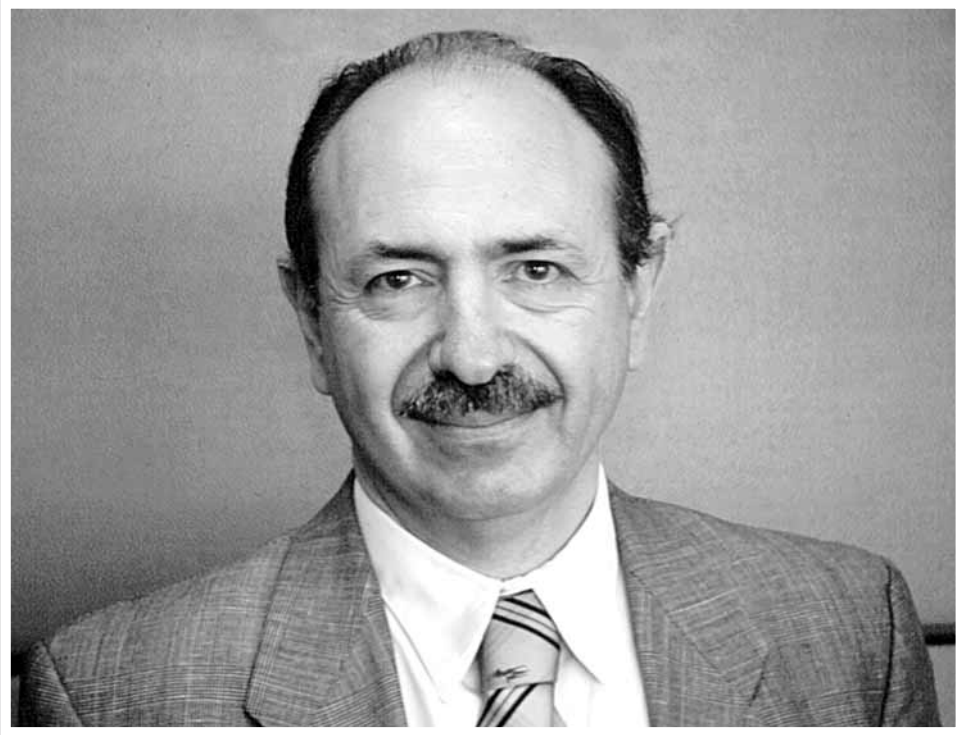


GÜNDÜZ AKTAN

WHAT HE SAID AND WHAT HE WROTE
SÖYLEDİKLERİ VE YAZDIKLARI



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Preface

Late Gündüz Aktan was a highly esteemed ambassador and intellectual who served at the Turkish Ministry of Foreign Affairs for more than thirty years. He contributed to Turkish diplomacy significantly. What made him exceptional was his ability to combine his rich cultural background with his skillful command of diplomacy.

Ambassador Aktan set an eminent example for his younger colleagues with his meticulous professional ethics, intellectual depth, common sense, humility and knowledge. The diplomatic tradition of Turkey has benefited extensively from his dynamic and inquisitive style.

Following his retirement, Ambassador Aktan continued to serve his country and the Ministry by employing his valuable knowledge and vast experience at home and abroad in such diverse areas as civil society, politics and journalism. His work reflects a multidisciplinary approach based on his vociferous readings in history and literature, and extensive studies in international law, political science and psychology.

His knowledge, his refined approach to global issues and his illustrious oratory skill earned the lasting appreciation of, not only those of us who had the good fortune to work with him, but also his foreign colleagues. It makes us very proud to hear foreign diplomats mention his name with great enthusiasm whenever they talk about Turkish diplomacy.

Ambassador Aktan always prioritized the human factor and common sense, i.e. the essence of diplomacy, and aimed for peaceful resolution of conflicts. He was therefore the voice of reconciliation against conflict and wisdom against turmoil. His virtues and devotion to his country, underlined by his humanitarian values, enabled him to successfully secure Turkey's interests in every domain. His contributions in Turkish foreign policy consistently brought resonance and set standards at international level.

Ambassador Aktan always dealt with problems using a multi-dimensional and multi-layered approach. He was never content with a mediocre answer. He would often personally study the background of any problem at hand, developing not only specific answers, but also formulating new questions and methods.

I can confidently say that Gündüz Aktan was a revolutionary in terms of

our profession. He always pushed the limits of the conventional in search of the better and the more accurate.

The life of Ambassador Aktan was an honorable and determined endeavor of a man of duty and intellect. It was, therefore, our obligation to convey his ideas, findings and evaluations to future generations.

This book is a modest collection of texts by Gündüz Aktan, prepared during different stages of his career, reflecting the extraordinary talent of a Turkish diplomat. I believe that this small compilation from his vast contributions reflects the richness of his philosophy and areas of activity, and will enable future generations to benefit from his thoughts and example.

May he rest in peace.

Ambassador Feridun Hadi Sinirlioğlu

Undersecretary of the Ministry of Foreign Affairs

Otuz yılı aşkın bir süre Bakanlığımıza hizmet eden Rahmetli Büyükelçi Gündüz Aktan, Türk diplomasisine önemli katkılarda bulunmuş çok değerli bir Büyükelçi ve aydındır. Onu istisnai kılan, kültürel donanımı ile diplomasi araçlarına hâkimiyetini en uygun terkip içinde birleştirebilmesiydi.

Büyükelçi Aktan, profesyonel diplomasi etiği, fikir zenginliği, sağduyusu, alçakgönüllülüğü ve bilgi donanımıyla genç meslektaşları için kıymetli bir örnek teşkil etmektedir. Diplomasi geleneğimiz Gündüz Aktan'ın dinamik ve sorgulayan tavrından geniş ölçüde istifade etmiştir.

Meslekten ayrıldıktan sonra da kıymetli birikimini ve engin deneyimini sivil toplum, siyaset ve gazetecilik gibi farklı alanlarda gerek yurtiçinde, gerek yurtdışında kullanarak Bakanlığımıza ve Ülkemize verdiği hizmetleri sürdürmüştür. Çalışmaları, geniş bir tarih ve edebiyat okumasına, uluslararası hukuktan ve siyaset biliminden psikoloji ve hafıza incelemelerine kadar uzanan çok-disiplinli bir yaklaşıma dayanmaktadır.

Sadece kendisiyle çalışma şansı yakalayan bizlerin değil, bilgisi, evrensel konulara yaklaşımı ve hitabet sanatının tüm inceliklerini yansıttığı üslubuyla muhatabı olduğu yabancı meslektaşlarının da takdirini toplamıştır. Kendisiyle aynı görev yerlerinde çalışan yabancı diplomatların Türk diplomasisinden söz ederken ağız birliği etmişçesine, büyük bir heyecanla onun ismini dile getirmeleri hepimiz için gurur verici olmaktadır.

Diplomasinin özünü teşkil eden insan unsurunu ve akli ön planda tutarak sorunların barışçıl çözümünü şiar edinen Büyükelçi Aktan, çatışmaya karşı uzlaşının, hoyratlığa karşı muhakemenin sesi olmuştur. Bu meziyetleri ve insani değerlerle beslenen yurtseverliği sayesinde Türkiye'nin her zemindeki çıkarlarını en iyi şekilde korumayı bilmiştir. Bunu yaparken de, dış politikamızın gündemindeki konulara uluslararası düzeyde yankı ve emsal yaratan katkılarda bulunmuştur.

Büyükelçi Aktan; sorunları hep çok boyutlu açıdan ve tüm katmanlarını göz önünde bulundurarak ele almıştır. Ortalama cevaplarla yetinmediği için sorunların geçmişini ve ötesini üstün çalışma yeteneğiyle şahsen araştırmış, onlara gerekli yanıtları bulmuş, bu anlayış içinde yeni sorular ve yöntemler şekillendirmiştir.

Gündüz Aktan'ın, mesleğimizin bir devrimcisi olduğunu rahatlıkla söyleyebilirim. Çünkü O; alışlagelmiş olanın sınırlarını, daha iyiyi, daha doğruyu bulma adına hep zorlamıştır.

Büyükelçi Aktan'ın hayatı, bir görev ve düşünce insanının şerefli ve kararlı mücadelesidir. Bu sebeple fikir, tespit ve değerlendirmelerinin yeni kuşaklara aktarılması mutlaka yerine getirilmesi gereken bir vecibeydi.

Bu kitap, ülkemizin yetiştirdiği olağanüstü yetenekte bir diplomat olan Gündüz Aktan'ın mesleğini icra ederken bizzat kaleme aldığı bazı metinleri bir araya getiren mütevazı bir derlemedir. O'nun büyük katkılarının küçük bir manzumesi olan bu kitabın Gündüz Aktan'ın düşünce ve faaliyet alanlarının zenginliğini yansıtabildiğini ve gelecek kuşakların hem Büyükelçi Aktan'ı örnek almaları hem de onun fikirlerinden istifade etmeleri bakımından yararlı bir çalışma olduğunu düşünüyorum.

Ruhu şad olsun.

Büyükelçi Feridun Hadi Sinirlioğlu

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Gündüz Suphi Aktan was born in Safranbolu on August 7, 1941, during his father Bekir Suphi Aktan's appointment as the township governor. He was schooled in various places due to his father's appointments. In 1950, Bekir Suphi Aktan, then governor of Tokat, entered the elections as a nominee from the Republican People's Party (CHP). The elections were won by the opposing Democratic Party (DP) and he was called back to the Interior Ministry in Ankara. Thus, the family moved first to Istanbul, then to Ankara. Gündüz Aktan completed his secondary education at the Istanbul Erkek Lisesi and the Ankara Atatürk Lisesi. He received his bachelor's degree from the Ankara University Faculty of Political Science in 1962, and attended the Brighton Language School from 1962 to 1964 to learn English. He began his career at the Ministry of Internal Affairs in 1964, and was appointed administrator to the township of Akyazı, Adapazarı. He completed his military service between 1965 and 1967. In 1967, he was transferred to the Ministry of Foreign Affairs.

His appointments abroad prior to becoming Ambassador:

- Permanent Representation of Turkey at OECD in Paris, 1970-73
- Embassy of Turkey in Nairobi, 1973-75
- Permanent Representation of Turkey at UN in New York, 1977-80
- International Officer at UN in New York, 1980-81
- Embassy of Turkey in Bern, 1983-85
- Advisor to Prime Minister Turgut Özal and Director-General of the Office of Economic Affairs for EEC (EU) Affairs, 1985-88. Turkey applied for full membership during this period.

Appointments as Ambassador:

- Ambassador of Turkey in Athens, 1988-91
- Permanent Representative of Turkey at the UN Office in Geneva, 1991-95. (Appointed as Chairman of the UNCTAD Trade and Development Council in 1992).
- Deputy Undersecretary of Political Affairs at the Ministry of Foreign Affairs, 1995-96
- Ambassador of Turkey in Tokyo, 1996-98

Gündüz Aktan resigned from the Ministry of Foreign Affairs in 1998 and became the chairman of the Turkish Economic and Social Studies Foundation (TESEV). He carried out this duty until 2000, during which time he implemented the “State Reform” project in collaboration with the European Union, and initiated a project to investigate corruption.

Those who assumed that a person who changes professional appointments so frequently will not have many admirers were clearly proven wrong. The top executives of the state were all present at his funeral. The ceremonies were attended by the President of the Republic, the Spokesperson of Parliament, the Prime Minister, ministers and deputies, secretary-generals of political parties, the 9th President of the Republic Süleyman Demirel and various former Foreign Ministers. The funeral was transformed into a platform of unity and solidarity much desired in Turkey.

The reason behind this was, without a doubt, Gündüz Aktan’s personality. **(SANBERK):** “It is a great responsibility to say something about this personality; greater to write. Regardless of what is said about his superior qualities, something is always missing. His friends who will never forget the pain of losing him know how this feels. He took his steps according to the causes he believed in. His creativity was inspired by his convictions. Compromise was one word he did not know. He believed that his duty in his job was not to be admired, but to serve. His wealth of information, augmented by his humility, loyalty and fidelity, altruism, courage and firm belief in scientific integrity created a wave of admiration, from friend and foe alike, towards not only himself but also the country he represented on the international platform.”

(BAŞKUT): “In a place like Turkey, where dwarfs keep jumping to make themselves seen, it was natural for Gündüz Aktan to be criticized. How could the leftist and social democrat of yesteryear become today’s liberal and influence Özal’s policies? Was his transfer to the Nationalist Movement Party (MHP) the repetition of the same mistake? Gündüz Aktan would simply laugh at these. According to him, labeling persons and institutions with permanent markers was a severe handicap of our time. Adaptation to national and

international changes would be the defining factor. Consequently, his foreign policy ranged from the Third World to the cautious and realistic relations with the West, and the development miracles in the Far East, particularly Japan. Above all, he believed that one must know the events that would lead to change by heart. Because of this, he spent a lot of time mastering, say, Turkish-Armenian relationships, but in the end, Turkey was awarded with a great advocate of the matter on an international level.

Knowledge by itself is not enough. It must be supported by rhetoric. Gündüz Aktan was an excellent orator, which made him shine particularly in open panel discussions.”

In his private life, Gündüz Aktan had a rich grasp of culture. **(NAZAN AKTAN):** “He was interested in all branches of art. He was especially fond of carpet weaving. He would find out the stories that the carpets told and merge these with ethnic characteristics, the history, economic and sociological conditions, the influence of religion, the type of dye and the method of weaving, and feel the warmth in the hearts and light in the eyes of the simple people who had woven the carpet. He admired traditional Turkish arts like calligraphy, gilding, murals, miniatures, carving, inlaying and seal making. He was fascinated by Ottoman mosques and the waterfront mansions along the Bosphorus. He loved classical music and had a large collection of opera.”

For a man of such character, family solidarity and friendships were of great importance. **(SANBERK):** “I knew Gündüz Aktan as an outstanding diplomat and patriot, a great intellectual, a wonderful friend, but above all, as an excellent husband and father. I am a friend of his that knows his services to this country very closely. However, his greatest edifice is his two children they brought up together with his loving wife Ülkü. Nazan and Uygur will continue to uphold the wisdom and pride of their father in their own lives. I am sure that Gündüz Aktan was sure of this fact when he left us.” **(UYGAR AKTAN):** “My relationship with my father was much beyond the traditional fatherson relationship. He was my best friend, greatest teacher and most influential guide. In short, he was my idol. From a very early age, he helped me gain new perspectives in political science, mythology, psychoanalysis, history and philosophy – a blessing that few could attain. Whatever I know today, he has taught me. What is more, everything I will learn from now on, I will also owe to him because he showed me how to approach an issue and think about it. He was the most compassionate person I knew in this matter. He would share his knowledge with anyone eager to listen, showing great compassion and patience. In an age when all values are turning into slogans and clichés, he was one of the most honest, proud and principled representatives of a past generation.”

(SÖYLEMEZ): “Gündüz Aktan died too early. He had an extraordinary personality and a great intellect. He ascended to the top of diplomacy. His extraordinary qualities could not have been hereditary alone. He knew how to

create himself as a diplomat, thinker and writer that was the pride of Atatürk's Turkey. He was sought for his wisdom at the top levels of state, and he was rightfully admired.

"Gündüz was a shining beacon. He never tired of lighting the way and discussing the issue. His column in the Radikal was always a step ahead of its time and was read popularly. His analytical skills and sharp mind led him to write columns that were the envy of the more established columnists.

"Following Athens, Bern, OSCE, Geneva and the UN, he resigned while he was the Ambassador of Turkey in Tokyo with the wish to become a columnist – it was too early and we were astonished; this was without precedent and we struggled to understand him. But his new career almost surpassed the old one and introduced Gündüz to the masses. In a few short years, Gündüz became a respected thinker and writer that was always sought after for his intelligent and courageous opinion and excellent oration on TV. (...)

"The masses applauded Gündüz while some were critical of his staunch position. I am not sure if we could fully grasp his value. However, the wave of love and admiration he left in his wake is as impressive as his personality. He was a man of the people. (...)

"Gündüz was always constructive in criticism and was strong and optimistic, even during his illness. He said to me, 'I'm fine; once I make it to February, this will be all over.' He was an intellectual dynamo that lit the way for Turkey. The country lost a very rare man of thought, a true statesman. Aktan always wrote and said what he knew to be true. His perspective was extremely wide and just as realistic. He was also an advocate of the ideal.

"Turkey is in dire need of people like Gündüz Aktan. Gündüz Aktan was a legend in foreign affairs, and his name will live on. We see him off to a brighter land with pride and honor."

Aktan was a columnist in the Radikal daily from 1998 to 2007. During the same period, he was a Foreign Affairs Advisor to the Union of Chambers and Commodity Exchanges of Turkey (TOBB) and served as a member of the Board of Trustees of the TOBB University of Economics and Technology. He was the chairman of the Eurasian Strategic Research Center (ASAM) between 2004 and 2006.

He was the main contributor to the book *La Turquie en Europe* (Paris 1988) published in the name of Prime Minister Turgut Özal. His research on neoracism was published as a European Council Document in 1993. His two articles on the psychoanalytical aspects of the exile of Sephardic Jews from Spain and racism in Europe were published in the *Mind and Human Interaction* periodical. He was one of the co-authors of the Michigan University publication "Combating Terrorism". His English-language study titled "The

Armenian Debate and International Law” was included in the book Armenians in the Late Ottoman Period.

His first book in his name, Açık Kriptolar (Deciphered Cryptos) was published in 2006 (Aşina Publishing House).

Despite his busy schedule, he sought to be active in politics and was elected Istanbul deputy of the Nationalist Movement Party in the 2007 elections. However, shortly after a year in this career, he passed away on 19 November 2008. He had spent most of his time in office battling against the unrelenting disease. It is now our solemn duty to walk in his footsteps. Even this book is a concrete and useful step that may set an example to future generations.

(ÜLKÜ AKTAN): Gündüz Aktan was one of the most outspoken defenders of the country that he passionately loved. He took up and was in and at the forefront of the struggle in issues such that plagued Turkey, such as terrorism, Cyprus and allegations of genocide.

He spent all his time and energy in this way. He tired himself out but never noticed it. Wherever he went, the best places he knew were bookshops. He always came back with a suitcase full of books on matters not limited to areas of his professional interests. Reading, thinking and drawing conclusions were his favorite pastime. He shared his thought with us and everybody who listened. “The truth is actually simple and plain. You have to reach the initial truth for answers” he used to say. He analyzed everything in depth and his comments were accurate.

I have followed my husband’s career, struggles and successes with belief and admiration. For me, it seemed like he had solved all the mysteries of life and human kind. It was a privilege for us to have lived with him. Being deprived of him created an emptiness and an irreplaceable loss.

“Giving one’s life” might seem like an ordinary expression. Gündüz was the personification of it. Yes, he gave his life. No creature is eternal, even though some deserve to be...”

(UYGAR AKTAN): “As the children and students of Gündüz Aktan, it is our duty to uphold his heritage.”

(NAZAN AKTAN): “My dear father, you are a man to be applauded and honored. You are a role model to us all with your exemplary services, excellent morals and high values. We are proud of you and we thank you for everything you have done.”

Katkıda Bulunanlar:

Eşi / Ülkü AKTAN

Kızı / Nazan AKTAN

Oğlu / Uygur AKTAN

Büyükelçi (E) / Özdem SANBERK

Büyükelçi (E) / Yaman BAŞKUT

Büyükelçi (E) / Yüksel SÖYLEMEZ

Gündüz Suphi Aktan, babası Bekir Suphi Aktan'ın kaymakam olduğu dönemde 7 Ağustos 1941 tarihinde Safranbolu'da doğdu. Eğitim gördüğü yerler, babasının görev yerlerine bağlı olarak değişti durdu. 1950'de Tokat Valisi Bekir Suphi Bey'in CHP'den seçime girmesi ve DP'nin iktidara gelmesi üzerine Merkez Valiliğine atanması nedeniyle aile önce İstanbul'a, sonra Ankara'ya taşındı. Bu nedenle Gündüz Aktan'ın lise öğrenimi İstanbul Erkek Lisesi ile Ankara Atatürk Lisesi arasında paylaşıldı. Gündüz Aktan, Ankara-Siyasal Bilgiler Fakültesinden 1962 yılında mezun oldu ve daha sonra lisan öğrenimi için İngiltere'de Brighton Dil Okulunda okudu (1962-1964). 1964'de İçişleri Bakanlığında çalışmaya başladı ve Adapazarı-Akyazı Kaymakamlığına atandı. 1965-67 arasında askerlik görevini yaptı. 1967'de Dışişleri Bakanlığını girdi.

Büyükelçi olmadan önceki yurtdışı görevleri:

- 1970-73 döneminde Paris'te OECD bünyesindeki Türkiye Daimi Temsilciliği,
- 1973-75 döneminde Nairobi'deki Türkiye Büyükelçiliği,
- 1977-80 döneminde New York'ta Birleşmiş Milletler nezdindeki Türkiye Daimi Temsilciliği,
- 1980-81 New York'ta Birleşmiş Milletler Genel Merkezi (Uluslararası Memur),
- 1983-85 döneminde Bern'deki Türkiye Büyükelçiliği,
- 1985-88 döneminde Başbakan Turgut Özal'ın danışmanlığı ile AT (AB) ilişkilerinden sorumlu Ekonomik İşler Genel Müdürlüğü. Türkiye'nin tam üyelik başvurusu bu dönemde gerçekleştirildi.

B y kel i Stat s ndeki g revleri:

- 1988-91 T rkiye'nin Atina B y kel isi,
- 1991-95 Cenevre'deki Birle mi  Milletler Ofisinde T rkiye Daimi Temsilcisi (1992'de: UNCTAD Ticaret ve Kalkınma Kurulu Ba kanlıđına getirildi),
- 1995-96 Dı ı leri Siyasi İ ler M ste ar Yardımcısı,
- 1996-98 T rkiye'nin Tokyo B y kel isi.

G nd z Aktan, 1998 yılında istifa ederek Dı ı leri Bakanlıđından ayrıldı ve T rkiye Ekonomik ve Sosyal Et dler Vakfı (TESEV) Ba kanı oldu. 1998-2000 yılları arasında s ren bu g revi sırasında AB ile i birliđi i inde 'Devlet Reformu' projesini uyguladı ve yolsuzluk ara tırmaları projesini ba lattı.

Profesyonel ya amında bu kadar  ok yer deđi tiren birini sevenlerin sayısı fazla olmaz diyenlerin yanıldıkları a ık a ortaya  ıktı. Aynı durumdaki G nd z Aktan'ı son yolculuđuna Devletin neredeyse t m zirvesi uđurladı. D zenlenen t renlere Cumhurbaşkanı, TBMM Ba kanı, Ba bakan,  e itli bakanlar ve milletvekilleri, siyasi partilerimizin ba kanları, dokuzuncu Cumhurbaşkanı S leyman Demirel ve bazı eski Dı ı leri Bakanları katıldılar. B ylelikle cenaze t reni T rkiye'nin  zlediđi birlik ve beraberliđin ger ekle tiđi bir pl tforma d n  t .

Bunun nedeni, hi  ku kusuz, G nd z Aktan'ın ki iliđiydi. **(SANBERK):** "Bu ki ilik hakkında bir  eyler s ylemek, hele bir  eyler yazmaya kalkı mak b y k sorumluluk. Bu d nyada  st n nitelikleri hakkında ne s ylenirse s ylensin s zlerin yetersiz kaldıđını hissetmemek m mk n deđil. Onu kaybetmenin acısını i lerinde hi  bir zaman dindiremeyecek olan dostları bu hissiyatın ne demek olduđunu bilirler. Adımlarını, dođru bellediđi davalar y nlendirdi. İnandiđı g r  lerin tutkusu yaratıcılıđının kaynađı oldu. Taviz, onun l gatinde yer almayan s zc klerden. Mesleđinde kendi g revinin ho a gitmek deđil, hizmet etmek olduđunu d   nd . Ama engin bilgisi yanında al ak g n ll l đ , vefa ve sadakat duygusu, fedak rlıđı ve bilhassa bilimsel d r stl k ilkesine inancı ve cesareti, dost olsun olmasın  ok geni  bir uluslararası  evrede, yalnız kendine deđil temsil ettiđi  lkesine daima saygı ve hayranlık yarattı".

(BA KUT): "T rkiye'deki gibi c celerin boy g stermek amacıyla zıplayıp durduđu bir ortamda, G nd z Aktan'ın ele tirilmesi dođaldı. Nasıl oluyor da, d n n solcusu veya sosyal demokrati bug n n liberali oluyor ve  zal'ın politikalarını etkileyebiliyordu. Son d nemde aynı ki inin MHP kadrolarında yer alması, aynı yanlı ın tekrarı deđil miydi? G nd z Aktan bu s zlere g l p ge iyordu. Ona g re, insanlara veya kurumlara belli bir me  n ve zamanda hi  deđi tirilemeyecek etiketler yapı tırmak  ađımızın ciddi bir zaafıdır.

Belirleyici olan ulusal veya uluslararası değişimler ve bunlara karşı gösterilecek uyumdur. Bu durumda, onun dış politika tablolarında, bir yanda Üçüncü Dünya, diğerinde ihtiyatlı ama gerçekçi ilişkilerle Batı ülkeleri ve nihayet kalkınmada mucizeler yaratan Uzak Doğu ülkeleri, özellikle Japonya yer alıyordu. Her şeyden önce değişime yol açacak olayları çok iyi bilmek gerektiğine inanıyordu. Bu yüzden, örneğin Türk-Ermeni ilişkileri konusundaki uzmanlığı çok zamanını almıştı, ama sonunda Türkiye bu konuda uluslararası düzeyde çok önemli bir avukata sahip olmuştu.

Bilgi birikimi tek başına yeterli değildir. Mutlaka ifade zenginliğiyle desteklenmelidir. Gündüz Aktan'ın sözlü ifade yeteneği gerçekten çok iyiydi. Özellikle tartışmaya açık panellerde bu becerisi ona puan kazandırıyordu”.

Kültürel açıdan Gündüz Aktan'ın özel yaşantısı da son derece zengindi. **(NAZAN AKTAN):** “Sanatın her dalına meraklıydı. Örneğin halıcılığa büyük önem verirdi. Halıların üzerinde anlatılan hikâyeyi, etnik karakteristiklerini öğrenip, tarihçelerini, ekonomik ve sosyolojik zamanlamalarını, dinin etkisini, kök boyasını, dokuma tekniğini bilir ve bu halıları sevgiyle dokuyan insancıkların kalplerindeki mutluluğun, gözlerindeki ışığın, yüzlerindeki tebessümün varlığını hissederdi. Ayrıca, hat, tezhip, nakkaş, minyatür, oymacılık, kakmacılık, mühürçülük gibi geleneksel Türk sanatlarını takdir ederdi. Osmanlı camilerine ve Boğaziçi kıyılarındaki eski yalılara hayrandı. Klâsik müzik severdi ve geniş bir opera koleksiyonuna sahipti”.

Böyle bir insan için aile içi dayanışma da, dostluk ilişkileri de çok önemliydi. **(SANBERK):** “Gündüz Aktan'ı çok büyük bir diplomat ve vatansever, büyük bir aydın, çok iyi bir dost, ama her şeyden önce çok iyi bir eş ve çok iyi bir baba olarak tanıdım. Bu ülkeye büyük hizmetlerini en yakından bilen arkadaşlarımdanım. Ama en büyük eseri, sevgili eşi Ülkü ile birlikte yetiştirdikleri iki değerli evlâdıdır. Nazan ve Uygur babalarının bilgeliğini ve vakarını kendi hayatlarında yaşatmaya devam edecekler. Gündüz Aktan'ın aramızdan bu gerçeğin bilincinde ayrıldığından eminim”. **(UYGAR AKTAN):** “Babam ile olan ilişkim bilinen baba-oğul ilişkilerinin çok ötesindeydi. O benim aynı zamanda en iyi arkadaşım, en büyük hocam ve yol göstericimdi. Kısacası o benim idolümdü. Çok küçük yaşlarımdan itibaren beni karşısına alıp siyaset bilimi, mitoloji, psikanaliz, tarih ve felsefe konularında çok az insana nasip olacak ufuklar açtı. Bugün ne biliyorsam o bana öğretmiştir. Dahası bundan sonra öğreneceklerimi de ona borçlu olacağım, zira bana bir konuya nasıl yaklaşacağımı ve nasıl düşünmem gerektiğini gösterdi. Bu konuda tanıdığım en müşfik insandı. Daima büyük bir sabır ve şefkatle dinlemeye hazır olan herkesle birikimini paylaşırdı. Bütün değerlerin bir slogan ve klişeye dönüştüğü çağımızda artık soyu tükenmekte olan bir neslin en dürüst, en vakur ve ilkeli örneklerindendi”.

(SÖYLEMEZ): “Gündüz Aktan yaşamını erken yitirdi. Sıradışı bir kişilik, üstün bir zekâ sahibiydi. Diploması mesleğimizin zirve görevlerinde bulundu. Olağanüstü nitelikleri yalnız genetik olamazdı. Atatürk Türkiye’sinin gözbebeği gibi diplomat, düşünür ve yazar olarak kendisini yaratmayı bildi. Devletin doruk noktalarında akıl verdi, haklı takdir topladı.

Gündüz, göz kamaştırıcı bir ışıldak gibiydi. Dinamizmiyle her daim aydınlattı, tartıştı. Gündüz, toplumun ve olayların hep bir adım ilerisinde, Radikal’deki köşesinde, daima ilgiyle okundu. Analitik zeka ve becerisiyle yerleşmiş köşe yazarlarını imrendirecek düzeyde, nitelikli yazılar kaleme aldı.

Atina, Bern, OSCE, Cenevre ve Birleşmiş Milletler’den sonra Türkiye’nin Tokyo Büyükelçisi iken, köşe yazarı olmak isteğiyle, vaktinden önce ve hayretler yaratarak, emekliliği istediğinde, verdiği bir örneği olmayan kararını anlamakta güçlük çekmiştik. Ancak bu ikinci kariyer, birincisini neredeyse gölgede bıraktı, Gündüz’ü geniş kitlelere mal etti. Birkaç yıl içinde Gündüz, köşe yazılarındaki zekâ pırıltısı, ileri sürdüğü cesur görüşlerinin ağırlığı, TV kanallarındaki söyleşilerinin çekiciliği ile her gün aranan, saygın bir düşünür, yazar olarak neredeyse adını bir marka haline getirdi. (...)

Kitleler, Gündüz’ü alkışladı, dik duruşunu eleştirenler de olacaktı. Biz Gündüz’ün değerini ne kadar bildik, bilmiyorum? Ancak arkasından duyulan sevgi seli kendi kişiliği kadar görkemlidir. Topluma mal olmuştur. (...)

Gündüz, eleştirel üslubunda yıkıcı değil yapıcı, kötümser değil, hasta yatağında bile, dipdiri ve iyimser, “İyiyim, şubat ayını bir bulalım bunu da atlatacağız” diyordu bana... Tüm enerjisini ülkesine bir entelektüel dinamo halinde Türkiye’ye adamıştı. Türkiye, örneği çok zor bulunur bir düşün adamını, gerçek bir devlet adamını kaybetti. Aktan, hep doğru bildiğini yazdı, söyledi. Ufku alabildiğine geniş, olabildiğince gerçekçiydi. Aynı zamanda ideal olanın da savunucusu oldu.

Türkiye’nin Gündüz Aktan’lara çok ve çok ihtiyacı var. Gündüz Aktan, Dışişleri camiamızda bir efsane oldu ve öyle yaşayacak. Gündüz’ü şan ve şerefle aydınlıklara uğurluyoruz.”

1 1998-2007 tarihleri arasında Radikal Gazetesinde köşe yazarlığı görevini üstlendi. Aynı dönemde Türkiye Odalar ve Borsalar Birliği’nin (TOBB) Başkanlık Dışişleri Danışmanlığı ve TOBB Ekonomi ve Teknoloji Üniversitesi (TOBB-ETÜ) Mütevelli Heyeti Üyeliği de yaptı. 2004-2006 yılları arasında ASAM (Avrasya Stratejik Araştırmalar Merkezi) Başkanlığına getirildi.

Başbakan Özal adına yayınlanan 'Avrupa'da Türkiye' (La Turquie en Europe, Paris 1988) kitabının yazımında en büyük pay Gündüz Aktan'a aittir. Yeni-ırkçılık konusundaki araştırması 1993 yılında Avrupa Konseyi Belgesi olarak yayınlandı. Ayrıca, 'Safarad Yahudilerinin İspanya'dan çıkarılışı ve Avrupa'da Irkçılık' konularının psikanalitik yönüyle ilgili iki kapsamlı makalesi 'Mind and Human Interaction' adlı yayında yer aldı. 'Terörizmle Mücadele' başlığıyla Michigan Üniversitesi tarafından yayınlanan ortak çalışmanın yaratıcılarından biriydi. 'Ermeni Sorunu ve Uluslararası Yasa' başlıklı İngilizce çalışması 'Son Osmanlı Döneminde Ermeniler' adlı kitapta yer aldı.

Kendi adıyla yayınladığı ilk kitap 'Açık Kriptolar' adıyla 2006 yılında yayınlandı (Aşına Kitaplar).

Bu kadar yoğun çalışma programına rağmen siyasete atılmayı tercih etti ve 2007 genel seçimlerinde MHP İstanbul milletvekili seçildi. Ancak siyasetçi olarak verdiği hizmet bir yılını ancak tamamlamışken 19 Kasım 2008 tarihinde aramızdan ayrıldı. Zaten bu sürenin önemli bir bölümünde amansız hastalığıyla mücadele etti. Şimdi bizlere düşen görev, onun çizmeye çalıştığı yoldan yürüyüşe devam etmektir. Elimizdeki bu kitap dahi, genç nesillere örnek olabilecek bilgiler içeren somut ve yararlı bir adımdır.

(ÜLKÜ AKTAN): "Gündüz Aktan, tutkuyla sevdiği ülkesinin en yaman savunucusu idi.

Terör, Kıbrıs Sorunu, asılsız soykırım suçlamaları gibi Türkiye'nin başına bela olan meselelerine sahip çıkıp, amansız bir mücadelenin hep içinde ve önünde oldu.

Bütün zamanını, enerjisini bu yolda harcadı. Yoruldu ama, yorulduğunun hiç farkına varmadı. Yaşadığı, gittiği her yerde bildiği en iyi adres kitapçılardı. Mesleki kitaplarla sınırlı olmayan her konuda yazılmış bir valiz kitapla dönerdi her zaman. Okumak, düşünmek, sonuç çıkarmak en keyif aldığı oyunuydu. Düşüncelerini bizimle ve dinleyen herkesle paylaşırdı. "Gerçek aslında basit ve yalın, cevapları bulmak için başlangıçtaki ilk gerçeğe ulaşmak gerek" derdi. Herşeyi derinlemesine analiz eder, yorumlarında yanılmazdı.

Eşimin mesleki hayatını, savaşını, başarılarını hayranlık ve inançla izledim. İnsana ve hayata dair bütün sırları çözmüş gibi gelirdi bana. Onunla yaşamak bizim için büyük bir ayrıcalıktı, bir talihdi. Ondan mahrum kalmakda büyük bir kayıp ve boşluk oldu.

"Hayatını vermek" sıradan bir söz gibi gelebilir, Gündüz bunun somut örneğidir. Evet, hayatını verdi. Hiçbir canlı ebedi değil, bazıları bunu hakketseler bile.."

(UYGAR AKTAN): Gündüz Aktan ekolünde yetişmiş birileri olarak onun mirasına sahip çıkmayı kutsal bir görev biliyoruz”.

(NAZAN AKTAN): “Benim güzel babam, sen ayakta alkışlanacak, yaptığın her hizmetin yanı sıra, güzel ahlâkın ve yüksek değerlerin ile her birimize bir örnek, bir modelsin, seninle övünüyoruz, kutluyoruz, teşekkür ediyoruz. Her şey için...”.



WHAT HE SAID AND WHAT HE WROTE



SÖYLEDİKLERİ VE YAZDIKLARI



WHAT HE SAID AND WHAT HE WROTE



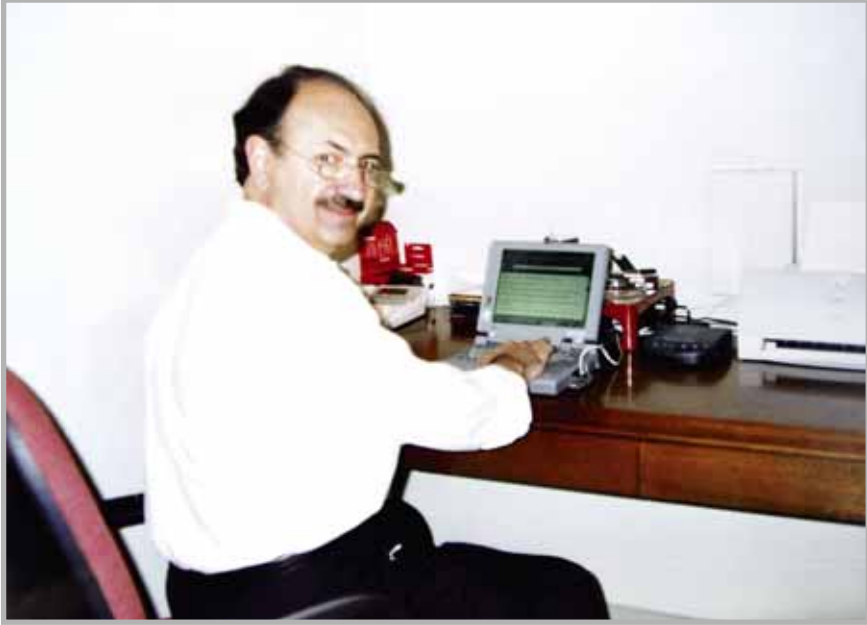
SÖYLEDİKLERİ VE YAZDIKLARI



WHAT HE SAID AND WHAT HE WROTE



SÖYLEDİKLERİ VE YAZDIKLARI



WHAT HE SAID AND WHAT HE WROTE



SÖYLEDİKLERİ VE YAZDIKLARI



WHAT HE SAID AND WHAT HE WROTE



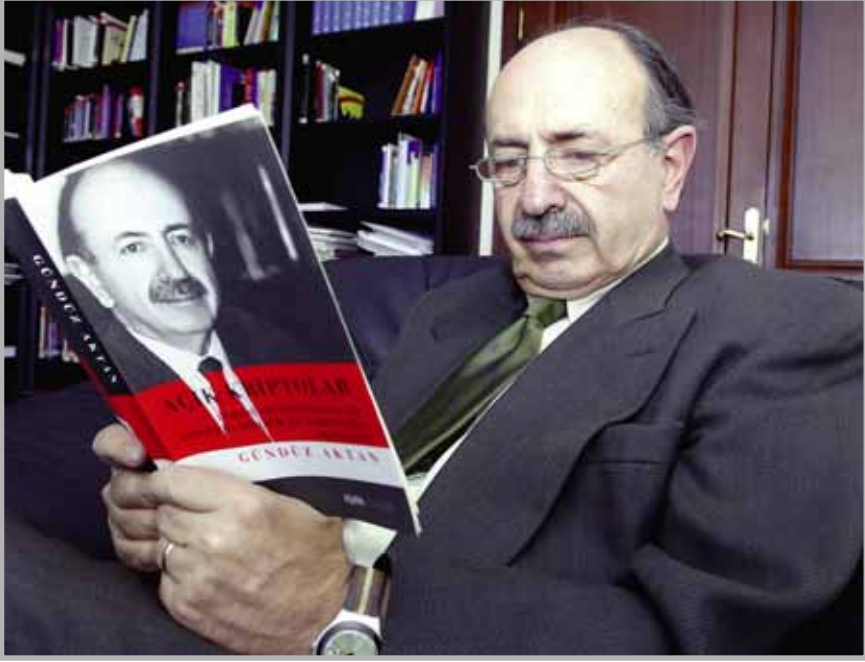
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WHAT HE SAID AND WHAT HE WROTE



SÖYLEDİKLERİ VE YAZDIKLARI



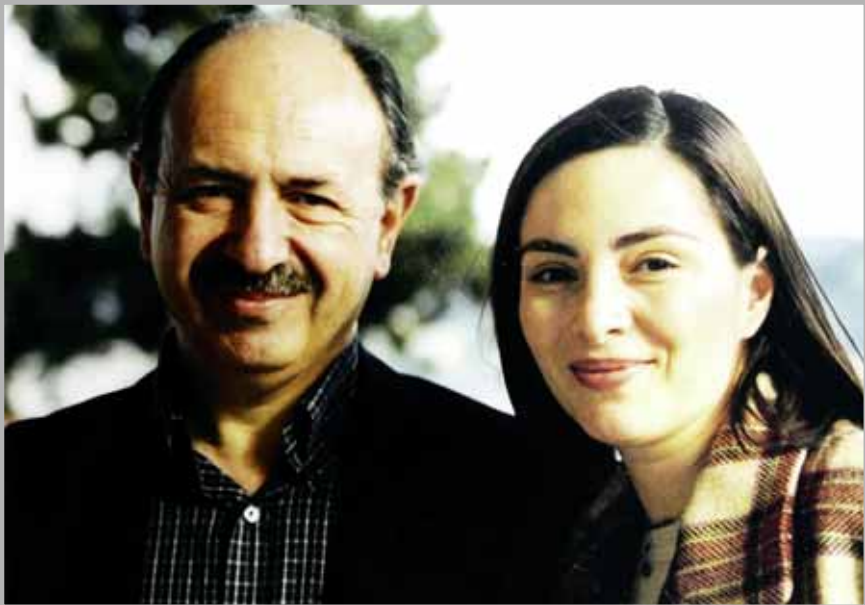
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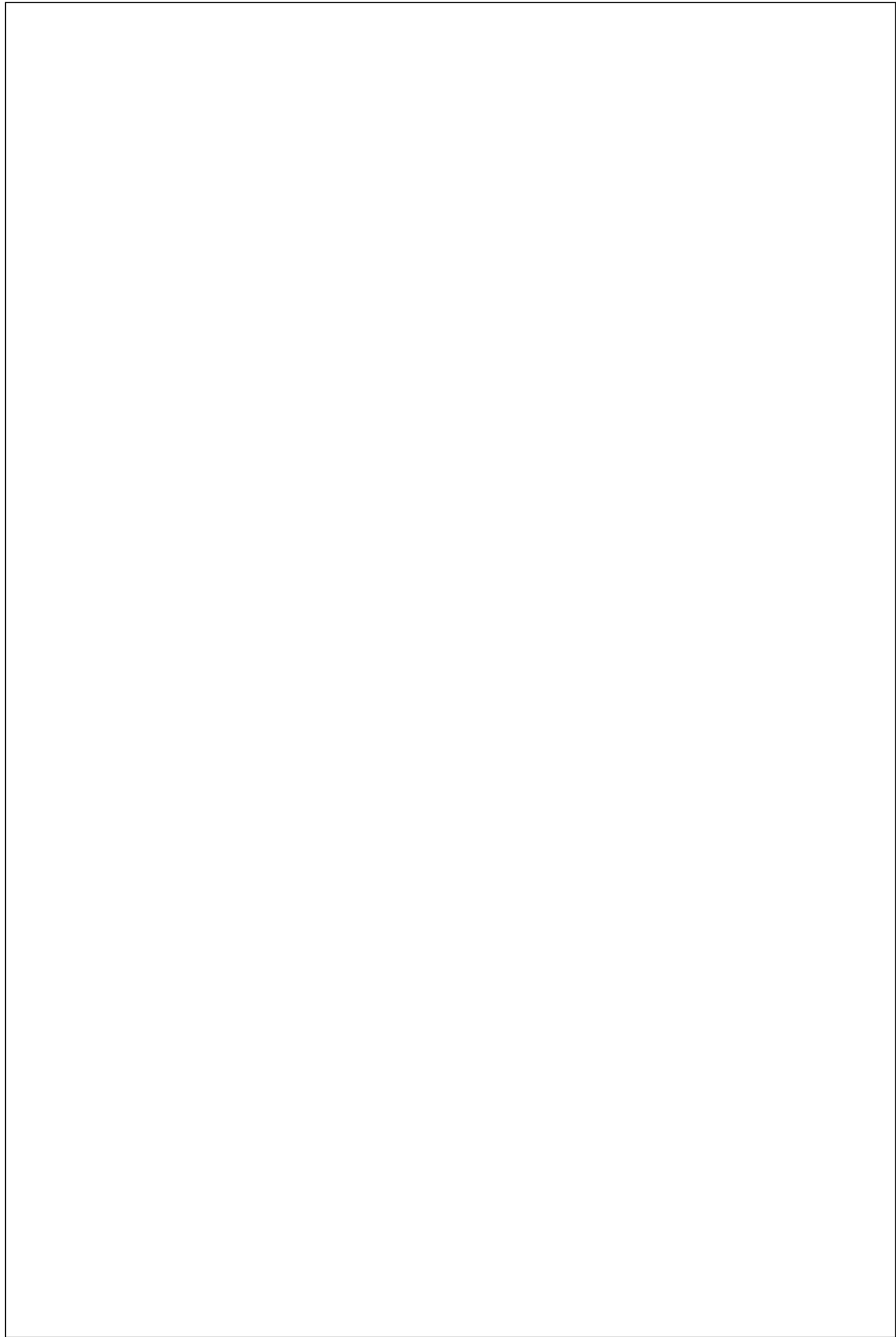


SÖYLEDİKLERİ VE YAZDIKLARI



Human Rights

İnsan Hakları



Human Rights

Ambassador Gündüz Aktan gave a number of speeches before the United Nations Human Rights Commission and sub-commissions during his appointment as the Permanent Representative of Turkey at the UN Office in Geneva from 1991 to 1995.

