

## Money and Power over Concern for Humanity: Delaying Justice for Special Interests in the Armenian Genocide Case

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*In the case of the Armenian Genocide, action and inaction and the weighing of costs and benefits led to the massive destruction of Armenians during WWI. The Turkish government's racial discrimination against the Armenians drove them to politically and violently eradicate the Armenians within the Ottoman Empire. The benefit for the Turks from having separatist policies was establishing a pure Turkish state. The costs to achieve this goal were forcible relocation or death, whichever was most efficient in prompting the Turkish government's desired outcome. The benefit for outside nations from inaction was reserving political, financial and military assets as opposed to the burden of intruding in external affairs. However, the costs of inaction had a double-sided effect: hundreds of thousands of Armenians lost their lives and culture while outside nations lost their integrity. Other nations are stigmatized with shame just as the Turkish masterminds behind the Armenian Genocide are vilified, for the lack of prevention is equally offensive as committing the crime. Furthermore, not addressing the Armenian Genocide, specifically, delaying reparations and punishment, perpetuates the guilt of the Turkish officials who authorized and conducted the genocide. It also perpetuates the embarrassment of other nations who did not get involved to prevent or stop it and the hurt that engulfs the Armenians as they mourn the demise of their heritage and are denied any sense of justice.*

<sup>1</sup>In 1915, an estimated one and a half million Armenians were killed under Turkish government orders. Since the genocide, Armenia and other nations

have used the political arena to not only remedy genocidal grievances but also to avoid them. Because the Turkish government has not officially acknowledged that what befell the Armenians in 1915 was genocide, no reparations or condolences have been given to the Armenian people. The purpose of this paper is to present and analyze from a sociological perspective the history and significance of the

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Turko-Armenian conflict that manifested into genocide. First, I will describe the historical background of this conflict. Then, I will examine how the flexible nature of the law can lead to many perversions that allow human violations to occur legally and how rectifying wrongdoing can be delayed by lack of action and by inaction. Finally, I will discuss why nations and the international community delay enforcing the laws due to the weighing of the costs and benefits, which often results in special interests prevailing over justice for humanity.

## HISTORICAL BACKGROUND

### *Birth of a Nation Despite the Odds*

The Armenians occupied a “strategic crossroads” in Eastern Anatolia and the Caucasus as early as the sixth century B.C. (Toriguian1973:17). As a result of their ideal geographical position, they endured two thousand years of “frequent intervals of foreign domination and oppression,...successive waves of foreign invasions” and falling in and out of national independence (Toriguian1973:17). The last Armenian Kingdom fell in 1375, dividing Armenia into 2 regions: Russian Armenia and Turkish Armenia, the larger region being the latter. Russian Armenians lived a tolerable existence under Russian rule while Turkish Armenians endured the ups and downs of unfulfilled guarantees of rights, liberties and reforms promised by the Ottoman Empire. However, the Armenian people were still able to establish a national identity by adopting Christianity as their state religion, developing their own alphabet and creating a culture enriched by language, literature and art (Alexander 1991:30).

Despite being relegated as second-class citizens, the Ottoman Empire allowed cultural autonomy for the Armenians. However, as the Empire began to decline in the nineteenth century, coexistence among diversity became exceedingly difficult. A wave of Turkish refugees from Russia and the Balkans as well as Kurds and Circassians created an imbalanced population that provoked competition for agricultural lands (Dadrian 2006:29). Since the Armenians were already socioeconomically pushed into farming and peasantry, the agrarian sector with its new demographics presented the Armenians with an aggressive economic rivalry for survival.

### *The Power Struggles of Conflict Theory: Creating the Enemy*

From a sociological perspective, the targeting of the Armenians exemplifies “the major dimensions of conflict [which] are along the structural divisions or systems of stratification that form the basis of the society: race or ethnicity, class and gender” (Iadicola and Shupe 2003:10). The multi-ethnic Ottoman Empire faced “conflicting values, interests and cultural orientations” that created a divide “within the systems of stratification” (Iadicola and Shupe 2003:10). The Turkish government used (1) race or ethnicity, (2) class and (3) gender to create a greater division between Turks and Armenians.

First, the Turkish government’s justification to marginalize the Armenians was subjugation by race or ethnicity. Given that religion is a significant dimension of one’s ethnic background, the Turks maintained that the Armenians being of an opposing

religion was reason enough to segregate and suppress the Armenians. To legitimize their position, the Turks used religion as a basis to define the character of an individual as good or bad. Since the Turks adopted Islam and the Armenians Christianity, Muslim Turks were deemed morally good and Christian Armenians morally bad (Hovannissian 1998:24). Consequently, religious differences distinguished the two races, classifying Muslim Turks as superior and Christian Armenians as inferior. Provided that the Turkish government was able to convince their Turkish constituents that religion was a chosen lifestyle that reflected the quality of one's temperament, the superior and inferior distinction based on religion made unequal treatment acceptable. This rationale to marginalize the Armenians provoked neighbors to turn against each other.

The second structural division that the Turkish government used was social class. They emphasized racial and ethnic differences between the Turks and Armenians to justify imposing racially targeted limitations on the Armenians to relegate them to second-class status in the Ottoman Empire. For example, Armenians were denied access to the press and they did not have the right to bear arms, receive an education, testify in court or become officers in the army. Some provinces also prohibited Armenians from speaking their own language or practicing their own religion. Furthermore, Armenians were burdened by a special "system of taxation" that was not only greater than their capacity to pay but also more than what Turkish citizens were required to pay (Alexander 1991:33).

Consequently, the Armenians were subjected to a second-class citizenship, which surrendered them to what Vahakn Dadrian (2006:134) in Warrant for Genocide, calls a "structural blockage." Dadrian uses this term to describe how the divisions between classes are perpetuated by the availability and allocation of resources to each class. In other words, individuals of certain classes are directed to occupy certain trades while they are blocked from entering other trades and professions. As a result, lower class individuals, those with limited resources compared with those with abundant resources, known as the upper class, are confined to their social status because they lack the means and opportunities for upward social mobility. Since the distribution of resources is controlled by those who have the greatest access to resources, those in power tend to hoard plentiful resources and are reluctant to share any leftovers, thus safeguarding the assets of the upper class and preventing lower class individuals from intruding.

Dadrian's concept of structural blockage can be applied to the Armenian case with a twist of irony. Since social forces handicapped the Armenians by restricting them to manual work like farming, the Armenian workforce was essential to maintaining society, for they provided a substantial portion of the food supply in the Ottoman Empire (Freedman 2009: 34). Additionally, unlike the Turks, Armenians were open to Westernization and thus sought businesses in modernization. Armenians brought "technical innovations such as steam engines, mechanical weaving machines and iron and steel ovens" from

the West and into the lives of Ottomans (Karagueuzian 2006:2). However, their surprising success in trade and business backfired (Karagueuzian 2006:3). Slight prosperity over some Turkish Muslims aided the Turkish government's endorsement of using the Armenian Christians as a scapegoat to alleviate blame for the Empire's economic demise (Hovanissian 1998:39).

Even though the Armenians contributed to modernizing Turkey, the empire was still behind in technological advancements, causing the economy and military to deteriorate (Dadrian 2006:148). Since the Turks' declining economy looked inadequate compared with Armenians' economic niches, Turkish officials exaggerated the fact that the Armenians were ethnically different from the Turks so that they could brand the Armenians as the reason for Empire's economic misery (Dadrian 2006:125). For that reason, the Armenians were made outcasts to detract attention from the government's shortcomings.

Making matters even worse for the waning empire was "an Armenian political enlightenment" that pressured Turkish officials to address any inequities the Armenian people endured (Alexander 1991:32). Western ideas of "freedom and independence" penetrated those exploited under the Ottoman Empire, putting the government in the spotlight to produce solutions. Thus, gender became the third structural division for the Turkish officials to exploit. Intellectual and prominent men of the Armenian community posed a threat to the Turkish government. Democratic ideologies inspired public figures of the Armenian community to

encourage fellow Armenians to take a stand against the Turkish government. Since religion was the basis on which Armenians shaped their identity and kept their community intact, clergymen were immediately targeted.

