

REVIEW OF  
**ARMENIAN STUDIES**

A Biannual Journal of History, Politics and International Relations

no:  
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2011

Facts and Comments

**Ömer E. LÜTEM**

Mkrtich Portukalian and the "Armenia" Journal  
(From Terrorism to Skeptical Modesty)

**Jean-Louis MATTEI**

The Concept of Genocide in International Law:  
William A. Schabas' Views on 1915 Armenian Incidents

**Sadi ÇAYCI**

Dehumanization in Cartoons:  
A Case Study of the Image of the Turk in Asbarez Newspaper

**Bahar Senem ÇEVİK-ERSAYDI**

The Armenian Genocide Question & Legal Responsibility

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Iran and Armenia: A Symbiotic Relationship

**Zeynep KAYA**

Charles Aznavour's Book Entitled D'une Porte L'autre (From One  
Door to the Next): Historical Facts and Turkish-Armenian Relations

**Doğanay ERYILMAZ**

**BOOK REVIEW**



# REVIEW OF ARMENIAN STUDIES

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2011, No 24

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Ömer Engin LÜTEM

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**A**s a tradition, the first article of the current issue of our Journal is **Facts and Comments** which summarizes the significant developments regarding the Armenian Question. The developments in concerning the punishment of those denying the Armenian genocide allegations have gained so much significance that the entire article has been dedicated to these developments.

The second article of our Journal is entitled **Mkrtich Portukalian and the “Armenia” Journal (From Terrorism to Skeptical Modesty)** written by Prof. Dr. Louis Mattei. Prof Mattei sheds light on the life of Mkrtich Portukalian who is not well known but has an important position within the “revolutionary” Armenian history and particularly his “Armenia” Journal that has been published.

Prof. William Schabas is considered as authority within the field of Genocide Law and his book entitled “Genocide of International Law” is his most well known publication. It could be observed that the complications and contradictions experienced in regards to the concept of genocide, mostly due to political reasons, are also present in Schabas’s book. Prof. Dr. Sadi Çaycı addresses these complications in his article entitled **The Concept of Genocide in International Law: William A. Schabas’s Views on 1915 Armenian Events.**

Dr. Bahar Senem Çevik-Ersaydı, in her article entitled **Dehumanization in Cartoons: A Case Study of the Image of the Turk in Asbarez Newspaper,** presents how the Turkish image is tried to be dehumanized with the cartoons published in this newspaper of the Armenian Diaspora.

Derk Jan van der Linde’s article entitled **The Armenian Genocide Question & Legal Responsibility** deals with the Armenian Genocide Question from a legal standpoint. Linde seeks to answer whether any form of direct state and/or individual responsibility can arise under the workings of the Genocide Convention and whether it is in fact legally correct to apply the terminology of genocide to the events of 1915.

Armenia and Iran are neighbors. Moreover, there is an important Armenian minority in Iran. Apart from being neighbors, these two countries also maintain close relations for being in opposition to Azerbaijan. In her article entitled **Iran and Armenia: A Symbiotic Relationship**, Assistant Professor Zeynep Kaya provides an insight to the complicated and complex relations of these two countries.

French singer Charles Aznavour who is of Armenian origin has written a book concerning his own life. In his article entitled **Charles Aznavour's Book Entitled D'une Porte L'aue (From One Door To The Next): Historical Facts and Turkish Armenian Relations**, Doğanay Eryılmaz addresses the statements of Aznavour in his book regarding Turkey-Armenia relations and draws attention to his significant lack of information on this issue.

This issue contains one book review.

The book of English journalist/writer Robert Fisk entitled **The Great War of Civilization: The Conquest of Middle East** written in 2005 has just recently been translated into Turkish. In this book, an article which has nothing to do with the Middle East and which addresses the Armenian genocide allegations under the heading The First Holocaust draws attention. In a review written by myself, Robert Fisk embracing the Armenian genocide allegations without any refrains, his exaggerated attempts in proving these allegations and his contradictory approach has been examined with examples.

Sincerely,

The Editor

# FACTS AND COMMENTS

(OLAYLAR VE YORUMLAR)

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**Abstract:** *This article examines the adoption of a law on the punishment of denial of Armenian genocide in the French National Parliament and the Senate, and it being sent to the French Constitutional Council, also Turkey's attempts to prevent the adoption of this law as well as the impact of this law on Turkish-French relations.*

**Keywords:** *Turkish-French relations, Punishment of those who deny the Armenian genocide, Abdullah Gül, Recep Tayyip Erdoğan, Ahmet Davutoğlu, Eğemen Bağış, Nicolas Sarkozy, Alain Juppé, Valérie Boyer, Patrick Devedjian, Serge Sarkisian, Edward Nalbandyan*

**Öz:** *Bu yazı, Ekim-Aralık 2011 ve Ocak 2012 tarihlerinde Fransa'da Ermeni soykırımı iddialarını reddedenlerin cezalandırılmasına dair Fransız Millet Meclisi ve Senatosunda bir kanun kabul edilmesini, bu kanunun Fransız Anayasa Konseyine gönderilmesini, ayrıca Türkiye'nin bu kanunu önleme çabalarını ve bu olayın Türkiye-Fransız ilişkilerine etkisini incelemektedir.*

**Anahtar Kelimeler:** *Türkiye-Fransa İlişkileri, Ermeni Soykırımını reddedenlerin cezalandırılması, Abdullah Gül, Recep Tayyip Erdoğan, Ahmet Davutoğlu, Eğemen Bağış, Nicolas Sarkozy, Alain Juppé, Valérie Boyer, Patrick Devedjian, Serj Sarkisyan, Edward Nalbantyan*

Concerning the Armenian Question, the most significant development taking place in the last three months of 2011 and the first two months of 2012 has been the adoption of a law in France which penalizes those denying the Armenian genocide allegations. This law has first been adopted on 22 December 2011 at the French National Assembly and then in the Senate on 23 January 2012, but by indicating that this law particularly violates freedom of expression, 71 members of parliament and 77 senators have appealed to the French Constitutional Council to repeal the law.



Due to the intensity and significance of the events experienced regarding this law, we are dedicating our Facts and Comments article in this issue of our journal entirely to this matter.

## 1. Introduction

Together with Turkey's EU membership, the Armenian genocide allegations continue to be the primary issue in Turkish-French relations.

*French Armenians who are in a psychological need of opposing and relentlessly struggling against Turkey, have then started requesting the punishment of individuals denying the genocide allegations for no apparent reason.*

France has been one of the first countries which addressed the claims for the recognition of the Armenian genocide allegations. However, compared to other countries, rather than as a statement or a declaration, addressing these allegations in the form of a law in order to increase its significance has caused this recognition to be delayed by several years. Eventually in January 2001, this recognition has been gained with the adoption of a law consisting

of one sentence, "France publicly recognizes the Armenian Genocide of 1915". This recognition has caused tensions for some time within Turkey-France relations.

Adoption of this law by the French has constituted a model for some other member states of the European Union. Within this framework, the parliaments of the Netherlands (2004), Slovakia (2004), Poland (2005), Lithuania (2005) and Germany (2005) have been inspired from the French precedent and the reactions of Turkey not creating any results in adopting similar resolutions which recognize the genocide allegations. The situation is the same with a similar resolution adopted by the Swiss Parliament (2003) which is a not a member of the European Union.

Normally, the law of 2001 should have pleased the French Armenians. However, the French Armenians who are in a psychological need of opposing and relentlessly struggling against Turkey, have then started requesting the punishment of individuals denying the genocide allegations for no apparent reason. As a result of the Armenians' pressures, the French National Assembly has adopted in 2006 a bill on this issue. The French Government openly opposing this bill have somewhat prevented this incident from negatively affecting relations between the two countries.

In order for this bill to become a law, it had to be ratified by the French

Senate. However, the Senate has not brought the bill to its agenda for five years. Rather than the objections of Turkey, the main reason for this has been the intellectuals in France, mainly well-known historians, not approving the judgment of historical events and punishment of individuals through laws. Upon the insistence of the Armenians, the bill was sent to the Senate in May 2011, but has been found by the Laws Commission to be in contradiction with the Constitution and the bill has been rejected without further discussion<sup>1</sup>.

It could be understood that the personal initiative of President Sarkisian played a role in the rejection of the bill<sup>2</sup>. France, being one of the main obstacles in Turkey's membership to the EU, preferred not to disturb this country further, whose cooperation was necessary for its Middle East policy, an issue of internal affairs like the Armenian Question.

## 2. President Sarkisian's Change of Policy and His Visit to Armenia

After the Socialists gained the majority, although by a narrow margin, in the by-elections of the Senate in September 2011 and then the former General Secretary of the Socialist Party François Hollande became the Socialist Party candidate for President of France and stated that if elected, he will call for the bill rejected in the Senate to be readdressed, Sarkozy who was unable to receive good results from public opinion polls regarding Presidential elections to be held in April 2012, felt it necessary to urgently review his approach in regards to the Armenian Question.

President of Armenia Serge Sarkisian had conducted a business visit to France on 28-29 September 2011. Approximately a week after this visit, President Sarkozy had visited Armenia. This act has almost never been seen before, because unless there is an urgent situation, generally presidents conduct a return visit years later. It could be understood that the purpose of President Sarkozy's urgent visit is to implement a new Armenian policy against the Socialists.

In his statements provided during his visit, President Sarkozy has addressed the Armenian Question and Turkey's expectations in regards to it. Furthermore, he has called on Turkey to recognize the Armenian genocide thesis and has given Turkey until the end of his office term (April 2012) to make this recognition.

1 Lütem, Ömer Engin "Facts and Comments" *Review of Armenian Studies*, No. 23, pp.26-40

2 "Le Vice-Premier Ministre Turc Accuse Nicolas Sarkozy d'Avoir Manqué à sa Parole" *Armenews*, 28 December 2011.

Until now, no president of any foreign country had so clearly urged Turkey to recognize the Armenian genocide allegations and especially no one had set a certain date for Turkey. From this aspect, Sarkozy's behavior is at least not appropriate to the relations that should exist between two allies. However, it could be seen that the French President has no such concern and that his primary goal is to influence his own country along with Armenian public opinion.

As expected, Turkey's reactions towards the French President's statements have been harsh. Regarding this issue, the Ministry of Foreign Affairs has issued the following declaration<sup>3</sup>:

*No: 226, 7 October 2011, Press Release Regarding the statements by the French President Nicolas Sarkozy*

*We are astounded and deeply regret the statements by the French President Nicolas Sarkozy during his visit to Armenia on the 6-7 October, requesting Turkey to review its history and recognize, by the end of his own term of office, Armenian allegations regarding the events of 1915. The President also said that he would be in favor of taking further steps to support Armenian claims if Turkey fails to do this.*

*Attempts to exploit controversies between Turkey and Armenia by third parties for their domestic political agenda and even to see in themselves the right to connect this to their electoral calendar point to a misperception of their own political power. The French people will judge whether such approaches, based on electoral calculations, are compatible with the French democratic culture and state tradition.*

*Such an inconsistent and imprudent handling of this serious matter that has human and moral dimensions is unfortunate. Political declarations based on one-sided information and reflecting accusatory judgments regarding historical events are very far from the fair approach that this issue requires and demonstrate a failure to even comprehend Turkey's approach on the matter. This painful part of our long history with the Armenians can be freely debated in Turkey, unlike in some countries that are party to this issue or others that are not, including France.*

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3 MFA "Press Release Regarding the Statements by the French President Nicolas Sarkozy" October 7, 2011s  
[http://www.mfa.gov.tr/no\\_226\\_-7-october-2011\\_-press-release-regarding-the-statements-by-the-french-president-nicolas-sarkozy.en.mfa](http://www.mfa.gov.tr/no_226_-7-october-2011_-press-release-regarding-the-statements-by-the-french-president-nicolas-sarkozy.en.mfa)

*Turkey will continue its constructive approach on how to improve its relations with Armenia, overcome the controversy over the events of 1915 and reach a just memory.*

*What is expected from France is to make a positive contribution to this process and to adopt a responsible approach and discourse that would show care to avoid both damaging the multi-dimensional relationship between Turkey and France and offending the Turkish community in France.*

Regarding President Sarkozy's statements, Foreign Minister Davutoğlu has said that these kinds of statements are political opportunism; that this type of opportunism arises whenever there are elections in Europe and that despite some disruptions, it could have a negative impact on the process continuing between Turkey and Armenia. Furthermore, he has indicated that there is no problem for Turkey to confront its history, but that mentalities who cannot confront their own histories and who have not intermingled with the societies they have ruled due to colonialism and who have seen them as a lower class, should confront their own histories. He has gone further to say that those countries with a colonial past do not have the right to give a lesson to Turkey to confront its history and those suggesting Turkey to do so must first look at the mirror their selves.

On the other hand, Prime Minister Erdoğan has stated in his speech delivered in the Assembly that the French President has given advices to Turkey, but that Sarkozy should first listen to his own advice since he speaks differently in each country. Moreover, after indicating that such a political leadership cannot be pursued and that above all, politics require honesty, he has said that Turkey is not a piece of cake.

As explained above, Nicolas Sarkozy has first acted with considerations in domestic politics and while the Socialists have failed in adopting the law in the past, through the influence of President Sarkozy, with some of the senators of the ruling UMP Party assuming a more favorable stance towards this law, the adoption of the law has become a possibility; in other words, a situation has been created where Sarkozy and his Party could accomplish what the Socialists have failed to do.

However, while cornering the Socialists, Sarkozy has created tensions in his country's relations with Turkey. But, it could be understood that Sarkozy does not regard this situation as important and acts by calculating that statements such as Turkey cannot become an EU member and must recognize the Armenian genocide allegations have been acknowledged by a

great part of French public opinion and could therefore turn into votes. Meanwhile, it is also possible that his statements and approaches towards Turkey have especially pleased the French extreme rightists who definitely oppose Turkey's EU membership and that within this framework it could affect some rightist votes.

Another goal of Sarkozy could be summarized as “defeating” Turkey by causing this law, which Turkey fiercely opposes, to be adopted. The disagreements between Turkey and France are actually deeper than it seems. A French newspaper summarizes the situation as follows: Turkey's membership into the European Union, Iran's nuclear researches, Turkey's problems with Cyprus in the Southern Mediterranean and Israel<sup>4</sup>. In addition to these, it is claimed that France, which has an influence over some Muslim countries, is disturbed of Turkey's prestige gained in the recent years in these countries and particularly in Libya and Palestine and that within this framework, by referring to Prime Minister Erdoğan, Sarkozy has said “someone must rise against him”<sup>5</sup>. In short, Sarkozy wants to close the door of both Europe and the Middle East on Turkey.

If Muslim countries do not give any or very little support to Turkey regarding this law, Sarkozy could become successful in his policy of pushing Turkey to the background. In fact, while Turkey is seeking Algeria's support for this law, and when Prime Minister Ahmet Uyahia asked Turkey to “stop making Algeria's colonization a matter of discussion”<sup>6</sup> it shows that some Arab countries are not willing to support Turkey regarding the issue of the Armenian “genocide”.

### 3. Submitting a New Bill to the French National Assembly

Valérie Boyer, Marseille's Deputy of the ruling UMP Party in France, has submitted to the National Assembly on 18 October 2011 a bill foreseeing struggling against racism and the punishment of those rejecting the existence of the Armenian genocide.

This bill aimed to adjust the EU Framework Decision on 2008/913/JAI of 2008 on combating racism and xenophobia to the French legislation. Therefore, under the excuse of conformity to the EU Decision, she has sought to penalize those denying the Armenian genocide allegations.

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4 “L'ouverture Turque de Nicolas Sarkozy” *Le Monde*, 1 December 2011.

5 Ibid

6 “Soykırım'a Cezayir'i Alet Etmeyin (Don't Use Algeria as an Instrument of Genocide)” *Hürriyet*, 8 January 2012.

However, although mentioning genocide, the EU Framework Decision does not comprise the Armenian genocide allegations on which there is no consensus. By including in the bill the expression of “all cries of genocide whose existence are recognized by law”, referring to the law of 2001 which recognizes the Armenia “genocide”, Valérie Boyer has strived for the Armenian genocide allegations to be included in the Framework Decision.

Meanwhile, it has been observed that the procedure of the bill presented to the National Assembly becoming a law has gained speed. This bill has been discussed in the Laws Commission of the National Assembly on 7 December 2011 to decide whether it is in conformity with the French Constitution and with the exception of two negative votes, has been adopted with unanimity<sup>7</sup>. Therefore, a significant step has been taken for the adoption of the bill by the Assembly.

Turkey has expressed its reaction towards the decision of the Laws Commission through the following statement of the Ministry of Foreign Affairs<sup>8</sup>:

*No: 287, 09 December 2011, Press Release Regarding the Law Proposal Adopted in France*

*Since the adoption in 2001, through known political dynamics in France, of the law that takes into account the views of only one side regarding the debate on the events of 1915, it is observed that initiatives aimed at reinforcing this law with criminal sanction recur particularly during election periods in France. The law proposal just adopted by the Laws Commission of the National Assembly on 7 December 2011 constitutes the latest example in this regard.*

*The French government is well aware of how sensitive this serious issue is for our country. While Turkey and France have entered a period of stability in their relations where they can enhance their cooperation at bilateral and international levels, it is hoped that irredeemable steps are not taken. Responsibility arising from the consequences of these steps rests on its initiators.*

*Our expectation from France is to contribute constructively to discussions between Turkey and Armenia on the controversy over*

7 “Le Négationnisme A l’A.N., le 19 décembre” *Collectif VAN*, 8 December 2011.

8 MFA Turkey “Press Releas Regarding the Law Proposal Adopted in France” December 09, 2011 [http://www.mfa.gov.tr/no\\_-287\\_-09-december-2011\\_-press-release-regarding-the-law-proposal-adopted-in-france.en.mfa](http://www.mfa.gov.tr/no_-287_-09-december-2011_-press-release-regarding-the-law-proposal-adopted-in-france.en.mfa)

*history through dialogue and to refrain from taking decisions which clearly contradict freedom of expression and are far from showing a scientific and equitable approach that the subject deserves.*

Another point which could be mentioned in regards to this issue is that about eight months earlier, the Laws Commission of the French Senate had, by indicating in particular that it was “contradictory to constitutional principles on freedoms of idea and expression”, unanimously ruled against another bill which foresaw the punishment of those not accepting the Armenian genocide allegations<sup>9</sup>. Therefore, the two Assemblies of the French Parliament have reached two opposite decisions on the same issue. The only difference is that the bill rejected by the Senate’s Laws Commission directly addressed the Armenian genocide allegations, while as mentioned above, the bill adopted by the Laws Commission of the National Assembly entailed the sentence “all crimes of genocides whose existence are recognized by law” which refers to the law of 2001. However, this difference is purely in style. In essence, both the bills aim for the punishment of those denying the Armenian genocide allegations.

#### **4. Turkey’s Reactions and France’s Efforts of Persuasion**

It could be seen that concerning the issue of genocide, in exchange for the French President’s approach towards Turkey taken with election considerations, the French Foreign Ministry has shown efforts so that its relations with Turkey will not be seriously damaged. For instance, at a time when Sarkozy was in Yerevan, French Minister of Interior Claude Gueant has come to Turkey and signed an agreement on combating terrorism. On the other hand, French Foreign Minister Alain Juppé has also found it necessary to conduct a visit to Turkey after Turkey’s reactions.

##### **a. The French Foreign Minister’s Visit to Turkey**

The Turkish Foreign Ministry has considered the French Foreign Minister Juppé’s visit to Turkey “as an indicator of the mutual will for further developing Turkish-French bilateral relations in the forthcoming period.”<sup>10</sup>

In spite of France, together with Germany, being the country that creates

9 Lütem, Ömer Engin “Olaylar ve Yorumlar” *Ermeni Araştırmaları*, No 39, p. 44

10 MFA Turkey “The Foreign Ministry’s declaration on 16 November 2011 numbered 259”. [http://www.mfa.gov.tr/no\\_-259\\_-16-november-2011\\_-press-release-regarding-the-visit-of-the-minister-of-foreign-and-european-affairs-of-france-h\\_e\\_-mr\\_-alain-juppe-to-turkey.en.mfa](http://www.mfa.gov.tr/no_-259_-16-november-2011_-press-release-regarding-the-visit-of-the-minister-of-foreign-and-european-affairs-of-france-h_e_-mr_-alain-juppe-to-turkey.en.mfa). Date of Retrieval: 8 February 2012

several difficulties for Turkey's membership into the EU, during his visit, Juppé has indicated that progress could be made in the enlargement of the Union once the European Union has completed its internal reforms; in other words, only then could Turkey's membership be addressed. Moreover, by indicating that he supports the idea of three new chapters opening within negotiations, he has given some hopes for Turkey's membership into the EU.

Regarding the Armenian Question which constitutes the second significant disagreement between Turkey and France, Alain Juppé has indicated that he supports Turkey's proposal for a "Commission of Historians", that this Commission must surely also entail Armenia and that its meetings could be held in Paris. However, in order to be cautious, he has also stated that he will present this idea to President Sarkozy.

In short, due to President Sarkozy's approach, Juppé has tried to soften the negative atmosphere developed in Turkey towards France. However, when examined closely, it could be seen that the French Foreign Minister has made no indications as to a radical change in France's approach towards the issue of the European Union, or towards the Armenian Question.

As could be presumed, the reactions of the Armenian circles have been harsh towards Juppé's statements. While the Armenian media in France has posed the question "Who is France's boss? Sarkozy or Juppé?", after Eduard Sharmazanov, the Spokesman of the Republican Party, the great partner of the government coalition in Armenia, has repeated the well known Armenian views that the issue of genocide could never be discussed and that this issue is not historical, but political, so it requires a political solution, he has implied that Armenia aimed for the returning of the Armenian properties from Turkey, receiving compensation and fulfilling their other claims.

Meanwhile, it has been observed that President Sarkozy continues to utilize Armenia for the upcoming Presidential elections. Within this framework, with a lame excuse to attend the 20<sup>th</sup> Congress of the European People's Party on December 7, 2011, two months after his official visit conducted to France at the end of September, President Sarkisian has visited France (Marseille) again and in a speech delivered to the Armenians there, has described Sarkozy's visit to Armenia as "historic" and has indicated that no other state leader had spoken about the pains of the Armenians, Turkey-Armenia relations and the issue of genocide so openly. By also stating that they should be grateful to the French President, he has implied that French Armenians' votes should be given to Sarkozy.



## b. The Stance of the Turkish Grand National Assembly

In order to persuade the French Government and parliament to give up on this bill, extensive activities have begun to be organized in Turkey.

The Turkish Grand National Assembly has also participated in these activities and Turkish Parliament Speaker Cemil Çiçek, by sending a letter to Speaker of the French National Assembly Bernard Accoyer, in which he has expressed that the duty of national parliaments is not to re-write history and that the issue should be left to historians, has emphasized the harm on Turkish-French relations that would take place if the bill becomes a law<sup>11</sup>. Furthermore, they have decided on sending a parliamentary delegation to France consisting of the party representatives represented in the Assembly. On the other hand, Vice Speaker Meral Akşener, ruling on 20 December 2011 the First Session of the Turkish Grand National Assembly, has presented a “presidency declaration” regarding the bill on the punishment of those denying the genocide allegations. The text of the declaration is provided below:

*“It is a grave and a historic mistake for the French National Assembly to agree to debate a biased, unjust and false bill that penalizes rejecting the so-called Armenian ‘genocide’. We strongly condemn the prospective debate of the bill which hurts Turkish people deeply, scandalizes Turkish history by basing it on one-sided sources and deprives them of the right of defense against this injustice. Past events in history must be addressed through scientific and objective research. The dispositions of Parliaments, which see no harm in putting their selves in place of historians and judges, are also problematic from the legal and moral aspect as must as in the political aspect.*

*This approach of France constitutes a distinct example of double standards. A European country attempting in the 21<sup>st</sup> century to courageously punish those denying the lies in history is extremely grave, worrisome, and in fact disgraceful on behalf of science, on behalf of freedom of expression and on behalf of human rights and freedoms. Turkish history being attacked through unfounded allegations by those not being able to confront their own histories is a very serious indication of insincerity. If the French National Assembly wants to be concerned with history, it must shed light on the events in Africa and the massacres in Rwanda and Algeria.*

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11 “Fransa’ya Uyarı Mektubu (A Letter of Warning to France)”, A.A., 13 December 2011.

*The adoption of the bill by the French Parliament will deeply harm the multilateral relations existing between Turkey and France.*

*With these ideas and feelings, the Turkish Grand National Assembly condemns intentional, malevolent, unjust and unlawful initiatives and by reminding our call to the French National Assembly to abandon this historical mistake, we have fulfilled our historical responsibility”.*

As could be seen, this declaration describes the French bill as a historical mistake condemning it and since the French Assembly puts itself in place of historians and judges, is regarded as both legally and morally responsible. Moreover, seeking to punish “those denying the lies in history” is characterized as grave, worrisome and disgraceful. In the declaration, French attack on Turkish history while abstaining from confronting her own history is defined as insincere and it is put forth that if the French Assembly wants to deal with history, it must bring to light the massacres in Rwanda and Algeria. Last of all, by indicating that the bill becoming a law will deeply harm relations between the two countries, the French Assembly is called on to abandon this historical mistake.

### **c. Prime Minister Erdoğan’s Letter to Sarkozy**

Prime Minister Erdoğan has sent a letter to Sarkozy concerning this bill. According to news in the press<sup>12</sup>, the main points of the letter could be summarized as follows:

- In a previous meeting with Sarkozy, that he expressed he had no intention of taking the bill of 2006 to the Senate and that this new initiative surprised him (truly Sarkozy had caused the bill to be rejected in the Senate in May 2011, but then by changing his idea as stated above, had caused a law with the same context to be submitted to the National Assembly in October),
- That this bill directly targets the Republic of Turkey, the Turkish Nation and the Turkish community living in France and became hostile (like an enemy),
- That if these steps are taken further, it will have grave consequences on relations between Turkey and France in the political, economic, cultural and all other areas and France would be responsible for these consequences,

12 “Vahim olur (It Will Be Fatal)” *Hürriyet*, 17 December 2011.

- That this bill violates freedom of thought and expression, contradicts the principles which France defends, and seriously restricts the freedom of expression of those who approach the Armenian question from a different perspective (those denying the Armenian genocide allegations)
- That such initiatives (the bill) would not contribute to historical conflicts between Turkey and Armenia being settled through dialogue and on the contrary poses as an obstacle before the emergence of the truth,
- That Turkish diplomats and state officials in France became the targets of the Armenian terror in the 1970's and 1980's, the memories of these events are still fresh in the minds of the Turkish public, therefore these kinds of initiatives happening in France is perceived differently by the Turkish society,
- That Turkish-French relations should not be held captive to the demands of third parties (Diaspora Armenians and Armenia),
- That they hope Sarkozy will keep his promise and prevent these kinds of legal initiatives and irreparable steps to be taken.

It could be understood that Erdoğan has written the letter in a respectful, but strong language. Without doubt, its most significant point is that if steps are taken further (the bill becomes a law), it will create grave consequences for relations between the two countries and this means that some kind of restriction and decline will take place in their relations.

Later on, Prime Minister Erdoğan has verbally referred to the contents of the letter and has mentioned some points not indicated in it. At the forefront of these comes the massacres committed in Algeria and then in Rwanda by France. By putting forth that the history of Turkey being attacked by those not being able to confront their own history is highly insincere, he has said that "history cannot be written through votes in parliaments. History cannot be distorted for the sake of populism and winning votes". Furthermore, the Prime Minister has said that a colonial and imperialist approach does not exist in Turkish history, there is no incident of occupying a country and then stealing its resources, nations of friendly and brotherly countries have not been tortured, pressured or suppressed<sup>13</sup> and that not a single historian or politician could see these within Turkish history<sup>14</sup>.

13 "Soykırımını Görmek İçin Kendine Bak (Look at Yourselves to See Genocide)" (Press Conference with Chairman Mustafa Abdulcelil of the Libyan National Transitional Council) *Milliyet*, 18 December 2011.

14 "Kendi Kirli Tarihlerine Baksınlar (They Should Look at Their Own Dirty History)" *Hürriyet*, 17 December 2011.

About a month later, President Sarkozy has replied to this letter. During this period, the bill was adopted in the National Assembly and was sent to the Senate. According to the press, in his letter, Sarkozy expressed that the purpose of the law was to eliminate the prolonged feeling of denial (of the genocide allegations) of the French community (most likely he is referring to the Armenians) and to dress the wounds of a century (since 1915), that the law concerns all genocides recognized by law and does not target a specific nation or state, that the pain experienced by the Turkish nation during the First World War and the collapse of the Ottoman Empire is well known, that it is not easy to confront history, but that France has done this. Moreover, he expressed that France has accepted its responsibility in slave trade and recognizes France's role during the German occupation in gathering and sending the Jews living in France to concentration camps, and that during a speech delivered in Algeria in 2007 he had expressed that he condemned what France did in Algeria. Furthermore, after complimenting Turkey by indicating that it is a great country and hopes that mentality will prevail, he has expressed in a more threatening tone that extreme measures to be taken concerning this law will harm multilateral relations between the two countries, will create grave results and that those responsible for this would be the initiators (Turkey)<sup>15</sup>.

Although there have been comments in the press that this letter is conciliatory and placatory, we believe that the letter has put forth deep and almost irreparable diverging views between Turkey and France. Therefore, this letter has not created any effect in solving the disagreements between the two countries.

#### **d. President Gül's Initiative**

President Abdullah Gül wanted to discuss the so-called bill with President Sarkozy by phone. According to the information provided by the Chief Adviser of the Press of the Presidency Ahmet Sever, President Sarkozy has tried to be contacted by phone for two days, but through various excuses this talk was delayed. Sever has described this situation as Sarkozy "refraining from talking to Gül by phone without venture"<sup>16</sup>. Upon this development, the President has made the following statement on 20 December 2011<sup>17</sup>:

15 "Sarkozy'den Gönül Alma Mektubu (Letter of Conciliation by Sarkozy)" *Hürriyet*, 20 December 2012.

16 "Sarkozy İki Gündür Telefonlara Çıkmıyor (Sarkozy Not Answering Calls Since Two Days)" *Vatan*, 21 December 2011.

17 Presidency of the Republic of Turkey "Press Statement by H.E. Abdullah Gül, President of the Republic of Turkey" <http://www.tccb.gov.tr/speeches-statements/344/81563/preb-statement.html>

*It is out of the question for us to accept the draft law that is on the agenda of the National Assembly of France, which aims to eliminate our freedom to refute the unfair and unfounded accusations against our country and nation.*

*I hope that France will, as soon as possible, abandon this initiative which relegates it into a position that does not respect the freedom of expression and which even prohibits scientific research.*

*Oddly, such initiatives coincide with pre-election periods. I want to hope that France will not sacrifice centuries-long Turkish-French friendship, common interests and bonds of alliance on account of petty political calculations.*

***President of a state rejecting or delaying another president's call is not a common situation and such an act could at least be described as disrespect.***

*Making judgments about the history of another country and to alter history for political gains through the Parliament that is itself a political institution, is at best tactlessness.*

*We expect that reason and common sense prevail in France, the draft law is dropped and the writing of history is left to historians.*

On this point we would like to indicate that a president of a state rejecting or delaying another president's call is not a common situation and such an act could at least be described as disrespect. Meanwhile, in response to a journalist's question regarding this incident, Prime Minister Erdoğan has said "It's a diplomatic misfortune... such a blunder; such a mistake cannot be made in international diplomacy. Sarkozy has revealed himself."<sup>18</sup>

#### **e. Other Reactions**

After the Prime Minister's statements, many statesmen have made statements conveying their views on this issue. We will address some of them below.

Deputy Prime Minister Bülent Arınç has expressed that Turkey is at a point where it could prevent this and explain its mistake and hopes that what is necessary of the Prime Minister's letter will be done and relations will not be further harmed<sup>19</sup>.

18 "Fransa'ya Yaptırım Hazırlığı (Preparations for Sanctions on France)" *CNN Türk*, 21 December 2011.

19 "Önleyecek Noktadayız (We Are at a Point of Prevention)" *Hürriyet*, 17 December 2011.

Foreign Minister Ahmet Davutoğlu has made statements on this issue on every occasion.

On December 15, by inviting the representatives of French Companies in Turkey to the Foreign Ministry, Davutoğlu has emphasized to them that if the bill becomes a law, not only political relations but also economic relations will be harmed<sup>20</sup>.

In his speech on budget in the Turkish Grand National Assembly, after expressing that he wants to call out to the Assembly of “Voltaire’s France”, said that “this is creating a new dogma about understanding history wanted to be created and forbidding alternative thoughts. The adoption of this Middle-Age mindset in France is the greatest danger to Europe... If such a bill is legislated, France will be the pioneer of the return of this middle age mindset to Europe. Through these initiatives directed towards eliminating an atmosphere of free discussion, preventing freedom of expression and thought and silencing history through a dogmatic legal way, the values which France represents are infringed.”<sup>21</sup> Moreover, during a dinner held for the Ambassadors of EU states, he has stated that this bill is an initiative against European values, Turkey will never accept it and will bring the issue to every platform and by asking that if this issue was important for France, then why it waited four months till the elections to bring this up, and that this initiative is certainly populist<sup>22</sup>.

Davutoğlu who also addressed this issue in a meeting of the Reform Tracking Group held in Konya, in addition to his former statements, after asking “when tens of thousands of our citizens living there (in France) express their thoughts on this issue, will penalties be enforced upon them also”, has said that Turkey is ready to face its history, but if a dogma is created, then French colonialism will be discussed in every country including Africa and that they will start to “discuss reality, which they cannot in France, all over the world”<sup>23</sup>.

On the other hand, European Union Minister and Chief Negotiator Egemen Bağış has said that this situation is not only Turkey’s issue, but is also the issue of French companies working together with Turkey or trying to conduct works through Turkey, that this bill will not only make Turkey, with a market of 74 million, uneasy but also Muslim citizens in France, and that

20 “Turkey Warns France Against ‘Grave Consequences Passing Genocide Bill’ *Today’s Zaman*, 16 Aralık 2011

21 “Davutoğlu: Gelecek 20 Yılı ‘Bugün’ Belirleyecek” *ntvmsnbc*, 15 Aralık 2011.

22 “Paris’te Ne Diyeyim (What Should I Say in Paris)” *Hürriyet*, 17 December 2011.

23 “Afrika’ya Anlatırız (We Will Explain to Africa)” *Cumhuriyet*, 19 December 2011.

11% of France's population consists of Moroccan, Tunisian and Algerian citizens and these individuals closely monitoring the legislation process of the bill. Moreover, he has stated that during this period, he hopes that the French business world and intellectual statesmen will exert their influence and considering not Turkey's but France's interests, that this bill must be taken off the agenda as soon possible<sup>24</sup>.

The Opposition Parties also showed interest in the French bill.

In response to a question on this issue, Chairman of CHP Kemal Kılıçdaroğlu has said "France's and especially Sarkozy's last action is a shadow cast upon the 1789 French Revolution. In essence, this act cannot upset Turkey in any way, but then in a way France will have deceived its own history"<sup>25</sup>.

MHP Leader Devlet Bahçeli has continued his approach criticizing and condemning France on every occasion.

There was no statement made by BDP (Peace and Democracy Party), the fourth party represented in the Turkish Grand National Assembly, concerning the bill. However, since it is known that this party supports Armenian views, it could be said that in principle they support the bill. On the other hand, this party indicates that the 1915 events constitute genocide at every opportunity. In fact, on December 19, Deputy of Muş Sırrı Sakık has indicated in the Turkish Grand National Assembly that "this culture of massacre exists in our pasts, those cruel policies in the 1915's and then applied to the Jews and Kurds"<sup>26</sup> raised serious objections in the Assembly. On December 20, BDP did not oppose the "Presidency Declaration" in the Turkish Grand National Assembly and conveyed its displeasure by not applauding while on the other hand, as will be explained below, has also given a member to the Delegation of the Turkish Grand National Assembly sent to France.

## f. Delegations Sent to France

As mentioned above, the Turkish Grand National Assembly has sent a delegation to France to discuss this issue. Under the leadership of Chairman of the Foreign Affairs Committee of the Assembly Ret. Ambassador Volkan Bozkır, this delegation consisting of CHP deputy and former Ambassador to

24 "Bundan Özü Dile (Apologize For It)" *Hürriyet*, 18 December 2011.

25 "Fransa Kendi Tarihine İhanet (France's Betrayal of its Own History)" *Hürriyet*, 22 December 2011.

26 Records of the Turkish Grand National Assembly Dated 19 December 2011

Paris Osman Korutürk, AKP deputy and Chairman of the Turkish-French inter-parliamentary Friendship Group Kasım Gürpınar, Samsun deputy of CHP Haluk Koç and Kayseri deputy of MHP Prof. Dr. Yusuf Halaçoğlu has made various contacts in Paris with members of the National Assembly and Senate and meanwhile, have met with Foreign Minister Alain Juppé, Speaker of the National Assembly Bernard Accoyer, Vice-president of the Senate Jean-Claude Gaudin and President Sarkozy's foreign affairs advisor Ambassador Jean-David Levitte.

In a statement of the French Foreign Ministry concerning the Delegation's meeting with Foreign Affairs Minister Alain Juppé<sup>27</sup>, it has been stated that the Minister has conveyed to the Delegation the mutual strategic interests of both countries and within this framework, that cooperation on Syria and Afghanistan, their memberships of NATO and G20 and furthermore, their cooperation in cultural and economic fields are strong enough to create the opportunity to overcome some problems in their bilateral relations. Moreover, it has been expressed to the Minister that in Yerevan, President Sarkozy called on Turkey to make a gesture to remember its history just as France had in the past. Therefore, Alain Juppé, said to have hesitations regarding the bill, has followed the President's line. Some other Ministers have openly supported the bill.

After returning to Turkey, Head of Delegation Ret. Ambassador Volkan Bozkır has said that they have made intensive contacts, that the individuals they met were not aware that this bill would create such a great reaction in Turkey and Turkey-France relations could be harmed due to this bill, that this concern has been awakened during their contacts, but it is found that the Assembly will pass the bill because President Sarkozy supports it and because it was submitted by the party having the majority in the Assembly. He has also indicated that when the bill is brought to the Senate, a policy could be observed which is influenced by their statements<sup>28</sup>.

In the joint statement issued by the Union of Chambers and Commodity Exchanges of Turkey (TOBB) and the Turkish Industry and Business Association (TUSIAD), it was expressed that while Turkey was debating painful incidents of the past on a free, democratic and pluralist platform, France on the contrary and in conflict with European values, appearing to restrict freedom of thought and research raises concerns and that if the bill is adopted, the situation to develop will be unacceptable for Turkey.

27 "Crise franco-turque: Paris Rappelle à Ankara Ses Engagements Internationaux" *Armenews*, 21 December 2011.

28 "Tasarı Yarınki Oylamada Geçer (The Bill Will Be Adopted in Tomorrow's Voting)" *Hürriyet*, 21 December 2011.



Moreover, it was indicated that in this situation, not only the political and economic aspects of France's relations with Turkey, but also all scientific, social, cultural and human dimensions will be affected. By indicating that there is concern that this situation will harm Turkish-French business climate, it was also expressed that France and French statesmen were called on to swiftly turn back on this mistake<sup>29</sup>.

Moreover, a delegation consisting of the President of TOBB Rifat Hisarlıkcıoğlu and President of TUSIAD Ümit Boyner and other businessmen have gone to Paris and conducted widespread meetings.

During these contacts, the delegation emphasized that if the bill is adopted, it will greatly harm Turkey-France economic relations<sup>30</sup>. It could be understood that French officials mostly asked whether or not Turkey will boycott French goods and that the delegation indicated that boycott was not on the agenda.<sup>31</sup>

It could be seen that the possibility of a boycott has also worried the French Government. On this issue, Speaker of the French Foreign Ministry Bernard Valero has said that “spirit of international rules must be conformed to, Turkey is a member of the World Trade Organization and is linked to the EU by a customs union, and these two commitments mean a non-discriminatory policy towards all companies with the EU”<sup>32</sup>. On the other hand, Finance Minister Mehmet Şimşek<sup>33</sup> has also confirmed that a boycott will not be applied on French goods (or French companies).

Truly, Turkey's current commitments prevent a boycott on French companies or goods. Minister of Economy Zafer Çağlayan has indicated that as a government they will not boycott French goods but that they also will not prevent the boycott applied by the Turkish nation<sup>34</sup>. Ambassador to

29 “TOBB ve TÜSİAD'dan Fransa'ya Çağrı (A Call on France from TOBB and TUSIAD)” *ANKA*, 15 December 2011.

30 “Genocide arménienne: Le patronat Turc Prévient de Dégats Majeurs Pour La France” *Armenews*, 19 December 2011.

31 “TÜSİAD: Fransa'ya Boykot Gündemde Yok (TUSIAD: A Boycott on France is not on the Agenda)” *Vatan*, 21 December 2011; “TÜSİAD: Boykota Gerek Yok (TUSIAD: No Need For a Boycott)” *Hürriyet*, 21 December 2011.

32 “Fransa'dan Türkiye'ye Yaptırım Uyarısı (Warning of Sanctions to Turkey by France)” *AB Haber.com*, 20 December 2011.

33 “Fransız Mallarına Boykot Yok (No Boycott on French Goods)” *Vatan*, 19 December 2011.

34 “Halkımızın Boykotuna Biz Engel Olamayız (We Cannot Prevent the Boycott of Our Nation)” *Hürriyet*, 21 December 2011.

Paris Tahsin Burcuoğlu has also said that the man on the street has the right to decide what goods to buy and what not to buy<sup>35</sup>. Therefore, it could be understood that despite some international commitments and without harming them, a boycott could willingly be applied on French goods.

### **g. Reactions against France Increasing**

As the discussions on the bill in the French National Assembly were drawing closer, views on the probable sanctions against France have increased.

Prime Minister Erdoğan has said “these irrational steps by Sarkozy based on vote calculations will harm French-Turkish relations”<sup>36</sup> and that he will announce what kinds of sanctions will be applied to France after the adoption of the bill and that they will be applied in stages<sup>37</sup>.

Speaker of the Turkish Grand National Assembly Cemil Çiçek has said that the adoption of the bill will cause an irreparable damage on Turkey-France relations<sup>38</sup>.

Foreign Minister Ahmet Davutoğlu has expressed that the decision reached by the French Assembly will signify a return to past centuries in Europe because an indisputable dogma will have been created about history. He has also indicated that he had a phone conversation with French Foreign Minister Alain Juppé asking him “from now on every Turkish official going to Paris will openly express their view and as soon as they do, a legal process must begin, do you think about what kind of situation this will put France in?”<sup>39</sup>

President of the Parliamentary Assembly of the Council of Europe Mevlut Çavuşoğlu has also referred to the same issue and conveyed his reaction by saying “when I go to France, I will be the first person to shout ‘no genocide’, let them arrest me if they can”<sup>40</sup>.

35 “Turkey Abide by WTO Norms’s in French Boycott” *Zaman*, 23 December 2011.

36 “Başbakan Erdoğan’dan Sarkozy’ye Son Uyarı (Prime Minister Erdoğan’s Final Warning to Sarkozy)” *Radikal*, 22 December 2011.

37 “Erdoğan: Etap Etap Yaptırım Uygulanacak (Erdoğan: Sanctions Will Be Enforced Step by Step)” *Cumhuriyet*, 22 December 2011.

38 “Telâfisi Olmaz (It Cannot be Compensated)” *Hürriyet*, 22 December 2011.

39 “Bu Yasa Avrupa’yı Asırlar Öncesine Döndürecek (This Law Will Make Europe Return Back to Centuries)” *Zaman*, 22 December 2011.

40 “Bağıra Bağıra Söyleyeceğim, Tutuklasınlar (I Will Scream It, Let Them Arrest Me)” *Hürriyet*, 22 December 2011.

Strong reactions were also received from the Opposition Parties.

Concerning the bill, Chairman of CHP Kemal Kılıçdaroğlu has said “France’s and especially Sarkozy’s last move has been a shadow cast on the 1789 French Revolution. Actually this act cannot depress Turkey in any way, but France will have somehow betrayed its own history”<sup>41</sup>.

Chairman of MHP Devlet Bahçeli on the other hand has said “you must know that the power and persuasion of neither France nor any other state will be able to cast a shadow on the prestige of the Turkish nation through false news, comments, allegations or views. No primitive or inhumane event has taken place in the past of our glorious nation which is shameful and lowers their heads”. Then he has gone on to say that it would be more appropriate and rational for France to look at its own imperial and bloody past and that “human memories have never erased the blood shed in Algeria and the massacres in Rwanda and have never forgotten France’s savage side”<sup>42</sup>.

Meanwhile, some demonstrations have been held in front of the French Embassy or consulates, while various business and non-governmental organizations protested France. We do not have enough space to address the details of these widespread acts and activities, but let us say that unity on the level of major political parties have also been seen within public opinion. The “liberal intellectuals” who mostly support Armenian views have also opposed the bill. The Turkish Human Rights Association from among this group has adopted a completely opposite approach and has conveyed in a statement issued that they support the French bill<sup>43</sup>.

## 5. Discussion and Adoption of the Bill in the National Assembly

Initially, bills submitted to the National Assembly or Senate came under review in order to check whether they are in conformity with the Constitution. This review is conducted in both assemblies by the Laws Commission.

The bill submitted by Valérie Boyer has been reviewed in the Assembly’s Law Commission on 7 December 2011 and without interfering with its

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41 “Fransa Kendi Tarihine İhanet Etmiş Olur (France Will Have Betrayed It’s Own History)” *Cumhuriyet*, 22 December 2011.

42 “Kimse Tarihimizi Husumet Kuşatması Altına Alamaz” *Yeniçağ*, 22 December 2011.

43 “L’Asociation Turque des Droits de l’Homme se prononce contre le Négationisme et en faveur de projet de loi de pénalisation” *Armenews*, 21 December 2011.

essential source; in other words, by preserving the main idea of punishing those denying the Armenian genocide allegations, many amendments, mostly in the technical aspect, have been made. For instance, the title of Boyer's bill was "Conformity to European Union Law Regarding Struggle against Racism and Punishing Those Rejecting the Existence of the Armenian Genocide". The commission changed this title as "Punishing the Denial of Genocide Recognized by Law". Therefore, the word "Armenian" was not used in the bill and this formed the grounds for the assertion that this bill was not directed against Turkey.

During the discussions held on 22 December 2011 in the French National Assembly, a maximum of 70 deputies were present. Since the number of deputies in the Assembly is 577, almost 90% of the deputies did not attend the session, a sign of the fact that although the decision would be legal, it would not reflect the "will of the nation".

In the French National Assembly, Marseille Deputy Valérie Boyer first took the floor and said that this bill is not a "Memory Law" and its purpose is to apply French legislation to European Union legislation (Framework Decision 2008/913/JAI) and repeated this many times. Boyer's words aimed to protect France from the increasing opposition growing towards "memory laws". The bill itself was not a "memory law", but was a law similar to the memory law of 2001 foreseeing the punishment of those not having the same views.

Another point which Boyer emphasized concerned President Sarkozy's promise given during his visit to Yerevan and the President keeping his promise despite the pressures of "some states".

Another noteworthy statement of her was that the bill was in no way against Turkey. This statement was directed towards pleasing those worrying that the legislation of this bill would harm Turkey-France relations. However, since Boyer did not explain the reasons for her statement, it did not create any effect. If we remember since 1998, when France attempted to officially legalize the Armenian genocide allegations, all Turkish Governments opposed these initiatives without any withdrawals, it is not very meaningful to say that these kinds of law or bills are not against Turkey.

Without using the word "Turkey", Valéri Boyer mentioned that France was being threatened. She expressed that these threats are unacceptable, France's sovereignty is being disrespected, there is interference in its internal affairs, legislation cannot be made under a state's threats and that these archaic methods that could be characterized as a threat diplomacy

does not suit Turkey as a great and friendly country. Then, by expressing that trade between the two countries after 2001, the year France officially recognized the Armenian genocide allegations, had greatly increased, the sanctions to be imposed on France were not implemented, that the situation now is the same as in 2001 and that she hopes the same result would be obtained, she called on her Turkish comrades to act with tolerance against those with a different mindset interpreting history differently. Furthermore, by saying that she wants to give guarantee to those French initiators (investors) under great pressures, she also indicated that Turkey, as a member of the World Trade Organization and linked to the European Union with a customs union, will not discriminate against the European Union's business organizations.

Boyer has put forth that demonstrations in France denying the Armenian genocide allegations, damaging of genocide memorials and articles on this issue in the press and internet have jauntily increased and indicated that she has a list showing these kinds of activities organized within the last ten years. By saying that these activities offended the memories of the Armenian genocide victims, expressed that they call upon France to protect itself against this spiritual attack.

By indicating that it is normal to equally punish those denying the Armenian genocide allegations since there is a law foreseeing the punishment of those denying the Holocaust, she reached a conclusion which seems rational. However, when considering that the Holocaust has been recognized by almost everyone and anti-Semitism still exists especially in Europe while although the Armenian genocide allegations are recognized in the public opinion of some countries as the result of intensive Armenian propaganda, they are not recognized by many distinguished scholars and there is no Armenian hostility similar to anti-Semitism particularly in Turkey and among the Turks, drawing a similarity between the Holocaust and the Armenian genocide allegations seems as a pointless effort.

Within the Armenian press in France, a list of activities rejecting the Armenian genocide allegations which Boyer referred to has been published. When examining them closely, it could be seen that some of these activities or events have not taken place in France but in Turkey while some have although started in France, since they have occurred within the scope of the Council of Europe, have gone under diplomatic immunity. There were also demonstrations organized in France, but they carried no further meaning other than the dozens of protests organized each day. In short, the events written in this list were either irrelevant or much exaggerated. In the report of the Senate's Laws Commission of May 2011 which reviewed a similar

law and determined that it was contradictory to the Constitution, it was clearly emphasized that the French citizens of Armenian origin were not the targets of anything similar to anti-Semitism<sup>44</sup>. Since no significant activity against the Armenians exists and this issue is conveyed in one of the Senate's documents, it was needless to still mention anti-Armenian activities.

Parliamentary Relations Minister Patrick Ollier spoke on behalf of the Government. He expressed that due to the reactions created by “memory laws”, this bill is not a memory law and its purpose is to achieve conformity with EU legislation. Moreover, he emphasized that bringing this bill to the agenda was also acknowledged by the government. The Minister's statements put forth that an issue first presented by Boyer, but for this reason would take a long time to be put on the agenda or be discussed, was embraced by the government and therefore, it was addressed in a short time. This situation also clarified that the current French Government acted differently than the former French Governments. Indeed, by taking relations with Turkey into consideration, the French Governments, whether during the negotiations of the 2001 law or the discussions on the law of 2006, had clearly declared that they were against bills regarding this issue. But now an opposite situation was taking place.

