while numerous states could be called accessory to this denial by refusing to officially recognize the Armenian genocide, e.g. USA, UK, Israel and Sweden. Thus, the denial is one of the main characteristics of the Armenian genocide, affecting its various aspects.

Denial is widely defined as the last stage of genocide. Perhaps the most known anatomy of the genocide process is that made by Gregory H. Stanton, who enumerates the different stages as:

1) **Classification**: differentiate "us" from "them";
2) **Symbolization**: naming the "other";
3) **Dehumanization**: depriving the victim from its humanity as shield and protection;
4) **Organization**: mobilizing the needed resources;
5) **Polarization**: driving the groups apart;
6) **Preparation**: initiating the preparation phase, e.g. deport and confiscate;
7) **Extermination**;
8) **Denial**.[20])

Richard G. Hovannisian concurs with this view, defining the denial as the consummating stage of the genocide: "Following the physical destruction of a people and their material culture, memory is all that is left and is targeted as the last victim. Complete annihilation requires the banishment of recollection and the suffocation of remembrance."[21]) I would rather propose a change to the order of the stages by moving the denial to the very beginning of the process, suggesting that genocide begins with it. Denial is the first act when the perpetrator refutes the very nature of the planned measures, explaining the steps as justified and legitimate actions to cope with the identified problem. The denial then lives on during the different stages of the genocide and is invoked continuously by the perpetrator whenever its actions are criticized or labeled as atrocities and unlawful. At the end, once the practical stages have had their course, all that remains and thrives is the denial. In fact, it could be said that the successfulness of an act of genocide (or generally any crime) should not be measured in its implementation, but in getting away with it. Given the scale of a genocide campaign, often encompassing a large body of the society, the issue of impunity and escaping responsibility of such an act becomes even more important and difficult. In that sense, the Armenian case is an exceptionally successful genocide, since the Turkish State did not only manage to achieve its goal of annihilating the coherent body of Armenian population in Western Armenia and emptying it from its indigenous inhabitants and confiscating their belongings and properties, it has also quite successfully, at least until now, managed to acquit itself from any responsibility by denial.

The denial was tangible during the implementation phase of the Armenian genocide when representatives of the Turkish Government denied the "intent" to annihilate the Armenian nation, dismissing the protests and the remarks by among others the US Ambassador Henry Morgenthau or those by the German Embassy and Military personnel in the Ottoman Empire. A frequently used term in this denial is to call the deportations as "relocations."[22]) Nonetheless, for a brief period of time, roughly between 1918 and 1920, the defeated Turkish authorities admitted to the committed crimes. An educated guess would be that this confession and condemnation was mostly not because of sincere desire to indemnify the Armenians and other Christians of the Empire for the war time atrocities, but rather the knowledge of the impending peace negotiations and the legal consequences of the previous Entente ultimatum for punishment of the committed "crimes against humanity and civilization." The Turkish statesmen were desperately trying to salvage as much as possible from the disintegrating empire and were inclined to do penance for the ill treatment of the Armenians in order to at least limit the inevitable cession of the eastern Armenian provinces. Armenians were allowed to return to their homes, their property were given back and where this was not possible they were supposed to be financially compensated, while the preparation of the creation of an independent Armenian state on the eastern provinces were initiated.

However, this frankness about the committed crimes and willingness to compensate was soon not only halted but also reversed. The growing Nationalist movement simply put a stop to any plans for admission of guilt, indemnity and most importantly, the creation of an independent Armenia which could severely cripple the plans for the creation of a new Turkish state. Here enters another pillar of the denialist argumentation, namely the issue of discontinuity between the two Turkish states. In order to justify the existence the new Turkish Republic, the passed wrongdoings had to disappear. The sense of guilt and tendency to compensate the victims gave way to a large scale cover-up and history revisionism glorifying the Turkish past. Not only had there been no wrongdoings committed towards Armenians, but the latter were accused of conspiring with the enemy and the imperialistic powers, massacring the Muslim population of the Empire, thus deserving the treatment they received.

Since that, the denial has come to dictate the rules of the research and its focus. As Vahakn N. Dadrian has pointed out, "Denial does not require any proof, only an assertion and a call for the 'reassessment' of history; the burden is on someone else to 'disprove' the assertion."[23]) This rule has almost entirely steered the research of the Armenian genocide: proving that the events of the WWI in the Ottoman Empire were indeed genocide. An overwhelmingly portion of scholarly efforts have been in the search of ever more convincing proof or additional facts to the heap of growing evidence which in turn have efficiently frozen the development of the research, preventing it to explore

19) For a collection of such studies see Alan S. Rosenbaum (ed.), *Is the Holocaust Unique?*, Colorado, 1996.

20) For a detailed description of respective stage see Gregory H. Stanton, *The 8 Stages of Genocide*, US State Department, 1996; www.genocidewatch.org/aboutgenocide/8stagesofgenocide.html

21) Richard. G. Hovannisian, Denial of the Armenian Genocide in Comparison with Holocaust Denial, in Richard G. Hovannisian (ed.), *Remembrance and Denial: The Case of the Armenian Genocide*, Michigan, 1999, p. 202.

22) E.g. see Lewy, Geunter, *The Armenian Massacres in Ottoman Turkey, A Disputed Genocide*, Utah, 2005.

23) Vahakn N. Dadrian, *The Key Elements in the Turkish Denial of the Armenian Genocide: A Case Study of Distortion and Falsification* (Ontario: Zoryan Institute, 1999), p. 2.

a broader view of the Armenian genocide. It is about time to break this rule. This would, however, by no means suggest that we know enough and there is no need for further research on that specific subject. On the contrary, there are many areas which need addressing: the Turkish knowledge, the religion's role, the voices of the surviving victims inside Turkey as well as the perpetrators, topics which mostly have been inaccessible due to the policy of the Turkish State. Nevertheless, we don't need to play the game of the deniers, searching for the ultimate piece of evidence, since the existing body of facts establishes the reality of the genocide beyond any doubt. This is a delicate balance though. While engaging in a discussion with a denier could imply allowing the denier room for legitimizing the denialist argument, a complete silence is not the solution either, since it too could be perceived as submission to the denialist argument and leaving the field to their voices. What is suggested here is to leave the single track of establishing that "it was genocide" and instead broadening the field of research by examining as many other aspects as possible, diversifying the field.