Clergymen "raised their voices against the persistence in the provinces of governmental misrule that was threatening to erode the rural infrastructure of the Armenian Church" (Dadrian 2006:41). In 1870, leaders of the Armenian Church constructed a "Memorandum of Grievances," detailing fundamental issues that extended beyond the welfare of their Church. Their concerns included forced religious conversions, expropriations of farming properties, tax abuses, corrupted government officials and "the inadmissibility of Armenian testimony in court" (Dadrian 2006:40). However, the Turkish government found all reports, even after revision and clarification, to be too "non-specific and vague" to justify action (Dadrian 2006:41). To further escape the acknowledgement of these complaints, the Turkish government purposely changed the jurisdiction of who received the reports. Originally the grievances were heard by the Foreign Ministry whose affairs were overseen by the Entente Powers: Britain, France and Russia, outsiders who were considered impartial to the racial conflict that swept over the Ottoman Empire (Dadrian 2006:41). However, a switch of jurisdiction left the Ministry of Religion and Justice in charge, "whose reliance on the dictates of Islam and Sacred Islamic Law," presented a bias favorable to the Turks (Dadrian 2006:41). Since the Turkish government complicated the protocol of political reform by switching

jurisdictions, the Armenians were handicapped once again. In this example, the Turks used their authority to alter the channels of law that could have potentially brought about change so that they could prevent the Armenians' desired change from ever happening.

*Turkish Supremacy and Perpetuated Violence*

The previous section revealed how the Armenians were faced against violence that was intrinsic to their race in the multi-ethnic empire dominated by the Turks. Peter Iadicola and Anson Shupe (Iadicola and Shupe 2003:23) in Violence, Inequality, and Human Freedom, define violence as "any action or structural arrangement that results in physical or nonphysical harm to one or more persons." The Armenian case can be examined through two types of violence: structural and institutional violence. "Structural violence" refers to the way society is systematically ordered to maintain status quo (Iadicola and Shupe 2003:31). The infringement of rights of the Armenians due to their second-class citizenship status exemplifies structural violence. This structural arrangement resulted in harmful outcomes for the Armenians physically and psychologically. For example, since Armenians were second-class citizens, they were denied due-process and could be jailed or beaten without justifiable cause (Alexander 1991:98). They also could not live with any sense of acceptance for they were demoralized for having a different faith. The Turks practiced structural violence to maintain and extend "the hierarchical ordering" of people to construct built in inequality (Iadicola and Shupe 2003:31).

"Institutional violence" is violence that results from institutions seeking and achieving institutional objectives (Iadicola and Shupe 2003:28). Three important institutions that Iadicola and Shupe identify that are significant to the study of violence in the context of sociology are religion, the economy and politics. "Religion" gave rise to victimization because competing faiths made it easy for Turkish officials to dehumanize the Armenians. Religious violence took the forms of forced religious conversions and prohibition of Christianity (Alexander 1991:7). The Armenians experienced "economic" violence by being restricted from certain professions with disproportionate pay and special taxes (Alexander 1991:33). In fact, "two-thirds of the income of the Armenians was collected as taxes, levied at three times the amount charged to non-Armenians" (Karagueuzian 2006:3). "Political" violence was manifested in the state-directed targeting of the Armenians (Freedman 2009:18). The policies that legalized special taxation based on race exemplify outright targeting.

However, the most critical example of political violence was the political tone that swept throughout the Ottoman Empire: Pan-Turanianism. This ideology promoted a "Turkish fanaticism" which meant "racial uniformity," a Turkish one, which provided the framework for the suppression of the Armenians in the Ottoman Empire (Alexander 1991:98). The Turkish government used this ethnocentric mentality and propaganda to rally its Turkish constituents against the Armenians while using the glorification of their ethnicity as a justification to do so. What made this

ethnocentric ideology so dangerous was that it was accompanied by authority; in other words, the romanticized pure Turkish nation was endorsed by the government, which meant that any strategy to achieve this goal could be infiltrated in every system of society. This political strategy was so effective that it would reappear in World War II in the form of the Germans who glorified Nazism (Alexander 1991:98).

In the case of the Armenians, the aggressive force behind Pan-Turanianism was the politically violent and radical group called the Young Turks who assumed power in 1908 (Alexander 1991:35). The Young Turks “changed the nature of the antagonism by projecting an even more adversary and threatening character onto the Armenians” living under the Ottoman Empire (Gellately and Kiernan 2003: 207). They proposed that Turkish nationalism “offered the prospect of a homogeneous new civilization,” that would lead to “a glorious and powerful future” (Hovannissian 1998:40). However, “the Christian Armenians represented the single largest obstacle within Turkey to racial uniformity” (Alexander 1991: 98).

The presence of the Armenians was definitely felt in their demands for closing the gap of disparity, complicating Turkey’s goal for a “pure” nation. It was strain enough on Turkish officials that the Armenians demanded “judicial and tax reforms” and “freedom of worship, education and press” but their insistence on “supervision of the Armenian provinces by a European High Commissioner” was even more burdensome (Alexander 1991: 96). Additionally, the fact that the Entente

Powers, which was comprised of Britain, France and Russia, agreed with the Armenians that reform was necessary intensified the tension within the Empire even more. Between 1878 and 1914, the Entente Powers sought to establish an opportunity for the Armenians to “flourish in a climate of security under the supervision of the international community” (Alexander 1991:16). However, their good intentions were never cemented due to a lack of follow through and an inconsistency of responsibility. For example, the Treaty of San Stefano of 1878 “provided that a series of reforms would be carried out in Armenian areas under Russian guarantee” but then the Treaty of Berlin of 1878 ordained Great Britain to supervise reforms promised by the Turkish government (International League 1984:8). The lack of follow through and the changes of responsibility demonstrate that nations were not wholeheartedly committed to the needs of Armenians; for passing off responsibilities after failure to fulfill them suggests that the responsibilities were never a priority.

Even though the Entente Powers urged that the Turkish government implement necessary reforms to accommodate the Armenians, they were never able to ensure implementation. In February 1914, the Entente Powers unsuccessfully attempted to appoint two inspectors to supervise reforms; unfortunately, the outbreak of World War I prevented the oversight (International League 1984:9). Instead, the Turkish government capitalized on the natural chaos of any war to commit genocidal acts in an attempt to accomplish their pure nation.

*Under the Cover of War*

This tactic of using war as an alibi is what Jay Winter refers to as “under the cover of war,” meaning that the desensitization byproduct of war opens the door for inhumane acts; war does not totally conceal out-of-line deviance, but rather nations under war are withdrawn from humane intervention when they are occupied by their own affairs (Gellately and Kiernan 2003:189). For example, Winter asserts that “no one can deny that the Armenian genocide took place under the eyes of the German army and that the killers operated with impunity” (Gellately and Kiernan 2003:191). This example brings attention to political commitments that may have undermined moral judgment. In other words, as allies in the war, it would not have been a good strategy for Germany to interject in Turkey’s affairs when it could have jeopardized their prospects in the war. And in an ironic but unfortunate turn of events, Germany would later emulate Turkey’s quest for racial homogeneity under the cover of World War II driven by Nazism instead of Pan-Turanianism, emphasizing Judaism rather than Christianity and singling out Jews in place of Armenians in what is known as the Holocaust.

The union between Turkey and Germany meant that Turkey was associated with the Central Powers. This was problematic for the Armenians for the Armenian population was divided: while two million resided in Turkey, one point seven million lived in Russia (International League 1984:10). Given that some Armenian soldiers living within Russian borders served alongside the Russians who were a part of the

Allied Powers, Turkish authorities accused the Armenians of aiding the enemy and thus justified their initial claim that the Armenians were a threat to the security of the Ottoman Empire (Gellately and Kiernan 2003: 207).

To prevent Armenians from revolting, Turkish officials began disarming Armenian soldiers and civilians in January 1915. On April 24<sup>th</sup> of the same year, 650 Armenian public personalities, writers, poets, lawyers, doctors, priests and politicians were imprisoned. The Young Turks authorized this operation to be carried out by a group called the “Special Organization,” which was comprised of criminals and convicts (International League 1984:10). Towns were notified of evacuation and Armenians had two days to gather their belongings. Men were gathered first to be eliminated in small groups and convoys loaded the women, children and the elderly. Families in isolated towns were slaughtered or burned in their own houses. Families living near the coast of the Black Sea and the Tigris River were loaded onto boats to be sunk and drowned. Eastern provinces were ransacked while Armenians were tortured and killed. Many Armenians did not even attempt to escape or seek aid or protection because they feared punishment by Turkish authorities (International League 1984:11). Deportations ensued to seemingly remove the Armenians out of the Turks’ way but became a successful mechanism for death as deportees died from starvation and dehydration en route to the deportation locations in the deserts of Syria (International League 1984:12). Although missionaries and ambassadors

reported the destruction of the Armenian people to the world and especially to the Entente Powers, Turkey justified their acts as a response to treason and terrorism on part of the Armenians during the war (International League 1984:11). Without any follow up, investigation or intervention, the Turks managed to commit a crime that would be later named genocide and kill one and a half million Armenians (International League 1984:12).