Ollier stated that both genocides are recognized by law in France, there is a provision or law penalizing the Holocaust and that now measures are taken on punishing the Armenian genocide. However, he has not mentioned at all why only two genocides are recognized in France, because there are three genocides based on international law. These are the Holocaust, the Rwandan genocide and the genocide in Bosnia; the “Armenian genocide” does not exist among them. Furthermore, the responsibility of French forces in the Rwandan genocide are still being discussed and researched<sup>45</sup>.

After indicating that this bill does not target anyone and foresees completing French legislation (making it suitable for EU legislation), Minister Ollier has stated that the reactions of comrade Turkey cannot be ignored, that Turkey is a great country with which France wants to develop

44 Lütem, Ömer Engin “Olaylar ve Yorumlar” *Ermeni Araştırmaları*, No. 39. p. 44

45 Wikipedia provides the following information on this issue: “*Rwandan Genocide: The Rwandan Genocide was the 1994 mass murder of an estimated 800,000 people in the small East African nation of Rwanda. It was the culmination of longstanding ethnic competition and tensions between the minority Tutsi, who had controlled power for centuries, and the majority Hutu peoples, who had come to power in the rebellion of 1959–62 and overthrown the Tutsi monarchy. They began the Rwandan Civil War, fought between the Hutu regime, with support from Francophone Africa and France, France has been accused of aiding the Hutu regime to flee by creating Opération Turquoise.* [http://en.wikipedia.org/wiki/Rwandan\\_Genocide](http://en.wikipedia.org/wiki/Rwandan_Genocide) Date of Retrieval: 8 February 2012

friendly economic and cultural relations, that no one could deny Turkey's significant strategic role in and outside its region and that France has common strategic interests with Turkey. In this respect, he has referred to Syria and Afghanistan and has mentioned Turkey's membership into NATO and G20 and that relations between the two countries have created ties strong enough to overcome difficulties that could arise.

The Minister's statements are quite interesting, because it implies that since Turkey has strong relations with France, it will accept or should accept the decisions or laws adopted by France against Turkey. However, the requirement for close or strong relations is not to do what the other side strongly opposes, but to refrain from doing them.

During the discussion of this bill, thirty-four people have taken the floor and spoken either in favor or against (mostly against) it. There is not enough space to explain all of these, but we will mention Patrick Devedjian, the single Armenian deputy in the Senate and Head of the Democratic Movement Party François Bayrou.

Patrick Devedjian, who is actually a lawyer, gained his first prestige by being the attorney of the Armenians terrorists captured in France who had attacked Turkish diplomats. In his early years, he supported extreme rightist views and for instance classified the Algerian war as a battle between the Christians and Muslims. Devedjian who became the mayor of Antony, a small village in the north of Paris in 1983 and who was elected deputy in 1986 was among the conservatives. Devedjian who was first the advisor of Nikolas Sarkozy, after being elected as Minister of Interior in 2002, served as deputy minister for some time. After Sarkozy was elected as President, he became the minister responsible for economic development for two years and then was appointed to a degree in the ruling UMP Party responsible for Paris and its surrounding area. Devedjian is known all along for the primary speaker of Turkey and Turkish hostility and the genocide allegations within the French Parliament.

During the discussions held in the French National Assembly on 22 December 2011, referring to the Turks organizing a demonstration outside the National Assembly, Devedjian has said that if such a manifestation of force could take place in France, then the situation of the Christians in Turkey is understandable and has been applauded by the UMP deputies. Then, by referring to the murder of Hrant Dink, has tried to aggravate the negative atmosphere towards Turkey.

Devedjian has asserted that during the period of the Ottoman Empire in

1919, the Armenian genocide was recognized by the democratic Government of Damat Ferit Pasha and that the perpetrators of the genocide were condemned to death in lawsuits on this issue and that the Turkish state denies its own history by denying the allegations. (He refers to the Turkish Courts-Martial established to try war criminals in 1919. The rulings of these courts which have even committed Mustafa Kemal Pasha who was not a war criminal but a war hero to a death sentence was deemed invalid later on. Meanwhile, we should also underline that Devedjian is the first person to label the Government of Damat Ferit as “democratic”). By indicating that there is more evidence for the Armenian genocide than the Holocaust, Patrick Devedjian has broken new ground for the second time. On the other hand, despite the telegraphs of Talat Pasha being proven since 1983 as fake<sup>46</sup>, he has argued that in a telegraph sent to the Aleppo Plateau, Talat Pasha ordered all Armenians including children to be killed. He also stated that historians do not have to come together in order to understand whether or not an Armenian genocide took place and that no one considered a commission of historians to be created for the Holocaust.

In a statement, after expressing that he voted in favor of the law of 2001 and that he went to Yerevan and visited the genocide memorial, Head of the Democratic Movement Party François Bayrou has said that if the youth of Turkish origin, through what they hear from their families or the information they obtain from Turkey, make statements denying the Armenian genocide allegations, it will not be correct to punish them and that this will be dangerous. Stating that he thinks the same way regarding the massacres committed in Rwanda and Cambodia, has indicated that he will not vote in favor of the bill.

With the Chairman of the Turkish-French Parliamentary Group Michel Diefenbacher being at the forefront, some deputies have also conveyed statements close to Turkey’s views.

Following statements in favor and against the bill, the bill has been adopted with the votes of the majority of the present deputies. How many votes in favor and how many against the bill have been received have not been indicated in the French recordings. Based on news in the press, the number of votes in favor changes between 38 (*Milliyet*, 23 December 2011) and 44 (*Cumhuriyet*, 23 December 2011). These numbers are lower than 1/10<sup>th</sup> of the French Assembly which has 577 seats in total. However, all laws on the Armenian issue adopted in the French Assembly have received a few votes.

46 Orel, Sinasi and Süreyya Yuca - *Ermenilerce Talât Paşa'ya Atfedilen Telgrafların Gerçek Yüzü*, Turkish Historical Society, 1983 (English Translation of this book: *The Talat Pasha Telegrams, Historical Fact or Armenian Fiction*, Rüstem Brothers ,Nicosia, 1986).



Let us emphasize that having received a few votes does not harm the legitimacy of the laws, but morally makes their values and effects questionable.

Another point which should be underlined is that before and during the sessions in the Assembly, around 5.000 Turks have organized a demonstration near the National Assembly<sup>47</sup>. For France, this is the highest number, but the number of the demonstrating Turks will increase five times almost a month later during the negotiations in the Senate concerning the same issue.

## 6. The Content of the Bill Adopted by the Assembly

The legal regulation foreseeing the punishment of those denying the Armenian genocide allegations was adopted in 1881 and has been implemented by making additions to the Law on the Freedom of Press which has been amended many times.

According to this, the penalties provisioned in Article 24 bis are applicable to the existence of one or more crimes of genocide defined in the article 211-1 of the penal code and acknowledged as such by the French law.

The penalty foreseen in Article 24 bis is imprisonment of a year and a fine of 45 thousand Euros or only one of these penalties.

Genocide defined in Article 211-1 of the French Penal Code is the same as the definition found in Article 2 of the 1948 UN Convention on the Prevention and Punishment of the Crime of Genocide.

There are two genocides recognized by French Law. The first is the Holocaust legalized in 1990 and the second is the Armenian genocide allegations recognized in 2001.

The crime sought to be punished is “denying the existence” of these genocides or “undervaluing its existence in a degrading manner”.

This crime will take place by speaking in public places or meetings, shouting, posing threats, utilizing articles, posters, pictures, gravures, tables or emblems sold, distributed or displayed, in public places or through electronic tools (internet, email).

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47 “Paris’te 5000 Kişi Yürüdü (5000 People Marched in Paris)” *Milliyet*, 23 December 2011.

In short, expressing that the 1915 events are not genocide in a way which could be heard by others or publishing it which others could read or view is enough to be condemned to a one-year prison term and a fine of 45.000 Euros. Although not denying, but undervaluing genocide will also be enough to be condemned to these penalties.

Everyone in France acting in this way (French citizens or foreigners) could be condemned to this punishment. In principle, individuals having diplomatic immunity (diplomats, those working at a diplomatic status in international organizations or individuals representing their countries in these organizations (like members of the Council of Europe or the NATO Parliamentary Assembly) cannot be arrested or taken to court under these provisions. However, the French Government could ask for these individuals to be removed from office on grounds that they act in violation to an existing law.

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For this law to be implemented, prosecutors must act either ex officio or upon complaint. Meanwhile, with an amendment made to Article 48-2 of the Law on Freedom of Press, the Armenian organizations in France, in order to protect the moral interests and honor of the victims of genocide, “intervening” in these kinds of cases; in other words, becoming a party to a case has been achieved. This will create the result of some Turkish organizations in France and some individuals known as denying the genocide allegations to be pressured or blackmailed by putting forth that they will be reported by Armenian organizations.

## **7. The Stance of the Turkish Government and Its Decision to Sanction France Following the Adoption of the Bill**

On the day of the adoption of the bill, the Turkish Foreign Ministry has made the following declaration and displayed the Government’s reaction:

*No: 305, 22 December 2011, Press Release Regarding the Law Proposal Adopted by the French National Assembly*

*Turkey strongly condemns the law proposal adopted by the French National Assembly, which deeply offends the Turkish people, defames our history on the basis of one-sided interpretations and aims to deprive us from our right to defend ourselves against this injustice. This initiative is unjust, inappropriate and contradicts relevant rules of international law.*

*It is extremely unfortunate that such a serious issue is abused for electoral purposes in spite of all the demarches, friendly and constructive warnings conveyed to the Government of France, as well as promises previously received.*

*The introduction, this time, of criminal sanctions to the law which was adopted in 2001 also with a wrong approach, paves the way for even more negative consequences. Such parliamentary acts are problematic not only politically but also legally and morally.*

*This law proposal constitutes a grave example of politicization of history on account of narrow political calculations and stifling of freedom of expression by a democratic institution. France has thus preferred to ignore the universal values which it had a share in developing.*

*This initiative of the French Parliament, which restricts the freedom of expression of all academicians and researchers looking at historical events from different perspectives, cannot prevent the expression of the views developed on scientific basis. Nor can we accept the unilateral imposition of memory.*

*The proposal contradicts the international law, European norms, the reports of the French Parliament itself and the earlier official declarations of the Government of France on this issue.*

*The Turkish Government, the Turkish Grand National Assembly, the Turkish people and the Turkish communities living in different parts of the world, including France, find this move in the French Parliament extremely unjust.*

*It is a historical mistake to deal a blow with a prejudiced approach and careless moves, to the Turkish French relations that have been developing for centuries on the basis of friendship.*

*Following this development, we have recalled our Ambassador to*

*France for consultations in Ankara. Today, our Prime Minister announced several measures that will be implemented at the first stage. We naturally envisage taking additional measures in line with the course of developments.*

*In the forthcoming period, which constitutes a test for France, we expect that necessary actions will be taken before the damage caused by this initiative on our bilateral relations reaches more severe dimensions, and we hope that ultimately common sense and reason will prevail.<sup>48</sup>*

The important points of this statement are condemning the bill adopted by the Assembly and linking its adoption to electoral purposes. On the other hand, the issue especially being emphasized is freedom of expression being restricted. In relation to this, it is stated that the proposal contradicts international law, European norms, the reports of the French Parliament itself and the earlier official declarations of the Government of France on this issue and explains its adoption as a blow for Turkish-French relations. Last of all, it calls on the French Government to take action (in other words, prevent the bill from being adopted in the Senate) before the damage on bilateral relations reaches more severe dimensions.

The day the bill was adopted, Prime Minister Erdoğan, in a press conference given together with Ukrainian President Viktor Yanukovich, explained his thoughts on this issue. The Prime Minister stated that in the elections in the French Assembly before the presidential elections politics based on racism, discrimination and xenophobia were used and that efforts of using Turkish hostility and Islamophobia just to win the elections and for personal ambitions raises concerns. Then he has stated “We take pride in our history. We do not have a history which could cause trouble for us. We confront every kind of event experienced in history and support on all grounds the scientific research of history. We opened all our archives, others should also. Let all statesmen, jurists, historians come and work here. History cannot be written with elections in parliaments. At the most history could only be distorted through elections in parliaments. People will not forgive those distorting history and use history as a tool for political exploitation”.

Furthermore, Erdoğan expressed that they will conduct works all over the world for the French nation to learn the truth and to denounce the French genocides committed in Africa and the Middle East which France tried to

48 MFA Turkey “Press Release Regarding the Law Proposal Adopted by the French National Assembly” December 22, 2011 [http://www.mfa.gov.tr/no\\_-305\\_-22-december-2011\\_-press-release-regarding-the-law-proposal-adopted-by-the-french-national-assembly.en.mfa](http://www.mfa.gov.tr/no_-305_-22-december-2011_-press-release-regarding-the-law-proposal-adopted-by-the-french-national-assembly.en.mfa)

make forgotten and that they will also explain this racist and discriminatory approach. By stating that several measures will be taken against France in stages, the Prime Minister announced the first measures as follows<sup>49</sup>:

1. Recalling the Ambassador to Paris to Ankara for negotiations
2. Cancelling political, military and economic visits to be conducted at a bilateral level
3. Non-cooperation in twinning projects within the EU framework
4. Cancelling of activities such as seminars, education, courses and personnel exchanges
5. Cancelling bilateral military activities and joint operations
6. Cancelling all annual permissions granted for military flights and landing and take-offs and requiring permission for every flight.
7. Refusing all applications made for military warships to dock in Turkey's ports.
8. Cancelling the Turkey-France Joint Economic and Trade Partnership Committee meeting that was to take place in January 2012 with the participation of the co-chairs of the two countries' ministers of economics

As could be seen, these measures or sanctions bring serious restrictions on bilateral relations. Withdrawing the Ambassador in Paris Tahsin Burcuoğlu to Turkey has taken place right away. The others were to be enforced when the time came.

In another statement, after expressing that President Sarkozy acted with the ambition of winning the elections through utilizing Turkish and Muslim hostility, the Prime Minister stated that since 1945, presumably 15% of the population in Algeria was subjected to French massacre, that this was genocide and the Algerians were collectively burned in hearths and martyred.

On the other hand, President Abdullah Gül also reacted to the adoption of the bill in the French Assembly and expressed that he considers this as disrespect to the Turkish people and condemns it, that France contradicts its

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49 "8 Maddelik Yaptırım (8 Sanctions)" *Cumhuriyet*, 23 December 2012.

own values, that from now on no one could express their sincere views, historians cannot make any explanations, and that those conveying a view other than France's official view will be punished. Then, he has indicated that Sarkozy is a person with prejudice, this prejudice is a blow on relations between the two countries and that France must withdraw from the Minsk Group<sup>50</sup>.

Concerning the adoption of the bill by the French National assembly, in a speech delivered during the inauguration of the Fourth Annual Ambassadors Conference in Turkey on 23 December 2011, after expressing that philosophically and intellectually Europe has returned to the Middle Ages, Foreign Minister Ahmet Davutoğlu has said that with this decision if the French National Assembly and statesmen behind it dictate what Europeans must think and what's forbidden to think of, then they will be no different than the dictators in the Middle East. Moreover, he has pointed out that Turkey will express its views openly everywhere and that there is no longer a country which acts defensively due to the Sevres paranoia by having to accept those being dictated and waiting for loans from the IMF<sup>51</sup>.

In response to journalists during a TV programme on TRT1 on 24 December, Davutoğlu has indicated the tensions existing between Turkey and France apart from the Armenian Question and has expressed that the two countries have mostly not possessed the same views or stances on the recent developments in the Middle East, that France supports Bin Ali in Tunisia and Hüsnü Mübarek in Egypt, has attempted to unilaterally intervene in Libya without the UN resolution gaining legitimacy and that Turkey is against all these<sup>52</sup>.

In a speech delivered in Edirne at the end of the Fourth Annual Ambassadors Conference, Davutoğlu has said that Mustafa Kemal did not form the new Turkish State on hostility, on the contrary, led the Balkan Pact, whereas the French leaders (during the period of colonialism) tried to create a new history by making other nations suffer<sup>53</sup>.

Minister for EU Affairs and Chief Negotiator Egemen Bağış, just like Prime

50 "Gül'den Sarkozy'ye: Savaşta Bile Yapılmaz (From Gül to Sarkozy: This Would Not Even Be Done During War)" *NTV*, 23 December 2011.

51 Fourth Annual Ambassadors Conference Opening Statements, 23 December 2011  
[http://www.mfa.gov.tr/dorduncu-buyukelciler-konferansi\\_acilis-konusmalari.tr.mfa](http://www.mfa.gov.tr/dorduncu-buyukelciler-konferansi_acilis-konusmalari.tr.mfa) Date of Retrieval: 8 February 2012

52 "Fransa ile Sorun "Bahar"la Başladı (Problems With France Started with Spring)." *Radikal*, 25 December 2011.

53 "Balkanlarda Tarihin Yeniden Normalleşmesini İstiyoruz (We Want History To Normalize Again in the Balkans)" *Zaman*, 30 December 2011.

Minister Erdoğan, has recalled that the bill is being debated on the same day Tourism Attaché Yılmaz Çolpan was killed in Paris 32 years ago<sup>54</sup>. Moreover, he has said that France owes Turkey an apology for failing to protect Turkish diplomats in Paris<sup>55</sup>. On this point, let us recall that from 1973-1986, active Armenian terrorism essentially targeted Turkish diplomats, their relatives and other Government officials abroad and murdered 31 of these people<sup>56</sup>. France is the country in which Armenian terrorism has been experienced the most. Back then, Turkey had persistently complained that France was not able to protect Turkish diplomats as necessary. It seems that just as the Diaspora Armenians, official authorities and even public opinion in France have entirely forgotten those events.

Following the adoption of the bill in the French National Assembly, CHP Center Management Board had condemned this incident the same day and declared that by eliminating freedom of expression and preventing scientific research, it violates the principles of democracy and human rights and that it is expected for the bill to be invalid in the Senate and internal legal phases<sup>57</sup>.

Chairman of MHP Devlet Bahçeli, in a written statement<sup>58</sup>, by providing the examples of Algeria and Rwanda, has expressed that if France wants to see historical records on genocide, it must look at its own colonial and bloody past. Moreover, he has indicated that if the French Parliament does not correct its historical mistake and escape from the genocide swamp as soon as possible, then it will have grave consequences for Turkish-French relations and it cannot be expected for this kind of action to remaining unrequited.

Speak of the Assembly Cemil Çiçek has expressed that there is no longer any point in maintaining friendly relations with France after the adoption of the bill in the French National Assembly and that the Turkey-France

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54 "France Owes Turkey An Historic Apology For Failing to Protect Turkish Diplomats From Armenian Terrorists" *Anadolu Ajansı*, 23 December 2011.

55 The Turkish diplomat and his employees killed in France are these. Ambassador İsmail Erez and his driver Talip Yener in 1975, Tourism Consultant Yılmaz Çolpan in 1979, working Attaché Reşat Moralı in 1981, Religious Official Tecelli Arı and Security Attaché Cemal Özen

56 Although Armenian terror mainly targeted Turkish diplomats and other public officials, it also killed Turkish and non-Turkish individuals during bombings. Their numbers are 39 and therefore, the total number of Turkish and non-Turkish persons killed are 70. The total number of murders, injuries and capturing caused by Armenian terrorism in the world is 699. The country in which most of these have taken place is France with 292 incidents.

57 "CHP Fransa Ulusal Meclisi'ni Kınadı (CHP Condemned the French National Assembly)" *Anadolu Ajansı*, 22 December 2011.

58 "Bahçeli'den Fransa'ya Çok Sert Çıkış (Very Harsh Statement from Bahçeli To France)" *DHA*, 21 December 2011.

Parliamentary Friendship Group will not function until this situation is compensated<sup>59</sup>.

We will shortly summarize the reactions arising in France and outside of France against the French Assembly below.

It is believed that President Sarkozy shows a special kind of effort in order not to mention this issue. However, when confronted with the journalists' questions in Prague which he visited in order to attend the funeral of former Czech President and famous writer Vaclav Havel, he has been forced to respond. As published in the press, his response is as follows: "I respect the views of our Turkish friends. It's a great country and a great civilization and they must respect ours<sup>60</sup>. France is not giving lessons to anyone but does not want them either. France determines its policies in a sovereign manner. France does not ask for permission. France has its convictions on human rights and respect for memories". In short, it could be understood that Sarkozy is disturbed with Turkey's reactions against the legalization process of the bill and tries to indirectly convey the message "Don't intervene in our business". However, this issue concerns Turkey as much as it does France.

*Sarkozy is disturbed with Turkey's reactions against the legalization process of the bill and tries to indirectly convey the message "Don't intervene in our business". However, this issue concerns Turkey as much as it does France.*

In the mean time, it has been seen that Speaker of the National Assembly Bernard Accoyer and President of the Senate Jean-Pierre Bel have also not supported this bill with the belief that it will harm freedom of expression, but they also have not displayed any efforts for preventing the adoption of the bill. The reason for this is a majority of both the ruling UMP Party and the leading opposition party of the Socialists supporting this law. In other words, the above-mentioned figures have not wanted to struggle against the majority of the parties.

Prime Minister François Fillon has also showed special effort not to intervene in this issue. However, it has been conveyed in the press that he thinks the bill will harm freedom of expression and supports Foreign Minister Juppé on this issue<sup>61</sup>.

59 "Dostluk'un Anlamı Kalmadı (No Longer Any Point in Friendship)" *Yeni Şafak*, 24 December 2011.

60 "Sarkozy'ye Twitter'den Yanıt (Reply From Twitter to Sarkozy)" *Anadolu Ajansı*, 23 December 2011.

61 "La Crise franco-turque fait grincer des dents au sein du gouvernement à Paris" *AFP*, 25 December 2011.



Alain Juppé, which we have already mentioned many times, has not refrained from expressing that he does not support the bill. However, after its adoption in the National Assembly, he has accepted the situation by saying “I think that this initiative is inappropriate, but the Assembly has adopted the bill” and then has implied that Turkey-France relations could return to normal by stating “now let’s try to address relations in a calm manner. I’m aware that this is difficult but time will do what’s necessary”<sup>62</sup>. We should also note that other than Juppé, Minister of Interior Claude Guérant and Minister of Culture Frédéric Mitterand also oppose the bill. On the opposite, as mentioned above, Minister in charge of relations with Parliament Patrick Ollier, perhaps for being his duty, has fully supported the bill and has successfully maintained his support during negotiations in the senate.

The issue of creating a law which would punish those denying the Armenian genocide allegations has put the French Socialist Party in a difficult position. This party has no objections to such a law being adopted. However, since Sarkozy taking such an initiative on the eve of both Presidential and Parliamentary elections pushes the Socialists to the background, they have been disturbed. Yet, despite not taking any binding decision, the Socialists have expressed that votes will be given in favor of the bill<sup>63</sup>.

The French Armenians have been pleased with the adoption of the bill in the National Assembly. In a declaration issued by the “Coordinating Council of Armenian Organizations in France”, which argues that they represent all the Armenians in France, has congratulated the executive and legislative powers for not submitting to pressures and restrictions and has called on the Senate to adopt the bill which was voted with a great consensus (?) as soon as possible<sup>64</sup>.

Regarding Armenia, by sending a letter to President Sarkozy, President Sarkisian has conveyed that the words uttered by Sarkozy during his visit to Armenia on the recognition of the Armenian genocide (by Turkey) is the best evidence of his personal commitment to the Armenian-French friendship and has expressed his gratitude for the adoption of the bill<sup>65</sup>.

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62 Ibid

63 “Génocide Arménien: Un Peu Eléctoraliste de s’en Occuper Maintenant” *Armenews*, 22 December 2011.

64 “Communiqué de Conseil de Coordination des Organisations Arméniennes de France” *Armenews*, 23 December 2011.

65 “France Reiterated Its Commitment to Universal Values; Sargsyan Tells Sarkozy” *Armradio.am*, 23 December 2011.

On the other hand, Foreign Minister Nalbandyan has emphasized the great importance France gives to human rights<sup>66</sup> while in a letter sent to President Sarkozy, Armenian Catholicos of Cilicia Aram I residing in Beirut has emphasized Sarkozy's personal and France's unique role in defending human rights and by expressing his happiness with the adoption of the bill, has provided an incorrect assessment that a denying stance on the genocide allegations may become a reason for new genocides<sup>67</sup>.

Regarding the US, Speaker of the Foreign Ministry Mark Toner has only indicated that they will continue to support the normalization of relations between Turkey and Armenia. On the other hand, a high-status diplomat, whose name is not given, has stated that they hope the tensions between the US's two close allies Turkey and France will quickly settle down<sup>68</sup>. However, about a month later Foreign Minister Hillary Clinton, in respect to freedom of expression, will openly oppose the bill.

The European Union has also approached this issue with caution. In response to a question, member of the EU Commission responsible for the enlargement and neighborhood policy Stefan Füle has said that the EU's duty is not to write history, but to achieve reconciliation<sup>69</sup> and that in principle they do not make remarks on the initiative of the assembly of a member state<sup>70</sup>.

General Secretary of the Islamic Conference Organization (ICO) Ekmeleddin İhsanoğlu has drawn attention to the contradiction of France by championing freedom of expression on the one hand, while banning the discussion of a historical event on the other and has said that the OIC rejects this nonsense, that the principles of liberty, equality and fraternity is at the core of the French Republic and that the adopted bill inflicts harm on at least two of them. İhsanoğlu has indicated that Europe is in an unacceptable contradiction over freedom of expression and has put forth the caricatures insulting Prophet Muhammad were defended in the name of free speech while such a bill could be enacted<sup>71</sup>.

Official authorities and the press in Azerbaijan have also opposed the bill.

66 RFE/RL, 23 December 2011

67 "Catholicos Aram I Hails France's Adoption of Genocide Bill" *Tert.am* 23 December 2011.

68 *Haber7.com*, 23 December 2011

69 "Füle, AB'nin Görevi Tarih Yazmak Değil (Füle, the EU's Duty Is Not to Write History)" *Sabah*, 22 December 2011.

70 "Tarihi Yargılamak AB'nin Görevi Değil (The EU's Duty Is Not to Judge History)" *Zaman*. 22 December 2011.

71 "OIC Calls French Genocide Vote 'nonsense', Reject It" *Today's Zaman*, 23 December 2011.

Moreover, the Azerbaijanis have also participated in the demonstrations organized by the Turks against France and the bill.

### **8. Debating the Bill in the Senate Constitutional Council and Being Found Inadmissible**

Following the adoption of the bill in the National Assembly, the Senate also had to review and negotiate it. However, since more urgent bills were on the agenda, under normal conditions it could not be expected for the Senate to address this bill. Yet, if the Government asks for the bill to first be addressed, then the Senate must bring it to its agenda. After President Sarkozy passed the bill by the National Assembly and therefore pleased the Armenians, it was likely that by taking into consideration their relations with Turkey, he would not hurry in going to the Senate. When remembering that in 2006 a bill adopted by the National Assembly had waited for five years to be addressed by the Senate, these kinds of delays were normal within the French system. The Socialists found themselves in a difficult situation after President Sarkozy changed his stance all of a sudden and made the National Assembly adopt the bill, in order not to be deceived again they worked towards the bill quickly being presented to the Senate and called on the government to make sure the Senate put the bill on its agenda as soon as possible<sup>72</sup>. The Government having to accept this proposal declared through Parliamentary Relations Minister Patrick Ollier that the bill would be debated in the Senate within the last eight days of January<sup>73</sup>.

From now on the following course would be taken. Based on French legislation, bills would first be reviewed in the Senate's "Constitutional Council" to determine whether they are "admissible" and a report would be written which would be sent to the General Assembly of the Senate. In May 2011, the Constitutional Council had found another bill on the punishment of those denying the Armenian genocide allegations as "inadmissible" and when this proposal was approved by the General Assembly of the Senate, the bill was not debated.

The bill being presented to the National Assembly was discussed on 18 January 2012 in the Constitutional Council having 49 members and was ruled with 23 votes in favor, 9 votes against and 8 votes abstaining votes that it was "inadmissible"<sup>74</sup>.

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72 "Génocide Arménien : Rebsamen (PS) Demande au Gouvernement d'Inscrire le Texte au Sénat" *Armenews*, 26 December 2011.

73 "Patrick Ollier: Génocide Arménien, le Texte à l'ordre du Jour du Sénat Fin Janvier" *AFP*, 4 January 2012.

74 "La Commission des lois du Sénat Rejette le Texte Contre la Négation du Génocide arménien" *Le Monde*, 18 January 2012.

President of the Constitutional Council from the Socialist Party senator Jean-Pierre Sueur stated that parliament is not a tribunal and the bill is not based on any legal grounds, that it only partially takes into consideration the European Union's Framework Decision of 2008 and that this text contradicts the Constitutional principles by endangering freedom of expression and scientific research.

Sueur also expressed that just as the Socialists, the ruling UMP party has also separated among each other and that the Socialists are the majority among those accepting the decision of the Council<sup>75</sup>.

This decision of the Constitutional Council became the target of the criticisms of the Armenian organizations Federation in France. Co-chairman of the Federation Papazian put forth that the Council reached this decision as a result of the threats and pressures applied by Turkey. He also said that it must be fully calculated how many times the senators voting in favor of the bill have visited Turkey and has accused Valérie Boyer, who submitted the bill to the National Assembly, for not being able to dominate members of the Socialist Party<sup>76</sup>.

From the report prepared by the Constitutional Council on this issue<sup>77</sup>, it could be seen that the bill has been deemed "inadmissible" for the following reasons.

First it is expressed that the legislator intervening in the historical area raises some legal issues in "enacting laws related to historical events".

Secondly, it is emphasized that making the denial of the genocide allegations a crime creates some legal difficulties and that within this framework it could be contradictory to the principles of legality of crimes and penalties expressed in the French Constitution, freedom of thought and expression, and freedom of conducting research.

Thirdly, although it has been indicated that it is aimed for this bill to be applied to the 2008 Framework Decision of the European Union, in the report it is expressed that this application has been performed inadequately.

Furthermore, it has pointed out that if this bill becomes law, those opposing

75 "İnkâr Yasası. Ret Kararı (Denial Genocide, Decision to Reject)" *Hürriyet*, 19 January 2012.

76 "Komisyon Kararı Ermenileri Kızdırdı (Decision of the Council Angered the Armenians)". *Zaman.com.tr*, 21 January 2012.

77 Rapport Fait au nom de la Commission des lois constitutionnelles..... sur la proposition de loi, Adoptée par l'Assemblée Nationale, visant à réprimer la contestation de l'existence des génocides reconnus par la loi. No.209 (2011-2012), Engestré à la Présidence du Sénat, 18 January 2012

it will most likely resort to the Constitutional Council (Constitutional Court) and in this situation the Constitutional Council could decide that the law of 2001 (law on the recognition of the Armenian genocide allegations by France), whose conformity to the Constitution is very doubtful, is contradictory to the Constitution.

Lastly, it states that there are other legal methods which could make the struggle against those denying the Armenian genocide allegations possible.

This decision of the Senate Constitutional Council has been met with pleasure in Turkey. The Foreign Ministry has made the following statement on this issue<sup>78</sup>:

*No: 17, 18 January 2012, Press Release Regarding the Decision Adopted by the Commission of Laws of the French Senate*

*The Commission of Laws of the French Senate has once more demonstrated common sense and respect for the rule of law by its decision today. We expect the General Assembly of the Senate to abide by this decision of the Commission of Laws and display the same common sense on 23 January.*

After expressing that the Council's decision displays how unlawful this initiative is even according to French laws, Foreign Minister Davutoğlu expressed that commonsense will prevail in the Senate and hopes that it will not be brought to the agenda<sup>79</sup>.

## 9. Discussion and Adoption of the Bill in the Senate

4 days after the decision of the Laws Commission of being "inadmissible" as a result of the French Government wanting to adopt this law right away (2 days later if the weekend is not included), the General Assembly of the Senate has started debating the bill and while 2 hours was given for this issue, discussions continued for 7,5 hours. It could be seen that although changing from time to time, around 60-70 senators were present in the room. As will be explained below, the number of those casting their votes is much higher than this and this arises from being able to vote through representation<sup>80</sup>.

78 MFA Turkey, "Press Release No: 17, Regarding the Decision Adopted by the Commission of Laws of the French Senate", January 18 , 2012 [http://www.mfa.gov.tr/no\\_-17\\_-18-january-2012\\_-press-release-regarding-the-decision-adopted-by-the-commission-of-laws-of-the-french-senate.en.mfa](http://www.mfa.gov.tr/no_-17_-18-january-2012_-press-release-regarding-the-decision-adopted-by-the-commission-of-laws-of-the-french-senate.en.mfa)

79 "Ermeni Tasarısı Anayasa'ya Aykırı (The Armenian Bill is Contradictory to the Constitution)" *Sabah*, 19 January 2012.

80 *Vatan*, 24 January 2012

In a speech delivered in the Senate, Parliamentary Relations Minister Patrick Ollier who represents the Government has stated, in summary, that denial is the supreme insult to collective memory, that the French community must fight against denial, that this bill is not a memory law and is a natural consequence of the 2001 law that officially recognizes the Armenian genocide allegations, while on the other hand he has expressed that it aims for the application of the 2008 Framework Decision of the European Union, that freedom of expression is very precious for them but this freedom should not be abused. Patrick Ollier has also referred to Turkey as “a great country they respect and wish to develop its relations with” and has said that their relations with Turkey are so strong that it cannot be weakened. We should at least note that expressing that relations between Turkey and France are so strong it cannot be weakened in a situation when it almost reached a freezing point is a display of extreme optimism. On the other hand, there is no doubt that these kinds of statements and repeatedly mentioning that Turkey is a great country is directed towards pacifying Turkey.

President of the Commission of Laws Jean-Pierre Sueur has mentioned a point which Minister Ollier had failed to express and after emphasizing that this bill only concerns the Armenian genocide, has said that the report of the Commission of Laws has reviewed the bill entirely from a legal aspect and has been mostly accepted by senators with various political views, that he does not underestimate the pains of the Armenians but what could and cannot be spoken of in public places cannot be determined by law, that the law carries the risk of censoring the Constitution and that laws cannot decide on history. Then, he has mentioned the Constitutional principles of legality of crimes and penalties, freedom of thought and expression and freedom of conducting research as indicated in the report.

12 senators have spoken on the bill; 5 of them have accepted the report of the Constitutional Council (in other words, the rejection of the bill) while 7 of them have rejected it (in other words, the discussion of the bill). Late on the voting has taken place.

After lengthy negotiations of the Report of the Laws Commission declaring the bill as inadmissible, it has been rejected with 167 votes against 86 and therefore, it has been understood that there is a majority in the Senate which favors the adoption of the bill. In the voting taking place after the discussions, the bill has been adopted with 127 votes against 86<sup>81</sup>.

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81 The information in this section has been taken from the French Senate’s document entitled “Compte rendu analytique officiel du 23 janvier 2012, Répression de la Négation des Génocides”.

The distribution among the parties of the 127 votes in favor is as follows: the ruling UMP 57, the Socialists 56, Centrist and Republican Union Group 1, the Communists 11 and the independent deputies 2.

The distribution among the parties of the votes against the bill is as follows: UMP 19, the Socialists 26, Centrist and Republican Union Group 12, Democratic Social European Union 15, the Communists 4, the Greens 10<sup>82</sup>.

The point that draws attention here is that the standard separation between the Left and Right has not taken place in this voting. The separation has been among the parties and there have been those giving votes in favor and against the bill from the same party. President Sarkozy's influence has shown in the votes of the UMP. On the other hand, the Socialists that could be considered as the champion advocates of the Armenian genocide allegations in France have also given a significant number of negative votes. However, it is known that the reason for this is freedom of expression rather than the genocide allegations.

*Despite the bill, which essentially relates to a legal matter, being contradictory to some principles in the French Constitution and these contradictions being clearly expressed in the report of the Senate's Laws Commission, besides legal considerations, it has been adopted upon President Sarkozy's request and entirely for political reasons such as being beneficial during the elections.*

Another point we would like to point out in regards to the voting in the Senate is that despite the bill, which essentially relates to a legal matter, being contradictory to some principles in the French Constitution and these contradictions being clearly expressed in the report of the Senate's Laws Commission, besides legal considerations, it has been adopted upon President Sarkozy's request and entirely for political reasons such as being beneficial during the elections.

Another point to be emphasized is that the Turks in France, with the participation of Turks from neighboring countries and in particular Germany, organization great demonstrations in Paris. Although different numbers for the participants have been provided (although these numbers extend to 50 thousand, the general conviction is that it's not below 25 thousand<sup>83</sup>), there is no doubt that the greatest demonstrations organized by the Turks have taken place in France. This situation has also drawn Prime

82 "8 Ay Önce "Hayır" Dediler Seçim Yaklaşınca Geçirdiler (They Said "No" 8 Months Ago, When Elections Nearing They Avoided It)" *Milliyet*, 24 January 2012.

83 "İnkâr Yasası Türkleri Birleştirdi (Denial Law United the Turks)" *Yeniçağ*, 24 January 2012.

Minister Erdoğan's attention and has said that hundreds of thousands of Turks could participate in similar activities in the future. When considering racism and xenophobia which is increasing for some time in Europe, it could be seen after the experience in France that it is now possible for a great number of Turks to organize demonstrations. In short, this event in France has demonstrated that as long as the Turks act collectively, they could form a great power in Europe. On the other hand, it is important that despite the number of Turks being very high, no significant riots have taken place. We should also note that at the same time the Armenians organized a demonstration near the Senate, but due to their numbers being lower compared to the Turks, they have failed to draw attention.

### 10. Reactions against the Adoption of the Bill in the Senate

As could be predicted, the first reaction to the adoption of the bill in the Senate has been received from the Turkish Foreign Ministry. Regarding this issue, the Ministry has issued the following declaration:<sup>84</sup>

*No:23, 24 January 2012, Press Release Regarding the Law Proposal Adopted by the French Senate*

*The law proposal presented by deputies of the governing Union for a Popular Movement (UMP), aiming to penalize in France any challenge to genocide allegations regarding the events of 1915 was adopted by a vote in the General Assembly of the Senate today (23 January). We strongly condemn this decision, which is problematic in every aspect and constitutes an example of irresponsibility, and declare that we will express our reaction against it in every platform.*

*A similar law proposal was rejected earlier by the General Assembly of the Senate on 4 May 2011 by 196 votes against 74, in line with the opinion of the Commission of Laws of the Senate which had concluded that the proposed law was in breach of the Constitution. Although the Commission of Laws of the Senate once again concluded that the latest proposal was in breach of the Constitution, the Senate adopted it. Since there has not been a change in the substance of the matter in the meantime, this development is a blatant indication of how such a sensitive issue can be exploited for domestic political purposes in France. This has been an entirely unfortunate step for French politics.*

84 MFA Turkey "Press Release Regarding the Law Proposal Adopted by the French Senate" January 24, 2012 [http://www.mfa.gov.tr/no\\_23\\_-24-january-2012\\_-press-release-regarding-the-law-proposal-adopted-by-the-french-senate.en.mfa](http://www.mfa.gov.tr/no_23_-24-january-2012_-press-release-regarding-the-law-proposal-adopted-by-the-french-senate.en.mfa)



*Politicization of the understanding of justice and history through other people's past and damaging freedom of expression in a tactless manner are first and foremost a loss for France.*

*It is obvious that the interpretation of historical events cannot be determined by the attitude of French politicians who see in themselves the right to judge other nations on the basis of one-sided views and declare a judgment on a serious allegation of crime such as genocide, thereby ignoring the principles of international law. In fact, no Parliament has such a right nor such a competence. The decision in question goes further and delivers a blow against the freedom of expression and scholarly research. At a period when we need positive examples for the dissemination of universal values throughout the world, it is disconcerting to see narrow political calculations producing such a result even in a country which plays a role in the advancement of such values and which takes pride in rule of law.*

*It is further unfortunate that the historical and multi-dimensional relations between the Republic of Turkey and France have been sacrificed to considerations of political agenda in spite of all our initiatives and warnings, as well as the opinions of prominent French institutions and jurists. It is quite clear where the responsibility for this lies.*

*The circles which consider that Turkey has overreacted on this matter or think that its reaction will only remain in words neither comprehend the essence of the matter, nor understand Turkey and the Turkish people. We find it useful to remind all parties that, in case of the completion of the finalization process for the law, we will not hesitate to implement, as we deem appropriate, the measures that we have considered in advance. Similarly, it must be also known that we will continue to strongly use our right to defend ourselves on a legitimate basis against unfair allegations. No one should doubt our Government's principled approach in this issue.*

*On the other hand, we share the calls for common sense of those who, during this process, have admitted the error being committed in French politics, appealed to return from this error and opposed to damaging relations with Turkey in such a tactless manner.*

*It is clear that all avenues need to be explored for the finalization of the present process in a way which will avoid this being recorded as part of France's political, legal and moral mistakes.*

*Turkey is determined to take every step required against this unjust action, which disregards basic human values and public conscience.*

As could be seen, Turkey's main objections and criticisms towards the initiatives for the punishment of those denying the Armenian genocide allegations in France has been listed in the statement and Turkey's stance has been emphasized once again. However, what is most important here is clearly expressing that Turkey will continue to defend itself on a legitimate basis and will take every step required in this direction. In other words, it will continue its struggle.

Prime Minister Erdoğan's first reaction to the Senate's approval of the bill is that the law violates freedom of expression and is directed towards the elections. Upon a journalist reminding Erdoğan that Deputy Prime Minister Bülent Arınç had asked what French officials would do if Erdoğan said "1915 is not genocide" during a visit to Paris, the Prime Minister has said "a visit to France from now on? That falls under question" and has therefore hinted that he may not visit France if the law is implemented.<sup>85</sup>

Since the French Senate has approved the bill, it was expected for Turkey to apply its sanctions on France. In fact news started being published in the press on what kinds of sanctions would be applied and among them measures such as the permanent withdrawal of the Ambassador, withdrawal of the military attaché, reducing the level of diplomatic relations, closing of Turkish airspace and territorial waters to French planes and ships, and not accepting French companies to public procurements were being put forth.<sup>86</sup>

Under these conditions, it was expected for the Prime Minister to announce the new sanctions during his speech delivered a day after the meeting in the Senate in the Justice and Development Party's group meeting. However, Prime Minister Erdoğan did not make any statement in regards to sanctions. In his speech, he indicated that this law, which he classified as racist, was null and void. He also made the characterization of the sound of footsteps of fascism in Europe. Moreover, he expressed that they will wait for the law to be implemented while on the other hand stating that the necessary steps have been taken for taking the law to the French Constitutional Council and that they will announce and enforce sanctions step by step according to the developments.<sup>87</sup> In short, the Turkish Government preferred to wait in applying sanctions until the law was finalized.

85 "Fransa'ya Gitmem (I Will Not Go To France)" *Yeni Şafak*, 24 January 2012.

86 "Fransa'ya yaptırımlar Tamam Gibi (Sanctions on France Are Almost Complete)" *Milliyet*, 24 January 2012.

87 "Sağduyulu tavrımız sürecektir. Yasa, Bizim İçin Yok Hükümünde (Our Prudent Approach Will Continue. For us it's Null and Void)" *Zaman*, 25 January 2012.

This approach of the Government was met with understanding by the opposition. Chairman of CHP Kılıçdaroğlu said “we give the Government a blank check. If the government pursues a consistent and sound policy, CHP will support the government in all its decisions”.<sup>88</sup> On the other hand, Chairman of MHP Devlet Bahçeli has criticized France with a harsh language and said that before making recommendations to Turkey, France should begin with their own rancid history and look at the mirror and that the “AKP Government should not show inertia and weakness in leaving this arrogance unanswered”<sup>89</sup>.

President Gül has expressed that he regretfully condemns this law, that France came in the category of countries restricting freedom of expression and freedom of scientific studies and that investment in an election is a behavior that is really degrading. Then he has conveyed his hope that at least 60 senators will apply to the French Constitutional Council.<sup>90</sup>

On the other hand, Foreign Minister Davutoğlu has conveyed his reaction by stating “From here on out, European values face great danger. If every assembly decides to issue rulings on their own perspective of history, this will introduce a new era of inquisition in Europe... if the law is adopted (becomes definite), every Turk going to Paris will either individually or collectively start their words by “we do not recognize this law”. Then what will they do, arrest all of us?... will they put all of us in concentration camps or establish big, very big prisons?”

As could be assumed by Armenian circles, great happiness and pleasure have been experienced. In a statement, the Coordinating Council of Armenian Organizations in France (CCAF) in France has put forth that a great victory has been won against denial and has expressed its gratitude to the President, the Government and Rightist and Leftist parliamentarians for keeping their promise regarding this law despite initiatives of external pressures and misleading within the country.

## 11. Sanctions and Legal Remedies

In order to prevent the adoption of the law foreseeing the severe punishment of those denying or underestimating the Armenian genocide allegations with a prison term of one year and a fine of 45.000 Euros in France, Turkey

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88 “CHP chairman: France denies itself with bill adopted at senate”. *Cumhuriyet*, 24 January 2012.

89 “Fransa Kendi Tarihine Baksın (France Should Look At it’s Own History)” *Hürriyet*, 35 January 2012.

90 “Gül Evaluated the Decision of the French Senate” *Habermonitor.com*, 24 January 2012.

has attempted to convince France through diplomatic means and in order to support these attempts, has declared that it will apply some sanctions on France. Thus, it has withdrawn its Ambassador in France and cancelling of some visits or meetings and freezing of cooperation in some areas had started being effectively applied. These sanctions, which were announced right after the adoption of the bill in the National Assembly, were not able to prevent its discussion and adoption in the Senate. There are two reasons for this: The first is that France, considered as a great country, would not accept and take into consideration, in principle, any notice or warning. The second reason is that despite the sanctions foreseen would harm France to a certain degree, they are not significant enough to change the policy it follows. In fact, French officials have not mentioned Turkey's sanctions at all. We suppose that enforcing heavier sanctions will not change the situation either and in fact will create the possibility of provoking France to resort to applying sanctions on Turkey.

However this situation does not mean that Turkey's decision to enforce sanctions is incorrect. Although this decision has failed to change France's approach, it has displayed that from now on Turkey is determined in maintaining very restrained relations with this country. In fact, the reason for Foreign Minister Alain Juppé's conciliatory policy towards Turkey, as opposed to the policy of President Sarkozy, is the likelihood of relations between the two countries becoming tense.

Since the sanctions have not changed France's approach, is it not possible to prevent the implementation of this law?

When studying the issue more closely, it could be seen that some legal remedies exist which could prevent the implementation of the law.

There are two possibilities for this. The first is proving that the French Parliament (National Assembly or Senate) does not have competence in determining whether or not an event constitutes genocide. The second is that this law adopted violates freedom of expression. These legal remedies, which has so many details that it could actually form a doctoral thesis, could be summarized as follows in the shortest way possible.

*A. Parliamentarians not having Competence to Decide Whether an Event Constitutes Genocide*

Article 6 of the 1948 UN Convention on the Prevention and Punishment of the Crime of Genocide determines the tribunals to try

persons charged with genocide and therefore decide on the existence of genocide as follows:

- a. a competent tribunal of the state in the territory of which the act (of genocide) was committed
- b. an international penal tribunal as may have jurisdiction with respect to those Contracting Parties which shall have accepted its jurisdiction

As could be seen, national parliaments or international organizations are not competent in determining whether or not an event is genocide. This competence exclusively belongs to the tribunals mentioned above.

When taking this into consideration, the law adopted in 2001 in France which exists of the single sentence “France recognizes publicly the Armenian Genocide of 1915” is contradictory to Article 6 of the 1948 Convention mentioned above.

According to Article 9 of this Convention, disputes between the Contracting Parties relating to the interpretation, application or fulfillment of the present Convention, including those relating to the responsibility of a State for genocide shall be submitted to the International Court of Justice at the request of any of the parties to the dispute. Based on this, Turkey could appeal to the International Court of Justice for the law of 2001 to be repealed.

*B. The Law Adopted by the French National Assembly and Senate Contradicting Freedom of Expression*

The most important evidence on this issue is the report of the Senate’s Law Commission dated 18 January 2012. In other words, this law violating freedom of expression along with some other freedoms has been determined with an official French document.

After making this indication, let us shortly observe to which international tribunals could be appealed for the issue of freedom of expression.

## **1. European Court of Human Rights**

Article 10 of the European Convention on Human Rights states that

“everyone has the right of freedom of expression”. Although these may be subject to restrictions in the interests of national security, territorial integrity or public safety, and for the prevention of disorder or crime, these cannot be applied to the punishment of those denying the genocide allegations.

Based on Article 33 of the European Convention on Human Rights, any Contracting Party may refer to the court any alleged breach of the provisions of the Convention by another Contracting Party. Therefore, Turkey may refer to the European Court of Human Rights against France since there is a breach of Article 10 of the Convention.

Based on Article 34 of the Convention, the court may receive applications of individuals claiming to be the victim of a violation by one of the Contracting Parties. Therefore, Turkey could refer to the European Court of Human Rights against France for each person imprisoned or punished in France being a breach on Article 10 of the Convention.

## **2. The French Constitutional Council**

Before releasing of a law adopted by the French Parliament, the Constitutional Council, which has similar duties to the Constitutional Court in Turkey, could be appealed to in order to determine whether the law is in conformity with the Constitution. However, this application could only be made by the President, the Prime Minister, Speaker of the National Assembly, President of the Senate or 60 deputies or 60 senators. The Council reaches a decision on these applications within a month. In urgent conditions, this period could be reduced to eight days upon the request of the Government. Laws or provisions which the Constitutional Council determines as being contradictory to the Constitution cannot be implemented.

It is possible to utilize this provision (Article 61) of the French Constitution so that the law foreseeing the punishment of those denying the Armenian genocide allegations would not be implemented.

Concerning which of the possibilities mentioned above should be preferred; filing a lawsuit depends on going through some stages many times. For instance, a person harmed by this law could appeal to the European Court of Human Rights once all domestic remedies have been exhausted and this could take years. On the other hand, since lawsuits filed on behalf of the Turkish Government will necessarily gain a political character, political influences could play a role in the decision to be taken.

In this situation, the best method is for the French to object to the law by benefitting from the opportunity provided by Article 61 of the French Constitution. This method prevents the lawsuit from gaining a political nature by leaving Turkey outside and provides the opportunity of reaching a decision much faster since no complaints would be received from person or persons harmed. On the other hand, if a solution cannot be reached in this manner, then it is possible to resort to the other methods mentioned above.

## 12. Appealing to the French Constitutional Council

*The best method is for the French to object to the law by benefitting from the opportunity provided by Article 61 of the French Constitution. This method prevents the lawsuit from gaining a political nature by leaving Turkey outside and provides the opportunity of reaching a decision much faster since no complaints would be received from person or persons harmed.*

After the law foreseeing the punishment of those denying the Armenian genocide allegations with a prison term of one year and a fine of 45.000 Euros was adopted in the Senate, it had to be approved by the President within fifteen days in order to be implemented.