In his speeches at conferences on human rights, Gündüz Aktan explained and criticized the contradictory attitude of the international community towards the crises that erupted in the most critical period of the past century. He frequently argued that restricting the focus of human rights to the developing countries and the rights and freedoms in those countries constituted a double standard. He criticized the lack of any initiative on resolving the West-centered issue of racism, on which he worked extensively, and argued that a subjective approach to human rights violations, portraying them as only existing in developing countries was wrong. He emphasized that, in its current status, the international human rights watch mechanism was an apparatus of oppression instead of an active movement.

Gündüz Aktan argued that the uncertainty caused by disregarding international law and practice in the implementation of the principle of self-determination was at the heart of human rights violations. He claimed that the state was reduced to an oppressor and a violator of human rights against groups that are involved in terrorist activities under the pretext of self-determination and are brought to the status of warring factions by the West under the “guerrilla” nomenclature. According to Aktan, the boundaries of self-determination as a human right were purposely taken beyond legal grounds and human rights law and humanitarian law were confused. Anti-state activities, terrorism and separatist movements were legitimized. Based on this, Aktan argued that the human rights reports issued by international

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institutions such as Amnesty International and the Human Rights Watch against the government of Turkey from 1991 to 1995 were not objective in the depiction of human rights violations, and intended to put pressure on the government of Turkey.

As it will be understood from the speeches, at the heart of the contradictory attitude of international human rights watch systems towards Turkey and other non-Western, developing countries lies the West's effort to create new images of the "enemy" and to legitimize the sovereignty of the Western-oriented international system that is termed an empire. Gündüz Aktan effectively voices the hazards of such propaganda against Turkey on an international level in the early '90s for the human rights system as a whole, and emphasizes threats that may arise in connection with nonobjective criticism.

İnsan Hakları

Büyükelçi Gündüz Aktan' ın 1991-1995 yılları arasında Cenevre Birleşmiş Milletler Ofisi'nde Türkiye Daimi Temsilcisi görevini sürdürdüğü dönemde, Birleşmiş Milletler İnsan Hakları Komisyonu ve alt komisyonlarında yaptığı konuşmalar:

Gündüz Aktan, insan hakları konulu toplantılarda yaptığı konuşmalarda uluslararası toplumun geçtiğimiz yüzyılın bu en kritik döneminde karşı karşıya kaldığı krizler karşısında takındığı çelişkili tavrı ortaya koymuş ve eleştirmiştir. İnsan hakları konusunda yalnızca gelişmekte olan ülkeler ve bu ülkelerdeki hak ve özgürlüklerin incelenmesinin çifte standart olduğunu sıkça dile getirmiştir. Kendisinin üzerinde çalıştığı Batı merkezli bir olgu olarak ırkçılık sorununun çözülmesine yönelik herhangi bir çalışmanın yapılmayışını eleştirmiş, aksine insan hakları ihlallerinin yalnızca gelişmekte olan ülkelerde varmışçasına, objektif olmayan bir biçimde incelenmesinin yanlış olduğunu vurgulamıştır. Bu hali ile uluslararası insan hakları izleme mekanizmasının etkin olmaktan ziyade bir baskı aracı haline getirildiğinin altını çizmiştir.

Gündüz Aktan, kendi kaderini tayin hakkı ilkesinin uygulanması konusunda uluslararası hukuk ve teamüllerin hiçe sayılması sebebiyle doğan belirsizliğin ise insan hakları ihlallerinin temelinde yer aldığını belirtmiştir. Kendi kaderini tayin ilkesine sığınarak terör faaliyetlerine girişen ve Batılı devletlerce gerilla adı verilerek savaşılan taraf statüsü verilen gruplar karşısında devlet, baskıcı ve insan hakları ihlal eden taraf konumuna indirgenmektedir. Aktan'a göre bir insan hakkı olarak kaderine tayin hakkının sınırları, bilinçli olarak hukuki zemin dışına çıkarılmış , insan hakları hukuku ve insani (humani tarian) hukuk birbirine karıştırılmıştır. Devlet karşıtı faaliyetler, terör ve bölücülük meşru kılınmaktadır. Aktan bu noktada, 1991-1995 yılları arasında Amnesty International ve Human Rights Watch

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gibi uluslararası sivil toplum kuruluşlarının Türkiye Cumhuriyeti devleti aleyhine ortaya koyduğu insan hakları raporlarının insan haklarının ihlallerinin tespit edilmesi bağlamında objektif olmadığını, bu kuruluşların Türkiye Cumhuriyeti devleti üzerinde baskı kurmayı amaçladıklarını ortaya koymuştur.

Konuşmalarda görülebileceği gibi uluslararası insan hakları izleme sisteminde Türkiye'ye ve ayrıca (Batılı olmayan, gelişmekte olan ülkelere) yönelik bu çelişkili tavrın temelinde Batı' nın yeni düşman imgeleri yaratma ve İmparatorluk olarak adlandırılan Batı merkezli uluslararası sistemin egemenliğinin meşru kılınması çabası yer almaktadır. Gündüz Aktan doksanlı yılların başında Türkiye aleyhine uluslararası alanda yürütülen bu propagandanın tüm uluslararası insan hakları sistemi açısından sakıncalarının ve objektiflikten uzak eleştiriler sebebiyle ortaya çıkabilecek tehlikeleri etkin bir biçimde dile getirmektedir.

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Commission on Human Rights, Sub-Commission on Prevention of Discrimination and Protection of Minorities, 43th Session, Agenda Item 6, 14 August 1991

Mr. Chairman,

I will start with the working group on the method of work which we consider as a reform attempt.

We are in favour of annual global report with a analytical section.

The report should give an overall assessment on developments related to human rights violations, trends, but also progress and improvements. Duplication is of secondary importance.

The structure of the report should be based on both country-by-country and thematic approaches which will be correlated with the relevant articles of the Universal Declaration and other instruments without a selective approach towards rights and freedoms.

A distinguished expert consented the other day that racism is essentially a Western phenomenon. It is generally agreed that it is becoming a widespread and urgent problem. I believe, there is no rule or decision to focus exclusively on the violations in developing countries. Therefore, a special rapporteur should be assigned and the report should contain a major section on racism, racist practices both by groups, governments and prevailing popular attitudes. In this way, the perennial 'human condition' which no society can really escape is more equitably reflected, and respect and observance for human rights can be promoted in a more humane manner.

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NGO's should not get specialized on some human rights abuses neglecting others. We will judge their impartiality, objectivity and reliability to the extent to which they focus on racism in their own countries or elsewhere.

Otherwise, unlike the claims that history came to an end in the absence of enemy after the collapse of communism, new enemy images will have been created in a manicheist manner in the form of those who were allegedly inferior to violate human rights and freedoms.

I would suggest that another major section in the report should deal with the adverse effects on the enjoyment of human rights of acts of violence committed by armed groups. In this respect, one should also take into account that an important part of the alleged human rights violations are in cause-effect relationship with the activities of terrorist groups.

We are interested more in the content of studies than their duplication. Studies should also be used in the analytical section of the report.

Studies should not be confined to standard-setting and compliance with standards already set. Our subject is immensely complex. We should increase our understanding which will enable us to avoid habitual patterns, cliches and stereotypes.

Historically speaking in tandem with progress towards democracy domestically, the international system became paradoxically more predatory. Total war has been invented. Xenophobia turned into racism with all its catastrophic consequences. We don't know the reasons why. But, at the present stage, we try to promote respect for human rights and freedoms through mechanisms of this international system. Under these conditions how can we eliminate political motives which are one of the main causes of failure in our endeavours?

Democracy and human rights emerged in history twice, first in the Classical Greece, second in the West. In both cases, individual which was born to history created freedoms and rights for himself not vice-versa. Now we reverse the process and try to establish democracy and respect for human rights in order to give birth to individual. Is it possible? If yes, how? The real problem at the moment seems to teach people to enjoy rights and freedoms already acquired or given.

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The birth of individual is the most disruptive process in history. Athens committed suicide once and successfully. The West did the same twice in this century, fortunately unsuccessfully. How can we manage, if we can at all, this process with the least damage and the most benefit to humanity. If we do not want the disintegration of the countries and avoid the sufferings thereof the establishment of democracy in the first phase should have an overriding priority" over particular rights. Interdisciplinary studies with the participation of sociologists, anthropologists, psychologists, historians etc. should address these crucial topics.

The Center for Human Rights should accordingly be reinforced from personnel and resources point of view. It should establish close working relations with other centers, institutes and foundations. Otherwise, our efforts are condemned to remain sterile.

Mr. Chairman,

I now turn to a question which primarily concerns my country but which is also a case in point.

Amnesty International (AI) produces reports on human rights violations in Turkey. When I go through these reports, I observe the following:

This organisation acts in violation of Resolution I (XXIV), Operative Paragraph 2 of the Sub-Commission for it resorts to politically motivated stands. In 1987 when Turkey made its application to the EC for full membership, AI had produced 3 reports totaling only 21 pages. In the following year, the number of reports went up to 4 and the pages to 45. In 1989, the volume of 4 reports reached 141 pages with full of exaggerations and excesses. And a climax was orchestrated in December 1989 when the EC Commission gave its opinion on Turkish application. Was Turkey's human rights performance getting worse? On the contrary. But some circles in member countries which object Turkey's membership on religious, cultural and racial grounds chose to deter Turkey through defamation. They should be honest enough to say a plain 'no' rather than playing up with the dignity of a nation.

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It is not terribly difficult to create an ethnic strife in an underdeveloped region of an open even penetrated country with a little subversive effort, money, promises, international propaganda, especially if there already existed some ethnic demands. AI practically provides international legitimacy to terrorist activities in South-East Turkey by depicting Turkey as torturer. In this respect, it is interesting to note that the number of torture cases mentioned in reports are limited, but information on some individual cases are pervertedly even sado-masochistically detailed.

It is quite easy to establish a network of communications which could be used to present the existence of a so-called 'consistent pattern of gross and reliably attested violations', with a sufficient number of allegations of torture episodes based on a prototype.

In principle, a legal and judicial system depends on the morality and integrity of the people who administer it. In the case of Turkey AI considers police as torturer, prosecutors as collaborator, judges as lackey and doctors as charlatan. Had it been true, there could have been no legal safeguards on earth to prevent the human rights abuses in Turkey. Perhaps for this reason AI seems to be after an ideally composite system which may respond better to the aesthetic requirements of Greek sculptors rather than to the realities of a semiclosed social system with constraints which is called country.

Since there are no objective rules, reliability of communications calls for an almost pious honesty. But AI is politically motivated against Turkey. Therefore its communications are unreliable. As a result we have systematic allegations of torture rather than allegations of systematic torture.

Although AI does not highlight in its reports, Turkey is party to all international treaties and mechanisms, and accepted international jurisdiction against torture. Although AI seems to forget, Turkey is a democratic country with a highly competitive multi-party system for 50 years. Although AI overlooks, Turkey has an extremely critical and free press. Although AI underestimates, the judiciary in Turkey has an almost 150 years of independent tradition.

Only through these optical errors, then, can AI act in a way which implies support to an ethnic terrorist struggle against a democratic country. Profession of high aspirations does not

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determine whether a group is terrorist or not. But the method of struggle does. If they kill women, children, old and innocent they are terrorists.

When similar acts are committed in the West, they are outrageously denounced as terrorism and treated as enemies of human rights and the rule of law. Why this double-standard in the case of Turkey, unless AI and some other consider Turkey and Turkish society as intrinsically evil.

Mr. Chairman,

Turkey is not one of those countries whose relations with the West present no peculiarities. We have special historic relations which have accumulated a large catalogue of prejudices. We are the Leviathan of Hobbes, 'oriental despot' of Montesquieu, Holopherne of the Venetians, anathema of the popes and, what not. In short we are the 'negative self' of the West onto which the West projects its own undesirable parts in a way reminiscent of racism, hence the relationship between racism and human rights as far as Turkey is concerned.

We never said that we were perfect, as no one is. We admitted that we had torture incidences, though declining, that we were doing our best to prevent them. But gross exaggerations continue unabated. Instead of giving misrepresenting quotations, AI should pay attention to Turkish public opinion and the press which had initially lent a willing ear to its criticism. They now seem to be at a turning point where a general sentiment of revolt is emerging against the politically motivated hostile attitude bordering racism towards Turkey.

I will not dwell on the last report of AI for it does not reflect the recent legislative changes in Turkey which I have already forwarded to Chairman Mr. Joinet which will be distributed as a document.

Thank you.

**Commission on Human Rights, 49th Session, 15th
Meeting, Situation of human rights in the territory of the
former Yugoslavia (E/CN.4/1993/SR.15)
10 February 1993**

Mr. AKTAN (Observer for Turkey) said that the situation in the territory of the former Yugoslavia was very simple indeed. When the former Yugoslavia had disintegrated, there had remained outside the borders of Serbia large groups of Serbs in Croatia and Bosnia and Herzegovina. Serbia had been legitimately concerned about the fate of those Serbs. Its concerns could have been met within the Conference on Security and Cooperation in Europe, but Serbia had chosen to annex the areas in which the Serbs lived. Not content with its territorial conquest, it had then expelled other ethnolnational groups from the territories. Thus, Greater Serbia was associated with the most painful and criminal ethnic cleansing in history. In that process, every human right had been violated.

For the first time in history, genocide was taking place in the full view of the international community, which had not only failed miserably to avert and punish it but it was also preventing the victim from effectively defending itself. The Government of Bosnia and Herzegovina had been literally forced to negotiate with war criminals while the latter were carrying out ethnic cleansing and massacring, destroying, bombing and raping. The outcome of the negotiating process was bound to reflect that situation.

The international community was discrediting itself by posturing as an objective and impartial observer and by distributing the blame for committing violations among the warring sides in an obvious attempt to conceal the fact that it had made the situation possible by failing to stop the aggression in the first place. Everyone knew who had committed ethnic cleansing and the other

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crimes and violations but the party which had merely tried to defend itself was being accused of committing violations and of feeling hatred towards its victimizer.

The last straw had been the pretext of interim arrangements in order to dissolve the only legitimate authority in Bosnia and Herzegovina. That was the way the international community saved a country it had recognized.

It had frequently been said that the war was not a religious one but no evidence had been submitted to vindicate that statement. To say the least, the vacillation between the use of force to protect the Muslims and their abandonment to the fate of genocide revealed an incomprehensible ambivalence in the Christian West towards Islam. The sectarian attitude of the Serbs, who had branded the most secular Bosnian Muslims as fundamentalists, with the support of some Orthodox countries, strengthened that impression in the eyes of the Muslim world.

The international community had laid a sinister trap for itself and had prepared the ground for ethnic cleansing in Kosovo, Sandzak and Vojvodina. Similar events of much greater magnitude were bound to occur next in other parts of Europe with apocalyptic consequences. In the midst of their political integration process, the Europeans had reverted to the balance-of-power conditions which prevailed before the First World War. They were lining up among themselves and against one another. Countries and groups of countries were being characterized as pro-Orthodox, pro-Serb, pro-Catholic and so forth. A simple moral issue which should have been dealt with on its merits had turned into a realpolitik quagmire.

**Commission on Human Rights, Second special session,
1st Meeting, (E/CN.4/1992/S-2/SR.1)
30 November 1992**

Mr. AKTAN (Turkey) expressed gratitude to the Chairman and members of the Commission for supporting the call of the United States and Turkey for the convening of the second special session of the Commission. The dangerously worsening crisis in the former Yugoslavia, particularly in Bosnia and Herzegovina, warranted the urgent attention of the, international community. It was also appropriate for the Commission to discuss and act upon the reports of Mr. Mazowiecki, the Special Rapporteur it had appointed.

His delegation, together with that of the United States, had submitted a draft resolution incorporating many suggestions made by a large number of countries from the Organization of the Islamic Conference (OIC) and the Western and other groups during extensive consultations. Despite some shortcomings, the draft had the merit of faithfully reflecting the situation in Bosnia and Herzegovina, distinguishing between victim and victimizer and defining the nature of the crimes committed there.

The sponsors hoped that the draft resolution would be adopted by consensus. They would welcome as many co-sponsors as possible so as to show that religious or regional differences played no part in their attitude towards the tragedy. Although there were differences of approach as to how to deal with the crisis in the politico-military sphere, there should be no divergence in assessments of the human rights and humanitarian aspects of the question, aspects which were essential to the deliberations in the Commission. The draft resolution was strictly confined to the findings contained in the reports of the Special Rapporteur, to whom profound appreciation was due.

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Like the Special Rapporteur, Turkey believed that the underlying cause of the tragedy in the former Yugoslavia was the ultimate goal of creating a Greater Serbia through the incorporation of "ethnically cleansed" parts of Bosnia and Herzegovina and Croatia. The aggression to that end had been perpetrated by the Yugoslav army in Croatia and, after its ostensible withdrawal, by the relocated Yugoslav forces and their heavy weaponry in Bosnia and Herzegovina. The existence of Serbian irregular and paramilitary forces was being used by the Belgrade regime as an excuse to deny responsibility for atrocities and war crimes which in fact were not only condoned but also commissioned by it. As the Special Rapporteur noted, ethnic cleansing was openly pursued on the territory of those parts of Bosnia and Herzegovina and Croatia which were under Serbian control.

Thus the international community was compelled to conclude that the aggressor was Serbia and the self-proclaimed Serbian authorities under the direct influence and control of Serbia. The aggression was directed against two sovereign States Members of the United Nations, and hence against international peace and security. He agreed with the Special Rapporteur that a factor which had contributed to the intensity of ethnic cleansing in areas under Serbian control was the marked imbalance between the weaponry in the hands of the Serbian and of the Muslim population of Bosnia and Herzegovina.

The Muslims in Bosnia and Herzegovina were the principal victims of the aggression, which involved ethnic cleansing and indiscriminate shelling of the civilian population in the besieged cities, towns and villages. The distinction between aggressor and victim should not be blurred by claims that human rights violations were perpetrated by all parties to the conflict. The unjustified violence that had been unleashed by Serbia had inevitably provoked a defensive reaction on the part of Bosnia and Herzegovina. It was a fact that when there was unjust violence of such magnitude and nature, violations were unavoidable. However, as the Special Rapporteur had clearly stated, in the areas under the Government's control, violations associated with ethnic cleansing were not committed in a systematic fashion and did not appear to form part of a deliberate campaign to cleanse those areas of the Serbian population. To be just, fair and balanced, any judgment by the international community should take that difference into account.

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Ethnic cleansing was defined in Commission resolution 1992/S-1/1 as entailing at the minimum deportations and forcible mass removal or expulsion of persons or destruction of national, ethnic, racial or religious groups. The Special Rapporteur defined it as the elimination by the ethnic group exercising control over a given territory of members of other ethnic groups (A/47/666-S/24809, para. 9). The inhuman practices employed in Serbian controlled areas as a means of achieving ethnic cleansing included threats, harassment and intimidation; shooting or using explosives against homes, shops and places of business; destruction of places of worship and cultural institutions; transfer or relocation of populations by force; summary executions; and commission of atrocities calculated to instill terror among the population, such as torture, rape, the mutilation of corpses and the shelling of civilian population centres.

Taken separately, those elements of ethnic cleansing could be considered as violations of the individual provisions of international human rights law and humanitarian law. However, considering their magnitude in terms of massive and grave violations as well as their cumulative and simultaneous effect on the target group, ethnic cleansing of such proportions amounted to a crime against humanity.

To date; 10 per cent of roughly 2.5 million Bosnian Muslims had either been killed or wounded. Half had been displaced or made refugees. Half a million were suffering indiscriminate shelling in besieged cities, towns and villages. According to the estimates of the Office of the United Nations High Commissioner for Refugees (UNHCR), 400,000 would perish in the winter cold unless urgent and adequate assistance was provided. No one could claim that the remaining fifth of the population was unaffected. The Convention on the prevention and Punishment of the Crime of Genocide provided that killing members of a group with intent to destroy it in whole or in part was sufficient to fulfil the conditions of that crime. The Special Rapporteur in turn solemnly warned the international community that ethnic cleansing might be imminent in certain parts of Serbia and Montenegro where there were large communities of persons not of Serbian origin, such as Kosovo, Sandzak and Vojvodina, and that the Muslim population, together with its cultural and spiritual heritage, was virtually threatened with extermination in Bosnia and Herzegovina.

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The question arose whether the final solution of the ethnic cleansing policy should be awaited before it was declared as genocide. That question was being put to States by the draft resolution. The continuation of that policy presumed the inability and unwillingness of the international community to enforce compliance, for thanks to the Special Rapporteur's reports, it could no longer claim innocence. Time was short. The coming winter would further inflict on the Muslim population conditions of life calculated to bring about its physical destruction in whole or in part by the aggressor, as provided in article II (c) of the Genocide Convention.

The disaster that had reached apocalyptic proportions in Bosnia and Herzegovina was a crucial test for the present generation. It must not let history repeat itself. Inside the former Yugoslavia the question was whether the Muslim population would survive. Outside the country, however, the question was whether the world in the aftermath of that tragedy would be worth living in.

**Commission on Human Rights, Sub-Commission on
Prevention of Discrimination and Protection of Minorities,
45th Session, 13th meeting,
11 August 1993, Geneva**

Mr. AKTAN (Observer for Turkey) noted that a new approach to problems concerning human rights seemed to be emerging within the United Nations. Instead of condemning human rights violations wherever they occurred, people were now trying to analyse their underlying causes and to create conditions enabling those violations and obstacles to the exercise of those rights to be reduced and eventually eliminated. The countries where gross violations of human rights were committed could be divided into three main groups: the first consisted of countries under foreign occupation, the second of countries under authoritarian and dictatorial regimes, and the third of countries faced with internal strife. An examination of the situation in those three groups of countries led to the conclusion that their problems were in fact due to difficulties in implementing the right of self-determination. That right was reaffirmed in the Vienna Declaration, where it was defined as the right of peoples to “freely determine their political status, and freely pursue their economic, social and cultural development” (para. 2) and was associated with democracy, since democracy was “based on the freely expressed will of the people to determine their own political, economic, social and cultural systems” (para. 8). Consequently, “the denial of the right of self-determination” was to be considered “as a violation of human rights” and all other violations of human rights stemmed therefrom. The international community was thus called upon to strengthen and promote democracy, development and respect for human rights and fundamental freedoms throughout the world, in order to eliminate violations.

Foreign occupation was another major form of violation of the

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right of self-determination. It was therefore paradoxical that Bosnia and Herzegovina should be the victim of cruel aggression under the pretext of achieving the Serbs' right to self-determination. His delegation was grateful to the Sub-Commission for the declaration that it had adopted on Bosnia and Herzegovina. It nevertheless regretted that there had been no mention of genocide, since the Bosnian case set an example which other countries also affected by extreme nationalism might wish to imitate. Of course, it was for the International Court of Justice to decide whether what was happening in Bosnia and Herzegovina could or could not be assimilated to genocide, but pending the Court's verdict, time was passing and soon only punishment and not prevention would be possible. Yet, in that area, prevention was of the essence. His delegation therefore wondered whether the Sub-Commission might not discuss the issue and formulate an expert opinion. The World Conference itself had unanimously adopted a decision condemning the situation in Bosnia and Herzegovina as genocide. It therefore seemed abnormal for the international community not to react. The reason was that some countries thought that, however ugly and painful it might be, the situation in Bosnia and Herzegovina was closer to a war than to genocide. The Sub-Commission might therefore clarify what should be understood by the words "intent to destroy ... a ... group", as contained in the definition of genocide set forth in article II of the Convention on the Prevention and Punishment of the Crime of Genocide. In the last resort, what was genocide? Did there have to be a "reason" for the mass killing of civilians in a war in order to be able to call such action genocide? It was important to clarify that point, since in the not too distant future the world might be facing other similar wars waged mainly against civilian populations.

The last group of countries where violations of human rights were being committed were those facing internal armed struggle. Since the collapse of communism and the disintegration of some former communist States, the number of armed struggles of ethnic character had increased dramatically. At the present time, many countries were experiencing ethnic terrorism, a term justified by the generally terrorist character of the violence generated by such struggles. In that connection, he recalled that paragraph 2 of the Vienna Declaration, concerning the right of peoples to self-determination, and paragraph 17 of the same Declaration, concerning terrorism, had been negotiated together in the informal

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group of the World Conference on Human Rights. Those two paragraphs contained some very important new elements.

The second subparagraph of paragraph 2 authorized peoples under colonial or other forms of alien domination or foreign occupation to take “any legitimate action ... to realize their inalienable right of self-determination”. Some delegations had wanted a distinction to be made between terrorism and a struggle for self-determination. His delegation, for its part, had wanted to replace the concept of “legitimate action” by that of “legitimate struggle”. Unfortunately, those proposals had not been supported. The Vienna Conference had also reaffirmed the validity of the section of the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations which concerned the application of the principle of self-determination in States with a democratic regime. It was easy to understand why the international community could not tolerate an interpretation of that right which would “dismember or impair ... the territorial integrity or political unity” of democratic States.

In paragraph 17 of the Vienna Declaration, terrorism was described as an activity “aimed at the destruction of human rights, fundamental freedoms and democracy, threatening territorial integrity ... of States and destabilizing legitimately constituted Governments”. In addition, the international community, including NGOs, was called upon to “take the necessary steps ... to prevent and combat terrorism”. In no circumstances did the Declaration justify terrorism by an absence of collective rights. It should not be forgotten that democracy and socio-economic development did not automatically solve problems linked to ethnic aspirations. They merely created the conditions that permitted a peaceful struggle for the promotion of the rights of ethnic minorities without destabilizing legitimately constituted Governments or threatening the territorial integrity and political unity of States. Yet it was public knowledge that certain NGOs implicitly and indirectly supported terrorism as a response to alleged Government repression or as a means for promoting the rights of ethnic minorities. Those NGOs should realize that their position on terrorism at the present time was totally devoid of legality.

**Commission on Human Rights, Sub-Commission on
Prevention of Discrimination and Protection of Minorities,
45th Session, 24th meeting,
19 August 1993, Geneva**

Mr. AKTAN (Observer for Turkey) said that an important reform had been introduced in the field of criminal procedure in Turkey. Along with the reform, many new provisions relating to the Act on State Security Courts, Act on the State of Emergency, Act on Combating Terrorism and the Act on Duties and Powers of the Police had also been amended. He expressed thanks to Mr. Joinet who had summarized the reform in a concise and objective manner in his report on the independence of the judiciary (E/CN.4/Sub.2/1993/25). However, unfortunately, the reform had been overlooked in the report which had been prepared by Mr. Chernichenko and Mr. Treat (E/CN.4/Sub.2/1993/24). The paragraph in the report on Turkey could not be regarded as accurate and complete unless it contained at least a brief reference to the reform.

Speaking under agenda items 10 and 11, he said that a state of emergency was usually resorted to in order to deal with a major breakdown of law and order caused by armed groups.

Governments could not derogate from the internationally-defined set of fundamental human rights and freedoms in their fight against armed groups. In that respect, they had contractual obligations and were accountable for any subsequent breach of them. Conversely, Governments were authorized to repress armed groups while respecting non-derogable rights. In principle, the international human rights community was supposed to refrain from passing judgment on who was right and who was wrong in a conflict. In reality, neither countries nor international

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organizations where they were represented, nor NGOs were disinterested parties in such a situation. They manifested their sympathies by way of criticizing human rights violations of one party and condoning those of another.

According to a well-established pattern, most Western NGOs supported the struggles of ethnic armed groups and condoned their violations. Those NGOs appeared convinced that ethnic terrorism was a response, perhaps painful, violent and costly, but an unavoidable, even necessary response to prior government repression. In their views, once Governments had learned to grant and respect ethnic rights and freedoms, terrorism would come to a natural end. In any case, the gross violations committed by States which amounted to "State terrorism" should cease in the first place.

With regard to issues related to terrorism, general wars, civil wars, revolutionary wars, wars of national liberation, resistance movements against foreign occupiers, insurrections and mob violence had all been accompanied by terror. However, they could not be called terrorism.

Terrorism was a sub-State violence perpetrated by a limited number of individuals against the State. An armed group which consistently resorted to terrorist acts, methods and practices over a reasonably long period of time could be qualified as terrorists.

In an attempt to avoid calling a group "terrorist", the word guerrilla was sometimes used. According to Webster's Dictionary, a guerrilla was someone who carried on an irregular war in connection with a regular war waged by a foreign power. Therefore, a guerrilla war should not be confused with an ethnic terrorist conflict whose parties were the nationals of the same country. The fact that the guerrilla force could be larger than the average terrorist group did not cleanse the guerrilla from the label of terrorist, for the criterion was not the size, but the extent to which a group resorted to terrorism.

Random attacks on innocent civilians were the most important component of terrorism. The main purpose of terror was to induce fear, panic and shock in society. The media gave higher profile to shocking news. The element of random attack terrorized the public and undermined political order.

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There had never been clean forms of terrorism. But if one had to make a historical comparison between the anarchists and revolutionaries of the late nineteenth and early twentieth centuries and present-day terrorists, one could conclude that there had been a radical deterioration in terrorist ethics, so to speak. New brands of terrorists had little in common with their idealistic, naive, poor, anonymous, amateur and self-sacrificing predecessors. Present-day terrorists included narco-terrorists, very rich ones, terrorists who were sponsored by other States as a mode of warfare by proxy, indeed simply as a substitute warfare, terrorists who ran expensive operations, employing and paying large numbers of militants, professional terrorists who had been reared and commissioned by foreign Powers, and ethnic terrorists killing mostly the people in whose name they claimed to fight.

As paradoxical as it might sound, government repression on an ethnic group was not a necessary condition or the cause of terrorism. If government repression were as large-scale and violent as had been alleged by some NGOs, mass insurrections rather than a limited terrorist response would have risen up against those governments.

The only political context in which terrorism had not happened was in truly oppressive regimes and totalitarian States where terrorism might perhaps have been morally justified. Historically, terrorism had almost always emerged in the declining and dissolution phase of the multi-ethnic and multi-religious empires, in the democratization process of States, or simply in democracies. The causes of terrorism in those contexts were not obvious. Frequently the path of terrorism was chosen even before other political options had been tried.

Socio-economic grievances did not necessarily lead to terrorism either, for terrorism occurred both in the context of economic depression or underdevelopment and economic prosperity.

In short, the connection between terrorism and objective factors was tenuous. There was a great deal of terrorism without injustice and oppression and a great deal of oppression without terrorism.

The claim that terrorism happened in countries where violence was embedded in the political culture was tendentious, for all political cultures were predisposed to violence which emerged at various periods in their history.

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The role of leadership was crucial in ethnic terrorism. If the presence or absence of one leader played a crucial role in the Russian revolution of 1917, or in the rise of fascism in Europe, how much greater was the role of “accident” in the emergence of a terrorist leader. The personal motivation and intentions of individual leaders could have an extraordinary potential for destructive or the constructive shape of events, and it was upon the reservoir of positive and negative emotions that leaders played when they sought to mobilize the populace. Ethno-nationalist leaders had a seemingly endless store of hatred, fear and desire for the redress of historical hurts and grievances between ethnic groups. The leader of an ethnic terrorist group was the one who did not perceive the sources of violence in his group, instead concentrated on his group's victimization by the violence of others and tried to mobilize his followers for a new aggression to redress past wrongs and to strengthen the ethnic identity on the basis of killing “the other”.

Unlike ethnic groups which may struggle for cultural, linguistic and religious rights, ethnic terrorist did not aspire to anything less than independence within a given land. Therefore, granting ethnic rights did not lead to a decline and eventual disappearance of terrorism. When the terrorist group threatened the majority's territorial integrity and political unity, the struggle turned into a zero-sum-gain, whence its violence. The ethnic terrorist enterprise ran into insurmountable difficulties in the sense that ethnic groups had largely intermingled over the territory of the country and the delineation of a land on the basis of ethnicity required an extremely painful ethnic cleansing, as could be seen in Bosnia and Herzegovina.

Thus far, no terrorist group had succeeded in its goals. Even if it was doomed to failure, terrorism had an innate tendency to continue. To succeed in achieving its espoused cause would threaten the goal of survival. It had to be successful enough in its terrorist acts to perpetuate itself, but it should not be so successful that it would put itself out of business.

The fact that ethnic terrorists rebelled against the State (paternal symbol) to dismember a piece of land (maternal symbol) turned the terrorist into a guilt-ridden regressive undertaking. As a result of that situation, also, terrorists did not wish to attain success. Success unconsciously meant the realization of the goal

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that engendered guilt-feelings in the first place. Therefore they feared such success. To redeem themselves they unconsciously looked for punishment from the political authority. The foolish mistakes they always made testified to that fact. Religious, fundamentalist terrorists did not suffer feelings of guilt because of their faith. Hence, they remained at least partly outside the scope of such an analysis.

Despite those pathological characteristics of terrorism, it was surprising to see that there were supporters of terrorism, along with its more understandable opponents. The question arose of how some intelligent people could defend terrorism.

An experienced psychoanalyst drew a parallel between reactions caused by patients in a clinical setting and by terrorists in national and international contexts. When a hospitalized patient presented one side of his character to certain staff members and the other side to others, that often caused the staff to take highly polarized positions regarding the patient. If left unrecognized and unresolved, projective identification often led both in clinical settings and political arenas to a regressive and polarizing group process. Then a confused response to terrorism occurred. That served to enhance the feelings of justification and victimization of the terrorist.

That situation was occurring in some western human rights circles. The sympathies of some NGOs with ethnic groups could be explained as an unexpected outcome of the European integration process.

The purpose of analysing NGO attitudes was not to discourage or deter them from criticizing human rights violations and their perpetrators. On the contrary, if they recognized and resolved the psychological mechanisms at work in them, they could more objectively and soundly develop and direct their critical faculties.

**Commission on Human Rights,
51st Session, 32nd Meeting,
Question of the human rights of all persons subjected to
any form of detention or imprisonment, in particular
torture and other cruel, inhuman and degrading
treatment or punishment**

E/CN.4/1995/SR.32 24 February 1995

Summary Record of the meeting held on 20 February 1995

Mr. AKTAN (Observer for Turkey) said that his country was being subjected to an intense campaign of unfounded allegations by some non-governmental organizations (NGOs). While it was not unusual for NGOs to exaggerate violations, the exaggerations in the case of his country came dangerously close to being outright lies. It was clear that the NGOs in question, such as Amnesty International and Human Rights Watch, were politically motivated and his Government certainly did not regard them as "impartial humanitarian bodies" within the meaning of article 3 common to the Geneva Conventions. Furthermore, the prevailing approach to human rights within the United Nations focused exclusively on the concept of violations, thereby overlooking other essential legal parameters.

Violations were committed in the context of violence generated by a conflict. An effective human rights system should thus determine first of all whether violence was legitimate in a given situation. Guidelines in that regard were to be found in the preamble to the Universal Declaration of Human Rights, the Vienna Declaration, and the Declaration on Principles of International Law. Indirect aggression by means of surrogates was

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a form of violence prohibited by the Charter and by United Nations General Assembly resolution 3314 (XXIX) (Definition of Aggression). However, his delegation had never heard any representative of a Government or non-governmental organization denounce the violence initiated by armed groups on those legal premises; still less was it aware of any resolution containing such a denunciation.

The first major flaw in the human rights system was thus that violence against States had become permissible in all circumstances, on the apparent assumption that violence was a practical means of promoting human rights in any country except one's own. In fact, any organized violence, even if theoretically free from terrorism, was bound to inflict considerable suffering on civilians, given the high destructive capability of modern weapons and the fact that contemporary conflicts usually took place in civilian areas. It was thus essential not to encourage or support violence under the pretext of promoting human rights.

The human rights system also turned a blind eye to the method of combat practised by armed "guerrillas", including the use of terror to subjugate members of the ethnic group on whose behalf they were allegedly fighting. Moreover, persons participating in a "guerrilla" war effort were wrongly regarded as civilians. The very use of the word "guerrilla" - rather than terrorist - indicated bias, when the movement concerned did not come within the scope of article 1, paragraph 4, of Protocol I Additional to the Geneva Conventions.

The second major flaw in the system was that no resolution existed to outlaw the type of combat he had mentioned and no mechanism to report to human rights forums the many thousands of innocent civilians massacred by armed terrorist groups. The result was that a false picture was painted, especially by the NGOs, in which States appeared to be massively violating human rights and brutally repressing those whose only fault was to ask that their human rights be respected. No consideration was given to the question of who had initiated the armed struggle, what methods of combat they engaged in, and who was actually killing civilians. The implication was that State repression was the main cause of the problem and that, once the State halted that repression and granted "legitimate rights" to the populations which backed the armed groups, terrorism would come to a natural end.

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The third major flaw in the system was thus its politicization by the NGOs and some States, and its increasing divorce from legality. To that end, the NGOs conveniently confused human rights law with humanitarian law, with the aim of creating suitable conditions for ethnic groups to take up arms. In that way, whether deliberately or unwittingly, they contributed to ethno-nationalism and tribalism.

The three major flaws he had mentioned were largely responsible for the spread of violence against States and impaired the ability of the human rights system to curb the rise in violations and to promote democratization. Consequently, more and more political orders were crumbling. Encouragement of violence by the human rights system must cease. Governments, and NGOs with their politicized and legally confusing and confused approach, would bear a heavy responsibility if the United Nations human rights system, which had always been ineffective, were to become irrelevant or even absurd.

**Commission on Human Rights, 51st Session, Geneva
6 March 1995, Statement made under agenda item 12**

Mr. Chairman,

As you must notice, NGOs have privileged my country with intensive criticism. We are grateful to them for their very 'objective', 'disinterested' and 'depoliticized' approach towards Turkey. We admire the 'depth of their analyses' and 'knowledge of the human condition'. We particularly appreciate their 'wisdom', 'moderation' and 'eloquence'. They displayed 'a purity of heart' subtly combined with 'a profound sense of honesty'.

Thanks to these NGOs, I now realize that the human rights violation in Turkey are incomparably more serious, frequent and wide-spread than those in Bosnia, Chechnia or Armenian occupied Azeri homeland etc.

I think, Mr Chairman, in order to save humanity from the scourge of violations which are committed by evil governments, we should double the number of NGOs (of the same quality) and increase the time allocated to each of them in our meetings.

I don't know why all of a sudden recalled the famous book of Jean Christophe Rufin entitled "Empire and the New Barbarians" when I was listening to these NGOs.

In reality, neither the Empire nor the barbarians are new. The same play is enacted under different historical circumstances. The Roman Empire had entertained such attributes as unique and universal. Pax-Romano had been the basis of universality over large territories or countries. Since all or almost all nations have withdrawn behind national boundaries the mission of universality is now fulfilled by the spread of democracy and human rights.

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NGOs of the contemporary 'empire' play their role to that end. This forum is one of the many for the universal dissemination, adoption, assimilation and application of human rights. Most of the 'barbarians' here also agree that respect for human rights is good for them. They willingly expose themselves to imperial monitoring and criticism.

Nevertheless, some of the 'barbarians' are slightly disturbed at the present practice which seems to be geared to promoting the rights of minorities or ethnic groups, while neglecting somehow the promotion of the overall rights and freedoms that entire populations may enjoy together.

Their disturbance increases in seeing that violent methods, including terrorism in their countries are condoned as a means of securing human rights. They are told that what ought to be condemned in the sphere of human rights is the violations committed by the states in combat against terrorist violence, that terrorists are more innocent than the innocents killed by them, and that they'd better recognize peacefully the rights demanded violently, or else face smear campaigns.

Countries like Turkey which happen to be in the limen (the threshold or buffer of an empire) have a special place in this equation.

They are the ones which have voluntarily assimilated the values of the 'empire' in the name of civilization. By some divine intervention, they face ethnic struggles which elicit particularly virulent attacks from the 'empire' and its NGOs. They are told however is a blessing for them, for they are considered as an integral part of the 'empire'. Wasn't it true that the 'empire' had used them in history as its negation and its opposite or as oriental despotism, Antichrist, Leviathan, Holopherne, and what not. Is it possible that their resemblance to the 'empire' beyond a certain point is not really sought for?

At this point, one starts to have a vague sense of suspicion for the price-tag of belonging is exorbitant i.e. dismemberment of the country. You are immediately assured against this danger. Although the 'empire' makes attempts to universalize human rights and freedoms, you surmise that it seems to believe that it is the only depository of these values, that others are not culturally fit to

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borrow them. Then you cannot help recalling the other historical attribute of the empire, namely its uniqueness.

One's suspicion grows when one perceives that immigrants from the limen are treated as racially inferior within the 'empire', subjected to racist violence, ending up living in segregated areas, deprived of some essential rights. The real universality which presupposes the equality of human beings, however, could not be compatible with racism.

In this context, one initially finds it difficult to explain the contradiction between racism towards immigrants and the excessive interest of the NGOs in the rights of the ethnic groups in the immigrants countries of origin. Later, however, one senses that there might be a link between these two basically opposite attitudes.

A closer look reveals that, despite the aggressive tone and frenzied attacks of the NGOs on the countries of immigration, their aim is defensive. What these NGOs really mean by their wild criticism is that the countries which allegedly treat their ethnic groups unjustly are culturally inferior and that their diaspora in the 'empire' can be justifiably treated as racially inferior.

In the international scene there are some other, perhaps more important, cases which may support this analysis.

The populations of Bosnia-Herzegovina and Azerbaijan have been subjected to massive attack by armies and irregulars indiscriminately employing heavy weapons against civilians. As a result, civilian casualties have reached exceptionally high figures, civilian targets necessary for the survival of civilians deliberately destroyed and settlements as well as cultural and religious monuments utterly devastated. Apart from the untold suffering of the survivors deprived of the minimum requirements of life for long times, multitudes have also been displaced or made refugees, leaving behind ethnically cleansed areas.

The civil war in Chechnia created conditions, in some respects, even worse than the other two international conflicts. In Chechnia an indiscriminate and massive repression executed by a heavily armed Russian military force brought about 24.000 civilian casualties including 3700 children and 4600 women in less than two months , with an immense civilian destruction and a displaced

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people reaching 1/3 of the total population of 1,5 million souls. Moreover these figures are presently on the rise.

It is interesting to note that in all these conflicts the suffering populations have one essential aspect in common, namely, the Muslim religion. They also share it with those who are mostly subjected to racial humiliation elsewhere. And in all these conflicts, the influential segments of the international community together with their NGOs remained relatively indifferent to the most atrocious violations, even punished the victims. Then you remember that the aggression in each case is justified by the scepter of Islamic fundamentalism, a phenomenon which unwittingly the 'empire' encourages and fears in an ambivalent manner.

Armenia as a country on the margin of the 'empire' exploits these weaknesses of the 'empire'. She justifies her aggression against Azerbaijan with reference to an illusory past victimization created by a perverse interpretation of history.

Is the famous of Prof. Huntington right after all, that the future struggles will take place along the fault lines of civilizations, i.e. religions.

The countries with Muslim populations have hitherto been very careful not to give impression that a kind of religious confrontation is in the offing. This onus should be shared by others. Toynbee, another great theoretician, says that an empire cannot survive while its immediate surrounding is in turmoil, an ominous development quite different from what is happening in the far-east.

In the meantime, the peoples who are carrying the heavy cross put on their shoulders cry out: 'O God, forgive them; for they know not what they do', while the skies singing; 'when will they ever learn?'

Thank you.

**Sub-Commission on Prevention of Discrimination and
Protection of Minorities, 43th Session, Agenda Item 18,
15 August 1991**

Mr. Chairman.

The question of minorities has gained prominence within the framework of human rights and fundamental freedoms. Most of the alleged violations are related in one way or another to national, ethnic, religious or linguistic groups which Mr. Eide gathered under the broad umbrella of minorities. While consciously avoiding a strict definition.

In our practice, minority as concept should be defined as such by specific instruments of international law. For instance the treaty of Lausanne in 1923.

Within this understanding, I shall make some general comments on the subject.

It is true, problems stemming from rapidly growing expectations of minorities destabilize many countries, constitute a threat to interstate relations and regional stability in various parts of the world.

In order to understand the question that we are facing and will surely face some time to come, we should look into the causes and the evolution this question has undergone.

Throughout history, minorities have always had problems almost in every country. So the sudden drive towards improving their sort might seem to be the natural consequence of the sensitivity created by the overwhelming importance that the human rights and freedoms have acquired in the contemporary

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world. Moreover, one might speculate that the democratization process, especially in the west, has deepened to such an extent that the fate of the fringes has come to the forefront.

These seemingly plausible explanations do not stand however the test of an in depth analysis.

I think the increased concern for minorities has originated within the EC roughly 20-25 years ago.

European integration has created conditions of lasting peace in such a way that the old fears and suspicions aroused by the political manipulation of minorities have been removed for good. This is especially true for the great continental powers which were the center-pieces of the European architecture. Under these secure and suitable conditions, they afforded more recognition and less discriminatory treatment to their minorities. In this respect, their record is still far from perfection since. For instance, some of them cannot pronounce the word minority for their own groups, or almost all have some problems with respect to migrant workers by far the most populous group among aliens. But this situation does not hamper the efforts to promote minority rights in other countries, which in their own regions do not enjoy the security conditions prevailing in Europe. Indeed, one perceives in these efforts of the existence of a secondary objective in terms of compensating for the racially oriented poor record related to migrant workers.

At a later stage of European integration, intensively debated aspirations of European federation, transfer of sovereignty to the supranational authority as a gradual process and deliberations on the political union started slowly eroding the rigid and powerful concept of nation-state. Falsely or not, this gave a vague but wide-spread impression that the nation-state began to disintegrate while integrating into a greater whole. In this process, minorities and regions were considered by some as the building blocks of the European integration. But others conceived it as a return to retribalization. Ultra-rightist parties emerged under these conditions to defend national unity against possible disintegration and purity against the alarmingly increasing aliens. The possibility of a return of pre-war fascism haunted the imaginations.