The historical background of the Turko-Armenian conflict is essential to understanding the conception of the Armenian Genocide. Due to a disharmonious environment rooted in racism and inequality, plus resentment over little wealth, genocide for the Turks would put an end to the Armenians, tainting the reputation of the Turks and complicating Turkish interests. The tension between the Muslim Turks and Christian Armenians in this section demonstrates that the disparity of power within a society leads to exploitation and is achieved through the influence of authority. Powerful groups exploit vulnerable groups to advance or protect their interests and choose their exploited group or groups based on fundamental differences that may contradict with the interests of the powerful.

In the Turko-Armenian case, differences between social groups within the multi-ethnic empire were emphasized in order to convince particular members of society that such differences were immoral and thus justify that certain governmental measures were pertinent to maintaining the empire. Hatred against the Armenians, or at least the notion that the Armenians were inferior to the Turks,

infiltrated dimensions of society, specifically social institutions and the economy, that detrimentally affected the living conditions of the Armenians. What amplified this superior and inferior relationship was the campaign for Pan-Turkianism, an ideology that swept the empire in a totalizing fashion, making genocide more than a conceivable outcome, but rather an inevitable one.

## **IDENTIFYING AND APPLYING THE LAW**

### *Channeling the Law*

The law prescribes standards for its people and regulates people's actions to measure up to those standards. The law is used to impose what a society thinks is appropriate to maintain order while satisfying needs for intuitive justice. The common conception of intuitive justice is that the law is part of a social contract that ensures fairness and if the law is broken, there is a consequence to compensate for breaching the contract. However, the law can only ideally reflect society's attitudes and ideally change as society's attitudes change. For example, Jim Crow laws legally segregated White Americans from Black Americans and other non-whites by creating "separate but equal" public facilities and institutions like restrooms, restaurants and schools. Although these laws seem to inherently contradict American ideologies of liberty and freedom, Jim Crow laws were a reality until the 1960s civil rights movement shifted what were considered to be acceptable practices to become unconstitutional. This mentality shift was made possible by special groups demonstrating civil unrest in the forms



of protesting and lobbying to communicate disapproval and encourage a means to correct certain conditions. Thus, the law is an instrument that dominant groups use to express what they find is tolerable or intolerable.

Single legal victories can jumpstart an overhaul of dramatic opinions but just because an opinion is invested by the power of law, individuals are not always compelled to follow the law. Often, a series of similar laws with similar ideas are created in order for the idea to be enforced by the law. For example, although the landmark case *Brown v. Board of Education of Topeka Kansas* ruled that separate but equal facilities were unconstitutional in 1954, the law was not enforced until years later. Then ten years after *Brown v. Board of Education of Topeka Kansas* was the construction of the Civil Rights Act of 1964, which prohibited many kinds of discrimination based on race, color, religion or national origin. The creation of both laws, which have their roots in antidiscrimination, exemplifies how an idea transformed into a law may need to be expanded or reiterated for the idea to permeate society and be followed and respected as a law. Therefore, it is important to understand that the relationship between societal attitudes and the law is a process, for several laws may share the same idea but not the same impact on society.

The formation and implementation of the Genocide Convention was no exception to the rule. Its process required the Polish-Jewish lawyer Raphael Lemkin to dedicate his whole life and career to convincing the world that genocide was the ultimate crime against humanity. This section of the

paper describes Lemkin's crusade for a ban against genocide. His crusade entailed the difficulties in constructing the term genocide and the difficult reception he received endorsing it in political arenas like the Madrid Conference of 1933 and the Nuremberg Trials. Lemkin's lobbying tactics extended beyond legal conferences and military tribunals to the media and networking with policy makers. He employed political strategies at every opportunity despite receiving criticism and reluctance, for each opportunity was another step closer toward ratifying the Genocide Convention.

Constructing the term *genocide* was a process in itself. The objective of his crusade was to stop "the targeted destruction of ethnic, national, and religious groups" (Power 2003:21). Since Lemkin was particularly sensitive to the preservation of "both the physical and cultural existence of groups," he conceptualized targeted attacks against social groups into two separate but similar ideas: barbarity and vandalism (Power 2003:21). He defined *barbarity* as the "premeditated destruction of national, racial, religious and social collectivities" and *vandalism* was its consequence in which "works of art and culture, being the expression of the particular genius of these collectivities," were obliterated (Power 2003:21). He pushed for an international commitment against barbarity and vandalism so that instigators and perpetrators could "be punished wherever they were caught regardless of where the crime was committed or the criminals' nationality or official status" (Power 2003:20). This condition intended to prevent asylum from being the way to elude

responsibility and did not protect individuals of certain positions from being guilty of committing genocide. Lemkin also proposed that if there was a collective effort toward condemning barbarity and vandalism, enforcement and punishment would be easily facilitated.

However, uniting entities to ban an act that seemed to be intuitively wrong proved to be halted by politics. For example, at the 1933 Madrid conference, participants could not indefinitely say “yes” or “no” to Lemkin’s proposal on banning barbarity and vandalism (Power 2003:22). Indecisiveness on the issue presented the troubling dichotomy of being prepared to intervene despite any political costs and the preparedness to acknowledge that inaction allows for death and destruction to take place. Such a dichotomy presented itself again in World War II when Hitler repeated the Young Turks’ mass extermination tactics against the Jews. However, it was not until Hitler reintroduced such devilishness to the world that people were more interested in intervention.

After Winston Churchill declared that “the whole of Europe ha[d] been wrecked and trampled down by the mechanical weapons and barbaric fury of the Nazis,” leaving the world “in the presence of a crime without a name,” Lemkin knew that he was not successful in establishing and convincing the world of his concepts of barbarity and vandalism (Power 2003:29). Thus in 1943, Lemkin united the terms barbarity and vandalism to create the word “genocide,” combining *geno*, a Greek derivative meaning “race or tribe,” with *cide*, meaning killing in Latin (Power 2003:42). He hoped that this term would

identify what he had been trying to advocate against for over ten years. Although *Webster’s New International Dictionary’s* admittance of the word was a testament that the world’s attention was shifting toward confronting the subject matter, simply having a name for something did not mean that it could easily be applied. (Power 2003:44).

The Nuremberg Trials were another opportunity to create awareness for Lemkin’s cause. Capitalizing on the momentum built up by the world’s outrage against Hitler’s outright annihilation of the Jews presented the prospect of persuading prominent lawyers and policy makers in attendance that the prevention and punishment of genocide was an international concern that required an international law to be enforced. However, they neglected one of Lemkin’s main conditions: although the Allies were prosecuting crimes against humanity, the perpetrators were not being punished for “slaughter whenever and wherever it occurred” (Power 2003:49). Instead, the loophole in the precedent international law permitted genocidal acts if the act took place within “an internationally recognized border” by perpetrators inhabiting that border (Power 2003:49). Thus, “if the Nazis had exterminated the entire German- Jewish population but never invaded Poland, they would not have been liable at Nuremberg” (Power 2003:49). Furthermore, Nazi defendants were only “tried for atrocities they committed during but not before” the war (Power 2003:49).

Lemkin urged prosecutors daily to add genocide to the “tribunal’s list of punishable crimes” (Power 2003:50). Although he was considered an

annoyance, his persistence paid off with a modest victory. The October 1945 Nuremberg indictment declared that all twenty-four defendants “conducted deliberate and systematic genocide [through] the extermination of racial and national groups, against the civilian populations of certain occupied territories” (Power 2003:50). However, the downside was that even though genocide was stated in the indictment, the conviction of nineteen Nazi defendants on the count of “crimes against peace, war crimes, and crimes against humanity” failed to mention the term genocide (Power 2003:50).

After his campaign against genocide did not succeed as part of the Nuremberg judgment, Lemkin proposed his ban at the 1946 Peace Conferences in England and France, to no avail (Power 2003:50). Following his defeat, Lemkin went to a United Nations conference on October 31, 1946 (Power 2003:51). Reporters and UN delegates described Lemkin as diligent but more of a pest. *New York Times* reporter A.M. Rosenthal stated: “I don’t remember how I met him...but I remember I was always meeting him” (Power 2003:52). Journalists reported that Lemkin had the habits of stopping by offices daily to offer a different perspective of his genocide campaign and cornering delegates in the cafeteria, all the while looking unpolished and tattered (Power 2003:52). Lemkin even “carried a thick file folder bulging with gruesome details of various cases” so he could present the history of genocide wherever he went and to whoever he encountered (Power 2003:54). He hoped that his “files on the destruction of the Maronites, the Herreros in Africa, the Huguenots in France, the Protestants in

Bohemia after the Battle of White Mountain, the Hottentots, the Armenians in 1915 and the Jews, gypsies and Slavs by the Nazis” would be so unbearable that the UN delegates “would eventually agree to vote for the proposed convention simply in order to bring the daily litany of carnage to as rapid an end as possible” (Power 2003:55).