Mostly for being a breach on freedom of expression and also for concerning a historical event rather than a current one; in other words, for being a “memory law”, this law was criticized within French public opinion through individuals with various political tendencies and statesmen and intellectuals. Since the reactions of the

Armenians and their advocates towards these criticisms were based on the existence of an Armenian genocide, their reactions did not constitute a complete answer to these criticisms. Despite the law being supported by President Sarkozy, the ruling UMP Party and a majority of the opposition party of the Socialists, it was perceived within public opinion as a text contradictory to freedoms.

As mentioned above, the only way to prevent the implementation of this law based on French domestic law was to appeal to the French Constitutional Council before the President’s approval by indicating that it was not in conformity with the Constitution. This application could be made by the President, the Prime Minister, Speak of the National Assembly, President of the Senate, 60 Deputies or 60 senators. It was known that the President and Prime Minister would not make such an appeal. Although the Speaker of the Assembly and President of the Senate did not support the law, they refrained from making such an appeal in order not to fall into conflict with the

President and/or parties. Since 86 senators had voted against the bill during the voting in the Senate, it was possible for 60 of them to appeal to the Constitutional Council. However, these individuals were under pressure either by their own parties or the Presidency. Since the number of those opposing the law in the National Assembly were much lower (approximately ten), it was not expected for enough number of deputies to make an appeal to the Constitutional Council. In conclusion, there was no hope that an appeal would be made to the Constitutional Council.

Under these conditions, 71 deputies and also 77 senators appealing in two separate groups to the Constitutional Council on 31 January 2012 for this law to be repealed came as a surprise. This unexpected event displayed that this law, which restricted freedom of expression and concerned not the present but the past, had drawn more reactions than presumed.

The main objection expressed in the long application presented to the Constitutional Council<sup>91</sup> is that the law contradicts the freedoms of communication and expression. It has also been conveyed that those conducting scientific research along with teachers will be affected by it the most. Moreover, it has also been expressed that recognizing genocide by law will form an “official truth”, some political considerations could cause the parliament to recognize an event as genocide (and this is the situation for the Armenian genocide allegations), that concerning the issue of punishment, encouraging violence or hatred against a group or members of that group is mentioned in the Framework Decision of the European Union, but that the French of Armenian origin are not in such a situation and that rather the issue is solidarity to share their pains. On the other hand, it is also stated that the Armenian genocide is not recognized by any international treaty and international or national ruling of a court which is necessary for genocide to be legally recognized. In the application, the statement of “undervaluing the existence of genocide in a degrading manner” is also mentioned, expressing that since it is unknown from what point undervaluing and degrading starts and finishes, the courts could reach different decisions on this matter.

The reactions to this appeal made to the Constitutional Council have tried to be summarized below.

Most likely referring to the presidential elections, President Sarkozy has said that this appeal does not serve him. On the other hand, by expressing

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91 “Loi: des parlementaires cèdent aux pressions d’un Etat Négationniste” yazısına eklidir. *CollectifVAN*, 31 January 2012. <http://www.collectifvan.org/pdf/05-06-58-31-01-12.pdf> Date of Retrieval: 8 February 2012



that the law on punishing those denying the Holocaust could also be endangered if the law is repealed<sup>92</sup>, he has tried to win the support of Jewish circles. Later on, perhaps with the thought that the repeal of this law by the Constitutional Council could politically harm him, he has said that if such a situation emerges then a new bill will immediately be prepared on the same issue<sup>93</sup>. At the basis of the President's harsh approach is the concern that he will greatly lose prestige if the law is repealed. On the other hand, this appeal to the Constitutional Council could also be regarded as a group within his own party rebelling against Sarkozy, because 51 of the 71 deputies belongs to the ruling UMP Party, whereas 18 of the senators are members of the same party.

This appeal made to the Constitutional Council has been met with great displeasure by the Armenians and their advocates. Valérie Boyer proposing this law to the French National Assembly has expressed her disappointment in some parliamentarians preferring legality to humanity, the pressures of a foreign state (Turkey) should not be superior to an international case, defense of human rights and the greatness of France<sup>94</sup>.

In the statement issued by the Coordinating Council of Armenian Organizations in France, hope has been conveyed that French parliamentarians will not give in to the pressures of a denying and racist foreign state (Turkey) and it has been stated that this appeal aims to deny justice and harm the Armenians once again and that the Armenians will continue to claim their rights. In the declaration, all parliamentarians supporting the law and all French persons who believe in justice have been called upon to unite and resist Turkey's blackmail against the French Republic, government and the courts<sup>95</sup>.

Concerning reactions in Turkey, the Foreign Ministry has issued the following statement<sup>96</sup>:

*No: 32, 31 January 2012, Press Release Regarding the Appeal Filed to the Constitutional Council for the Annulation of the Law Adopted in France*

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92 "Génocide Arménien: Nicolas Sarkozy Inquiet de la Saisine du Conseil constitutionnel" *Le Monde*, 31 January 2012.

93 "Sarkozy Uslanmıyor, Yeni Hamle Yolda (Sarkozy Is Not Coming to His Senses, the New Initiative Is on its Way)" *CNN Türk*, 1 February 2012.

94 "Génocide Arménien. Boyer Déçue" *AFP*, 31 January 2012.

95 "Communiqué du CCAF Sur Le Recours Au Conseil Constitutionnel" *Armenews*, 31 January 2011.

96 MFA Turkey "Press Release No:32, Regarding the Appeal Filed to the Constitutional Council for the Annulation of the Law Adopted in France" January 31, 2012 [http://www.mfa.gov.tr/no\\_32\\_-31-january-2012\\_-press-release-regarding-the-appeal-filed-to-the-constitutional-council-for-the-annulation-of-the-law-adopted-in-france.en.mfa](http://www.mfa.gov.tr/no_32_-31-january-2012_-press-release-regarding-the-appeal-filed-to-the-constitutional-council-for-the-annulation-of-the-law-adopted-in-france.en.mfa)

*We have learned that two separate appeals were lodged with the French Constitutional Council, one signed by 77 Senators and the other by 65 Members of National Assembly, to annul on the grounds of “unconstitutionality” the “draft law to penalize the denial of the genocides recognized by law in France” prepared by members of the ruling Union for a Popular Movement (UMP) and adopted by the National Assembly and Senate respectively on 22 December 2011 and 23 January 2012.*

*We welcome this highly honorable initiative.*

*At this stage we will await the decision of the Constitutional Council. We believe that this decision will be consistent with France’s deep rooted tradition of democracy and experience of rule of law.*

As could be seen, in this statement it has shortly been conveyed that they are pleased with the decision and that they believe this decision will be consistent with democracy and rule of law. These simple statements must result from not wanting to intervene in the French Constitutional Council’s works.

President Gül has stated that the French will not allow their country to be overshadowed and that the Constitutional Council will make the appropriate decision and the process will continue successfully<sup>97</sup>.

On the other hand, Prime Minister Erdoğan has said that this is an important step, that he extends deep gratitude on behalf of himself and the nation to those who signed the appeal, that he believes the French statesmen did everything necessary, and that he hopes this process which falls into conflict with France’s values will become appropriate<sup>98</sup>.

After expressing that the French senators and deputies embraced their own values, Foreign Minister Davutoğlu went on to say that now they must wait with patience for the decision of the Constitutional Council and that he hopes Turkish-French friendship will gain at the end of this process<sup>99</sup>.

97 “Gül: Ülkelerine Gölge Düşürmediler (Gül: They Did Not Overshadow Their Country)” *Sabah*, 1 February 2012.

98 “Senatör ve Milletvekillerine Şükranlarımı Sunarım” *Vatan*, 1 February 2012.

99 “Değerlerine Sahip Çıktılar (They Embraced Their Values)” *Hürriyet*, 1 February 2012.

### 13. Decision of the Constitutional Council

On 28 February 2012, the French Constitutional Council declared its decision on the law<sup>100</sup> and found it to be contradictory to the Constitution.

The main justification of this decision is that it violates the principle of the free communication of ideas and opinions stated in Article 11 of the 1789 Declaration of the Rights of Man and the Citizen belonging to the French Revolution. In the press release on this issue<sup>101</sup>, the Council has announced that freedom of expression and communication could be restricted if it harms public order or violates the rights of third parties, but that it must be appropriate, necessary and proportional for the purpose.

*French Constitutional Council has made a legal decision by finding the law which foresees the punishment of those denying the Armenian genocide allegations unconstitutional, while it has made a political one by not taking any action regarding the law of 2001.*

Furthermore, the Council has also expressed that laws must establish rules. This rather targets the law of 2001 which carries no further provision than recognizing the Armenian genocide allegations. However, the Council has also indicated that it did not reach a decision on this law since this was not asked from them and therefore made no evaluation of the “concerning events” (genocide allegations). We believe that the

Council could have also repealed the law of 2001 based on Article 6 of the 1948 UN Convention on the Prevention and Punishment of the Crime of Genocide which puts forth that a competent tribunal of the state or international penal tribunals may have jurisdiction in deciding whether an event constitutes genocide.

In conclusion, it is believed that the French Constitutional Council has made a legal decision by finding the law which foresees the punishment of those denying the Armenian genocide allegations unconstitutional, while it has made a political one by not taking any action regarding the law of 2001.

President Sarkozy has conveyed his reaction with a declaration issued by the Presidency on the same day this decision was taken. According to it, the President found denial intolerable and an act which must be sanctioned and

100 Décision n° 2012-647 DC du 28 février 2012, <http://www.conseil-constitutionnel.fr/conseil-constitutionnel/francais/les-decisions/acces-pardate/decisions-depuis-1959/2012/2012-647-dc/decision-n-2012-647-dc-du-28-fevrier-2012.104949.html>

101 “Loi visant à réprimer la contestation de l’existence des génocides reconnus par la loi” <http://www.conseil-constitutionnel.fr/conseil-constitutionnel/francais/les-decisions/acces-pardate/decisions-depuis-1959/2012/2012-647-dc/communiqu-de-presse.104950.html>

therefore called on the French Government to prepare a new text by taking into account the ruling of the Constitutional Council. He has also expressed that he will soon accept the Armenian representatives in France<sup>102</sup>.

However, President of the ruling UMP Party in the Assembly François Copé has said that this issue cannot be taken to the agenda since the parliament has finished its work<sup>103</sup> and preparation of a new bill has for the time being not been implemented.

About a week after the decision, President Sarkozy received the Armenian representatives at the Elysée Palace and in a speech delivered to them, repeated that he did not abandon the idea of a law being adopted which punishes those denying the Armenian genocide allegations, that he has called on the government to prepare a new bill on this issue and that he is determined in this bill reaching a conclusive result<sup>104</sup>. Of course Sarkozy keeping his promise depends on being re-elected as President. On the other hand, even if he is elected, it will only be possible to submit a bill to the Assembly after the parliamentary elections in June.

Chairman of the Socialist Party François Hollande, who is Sarkozy's main opponent in the presidential elections and based on public opinion polls, has a high possibility of winning, has said that he is cooperating with the Armenians and if elected, promises to address the matter and conclude it in a peaceful negotiation process. Moreover, referring to the Turks organizing demonstrations in France, Hollande has indicated without giving any explanations that it is wrong for them to think this event is directed against them<sup>105</sup>.

Regarding the French Armenians, they have experienced a major disappointment and under its effect, have made accusations to the Constitutional Council and some of its members. In a declaration<sup>106</sup>, the Coordinating Council of Armenian Organizations in France has stated that they strongly condemn the decision of the Constitutional Council, that the decision was politically motivated, and that freedom of expression cannot be the point at issue for crimes against humanity and genocide. Moreover, it was stated in the declaration that the Council surrendered to Turkey,

102 "Communiqué de la Présidence de la République" <http://www.elysee.fr/president/les-actualites/> 1 Editions Parenthèses, Marseille, 1983.

103 "Armenian Ruling Party Rues Court Ruling on Genocide Denial" *Azatutyun*, 29 February 2012.

104 "Génocide arménien: Sarkozy Affirme Qu'il Ne Se Résignera Pas" *Armenews*, 8 March 2012.

105 "Génocide arménien.: Hollande S'Engage à Reprendre le Dossier S'il Est Elu" *Le Monde*, 28 February 2012.

106 "Négationnisme: le CCAF Condamne et Exige un Nouveau Texte" *Collectif VAN*, 29 February 2012.

Turkish lobbies harmed the independence of French organizations and that the impartiality of some of the Council's members must be questioned. Last of all, the declaration called on a new law text to be presented to the Parliament.

While some articles are published in the Armenians press which reflects the disappointment experienced, the small number of official reactions has drawn attention. In an interview, which covers many different issues, delivered to the *Der Standard* newspaper of Austria, Foreign Minister Nalbandyan has responded to a question concerning this issue by saying that this law has nothing to do with the resolution of Turkey-Armenia relations and that the responsibility for the situation between the two countries belongs to Turkey<sup>107</sup>.

Turkey has conveyed its reaction to the law being found contradictory to the Constitution with the following statement issued by the Foreign Ministry the same day<sup>108</sup>:

*No: 65, 28 February 2012, Press Release Regarding the Annulment by the Constitutional Council of France of the Draft Law Concerning the "Criminalization of the Denial of the Genocides Recognized by Law"*

*The Constitutional Council of France today annulled the draft law concerning the "criminalization of the denial of the genocides recognized by law" on the grounds of unconstitutionality.*

*The law in question was a one-sided initiative aiming to prohibit any challenge of the Armenian views concerning a painful period in Turkish and Armenian common history.*

*We consider the annulment of the law as a step in line with freedom of expression and research, rule of law and the principles of international law and against the politicization of history in France.*

*We are glad to note that a grave error was corrected by the most competent judicial authority in France.*

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107 "Nalbandian: De Nombreux Pays Adopteront Une Loi Similaire A Celle de la France" *Armenews*, 1 March 2012.

108 MFA Turkey "Press Release Regarding the Annulment by the Constitutional Council of France of the Draft Law Concerning the Criminalization of the Denial of the Genocides Recognized by the Law" February 28, 2012 [http://www.mfa.gov.tr/no\\_-65\\_-28-february-2012\\_-press-release-regarding-the-annulment-by-the-constitutional-council-of-france-of-the-draft-law-concerning-the-\\_criminalization-of-the-denial-of-the-genocides-recognised-by-law\\_.en.mfa](http://www.mfa.gov.tr/no_-65_-28-february-2012_-press-release-regarding-the-annulment-by-the-constitutional-council-of-france-of-the-draft-law-concerning-the-_criminalization-of-the-denial-of-the-genocides-recognised-by-law_.en.mfa)

*It is preferable that, on controversial historical issues, third countries adopt an impartial approach encouraging dialogue and resolution between the concerned parties, rather than make imprudent and prejudicial interventions.*

*We hope that, from now on, France will adopt a constructive approach so that this controversy between Turkey and Armenia is addressed on a just and scholarly basis and she will provide contributions supporting the resolution of the issue, rather than deepening it. Such an approach will contribute to the development of the Turkish-French relationship in the direction it deserves and in all fields.*

We believe that the most important point of this declaration which reflects Turkish views is the indication that “It is preferable that, on controversial historical issues, third countries adopt an impartial approach”. The 1915 events are an issue between the Turks and Armenians and between Armenia, as representing the Armenians, and Turkey. France has no responsibility in connection to these events. However, France has acted as a party to this disagreement and has eventually brought Turkey-France relations to a deadlock.

On the other hand, it is believed that expressing in the declaration that the controversy between Turkey and Armenia should be addressed on a scholarly basis has originated from French Foreign Minister Alain Juppé stating in November 2011 during a visit to Turkey that Turkey’s proposal for a “Commission of Historians” has been embraced.

The decision of the French Constitutional Council has been welcomed pleasure in Turkey. Foreign Minister Ahmet Davutoğlu has said that the Council has reached a decision which is appropriate to European values that it will act as a precedent that a platform has developed where historical subjects could be discussed candidly and that therefore the decision has made a great contribution to Turkish-Armenian relations. On the other hand, European Union Minister and Chief Negotiator Egemen Bağış have indicated that wisdom has prevailed over foolishness and a historical mistake has been averted<sup>109</sup>. Deputy Prime Minister Bülent Arınç has said that the decision gave a lesson to French politicians who signed the bill, which was an example of absurdity<sup>110</sup>. With a similar approach, Chairman of CHP Kemal Kılıçdaroğlu has stated that “the French Constitutional

109 “Emsal Teşkil Edecek (It Will Act As a Precedent)” *Hürriyet*, 29 February 2012.

110 “Arınç: Karar Hukuk Dışı Girişimlere Ders Olsun (Arınç: Let the Decision Be An Example to Unlawful Initiatives)” *A.A.*, 28 February 2012.

Council has rectified a legal strike that was made on French history”<sup>111</sup>. After stating that this decision saved France’s prestige, President Abdullah Gül has said that the disagreement between Turkey and Armenia, which was rooted in history, should be solved between the two countries, it would be wrong for third countries to get involved in this matter and that on the contrary, will rarify the issue<sup>112</sup>.

On the other hand, President of Azerbaijan Ilham Aliyev has expressed that he welcomes the fair decision of the French Constitutional Council and has described it as a manifestation of freedom of expression and thought<sup>113</sup>.

Although the decision of the Constitutional Council has been met with great pleasure in Turkey, it has failed to change the current negative character of Turkey-France relations, because as stated above, President Sarkozy has said despite this decision that he will present a new bill to the Parliament on the same issue. The Socialist Party’s candidate for President François Hollande also has the same idea. In short, it could be seen that the disagreement between the two countries regarding the punishment of those denying the Armenian genocide allegations will continue in the upcoming period. In this situation, Turkey has decided to continue its first stage measures enforced on France<sup>114</sup>.

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# MKRTICH PORTUKALIAN AND THE “ARMENIA” JOURNAL (FROM TERRORISM TO SKEPTICAL MODESTY)

(MIGIRDİÇ PORTUKALYAN VE “ARMENIA” GAZETESİ  
(TERÖRİZMDEN ŞÜPHELİ BİR İLİMLİĞA))

Prof. Dr. Jean-Louis MATTEI

**Abstract:** *Mkrtich Portukalian is one of the most significant figures in the Armenian revolutionary movement, but there is a general lack of knowledge about his activities and work. This applies to the famous journal of “Armenia” published in Marseille from 1885 to 1923 by Portukalian in Armenian. In this paper, the period under research especially entails the years 1914, 1918, 1919, 1921, 1922 and 1923. We will try to convey Portukalian’s personality by referring to various sources. In the second and third section, we will address the “Armenia” journal by frequently reminding that the revolutionist’s personality identifies with his journal.*

**Keywords:** *Mkrtich Portukalian, “Armenia”, Armenian Revolutionary Movement*

**Öz:** *Mıgırđıç Portukalyan Ermeni devrimci hareketindeki en önemli kişilerden birisidir, ancak faaliyetleri ve çalışmaları konusunda genel bir bilgi eksikliği dikkat çekmektedir. Nitekim bu eksiklik Marsilya’da 1885’den 1923’e kadar Porukalyan tarafından Ermenice yayınlanan “Armenia” dergisi konusunda da görülmektedir. Bu makalede söz konusu araştırma özellikle 1914, 1918, 1918, 1921, 1922 ve 1923 yıllarını kapsamaktadır. Portukalyan’ın kişiliği çeşitli kaynaklara dayanarak anlaşılmaya çalışılacaktır. İkinci ve üçüncü bölümlerde ise, sıkça devrimcinin kişiliğinin dergi ile özdeşleştiği hatırlatılarak “Armenia” dergisi incelenecektir.*

**Anahtar Kelimeler:** *Mıgırđıç Portukalyan, “Armenia”, Ermeni Devrimci Hareketi*

Almost everyone could come to an agreement on the great significance of Mkrtich Portukalian in the Armenian revolutionary movement, but

even the Armenians do not know much regarding his personality and what he has done.

This applies to the famous journal of “Armenia” published in Marseille from 1885 to 1923 by Portukalian in Armenian.

Both the journal and its creator are famous, but why are they like that? It is not quite known. In other words, original documents are rarely provided as reference. Therefore, we are highly grateful for our beloved friend Maxime Gainin for being able to provide us the photocopies of 20 editions of “Armenia”.

The period under research especially entails the years 1914, 1918, 1919, 1921, 1922 and 1923. Of course, the numbers of the journal, which encompass a longer time frame, would have helped us to acquire a more identical view. But under these conditions, we tried to fill in this gap with some texts of more previous issues and a picture emerged which was able to be completed by other readings and research.

Firstly, we will try to convey what we know concerning Portukalian’s personality by referring to various sources. In the second and third section, we will address the “Armenia” journal by frequently reminding that the revolutionist’s personality identifies with his journal.

## **I) MKRTICH PORTUKALIAN UNTIL 1885**

Before everything else, let us say this: The spelling of Portukalian’s name was also suspicious.

Despite expressing a very short, but a very useful life story of himself in his book entitled “La Question Arménienne (The Armenian Question)”<sup>1</sup>, even Dashnak author Anahide Ter Minassian called him Portugalian/Portugalian<sup>2</sup>.

However, a single look at the “Armenia” journal is enough to show us that the revolutionist actually referred to himself as Portoukalian/Portukalian.

Anyhow, the following significant points become clearer with his life story: Portukalian, who was a teacher, had established a teacher’s training school in Van.

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1 Editions Parenthèses, Marseille, 1983.

2 Ibid, p.153. We must confess that as Ter Minassian’s liar and by appealing to other writers, for a long time we also referred to Portukalian as Portugalian.

Portukalian, who was exiled in 1885 for defending Armenia’s independence and opposing the Ottoman Empire’s integrity, immediately founded in Marseille the “Armenia” journal in Armenian.

This “immediately” coming from our keyboard could actually seem odd, because how could a person living in exile in a foreign country create a journal (which is also not a small task) in the same year?

We will return to this important point later on. For now, let us look at his life story again.

Regarding Portukalian’s youth, Anahide Ter Minassian only indicates that he was born in 1848 in Istanbul.

Therefore, we must refer to the “Armenia” journal in order to obtain other details. In fact, in the 9-10th copy published in 5 October 1921, there is an announcement of his death with his picture and the caption “I believe in the future” (Abakayin gi havadam). Moreover, the last page contains an outline (gensakragan kidzer) of his life story.

*Portukalian, who was exiled in 1885 for defending Armenia’s independence and opposing the Ottoman Empire’s integrity, immediately founded in Marseille the “Armenia” journal in Armenian.*

His life story indicates that he was born in 1848 in Yalnız Bakkal Street in the Kumkapı neighborhood of Istanbul in his family home. His father was Raphael Portukalian. Personality wise, this individual was elegant (pareparoy) and favored science (usumnaser).

Raphael Portukalian was a banker (seğanavor). At the same time, he owned a rather comprehensive library (krataran) and his son was to highly utilize it (urge medzabes bidi okdver zavagı).

Young Portukalian had been trained by the best teachers of that period. As a student at the “Mayr” High School in Kumkapı, he attended the courses of Y. Malezyan (Armenian), Hagop Voskan (French) and Heretik (Turkish).

According to the journal, the developments of that period did not leave him “impassive”. The environment he lived in was of an impulsive struggle for justice.

The French Revolution of 1848<sup>3</sup> had actually deeply affected the Armenian

3 The French Revolution of 1848 which overthrew King Louis-Philippe gave the idea of independence to other nations.

community in Istanbul. The Armenian intellectuals in France had passed on the revolution's "noble principles" to the community.

From 1853 to 1860 N. Rusinyan, N. Balyan, K. Odyan<sup>4</sup> etc. attempted to constitute the "National Constitution"; in other words, the Armenian regulations (Azkayin Sahmanatrutyun).

Most of the "Amiras" only did not doubt the elimination of their influences and rulings in this Constitution directed towards the Armenian people.

Also, they perceived this reform as the end of the Church and community.

Through this, we witness an interesting forming of clique, at least in high levels, within the Armenian community of Turkey of that period.

On the one side there is "Lusavoryalner", while on the other there is "Khavaryalner". In other words, the "advocates of Light" and the "advocates of the Dark" are the issue.

In his book entitled "The Armenian Issue in Questions"<sup>5</sup>, the following is stated (p.125): "In this period, disagreements of "intellectuals and reactionaries" emerged between Armenians. Amiras (bankers) and advocates of the government were classified as reactionaries, while those pursuing national goals were classified as intellectuals. The intellectuals wanted to bring someone to the Armenian Patriarchate in Istanbul who would pursue national goals and act under their administration.

Eventually, after many disputes and struggles, the idea of independence within the Armenian Patriarchate of Istanbul reached a climax in 1869 with the influence of the intellectuals. In this situation which developed later on, well-known Khrimian became the Patriarch who was to play a significant role, especially during the Berlin Conference (1878), in granting sovereignty to the Armenian community<sup>6</sup>.

For embracing the philosophy of "Tebi Yergir" (Towards the Homeland/Return to the Homeland), Khrimian's significance is clear after Portukalian's idea.

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4 Nahabed Rusinyan was writing a book on the Armenian language. Krikor Odyan (1834-1887) was a magister and uncle of writer Yervant Oydan. He was going abroad frequently and was to defend the theses of Portukalian. Nikoğos Balyan was also with them in . All three of them wrote the Armenian Constitution.

5 Prof. Dr.Ahmed Akgündüz, Doç.Dr.Said Öztürk, Dr.Recep Kara (OSAV.Ottoman Research Institute), Istanbul 2008.

6 Ibid, Armenian National Constitution, the Ottoman original document, p.123.

However, let us continue scanning the “Armenia” journal:

While the “Masis” journal became the “champion” of the Armenian youth in 1857, Deroyentz’s<sup>7</sup> “Yerevak” (Night) journal will become the organ of the conservatives.

In 1861, advocates and opponents of the “National Constitution” held a session at “Mayr” High School in order to discuss it and the students were transferred to the neighboring Saint Cross Church (the Holy Cross). Young Portukalian would become an “eavesdropper” by secretly watching these noisy (aǰmgali) meetings from a corner.

Bloody conflicts occurred even inside churches to elect a new patriarch in replace of the patriarch who died in 1860.

As a matter of fact, the “intellectuals” supported the election of the patriarch both from the inside and outside.

In the very end, the “advocates of the Dark” captured both the Mayr High School and the Mayr Church and the conservative priest Der Kevork was appointed as inspector of education.

In 1862, we assume that by not tolerating his school’s new tendency, Mkrtich Portukalian left his high school and transferred to Sahagyan High School in the neighborhood of Samatya. “Everyday he had to walk (hedisan) from his neighborhood to the Samatya Sahagyan High School” because “he had no other choice” back then.

Researcher Antranik Celebyan also mentions the Sahagyan High School. According to this researcher, by graduating in 1863, Portukalian opened a “bookstore” in that very period.

According to our journal, after graduating, Portukalian worked for the bookseller Pierre Troy. Pierre Troy was a friend of the Armenians (hayaser) and published a magazine entitled “La question arménienne”.

Concerning Louise Nalbandian’s book entitled “The Armenian Revolutionary Movement”, it could be seen that the author has not provided the name of this “French publisher” which he refers to and that he has not addressed “La question arménienne”.

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7 Deroyentz (1801-1888) originally from , knew quite a number of languages and did translations especially from French to Armenian and Ottoman Turkish.

In regards to the bookstore, this detail is written in Nalbandian's book in the following way (p.90-91):

“Portukalian established a broadcasting company and for that, translated Alexander Dumas's “La Dame de Monsoreau” into Armenian. But this fact is much more important: We could think that without doubt, his first idea on the “Armenia” journal developed from all these. Portukalian had lost his father in 1859. It was followed by the death of his mother in 1865.

The life story provided by the journal ends with this and “to be continued” (şarunageli) is written.

Unfortunately, since we do not have the following edition of “Armenia”, we have to refer to various authors and documents in order to complete his story life.

Anahide Ter Minassian, who does not mention at all the details we provided, indicates that Portukalian was a teacher in an Armenian school in Tokat in the beginning of the 70's<sup>8</sup>.

In his teachings, Portukalian was “democratic and liberal” by denouncing the selfishness of the Armenian chiefs.

Celebyan writes that in the following years, Portukalian published a journal called “Asia”, but that the so-called journal was immediately prohibited. Ter Minassian states that Portukalian had first been captured and exiled to Sivas and that he founded the “Asia” journal after that.

By becoming a member of the Ararat Community (Araratyan Ingerutyun) in 1877, Portukalian is sent to the Caucasus and there he meets the manager of the famous “Mshak” (Rençber) Krikor Ardzruni. According to a website connected to the Armenakan-Ramgavar Party, Portukalian had written an article in this magazine with the nickname “Hrant”.

I presume that a small reminder must be made here: Krikor Ardzruni was a horrible racist who despised the Turks and all the Muslims in general. Of course, neither Celebyan nor Ter Minassian mentions this concrete fact.

With the aid provided by Krikor Ardzruni, Portukalian returns to Van and establishes a Teacher's Training School there. This way, Portukalian attempts to apply the “Tebi Yergir” (towards the homeland) theory taught by Hayrig Khrimian.

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8 Ibid, p.153 note 13.

However, the following “detail” exists, which has not even once been mentioned by Celebyan or Ter Minassian:

Portukalian is among the active and influential founders of the “Black Cross” (Sev Khach) organization in 1878.

We are not the ones saying this. It is “Armenakan”; in other words, the Armenian official website of “Ramgavar Azadakan Kusaktsutyun”: <http://www.armenakan.am>

The “Black Cross” is actually a terrorist organization. This time, it is obviously not the website indicating this, but it is us. On the website the following is stated: “The “Black Cross”, which plays an active role in the revolutionary task under the severe conditions of autocracy, was established in Van upon Portukalian’s suggestion and direct (anmidşakan) participation”<sup>9</sup>.

As far as we know, since neither Celebyan nor Ter Minassian has mentioned the “Black Cross”, we have to refer to other sources. On the 167<sup>th</sup> page of Kamuran Gürün’s book entitled “The Armenian File”, this organization is shortly mentioned and is compared to the Ku-Klux Klan.

Bilal N. Şimşir writes on the 278<sup>th</sup> page of his book entitled “The Armenian Issue” the following: “1878 – The secret “Black Cross” society was established in Van. This terrorist organization founded by Armenian youngsters marked a “black cross” on the foreheads of the Muslims and Armenians killed in the region”.

M. Yavuz Elbirler<sup>10</sup> writes the following: The name “Black Cross” emerges from a black cross being drawn through and announcing the names of those revealing secrets and not conforming to the principles of the society.

Regarding the “Sev Khach” article on the Armenian Wikipedia, the following interesting details could be found: “the members had to work personally and extremely confidential” and the “Black Cross” had strong ties with the “Defenders of the Fatherland” (Başdıban Hayrenyatz) established in 1881 in Erzurum. It continued until 1885.

Let us recall that 1885 was the year Portukalian was exiled.

In fact, the Armenian Wikipedia even provides the name of a member of the “Black Cross”.

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9 <http://www.armenakan.am>

10 Elbirler, Yavuz (2011) “Ermeniler Meselesinin Arka Planı ve Üç şehidimiz (The Background of the Armenian Question and Our Three Martyrs)” *Manisa’da Gündem*



Karekin Srvandtzian (1840-1892) is that person. This Armenian militant, born in Van, was both a priest and an author. He was deeply devoted to Hayrig Khrimian. Khrimian used him as a preacher. Antranik Celebyan writes that in the printing of the newspaper entitled “The Eagle of Vaspurakan” published by Hayrig (Priest) Khrimian, Priest Karekin Srvandtzian was his assistant (“Antranik Pasha” p.46).

Thus, if we consider “The Eagle of Vaspurakan” as the “cover” of the “Sev Khach” and indicate that the famous Khrimian was a member of this terrorist organization, we could say that our risks of error are very small.

*Most of the members of the “Sev Khach” participated in the establishment of the first revolutionary Armenian party called the “Armenakan Party”.*

Moreover, when we research further, this risk of making an error falls to zero, because on the Armenian Wikipedia found on the internet, the following is written on Khrimian:

“Khrimian... assisted in the establishment and activities of the savior and private organizations of “Sev Khach” in Van and the “Defenders of the Fatherland” in Erzurum”.

In the biographies in English, French, German and Bulgarian, these interesting details have been forgotten...

Furthermore, after confirming the role of the Russian vice-consul Kamsagaran, the point on the “Sev Khach” ends in the following way:

Most of the members of the “Sev Khach” participated in the establishment of the first revolutionary Armenian party called the “Armenakan Party”. If we also include that Portukalian frequently met with Khrimian in Van, we cannot help but think that these three men (Portukalian, Srvandtzian, Khrimian) played a significant role within the “Sev Khach” terrorist organization.

Let us also note the element of privacy: It is at the center of Portukalian’s activities and we will address them again.

Let us look at a page in “The Armenian Issue” (page 220): “Mkrtich Portukalian was one of those working with Khrimian in Van. When arrests had started after the incident in Erzurum and he was prohibited from living in Van, Portukalian fled abroad with some of his advocates... Only the Armenians were admitted to the Armenakan Party. It was known that information on the use of weapons and military strategy was taught to the

members of the Armenakan Party in the Van Armenian School by the Russian vice-consul Kamsagaran”.

The interesting aspect to all these is the following: Neither Celebyan, nor Minassian mentions Portukalian’s past as a terrorist and they also do not refer to the connections he had with Khrimian.

Let us now study Hinchak Louise Nalbandian’s book. Will it be possible to find interesting information regarding the “Sev Khach”?

In his book entitled “The Armenian Revolutionary Movement”, Nalbandian dedicates a section, constituted by three sentences and a page (p. 83-84), to the “Black Cross” and/but not doing anything else but praising the organization, remains quiet and does not refer to the role of Portukalian and Khrimian. In other words, either the specialist of the “Armenian Revolutionary Movement” knew very little about the organization of the Black Cross or preferred to overlook its real identity.

There is more: Portukalian’s “activities” were mostly directed towards the Armenians. In fact, there are quite interesting references made in the book entitled “*Aspirations et Agissements Révolutionnaires des Comités Arméniens*”<sup>11</sup>. This book already mostly utilizes the documents received from the Armenian Committees and the following is stated on page 37: “Following Portukalian’s return to Van, a particular discontentment was created through the provocation of several Armenians who did not welcome the Christian religion being used as an instrument in the hands of Committees in the famous Theological Training School and understanding that it would be impossible to stay in Van, Portukalian fled to France and founded the “Armenia” journal there”.

While Celebyan kept silent regarding the role of the moderate Armenians in Portukalian being sent to exile, Anahide Ter Minassian states the following: “It is most likely that Portukalian, who was denounced and conveyed as an atheist and revolutionist by conservative Armenians, was forced in leaving Van and escaping to Istanbul”.

From there he went to France several years later and the Teacher’s Training School he had established was closed down<sup>12</sup>.

As can be seen, Ter Minassian is mistaken when stating that Portukalian “went to France several years later” (because he went in the same year).

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11 “*Aspirations et Agissements révolutionnaires des Comités Arméniens*” New Edition. Ankara 2001. Person preparing it for publication: Dr.Yusuf Sarıncay.

12 Ibid, p.153.

Therefore, we could better understand the reactions of the Ottoman Armenian citizens who did not think very positively about the interesting connection between religion and terrorist acts.

It seems as if there is a connotation in all of these regarding the conflict between the “advocates of Light” and the “advocates of the Dark”.

Without doubt, it was foreseen that this so-called lightening would be made through the lights of bombs...

In short and in other words, Portukalian was a revolutionist who defended terrorism by using religion after leaving Turkey and due to establishing this organization (Sev Khach), had many specific and detailed ideas concerning secret organizations.

## II) THE “ARMENIA” JOURNAL

The most reliable details regarding Portukalian after arriving to Marseille is provided by Mihran Damadyan<sup>13</sup>.

As a matter of fact, the leader of the Hinchak committee Mihran Damadyan, who was captured in Bitlis, submissively tells on all his friends and writes his life story and naturally, mentions Portukalian in it:

“The third committee is that of Portukalian Mkrtych and its headquarters is located in Marseille and it is apparent that a corrupt journal called “Armenia” in Armenian is published there<sup>14</sup>. Its Turkish transcription is found on page 21 and the original text is found on the 12th line on page 543 of “The relocation and resettlement of Armenians in Ottoman Documents”.

The idea supported by this is that the Armenians want to create a revolution in the provinces, but to implement this idea, they do not want to join and work together with revolutionary companies, but they work independently. In various locations, plotting committees must be under the administration of Portukalian’s Marseille Committee. Although I do not know where these kinds of committees are located, it could be understood from the arising conditions and the news published in almost all copies of “Armenia” that the Marseille Committee attempts to provide it to the people wanting to create uproars within the regions of Van and Iran”. From these interesting sentences,

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13 Confessions of Mihran Damadyan, “*Osmanlı Belgelerinde Ermenilerin Sevk ve İskanı (The Relocation and Resettlement of the Armenians in Ottoman Documents)*” p.18, 20, 22

14 Ibid, p.22, the original Ottoman Turkish text, p.543, line 12.

we become aware of the following reality: Damadyan does not very much like the rival organization called “Armenakan” which supports Portukalian’s theses, find its members to be “strong-headed” and cannot refrain from coming to terms with it. A second reality is: The “Armenia” journal in that period (beginning of 1894) is a very influential organ for the Armenians. A third reality is: The Marseille Committee was very strong and through its advocates, undertook acts of propaganda and armed activities in the east of Turkey.

Moreover, there was a local committee in Istanbul connected to the Marseille Committee before the Kumkapı Incident and Damadyan knew some of its members (p. 24).

Now we must ask the following question: How could Portukalian, who escaped from Istanbul in March 1885, publish a journal like “Armenia” in a foreign country towards the middle of the same year?

Let us not forget that Portukalian’s father had passed away a long time ago and his mother had died 20 years before. Then, it is without doubt that Portukalian benefitted from his father’s inheritance and established the journal “Armenia”. Furthermore, it was not much of a coincidence for him to take refuge in Marseille. As a matter of fact, there was an Armenian society who was in the trade business in Marseille since the beginning of the XVII<sup>th</sup> century<sup>15</sup>. It is possible that Portukalian had already contacted this society. It seems also possible that this society provided aid to Portukalian, but of course not all of the Armenians. The conflicts between the “advocates of the Light” and the “advocates of the Dark”, which we mentioned earlier in the beginning of this article, also being reflected in Marseille was inevitable.

Even though Antranik Celebyan refers to the Armenian society in Marseille and makes a mention of 150 individuals<sup>16</sup>, we do not accept this number.

Celebyan also adds the following: “...the Armenian society in Marseille embraced the journal published in their mother tongue with great pleasure and provided all kinds of material and moral support to Mkrtich Portukalian who founded it”.

It is obvious that the “Armenia” journal drew support in Marseille, but I think the following is forgotten in the statements quoted: “Armenia” was

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15 Jean-Louis Mattei, “Büyük Ermenistan Peşinde Ermeni Komiteleri” (*Armenian Committees Seeking Great Armenia*), pp.81-114.

16 Antranik Celebyan, “Antranik Pasha”, p.46. Reference: John Giragosyan “*Burjuva Diplomasisi ve Ermenistan (Bourgeoisie Diplomacy and Armenia)*”.

contradictory to the Ottoman Empire and the Armenians settling in Marseille, apart from the “Russians”, was mostly Ottoman citizens. Then it is without doubt that it was not quite possible for these merchants to at least *openly* welcome and praise this journal which challenged the empire to which the merchants were citizens.

There were translators who knew Armenians or who were already of Armenian origin in the Ottoman Consulate in Marseille. In fact, D. Mavroyani, who was in charge of the Ottoman Consulate in Marseille in that period, called on many Ottoman citizens of Armenian origin and asked them questions. Their support of “Armenia” back then was not open, but private.

The interesting aspect of this is the following: The Ottoman Ambassador in Paris asks whether there is an Armenian committee in Marseille and Consul D. Mavroyeni gives the following answer (30 January 1895)<sup>17</sup>: “... if there is, I would be grateful to bring to the attention of your Excellency that a serious inquiry is conducted with the purpose to examine its members. I must announce to your Excellency in private that to fulfill this purpose, I deployed a high-status local police officer whose loyalty to the Consulate General is well known. Therefore, the information I will provide is official and definite. The Armenian community here is comprised of approximately 60 Ottomans and more than 25 of the others, or of Russian citizens. Despite this, they agree on the same view and idea. Based on my former reports, this community of emigrants possessed a small church on 13<sup>th</sup> street in “L’Ormeau” in which apart from rituals, they gathered to discuss different issues of the community. Agop Selyan directs social services, Galbenk and Selyan are treasurers and Sahak Utuciyani is its current priest. According to the information I received, the revolutionary committee in London, which is the center of the Armenian movement and which spread to all cities of the European Continent in which other committees exist, calls on Armenian emigrants living in Marseille to organize around a committee... *In this situation then, there is no committee that exists*”.

Yet, we must indicate the following: In 1895, this Marseille Committee actually existed since 3 years ...

So far that a letter in Armenian dated 9 August 1892, which arrived in the hands of Ottoman officials, was sent by London and the Marseille Committee to Adana Armenian Deputy Vehebedyan. This interesting document, which was translated back then from Armenian to Ottoman Turkish, in addition to

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17 “Osmanlı Belgelerinde Ermeni-Fransız İlişkileri (Armenian-French Relations in Ottoman Documents)”, director of project: Doç. Dr. Yusuf Sarıncı, p.31, original French text pp.330–331, Volume I.

proving the armed activities of Armenians, provides evidence for the existence of these so-called committees and shows that there are many undertakers within the Marseille Committee. In this letter which especially concerns our subject, the following information is provided by the Committees of London and Marseille (Agopyan and Portukalian): Personal correspondences are sent to locations through the “Armenia” journal. Admonish Kasparyan present in Adana to make sure that the public reads the “Armenia” journals<sup>18</sup>.

The provocative nature of the “Armenia” journal in that period is therefore proven. The armed insurgency near Maraş (all its details are in this document)<sup>19</sup> was unsuccessful, but the coordinated initiatives of the London and Marseille Committees continued. The Marseille Committee means Mkrtich Portukalian and his “Armenia” journal. How could Consul Mavroyeni be mistaken on this important point? After thinking thoroughly, we come up with the following answers:

The character of a secret committee is to *be hidden and remain secret* as much as possible. Portukalian is a specialist regarding privacy. As can be seen, under the foundations he established, terrorist organizations like the “Sev Khach” are hidden. Another example: Avetis Terlemezian is actually Mkrtich Avedisyan’s other name, but in the documents in Marseille, this individual does not exist or has another last name. But still Avedisyan was in Marseille and was helping Portukalian. So, we know very little about one of the “Three Mkrtich” (Mkrtich Khrimian, Mkrtich Portukalian and Mkrtich Avedisyan) who were called the three “heroes”. As we had implied before, had Avedisyan adopted another nickname? Quite possibly yes.

*A letter in Armenian dated 9 August 1892, which arrived in the hands of Ottoman officials, was sent by London and the Marseille Committee to Adana Armenian Deputy Vehebedyan. This interesting document, which was translated back then from Armenian to Ottoman Turkish, in addition to proving the armed activities of Armenians, provides evidence for the existence of these so-called committees and shows that there are many undertakers within the Marseille Committee.*

18 *Ermeni Olayları Tarihi (History of Armenian Events)*, Volume 1, Hüseyin Nazım Paşa, Ankara 1998 p.56-57

19 The members of committees would enter from getting off ships by masquerading as Circassians, Kurds and Greeks. Their purpose was to provoke a revolt among the Armenians of Cilicia. The document addresses disagreements between the Armenakans and the Hinchak Committee and the following was stated: “... and you sent us so much money that the transfer was a success”. The letter ended this way: “Prepare lots of money and men. The and Marseille Committees sends its greetings to the committees the letter is sent to by the head clerk”.

On the other hand, in another document, D. Mavroyeni argues that an Armenian agent whom he tried to use was not trusted, but a letter received from the Ottoman Porte shows the complete opposite. Similarly, a “high-status local police officer” named Argento seems very trustable to D. Mavroyeni. But, we could consider Argento to be playing to both sides at the same time.

Based on the documents, the following emerges: It was very difficult to become members of the Armenian society or committees. Let us not forget this important point either: D. Mavroyeni was in a foreign country, so his capacity of acting was limited. An “incident diplomatique” with the French Government would have been a highly unwelcomed event. If we include the lack of money and some agents not being trustworthy<sup>20</sup>, we could better understand D. Mavroyeni’s lack of information.

But still, according to D. Mavroyeni, the Armenians in Marseille support the violent acts taking place within the Ottoman Empire and he is able to provide very detailed information on Portuaklian: “Even if the Empire does not openly announce to its Government the hostilities outside, an individual named M. Portokalian (Portukalian) openly gets into action (agit). He is the leading editor of the “Armenia” journal situated in number 44 on Meilhan Street and lives in number 83 of Lietaud Street. This guy, who was notified earlier in different ways to the Government, has a large family of four-five children which he is responsible of taking care of. He has no other income other than this media organ which he publishes twice a week on Wednesday’s and Saturday’s. From subscriptions of 20 Franks per year, he gains 3000-3500 Franks and his newspaper editions are sent to London and Armenia.”<sup>21</sup>

Let us add the following: Meilhan Street is an extension of the famous Canebière Street. Lieutad Street also similarly does not exist afar. Then, almost everyday, Portukalian goes from Lietaud Street and stops by his newspaper and “goes” home in the evening or at night. Therefore, he had a comfortable life, because this head of the committee lived somewhere near his “work”.

In other words, we could say the following unless documents which show the opposite are discovered: Portukalian, who was a well known revolutionist for 36 years, without being threatened by the Ottomans or the French, openly published a journal in Marseille which threatened the security of another country.

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20 For instance, D. Mavroyeni is suspicious of an individual named Anton Sislian, Ibid, p.23, 24.

21 *Osmanlı Belgelerinde Ermeni-Fransız İlişkileri (Armenian-French Relations in Ottoman Documents)*, Volume I, p.32. French original text p.330-332.

According to D. Mavroyeni, the London Committee is the most important committee. But the London Committee he mentions was actually the Hinchak Committee... In fact, in the significant letter sent by Morel Bey to Ziya Pasha, the Ambassador to Paris (13 December 1895),<sup>22</sup> in particular the Hinchak Committee and the “charismatic” Nazarbekian were mentioned.

The Hinchaks were perceived as being the most dangerous revolutionists. Morel also provides the following interesting statement: “Just for your information, I will also mention a charlatan named Agopyan who argued that he established another committee called the “Armenian Patriotic Society”. The research conducted until now has put forth that this society was only represented by Agopyan and that not even a single other person existed. This person lives a not-too-secure life by giving Turkish lessons. Despite his name being mentioned frequently in newspapers, eventually this person is a little harmful”.

Actually, both Portukalian and Agopyan were the founders of the “Armenian Patriotic Society” and Portukalian had acted coordinately by sending weapons and bodyguards to Turkey. Hereby, this “little harmful” person was the head of the London Committee, but he did not administer the Hinchak Committee, but the Armenekan Committee.

As could be seen, both Mavroyeni and Morel underestimated the significance of the “patriots”, but they were not aware of the riots the Armenekans had initiated 3 years ago. They also were not aware of arms smuggling or the various members of committees sent to Turkey. On the complete opposite, the Ottoman Porte was very well aware of all these.

Concerning Mavroyeni, the Consulate of Marseille cannot perceive the real dimension of Portukalian without despising the revolutionist who was in charge of “keeping him in focus”. Mavroyeni also was not aware of Portukalian’s personal wealth. He was unaware of the Armenian society’s financial aid...

In a situation like this, “Armenia” was able to be published in Marseille freely and for a long time. An interesting detail is: In the local adjacent to their church where members of the Armenian society gathered and read newspapers, the “Armenia” journal did not exist. On the other hand, “Hayrenik” (Homeland) and the famous “Arevelk” (Dawn) published in Istanbul, “Mşak” (Countrymen) published in Russia and “L’Echo du Caucase” published in French existed.<sup>23</sup>

22 *Osmanlı Belgelerinde Ermeni-İngiliz İlişkileri (Armenian-English Relations in Ottoman Documents)*, Volume IV, p.6-7 original French text p. 223-224.

23 *Osmanlı Belgelerinde Ermeni-Fransız İlişkileri (Armenian-French Relations in Ottoman Documents)*, Volume I, p.24, the original text p.306.



This “nonexistence” should not be surprising. “Mşak”, with its anti-Turkish views, was being published in the Tzarist Russia. None of these four newspapers were being classified as “revolutionary”. On the other hand, “Armenia” was banned in both the Ottoman Empire and Russia.

“Armenia” not existing in the local of the Armenians in Marseille does not mean that it is not read by the Armenians of Marseille. We believe that it is likely for those opposing Portukalian to have also read the newspaper, but rather than local sales, “Armenia” was able to survive with its subscriptions directed towards other countries.

Now, let us study number 36 of 26 March-8 April 1914: The heading “Armenia” is read with Armenian letters. The edges of all 6 letters are snow-white and it is without doubt that it resembles Armenia’s snowy summits.

Over the heading, the following French words are written: ARMENIA, Journal en langue Arménienne fondé à Marseille en 1885 (ARMENIA, a journal in Armenian language established in 1885 in Marseille). Then, under the heading, in Armenian and with capital letters: “LIRAKÏR AZKAYÏN KAĞAKAGAN YEV AYLN” (A POPULIST, POLITICAL AND SO FORTH JOURNAL). In a caption underneath it, it is conveyed that the price of subscription for Turkey and Iran is 10 Franks.

Below the caption the following is stated: Namag gam tram ğırgel ays hatseov (Sending the letter or money with this address): M. PORTUKALIAN Directeur du journal *Armenia* MARSEILLE (France).

In this edition, we see the following: In the first page of “Armenia”, comprehensive excerpts (kağuzdzner) are taken from the “Ararat” magazine published in Etchmiadzin (Yerevan). These are usually religious news. For instance, the Armenians of Turkey benefit more from administrative units and in terms of events, are much stronger than the other Armenians (Russia, Iran).

What is more interesting for us is surely the diplomatic relations of that period. For instance, Catholicos Kevork V in Russia sends a telegraph of appreciation to Boghos Nubar Pasha who lives on Trocadéro Street in Paris (29 January 1914). Catholicos Kevork renders his thanks to Nubar Pasha for his “attempts towards introducing the reforms to Turkey”.

In another source: Ker Kharakhanyan, the Patriarch of Muş, responds to the question of the Patriarchate concerning the Kurds and writes the following: “In point of fact, the Kurds are conducting secret preparations and this grows

day by day to greater extents. The Armenians are under threat. The government and police officers do not give much important to this (garevorutyun) and in order to defend themselves (andznabaşdıbanutyam hamar), put forth pathetic excuses in order to acquire a few weapons carried by the Armenians. The implementation of public order is prevented”.