Yet another side effect of the Turkish denial has been the acquittance of the third parties, namely the world community and especially the major powers which have been playing a central role in this triangle drama. By focusing on the Turkish denial, the third-party states have acquitted themselves from any responsibility in that aspect, arguing that "the problems between Turkey and Armenia must be resolved between the two countries."[24]) Nonetheless, the Turkish denial could hardly be feasible had it not been for the direct or indirect cooperation of the world community, e.g. by it refusal to openly recognize and condemn the genocide. This concession manifests itself most evidently when the governments such as those in USA, UK or Sweden refuse to officially label the events as genocide.[25]) Plainly put, it is an issue of realpolitik, about financial and political (often short-term) interests outweighing the humanitarian ones. As far as the major powers are regarded, especially USA and UK, one should trace their reluctance to recognition to the post WWI peace negotiation period, when they simply abandoned the Armenians and the calls to instead securing their relations with the new Republic of Turkey.[26])

The mentioned abandoning of the Armenians and the modern time denial accelerated at the ratification of the Sévres Treaty, or more accurately at the re-negotiation of its terms in the Lausanne Treaty, where the Turkish delegation simply threatened to leave the conference if the Allied powers insisted on discussing the Armenian issue.[27]) In fact, while the Sèvres Treaty contained two separate articles dedicated to Armenia and its relations with Turkey, the Turkish negotiators made sure that neither "Armenia" nor "Armenians" were mentioned anywhere in the Lausanne Treaty. Winston Churchill wrote: "In the Lausanne Treaty, which established a new peace between the allies and Turkey, history will search in vain for the name Armenia."[28]) The world chose to forget the Armenians and deny the genocide for the sake of securing the political and financial interests offered by the new Nationalist Turkey. Notwithstanding, the home-wrecked Armenian survivors could simply not forget since most of them were now living an immigrant's life, forced to exile and having lost their loved ones, property and territory.

2 State Responsibility in International Law

In a sense, the entire issue of the Armenian genocide, or rather more specifically the issue of its denial, boils down to the potential consequences of an official recognition. What awaits Turkey when the official recognition comes? Can a century old crime result in any legal consequences, e.g. reparation and compensation?

At a first glance the idea of compensations for the WWI wrongdoings seems quite farfetched. There are no perpetrators alive and the Ottoman Empire is no more. Furthermore, the Turkish negotiators made sure to secure a general amnesty in the Lausanne Treaty for all committed crimes.[29]) But, how can we then explain the ardent Turkish state denial? Is it only about honor and the refusal of admission of guilt to the most heinous crime in modern times? In a sense, a recognition now would be a double confession: first to the genocide and secondly to a century of denial and lies. Even though the psychological aspect is a tremendous barrier to overcome and a very legitimate and understandable reason, the practical issue of liability to compensate is even bigger and should be considered as the core of this denial which indeed became one of the pillars of the newly established Turkish Republic.

To begin with, using the discontinuity card between the two Turkish states would in a sense signal an ill-concealed reasoning in the first place and this argument is brought up once the perpetrator anticipates the inevitable acknowledgement of the committed wrongdoings. At this point, the denialist sets up a second line of defense, arguing that even if Turkey would eventually admit that the massacres and the deportations of the Armenians and other Christian minorities during WWI did indeed take place (and can be labeled as genocide), the present-day Republic cannot be held responsible for any compensation to either the heirs of the victims or to the Republic of Armenia. This argumentation is based on the stipulation that there is a clean cut between the Ottoman Turkey and the present-day Republic which was established in 1923.

The statute of limitation in general and the granted amnesty in the Treaty of Lausanne for all Turkish wrongdoings are the major arguments raised by the denialist side in regard to the Armenian genocide. By invoking this principle, they argue that even though there would exist any wrongdoings, the statute of limitation would simply nullify any potential claims towards Turkey, i.e. the only legal counterpart still around. Why then has the Armenian genocide gathered momentum and becomes more topical the farther we have come from the events? Even though the factor of time indeed works in the favor of the perpetrator, there are legal mechanisms in the international law in which crimes of this magnitude have since long ago been exempted from any statute of limitation. It is worth noting that the UN Genocide Convention was actually reinforced by the *Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes against Humanity* (1968), to guaranty

24) U.S Assistant Secretary of State: Turkey, Armenia must themselves solve their problems, *Trend.az*, 18 March, 2010; en.trend.az/regions/scaucasus/armenia/1655960.html

25) On the matter of putting refusal to recognize on par with denial see a petition signed by 60 or so genocide scholars: Petition to the Swedish Riksdag, Recognize the 1915 genocide for what it is, *Armenica.org*, 11 June 2008; itwasgenocide.armenica.org

26) For the US policy see Christopher Simpson, *The Splendid Blond Beast: Money, Law, and Genocide in the Twentieth Century* (Maine, 1995) and Peter Balakian, *The Burning Tigris: The Armenian Genocide and America's Response* (New York, 2004). For the British policy see Akaby Nassibian, *Great Britain and the Armenian Question, 1915–1923* (London: Croom Helm, 1984).

27) Balakian, p. 370.

28) Winston Churchill, *The World Crisis*, Vol. V, London, 1929, p. 408.

29) For the Lausanne Treaty see World War I Document Archive, *Treaty of Lausanne*, Harold B. Lee Library, Brigham Young University, Utah; wwi.lib.byu.edu/index.php/Treaty_of_Lausanne

this aspect.[30]) The treaty provides that no signatory state may apply statutory limitations to:

- War crimes as they are defined in the Charter of the Nürnberg International Military Tribunal of 8 August 1945;
- Crimes against humanity, whether committed in time of war or in time of peace, as defined in the Charter of the Nürnberg International Military Tribunal, eviction by armed attack or occupation, inhuman acts resulting from the policy of apartheid, and the crime of genocide as defined in the 1948 Convention on the Prevention and Punishment of the Crime of Genocide.

However, it is noteworthy that Turkey is among the countries which have refrained from signing this treaty.[31]) In the meantime, the longer we come from the events, it becomes more logical for the perpetrator, but also for the surrounding world to argue that the whole issue happened so long ago that it is probably much easier and better for it to be left alone. The reality, however, remains the same for the victim.