However, Lemkin did not just rely on the horrendousness of genocide, in hopes that horror would compel others to act based on guilt and moral obligation. Instead, he also used other political strategies to appeal to others’ values and interests for it was the conflicting values and interests that impeded others from joining his ban in the first place. To tap into the interests of the people in the countries that he was trying to persuade, Lemkin contacted organizations that members of the United Nations were associated with so that they could urge their UN representative to join his ban against genocide (Power 2003:55).

Finally, on December 9, 1948, the United Nations General Assembly passed the resolution of the Convention on the Prevention and Punishment of the Crime of Genocide (Power 2003:61). It stated what constituted genocide and criminalized genocidal acts while binding all signatories’ commitment to the upholding the treaty. As the first human rights treaty adopted by the United Nations, the Genocide Convention introduced the idea of accountability and made genocide not an internal concern but a global concern (Power 2003:60).

However, Lemkin did not stop here; adopting the treaty as an international law would require twenty UN member states to ratify it domestically.

Therefore, he returned to his lobbying tactics by using his self-made network of correspondents he met while drafting the convention for a total of seventeen years (Power 2003:62). His valuable resource bank gave him access to influential public officials, organizations and heads of newspapers to “gauge the influence” of different communities and social forces (Power 2003:63). He did his research—asking “friends, friends of friends, and acquaintances of acquaintances to familiarize himself with a country” (Power 2003:63). He kept tabs on countries by sending letters to officials inquiring why they had not ratified the treaty and pressed them to do so. He would give updates of those who did just to show who was on board (Power 2003:64).

Nevertheless, Lemkin knew that “the United States, the world’s most powerful democracy, would have to take the lead in enforcing the genocide ban” since it “had long been a symbol of freedom and democratic progress to people less favored” (Power 2003:64). As the icon for human rights, the United States’ involvement seemed inevitable. However, it would take four decades for the US to ratify the Genocide Convention due to the criticism that surrounded the clarity of the treaty along with the political burden being attached to it. Although the humanitarian intention was clear, the Genocide Convention’s definition of genocide was not.

From a numerical standpoint, it is debatable how many deaths or forced deportations have to occur in order to amount to genocide. The problem lies in numerical variances: percentages would allow perpetrators to strategically escape

punishment by supporting killing with careful consideration of how many deaths are permitted and how many are not. In addition, law is not beneficial or effective if it is only prevalent after a certain number of deaths among a protected group under the Genocide Convention occur.

Critics also complained that the treaty was too broad, giving inventive lawyers the opportunity to pin nations down. For example, the United States could be implicated for committing genocide on the accounts of segregation in the South or suppression of minorities like women and children (Power 2003:68). However, the most significant opposition for any country was international scrutiny. Agreeing to the pact surrendered a nation’s autonomy for it relinquished the right for internal affairs to remain internal. Furthermore, international scrutiny could lead to an entanglement of alliances. For Americans, regulating human rights was already tough on American soil and doing it on foreign soil would be even tougher (Power 2003:69). A plausible yet passive alternative would be advancing human rights through education and by example, not through the enforcement of an international law.

Controversy over legal terms and the political implications involved in ratifying the Genocide Convention was problematic for government officials and thus explains their indifference and postponement on completely committing or completely withdrawing their efforts from ratification. Additionally, other human rights treaties added to the perplexity. For example, Eleanor Roosevelt’s *Universal Declaration of Human Rights* extended Western

ideologies of inherent rights to human beings on a global level. The document, which was approved by the General Assembly one day after the Genocide Convention, expressed “principles of civil, political, economic and social justice” that are essential to preserving humanity (Power 2003:74). Lemkin criticized Roosevelt’s *UDHR*, arguing that “if every abuse were to become a subject of international concern...states would recoil against international law and would not respond to the greatest crime of all,” which he claimed was genocide (Power 2003:75). Lemkin feared that the genocide pact would be unneeded since the *UDHR* was so expansive and could be used as a blanket to cover all crimes against humanity. For example, genocide could be deemed as a form of discrimination, which falls under the provisions of *UDHR*. However, infringing on basic rights was different than annihilating a population. Lemkin argued: “Genocide implies destruction, death, annihilation, while discrimination is a regrettable denial of certain opportunities of life. To be unequal is not the same as to be dead” (Power 2003:75).

Although Lemkin had a rebuttal for every criticism against his life’s work, he would never complete the process of legally establishing the Genocide Convention. He died August 28, 1959 at the age of fifty-nine, penniless and alone. Despite fighting for the legacy of millions and for the protection for future generations, only seven people attended his funeral (Power 2003:78). After Lemkin’s death, incidences of genocide occurred just as he predicted if the Genocide Convention did not pass ratification.

For example, in 1968, oppressive Muslim Nigeria killed one million Christian Ibos by cutting off supplies to the inhabitants of Biafra to prevent secession (Power 2003:81). The Johnson administration delayed famine relief measures to aid the Ibos because they were mindful of oil reserves in the Iboland and feared interference from the Soviet Union (Power 2003:82). Thus, they did not want to exacerbate conflict with another powerful nation nor jeopardize a potential economic interest.

Another example of political interests overriding safeguarding humanity is the case of the Bangladesh Liberation War. In 1971, Pakistani troops killed two million Bengalis and raped 200,000 Bengali girls and women to stop Bengali nationalists from achieving autonomy. The Nixon administration did not interject because Pakistan was their intermediary to China, a hopeful ally for the United States (Power 2003:82).

The following year, genocide took place in Burundi. The ruling Tutsis killed tens of thousands of Hutus after a Hutu-led rebellion (Power 2003:82). The U.S. was committed to noninvolvement despite reports of death tallies, which were one thousand deaths a day. U.S. supported their blind-eye position by advocating the mentality that the problem solvers should be those who are burdened with the problem. Consequently, the U.S. continued to be Burundi’s chief customer of the country’s coffee industry, contributing to sixty-five percent of Burundi’s commercial revenue (Power 2003:83).

Although Lemkin was dead, Senator William Proxmire had been continuing his crusade since January 11, 1967 (Power 2002:81). Like Lemkin,

Proxmire promoted the cause of banning genocide by delivering a “daily soliloquy” to the Senate, emphasizing the failure to act was a “national shame” (Power 2003:85). After a decade and 3,211 speeches, Proxmire earned support from President Nixon and the Senate in 1985. The United States would later ratify the Genocide Convention in 1988 (Power 2003:167). The persistence of both Proxmire and Lemkin illustrate that the course of legalizing a piece of legislation that, although it may address an issue that is collectively condemned, is still a lobbying affair. The emotional subject matter may not give rise to action simply because of the emotions involved. Even though legal procedures are in place as an avenue for people to express what is important to them and make something of it in the form of law, this does not mean that it is a political priority that commands legal commitment. After all, creating, passing and implementing legislation is generally a complex and extended process.

#### *The Empowerment of Human Rights*

International Law primarily is a body of rules regulating conduct between States, but “the international community has shown an increasing interest in the protection of the individual against the arbitrary action of his State” (Toriguian 1973:49). The question is what makes a case worthy of international concern and, more important, what jurisdiction do states have that entitle them to intervene? In the previous section, Raphael Lemkin struggled to persuade nations that genocide was a global concern. This section attempts to show why nations are obligated to promote

human rights within and beyond their borders.

The Preamble of the Charter of the United Nations states that one of their global concerns is to “reaffirm faith in the fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small” (Toriguian 1973:51). Article One of this document declares that one purpose of the United Nations is to “achieve international cooperation...in promoting and encouraging respect for human rights and for fundamental freedoms, all without distinction as to race, sex, language or religion” (Toriguian 1973:51). Thus, persecuted individuals are subjects of international law and should have legal protection of their freedoms (Toriguian 1973:53).

The United Nations adopted their first human rights treaty, the Genocide Convention, on December 9, 1948 (Power 2003:60). This document defined the term genocide, elaborated what constituted genocide and detailed how to prevent and punish genocide if the crime was committed (Power 2003: 58). Due to disagreements over the definition of genocide, the terms of the document and an unwillingness to support it under international law, the Genocide Convention was a fifteen-year battle to even be “approved and proposed for signature” by the General Assembly and would not be effective until three years later on January 12, 1951 (Power 2003: 62). There are currently “140 State Parties—and 41 States as signatories—to the genocide convention” who have pledged to uphold the convention and implement crimes of genocide “through the International Court of Justice, as well

as criminal prosecution before international tribunals” (Pillay 2009).