The following message is sent from Kiğı to the “Azadamart” newspaper published in Armenian in Istanbul: “A private mobility is observed among the Kurds here. They participate in great parades. Habitants of Armenian origin in the city and its surrounding areas are in a serious rush”.

But the most interesting news comes last: “KARASNAMYA YOPELYAN MIGIRDİÇ PORTUKALYANI” meaning “MKRTICH PORTUKALIAN’S JUBILEE OF FORTY YEARS”.

The festival to be organized in honor of the veteran warrior Mkrtich Portukalian will not be held on 13-26 April as announced earlier, but on 27 April-10 May (1914) on Sunday in Istanbul. The organizing Committee hopes that this Istanbul festival, to which a large number of individuals will attend from within and outside the country, will be the top of the festivals of the same kind. Following this exile lasting for a quarter of a century, on this occasion, the veteran warrior will be invited to Istanbul, to the arms of his own people in order to benefit from the blessings (pariknerı) of his new situation.

The organizing Committee is certain that after drawing the lines of the program of the festival, all levels of society will attend this ceremony deserved by the veteran warrior.

On this occasion, those wanting to send gifts, manuscripts, letters etc. could send them to the two addresses given below: For telegraph: Docteur Basile, Constantinople

Letter, money: Terlemezyan Djelal Bey Han,  
Stamboul

For this occasion, the printing of a magazine was foreseen and the contributions of Portukalian’s fellow countrymen with their articles are requested.

March 1914

Istanbul (Police)”

Members of the Festival's Central Commission are being followed. Among them, there are many prominent Armenian figures. For instance: Agnouni E (Deputy, Dashnak), Asadur Hrant (Writer), Esayan Zabel (Author 1878-1943), Zohrab Krikor (Deputy 1861-1915),

Zartaryan Rupen (Writer 1874-1915 Dashnak), Terlemezyan Hovannes (Perhaps is the brother of Mkrtych Avedisyan), Gomidas Vartabed (Famous composer Gomitas Vartabed (1869-1935), Halacyan Bedros (Director of Ottoman Public Debt Administration, deputy), Vartkes (Former Armenakan, deputy ( 1861-1915) Şişmanyanyan Zareh (member of the Portukalian and Ararat Society), Boyaciyan Hampartsum (Deputy, former bodyguard, Hinchak 1867-1915), Papazyan Vahan (Deputy, former bodyguard, writer in "Azadamart", Dashnak 1876-1973), Sibil, (Asadur Zabel, writer, 1863-1934), Varujan Daniel (Poet, advocate of Dashnaksutyun), Diran Kelekyan (Journalist-linguist, member of the Ramgavar Party), Yervant Odyan (Writer, Father of "Comrade Panchoonie", 1869-1926) (For most of these names see: "Büyük Ermenistan Peşinde Ermeni Komiteleri" (Armenian Committees Seeking a Great Armenia)

*"Pro Armenia" is a newspaper published every 10th and 25th of the month. In the journal, the advertisement is made in French, but in Armenian it is written that "Pro Armenia" is published half in half in French and English.*

An interesting news on the last page of the journal: LOCAL (DEĞAGAN): "Despite Mademoiselle Shushanik Portukalian not being there, Women's Society (Azkanver Hayuhyatz Ingerutyun), in order for its Auxiliary Association to also become a member of the Administrative Board, thanks, during a meeting, all those honoring her with their votes and declares that she is not yet capable of this responsibility and that she has resigned from her duty".

Then, it is expressed that Hakki Pasha has returned to Istanbul from England, he will present the results of negotiations to the Ottoman Government and then will travel to St. Petersburg and address many questions concerning the reforms (parenorokumner) to be made in Armenia.

In another caption, the famous "Pro Armenia", which is actually an organ of the Dashnaksutyun, is being advertized. "Pro Armenia" is a newspaper published every 10<sup>th</sup> and 25<sup>th</sup> of the month. In the journal, the advertisement is made in French, but in Armenian it is written that "Pro Armenia" is published half in half in French and English.

Eventually we could see that over the years, Portukalian possesses other

sources of income besides “Armenia”. In columns, these books are offered for sale: “An Armenian Woman Hero” (second edition) (40 centimeters), “Armenians of Turkey and their Neighbors” (50 centimeters), “Armenia” Monitor, 1<sup>st</sup> year (1 Frank, 40 centimeters), “Revenge” (Vrej) (20 centimeters), “A Bulgarian Patriot/History of the Bulgarian Revolutionary Movement) (1 Frank, 40 centimeters) and “Don’t Migrate!” (Mi kağtek) (20 centimeters).

Now let’s first comment on all these news and information and then dig into more comprehensive observations on the “Armenia” journal.

As the date the journal was published (March-April 1914) shows, the world was entering a very delicate era. A war which could arise between great powers was being discussed for a long time. “Armenia” reflects this atmosphere only partially. In fact, it mentions Nubar Pasha and reforms. Actually Boghos Nubar’s goal was to “corner” the Ottoman government. On December 1<sup>st</sup> 1913, the “Asian French Committee” had gathered and “after a lengthy speech presented by the director of the Armenian delegation Boghos Nubar Pasha, the request for great powers not providing financial aid to the Ottoman government and not consenting to increase in customs and some taxes were accepted until the reform was implemented”<sup>24</sup>.

“The emergence of a prudent and intellectual patriot like Boghos Nubar is truly a pleasure. With his attempts since one and a half years, Boghos Nubar will set an example for the Armenian intellectuals and notables and will open a glorious page in our new national history” (“Troşak” newspaper number 1-237 –January 1914)<sup>25</sup> In other words, Nubar Pasha was blackmailing the Ottoman Porte.

5 months later, that is to say in the same columns of the “Ararat” magazine which the editors of “Armenia” have mentioned, Catholicos Kevork V was to support Tzarist Russia by speaking on behalf of all Armenians and would end his announcement in the following way: “We pray for the success and victory of the heroic Russian army and by blessing all of you, we request from God to protect Great Russia from all kinds of dangers and hostile attacks”.

The Catholicos of All Armenians Kevork V ( Kevork E Katoğikos  
amenayin Hayots) (August 1914)

(Original Armenian text, p.32)

24 Yusuf Halaçoğlu, *Ermeni Tehciri (Armenian Relocation)*, p.44.

25 *Aspirations et Agissements révolutionnaires des Comités Arméniens*, p.86.

Surely the Catholicos's approach could seem quite normal, but actually there is something missing in the columns of "Armenia": On that date, a great number of Armenian volunteers from all over the world and especially from America were flowing in great numbers to Russia and Portukalian, Kevork V and Nubar Pasha was aware of it. Nubar Pasha would even be proud of these volunteers after the war.

Let us also indicate this: The idea of organizing the Armenian volunteers was already a reality. In the Dashnaksutyun's organ "Hayrenik", published in Armenian on 20 March 1913 in Boston (US), a telegraph from Tbilisi is observed. Patriarch Mesrob says the following in his telegraph: "47.061 rubles and 11 dogs were taken. I thank you on behalf of the bureau and the volunteers (gamavorner)". Patriarch Mesrob had a significant place among the bourgeoisie of Tbilisi and was a relative of the Caucasian Naibi Kont Vorontzov-Dashkov. For us what is more important for us is the following: A stamp which says 17 March 1913 can clearly be seen.

It is without doubt that Ter Minassian (Ibid, p. 110) did not say the following for no reason: "The thin policy of Naibi Vorontzov-Dashkov in the Caucasus reconciled the Armenian church and bourgeoisie with the Russian government".

If we write "Dashnaksutyun" instead of the "Armenian church and bourgeoisie", it will not make much of a great difference. This telegraph sent exactly a year before the edition of "Armenia", through the advertisement made in "Pro Armenia", is clear evidence of the "good will" of the Dashnaksutyun Party which Portukalian supports indirectly in the columns of his newspaper.

Regarding the events of Kiğı, the following is expressed in Portukalian's newspaper: In the city and the surrounding neighborhood, a Hinchak Committee and a Dashnaksutyun Committee were present for many years and its members conducting armed training were patrolling the area<sup>26</sup>.

As the editors of "Armenia" implied back then, innocent Armenians were out of the question. Since 1908 (or since the declaration of the Constitutional Monarchy), Dashnaksutyun had disarmed and in fact, which government in which country would allow its citizens to possess a great number of weapons with the excuse of "self-defense"? And let us observe this: "Aradşnort" of Kiğı did not provide a single concrete event regarding the Kharakhanyan Kurds.

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<sup>26</sup> See: Yılmaz Akbulut, *Ermeniler ve Bingöl'de Ermeni Tehcirleri (Armenians and Armenian Relocations in Bingöl)*, Jean-Louis Mattei *Büyük Ermenistan Peşinde... (Seeking Great Armenia)* pp.274-.

Concerning the “Adzamart” newspaper published in Istanbul, it was linked to the Dashnaksutyun and was published according to the orders of Vahan Papazyan.

Vahan Papazyan (1876-1973) was a former famous bodyguard. He came from Russia. When he had first arrived in Turkey through an illegal way, he did not know a single Turkish word. But still, he became a deputy of Van. As could be seen, it was possible for this individual to participate in Portukalian’s jubilee. Head of the Hinchaks Hampartsum Boyadjian who was more restrained in March 1914, after slaughtering many innocent Turks, now followed a more moderate policy and would not participate in October in the assassination attempts of other Hinchaks which targeted Talat Pasha. Boyadjian became the Kozan deputy. Frankly speaking, it was expected for a majority of the most popular faces and militants of the Armenian world to contribute to this jubilee.

On the other hand, the talented linguist Diran Kelekyan seemed as an “innocent victim” for a long time, but a letter written in Armenian and carrying his signature which was sent to the Egyptian Ramgavar Committee while he was Ramgavar, does not leave room for any suspicion regarding his real interests. In fact, in his letter dated 20/5 March 1914 (a little before the edition of “Armenia” we are studying was published), Diran Kelekyan wrote the following in Armenian: “The issue of weaponry is an essential problem. Naturally, no one could deny its significance” and “our most valuable request is to work cooperatively with the “Hinchak” Committee”.<sup>27</sup>

*In his letter dated 20/5 March 1914 (a little before the edition of “Armenia” we are studying was published), Diran Kelekyan wrote the following in Armenian: “The issue of weaponry is an essential problem. Naturally, no one could deny its significance” and “our most valuable request is to work cooperatively with the “Hinchak” Committee”.*

Meanwhile, let’s give the following explanation: On that date, the invitees, mostly in secret but sometimes openly, were preparing the collapse of the Ottoman Empire (Perhaps with the exception of Hrant Asadur, his wife Sibil and Yervant Odyan).

Let us also emphasize this: Most of the individuals to be sent into exile in 1915 were members of the committee.

Did the jubilee of Portukalian really occur in Istanbul? As stated in

<sup>27</sup> See: *Aspirations et Agissements révolutionnaires des Comités Arméniens* pp.118-119. The Armenian text is in 20 pages of its originals.

“Armenia”, was it possible to benefit from the freedoms introduced with the “new situation” or the Second Constitutional Monarchy and the fragile peace “signed” between the Committee of Union and Progress and Armenian Committees? Unfortunately, in the following editions of “Armenia” which we were able to obtain, at least for now it was not possible for us to observe a rebound of this jubilee. So let us confine ourselves to making this indication: The jubilee was to take place in May and the First World War had erupted on August 2<sup>nd</sup>. Perhaps due to the tense international atmosphere, the Ottoman Government wanted to prevent the Armenians or committees making such an appearance on their own territories and as a result, did not give their consent at the last moment. But we have to make presumptions when no other documents exist.

Moreover, we learn that Portukalian also has a daughter due to this edition of “Armenia”. His son Vahan Portukalian (1887-1974), who fought until now as a military officer on the side of the French against the Turks in Cilicia, was among the Marseille Armenians. On the other hand, Shushanik Portukalian had wanted to work in the “Women’s Society”. We must indicate the following: Her personal opinion was not asked for and naturally Mademoiselle Shushanik had rejected joining the organization.

But still, “Azkanver Hayhuyatz Ingerutyun” was an extremely legal organization and the aforementioned writer-poet Zabel Asadur using the nickname Sibil was among its founders. The purpose of this society was to establish and revive schools for girls all over the Ottoman Empire. Eventually, the brochures written or presented by Portukalian were very informative. Let’s not forget that Bulgarian robbers and members of committees had set an example for the Armenians.

The word “Vrej” (Revenge) will not surprise us, because the same word was written on the flags of the Dashnaksutyun and clearly displayed the committees’ frame of mind. But right then, Portukalian’s brochure entitled “Göç etmeyin! (Don’t Migrate!)” had unexpectedly obstructed the policy of violence. This booklet, published in 1913, had already brought some differences to Portukalian’s views. We will return to this important point at the end of this article.

### **III) THE ROLE OF “ARMENIA” IN THE ARMENIAN REVOLUTIONARY MOVEMENT**

For the time being, let’s try to analyze the political situation of the “Armenia” journal on the brink of the First World War.

Despite some “forgetfulness” and lies of the “Armenia” journal in 1914, it seems quite moderate compared to the newspapers of “Hinchak” and “Troşak”. As could be seen, it does not entail many provocative and very clear-cut statements or views. Despite all these, this newspaper was perceived as a great threat to the Ottoman Empire for a long time. In fact, “Armenia” was regarded as an organ of the Armenakan Party. Paradoxically, this party under this title was not mentioned at all in Ottoman documents. Sometimes, in the eyes of for instance D. Mavroyeni, Portukalian was seen as a “père tranquille”(calm, fatherly) who was married and had children, but the Ottoman Porte did not believe this. Actually this man was one of those responsible for the bloody Van events in 1896. Between years 1885 and 1914, was there a change made in the “Armenia” journal?

Unfortunately, our sources for the period between 1885 and 1914 are few, but there are still some that exist. In fact, after the Adana incident in 1892, the Ottoman police carrying out a search near Maraş in 1895 have found, other than some copies of the “Armenia” journal, also some stamps of the organization founded in Marseille by Portukalian and sent to Maraş<sup>28</sup>.

With this search, a very interesting point emerges: One of the stamps found has a *black cross* on it. Due to abbreviations, it is difficult to understand the Armenian inscription surrounding it, but most likely it reads the following: “Maraş 1880” and “Hay H(ayr)e(nasira)ts Ing(erutyun)”, meaning the “Armenian Patriotic Society/Armenian Patriotic Union” founded firstly by Portukalian which we have mentioned in the previous pages. The “piyur letter” below could be the first letter of Portukalian’s name.

This organization, which continues its existence in Cilicia, is actually a continuation and extension of the “Sev Khach” or “Black Cross” terrorist organization established by Portukalian. In the edition of the “Armenia” journal dated 23 April 1890, the following is stated: “the purpose of the Armenian Patriotic Union is to bring a change and proposals to Turkish Armenia according to local necessities. The Armenians desire is to govern their selves. With this, the seizure of properties, which has caused damage to Armenia, could be eliminated. In order to fulfill the organization’s purpose, it consumes its own power and for freedom and liberties, forms an internal power and motivates those starting publishing and those striving with a divine manner for the wellbeing of their country. The Union has a newspaper like a language. Apart from its recognition, it announces the Union’s purpose to public opinion. It provides information on the enslavement of poor Armenians. And it installs patriotism to the Armenians.

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28 *Ermeni Olayları Tarihi (History of the Armenian Events)*, pp. 120-121, 124-125.



Those wanting to become members or communicate with the Armenian Patriotic Union must appeal to the figure below:

Mkrtich Portukalian Marseille (France)”.

Also among the documents confiscated during the search, the following section signed by Portukalian was found not in the first, but in one of the first copies of “Armenia”:

6/18 June 1885.

“The Purpose of Armenia”

“As the Armenian nation is dispersed all over the place, some of them live in Europe. The poor Armenians in Europe have been dismissed from their

*Famous Avetis Nazarbekyan, one of the founders of the Hinchak Party reaches the following conclusion: “The education provided at homes and schools eliminated our power, self-confidence and the initiative to freely speak and act according to our beliefs.”*

homelands in which they have been born with great difficulties. This exile was beneficial to the course which allowed the Armenians everywhere to build relations and communicate with each other. The first of the means for this is newspapers and as it incorporates the events in various places and the idea of Armenians in Europe, by announcing their way of uniting and negotiations, it prepares the unity and alliances formed in their minds”.

These documents are important because through the ideas they convey, the sovereignty of a new country different than the Ottoman Empire is implied. Supposedly, Armenian territories were occupied by the Turks and in order to regain them, “various” methods could be resorted to. The text does not clearly express this, but actually violence is one of these methods. As could be seen, Portukalian had not refrained from resorting to terrorism with the “Black Cross”, at least in the beginning. Portukalian, who also did not exclude armed struggle then, promoted local riots, but slowly much more severe and radical revolutionists than him started emerging.

For instance, in his article entitled “İnç enk yev inç piti linenk” (What are we and what shall we become?) in the edition of “Armenia” dated 28 August 1886, the famous Avetis Nazarbekyan, one of the founders of the Hinchak Party reaches the following conclusion: “The education provided at homes and schools eliminated our power, self-confidence and the initiative to freely speak and act according to our beliefs.”<sup>29</sup>

29 Gerard Libaridian *Modern Armenia: people, nation, state* pp.78-79.

There is one thing that Libaridian has not mentioned: When Lorents, alias Avetis Nazarbekyan and his friends attempted to include the Marxist theories in “Armenia”, Portukalian had refused to publish them. Portukalian was always a person who believed in God and tried to reconcile religion with revolution. This could be proven with the “Vardapetaran Hayastani Azatutyun” (Religious Teachings for Freedom of Armenia) published in 1891 in Marseille.

In the first footnote on page 85 of Gerard Libaridian’s, despite stating that the author or authors of this brochure is unknown, discovering that Portukalian, Agopyan and Mkrtich agree on Avedisyan’s printing, it would not be much of a surprise... In this book entitled “Vardapetan Hayastani Azatutyun”, the following is written: “political and religious principles approve the rebellion against the government; actually it is a religious duty”.<sup>30</sup>

Due to his close cooperation with Patrik Hrimyan, Portukalian’s religious approach seems rational. We could presume that because of feeling as if it contradicts his religious teachings, the idea of terrorism through the “Black Cross” disturbed Portukalian in spite of everything, because we believe that other Armenians could have also become victims of this terrorism. But still, the Armenakan Party not being too careful regarding methods was to emerge until 1896. Mkrtich Avedisyan who was Portukalian’s right hand guy during the Van rebellion was killed during conflicts and based on the data we gathered, it became a turning point in Portukalian’s ideas on violence. From then on, more restrained methods would be preferred. The Young Turk Revolution of 1908 highly effected Portukalian. Now, the Armenians were to defend their rights in the Ottoman Empire through legal means within a certain framework of sovereignty. In the edition of “Armenia” of 1914, the “new situation” entailed the freedoms acknowledged by Portukalian and granted to the Armenians by the Young Turks. For Portukalian, an Armenia which was the enemy of the Ottoman Empire was unthinkable. Among the brochures in the same edition of the journal, “Vardapetan Hayastani Azatutyun” does not exist, but “Mi kağtek” (Don’t Migrate!) does. What exactly was in this booklet?

The answer to this question is found on page 178 of Frédéric Macler’s book entitled “Chrestomathie de l’Arménien Moderne”. In fact, Portukalian wrote the following in his brochure published in 1913 in Armenian: “After the Ottoman Constitution was declared again, the numbers of migrant Armenians returning to their Homeland (Turkish Armenia) did not increase as expected.

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30 Ibid, p. 78.

On the complete opposite, the freedom to travel caused a greater mass to migrate. While eleven percent of the Armenians returned to their Homeland, there was an increase of ninety percent in their migrations to America. Therefore, the number of Armenian, Turkish and Syrian migrants gathering in Armenian hotels<sup>31</sup>, which have increased in Marseille, with the purpose to travel to America, gradually increased... They did not know the language, they had no money, they only knew one or two people in America and expecting financial aid from them was doubtful. Under these conditions, they had to wait in Marseille for months”.

After mentioning the obstacles which the Armenians had to face in America, he continues in the following way: “when I started my journey towards Harput to return to Van in 1876 without passing through Diyarbakır and Bitlis and observed its fertile fields, the carters repeated with pride this Turkish proverb common among society: “*Harput plain is a golden lair*”<sup>32</sup>... Look on all sides and you will clearly see the development in Turkey. Perhaps all these are developing slowly and are not done all at once. Compare it to times far from us and you will be able to understand the progress in Turkey much clearer...”

This document is important from several aspects, because certain modesty appears within Portukalian’s policy he is carrying out. But at the same time the following is proven: The Armenians had exiled their selves before the First World War and in his brochure, Portukalian neither mentions the pressures exerted by the Turks, nor the imaginary massacres.

Let us add this: Some Armenians returned during the war, but as volunteers supporting the Russians... Despite all these, in his brochure and the edition of “Armenia” we are studying in general, Portukalian displays, of course to a certain extent, his good will.

But it was also possible to ask the following question to Portukalian: Why had Portukalian, who had suggested not migrating, not returned or was returning to Turkey?

Perhaps Portukalian was providing explanations on this in one of the editions of “Armenia. But it is certain that especially since 1908, it is possible to observe a certain softening in Portukalian’s approaches. The Armenakan Party became the Constitutional Ramgavar Party which he was not even an official member of. Among the parties in the committees that had found its

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31 There was even a “Kiği Hotel” in Marseille.

32 In the original Armenian text, it is written in Turkish. [communiqués-de-presse/2012/communiqué-de-la-presidence-de-la-republique.13037.html](http://communiqués-de-presse/2012/communiqué-de-la-presidence-de-la-republique.13037.html)

origin, it was the most moderate party, but we should not forget this: Privacy, little talking, forgetfulness and silence was among Portukalian’s methods. On the other hand, Diran Kelekyan, who was a Ramgavar, had actually supported the Armenians resorting to weapons 1,5 years before the Ottoman Empire entered the war. Did Diran Kelekyan, who was from the same party, have a connection with Portukalian? Let’s assume that he did; how were their relations? Why this conflict?

What was Portukalian’s stance on the Armenian volunteers? In the text of the “Mi kağtek” brochure, there is no mention of the volunteers gathering in Russia and preparing to strike Turkey.

If we perceive all these within the framework of the solidarity between the Armenians, our margin of error will most probably be small. Obviously it will be naïve of us to expect Portukalian to openly denounce the Dashnaksutyun Party’s two-faced behaviors, but still, “from silence comes acknowledgment”.

How could one know whether he didn’t act two-facedly? In conclusion, a certain softening in the political concepts of Portukalian is reflected in the “Armenia” edition we are studying.

Religious news is very important for Portukalian. The editor of “Armenia” extensively publishes news concerning the reforms of “Turkish Armenia”. The initiatives taken against the Armenians, despite being controversial, are still conveyed. The incidents happening in Russia are also not forgotten. Unsurprisingly, there are also information and news provided regarding the Armenian community in Marseille, but Portukalian had become a specialist in establishing secret organizations. At the end of our research, we also discovered the reason for the Ramgavar’s also being among those arrested in 1915.

Despite being his opponents, Portukalian also supported the other Armenian parties. Portukalian came from a background of terrorism and had advanced to much more restrained approaches at least outwardly. Anyhow, the wording of “Armenia”, compared to “Troşak” or “Hinchak”, was much softer.

In 1914, it was no longer possible for the editions of “Armenia” to encourage the Armenians in Turkey to rebel. We conveyed our observations until now, but let us not forget that “Armenia” was published in Marseille until 1923. The photographs we possess, although partially, constitute the time of war and the period after. Researching the developments in “Armenia” within this time frame will be the subject of another article.

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# THE CONCEPT OF GENOCIDE IN INTERNATIONAL LAW: WILLIAM A. SCHABAS' VIEWS ON 1915 ARMENIAN INCIDENTS

(MİLLETLERARASI HUKUKTA SOYKIRIM KAVRAMI: 1915 ERMENİ  
OLAYLARI AÇISINDAN WILLIAM A. SCHABAS'IN GÖRÜŞLERİ)

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**Abstract:** *The concept of genocide is a primary point of interest for Turkey, because of Armenia's chronic problem with implementation of that concept, with respect to the events of 1915. No consensus appears to exist, even in determining the proper context/s for having meaningful discussions in this regard: Law, history, politics and social sciences in general are "blended", and attempts are made to derive binding results -similar to a "res judicata" in law – from several selective and / or subjective arguments and attitudes of certain individuals and institutions. It is possible to observe a similar conceptual confusion in terms of treating historical events in the renowned book by William A. Schabas, entitled "Genocide in International Law", which is – rightfully- considered as one of most respectable treatise on genocide law. While one must pursue a proper methodological and functional analysis of historical events, attempts towards examination of historic events in terms of present laws, not applicable at the time of events, and attempts to extract binding effects from such efforts is difficult to understand. Moreover, this is being done, for example, without taking into consideration the counter claims - opposing views, or, without considering the whole picture. This article aims to draw attention to these contradictions.*

**Keywords:** *Schabas, genocide, law, politics, Armenian, 1915*

**Öz:** *Soykırım kavramı, Ermenistan'ın 1915 olayları bağlamında bu kavramla olan sorunu nedeniyle Türkiye'yi yakından ilgilendirmektedir. Tartışmaların hangi bağlamda yapılmakta olduğu konusunda bile tam bir karmaşa vardır. Hukuk, tarih, siyaset ve genel olarak sosyal bilimler "harmanlanmakta", kişi ve kurumların eğilimleri doğrultusunda, çeşitli iddialardan, hukuktaki "kesin hüküm" gibi, bağlayıcı birtakım sonuçlar çıkarılması çabaları bütün yoğunluğuyla sürmektedir. Soykırım hukuku alanında en saygın eserler*

*arasında bulunan, William A. Schabas'ın "Genocide in International Law" isimli kitabında da, tarihi olaylar boyutunda benzeri bir fikir karmaşasını gözlemlemek mümkündür. Tarihi olayların, tarihin işlevine ve yöntemlerine uygun olarak değerlendirilmesiyle yetinilmesi gerekirken, güncel hukuk açısından incelenip, hukuki açıdan bağlayıcıymış gibi sonuçlara ulaşılmasına yönelik yaklaşımları anlayabilmek güç olmaktadır. Üstelik bu, karşı iddialar dikkate alınmadan, resmin bütünü görülmeden yapılmaktadır. Makale, bu gibi çelişiklere dikkat çekmeyi amaçlamaktadır.*

**Anahtar Kelimeler:** Schabas, soykırım, hukuk, siyaset, Ermeni, 1915.

## Introduction

It is necessary to analyze the concept of "genocide" thoroughly, because there is an ongoing campaign against Turkey, based on a strategy to create a political dispute, and if that proves to be successful, then continue the campaign by carefully designed follow up claims, based on exploiting 1915 Armenian incidents. The concept of genocide, on the other hand, actually has political, judicial, military, historical, social, philosophical, humanitarian, moral, etc., various aspects that should be addressed.

As a general observation, it is a true that genocide as a phenomenon is as old as the mankind. However, I think it is impossible to accept the comments and evaluations that put aside the function of this statement as being mere a legal ground for new treaty law (1948 U.N. Convention on Prevention and Suppression of Genocide), and take this observation as a rationale for retroactive implementation of a new – emerging concept; overlook the existing provisions of special package of treaty law on 1915 incidents; make historic events subject matter to ex post facto laws and pretend to produce cases in non-judicial environments with the aim of devising certain opinions that are presented to common public as if enforceable awards.<sup>1</sup>

In this article, William A. Schabas' book entitled "Genocide in International Law" which is a respectable treatise in legal field and is accepted to be a basic source on genocide law will be analyzed. While the topics of the book are indicated below, the article will focus more on elaborating remarks relevant to the 1915 events. Considering international law as the most

1 Thus, Schabas too is on the side of consensus supporters that the countries should be interested in their own issues in the context of genocide which help to develop human right law within the framework of state sovereignty in the previous period. (Schabas, page 2, 18). This dimension brings to mind another question about Armenian question: What could be the legal stance of Armenia and ground in the question of conflict within the Ottoman Empire between Muslim and Armenian population?

significant aspect; the legal, historical and political dimensions of the genocide concept will also be considered.<sup>2</sup>

Schabas' book mainly consists of these parts:

- Introduction,
- Origins of the legal prohibition of genocide,
- Drafting the (1948) Convention and subsequent normative developments,
- Groups protected by the Convention,
- The physical element or *actus reus* of genocide,
- The mental element or *mens rea* of genocide,
- 'Other acts' of genocide,
- Defences to genocide,
- Prosecution of genocide by international and domestic tribunals,
- State responsibility and the role of the International Court of Justice,
- Prevention of genocide,
- Treaty law questions and the Convention,
- Conclusion.

## **GENOCIDE CONTROVERSY: GENERAL FRAMEWORK**

In many of the discussion platforms, the terms that participants use (law - history - politics...) are blurred, thus the related exchange of views may become irrelevant, mere an example of a dialogue of the deaf. In many circles, "genocide" terminology is used for political reasons and grounds, to influence a targeted audience.<sup>3</sup>

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2 Schabas, William A., *Genocide in International Law, the Crime of Crimes*, 2nd edition, Cambridge University Press, 2009, xviii-742 pages.

3 Although the reports of International investigation committee and the reporter of UN Human Rights Committee which attribute to the genocide activities on Tutsies in Rwanda, as the example of the term has been refrained to be used, not with the legal but political reasons, international society refrained from the usage of the genocide term and the record of this point is appropriate. (Schabas, page 9).



Applicable also to 1915 Armenian events, it is beneficial to highlight some points, which may serve as good guidelines for researches and discussions on genocide:

- Discriminating “the law in force” from “de lege ferenda”; and “res judicata” from an “opinion” or a new “bill”, is important. These nuances will apply on any legal analyses relevant to the concept of genocide.<sup>4</sup>
- Tendencies to treat various individual or institutional, political or legal opinions as if binding resolutions – judgments, to bear legal consequences are unacceptable. It is necessary to refrain from such assessments, claims, rhetoric and considerations as long as they could not be based on positive law and a final judgment by a competent court.<sup>5</sup>
- Subject to above reservation, for the purpose of social science research activities, there is nothing wrong with accepting certain presumptions, to include taking basis, for example, definitions of modern laws and regulations, treaty law, in analyzing historic events.<sup>6</sup> It would be a problem, though, if historical findings or conclusions were presented to the public as if legally binding documents. Legal sphere should not be confused with political, humanitarian or other academic spheres - functions, attitude and procedures.<sup>7</sup>

## ACADEMIC RESEARCH AND STUDIES

The author is not a historian. Acting on common sense, wisdom and general methodology of social sciences, he does not think it to be a correct course of action, categorically refusing anything that brings a different fact or perspective on 1915 Armenian events, with respect to Armenian or pro-Armenian claims. When some scholars turn a blind eye to the political

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4 Eg: The rule on the submission of a citizen who is blamed for the crime of genocide to another country (see: Schabas, page 478). According to Schabas, the emergence of the understanding and term genocide in the context of law is 1948 charter; not the Charter of International Military Tribunal in Nuremberg (Schabas, page 12).

5 Indicated point is valid in terms of the researches and assessments relating to the 1915 events. (Compare, Schabas, page 19-20, 43, 48-50, 87-88, 192-193, 199-200, 286).

6 Eg: The phenomenon of enforcing people to live in hard life conditions with the intention of genocide (Schabas, page 190).

7 For example, the term genocide has never been used consciously during the events in Rwanda, with the reasons and justifications of the UN Security Council during the period. These kind of differentiations and differences should be taken into account during the investigations and solutions on the 1915 events. (Compare: Schabas, page 171, 529, 551).

strategies of the major powers of the time against the Ottoman State (known as “the Eastern Question” – partitioning of Ottoman territories- in political history), their manipulating, organizing and encouraging domestic rebellions, armed activities, insurgency, massacre against Muslim population and attacking Ottoman armies, in collaboration with invading enemy armies, and all these taking place in the course of a World War, those works loose their credibility and convincing effects.<sup>8</sup>

Unilateral and selective approach to scientific issues, practices of double standard and bias cannot be compatible with a genuine scientific effort.<sup>9</sup> These kinds of campaigns should better be called as “political activism”.<sup>10</sup> Thus, 1915 Armenian events have been brought to the agenda in every opportunity as a matter of “hybrid” political-scientific (?) contention. I have experienced to observe examples of this, during some “scientific” gatherings.<sup>11</sup> Once the concepts “opinion” and “judgment”; “political perspective / scientific view” and “judicial verdict” are confused, it is impossible to come up with an accurate and an acceptable outcome.<sup>12</sup>

*When some scholars turn a blind eye to the political strategies of the major powers of the time against the Ottoman State (known as “the Eastern Question” – partitioning of Ottoman territories- in political history), their manipulating, organizing and encouraging domestic rebellions, armed activities, insurgency, massacre against Muslim population and attacking Ottoman armies, in collaboration with invading enemy armies, and all these taking place in the course of a World War, those works loose their credibility and convincing effects.*

## **GENOCIDE LAW: GENERAL OBSERVATIONS**

Notwithstanding many other complex dimensions, solely legal dimensions of the concept of genocide are complicated enough. Specific legal areas of expertise are almost totally different from each other. Some areas of legal expertise that comes instantly to one’s mind might be listed as indicated below:

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8 Eg: I think that, in the context of the air operations by NATO against Yugoslavia, the situation of war should be differentiated from genocide activities. In other words, “the other side of the medallion” is tried to be disregarded and this is not reasonable. (See: Schabas, page 195-197).

9 Eg: An implementation relating to the prevention of the exile of the population and other elements, To take into account the implementations and results in terms of the 1915 events. (Compare: Schabas, page 226-228, 258, 261, 265).

10 Eg: Schabas, page 118, in footnote 11, genocide term of Vahakn Dadrian.

11 For an example from the field of Diplomacy: Schabas, page 555-560.

12 Eg: Schabas, page 573-577.

- Public International law (law of treaties, customary law, international torts and state responsibility, succession of states, settlement of international disputes, jurisdiction of states, sovereign immunity...),
- Human Rights Law (right to life, individual security, right to fair trial, citizenship, right to property, freedom of thought, freedom of expression...),
- Criminal law (international crimes, applicable law, jurisdiction, individual criminal responsibility, command responsibility, international judicial cooperation...).

## CIVIL LAW - CRIMINAL LAW DISTINCTION

Civil law and criminal law distinction has a significant role on assessment of court decisions and in the study of genocide law, and in practice, even in cases where both branches of law may relate to the same event.<sup>13</sup> Here, one must be able to see the nuance between honoring a criminal court judgment as, for example, proof of relevant facts in a civil court, from assessing the responsibility of a state concerning the same incidents (planning / ordering / prevention / suppression...) by the same civil court, in the general context of international law and in the special context of the law of treaties.<sup>14</sup> The author considers International Court of Justice as a civil court, and in the context of genocide; for example, such a civil court may have no jurisdiction in establishing criminal responsibility of individuals or other entities. International Court of Justice's jurisdiction may cover such issues as state responsibility, relevant to genocide, and settlement of international disputes relevant to implementation or interpretation of the 1948 Convention. While the fundamental function of a criminal court is prosecution of crimes, a civil court's basic function is to determine tort liabilities. Subject matters of the both courts are of course inter-related, but their purposes, functions, legal concepts, principles and procedures are different.<sup>15</sup>

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13 Eg: Srebrenitza events. The events that many Bosnian Muslims have been killed constitute a judgmental issue both in the International Criminal Tribunal for the former Yugoslavia and International Court of Justice. The first one of these is a penal court and the second one is the legal court. In the first one criminal liability of the individuals, and in the second one state law liability is the subject of investigation. (See, Schabas, page 293, 315).

14 See: Schabas, page 192-193, 512-519.

15 It is possible to see some mental confusion in the work of Schabas; like other approaches the aim new crime by new interpretations. (Schabas, page xiii-xiv, 119, 491-492). In my opinion, the law of treaties, civil law and criminal law should be identified. The usage of the terms of Civil Law and the Criminal Law and the terms of international law may lead some incorrect legal assessments.

## DISCUSSIONS ON STATUTE OF LIMITATIONS

In order to discuss a case in terms of statute of limitations, firstly the core crime should have been defined as crime, and the related norms should have been put into effect, prior to, or at least at the same time with the procedural norms. Lifting the statute of limitations for a particular crime; for example, will not have a retroactive effect on the core crime itself. The author does not join some opinions that, after a statute of limitation have expired for a certain crime, due to a new treaty law, abolishing statute of limitations, will have bearing on the past cases.<sup>16</sup>

## HUMAN RIGHTS LAW

The development level that the human rights law has reached is admirable. However, placing human rights law categorically above all other branches of law –in my opinion- is unrealistic and unnecessary. Example: Broadening of criminal law concepts and definitions of crimes, based on human rights perspectives or norms.<sup>17</sup>

*When the aim, function and methods of science of history are considered, historic findings' probable legal consequences need to be carefully examined and comprehended.*

It could also be misleading, making a legal analysis by “blending” concepts of human rights law, international law, criminal law and criminal procedure law.<sup>18</sup> It is the same when some branch specific concept or interpretation methodology is applied in the context of a different branch of law.<sup>19</sup> For example, examining the preparatory work of a treaty as an interpretation method is limited to support certain findings and interpretations already have been concluded by other means.<sup>20</sup>

16 Compare: Schabas, page 489.

17 Compare: Schabas, page 117-120, 122-123. Both the protection of individuals and certain groups are related with the human rights law. On the contrary, it is important to understand there are significant elements in the complementary to the Criminal law. (Compare: İsvaç'in görüşü; Schabas, sayfa 157).

18 Eg: Schabas, [1948 As it is indicated in the Charter] the genocide crime always exists, regardless of looking at the local positive law; there will be no problems for the determined crimes that take part in international law.] (Schabas, page 483). Moreover, although there is no challenging decision in the 1948 Charter, it is impossible to implement the statute of limitations to the genocide crimes. (Schabas, page 486-487). I think this approach can only be implemented in the International Criminal Court [Rome] amendment.

19 For example, in the interpretation of treaties, unlike assumed, preparatory works has no importance. (See: Schabas, page 637. On the contrary, the author himself gave importance to the preparatory Works both in the dimension of History and legal.

20 Compare: Schabas, page 487-488.

## HISTORY AND LAW

When the aim, function and methods of science of history are considered, historic findings' probable legal consequences need to be carefully examined and comprehended. Even if there were consensus on a certain claim, event; in the legal context, those findings or conclusions will not have any legally binding effect. Therefore, in social sciences for example, a commonly used phrase, "clearly established historical facts", will not have the legal effect of a judgment; but on occasions, it might serve as a proof, in settlement of a legal dispute, before a proper judicial forum. Again, one should not confuse a belief, opinion or assessment with a judgment. The first one refers to an individual – subjective conviction; the second one is significant in the field of law and is binding.<sup>21</sup>

Serving as a justification in the emergence and putting into force of a new law, by some phenomena (examples: energy theft, crimes and torts committed in cyber space environment) is different from the implementation of that new piece of law to its historic – justification grounds, previous examples. Nevertheless, during real life practices, sometimes this may not be taken into consideration, because of some political and other reasons, out of legal sphere. In legal sphere, elements of the reasoning, like its historical background, official justification, if any; formulation of the norm, its entry into the force as a whole process, is different from other scientific areas' (such as history, philosophy, sociology, anthropology, political science...) special concepts and practices.<sup>22</sup>

## SCHABAS: HIS ATTITUDE TOWARDS THE 1915 EVENTS

Schabas, beginning with the preface of his work, describes the acts against the Armenians, the Jews, Roma people and the Tutsies, as three most dramatic cases of genocide and repeats this opinion in several other chapters.<sup>23</sup>

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21 Therefore, it is hard to defend the amendments which foresee the refuse of the undetermined phenomena by the the law competent authority and it does not comply with the freedom of expression and the freedom of speech. (Compare: Schabas, page 334.)

22 Compare: Schabas, page 17, 44, 86, 639-640. For example the "Holocaust" rhetoric is an incorrect qualification in terms of legally and technically. Thus, the claim, investigation and judgment in the period's law became "crime against humanity" (See: Schabas, sayfa 12, 583-584). Nevertheless, the basic phenomenon which is a ground qualification, the authorized international court and authorized local court the term "Holocaust" is appropriate. By taking into account the 1915 events, the intentions of transform the label of the "Armenian genocide" are vicious when international law and its implementations, strategic situations and the initiators of the mass destruction of the population in Anatolia are considered. (Ex: Vahakn N. Dadrian; Schabas, page 1, footnote 2).

23 Schabas, page ix, 15, 285.

We cannot see the legal basis of this general presumption in the treatise as to the legal assessment and qualification of those events; like reference treaty law, customary law, and a court decision. Considering large number of authors referenced, either Armenians or pro-Armenian individuals and entities who, to a greater extent, display bias, unilateral and selective attitude and base their examinations relating to a long series of events by only examining a small portion of intentionally selected events, appear having influenced the author.<sup>24</sup> His intensive participation in civil society activities deserves respect and appraisal. Such involvements, however, may often cause question marks as to the sensitive distinction of “scholarly work” and “political activism”.<sup>25</sup>

Political attitudes and initiatives against the Ottoman State following the World War I, relating to 1915 events, must be evaluated in their special and exceptional contexts. If there is to be a legal discussion, then looking for some final judgments by competent courts should have a priority over any other considerations.<sup>26</sup>

## ASSESSMENT AND CONCLUSION

When researching or discussing a question relevant to cases of genocide, to see the nuances between political, legal, historical and other contexts, is important, including legal consequences and effect. The work by Schabas that we have focused here surely deserves highest respect, with its contribution in the field of genocide law. On the other hand, when the methodology is considered in examining historic events, like that of 1915 Armenian incidents, like many other researches, one may see that, without exhausting all major references, a categorical conclusion has been reached

*The work by Schabas that we have focused here surely deserves highest respect, with its contribution in the field of genocide law. On the other hand, when the methodology is considered in examining historic events, like that of 1915 Armenian incidents, like many other researches, one may see that, without exhausting all major references, a categorical conclusion has been reached on 1915 events and subsequently, it has been introduced and accepted as one of the most three important genocides.*

24 Schabas, page 672-710. In order to have a different, scientific point of view, it would be better if the author could reach more sources in English. Examples: Kamuran Gürün, *The Armenian File*, K. Rustem & Bro. And Weidenfelt & Nicolson Ltd., London – Nicosia – İstanbul, 1985, xvii-323 page; Yusuf Hikmet Bayur, *Armenians*, (editors: Kemal Çiçek – Pınar Eray), Turkish Historical Society, 2010, viii-308 page; *Turkish – Armenian Conflict – Documents* (editors: Hikmet Özdemir – Yusuf Sarıay), TBMM Kültür, Sanat ve Yayın Kurulu, Ankara, 2007, xxx-540 page. When the sources with different finding/aspect on the 1915 events, the scientific research considered as incomplete.

25 Schabas, page x-xi.

26 Compare: Schabas, page 24-26.

on 1915 events and subsequently, it has been introduced and accepted as one of the most three important genocides.

In this regard, in addition to the conceptual confusion between law, history and politics; different branches of law are also confused with each other from time to time. Analysis based on such confusion of terms may often be misleading. The assessments on 1915 events constitute an example of this type of mislead.

In order to minimize this kind of inadequacies and misunderstandings, in my opinion, international activities, which follow scientific research methods, should be supported, in a determined manner. I submit that, any inconsistent activities and initiatives will be supporting the Armenian / pro-Armenian political strategy, aiming forcing Turkey to accept the Armenian claims.

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# DEHUMANIZATION IN CARTOONS: A CASE STUDY OF THE IMAGE OF THE TURK IN ASBAREZ NEWSPAPER\*

(KARİKATÜRLERDE DEHÜMANİZASYON:  
ASBAREZ GAZETESİ ÖRNEĞİNDE TÜRK İMGESİ)

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**Abstract:** *The most primitive method of “othering” is dehumanization which is a psychological mechanism that transforms the enemy into an object that is to be hated. During this process the enemy is stripped from any human attributions, devalued and humiliated which eventually helps group cohesion. Most well known forms of dehumanization can be seen in WWII era which can also be categorized as a psychological warfare strategy. Media assists as a tool in spreading the perception of dehumanization, construction and sustainability of national identities. In this regard, the image of the “Turk” is widely represented in Asbarez newspaper cartoons which also demonstrate traces of dehumanization.*

**Keywords:** *dehumanization, cartoons, image, political psychology, Asbarez*

**Öz:** *Ötekileştirmenin en ilkel şekli olan dehümanizasyon (gayri-insanileştirme), sosyalleşme sonucu düşmanı nefret edilecek bir nesneye dönüştüren psikolojik bir mekanizmadır. İnsani özelliklerinden sıyrılan düşman bu süreçte değersizleştirilip, aşağılanarak büyük grubun bir arada varlığını sürdürmeye yardımcı olur. Tarihte özellikle İkinci Dünya Savaşı döneminde uygulanan dehümanizasyonu bir çeşit psikolojik savaş yöntemi olarak da tanımlamak mümkündür. Medya dehümanizasyon algısının yaygınlaşmasında, milli kimliğin inşasında ve sürekliliğinde etkin bir araç olarak kullanılabilir. Bu doğrultuda Asbarez Gazetesi'nin incelenen tematik karikatürlerinde Türk imgesi önemli bir yer tutmakta ve gayri-insanileştirmenin izlerini taşımaktadır.*

**Anahtar Kelimeler:** *dehümanizasyon, karikatürler, imge, politik psikoloji, Asbarez*



Every individual has a different story generated by memories. Similar to that of individuals, large groups also have stories generated by the stories of the individuals belonging to the group. These can be defined as the manifestations of a collective mind and consciousness bringing together history, traumas, perceptions, customs, traditions and literature. This collective consciousness that shapes the identity is partly acquired from past generations through inter-generational transmission or learned through the long process of individual socialization. Crenshaw notes that identity is found collectively and cannot be separated from historical circumstances.<sup>1</sup> Socialization, one of the main functions of media, can be defined as

*The ritual of dehumanization or dehumanizing the enemy or “other” could be explained as transforming it into a demon and an object that is to be hated. In other words it forges hatred.*

individuals’ process of adjusting to the society and the social structure they live in. In the course of this process, the individual learns the norms and values embraced by the society through his/her environment. While socializing, the individual reaches various judgments concerning his/her own identity by identifying with the values of his/her family and society and internalizing the history of the community.<sup>2</sup> This process takes place at an earlier stage in life. Adolescents tend to develop their identity during these tough

years.<sup>3</sup> Through socialization children and adolescents first learn about their own group then about enemies and allies. This is a time when individuals learn and distinguish the familiar from the unfamiliar, incorporating specific elements of national identity.<sup>4</sup>

The process of identity building and socialization enables individuals to define the concept of enemies and allies can with sharp distinctions. Most importantly, individuals identify with certain groups mainly ethnic, national or religious during the identity building process. As a result of the social and political circumstances the members of one group can apply the most primitive method of othering which is defined as “dehumanization”. The ritual of dehumanization or dehumanizing the enemy or “other” could be explained as transforming it into a demon and an object that is to be hated.

1 Martha Crenshaw (2004) “The Psychology of Political Terrorism”, *Political Psychology: Key Readings*, John J. Jost, Jim Sidanius /Eds.), New York, Psychology Press, p.419.

2 Richard M. Merelman (1972) “The Adolescence of Political Socialization”, *Sociology of Education*, Vol 45, s.135.

3 Erikson describes the stages of identity and crises. For further details please see Erik H. Erikson (1980) *Identity and the Life Cycle*, New York, W.W. Norton and Erik H. Erikson, (1968) *Identity: Youth and Crisis*, New York, W.W. Norton

4 Robert S. Robins, Jerrold M. Post (1997) *Political Paranoia: The Psychopolitics of Hatred*, New Haven, Yale University Pres, p.90.

In other words it forges hatred.<sup>5</sup> Dehumanizing the individual or group is the result of their perception being shaped in the human mind. The enemy can sometimes be devalued by being depicted as a bird which represents weakness, or a snake which represents betrayal. In this context, the process of dehumanization can be described as a type of a psychological operation with the purpose of discouraging and weakening the targeted group by devaluing them. Attempts of dehumanization directed towards the target group necessarily glorify those groups that are applying this process by describing them as clean, pure, and humane and obtain superiority. In conveying this message to the society the depictions which dehumanize a group and the press, as an instrument of socialization, play a great role. Sometimes cartoons are much more striking in a way that they can guide and shape social perceptions more than columns, articles or news. Due to the visual characteristic, sometimes cartoons are much more effective than columns. Similarly, Massis Araradian's cartoon column in Asbarez appeals to the Armenian Diaspora in the US and seems to construct and reflect the Diaspora's judgments regarding the Turks. This article will examine the image of the Turk and the depiction of Turkey in the cartoons published in Asbarez Newspaper from 2007-2008.

### Asbarez Newspaper and Massis Araradian's Cartoons

Asbarez Newspaper could be regarded as an tool of socialization raising awareness within the Armenian-American Diaspora and instilling the norms and values foreseen by the Armenian Diaspora. Furthermore, Asbarez Newspaper is the official publication of a specific political movement, the ARF (Armenian Revolutionary Federation). As the publication of the ARF (Dashnaktsutyun), Asbarez criticizes contradictory political views and channels its readers towards the official ARF political view.

Asbarez Newspaper, which means "Arena" was first published in Western Armenian in August 1908 in Fresno, California. During its first years, Asbarez continued its publication as a weekly newspaper. Since 1970, the newspaper is published bilingually –English and Armenian-. The renovation to publish in English has been a necessity arising from the complexities regarding language and identity faced by the Diapora youth. Various authors have mentioned that the younger-generation Armenian-Americans are not willing or able to learn sufficient Armenian.<sup>6</sup> Considering the developments

5 David Patrick Houghton (2008) *Political Psychology: Situations, Individuals and Cases*, New York, Routledge, p.173.

6 Alice Kassabian, (1987) "Armenian Ethnic Identity Within the Context of Traumatic Loss", unpublished dissertation, The Catholic University of America

in advanced communication technology and the changes within the Armenian Diaspora, Asbarez started publishing its online edition in 1997 and currently has evolved into an interactive news portal using social media besides the print edition<sup>7</sup>.