Arguing as above overlooks a very significant detail in the equation, namely the fact that the Armenian case, from a legal perspective within international law, really does not need to refer to the UN Genocide Convention at all.[32]) The irony of this situation should foremost be pointed out in how Raphael Lemkin, who coined the term "genocide", based the definition and the subsequent UN Convention on the experiences from the Armenian fate during WWI.[33]) Ever since the term genocide was coined by Lemkin and adapted by the United Nation in 1948, one of the main arguments against calling the WWI events as genocide has been the inapplicability of the UN Convention on events predating 1948.[34]) It becomes even more ironic, since this argumentation would imply that the Holocaust too would not be called genocide, a discussion which the denialist side would rather not get engaged in.

Returning to the issue of international law and in regard to the question of indemnity and compensation, one might need to implement an alternative approach in which it is not the UN Genocide Convention which is pleaded, but rather *Internationally Wrongful Acts*.[35]) By doing so, a number of obstacles, e.g. the disputed retroactive applicability of the UN Genocide Convention, would be avoided. It should be emphasized once more that by doing so, it is not intended to either question or revise the reality of the Armenian genocide itself. Instead, this would suggest a remedy to cope with the political aspects of the international law. This simply implies to differentiate between the definition of the events as genocide and the applicability of international law in regard to the issue of indemnity.

In fact, there were fully applicable international laws by the time the Armenian atrocities were committed and these laws are the foundation of the present-day international legal system, among others the UN Genocide Convention itself. These legal provisions were invoked in regard to the Armenian case, namely in the Sèvres Treaty.[36]) The inclusion of articles 114 (Turkey's recognition of the unjust law on confiscation of abandoned properties), 226 (right of the Allied parties to prosecute individuals accused of committing war crimes) and 230 (Turkey's obligation to hand over any suspected individual of having committed war crimes) clearly indicates that there were existing legal frameworks to address this kind of crimes at the time.The main indictment was based on the 1899 and 1907 Hague Conventions, more specifically the Martens Clause (aimed to protect the rights of the war prisoners as well as the civilians in time of war), and was a consequence of the Entente ultimatum of May 24, 1915 where it was stated that "In regard to this new crime against humanity and civilisation, the allied governments declare openly to the Sublime Port that they will hold each member of the Turkish Government personally responsible, as well as those who have participated in these massacres."[37]) Thus, there are no doubts that the events were considered as crimes and wrongful acts by the contemporary international legal system.

Having established the nature of the WWI events, one still needs to tackle the issue of the relation between the Ottoman Empire and its succeeding Republic of Turkey. Examining the process of the creation of the Republic of Turkey reveals that the asserted "clean cut" between the two Turkish states is indeed quite murky. In fact, a numerous facts indicate the very opposite, i.e. a clear continuation. This assertion is based on several key factors in establishing the identities of the Ottoman Empire and the Republic of Turkey and the continuity between them, such as institutions, administration, army, political parties as well as capital and territory. All these "objective" factors were transferred to the newly established republic almost intact. There are also "subjective" factors,[38]) such as the self-conception of the successor state, which in Turkey's case are quite selective in picking, when the glorious moments of the Ottoman era are boasted, while the less flattering ones are excluded.[39]) In fact,

30) United Nations, Convention on the non-applicability of statutory limitations to war crimes and crimes against humanity, Chapter IV: Human Rights, *Treaty Series*, *Treaties and international agreements registered or filed and recorded with the Secretariat of the United Nations*, Vol. 754, New York, 1974, p. 73; treaties.un.org/doc/publication/UNTS/Volume%20754/v754.pdf

31) For the list of the signatory states see Convention on the non-applicability of statutory limitations to war crimes and crimes against humanity, Chapter IV: Human Rights, *United Nations*, New York, 26 November 1968; treaties.un.org/Pages/ViewDetails.aspx?mtdsg_no=IV-6&chapter=4&lang=en

32) For the Genocide Convention see Office of the High Commissioner for Human Rights, Convention on the Prevention and Punishment of the Crime of Genocide, *United Nations,* 9 December 1948; www.ohchr.org/EN/ProfessionalInterest/Pages/CrimeOfGenocide.aspx

33) Coining a Word and Championing a Cause: The Story of Raphael Lemkin, *United States Holocaust Memorial Museum*, 10 June 2013; www.ushmm.org/wlc/en/article.php?ModuleId=10007050

34) Republic of Turkey: Ministry of Foreign Affairs, *The Armenian Allegation Of Genocide The Issue And The Facts, Fact 4, Item C*; www.mfa.gov.tr/the-armenian-allegation-of-genocide-the-issue-and-the-facts.en.mfa

35) Internationally Wrongful Acts is the proper term used within International Law for the breach by a State of an international obligation. For a definition of *International crimes* and *Internationally Wrongful Acts* see Derek William Bowett, Crimes of State and the 1996 Report of the International Law Commission on State Responsibility, in *Eeuropean Journal of International Law* (Vol. 9, 1998), p. 164.

36) For the Sèvres Treaty see World War I Document Archive, *Treaty of Sèvres, 1920,* Harold B. Lee Library, Brigham Young University, Utah; wwi.lib.byu.edu/index.php/Peace_Treaty_of_Sèvres

37) Richard G. Hovannisian, *Armenia on the Road to Independence, 1918* (Berkeley: Univ. of California P., 1967), p. 52. See also William A. Schabas, Prosecuting Genocide, in Dan Stone (ed.), *The Histography of Genocide* (New York: Palgrave Macmillan, 2008), p. 253; Paul G. Lauren, From Impunity to Accountability: Forces of transformation and the changing international human rights context, in Ramesh Thakur and Peter Malcontent (eds.), *From sovereign impunity to international accountability: The search for justice in a world of states* (Tokyo, United Nations University Press, 2004), p. 22–25.

38) For dividing the objective and subjective factors in this regard see See also Konrad G. Bühler, *State Succession and Membership in International Organizations: Legal Theories versus Political Pragmatism* (The Hague: Kluwer Law International, 2001), p. 18.

