

# LEGISLATING HISTORY

Dr. Yılmaz ARGÜDEN<sup>1</sup>

**R**ecently various Parliaments throughout the world have gotten into the business of legislating history!! As Tip O'Neill has succinctly put it, "All politics is local." However, currently the US Congress is under pressure to consider a resolution about the events of 1915. This is being done to satisfy the requests of Armenian minorities within their electoral districts, but , such an approach is causing a serious dismay to millions of people whose voice is not heard just because they happen not to be living in these districts. More importantly, such parliamentary actions are outside their competence, in pure conflict with the principle of due process, and limiting to some basic freedoms.

A case in point is the French Parliament's initiative that conflicts with freedom of thought and speech regarding prohibition of denying the Armenian claim of identifying the events of 1914-1916 as "genocide" which Turkey and Turkish people vehemently oppose.

The Armenian stance has gained familiarity with tremendous lobbying efforts throughout the world as well as through the publication of more than 20,000 books supporting their claims. On the other hand, the Turkish side has not been well understood, due to an inadequate amount of share of voice. Less than a hundred books are available supporting the Turkish stance!! Yet, in any court of justice predominant repetition of claims is not sufficient for a verdict, as repetition does not increase validity. A case should stand on its merits. To prevent injustice, it is important not to overlook these basic facts.

One of the reasons for such an imbalance in the way public opinion is being formed is the totally different attitude of Armenians and Turks. There are great artists, businessmen, politicians of Armenian descent in many countries. Unfortunately, many of them have been raised with one sided views of the tragic events at the beginning of last century. Almost a century later, they continue to reflect animosity against Turkey in their work and relationships. On the other hand, for a century Turks have been raised ignorant to these events. After establishing her independence in 1923, Turkey decided to look forward and not to dwell on the sufferings of the previous period regardless of whether the subjects were Turks, Armenians, or others in order to adopt the dictum "Peace at home, peace in the world".

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<sup>1</sup> Dr. Yılmaz ARGÜDEN is the Chairman of ARGE Consulting; Chairman of Rothschild investment bank in Türkiye; and a board member of number of companies. Dr. Argüden is also an Adj. Professor of Business Strategy at the Bosphorus University and the MBA program of the Koç University; an author and a columnist focusing on business and strategy issues. He is also an active participant in civil society institutions and he was selected by the World Economic Forum, as a "Global Leader for Tomorrow" for his commitment to improving the state of the world.

History is full of tragedies. Neither Turkish history nor that of Armenians is an exception. Armenians allege Ottoman Turks committed "genocide" against them. Turks say that this is an unwarranted description of what has really transpired. Armenians accuse Turks of denying genocide. Turks accuse Armenians of defaming them.

There is no doubt that what happened in 1915-16 amounts to a **tragedy** in which a great number of people, including a large number of Armenians perished. Arnold Toynbee said once that the most painful event in history is the dissolution of an empire, probably having witnessed the demise of the Ottoman Empire. Armenian tragedy is an integral part of that greater tragedy. The main dispute between Turks and Armenians is **how to denominate the event**.

"Genocide" is a crime codified by the 'Convention for the Prevention and Punishment of the Crime of Genocide', signed in 1948. Article 2 of the Convention defines "genocide" as a crime committed against "national, racial, religious or ethnic groups". **Political groups are specifically excluded** from the statement because they have political ends such as autonomy, independence, land or ideological revolution. **During 1914-16 Armenians constituted a political group par excellence**. In fact, the Russian Commander Count Varantzoff Dachkoff made a proposal in which he promised an independence covering six Ottoman provinces if the Armenians had collaborated with the Russians in war. The Armenians responded by preventing the access of Ottoman troops to Baku oil reserves and by delaying the entrance of Enver Pasha to the Sarkamis front where the harsh weather conditions, caused the death of 30,000 Turkish soldiers. During the Paris Peace Conference, the head of the Armenian National Delegation, Boghos Nubar Pasha, clearly stated their aspiration to independence on one fourth of the Turkish territory where Armenians constituted only 17 % of the population. This is a clear indication of the attitude of the Armenians against the majority Turkish population, whose demise was clearly targeted. Without such an action, this Armenian goal would be unachievable.

Prof. William Shabas, a renowned jurist, says: "Genocide is, by nature, a collective crime... The organizers and planners must necessarily have a racist or discriminatory motive, genocidal motive... Where this is lacking, the crime cannot be genocide." Motive of genocide is to extinguish a race **for what that group is and not what that group is doing**. Armenians claimed genocide predominantly because, the tremendous attention this claim has on world public opinion seemed a feasible way to legitimize their cause for a political end.