More or less, the same time, the global economic crisis provoked

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by the successive oil shocks brought about the collapse of the post-war socio-economic model together with it the European democratic left which having lost its original "raison d'être" either turned into liberal or assumed one of the three new vocations, namely pacifists, ecologists or human rights defenders.

In the last role, for reasons not yet known to us, they identified themselves mainly with the minorities and to a lesser extent with leftist ideological groups in other countries, especially in developing ones, defending their minority rights as if fighting for their own survival. It is interesting to note that most of them avoided identifying themselves with migrant workers who happened to be their immediate neighbours while minorities whose rights were defended happened to live in conveniently far away lands.

By identifying the European ultra-right with countries which were allegedly persecuting their ethnic or ideological minorities they tried to contain the growth of the former and fought for the respect of minority rights in the latter with an equal zeal.

I stress, I don't claim that all NGO's and individual human rights defenders are motivated by the mental mechanism I have just described. Especially the young generation should be unaffected by these motives unless they have culturally inherited them. This analysis is inevitably a generalization.

But, if it is correct with a reasonable margin of error, some conclusions can be drawn:

Firstly, the activities of human rights groups focus in a lopsided manner on ideological and ethnic minority rights neglecting somehow other rights enunciated in the Universal Declaration including the promotion of democracy and democratic institutions.

Secondly, these activities are totally indifferent to the territorial integrity of the states, and to peace and stability in inter-state relations because these concerns have nothing to do with the parameters within which their own internal mechanism and drive operate.

Thirdly, countries accused of minority rights violations having been identified with the European ultra-right cannot escape being

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a-priori considered as basically evil, and their credibility together with their dignity has become an object to be destroyed.

Fourthly, this concern for the minority rights in other countries which happen to be usually developing ones has not been engendered by the real needs of the minorities in question. Rather, it is the outcome of a specific evolution and configuration of political forces in Europe. Therefore, it is difficult to speak about a purely civilizing, progressive or humanistic mission in the whole enterprise.

Nevertheless, the missionary traditions of the west were inherited by the new adepts of this creed who raised the expectations of the minorities all over the world. In their own words they now "monitor" or "supervise" single mindedly and with a missionary zeal the human rights violations created as a result of the ethnic strives everywhere with enormous sufferings for all concerned.

We are however grateful to them. Although unwillingly, they have started off a movement which could serve as a historic opportunity to establish fully democratic regimes based on respect for broad human rights and freedoms beyond minority rights. Nevertheless, there is one essential pre-condition, the mechanism, presently at work should be dismantled and removed from those who have it. Exogenous motives, irrelevant projections and identifications as well as political manipulations are the main culprits which further complicate an already very complex subject which is human rights.

In this respect, I wish to state our deep appreciation for the responsible, sensible and equitable way in which Mr. Eide has prepared his report, I believe that all of us should help him in his endeavours.

I have some specific points to make on one section of the report.

I see that Greece has replied the questionnaire. It is food.

First of all, we should confess that both sides have committed mistakes in the past with regard to the minorities in our respective countries.

Turkish people always remember the events of 6-7 September 1956 with profound sorrow and regret, despite the responsables

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were punished and a compensation important for that time was made to meet the material damage if not the moral one.

Greeks of Istanbul started leaving Turkey not after these events but after 1964, a date which represents the deterioration of intercommunal relations in Cyprus. Towards the end of the 1960's, the Greek economy flourished, whereas the Turkish one stagnated owing to the sharp ideological conflict. This situation further encouraged the Greeks of Istanbul who were mainly middle-class bourgeoisie to move to Greece. Another factor which contributed to this exodus was the exceptional measures of encouragement provided for expatriation in Greece.

The hopeful aspect of this unfortunate development is that the Greeks of Istanbul living in Greece now largely prefer to preserve their Turkish citizenship and their links with Istanbul. Although it is difficult for them to return in great numbers, Turkey from the mouth of its highest responsible made an invitation in Athens in Mid-1988.

Secondly, we wish to assure Greece that Turkey can have no designs whatsoever regarding Western Thrace. It stands ready to take up minority issues within the framework of the dialogue which we always ask to resume. Our sole aim is to see to it that the Turkish Moslem minority in Greece enjoy human rights and freedoms in accordance with the international law, its bilateral and international instruments, above all the treaty of Lausanne.

Let me summarize the problems this minority has been facing.

First problem is the identity of the minority. The minority professes its identity as Turkish-Moslem. Greece contends that the Lausanne treaty mentions only religious minorities. But in that case, we should call the minority in Istanbul not Greek but "non-Muslim" because this is the terminology in the treaty.

Furthermore, the members of the community are adamantly opposed to a division on racial grounds such as the one incorporated in the Greek reply that they are composed of Turks, Pomaks and Gypsies. According to the Copenhagen Document, paragraph 32 of the CSCE to which Greece is also party, the minority has the right to identify itself.

This problem required a new dimension with a court decision in

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1987, that is to say 65 years after the Lausanne treaty, o close the minority associations having the word "Turkish" in their names. Almost all of them have it. They resist this unfair and illegal decision and face closure.

Second problem is demographic. Greek Government seems undecided over the statistical information on the population figures. If we accept the figure of 114.000 put forward by the Greek delegation at the Lausanne Conference in 1923 and multiply it with the rate of increase of Turkish people both in Turkey and Greece the population of the minority should have been around 600.000.

Nevertheless, this figure remained 120.000 after 68 years. Therefore, the anemia is around half a million.

The main instrument to expell Turks of Greece is the famous or infamous article 19 of the citizenship act of Greece. This provides that the authorities may decide to deprive those of non-Hellenic origin of their citizenship if they conclude that they left the country for good. I don't think it needs any explanation. First, it has a racial approach. Second, their freedom to leave their country and return is severely restricted even prohibited. Therefore, unlike Greeks of Istanbul living in Greece, Turks of Greece living in Turkey could not preserve their Greek citizenship.

Thirdly, the members of the Turkish Moslem Community who are mainly farmers hence attached to land have been systematically deprived of land through large scale confiscations and encouragement measures to sell their land to Greeks. As a result, while the land they had possessed in 1923 had amounted to 80% of the cultivable land in Western Thrace, it was reduced to 20% although their population remained the same. This has created a general decline in their standard of living as compared to the majority.

Fourthly, they have severe problems in education. Minority schools face all kinds of oppressive and restrictive measures. As a result minority members are forced to send their children to Turkey which accelerates the exodus. It suffices to say that there is only two minority students in Greek universities.

Fifthly, the representation of the minority in parliament faces undemocratic practices and provisions. The new election law

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envisages for independent MP's to have a country-wide 3% vote average in order to be elected. This unusual law will bring to an end the short career of two minority MP's at the next election.

Sixthly, the minority being Muslim is different from the Christian majority. But, they cannot elect their own muftis who are appointed by the government of Christian creed. This is a most unusual practice never seen in any part of the world.

There are many other discriminatory measures which make everyday life miserable, such as construction permits. Traffic licenses etc...

I will not elaborate the events of 29 January 1990 during which 200 shops belonging to minority members were destroyed and 40 of them beaten by organized mobs in front of the police. Responsibles have not been apprehended and indemnity has not been paid up to now.

A last point, it is customary to mention the geographic names in the language of the country concerned. Therefore, Constantinople, Tenedos and Imbros should be changed as Istanbul, Bozcaada and Gökçeada in the report.

Thank you.

Executive Committee of the Programme of the United Nations High Commissioner For Refugees, 45th session, 491st Meeting, 4 October 1994, Geneva

Mr. AKTAN (Turkey) said that his delegation regretted that the effects of armed conflicts and media pressures forced the international community to take humanitarian action rather than to examine the root causes of the tragedies which produced refugees and displaced persons. In such circumstances, prevention remained an essential element of the UNHCR programme. However, it was difficult to forecast when a crisis might degenerate into a conflict and to sound the alarm in time. And there were some crisis-prone countries which knew how to live with their problems. International intervention of a preventive nature in such cases might well accelerate the process rather than eliminate the possibility of a conflict.

Violence had always been part of history. What was new was the attempt to control violence by nurturing human rights and democracy in situations of conflict marked by anarchy or famine. Democracy and human rights required not only a socio-economic infrastructure but also a political order, a prior condition of which was respect for State sovereignty, a concept sometimes regarded as obsolete.

However, it was not history alone which condemned the crises in various countries of the world. It seemed that a sudden dislocation in international affairs had caused virtually simultaneous upheavals in a very large number of countries. Ethnic, religious or cultural disputes were not the causes of such dislocation; they were its effects, and it was not certain that a preventive approach would be effective. Such an approach concealed a humanitarian trap which was much more serious than it seemed at first sight. It concealed the terrible fact that a political

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order which had collapsed was being restored by violence and that the rule of law which was supposed to restrain coercion by the State would be instituted only at a later stage. In the interim, acts of violence of every kind were part and parcel of the process.

Another characteristic of the humanitarian trap was the obsessive tendency of the international community to promote ethnic, religious and cultural rights as a means of stifling potential conflicts without any regard for the traditional balances in the countries concerned and thus to contribute to the problems which it would later have to solve. Such a situation was to be found, for example, in developing countries where a disintegrated political left seemed to identify its own pitiful fate with the fate of ethnic groups which appeared repressed, marginalized or despised. The NGOs, most of which were acting out their existential problems in a dislocated manner, could only exacerbate the problems of others, which were fundamentally different from their own.

The purely humanitarian approach could not compensate for the collapse of the North-South dialogue or take the place of the political will and action which conflict situations demanded. That was why a new order which had certainly degenerated into empty rhetoric remained the only comprehensive response to the ills of the post-cold-war era.

In her Note on International Protection the High Commissioner, aware of the gaps in the international legal regime governing refugees, had put forward the notion of "temporary protection". That revolutionary concept was the product of a pragmatic approach. When applied in practice, temporary protection should be used on a case by case basis and for a clearly limited period. After that period, the protection of the persons concerned must be taken over by the whole international community. Temporary protection should preferably lead to early voluntary return to the country of origin, where the necessary preparations for that eventuality would have to have been made. Any other option might invite refolement and thus the definitive refusal of that pragmatic solution. Such a flexible approach should be regarded as an expedient and not codified in any way.

**Statement made at the “International Conference on the
Protection of Victims of War”, 1 September 1993
(After the statement by Boutros Gali and Flavio Cotti)**

Mr. President

This is a timely conference.

We can take stock of recent experiences and try to devise ways and means to overcome difficulties. We can also undertake a soul-searching exercise to see where we made mistakes, if any.

It is obvious that international humanitarian law has been increasingly frequently and atrociously violated in the recent conflicts. What is more, we witness almost daily all kinds of violations on our TV screens. Our peoples sharply aware of the shortcomings of humanitarian efforts and extremely sensitised to the pains of the victims expect of us immediate, practical and effective response to this situation.

As a first step we will give them a thoroughly negotiated text of the Declaration, showing that we know the problem and that we committed ourselves to doing our best to ensure universal respect for the law.

However, unless we correctly assess the situation, our renewed commitments would be doomed to failure. In the past also, Parties to conflicts must have violated the rules of their customs and the law much more frequently and flagrantly than national histories admitted. The main characteristic of the present armed conflicts, however, is that the Parties' non-observance of the rules embodied in the Geneva Conventions has turned into a contempt for them.

New developments related to armed conflicts have adversely affected the behaviour of the Parties. It is quite possible that this is

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an ongoing trend since the Second World War. Growing mass destruction capability of conventional weapons together with the concept of total war resulted in an enormous increase in civilian casualties. Limited objectives of the previous wars gave way to life and death struggles of ideological nature during the cold-war era. Strategies of revolutionary warfare justified all means for prescribed ends.

Therefore, armed conflicts are now waged in a context where law, morals and ethics of war had already been largely eroded.

The changing character of the present armed conflicts further exacerbates violations. Wars are fought not by well-established States which are conscious of their obligations. Ethnic groups are the main Parties to the conflicts which broke out as a result of the disintegration of the States. These conflicts in turn accelerate the disintegration process. In many countries, they have already degenerated into tribal wars.

The only goal of these struggles is to expel the members of other ethnic groups from a given territory which is designated to be the exclusive homeland of one ethnic group, hence the ominous term of ethnic cleansing. Victimizers unscrupulously dehumanized centuries-old neighbors in order to feel justified to subject them to untold cruelties. To this effect they memorized almost automatically the real or mythological hurts they themselves had encountered in history. This gave them a sense of entitlement. In the grip of egoism of the victimized, they felt entitled to doing every evil in order to reach their objective without feeling any regret or guilt. They lost their empathy for others. They even dared to complain about genocide against them when only they themselves committed genocide against their victims.

The first casualty of these conflicts is humanity together with what human civilization painstakingly brought about in terms of ethos and institutions, including international humanitarian law.

Under these conditions I have some doubts as to whether our renewed commitment at this Conference to a more efficient implementation of the law would change this situation in a meaningful way.

It is true, war is a fact of life. Since we cannot eliminate it, at least we ought to protect its victims. But, this assessment is based on the

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supposition that the Parties to the conflict are responsible actors, not self-righteous bandits or terrorist gangs. It is now too late to disseminate the law and educate them. Moreover, once the disintegration process sets on, the previously educated ones regress so much that they abandon the minimum restraint and scruple.

Recently, we talk about preventive diplomacy. To be serious and to be taken seriously, we have to see to it that the present conflicts be justly resolved in the first place. If an aggression which trampled upon every possible rule of international humanitarian law is crowned with success at internationally organized peace negotiations, how could we expect future aggressors to be deterred by our preventive diplomacy? This is the case in point in Bosnia-Herzegovina, and this is what is unfolding in Karabagh region of Azerbaijan.

What do we want to prevent exactly? Aren't we or our human rights circles supporting all over the world ethnic struggles in the name of defending ethnic rights? What do we expect from ethnic terrorists: respect for human rights and humanitarian law?

Today, most of the armed conflicts, international or national, are increasingly fought with resort to prohibited methods which amount to terrorism, regardless of the size and structure of the forces. Terrorism came to be condoned, if not justified, for influential human rights circles think that terrorism is a response, a painful but inevitable is quite active in countries with democratic regimes and developed economies. As a result, we grew accustomed to seeing atrocious scenes created by a prohibited warfare. We turn blind eye on countries which fuel ethnic conflicts, provide arms, training ground and sanctuaries to terrorists be they called guerrilla, militia or armed force.

I am afraid that, with this frame of mind which does not favour multi-ethnic solutions to problems, we may exacerbate tensions rather than prevent them from getting out of hand.

Therefore, I humbly suggest that we seize of this opportunity which has been so generously offered to us by the Swiss Government to initiate an introspective analysis as much as we try to restore order to the outside world. Luckily we may discover that we are also part of the problem, and that we have to change ourselves before we change others.

Thank you.

**Executive Committee of the Programme of the United
Nations High Commissioner for Refugees,
Forty-fourth session, 485th Meeting,
6 October 1993, Geneva**

Mr. AKTAN (Turkey) said that, as a country situated at the very centre of a region where refugee-generating conflicts were taking place and having historical and cultural ties with most of the peoples affected, Turkey was greatly concerned with the problem of prevention. The first questions that arose were what to prevent and how to set about doing so. A systemic or holistic approach, rather than the analytical one usually adopted in the modern world, was called for when attempting to assess the refugee problem. The High Commissioner had appeared to feel the same need when she had advocated a comprehensive strategy; the United Nations pursued the same objective when it stressed the coordinating role of the Department of Humanitarian Affairs in complex emergencies. A thorough debate on the problem was called for if an international consensus was to be achieved.

Although the international community had been aware for decades that the population explosion was bound to cause grave harm to the environment and that the situation, especially in the least developed countries, would be exacerbated by slowdowns in economic growth, it had failed to prevent the situation from occurring. Today, it could hardly hope to solve the resulting refugee problems by re-establishing order or restoring development in the countries of origin before the refugees' repatriation, but had to be content with encouraging voluntary repatriation and hoping that the refugees would remain in their countries once they had returned there.

While it was true that democratic countries did not create refugees or displaced persons in times of peace, he doubted

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whether that was so exclusively because they recognized human rights and freedoms. History showed that most democratic countries had achieved their territorial integrity and political unity through a blend of persuasion and force. Their high level of development produced a wealth of goods sufficient either to meet or to curb the demands of ethnic groups which themselves were largely assimilated in homogenized cultures. Yet even democratic countries were not altogether free from problems.

The refugee problems created by totalitarian regimes had not been of unmanageable proportions. Refugees were the product of disintegrating States or, paradoxical as that might seem, of countries in the process of democratization: the former through loss of political authority, the latter through loss of an all-embracing ideology. In addition to endangering the precarious process of economic reform excessively rapid democratization could encourage virulent ethno-nationalism, which, short of equally vicious repression, was bound to create refugee flows. That dilemma of disintegrating empires was one with which his country was all too familiar.

It had to be recognized that democracy was not a guarantee for the promotion of ethnic rights in the short run, but, rather, a political and legal framework within which ethnic groups could strive to promote their rights, provided that they remained within legitimate bounds - a long and difficult political struggle which, if peacefully pursued, stood some chance of leading towards a balanced and civilized outcome. To believe that transplanting democracy and respect for human rights would necessarily and immediately eliminate the root causes of refugee flows was both idealistic and simplistic.

Among the causes of the refugee problem, no mention was ever made of the implications of the foreign policies of developed countries or of their societies' attitudes towards ethnic problems in the rest of the world. In many developed democratic societies, there was an undeniable bias in favour of the collective rights of ethnic groups in other countries. That was particularly true of the attitude of non-governmental organizations, whose sense of identity with ethnic groups outside their own countries sometimes went so far as to lead them to support ethnic terrorism. Yet the same non-governmental organizations were sometimes prone to overlook the situation of ethnic groups in their own countries such as

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foreigners, asylum seekers or migrant workers exposed to racist violence. It was difficult to avoid the impression that such attitudes, rather than representing the conscience of the societies in question, let alone mankind as a whole, served purely therapeutic ends. Nevertheless, non-governmental organizations exercised a strong influence over the media which shaped public opinion and, in that way, contributed to the shaping of foreign policy.

Of course, foreign policy was not simply a matter of transforming popular sympathies or dislikes into attainable objectives; it had its own aims which had little to do with morality. Gaining a competitive political and economic edge in a predatory international environment sometimes called for destabilizing the competitors by exploiting their ethnic differences. Under such circumstances, democracy and respect for human rights appeared irrelevant and an explosive potential for refugee creation was considered to be of secondary importance.

According to a theory which had recently gained currency in the international media, the West was the Empire, while all other States were barbarians. A second theory divided the world into a zone of peace and a zone of turmoil; according to a third, the clash of civilizations was imminent and inescapable.

Under the first theory, Turkey, located as it was in the intermediary region between the Empire and the barbarians, had the mission of blocking the migratory movements of the new barbarians towards the Empire. The third theory saw Turkey as being torn between its Muslim religion and its Western vocation and thus caught up in the clash of the two irreconcilable civilizations. While he was inclined to consider all three theories to be mere fantasies, he wished to make it clear that Turkey should not be counted on to provide a barrier to marching barbarians, whoever they might be.

Turning to the situation in Bosnia and Herzegovina and having paid a tribute to the staff of UNHCR and ICRC and members of non-governmental organizations working there and thanked the European Community and other donors for their generous contributions, he said that the main lesson of the tragedy was that peace-keeping could not be carried out in tandem with an ongoing war. To provide food and relief, but not protection, to those who

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were targets of war was in itself a blatant contradiction. In Bosnia as well as in the Caucasus region, refugees were not a by-product of the conflict, but its main aim. Every resolution of the international community that was left unheeded and was not enforced cost UNHCR money.

Many other potential areas of ethnic conflict with far larger populations than Bosnia and Herzegovina were likely to generate wars that would also aim at ethnic cleansing. Unless the international community was determined to stop the aggression and enforce peace, UNHCR's presence would not suffice to prevent those situations from getting out of control. The international community, had, however, lost all its credibility in Bosnia by giving the green light to forces which wanted to dump their undesirable ethnic elements on the international community as refugees. Under those circumstances, it was safe to guess that UNHCR's growth would continue to be exponential.

What was needed was not only a comprehensive strategy geared to a culture of cooperation, but foreign policy consensus on an intergovernmental strategy based on sanity more than on compassion. The international community had to do some soul searching before it lost its soul for good.

**Commission on Human Rights, Sub-Commission on
Prevention of Discrimination and Protection of Minorities,
44th Session, 12th meeting,
12 August 1992, Geneva**

Mr. AKTAN (Observer for Turkey) congratulated Mr. Eide on his statement with which he was virtually in total agreement. His Government was endeavouring to promote the rights of ethnic minorities along the lines indicated by Mr. Eide. International peace and security were regarded by the United Nations human rights system as an essential condition for the enjoyment of human rights and freedoms. That statement gave the deceptive impression that, at times when international peace and security broke down, although their fundamental rights were impaired the peoples who were affected went on living as usual. The situation in Bosnia and Herzegovina was a case in point and the Sub-Commission had an obligation to consider it. He did not think it necessary to dwell on the human suffering occurring in that region and on those who were responsible for it, since everyone knew all too well who they were. Instead, he would concentrate on the implications in the short or long term of those events on the new international economic order. He wished to stress, in particular, that without a domestic and international political order there could be no justice, no development and no human rights. No political order was perfect, since every order reflected the imperfections of the life of society, and the human condition. But the breakdown of order is more terrible still since it engendered anarchy.

In Bosnia and Herzegovina, the fate of the international order was at stake. One kind of international order had died with the collapse of communism; the new order, scarcely emergent, already seemed to be condemned. It was important that it should be established and that the international community should mobilize itself, which it

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seemed to find difficult when principles conflicted with particular interests. Everyone was aware that the aggression in Bosnia must be stopped without, however, managing to do so. Such a situation meant a victory for aggression and a defeat for the international community. He considered the maintenance of the order to be of primary importance and impotence to be more deadly, than excesses of power. If one refrained from intervening, on the pretext of the difficulty of the enterprise, the aggressor would always have his own way. After Croatia, it would be the turn of Kosovo and Macedonia, where intervention would be as complicated as in Bosnia.

Referring to the destiny of Europe, he said that it was paralysed by the tensions created within it by the juxtaposition of immense power and extreme weakness. It was unaware that a second-best scenario was suicidal. The concern shown by Europe in the problems of other continents was, in his view, a way of avoiding confronting the emblematic question of Bosnia, while cease-fire after cease-fire was violated. To refrain from taking action or to seek to limit intervention to humanitarian aid to the victims was to confer legitimacy on the aggressor. It amounted to that when one asked his permission to enter the camps to see that the inmates were well treated instead of challenging his right to open those camps and demanding that he should close them immediately.

The Security Council envisaged the use of force only to be able to distribute humanitarian aid. However, the situation called for very different solutions and the use of force only in order to distribute humanitarian aid amounted to acquiescing in the dismemberment of Bosnia and Herzegovina in the name of ethnic purity with all its disastrous consequences. It was not just the new international order that was in peril but also the universal character of Western civilization. The ethnic cleansing in Bosnia was paving the way for religious cleansing throughout Europe, starting in Macedonia and Kosovo. It was not power nor influence that made for a universal civilization, but true pluralism which accommodated ethnic and religious diversity. An increasingly parochial civilization would merely establish an order, but an order in which democracy and human rights would be concepts devoid of meaning could only be maintained by force. Amid the sound and fury, a lament arose from the ruins of Sarajevo while the new international order agonized and the values of the Renaissance and the Enlightenment faded from the memory of those who were free but lacking in courage.

Racism

Irkçılık

Racism

Gündüz Aktan made detailed and in-depth studies of racism. These speeches, delivered in 1993 and 1994, tackle the issues of the roots of racism, its manifestations, the conditions that give rise to racism, the struggle against racism and the relations between racism and other Western-born concepts. Aktan criticized the failure to place adequate importance on racism as a Western-born concept within the human rights debates of the time.

Aktan argued that the criticism concerning human rights violations targeted at Turkey in the early '90s was far from being objective, and analyzed the reemergence of racist attacks and the rise of a racist movement in the West, particularly in Europe, during the same period as an example. Aktan emphasized that racism was born in Western Europe, and did not require a conflict or dispute to emerge. Aktan claimed that economic downturns and an increase in the number of resident aliens were not factors in the emergence of racism, and proved that racism in Western Europe must not be confused with other facts such as anti-Semitism, xenophobia, heterophobia or ethnocentrism.

Gündüz Aktan underlined that racism was a mechanism to find a scapegoat from a psychological perspective. In this respect, he argued that racism was utilized to overcome crises of identity inherent in societies by placing the burden of all wrongdoings, inadequacies and guilt on a specific group of people, casting them off as the other. He also emphasized that the manifestation of such otherness as racism was directly correlated with the Protestant Ethics. Aktan claimed that faithbased conflict would be an inevitable part of the new international system.

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Gündüz Aktan criticized the negligence of the international human rights systems towards the victims of racism and racism as a manifest fact. He argued that the so-called struggle against racism in Western countries were limited to cosmetic changes.

Irkçılık

Gündüz Aktan Irkçılık konusunda ayrıntılı ve derinliği bulunan çalışmalar yapmıştır. 1993-1994 yılları arasında yaptığı konuşmalarda, Irkçılığın kökenleri, ortaya çıkma biçimi, ona zemin hazırlayan etkenler, Irkçılık ile mücadele ve Irkçılık ile diğer Batı kökenli kavramlar arasındaki ilişkileri incelemiştir. Batı kökenli bir mefhum olarak ırkçılığa, günümüzde insan hakları tartışmaları içerisinde gereken önemin atfedilmemesi eleştirilmiştir.

Doksanlı yılların başında Türkiye'ye yöneltilen insan hakları temelindeki eleştirilerin objektif olmadığına dikkat çeken Aktan, örnek olarak Batı'da ve özelde Avrupa'da yakın zamanda yeniden patlak veren ırkçı saldırılar ve yükselen bir akım olarak Irkçılığı incelemiştir. Irkçılığın Batı Avrupa temelli bir olgu olduğunu vurgulamış, ayrıca ırkçılığın ortaya çıkmasında herhangi bir çatışma veya anlaşmazlık gerekliliği olmadığını altını çizmiştir. Ekonomik buhran veya artan yabancı varlığının, ırkçılığın ortaya çıkmasına sebep teşkil eden faktörler olmadığını ifade eden Aktan, Batı Avrupa'da ırkçılığın anti-semitizm, yabancı düşmanlığı, farklılık düşmanlığı (heterophobia) veya etnik-merkezcilik gibi olgular ile karıştırılmaması gerektiğini, kanıtları ile ortaya koymuştur.

Gündüz Aktan psikolojik açıdan ırkçılığın, bir günah keçisi bulma mekanizması olduğunu vurgulamıştır. Bu şekilde ırkçılığın etkinlik kazandığı toplumlarda var olan kimlik krizinin giderilmeye çalışıldığı, tüm günah, suçluluk ve eksikliklerin bir kişi veya gruba yönlendirilerek ötekileştirildiğini belirtmektedir. Ancak söz konusu ötekileştirmenin ırkçılık olarak cereyan etmesinin, Protestan Etik ile doğrudan alakalı olduğunun altını çizmektedir. Aktan bu noktada din temelli çatışmaların, yeni uluslararası sistemin kaçınılmaz bir unsuru olacağını da bildirmektedir.

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Gündüz Aktan doksanlı yılların başında Türkiye aleyhine uluslararası alanda yürütülen bu propagandanın tüm uluslararası insan hakları sistemi açısından sakıncalarını ve objektiflikten uzak eleştiriler sebebiyle ortaya çıkabilecek tehlikeleri etkin bir biçimde dile getirmektedir.

**Commission on Human Rights, Sub-Commission on
Prevention of Discrimination and Protection of Minorities,
45th Session, 6th meeting,
5 August 1993, Geneva**

Mr. AKTAN (Observer for Turkey) said that over the previous year the number of racist incidents in Western Europe had increased sharply. The international community had responded to that challenge at the forty-ninth session of the Commission on Human Rights and at the 1993 World Conference on Human Rights and Turkey had played an active role in those deliberations. While his country's immediate concern was the fate of Turkish workers in Europe who were exposed to racist attacks, in a broader sense it regarded racism as potentially dangerous to friendly relations between States. It also surmised that, although seemingly unrelated, racist undercurrents might be, at least partially, responsible for human rights violations beyond their proper context, for instance, in the form of ethnic terrorism in other countries.

Turkey had commissioned two independent studies on the subject. Their findings and conclusions might help clarify the conceptual confusion in that area. They stated that racism, in the sense of the biological superiority of a "race" over others was historically a recent phenomenon and geographically it developed in Western Europe and its white-race-dominated colonies in other continents. In other words, the temporal and spatial boundaries of racism were fairly narrow and quite distinct.

Despite their frequent confusion, race and ethnicity were not identical categories. Racial distinctions were based on the assumption that human beings could be divided into different sub-species according to their genetic characteristics, whereas ethnic

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discrimination was based on language, religion or cultural differences. Those distinctions had been confused after the Second World War, since neo-racism had chosen to conceal itself behind a perverse interpretation of cultural relativism thereby creating confusion between racism per se and ethnic discrimination. Unfortunately, the International Convention on the Elimination of All Forms of Racial Discrimination had also contributed to that confusion by considering all sorts of discrimination under the heading of racial discrimination and giving the impression that racism was a worldwide phenomenon.

Racial discrimination and ethnic discrimination drew on different sources and were the product of different social, cultural and political settings. Confusing the two might give the impression that racism existed in all societies and was not an exceptional phenomenon plaguing only some cultures. That did not mean that ethnic discrimination was less important or its consequences less serious; the case of Bosnia and Herzegovina had shown that ethnic conflict could be catastrophic, even genocidal. It was nevertheless not the same as racial discrimination.

In an ethnic conflict there were normally two conflicting sides, usually fighting for a piece of land, whereas in a political and ideological conflict two or more sides fought for political power or domination. In an armed ethnic conflict the two sides eventually came to hate each other.

In racism, however, there was no conflict or conflicting sides. One group victimized another group with an inexplicable hatred and violence, although it did attempt to rationalize its motives. The victims of racism were not demanding land or political power, it was their very presence that seemed sufficient to prompt racial hatred and violence in the racist group.

The arguments used to justify racism were easily refuted. For instance, it was claimed that economic crisis and the resultant unemployment, together with an increasing number of foreigners were causes of racist incidents. Nevertheless, in many developing countries suffering a more severe economic crisis and a greater influx of foreigners; there were no racist incidents. Moreover, in countries where racism was rampant, unemployed host workers were rarely involved in racist violence. Even if sectors of society were against the increase in the number of immigrants and asylum

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seekers, they could and should find far more civilized ways of expressing their protest than by killing, beating or burning foreigners. Restricting or even halting immigration would not reduce or eliminate racism since new target groups would be found. Unless a quick remedy was found, the seeds that racism had already sown would bear the fruit to durable enmity between nations and States, eventually endangering regional and international peace and stability.

An unexpected but dangerous result of racism was its indirect contribution to human rights violations and seemingly unrelated areas such as ethnic terrorism in other countries. It was interesting to note that, with few exceptions, human rights circles were not really interested in the lot of foreigners subjected to racist violence in their own countries. It would be simple-minded to think that NGOs consciously tried to deflect attention from the ills of their own societies. It might also be unfair to accuse the NGOs of outright racism since there was probably a more subtle mechanism at work preventing them from identifying with and defending the human rights of victims of racism.

There were similarities between racism and ethnic terrorism. The racist resorted to terrorism against a minority group, whereas the terrorist attacked the majority. Both racists and terrorists aimed at purifying their "land" from target groups, dehumanizing them and perceiving them as the source of all evil. Both racists and terrorists try to solve their identity crisis by killing members of the target group and did not attempt to solve their "problems" through other more civilized means. Both racists and terrorists believe that the groups in whose name they acted supported them in their despicable actions.

In view of the above, the overt support given by the terrorist leader in his country to the racist violence against Turkish workers in another country was perhaps more easily understandable. Perhaps the only way to explain the attitude of the human rights circles was that a highly sophisticated, even sublimated form of racism, was operating and that even they did not comprehend its mechanism. As long as those circles played that unconscious game, there would be no solution to racism in their countries and to ethnic terrorism in other countries.

**Commission on Human Rights, 49th Session, 17th
Meeting, Violation of human rights in southern Africa:
report of the ad-hoc Group of Experts
(E/CN.4/1993/SR.17) 11 February 1993**

Mr. AKTAN (Observer for Turkey) welcomed the Secretary-General's report on measures to combat racism and racial discrimination (E/CN.4/Sub.2/1992/11) and said he hoped that the Secretariat would be able to collect further data on racist incidents and to deepen its analysis of new forms of racism. The problem went far beyond racial discrimination and covered racial violence and harassment. The targets were vulnerable groups such as indigenous peoples, migrant workers and minorities. It would be counterproductive, however, to confuse the traditional forms of racism with ethnic, religious and linguistic discrimination, or with the vague concept of intolerance. It was no exaggeration to say that the way in which the Commission handled the problem would affect the future of international efforts in relation to human rights in general.

A non-governmental organization which had been studying the question of racism in Western Europe had estimated that at least 20,000 racist incidents occurred in the region every year. While the problem was not confined to Europe, the nature and frequency of such incidents there was not such that they could be attributed solely to an innate antipathy to outsiders. Turkish people abroad were frequently the victims of racist attacks, and his Government followed developments in the countries concerned with more than a purely humanitarian interest. It welcomed the efforts made by the authorities in those countries to combat racism and the many expressions of public sympathy with the anti-racist cause.

The approach adopted by the United Nations to the problem was

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based on international control and monitoring of the policies and practices of Governments, which were expected to mend their ways when subjected to international censure. That approach, however, had its limitations, since racial hostility was often expressed in the individual and in society at large in forms which Governments found difficult to control. There was an inverse relationship between racist violence and ethnic terrorism: the former was directed by a majority, or in the name of a majority, against a supposedly undesirable minority, whereas in the latter case ethnic terrorists attacked a majority in the name of a minority.

It was interesting to see from recent publications of Amnesty International on the subject of racism, that the organization had extended its coverage beyond the human rights of terrorist suspects to include the phenomenon of racism itself a problem which should not be addressed solely in the context of the behaviour of the police, however, important a factor that might be in safeguarding human rights.

**Psychological Mechanisms of Anti-Semitism and Racism
(Conference given at the Maison Juive of Geneva)
17 January 1995**

Mr. President of the Israelite Community of Geneva,

Mr. President of the Jewish Study Center to the University
Geneva.

Ladies and Gentlemen,

Racism and antisemitism constitute an enormous subject. Perhaps it is the only subject which is more complicated than life. Indeed it is a major factor which makes life complicated. I will explain what I mean: life can be defined as a relationship between 'me' and others. These others are all different from me. Racism is a form of relationship with the different ones which goes sour. As human beings, we cannot escape others. The question is whether we can escape racism in our relations with others.

The subject matter of this conference defined as such is obviously more suitable for a philosopher or social scientist than a diplomat. Admittedly, there are not many diplomats who take particular interest in racism. The only notable exception is Gobineau. He was a great literary figure of his time. What is more, he was a racist himself. Being racist is somewhat easier than being antiracist. Racism of the XIXth century was an article of faith rather than a rational endeavour. It was based on a crude science and its diverse pseudo-theories. Conversely, antiracism requires a vigorous multi-disciplinary analysis to understand the mechanism underlying a very complex and irrational attitude of the racist. In this respect, the subject goes well beyond the scope of diplomacy.

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Diplomats for centuries have been entrusted with the task of maximizing their countries national interests, without causing war. This was already a difficult and serious task by itself. One day, we woke up to see at our doorstep a new task, that of human rights. We are now asked practically to solve all the riddles of humanity, namely, eliminate violence and violations within and between our societies, help establish democracy together with socioeconomic rights etc. Since what is expected of us is extremely immodest. I thought, as a diplomat I could deal with an equally immodest subject.

Let me make it clear at the outset that racism as a concept and mechanism should logically cover antisemitism. But antisemitism has been for almost two millennia the only extremely dangerous from of racism. As such, antisemitism can be conceived as the fountain-head of racism. Therefore, it is not wise to merge antisemitism into racism.

As I have said, the subject is vast. We have to reduce it to manageable proportions in order to deal with it effectively within the time-span of the conference.

Consequently, I depart from the assumption that you already know various aspects of racism and antisemitism, perhaps much better than I do.

For instance, antisemitism goes back to pre-Christian, Hellenistic and Roman era, although the term is a recent invention that early Christianity, having been born out of judaism had a ferocious identity struggle with the mother religion; that since St-Augustine, the wandering Jew without homeland was not considered only as a sign of an eternal punishment but used also as a scapegoat in Christian societies; that the first Crusade has started by massacring Jews; that in the late Middle Ages the expulsion of Jews from England in 1290, from France in 1394 and from Spain in 1492 coincided with the beginning of the nation-building processes in these countries; that neither the Westphalia system, nor the following Enlightenment, nor the emancipating French Revolution solved or alleviated the problem that the racial and linguistic theories of the XIXth century together with its 'Aryan myth', 'master race', 'racial hygiene' ended up in the Shoah.

Antisemitism has proved extremely resilient and protean. It has adapted itself to changing conditions by always developing new

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arguments. Jews were considered an exclusionary community, misanthropic, sterile in culture and barbarous in their religious practices throughout the antiquity; accused of deicide, desecrating host, ritually murdering Christian children and poisoning wells in the late Middle Ages. A return to pre-Christian accusations took place in the Enlightenment. Biological racism despised the Jews and Judaism as racially and culturally inferior in the second half of the XIXth century. And in the first decades of the XXth century new accusations have been added up to the catalogue, such as the world domination of the Jewish financial power, corrupting effect of the Jewish money, as well as communism and Bolshevism as Jewish plots to destroy western Christian societies etc. But you know all this, and I will not dwell on them.

I will also put aside racism perpetrated against the indigenous peoples, blacks or Asians by the discoverers of the New Hemisphere or colonisers of the South or white slave traders or the apartheid regime in South Africa.

In explaining racism, I will allocate as short time as possible to methodological and theoretical aspects, assuming once again that you know something about Freudian psychoanalysis, Jungian depth psychology and Girardian concept of violence, as far as they are concerned with racism.

I will not try either to refute racial theories which the UNESCO project on the subject has done exceptionally successfully.

Finally, I will not expound on the resurfacing racism and antisemitism in Europe, since the report of the UN Center for Human Rights in 1992 the recent report of the UN Special Rapporteur on contemporary forms of racism, the Oakley report of the Council of Europe and the Glyn Ford report of the European Parliament have provided us with ample evidence in this respect.

Dear Guests,

I will try to focus on the psychological mechanism underpinning antisemitism and racism. My hypothesis is that, no matter how changeable racism or antisemitism is, this mechanism never changes and is common to all their forms and manifestations.

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Firstly we have to limit the problem in terms of time, space and nature.

Unlike antisemitism, racism is a relatively recent phenomenon in history. It is true, we witness pervasive racial attitudes and prejudices in the past. But they have not developed into ideological and institutional racism until the XIXth and XXth centuries. As you see, I mean by racism only biological racism. This has taken the form of virulent antisemitism in the first half of this century.

In order to determine the geographical space of racism, I consult Encyclopaedia Britannica (Macropaedia. V. 15, pp 359-366). It states that racism has developed in western Europe mostly in regions where Protestantism has spread and in the white colonies of western Europe, namely North America, South Africa and Australia. I will not discuss to what extent this is true, though, I think, we can assume that it is reasonably true. The UN Sub-Commission and Commission on Human Rights also indicate in their resolutions these regions and countries as particularly susceptible to racism.

Racism encompasses racially oriented prejudice, attitude, discrimination, harassment, violence, segregation, persecution as well as expulsion and extermination. Some western circles try to make racism disappear by breaking it down into xenophobia, heterophobia, ethnocentrism etc. They claim that in some European countries there is no racism but xenophobia with some racial violence, that in every country there is ethnocentrism, that heterophobia is common to mankind. Thus there is not much to worry about.

We also observe some efforts to present racism as a conflict situation. These circles say that outrageous ethnic cleansing perpetrated by the Serbs against the Bosniacs is the worst form of racism. Thus, all conflicts and wars in history also become examples of racism.

Let me briefly clarify these concepts. Xenophobia cannot be applied to Jews or migrant workers, for they are not aliens to Europeans, having been living there for years. Heterophobia is not supposed to turn into violence or discrimination. Ethnocentrism is universal. It is a feeling of superiority of ones' nation or country. Normally, ethnocentrism is not geared to despising or

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dehumanizing others. The statement “I am greater” implies that others can also be great. If, however, the superiority of the one is conditional on the inferiority of the other, that will be a malignant form of ethnocentrism which is not other than racism.

Racism is not a conflict between two competing or fighting parties. Rather it is a unilateral violence by the racist against his victim. In its purest form, the victim does not even defend himself.

Conflict, in turn, presupposes a clash of interest over a piece of land, economic resources, political power or a strategic point. Such goals do not play a part in racism. The racist hatred for the target group is not a product of the conflict.

One realizes easily that the racist always tries to rationalize his violence against the victim. He explains his aggression by economic crisis and unemployment or by the rapidly increasing foreigners. The disproportionate nature of his response which takes the shape of burning and killing his victim at random flies in the face of these arguments. Moreover, in many third world countries with backward economies, starvation (never mind unemployment), and high number of refugees from neighbouring countries, there occurs no racist incident.

Therefore, I conclude that the very existence of the target group in the society is enough to arouse racist feelings in some individuals and groups.

Presently, racism manifests in the guise of cultural relativism. The tragedy of the Second World War thoroughly discredited racist theories and doctrines. No one can openly defend racial superiority except some small marginal groups. Instead, it can be a respectable idea to express that cultures are hermetic categories hence incompatible between themselves, and the peoples belonging in different cultures are incapable of living together.

If we push our analysis further, we can realize that cultural differences boil down to religious differences. In other words, people of different religion are considered not conducive to a common life or integration and can be subjected to exclusion and racist violence. Nevertheless, this cultural cloak helps racism to permeate large segments of the population, as we see racist assaults openly applauded by crowds.

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Evidently, cultural relativism is racism with religious overtones. As we will see, the mechanism underlying racism and cultural relativism is one and the same.

Dear Guests,

Keeping in mind the assumptions that I have made, I now turn to the core issue of the conference. I am of the view that racism is nothing more than a specific psychological mechanism. Real life issues such as economic crisis, unemployment, increase in the number of foreigners or historical traumas such as wars, defeats and invasions, or evolution in belief and ideology systems such as religious bigotry, humanism, the Enlightenment, romanticism, secularism, recent emphasis on respect for human rights and freedom etc. have their own effects on racism. But, they cannot change this psychological mechanism.

This mechanism is also called scapegoating. It is as old as humanity. Human beings project their sins, guilty feelings and other unwanted parts of their character onto a person or a group, chosen for their different features. Then they punish the victim or victims for their own sins. They redeem themselves at the expense of the victim. Since projection is an unconscious process, we are not cognitively aware of it.

This statement raises a set of questions. Why are the people in the Protestant areas of western Europe more prone to projections? What are the characteristics of the victim? What is special with racist projection, since projection is a universal mechanism?

Before I embark on elaborating responses to questions, I wish to make one point clear. I am neither atheist nor agnostic. But I believe that we, the ordinary mortals, can feel God only imperfectly due to our still somewhat primitive psychic organisation. Those who were able to overcome their existential limits and perceived God in His wholeness are prophets whom my analysis does not concern.

I am sure, you have already guessed the purpose of this disclaimer. I will try to focus my analysis on religions as the main component, indeed the very basis and the source, of culture, and see as to whether a misuse of religion leads to antisemitism and racism. What I mean is that, because of our deficient psychic organisation, we transform, or degenerate religion in such a way that racism, this demon of history, arises as a by-product.

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Until the advent of the first monotheist religion, humanity had undergone various forms of unorganized, mostly mythological 'religious experiences. The most representative version of it was related to some female dieties such as Rhea, Kybele, Lato, Artemis, Isis etc. who constitute the cult of Mother Goddess under different names? The discovery of the transcendental, immanent and omnipotent God by the patriarchs or His descending upon the Jewish people has gradually repressed these maternal religions into the unconscious. They did not disappear, but remain there dormant. Sometimes reactivated, they pass through the psychic censures in disguised forms and recapture the soul. This phenomenon happens when human beings, individually or as a group regress under stress. Psychoanalytically, regression means a flight backward to the earlier stages of our life cycle from the dangers and difficulties of life. The earliest stage is called 'primitive narcissism' in which human beings feel that they are at one with the surrounding universe, and each individual feels himself to be organically the whole as though he was God in a pantheistic sense. Thus the childish paradise of total happines is in the final analysis that of the preconscious life in the womb, before the "fall" into the world. The term fusion with pre-oedipal mother mostly represents the negative aspects of the so-called paradise.

This regression may also happen without stress when people abandon the God of monotheism, as in the case of the crude scientism of the Enlightenment. Attempting to break the shackles of the medieval religious fanaticism, humanity has ended up regressed to older, more archaic and primitive levels of psychic organisation corresponding to maternal religions with all impending violence, instead of becoming freer, more mature and rational. Regression to a fusion with pre-oedipal mother for adult is deeply guilt-ridden, because it unconsciously entails incest with mother. Projection mechanism is then massively resorted to in order to attribute this grave sin to the target group which is then burned, killed etc.

After this brief theoretical reference, I will dwell on Christianity in order to see why racism is mainly encountered in Christian societies. In the Bible and in Christian faith and doctrine there is no trace of racism. On the contrary, racism is an anathema to a religion based on a profound love of God and on love between human beings. Indeed, from the religious point of view, it is an enigma that racism has developed in Christian societies.