39) E.g. see the comments on the "Ottoman ancestry" made by Prime Minister Erdogan in *Spiegel*, Interview with Turkey's Prime Minister: "There Can be No Talk of Genocide", 29 March 2010; www.spiegel.de/international/world/spiegel-interview-with-turkey-s-prime-minister-there-can-be-no-talk-of-genocide-a-686131-2.html

there are two arbitral rulings, the *Ottoman Debt Arbitration* (1925) and the case of *Roselius & Co vs. Karsten & Turkish Republic* (1926), which regard Turkey as the continuation of the Ottoman Empire.[40])

What is more significant is the issue of responsibility of the successor state, i.e. the present-day Republic of Turkey, in regard to the committed internationally wrongful acts during WWI by the Ottoman predecessor.[41]) There are international laws ensuring that governments cannot commit wrongful acts and then escape liability by changing government (e.g. through resignation or revolution) or constitution (e.g. from empire to republic). The *internationally wrongful act* of a State regards conducts consisting of an action or an omission which 1) is attributable to that State under international law; and 2) constitutes a breach of an international obligation of that State.[42]) Furthermore, the article states that, in addition to being obliged to perform the obligation breached (Article 29), the successor State is also "obliged to cease the wrongful conduct or, in some circumstances, to offer appropriate assurances and guarantee of non-repetition (Article 30)."[43]) This suggests that in reality, there is a distinction between crimes committed by the predecessor and continuation of the same crime after the date of succession. Thus, the doctrine argues that:

> If the new State continues the original internationally wrongful act committed by the predecessor State, that new State should be held accountable not only for *its own* act committed after the date of succession *but also* for the damage which was caused by the predecessor State *before the date of succession*.[44])

The current body of knowledge on the area, especially the research done by scholars such as E. J. Zürcher, and Taner Akçam, has clearly established a link between the Ottoman Government of WWI (Union and Progress Party, a.k.a. "Young Turks") and the succeeding Nationalist Movement which came to create the Republic of Turkey. Viewing the link between the two Turkish states and the implemented measures towards the Armenians and other Christian citizens of Turkey, it becomes quite obvious that the WWI wrongdoings did not cease with the change from empire to republic. The massacres continued and the laws allowing new confiscations were reinstated. Thus, by continuing the same internationally wrongful acts committed by the Ottoman government during WWI (massacres, deportations and confiscations), the new Republic of Turkey made itself not only responsible for its own internationally wrongful acts committed against Armenians and other Christians minorities, but also for the same acts committed by its Ottoman predecessor during WWI. Thereby, despite the almost century old crime, it would be quite expected that an official recognition would indeed cause a great concern for Turkey due to the potential demands for reparation, financial as well as territorial. As a simplified indication of the figure in question, one could mention that the Armenian claims presented at Paris Peace Conference in 1919, amounted to the significant sum of "$3.7 billions, of which $2.18 billion was for various types of properties. Most of the total losses claimed were for Turkish Armenia." This sum would correspond to approximately $51.5 billion in 2013.[45]) As a reference point one could mention that in 2012, the total of Armenia's foreign debt amounted to $7.3 billion.

Furthermore, an official recognition would hardly be a Turkish headache alone, but also that of the governments in e.g. USA, UK and other major players during WWI. One could speculate that by recognition, the major powers which had a direct responsibility in suffocating the Armenian issue might be liable for compensations of their own. Among others, one could mention the life insurance policies and the subsequent court trials in e.g. France and USA where Armenian surviving relatives demanded payment for the insured victims of the genocide.[46]) These claims also include the issue of Armenian confiscated gold in Turkish banks which were transferred as war reparation to London.[47]) Reading the verdict on the insurance procedure in USA reveals an interesting detail in this equation, namely the potential repercussions of such recognition, both inside USA as well as abroad. It has been argued that the court, by referring to President Obama's refusal to use the term "genocide" in regard to the WWI events, had merely tried to comply with the prevailing US foreign policy. This could in turn mean that once the US recognition comes, the law may very well change accordingly.[48])

In the light of the main reasons for avoiding an international official recognition, the Armenian genocide stands as a good example for the realpolitik versus the human rights. During the past century, the powers in close relations with Turkey have always excused themselves when confronted with the matter of an official recognition. It is striking how states such as USA, UK and Israel have evaded to recognize and to condemn the genocide by referring to the prevailing relations with Turkey, irrespective if they are good or bad. This was illustrated abundantly when the issue of the Armenian genocide recognition was raised in the Israeli Knesset in the wake of the Turkish-Israeli diplomatic crisis due to the Mari Marmara incident, where eight Turkish nationals and one Turkish-American were killed by Israeli soldiers.[49]) In objection to such recognition by Israel, the representative of the government stated that "Our relations with them [Turkey] are so fragile today, it is not right to push them over the red line." Knesset MP Ariyeh Eldad replied "In the past it was wrong

40) James Crawford, *The Creation of States in International Law* (Oxford: Oxford University Press, 2007), p. 676. See also Joshua W. Walker, Turkey's Imperial Legacy: Understanding Contemporary Turkey through its Ottoman Past, in *Perspectives on Global Development and Technology* (Leiden: Brill, Nr. 8, 2009), p. 498.

41) For an elaborative discussion on the subject see Vahagn Avedian, State Identity, Continuity, and Responsibility: The Ottoman Empire, the Republic of Turkey and the Armenian Genocide, in *European Journal of International Law*, Vol. 23, No. 3 (Oxford University Press, 2012); 2012; ejil.org/pdfs/23/3/2306.pdf

42) Patrick Dumberry, *State Succession to International Responsibility* (Leiden: Nijhoff, an imprint of Brill, 2007), p. 22–23.

43) Ibid., p. 24–25. Also see James Crawford, *The International Law Commission's Articles on State Responsibility: Introduction, Text and Commentaries* (Leiden: Nijhoff, 2002), p. 196. Marek asserts also that "International obligations survive a change of regime." See Marek, p. 33.

44) This has also been reflected in the comments made by ILC Special Rapportuer, Mr. James Crawford. See Dumberry, p. 218–219.