Perhaps the most important point is that the publication policy of Asbarez Newspaper is closely related to the ARF (Armenian Revolutionary Federation) or the Dashnaksutyun which has an official link with the newspaper.<sup>8</sup> A great majority of the Armenian media in the US and Canada are overseen by Hunchak and Dashnak organizations. Asbarez, which publishes within the context of the Dashnak ideology, is the third oldest newspaper among 17 Armenian newspapers published in the US<sup>9</sup>. The aim of the Armenian organizations in the US and Asbarez Newspaper is maintaining the Armenian identity, culture, history and ethnic attributes against the adopted US identity and globalization, along with creating and sustaining a public opinion on 1915 events as genocide. The news covered by Asbarez indicates that it aims to mobilize the Armenian community against the denialist Turkish stance.<sup>10</sup> The ARF, having official links to Asbarez describes itself as an advocate of Armenian nationalism and is active in 200 countries in which the Diaspora exists. According to the organization, its primary official goals declared as official are to determine the borders and establish an independent and united Armenia based on the Treaty of Sevres, to obtain international recognition and condemnation of the Armenia “genocide” and request the returning of occupied lands<sup>11</sup>. Moreover, the official primary goals of the AYF (Armenian Youth Federation), the youth branch of the ARF, are to prepare the Armenian youth for future membership in the ARF, to call on them for active involvement in the Armenian community and to work towards the establishment of a united, free, and independent Armenia<sup>12</sup>. An examination of Asbarez indicates that news is created by the influence of these goals.

The cartoon column constitutes another important part of the newspaper. The cartoons drawn by Massis Araradian should not be considered any different

7 About Asbarez Armenian News, <http://asbarez.com/about/>, retrieved: 15 May 2011.

8 For Asbarez’s centenary history and its connection with the ARF see: Paul Chaderjian, “Looking Back 100 Years”, [http://www.facebook.com/note.php?note\\_id=21676204594&ref=mf](http://www.facebook.com/note.php?note_id=21676204594&ref=mf), ARF-D Brief, [http://www.arfd.info/wp-content/uploads/2011/03/ARF\\_Brief-14-March-2011-A5.pdf](http://www.arfd.info/wp-content/uploads/2011/03/ARF_Brief-14-March-2011-A5.pdf), retrieved: 15 May 2011.

9 Şenol Kantarcı (2007) *Ermeni Lobisi*, Ankara: Lalezar Bookhouse, pp. 128-129.

10 For a recent news please see: Collapse of Turkey’s Genocide Denial Topic at ANCA-WR, <http://asbarez.com/100497/collapse-of-turkey%e2%80%99s-genocide-denial-topic-at-anca-wr-town-hall/>, Asbarez, retrieved: Jan 26, 2012.

11 About ARF, <http://arf1890.info/AboutARF/AboutARF.html>, ARF Program, <http://arf1890.info/AboutARF/PDF/ARFProgramEnglish.pdf>, retrieved: May 16, 2011.

12 AYF Goals, <http://www.ayf.org/AboutUs/Goals/tabid/54/Default.aspx>, retrieved: May 16, 2011.

than the policy of the newspaper. Araradian indicates that generally, his drawings are related to the Armenian “genocide”, the events regarding Armenia or the daily problems experienced by American Armenians. Araradian’s cartoons support his own statements. By stating that the guiding principle in his works is Armenianness, 80 year old Massis, who has been drawing cartoons for Asbarez since 1976, has said in an interview “soldiers fight Turks with their guns, I fight with my pencil”<sup>13</sup>. Upon studying Araradian’s cartoons for Asbarez, it could be inferred that he does in fact convey his views with his pencil and conducts political satire through his artwork.

Within this framework, the cartoons and news of Asbarez, reinforces the mutually dependent “Armenian Genocide” and “Turkish Hostility” theses as a glue to keep the group and identity together. Apart from the artistic style of the cartoons, it could be suggested that they function as a psychological mechanism. When studying the cartoons of Asbarez, a sense of devaluation and dehumanization can be found in cartoons pertaining the genocide theme.

### **Dehumanization: A Psychological Mechanism**

First “us” and “other”; in other words, the concepts of enemies and allies must be discussed in order to describe the concept of dehumanization. Group identities sharing common attributes have naturally developed over time and have emerged as a result of historical processes, geographical features, mythological origins and common/shared features<sup>14</sup>. This identity creates the feeling of being “us” amongst the individuals belonging to the group. Ethnic identity, considered as the core identity, is also shaped under the influence of historical processes. In this context a major trauma which Volkan categorizes as a chosen trauma that is shared in the collective historical mind of the large group is an essential part of large group identity which can have a huge impact on the individual members of that group.<sup>15</sup>

The phenomenon of “us” could best be described in contrast to the concept of the “other”. The “other” is highly important for large groups or in other words, for nations. The notion of the other is subconsciously critical for the construction and sustainability of ethnic identities. The other enables the

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13 Shahan Sanossian, “The pencil is mightier than the sword”, *The Armenian Reporter*, February 23, 2008, <http://www.reporter.am/index.cfm?objectid=20A1B3FC-5FD3-11DE-84170003FF3452C2>, retrieved: May 20, 2011.

14 Vamik Volkan (1997) *Bloodlines: From Ethnic Pride to Ethnic Terrorism*, New York: Farrar Straus and Giroux, p.22.

15 Vamik Volkan (1997) *Bloodlines...*, p. 48; Vamik Volkan (2004) *Blind Trust*, Charlottesville, Pitchstone Publishing, p. 47.

individual and large group to define itself as well as to protect the identity against its enemy<sup>16</sup>. Each nation or large group struggles to stay alive and societies are formed by a binding purpose. A way to assure in-group cohesion is to create a purpose in relation to the “other”.<sup>17</sup> Freud has made the following comparison about the perception of the other and large groups: “Every time two families become connected by marriage, each of them thinks itself superior to or of better birth than the other. Of two neighboring towns each is the other’s most jealous rival; every little canton looks down upon the others with contempt. Closely related races keep one another at arm’s length; the South German cannot endure the North German, the Spaniard despises the Portuguese. We are no longer astonished that greater differences should lead to an almost insuperable repugnance, such as the Gallic people feel for the German, the Aryan for the Semite, and the white races for the colored” .<sup>18</sup> This resonates in the Arab-Israeli conflict. For instance it is very common in Anatolia where the residents of Tarsus feel superior to those of Mersin and residents of Develi feel different than those of Kayseri. For that reason even groups that seem almost the same from outside have the need to Express their difference.

*Each nation or large group struggles to stay alive and societies are formed by a binding purpose. A way to assure in-group cohesion is to create a purpose in relation to the “other”.*

Alford<sup>19</sup> states that externalizing, humiliating, ridiculing, overlooking or criticizing an outside group develops in-group cohesion and such a feeling serves as a glue that keeps groups as small as families to as large as nations together. The existence of the “other” improves in-group ties and cohesion because the created or real “enemy” eventually becomes a necessity to define the identity. Sometimes eliminating the “enemy” will not be desired by the large group in order to preserve the current conflict. The need for an “enemy” which could easily be influenced by especially narcissist leaders not only satisfies the needs of group identity, but also the psychological requirements of individuals.<sup>20</sup> If a member of a group is confronted with an individual or

16 Dominique Schnapper (2005) *Sosyoloji Düşüncesinin Özünde Öteki İle İlişki*, translator: Ayşegül Sömezay, İstanbul: Bilgi University Publications, p. 137.

17 Howard F. Stein, “The Indispensable Enemy and American-Soviet Relations” in Vamık D. Volkan, Demetrios Julius, Joseph V. Montville, (1990) *The Psychodynamics of International Relationships* (Eds.) Vol I, Massachusetts: Lexington Books, p. 71; Rafael Moses, “The Perception of the Enemy: A Psychoanalytic View”, *Mind and Human Interaction*, Vol 7, No 1, p. 39.

18 Sigmund Freud (1949) *Group Psychology and the Analysis of the Ego*, 5th ed., Translated by: James Starchev, Lonfon, Hogarth Press, p.55.

19 Fred Alford (1994) *Group Psychology and Political Theory*, New Haven Yale: University Press, p. 29.

20 Jerrold M. Post (2004) *Leaders and Their Followers in a Dangerous World*, Ithaca: Cornell University Press, p. 106.

group perceived as an enemy/threat, that member could attribute all evil and detested traits to that “enemy”. For instance individuals as well as large groups tend to blame others for their own mistakes and failures. It is also common for large groups such as nations to forget their own mistakes and blame others for making the same mistake. With such a method of projection, the individual may feel purified and perceived as “good”, while the enemy is perceived as “bad” and scapegoated. As a result of this, the enemy could be devalued, attributed with monstrous traits and dehumanized.<sup>21</sup>

According to Moses, opposite groups in a conflict (for instance war, a conflict or hostility) enter a phase of denial where they reflect the negative sides of themselves to each other, sometimes adorned with imaginary and sometimes with real attributes. One of these psychological mechanisms is dehumanization or in other words humiliating, devaluing and stripping the individual from human attributes. Moses explains dehumanization as an individual or group acting inhumanly to another group or person who they perceive as the other in order to strip them of self-respect and humanity. In a situation like this, the person or group carrying out the dehumanization process has already lost their humane and emotional attributes, because otherwise it is not possible to act in such a cruel manner to another. Moses states that in order for a group to dehumanize another, first a psychological projection of negativity towards the other has to take place<sup>22</sup>. More importantly dehumanization does not occur all of a sudden but rather is the last and dangerous stage psychological regression.<sup>23</sup> At this stage, ideologies are also a factor leading a group to dehumanization or war crimes. The ideology mentioned here could sometimes be a “national cause”.

According to Haslam, dehumanization is denying human attributes to others. Haslam indicates that this process is seen mostly in ethnic and racial conflicts.<sup>24</sup> According to another definition, dehumanization is the most extreme dimension of prejudice and occurs in everyday life. For instance, individuals or groups perceived as the “other” are equated to animals or machines and are attributed with non-human characteristics like greedy, thief, murderer, and rapist<sup>25</sup>.

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21 Ervin Staub (2009) *The Roots of Evil*, 20th ed., Cambridge, Cambridge University Press, p. 48.

22 Rafael Moses, “On Dehumanizing the Enemy” in Vamik D. Volkan, Demetrios A. Julius, Joseph V. Montville (1990) *The Psychodynamics of International Relations* Vol I, Massachusetts: Lexington Books, pp. 112-113.

23 Vamik D. Volkan, *Blind Trust*, p. 72.

24 Nick Haslam, (2006) “Dehumanization: An Integrative View”, *Personality and Social Psychology Review*, Vol 10, No 3, p. 252.

25 Nick Haslam, Stephen Loughnan, Catherine Reynolds, Samuel Wilson (2007) “Dehumanization: A New Perspective”, *Social and Personality Psychology Compass*, Vol 1, No 1, p. 410.

Hart and Hassencahl<sup>26</sup> refer to 12 different categories of dehumanization. These are:

1. Enemy as animal: Cartoons display the perceived enemy in loathsome animal images. For example, a mouse, insect etc.
2. Enemy as harasser of women and children: Images like oppressed women are used. For example, cartoons of Taliban and Afghan women.
3. Enemy as torturer of prisoners: Displaying civilians or soldiers as being tortured by the enemy.
4. Enemy as barbarian: In this situation, the cartoon displays the enemy as primitive, violent and uncivilized.
5. Enemy as criminal: In these types of cartoons, the enemy is illustrated as a criminal. For example, in a prison or on wanted posters.
6. Enemy as greedy: In these cartoons, the enemy is displayed when seizing the properties owned by others like money and land.
7. Enemy as enemy of God: In these types of cartoons, the enemy is depicted as insulting Godly and specifically Christian religious symbols.
8. Enemy as death: In this situation, cartoons display the enemy as being equal to death through for example skeletons and Azrael.
9. Enemy as faceless: In this situation, cartoons do not completely show the enemy's face and some of the facial features are either missing or indistinct.
10. Enemy as aggressor: In this situation, cartoons display the enemy as carrying swords, weapons and similar equipment or in military uniforms.
11. Enemy as an abstract image: Here, cartoons show the enemy as partially abstract or as unrealistic objects. For example, a robot, smoke etc.

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26 William B. Hart, Fran Hassencahl, "Dehumanizing the Enemy in Editorial Cartoons", Bradley S. Greenberg (2002) *Communication and Terrorism*, Cresskill, New Jersey: Hampton Press, p. 143-144.

12. Enemy as human: In this situation, cartoons display the enemy but are only viable if not shown in one of the above-mentioned categories. In other words, these are cartoons in which the enemy has not been dehumanized.

The categories mentioned above could be classified as the psychological, moral and physical distances developed between humans. Various studies have shown that dehumanization first takes place when individuals develop these distances with the “other”. For instance, according to Haslam, a psychological distance emerges with nicknaming and classifying the opposite group and this situation creates a social distance among the opposite groups<sup>27</sup>. Naming the Japanese in the US during World War II “Japs” or calling Muslims and Middle Asians “terrorists” during the Second Gulf Crisis and after September 11 are examples of psychological distance. When another group is excluded, a distinct line between two groups is drawn. This line protects the group identity from external threats. On the other hand, moral distance signifies conditions in which religious elements are influential. Based on this classification, a group regards another group which it perceives as the “enemy” as evil and considers every misdeed done to that group as moral and just. On a moral distance, the group dehumanizing the enemy considers itself as the chosen, having higher moral values and better. For instance, the Holocaust in Nazi Germany lies in the moral distance category. In such a case, it is easier for rival religious groups to perceive themselves in a higher status than the other and even legitimize any terrorist activity against the other group as just. Third of all, the physical distance represents the physical proximity and distance between groups. A person inflicting violence or murdering another individual perceived as the enemy is much easier when there is greater physical distance between them. In fact, bombing people who are seen like ants looking below from war planes is psychologically easier to do than shooting a person from a shorter distance, because humans cannot easily commit violence on other humans who are perceived similar to themselves.

These three different categories have been proved in Milgram’s experiment. In his lab experiment, Milgram gave instructions to the experimental subjects to apply electric shocks to a person without seeing them. Milgram’s experiment demonstrates the psychology and motivations for inflicting violence of those followers not being able to resist authority. The subjects have continued inflicting violence as the instructions of those administering the experiment continued and as long as they did not see, nor hear the voices of those they gave electric shocks to. This example, demonstrates that it is

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27 Nick Haslam, “Dehumanization ...”, p. 262.



easy to dehumanize another person who maintain a psychological and physical distance.<sup>28</sup>

Since dehumanization applies methods of humiliating and devaluing by stripping an individual or group from human attributes, this mechanism could also be categorized as a method of psychological warfare. A psychological operation or in other words, a psychological war “is not only a method of winning the war, but also of achieving peace after war”<sup>29</sup>. Since the First World War, besides an armed conflict, psychological operation/warfare as an unarmed method has also been applied to change the attitude and behavior of hostile or friendly countries/nations. In the present day developments in mass communication and social media provide an opportunity to broadcast wars live which is becoming more popular in contrast to a costly war conducted with tanks, rifles and artillery. Therefore, the developments in mass communication technologies result in a wider influence in the community. This also indicates of a new world order and a bloodless new war strategy. With its new name, psychological operations are planned operations conducted by conveying selected messages to influence the emotions, motives and objective reasoning of target groups along with the attitudes of foreign governments, organizations, groups and individuals. The aim of psychological

*The aim of psychological operations is to change the attitude and behavior of others in such a way that is favorable to the interests of the person conducting the operation. Psychological operations are a significant part of American diplomatic, communication, military and economic activities. They are used during times of conflict or peace time, to inform and influence.*

operations is to change the attitude and behavior of others in such a way that is favorable to the interests of the person conducting the operation. Psychological operations are a significant part of American diplomatic, communication, military and economic activities. They are used during times of conflict or peace time, to inform and influence.<sup>30</sup> Whether civil or military, psychological operations are conducted in both cases by widely utilizing instruments of communication. Just as printed, oral and visual media, psychological operations are applied in various other fields including branches of art (music, cinema, theater, art, and sculpture), academics, sports,

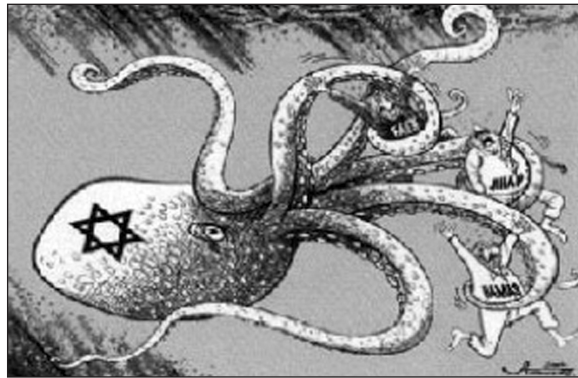
28 Stanley Milgram, (1973) “The Perils of Obedience”, *Harper’s Magazine*, p.6, <http://iniland.com/AP%20Psych%20Documents/Ch%2013%20-%20Milgram%20Study.pdf>, retrieved: May 20, 2011.

29 Ümit Özdağ (2010) *İstihbarat Teorisi*, 3rd ed., Ankara: Kripto, p. 238.

30 *Doctrine For Joint Psychological Operations*, Joint Publication 3-53, 5 September 2003, p. 10, <http://www.iwar.org.uk/psyops/resources/doctrine/psyop-jp-3-53.pdf>, retrieved: 17 November 2011.

technology, and literature. In this context, dehumanization, as a method which gives moral support by glorifying the group and demoralizing the individual or groups regarded as the enemy, is an important part of psychological war. Khan explains dehumanization as a psychological operation which transforms the enemy into an insignificant object by eliminating its human attributes and making it much lower/worthless than a human<sup>31</sup>.

Dehumanization, targeting groups belonging to a different race, nation, religion and culture<sup>32</sup> is a mechanism commonly seen since the Middle Ages. An example of otherization and dehumanization of the group perceived as an enemy is the witch hunts during the Middle Age. Some sources classify the treatment of American Indians, the McCarthy period in the US, the Bosnian War and the tortures taking place in the Abu Ghraib prison in Iraq as dehumanization. In fact, it is also possible to consider the videos of the former Libyan leader Qaddafi's murder within this framework. Although this mechanism has different stages, regarding its consequences, its most intense form has been seen in Nazi Germany. The Nazi propaganda has portrayed a dirty and bad image of the Jews by depicting them in animal images on various propaganda posters and newspaper cartoons.<sup>33</sup>



### Asbarez Cartoons

Based on the categories mentioned above, 50 different cartoons published in the Asbarez Newspaper in 2007 have been analyzed. Of the cartoons

31 L. Ali Khan (2006) *A Theory of International Terrorism: Understanding Islamic Militancy*, Martinus Nijhoff Publishers Brill Academic: Leiden, p. 119.

32 Khan, *Ibid.*, p.119-120.

33 *German Propaganda Archives*, Calvin, <http://www.calvin.edu/academic/cas/gpa/ww2era.htm>, Retrieved: Jan 04, 2012.

examined, 4 of them are related to religion, 11 of them to “genocide”, 12 of them to Armenian politics, and 8 of them to US politics. Although some of these cartoons are related to politics, they indirectly seem to be related to the idea of “genocide”. 15 of the cartoons entail symbols (like flags, leaders, elements of culture, nation and religion) which represent the Turks or Turkey. The topic of this article, the image of the Turk, will respectively be examined in these 15 cartoons.

The cartoon dated January 20 (Image-I) illustrates a genocide train with “1915” written on it and a person with a flag wearing a jacket carrying the star and crescent which signifies the Turk. It could be seen that this person, understood to be a Turk, drops the sword in his hand in surprise when he sees the genocide train. The underlying message of this cartoon might be that the “genocide” claims will continue until Turkey recognizes these claims and genocide claims will eventually hit the Turks like a train coming from nowhere. On the other hand, in the cartoon of January 27, the picture of Prime Minister Erdoğan is illustrated in front of a photo of the assassinated journalist Hrant Dink’s funeral service and it has been conveyed as if Erdoğan is shedding crocodile tears. However, it could be seen that these tears are actually bullets. This cartoon implies that Erdoğan and therefore Turkey is not upset with the assassination of Dink and is just putting a show for the world. The cartoon dated March 3<sup>rd</sup> (Image-II), illustrates a crowded group. Upon carefully studying this group, it is evident that the illustration is different than Massis’s other drawings. The people have been drawn in mustaches, beards and cloaks evoking the outfits of the Ottoman period. The crowd is illustrated carrying posters stating “We are all Talat, we have been learning this like this for 90 years” and there is an individual walking with a sword in his hand. This cartoon not only evokes the traditional image of the Turk but also implies that modern day Turks are no different than Ottomans. More importantly this cartoon represents the association between the image of Talat of the C.U.P and the image of Turks. The cartoon dated February 10<sup>th</sup>, President Abdullah Gül is portrayed with a jacket with a star and crescent on it and the 1915 events have been emphasized. This cartoon implies that current administration is responsible of the genocide claims. The cartoon of February 17 (Image-3) expresses that article 301 of the Turkish Constitution constitutes an obstacle for Turkey’s membership to the European Union. In this cartoon, the mustached Turk is standing in front of the European court wearing a caftan and carrying a sword. This cartoon implies that Turks and democracy have no connection; Turks are backwards Oriental and therefore have no part in the E.U. The cartoon of March 10<sup>th</sup> depicts the Lausanne court and politician Doğu Perinçek. In the cartoon, Perinçek has been portrayed with a star and crescent on his tongue and the cartoon conveys the idea that “no matter how much Perinçek blandishes, he will not be

successful”. Furthermore, the cartoon of May 5<sup>th</sup> portrays the news coordinator of Los Angeles Times Douglas Frantz and Frantz’s supporting stance towards Turkey in regards to the Armenian question. Allegedly Frantz censored an article by Mark Arax, a commentator of Armenian origin. Frantz, who was pressured by the Diaspora to resign, is illustrated with a fez and jacket containing the star and crescent and the cartoon has implied that he is “a friend of Turkey” or “denier”. This cartoon implies that Turkey has close ties with some journalists and pressures them to express opinions in line with the Turkish stance, but the Diaspora is quick to respond. By addressing Turkey-EU relations, the cartoon of June 2<sup>nd</sup> (Image-4) depicts Turkey’s political maneuvers against the European Union’s term President Sarkozy. In the cartoon, a belly dancer with the star and crescent on her body is dancing in front of the door of the E.U and the caption states “what is this woman dancing for”. This cartoon is very significant in portraying the image of the Turk in Armenian perception. The cartoon implies that Turkey is not a trusting country with a low self pride and can do anything possible just to be included in the E.U. The cartoon dated June 23<sup>rd</sup> (Image-5), portrays President of Azerbaijan Ilham Aliev carrying a sword and axe, whereas the cartoon of June 26<sup>th</sup> displays former President Ahmet Necdet Sezer wearing a jacket with the star and crescent on it and carrying a briefcase running away from the stones raining over him written “Sarkozy” written on them. The cartoon of June 23<sup>rd</sup> clearly reveals the unconscious connection between the image of the Turk and murderer, perpetrator and aggressor. The cartoon dated September 1<sup>st</sup> illustrates Ilham Aliev attacking Christian religious symbols with a sword and axe in his hand. The cartoon of September 8<sup>th</sup> depicts President Abdullah Gül as reading a newspaper article concerning the Armenian relocation in 1915. The cartoon of November 3<sup>rd</sup>, illustrates former US President George W. Bush and Prime Minister Tayyip Erdoğan in a discussion to reach an agreement. While Bush is carrying a bunch of flowers in his hand, Erdoğan is portrayed in a woman’s outfit dancing in front of President Bush. This cartoon implies devaluation against the Turks and suggests that Turkey cannot be trusted, can do anything possible to get assurance from the U.S. Last of all, the cartoon of November 10<sup>th</sup> (Image-6) refers to Prime Minister Erdoğan again referring to a connection to the National Press Club. In this cartoon, Erdoğan has been conveyed as Pinocchio. This cartoon infers that Turkey and Turkish Prime Minister Erdogan cannot be trusted and is a liar.

*Apart from elements of dehumanization and devaluing of the Turk and Turkey in Massis’ cartoons published in Asbarez, it is also interesting that an orientalist viewpoint is dominant. In this context, the image of the Turk and Turkey in the cartoons published in Asbarez Newspaper is identified with the Ottoman image.*

It is striking to see that there is a devaluing image of the Turk and Turkey in the cartoons examined. Apart from elements of dehumanization and devaluing of the Turk and Turkey in Massis' cartoons published in *Asbarez*, it is also interesting that an orientalist viewpoint is dominant. In this context, the image of the Turk and Turkey in the cartoons published in *Asbarez Newspaper* is identified with the Ottoman image. The emphasis that the Turks are murderers is reinforced through the images of swords and axes. The point that should be underlined here is that the Azerbaijanis and Azerbaijan are identified with the image of the "Ottoman"/Turkish as well; in other words, there is no difference between Azerbaijan and Turkey for the Armenian Diaspora. Therefore, Turks are devalued and dehumanized due to their national identities. A psychological distance is projected in Massis cartoons. The Turkish image is conveyed in the cartoons through the image of an "oriental" with mustaches and beards and most often illustrations of swords and blood have been added. Within this framework, a distinctive psychological distance is observed between the Armenians and Turks. By conveying Turks as "murderers" in the cartoons, the cartoonist implies the inferiority, inhumanity and immorality of this group. Images of swords and axes –which are both related to perceptions of Turkey and Azerbaijan- suggests that the Turks are barbaric. It could be said that images of swords, axes and massacres are conveyed in order to remind the Diaspora Armenians about the 1915 events. Hence the main motivation of the Diaspora is to "never forget". Eventually these cartoons manifest that Diaspora Armenians are not able to mourn their losses and in light of such reminders they might actually not be interested in doing so. Although only some of the cartoons are directly related to the Turk and Turkey, it seems that all of *Asbarez's* cartoons are somehow related to the "genocide" issue. From this aspect, cartoons are very significant for the continuity and re-construction of collective memory. In cartoons where the negative image of the Turk is identified with "murderer", "barbarian" "victimizer" and "liar", which is the complete opposite the image of the Armenian is represented as "innocent", "sacred", and "good". From this perspective, while the image of the Turk is presented as worthless and devalued, the Armenian image is conveyed as valuable and carrying human attributes.

One major point not to be missed is that these cartoons mentioned are published by the extreme nationalist Diaspora press where identity is much more vital and symbolic than the homeland. Diasporas try to identify with where they have migrated to, on the other, they live longing for the territories they abandoned by forced or voluntary migration. Therefore it is common for the Diaspora communities to have the feeling of having caught in the middle, not belonging to anywhere. It is also not surprising that there is a

high perception and obsession of realistic or perceived threats of the other<sup>34</sup>. Therefore, rather than being directed at the targeted group, the above-mentioned cartoons are essentially directed inwards at Diaspora itself. In fact the image of the Turk entails psycho-social messages for the Armenian Diaspora. All of these messages could be considered a component of psy-ops and perception management techniques aimed inwards at the Diaspora.

Individuals are likely to use methods of projecting their unconscious through their artwork. In this sense it can be concluded that Massis trying to reprimand Turkey and Turks with his cartoons.

## Conclusion

The ongoing disputes concerning the Turkish-Armenian conflict<sup>35</sup> are generally related to the criticisms of the Turk's propaganda against the Turks. Similarly, Asbarez Newspaper, with its publication policy, articles and cartoons, could also be regarded as the Armenian's propaganda against the Armenians. The importance of this propaganda will be better understood in light of the assimilation threat faced by most immigrants. The cartoons examined in this article devalues and dehumanizes the image of the "Turk" within the scope of the "Armenian genocide", while referring to the psychological and moral superiority of the Armenian. A great majority of the cartoons addressing this issue stands out as an attempt to sustain the Diaspora identity. Whether globalization or the Americanization of the Armenians; in other words, the inevitable course of assimilation, all constitutes a serious threat for the Armenian identity. This threat is mentioned frequently in publications of the ARF.<sup>36</sup> Surely the problem of globalization and loss of identity is not only applicable to the Armenian Diaspora, but also to many other emigrant nations. However, reviving and shaping the already traumatized Diaspora identity with hostile feelings towards another group will most likely result in an unresolved mass trauma. Since cartoons are an instrument of socialization and education, the opinion of the society is not only reflected by the cartoonist, but the perceptions of readers are also shaped by the cartoons. Cartoons are also significant in the creation of the society's

34 Please see Bahar Senem Çevik-Ersaydı, "Politik Psikoloji Bağlamında Ermeni Kimliğinin Siyasallaştırılması (Haytoug Dergisi Örneği)" –*The Politization of the Armenian Identity in the Context of Political Psychology –A Case Study on Haytoug-*, unpublished dissertation, Gazi University, 2011, Chapter 3, p.47 for Diaspora identity.

35 Hikmet Özdemir's statement of "Turkish-Armenian conflict" which explains the existing situation more clearly. Therefore the author prefers "Turkish-Armenian conflict" instead of "Armenian question".

36 It should be noted that Haytoug has official ties to the extreme nationalist ARF, and that not all diasporans are affiliated with this group. However despite its extreme nationalistic ideology ARF still is the most influential group and sponsors various media outlets to disperse the ideology.

political memory. As could be seen in the cartoons examined, the image of the Turk within Diaspora Armenians could be summarized as being worthless, inhuman, murderer, barbaric and savage. This image also corresponds with the traditional thought of orientalism. It is not surprising for the Diaspora, which establishes its own identity upon Turkish hostility, to resort to these definitions, because as long as the “other”; in other words, the Turk exists, the Diaspora Armenians will be able to secure the sustainability and cohesion of their group through national claims.



Cartoon -1



Cartoon -2



Cartoon -3



Cartoon -4



Cartoon -5



Cartoon -6

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# THE ARMENIAN GENOCIDE QUESTION & LEGAL RESPONSIBILITY

(ERMENİ SOYKIRIMI SORUNU & HUKUKİ SORUMLULUK)

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**Abstract:** *This article aims to analyze the Armenian Genocide Question from an international law standpoint. Thus an answer to the two principal research questions – namely whether any form of direct state and/or individual responsibility can arise under the workings of the Genocide Convention and whether it is in fact legally correct to apply the terminology of genocide to the events of 1915 – will be provided. Additionally, in the course of this analysis three related international law dilemmas (firstly accurately defining ‘crimes against humanity’ vis-à-vis ‘genocide’, secondly differentiating legal requirements of individual responsibility versus state responsibility, and lastly the topic of retroactive working within treaty law) will be evaluated.*

**Keywords:** *international law, genocide, crimes against humanity, state responsibility, individual criminal liability, retroactivity*

**Öz:** *Bu makale Ermeni soykırımı sorununu uluslararası hukuk yönünden incelemektedir. Nitekim iki temel soruya – Soykırım Sözleşmesi çerçevesinde herhangi bir devlet ve/veya bireysel sorumluluktan söz edilmesinin mümkün olup olmadığı ve soykırım terminolojisinin 1915 olaylarına uygulanmasının hukuki açıdan doğru olup olmadığı- cevap verilecektir. Ek olarak, bu değerlendirme çerçevesinde üç uluslararası hukuk çelişkisi (öncelikle ‘insanlığa karşı suçlar’ vis a vis ‘soykırım’ tanımlarının doğru bir şekilde yapılabilmesi, ikinci olarak bireysel sorumluluk ve devlet sorumluluğunun hukuki gerekçelerinin birbirinden ayrılması, son olarak da sözleşme hukuku çerçevesinde makeable şamil olma kuvveti) incelenecektir.*

**Anahtar Kelimeler:** *uluslararası hukuk, soykırım, insanlığa karşı suçlar, devlet sorumluluğu, bireysel cezai sorumluluk, makale şamil olma kuvveti*

## 1. Introduction

This article aims to present a clear overview of all legal issues involved in the “Armenian Genocide Question” and to make comprehensible to academic readers from different disciplines, interested in the field of international law, which exact international law doctrines and concepts underlie the controversy. However, it should be stressed at the outset of this article that, due to the complexity of the subject matter as well as the scope of legal issues involved, the present article by no means purports to offer an exhaustive analysis and therefore references to additional literature are provided. The author of the article has chosen to put the emphasis in his analysis on the substantive merits raised in the controversy. Thus leaving aside many of the procedural requirements of any legal claim (such as state succession, statute of limitations, sovereign immunity issues etc.).

A vigorous political debate erupted over legal interpretations when opposing sources started to lay and subsequently deny a claim in which it was asserted that the late Ottoman Empire had in effect committed genocide against the Armenian people.<sup>1</sup> It was argued that the events during the aftermath of the Ottoman Empire in 1915 and onwards, which had ultimately led up to the killing or massacres of Ottoman subjects of Armenian ethnicity, in fact constituted a ‘genocide’; thereby invoking not only a moral but also a legal concept with possibly far reaching implications, such as individual criminal liability and/or state responsibility with possible financial reparations.

In this section, it will be investigated whether possible direct claims of any kind of state- or individual responsibility can be put forward based on the Genocide Convention and – what is more – whether the terminology ‘genocide’ is in fact applicable to the events of 1915. Yet, before doing so, first a conceptual framework of understanding is provided by comparing the concept of ‘genocide’ *vis-à-vis* the more general concept of ‘crimes against humanity’. Secondly, the practical difficulties involved in attempting to assess legal responsibility (individual versus state) will be examined.

## 2. The Concept of Genocide within International Law

The term ‘genocide’ was first introduced in 1944 by the legal scholar Raphael Lemkin, who created a new concept that combined the two words of the ancient Greek *genos* (race or tribe) on the one hand and the Latin verb of *caedere* or its conjugation *cide* (meaning to kill) on the other, thus creating

1 Cf. J. Kirakosyan, *The Armenian genocide: the Young Turks before the judgment of history* (University of Michigan: Sphinx Press, 1992) or M. A. Shaik, *Lies, Lies, and more Lies: Belying the Armenian Claims against the Turks* (Islamabad: Masud Publishers, 2007).

the new notion of genocide much like already existing notions as homicide or infanticide.<sup>2</sup> The definition of this notion clearly hints at the killing or murdering of a *genos* or group thereby making ‘the physical protection of the group as a distinct identity the first and paramount factor’ of the newly invented concept.<sup>3</sup> Consequently in the aftermath of the Second World War WWII and its Nazi atrocities, the notion quickly caught on to the international plane. In 1946 the newly formed General Assembly of the United Nations unanimously adopted Resolution 96 (1) on genocide, which was followed only two years later in 1948 by the drafting of the now famous Convention for the Prevention and Repression of the Crime of Genocide (or simply ‘the Genocide Convention’).<sup>4</sup>

The definition of genocide, as expressed in the original 1948 Genocide Convention, has been copied verbatim by the various statutes of the (ad hoc) International Tribunals (e.g. International Criminal Tribunal for the former Yugoslavia (ICTY) and for Rwanda (ICTR)) as well as by the Rome Statute of the more recently created International Criminal Court (ICC) (the first permanent international court that has the jurisdiction in matters of certain international crimes).<sup>5</sup> In addition to the incorporation of the concept of

*The definition of genocide, as expressed in the original 1948 Genocide Convention, has been copied verbatim by the various statutes of the (ad hoc) International Tribunals (e.g. International Criminal Tribunal for the former Yugoslavia (ICTY) and for Rwanda (ICTR)) as well as by the Rome Statute of the more recently created International Criminal Court (ICC) (the first permanent international court that has the jurisdiction in matters of certain international crimes).*

2 R. Lemkin, *Axis Rule in Occupied Europe: Laws of Occupation, Analysis of Government, Proposals for Redress* (Washington DC: Carnegie Endowment for International Peace, 1944), 79; cf. W. A. Schabas, *Genocide in International Law: The Crimes of Crimes* (Cambridge: Cambridge University Press, 2000), 24-30.

3 M. N. Shaw, *International Law: Sixth edition* (New York: Cambridge University Press, 2008), 282.

4 Convention for the Prevention and Repression of the Crime of Genocide, 78 *U.N.T.S.* 277 [hereinafter ‘Genocide Convention’] also made available at the website of the UN at <http://www.un-documents.net/cppcg.htm>.

5 Cf. Statute of the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighboring States, S.C. Res. 955, U.N. SCOR, 3453d Mtg. at 3., U.N. Doc. S/RES/955, Annex (1994) reprinted in *I.L.M.* 133 (1994), 1598 at 1602 [hereinafter ‘ICTR Statute’]; Cf. Statute of the International Criminal Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia Since 1991, U.N. Doc. S/25704, Annex reprinted in *I.L.M.* 32 (1994), 1192 [hereinafter ‘ICTY Statute’]; Cf. Rome Statute of the International Criminal Court, U.N. Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court, U.N. Doc. A/CONF. 183/9 (1958) made available at the website of the ICC at [http://www.icc-cpi.int/NR/rdonlyres/EA9AEFF7-5752-4F84-BE940A655EB30E16/0/Rome\\_Statute\\_English.pdf](http://www.icc-cpi.int/NR/rdonlyres/EA9AEFF7-5752-4F84-BE940A655EB30E16/0/Rome_Statute_English.pdf) [hereinafter ‘ICC Statute’].

genocide into positive or codified law, genocide as a doctrine has also become part of customary international law as has been affirmed by the case law of the International Court of Justice (ICJ).<sup>6</sup> Today, the notion of genocide is even believed to have attained the special status of a rule of *jus cogens* or peremptory norm of international law (thus representing a norm of public international law of the highest category; a rule from which no state can derogate).<sup>7</sup> Thus the concept of genocide nowadays is firmly established within the corpus of public international law and in practical terms the prohibition on genocide entails an obligation on states to prevent and prosecute genocide even *vis-à-vis* non-affected states (the so-called *erga omnes* character of genocide).<sup>8</sup>

As to the interpretation of the actual crime, as has been elaborated by the case law of ICTY and the ICTR, it should be noted that in principle every crime consists of the two constitutive elements, namely the prohibited act (or *actus reus*) which in turn has to be committed by a person with a culpable mind (or *mens rea* component).<sup>9</sup> So the *actus reus* or objective element of genocide is defined in Art. II of the Genocide Convention and basically prohibits the acts of killing or causing mental or bodily harm to a specific group or putting a targeted group in such conditions that the physical destruction of the group is a logical consequence. The article also outlaws any attempts to prevent childbirth within the group or transfer of infants from one group to another.<sup>10</sup> It should be noted though that cultural (i.e. language, cultural symbols etc.) as well as political and economic genocide were

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6 *Reservation to the Convention on the Prevention of Genocide (Advisory Opinion)*, ICJ Reports (1951), 16, *cf. Legality of the Threat or Use of Nuclear Weapons (Request by the United Nations General Assembly for an Advisory Opinion)*, ICJ Reports (1996), 226 at para. 70.

7 *Democratic Republic of the Congo v. Rwanda*, ICJ Reports (2006), 6 at 31-32; *cf. M. C Bassiouni, 'International Crimes: Jus Cogens and Obligatio Erga Omnes', Law and Contemporary Problems* 59 (4) (1996), 63-74. For a more detailed discussion on peremptory norms *cf. H.A. Strydom, Ius Cogens: Peremptory Norm or Totalitarian Instrument?*, *SAYIL* 14 (1988/9), 42-58.

8 *Belgium v Spain, Barcelona Traction Light and Power House Co Ltd*, ICJ Reports (1970), 3 at para 32-34; *cf. J. Bantekas and S. Nash, International Criminal Law: second edition* (London: Cavendish Publishing Limited, 2003), 358-359.

9 P. Gaeta, "Genocide" in: W.A. Schabas and N. Bernaz, *Routledge Handbook of International Criminal Law* (New York: Routledge 2010), 110.

10 *Convention for the Prevention and Repression of the Crime of Genocide*, 78 U.N.T.S 277.

**Article II:** In the present Convention, genocide means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such:

- (a) Killing members of the group;
- (b) Causing serious bodily or mental harm to members of the group;
- (c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;
- (d) Imposing measures intended to prevent births within the group;
- (e) Forcibly transferring children of the group to another group.

purposely excluded from the Genocide Convention.<sup>11</sup> In addition case law has demonstrated that the targeted group has to be objectively identifiable, although also of importance is the subjective interpretation of the defendant of what he thinks constitutes a ‘group’.<sup>12</sup> Under certain circumstances it is even possible that a “group that falls within a limited geographical area such as the region of a country or even a municipality” could also be categorized as genocide.<sup>13</sup> For instance in the *Krstic* case in the territory of Bosnia Herzegovina it was decided that the military aged men of the Srebrenica enclave (although geographically limited) still could be considered to constitute a part of the ‘group’ of the overall Bosnian Muslim population.<sup>14</sup> Furthermore, Art. III of the Genocide Convention confirms that a person is also culpable when aiding, participating, conspiring, or inciting to commit genocide.<sup>15</sup>

Now as to the *mens rea* component or the subjective element of genocide; this features as its main component the *intent* to destroy, in whole or in part, a specifically targeted group. Thus the judicial focus is concentrated on the malicious mental state or rather the personal intent of the perpetrator. It is precisely this aggravated form of intent also known as genocidal or special intent (*dolus specialis*) that sets genocide apart from all other crimes.<sup>16</sup>

11 A. Cassese, *International Criminal Law* (Oxford: Oxford University Press, 2003)p. 96-97. Cf. *Prosecutor v Krstic*, Case No. IT-98-33, A. Ch., ICTY (19 April 2004) para 580.

12 *Prosecutor v Jelusic*, Case No. IT-95-10, T. Ch. I, ICTY (14 December 1999) [ 69–72]; *Prosecutor v Bagilishema*, Case No. ICTR-95-1A, T. Ch. I, ICTR (7 June 2001) [65]; *Prosecutor v Semanza*, Case No. ICTR-97-20, T. Ch. III, ICTR (15 May 2003) [317] quoted in E. van Sliedregt and D. Stoitchkova, “International Criminal Law” in: S. Joseph and A. McBeth, *Research Handbook on International Human Rights Law* (Cheltenham: Edward Elgar, 2010), 259; cf P. Gaeta, “Genocide” in: W.A. Schabas and N. Bernaz, *Routledge Handbook of International Criminal Law* (New York: Routledge 2010), 110.

13 *Prosecutor v Krstic*, Case No. IT-98-33, A. Ch., ICTY (19 April 2004) para 589 quoted in A. Cassese, *International Criminal Law* (Oxford: Oxford University Press, 2003), 104.

14 *Ibid.*

15 Convention for the Prevention and Repression of the Crime of Genocide, 78 *U.N.T.S.* 277.

**Article III:** The following acts shall be punishable:

- (a) Genocide;
- (b) Conspiracy to commit genocide;
- (c) Direct and public incitement to commit genocide;
- (d) Attempt to commit genocide;
- (e) Complicity in genocide.

More details on the requirements for incitement are found in the ICTR *Ruggiu* case, ICTR-97-32-I, 2000, para. 14 quoted in M. N. Shaw, *International Law: Sixth edition* (New York: Cambridge University Press, 2008), 431.

16 *Prosecutor v Jelusic*, Case No. IT-95-10, T. Ch. I, ICTY (14 December 1999) [82] quoted in P. Akhavan, ‘Contributions of the International Criminal Tribunals of the Former Yugoslavia and Rwanda to the Development of Definitions of Crimes Against Humanity and Genocide’, *ASIL Proc.* 94 (2000), 279 at 282. For more details on the requirements of the *mens rea* component, cf. A. Cassese, *International Criminal Law* (Oxford: Oxford University Press, 2003), 103-106.



For a better general understanding of the full legal dimensions of the “Armenian Genocide Question”, it is submitted that it is important to keep in mind that the act of genocide merely forms part of a more overall group of international crimes.

Other categories of international crimes are for example the more classical group of ‘war crimes’; crimes which have been codified in Art. 8 of the ICC Statute (bluntly put war crimes cover the wide range of most standard war atrocities as pillaging, attacks on open towns, killing of the wounded, what targets not to bomb etc.).<sup>17</sup> ‘Crime of aggression’ is another international crime which in practice comes close to yet another international crime, which is the ‘crime against peace’. Both these crimes involve the planning, preparation, initiation of waging a war in violation of treaties, custom etc. or a war of aggression and is mostly concerned with the leadership behind this crime.<sup>18</sup> Another group of international crimes include ‘crimes against the law of nations’ (although it is debatable whether this specific crime is still valid in contemporary international law) as well as more general crimes which bear a clear international dimension such as slavery, piracy, drugs trafficking etc.<sup>19</sup> Now some of these international crimes pertain to the ambit of international humanitarian law (e.g. war crimes) and other crimes to the arena of international criminal law (e.g. drugs trafficking). However, a clear demarcation of the two different fields (humanitarian vs. criminal) is not always easy to make, and in fact, academic discussion on the ambiguity of their interplay as well as on the precise sources of (some of these) international crimes still lingers on.<sup>20</sup>

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17 ICC Statute on the official website of the Court available at: [http://www.icc-cpi.int/NR/rdonlyres/EA9AEFF7-5752-4F84-BE94-0A655EB30E16/0/Rome\\_Statute\\_English.pdf](http://www.icc-cpi.int/NR/rdonlyres/EA9AEFF7-5752-4F84-BE94-0A655EB30E16/0/Rome_Statute_English.pdf)

18 B. V. A. Roling, ‘Crimes against Peace’, *EPIL* 1 (1992), 871-87; D. Oehler, ‘International Criminal Law’, *EPIL* 1(1992), 881. M. N. Shaw, *International Law: Sixth edition* (New York: Cambridge University Press, 2008), 439.

It should be noted however that some differences between the mentioned two crimes do remain clear; e.g. apartheid is a crime against peace and not an act of aggression.

19 D. Schindler, ‘Crimes Against the Law of Nations’, *EPIL* 1 (1992), 875-877.

20 E.g. on the ambiguity of sources of international crimes cf. A. Zahar and G. Sluiter, *International Criminal Law: A Critical Introduction*, (Oxford : Oxford University Press, 2008), 79-105. On the ambiguity of the humanitarian law scheme as opposed to the international criminal law one compare the liability issue when it comes to the leadership of the crime of aggression cf. M. N. Shaw, *International Law: Sixth edition* (New York: Cambridge University Press, 2008), 439. On the problem of the interplay of these two schemes (humanitarian vs criminal) when it comes to the crime of genocide cf. P. Gaeta, “Genocide” in: W.A. Schabas and N. Bernaz, *Routledge Handbook of International Criminal Law* (New York: Routledge 2010), 116.

### 3. Crimes against Humanity and Genocide

Leaving the academic discussion on this topic aside for the moment (although some of these inconsistencies in the legal determination of individual vs. state responsibility committed under the humanitarian law scheme as opposed to the international criminal law scheme bear upon underlying processes of thought in the Armenian Genocide Question), it is chosen to confine the debate on the legal details to the strictly necessary arguments. As stated for this purpose, it is far more valuable to take note of the international crime of “*crimes against humanity*”. The crime of ‘crimes against humanity’ is next to the crime of ‘genocide’ (art. 6) enumerated in the Statute of the International Criminal Court (ICC under art. 7).<sup>21</sup> The legal definition of ‘crimes against humanity’ comes in practice very close to genocide especially when it comes to the *objective* element (*actus reus*) of these crimes. E.g. both crimes can involve the specific killing of members of an ethnic or religious group (although the category of ‘crimes against humanity’ has a broader purview since this crime in addition to the mutual component of targeting out a specific group also include more common crimes such as for instance imprisonment and torture which in turn do not pertain to genocide). It has therefore been suggested that genocide actually forms a ‘subclass of the category of crimes against humanity’.<sup>22</sup>

*The legal definition of ‘crimes against humanity’ comes in practice very close to genocide especially when it comes to the objective element (actus reus) of these crimes.*

As said, the *objective* element of both crimes overlap and can involve the targeting of a distinct group; the principal difference then is specifically found within the *subjective* perspective of the *mens rea* component or simply the *intent* of the perpetrator. In fact the intent behind a crime is directly linked to the degree of the culpability of the perpetrator. Now within the ambit of culpability one can demark a ‘hierarchy of culpable mental states such as *culpa*, *dolus eventualis*, *dolus generalis* and *dolus specialis*’.<sup>23</sup> Thus simply put, ‘genocide’ as opposed to the more general acts of ‘crimes against humanity’ is found on this slowly escalating scale of initially *culpa* or simple guilt sliding to *dolus eventualis* or recklessness etc. to the far outpost, namely *dolus specialis* or special genocidal intent.

21 Available at the website of the ICC at [http://www.icc-cpi.int/NR/rdonlyres/EA9AEFF7-5752-4F84-BE94-0A655EB30E16/0/Rome\\_Statute\\_English.pdf](http://www.icc-cpi.int/NR/rdonlyres/EA9AEFF7-5752-4F84-BE94-0A655EB30E16/0/Rome_Statute_English.pdf)

22 A. Cassese, *International Criminal Law* (Oxford: Oxford University Press, 2003), 106.

23 P. Akhavan, ‘Contributions of the International Criminal Tribunals of the Former Yugoslavia and Rwanda to the Development of Definitions of Crimes Against Humanity and Genocide’, *ASIL Proc.* 94 (2000), 279 at 282.

To demonstrate the practical implications of the difference of the two crimes, let us take an example of the case law of the ICTY on the act of ‘persecution’. The crime of persecution may encompass a variety of “discriminatory acts, involving attacks on political, social, and economic rights”<sup>24</sup> and, as such, pertains *prima facie* to the group of ‘crimes against humanity’.<sup>25</sup> Nevertheless, in the *Kupreskic* case it was argued by the Tribunal that: “while in the case of persecution the discriminatory intent can take multifarious forms and manifest itself in a plurality of actions including murder, in the case of genocide ... [it could be argued that] from the viewpoint of *mens rea* genocide is an extreme and most inhuman form of persecution”.<sup>26</sup> The Tribunal went on to explain: “to put it differently, when persecution escalates to the form of willful and deliberate acts designed to destroy a group or part of a group, it can be held that such persecution amounts to genocide”.<sup>27</sup>

Thus, were the outside materialization of some acts can pertain to the category of ‘crimes against humanity’ (normal persecution), this same act can also, under certain circumstances in the subjective arena, turn to an act of ‘genocide’ (e.g. most inhuman form of persecution). Hence, although both international crimes share the same objective element i.e. the legal definition of a prohibited act, clearly it is the aggravated or genocidal special intent (*dolus specialis*) that provides the demarcation criterion in order to distinguish ‘genocide’ from the more general concept of ‘crime against humanity’, which in turn might account for the fact that genocide has often been termed as the ‘crime of crimes’.<sup>28</sup> From a legal perspective, and perhaps a bit tentatively, one could argue (when drawing on a criminal municipal law analogy) that ‘genocide’ forms a *lex specialis* of the overall category of ‘crimes against humanity’ i.c. *lex generalis*.<sup>29</sup>

We can conclude from above that the crime “genocide” as opposed to “crimes against humanity” has (besides a difference in moral connotation perhaps) a practical implication on how to label certain acts within civil war and/or conflict situations. Hence, it is important to keep the distinction of these two

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24 *Prosecutor v. Kupreskic et al.*, Judgment, Case No. IT-95-16-T (14 Jan. 2000) para. 615; quoted in P. Akhavan, ‘Contributions of the International Criminal Tribunals of the Former Yugoslavia and Rwanda to the Development of Definitions of Crimes Against Humanity and Genocide’, *ASIL Proc.* 94 (2000), 279 at 281.

25 *Ibid.*

26 *Ibid.* at para. 636.