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In the opinion of Mr. Turgut Özal, the late President of Turkey, antisemitism is the key for understanding the role of religion in racism. In his book 'Turkey in Europe' he says:

"The Christian perceives himself in the image of God. Historically, this identification with God through Christ crucified for the sins of mankind requires an exceptionally strict ethic which renders it very difficult to house in the soul some vital natural instincts and impulses together with God. Is it because of the need to tackle the evil which is embodied in everything negated by this ethic that Jewry, together with other groups, was unconsciously used as a target of projection and hence subjected to segregation, inquisition, and genocide? Let me point out in this context that Islam, on the other hand, sanctifies natural instincts provided that their activities be regulated and their abuse prohibited. Historically this aspect of Islam has been sarcastically criticized. Nevertheless, Muslims had little need for a projection mechanism."

During the era of the Enlightenment, which is characterized together with Christianity as the basis of Western civilization, the outburst of reason did not only destroy the irrational elements in the religion, but partly the religion itself. Deism, even atheism as by-products implied a return to pre-Christian conditions with an emphasis on Mother Nature. Is it because of this excessive "desacralization" that the sacrificial cycle of primitive (maternal) religion (violence cycle of rebirth) has been revived, as a result of which hostility was generated towards target groups in the form of persecution and ultimately genocide along with the increase in wars between nations-states?

Christianity does not have some of the constraints imposed on believers by the other monotheist religions. For instance, law based on the rigorous ten commandments gave way to love in Christianity. Love of the Father replaced fear of the Father, for the Father loved us as He loved His Son, Whom He sent to the world to save us. Therefore, to appease the wrath of God there is no need for animal sacrifice, for the greatest sacrifice was already made by the Crucifixion. There is no need for symbolic castration or fasting since the soul is protected from lust by Christian baptism, which achieves a rebirth in spirit. Nevertheless, any failure in spirituality carries the risk of abrupt and profound regression along with feelings of sin (guilt), for there are no religious safety nets except in monasteries.

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Unlike God the Father and the son of God in the divine person of Christ, the Holy Spirit seems to be a greatly sublimated form of the maternal deity, as Jung also points out. The cult of Virgin Mary which bridged this gap left by this sublimation, reached the point of Mariolatry under some circumstances. Mariolatry, as the extension of the Great Mother cult, practically amounted to a fusion with pre-oedipal mother which aroused incest anxiety and triggered the projection and violence cycle. This was the way how Christians have slid back into (or regressing to) the previous religious levels of humanity.

In this context, one can venture another speculation. At a time when Christianity spread in Anatolia, the then religious mind-set of Anatolia which was based on Kybele and his son Attis or Adonis might have influenced it. According to this mythology, Attis having incestual intercourse with Kybele dies and falls to earth which he fertilizes with his blood. In Mariolatry, was this the pattern which has re-emerged though in a radically spiritualized form, and served as a model for regressed Christians who disinvested their faith from God the Father and reinvested in Mother Goddess, nature, universe, humanity etc ? Perhaps, one can understand the strict sexual abstinence of St. Paul and Church fathers as a defence mechanism against this mythology.

But this general assessment does not explain why Protestants are more pre-disposed to racism than Catholics.

Protestantism has flourished mainly among Germanic peoples. German humanists believed that the German tribes had been living in their homeland from time immemorial, that they had not immigrated there. This implied that Germans have been self-begotten in the bosom of the land-mother, without father. The observation of Tacitus in 'Germania' which was discovered at that time confirmed this regressive incestuous belief (that 'Germans were natives, neither the settlement of other peoples, nor their hospitality has brought about a mixture in them').

Luther, in one of his books, identified the Pope, with whom he has engaged in a deadly struggle, with Antichrist and repeated the same views in his 'The Papacy at Rome, instituted by Satan'. He also praised the noble nature of Germans while despising Romans. These invincible Germans who had knocked out the Roman Giant could not accept now their religious rule. As a result, historical

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filiation has been severed and cultural progeny denied between Germans and the ancients or the Fathers.

The patricide in the form of the denouncement of the Pope as Antichrist and breaking away from the Church of Rome as an institution of Satan; an emphasis on the self-generated people in maternal land as symbolic incest, have created a psychic situation conducive to regression to a fusion with pre-oedipal mother and the consequent increase in the feelings of sin. In this light one can perhaps assess the editorial of *Le Monde* (26 December 1992) which says that 'these demonstrations (against racism) reflected in (Germany) impregnated with Lutheranism, the need of public redemption of a nation which feels sinful.'

The harsh doctrine of the absolute transcendental nature of God, the belief that everything pertaining to the flesh is corrupt and pre-destination in the Reformation seem to be a reaction to or a compensation for this 'sinfulness'. Therefore, in Protestantism, there was little room for the very human Catholic cycle of sin, repentance, atonement, release followed by renewed sin. The projection mechanism must have developed as the only means of the relief for the protestant who has projected every sin-generating instinct and desire onto the victim.

Rigour of Protestantism must have influenced child-rearing practices, putting heavy emphasis on bodily cleanliness, orderliness, submission to authority etc. As a result, compulsive, rigid, perfectionist, and intolerant character structures have become prominent. Accordingly, foreigners who are not as compulsive as Germans are accused of being dirty, disorderly, noisy, untidy etc. But these are natural tendencies and desires of the child which are repressively denied by parents who are moved by their guilty feelings. Once these unwanted parts of the character are projected onto foreigners, they are despised and hated in the same way as these parents have despised and hated their "naughty" children.

Dear Guest,

The reason why this overdeveloped projection mechanism in the Protestant has acquired racist features can be explained by the particularities of German nationalism.

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Nationalism has regressive roots in all great European nations it has started with regicide i.e. killing the king, which was unconsciously perceived as patricide. As I have said, the symbolic Pope-killing can be conceived as the beginning of German nationalism. At the same time, Germany has been somewhat unlucky in her nation-building. In contrast with Britain and France, German nationalism has developed as a reaction to a humiliating defeat and invasion by the Napoleonic France. The hatred this has aroused led to the projection of all negative elements in German character onto France and French people. Therefore, an intense projection lies at the foundations of German nationalism.

Nation-state has been built upon three pillars, namely a homeland, a State structure and a nation. German had no well-defined borders or well-established state structure contrary to other western countries. Instead, German nationalists made an excessive motional investment in German people as a race, nation, language and culture.

In this sense, German concept of nationalism has already come closer to racism. This has made Germany more vulnerable than others to racist theories of superiority which prevailed with the rise of romanticism, crude science of biology and Darwinian evolution. Christianity was rejected by enlightened ones as a semitic religion. The nature religion came back with all its maternal character sometimes in the form of deism or pantheism sometimes in 'the great return to the past, by maternal and nocturne idea of the past' of romanticism as in the words of Thomas Mann. An obsessive search for origins ended up in Himalayas to fantasy a superior Aryan race. Norse mythology re-emerged in the operas of anti-semitic Wagner. The abysmal depth of regression has triggered massive projections of racial content. The target of these projections was naturally the Jews who were of semitic race.

This is now and why the Germans are more prone than other Protestants to regression and projection.

Now I turn to the second question, namely why Jews have been chosen for the target of these projections.

Throughout the history of European Jewry, they have always been subjected to projections by the Christians. We know the

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religious reasons for this situation. The power relationship between the two sides also contributed to the majority's ability to mistreat them at will. But in periods of particular stress such as Crusades, Hundred Year Wars, Reconquista in the Iberian peninsula, German nation-building process, Second republic in France and interwar period in this century, west European peoples have regressed deeper, projections onto Jews intensified proportionately and the content of these projections become more dehumanizing.

But Jews were not alone as target for projections. Cathars, Lepers, Witches, Africans, indigenous peoples of North and Latin Americans, Muslims and Turks have also been used as receptacle for projections. The question is why these projections have concentrated incomparably more on Jews and led to their expulsion in 1492 from Spain or to the Holocaust between 1933-45.

The short answer to this question is that each time the Jews opted for assimilation in order to save themselves, they had to face not only persecution, but, unexpectedly, expulsion and annihilation. Let me try to explain why this paradox has come about.

The purpose of the projection mechanism is to dump all the unwanted parts of the character on the victim. The underlying assumption is that this material will never return to the projecting side. If the target is black, the skin colour constitutes such an unalterable and immutable barrier that whatever projected is contained by the black, even if he lives amidst the society. Therefore, racism in the United States is relatively stable. But, Jews or migrant Turks, being white, cannot contain projected material. Therefore, their religion, language, culture and traditions are overemphasised by the racist as structurally distinctive marks which distinguish them from the majority in place of skin color.

When the Jews in Spain started converting to Christianity in order to escape persecution, in psychoanalytic terms, the projected material has boomeranged. The return of his unwanted and denied aspects deeply destabilized the Christian who felt it as a psychological annihilation of his character. Christians have been accusing Jews of the deicide, ritual murder and poisoning wells. These were silly accusations. But Christians who have identified themselves with Christ or regressed to the level of children must

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have paranoically felt that the Jews were to kill them as they killed Christ. Originally, they had wanted to kill the Jews and together with them their sins projected onto the Jews. Once their murderous instincts were also attributed to the Jews, they were afraid to be killed by the Jews. In reaction, they established the Inquisition to check whether the conversos contained these projected material which included Christians' murderous instincts. The Inquisition which, by deliberate choice judged mostly the conversos, not the Jews who kept Judaic faith, proved that they were not real Christian. Hence, conversos paid the terrible price with their lives. Other Jews loaded with the unwanted parts of the Christians were expelled. Thus the boomerang possibility of the projected material was eliminated.

A similar fate befell the Jews of Western Europe in this century. They were emancipated formally in 1791, practically in 1871. With the euphoria the emancipation has created, a large group of Jews opted for dejudaisation. They considered Judaism as the obstacle to their assimilation. Since in their view religion lost its importance, most of them did not convert to Christianity. These mainly Haskala Jews have richly contributed to their societies economically and culturally. But, the container effect of Judaism has been destroyed through assimilation and the boomeranged projected material once again. This has further enhanced the regression in the Christians of the Protestant Germany who have been already unusually regressed under the conditions described above. They massively reprojected the returned material on the Jews. This time, the Jews who abandoned the bastion of their identity namely Yahweh, could not resist these projection. Their psychic resistance having broken down they started introjecting the projected unwanted aspects of Christians. Their self-esteem was incurably wounded and self-hatred set in. Theodor Lessing, among others, tells the story of suiciding brilliant Jewish intellectuals in this situation. Thus the Jews have become potential victims for the Holocaust.

Freud was one of these Jews who made this fatal mistake. He must have thought that Judaism was the main obstacle to the togetherness with the Enlightened Christians. He applied psychoanalytical techniques to Judaism in his book 'Moses and Monotheism' in order to demolish it. Strangely enough, it never occurred to him to apply psychoanalysis to Christianity so as to understand that, not the true Christian faith, but its regressed

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form was the cause of racism. On one occasion, he expressed his astonishment at the fact that the Catholic Church in Vienna, in other words real Christians, helped Jews to escape Nazi persecution.

Dear Guests,

I think, one essential question remains still unanswered: Presently, we do not face a serious stress situation such as war, internal disturbance or economic depression which could cause a deep regression, hence racism in Europe. So what is the cause of racism today?

European Union is a success story. In the post-world war period it achieved almost uninterrupted economic growth. It is the largest and most affluent entity in the world. There is unemployment but also social security. It has its utopia, namely monetary, political and security union which is not out of its reach. Its deadly enemy, communism was defeated ideologically, economically and politically without firing a shot in the air. When one expects that Europe should savour her victory, the specter of racism loomed large on the horizon. Unless we find a satisfactory explanation for racism under these conditions, we risk losing a minimum certainty in life.

I think, there are two reasons of different order which led to this situation.

First one is European integration itself. The real or psychological possibility that the nation-state will dissolve in integration process causes a kind of vague but deep malaise in member countries. Borders in which there has been enormous emotional investment in history in terms of endless wars and blood-shed are becoming more and more porous. The State which symbolized “protecting father” and “caring mother” is losing its prerogatives or transferring them to Brussels. Mutual hatred created in history between nations is being released and left aimless as a result of constant cooperation within the Union.

This profound transformation inevitably brings about an identity crisis and consequent regression.

Right at this moment, Europe has lost its enemy onto whom she

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has been projecting all its unwanted parts. The Soviet Union collapsed and the new Russian Federation adopted the Western value system i.e. democracy, respect for human rights and free market economy. In this regard, Germany had an additional problem i.e. reunification. For almost half a century, this country was accustomed to projecting large part of its denied and rejected past, namely Nazi regime, genocide, war etc. onto the east. Now all this material bounced back, causing deeper regression which is not perceptible at first sight. This happens at a time when Germany comes to terms with its past which is bound to come back with painful memories and ethnocentric nationalism.

At hand, there are migrant workers who have replaced the Jews? All of a sudden, this released material has been reprojected onto them after 25 years of togetherness. Islam has been rediscovered as the new enemy image. Human rights circles of these countries have taken to the task of targeting the countries of these migrant workers as the source of human rights violations. They want to give the message "Not that we, but that they are the racists for they oppress their ethnic groups".

So the story goes on.

The remedy for this situation, you murmur. I would say prayer to the true God.

Thank you.

**Commission on Human Rights, 51st Session,
11th Meeting**

**Implementation of the Programme of Action for
the Third Decade to Combat Racism and
Racial Discrimination**

E/CN.4/1994/SR.11 9 February 1995

Summary Record of the meeting hold on 6 February 1995

Mr. AKTAN (Observer for Turkey) said it was unfortunate that the report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance (E/CN.4/1995/78 and Add.I) had only just been made available to the Commission, giving members very little time to consider the information it contained. The Special Rapporteur had previously recommended that an interdisciplinary seminar should be organized on the theoretical aspects of contemporary forms of racism. Such a seminar had been held at Istanbul in January 1995, but neither the Special Rapporteur nor representatives from the Centre for Human Rights had attended, although they had been invited.

Racism appeared to have permeated almost all segments of some societies. Racists had their own political parties and media, with an array of experts and historians to support their views. Racist attitudes were widespread and acts of discrimination were a daily occurrence, to which people barely paid attention. Governments had so far been unable to achieve substantial results in combating racism. The main problem was that they were chiefly interested in cosmetic changes rather than in taking the patient steps necessary to achieve real progress.

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Racism, as currently practised, was sometimes cloaked in the guise of cultural relativism. It was also erroneously grouped together with ethno-nationalism and religious fundamentalism. It was true that all three were exclusionary movements which directed feelings of hatred towards a target group and encouraged attacks on members of that group. However, unlike the other two movements, racism did not arise from a conflict between opposing parties; it was based on irrational rather than material reasons. Nor did racism arise from demographic changes and economic crises: those might be aggravating factors but were not root causes.

It was difficult to understand why the human rights system had turned a blind eye to the suffering of the innocent victims of racism. Apparently, their very innocence made them less worthy of consideration and less threatening. Innocent victims did not rise up in armed rebellion. Thus, the human rights system was closely monitoring the alleged violations of the human rights of terrorist suspects while it virtually condoned the murder of civilians by ethnic terrorists.

By classifying human beings into a hierarchy, racism was incompatible with the very concept of humanity. A racist individual was not in a position to promote the human rights of those whom he had designated as being on the lower end of the scale. Moreover, the first priority of a racist was not to promote the human rights of others but to prove that he was not a racist. Criticizing the human rights records of others led to ranking countries in a hierarchy and blaming those at the lower end of the scale for oppressing their own ethnic groups, which only paved the way for racist attacks against their own citizens abroad.

Unless racism was dealt with appropriately, racist attacks and ethnic violence would continue. Racism was a test case for the United Nations system. His Government would review its cooperation with that system on the basis of its response to that challenge.

**Commission on Human Rights, 50th Session,
12th Meeting, Implementation of the Programme of
Action for the Second Decade to Combat Racism
and Racial Discrimination,
Summary Record of the meeting of 8 February 1994**

E/CN. 4/1994/SR.12 of 11 February 1994

Mr. AKTAN (Observer for Turkey) said that racism, racial discrimination and racial violence were perhaps the most frequent form of human rights violations. They were to be found in some parts of the world and not in others and did not occur everywhere in varying degrees. The recent new manifestations of racism had emerged mainly in developed countries.

There were fundamental differences between racial discrimination and ethnic discrimination. Turkey did not wish to become a party to the International Convention on the Elimination of All Forms of Racial Discrimination precisely because it confused different types of discrimination. Ethnic cleansing, for instance, had nothing to do with racism. It was an attempt to seize land by killing or deporting its occupiers, an inhuman and genocidal action but not a motiveless one. The most important criterion of racism was the innocence of the victim, who was targeted because of his or her physical traits. Racism was motiveless, whatever the specious arguments to the contrary. Economic problems contributed to a resurgence of racism, but only if a racist mechanism already existed.

The fact that there were fewer racist incidents if there was a decline in the number of foreigners or asylum seekers was not a real cure. The racists would simply look for new targets which might be the peoples of neighbouring countries, members of a different religion or civilization.

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Racism was a mechanism of projecting one's own evil on to a target in order to relieve oneself of a deep sense of guilt. The return of his own guilt was felt as extremely dangerous by the racist who then tried to exterminate or expel the target group. Racist acts were committed mainly by individuals and groups, not by States, so racism as such did not conform to the traditional definition of the violation of human rights. However, it adversely affected friendly relations between peoples and countries. General Assembly resolutions on racism regarded racist acts as grave violations of human rights, regardless of their source.

What was important to the victim was the violation of his or her human rights, rather than the source of the violation, and the international community increasingly condemned the authors of such violations whoever they might be. That was particularly important in racism, where it was usually a section of the majority that committed racist acts against a minority. The eradication of racism was imperative for other than human rights reasons also, since racially tainted attitudes might lead to undesirable consequences in other fields. There was also a danger of the extension of tit-for-tat racism to the countries of the victims.

It was no coincidence that religious fundamentalism, ethno-nationalist terrorism and racism were experiencing a simultaneous revival. All were based on an exclusive approach to identity. Nevertheless, many human rights circles and public opinion under their influence supported ethno-nationalists while making fundamentalists a new enemy image totally unaware that they were involved in a more subtle form of racism.

**Commission on Human Rights 50th Session,
8 February 1994, Geneva Statement made under item 14**

Mr. Chairman,

We are happy that despite unfortunate delays in assigning the thematic rapporteur, Mr. Glélé-Ahanhanzo was able to present his preliminary report on racism at this session. We congratulate him on his assignment, and wish him success.

In terms of numbers, if not gravity, incidents of racism, racial discrimination, and racial violence are perhaps the most frequent form of human rights violations. Although some tough measures were taken in 1993 by the countries concerned, the number of racist incidents declined only modestly. Moreover, there is a widespread practice of underreporting by victims and underrecording by relevant authorities.

It may be timely to highlight some salient features of racism, for there is much confusion on this, as on many other human rights issues. Unless we clarify this confusion and narrow our focus on racism proper, it would be very difficult for the rapporteur to effectively deal with the problem.

Racism is seen historically in some parts of the world and not in others. It is the product of a certain cultural setting. Therefore, the claim that racism occurs everywhere to varying degrees is not tenable. As the special rapporteur indicates in his report, new forms of racism emerged mainly in developed countries. Those who are interested to get more information about where racism occurs or recurs may consult Encyclopaedia Britannica, Macropaedia Volume 15, pp 359-366.

There are fundamental differences between racial discrimination on the one hand, and ethnic discrimination on the

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other. The International Convention on the Elimination of All Forms of Racial Discrimination has complicated the fight against racial discrimination by confusing it with other types of discrimination. This is why Turkey does not wish to become a party to it.

Some tend to treat other forms of discrimination under the heading of racial discrimination in order to propagate the view that racist incidents happen everywhere. They give as an example the ongoing ethnic cleansing in the ex-Yugoslavia. Although ethnic cleansing is extremely painful even genocidal, it has nothing to do with racism. In ethnic cleansing the aggressor tries to grab land by killing or deporting the victim. In other words, there is a cause, no matter how inhuman or illegitimate this may be.

In racism, there is no real cause, although the racist raises many arguments to that effect. He may complain about the increasing number of foreigners who are allegedly disorderly, dirty, smelly, lustful, ugly, parasitical etc. Others who try to explain the increase in racist incidents refer to economic recession, unemployment, and the number of asylum seekers.

But these are not real causes of racism. It is true, economic problems contribute to racist resurgence, but only if there already exists a racist mechanism at work. Look at many other countries with equal or worse economic problems, but no racist incidents. Moreover, it must be very rare, if ever, to see jobless persons involved in racist violence against foreigners.

In a sense, the victim does nothing particular to deserve the hatred of the racist. His or her very presence seems enough to provoke racism. It is not a coincidence that the racist always evokes in contempt biological characteristic of the victims. Therefore, the most important criterion of racism is the innocence of the person victimized because of his or her physical traits.

Obviously, the number of racist incidents declines in line with a decrease in the number of foreigners or asylum seekers. But this is not a real cure. The danger is that the racists may shift their racial hatred towards new enemy targets which happen to be the peoples of neighbouring countries, members of a different religion or civilization.

Racism is based on the mechanism of projecting one's own evil

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onto the target in order to relieve oneself of a deep sense of guilt. Historically, racism within the same racial group was paradoxically the most virulent and malignant as in the case of anti-Semitism. For the unwanted character parts projected by the white onto another white may easily boomerang, especially with the assimilation of the victim. The return of his own guilt is felt as extremely dangerous by the racist who then tries either to exterminate or to expel the target group. By contrast, the skin colour which constitutes a barrier contains the projected material, hence stable, though very painful, racism against the black.

Some countries consider human rights central to their foreign policy. In our age this is understandable. It is a well-known fact, however, that racism particularly adversely affects friendly relations between peoples and countries. If other countries which are affected by racism also conducted their foreign policies in the light of racists' violations of human rights, there could be a dislocation in international relations.

In this context, one can object and say that racist acts are committed mostly by individuals and groups, not by States, hence racism as such does not conform to the traditional definition of human rights violation. Nevertheless, all UN General Assembly resolutions on racism including the one on the special rapporteur consider racist acts as grave violations of human rights, regardless of their source. Article 1 of the UN Declaration on the Elimination of Racial Discrimination refers to racial discrimination as violation in the same way. Article 30 of the Universal Declaration does not distinguish individuals, groups and States with respect to the destruction of human rights and freedoms. The UN General Assembly Resolution 48/122 condemns terrorism as human rights violation, although terrorism is committed by individuals and groups as well.

What is really important to the victim is the fact that his or her human rights are violated. Who has violated these rights is gradually losing its relevance. The international community increasingly condemns the authors of the violation, whoever they may be, States, individuals or groups in the broad sense of the word.

This is particularly important in racism, because, usually, a group of the majority commits racist acts against a minority. One

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should not wait until this racist group acquires State responsibility, before one starts criticizing.

I think what I've just said can be equally valid for societies which persecute their ethnic groups or for ethnic groups which wage terrorist wars against others.

We would improve human rights the world over, if we could stand up to all violations regardless of their authors or origins. On the other hand, this approach would be quite commensurate to the preamble of the Universal Declaration which gives the responsibility of promoting and securing respect for human rights to every individual and every society together with all its organs, but not to the State.

The society-wide struggle against human rights violations in general, against racism in particular is imperative for other reasons as well. In addition to outright racist acts, racially tainted attitudes may lead to some unexpected and undesirable consequences in fields other than that of human rights.

Is it a coincidence that we see religious fundamentalism, ethno-nationalist terrorism and racism at the same time in the world? Can we deny interactions, even interdependence between them? They have at least one common essential point. They all are exclusive.

The racist who takes as target a Muslim in his own country may not realize that a fundamentalist in the country of this Muslim may attack foreigners or a similar ground.

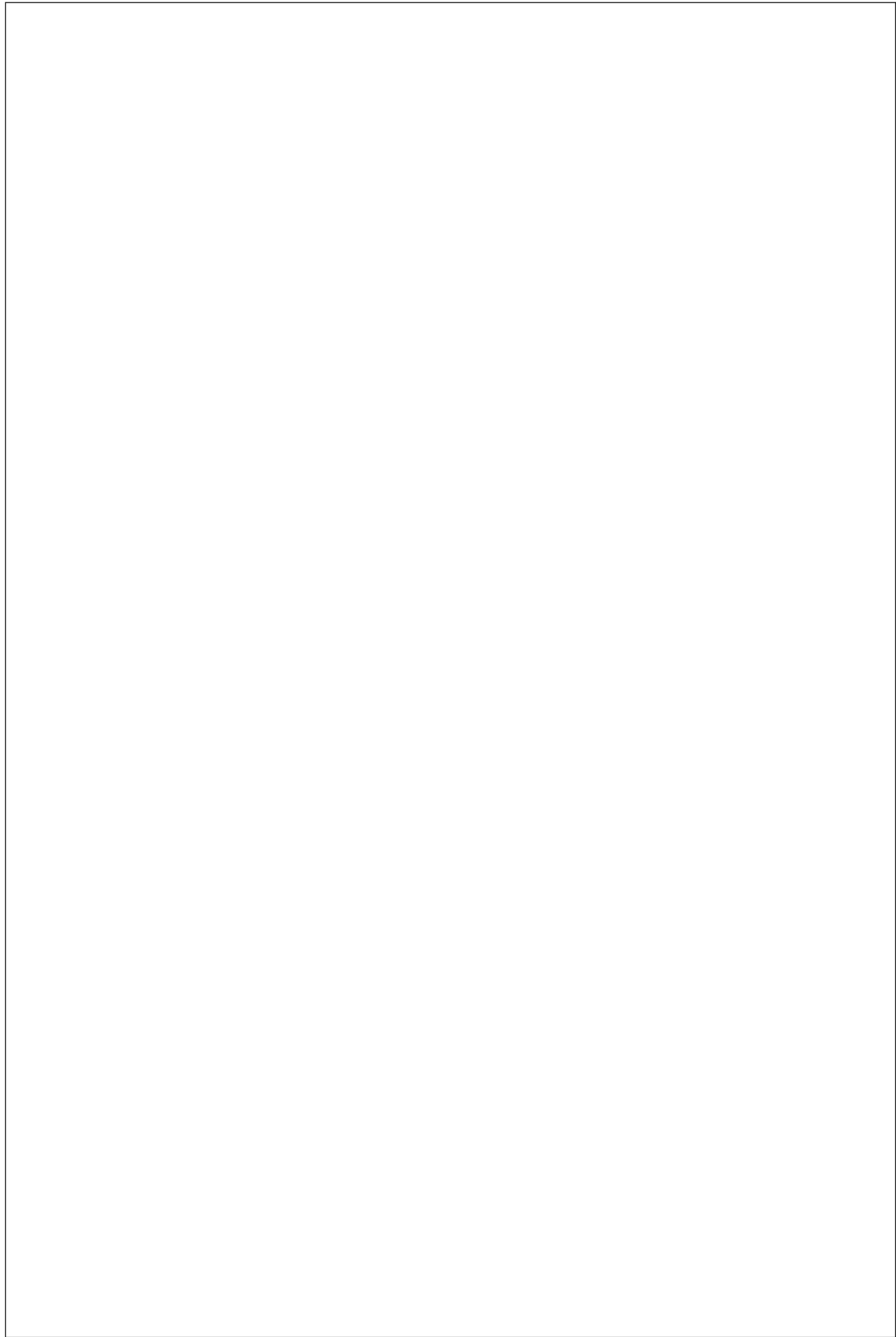
Human rights circles in countries where there is racism support perhaps unconsciously, the exclusive identity of the ethno-nationalist terrorist which is obviously inspired by racism.

Exclusive identity is almost always criminal, for it does not only conceptually rejects but also kills or expels the other. Nevertheless, many human rights circles and public opinions under their influence support ethno-nationalists while making out of fundamentalists a new enemy image, most needed after the break-up of the Soviet Union. They are, however, unaware that what they have been doing is a little more subtle form of racism.

And the question remains who is going to improve whose human rights performance.

Terörizm ve İnsan Hakları

Terrorism and Human Rights



Terrorism and Human Rights

Following are retired Ambassador Gündüz Aktan's observations on PKK terrorism in meetings on human rights and self-determination:

Gündüz Aktan argued that international law and norms were not applied to right of self-determination and a contradictory, subjective perspective ensued instead. Particularly in the early '90s, the international community and Western nations, within the uncertainty left in the wake of the fall of the Soviet Union, went as far as to sympathize with PKK terrorism at a time when terrorist acts were at their most violent. Aktan claimed that at the root of the sympathy lied the instability caused by a wrongful conception of the issue of terrorism in terms of international law. He further argued that the inclusion of the term "guerrilla" in the international human rights system in the postcolonial era contributed to this perspective.

The lack of sanctions in international law regarding internal conflicts gives rise to a legal situation where the rights of terrorists are protected under human rights law. However, Aktan claims that to defend the right of self-determination for a people that lives under the roof of a "sovereign state" and does not have issues of "lack of self-determination" and of "an unlawfully occupied land" is wrong. He emphasizes that such a conception makes violence against the state acceptable, while causes legitimate defense against terrorists that are responsible for the deaths of innocent civilians to be considered state violence. Gündüz Aktan asserts that the efforts of international NGOs at the time served, without proof, a purpose of wrongfully depicting the PKK as a guerilla force and a victim of torture.

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Emekli Büyükelçi Gündüz Aktan'ın insan hakları, kendi kaderini tayin hakkı vb. konulu toplantılarda PKK terörizmi üzerine değerlendirmeleri:

Gündüz Aktan kendi kaderini tayin hakkı konusunda uluslararası hukuk ve normların uygulanmadığını, aksine çelişkili ve subjektif bir anlayışın hâkim olduğunu bildirmektedir. Nitekim özellikle doksanlı yılların başında PKK terörizminin en şiddetli biçimde yaşandığı dönemde, uluslararası kamuoyu ve Batılı devletler arasında, Sovyetlerin dağılmasının ardından yaşanan belirsizliğin de etkisi ile PKK terörüne sempati duymaya varacak bir anlayışın öne çıktığı görülmektedir. Ancak Aktan bu sempatinin temelinde terörizmin uluslararası hukuk açısından kusur bir biçimde ele alınması sonucunda ortaya çıkan belirsizliğin yer aldığını belirtmektedir. Ayrıca sömürgecilik sonrası dönemde gerilla tanımının uluslararası insan hakları sistemine girişinin de bu bakış açısına katkı sağladığını ifade etmektedir.

İç çatışmalara yönelik uluslararası hukukta herhangi bir yaptırımın bulunmayışı, teröristin haklarının insan hakları hukuk çerçevesinde koruma altına alındığı bir hukuki zeminin ortaya çıkmasına neden olmuştur. Ancak “egemen bir devlet” çatısı altında yaşayan, ne “kendi kendini yönetememe” ne de “hukuksuz işgal edilmiş” topraklarda yaşıyor olma sorunu bulunmayan etnik gruplar için kendi kaderini tayin hakkını savunmanın yanlış olduğunu ifade etmektedir. Devlete yönelik şiddetin bu çerçevede kabul edilebilir hale geldiğini, ancak masum sivillerin katledilmesinden sorumlu teröristlere yönelik meşru müdafaanın ise devlet şiddeti olarak ele alınmaya başlandığına vurgu yapmaktadır. Gündüz Aktan, PKK sorunu temelinde uluslararası STK'ların o dönemde yaptığı çalışmaların kanıtsız, dayanaksız bir biçimde PKK'yı işkence mağduru gerilla gibi göstermeye hizmet ettiğini belirtmektedir.

**Commission on Human Rights, Sub-Commission on
Prevention of Discrimination and Protection of
Minorities, 46th Session, 11th meeting,**

15 August 1994, Geneva

Mr. AKTAN (Observer for Turkey) said that attempts were still being made to abuse the principle of self-determination by condoning terrorist violence. Some non-governmental organizations defended self-determination for ethnic groups which were living neither in "non-self-governing territories" nor "illegally occupied territories" but "in a Sovereign State". That attitude was legally wrong and politically dangerous. The recent pronouncements in two resolutions on Turkey, under the heading of self-determination, made by the Parliamentary Assembly of such an important organization as the Conference on Security and Cooperation in Europe (CSCE) were thus most distressing.

Mr. Eide's working paper (E/CN.4/Sub.2/1994/36 and Corr.1) rightly made allowance for a "handful of ethnic or religious entrepreneurs who would mobilize for violence". Violence caused by "ambitious entrepreneurs" led to bloodshed and human rights violations in countries, especially when they were materially backed by neighbouring countries trying to promote their own interests and morally supported by those trying to redeem their own personal and societal wrongs at the expense of others.

Frustration was not, in fact, confined to ethnic groups. General frustration caused by poverty could be easily exploited by "ambitious entrepreneurs to mobilize a minority against its Government. The frustration would not necessarily be connected with "belonging to a group". An influential segment of the international community which was predisposed, for reasons of its

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own, always to see the fault of the Government or of the majority in any "minority situation" encouraged the proliferation of such situations.

The causes of ethnic violence were much more deeply rooted and the relationship between social factors and ethno-nationalism was far from direct or obvious. Multi-ethnicity and multireligiousness were traditional characteristics of the non-Western world, the nation State being a Western invention which had badly affected ethnic harmony.

It was not always true that ethnic terrorism resulted from the suppression of ethnic identity. The PKK leader was, quite naturally, an enemy of the tribal structures in south-eastern Turkey; he was also opposed to the family structure of the Kurds. As part of his self-hatred, he despised the Kurdish people and, consequently, had a very narrow sociocultural base on which to build a stable and healthy ethnic identity. Violence was apparently the only solution to his identity crisis. The Government of Turkey should not be expected to recognize the criminal ethnic identity which the PKK was fighting for; it was socio-pathological and represented a return to tribalism.

There was no ready-made solution to ethnic conflicts. Efforts of the international community in the name of preventive diplomacy might encourage ethnic groups to revise their claims excessively upwards, dangerously destabilizing political regimes and the peace and security of entire regions.

**Commission on Human Rights, 50th Session,
Statement made under item 10, 16 February 1994**

Mr. Chairman,

In my previous statements, I talked about confusion in the UN human rights system. This confusion arises from the outmoded approach and some fundamental errors inherent to it. The Vienna Conference succeeded in correcting some of them. Unless we reform our ways, however, human rights violations will continue to grow as in the past.

My criticism of the UN system should not be considered as an excuse on our part of human rights violations in any country. We believe that violations such as torture or extra-judicial executions cannot be justified under any circumstances.

Diplomats rarely go back to the source in order to understand the subsequent developments, but accept the present framework as given. We, for a change, initiated a study on the evolution of the UN human rights system. Here are some of our findings:

1. In the cold-war period, the emphasis of the UN system has never been on the nature of domestic régimes. The existence of totalitarian régimes prevented this more effective approach. Instead, the system was geared to monitoring violations committed in internal armed conflicts initiated mostly in the process of decolonization.

Although decolonization came to a successful end and the totalitarian ideology collapsed, our focus was not sufficiently shifted to the democratization of domestic régimes. Rather it got stuck in internal conflicts. This is wrong, but not the only one.

2. In the 1960's and 1970's it was easier to understand and sympathize with the so-called guerrilla wars waged by colonized

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peoples against their colonizers. The international community wished to incorporate this most frequent and cruel form of conflict in international humanitarian law in order to protect civilians and combatants as well as curb the breaches of the laws of war by the guerrilla. However, we made two major mistakes which contributed to the spread of terrorism in the world.

2.1. Firstly, we gave combatant status to guerrilla in Additional Protocol I to the Geneva Conventions. Thus the terrorist found his way into law in the guise of guerrilla.

In this context, I now speak from our experience.

The PKK has been waging a terrorist warfare in south-east Turkey for the last ten years. The claim that the guerrilla resorts to terrorism at the beginning; later, however, develops normal guerrilla warfare was proven wrong. In 1993 alone, the PKK indiscriminately killed more than 1200 civilians, children, women and elderly, almost twice as high as the casualty figure of security forces. PKK's victims were overwhelmingly Kurdish. These Kurds were treated as traitors by the PKK, because they wished to live with the rest of the population.

Now it is clearly understood that the PKK cannot fight without massacring innocent civilians or without constantly resorting to perfidy. This is not a matter of choice for it but of nature. To call this method of warfare 'guerrilla' and try to legitimize it is wrong and unacceptable to Turkey.

Some delegations tend to classify terrorism only as a low intensity warfare and to consider higher intensity one as insurgency which is presumed outside the sphere of terrorism. Terrorism is not related to the intensity and scope of the conflict, but to the nature of it. To call terrorism insurgency and try to legitimize it is also wrong and unacceptable.

2.2. The second mistake was to break down terrorism into terrorist acts and place these acts as crimes under their subsections in international humanitarian law or the laws of war. As a result, terrorism magically disappeared from law.

The acts of genocide taken individually are also separate crimes under international law. The reason why we gather them under genocide is to see the magnitude of the phenomenon and

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consequently deal with it as such. Therefore, we cannot agree with the breakdown of terrorism. We consider terrorist warfare as falling in the category of "crimes against humanity" in accordance with Nuremberg Principles number VI, sub-paragraph C.

If ICRC wishes to offer its services in this respect, it should fundamentally and unequivocally revise its approach with respect to guerrilla-terrorist relationship and terrorist warfare.

3. Now, I turn to the legal system that we apply to internal conflicts.

3.1. The application of human rights law to internal conflict is a recent development. It started in 1968 (UNGA resolution 2444). It has not acquired the status of positive law. The concept of public emergency in the Covenant on Civil and Political Rights is not intended to cover internal conflict in its entirety.

Except article 3 common to the Geneva Conventions which has a limited scope and effect, no international law instrument existed for internal conflicts. The international community decided to apply human rights standards to internal conflicts, while developing international law in this respect. This had been considered as a temporary solution. Meanwhile, the General Assembly emphasized (resolution 2853) that human rights in situations of armed conflict were the ones embodied in international humanitarian law. The international community, however, failed in elaborating instruments which could command universal acceptance. Thus, the application of human rights turned into de facto law for internal conflicts.

3.2. Contrary to international law, the human rights approach to internal conflict puts emphasis only on human rights of terrorist suspects, while not protecting innocent civilians from the ravages of terrorist war and not prohibiting terrorism as a method of combat. This is the major flaw in our approach from which disastrous problems arise.

According to international law, terrorists/guerrillas and those who assist them can be detained until the end of hostilities. They can also be judged for crimes against humanity, while combatant or any other status being denied them. The point here is not whether to condone torture of terrorists or other violations. But, the human rights standard for shorter detention period is simply

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not possible from the point of view of protecting innocent civilians and preventing terrorist way of combat. Those who criticize government acts by human rights standards should take into account these aspects and think twice before pushing governments towards the application of international law.

4. In resolutions 2674 and 2852 entitled "respect for human rights in armed conflict", the General Assembly urges that "in order effectively to guarantee human rights, all States should devote their efforts to averting... armed conflicts....", and talk about "the earliest termination of such conflicts".

Now I ask what this commission or NGO's or the international community has done to date to help avert or terminate armed conflicts in order to guarantee respect for human rights. I submit, what we wittingly or unwittingly do usually contributes to internal conflicts.

4.1. Amnesty International in its recent publication entitled "Getting away with Murder" says "(It) never comments on the legitimacy or illegitimacy of rebellion. It does not oppose the use of force per se by opposition groups, only the abuse of human rights. It does not say that political goals can never justify violence." (p.46)

I submit, not only Amnesty International, but many other NGO's and some governments not only are not opposed to violence, but also support violence, assuming that this violence, a product of government repression, is defensive.

4.2. Nevertheless, our rapporteur on torture Mr. Rodley explains everything in an article.¹ He says, "... it was noted that civil wars... have largely replaced aggression between States as the principal outlet for the war urge. Furthermore, civil wars are no longer merely conflicts between domestic forces within a State; instead they have become limited wars between outside powers, usually the superpowers, using domestic surrogates." (page 724) "... (E)ach major power is free to extend help to forces within another sovereign state, regardless whether those forces are characterized as ethnic or linguistic rebels, freedom fighters, military officers

¹ Thomas M. Franc, Nigel S. Rodley, *Legitimacy and Legal Rights of Revolutionary Movements with Special Reference to the People's Revolutionary Government of South Vietnam, the Vietnam War and International Law The Widening Context*, American Society of International Law, edited by Richard A. Falk, Volume 3, Princeton University Press, Princeton, New Jersey, 1972, pp 723-737.

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planning a coup, or the recognized regime.Today, being recognized or represented in the General Assembly of the United Nations is not in the least tantamount to community protection... Since the practice and the political policy from which it springs is endemic, it is futile for the law to insist on branding it (intervention in civil war) as 'illegal "' (pages 727,728) "... the U.N. Charter, art. 2, para. 4, prohibits all military hostilities between States except under art. 51, by way of collective self-defense. Here, again, the absence of any disinterested court to define "self-defense" in specific instances, has made the prohibition meaningless. It is best abandoned." (page 733)

You see why we have internal conflicts in so many countries. Yet we consider them purely in human rights terms.

4.3. So violence is free even subsidized. Violations by so-called armed opposition groups are virtually condoned as mere abuses. But violations committed by the States should be prohibited. Amnesty International says that it changed its policy and now addresses these "abuses" also. We have communicated to it, among other NGO's, in 1993 alone 505 civilian killings by the PKK with names, places and dates. Where did it address these "abuses" ?

In the first place, Amnesty International's legal premise is not clear. It says to us in a letter dated 26 April 1993 that it is guided by common article 3. First of all, Turkey has not requested Amnesty International's services according to this article. If, however, this article was really important to Amnesty International, it should nevertheless report all abuses committed by the PKK in breach of this article, with or without a policy change. For this article has an unusual meaning and purpose in law:

"Insurgents are assumed to know article 3 and its application by them is compulsory. (For) (a)dherence to these Conventions is binding not only on the government, but also on the population of the State concerned. "(ICRC, D.S. 5 a-b, page 4)

Amnesty International and other NGOs acted against law by not fully reporting the abuses of armed groups i.e. terrorists. They want to create an impression that these groups are victims of government repression. To that end they give high visibility to

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torture cases alleged by terrorists who apparently fight an outlawed irregular war, but make lawfully regular allegations.

This Commission considers torture as the most odious violation. Has it ever uttered a word of consolation for the massacred innocent civilians which, according to law, is the gravest human rights violation whose prohibition is indefeasible? Has it ever appointed a special rapporteur on this topic? Apparently, the cult of violence overwhelms the respect for the right of life of innocent civilians.

And the drama goes on.

**Meeting of the States Parties to the Convention Against
Torture and Other Cruel, Inhuman or Degrading
Treatment or Punishment, Committee Against Torture,
5th Meeting, Geneva, 24 November 1993, Geneva**

Mr. AKTAN (Turkey) recalled that the Committee against Torture had concluded its confidential procedure on Turkey by circulating the summary account of its confidential report, which contained the grave accusation of the existence of systematic torture.

Since Turkey was the first country to which the Committee had applied the confidential procedure, the lessons to be drawn could be useful both for the Committee and for the States parties to the Convention.

Turkey was naturally disappointed at the outcome of the procedure, but had nevertheless done its best to cooperate with the two members of the Committee designated to make the inquiry.

He would refer to the confidential report rather than to the summary account, since it concealed the mistakes embodied in the report. Those mistakes were by no means trivial, however; indeed, they were so important that they had determined the outcome of the procedure. Although the summary account had conjured away those mistakes, it had, illogically, preserved the conclusion of the confidential report.

In the confidential report, the two members of the Committee had described a general context within which torture was perpetrated. It contained several mistakes and made absolutely no mention of terrorism. For example, according to the two members of the Committee, the Turkish security forces were fighting the

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"Kurdish population", estimated at 12 million, in the south-eastern region of Turkey, which they called "Kurdistan"; and, in that struggle, PKK "combatants" and "activists", who were identified with the "Kurdish population", were imprisoned by Turkey for political crimes. The outcome of the inquiry had been predetermined by placing the practice of torture within that context. Turkish security forces were presented as systematically torturing the "Kurdish population" or "PKK combatants" as part of their broader repression.

The context described in the confidential report did not correspond to the facts. The entire population of the south-eastern region of Turkey was not 12 million persons, but 2.9 million, and they were not all Kurds. Moreover, most of the violent incidents took place in certain parts of that region. The Kurdish population probably numbered about 10 million in all; more than 3 million of them spoke an altogether different dialect and did not consider themselves Kurds. Most of the Kurds lived in western Turkey in peace and tranquillity.

Historically, there had never been a region called "Kurdistan". Within the United Nations, the use of geographical denominations not accepted by Member States was inadmissible, in accordance with a resolution of the third United Nations Conference on the Standardization of Geographical Names, held in Athens in September 1977. The members of the Committee should therefore avoid using the loose terminology of certain irresponsible non-governmental organizations.

PKK had started its campaign on 15 August 1984 by murdering 54 Kurdish civilians, mostly women and children, in the village of Pinarçik. Since then, they had killed more than 2,000 people, mostly Kurds. Turkish security forces tried to stop the killing of innocent Kurds by the few PKK terrorists and their supporters, who were trained or indoctrinated in some of Turkey's neighbouring countries and in Europe.

In view of the number of innocent Kurdish victims, it was therefore correct to say that there was a terrorist organization in the south-eastern region. Calling it anything but terrorist would be an attempt to legitimize it, and that was not befitting in a United Nations legal body.

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Contrary to what the two members of the Committee had suggested, Turkey had no punishment for political crimes in its legislation and there were no political prisoners or political prisons in Turkey.

To perceive the conflict in the south-eastern region of Turkey as taking place between Turkish security forces and the Kurdish population was therefore illusory.

In paragraph 5 of their report, the two members of the Committee said that the information forwarded by non-governmental organizations was "credible" and contained well-founded indications that torture was systematically practised in Turkey. In fact, the two members had never tried to verify the allegations with the Turkish authorities. It was safe to guess that none of those allegations, most of which had been sent by Amnesty International, was supported by "clear evidence". In a letter to that organization dated 5 March 1992, the Turkish Government had asked how it justified allegations when domestic as well as international judicial means were available to the victims; and how Amnesty International interpreted the concept of "clear evidence".