45) Levon Marashlian, Finishing the Genocide: Cleansing Turkey of Armenian Survivors, 1920–1923, in Richard G. Hovannisian, 1999, p. 117. It would be noteworthy to point out the significance of such a sum in 1922 and this pertaining to Armenian losses alone, not including those for Greeks and Assyrian/Syrians. A rough estimate would be a value increase by a factor 14, i.e. $51.43 billion in 2013. See e.g. *US Bureau of Labor Statistics:* CPI Inflation Calculator and the inflation rate since 1922.

46) Alfred L. Brophy, *Reparations: Pro & Con*, (New York: Oxford University Press, 2006), p. 119–120.

47) E.g. see *Panarmenian.net*, Turkish Historical Society says it located lost Ottoman-era Armenian gold, 22 June 2012; www.panarmenian.net/eng/news/113021. See also Harut Sassounian, *Armenians Sue U.S. Federal Reserve for Gold Looted by Turkey*, 20 March 2011; old.hetq.am/en/diaspora/55297

48) See United States Court of Appeals for the Ninth Circuit, *Opinion by Judge Christina A. Snyder*, 14 December 2011, San Francisco; cdn.ca9.uscourts.gov/datastore/opinions/2012/02/23/07–56722.pdf

49) *United Nations*, Report of the Secretary-General's Panel of Inquiry on the 31 May 2010 Flotilla Incident, New York, September 2010, p. 61; www.un.org/News/dh/infocus/middle_east/Gaza_Flotilla_Panel_Report.pdf

to bring up the issue because our ties with Turkey were good; now it is wrong because our ties with them are bad. When will the time be right?"[50])

The mentioned conditions confirm what Krystyna Marek observes, namely that political considerations and existing balance of forces play a major part these rulings and international responsibility is decided upon those factors rather than in accordance with general international law.[51]) This would indeed point out the obvious flaw in the concept of "leaving it to Armenia and Turkey to solve the problem among themselves." This concept would work only with two equally powerful states or one where the perpetrator is keen on regaining its international reputation by choosing restitution. As Dadrian points out, it is only the powerful who can deny a crime of this scale and get away with it.[52]) Turkey has indeed utilized many different aspects of its resources and power in order to suffocate the recognition of the Armenian genocide. The apparent inequality between Turkey and Armenia and the former's obvious attempts to avoid responsibility for committed international wrongful acts as well as its attempts to force Armenia to abandon any restitution for justice are obvious reasons why this "leave to Armenia and Turkey" would simply not hold. Furthermore, any attempt to solve this issue in a court of law, e.g. in the International Criminal Court (ICC), would be more similar to gambling with extremely high stakes, unless the international political will is ripe and willing to back this up. This implies that until such major players in the international arena as USA and UK are not willing to openly recognize the Armenian genocide, little could be expected from such legal process, other than legally declaring the events as genocide. Even when this part is settled, the readiness to rectify and compensate will still fall on the goodwill of Turkey and its willingness to reinstate its international reputation and prestige.

Nonetheless, while Turkey has demonstrably not yet arrived at the maturity to take this step, the politics and the balance of power have dictated Armenia to withhold from any such direct demands. In fact, the issue of international recognition of the genocide had to wait until 1998, when the second elected Armenian president, Robert Kocharian, brought up the issue at the United Nation Summit.[53]) Another additional decade would pass before the issue of territorial demands was stated officially. The latter issue, probably the first official intimations of territorial claims, came recently at the Second Pan-Armenian Forum of Lawyers, when the Attorney General Aghvan Hovsepyan, stated that "the successors of Genocide victims must receive financial compensation, Armenian Apostolic Church must get back its churches and its lands on the territory of Turkey, and the Republic of Armenia must get back its territories."[54]) The opposition parties also concurred in this view, stating that "Legal aspects must be added to political discussions on Armenians genocide."[55]) The Turkish response was almost immediate, calling it a "problematic mentality in Armenia" and reminding that "One should be well aware that no one can presume to claim land from Turkey."[56]) The gravity of the delicate issue demands careful and detailed deliberation and considerations before any legal steps can be taken. Time is not an impediment in this regard within the international law.

3 Unsustainability of Unilateral Reconciliation

Establishing the link between recognition (or rather denial) and responsibility, the subsequent question would be whether there can be any reconciliation without the two former steps? Given the legal and political intricacy of the Armenian genocide, it is justified to ask whether one cannot just forgive and forget and look into the future? A straight answer would be that the memory of the genocide, being a tremendous trauma, not only for the victim but also for the perpetrator, will probably not subside until it has been addressed openly and settled properly. Both sides need the closure equally in order to move forward.

A first step towards reconciliation would be recognition, which has clearly not been the case, but rather quite the opposite. To make it even worse, Turkey has taken measures which have counteracted any notion of reconciliation. One of the major steps in this regard was the closing of the borders in 1993, with reference to the Karabakh War, aiming to force Armenia to cease its support for the Karabakh Armenians. Later the terms for ending the blockade were expanded to also include Armenia's explicit recognition of the existing borders as well as demanding Armenia to give up its strive for an international recognition of the Armenian genocide. This embargo has ever since symbolized the constrained Turkish-Armenian relations.

It was not until recently when a possible thaw could be hinted in the Turkish-Armenian relations. The episode in question which demonstrated the potency of the Armenian question was the infamous "Football Diplomacy" in 2009, resulting in the protocol signings between the Turkish and the Armenian Presidents.[57]) The process, or more specifically the protocol articles pertaining to the issue of a committee to examine "historical records" and the recognition of the common border, sparked a massive protest among the Diaspora Armenians who regarded the protocols as a clear concession to the genocide denial.[58]) The international genocide scholarly community concurred in this protest as well.[59]) Even though the genocide was never mentioned explicitly in the document, the wording "impartial and scientific examination of the historical records" could only interpret into a discussion regarding the applicability of the "g-word." In addition, the recognition of "present borders", which are a result of the Kars Treaty (1923) between Ankara and

50) Israel debates recognizing Armenian genocide, *National Post*, 27 November 2011; news.nationalpost.com/2011/12/27/israel-debates-recognizing-armenian-genocide

51) Krystyna Marek, *Identity and Continuity of States in Public International Law* (Genève: Libr. Droz, 1968), p. 190.

52) Dadrian, p. 2.