27 *Ibid.*

28 *Prosecutor v. Kambanda*, Judgment and Sentence, Case No. ICTR-97-23-S (4 Sept. 1998), para 16. Cf. *Akayesu* (ICTR-96-4-T) 2 Sept. 1998, para 16.

29 Cf. the *lex specialis* principle in (Dutch) criminal law where a more precise defined crime or i.c. procedural specific requirement replaces the more general rule. Cf. G.J.M. Corstens, *Het Nederlandse Strafrecht*, 5de druk (Arnhem: Kluwer, 2005), 614, 695.

different concepts in mind when further exploring the legal dimensions of the Armenian Genocide Question.

### 4. Framework behind Legal Responsibility

Given the wide range of legal literature that can be found on the debated subject matter of the Armenian Genocide Question, it is sometimes hard to assess which international law concepts underlie which contention.<sup>30</sup> One could argue that the more logic and comprehensive scheme on the workings of international law has been clouded (not only by tentative standpoints but in great part by the complexity of the subject matter involved). So, in order to clarify some of this smoke screen, this section sets out to make understandable to readers from all different disciplines which legal concepts are involved.

The first logical question to examine is whether any direct legal obligation or rather individual liability or state responsibility arises out of the events of 1915. In other words, can Turkey, or any of its citizens be hold responsible in a courtroom for any of the acts (whether they be termed ‘crimes against humanity’ or ‘genocide’) that happened in 1915 and onwards?

Before we start to answer the above question, it should be stressed that - in legal terms - the question whether Turkey can even be regarded as the rightful ‘state successor’ to the Ottoman Empire (and thus could be held accountable) is a completely different discussion of which any answer would be highly debatable.<sup>31</sup>

In this respect, the international law dilemma of individual liability versus state responsibility arises, as well as the different international legal forum for possible redress. An important difficulty is the locus for redress; that is to say, where - according to which standard of rules – should the act of genocide be evaluated? On an individual level at the ICC or at the state level

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30 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* (Rapport Feb 2003) made available at official website of the ICTJ at <http://www.ictj.org/images/content/7/5/759.pdf>, G. Aktan, “The Armenian Problem and International Law” and S. Çaycı, “The Armenian Question From The Standpoint of International Law” in Ö.E., Lütem, *The Armenian Question: Basic Knowledge and Documentation* (Ankara: Terazi Publishing, 2009), 131-179. V.N. Dadrian, *The history of the Armenian genocide: ethnic conflict from the Balkans to Anatolia to the Caucasus: 4th rev. ed.* (Providence: Berghahn Books, 2004), 377-420.

31 As the Republic of Turkey did not exist during 1915, this question presupposes that present day Turkey is successor of the Ottoman State, and bears responsibility for the wrongful acts of her predecessor, notwithstanding the provisions of relevant treaty law, as being *leges specialis* (Lausanne, Ankara, Kars...).

by the ICJ? It is submitted that the interpretation of a multi dimensional crime as genocide requires a better general understanding of the basic international law institutions and concepts underlying the system.

International law, as opposed to the national law system, has no true supranational or Supreme Court that can exercise absolute jurisdiction over its subjects, given the fact that the traditional subject of international law has been the entity of the state and *not* the individual actor.<sup>32</sup> States in international law are defined by their sovereignty and in strict theoretical sense; any abhorrence from their absolute or sovereign power (such as the acceptance for court jurisdiction or the willingness to sign a human rights treaty) ultimately resides on their consent. Obviously this traditional state of affairs does not conform to the necessities or logic of today's interconnected world, but it remains its starting point, especially for international law purposes. Individuals, just as international organizations, have only slowly come on to this international plane to gain international legal personality and especially individuals have been able to claim only very limited human rights arising out of their states consent to certain specific human rights treaties or sometimes out of international customary law.)

*International law, as opposed to the national law system, has no true supranational or Supreme Court that can exercise absolute jurisdiction over its subjects, given the fact that the traditional subject of international law has been the entity of the state and not the individual actor.*

This is of vital relevance to the present section, as it explains why there are two types, or rather two schemes, of law at stake, namely; the international humanitarian law scheme on the one hand and, the international criminal law dimension on the other. Simply put, the international humanitarian law scheme (for simplicity taking humanitarian law and human rights law together)<sup>33</sup> originated out of the various layers of different human rights covenants (such as the Geneva Conventions on the protection of war victims as well as the more traditional human rights covenants as the ICCPR, OHCHR, etc.)<sup>34</sup> that were signed through time by different individual states.

32 It was decided not to determine the ICJ as a supranational court in a true domestic law context seeing as it does not have the same powers of *absolute* jurisdiction as a national court. For purposes of convenience and doctrinal clarity no reference has been made to the rather complex working of the European Court of Human Rights. More on the workings of the ECHR can be found in H.J. Steiner and P. Alston, *International Human Rights In Context: Law, Politics, Morals: Texts and Materials, 2nd edition* (Oxford: Oxford University Press, 2000), 797-801.

33 As to the doctrinal distinction between the two and sometimes their reciprocal character *cf.* P.J. Partsch 'Human Rights and Humanitarian Law', *EPIL* 1 (1992), 910-912.

34 For more on these covenants and their working *cf.* G.C. Jonathan, 'Human Rights Covenants', *EPIL* 1 (1992), 915-922.

Human rights traditionally entail the right to freedom or the right to practice religion etc., but gradually evolved into incorporating more social, economic and political rights.<sup>35</sup> So from an international law standpoint, international humanitarian law entails obligations upon states to respect these individual rights. As its basic rationale, one could say that as its main feature, this scheme possesses the vertical relation of the individual *right* versus the state *obligation* and by logical extension is intertwined with the concept of state responsibility. Thus in the ambit of humanitarian law traditionally a state is held responsible for breaking its international obligation arising out of a treaty and hence the responsibility issue is judged by the legal forum open to the state level and not to the individual, i.e. first and foremost in the *present context* the ICJ.<sup>36</sup>

Yet, international criminal law evolved from the opposite spectrum on the international plane.<sup>37</sup> It was first initiated to enable prevention of transnational crime, such as early piracy, slavery, drugs trafficking etc. This body of law was mostly concerned with interstate jurisdiction issues as extradition matters between sovereign states (territorial as opposed to universal jurisdiction etc.), but it was nevertheless always more centered on individual criminal liability. Thus, in contrast to humanitarian or human rights law, this classical criminal system features a more opposite vertical relation of individual *obligations* to respect general law versus a state 'injured' *right* and entails more the notion of individual criminal liability. Thus according to the traditional criminal system, a state initiates ways of prosecuting an individual firstly through extradition schemes with other states (and only recently by possible imposition of the International Criminal Court), hence a different path for legal redress is followed.

Due to the increasing scale of violence in warfare in the First and Second World War, more civilians were exposed to military combat operations and cruel treatment. Hence, this fostered an increasing necessity to expand international humanitarian law as well as criminal law. In turn, by now the two previously more segregated law schemes started to fringe and overlap with each other. For example, whereas the right not to be tortured has long

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35 E.g. International Covenant on Civil and Political Rights of 1966 easily accessible at the official website of the Office of the United Nations High Commissioner of Human Rights available at <http://www2.ohchr.org/english/law/ccpr.htm>.

36 Obviously this is an oversimplification stated for purposes of doctrinal clarity. Humanitarian law also contains a framework of regional and other international treaties (such as the ICCPR) which possess their own judicial bodies for recourse. For more on the different regional and international systems of human right protection mechanisms cf. H.J. Steiner and P. Alston, *International Human Rights In Context: Law, Politics, Morals: Texts and Materials*, 2nd edition (Oxford: Oxford University Press, 2000), 592-938.

37 D. Oehler, 'International Criminal Law', *EPIL* 1 (1992), 877-881.

been acknowledged as a basic human right (e.g. ICCPR), it now also exists as an international crime (or an individual obligation) due to the fact that torture is listed as a ‘crime against humanity’ in the statute of the ICC (although one could argue it was already part of customary law).<sup>38</sup>

Thus in principle state responsibility is judged upon by the forum on the state level; i.e. the ICJ which has developed a certain standard to define the crime of genocide on state level.<sup>39</sup> The ICJ, conversely, has no true competence to rule on *individual* criminal liability given the basic principle in criminal law of the presumption of innocence.<sup>40</sup> The former indicates that every individual in criminal proceedings has the right to a fair trial with the adequate procedural safeguards of being heard, being in the position to cross examine the witness etc. (something impossible at the ICJ where *only* states and *not* individuals have a standing). Thus when it comes to individual criminal liability in turn national courts and mostly ad hoc Tribunals (e.g. ICTY, ICTR etc.) have ruled on the procedural requirements of ‘international crimes’ among which we find the crime of genocide and crimes against humanity. These judicial bodies have *also* set a different legal standard for defining genocide in this individual context.

This accounts for the fact that differences in the substantive dimension of international crimes, and the act of genocide in particular, can be seen in various ways according to which scheme it is interpreted by. At the same time, this might account for the fact that it is easy to lose a clear legal perception when evaluating the complicated historic claims. Basically present day legal notions are transposed to the events of 1915, yet at the same time these legal notions ... have part of their underpinnings in the interplay of two rapidly evolving law schemes. Although the full implications of these legal details vastly outrange the scope of this article, it is essential to present just a brief impression of what this means for the act of genocide as such.

On the interstate level the ICJ has had the opportunity to rule upon the requirements of genocide to invoke state responsibility against another state. As stated in the previous section the prohibition on genocide entails an

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38 H.J. Steiner and P. Alston, *International Human Rights In Context: Law, Politics, Morals: Texts and Materials*, 2nd edition (Oxford: Oxford University Press, 2000), 1070-1074.

39 It should be noted that this clear demarcation between the ICJ case law as opposed to the ICTY and ICTR when it comes to genocide cannot always be upheld since international judicial bodies display a tendency to draw upon each other case law if the circumstances allow so. However these complex rules of complementarities between judicial bodies vastly outrange the scope of this article, it has nevertheless also been put forward that in the ruling of the ICJ in the *Bosnia and Herzegovina v. Serbia* case the Court drew substantially on the case law of the ICTY cf A. Gattini, ‘Evidentiary Issues in the ICJ’s Genocide Judgment’, *Journal of international criminal justice*, 5 (4) (2007), 889 *et seq.*

40 P. Gaeta, “Genocide” in W.A. Schabas and N. Bernaz, *Routledge Handbook of International Criminal Law* (New York: Routledge 2010), 115.

obligation on states to prevent and prosecute genocide even *vis-à-vis* non-affected states (the so-called *erga omnes* character of genocide).<sup>41</sup> As a substantive requirement of genocide we can distill from the ICJ ruling on the *Bosnia Genocide* case that acts of ‘genocide’ need to be “committed by [state] organs, or persons or groups whose acts are attributable to it [i.e. state..]”.<sup>42</sup> As elaborated on in legal literature “there arises the need to establish that persons or groups acting *on behalf of the government* have indeed committed the crime of genocide to make the state internationally responsible for its perpetration”.<sup>43</sup> A logical consequence since the rationale behind putting a serious label of state responsibility should not automatically follow from acts of a couple of individuals who might, under certain circumstances, have acted out of their own initiative rather than state encouragement. The ICJ has, next to this first element of state involvement, ruled that “claims against a state involving charges of exceptional gravity, such as genocide, must be proved by evidence that is *fully conclusive*...”<sup>44</sup> One could argue from the *Bosnia Genocide* case that the ICJ seems to set a rather high bar of evidence for genocide to actually amount to full state responsibility. E.g. the ICJ ruled that the presented evidence in the *Bosnia Genocide* case was not overall conclusive despite the many accusations of deportations, expulsions and killings of members of a group.<sup>45</sup>

Now as touched upon in the previous section; on a criminal law level the act of genocide principally separates itself in the arena of international crimes by its malicious intent. As such, under the *criminal law scheme*, genocide on the individual criminal responsibility level requires as its absolute

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41 *Belgium v Spain, Barcelona Traction Light and Power House Co Ltd* (1970) ICJ Reports 3, p. 32, para 33-34; see also J. Bantekas and S. Nash, *International Criminal Law: second edition* (London: Cavendish Publishing Limited, 2003), 358.

42 *Case concerning Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Yugoslavia (Serbia and Montenegro))*, ICJ Reports (2007), para 181(emphasis added).

43 P. Gaeta, “Genocide” in: W.A. Schabas and N. Bernaz, *Routledge Handbook of International Criminal Law* (New York: Routledge 2010), 115(emphasis added).

44 M. N. Shaw, *International Law: Sixth edition* (New York: Cambridge University Press, 2008), 285 in n.116 quoting *Case concerning Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Yugoslavia (Serbia and Montenegro))*, ICJ Reports (2007) (emphasis added). According to Gattini the ICJ approach to examine genocide is reasonably similar to that of the ICTY. Cf A. Gattini, ‘Evidentiary Issues in the ICJ’s Genocide Judgment’, *Journal of international criminal justice*, 5 (4) (2007), 889 *et seq.*

45 M. N. Shaw, *International Law: Sixth edition* (New York: Cambridge University Press, 2008), 285 in n.116 quoting *Case concerning Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Yugoslavia (Serbia and Montenegro))*, ICJ Reports (2007). Although in this particular case the ICJ did rule that the acts committed within the specifically defined area of Srebrenica had shown the existence of the necessary genocidal intent and therefore concluded that Serbia as a state had failed with its obligation to punish the perpetrators for genocide ( thus *strictu sensu* the Court did not rule that the Federal Republic of Yugoslavia had actually committed genocide but rather that it had failed its obligation to punish such act).



prerequisite and principal feature the *dolus specialis* or special malicious state of mind of the perpetrator. The focus of judicial review is not so much centered on the materialization or outside elements of the act. Under the scheme of individual liability this can, under certain special circumstances, result in a situation in which “genocide as an act of individual criminality does *not* expressly require the existence of a *state plan or policy* of genocide”.<sup>46</sup> Again, as explained in the literature, on the state level on the other hand “genocide always requires the existence of a genocidal policy and, hence, a pattern of widespread and systematic violence against a given group”.<sup>47</sup> Conversely to pinpoint the differences, where the subjective

*As described in the literature on the determination of the legal requirements of state responsibility: “there would be no need to demonstrate that the state as such - or one or more of its officials – harbored a genocidal intent in the criminal sense”.*

element of special genocidal intent is detrimental in the legal evaluation of the act of genocide on an individual criminal level; this in turn is not always required on the state level. As described in the literature on the determination of the legal requirements of state responsibility: “there would be no need to demonstrate that the state as such - or one or more of its officials – harbored a *genocidal intent* in the *criminal sense*”.<sup>48</sup> As seen from above it is clear that different legal standards apply to individual as opposed to state responsibility on the act of genocide.

This individual versus state responsibility interpretation of genocide becomes even more complicated when we realize that, at the same time, other international crimes (and especially ‘crimes against humanity’) can also overlap. When we return to the previously discussed act of ‘persecution’, this act of crime starts initially as an act of ‘crimes against humanity’(discriminatory persecution), but can nevertheless in its most extreme form take on ‘genocide’ (genocide on individual as well as possible evidence for state level accountability). This same problem can be seen with the relation of genocide to yet another act of ‘crimes against humanity’ which is ‘ethnic cleansing’. Thus as is explained in the literature “forced migration (or ‘ethnic cleansing’) as such does not constitute genocide but may account to a pattern of conduct demonstrating genocidal intent”.<sup>49</sup> Again genocidal

46 *Akayesy* (ICTR-96-4-T) 2 Sept. 1998, para 521(emphasis added). Cf P. Gaeta, “Genocide” in W.A. Schabas and N. Bernaz, *Routledge Handbook of International Criminal Law* (New York: Routledge 2010), 116.

47 *Ibid.*

48 *Ibid.* (emphasis added).

49 M. N. Shaw, *International Law: Sixth edition* (New York: Cambridge University Press, 2008), 433. On the difficulty of the determination of ethnic cleansing as opposed to genocide. Cf A. Cassese, *International Criminal Law* (Oxford: Oxford University Press, 2003), 99-100.

intent forms the absolute component in the legal determination of the act of genocide.

Thus when aiming to examine the claim of the Armenian Genocide Question, this presented framework is relevant, since it identifies the possible scope for classifying the 1915 events as ‘genocide’, as well as explains the accompanying difficulties that arise in the legal interpretation of the act of ‘genocide’.

### 5. Legal Responsibility with regard to the 1915 Events

Within this broad framework that outlines the difficulties arising from the applicability of the term ‘genocide’ *vis-à-vis* the more general concept of ‘crimes against humanity’, and - related – the increasingly merging of the international humanitarian law scheme and the international criminal law scheme, questions regarding legal responsibility now arise. More specifically, returning to the subject matter at hand; can any direct responsibility on the individual criminal level arise out of the 1915 events?

As follows from the argumentation above -when it comes to individual responsibility for perpetrating international crimes – (apart from the national courts) the ICC is the key legal organ in the international arena. According to its statute, all state parties to the ICC have an obligation to actively prosecute international crimes.<sup>50</sup> This means that one state can request another state party or the court to prosecute one of its nationals. Again, it is still the state and not the individual that remains the ultimate actor to decide to do so.

States that are not a party to the ICC statute though can still be held liable.<sup>51</sup> According to the rules of the statute, other state parties, the Security Council of the UN, or the Prosecutor of the court can *proprio motu* decide to investigate an aforementioned situation.<sup>52</sup> As a precondition however, the rule of complementarity applies, meaning that the domestic court always has precedence over the ICC to decide whether or not to exercise jurisdiction. From a legal standpoint, there is a possibility that one state party might decide to prosecute the nationals of another non-state party. Yet it can only do so *only if* the prosecuting state has, according to its own domestic law, adopted

50 E. van Sliedregt and D. Stoitchkova, “International Criminal Law” in: S. Joseph and A. McBeth, *Research Handbook on International Human Rights Law* (Cheltenham: Edward Elgar, 2010), 258.

51 Ibid. at 256-257.

52 Ibid. Art. 14,15 and 16 ICC Statute, 2187 *U.N.T.S.* 90 also made available on the official website of the UN at <http://untreaty.un.org/cod/icc/statute/romeofra.htm>.

the specific crime including a universal jurisdiction clause.<sup>53</sup> Despite this matter, in the specific case of Turkey, no such claim can arise in front of the ICC. The Court is bound by its rules on the temporal jurisdiction, i.e. the Court is only competent according to its own statute to take note of possible crimes against humanity or genocide committed after 1 July 2002.<sup>54</sup>

In addition, as for the purely theoretical possibility of another state trying to prosecute a Turkish national in front of its own domestic court, this would seem virtually impossible for the two following reasons. First of all, today's record of state parties to the ICC that have already incorporated the necessary domestic law, are still in 'slow progress' and furthermore, the situation of non-state parties is even 'bleaker'.<sup>55</sup> Secondly, following the *nullum crimen sine lege* principle, necessary domestic law requirements back in 1915 form a prerequisite for such a domestically based claim.<sup>56</sup> Hence, given the absence of any of such requirements, prosecuting a Turkish national for the 1915 events, seems to be an impossible action.

This leaves us with the possibility of a claim of genocide arising on the state level. In theory, another state could try to invoke Turkey before the ICJ to claim genocide. As stated above, genocide has acquired the status of *jus cogens* and thus any state would have a legal interest (*erga omnes* character) to commence proceedings before the ICJ.<sup>57</sup> That being said though, from an academic perspective, one could seriously debate whether as a procedural requirement any state would be able to surpass the test of the doctrine of 'extinctive prescription' (or statutory limitations).<sup>58</sup>

53 Bluntly put universal jurisdiction denotes that a state adopts a law policy in which it sets out not only to exercise its jurisdiction based on its *own* territory or *own* nationals but instead claiming jurisdiction of certain offences at an international or universal level. See E. van Sliedregt and D. Stoitchkova, "International Criminal Law" in: S. Joseph and A. McBeth, *Research Handbook on International Human Rights Law* (Cheltenham: Edward Elgar, 2010), 256-257. See also P. Malanczuk, *Akehurst's Modern Introduction to International Law*, 7th rev. ed. (London: Routledge 1997), 112-117

54 Art. 11 ICC Statute, 2187 UNTS 90 also made available on the official website of the UN at <http://untreaty.un.org/cod/icc/statute/rome.htm>

55 E. van Sliedregt and D. Stoitchkova, "International Criminal Law" in: S. Joseph and A. McBeth, *Research Handbook on International Human Rights Law* (Cheltenham: Edward Elgar, 2010), 257.

56 Nullum crimen sine lege-principle could be regarded as the international variant of the domestic law principle or rather the universal law principle of legality. One cannot be tried for acts that are unknown or insufficiently made cognizable through codification of law. For more on the notion: V. Ghareh Baghi and T.R. Mruthi, 'Nullum Crimen sine Lege in the International Criminal Court', *Acta Universitatis Danubius: Juridica*, 8 (3) (2010), 65 *et seq.*

57 *Democratic Republic of the Congo v. Rwanda*, ICJ Reports, 2006, pp. 6, 31-32, M. C Bassiouni, 'International Crimes: *Jus Cogens* and *Obligatio Erga Omnes*', *Law and Contemporary Problems* 59 (4) (1996), 63-74.

58 *Certain Phosphate Lands in Nauru* case (1992) ICJ Rep. 240, p. 253-254. The ICJ stated: delay on the part of a claimant State may render an application inadmissible. It notes, however, that international law does not lay down any specific time-limit in that regard. For more on the doctrine of extinctive prescription see R. Higgins, 'Time and the Law: International Perspectives on an Old Problem' *ICLQ* 46 (1997), 501 at 514. B. Cheng, *General Principles of Law as applied by International Courts and Tribunals* (London : Stevens, 1953), 386.

But this rather academic discussion subtracts us from the real issue at stake, namely the legal question of whether the constituent treaty of genocide (popularly put the ‘mother’ treaty of genocide) can be invoked to judge events that happened prior to its very existence. In other words, can the 1948 Genocide Convention even be invoked for the events that happened three decennia ago in 1915?

As has been explained by the often quoted or cited rapport of the International Center for Transitional Justice (the ICTJ) titled “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”(hereinafter the ICTJ rapport),<sup>59</sup> in order to determine or interpret the possibility of the retroactive working of the Genocide Convention, it is necessary to first examine the constituent treaty on the working of treaty law. The famous international law document on the workings of treaty law (i.e. Vienna Convention on the Law of Treaties, hereinafter VCLT)<sup>60</sup> states in Art. 28 that “unless a different intention appears from the treaty or is otherwise established, its provisions do not bind a party” by any retroactive working.<sup>61</sup> Consequently the ICTJ rapport examines the drafting history of the Genocide Convention and concludes that “neither the text nor the *travaux preparetoires* of the Convention manifest an intention to apply its provisions retroactively” and so no legal obligations can arise under the direct workings of the Genocide Convention.<sup>62</sup> This conclusion reached by the ICTJ seems very sound from an international law position and as such should be accepted. Thus we have persuasively been able to conclude that no direct legal claim of genocide can be asserted against Turkey for the 1915 events, neither on the level of state responsibility nor on the individual level.

### 5.1. The Applicability of the Term Genocide to the Events of 1915

After concluding, however, that is impossible to base a direct legal claim on the Genocide Convention, the ICTJ rapport nevertheless takes a second step and decides to pose an academic question whether it could be possible to use the *term* or notion of genocide -as it had originated from the 1948 Convention

59 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* (Rapport Feb 2003) made available at official website of the ICTJ at <http://www.ictj.org/images/content/7/5/759.pdf> (hereinafter ‘ICTJ Rapport (2003)’)

60 Vienna Convention on the Law of Treaties, May 23, 1969, U.N. Doc. A/CONF. 39/27 (1969) made available at [www.ilsa.org/jessup/jessup06/basicmats/vclt.doc](http://www.ilsa.org/jessup/jessup06/basicmats/vclt.doc)

61 ICTJ rapport (2003), 5-6

62 Ibid. at 6-7.

(and thus separate from the legal claim) and whether this term or concept could now be applied to evaluate the events as they happened in 1915 and onwards. The ICTJ rapport then subsequently concludes that the terminology of genocide can in fact be examined against the 1915 events arguing that such intent of retroactive working could be extracted from a textual interpretation of the Genocide Convention.<sup>63</sup> In fact the ICTJ rapport then goes on in great length to apply some of the substantive elements or rather legal requirements of the crime of genocide to the events of 1915. Thus the rapport starts to dissect the different elements of genocide (the specific group criteria, the destruction of the actual group - in whole or in part - description, the *mens rea* component of the special genocidal intent etc.).<sup>64</sup> At this point the ICTJ rapport undertakes the rather arduous task to try to apply all the complex technical terms of 'genocide' and subsequently starts to weigh these legal requirements against the dispersed archives of the late Ottoman Empire and foreign eye witness accounts. Finally the ICTJ concludes that all the substantive requirements of 'genocide' (as a *term*) were met and consequently decides that 'genocide' (as a legal definition) had in effect been committed by the Ottoman Empire.<sup>65</sup>

It is submitted in this article that to follow instantly this second line of reasoning in the ICTJ rapport (i.e. applicability of the 'term' genocide) is to divert the eyes from some essential international law concepts that underlay the real issue at hand. In fact, there are three very important legal arguments or concepts overlooked that are crucial in properly evaluating this legal debate.

First an argument will be presented that outlines the doctrinal inconsistencies displayed in the actual application of the 'term' of genocide. This very argument at the same time compares the related international law difficulties in applying modern-day interpretations to past situations. Then a second legal argument will be provided that deals with the inconsistent treaty interpretation of the retroactivity clause. Finally the legal implications of the sometimes forgotten appointed Allied War Commission will be discussed.

## 5.2. Inconsistent Application of the Legal Terminology of Genocide

As has been amply demonstrated in the previous sections, the term or rather the notion of 'genocide' (as well as 'crimes against humanity') have multidimensional implications transcending various fields of law. Again, as

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63 Ibid at 10-11.

64 Ibid. at 12-17.

65 Ibid. at 17.

elaborated above, within the ambit of direct state responsibility as interpreted through the case law of the ICJ (thus genocide's interpretation on interstate level) the Court seems to have set a rather high standard; especially as to the requirement of the need to be able to attribute committed acts to actual state organs, agents or to other groups / entities that have acted *on behalf* of that state. In addition there exists a strict requirement of providing 'fully conclusive evidence'. In the earlier discussed Bosnia conflict, only the zone of Srebrenica met this test.<sup>66</sup> On the other hand, from the international criminal law dimension, the notion of genocide has its own specific liability standard, which, at the same time, can overlap with crimes against humanity. As stated before on the individual level, the *mens rea* or special intent component forms the key point of judicial inquiry. Thus the legal difficulty of accurately determining special genocidal intent -as opposed to the more general category of crimes against humanity- arises. As demonstrated with the act of persecution, an act that starts out as a 'crime against humanity' yet in its 'most inhuman form' can turn into an act of genocide.<sup>67</sup> The same goes with ethnic cleansing or "forced migration". Again, "forced migration (or 'ethnic cleansing') as such, does not constitute genocide but may account to a pattern of conduct demonstrating genocidal intent".<sup>68</sup> Thus being aware of this legal framework we now take a closer look at the ICTJ rapport.

*Apart from the confusing 'genocide' vs. 'crimes against humanity' issue, the ICTJ rapport also seems to have been succumbed to the interpretation of the various newspapers, foreign witness accounts, disperse archives etc. and thus seems to have overlooked and even lost the entire complex matter of the notion of genocide itself.*

Returning to the rapport, it immediately surfaces from this rapport that the difficult interplay of 'genocide' next to the closely defined international crime of 'crimes against humanity' has been overlooked, or at least it has not been taken into account when evaluating the 1915 events since no mentioning to this crime has been made throughout the entire document. Apart from the confusing 'genocide' vs. 'crimes against humanity' issue, the ICTJ rapport also seems to have been succumbed to the interpretation of the various

66 M. N. Shaw, *International Law: Sixth edition* (New York: Cambridge University Press, 2008), 285 in n.116 quoting *Case concerning Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Yugoslavia (Serbia and Montenegro))*, ICJ Reports (2007).

67 *Prosecutor v. Kupreskic et al.*, Judgment, Case No. IT-95-16-T (14 jan. 2000) para. 636; quoted in P. Akhavan, 'Contributions of the International Criminal Tribunals of the Former Yugoslavia and Rwanda to the Development of Definitions of Crimes Against Humanity and Genocide', *ASIL Proc.* 94 (2000), 279 at 281.

68 M. N. Shaw, *International Law: Sixth edition* (New York: Cambridge University Press, 2008), 433.

newspapers, foreign witness accounts, disperse archives etc. and thus seems to have overlooked and even lost the entire complex matter of the notion of genocide itself.

The rapport states that: “The Turkish government maintains that no direct evidence has been presented that any Ottoman official sought ... [here the context of a policy and/or the accountability of the state is questioned]... The rapport then follows: “In light of the frequent references to the participation of Ottoman officials in the Events, we wish to highlight that a finding of genocide does not as a legal matter depend on the participation of state actors. On the contrary, the Genocide Convention confirms that perpetrators of genocide will be punished whether they are “constitutionally responsible rulers, public officials or private individuals”.<sup>69</sup>

Thus at first sight the ICTJ seems to decide that the legal definition of genocide does not stem from the case law of the ICJ (since state responsibility would require a state policy) but instead a stricter interpretation of the 1948 Genocide Convention is followed. Now then since the rapport would appear *not* to involve the doctrine of *state responsibility*, instead we have to assume that the standard of individual criminal responsibility is applied and thus individual responsibility will be investigated. Yet in their final conclusion we read the following:

“The crucial issue of genocidal intent is contested, and this legal memorandum is not intended to definitely resolve particular factual disputes. Nonetheless, we believe that the most reasonable conclusion to draw from the various accounts [is]... [that] at least some of the perpetrators of the Events knew that the consequence of their actions [were to destroy] ... and, therefore, possessed the requisite genocidal intent”.<sup>70</sup> It then draws the conclusion that genocide has in fact been committed by the entire late Ottoman Empire.

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69 ICTJ rapport, 14.

70 D. Conclusion

“The crucial issue of genocidal intent is contested, and this legal memorandum is not intended to definitively resolve particular factual disputes. Nonetheless, we believe that the most reasonable conclusion to draw from the various accounts referred to above of the Events is that, notwithstanding the efforts of large numbers of “righteous Turks” who intervened on behalf of the Armenians, at least some of the perpetrators of the Events knew that the consequence of their actions would be the destruction, in whole or in part, of the Armenians of eastern Anatolia, as such, or acted purposively towards this goal, and, therefore, possessed the requisite genocidal intent. Because the other three elements identified above have been definitively established, 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”. Made available at official website of the ICTJ at <http://www.ictj.org/images/content/7/5/759.pdf>

Evidently, the ICTJ rapport got caught in the contention of the historical sources and so side stepped the complex underpinnings of the doctrine on 'genocide'. First it seems to have overlooked the difficult interplay of crimes against humanity as opposed to the more aggravated crime of genocide since nowhere the distinctive acts of crucial importance such as ethnic cleansing are discussed. E.g. when or at what point during the ICTJ rapport does the act of forced migration/ethnic cleansing (a *prima facie* crime against humanity) turn into an act of genocide instead? Secondly the ICTJ conclusion seems erroneous since it fails to apply a consistent legal standard on the doctrine of genocide itself. The ICTJ first denied that involvement of public officials was material in the issue at stake thus no standard on state responsibility would be applied, instead the ICTJ chose to confine its findings *strictu sensu* to the Convention's definition of 'private individuals'. Further on, however, it argued that 'some of the perpetrators' were guilty, hence, the jurisprudential lines of the ICTY and ICTR on "genocidal intent" were present, which in turn would trigger some kind of *automatic* responsibility on the state level.

The true point here though is not to criticize the ICTJ rapport which was confronted with the various contended historical and emotional sources but to display the highly technical and evolved concept of genocide. To demonstrate that such concept does not stand alone but forms part of other international crimes especially 'crimes against humanity'; crimes which have been interpreted and refined to fit to the complex nature of zones of armed conflict. Indeed one could effectively argue that, throughout the case law of the ICTY and the ICTR it follows that genocide, as a concept, is a highly complicated notion that has displayed its function to capture the malicious culpable mind at the individual criminal level (with its constituent element of *dolus specialis* or special intent). Yet, at the same time, 'genocide' has been able to denote state responsibility when on an escalating scale of persecution (which is normally a 'crime against humanity') or ethnic cleansing may imply evidence of a state policy of genocidal intent. As such, both international crimes complement each other but each serves its purpose. In this way criminal and humanitarian law has equipped itself against the difficult and fragmented situations of real life conflict zones: situations which are extremely hard to comprehensibly evaluate with their often intermittent and geographically disperse acts of violence. Today with usually television accounts of various areas a situation of ethnic violence or militias is hard to properly put into context (compare Bosnia Herzegovina) let alone historical events during the first World War in which multi ethnical violence on a world scale was taking place.

The principal point here is that this modern genocide concept is crafted by



time and has an evolutionary character. International law by definition evolves to cope with the changing necessities of its surroundings. As such, an accommodating legal system keeps on to serve its purpose. This being said, the legal question remains as to whether it should be possible to take the modern concept of genocide and apply it to another situation (in this case, the volatile imperial and nationalistic events of World War One I).

## 6. International Law & Retroactivity

Now to return to the core of this debate; is it possible, from a pure legal standpoint, to apply a legal concept that did not exist at the time to an old situation?

Initially, if we look at the workings of the system on treaty law and the notion of genocide, this seems rather debatable. As has been affirmed by the ICJ on several occasions, genocide has attained the category of a rule of *jus cogens* or peremptory norm of international law. Thus the prohibition on genocide represents a rule which is so fundamental to the international community that no state can derogate from this rule.<sup>71</sup> The ever evolving international law system has in fact found a good way to cope with the situation when a 'new' rule of *jus cogens* enters the international stage so to speak. As is stated in the much-cited VCLT in art 64 that: "If a new peremptory norm of general international law emerges, any existing treaty which is in conflict with that norm becomes void and terminates". The VCLT drafting history clearly shows that "the new rule of *jus cogens* is not to have retroactive effects on the validity of the treaty".<sup>72</sup> Now why would this rule stipulate that the treaty is not valid anymore for the future, while at the same time the treaty is still valid for past events? Clearly, if a treaty becomes void from the very beginning, the stability of all previous arrangements will come to a halt, and legal certainty and reliability will be harmed. Before we explore the legal rationale behind the rule we need to be careful to keep an adequate overview of its entire legal context.

A very well established principle of international law is called the intertemporal law doctrine. The concept was first introduced in the *Island of Palmas* case<sup>73</sup> when the question to a title was raised, and, when at the core

71 *Democratic Republic of the Congo v. Rwanda*, ICJ Reports, 2006, pp. 6, 31-32. M. C Bassiouni, 'International Crimes: *Jus Cogens* and *Obligatio Erga Omnes*', *Law and Contemporary Problems* 59 (4) (1996): 63-74.

72 'Report of the International Law Commission on the Work of the Second Part of its Seventeenth Session, Monaco, January 3-28, 1966'; (1967) 61 *AJIL* 248 at p. 412.

73 *Island of Palmas* case; (1928) 22 *AJIL* 867 at p. 883. Judge Huber stated; "...a juridical fact must be appreciated in light of the law contemporary with it, and not with the law in force at the time when a dispute with regard to it arises or falls to be settled."

of the controversy lay a concept that had changed through time and consequently had acquired two different legal interpretations. Today it can be regarded as “an established principle of international law that [...] the situation in question must be appraised [...] in light of the rules of international law as they existed at the time, and not as they exist today”.<sup>74</sup>

This intertemporal concept or rule stands on itself because the entire international law system has its maxim in stability and above all predictability. The rationale behind a rule is that it has a precise definition so that the legal certainty is guaranteed.

Far from a theoretical discussion within the ambit of international law, this has immense implications. What if the intertemporal law component did not exist or come back to our earlier example? What if a treaty would fully work retroactively and apply the *new* norm of *jus cogens* to an old situation?

For instance today the prohibition on the use of force or more importantly the threat of the use of force in international relations has become a rule of *jus cogens*, before the threat of the use of force was not considered to be illegal *per se*.<sup>75</sup> History has exhibited too many instances where the use or threat of the use of force of a more powerful state on a smaller state could be argued to have in fact been exerted to sign for instance a peace treaty. What would happen if all treaties that were signed in international law under the threat or the actual use of force in the past would become retroactively void because of modern-day interpretation on the use of force principle? Just a random pick from numerous examples but the Washington treaty of 1898 which rendered the judicial award on the contested borders between Venezuela and back then British Guyana would be invalidated, the 1903 treaty on the rent of Guantanamo bay would be invalidated, the international status of Tibet according to the 1951 Seventeen Point Agreement would be re-questioned, and so on and so forth. This situation in legal terms would open Pandora's box. The legal rationale seems overwhelming: a legal concept is constructed for its time and place and given its surrounding it either evolves or becomes obsolete, but it cannot be taken out of its proper context (rule on slavery, the old laws of war on e.g. chemical weapons etc.). It is thus submitted that the highly evolved concept of genocide, that was first introduced after the Second World War and that gradually evolved along two law schemes and that more recently made a great reentrance with the

74 G. Fitzmaurice, 'The Law and Procedure of the International Court of Justice 1951-54: General Principles and Sources of Law', *BYIL* 30 (1953) 1 at 5.

75 E.g. article 52 of the Vienna Convention on the Law of Treaties:

“A treaty is void if its conclusion has been procured by the threat or use of force in violation of the principles of international law embodied in the Charter of the United Nations.” Cf art. 2 (4) UN Charter made available at official website of the UN <http://www.un.org/en/documents/charter/index.shtml>.

expansion of criminal law, cannot be said to be fit to judge historical events from the past. It just simply lacks the judicial context that is detrimental for any law. It is no coincidence that law is always defined by the social contracts and norms of a certain place at a certain time and no law or moral concept stands forever.

Now apart from this presented argument from a broader perspective there still remain two very cogent legal arguments that make the whole exercise of the applicability of the term genocide fruitless.

*The highly evolved concept of genocide, that was first introduced after the Second World War and that gradually evolved along two law schemes and that more recently made a great reentrance with the expansion of criminal law, cannot be said to be fit to judge historical events from the past.*

## 7. Consistent Treaty Law Interpretation

Again taking the ICTJ rapport as a starting point and taking a closer look at the second line of reasoning, the ICTJ, as stated earlier, concludes that the terminology of genocide can in fact be examined; arguing that, such intent by its drafters could be extracted from a textual interpretation of the Genocide Convention. This judicial applicability of the

term genocide is in the words of the ICTJ rapport possible because “it is clear from the text of the Convention and the related documents and the *travaux preparatoires*, that the term genocide may be applied to events that pre-dated the adoption of the Convention”. The ICTJ rapport goes on to explain that the conclusion on the applicability of the term is warranted because several references in the *travaux preparatoires* clearly cite genocide examples from history and so on.<sup>76</sup> The legal question here, nevertheless, remains; whether it is possible to apply the term ‘genocide’ as codified in a Convention that itself has been found to be of non retroactive working.

The rules on treaty interpretation seem to have been blurred and incorrectly applied in the legal analysis of the ICTJ rapport. The VCLT clearly illustrates in art. 31 (dealing with the subject matter of the rules on treaty interpretation), that a treaty has firstly to be interpreted in good faith in accordance with the object and purpose of the original treaty.<sup>77</sup> This primary form of interpretation uses next to the object of the treaty any *subsequent agreements or treaties or practice* of the state parties to interpret the meaning given to the original treaty (ex art. 31 (3) (a) (b)). Under the heading of the next article of the

<sup>76</sup> ICTJ rapport, 10.

<sup>77</sup> Vienna Convention on the Law of Treaties, May 23, 1969, U.N. Doc. A/CONF. 39/27 (1969) made available at [www.ilsa.org/jessup/jessup06/basicmats/vclt.doc](http://www.ilsa.org/jessup/jessup06/basicmats/vclt.doc)

VCLT (art. 32), termed *supplementary* interpretation, it is clearly stated that if the methods of interpretation of the object and purpose of the treaty *and* thus its subsequent interpretation through agreement etc. are unclear, recourse *then* can be had to the preparatory work (i.e. *travaux preparatoires*).<sup>78</sup>

It is an elementary rule of international law confirmed by the case law of the ICJ to first examine subsequent agreements to discover what interpretations need to be given to a treaty<sup>79</sup> before it is warranted to take account of the preparatory work.<sup>80</sup> In the case of the Genocide Convention, the situation of possibly wanting to apply the term of genocide to past events cannot be said to have been overlooked. A fortiori a special subsequent Convention has been drawn up to deal with this subject matter. Thus, the “Convention on the Non-Applicability of Statutory Limitation to War Crimes and Crimes Against Humanity” has as its main aim or intention the opportunity to provide the parties with the legal option to decide to apply these concepts to situations *before* the Conventions ‘own creation in 1948. As up to today, Turkey – together with quite a substantial number of other countries – has (intentionally) not become a part of this later Convention.<sup>81</sup> It would seem that the conclusion of the ICTJ rapport to warrant any use of the term genocide is based primarily on comments made during the stage of the preparatory work of the Convention, and not the subsequent interpretation through agreement or practice. Thus the ICTJ conclusion seems rather precipitated, as simple rules of priority in treaty interpretation seem to have been forgotten.<sup>82</sup>

### 8. Allied War Commission

Apart from this strictly legal point there seems to be a final, even more cogent reason why to question the line of argument displayed by the ICTJ rapport. According to the well established doctrine of *res judicata*, it would be

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78 Ibid.

79 *Case Concerning Maritime Delimitation in the Area between Greenland and Jan Mayen (Denmark v. Norway)* ICJ Reports (1993), para 28

80 E.g. *Competence of the General Assembly for the Admission of a State to the United Nations (Advisory Opinion)* ICJ Reports (1950), 8; *Arbitral Award of 31 July 1989 (Guinea-Bissau v. Senegal)*, ICJ Reports (1991), para 48.

81 State Parties to the Convention made readily available at the official website of the UN (last visited 21 Feb 2011) [http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&msgid\\_no=IV-6&chapter=4&lang=en](http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&msgid_no=IV-6&chapter=4&lang=en)

82 Finally, it should be pointed out that the same flaw has occurred when the ICTJ interpreted the retroactivity clause of the VCLT itself. As Art. 28 of the VCLT clearly states: “unless a different intention appears from the treaty or is otherwise established, its provisions...etc.” Clearly the element of “or is otherwise established” qualifies to parties subsequent agreements on this subject matter.

untenable to uphold any claim of genocide.<sup>83</sup> *Res judicata* or the doctrine of finality impairs the possibility to set aside a previous judgment (leaving certain theoretical exceptions aside such as excess of power, fraud etc. ).<sup>84</sup> The rationale behind the doctrine of *res judicata* is clear; it is necessary to maintain the stability in the international law system. If a state does not need to respect a judicial decision but can reopen the decision of the judges or if a state at its own will can contend any of the politically sensitive issues lying at the core of the judgment then few things of contention will ever get a closure in the international (political) arena (a practice that was indeed rather common among states in the international/European arena of 17<sup>th</sup>, 18<sup>th</sup> and 19<sup>th</sup> century). Thus a competent judicial organ specifically erected after the 1915 events had taken place i.e. appointed Allied War Commission in fact took full use of the opportunity to pronounce on the war affairs of the Allied Powers. As the records clearly show this Allied War Commission had taken ample cognizance of the Armenian plight (as to those of the Pontic Greeks, the Serbs etc.) and after all arguments were discussed the Commission unequivocally ruled that these atrocities committed were “crime against humanity” (and not genocide, seeing as this concept not existed at the time).<sup>85</sup> Hence a group of judges who were all but prejudice toward the beaten Allied Powers ruled, after hearing all the different plights, that this conduct had to be condemned as “crimes against humanity”, and even here some judges reserved a strong doubt as to whether this was at the time (in 1915) already established law or rather a moral concept.<sup>86</sup> Thus to put now the label of genocide on the 1915 events would be legally incorrect and would be side stepping the decision of ‘crimes against humanity’ that was rendered by a specially erected judicial organ of the victor states.

## 9. Conclusion

As amply demonstrated by the three arguments presented, any applicability of the term of genocide cannot be upheld: it would be overlooking the

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83 *Effect of Awards of Compensation Made by the United Nations Administrative Tribunal* (Advisory Opinion of July 13, 1954), [1954] ICJ Rep. 47 at 53; cf Article 54 Hague Convention for Pacific Settlement of International Disputes, Article 81 of the 1907 Convention, and Article 59 ICJ Statute.

84 Exceptions to *res judicata* are first documented in Article 35 of “Model Rules on Arbitral Procedure” *YB ILC* (1958) Vol. II, Report of the Commission to the General Assembly, Doc. A/3859, at p. 86 reprinted in (1959) 53 *AJIL* 230 at 247.

85 “Commission On the Responsibility of the Authors of the War and on Enforcement of Penalties” (1919) final judgment reprinted in 14 *AJIL* (1920) 95. B. B. Ferrencz, *Crimes Against Humanity*, 1 *EPIL* (1992), 870. A. Cassese, *International Criminal Law* (Oxford: Oxford University Press 2003), 327-328.

86 The American Judges stated: “A judicial body only deals with existing law and only administers existing law, leaving to another forum the infractions of moral law ..” “Commission On the Responsibility of the Authors of the War and on Enforcement of Penalties” (1919) judgment reprinted in 14 *AJIL* (1920) 95 at 144.

technical evolutionary character of the notion of genocide, a wrong interpretation of the retroactivity clause and the VCLT, and finally side stepping the doctrine of *res judicata*. Moreover, the evolutionary character of the concept itself would not be served by misguiding it for historic events; no matter how morally righteous. Again from a legal standpoint it is imprecise. This is not making believe that the Armenian deaths as a result of the events of 1915 are absolved. Far from it, the Ottoman Empire received the full legal responsibility for the acts committed, but within the scope of the legal instruments of that day. Thus we can conclude that to term the events of 1915 as genocide is to detach genocide from its legal definition and to use it for political or moral purposes. Whether it is sound to keep hammering on a legal term based on non-legal considerations is doubtful. Not only would this not help the dire - economically torn country of Armenia to restore its economic ties with its neighbors, it also adds to a wrong conceptualization of the legal system and eventually could lead to a devaluation of the norm itself.

The legal scholar Pakhavan eloquently captured the problem at hand when he wrote;

*To term the events of 1915 as genocide is to detach genocide from its legal definition and to use it for political or moral purposes. Whether it is sound to keep hammering on a legal term based on non-legal considerations is doubtful. Not only would this not help the dire - economically torn country of Armenia to restore its economic ties with its neighbors, it also adds to a wrong conceptualization of the legal system and eventually could lead to a devaluation of the norm itself.*

“Another dimension that cannot be overlooked is the legacy of the Holocaust upon which the crime of genocide rests. There is sometimes a temptation to adopt expansive interpretations as a means of expressing outrage or vindicating the suffering of victims through categorizing a particular situation as - to quote the words of the ICTR Trial Chamber in the Kambanda case – “the crime of crimes”. Conversely, there may be a temptation to conceive of this crime as unique, as belonging only to the realm of grand conspiracy among leaders as in the Nazi “Final Solution”, and not a crime that also pertains to the myriad willing executioners at lower levels of power”.<sup>87</sup>

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<sup>87</sup> P. Akhavan, ‘Contributions of the International Criminal Tribunals of the Former Yugoslavia and Rwanda to the Development of Definitions of Crimes Against Humanity and Genocide’, *ASIL Proc.* 94 (2000), 279 at 282. It should be noted though that the author’s opinion was that the interpretation of genocide as displayed in the case law of the ICTY and the ICTR was normatively expanding, and that the notion of genocide and would thus, in the authors’ opinion, undo its original malicious nature of a truly vile category of war atrocities.

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# IRAN AND ARMENIA: A SYMBIOTIC RELATIONSHIP

(İRAN VE ERMENİSTAN: SEMBİYOTİK BİR İLİŞKİ)

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**Abstract:** *The aim of this paper is to portray the fact that Armenia and Iran are partners despite their cultural and economic differences because of political considerations. Iran and Azerbaijan possess a symbiotic relationship that appears to be centered upon energy and economic benefits but it is simply political self-interest. Iran despite its religious form of government, has good relations with not only the Muslim nations but also the Christian states as well, Armenia is no exception. It is true that Armenia needs all the friends that are willing to cooperate in order to free itself from the landlocked geography. Azerbaijan, being a long time foe since the Nagorno Karabagh conflict, Turkey and the United States supporting the Azeri view, has left an isolated Armenia in the region. Russia being a foster parent and a military ally to Armenia has provided the greatest support. Iran, on the other hand is a regional power with nuclear capabilities. Armenia compared to Iran as a state has nothing to offer to Iran but Armenia is a bulwark against Azeri insurgency in Iran. Their relationship may appear to be symbiotic and functional but an isolated Armenia and an Iran that feels threatened by an Azeri population that is 18% of its total population need to abide by each other. First, a brief history of the relations will be provided. Second Iran and its foreign policy is dwelled upon. Third, Armenian foreign policy will be evaluated. Fourth, the issues that are most important to the relationship, energy, economics, Nagorno Karabagh conflict will be discussed. Fifth, why Iran and Armenia will continue to be allies despite their dissimilarities will be presented. The argument will be centered upon why a regional power like Iran needs a small power like Armenia as a partner. Questions like, what does Armenia have to offer Iran will be posed and answered. Finally, an overview of the paper will be presented accentuating on regional power small power differences.*

**Keywords:** *Armenian Foreign Policy, Azerbaijan, Energy, Eurasia, Iranian Foreign Policy.*

**Öz:** *Bu makalenin amacı kültürel ve ekonomik farklılıklarına rağmen aslında Ermenistan ve İran'ın siyasi sebeplerle partner ülkeler olduğu gerçeğini ortaya koymaktır. İran ve Ermenistan enerji ve ekonomik çıkarlar etrafında şekillenen bir simbiyotik bir ilişki gibi görünürken aslında basitçe siyasi menfaatlerden kaynaklanmaktadır. İran din temelli devlet yapısına rağmen sadece Müslüman milletlerle değil aynı zamanda Hristiyan devletler ile de iyi ilişkilere sahiptir ve Ermenistan da buna dâhildir. Ermenistan'ın içinde bulunduğu kapalı coğrafyasının dışına çıkabilmek için kendisi ile işbirliği yapmaya hazır tüm dostlarına ihtiyacı olduğu doğrudur. Azerbaycan'ın Dağlık Karabağ çatışmasından bu yana uzun süreli bir düşman olması, Türkiye ve Amerika Birleşik Devletleri'nin de Azeri görüşünü desteklemesi, Ermenistan'ı bölgede izole etmektedir. Rusya bir ebeveyn ve askeri müttefik olarak Ermenistan'a en büyük desteği vermektedir. İran ise nükleer kapasitesi bulunan bölgesel bir müttefik konumundadır. İran ile karşılaştırıldığında Ermenistan'ın bir devlet olarak İran'a önerebileceği bir şey bulunmazken İran'daki Azeri ayaklanması tehdidine karşı bir siper görevi görmektedir. Aralarındaki ilişki simbiyotik ve işlevsel görünse de izole edilmiş bir Ermenistan ve nüfusunun %18'ini oluşturan Azeri nüfusu kendisine bir tehdit olarak gören İran birbirleriyle anlaşmak durumundadır. Öncelikle ikili ilişkilerin tarihi kısaca incelenecektir. İkinci olarak İran ve dış politikasına değinilecektir. Üçüncü olarak Ermenistan dış politikası değerlendirilecektir. Dördüncü olarak ikili ilişkiler açısından en önem taşıyan konular olan enerji, ekonomi ve Dağlık Karabağ sorunları tartışılacak, beşinci olarak İran ve Ermenistan'ın aralarındaki farklılıklara rağmen neden müttefik kalmaya devam edecekleri betimlenecektir. Temel argüman İran gibi bölgesel bir gücün Ermenistan gibi küçük bir ülkeye neden müttefik olarak ihtiyacı olduğu fikri çerçevesinde incelenecektir. Ermenistan'ın İran'a ne sunabileceği gibi sorular cevaplanacaktır. Son olarak, bölgesel güç ve küçük güç farklılıklarına değinilerek makalenin genel bir değerlendirmesi sunulacaktır.*

**Anahtar Kelimeler:** *Ermenistan dış politikası, Azerbaycan, Enerji, Avrasya, İran dış politikası*

## 1. History of Iranian-Armenian Relations

The Caucasus stressed both by Brzezinski (1998) and Mackinder (1944) employs a very important part of the world geography. Brzezinski points to the fact that Central Eurasia is the commanding station of the world system whereas Mackinder in the beginning of the 20<sup>th</sup> century generated the term Heartland. The Heartland (where the continental masses of Eurasia were concentrated) served as the pivot of all the geopolitical transformations. Mackinder's heartland dictum was:

Who rules East Europe commands the Heartland;

Who rules the Heartland commands the World-Island;

Who rules the World-Island commands the world (Mackinder, 1944).