In none of the extensive studies relying on the historical archives, **any authentic documentation indicating intent** to destroy the Armenians has been unearthed. Ottoman archives in Turkey are open for any historian for research. By contrast, Armenian archives still are not. Furthermore, the Turkish Government has formally called for a joint commission of Turkish, Armenian and independent researchers to go through the Ottoman, Armenian, and third country archives to conduct an independent research for the tragic events of 1914-1916.

At the end of World War I, when the victorious British had access to all Ottoman archives, 144 Turks who were called to war crimes court and the British Crown Prosecutor was asked to try them in Malta. However, the **British Prosecutor General discharged all the allegations** due to lack of evidence, despite the fact that the British diplomats had the authority to investigate all Ottoman archives. He specifically said in his report dated 29 July 1921 that he "... does not feel that he is in a position to express any opinion as to the prospects of success in any of the cases submitted for his consideration".

Armenians wish to characterize the fact that they were moved away from where Ottoman - Russian fighting took place to other locations within the Empire as 'deportation.' Turks would define it as 'relocation,' as they were not sent out of the Empire, but were moved within the Empire. For example, during World War II, the US Supreme Court decided on the Korematsu case on 18 December 1942 that 112,000 people be transferred to another place due to the grounds to prevent espionage and sabotages, American jurists calling it a 'presumption of disloyalty.' Where as the Ottomans faced 'outright treason' by its Armenian citizens and were obliged to relocate them. Armenian citizens of the Empire were clearly involved in the Ottoman - Russian conflict on the side of the Russians. On legal grounds, Article 17 of the II Protocol of the Convention states that a 'civilian population' can be displaced on the basis of imperative military grounds. As a matter of fact, Gregorian Armenians of the Orthodox sect, who collaborated with the Russians, were relocated, while Catholic and Protestant Armenians were not subjected to relocation, nor were Armenians living in other parts of the Empire.

The documents show that the Ottomans approached the problems in a relatively humane manner and showed extra effort to minimize the occurrence of any problems during relocation, although not with much success under the conditions at that time. The Ottomans punished their 500-600 officers who failed to take necessary precautions to protect the population who was being relocated. Indeed, it is apparent that the Ottomans had no will of genocide.

The **number of casualties** is not strictly relevant in qualifying an event as genocide. The International Criminal Court for the Former Yugoslavia, called the Srebrenitsa massacres of 1995 'genocide', despite the fact that only 8,000 people were killed. However, the number of losses has an impact on forming a public opinion and there is a dispute about the statistical facts between the Armenian and Turkish claims. While the Armenian side claims that 2.5 million Armenians (The Armenian Delegation in Paris Peace Conference claimed 2.250 million) living within the Ottoman borders before World War I, the Ottoman statistics just before the war states the Armenian population to be 1.3 million. The French Yellow Book states the number to be 1.555 million, while the Britannica indicated 1.5 million. Since the Ottomans recorded these numbers to levy taxes and one of the founding directors of the Statistics Department was an Armenian, they should be closer to the truth. A document of the US State Department declassified in 1958 cites the number of Anatolian Armenians in November 1921 as 1.2 million based on information from the British Embassy and Near East Relief Society. On

the basis of these facts, the Ottoman records indicate that 100,000 Armenians lost their lives during the events, while if the French and British statistics are taken as the basis, the losses would be approximately 300,000. Clearly, more research is needed in this area. As for the causes of losses, the Head of the Armenian National Delegation to the Paris Peace Conference, Boghos Nubar, stated "epidemics, scarcity of food, inadequacy of medicine and hospital personnel" as major causes of Armenian deaths.

While **loss of any human life is a great loss to humanity**, regardless of which group he/she belongs, the number of **losses from one side does not, in any way, justify any loss from the other**. It should also be emphasized that during the 1912-13 first Balkan War, 1.4 million Turkish civilians were killed; 410,000 were relocated from the Balkans to Anatolia. During World War I, 2.5 million Turkish civilians were killed more than half of which were in Eastern Anatolia. According to the Ottoman archives, Armenian gangs killed 523,000 Ottomans.

The Armenian Diaspora in many countries has acted **politically to achieve what they could not on legal grounds**. The attempt of various politicians to legislate history, based on this pressure, not only ignores their legal mandates and democratic principles such as freedom of speech, but also creates an environment of animosity between cultures. Article 6 of the Convention stipulates that "**only competent tribunals can try these persons**". In other words, laws and resolutions passed by parliaments, commemorative declarations issued by presidents, or any other political decisions that describe Armenian events as "genocide" are devoid of legal meaning and effect.

What we need today is reconciliation of these feelings and an effort to work together to bring prosperity to the people of Eastern Anatolia and Armenia. At a time where humanity needs peace and mutual respect, trying to legislate history is not helpful in building common understanding and bridges between people who have great potential to bring mutual prosperity.