53) Text of President Kocharian's Speech at the United Nations, *Asbarez.com*, 25 September 1998; asbarez.com/37738/text-of-president-kocharians-speech-at-the-united-nations

54) Turkey must return Armenian land – Attorney General, *News.am*, 5 July 2013; news.am/eng/news/161272.html

55) Legal aspect must be added to political discussions on Armenians Genocide, *News.am*, 6 July 2013; news.am/eng/news/161241.html

56) *Republic of Turkey, Ministry of Foreign Affairs*, QA-18, 12 July 2013, Statement of the Spokesman of the Ministry of Foreign Affairs of Turkey in Response to a Question Regarding the Declaration of the Prosecutor General of Armenia about the Border between Turkey and Armenia, 12 July 2013; http://www.mfa.gov.tr/qa_18_-12-july-2013_-statement-of-the-spokesman-of-the-ministry-of-foreign-affairs-of-turkey-in-response-to-a-question-regarding-the-declaration-of-the-prosecutor-general-of-armenia-about-the-border-between-turkey-and-armenia.en.mfa

57) *European Parliament*, Protocol on the Establishment of Diplomatic Relations Between The Republic of Turkey and The Republic of Armenia, 9 September 2009; www.europarl.europa.eu/meetdocs/2009_2014/documents/d-tr/dv/1006_10_/1006_10_en.pdf

58) *European Forum for Democracy and Solidarity*, Massive protests in Armenian Diaspora against Armenia-Turkey protocols, 8 October 2009; www.europeanforum.net/news/743/massive_protests_in_armenian_diaspora_against_armenia_turkey_protocols

59) IAGS President to Sarkisian, Erdogan: Acknowledgement Must Be First Step, *The Armenian Weekly*, 12 October 2009; www.armenianweekly.com/2009/10/12/iags-president-to-sarkisian-erdogan-acknowledgement-must-be-first-step/

Soviet Moscow, were seen as yet another concession to the genocide. The Armenian president, Serzh Sargsyan, was more or less compelled to a world tour to meet with the Armenian Diaspora representatives. During the meetings he had to explain and defend the protocols, ensuring that the ratification of the protocols would not question the validity of the genocide or any possible subsequences of its recognition, among others the issue of the common border between Armenia and Turkey.[60])

Roughly four months after Sargsyan's Diaspora tour, the Constitutional Court of Armenia released a statement declaring the protocols being "in conformity with the Constitution of the Republic of Armenia."[61]) The ruling was immediately rejected by the Turkish Foreign Ministry, complaining that it "undermines the very reason for negotiating these protocols as well as their fundamental objective."[62]) This protest confirmed in fact that "examination of the historical records" did indeed refer to the genocide, since the Constitutional Court report had, among others, stated that the protocols did not contradict "the requirements of Paragraph 11 of the Declaration of Independence of Armenia." The mentioned Paragraph 11 reads "The Republic of Armenia is for the international recognition of the Armenian genocide of 1915 committed in Ottoman Turkey and Western Armenia."[63]) Thus, the paragraph not only referenced to the genocide, but also to Western Armenia, i.e. plausible territorial claims. In addition, the court ruling stated that the protocols were "exclusively of bilateral nature" and could not pertain to any "third party". This statement was a clear reference to Nagorno Karabakh conflict, which eventually came to halt the rapprochement, when Turkey, pressured by Azerbaijan, made a firm stand that there would be no normalization of the relations between Turkey and Armenia prior to the solution of the Karabakh conflict in favor of Azerbaijan.[64]) This Turkish precondition was a clear breach of the agreement to implement the protocols without conditions which came to shelve the ratification of the protocols.

In regard to the proposed history commission it must be pointed out that it would be a doomed discussion, since what could be expected from such an "impartial examination" which already has not been conducted by the international scholarly community? This would indeed be to undermine the existing consensus among the majority of the scholars, among others evident in the statements by the *International Association of Genocide Scholars* (IAGS).[65]) Furthermore, there has already been such a commission, namely the *Turkish Armenian Reconciliation Commission* (TARC), which existed between 2002 and 2004 with the aim to bring Armenia and Turkey closer to each other. In order to resolve the question of the genocide, TARC asked an independent organization, *International Center for Transitional Justice* (ICTJ), to examine the events in accordance with the current *United Nations' Convention on the Prevention and Punishment of Genocide*. In its turn, ICTJ asked an independent legal council to conduct and compile an analysis, which resulted in a seventeen page report. The report was summarized by the following conclusion: "the Events, viewed collectively, can thus be said to include all of the elements of the crime of genocide as defined in the Convention, and legal scholars as well as historians, politicians, journalists and other people would be justified in continuing to so describe them."[66]) Thus, an "impartial and scientific examination of the historical records" would be yet another wild goose chase fitting well into the denialist game in the search of the ultimate evidence and would at its best result in "agree to disagree," i.e. the status quo.

In order to illustrate the importance and the necessity of remembrance as precondition for reconciliation one could study post WWII West Germany as an example. This study illuminates the striking differences between self-searching German (perhaps more applicable to West Germany) societies, while the continuity from the WWI era towards the minorities reigned supreme in Turkey.[67]) Even though the German process was in no way flawless and has been subject to criticism, there were nevertheless attempts for redemption, penance and reconciliation. In fact, the main goal of reconciliation shortly after WWII was not about a "new attitude in German-Jewish relations, but a normalizing reconciliation of West Germany with its own past."[68]) The Luxemburg Agreement on restitution and reparations was a significant step in this process.[69]) Konrad Adenauer, the first Chancellor of the Federal German Republic, "not only wanted to recognize responsibility for the past crimes of Germans, he wanted to repay a personal debt of honor."[70]) In doing so,

> [T]he government of the Federal Republic regarded itself as responsible for the obligations of the Reich, and considered itself liable for that government's debt and the consequences of the crimes committed. The two problems, restitution to victims of Nazi crimes and clearing the Reich debt, were inextricably connected. In dealing with both, the Federal Republic was cleaning up what it could of the debris of the past and restoring its international credit in both the moral and the financial."[71])

The first step for such a process in Germany was a proper recognition and admission to guilt for the wrongdoings. It was in this sense that phrases such as "Only if we don't forget can we again be proud to call ourselves Germans"[72]) were stated