The United Nations adopted The Universal Declaration of Human Rights one day after adopting the Genocide Convention to solidify the need to protect human rights throughout the world (Toriguian 1973:52). On December 10, 1948, the document distinguished “a common standard of achievement for all people and all nations” (Power 2003:75). Although the declaration did not legally bind states, it identified fundamental rights and recognized the necessity for universal protection. The Universal Declaration of Human Rights failed to enforce responsibility in case the ideal standards of humanity were breached but succeeded in promoting “the creation of conditions of stability and well-being which are necessary for peaceful and friendly relations” (Toriguian 1973:52). In other words, it encouraged nations to intrinsically incorporate fundamental rights into every framework of law.

To answer the question posited in the opening paragraph, the preservation of fundamental human rights is an international matter that should be upheld by the international community. Documents like the Genocide Convention and the Universal Declaration of Human Rights should empower nations to practice what they endorse on paper. However, the irony is that although these documents give standards and legal grounds for policing human rights violations, they do little for enforcing what they declare. This irony suggests that legislation means nothing and law loses its power if the laws are not enforced. Thus, the fight for laws goes beyond getting laws approved and

ratified but the fight continues with putting the laws into action.

#### *Retroactive Justice*

This section of the paper is dedicated to identifying that what befell the Armenians in 1915 constitutes genocide. I will reference the Genocide Convention to reveal how certain actions of the Turkish government support my claim that the Armenians experienced genocide and thus should receive restitution. I will also reference the Nuremberg Trials and the Convention on the Non-Applicability of Statutory Limitation to War Crimes Against Humanity to address the debate between holding past and present day Turkey accountable for what the Armenians suffered and writing it all off as not admissible due to an ex-post facto mentality.

The 1946 judgment of German war criminals in the Nuremberg Trials relied on the Charter of 1945, which defined crimes against humanity as “murder, extermination, enslavement, deportation and other inhumane acts committed against any civilian population on racial or religious grounds” (Toriguian 1973:50). However, German defenses argued that “to give a law a retroactive effect is a breach of a fundamental principle of natural justice”; therefore, such acts committed by the Germans before 1945 were inadmissible (Toriguian 1973:50). Yet with the conviction of German authorities responsible for the Holocaust, one can gather that it is agreed among the international community that “certain wrongs committed by a State against its own nationals,” if “so odious in nature” and identifiable as “crimes against

humanity,” can be punishable due to “existing rules of customary international law” (Toriguian 1973:50). After all, it was the common outrage and disgust over the atrocities that the Germans committed that motivated the military tribunals in the first place. Thus, in the Nuremberg case, the court was not exercising the implementation of a new law but declared a rule of customary international law in light of crimes that would be condemned by any “civilized world” (Toriguian 1973:51).

In the same way as the Holocaust, the Armenian Genocide faces the question of retroactively applying law to obtain justice. It is undeniable that the Armenian massacres of 1915 fall under the Genocide Convention of 1948, but can the document hold the Turks responsible for their actions and therefore punish them for their crimes?

First it is necessary to identify the unlawful acts committed by the Turks and if they constitute genocide. Article Two in the Genocide Convention of 1948 details what acts qualify as genocide. According to this article, the Turks are guilty of genocide for they killed members of the Armenian group, “caused serious bodily and mental harm” to the Armenians, purposely imposed “conditions of life calculated to bring about” the destruction of the Armenian race, prevented Armenian births to end future existence of the race and “forcibly transferr[ed] children of the group to another group” (Power 2003:57). What made these massacres genocide “was that one set of individuals intended to destroy the members of a group not because of anything they did but because of who they were” (Power 2003:58). Therefore, if an ethnic, racial or religious

group was not targeted, it would be called mass homicide, not genocide. Thus, three elements were required in order to violate the Genocide Convention: (1) one of the acts listed in Article Two had to be carried out (2) with the intent to destroy all or part of (3) one of the groups protected (Power 2003: 57).

Now that I have shown that this is a case of genocide, what can be argued in favor of holding Turkey responsible? If the informal “rule of customary international law” is not an accepted argument, then consider “a general principle of law that as long as a wrong continues and its effects continue to be felt, the date of inception of the act for the application of a subsequent law is irrelevant” (Toriguian 1973:55). For example, “every time an Armenian loses his identity, it is the genocide planned and started in 1915 that continues to bear its fruits”; Armenians living outside of Armenia today are a product of the Diaspora spawned by forcible relocations of the genocide and thus this current consequence “is a breach of the provisions of the Genocide Convention” (Toriguian 1973:55). Therefore, States that have endorsed United Nations Organizations, the Genocide Convention of 1948 or the Universal Declaration of Human Rights should be committed to stopping and punishing the continuation of the wrath of the genocide (Toriguian 1973:56). Consequently, without directly “incriminating the Turkish people as whole or the Turks as individuals,” the current Turkish administration is guilty by association; that is, the Turkish state acquires the responsibilities inherited before them from their predecessors (Toriguian 1973:57). Furthermore, since



Turkey is a signatory of the Genocide Convention, “any other signatory can therefore ask Turkey to perform its obligations under Convention and in case of refusal,” Article 11 of the Convention states that “any dispute arising out of the convention, including that relating to the responsibility for a State for genocide” shall be settled in International Court of Justice (Toriguian 1973:57).

In addition, the Convention on the Non-Applicability of Statutory Limitation to War Crimes Against Humanity contends that genocide should be punishable “whenever committed” (Toriguian 1973:56). This doctrine adopted on November 26, 1968 addresses the idea of ex-post facto laws (Toriguian 1973:56). Article One states that “no statutory limitation shall apply to” war crimes and crimes against humanity “irrespective of the date of their commission” (Toriguian 1973:56). Some violations of “war crimes” listed in Article 6b of the Convention include murder, deportation and destroying and plundering cities, towns or villages—all of which were committed by the Turks and documented by foreign ambassadors and missionaries who witnessed the atrocities and confirmed by survivors of the genocide (Toriguian 1973:59). According to Article 6c of the Convention, these crimes become “crimes against humanity” when such acts as stated previously are committed on “political, racial or religious grounds”; Pan-Turianism attests that the Turkish government was purposeful in their victimizing acts (Toriguian 1973:59).

The Convention on the Non-Applicability of Statutory Limitation to

War Crimes Against Humanity supports the idea that past, present and future perpetrators of war crimes and crimes against humanity “should be traced, apprehended and punished” (Toriguian 1973:58). It disregards the inconsistency of the time when an act is committed for it asserts that the time when an act is deemed illegal by law is irrelevant when the offense is so “heinous” in nature (Toriguian 1973:60). Furthermore, this document affirms that the “punishment of such a crime [like genocide] is part of international public policy” (Toriguian 1973:56). In other words, the severity of the crime should compel the actualization of justice and accountability should not be denied based on time or stare decisis. Donald Shriver (2001:8), the author of *Truth Commissions and Judicial Trials*, proclaimed that “legal procedure, after war, is a retreat from war. It embodies the hope that in the wake of unacceptable forms of human conflict, courts can lead the way to more acceptable forms,” but there is no use to establish standards if they are not enforced in the future and if crimes committed in the past go unpunished.

#### *Pointing the Finger: The Blame Game*

As in the previous section, this section of the paper further evaluates Turkey’s accountability during WWI in regard to their treatment toward the Armenians. I will support my claim that Turkey is accountable for the crime of genocide through the perspective of the International League for the Rights and Liberation of Peoples. I will present their argument for why retroactive justice is applicable and discuss Turkey’s invalid

attempt to blame the Armenians for Turkey's violent actions toward them.

"The Permanent People's Tribunal: Session on the Genocide of the Armenians" conducted in Paris, France from April 13 to April 16, 1984 was "brought into existence partly to overcome the moral and political failures of states as instruments of justice" (International League 7). The Tribunal also pointed out "the complicity of leading Western states that have various economic, political and military ties with the Turkish state" that consequently protected Turkey from being held accountable and prolonged restitution (International League 7). The Tribunal set out to address three questions: (1) if the Armenians were victims of deportations and massacres under the Ottoman Empire, (2) whether the Genocide Convention of 1948 and the Non-Applicability of Statutory Limitations to War Crimes and Crimes Against Humanity can be applied in their case, and (3) what consequences are in order for the international community and Turkey (International League 7).

As discussed in the previous section, Armenians did suffer atrocities defined by the Genocide Convention of 1948 that are "not subject to statutory limitations" within the Convention. Thus, the Convention is "declaratory of existing law in that it takes note of rules which were already in force at the time of the incriminated acts" (International League 21). Therefore, the Young Turk administration is guilty of this international crime of genocide and the present Turkish government inherits this responsibility. They are first obligated to officially recognize the commission of genocide and then address the "damages

suffered by the Armenian people" (International League 22).