No communication by or on behalf of any individual subject to Turkish jurisdiction had ever been submitted to the Committee under article 22 of the Convention. Moreover, Turkey was one of the members of the Council of Europe against which the fewest individual communications of torture had been filed.

In its reply of 26 April 1993, Amnesty International had stated that the allegations were supported by a wide range of evidence: court judgements, official documents, medical certificates and photographs.

None the less, all of Amnesty International's reports, presumably including the one submitted to the Committee, were full of unsubstantiated allegations. Amnesty International always criticized the courts and forensic medicine departments of the countries in question. It was impossible to understand what it meant by "official documents". Moreover, photographs were not recognized as evidence by most judicial systems.

It appeared that Amnesty International was politically motivated against Turkey, as shown by the enormous increase in the size of its reports soon after Turkey's application to the European

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Community for full membership. Yet the political motivation of the allegations as another criterion for inadmissibility had not been taken into account by the two members of the Committee.

A terrorist group could easily use the communication system for the purpose of its struggle. The consistent allegations regarding techniques and places of torture might well be a sign of a smear campaign launched by individuals and associations connected with the terrorist organization. By repeating identical allegations, they might wish to exploit the sensitivity of public opinion to torture and gain sympathy and legitimacy for their terrorist activities. That tactic could be used with impunity in a democratic country like Turkey.

The associations in Turkey to which the report referred were not human rights organizations in the real sense of the word, but had been founded with the help of Amnesty International by individuals close to PKK or operated under the threat of that terrorist group. Those associations served as intermediaries for the organization of campaigns of allegations.

An approach that omitted the existence of PKK's terrorism and portrayed the Turkish security forces' action to combat terrorism as repression, together with allegations unsupported by clear evidence, had led the two members of the Committee to see things as they had wished. Such an inappropriate approach had naturally caused them to detect elements during their visit to Turkey that could at best be qualified as "circumstantial evidence" indicating the alleged existence and systematic character of torture. It was therefore quite understandable that the Committee had conceded that only a small number of torture cases could be proved with absolute certainty. However, it was an obvious contradiction that the Committee had reached the conclusion of "the existence and systematic character of the practice of torture" in paragraph 58 of the summary account.

The Turkish Government had never denied that sporadic cases of torture might occur in Turkey. Moreover, it was almost impossible to eliminate torture completely in the struggle against savage terrorism. The Turkish Government had taken pains to improve its legislation and to control the anti-terrorist activities of its security forces. Killing innocent persons was, however, the gravest violation of human rights. No allegation, accusation or

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prejudice could divert the Government's attention from its basic objective of protecting the right to life.

The report contained familiar recommendations, the core of which was that the detention period should be reduced. The existence of a relatively long detention period in areas subject to a state of emergency had wrongly been taken as a priori evidence of the existence of torture. The length of detention was of crucial importance in action to combat terrorism, and that was why the practice of precautionary detention had existed until recently even in some European countries. At the present time, the Turkish Government was not prepared to reduce the detention period in order to satisfy the authors of the allegations of organized torture, whose main objective was to curb the efficiency of the fight against terrorism. Meanwhile, his Government hoped that, in cases where there was no "absolute certainty" of systematic torture, the Committee would remain within the bounds of the evidence available and act with the sense of dignity and responsibility called for by time-honoured legal tradition.

He wished to make the following recommendations to the States parties to the Convention:

- Before taking a decision on the confidential procedure, the Committee should forward all allegations to the State party concerned and elicit its views.

- The general context to be described in the confidential report in which allegations of torture were examined should be prepared in full cooperation with the State party concerned in order to avoid factual mistakes and crucial errors of approach.

- The Committee should be extremely careful in designating members to make an inquiry. For a case with ethnic overtones, the Committee should not designate a member from a country which, because of its own ethnic particularities, readily embraced the causes of ethnic groups in other countries, sometimes to the extent of tolerating, on its own territory, their terrorist organizations. That situation called for special care if the member designated happened to belong to an ethnic group already engaged in an ethnic cause of its own. Members in that category should withdraw of their own free will from the inquiry so as not to endanger the credibility of the Committee.

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- The Committee should comply with the United Nations rules on geographical denominations.

- In no way should the conclusions of an inquiry be conducive to interpretations against the territorial integrity and political unity of States parties.

- In no way should the conclusions of the inquiry be conducive to condoning the killing of the innocent on the pretext of eliminating torture.

- The reply of the State party to the confidential report should be annexed to the summary account if the latter was to be published.

Unless those conditions were met, his delegation would discourage States parties from cooperating with the Committee.

As a general recommendation, he proposed that the Meeting of States parties should discuss the work programme of the Committee against Torture. A new item to that effect should be included in the agenda of the next Meeting of States parties to the Convention.

**Commission on Human Rights, Sub-Commission on
Prevention of Discrimination and Protection of
Minorities, 46th Session, 19th meeting,
15 August 1994, Geneva**

Mr. AKTAN (Observer for Turkey) said that he wished to address the subject of internal conflicts of ethnic origin and the disarray that could arise from the overlapping of the two law systems applied to them, if the human rights bodies did not make a correct assessment of their nature. Such conflicts were initially organized by a very small number of individuals usually motivated by Marxist-Leninist ideology, with an overdose of ethno-nationalism and some traits of national socialism, who used a guerrilla combat method, not the traditional one but a much more efficient and cruel version that had been developed since the Second World War. A segment of the population, a small fraction of the ethnic group in question, supported the guerrillas as sympathizers and embarked on "civilian" protests, giving an impression of popular support. Their declared aim was not cultural rights, but secession and independence.

Theoretically, guerrilla warfare was supposed to resort to "selective terrorism" aimed at the political authority and the majority in order to bend them to its will. In practice, however, having failed to obtain support from "their" ethnic group, the guerrillas increasingly resorted to indiscriminate terrorism against it, thus becoming terrorists in an ethnic struggle in a sovereign State.

Human rights circles, especially Western non-governmental organizations, had apparently developed a strategy geared to supporting guerrillas rather than promoting compliance with human rights in internal conflicts. They tried to legitimize such

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campaigns by constantly referring to self-determination, presenting the guerrillas as representatives of the ethnic group and the conflict as one between State forces and civilians. Endeavouring to curtail the Governments's efforts to deal with the militia, they ignored or condoned the killing of innocent civilians by the guerrillas, thereby inciting them to terrorism.

The contemporary internal conflicts did not come within the purview of Protocol II additional to the Geneva Conventions of 1949 because of its narrow scope and high threshold. Those conflicts were of much lower intensity than civil wars. Protocol I did not apply to them either, for they could not be treated under self-determination. No State was prepared to grant terrorists an effective and objective status of "party to conflict".

Internal conflicts were none the less included in the scope of human rights law through the concept of public emergency, with all sorts of concomitant distortions and shortcomings. Neither the killings of innocent civilians nor the nature of terrorist warfare were taken into account by the international community, only Governments being held accountable for human rights violations against terrorist suspects. That was a scandalous and untenable situation.

General Assembly resolutions did not distinguish between conflicts on the basis of their intensity, so even an inter-State war could be terroristic, if terrorism was consistently resorted to as the main means of combat. Therefore, guerrilla actions could also be equated with terrorism. Terrorist guerrilla warfare was based on feigning civilian non-combatant status, a treacherous and dishonourable form of combat.

While not opposed to the accountability of the State for human rights violations in internal conflicts in accordance with human rights law, his Government felt strongly that human rights instances should take up the massacres of innocent civilians by terrorists and urged the entire human rights system to consider terrorist methods of warfare as a crime against humanity.

Commission on Human Rights, 51st Session, “Human Rights Violations around the World” (Agenda item 12), Reply of 1 March 1995 to the statement made on behalf of the European Union by France on 28 February 1995

Mr. Chairman,

I listened with some consternation to what the French delegate had to say about my country on behalf of the European Union.

I was expecting him to stress in line with the recent fashion that the South-east question was an internal affairs of Turkey. But he did not.

He could not spell out the word PKK, call it a terrorist organisation and condemn it.

He did not point out either that in a democratic country which has nothing to do with tyranny and oppression, nobody had any right to resort to violence, or fight for self-determination.

But he asked for a peaceful and political solution presumably through concessions to be made by Turkey to the perpetrators of unlawful violence and terrorism, thus implying that terrorist violence, even if not backed by people, is accepted by EU as a means of promoting human rights.

In the late 1993, two EU countries prohibited the activities of the PKK and its front organisations in their territories on the ground of terrorism. We are grateful to them, although they have taken this decision after nine years of PKK killings. Nevertheless, their decision raises the question as to why other thirteen member countries of EU tolerate and acquiesce in the activities of the PKK

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against Turkey in violation with their obligations under international law.

The French statement on Turkey highlights the tragedy in which the human rights systems are stumbling. The broad allegation that the human rights situation did not improve in Turkey is exclusively related to the rights of terrorist suspects. Apparently terrorists who killed 4000 innocent civilians represent humanity to them. Since uncondemned, unlawful violence is encouraged while legitimate struggle against terrorism being misrepresented as violations.

Lapidation is a Biblical punishment. But it has a slightly disturbing pre-condition. Those who cast the first stone should be sinless themselves. May I suggest to the French delegate and through him to EU to establish a flagellation brotherhood among themselves so that first atone for their sins.

Thank you.

**Commission on Human Rights, 50th Session,
6th Meeting, The right of peoples to self-determination
and its application to peoples under colonial or alien
domination or foreign occupation**

Mr. AKTAN (Observer for Turkey) said that the Israeli-Palestinian agreement of 13 September 1993 was an historic step towards achieving a lasting solution to the conflict in the region. The determination of the parties and the progress achieved in the talks between Israel and the Palestine Liberation Organization with a view to giving effect to the interim agreement gave every reason to be hopeful about the outcome. As a country belonging to the same region, Turkey followed the peace process closely and would not fail to contribute to it if necessary.

The recent emergence of ethno-nationalism and tribalism made it even more necessary to clarify the content of the concept of self-determination and its relationship to the territorial integrity and political unity of sovereign States, which were equally important principles of the Charter. The provisions of the Vienna Declaration of 25 June 1993 were thus both welcome and timely. Paragraph 2 of the Declaration reaffirmed the principle of self-determination and stated that denial of the right of self-determination was a violation of human rights. The paragraph made a distinction, however, between the right of self-determination of peoples under colonial or other forms of alien domination or foreign occupation, on the one hand, and countries which encompassed people of different ethnic origins, on the other.

Such a distinction was well-founded as peoples under colonial domination or foreign occupation had never had the opportunity to express freely their views about their own future. By contrast, people of different ethnic origins living in a democratic sovereign

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State had freely opted to live within the boundaries of that State. For peoples under colonial domination or foreign occupation, self-determination was an inalienable right but, as paragraph 2 of the Declaration also stated, those peoples could exercise their right of self-determination only through legitimate action. In other words, terrorism was not admissible even for the purpose of self-determination. That was in keeping with General Assembly resolution 48/122 of 20 December 1993.

With regard to the people in the second category, the Vienna Declaration was also clear. It stated that the right of self-determination should not be construed as authorizing or encouraging any action that would dismember or impair, totally or in part, the territorial integrity and political unity of sovereign and independent States.

That provision harmonized the principles of territorial integrity and self-determination. By adopting the Declaration unanimously, the international community had safeguarded peace and security in the post-cold-war era. It had realized that, at a time when ethno-nationalism and tribalism were on the rise, recognition of the right of self-determination to every community with different ethnic, cultural, religious or linguistic characteristics would have detrimental effects for the new international order.

Despite those provisions, the international community had witnessed widespread abuse of the right to self-determination. In the absence of a universally recognized definition of "people", some splinter groups had claimed self-determination for their "peoples". Some human rights circles almost automatically sympathized with them and gave them full moral and even material support. Encouraged by such support, those groups had gradually begun campaigns of violence in their countries and had caused internal disturbances. Almost forgetting who had started the violence, human rights circles had then stepped in to denounce violations committed by security forces.

Recalling that, under the Charter of the United Nations, the act of aggression was prohibited in inter-State relations, he said that the concept of a "just war" had thus been reintroduced into international law. A State could legitimately fight only within the framework of Articles 39 and 51 of the Charter. Internal conflicts were not prohibited, but were considered to come within the sovereignty of States in accordance with Article 2, paragraph 7.

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Nevertheless, the concept of human rights did not address the initiator of violence i.e. the aggressor, nor its nature, objectives, mode of struggle or domestic context. Those elements were, however, of crucial importance in determining the source of violations. The view underlying that approach was that violence was inherent in the process of change in human society, that to curb violence might stiffen social forces and that what third parties could best do was to humanize strife, namely, to reduce violations without eliminating violence, an impossible task.

The fact that the ethnic groups, as smaller parties to a conflict, resorted to terrorism compounded the complexity of the situation. In that context, human rights supporters of those groups began to accuse security forces of human rights violations, conveniently forgetting that those groups themselves had initiated the terrorist warfare which in law constituted a crime against humanity. The objective was to brand States as violators of human rights and to represent the terrorism of those groups as a "just war".

The concept of human rights upheld by the non-governmental organizations was very narrow and concerned the judicial rights of ethnic terrorists. They accused States of committing human rights violations in excessively general terms, a situation which created conceptual confusion in the United Nations human rights system.

That confusion was further compounded if a third party was involved in the conflict. In the context of nuclear deterrence, externally instigated internal conflicts had replaced inter-State wars. As the Charter contained no provision that dealt directly with war of that kind, many countries had exploited the loophole. Ethnic groups had become instruments of that warfare and armed bands trained, indoctrinated, financed and commanded from neighbouring countries had infiltrated other countries to create ostensibly internal conflicts. There had always been a political interest in fomenting that kind of indirect aggression, which could never be regarded as a human rights issue.

At a time when decolonization had been completed and peace negotiations regarding occupation were under way, most of the remaining internal disturbances fell within the category of indirect aggression, the case of Turkey being one.

**Commission on Human Rights, Sub-Commission on
Prevention of Discrimination and Protection of
Minorities, 46th Session, 19th meeting, 3 February 1994,
Geneva, Statement on agenda item 9**

Mr. Chairman,

We are pleased to note that the Palestinian issue is being discussed in the present session of the Commission in a remarkably different environment. The Israeli-Palestinian agreement of 13 September 1993 marks a historic step towards bringing a lasting solution to the region. The determination of the parties and the progress achieved in the talks between Israel and the PLO to carry into effect the interim agreement gives us every reason to be hopeful about the outcome. Turkey, as a country belonging to the same region follows the peace process very closely and will not fail to contribute to it when it is required.

Mr. Chairman,

Turkey has always supported the right of self-determination of the Palestinian people as embodied in numerous General Assembly and Security Council resolutions and will continue to do so in the future.

Particularly after the Cold War, the term “self-determination” has become rather an elusive concept. The emerging ethno-nationalism and tribalism in present time render it even more crucial to clarify the content of this concept and its relationship with territorial integrity and political unity of the sovereign states which are equally important principles of the UN Charter.

The provisions of the Vienna Declaration of 25 June 1993 serves to this purpose.

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Paragraph 2 of the Vienna Declaration reaffirms the principle of self-determination. It states that "all peoples have the right of self-determination" and that "the denial of the right of self-determination (is) a violation of human rights" and the Conference "underlines the importance of the effective realization of this right".

The significance of paragraph 2 also lies in the fact that it provides us with clear elements regarding the exercise of the right of self-determination. In doing so, it makes distinction between the right of self-determination of peoples under colonial or other forms of alien domination or foreign occupation on the one hand, and countries which encompass people of different ethnic origins on the other.

Such a distinction is well founded, since peoples under colonial domination or foreign occupation have never had the opportunity to express their free will about their own future. By contrast, people of different ethnic origin living in a democratic sovereign State have freely opted to live within the present boundaries during the establishment of the State.

The Vienna Declaration in its Paragraph 2, envisages that for the peoples falling in first category i.e. peoples under colonial domination or foreign occupation, self-determination is an inalienable right. However, it is also stated in the same paragraph that these peoples can exercise their right of self-determination only through "legitimate action". In other words, terrorism can not be admissible even for the cause of self-determination. This is in compliance with General Assembly resolution 48/122 of 20 December 1993 which states that "terrorism can not be justified under any circumstances".

For the people falling in the second category the Vienna Declaration is also clear; it states that the right of self-determination "shall not be construed as authorizing or encouraging any action which would dismember or impair, totally or in part, the territorial integrity and political unity of sovereign and independent States... possessed of a government representing the whole people... without distinction of any kind".

The implication of this statement is obvious. Right of self-determination does not imply secession in countries with a democratic regime.

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This provision of Vienna Declaration harmonizes the principles of territorial integrity and self-determination. By adopting the Declaration unanimously, the international community has safeguarded peace and stability in the post cold war era. It has realized that at a time when ethno-nationalism and tribalism are on the rise, recognition of the right of self-determination to every community with different ethnic, cultural, religious or linguistic characteristics would cause detrimental effects on the new international order.

Mr. Chairman,

Despite these provisions of the Declaration of the Vienna Conference which highlight and strengthen the Declaration on International Law (Resolution 2625), we observe a wide-spread abuse of the right to self-determination.

In the absence of a universally recognized definition of 'people', some splinter groups came to the forefront to claim self-determination for their 'peoples'. Some human rights circles almost automatically sympathized with them. These groups have been given full moral even material support. A mythology of past oppression has been created. They became favorite subjects of the press and object of "charity" campaigns.

Encouraged and emboldened by this external support these groups gradually began campaigns of violence in their countries. They caused internal tensions and disturbances. At this point, human rights circles stepped in to denounce violations committed by security forces. These circles have almost always forgotten who started the violence and what the introduction of violence into a political order meant.

In the UN Charter, adopted after a catastrophic world war, the act of aggression was prohibited in inter-state relations. In this way, the concept of *jus bellum* or "just war" was reintroduced into international law. A State could legitimately fight only within the framework of Articles 39 and 51. Although States were the building blocks of the order, internal conflicts were not prohibited. These conflicts were considered within the sovereignty of the States in accordance with Article 2 (7). Later, however, sovereignty became nominal in the face of the expanding domaine of human rights which came to concern only with violations.

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Nevertheless, the concept of human rights does not address the initiator of violence i.e. the aggressor, nor its nature, its objectives, its mode of struggle, consequentiality of its actions, domestic context etc. But, these elements are crucially important in determining the source of violations.

The view underlying this approach is that violence is inherent to the process of change in human society, that to curb violence may stiffen social forces, and that what the third parties could do most is to humanize the strife, namely to reduce violations without eliminating violence, an impossible task which explains the mess human rights are presently in.

Democracy is not upheld by these human rights circles as a legal framework within which a gradual peaceful change is possible.

The fact that ethnic groups, as smaller parties to the conflict resort to terrorism compounds the complexity of the situation. What is euphemistically called "guerrilla", developed as a combat method by Marxist ideology, is fundamentally incompatible with regular war, the security forces are used to. The latter is thus compelled to develop its capacity of irregular warfare in order to deal with terrorists who are civilian themselves but kill mostly the civilians, disappear into and emerge out of the civilian population during the fight, and violate all laws of war.

In this context, human rights supporters of these terrorist groups start accusing security forces of human rights violations, conveniently forgetting that these groups themselves initiated the terrorist warfare which in law constitutes crime against humanity. Their objective is to brandish States as violators of human rights and to present terrorism of these groups as 'just war'.

The concept of human rights the NGO's mostly talk about is a very narrow one. It concerns the judicial rights of the ethnic terrorists. They are not interested in the vast categories of democratic and socio-economic rights and freedoms. They practically use human rights in place of humanitarian law which is not applied in internal conflicts. Yet, they accuse the States of committing human rights violations in excessively general terms. This situation creates a conceptual confusion in the UN human rights system.

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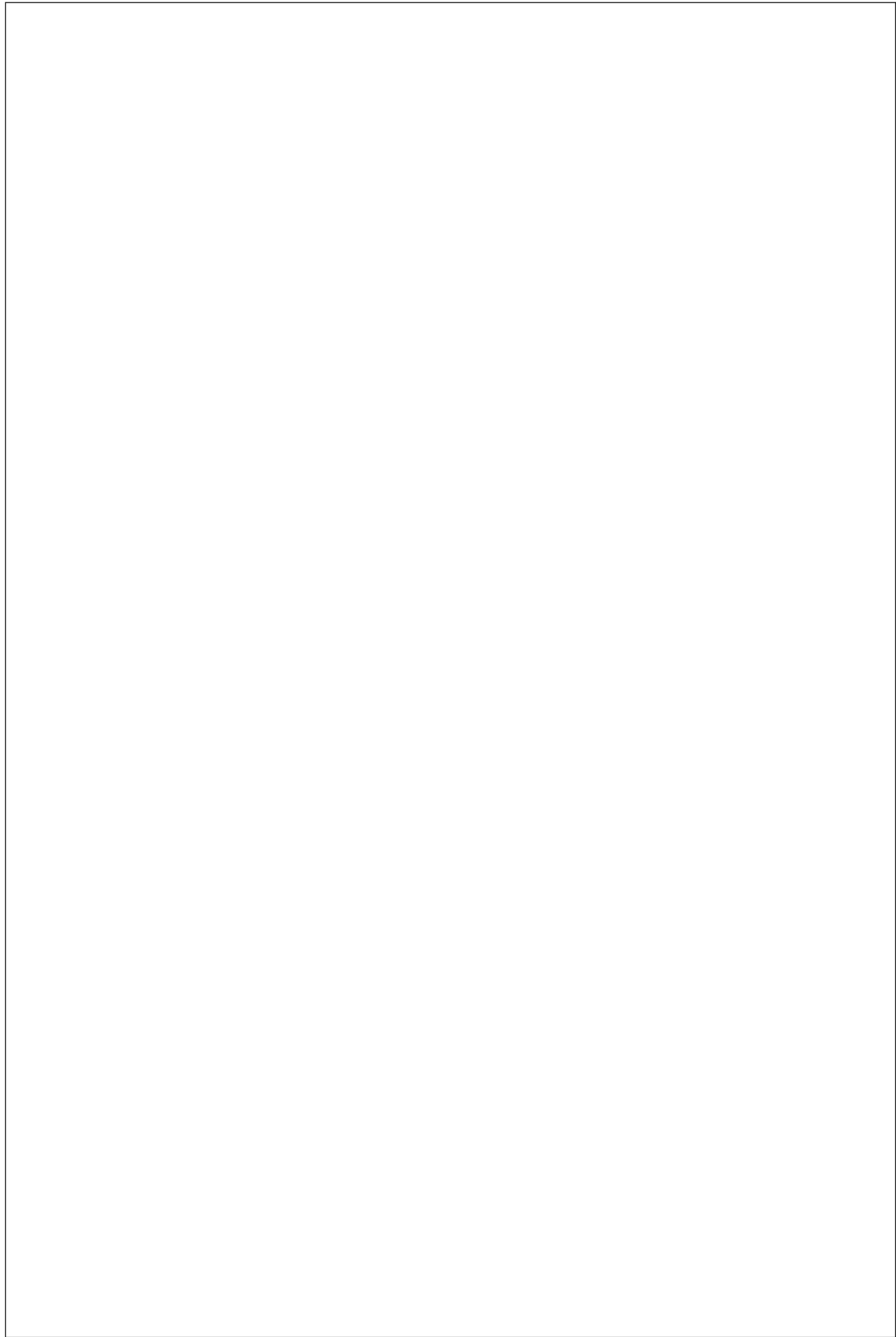
This confusion is further compounded, if a third party is involved in the conflict. Right from the founding of the UN system, indirect aggression of third parties bedeviled the member countries. In the context of nuclear deterrence, externally instigated internal conflicts replaced interstate wars. Since the UN Charter did not have any provision directly dealing with this kind of war, many countries exploited the loopholes of the Charter. Some of them are excelled at it. Ethnic groups have become instruments of this warfare. Armed bands trained, indoctrinated, financed and commanded from neighbouring countries have infiltrated other countries creating ostensibly internal conflicts. Human rights circles rallied by their governments raised their voice on violations allegedly committed by defending states. Yet, there has always existed a political interest in fomenting this kind of indirect aggression which can never be considered as an issue of human rights.

At a time when decolonisation is completed, ideological revolutionary movements became obsolete and peace negotiations regarding occupations are underway, most of the remaining internal disturbances fall within the category of indirect aggression, the case of Turkey being one.

Thank you.

The Armenian Issue

Ermeni Sorunu



The Armenian Issue

Gündüz Aktan conducted important work on the Armenian issue. His contributions to the tackling of the issue from the perspective of international law are particularly noteworthy. His work on racism and human rights provided the grounds for a legal approach to the Armenian issue.

Gündüz Aktan asserted that research and publications that approach the Armenian issue from a legal perspective are limited in number, while adequate historical research is being made. He further argued that the act of genocide as claimed by Armenians was the biggest international crime defined, and a legal issue from this perspective. And when tackled from a legal perspective, Aktan provided legal and historical proof that the acts of genocide or crimes against humanity did not occur.

Gündüz Aktan argues that the Armenian deportation was a legitimate act by the Ottoman state. Aktan mentions that the Armenians at the time were a political group with political agendas who were not under the protection of Article 2 of the Genocide Convention. He explains that there was no motive or deliberate action to commit genocide against the Armenians, but that the act in question was a forced exile with defense and military reasons. Aktan also asserts that the deportation did not extend to all Ottoman Armenians, and that far more Turks had lost their lives than Armenians during the incidents.

Ermeni Sorunu

Gündüz Aktan'ın Ermeni Sorunu üzerine önemli çalışmaları olmuştur. Özellikle Ermeni Sorunu'nun uluslararası hukuk açısından ele alınması yönünde sağladığı katkılar dikkat çekicidir. Irkçılık, insan hakları gibi alanlarda yaptığı çalışmalar, Ermeni Sorunu'na hukuki yaklaşımın temelini sağlamıştır.

Gündüz Aktan, Ermeni Sorunu konusunda uluslararası alanda hukuk temelli araştırma ve yayınların sınırlı olduğunu, ancak yeterince tarihsel araştırmanın yapılmakta olduğunu göstermektedir. Hâlbuki Ermenilerin iddia ettiği soykırım suçunun en ciddi uluslararası suç ve bu sebeple de hukuki bir sorun olduğunu açıkça ortaya koymuştur. Hukuki açıdan ele alındığında ise soykırım suçu veya insanlığa karşı suçun vuku bulmadığını tarihsel ve hukuki dayanakları ile sunmaktadır.

Gündüz Aktan Ermeni Tehciri'nin Osmanlı Devleti'nin meşru bir eylemi olduğunu ifade etmektedir. Aktan o dönemde Ermenilerin siyasi hedefleri bulunan ve Soykırım Sözleşmesi'nin 2. maddesi kapsamında korunma altına alınmayan siyasi bir grup olduğunu belirtmektedir. Ermenilerin soykırıma uğratılması yönünde bir saik veya kasıt bulunmadığını, aksine savunma ve askeri sebepler ile yapılan bir tehcir vuku bulduğunu ifade etmiştir. Ayrıca Aktan, tüm Osmanlı Ermenilerine yönelik bir tehcirin söz konusu olmadığını, vuku bulan Ermeni ölümlerinden çok daha fazla sayıda Türk'ün hayatını kaybettiğini ortaya koymaktadır.

**The Legal Approach to the Armenian Issue and the
Armenian Allegations in the light of International Law
(Speech made during the seminar entitled “Turkey and
the South Caucasus”, held at the Turkish Embassy in
London, October 2001)**

Thank you, Chairman. You see, we Turks do not like legalities, law, or the legal approach. Interestingly, Armenians have written perhaps around 25,000 books, articles, pieces, but not a single one on the legal aspect of this question.

Genocide is a key issue between Turkey on the one hand and Armenia and Armenians on the other. That is really the main obstacle of the Turkish-Armenian reconciliation on the development of our relations. I am a member of the Turkish-Armenian Reconciliation Commission and this is the real issue. Several times, we discussed the legal aspect of this question, and it might sound bizarre that the Armenians are not interested in the legal aspect of this question. Yet genocide is a crime and it is the highest crime in the hierarchy of crimes. Therefore, it should be addressed from the legal point of view. Again, at the outset, I see no other solution to this problem other than a kind of adjudication - an international adjudication of this problem - because I know from my experience, though short one, in this Commission that we cannot really convince the Armenians that this was not a genocide and the Armenians cannot convince us that this was a genocide.

Now, let me briefly touch upon the development of the concept of genocide. As you know, this concept has been coined by Professor Rafael Lemkin, a Polish scholar, during the Second World War -well after the 1915-16 events. His concept of genocide was a very broad one. According to Lemkin, genocide was the annihilation of a minority, politically, economically, socially,

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culturally, physically and biologically. So, a partial or total annihilation can be genocide. Therefore, any systematic killing of a group can be classified as genocide. Later, this concept of genocide was drastically narrowed down during the negotiations on the Convention within the UN system, though the first resolution adopted on genocide by the first session of the General Assembly was very close in respect of the definition of genocide invented by Lemkin himself. Later, however, the Convention was adopted, signed and ratified from 1948 until 1950 and entered into force. Here we have a precise definition of genocide in Article 2 of the Convention. Let me read it out to you because it is a very short article.

"In the present Convention, genocide means any of the following acts committed with intent to destroy... (This is very important, "with intent to destroy")...in whole or in part, 1) a national, 2) ethnical, 3) racial or 4) religious group as such: (I underline, "as such".)

(a) Killing members of a group.

(b) Causing serious bodily or mental harm to members of the group.

(c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part. (Very important for our topic)

Then there are two other acts, (d) and (e), which are not really related to our topic, therefore I skip them.

Now the first factor here in this definition is the "protected groups", of which there are four. What is important is not the enumeration of these groups, but what is omitted by this definition. Political groups are omitted, and I do not want to venture into the definition of this political group, but you can imagine what it means if you would later take it up.

"Intent to destroy" is the second and perhaps most important part of this definition, and it cannot be general intent, but specific intent. Legally-speaking, therefore, there should be first a long pre-planning period, organisation and organised implementation of genocide. This is very important if there are oral or written statements by those who are responsible for genocidal acts to

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provoke and encourage others to commit genocidal acts. If Talat Pasha, for instance, as the Minister of Interior had said the things attributed to him by the Armenians, then legally-speaking, it could have been very difficult for the Turkish side to prove that that was not genocide. So oral and written statements plus planning, organisation and implementation in an organised fashion are very important.

The third one is motive. Motive is usually neglected in the analysis of this definition. Why should one destroy a whole nation, a whole religious group? This "why", some people say, is not really important. What is "really important is the intent to destroy, as long as it is there. But motive is also very important, and if you go into the verbatims of the meetings, of negotiations in the Ad Hoc Committee and in the sixth Commission of the General Assembly, you see that the Lebanese delegate proposed this famous "as such", "destroying a group as such". "As such" means this motive of killing somebody not because that person is doing something, but because what he or she is. This is the motive of genocide. Acts of genocide, I leave aside.

I now pass on to our subject and try to apply these somewhat cursory conclusions to the events of 1915 and 1916. Was the group called Armenians a political group or a group which is protected by this Convention? As Professor Sonyel very ably explained, the Ottoman Armenians made up a political group *par excellence* because they fought for reforms, then for autonomy, and then for their independence. They had their irregular forces, terrorist groups and committees which fought for that purpose. They killed and they got killed. This was a political struggle throughout. Therefore, Armenians are a political group, and political groups are not protected by this Convention.

Second, was there intent to destroy on the part of the Ottoman government? Everybody knows that there was no plan, there was no organisation even. According to archived documents, Enver Pasha, who was then in charge of the Eastern front, sent a telegram to Talat Pasha saying that the Russian armies were advancing and that before the Russian armies there were Muslim populations in a terrible situation. They were driven into Anatolia. Enver Pasha then proposes two alternatives. One is that we can do the same to the Armenians. We can push the Armenians and drive them towards the Eastern border with Russia. Alternatively, we

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can relocate the Armenians somewhere far from the war zone. The date was the 2nd May 1915, right at the beginning of the entry of the Russian armies into Anatolia, and Talat Pasha, without seeking the backing of the Council of Ministers, opted for the second option and started the relocation process. However, in the next two weeks I think, the cabinet endorsed his decision.

To most of the Ottoman ruling class, that was the right decision because relocation would be much less costly from human and material perspectives. If you go through all these archives, you can see hundreds, perhaps thousands of examples of how to protect the Armenians in transit from eastern then central-eastern parts of Anatolia towards Syria. You can see the hundreds of instructions to that effect, detailing the sort of measures to be taken to protect them. But at the end of the day there were many, many casualties. Perhaps, to a certain extent, neglect by the Ottoman armies to organise the relocation or the lack of personnel on their part because the Ottomans were fighting on three fronts. At the same time there were war-induced casualties. During relocation, many started dying after three or four days because of dehydration. The children and the elderly, especially, become quite vulnerable to epidemics. Let us not forget about the epidemics in those times. Of the 60 million people that died in the First World War, one fourth -that is to say 15 million- died of epidemics. Quite obviously, this percentage was higher for the Ottoman Empire because there was one bed for 8,000 people and one doctor for 150,000. Imagine the conditions ! We do not know exactly how many Armenians were killed during the relocation. But we know one thing for certain: most of the Armenians that lost their lives during the First World War died of causes other than relocation. Some of them might have died because of forced migrations during the wartime. The Russian armies advanced and Muslims and Turks, 900,000 of them, left their houses, uprooted by the Russian armies and by the Armenian guerrilla forces. After a while, they died in migrations because of a number of reasons such as the terrain, climate, epidemics and famine. Therefore, the figures should be treated cautiously. There might be reasons other than relocation as I said.

Now here "in whole or in part" is an important indication to understand the situation. Ottomans relocated mostly the Orthodox Gregorian Armenians, who were usually living in the eastern part of Turkey and who were also religiously close to Russia. Whereas many Protestant and Catholic Armenians have not been subjected

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to relocation, plus in western Turkey, in İstanbul, Edirne, İzmir, Aydın and Kütahya, Armenians have not been relocated. Again, because of the lack of transportation in those days, perhaps hundreds of Armenians living in villages were not subjected to relocation. Therefore, it was a partial relocation and one cannot really say that Ottomans committed genocide against one set of Armenians but protected the others. This does not logically fit the definition of genocide.

Here, motive is also important. The Lebanese delegation, which introduced "as such", said that Jews had been killed on racial grounds during the Second World War. A virulent antisemitism really led to the Holocaust and this is what is really meant by "as such", killing a group of people not because of what they do but because of what they are. This is pure racism. It is racial hatred. There has never been anti-Armenianism in the Ottoman Empire. There has never been such a thing. As Professor Sonyel said, they were the loyal "millet", the loyal community. There has never been racism in the Ottoman Empire. Empires do not have racism. Nation-states, not empires, nourish racism. So there has been no motive for the Ottomans to destroy the entire community. What was important for them was to move these Armenians that constituted a military threat to the existence of the Empire. So the military imperative according to international law was the key to our understanding of relocation. Even now, according to Protocol II of the four Geneva Conventions, article 17 envisages "forced, if necessary, relocation or evacuation ... settled areas for imperative military reasons." That was the motive for the Ottomans to relocate the Armenians.

There are some major differences between ethnic cleansing and relocation. We have seen the first example of ethnic cleansing in the Balkan Peninsula against the Turks and Muslims of the Balkans. Ethnic cleansing presupposes firstly a frontal attack on the community to be expelled. Frontal attack means with your armies you kill, wound and uproot them, you drive them towards the frontier. On the way you do all sorts of awful things. We know it from our recent experiences from Bosnia-Herzegovina. In this ruthless enterprise, those responsible have been sentenced so far by the International Penal Tribunal for the former Yugoslavia for crimes against humanity, not genocide. If you compare ethnic cleansing with the Armenian relocation, you can see that ethnic cleansing is much worse than relocation. We have another example

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of the relocation of Japanese Americans. In this case, the court ruling says that presumption of disloyalty is not enough to relocate people. Presumption of manifest disloyalty is obvious in the case of Armenians. They collaborated with Russian armies, they killed many Turks, many Muslims. They fought in the Russian armies. From the point of view of the State, they were traitors.

I will finish here because Dr. Hale is becoming restless with the press release by the British government in July this year, which you may imagine I loved. "Massacres of 1915 and 1916 is an appalling tragedy" and I agree with it, "but we do not believe the events should be classified as genocide, which has a specific meaning under the 1948 UN Convention on Genocide." The second part of this press release says, "Baroness Ashtal of Scotland told the House of Lords" and I continue to quote "...the government and in line with previous British governments have judged the evidence not to be sufficiently unequivocal to persuade us that these events should be categorised as genocide as defined by the 1948 UN convention on genocide, a convention, which is in any event, not retrospective in application." Thank you very much.

DEVLETLER HUKUKUNA GÖRE ERMENİ MESELESİ

GİRİŞ

1915-1916 yıllarında yani I. Dünya Savaşı sırasında, Osmanlı İmparatorluğu'nda vuku bulan Ermeni olayları konusunda çok yazıldı. Bu konuda yazılanların 26 binden fazla olduğu hesaplanıyor. Büyük çoğunluğu Ermeni olan yazarların daha ziyade tarihçi oldukları ve Ermeni olaylarını soykırım olarak niteledikleri görülüyor. Türk yazarların hemen tümü de konuya tarih açısından yaklaşmış ve tehcirin soykırım olmadığını savunmuşlar.

Konunun duygu yüklü oluşu, yayınlara tarafsız bir tarih görüşünün hakim olmasını güçleştirmekle birlikte, dikkatli bir okuyucunun olayların tarihi hakkında yeterli bilgi edinmesi için ortada yeterli yayın bulunduğu kuşku yok. Türkiye'deki ve Ermenistan'daki arşivlerin açık olmadığı ya da bunlara erişimin tam olmadığı yolundaki iddialara rağmen, olayların niteliğini değerlendirmek için yeterli arşiv çalışmasının yapılmış ve yayımlanmış olduğu da söylenebilir.

Doksan üç yıl önce cereyan etmiş olayların anlaşılması için tarihi çalışmalar olmazsa olmaz nitelikte. Ancak uluslararası hukuk alanında eğitim ve tecrübesi yoksa, tarihçi bu olayların soykırım olup olmadığı konusunda yargıda bulunamaz. Görülen o ki, tarihçiler başta olmak üzere, bu konular üzerinde çalışan sosyolog ve siyaset bilimci gibi akademisyenlerle düşünürler, önemli sayıda ölümle sonuçlanan olayları soykırım olarak nitelemek eğilimindedir.¹ Oysa soykırımın, uluslararası bir suç olarak, ancak hukukçular tarafından değerlendirilmesi mümkün.

¹ William A. Shabas, *Genocide in International Law*, Cambridge: Cambridge University Press, 2000, s. 7.

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Konuya ilişkin hukuki çalışmalar yok denecek kadar az. Bu durumun çeşitli nedenleri var. Türklerin hukuka fazla ilgi duymadıkları biliniyor. Ermenilerin hukuku kasten ihmal etmelerinin nedeni, hukuki değerlendirmelerin, soykırım iddialarını güçlendirmekten ziyade zayıflatma olasılığının daha yüksek olması. Ermeni taraftarı yazarlar olayların trajik niteliğini vurgulamak ve soykırım suçlamasını kolayca yapabilmek için tarihi yaklaşımı yeğlemişler. 1948’de oluşturulan ve 1951’de yürürlüğe giren “Soykırım Suçunun Önlenmesi ve Cezalandırılmasına Dair Sözleşme”nin (bundan böyle Sözleşme) 1990’ların ortasına kadar ciddi biçimde kullanılmaması veya kullanma fırsatının çıkmamış olması nedeniyle gelişmiş bir içtihadın da bulunmaması, hukuki yolun tercih edilmemesinin bir nedeni olabilir. Nihayet, Sözleşme’nin kabulünden yaklaşık 40 yıl öncesinin olaylarına uygulanmasındaki güçlükler de ortada. Sözleşme öncesi dönemde mevcut olmayan ve Sözleşme tarafından oluşturulan “soykırım” dâhil birçok kavramın, geriye dönük uygulanması hukukla bağdaşmadığından konu hukukçuların ilgisini çekmemiş olabilir.

Buna rağmen bazıları geçmiş olayları soykırımla tanımlayabildiğine göre, sanki bu olaylar bugün oluyormuş ya da soykırım hukuku o günlerde de geçerliymiş gibi bir tür spekülatif yaklaşım yine de yararlı görülebilir. Bu makalede böyle bir yaklaşım benimseniyor.

Konunun hukuk yönüne yeterince ağırlık verebilmek için, okuyucunun konuya ilişkin tarihi belli ölçüde bildiği varsayılıyor ve tarihi verilere hukuki değerlendirmelerin gerektirdiği kadar değiniliyor.

Sözleşme’ye Kadar Hukuk

1648 Westphalia devletler sistemine göre devlet egemenliği mutlak ilkeydi. İç işlerine karışılmazdı. Azınlıklar devletlerin iç işiydi. Devletler ülke içinde vuku bulan olaylarda iç mevzuatı uyguluyorlardı. Uluslararası suç kavramı yoktu. 1839 Tanzimat Fermanı’nı takiben Osmanlı azınlıkları uluslararası anlaşma ve antlaşmalara konu olmuştu. Bu istisnai bir durumdu. Bir yandan çok kültürlü ve çok milletli Osmanlı İmparatorluğu’nun Batı Avrupa ulus-devletleriyle mücadelesinde zayıf düşmesinin, öte

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yandan da Batı'nın Balkanlar'daki Hristiyan azınlıkları desteklemeyi dış politikasının bir unsuru haline getirmesinin sonucuydu.

Ermeni tehciri 1915 yılının Mayıs ayında başladığında, Osmanlı İmparatorluğu'na karşı savaşmakta olan İngiliz, Fransız ve Rus Hükümetleri'ni 24 Mayıs 1915'te yayınladıkları ortak bildiride "...Türkiye'nin insanlığa ve uygarlığa karşı bu yeni suçları karşısında, müttefik hükümetler, Osmanlı hükümeti mensuplarını ve katliama katılan memurlarını şahsen sorumlu tutacaklarını Bab-ı Ali'ye alenen bildirirler." denmekteydi. Buna karşılık, Türk sempatisini olmadığı bilinen Amerikan Dışişleri Bakanı Robert Lansing'in "askeri harekât bölgesinde olması halinde" Türk Hükümeti'nin Ermenileri tehcire (*deport*) "az veya çok hakkı olduğu"nu söylediği de biliniyor. Öte yandan 1912-13 Balkan savaşları sırasında 1907 Lahey kurallarını ihlal suretiyle işlenen savaş suçlarını araştıran bir raporda, özellikle Türklerin başına gelen facialar karşısında insanlığa karşı suçlardan söz edilmemesi manidar olmalı.²

1907 Lahey kuralları bir ülkenin savaşta işlediği suçlarla ilgiliydi. Kendi ülkesinde işlediği iddia edilen suçlara uygulanması öngörülüyordu. Barış Konferansı'nda Yunan Dışişleri Bakanı'nın yeni bir insanlığa karşı suç ihdas edilerek Ermeni katliamının yargılanması önerisine, Başkan W. Wilson'un *ex post facto* hukuk olacağı gerekçesiyle önceleri itiraz ettiği biliniyor. Amerika böyle bir suç oluşturulmasına karşıydı. Almanya ile ilgili Versailles Antlaşması'nda bir uluslararası mahkeme kurulacağı belirtildi. Bu, tarihte ilk kez vuku buluyordu. Ama Hollanda kendisine sığınan Kayser II. Wilhelm'i iade etmediğinden yargılama gerçekleşemedi.

10 Ağustos 1920'de imzalanan Sevr Antlaşması'nda Osmanlı İmparatorluğu, söz konusu suçlarla ilgili olarak, Türkiye'de yapılacak bir mahkemeye razı oldu (m. 226). Mahkemeyi oluşturmak galiplere bırakılıyor; istenen kişilerin yakalanıp mahkemeye teslimi taahhüt ediliyordu. Savaş sonunda işgal altındaki İstanbul'da kurulan Nemrut Mustafa Divan-ı Harbi, Malta'ya götürülen sanıkların, İngiliz Kraliyet savcısının kanıtları yetersiz bulması sonucunda salıverilmeleri, hep tarihçiler

2 Report of the International Commission to Inquire into the Causes and Conduct of the Balkan Wars, Washington: Carnegie Endowment for International Peace, 1914, "Katliam, Göç, Asimilasyon" Bölümü, ss. 148-158.

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tarafından bilinen hususlar. Sevr yerine 24 Temmuz 1923'te Lozan Antlaşması geçti. Bunda 1 Ağustos 1914 ile 20 Kasım 1922 arasında işlenen tüm suçların affı için bir bildiri yer aldı.

Bilindiği gibi, soykırım II. Dünya Savaşı sırasında Nazi Almanyası'nın "nihai çözüm" adı altında Yahudileri yok etmesiyle gerçek boyutlarına kavuştu. "Genocide" sözcüğü bir Polonya Yahudisi olan Raphael Lemkin tarafından icat edildi. Lemkin daha öğrenciyken, bir soykırım saydığı Ermeni olaylarına ilişkin sanıkların yargılanmasını yakından izlemişti. Lemkin'in soykırım anlayışı çok geniştir. Azınlıkların siyasi, ekonomik, sosyal, kültürel, moral, fizik ve biyolojik olarak yok edilmesini kapsıyordu. Sonradan gelişen hukuk, her grubun değil, sadece bazı grupların ve sadece fizik ve biyolojik olarak yok edilmesi amacıyla işlenen fiilleri soykırım saydı. Yani Lemkin'in tanımını çok daralttı.