60) *Hetq Online*, President Sargsyan to "Sell" Protocols During Diaspora Tour, 24 September 2009; old.hetq.am/en/society/qnnarkumner

61) *Constitutional Court of Armenia*, The Decision of the Constitutional Court of the Republic of Armenia Regarding the Signed Protocols between Armenia and Turkey, unofficial translation, Yerevan, 12 January 2010; www.concourt.am/english/decisions/common/pdf/850.pdf

62) *Republic of Turkey, Ministry of Foreign Affairs*, No: 14, 18 January 2010, Press Release Regarding the Recently Published Grounds of the Decision of the Armenian Constitutional Court on the Protocols Between Turkey and Armenia; www.mfa.gov.tr/no_-14_-18-january-2010_-press-release-regarding-the-recently-published-grounds-of-the-decision-of-the-armenian-constitutional-court-on-the-protocols-between-turkey-and-armenia.en.mfa

63) *The Government of the Republic of Armenia*, Armenian Declaration of Independence, 23 August 1990; www.gov.am/en/independence

64) *BBC News*, Armenia suspends normalisation of ties with Turkey, 22 April 2010; news.bbc.co.uk/2/hi/europe/8636800.stm

65) For the resolutions see *International Association of Genocide Scholars*, Resolutions; www.genocidescholars.org/about-us/resolutions

66) *International Center for Transitional Justice (ICTJ)*, The Applicability of the United Nations Convention on the Prevention and Punishment of the Crime of Genocide to Events which Occurred During the Early Twentieth Century Legal Analysis, 2002; ictj.org/sites/default/files/ICTJ-Turkey-Armenian-Reconciliation-2002-English.pdf

67) Vahagn Avedian, *Reconciliation Only with Recognition: Comparative study of post-world war Germany and Turkey*, unpublished paper, Uppsala, 2009.

68) Frank Stern, The Historic Triangle: Occupiers, Germans and Jews in Postwar Germany, in, Robert G. Moeller (ed.), *West Germany under Construction; Politics, Society, and Culture in the Adenauer Era*, Michigan, 1997, p. 206.

69) Stern, p. 228. Up to 1953, about 25% of the Soviet zone national product was spent of occupation and reparation costs, while in the Western zones this cost (until 1949) was about 10–11%. See also Mary Fullbrook, A *Concise History of Germany*, New York, 1990, p. 154.

70) Dennis L. Bark and David R. Gress, A *History of West Germany: From Shadow to Substance 1945–1963*, Vol. 1, Oxford, 1989, p. 314.

71) Ibid, p. 311.

72) Federal President Walter Scheel, on May 6, 1975; in Bill Niven, *Facing the Nazi Past: United Germany and the legacy of the Third Reich*, London, 2002, p. 105.

and "[Federal President Richard von] Weizsäcker made it clear that the Germans had a moral debt of memory towards the Jews."[73]) This has been the vital missing piece of the puzzle in the Turkish case. There are few pictures which could depict German remorse as that of Willy Brandt kneeling in front of the Warsaw Ghetto Memorial. The French historian Jacques Julliard has noted this parallel during a conversation with the Mayor of Yerevan in the early days of the regained Armenian independence in 1991. As an answer to the mayor, who contended that "at the same time that the existence of the Armenian Genocide is beyond all doubts, the Armenian people must also have the courage to examine its attitude at that period of time[...]," Julliard had answered: "A admirable courage of which the Turkish leaders could as well have been inspired. But even then, will President Turgunt Özal kneel in order to ask the Armenians for forgiveness as Willy Brandt had the strength to do towards the Jews?"[74]) This rhetorical question is still highly topical.

The Turkish reaction has been, to put it mildly, quite the opposite to that of Germany's. Notwithstanding, the appeal for "forgive and forget" is frequently stated and foremost aimed at the Armenian side. But, can there be any reconciliation without proper recognition and apology for the wrongdoings? The issue of forgiving is rather a non-existing question since no one has ever asked the victims for forgiveness. On the contrary, the Turkish State has actually continued with the same accusations directed towards the Armenians as those used as pretense for the genocide during WWI. The Armenians are still being labeled as liars and opportunist who are smearing Turkey in order to grab financial and territorial gains. Thus, the Republic of Turkey has taken every opportunity to inflict harm upon present-day Armenia and the Armenian Diaspora. Beside the ongoing closed borders and trade embargo towards Armenia, this policy has been implemented in many different ways from the very first years of the newly regained Armenian independence. One of the earliest occasions was the vital shipment of wheat which reached the earthquake-stricken Armenia[75]) through Turkey, during the harsh winter of 1992–1993. What distinguished this shipment was its financial details:

> After many Byzantine tactics and several months of delay, Turkey finally agreed to send the 100,000 tons of wheat which the European community had promised to replace. After having humiliated the entire population of Armenia in bread queues, Turkey finally began to ship the wheat across the border in a very slow pace and to an extremely high price. The transport of wheat, all the way from Russia to Armenia, cost only two dollars per ton, payable in deprecated rubles. Turkey charged $56 per ton in hard currency. Armenia was forced to empty its reserves of foreign currency in order to avoid a bread riot.[76])

There were many similar actions where Ankara forced the Armenian civil aircrafts down on Turkish soil and delayed the humanitarian aid for several months.[77])

The current closed borders with Armenia and the embargo imposed in cooperation with Azerbaijan is merely a tool for forcing Armenia to abandon both the issue of the genocide as well as Karabakh for the sake of getting rid of the economic hardships crippling the small landlocked country. The Turkish-Azerbaijani message is clear: isolate Armenia until they simply give up their demands. In addition to the closed borders (compromising 84% of its total boundary), Armenia is effectively excluded from every regional projects.[78]) The nature of this right-out blackmailing is verified by various Turkish and Azerbaijani statements, e.g. "prosperity without Karabakh or poverty with Karabakh."[79]) The deliberate policy of trying to push Armenia to the degree of poverty that "people will even stop thinking about Karabakh" is quite alike the same policy for Armenia to give up the issue of genocide recognition.[80])

At the same time there is an obvious policy of "divide and conquer" by attempting to drive a wedge between Armenia and the Diaspora, claiming that it is indeed only the Armenians in the Diaspora who have such "aggressive" and "hostile" attitude towards Turkey, while the population of Armenia would rather put the genocide behind and instead have open borders and a better and prosperous life. The 2009 protocols were a fine example for this policy.[81]) The question would be how long lasting such a "friendship" would be, since its foundations are obviously founded on extortion rather than reconciliation. Supposing that this would actually be the case, the probable scenario would be a repetition of the third generation phenomena where down the line new generations would ask whether the price tag on the national pride, but even more significantly, the truth and justice was the right one.