The Tribunal argues that just because it took years for the term "genocide" to be coined and the Genocide Convention to be ratified does not mean that the crime did not exist previous to their acceptance, for it was a "collective conscience" that made the term and doctrine identifiable (International League 18). Because this topic was so controversial and aroused such repugnance, the Tribunal asserts that there is a "legal obligation which cannot be ignored by states on the pretext that they have not been expressed formally in treaties," for "the condemnation of crimes committed during the first World War bears out the belief of states that such crimes could not be tolerated legally even though no written rules explicitly forbade them" (International League 18). For that reason, the fact that society is collectively aware and offended by the violence endured by the Armenians, invokes an obligation for the international community to seek justice and any member of the international community can and should hold Turkey responsible.

Turkey's attempt to shift blame onto the Armenians by accusing them of "committing acts of sedition," which the Turks argue caused them to detain the Armenians in order to prevent a violent rebellion and secure the state, is faced with the argument that nothing compares to genocide for "genocide is a crime which admits of no grounds for excuse or justification" (International League 19). Not only do the immediate victims suffer from genocide, but every occurrence of genocide is a "degradation and perversion of humanity as a whole"

(International League 21). Therefore, every nation is both a victim and a perpetrator for everyone suffers the loss of integrity as a result of genocide and is guilty of not stopping it or rectifying it afterwards.

### *Legalizing Injustice*

There are many dimensions to the law that make it absolute, contradictory, beneficial and harmful (Friedrichs 2006:6). In general, law is absolute in such a way that the law must be obeyed or else consequences arise. It is contradictory in that the law does not always reflect all attitudes of society as it aspires to and often produces inconsistencies. It is beneficial because the law provides the structure for an organized and efficient society. However, it is also harmful because the law can be manipulated to achieve special interests of dominant groups. This reality undermines the very sentiment of law, which is to ensure all individuals are welcome to take pleasure in every good thing that life offers with the assurance of equality and fairness. Thus, law has positive and negative functions. While the law may maintain order, it also maintains and legitimizes the dominance of hierarchy. While settling disputes, the law creates rivalries. While providing an avenue for a society to satisfy its need for restoration after a wrongdoer offends society by breaking the law, the law consequently exploits people and creates out-groups. While promoting justice, the law encourages conflict and violence often fueled with spite and revenge. While the law creates a standard to which to aspire, the law also allows for oppression and greed to transpire for it is

questionable whose social values are trying to be achieved. While managing practical needs for society, the law extends state power, often enhancing their power and abusing legal mechanisms like the military and taxes to advance interests of the powerful (Friedrichs 2006:9).

At the very least, the law is supposed to provide individuals with a sense of security that they are protected from harm from one another and from the state. Law should be used in the best interest of humanity but in the case of the Turkish government, the law was an instrument to oppress and injure the Armenians. Already there seems to be a violation of the sentiment of law itself. In an ideal law-governing world, laws embrace the right to life and liberty because they are inherent to human beings; no one should be discriminated against on the account of their race, creed or any category that separates one from another for no one can be separate in the eyes of the law. In this section, I will describe how the Turkish government used the law to make discrimination against the Armenians lawful or, in other words, how they legalized injustice. As a result, the Armenian Genocide transpired partly through the use of state-directed influence and bureaucratic execution.

From a sociological perspective, nationalism was the social force that provoked genocide, the law permitted the genocide to happen and the Turkish bureaucracy actualized it. The Ottoman Government sensationalized nationalism to essentially convince Turkish constituents that ethnocentrically motivated litigation was necessary and acceptable. Enver Pasha, Mehmed Talat

and Ahmed Djemal—known as the Three Pashas—headed the Ottoman Government in the dominant political party called the Committee of Union and Progress (Freedman 2009:180). Members of the Committee of Union and Progress, also known as the Young Turks, used Pan-Turanianism to rally support for implementing supposed progressive and safety measures. They insisted that a pure Turkish nation would restore their crumbling empire and thus they needed to stop the non-Muslims who threatened it. Consequently, Nationalism justified the Young Turks' assault against the Armenians, the law legitimized it and the bureaucracy made it happen.

A campaign for genocide ensued with the outbreak of World War One. The Ottoman Government issued a statement “accusing the Armenians of attempting to destroy the peace and security of the Ottoman State” (Freedman 2009:21). Since many Armenians lived within Russian borders due to Russia's victory in the Russo-Turkish War of 1877-1878, the Ottoman Government asked Armenians “to engage in secret operations” to aid Turkey's war efforts (Freedman 2009:18). When the Armenians declined to avoid Turkish-Armenian and Russian-Armenian warfare and betray Russia, who was like a guardian to them, the Ottoman Government used their resistance to foster the idea that the Armenians were traitors siding with the enemy (Freedman 2009:18). Therefore, the Ottoman Government led people to believe that they were “compelled to take extraordinary measures to preserve the order and security of the country” by relocating the Armenian population

(Freedman 2009:21). The official statement went on to say that the relocation “promote[d] the welfare of the Armenian community” by preventing civil disputes and violence between Turks and Armenian neighbors (Freedman 2009:21).

In *The Cunning of History*, Richard Rubenstein described the Armenian Genocide as “the first full-fledged attempt by a modern state to practice disciplined, methodically organized genocide (Friedrichs 2006:180). That is, the Young Turks capitalized on “the highest level of government planning: the harnessing of bureaucracy for the organization and implementation of the Armenian deportations; the formation and organization of killing squads; the creation and manipulation of legislation; and the use of technology and communication” (Balakian 2003:181). In short, the annihilation of the Armenians was state ordered. Enver Pasha, the Minister of War, supervised a special bureau called the Special Organization, which focused on securing the longevity of a pure Turkish nation by monitoring and eliminating those suspected of treason (Balakian 2003:181). While the Special Organization was responsible for identifying and putting an end to antigovernment activities, their biggest impact in the Armenian Genocide was administering the Armenian deportations and killing squads (Freedman 2009:20; Balakian 2003:182).

To put this task into effect, the Temporary Law of Deportation of May 27, 1915 was instated to give the Special Organizations legal authority to deport Armenians at will, simply by the suspicion of treason (Freedman 2009:22). Since “suspicion” was the

only requirement to deport any individuals, the Ottoman Government needed a plan to ensure efficient deportations (Freedman 2009: 22). Thus, the Special Organization “systematically recruited, organized and deployed” thirty to thirty four thousand convicted criminals who worked together with Turkish military and provincial police to carry out “the rigorous process of arrest and deportation, city by city, town by town and village by village” (Balakian 2003:183). Those involved with the deportation were known as killing squads because the deportation process often resulted in death either because the resistance of a deportee to cooperate with the order or simply because of the free will of soldier, policeman or criminal. The irony in using the nation’s criminal manpower to advance state interests is that criminals represent a group that has offended the dominant group of society who live by the social contract under law and thus have been locked up to preserve humanity. Yet in this instance, criminals were given authority over innocent members of society to fulfill a state order.

This strategy, however, gave the Ottoman Government the flexibility to divert full responsibility by arguing that the criminals did not aid the government in the way they intended and instead became bandits in their freedom from prison (Balakian 2003:183). Furthermore, the Temporary Law of Deportation in its language also deflected blame away from Turkish policy makers on the account of solely discriminating against the Armenians by purposely not singling the Armenians out: the law “gave the authorities the power to order deportations if they had

so much as a feeling or sense that an individual or group of people might be dangerous to the state,” giving authorities the license to “round up, deport and massacre” anyone not just Armenians (Balakian 2003:187).

To accompany the Temporary Law of Deportation and further legalize deportations, Talat also issued a Proclamation of Rules in June 1915. In summary, the Proclamation announced that all Armenians except for the sick had to evacuate their homes, taking with them only what they could carry and if they resisted the armed guards escorting them, they would be “forced to go or be killed” (Freedman 2009:23). The Proclamation also prohibited Armenians from “selling their property or lands” or retrieving money saved in bank accounts, allowing Turkish officials to seize their assets to fund the war (Freedman 2009:23). Muslims Turks were also warned that if they aided the Christian Armenians their houses would be burned and they and the families they helped would be killed (Freedman 2009:18).

Another example of legislation intended to “accelerate the extermination plan to give it a further sense of governmental legitimacy” was the Temporary Law of Expropriation and Confiscation (Balakian 2003:187). This law, which was effective in September 1915, was “designed to register the properties of the deportees, safeguard them, dispose of them at public auctions with the revenues to be held in trust” until the deportees returned (Balakian 2003:187). However, the way that the authorities maliciously carried out the deportation suggests that returning Armenian assets was not their intention,

for most deportees were massacred or died from malnutrition (Balakian 2003:187).