1940'ların başında Nazilerin Yahudilere yaptıkları henüz tam açıklığıyla bilinmediğinden, özellikle İngiltere ve Amerika, Almanya sınırları içinde işlenen suçların bir uluslararası mahkemede ele alınmasından yana değildiler. Buna karşılık Almanya'nın ülke dışında, işgal ettiği ülkelerde işlediği fiillerden dolayı sorumluların yargılanmasını savunuyorlardı. Böylece ulus-devlet egemenliğine saygı devam edecekti. Zira savaş hukuku sadece savaş sırasında ülke dışındaki sivillere karşı işlenen suçlardan dolayı bir ülke sorumlularının uluslararası yargıya tabi olmasını öngörüyordu. İnsanlığa karşı suç kavramı doktrinde tartışılmakla birlikte, ülke içinde işlenen suçları kapsayacak şekilde henüz devletler hukukuna girmemişti.

Almanların Yahudilere yaptıkları yavaş yavaş ortaya çıktıkça, ülke içinde işlenen suçlar için de sorumluların yargılanması görüşü ağırlık kazanmaya başladı. 1941'de başlayan çalışmalar 1945'te Amerika'nın Londra Konferansı'na sunduğu bir öneriyle yeni bir aşamaya ulaştı. Bunda Lahey sözleşmelerinde yer alan "Martens Hükmü"nden yararlanıldı. Böylece, bir suç önceden açıkça tanımlanmamışsa, "uygar halkların teamülü, insanlık hukuku ve kamu vicdanının emirlerinden çıkan milletlerin hukuk ilkeleri"nin uygulanması öngörüldü. Ancak "Martens Hükmü" bir savaş hukuku kavramı olduğundan, ülke içinde işlenen suçların yargılanması, saldırı kavramıyla yani savaşı başlatmayla ilişkilendirildi. Böylece savaşa atıf, iç işlerine karışmanın mazereti oluyordu. Londra Konferansı'nın tutanakları incelendiğinde, Almanya'nın iç işlerine karışmanın ilerde kendi iç işlerine de

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karışmaya emsal oluşturmalarına karşı, özellikle Amerika'nın ne denli hassas olduğu görülüyor.

Alman savaş suçlularını, bu arada Yahudi soykırımından sorumlu olanları yargılayacak Nuremberg Mahkemesi'nin aynı adla anılan ilkeleri bu anlayış çerçevesinde oluşturuldu. İlkelerin VI olanına göre:

a. Barışa Karşı Suçlar:

(i) Uluslararası anlaşmaları, antlaşmaları ve teminatları ihlal ederek, bir saldırı savaşı yapmak veya planlamak, hazırlamak ve başlatmak;

(ii) (i)'de sözü edilen fiilleri gerçekleştirmek için ortak bir plana veya entrikaya katılmak.

b. Savaş Suçları:

İşgal edilen arazinin sivil nüfusunun veya bu arazide yaşayan sivil nüfusun katli, kötü muameleye tabi tutulması, köleleştirilmesi veya herhangi bir nedenden dolayı sınır dışı edilmesi, savaş esirlerinin veya denizde bulunan insanların katli veya kötü muameleye tabi tutulması, rehinelere öldürülmesi, özel veya kamu mülkünün yağma edilmesi, şehirlerin, kasabaların veya köylerin nedensiz yere yıkıma uğratılması veya askeri gerekçelerle haklı gösterilemeyecek şekilde zarar verilmesini içeren fakat bunlarla sınırlı kalmayan savaş hukuku ve teamüllerinin ihlalleri.

c. İnsanlığa Karşı Suçlar:

Barışa karşı suçlar veya savaş suçları ile ilişkili olarak işlenmesi kaydıyla, katil, yok etme, köleleştirme, göçe zorlama ve sivil bir topluma karşı işlenen diğer insanlık dışı fiillerle, siyasi, ırki veya dini nedenlerle yapılan mezalim.

İnsanlığa karşı suç tanımından da görüleceği üzere, Yahudilere karşı işlenen suçlar Almanya'nın içinde işlenmiş olsa dahi, yargı konusu olabilecekti. Tek şart bu suçların savaşla ilişkili olarak savaş sırasında işlenmiş olmasıydı (*nexus*). Böylece galipler bir ülkenin iç işlerine karışmak için, o ülkeyle bir savaş olması

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gerekçesini aramaktan vazgeçemediler. Yahudilerin ve diğerlerinin, tarihin görmediği bir vahşetle yok edilmesi dahi, bir ülkenin içinde işlenen suçların, kendi başına uluslararası yargıya konu olmasına yetmemiştir. O sırada sözcük olarak bilinmesine rağmen soykırım kavramı Nuremberg İlkeleri (bkz. Ekler, Belge 65) arasında sayılmadı; insanlığa karşı suçlar kavramı soykırımı da içerdi. Soykırım henüz bağımsız bir suç kategorisi olacak kadar açıklık ve kesinlik kazanmamıştı.

Nuremberg Mahkemesi Ekim 1945'te 24 Nazi sanık hakkında iddianamenin okunmasıyla başladı. Bir yıl sonra on dokuz sanığın hüküm giymesi ve on ikisinin idamıyla sonuçlandı. Savcı yargılama sırasında zaman zaman soykırım sözcüğünü kullandı; ama mahkeme kararında bu suça atıf yoktu.

Birleşmiş Milletler (BM) Genel Kurulu 96 (I) Sayılı Kararı

Soykırımın yer aldığı ilk hukuki nitelik taşıyan belge, BM Genel Kurulu'nun 1946 Aralık ayında, Nuremberg Mahkemesi sonuçlandıktan kısa bir süre sonra, yaptığı ilk toplantısında aldığı 96 (I) sayılı karardır (bkz. Ekler, Belge 66).

Bu kararın amacı, sonuncu işlem paragrafında belirtildiği gibi, soykırım konusunda ECOSOC'un bir yıl içinde bir sözleşme taslağı hazırlamasının istenmesiydi. Ancak bu arada, Genel Kurul soykırımdan ne anladığını da açıkladı.

Soykırım, insan gruplarının, grup olarak tümüne yaşama hakkı tanımamaktır. Bu, kişiye yaşama hakkı tanımamaya benzetildi. Yaşama hakkına yapılan bu atıf, bilahare insan haklarıyla soykırım arasında bir bağ oluşturdu. Zira soykırımda esas olan kişilerin katledilmesiydi.

Soykırımın, bu insan gruplarının insanlığa yaptığı kültürel ve diğer katkılarının kaybına yol açtığı belirtildi. Böylece Lemkin'in önem verdiği kültürel soykırım kavramı kısmen metne girmiş oldu.

Soykırımı tabi tutulan gruplar, ırki, dini, siyasi ve diğer gruplar olarak sayıldı. Böylece tüm insan gruplarının soykırımı uğrayabilecekleri kabul edilmiş oldu. Soykırım, bir grubun tümünün olduğu gibi, bir kısmının yok edilmesini de kapsadı.

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Kararın belki de en önemli yanı, soykırımın devletler hukukuna göre bir suç sayılmasıydı. Bu soykırım suçunun, bir ülke içinde işlenmiş olmasının, devlet egemenliği ilkesi çerçevesinde iç işleri olarak sayılmasına ve uluslararası kovuşturmadan kurtulmasına imkân vermemeyi amaçlıyordu. Soykırım suçunu işleyenlerin, özel veya kamu memuru ya da devlet adamı olmasına bakılmadan cezalandırılması kabul edildi.

Soykırım hukuku henüz gelişmemiş olduğundan, kaynak olarak “ahlaki hukuka” (*moral laws*) aykırılığı vurgulandı ve uygar devletlerin soykırımı kınadığı bildirildi.

Soykırımın gerekçesi ya da soykırım yapanın amacı olarak, soykırımı maruz gruplarla örtüşmek üzere, “dinî, ırkî, siyasi ve diğer nedenler” sayıldı. Bu açıdan Nuremberg İlkeleri arasındaki insanlığa karşı suç çerçevesinde yer alan VI (c)’deki tanım “diğer nedenler”in ilavesiyle daha da genişletilmiş oldu.

Bu kararda, siyasi grupların soykırımı uğrayabileceği hükmü, siyasi mücadele yapan, örneğin sol ideolojik amaçla silaha başvuran veya bağımsızlık için mücadele eden grupların içindeki sivillerin, kısmen dahi olsa, önemli sayıda katledilmesi halinde soykırım işlenmiş olacağını gösteriyordu. Bu haliyle Nuremberg İlkeleri içindeki insanlığa karşı suç kavramı hemen tümüyle soykırım sayılmış olmaktaydı. Ancak, bu karar soykırımla savaş arasındaki bağı ortadan kaldırıyordu. Yani soykırımın savaş sırasında olduğu gibi barış döneminde de işlenebileceği kabul ediliyordu. Öte yandan, soykırım, savaşan ülkenin işgal ettiği yerlerde işlenebileceği gibi, o ülkenin kendi sınırları içinde de işlenebiliyordu.

Böylece hangi nedenle, zamanda ve yerde olursa olsun, ciddi sayıda insan ölümü soykırım suçu sayıldı.

Sözleşme

Soykırım Sözleşmesi 9 Aralık 1948’de kabul edildi, 12 Ocak 1951’de de yürürlüğe girdi. Soykırım suçu Sözleşme’nin 2. maddesinde tanımlanıyor.³ Maddenin uzman olmayan bir çevirisini aşağıya kaydediyorum:

3 In the present Convention, genocide means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such: (a) Killing members of the group; (b) Causing serious bodily or mental harm to members of the group; (c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part; (d) Imposing measures intended to prevent births within the group; (e) Forcibly transferring children of the group to another group.

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Madde 2. Bu Sözleşmeye göre, soykırım, bir milli, etnik, ırki veya dini grubu, grup olarak, kısmen veya tümüyle, yok etmek kastıyla, aşağıdaki fiillerin işlenmesidir:

- (a) Grubun mensuplarını katletmek;
- (b) Grubun mensuplarına ciddi bedensel ve psikolojik zarar vermek;
- (c) Grubun bedeni varlığının kısmen veya tamamen yok olmasına yol açacak hayat şartlarına kasten tabi tutmak;
- (d) Grup içinde doğumları önlemek kastıyla önlemler dayatmak;
- (e) Grubun çocuklarını bir başka gruba zorla nakletmek.

Sözleşmeyi BM Sekreteryası'nın sunduğu taslak metin üzerinden *Ad hoc* komite ile BM Genel Kurulu'nun hukuk işlerinden sorumlu VI. Komitesi müzakere etti. İleride bu Sözleşme'nin hükümlerini Ermeni olaylarına uygulayıp yorumlarken, müzakerelere atıflar yapılacağından, bu aşamada genelde Sözleşme metninin, özelde 2. maddenin kısa bir değerlendirmesiyle yetineceğim.

Korunan Gruplar

2. maddede zikredilen, Sözleşme ile korunacak grupların dörtle, yani milli, etnik, ırki ve dini gruplarla sınırlı olduğu görülüyor. Soykırım Sözleşmesi'nin hazırlık aşamasında, soykırım sözcüğünün mucidi ve aslen siyasi grupların soykırım kapsamı içinde ele alınmasını savunmuş olan Lemkin, esasında "siyasi gruplar"ın Sözleşme kapsamı dışında tutulmasını kendisi önerdi. 96 (I) sayılı karardan farklı olarak hem siyasi gruplar hem de "diğer gruplar" Sözleşme kapsamı dışında tutuldu. Bu, çok önemli bir fark oluşturuyor. Zira tarihte en sık görülen ve en çok sivil ölümüne neden olan mücadeleler siyasi amaçlar güden gruplar arasında cereyan ediyor. Örneğin, Kamboçya'da Pol Pot rejiminin yaptığı ve 2 milyona yakın sivilin hayatına mal olan katliamlar Sözleşme'deki soykırım tanımının dışında kalıyor. Aynı şekilde Sovyetler Birliği'nde Ekim Devrimi çerçevesindeki ölümler de soykırım sayılmıyor. Eski Yugoslavya Uluslararası Ceza Mahkemesi'nin birçok kararına göre, bazı istisnai fiiller hariç,

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Bosna-Hersek'te Sırp'ların etnik temizliği bile soykırım suçu dışına çıkıyor.

Siyasi grup tanımı içine, o grubun siyasetle uğraşan ya da silahlı mücadele veren unsurlarının yanında siviller de giriyor. Bu ilk bakışta karışıklığa yol açıyor. Grubun siyasi grup olarak nitelenip sivillerin yok edilmesinin neden soykırım olmayacağı sorgulanıyor. Oysa bir gruba, siyasi amaçlarla yok edilmeye kalkışılması halinde, siyasi grup deniyor. Yani iki grup arasında siyasi bir mücadele varsa, bu mücadelede bir grup diğeri aleyhine öldürme, yaralama, katliam, tehcir gibi fiiller işliyorsa, zarar gören gruba siyasi grup deniyor. Sorun bir tanımlama sorunu. Yoksa siyasi mücadelede sivil öldürme yine suç. Ancak bu suç soykırım değil.

96 (I) sayılı karardaki grupların insanlığa yaptığı kültürel katkılara Sözleşme'de değinilmemesi, kültürel soykırım kavramının da Sözleşme dışında kaldığını gösteriyor.

Sözleşme'de siyasi gruplara karşı yapılan eylemlerin ve azınlıkların kültürünün zorla yapılan asimilasyon sonucu yok edilmesinin soykırım suçu sayılmaması, Sözleşme'nin uygulama alanını iyice daralttı. Bu nedenle Sözleşme'nin kabul edildiği 1951'den 1992'ye kadar geçen süre içinde, birkaç fazla önemli olmayan istisna dışında uygulanamaması sert tepkilere yol açtı. Sözleşme'nin hiçbir işe yaramadığı söylendi. Buna karşılık, çoğunluğu tarihçi, sosyolog veya düşünürler, Sözleşme metnindeki soykırım tanımını geniş olarak yorumlama yoluna gittiler. Araştırdıkları olaylarda önemli sayıda sivil nüfusun ölmüş olması halinde soykırım işlendiğini iddia ettiler. İkinci bir grup bilim adamıysa, Sözleşme'nin 2. maddesini genişletmek için yeni tanımlar önerdi. Her iki taraf da Sözleşme ile soykırımı karşı korunan dört grubun dışında kalan gruplara dönük katliamların zaten insanlığa karşı suç kavramı çerçevesinde korunmakta olduğunu görmezden geldiler. Zira uluslararası toplum, soykırımdan farklı olarak insanlığa karşı işlenen suçlara karşı aynı duyarlılığı göstermiyordu. Onların korunması için Nuremberg türü uluslararası mahkemeler kurmaya hazır değildi. Özetle, bu grupların barışta insan hakları hukuku, savaşta da insani hukuk ya da savaş hukuku çerçevesinde etkin korunması sağlanamıyordu. Sonuç olarak, soykırım tanımı bazı yorumcular tarafından savaş hukuku ve insan hakları konuları altında işlenen tüm ciddi suçları da kapsayacak şekilde genişletilmişti.

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Bu durum Bosna-Hersek ve Ruanda'da cereyan eden olaylardan sonra kurulan iki uluslararası ceza mahkemesinin çalışmalarıyla büyük ölçüde değişti. İnsanlığa karşı suçlarla savaş suçları işleyenler cezalandırılmaya başladı. Uluslararası Ceza Mahkemesi'ne ilişkin Roma Statüsü ise hukuktaki tüm boşlukları kapattı. İnsanlığa karşı suçların barış zamanında işlenebileceğine ilave olarak, bu suçların ve savaş suçlarının sadece devletlerarası savaşlarda değil, iç çatışmalarda da işlenebileceği kabul edildi. Roma Statüsü soykırımı ilişkin Sözleşme'nin 2. maddesini aynen alıp kendisinin 6. maddesi yaptı. Buna karşılık yeniden yazımdan geçen insanlığa karşı suçlara ilişkin Roma Statüsü'nün 7. maddesiyle, eski Yugoslavya ve Ruanda için kurulan uluslararası mahkemelerin statülerindeki ilgili maddeler, Sözleşme'nin kapsamadığı diğer gruplara karşı işlenen katliam, mezalim ve tehcir vb. suçlarını da içerdi.

Kasıt

Suç iki kısımdan oluşuyor. Birincisi zihni veya sübjektif unsur ya da *mens rea*. Bu, suç fiilini işlemek niyeti, amacı ve iradesi anlamına geliyor. Diğeri suç fiilin bizzat kendisi, maddi veya objektif unsur ya da *actus reus*. Sözleşme'nin 2. maddesinde zihni unsuru “yok etmek kastıyla” ibaresi temsil ediyor. Bu iradeyle işlenen fiiller ise (a)'dan (e)'ye kadar sayılıyor.

Sözleşme'nin en önemli özelliklerinden biri, soykırım suçunun oluşması için soykırım fiillerinin ancak dört gruptan birini yok etme iradesiyle işlenmesi gereği. Grup olarak yok etme iradesi “özel kasıt” şeklinde olmak zorunda. Yani kuşkuya meydan bırakmayacak, son derece belirgin biçimde ortaya çıkmalı. Yok etme niyeti soykırım fiillerini işleyen veya işlenmesini sağlayanlarca açıkça beyan edilirse mesele kalmıyor. Şayet böyle açık bir sözlü ve yazılı beyan yoksa soykırımın varlığı tartışmalı hale geliyor. Bazı hukukçular bu noktada fiillerin sonucuna bakmak gerektiğini vurgularken, bu fiiller sonucunda söz konusu gruba ilişkin ciddi sayıda ölümün vuku bulmuş olmasını yeterli sayıyorlar.

Ancak, adi suçlar için geçerli olan “genel kasıt” yani fiilin sonucunu görüp, bu fiilin işlenmesinde fiilin sonucuna uygun bir kasıt güdüldüğü yolundaki basit yorum, soykırım fiilinin tanımlanması için yetersiz kalıyor. Öte yandan, soykırım yapanlar

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yok etme iradesini genellikle açıklamıyorlar. Soykırımı kanıtlamak için yok etme iradesine ilişkin yazılı ve sözlü açık kanıtlar bulunmaması halinde, ciddi sayıdaki ölümün dışındaki bazı unsurları da göze almak gerekiyor. Soykırım suçu çoğunlukla devletlerin ya da devlet gibi yaygın örgütlerin iradesiyle işlendiğinden, “özel kasıt” şartının yerine gelmesi için suçun örgütlü bir güç tarafından işlenmiş olup olmadığına bakılıyor. Soykırım bir grup gibi çok sayıda kişinin yok edilmesi olduğundan, bu örgütlü gücün çok önceden bir plan hazırlayıp hazırlamadığı önemli. Ayrıca bu örgütlü gücün planını örgütleyerek, eşgüdüm içinde, sistematik ve kitlesel biçimde uygulaması lazım.

Örgütlenmesi, uygulanması ve sonuçları açısından Yahudi soykırımı belki istisnai bir örnek olarak diğer durumlara uygulanamayabilir. Yahudi soykırımı için “nihai çözüm” kararı, 1942 Wannsee toplantısında alındı ve suç Nuremberg Mahkemesi’nde ikrar edildi. Ancak yok etme iradesi böyle açıkça ortaya çıkmasaydı bile, Yahudilere karşı çıkarılan ayrımcı yasalar, 1938’deki “Kristal Gecesi” dâhil düzenlenen “*pogrom*” türü saldırılar, Yahudileri toplum dışına çıkarıp normal insani ihtiyaçlarının karşılanamadığı gettolarda yaşamaya zorlamalar, soykırımın öncüleri olarak görülebilirdi. Kaldı ki soykırımdan en az on beş yıl önce başlamış olan militan anti-semitizm akımı çerçevesinde Hitler’in ve Nazi ideologların söz ve yazılarında Yahudileri yok etme niyeti açıklıkla ortaya konuluyordu. Sırlarda ise, 1981 yılından itibaren etnik bakımdan homojen bir vatan toprağına sahip olma söylemi yaygındı. Nitekim etnik temizlik kavramı Sırp paramiliter liderlerden biri olan Seselj tarafından icat edilmişti.

Soykırım için gerekli yok etme iradesinin varlığını ispat için, soykırım fiillerinin uygulanmasından önceki döneme bakıp, bu iradenin oluşmaya başlayıp başlamadığını araştırmak gerekiyor. Örgüt, plan ve örgütlü uygulamanın mevcudiyeti, yok etme kastının mevcudiyetine karine sayılıyor.

Saik (Motif)

Suçun amacı yanında bu amacın nedeni de hayati önemi haiz. Buna motif ya da saik deniyor. Nuremberg İlkeleri VI (c)’de tanımlanan insanlığa karşı suçların “sivil halklara karşı siyasi, ırkî ve dinî nedenlerle” işlenmesi öngörülüyordu.⁴ 96 (I) sayılı

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kararda ise soykırımın “dinî, ırkî, siyasi ve diğer herhangi bir nedenle” işlenebileceği kaydediliyordu.⁵ Bu haliyle soykırımın saiki insanlığa karşı suçun saikinden bile geniş tutulmuştu. Bir başka ifadeyle, bir gruba mevcut dinî veya siyasi ya da akla gelebilecek herhangi bir ihtilaf nedeniyle (saik) çıkabilecek bir silahlı mücadelede önemli sayıda sivilin öldürülmesi hem soykırım hem insanlığa karşı suç olabiliyordu.

Sözleşmedeki durum ise çok farklı. 2. madde, soykırımdaki yok etme kastını, belirtilen dört gruba inhisar ettirmekle kalmıyor, yok etmenin nedenini de yukarıda işaret edilen iki belgedeki nedenlere oranla, son derece daraltıyor. Sözleşme müzakerelerinde yok etmenin nedeni konusu uzun tartışmalara yol açtı. Birçok ülke temsilcisi saikin kanıtlanmasının çok zor olduğunu; böyle bir şart aranması halinde mahkemelerin soykırım suçuna karar vermelerinin imkânsızlaşacağını; önemli olanın yok etme iradesiyle fiillerin işlenmesi olduğunu ileri sürdüler. Ancak *Ad hoc* komitede Lübnan temsilcisi saikin önemini vurguladı ve soykırımın “ırkçı nefretle” bir grubu yok etme olduğunu söyledi. Ardından VI. Komitede yapılan müzakerelerde İngiliz ve Amerikan delegelerinin itirazlarına karşılık, “anti-faşist cephe”nin liderliğini yapan Sovyetler Birliği’nin ısrarı, çoğunluğun desteği ve Venezuela’nın aracılığıyla, dört gruptan birini, başkaca bir neden olmadan, sadece o grup olması nedeniyle yok etme amacına dönük fiillerin soykırım olması anlamına gelen “*as such*” ibaresi Sözleşme’nin 2. maddesine eklendi.⁶ İlk bakışta gözden kaçabilen ve Türkçe karşılığı olmadığından açıklayıcı biçimde tercüme etme zorunluluğu yaratan bir ibare bu. Belki de bu nedenle tarihçiler tarafından hep ihmale uğruyor.

Soykırım suçunu işlerken saikin kolektif veya bireysel olma niteliğini göz önüne almak gerekiyor. Bir birey suç işlerken hedef grubun bir mensubunu sadece o gruba ait olduğu için öldürmeyebilir. Parasını ve malını almak, haset duymak, siyasi ihtirası olmak gibi saiklerle de hareket edebilir. Ancak soykırım

4 c. Crimes against humanity: Murder, extermination, enslavement, deportation and other inhuman acts done against any civilian population, or persecution on political, racial or religious grounds... Buradaki “grounds” sözcüğünün Türkçe hukuk dilinde “gerekçe” anlamına geldiği ve yasa gerekçesinin İngilizce karşılığı olduğunu; Fransızca’sının ise “neden” anlamına gelen “raison” olduğunu belirtmek gerekir (yazarın notu).

5 ... the crime (genocide) is committed on religious, racial, political or any other grounds...

6 Article II: In the present Convention, genocide means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious groups, as such... Buradaki “as such” veya Fransızca’daki “comme telle” grubun grup olması nedeniyle yok edilmesi anlamına geliyor.

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kolektif bir suç. Soykırımın örgütleyicileri ve plancılarının ırkçı motifle hareket etmeleri, yani soykırım motifine sahip olmaları gerekli. Eğer bunlar gruba karşı ırkçı nefretle değil de başka saiklerle hareket ediyorsa, işledikleri suça soykırım denemiyor. Sonuç olarak, soykırım suçunun başarıyla kovuşturulabilmesi için sanıkların bir grubu grup olarak yok etmek nedeniyle nefret duyduklarının kanıtlanması gerekiyor. Soykırımın cezalandırılması bu tür suçları kapsıyor. Başka saiklerle işlenen kolektif suçlar bunun dışında kalıyor. Bu bağlamda klasik soykırımlar Nazilerin Yahudi soykırımı ile Hutuların Ruanda'da yaptıkları soykırım oluyor.⁷

Sosyolojik ve psikolojik olarak, bir grubu grup niteliği dolayısıyla yok etme iradesi zaten sadece ırkçılıkta, daha doğrusu ırkçılığın en yoğun, en son aşamasında, ortaya çıkıyor.

İrkçı nefret duygusu, somut bir ihtilafta tarafların birbirlerine karşı duydukları kızgınlıkla karışık doğal nefretten çok farklı. Bu, anti-semitizm gibi Batı Avrupa'daki ırkçı akımların 2 bin yıldır, ama aktif olarak da son bin yıldır Yahudilere duydukları, nedenleri kolay açıklanamayan yoğun ve marazi bir duygu kompleksi. Önyargıların hastalıklı biçimi. Naziler bu kültürün ürünü. Bu duyguyu anlayabilmek için kütüphaneler dolusu yayımlardan bir kaçını okumak yeterli.⁸ Öte yandan Ruanda Uluslararası Ceza Mahkemesi'nin Akayesu davasına ilişkin belgelerinde Bantu kabilesi çiftçi Hutular ile kıtanın kuzeyinden gelen çoban Nilo-Hamitik Tutsiler arasındaki ırkçı ilişkilerin tarihine dair bilgiler de göz önüne alınabilir.

Dünyanın her yerinde irksal duygular var. Bunlar hedef grupları derece derece rahatsız edebiliyor. Ancak grubun yok edilmesine varan, yani ırkçılık düzeyine çıkan ırkçılığa yalnızca Batı Avrupa ve onun Kuzey Amerika, Güney Afrika ve Avustralya'daki beyaz sömürgelerinde rastlanıyor.⁹ Bu çerçevede 1206-1248'lerde Katarlar'ın Fransa'da, 1492'de Yahudilerin İspanya'da, 16 ve 17. yüzyılda İnka, Aztek ve Maya uygarlıklarının mirasçısı yerlilerin İspanyollarca, 18. ve 19. yüzyılda

7 Schabas, a.g.e., s. 255; kitabı boyunca Ermenilerin soykırıma uğradıklarını sadece Ermeni yazar Vahakn N. Dadrian'ın yazılarına atfen belirten Schabas, klasik soykırımlar içinde Ermeni "soykırımı"nı zikretmiyor.

8 Léon Poliakov, *Le Mythe Aryen*, Paris: Editions Complexe, 1971 başta olmak üzere aynı yazarın eserleri.

9 *Encyclopaedia Britannica*, Macropaedia, Volume 15, 1985, ss. 360-366.

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Kızılderililer'in Amerikalılarca, 19. ve 20. yüzyılda Hollandalı Boerlerin “*apartheid*” rejiminin hüküm sürdüğü Güney Afrika'da, aynı dönemde Avustralya yerlilerinin İngiliz kökenlilerce, soykırıma tabi tutulması sayılabilir.

Diğer uygarlıkları oluşturan toplumların da düşman saydıkları sivil nüfuslara mezalim yaptıkları görülüyor. Ancak bunlarda bir grubu grup olarak yok etme iradesine yol açan ırkçı nefret bulunduğu saptanamıyor. Özellikle İslam ve Türk uygarlıklarında soykırım uygulaması bulunmuyor. Aksi halde bu uygarlıkların yüzyıllarca yaşayan imparatorluklar kurmaları mümkün olamazdı. Unutulmaması gereken husus, Batı uygarlığına ait güçlü ülkelerin büyük teknolojik üstünlüğüne rağmen, kurduğu sömürge imparatorlukları bir yüzyıldan biraz fazla yaşayabildi.

Sözleşme'de soykırımın bir grubu grup olarak yok etmek amacıyla sınırlandırılması, başka amaçlarla sivil toplumlara dönük mezalimi dışarıda bırakıyor. Bu boşluk Nuremberg İlkeleri VI (c) maddesinde yer alan insanlığa karşı suçların tanımının bu tür suçları kapsamamasıyla gideriliyor. Bir yandan eski Yugoslavya Uluslararası Mahkemesi diğer yandan Ruanda Uluslararası Mahkemesi statüleri, nihayet Uluslararası Ceza Mahkemesi'nin Roma Statüsü'nde bulunan insanlığa karşı suçlar maddeleri bu işlevi görüyor.¹⁰ Böylece soykırım suçu, insanlığa karşı suçların mezalim kategorisinin içinden çıkmakla birlikte, onlardan ayrılıyor ve suçlar hiyerarşisi içinde en yüksek veya en aşağı yeri alıyor.

10 Uluslararası Ceza Mahkemesi Roma Statüsü Madde 7: İnsanlığa Karşı Suçlar

7/1: Bu statünün amaçları için “insanlığa karşı suç” herhangi bir sivil nüfusa karşı gerçekleştirilen yaygın ve sistematik saldırının parçası olarak ve saldırının amacını bilerek, aşağıdaki fiilleri işlemektir:

(a) Katli;

(b) Yok etme;

(c) Köleleştirme;

(d) Tehcir ve zorla yapılan nüfus nakilleri;

(e) Kanun dışı tutuklama...;

(f) İşkence;

(g) Irza geçme...;

(h) Bir gruba veya topluluğa, siyasi, ırki, milli, etnik, kültürel, dini, cinsi, ve diğer nedenlerle yapılan mezalim...;

(i) Zorla kaybolmalar;

(j) Apartheid suçu

(k) Diğer insanlık dışı fiiller...

7/2 (a): Herhangi bir sivil nüfusa karşı girişilen yaygın ve sistematik saldırı: Yukarıdaki fiillerin (a-k) herhangi bir sivil nüfusa karşı bir devlet veya örgüt politikasının sonucu olarak çok sayıda işlenmesidir.

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Kısmen veya Tamamen

Sözleşmenin 2. maddesinde bir grubun, kısmen veya tamamen, yok edilmesi amacıyla işlenen fiillere soykırım deniyor. Yani bu fiillerin soykırımı oluşturması için, bir grubun tümünü yok etmek gerekmiyor. Oysa bir grubu grup olarak yok etme iradesini doğuran ırkçı nefretin, grubun bir kısmını yok etmekle yetinmesi çelişkili görünüyor.

Ancak, Naziler bile tüm Yahudileri yok edemediler. Savaşın başladığı yıla kadar Yahudilerin yaşam şartlarını olağanüstü zorlaştırarak Almanya'yı terk etmelerini sağladılar. Savaş başladıktan sonra kaçmak isteyenlere dahi izin vermediler ve Almanya içindeki tüm Yahudileri yok ettiler. İşgal ettikleri yerlerdeki Yahudileri de sınır dışına atmak yerine soykırıma tabi tuttular.

Buradan iki çıkarsama yapılabilir: Naziler için bile bir grubu grup olarak yok etme saikinin kritik yoğunluğa ulaşması ancak savaş şartlarında gerçekleşti veya Almanların Yahudilere erişme imkânı her şeye rağmen sınırlıydı. Erişebildiklerinin kaçmasına izin vermeden yok ettiler.

Sözleşme'nin yapıcıları, bu hükümle, muhtemelen, bir grubun tümünün yok edilmesini beklemeden, uluslararası toplumun soykırım yapıldığı sonucuna varmasını ve 1. maddede öngörülen soykırımın engellemesi ve cezalandırmasını zamanında sağlamayı amaçladılar.

Hukukun Ermeni Olaylarına Uygulanması

21 Eylül 2000'de Amerikan Temsilciler Meclisi'nin bir alt komisyonunda yapılan sunuşta (*hearing*) Ermeni yanlısı tarihçiler Türk arşivlerinin açılmasına artık ihtiyaçları olmadığını, mevcut bilgilerle Ermenilere soykırım yapılmış olduğu konusunda bir mutabakat hasıl olduğunu söylediler (*the verdict is in*). İddiaları bir bakıma doğrudu. Ama gerçek onların söylediklerinin tam tersiydi. Mevcut arşiv bilgileri soykırım yapılmadığını kanıtlamak açısından yeterliydi. Yeni arşiv bilgilerinin de mevcut bilgilerle çelişkili olması mümkün değildi.

Aşağıdaki değerlendirme Ermeni olaylarının tarihi hakkında yeterli bilgiye sahip olunduğu varsayımıyla yapılıyor. Yine de

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olayların cereyan ettiği tarihi bağlama kısaca bakmakta yarar olabilir. 19. yüzyılda Rusya'nın Kırım ve Kafkaslara doğru genişlemesi bölgede yaşayan çoğunluğu Türk kökenli Müslüman nüfusu birbiri ardına gelen göç dalgaları ile Anadolu'ya sürdü. Göç edenlerin pek çoğu da yollarda öldü. Kafkaslarda Ermeniler, Rus ordularının ilerlemesine yardım ettiler ve bunun karşılığında etnik olarak Türklerden temizlenmiş bölgelere yerleştirildiler. Bu sürgünler ve yeniden yerleştirmeler 20. yüzyılda bölgede bir Ermeni Devleti'nin doğuşuna yol açtı. Ruslar güneye doğru genişlemeleri sırasında 1827-29, 1854-56 ve 1877-78 savaşları ile Doğu Anadolu'ya girdiler ve her defasında Ermeniler Rus ordularının ilerlemesine yardımcı oldular. Böylelikle gelecekte meydana gelebilecek etnik bir çatışmanın da tohumlarını ektiler.

Balkan Savaşları 1912-13 yıllarında oldu. Osmanlılar Doğu Trakya hariç, tüm Avrupa topraklarını kaybettiler. Bu toprakların büyük bölümünde çoğunluktaydılar. Çok büyük sayıda Türk, Arnavut ve Pomak sivil nüfus hayatını kaybetti. Büyük bir grup da yerlerinden yurtlarından sökülüp Anadolu'ya doğru atıldı. Bir yıl sonra da imparatorluğun bekasını tayin edecek I. Dünya Savaşı başladı. Osmanlılar doğuda Çarlık Rusyası'nın orduları, Çanakkale'de İngiliz ve Fransız donanmaları, güneyde Mısır, Suriye ve Irak cephelerinde de bunların ordularıyla savaşıyordu.

I. Dünya Savaşı'nın başlarında Anadolu'nun nüfusunun 17,5 milyon civarında olduğu hesaplanıyor. Bunun 1,3 milyonunun Ermenilerden, 1,4 milyonun Rumlardan, geri kalanın da Türk ve Müslümanlardan oluştuğu tahmin ediliyor.¹¹ Ermeni kilisesinin, Avrupa Katolik ve Protestan kiliseleri gibi, nüfus kayıtları tutmadığı biliniyor. Bu nedenle Ermenilerin verdiği abartılı istatistikler sağlıklı bir kaynağa dayanmıyor. Osmanlı istatistikleri

11 Ermeni nüfusu hakkında tahminler şöyle:

1. Ermeni Patrikhanesi'nin rakamlarını esas alan Marcel Leart'a göre	2.560.000
2. Ermeni tarihçi K.J. Basmacıyan'a göre	2.380.000
3. Paris Barış Konferansı'na katılan Ermeni Heyeti'ne göre	2.250.000
4. Ermeni tarihçi Kevork Aslan'a göre	1.800.000
5. Fransız Sarı Kitap'a göre	1.555.000
6. Encyclopedia Britannica'ya göre	1.500.000
7. Ludovic de Constenson'a göre	1.400.000
8. H.F.B. Lynch'e göre	1.345.000
9. Revue de Paris'e göre	1.300.000
10. 1893 Osmanlı istatistiklerine göre	1.001.465
11. 1906 Osmanlı istatistiklerine göre	1.120.748
12. I. Dünya Savaşı'ndan hemen önceki Osmanlı istatistiklerine göre	1.295.000
13. İngiliz Yılığ'ına göre	1.056.000

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doğruya en yakın olarak kabul ediliyor. Avrupa kaynaklı istatistikler de Osmanlı istatistiklerine çok yakın. İstanbul'da 1892'de kurulan, nüfus sayımından sorumlu idarenin ilk müdürü bir Türk olmakla birlikte, idare daha sonra Fethi Franco adlı bir Yahudi, 1893-1903 arasında Mıgırdıç Şınabyan adlı bir Ermeni ve 1908'den itibaren de bir Amerikalı tarafından yürütülmüş.

Ermenilerin Siyasi Hedef ve Mücadeleleri

Çoğu Ermeni ve tarihçilerin büyük bölümü, 1915-16 olaylarının bir soykırım olduğunu; yani Ermenilerin bir siyasi grup olarak değil de, bir etnik ya da dini grup olarak, soykırım gibi bir tehcire tabi tutulduklarını kanıtlamak için, Ermenilerin terörizm de dahil siyasi amaçlı faaliyetlerinden ya hiç söz etmiyorlar ya da çok kısa geçiştiriyorlar. Bir kısmı da Osmanlı yönetiminin baskıcı olduğunu, buna karşı Ermenilerin kendilerini savunmak ve haklarına sahip olmak amacıyla siyasi faaliyetlerde bulunduklarını bildiriyor. Ermenilerin terör türü şiddete başvurması, Balkanlar'daki Hristiyan halkların komitacıları, hajduk, klepsos ya da çetnikleri gibi, büyük ve zalim bir güce karşı, meşru savunma olarak hoş görülüyor.¹²

Tarihsel olarak devletler hedef gruplara ırkçı saldırılar olmadığı sürece etnik çatışma başlatmazlar. Ancak, daha önce de açıklandığı üzere, Osmanlı İmparatorluğu'nda ırkçılık yoktur. Etnik grupların imparatorlukları parçalamak suretiyle bağımsızlıklarını kazanmak üzere mücadele başlattıkları daha mantıklı bir varsayımdır. İşte Osmanlı İmparatorluğu'nda 19. yüzyılın sonlarında görülen de budur.

Ermeniler de, bu Balkan kurtuluş mücadelesi modelini benimsiyorlar. Hristiyan Balkan halkları gibi örgütlenip siyasi faaliyette bulunuyorlar. Aslında bunu fazla yadırgamamak da gerek. Zira Fransız Devrimi'nden sonra ortaya çıkan ulus-devletin hakim olmaya başladığı bir çağda, çok dinli ve uluslu bir imparatorluğa karşı bağımsızlık mücadelesi meşru sayılıyor.

12 Başlıca Ermeni isyanları şunlar: 1862 ve 1895 Zeytin; 20.6.1890 Erzurum; 15.7.1890 Kumkapı; 1892 Merzifon, Kayseri, Yozgat olayları; Ağustos 1894 1. Sassun isyanı; Eylül 1895 Bab-ı Ali gösterileri; 1895-96 Van isyanı; 1895'de Ermenilerin silahlı saldırılar gerçekleştirdikleri şehirler: Trabzon, Erzincan, Bitlis, Maraş, Erzurum, Diyarbakır, Malatya, Harput; 26.8.1896 Osmanlı Bankası baskını; 1904 2. Sassun isyanı; 21.7.1905 Sultan Abdülhamit'e bombalı suikast saldırısı; 1909 Adana İsyanı; Nisan 1915 Van İsyanı vb.

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Ermenilerin de bu faaliyetlere giriştikleri açıkça görülüyor. Bu mücadelenin şiddete başvurmada başarıya ulaşması da imkânsız. Tabiatıyla şiddetin savaş hukuku kurallarına uyması gerekiyor. Ancak imparatorlukta Hristiyan halkların silahlı faaliyetleri birçok ahvalde açıkça hukuku çiğniyor. Balkan modeli şiddet genelde komitacı denen terör gruplarının sivil Müslüman halka saldırarak Müslümanları misillemeye tahrik etmesi; Müslüman halkın misilleme yapması ya da yönetimin askeri önlem alması halinde de, Batı Avrupa'yı mezalim çığlıklarıyla müdahaleye davet etmesi şeklinde işliyor. Büyük Hristiyan güçler ya da Düvel-i Muazzama Osmanlı'nın Hristiyan ahali lehine reformlar yapmasını dayatıyor. Bu reformlar yerel yönetim haklarından giderek otonomiye uzanıyor. Bir süre sonra belli bölgelerde Osmanlı egemenliği nominal hale geliyor ve ilk silahlı ihtilafa, dış müdahale ve yardımla bağımsızlığa kavuşuluyor.^{13,14,15,16}

1880'lerde Hınçaklar siyasi ve silahlı mücadelelerinin amacı olarak Anadolu'nun doğusunda altı vilayeti kapsayan ve "Vilayat-ı Sitte" denen Erzurum, Van, Elaziz, Diyarbakır, Bitlis ve Sivas'ı kapsayan bölgede bir hayali Ermenistan kurduklarını açıkladılar. Bu, bugünün idari taksimatına göre Erzincan, Ağrı,

- 13 Louise Nalbandian, *Armenian Revolutionary Movement*, Berkeley: University of California Press, 1963, ss. 110-111. Hınçak parti programı hakkında aşağıdaki bilgileri veriyor: "Aji-tasyon ve terör halkın moralini yüksek tutmak için gerekliydi. Halk düşmanlara karşı tah-ririk edilmeli, aynı düşmanların misilleme eylemlerinden de yararlanılabilmeliydi. Terör hal-kı korumak ve halkın güvenliğini kazanmak için bir yöntem olarak kullanılmalıydı. Parti, Os-manlı Hükümeti'ni teröze ederek rejimin itibarını sarsmalı ve tümüyle yıkılması için ça-ışmalıydı. Hükümet terörün tek hedefi olmayacaktı. Hınçak, muhbirler ve casuslarla, o sı-rada hükümet için çalışan en tehlikeli Türk ve Ermeni kişileri yok etmek istiyordu. Bu açı-dan kendisine yardımcı olması için parti, terörist eylemler yapacak özel bir örgüt kurmuş-tu. Genel isyan çıkarmak için en uygun zaman Türkiye'nin bir savaşa girmesi idi."
- 14 K. S. Papazian, *Patriotism Perverted*, Boston: Baker Press, 1934, ss. 14-15, Taşnak Der-neği hakkında şunları söylüyor: "A. R. Federasyonu [Taşnak] ayaklanma yoluyla Türk Er-menilerinin ekonomik ve siyasi bağımsızlığını sağlamayı amaçlıyordu. ...terörizm başından itibaren Kafkas Taşnak Komitesi tarafından bu amaca ulaşmak için bir yöntem ve politika olarak kabul edilmişti. 'İmkanlar' başlığı altında 1892 yılında kabul ettikleri programda aşağıdaki hususları okuyoruz: Ermeni Devrim Federasyonu [Taşnak] ayaklanmayla ama-cına ulaşmak için devrimci gruplar oluşturur. Yöntem 8 aşağıdaki gibidir: Savaşmak ve hükümet mensuplarını ve hainleri teröre maruz bırakmak... Yöntem 11 ise: Hükümet ku-rumlarını yıkmak ve yağmalamak..."
- 15 Jean Loris-Melikoff, *La Révolution Russe et les Nouvelles Républiques Transcaucasiennes*, Paris: Felix Alcan, 1920, s. 81. Taşnak'ın kurucularından ve ideologlarından olan yazar şöyle diyor: "Gerçek şu ki, parti (Taşnak Komitesi), çıkarları halk ve milletin önünde tutan bir oligarşi tarafından yönetiliyordu. Bunlar burjuvazi ve büyük tüccarlardan oluşuyorlar-dı. Sonunda bu imkanlar tükenince, Rus devriminin öğretisi olan 'amaçlar araçları meşru kılar' ilkesine uygun olarak teröre başvurdular."
- 16 28.3.1894'te İstanbul'daki İngiliz Büyükelçisi Currie "Foreign Office"e şunları yazıyordu: "Ermeni devrimcilerin amacı karışıklık çıkarmak, Osmanlıları şiddetle karşılık vermeye zorlamak ve böylece dış güçlerin müdahale etmesini sağlamaktır."

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Muş, Siirt, Hakkari, Bingöl, Malatya, Mardin, Amasya, Tokat, Giresun, Ordu ve Trabzon'u da kapsıyordu.

Ermeniler bu mücadelelerinde başarılı olamadılar. Bu nedenle kendilerini daha şanslı olan Balkan Hristiyan halklarıyla kıyaslayıp, mazlum ve mağdur hissedebilirler. Ancak soykırım tezini savunabilmek için, siyasi ve silahlı faaliyette bulunduklarını inkar ederek, Türklerin kendilerini durup dururken tehcire tabi tuttuğunu, aslında kendilerinin siyasi emelleri dahi olmayacak kadar masum olduklarını, bu nedenlerle Sözleşme'nin 2. maddesine göre, Türklerin kendilerine etnik-dinî-ırkî grup olarak tehcir yoluyla soykırım yaptığını iddia edemezler.

Tarih, Ermenilerin bağımsızlık için silahlı siyasi faaliyette bulunan bir siyasi grup olduğunu açıkça gösteriyor. Düşmanla birleşip hedeflerini gerçekleştirmek için silaha ve bu arada savaş hukukunun ihlali olan sistematik terörist eylemlere başvuran bir siyasi gruba karşı mücadelede, askeri nedenlerle tehcire başvurulması hukuken soykırım tanımına girmediği gibi, bu süreçte işlenen suçlar da, ayrıca işlendikleri kanıtlanmış olsa dahi, soykırım değildir.