Regardless to say, the Caucasus as a region occupies an important place in both history and politics. Just as volatile and restless as the Balkan region, it is one of most critical regions of the world. Ismailova and Papava (2008: 283) press the view that, the Caucasus have a heterogeneous legal and political status and it is not an integrated region in political, socioeconomic senses. The Caucasus (Papava, 2008) can be examined in three parts. The first part is coined as North Caucasus consists of the Russian Federation. The second Central Part consists of three independent republics Armenia, Azerbaijan and Georgia. The third, South Caucasus, consists of Iran and Turkey. Due to its political and social heterogeneity, the central caucasus attract most of the attention. The topic of this paper also concentrates on the central caucasus region. Armenia and Iranian relations will be dealt within the given structure.. Why does Iran and Armenia have a symbiotic relationship? Why does Armenia play an important role in Iran's foreign policy making? Why does Armenia need Iran especially when it is supported by Russia in political, economic issues? The region's importance is due to its hydrocarbon resources. Control of the transit routes brings both political and economic power to withholders.

The beginning of the relationship occurred out of necessity. As the Soviet Union disintegrated newly independent states emerged. As the newly independent states drifted apart from Russia, the region tried to adapt itself to both the new comers and the new hegemon. Iran having experienced the Islamic revolution and having the objective of exporting the Islamic revolution was cautious towards the new environment. In 1991 Armenia became an independent state. Iran did not take much interest in providing support for the newly independent states. As the Nagorno-Karabagh conflict blasted, Iran knew that it could be indifferent. The conflict between its two neighbors put Iran in an extremely difficult position (Zarifian, 2008: 130). Azerbaijani president Elchibey's nationalistic discourse alarmed Iran and pushed it towards Armenia. Armenia having already the support of Russia enjoyed Iran's friendly gestures. Armenian officials travelled to Iran and the volume of trade increased (Hunter, 1994:49). The official visits between the presidents and the officials reaffirmed the importance of the newlyfound friendship (Zarifian, 2008: 131).

Both Armenia and Iran had to be vigilant in defining their rapprochement.

Russia was involved in almost all aspects of Armenian political, social and economic life. Armenian-Iranian ties did not accumulate into a military alliance. In 2007 Armenian premier stated that “Armenia limits its relations with Iran to consultations only in terms of security (Zarifian, 2008: 132)

As the new geopolitical reality changed, old alliances suffered a breakage. The collapse of the Soviet Union presented a new game; the increasing influence of the US in the Middle East was unavoidable. Double containment policy of the US ushered in an uneasy era for Iran. Newly Independent States (NIS) formed a new ground of action for . A collapsed giant could well be

*Both Armenia and Iran had to be vigilant in defining their rapprochement. Russia was involved in almost all aspects of Armenian political, social and economic life. Armenian-Iranian ties did not accumulate into a military alliance.*

revived by bringing up the pieces. New security threats rose such as the conflict between Armenia and Azerbaijan, inner conflicts in Georgia also worsened the situation (Sadegh-Zadeh, 2008:2). Iran’s economy experienced a downfall after its war with Iraq. The economic casualties pushed Iran towards finding new partners in the region. Another burden on Iran’s shoulders was its ethnic diversity. Sadegh-Zadeh (2008:2) reports that only 51% Persians make up the majority of the population. The remaining 49% is made up of Azerbaijani’s (24%), Kurds (7%), Arabs (3%), Lurs (2%),

Gilakis and Mazandarani (8%) and Turkmens (2%). A revived Nagorno-Karabagh conflict can easily have a domino effect in Southern Iran, which could destabilize its Azerbaijani inhabitants.<sup>1</sup> Iran, in a suffocated international arena chose to go north to find new partners.

Armenia on the other hand, was in an even worse situation. The Nagorno Karabagh conflict with Azerbaijan 1988 came to a stalemate which facilitated both parties in gaining their independence from the Soviet Union in 1991. In 1994, a ceasefire took place Armenian forces took hold of Nagorno Karabagh and a significant order of Azerbaijani land. At the time the time the Azeri nationalistic government of President Elchibey posted a threat to both Iran (effecting its Azeri population) and Armenia (nationalistic government in Azerbaijan meant that more harsh political measures would be taken towards Armenia). Common enemies pulled both of the troubled parties together. Iran was not only concerned by Azerbaijan but also was uncomfortable with the

<sup>1</sup> The new figures show that the Persian population in Iran has risen to 61%, Azeri (16%), Kurd (10%), Turkmen and Turkic Tribes (2%) (Central Intelligence Agency[web], 2011). It can be inferred that as the Persian population increased by 10%, the Azeri population have decreased by 8%. The Kurdish population increased by 3% and the Turkmen did not change.

newly formed US-Israeli-Turkish axis that supported the Azerbaijani thesis in the Nagorno Karabagh conflict (Sadegh-Zadeh, 2008: 2). Iran was faced not only with the threat of internal disorder but also with a challenge to its regional superiority. It can be inferred that the Iranian Armenian relationship was more an asset to Iran than to Armenia. Armenia with its landlocked geography and closed borders with both Turkey and Azerbaijan is willing to cooperate with any state that will give support to its national interest; an Islamic Iran is no exception. Iran's Islamic revolution is not a threat to Armenia since it is Armenian Apostolic<sup>2</sup> (94.7%) and Christian (4%) by religion.

## 2. Iranian Foreign Policy Objectives

At the beginning of 1990's Iran's first aim with regards to its northern neighbors was to recover its formal economic and political influence (Zarifian, 2009:386). Iran's foreign policy towards the South Caucasus is dictated by national interest. Iran has drawn closer to Armenia in an attempt to balance Azerbaijan's rising power in the region. This alone is in fact a drift from the policy of importing the revolution and the ideology. As a new industrializing country, Iran was concerned with its economic interest over religious ideology in its foreign policy and understood if it chose to spread its ideology, many countries would not have trade relations (Gresh, 2006:1).

Iran pursues a two-pronged policy: one aimed at impressing the domestic audience, the other is aimed at international policies (Rieffer-Flanagan, 2009:8). Iranian foreign policy, particularly the foreign policy after the Islamic Revolution can be examined under four parts. The first part consists of the Khomeini's leadership (1979-1989). The second part is Rafsanjani's presidency (1989-1997). The third part is mainly under the influence of Khatemi (1997-2005). Finally in the last part Ahmedinejad's presidency will be dealt with. The major concern is whether ideology is influential or is realpolitik the overriding element in foreign policy objectives.

First 10 years after the revolution the foreign policy principles were ideologically driven. It provided a just cause for the first Gulf War. The Iraqis were fighting for the western values whereas Iran was fighting for the good and God. Iran turned its disadvantage into its advantage.

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2 It is the official religion and church of Armenia. Founded in the first century by two of the Apostles of Jesus Christ, Saints Thaddeus and Bartholomew, it is one of the five ancient Eastern Orthodox churches. At the beginning of the fourth century, Armenia became the first nation in the world to declare Christianity (The Armenian Church [web], 2011).

Regardless to say, the first few years after the Islamic Revolution the major drive for foreign policy were ideology. There were two guiding principles. The first principle was to resist Western ideals and cultural values. The second principle was exporting the Islamic revolution (Rakel, 2007: 167). The first principle mainly consisted of having distant relations with the US and closer relations with the Soviet Union. It tried to have normalized relations with the allies of the super powers such as Western Europe, Japan and China (Rakel, 2007). The second principle, consisted of supporting and providing the spread of the Islamic Revolution in the region. Islam was the major force behind Iran, and the survival of the state depended on strict adherence to preserving the theocratic state. At the outset of the First Gulf War, most states of the region was cautious of Iran and its revolution, therefore chose to have closer ties with Iraq. Oman established relations with Iran and Saudi Arabia followed. Only Kuwait took precaution. The Iranian call for cease fire with Iraq. UN Security Council Resolution (UNSCR) 598 came into effect in 1988. War wreck Iran had to reorganize its relations with the West. Further, it had to find the means in generating capital to jumpstart its economy. Reconstruction of foreign policy and reintegration of Iran to the international system was needed.

During Rafsanjani's presidency, a more pragmatic approach to foreign policy was used. President Rafsanjani did not want to follow Khomeini's foreign policy principles nor his dictum of exporting the Islamic revolution. Khomeini's death in 1989 helped him to formulate new foreign policy principles. Conservatives like Rafsanjani tried to improve economic relations with the US in order to attract foreign investment as a tool for improving foreign relations (Rieffer-Flanagan, 2009:9). Whereas neoconservatives pressured to continue the policy of exporting the Islamic Revolution, regardless of the method whether it was by subversion or terrorism. The new Supreme leader reevaluated the export of revolution dictum:

“This is what exporting the revolution means: to enable all the nations in the world to see that they are capable of standing on their own feet, resisting submission with all of their strength by relying on their own will and determination and by replacing their trust in God” (Moslem, 2002).

Iraq's invasion of Kuwait in 1990 changed the outlook of policies in the region. Iraq, rather than Iran threatened the peace and security of the Persian Gulf region. Iran was the country to condemn the invasion (Rakel, 2007:173). Iran also took active part in supporting Kuwait and the West against Iraq. It declared itself neutral during the Second Gulf War and Gulf states began to gather around Iran. Rafsanjani's bid for reestablishing Iran as a regional

power was becoming effective. It was no longer an isolated outcast but a regional gravity center.

The disintegration of the Soviet Union also signaled a new era for Iranian policies towards the Caspian Sea region. The newly independent states produced a new outlet for oil transportation. European states could become potential buyers of Iranian oil. Economic partnership with the Persian Gulf and newly independent states and Europe would in fact break the chains of political isolation and reinvigorate Iran into the global economy.

Khatemi presidency continued Rafsanjani's foreign policy principles and improved relations with not only its neighbors but also with the European Union. He also tried to ease the relations with the US by initiating a "dialogue of civilizations". As Khatemi tried to further the "dialogue of civilizations", Supreme president Khamenei continued to support radical groups such as Hezbollah in Lebanon and Hamas in Gaza (Rakel, 2007:179). This dichotomy of power sent mixed messages to the western world. As the dialogue continued, the attempts to export the revolution also continued. Could Iran be regarded as being genuine in its attempts to normalize relations with the West?

Despite Khatemi's efforts in normalizing Iran's relations with the west, President George Bush declaring Iran in the "axis of evil" accompanied North Korea and Iraq in his state of the union address, disturbed the process (Rieffer-Flanagan, 2009: 9). Iran had supported the US in Afghanistan in its "war against terrorism".

Ahmedinejad presidency neglected the pragmatic approaches of Rafsanjani and Khatemi. He pursued a more hostile approach towards the West and Israel. Iran's pressure on acquiring and using nuclear energy has also reached a climax during this period. Ahmedinejad also repeated his disappointment with the US in 2008:

"I have said many times that we would like to have good relations with everyone, including the US. But these relations must be based on justice, fairness and mutual respect...One can embark on a new period of talks. I've said that our absolute principle for these talks is fairness and mutual respect. We helped in Afghanistan. The result of that assistance was Mr. Bush directly threatening us with a military attack. For six years he has been engaged in similar talk against us" (The New York Times, 2008).

Iran has a realistic foreign policy. It carefully avoids a clash with the Israeli



army. It uses indirect measures such as Hamas and Hezbollah to weaken Israel in a war of attrition. At the same time, it uses its struggle with Israel as a tool to win support from other Muslim countries that are distrustful towards the Islamic revolution.

Iran is also in a conflicting position with Russia on the division of the Caspian Sea. The main problem of whether the Caspian Sea is a lake or a sea presents a quagmire. This is not a new problem but a major area of concern for littoral states of the Caspian Sea ever since the fall of the Soviet Union. If the Caspian is a sea, then it would be divided into shares and according each

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states coastline, an equidistant median line principle would be applied(Caucasian Review of International Affairs [web], 2009).

<sup>3</sup> If the Caspian is a lake then it would be divided between the states that have a coastline among the Caspian. Russia and Kazakhstan would benefit from such a division because their coastline is longer than the other concerned states. Iran on the other hand would benefit from the lake thesis because it would raise its sharehold from 13% to 20%.<sup>4</sup>

Both Russia and Iran are members of Caspian Economic Cooperation Organization. The main aim of this organization is boosting a permission for a trans caucasian pipeline and joint security. If Russia and Iran can not to form a bloc for securing pipeline projects across the seabed, Nabucco project will be halted. There are no immediate security threats for the Caspian Sea. Caspian Sea neighbors are more willing to follow Russia than Iran on matters of security. It would be for Iran's use to have a partner like Russia on matters of energy since they challenge yet complement each other.

3 A median line is defined in the UN Convention on the Law and the Sea (UNCLOS) article 15. The article states that "Where the coasts of two States are opposite or adjacent to each other, neither of the two States is entitled, failing agreement between them to the contrary, to extend its territorial sea beyond the median line every point of which is equidistant from the nearest points on the baselines from which the breadth of the territorial seas of each of the two States is measured. The above provision does not apply, however, where it is necessary by reason of historic title or other special circumstances to delimit the territorial seas of the two States in a way which is at variance therewith" (United Nations[web], 1982).

4 There are other issues, such as control of the surface as opposed to control of the seabed, transit rights, and so on – but the core of the problem is the sea/lake conundrum. Azerbaijan, Kazakhstan and Russia have already settled the issue between themselves by signing bilateral agreements dividing 64 percent of the sea. These agreements are not recognized by Iran, so the final solution to the legal status of the Caspian still remains to be settled( (Caucasian Review of International Affairs [web], 2009)

As it can be inferred, Iran despite its ideological setting, prefers to pursue a realistic foreign policy that is based on self interest. Survival of the state is more important than survival of the ideology. This is understandable because the age of globalization has witnessed a downturn of most strict ideologies.

### 3. Armenian Foreign Policy Objectives

Armenian foreign policy goal of “complementarity” stresses the strategic importance of the relationship with Russia but it does not neglect U.S and EU either (Zarifian, 2009:395). Armenia according to Papazian (2006:235) has nothing to offer for trade. They have no economic or political power, their options are limited. Even changing the administrators does not change the options. Rather than having long range policy goals the unchanging problems are solved within daily bases. Lack of capital and lack of accomplishment in domestic affairs puts Armenia in a disadvantaged position. Nagorno Karabagh conflict is linked with almost every issue in Armenia but the overarching element in policy making is security. Armenian foreign policy aims to secure the survival of the state and its population.

Russia’s influence on Armenia is uncontestable. Russia has three bases in Armenia, namely Gumri, Erebuni, Meghri. They have cooperation agreements on space technology and strategic studies. In 1994, Armenia signed up the Partnership for Peace with NATO and then participated in the alliance maneuvers in the Black sea. After the September 11 attacks Yerevan opened its airspace to the American aircraft (Minassian, 2008:12). Partnerships with EU are not neglected. All these arrangements are done under Russia’s auspices. According to Serge Sarkissian “the security, sovereignty and territorial integrity of Armenia”<sup>5</sup> are important and involvement in international cooperation will not hamper the alliance with Russia

In order to halt the spread of revolutions, the Russian and Armenian regimes have adopted the same interventionist policy of restoring the authority of the state. The power ministries of army, police and intelligence service act as the backbone of their political administrations (Minassian: 2008:10).

Ter-Petrossian declared that his main goal was the physical security of Nagorno Karabagh’s Armenian’s he did not mention independence or reunification. Armenia’s national interest is dependent on one major issue: Nagorno Karabagh so national interest and making policy choices is not concentrated on what is beneficial for the country rather it is the choice

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5 Speech delivered by Serj Sarkissian December 1, 2006.

between what is least harmful (Papazian [web], 2006). Ter-Petrosian (1997) coined it in his famous article as not “a choice between good and bad, but rather between bad and worse”. At the beginning of the Armenian independence the major question was that could an independent Armenia exist? It needed a cause the Nagorno Karabagh conflict provided the national cause for the continuation of the statehood. The answer for the question was Nagorno Karabagh conflict. Armenia needed a national cause for the continuation of the statehood and conflict provided it.

The diaspora, Armenians who are living abroad, is also influential in policy making. The diaspora provides the capital that Armenia desperately needs. In exchange for capital their voices are heard in Yerevan. The diaspora and the government have different foreign policy goals. The diaspora is part of the nation but not part of the state (Migdalovitz, 1996).

President Kocharian approached the Nagorno Karabagh conflict in a different way:

“The Nagorno Karabagh issue is a national issue and we have to settle it with dignity. Proceeding from the principles of peaceful resolution, we should achieve the international recognition of the Karabagh people’s right to self-determination, ensuring its development within safe frontiers and the permanent geographic connection with Armenia” (Kocharian[web], 2000).

Regardless to say Nagorno Karabagh is the penultimate issue on Armenian foreign policy making. The conflict provides the cause for the continuation of the statehood. Armenian foreign policy aims to secure the survival of the state and its population.

## **4. Common Issues and Causal Relations**

### **4.1 Economics**

Armenia’s export commodities consist of pig iron, unwrought copper, non-ferrous metals, diamonds, mineral product, foodstuffs, energy. Its main export partners are: Russia(15.9%), Bulgaria(15.5%), Germany(13.1%), Netherlands(9.8%), Belgium(7.2%), Iran(5.2%), Georgia(5%)(World Fact Book[web], 2011).

Armenia’s import commodities consist of natural gas, petroleum, tobacco products, foodstuffs, and diamonds. Its partners are Russia (22.1%), China (10.7%), Ukraine (6.1%), Iran (5.7%), Germany (5.6%) and Turkey (5.6%)

(World Fact Book [web], 2011). Russian hegemony in Armenia is unarguable. Any instability that is experienced in Russia will have sudden repercussions in Armenia.

Armenian economy faced a recession with GDP declining 14% in 2009. Declines were experienced in construction sector<sup>6</sup>. The economy began to recover in 2010 with 5% recovery (World Fact Book [web], 2011). Armenia developed a modern industrial sector, supplying machine tools, textiles and other manufactured goods in exchange for raw materials and energy. Armenia is dependent on Russian economy. Russian companies own most key infrastructures. Electricity services were privatized in 2002 and were purchased by the Russian RAO-UES in 2005. Construction of a gas pipeline to deliver gas from Iran is put on hold to complete the Yerevan Thermal power plant (World Fact Book [web], 2011).

Iran compared to Armenia has a much stronger outlook. Its population of 77,891,220 compared to 2,967,975 is grandiose. Its economy is based on the state sector<sup>7</sup> and oil sector. There is a small number of private sector activities. This sector is limited to workshops, farming, and services. Iran has unemployment and underemployment. Many educated youth seek for jobs that are abroad (World Fact Book [web] 2011).

Iran's major export commodities are petroleum (80%), chemical and petrochemical products, fruits and nuts, carpets. Its major export partners consist of China (16.2%), India (12.6%), Japan (9.9%), Turkey (6.8%), South Korea (5.7%) and Italy (5.3%) (World Fact Book [web], 2011).

Iran's import commodities are more varied. Industrial supplies, capital goods, foodstuffs and other consumer goods, technical services are dominant factors contributing to import. Its partners are; China (17.5%), UAE (16.7%), Germany (7.6%), South Korea (6.3%), Russia (5.7%), Turkey (4.8%) and Italy (4.2%) (World Fact Book [web], 2011). China is one of major economic partners of Iran but since the driving force behind its economy is oil revenues, it needs to develop alternative energy sources since that it is evident that fossil energy sources will become obsolete in the near future.

It is evident that Armenia needs Iran as a partner since its economy is strongly influenced by Russia. Iran does not need Armenia as a partner in economic matters but instead uses Armenia as a political tool to maneuver its relations with the West. Armenian-Iranian economic relations are not a necessity for

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6 Construction, agriculture, and manufacture are the major sectors contributing to Armenia's economy.

7 When compared with Armenia Iran is more dependent on the state sector. Ironically, Armenia appears to give priority to privatization yet the companies are privatized by Russia. Monopoly of privatization occurs.

Iran but it's a tool to attain administering power on political issues of the region. Armenia counts on Iran and its transportation routes to develop its economic relations with Asia (Zarifian, 2008: 133). Nagorno Karabagh conflict is a barrier for Armenia to overcome in order to be active in trading lines in Asia. Armenia aims economic circulation and mobility of its people the only outlet for this purpose is Iran.

The development of cargo transit is also important for Armenia. Armenia exports products of agriculture and imports consumption goods such as construction materials, and machinery (Zarifian, 2008: 133). Iran also helps Armenia to develop better economic ties with Asia. Iran is a transit route to Asian markets. Armenia needs Iran for economic circulation and as an outlet for mobility of its people.

*Armenia needs Iran as a partner since its economy is strongly influenced by Russia. Iran does not need Armenia as a partner in economic matters but instead uses Armenia as a political tool to maneuver its relations with the West.*

#### 4.2 Energy

Armenia depends fully on Russia and Russian companies to procure oil and gas. Since it cannot benefit from Baku-Tblisi-Ceyhan(BTC) pipeline its only alternative against Russia in case of emergency is Iran. Iran needs Armenia as a transit point to deliver its gas to Europe. Armenia desperately needs to break the monopoly of Russian superiority over supplying gas (Oilgas[web], 2011).

High tension power lines are another concern for the energy cooperation between the countries. There are already two high-tension power lines between Iran and Armenia the third one is also planned (The World Factbook[web], 2011). The building of a hydroelectric plant on the river Arax and Iran financing the fifth unit of Hrazdan thermoelectric plant are examples of the cooperation that is taking place. Armenia produces more energy than it consumes, therefore it plans to sell the surplus to Iran (De Wall, 2010).

Energy cooperation plays a big role in Armenian-Iranian relationship. Construction of a gas pipeline from Iran to Armenia has been completed (Oilgas [web], 2011).<sup>8</sup> The plans of building the pipeline was announced in 2002<sup>9</sup> and the project started in 2006 and completed in 2007. Iran by entering

8 The Iran-Armenia gas pipeline is 140km pipeline from Iran to Armenia. The 100 km Iranian section runs from Tabriz to the Iran-Armenia border. The Armenian section runs from the Meghri region to Sardarian, and another 197 km of pipeline is planned to reach the center of the country, where it will link up with the existing distribution network (Oilgas[web], 2011).

9 Armenian Energy Minister Armen Movsisian announced on 15 April 2002 that the Armenian government has prepared a new agreement on the planned construction of a natural-gas pipeline from Iran to Armenia (Central Asia Caucasus Institute [web], 2002)

in Armenia hopes to send its gas via transit route to the European Union. Russia hopes to brush away that threat since Gazprom has a certain monopoly over gas distribution. It is noted that in order to limit the flow of the gas from Armenia to elsewhere; Gazprom intervened by its subsidiary firm to decrease the size of the pipes in diameter<sup>10</sup> to stop the overflow of gas to Europe (Socor[web], 2007).

Iran is also leading the building of a third electricity transmission line to Armenia (Mehr News[web], 2011). Iranian Minister of Foreign Affairs Ali Akbar Salehi also recorded that they were planning to build a hydroelectric power plant on Aras River. The negotiations continued on the subject that based on which a 180-megawatt power plant will be built in Iran and another 180-megawatt power plant will be built in Armenia.

Tehran is not only planning to build new power plants and transmission lines but also is willing to renovate the infrastructure of Armenia (Asbarez[web], 2011). Building a highway between Armenia and Iran is a small step towards achieving that goal.<sup>11</sup> This move would not only help the Armenian infrastructure but also would prosper the economic relations and trade volume between the two neighbors.

Iran also plans to help Armenia on developing its sources of alternative energy. A wind driven plant was financed by Iran in 2005 (Zarifian, 2008: 135). Building a second gas pipeline is also discussed but no concrete step has been taken to start it. There are also plans of a railway project between the two countries (Armenpress[web], 2010).

Iran having the world's largest gas reserves after Russia seems to profit from any conflicting situation. Any conflict that is involved with Russia contributes to the worsening of relations concerning energy. The next best alternative for energy supplies and economic relations is always Iran. Iran's fostering role for the states in Caucasus cannot be neglected. Georgia, Armenia, Azerbaijan all have benefitted from this special relationship. An example of this cooperation would be the Georgian Iranian agreement to swap energy via Armenia (Armenpress[web], 2006).<sup>12</sup> As the states in the Caucasus try to drift

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10 This was done despite Iran's will. The gas pipe's diameter of 1720 millimeters was reduced to 700 millimeters. This would hinder Iran from exporting its gas to elsewhere but Armenia (Socor[web], 2007).

11 The budget allocated for the proposed project is \$60 million. According to the Asian Bank, the estimated cost of the project is \$1.5 billion. However, only \$300,000 has been allocated for the first stage. As part of the program, Armenia's existing roads from the border with Iran to the border with Georgia will be reconstructed and expanded (Asbarez[web], 2011).

12 Iranian and Georgian energy ministers pointed to a three-party agreement for electricity transfer among the three countries Georgia and Armenia in Yerevan. According to the agreement, Iran will transfer some 50 megawatts of electricity via Armenia to Georgia from end of November. 2006 (Armenpress [web], 2006).

away from the control of Russian energy and economic grip, Iran is doing its best to transfer its energy from Caucasus into Europe, which would not only increase its economic gain but also provide a threshold for practicing power over the region and influencing others in Europe.

Iran needs Armenia as an access transit to deliver its gas to Europe. Due to its political inclinations Russia is preferred over Iran. Iran needs to deliver its surplus to other markets. If it can become an alternative to Russia on gas, it will not only benefit from it through its economy but it will also.

### 4.3 Nagorno Karabagh

Nagorno Karabagh was part of the Soviet Republic of Azerbaijan but with an Armenian majority. Cease fire agreement was signed in 1994 a situation of “no war, no peace” has prevailed. Armenia captured the de-facto control of Nagorno Karabagh and 14% of Azerbaijani land. Today it’s a defacto Armenian entity with functioning institutions but is not recognized as a state. De Waal (2010:159-160) summarizes the situation the conflict as a sovereign state (de Waal,2010:159-160). It is not just a regional conflict, it has spill over effects. Minsk Group<sup>13</sup> is actively involved in the conflict. The line of contact that divides Armenian and Azerbaijani forces are monitored by six observers

Each party to the conflict appears to have benefitted from the stalemate. Does the Minsk Process offer a long lasting solution to the conflict or is it simply a conflict management mechanism is debated; only latter appears to be true.

The natural relationship that was expected from the conflict was that Shia Iran would side with Shia Azerbaijan. After all, Iran was trying to export its revolution and this principle was one of the most important tools of formulating foreign policy goals (Rieffer-Flanagan, 2009:21). Azerbaijan hoping to strike a better deal with the US on Caspian Oil put some distance between itself and Iran. Tehran did not interfere in Tajikistan or Afghanistan to promote a theocratic state. Both of the countries were ripe to have such formulations.

During the conflict Iran worried that if Azerbaijan was supported, a unification could take place between the “divided” Azerbaijanians that had been separated by the Persians and Ottoman Empires (Gresh, 2006:1). A nationalistic cause could threaten the the unity of the state. Iran also did not want to disturb the natural balance of power in the region that was controlled

<sup>13</sup> Minsk Process consists of a conference which occasionally convened never meets as a group and co-chairmanship. Named after a city where the mediators never met.

by Russia. Iran viewed the Nagorno Karabagh conflict as an internal affair of Russia. Iran also feared that any “secessionist movements” in its territory could be exploited by others. Therefore was no choice but being neutral. Papazian(2001:78) summarizes the situation as:

“Siding with azerbaijan would produce unnecessary domestic pressures from the upper rich Armenian elite in Iran Such a move would also be seen as religiously based and therefore stir international criticism On the other hand, the radical Islamic government would not support a Christian actor fighting against a muslim republic. Neutrality was therefore the safest reality.”

Iran shares borders with all sides of the conflict (Schaeffer[web], 2003). Neutrality continued until Azerbaijan increased its rhetoric for unification with Southern Azerbaijan. Iran came closer towards Armenia, signed a bilateral treaty of friendship and economic cooperation at the end of 1992 (Cornell, 1998:56).

*Iran's conviction of Azerbaijan is not limited to the Nagorno Karabagh conflict. There is a serious disagreement between the to states over the issue of Caspian Sea status.*

President Aliyev changed Azerbaijan's approach towards Nagorno Karabagh. Iran knew that no matter how moderate the new Azerbaijani president was, the threat persisted for its Azerbaijani population. A stronger Armenia against Azerbaijan would keep Azerbaijani ideals out of Iran. A stronger Armenia also signals a deterred Azerbaijan. Azerbaijan's ascension to economic and political power of the region is delayed. Iran is also protecting its regional oil investments that might be endangered in case Armenia collapsed (De waal, 2003:4).

Iran's conviction of Azerbaijan is not limited to the Nagorno Karabagh conflict. There is a serious disagreement between the to states over the issue of Caspian Sea status. The second disagreement is over the installation of a US radar base on the Azerbaijani border and finally the deram of a “greater Azerbaijan” (Minassian, 2008:7).

Being an Islamic Republic one would expect Iran to side with yet another muslim state, Azerbaijan. On the contrary Iran prefers to have conflict saturated Azerbaijan in order to present it as an undesirable place to secede to. Azerbaijani minority in Iran will have no interest in joining with their departed brothers and Azerbaijan will not have the means and interest to stir up the Azerbaijani minority in Iran. Yet a conflict that is uncontrollable is not desirable either, a stalemate at best is aimed at. Fuel from Russia was also delivered to Armenia via Iran (Schaffer[web], 2003).

After the cease fire and formal negotiations took place, Iran acted towards the



process with its Azerbaijani minority in mind. It refused to back a proposal concerning the creation of a trade corridor between Armenia and Azerbaijan. Since this arrangement would extend the common border between the Republic of Azerbaijan and Iran, Iran resisted the efforts (Migdalovitz, 1996:23).

The Nagorno Karabagh conflict has pushed Azerbaijan-Turkey and the US in one bloc and Armenia-Russia and Iran in another. Recent developments in the crises have showed that Azerbaijan and Russia are pulling closer under the mediation efforts of Russia (24 Ocak Rusya-Ermenistan-Azerbayjan). Armenia is unwilling to join NATO which is a plus for both Iran and Russia. The insistence of BTC by the US pact and the introduction of the NABUCCO<sup>14</sup> gas pipeline project are all efforts of blocking the monopoly of Gazprom in that region. NABUCCO is firmly backed by the European Union and its plan to diversify its gas supply and routes of transportation. Total of 3300 km of pipeline will bypass Russia and Armenia (Kuser, 2007).

## 5. Conclusion

Iran isolated by the Western world and Armenia isolated by Turkey and Azerbaijan share a common goal of breaking up the vicious circle. Iran is haunted by internal implosion and isolation therefore it clings to its relationship with Armenia. Armenia on the other hand apart from the foster parenthood of Russia doesn't have any allies to rely on.

The symbiotic relationship pertains to the two countries depending on one another for survival. It is evident that Iran does not need Armenia as an ally. This relationship acts as a facilitator on issues of economy, and of energy. Armenia does need Iran as an alternative to Russian influence that is witnessed in all aspects of life.

The relationship persists because Iran and Armenia are both isolated and have many rivals within their immediate region. They are both non-aligned and Iran in most issues, particularly on nuclear weapons issues, is regarded as being belligerent.

Both of the states are a perfect example of a realist conviction. Iran is an Islamic republic. Armenia is known to be the first Christian state. Their only common ground appears to be on the need to pursue the politics of survival and persistence on national interest. The symbiotic relationship is based on necessity. The necessity that does not provide them many options.

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14 Nabucco is the new gas bridge from Asia to Europe and the flagship project in the Southern Corridor. It will be a pipeline to connect the world's richest gas regions - the Caspian region and Middle East - to the European consumer markets (Nabuccopipeline [web], 2011)

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# CHARLES AZNAVOUR'S BOOK ENTITLED D'UNE PORTE L'AUTRE (FROM ONE DOOR TO THE NEXT): HISTORICAL FACTS AND TURKISH-ARMENIAN RELATIONS

(CHARLES AZNAVOUR'UN "BİR KAPIDAN ÖTEKİNE" BAŞLIKLİ KİTABI:  
TARİHSEL GERÇEKLER VE TÜRK-ERMENİ İLİŞKİLERİ)

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**Abstract:** *In his book entitled D'Une Porte L'Autre, apart from information regarding his own life, French singer Charles Aznavour has also presented his thoughts concerning Turkish-Armenian relations. Despite lacking knowledge, Aznavour has not refrained from making detections on the issue, but this has caused the singer to make mistakes regarding his own history. In the book in which the emigration from Istanbul to Europe of the singer's family, whose roots are based on Georgian Armenians, is also described, there are historical mistakes and lack of information. It could be seen that the singer identity of Aznavour, who states that he considers himself both French and Armenian, is used as propaganda to spread and to procure recognition of the Armenian allegations.*

**Keywords:** *Charles Aznavour, Identity Crisis of the Diaspora Armenians, guided art, Armenians of Turkey, Turkish-Armenian relations, 1917-1922 Russian Civil War*

**Öz:** *Fransız şarkıcı Charles Aznavour, D'Une Porte L'Autre adlı kitabında kendi yaşamı ile ilgili bilgilerin yanı sıra Türk-Ermeni ilişkileri bağlamındaki düşüncelerini de vermiştir. Aznavour, çok fazla bir bilgisi olmadığı halde konu ile ilgili tespitler yapmaktan kaçınmaz, ancak bu şarkıcıyı, kendi tarihi ile ilgili yanlışlara düşürür. Kökenleri Gürcistan Ermenilerine dayanan şarkıcının ailesinin İstanbul'dan Avrupa'ya geçişinin de anlatıldığı kitapta, tarihsel yanlışlar ve bilgi eksiklikleri vardır. Kendisini hem Fransız hem de Ermeni olarak gördüğünü beyan eden Aznavour'un sanatçı kimliğini Ermeni iddialarını yaymak ve kabul ettirmek için propaganda amacıyla kullanıldığı görülmektedir.*

**Anahtar Kelimeler:** *Charles Aznavour, Diaspora Ermenilerinin kimlik sorunu, güdümlü sanat, Türkiye Ermenileri, Türk-Ermeni İlişkileri, 1917-1922 Rus İç Savaşı.*

## Introduction

The purpose of this article is to put forth some historical facts regarding Turkish-Armenian relations and to determine in which direction French singer Charles Aznavour has contributed to it based on the information presented in his book entitled *D'Une Porte l'Autre* (From One Door to the Next).

Within the framework of this purpose, we must first shortly mention the biography of Charles Aznavour. Then, information regarding the contents of the book that has become the subject of this article will be provided and the famous singer's viewpoint towards events on the basis of Turkish-Armenian relations will be determined and in order to do this, *D'Une Porte l'Autre* will be compared to another book entitled *Le Temps des Avants* (2003) (*The Past Tense Becomes*) also written by Aznavour.

Aznavour's identity, information concerning past and present Turkish-Armenian relations and the historical facts underlining the events explained in his book will also exist among the issues to be addressed in this article.

## The Biography of Charles Aznavour:

By utilizing Charles Aznavour's autobiographies and his biographies existing in various sources, we will try to put together the significant turning points in the singer's life in this section of our article:

- 22 May 1924: Chahnour Varinag Aznavourian (Charles Aznavour) is born in Paris.

His father from among Georgian Armenians is Misha Aznavourian and his mother from among Adapazarı Armenians is Knar Baghdassarian.

- 1924: Father Misha Aznavourian opens a restaurant in Paris and the family decides on moving to this city.
- 1933: Charles Aznavour appears on stage for the first time.
- 1946: He meets the famous French singer Edith Piaf who had

discovered him and caused him to gain recognition. In the same year, he marries Micheline Rugel.

- 1947: His first child Seda is born.
- 1950-1955: He works as tunesmith for Gilbert Bécaud.
- 1952: His second child Misha is born.
- 1956: The positive reaction of the audience during a recital in Casablanca shows that Aznavour has been accepted as a star. His song "Sur Ma Vie/About My Life" written for his premier in Olympia is his first significant success. In the same year, he marries Evelyne Plessis and his third child Patrick is born.
- 1959: Due to this role as Heurtevent in the movie *Head against the Walls* directed by Georges Franju, he receives the award for the best singer by the French Cinema Academy.
- 1960's: He writes many songs which becomes popular. The themes of these songs are generally about love and the rapid passing of time.
- 1964: His "La Mamma" song becomes the first French song to receive an award in Japan.
- 1968: He marries Swedish Ulla Thorsell in Las Vegas.
- 1969: Aznavour is granted the Ruby Medal of the City of Paris. In the same year, his marriage to Ulla is solemnized in an Armenian church. His daughter Katia is also born in 1969.
- 1971: He receives the Golden Lion Honorary Award at the Venice Film Festival for the Italian version of the soundtrack of the movie *Mourir d'aimer (Dying of Love)* directed by André Cayatte.
- 1972: The smallest of his children Nicolas is born.
- 1976: In commemoration of the so-called Armenian "genocide", he writes the song "Ils sont tombés/They Fell".
- 1988: Following the earthquake of a magnitude of 6.9 in Armenia, he establishes the "Aznavour for Armenia" charity organization and sends aid in high amounts of money to Armenia.



- 1989: The song “Pour toi L’Armenie/Armenia for you” performed by more than eighty singers to help Armenia reaches the top among the most preferred songs list in France. This situation symbolizes how successful Aznavour’s propaganda in supporting Armenia is.
- 1995: He is appointed as Ambassador and Permanent Delegate of Armenia to UNESCO.<sup>1</sup>
- 2001: In order to thank him for the aids given to Armenia, Aznavour’s name is given to one of the squares present in the center of Armenia. Moreover, a statue is built on his behalf in Gyumri.
- 2002: He plays a role in Atom Egoyan’s movie *Ararat* which is about the so-called genocide.
- 2003: His book *Les Temps des Avants (The Past Tense Becomes)* is published.
- 2004: He receives the title of “national hero of Armenia” by Armenian President Robert Kocharyan.<sup>2</sup>
- 30 September 2006: He gives an open air concert in Yerevan.<sup>3</sup>
- 26 December 2008: Armenian President Serj Sarkisian grants Aznavour Armenian citizenship.<sup>4</sup>
- 2009: He accepts the Armenian President’s proposal of being appointed as Armenian Ambassador to Switzerland.<sup>5</sup> In the same year, he is awarded an honorary doctorate by the University of Montreal.
- 2011: Aznavour’s book *From One Door to the Next*, which we are examining, is published.

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1 *Répertoire des Délégations permanentes auprès de l’UNESCO*  
[http://www.unesco.org/eri/permdel/ProtocolList\\_complete\\_p.asp?region=&language=F&contr=](http://www.unesco.org/eri/permdel/ProtocolList_complete_p.asp?region=&language=F&contr=)  
(Date of retrieval: 27.01.2012)

2 The Highest Title of the Republic of Armenia, Awards, National Hero of Armenia  
<http://www.president.am/library/awards/eng/?award=1> (Date of retrieval: 27.01.2012)

3 Krikor Amirzayan, [http://www.armenews.com/article.php3?id\\_article=47789](http://www.armenews.com/article.php3?id_article=47789) (Date of retrieval: 19.01.2012)

4 “President Serzh Sargsyan decrees to grant Armenian citizenship to Charles Aznavour and Levon Sayan” <http://president.am/events/news/eng/?search=aznavour&pn=2&id=344> (Date of retrieval: 27.01.2012)

5 “Charles Aznavour, new Ambassador of Armenia to Switzerland”  
[http://www.armenian.ch/index.php?id=embassy\\_pr&L=1](http://www.armenian.ch/index.php?id=embassy_pr&L=1) (Date of retrieval: 19.01.2012)

### The Content of Charles Aznavour's Book *D'Une Porte L'Autre*:

Aznavour's book entitled *D'Une Porte L'Autre (From One Door to the Next)* has been published in French by Don Quichotte publications in 2011. The volume of the book is 164 pages. Apart from providing information concerning his own life, the famous singer has also conveyed his thoughts, which requires explanation, regarding Turkish-Armenian relations.

In this book, which is composed of nine sections including a "Preface", "At the Doors of Information", "On the Verge of Autumn", "The Final Door", "A Gateway as Large as Hope", "I Needed a Megaphone", "On the Verge of Power", "On the Verge of Nature" and a "Conclusion", Aznavour conveys his thoughts to the readers without any particular order.

In his book which is told by a first-person singular from the beginning to the end, it could be seen that Aznavour has not only explained his life as a singer, but has also addressed many current issues. In the "preface" of his book, Aznavour explains that he has written his thoughts going from one issue to another and the reason for this is that putting his thoughts in order refers to the course of his life, but that his life is not comprised of a straight line. Moreover, Aznavour also expresses in this section that his goal is to explain his past.<sup>6</sup>

*Aznavour explains that he has written his thoughts going from one issue to another and the reason for this is that putting his thoughts in order refers to the course of his life, but that his life is not comprised of a straight line.*

In the section entitled "At the Doors of Information", Aznavour starts with explaining his views on education. Aznavour, who indicates that he was able to go to school for only a short period of his life and that later on he improved himself on his own, also states that he received a list of books from the famous author Jean Cocteau, which he had a chance to meet, and that this list mentioned below benefited him greatly:

*Adolphe*, Benjamin Constant

*Impressions of Africa*, Raymond Roussel

*War and Peace*, Lev Tolstoy

*Gösta Berlings Saga*, Selma Lagerlöf

6 Charles Aznavour (2011), *D'Une Porte L'Autre*, Ed. Don Quichotte, p. 7.

*Pan*, Knut Hamsun

*Pelléas and Mélisande*, Maurice Maeterlinck

*The Red and the Black*, Stendhal

*Manon Lescault*, L'Abbé Prévost

*The Knight of the Red House*, Alexandre Dumas

*The Splendors and Miseries of Courtesans*, Honoré de Balzac

*The Devil in the Flesh*, Raymond Radiguet

*The Ballad of Reading Goal*, Oscar Wilde

*The Idiot*, Dostoyevski

*The Magic Mountain*, Thomas Mann

*The Nigger of the 'Narcissus'*, Joseph Conrad

*Wuthering Heights*, Emily Brontë

*The Dramatic and Fantastic Stories of Edgar Allan Poe*, Edgar Poe

*White Fang*, Jack London

*The Princess of Cleves*, Madame de Lafayette”<sup>7</sup>

The well known singer wants to explain how he improved himself by introducing this list to his readers. This way, he indicates that he has matured in writing lyrics and writing.<sup>8</sup>

Furthermore, by arguing in his book that for French artists to write English songs instead of French ones is an irrational act and a great mistake, Aznavour criticizes them. Aznavour, whose songs have been translated to various other languages, emphasizes that French songs have not been translated into other languages for a long time. He states that French singers should not make songs for the English or Americans, but for the French. He expresses that the opposite will be of no use except to create “fake Madonna’s”. These ideas are important for displaying Aznavour’s devotion to the French language and France.

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7 Ibid., pp. 15-16.

8 Ibid., p. 17.

In this section where current French singers and television programmes directed towards discovering good singers is criticized, Aznavour indicates that he not only loves his job, but also colleagues and adds the following:

“Introducing yourself on a stage with a cycle of songs organized well or poorly is not an easy task to do. There is no school to teach this”<sup>9</sup>

In the section “On the Verge of Autumn”, he expresses that time passes by quickly and regarding health, expresses that the costs of things that should not be done during youth are paid later in life. The French singer states that humans learn by living, but when looking back on the past when grown old, they realize that they have not learned anything. According to Aznavour, youth lasts very short. The singer, who advises that health should be taken care of during this short time, also explains his adventure of quitting smoking in order to set an example for the readers.

Aznavour, who states that he seems very young and vigorous compared to individuals of the same age as him, also expresses his thoughts on plastic surgery in this section. By indicating that he has not undergone any plastic surgery besides a nose job, Aznavour puts forth that these kinds of operations are only suitable for women and that he hugs men of the same age just like how everyone hugs their family elders.

Aznavour, who also explains in this section the reason for no projects regarding the future taking place, believes that projects could only be designed by those having a future and adds the following:

“My future disappeared on the horizon a long time ago. Now I am only left with living my life. To continue, to hang on, there is my project”.<sup>10</sup>

In the mind of the singer, who thinks that his life has passed by quickly just like leaves of autumn, many bittersweet memories come flooding back when looking upon the past. However, he questions whether or not he really lived through these. He clearly sees that he has now reached the end of his life and states that he wants to write everything he has experienced by not looking at the future, but the past.

In the section entitled “The Final Door”, actually as a continuation of the previous section in which senescence is addressed, Aznavour shares his thoughts on death. Firstly, he dwells upon the issues of retirement and

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9 Ibid., p. 30.

10 Ibid., p. 51.

working: by mentioning that he is among those individuals born to work, he says that he will continue as long as his life and health lasts long enough. He believes that the essential reason for some artists wanting to abandon their artistic life because they have aged is actually some kind of fear.

In this section where the singer has also criticized the news that he has died, Aznavour condemns the press which publishes the news by only pursuing the goal of selling/to be watched and does not conduct any research on whether the news is right or wrong.

Aznavour, who explains towards the end of this section the pain suffered after the death of his parents, also examines the issue of belief. He argues that the belief that all Muslims, Christians and Jews will be accepted by Allah, God or Jehovah when they die is a comforting idea. He indicates that no matter what it is called, this shows that God is the same for all and has banished humans to earth after the apple incident of Adam and Eve.

At the last page of this section, by providing the example of Adam and Eve, Aznavour states that their fault could not attributed to us and for the first time uses the word “genocide” in the book in the following context:

“Is this story of the apple our fault? No. We do not have a greater fault than those of the ancestors of the Turkish youth and those responsible for the genocide of mine. Then why are we accepting this? Instead of accusing those having to take the responsibility for this, why are we still and always keeping quiet?”<sup>11</sup>

In the “A Gateway as Large as Hope” section, Aznavour continues to convey his views concerning the quoted passage given above; in other words, the genocide allegations. Starting from his birth which he classifies as the “gateway”, Aznavour explains why he was born in Paris, who his ancestors are and how they came to these days, how his parents met, his loyalty to France, the visits his ancestors have conducted (or not conducted) to his country, the difficulties he experienced in France, the origins of his identity and how Turkish-Armenian relations came to a deadlock. The issues mentioned in this section will be explained in detail later on in this article.

In the section entitled “I Needed a Megaphone”, Aznavour, who provides information regarding his current life, also talks about the problems encountered during his artistic life and his own personality. In this section, he questions himself on why he became a famous singer and reaches the

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<sup>11</sup> Ibid, p. 86.

conclusion that he is talented. Moreover, by expressing that he is hard-working and likes his job, he says the following:

“... I never was someone who got my own way, but I am ambitious; I was never assertive, but I am prideful, I am frequently open to others; I always kept my troubles and doubts, the questions I asked to myself private. I do not know who I am, where I came from and unfortunately where I am going. I know the fragility of success and our careers”.<sup>12</sup>

In the section entitled “On the Verge of Power”, Aznavour talks about his ideas regarding politics. Stating that due to the government not allowing him to explain everything he has not been able to clearly respond to the questions asked after being appointed as Ambassador, the singer indicates that right from the moment he took office, he tried adapting to his new status, but that he knows this will take time. The interesting point here is that Aznavour works as Ambassador without having any diploma. He explains this in the following way:

*Stating that due to the government not allowing him to explain everything he has not been able to clearly respond to the questions asked after being appointed as Ambassador, the singer indicates that right from the moment he took office, he tried adapting to his new status, but that he knows this will take time.*

“You will ask me “isn't a diploma required to become an Ambassador?”.

I definitely have a diploma: my education certificate I received without a degree when I was ten and a half years old. But I do not think this is enough.

Then, is this an issue of experience?

That is not it either. I have no experience at all.

Perhaps a diplomatic courtesy?

Not at all.

Then, origin?

There you go. If I was appointed and kindly accepted by my ‘comrades’, there is a single reason for this: I represent the country of my roots in a suitable manner”.<sup>13</sup>

12 Ibid., p. 138.

13 Ibid., p.145.

As can be seen, despite Aznavour, who was later on granted Armenian citizenship, not having any education concerning this issue, the only reason for him being appointed to an important position as Ambassador is for him being a famous singer of Armenian origin and this has also been acknowledged by the singer himself.

In the short section entitled “On the Verge of Nature”, Aznavour underlines his discomfort towards nature being destroyed and provides the explanation that humans’ poisoning the world in order to obtain unearned income is not advisable. The writer, who considers the mentioning of this issue as a task of mankind, states that as he grows older his artistic spirit has started giving way to the spirit of the villager and that this is somehow a transition to nature.

In the final section, Aznavour indicates that “life consists of doors opening towards each other”. Some doors lock individuals in by closing on them, while some are doors of happiness which we realize later on that we hold their keys in our hands. By expressing that he has skipped all thresholds of life, Aznavour ends his book by stating that there is “only a step from the shadows into the light” and that “his entire existence” strives to take this step.