The Temporary Law of Deportation and the Temporary Law of Expropriation and Confiscation are legislation that exemplifies the misuse of the law in which a dominant group legally exploits a subordinate group. The Proclamation reveals the attitude that the Ottoman Government had toward the Armenians and their intention to rid them out of their empire. Hierarchy in the Ottoman Government was perpetuated by an administration that relied on a bureaucracy to orchestrate and calculate the Armenian Genocide. The Committee of Union and Progress “created a hierarchical administration to carry out the Armenian killing operations” consisting of three bureaucrats: responsible secretaries, delegates and general inspectors (Balakian 2003: 185). These bureaucrats were either politicians or former army officers, all loyal to the Pan-Turanianism fantasy.

Because the Armenian Genocide was encouraged by the state and implemented by state institutions, I argue that the irony in the image of the protectors being the offenders, and the very institutions meant to ensure protection being the mechanism for injustice, supports conflict theorists’ argument that tension is deeply rooted between the rich and the poor and tends to intensify if exploitations of the law are not addressed. The corruption within the Ottoman Government and the Young Turks’ perversion of the law disheartens the faith in the ideas of government and law which are both globally celebrated and criticized. Both government and law

are celebrated because the two concepts are intended to instill order in society. Conversely, both government and law are criticized because the type of order that a government chooses is neither agreed upon by everyone living under that government nor is the type of order a result of a compromise between the rich and dominant groups and the poor and subordinate groups.

I support the argument that the Armenian Genocide was not simply a consequence of war; rather the war was used to cover up a long awaited opportunity to isolate the Armenians from Turkey due to ethnocentric attitudes that influenced the laws at the Armenians’ expense before, during and even after World War I. Therefore, it is necessary to restore faith in government and law by ending governmental corruption and passive injustice or the reluctance to get involved (Friedrichs 2006:74). Instead, government and law should be used to improve social welfare even if it means admitting wrongdoing. Continuing the misuse of law or passive injustice contradicts the global expectation of using government and law as a means to maintain order and protect the happiness for humankind. For if the law did not serve the Armenians before in protecting their inherent right of human beings or by the Entente Powers not following through with the Treaties of San Stefano and Berlin, let the law serve them now by addressing the Armenian Genocide.

## **CONTROVERSY OF POLITICAL MOTIVES**

*Equating Justice and Vengeance*

When the laws handicap individuals in society, individuals may band together to challenge their oppressors. In this section, I will examine regular citizens taking justice into their own hands and discuss whether their actions achieve justice or undermine it with the conviction of vengeance.

The Armenians tried to calm social unrest through the formation of political parties. Although the political parties shared the common objective of self-determination for the Armenian people, the means to achieve this differed from party to party. For example, in 1885 the political group called the Armenakans aimed for autonomy by peaceful means and aid from European support. However, the absence of fear aroused by potential bodily harm and a less than politically-aggressive Europe proved to be ineffective. Thus, the political tone changed from diplomacy to violence. In 1887, the Hunchaks were formed and preferred the use of aggression and bloodshed (Alexander 1991:32). Then in 1890, the Armenian Revolutionary Federation, or ARF, was created to unify and combine all previous political parties and endeavors; this meant achieving “self-determination and social and economic reforms for the Armenians of Ottoman Turkey through any means,” whether it was negotiation or terror (Alexander 1991:33).

Political groups remained active even after the genocide. Post-genocide political groups are arguably even more significant for rectifying the plight of Armenians, for they pursued justice by punishing Turkish officials who orchestrated and executed the genocide. However, the question is: what is the appropriate punishment? Does murder

justify another murder? Operation Nemesis was the code name for a covert operation for an “international web of agents to hunt down and assassinate the leading Turkish war criminals” (Alexander 1991:47). Under the umbrella of ARF, agents of Operation Nemesis were trained and given any resources required to locate, identify and execute targets. This included housing, money, weapons and emotional support (Alexander 1991:75). From 1920 to 1922, Operation Nemesis was responsible for eight deaths of prominent Turks, including Talat and Jemal, two of the three Pashas and Behaeddin Shakir, one of the leaders of the Special Organization who led convicted criminals in the killing squads (Graber 1996:174).

One of the most controversial assassinations was that of Talat Pasha, one of the three main leaders of the Young Turks who authorized the deportation of Armenians that initiated the genocide. The trial of his assassin presented the contentious question of vengeance versus justice. Was Talat’s killer Soghomon Tehlirian a murderer, a terrorist or a pawn used to carry out ARF’s objectives? (Alexander 1991:198)

Soghomon Tehlirian was an Armenian Genocide survivor who suffered from a form of epilepsy (Graber 1996: 171). According to the doctors who examined his psychological state in order to evaluate his competency for trial, Tehlirian was traumatized by the horrors of genocide, especially after witnessing the deaths of his mother, brother and sister (Alexander 1991:70). After the caravan that was transporting him, his family and a group of others

was ambushed, Tehlirian was the sole survivor left behind to die from a blow to the head. He awoke with his brother's lifeless body and split head on top of him and then discovered his mother's dead body due to a gunshot wound (Alexander 1991: 70). His last images that he remembered before going unconscious was watching his sister being dragged off to be raped and killed and his first images after regaining consciousness was that of mutilated bodies, two of which were his family members (Alexander 1991:70). It was clear that the ordeal affected him physically and psychologically (Graber 1996:171).

Accordingly, Tehlirian used as his main defense in trial that he was "emotionally obsessed, mentally unbalanced and suffering from a form of epilepsy brought on by his excruciating experience" (Alexander 1991:199). That is, "Tehlirians's deed was committed as a justifiable and moral act of revenge for the murder of his family" (Alexander 1991:199). By emphasizing personal rather than political motives for the assassination and withholding the information of his involvement with ARF and the Nemesis network, Tehlirian was acquitted of murder charges even though he admitted to killing Talat. Because the trial exposed the atrocities experienced by Armenians at the hands of Turkish authorities in gruesome detail as provided by the testimonies of Tehlirian and other survivors of the genocide, the court was obviously sympathetic toward Tehlirian and the situation (Alexander 1991:199).

Perhaps the courts regarded Tehlirian's act as "morally right" but "legally wrong" and should have

convicted him of manslaughter (Alexander 1991:201). Or it is possible that the court acknowledged that States failed to rectify wrongdoings, making it understandable for individuals to pursue their own justice. In fact, some law breaking has become "conventional" like "homicide and assault" because it is "sometimes driven by a moralistic impulse, aimed at avenging some injustice or pursuing some notion of justice" (Friedrichs 2006:72). Tehlirian's taking justice in his own hands with neglect to formal legal procedures is an example of vigilante justice but was Tehlirian a vigilante or a terrorist? (Friedrichs 2006:236). Although Tehlirian received aid from ARF and completed an assassination assignment for Operation Nemesis, the assassination of Talat was motivated by different means: "executing the deed [was] for his own sake rather than for any political program" (Alexander 1991:200). Tehlirian "was not a soldier in an ideological cause, nor fighting for territorial integrity, nor was he the agent of a political faction," he was a son and a brother motivated by vengeance (Alexander 1991:200). Although ARF used him to achieve their ends, Tehlirian used ARF to achieve his own ends.

"Political assassinations have long been justified as a form of alternative justice," partly because some terrorist acts are viewed as a "necessary response to existing injustice" that may bring about change (Friedrichs 2006:72). But who is to say that that "change" will bring out the better or worse? Even though Tehlirian purposely killed a man responsible for killing innocent people haphazardly, do two wrongs make a right? Perhaps the fact that political



assassinations continued after Tehlirian's acquittal answers this question negatively, for his exoneration may have encouraged others to terrorize and attack Turkish representatives and institutions.

For instance, by 1975, two Armenian organizations resurrected Armenian terrorism. This terrorism "lasted for ten years, involved twenty countries and close to two hundred incidents" and twenty-two deaths of Turkish diplomats (Alexander 1991:194). For example, the Justice Commandos of the Armenian Genocide assassinated the Turkish ambassador in Vienna on October 22, 1975, followed by the assassination of the Turkish ambassador in Paris just two months later. Another terrorist group called the Armenian Secret Army for the Liberation of Armenia (ASALA) bombed the offices of Turkish Airlines in Paris on November 13, 1979. Then on September 24, 1981, the ASALA "seized the Turkish consulate and held twenty hostages, eventually killing one and wounding three" (Alexander 1991:194). In an attempt to kill another Turkish ambassador, the ASALA took hold of the Turkish Embassy in Ottawa in April 1985 which resulted in the ambassador's escape after he jumped out of a two-story building. All together, these terrorist groups sought justice with "attacks on Turkish diplomatic posts in Vienna, Beirut, Paris, Madrid, The Hague, Athens, the Vatican, as well as bombings of Turkish cultural attractions and business establishments" (Alexander 1991:194).