Saık

Bir grubun siyasi emelleri nedeniyle siyasi grup olması, aynı zamanda milli, dini, ırkî veya etnik grup olmasını etkilemez. Zira siyasi gruplar da diğer özellikleriyle, Ermeniler gibi, etnik, dinî grup veya diğer bir grup olarak da nitelendirilebilirler. Ancak siyasi grup olmak, o grubun maruz kaldığı olayların, grup olmasından değil de siyasi nedenlerden kaynaklandığını gösterir.

Bir grubun siyasi ve silahlı faaliyette bulunduğu kanıtlandığı andan itibaren Sözleşme tarafından soykırıma karşı korunması gereken gruplar içinde bulunmasına imkân kalmıyor. Ermeniler adına hareket eden parti ya da benzeri kuruluşların, ilk adımda kolektif haklarının genişletilmesi anlamına reformlarla başlayıp, oradan otonomiye geçmek, sonra da bağımsızlığını gerçekleştirmek istediğini ve bu amaçla siyaset yaptığı ve terörizm de dâhil silaha başvurduğunu yukarıda kısaca anlatmaya çalıştım. Söylediğim gibi, bu yönleriyle Ermeniler tehcir başlamadan önce siyasi bir grup oluşturmuyorlardı.

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Kaldı ki bir grubu grup olarak yok etme iradesinin ancak o grup mensuplarına karşı duyulan ırkçı nefretin yoğunlaşması sonunda ortaya çıktığını yukarıda soykırıma ilişkin hukuku anlatırken gördük. Osmanlı İmparatorluğu'nda Ermenilere karşı ırkçı nefretin duyulmadığı biliniyor. Aslında, Batı'daki anti-semitizm türü bir ırkçı nefrete İslam ve Türk toplumlarının tarihinde hiç rastlanmıyor. Örneğin; Almanya'da Yahudiler bağımsızlık için mücadele etmediler, teröre başvurmadılar, toprak istemediler, Almanya'nın savaş düşmanlarıyla işbirliği yapmadılar, Alman ordularını arkadan vurmadılar, lojistik yollarını kesmediler, nihayet terör örgütleriyle Alman sivilleri katletmediler. Alman toplumuna tümüyle entegre olmuş, 40 Nobel ödülünün 11'ini kazanmış, barışçı, uygar ve başarılı bir grup, başka hiçbir neden yokken, sadece grup olması nedeniyle, önceden planlanarak, büyük bir örgütlenme sonucu sistematik ve kitlesel biçimde yok edildi.

Hitler başta, sayısız yazar derin bir Yahudi düşmanlığını yıllarca dile getirdiler. Anti-semitizm, Holokost'un on beş yıl öncesinden itibaren tehlikeli biçimde yükselmiş olmakla birlikte, ikinci binin başından bu yana aktif biçimde devam eden bir akımdı. Genelde Batı Avrupa, özelde Almanya'da veba gibi epidemiler, sel ve deprem gibi doğal afetler ve savaşlarda yenilgilerden sonra toplumların içindeki Yahudilere saldırıldığı, mensuplarının öldürüldüğü, mallarının yağmalandığı görülüyordu. Yani Hristiyan toplumlar başlarına gelen felaketlerden Yahudileri sorumlu tutuyorlardı. Yahudileri, Tanrı sayılan İsa'nın öldürülmesi nedeniyle, tanrı-katili (*deicide*) olarak suçluyorlardı. Bu nedenle onları Deccal olarak görüyorlardı. Anti-semitizmin birçok yönünü açıkça gösteren binlerce belge ve yayın mevcut. Akılcı olması beklenen Rönesans yazarları içinde bile Yahudi düşmanları vardı. Aydınlık çaığında romantik yazarlar arasında anti-semitizme sık sık rastlanıyor. Geçen yüzyılın en büyük filozoflarından Heidegger'in ve ünlü psikiyatrist Jung'un bile anti-semitist olduğu biliniyor.

Buna karşılık Osmanlı'da böyle bir anti-Ermenizm hiç olmadı. Onları aşağılayan, insan altı ırk olduklarını ileri süren bir biyolojik akım ve bunun tamamlayıcısı sosyal Darwinizm bulunmuyordu. İslam'da Hristiyanlar "ehli kitap" sayıldığından, Hristiyanların Yahudilere yönelttikleri suçlamaların benzeri Müslümanlarca Hristiyanlara karşı hiç yapılmadı. Doğa ve insan kaynaklı felaketlerde Ermeniler veya diğer Hristiyan gruplar günah keçisi olarak hiç kullanılmadılar. Tersine, Ermeniler

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“millet-i sadıka” diye vasıflandırıldılar. Kamu alanında da aktiftiler. İçlerinde merkezi idarenin yüksek kademelerinde yer alan memurların yanında, kaymakam, paşa, vali, büyükelçi, hatta dışişleri bakanı olarak Türkiye’yi temsil eden çok sayıda insan vardı. Misyonerler tarafından 19. yüzyılın başından itibaren açılan okullarda eğitildiklerinden, kısa zamanda zenginleştiler ve imparatorluğun ekonomisine hakim oldular. Yahudiler gibi bazı mesleklerden men edilmediler. Gettolarda yaşamaya mahkum edilmediler. En müreffeh sınıfı oluşturdıkları halde, haset ve kıskançlıktan “pogrom”lara maruz kalmadılar.

Bu şartlar altında Ermenilerin grup olduklarından dolayı ırkçı nefretle yok edildikleri söylenemez. Bu durumda tehcirin ardındaki saikin saptanması önem kazanıyor. Bu saik Ermenilerin, Ermeni olmalarının dışında bir başka nedene, örneğin askeri ve siyasi bir nedene dayanıyorsa, bu soykırım kavramına girmez.

Olanları anlayabilmek için yakın tarihe kısa bir göz atmakta yarar olabilir. 1877-78 Osmanlı-Rus savaşının sonunda Yeşilköy’de imzalanan San Stefano Antlaşması’na göre Balkanlar’da, Ege ve Karadeniz’e sahildar olan ve Makedonya’yı da içine alan büyük Bulgaristan bağımsız bir devlet oluyordu. Bu ülke, savaş sırasında 260.000 sivil Türkün ölmesi ve 515.000’in de ülkeden atılması sonucu nispeten daha homojen bir nüfusa kavuşuyordu. Aynı şekilde savaş sırasında Erzurum’a kadar ilerleyen Rus ordularından kaçan 70.000 Türk Doğu Anadolu’ya sığınmıştı. Bu bölgede ölen sivil halkın sayısı ise bilinmiyordu¹⁷. Antlaşmada ayrıca Osmanlı topraklarındaki Ermeniler için “reform” yapılması öngörülüyordu. Yeşilköy’e gelmiş olan Grandük Nikola’yı ziyaret eden Ermeni patriği Narses’in talebi üzerine reforma ilişkin bir madde antlaşmaya ilave edildi. Ermeniler böylece Rusya’nın himayesine girdiler. O güne kadar Tanzimat ve Islahat Fermanları ile yapılması istenen reformlar, tüm Hristiyan tebaayı hedef alıyordu. Bu kez bir grubun tek başına reform konusu olması ve bunun Rusya tarafından denetlenmesi söz konusuydu.

Diğer büyük devletlerin Rusya’nın tek başına sağladığı bu ödünleri kabul etmemesi üzerine yapılan Berlin Kongresi’nde

17 Justin McCarthy, *Death and Exile: The Ethnic Cleansing of Ottoman Muslims. 1821-1922*, Princeton, New Jersey: The Darwin Press, 1995, s. 339.

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Bulgaristan'ın boyutları küçültüldü. Ama yurtlarını terk eden Türklerin geri dönmesi sağlanmadı. Ermeni konusunda öngörülen reformlar ise teyit edildi. Ancak uygulamanın denetlenmesini büyük ülkeler birlikte üstlendiler. Anadolu'da Ermeni nüfusun bulunduğu yerlerde konsolosluklar açtılar. Tehcire kadar geçen 30 yıllık süre içinde Ermenilerin siyasi ve silahlı faaliyetleri, büyük devletlerin bu himayesinin yarattığı Ermeni yanlısı şartlarda gelişti.

1912-13 yıllarında bir yanda Osmanlı İmparatorluğu, öte yanda Yunanistan, Bulgaristan ve Sırbistan arasında Balkan Savaşları oldu. Bu savaşlarda 1.450.000 Türk, Arnavut ve Pomak Müslüman öldü; 410.000'i ise saldırgan orduların önünden kaçarak, yakılan yıkılan yerleşim birimlerini geride bırakarak, bombardımanlar altında Anadolu'ya doğru sürgün edildi. Böylece Türklerin 500 yıldır vatani olan, çoğunlukta oldukları birçok yerde Türk ve Müslüman varlığı sona erdi. Yılların biriktirdiği kültür varlıkları tahrip edildi. I. Dünya Savaşı patladığında yüz binlerce mültecinin gelişinden henüz bir yıl geçmişti.

Osmanlılar Taşnak liderleriyle Ağustos 1914'te bir toplantı yaptılar. Ermenilerden sadık Osmanlı vatandaşları olarak hareket edeceklerine dair söz aldılar. Ancak iki ay önce Erzurum'da yapılan gizli bir Taşnak toplantısında, savaştan yararlanarak Ermenilerin Osmanlı Devleti'ne karşı geniş bir ayaklanma yapması kararlaştırılmıştı. Papazyan'ın da bilahare teyit ettiği gibi, Ermeniler sözlerinde durmadılar ve Rus çıkarlarına hizmet ettiler.

Rus Ermenileri de Osmanlı'ya saldıracak Rus ordularında yerlerini aldılar. Eçmiadzin Katogigosu Rusların Kafkasya genel valisini, "Rusların Osmanlıların Ermeniler için reform yapmasını sağlamalarına karşılık, Ermenilerin Rus savaş çabalarını kayıtsız şartsız destekleyeceği"ni temin ediyordu.¹⁸ Daha sonra, Rus çarı tarafından Tiflis'te kabulünde Katogigos Çar'a "Ermenilerin kurtuluşu Anadolu'da Türk hâkimiyetinin dışında otonom bir Ermenistan'la sonuçlanacak ve bu Rusya'nın yardımıyla gerçekleşecek" dedi.¹⁹ Mart 1915'te Rus kuvvetleri Van'a doğru harekete geçtiler. 11 Nisan günü Van Ermenileri isyan etti ve Müslüman halka saldırdı. 21 Nisan günü Çar II. Nikola Van Ermeni Devrimci Komitesi'ne bir telgraf çekerek, "Ruslara

18 Gr. Tchalkouchian, *Le Livre Rouge*, Paris: Imp. Veradzenount, 1919, s. 12.

19 A.y.

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hizmetlerinden dolayı” teşekkür etti. Amerika’daki Ermeni gazetesi *Gochnak* 24 Mayıs tarihli sayısında “Van’da sadece 1.500 Türk kaldığı” müjdesini veriyordu.

Osmanlı sınırını aşan Rus ordusu içindeki Ermeni güçlerine, devrimci ismi Armen Garo olan eski Osmanlı milletvekili Karekin Pastırmacıyan kumanda ediyordu. Diğer bir eski milletvekili Hamparsum Boyacıyan, Murat kod adıyla, Türk köylerine saldıran ve sivil nüfusu katleden gerilla gücünün başındaydı. Yine bir eski milletvekili Papazyan Van, Bitlis ve Muş bölgesinde çarpışan gerillaların lideriydi.

Osmanlı yönetimi Ermeni Patriği nezdinde sonuçsuz kalan bir uyarıda daha bulunduktan sonra 24 Nisan günü Ermenilerin entelektüeller dedigi, komitacı liderleri tutuklamaya başladı.

Bu gelişmelerden tehcir kararının nedeni açıkça görülüyor. Ermenilerin Rus ordusuyla işbirliğine başlaması, Van’da isyan çıkarması, Ermeni gerillaların civar illerde etnik temizliğe girişi, Osmanlılar için bilinen eski bir hikâyenin tekrarı niteliğindedir. Balkanlar’da Ruslarla birlikte Balkan Hristiyanlarının yaptığı gibi, bu kez Rus ordularıyla birlikte hareket eden Ermeniler, bölgedeki Türk ve Müslümanları etnik temizliğe tabi tutmaya, katletmeye, yerlerini yurtlarını yıkmaya başlamıştı. Ermenilerin önce bu askeri faaliyetlerine, sonra da siyasi emellerini gerçekleştirmelerine imkân vermemek amacıyla imparatorluğun doğu cephesinden uzak bir bölgesine taşınması kararlaştırıldı.

Yok Etme Kastı ve İradesi

Sözleşme’nin 2. maddesine göre yok etme amacıyla sayılan beş filden birinin işlenmesi, soykırım sayılabiliyor. Bunun için bir grubu grup niteliğiyle yok etme kastının mevcut bulunması gerek. Bu nedenle, Ermeni tarihçiler Osmanlı yöneticilerin Ermenileri grup olarak yok etme amacı taşıdıklarını kanıtlamaya çalıştılar. Böyle bir kanıt rastlamayınca da yalan söylemekten çekinmediler.²⁰ Aram Andonian adlı bir Ermeni Talat Paşa’ya atfen yok etme emrinin verildiği telgrafları yayımladı. Bunların

20 Aram Andonian, *Documents Officiels concenants les Massacres Arméniens*, Paris: Armenian National Delegation, 1920.

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sahte olduđu kısa zamanda ortaya çıktıđı halde, propaganda malzemesi olarak kullanılmaya devam edildi.

Mamafih bir süre sonra yok etme amacını kanıtlayacak belgelerin bulunamaması, Ermeni yanlılarını farklı bir stratejiye itti. Önemli olan sonuçtu. 1,5 milyon Ermeni'nin tehcir sırasında öldüğünü iddia etmeye başladılar. Rakamın yüksek tutulmasının bir nedeni propaganda etkisi iken, diğeri de tehcirle yok etme kastının varlığını dolaylı yoldan ispat ederek soykırımı kanıtlamaktı. Bu amaçla tehcir öncesi Ermeni nüfusunun da yüksek gösterilmesi gerekiyordu. Bir yalan bir başka yalana yol açıyordu. Tarih, hukukun gereklerine göre tahrif ediliyordu.

Bizim açımızdan, Ermenilerin otonomi veya bağımsızlık için siyasi ve silahlı mücadele yapması, grup mensuplarının gruba ait olduđu için öldürüldüğü tezini boşa çıkarıp, tehcirin soykırım olmadığını kanıtlamaya yeterli. Ancak siyasi amaçla dahi olsa bir sivil halkın sistematik ve kitlesel biçimde öldürülmesi insanlığa karşı suç oluşturuyor.²¹ Kaldı ki, Ermeni soykırım tezi artık Sözleşme'nin 2. maddesi (c) fıkrasına dayandırılıyor. Buna göre, Osmanlılar'ın Ermenileri açıkça yok etmekten çekindikleri için, tehcirden yararlanıp, Ermenilerin yok olmalarını sağlayacak yaşam şartlarını onlara dayattıkları; tehcir sırasında saldırılardan koruma, güvenli ulaşım sağlama, gıda ve ilaç tedarik etme, tedavilerini yapma, barınak ihtiyaçlarını karşılama gibi görevlerini yerine getirmeyerek (*omission*) ölümleri hızlandırdıkları; hatta Teşkilat-ı Mahsusa'nın ve hapishanelerden serbest bırakılan canilerin katliamlarını bizzat örgütledikleri ileri sürülüyor. Unutmamak gerekir ki, doğrudan etkisi olan öldürme gibi fiillerin yanında, devletin görevini ihmal ederek ölümlere bilerek neden olması da soykırım fiili sayılabiliyor.

Tehcirin amacının Rus ordularıyla birleşip, Hınçakların haritasındaki Türklerin, Balkanlar'daki Türkler gibi etnik temizliğe maruz kalmasını önlemek olduğunu yukarıda anlatmıştım. Ermeniler, bir yandan Rus ordusu içinde kendi birliklerini kurup Osmanlı ordusuna karşı doğu cephesinde savaşırken, diğeri cephelerde savaşan Osmanlı ordularından da kaçarak ülke içinde gerilla grupları oluşturmaya, Türk ve

21 Roma Statüsü madde 7 ve Eski Yugoslavya ile Ruanda Uluslararası Mahkemeleri'nin statülerindeki ilgili maddeler.

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Müslüman yerleşim yerlerine saldırmaya, Osmanlı kuvvetlerini arkadan vurmaya, lojistik hatlarını kesmeye başladılar. Bu faaliyetlerin ilk adımını Van isyanı oluşturdu.

Hükümet Ermenilerle anlaşma imkânlarının kaybolduğunu, Patrik aracılığıyla yaptığı uyarıların dikkate alınmadığını gördükten sonra bölge Ermenilerini, yine Osmanlı topraklarının bir bölümü olan Suriye ve Kuzey Irak'a tehcir etme kararını aldı. Başkumandan vekili Enver Paşa İçişleri Bakanı Talat Paşa'ya 2 Mayıs 1915'te gönderdiği bir telgrafta, Rusların 20 Nisan günü, kendi sınırları içindeki Müslümanları perişan şekilde sınırlarımıza sürdüğünü bildiriyor; Van civarındaki Ermenilerin isyanına da atıfta bulunarak, Ermenilerin ya Rus sınırına sürülmesini ya da başka yerlere dağıtılmasını öneriyordu. Bunun üzerine Talat Paşa sorumluluğu bizzat yüklenerek, Ermeni tehcirini başlattı. Bir süre sonra da sorumluluğu paylaşmak için 30 Mayıs günü konuya ilişkin bir geçici yasa çıkarılmasını sağladı. Böylece komutanlara, asayiş bozan, silahlı saldırgan ve direnişçileri, tecavüz ve direnişleri sırasında imha etme; casusluk ve vatana ihanet eden köy ve kasaba halkını tek tek veya toplu halde başka yerlere sevk ve iskan etme yetkileri verilmekle, tehcir işi orduya devredilmiş oldu.²²

Buradan da görüleceği üzere Ermeni tehciri için çok önceden karar verilmiş olması, bu karara uygun olarak planlar yapılması, gerekli teşkilatlanmanın oluşturulması ve nihayet hazırlıkların tamamlanarak tehcire başlanması söz konusu olmadı. Ortada, doğu cephesindeki gelişmelerden endişelenen bir komutanın acilen önlem alınması talebi var. Hükümet bu talebe derhal cevap vermek istiyor. Önceden hazırlık yapılmadığı öylesine açık ki, İçişleri Bakanı Talat Paşa daha fazla gecikme olmasın diye, gerekli yasayı bile çıkarmadan göç hareketini başlatıyor. Yasa arkadan geliyor. Bu durumda yok etme kastıyla plan ve örgütlenme yapılması söz konusu değil.

Yasanın metninde, sevk sırasında istirahatlerinin, can ve mal güvenliklerinin temini; "göç ödeneği"nden gıdalarının sağlanması; iskan için gerekli arazi tahsisi, ihtiyaç sahiplerine hükümetçe konut inşası; çiftçilere tohumluk, alet-edevat dağıtılması; geride bıraktıkları değerlerin bedelinin kendilerine ödenmesi; terk

²² *Osmanlı Belgelerinde Ermeniler: 1915-1920*, Ankara: Başbakanlık Devlet Arşivleri Genel Müdürlüğü Yayınları, 1994, s. 8.

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ettikleri gayrı menkullere başkalarının yerleştirilmesi halinde bunların değerinin saptanıp sahiplerine verilmesi gibi hususlar yer alıyor.²³

Ayrıca 10 Haziran 1915 tarihinde yayınlanan talimatname ile de tehcire tabi tutulan Ermenilerin malları koruma altına alındı. Gittikleri yerlere yerleşmelerini kolaylaştırmak içinde nakdi ve aynı yardımda bulunuldu. Sevk edilen Ermenilerin geride kalan taşınmaz malları hükümetçe kendileri namına müzayede ile satıldı ve kurulan komisyonca kendilerine ödendi.²⁴ 25 Kasım 1915 tarihinde Anadolu'daki vilayetlere gönderilen bir emirle tehcir geçici olarak durduruldu. Daha sonra yapılan tehcir mevzii kaldı. Nihayet 1916 sonunda da tehcire fiilen son verildi. Savaşın sonra Ermenilerin istediklere yerlere dönmeleri için izin çıktı. Komisyonlarca hıfzedilen veya satılan gayrı menkullerini geriye almaları için kolaylık gösterildi.²⁵ Tüm bu düzenlemeler bir soykırım girişimine tezat teşkil etmektedir.

Tehcir uygulamasıyla ilgili olarak başkentle taşra teşkilatı arasında cereyan eden yazışmalarda da Ermenileri yok etme kastı kuşkusu yaratan hiçbir atfa rastlanmıyor. Tersine güvenli biçimde sevk edilmelerini sağlamak amacıyla karşılıklı taleplerde bulunulduğu görülüyor. Bunlar arasında en ilginç olan yazışmalardan bir bölümü Erzurum Valiliği'yle Talat Paşa arasında geçiyor. Rus sınırında olduğu için öncelik verilen bu bölge Ermenilerinin tüm şahsi eşyalarını birlikte götürebilecekleri bildiriliyor. Diyarbakır, Harput, Sivas Ermenilerinin ihracına gerek olmadığı belirtiliyor ki, Rus tehlikesi Orta Anadolu'ya yönelince bu karar değiştiriliyor. Erzurum'dan sevk edilen 500 kişilik bir gruba Erzincan ile Erzurum arasında "Kürtlerce" saldırılması üzerine, yol boyunca mevcut köy ve kasabalardan yapılacak saldırıların şiddetle cezalandırılması Diyarbakır, Elaziz ve Bitlis'ten isteniyor. Dersim eşkiyasının Erzurum'dan gelen Ermenilere saldırımları üzerine Elaziz Valiliği'ne acil tedbir alması emrediliyor. Tehcir sırasında Ermenilerin güvenliğinin tam olarak korunamadığını görüp sevki durdurduğu anlaşılan Erzurum valisine ertelemenin askeri nedenlerle mümkün olmadığı anlatılıyor. Buna rağmen zaman zaman Erzurum'dan göçün durdurulduğu görülüyor.²⁶

²³ A.y., ss. 31-32.

²⁴ A.y., s. 11.

²⁵ A.y., s. 12.

²⁶ A.y., ss. 35, 43, 44, 51.

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Tüm bu tedbirlere rağmen sivil Ermenilerin tehcir sırasında öldüğüne kuşku yok. Bu ölümlerin, devletin asli görevini bilerek ihmal etmesinden kaynaklanmadığı açık. Doğu cephesindeki 90.000 kişilik Osmanlı ordusu da Sarıkamış'ta donarak öldü. İklim ve coğrafya şartları, Ermeni konvoylarını korumakla görevli askeri birliklerin yetersizliği, ihtiyacı karşılayacak gıda ve ilaç bulunmaması ve salgın hastalıklar ölümlerin doğal nedenlerini oluşturuyor. Son günlerini yaşamakta olan bir devletin güçsüzlüğü görev ihmali olarak nitelenemez.

Britanya arşivlerinde bulunan orijinal bir Osmanlı belgesinde (Dosya no: 371, Belge 9518 E. 5523) “Bu talimatın amacı münhasıran [terörle uğraşan] komitelerin kapatılmasıyla ilgili olduğundan, Türklerle Ermenilerin birbirlerini öldürmelerine yol açacak hiçbir uygulama yapılmaması gerekmektedir.” deniyor. Bu belgenin üzerine dış işleri memuru D.G. Osborn, “Her ne pahasına olursa olsun katliamı önlemeyi amaçlıyor” diye not düşüyor.²⁷ Bütün bunlar tehcirin Ermenileri yok etmek amacıyla düzenlenmiş olmadığını gösteriyor.

Bazı Ermeni yanlısı yazarlar, arşivlerin tasnifi nedeniyle gecikerek açılmasını, hükümetin yok etme kararını kanıtlayacak belgelerin ortadan kaldırılmasını amaçladığını ileri sürüyorlar. Bunlar savaş sonunda İttihatçıların kendilerini ilzam eden belgeleri toplayıp imha ettiklerini iddia ediyorlar. Oysa Osmanlı arşiv sisteminde gelen ve giden evrak kayıt defterlerine işleniyor. Bir kez buna kaydedilen bir belgenin yok edilmesi mümkün değil. Kaldı ki Bab-ı Ali'nin gönderdiği çok büyük sayıya varan belgeler çok çeşitli taşra merkezlerine dağılıyor. Büyük bir bölümü de birden çok merkeze gönderilen genelgelerden oluşuyor. Hükümet merkezindeki müsveddelerin imha edildiği varsayılsa dahi, taşradaki asıllarının yok edilmesi pratik olarak imkânsız.

Dönemin hükümetinde Ermenileri yok etme kastının bulunmadığının açık bir kanıtı da sevk sırasında Ermenilere saldıran çetelerle, Ermenilerin durumundan yararlanan, görevlerini yapmayan ve yetkilerini kötüye kullananların Divan-ı Harbe sevk edilerek cezalandırılmaları oluyor. 1918 yılına, yani Mondros Mütarekesi'ne kadar bu çerçevede 1397 kişi çeşitli

²⁷ Kamuran Gürün, *Le Dossier Armenien, Société Turque D'Histoire*, Paris: Triangle, 1983, s. 284.

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cezalara çarptırılıyor ve yarısından çoğu idam ediliyor.²⁸ Yahudi soykırımından sorumlu Nazi SS'lerinin böyle nedenlerden değil de, soykırımı etkin biçimde uygulamamalarından dolayı cezalandırıldıkları biliniyor.

Soykırım Fiilleri

Nazilerin Yahudilere yaptığı soykırımda büyük çoğunlukla Sözleşme'nin 2. maddesi (a) fıkrasında kayıtlı olan “gruba mensup kişileri öldürme” fiilini işledikleri görülüyor. Bilindiği gibi bu katliamlar temerküz kamplarına taşınan, yani “deporte” edilen Yahudilerin bu kamplarda uzun süre yaşanması mümkün olmayan şartlarda tutulmaları, sonra da gazla öldürülmeleri şeklinde oluyor. Bir başka ifadeyle “deportasyon” ölümlere neden olan bir soykırım fiili değil. Buna karşılık kamplardaki yaşam şartları Sözleşme 2. madde (c)'ye, gaz odalarındaki ölümler de aynı madde (a)'ya uygun fiiller. Bu fiiller, Naziler tarafından önceden planlanarak, örgütlenerek ve sistematik ve kitlesel biçimde uygulanarak gerçekleştiriliyor.

Tehcir sırasında Ermeni nüfusa ve yerleşim birimlerine Osmanlı güçlerince silahlı saldırılar olmaması 2. madde (a) ve (b)'de öngörülen fiillerin işlenmediğini gösteriyor. Ermeni taraftarı yazarlar, etnik temizliğin bu temel unsurunun tehcirde bulunmamasını telafi etmek ve tehciri soykırım gibi göstermek için, tehcirin 2. madde (c)'ye göre Ermenilerin fiziksel olarak yok edilmelerini dolaylı yoldan sağlamak için, “grup yaşam şartlarının bilerek ya da kasten bozulmuş” olduğunu ileri sürüyorlar. Kısaca Osmanlılar, Ermenileri açıkça katletmemişler; tehcirin şartlarını Ermenilerin kendilerinden ölmelerini sağlayacak şekilde ayarlamışlar. Ermeni soykırım tezi tümüyle bu zemine oturuyor.

Açıkça soykırım fiilleri işlemekten farklı olarak, tehcirin dolaylı soykırım olduğunu kanıtlamak çok daha zor. Zira soykırım için gerekli yok etme kastının varlığını gösterecek beyan ve talimatlara

28 A.y., s. 259: Cezalandırılan kişilerin illere göre dağılımı şöyle: Sivas 648, Mamuretilaziz 223, Diyarbekir 70, Bitlis 25, Eskişehir 29, Şebinkarahisar 6, Niğde 8, İzmit 33, Ankara 32, Kayseri 69, Suriye 27, Hüdavendigar 12, Konya 12, Urfa 189, Canik 14.

Son dönemde yayınlanan bir kitapta sayılar şu şekilde verilmiştir: Amasya 2, Ankara 148, Bitlis 29, Canik 89, Diyarbakır 70, Eskişehir 29, Halep 56, Hüdavendigar 21, İzmit 28, Kayseri 146, Konya 16, Mamuretilaziz 249, Niğde 8, Sivas 579, Suriye 27, Urfa 170, toplam 1.673. Yusuf Sarıınay, “Sevk ve İskan.” Prof. Dr. Hikmet Özdemir (Der.), *Türk-Ermeni İhtilafı Makaleler*, Ankara: TBMM Kültür, Sanat ve Yayın Kurulu Yayınları, No:122, 2007, s. 222.

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rastlamak imkânsız. Aksine tüm arşiv belgeleri tehcirin imkân ölçüsünde az kayıpla uygulanmasıyla ilgili.

Bu gerçeği saptırmak için Ermeni yazarlar iki izah yoluna başvuruyor. Tehcir sonucunda ölenlerin sayısı olağanüstü yüksek gösteriliyor. Bu amaçla önce toplam nüfus rakamları yükseltiliyor, sonra da buna oranla ölenler çok yüksek saptanıyor ve böylece amacın göç değil öldürme olduğu kanıtlanmak isteniyor. Bu yaklaşımı destekleyen diğer yol ise, sözlü tarih denen ve tehciri yaşamış olanların başlarından geçenlerin derlenmesi suretiyle kastın yok etme olduğunu ispatlamaktan oluşuyor. Denebilir ki, Ermeni tarihçilerin yazdıkları kitapların hemen tümünde soykırım bu yöntemlerle kanıtlanıyor.

Tehcir sırasında çok sayıda aile ve bireyin kişisel trajediler yaşamış olduklarına kuşku yok. Mübadele bile daha hafif ama benzer trajediler yaratıyor. Ancak, bu durum grubun soykırıma uğramış olduğunu göstermez. Bu açıdan sözlü tarih yaklaşımı, hukuki değeri olmamak bir yana, tarih yazımı bakımından da sorunlu, tarihle hatırat arası bir alan.

Yukarıda da belirtildiği üzere tehcir kararı, 20 Nisan 1915 tarihinde Rusların bir Müslüman sivil topluluğu perişan halde sınırlarımıza sokması olayını Enver Paşa'nın Talat Paşa'ya 2 Mayıs'ta yazılı olarak bildirmesi üzerine resmen alındı. Daha önce Ermenilerin Van'da isyan çıkarmalarını takiben 24 Nisan'da silahlı Ermeni gruplara karşı bazı küçük harekâtlar başlamıştı. Tehcirin soykırım olduğunu kanıtlama sadedinde, aynı gün tutuklanan 235 Ermeni komitacı liderin, Ermeni toplumunun ileri gelen entelektüelleri olduğu iddiasının geçerli olmadığı biliniyor.

Osmanlı Hükümeti, Enver Paşa'nın iki önerisinden diğerini, yani Rusların Müslümanlara yaptığı gibi, Ermenileri Rus sınırına sürmeyi yeğleyebilirdi. Bu, Balkan ülkelerinin Ermenilerden çok daha büyük Türk ve Müslüman nüfusa yaptığı şeydi. İngiliz ve Fransızlara karşı bir ölüm kalım savaşına girmiş olan imparatorluğun, bunların kamuoyundan çekinmesi ve tehcirin arkasına saklanması için fazla bir neden yoktu. Bir başka deyişle, İttihatçılar için, Türklere ve Müslümanlara yapılanın aynısını Ermenilere yapmak sanıldığı kadar zor değildi. Tehcirin seçilmiş olması, bu nedenle, dolaylı öldürme değil, Ermenileri ülkenin savaş güvenliği açısından daha az sakıncalı bir bölgesine taşımaktan ibaretti.

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Ermeni toplam nüfusuna gelince, I. Dünya Savaşı öncesi Batı kaynaklarına göre 1.056.000 (*İngiliz Yıllığı*) ile 1.555.000 (*Fransız Sarı Kitabı*) arasında değişiyor. Bu rakam zaman ilerledikçe 3 milyona kadar çıkıyor. Fransız Milli Meclisi'nin kabul ettiği soykırım yasasına esas olan raportör François Rochebloine'ın 15 Ocak 2001 tarihli raporunda, Ermeni nüfusu 1,8 milyon olarak veriliyor. Ölümlere ilişkin rakamlarda da sürekli artış trendi izleniyor. *Encyclopaedia Britannica*'nın 1918 tarihli nüshasında 600.000 olarak gösterilen Ermeni ölümlerinin, 1968 nüshasında 1,5 milyona çıktığı görülüyor. Rochebloine raporunda, başka hiçbir yerde rastlanmayan biçimde, 600.000'in bulundukları yerde, diğer bir 600.000'in tehcir sırasında olmak üzere 1,2 milyon Ermeni'nin öldüğü; 200.000'in Kafkaslara (Rus ordularıyla birlikte) kaçtığı; 100.000 kişinin kaçırıldığı; 150.000'in tehcirden ölmeden kurtulduğu; 150.000'in de tehciğe uğramadan kaçtığı belirtiliyor.

Ermeni nüfusu olarak, döneminde Batılı iki kaynağın ortalaması olan Osmanlı istatistiklerindeki 1,295 milyonun esas alınması doğru olacak. Zira Osmanlılar vergilendirme ve askere alma gibi işlemleri düzenli bir biçimde gerçekleştirebilmek için nüfus kayıtlarını doğru tutmak zorundaydılar.

Ölenleri hesaplamak için önce tehcirle sağ salım Suriye ve Irak'a ulaşanların sayısını bulmak lazım. Osmanlı İçişleri Bakanlığı'nın 7 Aralık 1916 tarihli raporunda 702.900 kişinin nakledildiği, bu amaçla harcanan para ile birlikte bildiriliyor.²⁹ Milletler Cemiyeti'nin Göçler Komisyonu, I. Dünya Savaşı boyunca Türkiye'den Rusya'ya geçen Ermenilerin sayısını 400.000-420.000 olarak veriyor.³⁰ Tehciğe tabi tutulmayan İstanbul, Kütahya, Edirne ve Aydın'da (İzmir dâhil) yaşayan Ermenilerin 200.000 civarında olduğu hesaba katıldığında, tehcir dolayısıyla ölen Ermenilerin ciddi bir rakama ulaşmadığı sonucu çıkıyor.

Sevr müzakerelerinden önce İstanbul Ermeni Patrikhanesi'nin İngilizlere verdiği bilgiye göre, 1920'de Mondros Mütarekesi sonrası Osmanlı sınırları içinde kalan Ermeni nüfus 625.000. Buna Kafkaslara gidenler eklendiğinde 1,045 milyon ediyor. Savaş öncesi toplam nüfus 1,3 milyon olduğuna göre, ölenler 265.000'de kalıyor.

29 Genelkurmay, 1/2, KLS 361, Dosya 1445, F. 15-22.

30 Gürün, a.g.e., s. 263.

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Ermeni Milli Komitesi başkanı olarak Paris Barış Konferansı'na katılan Bogos Nubar Paşa, 700.000 Ermeni'nin başka ülkelere göçtüğünü; 280.000 Ermeni'nin Türkiye sınırları içinde yaşadığını ilan ediyor. Bunların toplamı 1,3 milyondan çıkarıldığında, 320.000 Ermeni'nin öldüğü anlaşıyor. Ama kendisi 1 milyondan fazla Ermeni'nin öldürüldüğünü iddia edebiliyor ki bunun doğru olabilmesi için savaş öncesi Ermeni nüfusunun 2 milyonu geçmesi gerekiyor. Adı geçen savaş öncesi Osmanlı Ermenileri'nin 4,5 milyonluk bir nüfusa sahip olduğunu vurguluyor ve gelecek kuşaklara açık arttırma konusunda ilk örneği oluşturuyor.

Savaş sırasında propaganda işlerinden sorumlu Arnold Toynbee, yazdığı *Mavi Kitap*'ta ölen Ermenilerin 600.000 olduğunu bildiriyor.³¹ Bu rakam bilahare Encyclopaedia Britannica'ya geçiyor. Buna karşılık Toynbee'nin 38 nolu notunda, 5 Nisan 1916'ya kadar tehcirle Zor, Şam ve Halep'e ulaşan Ermenilerin sayısı 500.000 olarak veriliyor. Tehcire tabi olmayan 200.000 ve Kafkaslara giden 400.000 ile birlikte Ermeni nüfusu 1,7 milyona çıkıyor. Nüfus 1,3 milyon olarak alınırsa, ölenlerin 600.000'den 200.000'e inmesi gerekiyor.

Yukarıdaki rakamlardan, Ermeni nüfusuna ilişkin değişik tahminlere göre, Ermeni kayıplarının birkaç binden 600.000'e kadar uzandığı anlaşıyor. Ölümünün 300.000'i aştığını gösteren tüm istatistiklerin savaş öncesi Ermeni nüfusunu aşırı derece yükselttiği görülüyor. Şurası unutulmamalıdır ki, tüm olumsuz koşullara rağmen Toynbee'ye göre bile yaklaşık 500.000 kişi varacakları bölgeye varmışlardı. Bu da olayın bir soykırım olmadığını gösteriyor, zira eğer soykırım gerçekten düşünülseydi, kimse hayatta bırakılmazdı.

Her şeye rağmen ciddi boyutlarda ölümlerin vuku bulmuş olması muhtemel. Ancak tüm ölümlerin tehcir sırasında olmadığını da akılda tutmak gerekiyor. Dönemin savaşlarında düşman ordularının önünden kaçanlar da göç halinde bulunuyorlar. Rus ordusunun 1915 Mayıs ayında Van civarında başlayan harekâtından sonra, Osmanlı ordusu kaybettiği yerleri geri alıyor. Ondan sonra başlayan çok daha büyük Rus saldırısı Elaziz'e kadar ulaşıyor. 1917 Ekim Devrimi'nin hemen ardından Rus orduları bu kez çekiliyorlar ve Osmanlılar tekrar ilerliyor. Bu ileri geri askeri hareketlerin önünde Türkler de Ermeniler de göçe zorlanıyorlar.

31 FO. Hc. 1/8008, XC/A-018055, s. 651.

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Örneğin Doğu Anadolu'da ülke içi göç etmek zorunda kalan Müslüman nüfusun 900.000 civarında olduğu hesaplanıyor.³² Son derece zor bir coğrafyada, çoğu kez Müslüman-Hristiyan ayırımı yapmayan çetelerin saldırı ve soygunlarına da maruz kalarak, ilkel ulaşım şartlarında soğukta yürüyerek veya araba ve atla yapılan göçlerde 3-4 gün içinde yiyeceklerin bitmesi, su sıkıntısı ve yorgunluktan, özellikle çocuk ve yaşlıların zayıf düşmesi üzerine, tifo ve tifüs hastalıklarının ölümleri süratle arttırdığı görülüyor.

Aynı coğrafi ve fiziki şartlarda yapılan tehcirin, birçok bakımdan bu tür göçlerden çok daha güvenli ve sağlıklı olduğu söylenebilir.

Kaldı ki, Kurtuluş Savaşı sırasında Maraş'ı boşaltan Fransızlarla birlikte çekilen 5000 Ermeni'nin, 10-24 Şubat 1920'de yaptıkları yolculuğun zor şartları dolayısıyla, dış saldırılara uğramadıkları halde, 2.000-3.000'i ölüyor.³³

Bu nedenlerle, Barış Konferansı sırasında bir Alman raporuna atfen, Bogos Nubar Paşa, Türklerin Ermenilerden daha fazla kayıp verdiğini; Türklerin savaş sırasındaki tüm kayıplarının 2,5 milyon olduğunu; bunun "savaş, epidemi ve kıtlıkla, ilaç ve hastane personeli yetersizliği" dolayısıyla vuku bulduğunu; bu kayıpların en az yarısının "Rus ve Ermeni ordularınca işgal edilen Ermeni vilayetlerinde yaşayan Türkler arasında" gerçekleştiğini bildiriyor. Bu, Doğu Anadolu'da 1,25 milyon Müslümanın ölmüş olması demek.

Gerçekten de bilahare yapılan nüfus çalışmaları bu rakamın doğruluğunu büyük ölçüde kanıtlıyor. Osmanlı'nın I. Dünya Savaşı sırasında savaş alanı kayıpları 500.000-550.000 civarında. Sivil nüfus kaybıysa 2 milyon. Savaş alanı Anadolu'nun doğusu olduğundan, kuşkusuz, toplam sivil kayıpların yarısından fazlasının bu bölgede olması doğal. Nitekim McCarthy'nin 1914-1921 yılları arasında bölgedeki sivil Müslüman kayıplara ilişkin tahmini de 1,19 milyon.

Nihayet Türk ve Ermeni sivil nüfuslarının "mukatele" denen karşılıklı çatışmalardaki ölümleri de, kesin rakamlar bilinmemekle birlikte, bu toplamların içinde yer alıyor. 1980'lerin başında başlatılan ve toplu mezarların incelenmesini amaçlayan Şüheda

³² McCarthy, a.g.e., s. 339.

³³ Georges Boudiere, "Notes sur la campagne de Syrie-Cilicie: L'affaire de Maras (Janvier-Fevrier 1920)", *Turcica*, IX/ 2-X, 1978, s. 160.

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Projesi'nin bulgularına göre, Doğu Anadolu'da çok sayıda toplu mezar mevcut. Antropolojik çalışmalar bu mezarların kimlere ait olduğunu bilimsel şekilde ortaya çıkarıyor. Henüz genel bir değerlendirme için erken olmakla birlikte, Türklere ait mezarların daha çok olduğu görülüyor. Bu mezarlardan, halkın Ermeni mezalimi hakkında söylediklerinin bir mitoloji olmadığı da anlaşılıyor. Savaşa katılan Müslümanlar savaş sonuna kadar orduları terk etmiyorlar. Buna karşılık Ermeni kökenli askerlerin yoğun olarak kaçtıkları görülüyor. Bunların oluşturduğu silahlı grupların Müslüman köylerine yaptıkları saldırılara karşı eli silah tutan kimse bulunmadığından, etkin savunma yapma imkânı bulunamıyor. Müslüman ölümleri bu nedenle Ermeni ölümlerinden bu denli daha büyük oluyor.

Anadolu'nun doğusuyla batısından tehcir edilenlerin akıbeti arasında fark var. Batıdan yapılan kısmi tehcir demiryollarının bulunması dolayısıyla çok daha az ölümlere yol açıyor ve savaş sonunda geri dönenlerin sayısı da yüksek oluyor. Buna karşılık doğuda arazinin sarp olması, demiryolu bulunmaması ve çetelerin faaliyetlerine karşı, cephelerde savaşmayan çok az sayıda jandarmanın Ermenileri korumakla görevlendirilebilmesi, Ermeni ölümlerinin batıdan daha fazla olmasına neden oluyor.

Yine de Ermeni ölümlerinin iddia edilenin çok altında kalan sayısı ve bu ölümlerin çoğunluğunun tehcir dışı vuku bulmuş olduğu gerçeği, tehcirin yok etme kastını gizleyen bir soykırım fiili olmadığını gösteriyor. Aksi halde, "soykırımcı" Türklerin "soykırım kurbanı" Ermenilerden çok daha fazla kayıp verdiği, garip ve izahı zor bir soykırımla karşı karşıya kalmış olacaktık.

Kısmen veya Tamamen

Soykırımda bir grubun tümünü veya bir bölümünü yok etme iradesiyle bazı fiillerin işlenmesi gerekiyor. Soykırımda, bir grubun mensuplarının o gruba ait olduklarından dolayı, ırkçı nefretle yok edilmesi söz konusu olduğundan, yok etme iradesinin mantıken grubun tümüne dönük olması lazım. Soykırım sonunda grubun bir kısmının kurtulması, hepsini yok etme kastının bulunmamış olmasından ziyade, geriye kalanların soykırım yapan örgütlenmenin erişiminin dışında kaldığını ya da soykırım yapanın gücünün işi bitirmeye yetmediğini gösteriyor. Bu, Nazilerin Yahudileri soykırıma uğratmasında böyle olmuştur.

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Ermeni tehciri sadece Gregoryan Ermenilerin sevkini öngördü. Katolik ve Protestan Ermeniler tehcir dışı kaldılar. Üç dine mensup Ermenilerin sadece bir dine mensup olanlarının tehcir edilmesi, Osmanlılarda Ermenilerin tümüne dönük bir ırkçı nefretin bulunmadığını gösteriyor. Kaldı ki esasen Katolik ve Protestan gruplara mensup olanlara karşı bir ırkçı nefretin bulunmaması, İslam açısından üç dinin de Hristiyanlığın sadece farklı mezhepleri olarak algılandığı göz önüne alındığında, Osmanlılarda Gregoryanlara karşı da ırkçı nefretin bulunmadığını kanıtıyor. İmparatorlukta Müslümanlarla Hristiyanlar arasında din konusunda, tehcirle sonuçlanacak bir ihtilafın bulunmadığı da biliniyor. Ortodoks Ruslarla dindış olan Gregoryan Ermenilerin, Rus ordularının yardımıyla, bölgede etnik temizliğe girişip bağımsızlık kazanması ihtimalini bertaraf etmenin tehcirde payı olduğu aşıkâr. Rus ordusunun ilerleme hattı üzerinde bulunan bu en büyük Ermeni grubun içinden çıkan terörist ve gerillaların Osmanlı ordusunu arkadan vurması, lojistik yollarını kesmesi, Müslüman yerleşim birimlerinde katliamlara girişmesi tehciri askeri açıdan kaçınılmaz kılıyor. Bu nokta tehcir kararının altında yatan nedenin, ülke savunması, güvenliği ve toprak bütünlüğü ile Türklerin can güvenliğini koruma olduğunu gösteriyor.