The Turkish non-reconciliatory policy was also substantiated in the fact that the Turkish Foreign Ministry recently summoned the Turkish Diaspora organizations to instruct and coordinate their efforts in how to counteract the centennial commemoration of the Armenian genocide in 2015.[82]) In parallel, the Turkish government annually funds substantial amounts in paying lobbying firms around the world to counteract third party recognition of the Armenian genocide. Although there is no detailed picture of that financing, some public figures can serve as a hint to the iceberg which is concealed from us. One of the major exposures was made by the organization National Corruption Index, exposing former congressman Robert Livingston who was now the head of the Livingston Group, described as the "main lobby group for Turkey":

> The firm's success in blocking Congressional resolutions condemning the Armenian slaughter as genocide, in 2000, 2004 and 2007 was thanks to their heavy financial contributions to key Congressional voters. Between 2000 and 2004, Livingston gave $503,449 in political contributions.

73) Niven, p. 107.

74) Jacques Julliard, *Renaissance d'une nation*, Paris, 1991, p. 31.

75) The earthquake of December 7, 1988, leveled the cities of Guymri (then Leninakan) and Spitak, killing 25,000 people.

76) Edmond Y. Azadian, *Address to the Parliament of Armenia: On Independence and the Future of the Rpublic*, 1999, p. 72

77) Ashot Manutscherian, Die Aussenpolitik der Republik Armenien: Ein Jahr nach dem Zerfall der Sowjetuinon, in *Orient 34*, 1993, p. 262

78) For the exclusion of Armenia from the Baku-Tbilisi-Ceyhan (TBC) pipeline e.g. see Tuncay Babali, *Implications of the Baku-Tbilisi-Ceyhan Main Oil Pipeline Project*, Ankara, 2005, p. 34; sam.gov.tr/wp-content/uploads/2012/02/TuncayBabali.pdf. For the exclusion from the Baku-Tbilisi-Kars railroad see *Hürriyet Turkish Daily News*, Armenia misses the trans-Caucasus train, 25 July 2008; arama.hurriyet.com.tr/arsivnews.aspx?id=-634240

79) Galib Mammadov, Nagorno Karabakh Conflict: Armenia's Victory or Nightmare?, in *Foreign Policy Journal*, 13 October 2011; www.foreignpolicyjournal.com/2011/10/13/nagorno-karabakh-conflict-armeniasvictory-or-nightmare-2

80) Enes Ibrahim, Armenia's aggressive policies main Obstacle for the country's development, in *News.az*, 31 October 2011; http://news.az/articles/politics/47854. See also Ilham Aliyev, Karabakh's independence will never be subject of Negotiations, Aliyev, in *News.az*, 13 July 2011; news.az/articles/politics/40321

81) Rifts Emerging in Armenian Community, *Bloomberg Business Week,* 20 February 2010; www.businessweek.com/globalbiz/content/feb2010/gb2010022_564431.htm

82) E.g. see the article about the Turkish Foreign Ministries coded instructions to the Diaspora in *Haber Turk*, Dışişleri elçiliklere kripto geçti '2015' alarmı verdi, 3 September 2011; www.haberturk.com/dunya/haber/665758-disisleri-elciliklere-kripto-gecti-2015-alarmi-verdi

In the last election cycle, he gave more than $200,000 in campaign donations while receiving more than $12 million from Turkey.[83])

In 2011, after reviewing the past year's financial data, the US Justice Department revealed that Turkey had transferred roughly $3.3 million to four lobbying organizations in USA to be used in blocking the impending threat of the Armenian genocide recognition by the House of Representatives.[84]) The list can be made much longer and similar reports and public revenue examinations have disclosed numerous other cases of multi-million financing of this nature.[85]) One can only speculate about the number of unrecorded cases carried out in secrecy.

One hundred years will soon have passed since 1915, but the genocide is still constantly present on both domestic and international arenas. The anticipated consequences of an official recognition enforced a state sponsored denialist policy which prevails until our days. The intricate relation between recognition, responsibility and reconciliation is the trinity defining the Armenian genocide, constructing a structure in which neither side can be sustained if the two other are not present. Consequently, any reconciliation would be possible and, more significantly, durable only if the former two sides of that structure are in place. Otherwise, reconciliation of the sort "forgive and forget" will implicitly empower the denial, i.e. the peril of the status quo. While recognition is foremost attributed to the need of closure for the Armenian side, Turkey needs it even further in order to restore its international reputation, but more significantly, to come clean with its own past and having a unstained self-image.

For a century, the Armenian genocide has been characterized for its two main attributes: its denial, which partly institutes the second trademark, its successfulness. It is safe to say that the former is steadily breaking up and the Armenian genocide is no longer "the forgotten one." The continued ardent Turkish state denial in spite of the massive body of evidence is in itself indicator of the anticipation of the next step, the issue of responsibility and the subsequent reparation according to the existing international law. Thus, by erasing the former, time will tell whether the second label can also be removed from the 1915 Armenian genocide.

83) *National Corruption Index*, Profile Result: Robet Livingston, retrieved on 25 June 2013; www.nationalcorruptionindex.org/pages/profile.php?profile_id=286

84) See Turkey spent $3.3 million on anti-Genocide campaign in U.S., *News.am*, 14 March 2011; news.am/eng/news/51246.html

85) E.g. see Turkey pays money for denial of Armenian Genocide in U.S., *Panramenian.net*, 1 June 2007; www.panarmenian.net/eng/world/news/22427 and Turkey pays over $3 million a year to Jewish organizations in U.S. for Armenian Genocide denial, *Panarmenian.net*, 22 October 2008; www.panarmenian.net/eng/world/news/27316