These terrorist acts cannot be deemed as acts of justice but rather acts of vengeance, for "finding punishment that fits the crime without repeating it is a

task not fit for" just any citizen without legal backing (Shriver 2001:9). Thus, if "legal institutions are hedges against both vengeance and impunity," what were the Justice Commandos of the Armenian Genocide and the ASALA trying to accomplish, if they could at all accomplish anything aside from their own sense of revenge (Shriver 2001:9)? Perhaps the only positive outcome from these unjust initiatives was bringing historic atrocities to light. Though the public may not agree with the methods that the Justice Commandos of the Armenian Genocide and the ASALA used to create attention for their cause, they may be interested and, better yet, supportive of the cause itself.

#### *Conclusion: Human Capital versus Material Capital*

I believe that we all possess an intuitive sense of justice. We want things to be fair and wrongs to be made right with some kind of compensation. I would like to believe that we are all compelled by a collective conscience and a moral obligation. That is, we are ideally conditioned by society to choose what is truly good over bad, empathy over apathy and benevolence over malevolence. "Doing the right thing" is an idealized and widespread tradition that has become the U.S.'s reputation and it is an image that the U.S. tries to put forth. It is arguable if the U.S. fits this role or not, but the controversy does not eliminate the expectation for the U.S. to represent the ultimate humanitarian and be the example of righteousness for the whole world. The U.S. is burdened by the principle "you're damned if you do, but damned if you don't" and receives incessant criticism either way.

The U.S. is often criticized for meddling in others' affairs but, at the same time, the U.S. is often blamed for choosing inaction when something goes awry.

However, "getting involved" often means sacrificing special interests. The preservation of any nation relies on maintaining political, economic and military advantages. Sometimes one goal needs to be sacrificed in order to advance another. Dominant groups in society analyze costs and benefits and often the result is at the expense of a humanitarian endeavor.

In the case of the Armenian Genocide, the U.S. had little to gain and a lot to lose. The wake of World War II left the world in a state of political tension known as the Cold War. A competition of ideologies and military and economic expansion divided the world "into the camps of the two super powers, the Soviet Union and the United States" (Papazian 1986). Since the U.S. saw Turkey as a "source of raw materials and a field for investment," Turkey became a member of NATO in 1952 (Papazian 1986). Turkey offered political capital for the West in the forms of oil fields and strategic military access in the Middle East (Balakian 2003:365). Therefore, it is easy to understand why "humanitarian concerns would take a backseat to material and military national self-interest" (Balakian 2003:365).

Turkey had much to gain from this partnering as well: with the U.S. stepping in as "Turkey's patron and defender," they would replace Great Britain, who periodically demanded that Turkey reform itself (Papazian 1986). Instead, Turkey had the political pull on the U.S. to silence such demands. In

order to protect U.S. interests, the U.S. would relent just as long as Turkey cooperated in the fight against communism, which was the U.S.'s top political priority, and provided natural resources, which was U.S.'s top business pursuit.

Even before World War II and the Cold War, Turkey had a way of employing their political pull over the U.S. to protect their interests. For example, in 1934, MGM bought the film rights to Franz Werfel's best-selling novel entitled *The Forty Days of Musa Dagh*. The true story detailed the heroic Armenians of a mountain town called Musa Dagh, which resisted Turkish invasion in 1915 (Balakian 2003:376). Munir Ertegun, the Turkish Ambassador to the United States, halted production with the threat that the release of the film would insult the alliance between Turkey and the United States, resulting in a boycott of American films (Balakian 2003:377). Despite contradicting a constitutional freedom explicated in the Bill of Rights that protects artistic expression, the project was dropped to prevent damaging the relationship between the two nations. This example demonstrates how political interests and economic endeavors can coincide to surpass the law and inherent human rights. Although one may call this arrangement a compromise between two nations, another may call it blackmail. Turkey's interest in hindering the remembrance of the genocide provoked them to blackmail the U.S. by forcing them to censor the media. The United States in turn gave in to Turkey's demands to secure not only their alliance but also profits in the American film industry. In this way, politics and

business trump both a lawfully guaranteed freedom and an attempt to bring attention to an injustice in the quest for justice.

Even in today's current affairs, political and economic interests supersede humanitarian interests. On October 10, 2009, a landmark agreement was signed "to establish diplomatic relations between Turkey and Armenia and to open the joint border, which was sealed after the 1993 Armenian invasion of Nagorno-Karabakh" (Fraser 2009). The future for this Azerbaijani territory, which is occupied by Armenian troops, is troubling for both sides. However, this does not seem to be of any concern to the mediators of the accord, including U.S. Secretary of State Hillary Clinton. Originally, the signing of the accord was delayed by "a dispute over the statements the countries would make" afterwards (Fraser 2009). However, Clinton persuaded Turkish and Armenian foreign ministers to proceed, for she emphasized that it was "important to just approve the accord and not have the sides make speeches that could be interpreted as putting legal conditions on the document" (Lee 2009).

Yet denying any politician's opportunity to display their linguistic talents, especially when expressing their principles are pivotal to the matters involved, contradicts the process of politics. After all, politicians are known for their press conferences and public statements to influence the world audience. Clinton's persistence suggests that something greater was at stake. In fact, the approval "could reduce tensions in the troubled Caucasus region and facilitate its growing role as a corridor

for energy supplies bound for the West" (Lee 2009).

Though the West may gain an advantage, the two nations directly involved may suffer consequences from their own people. "Nationalists on both sides are still seeking to derail implementation of the deal," for the document represents a giving in and a giving up (Lee 2009). On the side of Turkish nationalists, the accord does not order Armenia to withdraw its troops from the enclave in Azerbaijan, which is land that Turkey is trying to retrieve on behalf of Azerbaijan, with whom they share cultural ties. As a response to the invasion, Turkey shut its border with Armenia (Lee 2009). "Turkey wants Armenia to withdraw some troops from the enclave area to show good will and speed for the opening of the border" but Armenia has not agreed (Fraser 2009). On the other hand, Armenia's resistance is rooted in Turkey's continuous denial of the Armenian Genocide. Although the agreement opens the door to discussing the killing of about 1.5 million Armenians during World War I, with "an impartial scientific examination of the historical records and archives to define existing problems and formulate recommendations," the accord illustrates Turkey's prowess in avoiding unreserved acknowledgment (Lee 2009). Thus, the agreement exemplifies the nation's backing down from their principles: Armenia's escape from withdrawing from Azerbaijan is Turkey giving into Armenia's invasion and Turkey's escape from acknowledging the genocide is Armenia giving up on seeking justice. If both nations were true to their principles, politics would not interfere with their national endeavors

and the signing would not have occurred.

Nonetheless, this historic accord demonstrates how special interests take precedence over any matter just as long as there is more to gain than lose. This example also shows that material capital is more valuable than principles. In retrospect, we can answer the question of why the U.S. did not get involved during WWI or even after the Armenian Genocide. U.S. Ambassador Henry Morgenthau makes it impossible for the U.S. to claim that they did not know what was going on, with all his reports of what the Turkish government imposed on the Armenians and his documented pleas to both the American and Turkish governments for intervention (Akcam 2006:105,155). Then there is Lemkin, who relentlessly created genocide awareness after the war in diplomatic and legal arenas through his campaign for an international ban on genocide.

It is not that the U.S. did not read Morgenthau's memoirs or that the U.S. did not hear Lemkin's petition. It was all a matter of preparedness and willingness to invest the diplomatic, financial and military capital needed to stop genocide as it occurred and to rectify it afterwards. This was a choice, a choice made with careful consideration of the costs and benefits of getting involved in another's affairs. Unfortunately for the Armenians, the stigma of neglect was less expensive than the costs to intervene. Additionally,

up until now, redemption for the U.S. and Turkey is still costly: if the U.S. were to press Turkey for accountability, they would jeopardize a military alliance, for the U.S. has air bases stationed in Turkey, and a profitable business relationship, for Turkey supplies the U.S. natural resources; if Turkey acknowledged that what befell the Armenians was genocide, then the admission would open the door for not only the burden of blame but for compensation. These expensive consequences may withhold justice for the Armenians even longer—or just as long as money and power remain important forces of society—in which case it may be forever.

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