### **Charles Aznavour’s Problem of Identity:**

In this section of our article, we will utilize the works Charles Aznavour wrote based on his life and will address the problem of identity. First of all, let us give an example for this situation seen frequently among the Diaspora Armenians besides Aznavour.

The problem of identity reflected in the memory-novel *Voyages* of Peter Najarian, the Armenian author living in the US, is conveyed as not being able to belong to neither of the two cultures and being foreign to the culture of origin and the culture they live in. In the preface of the book, the following is stated:

“I grew up in the US, but just as many other children of immigrants, I am also deeply devoted to lands which could never be travelled to again... In the end, whether I like it or not, I grew up as an American and I am still trying to cope with this reality”.<sup>14</sup>

It could be seen that on the one hand commitment to their roots, while on

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14 Peter Najarian (2004), *Voyages*, Translator: Ece Erođlu, Aras Yayıncılık, İstanbul, p. 16.

the other, the necessity in conforming to the community lived within creates some kind of an identity crisis for the Diaspora Armenians. In Aznavour, this crisis does not emerge as becoming foreign, but as adapting to both cultures.

If considering the origins of Charles Aznavour, his father from among the Georgian Armenians is Misha Aznavourian.<sup>15</sup> Aznavour's family which he actually indicated was of Erzurum origin, has migrated from there in 1825. On the other hand, his mother has been born into an Armenian family in Adapazarı.

Therefore, Charles Aznavour has no link to Armenia except for being Armenian. As a matter of fact, he states the following when describing what he experienced when he first went to Armenia to perform a concert:

“They said ‘welcome’ in Armenian and said the following: ‘Welcome to your home, we are pleased to see you have returned’. Return? What return? I had never set foot here. In fact, my parents were born in other countries and had never set foot here”.<sup>16</sup>

As mentioned above, although Charles Aznavour's point of origin is the same, he has a different crisis than the identity crisis of the Diaspora Armenians. He thinks about where his roots come from. The singer, who complains that he has no past, eventually embraces a culture which he accepts as not belonging to him.

“My roots are buried within the very depths of territory which I cannot remember. Really, where is that territory? Is it at the dry lands at the end of Turkey where my relatives have turned into dust and mixed in with the Asian wind? Is it in Georgia, my father's homeland? Is it in Armenia where we came from? I am a migrant, an immigrant, the son of a landless. I am someone who has embraced another country, another culture, another language without finding a real past”.<sup>17</sup>

Aznavour, who has indicated that he embraces another country – France, has responded to the question “do you feel as if you are French or

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15 As a word passing from Georgian to Turkish, in dictionaries of the Turkish Language Society, Aznavur means “husky, offensive, angry, sulky, tough”. Moreover, “like aznavur” means “acting cruelly”. ([http://www.tdk.gov.tr/index.php?option=com\\_gts&arama=gts&guid=TDK.GTS.4f2316b5e65f32.55537234](http://www.tdk.gov.tr/index.php?option=com_gts&arama=gts&guid=TDK.GTS.4f2316b5e65f32.55537234) – Retrieved date: 27.01.2012)

16 Charles Aznavour (2005), *Geçmiş Zaman Olur Ki (The Past Tense Becomes)*, Translator: Emre Aral Altuntaş, Aras Yayınları, , p. 218-219.

17 Ibid., p. 218-219.



Armenian?” by saying “A hundred percent French, a hundred percent Armenian”. However, he also adds that he does not have much knowledge about the Armenians in France:

“They were asking me ‘where are you from?’

- I am from France. I was born in Paris.
- Alright, then this name, Aznavourian, where that does that come from?
- From Armenia. I am of Armenian origin.
- Armenian, Armenian, where is this Armenia?
- In the Caucasus.
- Alright, which language do you speak?
- Armenian.
- Is it similar to Russian?
- No, to Armenian.
- Is it like Aramice?
- No, like Armenian.
- Ah.
- It is not like any other language”.<sup>18</sup>

The singer states that when people talked about him when he first started his profession, they called him “little Armenian” in the pejorative sense, but that currently he is regarded as the representative of France in areas outside of France. Aznavour, taking pride in being a child of an immigrant family, indicates that the French see Armenia “like Aznavour”, while the foreigners identify France with the name Aznavour. By expressing that his ancestors have looked towards his country after the earthquake of 1988 in Armenia, Aznavour compares himself to “coffee with milk”:

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18 Charles Aznavour, *D'Une Porte L'Autre*, p.104.

“Do I feel more Armenian than French? There is only a single response I could provide for this: A hundred percent French and a hundred percent Armenian. I am like coffee with milk; once the two substances are mixed, they cannot part from each other anymore. French and Armenian influence made me gain a lot of things and formed a style unique just for me. While others bothered with learning, there were already two cultures present in my genes. Therefore, despite the countless troubles and difficulties I experienced, this composite structure I possess ever since I was born became an opportunity for me”.<sup>19</sup>

As a result of all these quotations, it could be thought that Aznavour experiences a crisis of identity just like all other Diaspora Armenians, but that he differs from the others by embracing both cultures (at least through his statements) as a result of this crisis.

### **Charles Aznavour's Views in the Context of Turkish-Armenian Relations and His Approach towards the Turks**

In this section of the article, Charles Aznavour's views regarding Turkish-Armenian relations and his thoughts on the Turks which he shared in his book entitled *From One Door to the Next and The Past Tense Becomes* will be addressed.

In order to understand Aznavour's views regarding the Turks, it is necessary to look at the first sections of his *Le Temps des Avants* book. This section entitled “A Bad Beginning” clearly puts forth Aznavour's stance towards the Turks.

“Deir ez-Zor: About one and a half million of those close to me, my relatives stripped, raped and slaughtered in the name of race and religion, the graves my ancestors lie in; I ask you, on what behalf did all these really take place? On behalf of Enver's and Talat's whose statues were put up in their memory; on behalf of pashas of crime who interpreted the Quran at their own pleasure which was impossible to justify these bloody acts and murderers not knowing what religion is and not recognizing any kind of law.

The ultimate solution? You missed, you couldn't capture me. Although some might not like the idea, I always remained a person committed to memories. But I never became a ruthless enemy of

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19 Charles Aznavour, *Geçmiş Zaman Olur Ki (The Past Tense Becomes)*, p. 224.

Turkish society. Today I have a dream of visiting the country my mother was born in, but...but...but”.<sup>20</sup>

Aznavour instilling hostility by making comments with shallow knowledge exceeds the borders of racism. In the first section of the book, if he had included in the list of books, which he argued contributed to his own development, the names of those he listed with revulsion in the quoted paragraph just given above, he would have been more conscious when forming his sentences”.<sup>21</sup> Here, through a racist attitude, the singer infuses Turkish hostility into the young Armenians by stripping the decision of relocation from historical facts and by making statements that could be shown as an example for contributing to the Armenian approach which

*Aznavour instilling hostility by making comments with shallow knowledge exceeds the borders of racism.*

recognizes the decision as one only taken to annihilate the Armenians for no apparent reason and for it being passed on by the second generation that have not been subjected to relocation.

At this point, it is necessary to indicate that Aznavour’s image of Deir ez-Zor is inaccurate. Deir ez-Zor is a province of the Ottoman Empire. This province was a place of settlement before the Relocation and is known that there are Armenians who have settled there after the Relocation. Concerning this area for which a negative image of it has been formed all over the world as prejudice, it would be necessary to address at this point Prof. Dr. Birsen Karaca’s article entitled “A Serious Ground for Armenian Allegations: Prejudices”:

“...Turkey never questioned the image of Deir ez-Zor existing in its mind. However, not only the image of Deir ez-Zor among the Armenians and the West, but also within the memory of Turkish public opinion has been created by the builders of the so-called

20 Ibid., p. 11.

21 The books that should be read on this issue is the following:

-Şevket Süreyya Aydemir (1999), *Enver Paşa Volume 3 1914-1922 Makedonya’dan Orta Asya’ya (From Macedonia to Middle Asia)*, Remzi Kitabevi, İstanbul.

-Ari İnan (Yay. Haz.) (1997), *Enver Paşa’nın Özel Mektupları (Enver Pasha’s Private Letters)*, İmge Yayınları, Ankara.

-*Enver Paşa’nın Anıları (1881-1908) (Enver Pasha’s Memories, 1881-1908)*, İş Bankası Kültür Yayınları, İstanbul, 2012.

-Talat Paşa (2006), *Hatıralarım ve Müdafaaım (My Memories and Defense)*, Kaynak Yayınları, İstanbul.

-Cemal Paşa (2009), *Anılarım 1913-1922 (My Memories, 1913-1922)*, Haz. Fahri Parin, İskenderiye Yayınları, İstanbul.

genocide and the continuity of this image is maintained through the prejudices (or models of judgment) established by the same allegations. Let us concretize our example. The image of Deir ez-Zor, which Turkey has not gone through the trouble of questioning, the image of the homeland of Ahmet, the son of Mehmet from Deir ez-Zor born in 1888 and martyred on 26 August 1922 during the War of Independence (when defending the areas of Kalecik and Kurtkaya which are the only passageway to Kocatepe where the Supreme Headquarters is located)<sup>22</sup> is torn down. I wonder how Ahmet, the son of Mehmet described Deir ez-Zor to his friends? Didn't Ahmet, the son of Mehmet, have any family, children, relatives or neighbors living in Deir ez-Zor? Following the war, didn't Ahmet, the son of Mehmet, ever imagine returning to his homeland after rescuing the country? This example is a concrete indication of lazy thinking created by prejudices which we try to show. The comparative analysis of the image of Deir ez-Zor as a "place of genocide" created through the Armenian allegations and the image of Deir ez-Zor of Ahmet, the son of Mehmet, and all other Ahmet's coming to Anatolia to defend their homeland is qualified for being the subject of independent studies and awaits the attention of researchers".<sup>23</sup>

Aznavour's thoughts on dreaming of travelling to Turkey are completed in his book published in 2011. The reason for him not going to Turkey is because being Armenian is not welcomed there. However, the statements Archbishop Aram Ateshyan, deputy Armenian Patriarch of Turkey, provided to Aksiyon Journal allows us to make an evaluation of the living conditions of Armenians living in Turkey:

"Presumably, there are approximately 70 thousand Armenians present in Turkey. Our community has 45 churches. 38 of them are in Istanbul, one is in Kayseri (and it is over a thousand years old), 3 of them are in and around Iskenderun... Moreover, we have 16 schools in Istanbul. We have a weekly (Agos) and two-day newspaper (Jamanag and Marmara). We have a very big hospital; the Yedikule Surp Pirgiç Armenian Hospital. The Armenians have built a church and a school next to it in all places they have settled. This tradition is an expression of giving equal value to spirituality and education".

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22 The grave of Ahmet, the son of Mehmet from Deir ez-Zor is in in Afyonkarahisar . For information on the cemetery and martyred officers and soldiers on 26 August 1922 in Kalecik and Kurtkaya see: <http://www.afyonkarahisar.gov.tr/sehitliklerimiz.aspx> (23.02.2011) and <http://www.kulturturizm.gov.tr/TR/belge/1-19095/afyon-yuzbasi-agah-efendi-sehitligi.html> (23.02.2011)

23 Birsen Karaca (2010-2011), "A Serious Ground for Armenian Allegations: Prejudices", *Ermeni Arařtırmaları*, 10th Year Special Edition, No: 37-38, Ankara, p. 71-82.

In response to the question of “do Turkish Armenians have problems in terms of family?” posed to him, Ateshyan says the following:

“They are all free. They have no such problems as Christian citizens. Schools, foundations and churches are open and active. We have no problem at this point”.

As can be seen, the information conveyed by Aznavour in regards to being Armenian in Turkey is incorrect. Another data which proves this is the visit to Turkey conducted by the well known author of Armenian origin William Saroyan who lived in the US. The information regarding this visit has been gathered in the book published by Aras publications and entitled *Amerika'dan Bitlis'e William Saroyan (William Saroyan from America to Bitlis)*. In the preface prepared for Fikret Otyam's article published in 31 May-7 June 1964 in Cumhuriyet Newspaper, Saroyan states the following concerning his visit conducted in 1964:

“(Otyam) made my visit conducted to Turkey once of the greatest experiences of my life. Today, I believe that I learned the modesty, hospitality and dignity of the Turkish nation as a result of Fikret's leadership”.<sup>24</sup>

As mentioned in the previous section, the father of Charles Aznavour, who was among the Georgian Armenians, could not be included within the scope of the Relocation decision. The singer especially underlines that the source for his contempt is not his parents and that his parents had not told him bad stories about the Turks:

“I never witnessed my father belittling and discrediting modern Turkey; they never infused a hatred against the Turkish nation. On the exact opposite, I always heard them saying that Turkey is a beautiful country, the women are attractive, its cuisine is the best of Middle Asia and that at the basis there are many similarities between that community and ours”.<sup>25</sup>

But then right after, he contradicts himself:

“My mother and father, who were displaced despite my father having a Georgian passport, are able to board an Italian ship from Istanbul. While my mother has already stepped on to the deck, an officious

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24 *Amerika'dan Bitlis'e William Saroyan (William Saroyan from America to Bitlis)*, Editor: Aziz Gökdemir (2008), Aras Yayıncılık, İstanbul, p. 17.

25 Charles Aznavour, *Ibid.*, p. 15.

soldier intercepts my father, disregarding his passport, after overhearing them speak in that loathed language. The captain runs to my father's rescue and rants and raves about the ship being an international place and that the boarding of a passenger could never be prevented. A wealthy American woman of Armenian origin has offered to pay the fare for all fugitives succeeding in boarding the ship. The ship sets out to sea, carries the Armenians and Greeks to Salonika and my sister is born there".<sup>26</sup>

There are many inconsistencies in general in what Aznavour explains and his statements. Let us elaborate this text a little: In his books of *The Past Tense Becomes* and *From One Door to the Next*, he indicates that his family has not told him where and how his parents have met,<sup>27</sup> but is able to explain in detail how his parents escaped from Istanbul. Concerning his statement given in quotations, Aznavour family possessing a Georgian passport running away from the relocation has no meaning, because the Georgian Armenians are kept outside the Relocation Decision; in fact, Charles Aznavour expresses this in another section of his book.<sup>28</sup> In any case, since Georgia is in the hands of Russia during that period, it is not possible for the Ottoman Empire to interfere in Georgian Armenians. It is also strange for the Aznavourian's, said to have boarded the ship by running away, to talk in Armenian next to Ottoman soldiers at a time when it was alleged that the Armenians were being tortured. While there was a captain who ran to their rescue and allowed them to board the ship – and this means that the captain turned a blind eye to stowaways – a rich American woman of Armenian origin paying their fares is another aspect which is meaningless.

*Aznavour family possessing a Georgian passport running away from the relocation has no meaning, because the Georgian Armenians are kept outside the Relocation Decision; in fact, Charles Aznavour expresses this in another section of his book.*

If we dwell further into this subject, it will become evident that when writing this paragraph full of inconsistencies, Aznavour created his own history with unfounded information and without knowing the historical facts. It is apparent that Aznavour, who questions in another section of his book why his father, from among the Georgian Armenians, has come to

<sup>26</sup> Ibid, p. 16.

<sup>27</sup> Ibid, p. 15.

<sup>28</sup> "My father was of Armenian origin, Georgian Misha Aznavourian of Armenian origin was born in Ahiska. The Georgian Armenians had not been massacred". Ibid., p. 14.

Istanbul, has not conducted much research on the subject. In order to explain these ideas of ours, it will be appropriate to compare the information provided by the singer on his life and historical information.

Aznavour's date of birth is given in his autobiographies and many other biographies as 22 May 1924. Now let us go backwards from this date with the data we have. Charles Aznavour indicates that there is 16 months between his sister Aïda and him and that his sister was born in Salonika when escaping from Istanbul. In this situation, Aïda must have been born at the end of 1922 and therefore, the escape which the Aznavourian's talk about must have taken place in 1921-1922.

If we look at the events developing around the world in 1921, the table that emerges will be as follows: The Russian Civil War starting after the Bolshevik Revolution of Russia in 1917, had intensified with Lenin dispelling the Russian National Assembly. The communist forces known as the "Red Army" fought against the anti-communist forces of the "White Army" during this civil war and it was the "Red Army" that won a victory. Therefore, following the end of this civil war in 1922, the Union of Soviet Socialist Republics was created.

However, this civil war, which we could only explain in a few sentences here, had actually witnessed many bloody events. The research conducted in Turkey on this issue is limited. The consequences of this civil war have been very severe<sup>29</sup> and in order to escape death, many people have escaped towards Istanbul through Crimea and Georgia by boarding ships from the areas they had settled in. One of the prominent figures planning on escaping during this period of turmoil is Mihail Afanasyevich Bulgakov (1891-1940) of 20<sup>th</sup> century Russian classics. However, since Bulgakov catches typhoid fever, he cannot board the ship and go to Batum. Bulgakov has explained the story of this escape, taking place in masses, in his book entitled *The Escape*.<sup>30</sup> During this period, apart from Bulgakov's two brothers and his second wife, many Russians, including writers, high-status bureaucrats and Russian officers have escaped to different countries through Istanbul. Some of them have written their memories of Istanbul.<sup>31</sup> For instance, Ivan Bunin,

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29 For detailed information on the consequences of this civil war see: Nicolas Werth (April 2008), "Crimes et violences de masse des guerres civiles russes (1918-1921)", <http://www.massviolence.org/IMG/pdf/Crimes-et-violences-de-masse-des-guerres-civiles-russes-1918-1921.pdf> (Date of retrieval: 28.12.2012)

30 For detailed information on this issue see: Birsen Karaca, "Döner Kavşakta Bir Rus Klasiđi, Mihail Afanasyeviç Bulgakov (A Russian Classic Mihail Afanasyevich Bulgakov)", World Story Days, unpublished conference text, 12.02.2012.

31 Orhan Uravelli (2005), *İstanbul'dan Geçen Ruslar (Russian Passing Through İstanbul)*, Ümit Yayıncılık, Ankara.

owner of the Nobel Prize in Literature (1933) is just one of them.<sup>32</sup> In short, Istanbul was no other place than a stopover for Russian and Georgian citizens when spreading all over the world during that period.

Let us return to Charles Aznavour once again: We had already mentioned above that according to the dates he provides, his father must have gone abroad in 1921-1922 by boarding a ship from Istanbul. It is supported by archival documents that on 4 January 1919, the Ministry of Interior of the Ottoman Government ordered for Armenians wanting to return to be transported to their former places.<sup>33</sup> In this situation, despite being an Ottoman citizen, it is pointless for Aznavour's father to run away from this implementation directed towards the Armenians. Furthermore, Misha Aznavourian, a Georgian Armenian, escaping to Istanbul despite the asserted implementation would be absurd. What is expected in this situation is for her to either prefer to stay in her country or to escape to Istanbul, or rather to territories outside the Ottoman Empire.

Therefore, it is obvious that the story of the Aznavourians' escape is not connected to the Ottoman Government's decision of Relocation or the events of torture, as alleged by the Armenians. If there is such an escape, this could only be an escape from the bloody events experienced during the Russian Civil War. Moreover, escaping through Istanbul shows that the most secure escape route in that period was Istanbul. Charles Aznavour's lack of knowledge becomes apparent here also. If the singer had some historical knowledge, or at least had included the works of Bulgakov and the memories of Bunin and other Russian authors and officers in the list of books he provided which we mentioned above, he would have had a good idea on the history of his family and the story of their escape.

Aznavour complains that the issue of Relocation, which is the primary subject in the context of Turkish-Armenian relations, and the genocide allegations, have become a taboo within the international arena. He links the reason for this issue not being discussed to the interests associated with the issue of "petroleum":

"I am troubled more each day for seeing that the recognition of the massacre of the masses is still a difficult step to overcome for the international community, especially if the executioner also smells of petroleum. To speak up is either facing the risk of losing money or gaining money according to the words expressed. Therefore, Ankara is being bowed in front of, as if nothing has happened and the smell

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32 Ibid. p.109-161.

33 "Yerleri Değiştirilen Ermenilerin Geri Getirilmesi"

[http://www.ermenisorumu.gen.tr/turkce/tehcir/geri\\_getirilmesi.html](http://www.ermenisorumu.gen.tr/turkce/tehcir/geri_getirilmesi.html) (Date of Retrieval: 28.01.2012)



of the victims' blood and flesh has been lost far away. Isn't the word 'genocide' a disturbing word? But let us not forget that for the Armenians, it withholds a tragedy and a task of memory. For our ancestors who have no graves, it is our duty for their murders to be recognized".<sup>34</sup>

Based on this paragraph and especially the interests arising from "petroleum", which shows that the French singer lacks adequate information on Turkey, stating that discussing the Armenian allegations is being refrained from is interesting, because it would not be expected for anyone to have such an interest in Turkey<sup>35</sup> which imports 90% of petroleum to fulfill its needs.

Furthermore, in this paragraph and also in many other sections in the book concerning the issue, Aznavour calls on everyone to recognize the Armenian genocide allegations. It could be clearly understood from his statements that he has undertaken the mission of declaring this issue all over the world:

"We, who have been ignored and mocked for ten years, will definitely stay alive. Maybe we will forgive, but we will never forget. Even more, we will all mobilize so that the world remembers and all those rejecting to see it opens their eyes".<sup>36</sup>

Aznavour, who states that all he thinks of is Armenia's future, also wants Turkey to open the Armenian border gate which remains closed. For his, he emphasizes eliminating disagreements and the necessity not to make inaccurate statements:

"Disagreements will be of no use but to delay the process of recognition and negotiation again and for a long time. This delay will also prevent the opening of the borders, elimination of the embargo and the opportunity for Armenians to conduct trade with their neighbors.

I know I disturb you by talking this way... but this is not important at all: my only thought is Armenia's future, the prosperity of its citizens and the young Turkish generation to escape the burden which the government's sneakiness makes them carry".<sup>37</sup>

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34 Charles Aznavour, *D'Une Porte l'Autre*, p. 114.

35 H. Naci Bayraç, "Türkiye'de Petrol Sektörünün Yapısal Analizi (A Structural Analysis of the Petroleum Sector in Turkey)", <http://www.turksam.org/tr/a1343.html>. (Date of Retrieval: 25.01.2012)

36 Charles Aznavour, *Ibid.*, p. 114.

37 *Ibid.*, p. 116.

Without associating the opening of the Turkish-Armenian border to Armenia withdrawing from the Azeri territories which it has occupied, Aznavour links it to the elimination of disagreements (or Turkey recognizing the Armenian genocide allegations). It could be seen that just as with the 1915 events, Turkey is also held responsible for the border being closed. However, as known, the main reason for the border being closed is Armenia's occupation of Azeri territories which are very close to the Turkish border.

“Turkey, which has been one of the first countries to recognize the independence of Armenia after the disintegration of the Soviet Union, closed its borders with Armenia in 1993. The reason for closing the Alican border gate between Turkey and Armenia, which remained open even during the Soviet period, was the occupation of the Kalbajar Rayon of Azerbaijan by Armenia. Actually, Turkey had warned Armenia over and over again against the attacks it started since 1988 and closed the border when Armenia did not take the warnings seriously”.<sup>38</sup>

*Without associating the opening of the Turkish-Armenian border to Armenia withdrawing from the Azeri territories which it has occupied, Aznavour links it to the elimination of disagreements (or Turkey recognizing the Armenian genocide allegations).*

Based on all these information, Charles Aznavour attempts to make propaganda for the Armenian allegations without actually possessing much knowledge on Turkey and by using his identity as an artist. In conclusion, it is certain that creating tensions between countries is against the nature of art and considering his position as Ambassador, Aznavour must refrain from these kinds of actions.

## Conclusion

Within the scope of our article, Charles Aznavour's books of *D'Une Porte l'Autre (From One Door to the Next)* and *Le Temps des Avant (The Past Tense Becomes)* have been examined from the aspect of his identity and Turkish-Armenian relations.

Concerning the singer's ethnic identity, it has been identified that different

38 Cavid Veliyev, “Türkiye Ermenistan Sınırlarının Anlamı (The Meaning of Turkey-Armenia Borders)”, <http://www.turksam.org/tr/yazdir1641.html> (Date of Retrieval: 25.01.2012)

from the other Diaspora Armenians who feel foreign and as if they cannot belong to any place, Aznavour has chosen to embrace both countries, but he uses his language better than his mother tongue, he has adopted better to France whose culture he nourishes on and he has started being concerned with Armenia following the earthquake in 1988.

Aznavour conducting works of propaganda for the recognition of the “genocide”, an issue which he dwells upon in the two books addressed in the article, is also among the information we have gained. It has also been identified that it is more rational for Aznavour’s family to escape to France through Turkey during the Russian Civil War and not during the Relocation. Furthermore, apart from lacking historical knowledge, we have also discovered that Aznavour lacks adequate information on the Turks and Turkey except for the fact that the Armenian allegations are not recognized and the Turkey-Armenia border remains closed.

The article has drawn the conclusion that through hearsay information and expressing that he wants Turkish-Armenian relations to improve, Charles Aznavour is among the figures using their identity as an artist for the recognition of the genocide allegations.

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# BOOK REVIEW

(KİTAP TAHLİLİ)

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## THE GREAT WAR FOR CIVILIZATION: THE CONQUEST OF THE MIDDLE EAST

Author: Robert Fisk, Istanbul, 2011, 933 p.

“R”obert Fisk is a famous English correspondent, in his words “reporter”. He watches the significant political events, especially wars in their own place and delivers them to readers. According to him, to make his articles better, the article should carry “scary messages”<sup>1</sup> and to him, his words are filled with pain, injustice and fear, besides, his articles are on genocide.<sup>2</sup> When this kind of pessimism is combined with a powerful pen, Fisk became one of the most favored journalists, mostly read and owner of many awards.

That is why Fisk always ran after bloody events. Since the beginning of 1970s, sect clashes in Northern Ireland, The Portuguese revolution, The Lebanese civil war, The Soviet invasion in Afghanistan, The Iran-Iraq war, Bosnian events, two U.S interventions against Saddam Hussein and especially Israel-Palestine disagreement and clashes were closely observed and were written down by Fisk. His great reputation has provided him to make an interview with Osama bin Laden and more who have never seen closely.

Despite the fact that he is old for being correspondent (1946), he carries on working and writing articles, he became one of the most wanted people because of his aggressive expressions and criticisms. For instance to his aggressiveness, recently, on November 17th, 2011 in Turkish channel NTV’s Today/Tomorrow (Bugün/Yarın) TV show, Fisk

1 *Büyük Medeniyet Savaşı, Ortadoğu’nun Fethi, (The Great War for Civilization: The Conquest of the Middle East)* p. 19

2 *Ibid.* p. 21

described the former Prime Minister of the United Kingdom Tony Blair as one of the most irritating politicians and says that he has never encountered him and does not want to. By the way, Fisk has no tolerance to other statesmen who challenge him. For example, for the President George W. Bush, who took into consideration Turkey's objection on Armenian genocide claims in House of Representatives and tried to prevent its approval, Fisk told for Bush, that "the tiger became a lamb, even turn into a mouse".<sup>3</sup> Period's US Defence Minister Robert Gates has been described as "coward", French President Jacques Chirac as "prideless"<sup>4</sup> and Turkish generals and periods Commander of Armed Forces Yaşar Büyükanıt as "fossilized."<sup>5</sup> Furthermore, The New York Times has been blamed for being "despicable"<sup>6</sup> because they did not write as Fisk's way of thinking and The Wall Street Journal has been blamed for being denier of genocide.<sup>7</sup> Since the tolerance towards journalists in the United Kingdom and the United States and Fisk's reputation, people neither showed their reaction nor resort to the judgment. Nevertheless, Fisk continued to his humiliating expressions.

*Fisk described the former Prime Minister of the United Kingdom Tony Blair as one of the most irritating politicians and says that he has never encountered him and does not want to. By the way, Fisk has no tolerance to other statesmen who challenge him.*

Fisk basically highlights today's war and conflict, but his interest to this kind of areas is related with what extent he clarifies. The only exception of this principle is the Armenian question and Armenian genocide claims. The Armenian question has been lawfully ended with the determination of borders between Armenia and Turkey. Even if the propaganda activities against Turkey by Armenians of Diaspora related with the negative memories and attitudes of the relocation in 1915, today in the international arena there is no Armenian question exists. Although, there was a war situation and the bloody incidents in around Karabag and one million Azerbaijanis who have been living there took refuge in Azerbaijan, this incident have never got Robert Fisk's attention, just because it was against Armenia.

Fisk is stuck in 1915 on Armenian question. Nevertheless, Fisk generally

3 "Başkan Bush Şantaja Boyun Eğdi" *Birgün*, 16.11. 2007.

4 *Büyük Medeniyet Savaşı, Ortadoğu'nun Fethi, (The Great War for Civilization: The Conquest of the Middle East)* p. 312

5 "Holocaust Denial in the White House" *The Independent*, 10.11.2007.

6 *Büyük Medeniyet Savaşı, Ortadoğu'nun Fethi, (The Great War for Civilization: The Conquest of the Middle East)* p. 309

7 *Ibid.* p. 310

focuses on current issues and to write about incidents a century before is hard for him. Fisk has always tried to get rid of this difficulty by giving unrelated examples with one or two lines or a paragraph about genocide claims. Sometimes, without any effort, he started to write starting with; “by the way, what comes to my mind” came up with genocide claims. Fisk’s this attitude has been observed in the program indicated above on NTV. After answering a question about Kurdish question, without any effort to build a connection between, he told that he wants to talk about Armenian genocide. According to him, Armenian genocide was a historical truth and Turkey should accept this reality. To the question asking that how Fisk sees the Kurdish issue in the context of Arab Spring, unrelatedly, when trials of Hrant Dink are followed an obvious scandal can be observed, people were shouting as “We are all Hrant Dink” and “We want justice”. However, he replied that, there is no such thing as justice and there is so much to do in Turkey in terms of democracy and freedom of speech.

After answering a question about Israel, “Here, I’ll address to Armenian genocide. Israelis say that there is no Armenian genocide, there is only holocaust and that is ours, but Israeli politicians have never thought to ask Armenians what happened in 1915. Now, they try to use genocide issue against Turks.”

Fisk’s primary aim in participating program on NTV was presentation of his latest book. However, Fisk’s efforts to utilize this opportunity by announcing and reminding Armenian genocide claims to Turkish public opinion have obviously observed. Presenter of the program Oğuz Haksever asked him to what extent Fisk was sure about using the term genocide about events of 1915. Fisk replies; “I’m sure. I’ve researched Armenian historians’ studies for many years. I have read your historian, Tamer Akçam’s works. I was impressed. I went to the killing area in Northern Syria and I saw skulls which were known as of Armenians in the excavating area at riverfront. That is why it is genocide.” We will be back to this issue later.

Relating with Fisk, NTV released or at least reminded that, Robert Fisk had been deported from Turkey in 1991. It is known that, in that period, great number of Kurdish people has taken refuge in Turkey. These people have been nestled in some camps and helped internationally. In his book, Fisk wrote that he went to the region through the end of April, there was a quarrel between Turkish troops and UN British soldiers near Iranian border, Yeşilova camp, both sides were ready to shoot each other. To him, this incident has occurred because Turkish soldiers have looted aid materials which were sent by other countries and British soldiers have tried to prevent the looting. Fisk wrote in *The Independent*, since Gallipoli, for the first time



the British soldiers were on the verge of opening fire to Turkish soldiers.<sup>8</sup> For sure, indignation occurred against Fisk in Turkey.

Western world has accepted the Yeşilova incident as if it is real. Years later, a British journalist/author has proved that this was not the truth. Hugh Pope, in his latest book<sup>9</sup>, wrote that he researched the truth behind the incident by making interviews with British military officers in detail. With reference to this research, Turkish, British and American soldiers had no good interactions with each other. However, Turkish soldiers have never looted the aid materials and both sides have never pointed gun to each other.

The program which we have indicated above in NTV, Barçın İnanç asked Robert Fisk about Hugh Pope's book. According to Pope's book, Fisk was wrong and pointing guns to each other was exaggerated and asked Fisk; "Did you read Hugh Pope's book?", "What can you say about Pope's claims?" Fisk replied, "I don't read Hugh Pope." Fisk knows Hugh Pope, but after tried to insult Pope, Fisk continued to defend himself that he saw the incident, that is why he was arrested and stood trial because he humiliated Turkish Armed Force. By the way, there is a significant point to highlight that he never "stood trial for humiliating Turkish Armed Forces" and in fact, he never gave place to standing trial.

There are other incidents that Fisk is eager to get benefit from. For instance, Fisk wrote an article which referenced to an unknown book, written by a Palestinian, Salim Tamari. According to the book<sup>10</sup>, in Dardanelles 19th division commanded by Atatürk was full of Arabs, Arabs in the Ottoman Army were from Syria, Lebanon, Jordan and Palestine fought against ANZAC forces, Among 87.000 populated Turkish force there were many Arabs too. During the program, Oğuz Haksever asked Fisk; "To what extent your sources are reliable?" Fisk replied by giving the name of the Salim Tamari's book. It is known that, Ottoman Army was full of Ottoman subjects; there were Armenians too. However, the majority of the army was Turkish since being the largest ethnic group, for sure. On the other hand, all of these elements are mixed within the troops. Thus, saying that the Arabs the only ethnic group while fighting against ANZAC's, is basically wrong.

Let's go back to the Armenian question. Fisk's words and writings about Armenian question look like an Armenian militant. We don't know the reasons of this attitude. However, it's been 30 years since he has settled in Beirut and his close relationships with Armenians make us think that he was

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8 Ibid p. 591-594

9 *Dining with Al-Qaeda, Three Decades Exploring the Many Worlds of Middle East*, New York 2011.

10 "The Great War Secrets of the Otoman Arabs" *The Independent*, 15 October 2011.

subjected to a “brain washing” process. Thus, he has expressions in his some interviews in this way.<sup>11</sup>

Since he had been deported from Turkey in 1991, his hostile feelings had been strengthened. Thus, these developments might increase his sympathy for Armenians.

One of the reasons of Fisk for supporting Armenian claims might be his self interests. We don't know if there are Armenian business men or an Armenian institution as a result of his studies on Armenian claims. He has been writing best-selling books and articles for many years, that is why we do not think that he needs to make more money. Nevertheless, he talks about Armenian genocide claims in every chance. So we think that he needs to fill some gaps.

*There are no Turkish people among people whom Fisk talked to. For some time, Fisk gets benefit from some people about historical events under the title of “Verbal History”. Nevertheless, these kinds of expressions are considered as secondary sources.*

“Lannan Award for Cultural Freedom” might be an example for his profits which had been given in 2006, in the U.S. This award is given to the people who are working on fictitious research and freedom of speech in every year. Fisk is the right person who has this fiction award. The indicated award is about 350.000 US dollars and the secondary award was given to a radio director, David Barsamyan, the U.S. was about 150.000 U.S Dollars.<sup>12</sup>

Robert Fisk pretends as if he knows everything about Armenian question, but he only used five sources to write the related part in his book. Moreover, there is no Tamer Akçam book among the sources he used. However, he told on NTV that he has read Tamer Akçam's books. All of these five books<sup>13</sup> are only reflecting the Armenian point of view. Therefore, Fisk had never tried to learn about what Turkish side says.

Fisk's secondary sources are speeches with some old Armenian people. According to the appreciation part of the book<sup>14</sup>, there are 19 Armenian

11 “An Interview With British Journalist Robert Fisk” *Horizon Weekly*, Canada, 14.04.2006; Armenian “Robert Fisk Talks About The Armenian Genocide” *Reporter*, 17.03.2007.

12 “Fisk and Barsamian Bestowed ‘Cultural Freedom’ Awards” *Armenian Weekly* On-Line, 18 November 2006.

13 *Büyük Medeniyet Savaşı, Ortadoğu'nun Fethi, (The Great War for Civilization: The Conquest of the Middle East)* p. 900

14 *Ibid*, p. 9-11

people or supporters of Armenians whom Fisk interviewed with. There are no Turkish people among people whom Fisk talked to. For some time, Fisk gets benefit from some people about historical events under the title of “Verbal History”. Nevertheless, these kinds of expressions are considered as secondary sources. The reason of being secondary sources is related with the intensity of the information. If these people have no political or military position, they have limited information about the events. The people whom Fisk had talked to are old Armenians. Therefore, it is hard for them to remember the events properly or they can be confused because of their age.

Finally, if there is a political disagreement, to pay attention to members of only one side is not true. By the way, keep in mind that, old people are inclined to believe in what they hear. As a result, it is obvious that, Fisk has never researched the truth behind his claims. Basically, Fisk has no such an intention. While he was making a speech about his book, Fisk criticized British and American Governments for not accepting the genocide truth and the truth does not need any proof, the Armenian genocide is explicit itself, for Fisk<sup>15</sup>. There is no need to say that, this thought is far from being scientific.

The book, which is under consideration, was published in 2005 and it is understood that the book has been translated into Turkish too, in that period. Fisk had been to Turkey in 2006, to introduce his book and he made a speech in Sabancı University.<sup>16</sup> However, as Fisk says, the publisher Agora Publishing house send him fax saying that according to Turkish Penal Code 301 (TCK 301), it is possible for the publishing house to be subjected to being followed, in case the is being published. If there would be a trial, Fisk says that he could come to a possible case. Although, Fisk said to deal with the genocide issue is about honor<sup>17</sup>, he could not take the chance and the prevented the publishing of the translation.

After the amendment on Turkish Penal Code 301 (TCK 301), investigation on people is in the hands of the Ministry of Justice. Since this kind of consent is not given, the books on genocide claims are free to be published. When the case is considered, the translation of Fisk’s book has been published by another publisher.

The title of Fisk’s book is “The Great War for Civilization, The Conquest of the Middle East”. As it is understood, the book is on the Middle East.

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15 Noyan Tapan “ Famous British Journalist Names the Armenian Genocide ‘The First Holocaust’” *Armenians Today* 23 October 2006

16 “An Interview with British Journalist Robert Fisk” *Horizon Weekly*, 14 April 2006

17 “Let me Denounce Genocide From the Dock” *The Independent*, 14 October 2006.

Nevertheless, the book is more on new events in the Middle East like, Iranian Revolution, Iraq-Iran War, Algerian Civil War, Afghanistan, Israel-Palestine Question, Israeli invasion to Lebanon, 2 wars which were commenced by the United States. Fisk has rewritten what he saw and wrote previously. There two inappropriate parts which seem like to patch up all other parts. First part is short, which is about some memories about his father, which is under the title of “Sentenced to Suffer Death”. The second part is on Armenian Genocide claims which are under the title of “The First Holocaust”, (33 pages).

Fisk does not make any explanation for including these two unrelated parts to his book. It is possible for the part which is related with his father to take revenge. Thus, he describes his father as a racist and patriot. Nevertheless, it is observed that, he loves his “racist” father.

The part which is related with the Armenians was translated into Turkish as “The First Genocide” but not “The First Holocaust” about 1915 events. Actually, there is no severe difference between to definitions. The “genocide” is valid in the international law. Fisk describes why he wrote “holocaust” instead of “genocide” one of his articles<sup>18</sup>: In order to identify, Jews named Nazi’s genocide as Holocaust. Armenian’s situation is as important as Jews’. That is why he chose the word Holocaust to build a bridge between two incidents. This attitude is appropriate with the Armenian propaganda which claims that Germans took an example of Ottoman Empire while applying Holocaust over Jews.

To write an unscientific book about events which were happened nearly over a century ago cannot draw attention. That is why; Fisk has told what he experienced in this part of his book in order to attract attention. In the Turkish translation of his book, “First Holocaust”, he wrote the part without any chronological analysis, irrelevantly. In this frame, briefly, he told “genocide” stories about a mass grave under the foot of the Margada Hill in around Northern Syria. Mainly, some of them will be discussed further. Moreover, Fisk gave place to many English people’s memories including Winston Churchill about Armenian events, just like German Nazi’s Einsatzgruppen, Teşkilat-I Mahsusa (CUP’s (The Committee of Union and Progress) underground organization) which was built to annihilate Armenians<sup>19</sup>; this could not be proved, but it has never been forgo being highlighted by Robert Fisk<sup>20</sup>, Hitler’s words, “Who are talking about Armenian massacre

18 “An Interview With British Journalist Robert Fisk” *Horizon Weekly*, Canada. 14 Nisan 2006.

19 *Büyük Medeniyet Savaşı, Ortadoğu’nun Fethi, (The Great War for Civilization: The Conquest of the Middle East)* p. 296

20 Ibid p. 296

nowadays”, he narrated that Kurdish people killed Armenians a few times<sup>21</sup>, Turkish troops have killed fifty thousand Armenians who took part on the side of French forces during the war of Turkish Independence<sup>22</sup>, he also came up with the idea that Turkish people massacred in Yerevan and this is a huge historical mistake.<sup>23</sup> He also mentioned the story on Mountain of Moses, that Hatay was left to Turkey was a shame.<sup>24</sup> According to Treaty of Sèvres, Fisk claimed that Hatay was Armenian.<sup>25</sup> He continued his work by criticizing Israel and Shimon Peres<sup>26</sup> because they do not accept the Armenian genocide claims. Another significant mistake that Fisk made was to write that famous Turkish historian Ahmet Refik and the Committee of Union and Progress were aiming to demolish all Armenians.<sup>27</sup> Moreover, Fisk also criticized Turkish diplomats<sup>28</sup> for declaring the government’s opinions and French, The United Kingdom and the United States were mentioned on Fisk book with pro-Armenian attitudes.

It is possible to criticize every page of Fisk’s book for not giving exact numerical Zveri, obvious support for Armenians and significant mistakes that he claimed that happened in the past. Furthermore, he keeps on insulting the one who do not think the way he thinks. Nevertheless, a book analysis is not suitable for that. That is why the parts that claim Armenians were killed in the Northern Syria will be discussed.

Among those claims, the most important one is Margadeh hills mass grave near Der Zor region with photographer Isabel Elsen in 1992. Fisk has heard this claim from a blind old man, aged one hundred, Surhobi Papazyan named an Armenian. According to him, Turks brought Armeniansto Margadeh hills and killed them here or drowned them in the River Habur. However, reading carefully, it is understood that Papazyan has never been there and he just came here ten years after, found some skulls and bones.<sup>29</sup>

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21 Ibid. p. 302

22 Ibid. p. 302

23 Fisk should have been talking about the war between Ankara Government and Armenia in 1920, October and November. Armenia had been defeated, but Yerevan had never been taken.

24 *Büyük Medeniyet Savaşı, Ortadoğu'nun Fethi, (The Great War for Civilization: The Conquest of the Middle East)* p. 303-305.

25 According to Sevres Treaty, the borders of Armenia had been drawn by the United States President Wilson. Hatay is out of these borders.

26 *Büyük Medeniyet Savaşı, Ortadoğu'nun Fethi, (The Great War for Civilization: The Conquest of the Middle East)* p. 308

27 Fisk is confusing Ahmet Refik who was the writer of “Two Committees Two Wars” with famous historian Ahmet Refik Altunay.

28 Period’s Turkish Diplomats, Washington Ambassador Nüzher Kandemir, London Ambassador Korkmaz Haktanır and Tel Aviv Ambassador Barlas Özener have been talked about here.

29 *Büyük Medeniyet Savaşı, Ortadoğu'nun Fethi, (The Great War for Civilization: The Conquest of the Middle East)* p. 294, 295

Papazyan has never given information about how many people had been killed. Fisk claims<sup>30</sup> that the number of killed people was “about fifty thousand”, but he was not able to state from where he had this information. Fisk and Isabel Elsen have searched for skulls and bones and could not find anything. Then, as a coincidence, around Margadeh hills, they found what they had been searching for. Nevertheless, the location is away 2 km. from River Habur that does not consist with what Papazyan said. Thus, Fisk decided to declare what he thinks about how River Habur changed direction, in order to conceal this paradox. The direction of the River Habur had been changed by the human remnants. This is how Fisk thinks; he does not prove this thought.<sup>31</sup>

We have consulted to a civil engineer who has been working on building dams and he listened to us with maze and smile. The engineer informed us that the flow rate of River Habur was average 45m<sup>3</sup>/s. Even if there were thousands of bodies which were thrown to the River, (this is not possible) the water passes among those bodies and drifts them towards the flow. In summer, when the amount of water is too decreased, but it whenever the water has reached to normal values, the remnants of the bodies would ne drifted away. Briefly, it is impossible for bodies to change the direction of the River Habur, physically. Moreover, there should have been concrete embankment to change its direction.

Robert Fisk might been fond of his claim of changing the direction of River Habur, he repeated this in other places and he wrote, “The massacre around Erzincan enormous that thousand of bodies have created a set in Euphrates and the flow direction of the river had been changed almost one hundred meters.<sup>32</sup>” By the way, he has forgotten that Euphrates is much bigger than the River Habur.

Another point that we can call fantastic is to fill a cave with 5 thousand Armenians in around Margadeh, Shaddâdi village and to set fire at the entrance of the cave aiming to kill those Armenians by the smoke of that fire (p. 295, 296). To make such a plan happen there should be tons of firewood and the wind should blow towards the mount of the cave. Nevertheless, it is impossible for the smoke to reach everybody in such a huge cave. Fisk has written that the size of the cave reaches through the underground and this justifies our argument. The weakest part of this “killing with the smoke” story is to find that much wood. It is should be bear in mind that the

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30 Ibid. p. 290

31 Ibid. p. 295

32 Ibid. p. 294

Northern part of Syria is semi-desert. Even today, there is no wood in this region. Ottomans were not using tracks, so it is hard for them to bring that much wood is imaginary. If there are 5 thousand people killed in a cave, the bones and skull should be found. However, Fisk has written that the cave had been collapsed<sup>33</sup>, what a coincidence! As far as we concerned, this part of the book has been tried to be written in order to compare the gas chamber which was applied by the Nazi's for the Jews.

Let's go back to the skeletons in Margadeh. Syrian Armenian Church has constructed a building in order to keep the bones here with a huge church, along with the ritual in the late years in every April, 24 shows that the bones had been found in this region. Nevertheless, it is not proven that the bones belong to the Armenians. There can only be carbon dating in order to understand how old those bones are. If the result of the test shows data belong to 1910s, this means the bones belong to Armenians, but this is even not enough, yet the bones might belong to another people.<sup>34</sup> The carbon date has never been applied on those bones.

*Fisk has never tried to prove his claims. According to him, Talat Pasha had directed officers in the region in order to kill the Armenian by telegraph. The point that Fisk was unaware of the telegraphs Talat Pasha sent were fake and the fakeness of those telegraphs has been proven in 1983. Today, the one who are eager to be scientific address to those telegraphs.*

By the way, there is another interesting point about Der Zor region, the books<sup>35</sup> which include Armenian point of view does

not mention about the research that Fisk and photographer Isabel Elsen have done. Furthermore, Margadeh was not mentioned in these publications. The reason of this ignorance is the result of Fisk's exaggerations and lack of proof.

As we have specified above, Fisk has never tried to prove his claims. According to him, Talat Pasha had directed officers in the region in order to

33 Ibid. p. 295

34 "Memorial at The Armenian Apostolic Church in Margadeh, Syria"  
[http://www.armenian-genocide.org/Memorial.111/current\\_category.72/memorials\\_detail.html](http://www.armenian-genocide.org/Memorial.111/current_category.72/memorials_detail.html)

35 See: Raymond H. Kévorkian. *L'Extermination des Déportés Arméniens Ottomans Dans Les Camps de Concentration de Syrie-Mésopotamie (1915-1916)*, Revue D'Histoire Arménienne Contemporaine, Numéro Spécial, Tome II, 1998, Paris. (This book has been translated in Turkish: " Soykırımın İkinci Safhası. Sürgüne Gönderilen Osmanlı Ermenilerinin Suriye-Mezopotamya Toplama Kamplarında İmha Edilmeleri 1915-1916. Belge Yayınları, 2011) and again Raymond Kévorkian's the most detailed work on the "Armenian genocide" *Le Génocide des Arméniens*, Odile Jacob, Paris, 2006 ve Hilmar Kaiser, *At the Crossroads of Der Zor. Death, Survival and Humanitarian Resistance in Aleppo*, 1915-1917, Princeton 2001

kill the Armenian by telegraph.<sup>36</sup> The point that Fisk was unaware of the telegraphs Talat Pasha sent were fake and the fakeness of those telegraphs has been proven in 1983.<sup>37</sup> Today, the one who are eager to be scientific address to those telegraphs.

The most significant point in this issue, in 2010, Syrian Information Minister has answered a question, which was about the Armenian mass grave in Der Zor region on American CBS television, that there is no such a mass grave in Der Zor region.<sup>38</sup>

As it is observed Robert Fisk, though his popularity, as he always do, he takes part in the Armenian question and in order to support the genocide claims he leans on lies and exaggerations. Furthermore, he never mentioned the points which might be disadvantage for Armenia and Armenians. Within this framework, he never states the Armenian mobsters which were main reasons of the relocation. During the state of war between Ottoman Empire and the Tsardom of Russia, the massacres, in which 518.000 people had been killed<sup>39</sup>, of Armenians in the Eastern Anatolia were not even mentioned in his book. The events that Turk's faced were also tragedy and these events should be assessed with the idea of "just memory", but he never even mentioned this idea. Moreover, in Armenian Declaration of Independence, Eastern Anatolia has been mentioned as the Western Armenia. Thus, there was a created judicial ground for Armenia to demand those lands from Turkey. This point also has never been stated by Robert Fisk. Armenia is not willing to negotiate on the claims of genocide and Armenia ignores creating a historians committee on genocide claims. Moreover, besides the points that Fisk never talked about, anti-Turkish, racist attitude of Armenian Diaspora has never been mentioned.

Briefly, the significant point for Robert Fisk is not the truth, but the issues that he determined and supported these ideas with his writings.

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36 *Büyük Medeniyet Savaşı, Ortadoğu'nun Fethi, (The Great War for Civilization: The Conquest of the Middle East)* p. 290

37 Şinasi Orel ve Süreyya Yuca, *Talat Paşa'ya Atfedilen Telgrafların Gerçek Yüzü*, (The Truth About The Telegrams Attributed by the Armenians to Talat Pasha) TTK, 1983. This book has been translated into English and French.

38 "Suriye CBS Haberimi Yalanladı: Ermenilere Ait Toplu Mezar Yok"(Syria denied CBS News: There is No Mass Grave Belong to Armenians) *Zaman*, 4 Mart 2010

39 There are many books which are about Armenian atrocities, in other words, massacres happened by Armenians. Among these publications there is "Massacres by the Armenians with the Documents" vol. 1, vol. 2. 2001 which includes photocopies of Ottoman Documents and their transcriptions in Latin. This book is specifically significant. The list which shows that 518.000 (exactly, 518.105) people has been killed is in page 1054.







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