Öte yandan bazı kentlerdeki Ermeniler, dini aidiyetlerine bakılmaksızın tehcirin dışında bırakılıyor; İstanbul, Edirne, Kütahya ve Aydın – ki İzmir'i de kapsıyor – Ermenileri bunların arasında bulunuyor. İzmit, Bursa Kastamonu, Ankara ve Konya'dan tehcir edilen Ermeniler hemen tümüyle geri dönüyorlar. Kayseri, Sivas, Harput, Diyarbakır Ermenileri büyük kısmıyla geri döndükleri halde, köylerine gidemiyorlar. Erzurum ve Bitlis'ten tehcir edilenler ise Kilikya'ya geçiyorlar³⁴ ve Kurtuluş Savaşı sırasında Fransızlarla birlikte Türklere saldırıyorlar.

Tehcir yapılmayan illerdeki Ermenilerin sayısı 200.000 civarında. Ama bunun sembolik anlamı önemli. İrkçı nefretin yol açtığı Yahudi soykırımında, Berlin veya Münih Yahudilerinin soykırım dışında bırakılabileceğini düşünmek bile mümkün değil. Sadece bu örnek bile Ermenilere soykırım yapılmadığını ortaya koyuyor.

³⁴ Ermeni Patriğinin İngilizlere verdiği bilgiler, FO. 371/6556/E.2730/800/44.

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Mahkemeler

Savaştan sonra İstanbul'un işgaliyle birlikte Sevr Antlaşması'na göre Ermeni olaylarını kovuşturmak amacıyla mahkemeler kuruldu. Bunların en ünlüsü Nemrut Mustafa mahkemesiydi. Amiral Calthorpe 24 Ocak 1919 günü Londra'ya gönderdiği bir telgrafta, Vezir-i Azam'ın kendisine 160-200 kişinin tutuklandığını söylediğini bildiriyor. Mahkemenin bir özelliği, İttihat Terakki düşmanı Hürriyet ve İtilaf Hükümeti'nce kurulmuş olmasıysa, diğeri de sanıklara savunma hakkının tanınmaması oldu. Bir süre sonra mahkemenin adil yargı yapamayacağını, belki de etkin yargıda bulunamayacağını anlayan İngiliz işgal kuvvetleri 144 sanığı Malta adasına taşıdı. Günün hukuk kurallarına aykırı olmasına rağmen, İngiliz mahkemesinin bu sanıkları yargılamasını istedi. Savaşa gecikerek girmesi dolayısıyla 1916 yılına kadar açık olan Amerikan Büyükelçiliği ve Anadolu'daki konsolosluklarının elindeki kanıtların İngiltere'ye verilmesi talep edildi. İngiltere'nin Vaşington Büyükelçiliği'nden bir uzman Amerikan arşivlerini inceledikten sonra, Londra'ya çekilen 13 Temmuz 1921 tarihli bir telgrafta Amerika'nın elinde Malta'daki sanıkları suçlamada kullanılabilecek herhangi bir kanıt olmadığı bildirildi.³⁵ İngiliz Kraliyet Başsavcısı, 29 Temmuz 1921 tarihli raporunda, "...Şu ana kadar sağlanan yazılı tanıklıklarda, sanıklara yöneltilen suçları belli bir kesinlikle ortaya koyan bilgiler elde edilmediğinden, bana sunulan davaların başarısı hakkında herhangi bir beyanda bulunamayacağımı bildiririm" demekteydi.³⁶

Bundan sonra hala Ermenilere karşı soykırım suçunun işlendiği iddiası, sadece bir sözleşmenin geriye işletilmesi gibi hukuka aykırı bir istek olmayacak, hakkındaki suçlamalardan dolayı yargılanması dahi mümkün olmadığı karara bağlanan kişilerin, yeni kanıtlar yokken, yargılanmalarını istemek anlamına gelecektir. Eğer Ermeni soykırım iddiaları, Sözleşme'nin 9. maddesindeki devlet sorumluluğu ilkesine dayandırılıyorsa, hukuktaki gelişmenin soykırım fiillerini işleyen kişilere münhasır olduğunu ya da o hale geldiğini de unutmamak gerekir.

35 Vaşington'daki İngiliz Büyükelçiliği'nin 13 Temmuz 1921 tarihinde Londra'ya çektiği telgraf, No.722, FO 371/6504.

36 Gürün, a.g.e., s. 236.

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Ermeni Tehciri İnsanlığa Karşı Suç muydu?

Yukarıda ayrıntılarıyla anlatıldığı üzere, tehcir, Ermenilerin grup nitelikleriyle, yaşam şartlarını yok olmalarına yol açacak şekilde “kasten” zorlaştırmayı amaçlamadığından, bir soykırım değil.³⁷ Buna karşılık tehcir edilen bir grubun verdiği kayıpları, insanlığa karşı suç kavramı içine sokmaya imkân var mı?

Yukarıda da belirtildiği üzere, Ermeni tehciri başladığında İngiliz, Fransız ve Rus hükümetleri “Türkiye’nin insanlığa ve uygarlığa karşı suçları”ndan söz ederek, ilgilileri sorumlu tutacaklarını 24 Mayıs 1915’te bir ortak bildiriyle ilan etmişlerdi. O tarihlerde insanlığa karşı suç kavramı bir deyişten ibaretti ve henüz hukuki bir kavram olarak kabul edilmemişti. Bu nedenle Ermeni tehciri ile insanlığa karşı suç arasında bu bildiri vasıtasıyla bir ilişki kurmak mümkün olamaz.

Daha önce de belirtildiği gibi, insanlığa karşı suç kavramı uluslararası düzeyde ilk kez (1946) Nuremberg İlkeleri VI (c)’de yer aldı. Bu suçun savaş sırasında işlenmesi öngörülüyordu. Herhangi bir sivil toplumun, siyasi, ırkî veya dinî nedenlerle mezalime tabi tutulması, (mensuplarının) katledilmesi, yok edilmesi, göçe zorlanması vb. fiilleri içeriyordu.

1948 yılında kabul edilen soykırıma ilişkin Sözleşme’nin 2. maddesindeki soykırım suçu tanımı, Nuremberg İlkeleri içinde yer alan bu insanlığa karşı suç kavramından üretildi. Böylece soykırım, insanlığa karşı suçların dışına çıkarılınca, geriye Uluslararası Ceza Mahkemesi (Roma) Statüsü’nün 7. maddesindeki insanlığa karşı modern suç tanımı kaldı. Buna göre; insanlığa karşı suçların Nuremberg İlkeleri’nde öngörülen savaş sırasında işlenmesi şartı terk edildi. Bu suçların işleneceği gruplar sayılmadı. Herhangi bir sivil topluluğa karşı işlenebileceği kabul edildi.

7. maddenin girişinde insanlığa karşı suçların “siyasi, ırkî veya dinî” gibi nedenlerle işlenmesine ise değinilmedi. Bu suçun oluşması için nedenlerin zikredilmemesi, hangi nedenle olursa olsun, öngörülen fiillerin işlenmiş olmasının yeterli olduğunu gösteriyor.

³⁷ International Law Commission, *Draft Code of Crimes Against Peace and Security of Mankind*, 48th session, 6 May-26 July 1996, s. 92.

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Buna karşılık, 7. maddede, öngörülen fiilin insanlığa karşı suç sayılabilmesi için aranan tek şart, söz konusu fiillerin bir sivil topluluğa karşı yapılan "yaygın ve sistematik bir saldırının parçası olarak ve saldırı amacını bilerek" işlenmesine bağlandı. Yani 7. maddede (a)'dan (k)'ya kadar sayılan 11 fiilin tek başına işlenmesi halinde insanlığa karşı suç oluşturmayaacağı benimsendi. Bir topluluğa karşı siyasi, ırkî, milli, etnik, kültürel, dinî ve cinsi nedenlerle yapılan mezalim, insanlığa karşı suçun genel saiki olarak değil de, 11 fiilden biri olarak sayıldı.

Bu açıklamadan, her ikisi de uluslararası suç olan ve dolayısıyla uluslararası yargıya tabi tutulan soykırım ile insanlığa karşı suç arasındaki farklar kendiliğinden ortaya çıkıyor. Sözleşme'nin 2. maddesinin giriş bölümündeki soykırım tanımıyla kıyaslandığında, soykırımın milli, ırkî, etnik ve dinî olmak üzere sadece dört gruba karşı işlenmesi mümkün. Siyasi gruplara karşı işlenen fiiller soykırım içine girmiyor. Buna karşılık insanlığa karşı suçlar her gruba karşı işlenebiliyor. Soykırımda bir grubu yok etme kastıyla bazı fiillerin işlenmesi gerekiyor. İnsanlığa karşı suçun oluşması için yok etme iradesi aranmıyor. Gruba karşı "yaygın ve sistematik saldırı" yeterli görülüyor. Soykırımda fiillerin saiki, bir grubu, grup niteliğiyle, yok etme şeklinde ortaya çıkıyorken ve bu ancak o gruba karşı ırkçı nefretin varlığı halinde geçerliyken, Roma Statüsü 7. maddesinin girifl bölümünde, insanlığa karşı suç için herhangi bir genel saik aranmıyor.

Bu şartlar altında, bir siyasi grup da olsa, Ermenilere karşı, ırkçı nefretle yok etme kastı olmadan yapılan tehcir sonunda önemli sayıda Ermeninin ölmüş olmasını, insanlığa karşı suç kavramına sokmak için 7. maddede sayılan öldürme (a), katliam (b), tehcir (d), mezalim (h) gibi fiilleri kullanmaya kalkışanlar olabilir.

Yukarıdan da görüldüğü üzere, insanlığa karşı suçun oluşmasının temel şartı, belli fiillerin, bir sivil nüfusa karşı "yaygın ve sistematik bir saldırının parçası" olarak işlenmesidir. Bu nedenle böyle bir saldırının niteliğini iyi tanımlamak gerekiyor. fiayet bir sivil nüfusa karşı açık bir askeri saldırı varsa ayrıca bir kanıtı ihtiyaç yok. Ama saldırı şartının yerine gelmesi için askeri nitelikte bir saldırı olması icap etmiyor. Bir sivil topluluğa karşı, 7. maddede sayılan fiillerin çoğunun, birlikte ve yoğun biçimde işlenmesi gerekiyor. Böyle bir saldırının, devlet veya yaygın bir örgütlenme tarafından aktif biçimde geliştirilmesi, sevk ve teşvik

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edilmesi şartı da aranıyor.³⁸ 1915-16 Ermeni tehcirini, 7. madde (1) fıkrasında sayılan ve tehcirle ilişkili olan fiillerin ışığında incelemek yararlı olabilir.

7. madde (1)(a) fıkrasında belirtilen öldürme veya ölüme neden olma fiillerinin, böyle yaygın ve sistematik bir saldırının parçası olması ve suçu işleyence böyle “bilinmesi” gerekiyor.

7. madde (1)(b) fıkrasında yer alan yok etme ya da katliam, yine topluluğa karşı yaygın ve sistematik bir saldırının parçası olarak, bir grubun kısmen yok olmasına yol açacak hayat şartlarının önceden hesap edilerek o topluluğa dayatılmasını da içeriyor. Örneğin o topluluğu gıda ve ilaç kaynaklarından kasıtlı olarak mahrum bırakmak da bu çerçeveye giriyor.

7. madde (1)(d) fıkrasında yer alan tehcir veya diğer zorla nakillerin de yaygın ve sistematik saldırının parçası olarak vuku bulmasının yanında, devletler hukukunun izin verdiği askeri gereklilik gibi nedenlerin dışındaki nedenlerle yapılmış olması icap ediyor. Öte yandan tehcir için, topluluğa mensup insanların şiddete başvurularak evlerinden atılmış olmaları gerekmiyor. Şiddet dışı zorlamalarla gerçekleştirilen tehcir de, saldırıya ilişkin şartların yerine gelmesi halinde, insanlığa karşı suç içine giriyor.

7. madde (1)(h) fıkrasında yer alan mezalim, devletler hukukuna aykırı olarak, topluluk mensuplarının temel haklarından mahrum bırakılmasını kapsıyor. Mezalim temel hakların hemen tümünün yoğun biçimde ihlali niteliğindeki çok sayıda fiilden oluşuyor. Bir sivil toplumun kimliğini hedef alıyor. Bu suçu işleyenler, devletler hukukunda yasaklanan siyasi, ırki, milli, etnik, kültürel, dini, cinsi ve diğer nedenlerden hareket ediyorlar.³⁹

1915-16 Ermeni olaylarına, vukuundan 85 yıl sonra yani 2000 yılında oluşan insanlığa karşı suç kavramını uygulamak, değil hukukla, akıl ve sağduyuyla dahi bağdaşmıyor. Bununla birlikte böyle bir incelemeden şu hususlar ortaya çıkıyor:

7. madde (1) paragrafında sayılan fiillerin insanlığa karşı suç oluşturması için bir topluluğa karşı yaygın ve sistematik bir saldırının parçası olması gerekiyor. Oysa tehcirin bizzat kendisi bir yana bırakılırsa, Ermenilere karşı Osmanlı güvenlik güçleri böyle

³⁸ PCNICC/2000/INF/3/Add.2, s. 9.

³⁹ A.y., s. 15.

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bir saldırıya girişmiyor. Bir başka ifadeyle Ermeniler “saldırı”yı oluşturan fiillere birlikte ve yoğun biçimde tabi tutulmuyorlar.

Ermenilerin, çeşitli nedenlerle, grup olarak kimliklerini hedef alan bir mezalim yok. I. Dünya Savaşı başlayınca ve doğu cephesinde tehlikeli durum ortaya çıkıncaya kadar, temel haklardan herkes gibi yararlanmaya devam ettikleri gibi, tehciye kadar da bu haklardan mahrumiyetleri söz konusu olmuyor. Tehcir sırasında temel haklara elden geldiğince riayet ediliyor.

Yaygın ve sistematik saldırıların mevcut olmadığı bir ortamda grup mensuplarının ölümleri böyle bir saldırının ne unsuru ne de parçası niteliği taşıyor. Çetelerin tehcir halindeki Ermenilere saldırıları tamamen bir asayiş olayı niteliğinde.

Yukarıda soykırım iddialarını incelerken, yok etme kastının bulunmadığı belirtilmişti. Ermeniler, Osmanlıların tehciri kullanarak “hayat şartlarının yok olmalarını sağlayacak şekilde dayattığı”nı iddia ediyorlar. Bu nedenle katliam ithamıyla birleştirilen tehcir konusunu ele almak doğru olacak. Tehcir, Ermenilere yaygın ve sistematik bir saldırının parçası olarak yapılmadı. Tehcirin kendisi de böyle bir saldırı oluşturmuyor. Bu gerçek, tehcirin insanlığa karşı suç olmadığını açıkça gösteriyor.

Tehcir sürecinde Ermenilere hayat şartlarının yok olmalarına yol açacak şekilde dayatılmasının söz konusu olmadığı, yukarıda soykırımı ilişkin bölümde de açıklanmıştı. Tehcir, Enver Paşa’nın doğu cephesindeki gelişmeler karşısında yaptığı talep üzerine başlatıldı. Ermeni nüfus içindeki silahlı elemanların Osmanlı ordusunun güvenliği açısından yarattığı tehlikeleri bertaraf etmeyi amaçlıyordu. Bu, bir nüfusun başka yere taşınması için devletler hukukuna uygun bir gerekçe oluşturuyor. Öte yandan tehcir sırasında dönemin hükümetinin Ermenilere gıda ve ilaç sınırlaması getirmediği, aynı bölgede göç halinde bulunan Türk-Müslüman nüfusta da gıdasızlık ve ilaçsızlık nedeniyle çok daha fazla ölümlerin vuku bulması, Bogos Nubar Paşanın Paris Barış Konferansı’ndaki beyanlarından da anlaşılıyor.

Balkan Savaşları’nın sonuçları ışığında, Ermenilerin işgalci Rus ordularıyla birleşerek, Türk ve Müslümanların büyük çoğunlukta olduğu doğu bölgesinde soykırım boyutlarında bir etnik temizlik yaparak kendi devletlerini kurma gayretlerini önlemek için tehcir yapıldı. Bu, özellikle günün şartlarında, devletler hukuku

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bakımından güvenlik gerekçesinden de önemli bir gerekçe oluşturuyor.

Bu şartlar altında Ermeni tehciri meşru oluyor ve tehcir sırasında vuku bulan ölümler de ceza hukuku açısından adi suçları oluşturuyor. Nitekim 1914-18 arasında bu tür suçları işleyen 1397 kişinin çok ağır cezalara çarptırıldığı da biliniyor.

Olayı daha iyi anlamak için, hepsi zorla nüfus nakli olan etnik temizlik, tehcir ve mübadele konularını kısaca gözden geçirmekte yarar olabilir. Etnik temizlik de tehcir de ilk bakışta, bir etnik grubu belli bir toprak parçasından uzaklaştırarak, o toprakta homojen bir nüfus yaratmak amacı taşıyor gibi gözüküyor. Biraz ayrıntıya girildiğinde saiki, yöntemi ve coğrafyası arasında önemli farklar bulunduğu ortaya çıkıyor. Hukuki nitelikte olmayan etnik temizlik kavramı, 1980'lerde eski Yugoslavya'nın Sırbistan bölümünde kullanılmaya başladı. Hatta deyimi Seslj adlı bir Sırp gerilla liderinin bulduğu söyleniyor. Bu nedenle Bosna-Hersek'teki etnik temizliği esas alıp, bunu önce Balkan Savaşları sırasında Türk ve Müslümanlara yapılanlarla ve sonra da Ermeni tehciriyle kıyaslamak lazım.

Etnik temizlik bir tarafın silahlı güçlerinin karşı taraftaki sivil nüfusa saldırmasıyla başlıyor. Doğal olarak, kendilerini savunma imkânına sahip olmayan siviller öldürülüyor, yaralanıyor. Evleri ve yerleşim birimleri yakılıyor. Gıda ve ilaç gibi yardım getirebilecek insani konvoylara izin verilmiyor. Eli silah tutabilecek erkekler tutuklanıyor, yaşama şartları çok bozuk kamplara hapsediliyor veya doğrudan öldürülüyor. Kadınların sistematik ve kitlesel biçimde ırzına geçiliyor. Hedef grubun yaşadığı bölgedeki kültürel değerleri, bu arada dini mabetleri, binaları, kitaplıkları yıkılıyor. Yerlerini terk etmedikleri takdirde, sürekli ateş ya da bombardıman altında tutuluyorlar. Katliam sürüyor. Bir süre sonra bu saldırılar semeresini veriyor ve kitleler sürülmek istenen istikamete doğru kaçıyorlar. Etnik bakımdan temizlenmesi öngörülen bölgenin dışına, daha doğrusu kurulacak devletin olası sınırlarının dışına atılıyorlar. Bunların geriye dönmesi her ne pahasına olursa olsun engelleniyor. Etnik temizliğin belli bir aşamasında saldırgan grupta hedef gruba karşı ırkçı nefrete benzer bir duygu hakim olmaya başlıyor. Örneğin; Boşnaklara "Türk tohumu" deniyor. Geçmiş Osmanlı hakimiyetinin tüm faturası bunlara çıkarılıyor. Irza geçmeler yeni hakim ırka ait bir nesil yaratma amacını taşımaya başlıyor. Bir bölge etnik açıdan

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homogen hale getirildikten sonra bile erkekler, örneğin Srebrenica'da olduğu gibi, büyük gruplar halinde katlediliyor ve toplu mezarlara gömülüyor. Bugünkü hukuka göre insanlığa karşı suç kavramı içine giren etnik temizlik böylece, bir grubun grup olduğu için yok edilmesini amaçlayan soykırım fiilleri de içeriyor. Eski Yugoslavya Uluslararası Mahkemesi Savcısı, Karaciç ve General Mladiç için hazırladığı iddianamede bu nedenlerle 9 kez soykırım işlendiğini bildirdi.

1877-78 Rus-Türk Savaşı ve 1912-13 Balkan Savaşları sırasında Türk ve Müslüman nüfusa yapılanlar, Bosna-Hersek'te Sırp'ların gerçekleştirdiği etnik temizlikle özde uyuyor. Tek farkı vüsatının çok daha büyük olması. Balkanlarda Türklere uygulanan etnik temizliğin etkilediği nüfus çok daha büyük. İki savaşta ölen Türk ve Müslümanların 2 milyona vardığı, ülke dışına yani Anadolu'ya göçe zorlananların ise 1 milyona çok yaklaştığı görülüyor.

Ermeni tehcirinde yine zorla göç ettirme var. Ancak göçe zorlama sivil nüfusa saldırı şeklinde olmadığından, yerleşim birimlerinden sökülüp atılmaları için öldürülenler, yaralananlar, ırzına geçilenler, katledilenler, ateş altında tutulanlar, aç bırakılanlar hemen hiç yok. İkinci olarak, tehcire tabi tutulanlar, ülke dışına atılmıyorlar. Ülkenin bir başka yerine götürülüyorlar. Bu nedenle yeni yerleşim yerlerinde yeni hayatlarına uyum sağlamak için bazı nakdi ve aynı imkânlardan yararlanıyorlar. Denebilir ki tehcir başladıktan sonra, günün şartları dolayısıyla yine de ölümler vuku buluyor. Bu doğru. Buna rağmen tehcir, birçok önlem alındığından, etnik temizliğe oranla çok daha az ölümle sonuçlanıyor. Tehcirle göçenler yanlarına çok daha fazla kişisel eşya ve menkul değerler alabiliyorlar. At ve araba gibi taşıt vasıtalarından yararlanabiliyorlar. Geriye bıraktıkları büyük ölçüde yağmadan kurtuluyor. Kültürel değerleri tahrip edilmiyor. Bu şartlar altında, tehcir, soykırım fiillerinin de işlendiği bir insanlığa karşı suç olan etnik temizlikten çok farklı.

Eğer 20. yüzyılın ilk soykırımı aranıyorsa, bunun 1915-16 tehciri değil, 1912-13 Balkan Savaşları sırasında yapılan etnik temizlik olduğuna kuşku yok. Bir bakıma tehcir, Rus ordusuyla Ermeni gerilla ve teröristlerin, Balkanlar'dakine benzer bir etnik temizlik ve soykırımı Doğu Anadolu'da yapmalarını önlemek için yapıldı. Osmanlı istatistiklerine göre tehcire tabi bölgedeki toplam nüfus olan 5.061.857'nin 811.085'i Ermeni idi. Yani Ermeniler

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nüfusun %16'sına tekabül ediyordu. Şayet tehcir olmasaydı veya Rusya 1917 sonunda savaşı durdurup, Brest-Litovsk Antlaşması'yla çekilmeseydi, bölgedeki nüfus yapısının ışığında, esasen başlamış olan etnik temizlik potansiyelinin boyutlarını tasavvur etmek mümkün.⁴⁰

Tehciri diğer zorla göç hareketleriyle de kıyaslamak mümkün. II. Dünya Savaşı sırasında Amerika, ülkenin batısında yaşayan Japonları doğuya taşıdı. Bu tehcire “üç küçük bombalama olayı ile, saptanamayan bazı radyo sinyalleri” neden olmuştu. Pearl Harbor baskınından dört ay geçmişti. Japonya'nın Pasifik'i aşip batı Amerika'yı işgale başlayamayacağı anlaşılmıştı. Buna ne niyetleri ne de güçleri vardı. Yani Amerikan Japonlarının Japon ordusuyla birleşip Amerika'ya karşı silahlı harekâta girişmeleri söz konusu değildi. İlgili Amerikan Temyiz Mahkemesi'nin 18 Aralık 1942'de Korematsu davası hakkında verdiği kararda, 112.000 Japon asıllı kadın, erkek, yaşlı ve çocuğun tehcirinin, “günün kritik şartlarında”, “sadık vatandaşların sadık olmayanlardan ayrılmasının mümkün olmaması karşısında” “casusluk ve sabotajları önlemek” gibi “askeri gerekçelerle” başka yere taşınmasının gayri hukuki olmadığı hükme bağlandı. “Savaş zamanında tüm Amerikalıların zorluklarla karşılaşmış” olması mazeret olarak gösterildi. Amerika'ya sadakat yemini etmeyen 5000 civarında Japon bulunduğu hatırlatıldı. Tümgeneral J. L. DeWitt'in raporlarında Japonlar aleyhine ırkçılık sayılabilecek ibareler yer alıyordu. Japonların doğuya taşınması lehine lobi faaliyetinde bulunan yerel grupların da ırkçı argümanlar kullandıkları görüldü.

II. Dünya Savaşı'ndan sonra çoğu Batı Polonya'daki 15 milyon kadar Alman da, 1945 Potsdam Protokolü'nün XIII. maddesi gereğince Almanya'ya göçe zorlandı.⁴¹

Kurtuluş Savaşı'ndan sonra yapılan nüfus mübadelesiyle Türkiye'den Yunanistan'a 900.000 Rum giderken, Yunanistan'dan Türkiye'ye 430.000 Türk daha geldi.

40	Vilayetin İsmi	Toplam Nüfus	Ermeni Nüfus
	Erzurum	645.702	134.967
	Bitlis	398.625	131.390
	Van	430.000	80.798
	Elaziz	578.814	69.718
	Diyarbakır	471.462	79.129
	Sivas	1.086.015	170.433
	Adana	403.539	97.450
	Trabzon	1.047.700	47.200

41 Schabas, a.g.e., s. 195.

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Bu kişilerin onayı alınmadan zorla yapılan nüfus hareketleri sonunda az sayıda insan öldüğüne kuşku yok. 1914-1945 yılları arasında böyle yirmi mübadele anlaşması yapıldı. Barış zamanında yapılan bu göçlerin çok daha düzenli olması ve ulaşım gibi fizik şartların da elverişli bulunması nedeniyle kayıpların düşük düzeyde kalması, göçlerin zorla yapılmış olduğu gerçeğini değiştirmez.

Kısaca, tehcir bir grubu, ne grup niteliğiyle ne de başka bir nedenle yok etmek amacıyla değil; Rus işgal ordularıyla işbirliğine girmiş olan, bu çerçevede kılavuzluk ve casusluk yapan, isyanlar çıkaran, birlikleriyle Osmanlı ordusuna saldıran, lojistik hatlarını kesen, terörist gerillalarıyla Türk-Müslüman yerleşim birimlerine saldırıp katliamlara ve etnik temizliğe girişen Ermenileri doğu cephesinden ülkenin güneyine, savaş dışında kalan bir bölgeye taşımak amacıyla yapıldı. Tehcirin bu askeri gereklilik yönü, bugün geçerli olan hukuka da uygun.⁴²

Kaldı ki tehcir yapılmasaydı, tüm işaretler Rus ordusuyla birleşen Ermeni güçlerin, Balkanlar'daki gibi, çoğunluktaki Türk-Müslüman nüfusu soykırım boyutlarında bir etnik temizlikle bertaraf ederek, kendi devletlerini kuracaklarını gösteriyordu. Tehcirin nedeni açık ve kesin biçimde askeriydi ve Türk-Müslüman nüfusun varlığı ve güvenliğini sağlamakla ilgiliydi. Bu haliyle Ermeni tehcirinin insanlığa karşı suç oluşturması söz konusu olamaz.

Sonuç Olarak

Bu çalışmanın sonuçlarını şöyle özetlemek mümkün:

1. Ermeniler, Osmanlı İmparatorluğu'nun toprakları üzerinde önce otonomi, sonra bağımsız devlet kurmak için siyasi ve silahlı faaliyetlerde bulunduklarından siyasi grup niteliğindedir. Bu nedenle Sözleşme'nin 2. maddesi tarafından korunan dört grup arasına girmemektedirler.

2. Osmanlılarda Nazilerin Yahudilere karşı duyduğu anti-semitizme benzer bir anti- Ermenizm, bir başka deyişle Ermenilere karşı ırkçı bir nefret bulunmadığından tehcir, Ermenileri grup olarak yok etme saikiyle yapılmamıştır. Tehcir kararı Ermenilerin

⁴² Protocol II Additional to the Geneva Conventions of 12 August 1949, Article 17.

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Rusya ile tarihi anlaşmalarla teyit edilen dostluk ve işbirliği çerçevesinde Rus işgal ordularıyla birleşip Osmanlı ordularına karşı başlattıkları harekâtı önlemek ve “Vilayat-ı Sitte” denen doğu bölgesindeki nüfusun %84'ünü oluşturan Türk ve Müslümanları, Balkanlar'daki gibi soykırım boyutlarında bir etnik temizlikle yok etmesine engel olmak için alınmıştır. Tehcirin nedeni bir yandan askeri gereklere, öte yandan da Türk-Müslüman nüfusun varlığını savunmaya dönüktür.

3. Osmanlı Hükümeti'nde, Sözleşme'nin 2. maddesinde aranan Ermenileri yok etme kastı bulunmamaktadır. Yok etme niyetini kanıtlayacak yazılı ve sözlü belgeler olmadığı gibi, tüm belgeler tam tersine Ermenilerin korunmasını ve rahatça iskan edilmelerini öngörmektedir. Ölen Ermenilerin sayısı, soykırımın mevcudiyetini ispattan çok uzaktır. Ermeni ölümlerinin önemli bir bölümü tehcir dışı nedenlerden kaynaklanmıştır. Aynı nedenlerle bölgede vuku bulan Türk sivil ölümleri çok daha yüksektir. Bu açıdan tehcir, Sözleşme'nin 2 (c) maddesi anlamında, gizli ya da dolaylı bir soykırım değildir.

4. Katolik ve Protestan Ermenilerle, İstanbul, Aydın (İzmir dâhil), Edirne ve Kütahya Ermenilerinin tehciire tabi tutulmaması, Osmanlıların gücünün yetersizliğinden ziyade, diğer bölgelerdeki Gregoryan Ermenilerin Rusların dindaşı olarak ve Rus ordularının ilerleme hattı üzerinde bulunmaları dolayısıyla tehcir edildiğini göstermekle, olayın askeri nedenini teyit etmektedir.

5. Bu koşullarda Sözleşme'ye göre soykırım olmayan tehcirin ardındaki askeri gerekler de göz önüne alındığında, hukuken insanlığa karşı suç kategorisine girdiği de savunulamaz. Zira tehcir sırasında, Roma Statüsü 7. maddede aranan şartlar yerine gelmemiştir. Yani Ermeni nüfusa karşı, devletin bir planı çerçevesinde “yaygın ve sistematik bir saldırının parçası olarak”, insanlığa karşı suç oluşturan fiillerin çoğunun birlikte işlendiği bir durum ortaya çıkmamıştır. Tehcir, etnik temizlikten farklı olarak, Ermenilerin şiddetle yerinden atılmasını amaçlamamıştır. Ermenilere karşı dini veya başka bir nedenle mezalim yapılması söz konusu olmamıştır. Tehcir askeri güvenlik nedenleriyle yapılmıştır.

6. Bunun da ötesinde, Ermenilerin işgalci Rus ordularıyla birleşerek, Balkan Savaşları'ndaki gibi bölgede çoğunlukta olan Türk ve Müslümanlara karşı soykırım boyutunda bir etnik temizlik

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yapmalarını engellemeyi amaçlamıştır. Bölgedeki çeteler, devletin olmayan saldırı kastını bilmelerine de imkân bulunmadığından, kendi özel amaçlarıyla göç halindeki Ermenilere saldırmış, öldürmüş ve mallarını yağmalamışlardır. Üç cephede çarpışan Osmanlı elindeki sınırlı jandarma güçleriyle bazen Ermenilerin hepsini etkin biçimde koruyamamıştır. Benzer iklim, coğrafya, gıdasızlık, ilaçsızlık ve hastalık şartları nedenleriyle, göçe zorlanan sivil Türklerin ölümlerinin Ermenilerden fazla olması da, tehcirde dolaylı yoldan yok etme amacı bulunmadığını göstermektedir.

7. Nihayet göç ettirilenlere karşı göç ettirenlerde bir acıma duygusu, istenmeyen olaylara karşı bir pişmanlık ve saldırganlara karşı kızgınlık doğmuştur. Adi suç kategorisine giren soygun ve öldürme sanıkları savaş sonundan önce yargılanmış ve çoğu idam edilmiştir.

THE ARMENIAN PROBLEM AND INTERNATIONAL LAW

Introduction

A lot was written on the Armenian incidents that had occurred in the Ottoman Empire in the years 1915-1916, that is, during the early part of World War One. Thousands of works tackling this issue were published, mainly by Armenians. These authors, mostly historians, were inclined to describe the incidents as genocide. Turkish authors too, almost without exception, and a number of foreign writers, held in high esteem, approached the issue from a historical standpoint, maintaining in turn that resettlement is not the same as genocide.

Although the strong emotional context of this issue makes a neutral view of history difficult to prevail, there are undoubtedly ample publications available to give adequate information about the history of the incidents. Despite the claims that the archives in Turkey and in Armenia are not fully accessible, one can safely say that enough archival work has been done and published to permit an assessment of the nature of the incidents.

Historical studies are essential to render understandable the incidents that took place in the second decade of the 20th century. However, if a historian lacks education and/or experience in international law, that person cannot judge whether or not these incidents amounted to genocide. Like historians, academics such as sociologists and political scientists who laboured on these issues, tend to describe as genocide almost any incident, which involves an important number of dead. However, genocide, as an international crime, can be determined only by jurists on the basis of the prescribed legal criteria.

Nevertheless, there are very few works of legal nature on this issue. This outcome is due to a variety of reasons. For one thing, the Turks are not known to be legalists, first and foremost. But the

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Armenians have deliberately set aside the legal aspect of the issue apparently because that would weaken their genocide claims. Pro-Armenian writers chose to adopt the historical approach to underline the tragic nature of the incidents so that they could make genocide claims more easily. Probably, one of the reasons why the legal approach has not been preferred is the fact that the “Convention on the Prevention and Punishment of the Crime of Genocide” (henceforth to be referred to as the Convention), which had been concluded in 1948 and had taken force in 1951, was not used frequently enough until the mid 1990s. As a result, the jurisprudence in this area was not developed sufficiently. Finally, the difficulties involved in retroactively applying the Convention to incidents that occurred some three or more decades ago, before it entered into force, are all too obvious. The jurists may have failed to display an interest in this issue because it would not be compatible with law to apply legal concepts, “genocide” among them, which did not exist in the pre-Convention period.

This article adopts, on the other hand, a legal approach. To be able to focus adequately on the legality of the issue, it will assume that the reader possesses already an adequate knowledge of the historical background. Chronological data will be referred to only to the extent that jurisdictional assessments require it.

Law Prior to the Convention

According to the 1648 Westphalian system, state sovereignty was an absolute principle-essential and supreme. The matter of minorities was an internal affair for the states, which applied domestic laws to the incidents that occurred within the country. The concept of “international crime” did not exist. Coming to the Ottoman scene, however, the minorities in the Ottoman Empire became, immediately after the 1839 Tanzimat Edict, the subject of treaties between nations. That was an exceptional situation. It resulted, on the one hand, from the fact that the Ottoman Empire, a multi-cultural and a multi-national country, found itself in a weaker position in its competition with the predominantly nation states of the West, and, on the other hand, from another fact, namely that the European governments turned their support of the Christian minorities in the Balkans into an essential element of their foreign policies towards the Ottoman Empire.

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When the Armenian relocation began in the fifth month of 1915, the British, French and Russian Governments, namely the belligerents and the enemies of the Turks in the current war, issued immediately on 24 May 1915, a joint declaration in which they said the following: "... In the presence of these new crimes of Turkey against humanity and civilization, the allied Governments publicly inform the Sublime Porte that they will hold personally responsible for the said crimes all members of the Ottoman Government as well as those of its agents who are found to be involved in such massacres". However, the U.S. Secretary of State Robert Lansing, who was clearly not a Turkish sympathizer, is known to have admitted that the Turkish Government had "more or less justifiable" right to deport the Armenians, provided that they lived "within zone of military operations". In an obvious contradiction, a report resulting from an investigation of the war crimes committed by the Christians during the 1912-13 Balkan wars, in violation of the Hague rules (1907), failed to talk about the 'crime against humanity' in the face of the worse tragedies that the Turks had suffered.

The Hague rules highlighted the crimes a country would commit in war. Those rules had not been envisaged to be applied to the crimes a country would be accused of having committed in its own territories. It is no secret that when, at the Paris Peace Conference (1919), the Greek foreign minister suggested that a new kind of crime against humanity be created and there be a trial for the 'Armenian massacres', President Woodrow Wilson initially objected to that, saying that this would have been an ex post facto law. The United States was against the creation of such a crime. The Versailles Treaty with Germany stated that an international tribunal be set up. That suggestion was unprecedented in history. However, the trial could not take place, since the Netherlands refused to extradite Kaiser Wilhelm II who had sought refuge there.

With the Sevres Treaty signed on 10 August 1920, the Ottoman Empire agreed to a trial to be held in Turkey for the crimes in question (Article 226). Creation of the tribunal was a task left to the victors and the Ottoman side pledged to arrest and deliver to the tribunal the persons wanted. Historians know about the 'Nemrut Mustafa' Martial Court set up in occupied Istanbul at the end of the war, and about the defendants, who were taken to Malta-only to be released by the British crown prosecutor due to lack of evidence. The Sevres Treaty was later

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replaced by another international agreement, the Lausanne Treaty that was signed on 24 July 1923. The latter included a declaration of amnesty for all crimes committed between 1 August 1914 and 20 November 1922.

It is common knowledge that genocide reached its full dimensions during World War II when Nazi Germany exterminated the Jews, describing it as the “Final Solution”. The word ‘genocide’ was coined by Raphael Lemkin, a Polish Jewish scholar. When Lemkin was a student, he followed closely the trial of the defendants implicated in the Armenian incidents, which he considered genocide. Lemkin’s concept of that crime was a very comprehensive one. His definition embraced the political, economic, social, cultural, moral, physical or biological destruction of the minorities. The law, which evolved in more recent times, came to consider ‘genocide’ not any act committed with the aim of destroying just any group but only certain groups; and only if those groups were destroyed physically or biologically. In other words, the latter greatly narrowed down the scope of the description originally made by Lemkin, simply by excluding from the interpretation of genocide political, economic, social, cultural and moral destruction of groups.

Since, at the time, what the Nazis did to the Jews in the early 1940s had not been fully known, Britain and the United States especially did not favor of having an international tribunal deal with the crimes committed within the borders of Germany. They were, on the other hand, maintaining that for the crimes committed by that state outside its national borders, that is, in the countries it occupied, the persons responsible should be put on trial. Thus, the respect in the Westphalian system for the sovereignty of the nation-state would continue. The law of war envisaged the officials of a given country to be subject to international adjudication only for crimes committed, inter alia, against civilians in another country in times of war. The concept of crime against humanity, though discussed in doctrine, had not yet become actually part of international law, in a way that would apply to the crimes committed inside the country as well.

As the wide scope of the offences that the Germans had committed against the Jews gradually emerged, the idea that the persons responsible for the crimes committed within the country too should be put on trial, started gaining ground. This step,

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initiated in 1941, reached a new stage with a proposal the United States presented to the London Conference four years later. It invoked the “Martens Clause” of the Hague Conventions. Thus, it envisaged that if a crime had not been clearly defined in advance, “the principles of law of the nations as they result from the usages established among the civilized peoples, from the law of humanity and from the dictates of the public conscience” would be applied to it. However, since the “Martens Clause” is a concept of the law of war, adjudication of the crimes committed within the country itself has been linked to the concept of starting the war. Thus, the reference to war was creating an excuse for intervention in domestic affairs. The minutes of the London Conference indicate how adamant especially the United States was to ensure that the intervention in Germany’s domestic affairs would not constitute a precedent, which would allow other countries to intervene in American domestic affairs in the future. This understanding eventually helped to formulate the principles of the Nuremberg Court (which came to be known by the same name) that was to try the German war criminals, including those responsible for the Jewish genocide. The principle, specified as “VI”, is as follows:

a. Crimes against peace:

- (i) Planning, preparation, initiation or waging of a war of aggression or a war in violation of international treaties, agreements or assurances;
- (ii) Participation in a common plan or conspiracy for the accomplishment of any of the acts mentioned under (i).

b. War crimes:

Violations of the laws or customs of war which include, but are not limited to, murder, ill-treatment or deportation to slave labour or for any other purpose of civilian population of or in occupied territory, murder or ill-treatment of prisoners of war persons on the seas, killing of hostages, plunder of public or private property, wanton destruction of cities, towns, or villages, or devastation not justified by military necessity.

c. Crimes against humanity

Murder, extermination, enslavement, deportation and other in-

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human acts done against any civilian population, or persecutions on political, racial or religious grounds, when such acts are done or such persecutions are carried on in execution of or in connexion with any crime against peace or any war crime.

As can be seen from the definition of the crimes against humanity, the crimes committed against the Jews would be a subject for international adjudication even if these were committed inside Germany. The only stipulations were that there should be a link (nexus) between these crimes and the war, and that they should be committed during such hostilities. Thus, the victors could not abandon the principle that in order to be able to intervene in the domestic affairs of a country, one had to be in a state of war with that country. Even the extermination of the Jews and others with a brutality unprecedented in history did not suffice to ensure that the crimes committed in a given country would be automatically subjected to international adjudication. Although the term genocide had been coined by then, the genocide concept was not elaborated among the Nuremberg Principles. The concept of crimes against humanity embodied the crime of genocide. The latter had not gained, at that time, enough clarity and precision to constitute an independent crime category. The Nuremberg trials began in October 1945 with the reading out of the indictment against 22 Nazi defendants, and it ended a year later. Of the defendants, 19 were convicted, 12 of whom were executed. During the trials, the prosecutor used the term genocide from time to time but the verdict did not refer to that crime.

The U.N. General Assembly Resolution No. 96 (1)

The first document of a legal nature containing the term genocide was Resolution No. 96 adopted by the United Nations General Assembly in December 1946 soon after the Nuremberg trials ended-in fact, during the first session it held in the wake of the trials. The purpose of that resolution was, as specified in the last paragraph, to demand that the ECOSOC prepare a draft convention on genocide in a year. But, on this occasion, the General Assembly explained what it understood from the word genocide. It was “a denial of the right of existence of entire human groups”. That was likened to homicide as it was “the denial of the right to live of individual human beings”. The reference made to the right to life, later, caused a link to be formed between human rights

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and genocide. After all, genocide was, basically, the killing of individuals. Genocide caused the loss of the cultural and other kinds of contributions these groups of people would be making to humanity. Thus, the cultural genocide concept, to which Lemkin attached importance, came to be indirectly included in the resolution. The groups that could be subjected to genocide were cited as “racial, religious, political and other” groups. That was an admission of the possibility that virtually any group of people could become genocide victims. The term also meant, not only extermination of a group as a whole, but also in part.

Probably the most important aspect of the resolution is that genocide was considered a crime according to international law. This deliberation aimed at preventing genocide in a country from being considered that country's domestic affairs on account of the principle of state sovereignty and also to prevent the culprits from evading international penal procedures. The principle thus introduced was that those who committed the crime of genocide should be punished, regardless of their being private citizens or public servants or statesmen. Since the genocide law had not yet developed, adequately as a source, however, the sponsors stressed instead its violation of the ‘moral laws’. In this vein, civilized states were denouncing genocide. The resolution listed “religious, racial, political or any other” reasons as grounds on which genocide could be committed, in association with the groups of people subjected to genocide. In this respect, with the addition of the words “other reasons”, it expanded further the scope of the definition given in the Nuremberg principles (6/c), which pertains to the crimes against humanity.

The preamble of the resolution stated that ‘political groups’ could be the victim of genocide. If the civilians who were part of groups engaged in political struggle (for example, resorting to arms with leftist revolutionary ideological aims or waging a struggle for independence) came to be massacred even in part (not as the entire group but in significant numbers) that alternative would still be considered genocide. The concept of genocide embodied in this resolution became almost totally identical with the concept of crimes against humanity, as defined in the Nuremberg Principles while severing the link between genocide and war. In other words, it admitted that genocide could take place in times of peace as well. It acknowledged also that genocide could be committed, not only in the territories a given country occupies in war, but also within the national borders of that country itself.

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Thus, this resolution recognized any killing of a large number of people, i.e., en masse, as genocide regardless of the kind of the group, grounds, time or place.

The Convention

The Genocide Convention was adopted on 9 December 1948, and it took effect on 12 December 1951. The crime of genocide is described in Article 2 of the Convention as follows:

“In the present Convention, genocide means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such:

- (a) Killing members of the group;
- (b) Causing serious bodily or mental harm to members of the group;
- (c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;
- (d) Imposing measures intended to prevent births within the group;
- (e) Forcibly transferring children of the group to another group”.

The Convention was debated -on the basis of a draft presented by the U.N. Secretariat- by the Ad hoc Committee and the General Assembly's Sixth Committee dealing with legal affairs. Since the Armenian incidents will be reviewed later in this paper within the framework of the Convention, it will be useful to make a brief assessment at this stage of the Convention in general and of Article 2 in particular.

Protected Groups

The groups to be protected under the Convention mentioned in Article 2 are limited to four types, that is, national, ethnical, racial and religious groups. Lemkin, who had defended the inclusion of the political groups, suggested himself during the deliberations on the draft text that the political groups be left outside the scope of

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the Convention. Unlike Resolution No. 96 (1), neither the 'political groups' nor the 'other groups' found their way into the Convention text. This modification constitutes a highly important difference because history shows that the most frequently seen struggles-and the ones that claim the largest number of civilian lives- take place between groups with political aims. Accordingly, for example, the massacres committed in Cambodia by the Pol Pot regime causing the deaths of nearly two million civilians did not fall within the scope of the genocide definition given by the Convention. Similarly, the deaths that occurred in the framework of the October Revolution (1917) cannot be considered genocide. In line with many verdicts of the International Criminal Tribunal for former Yugoslavia, save perhaps some exceptional acts which will be judged in the future trials as genocidal, even the extensive Serbian ethnic cleansing in Bosnia-Herzegovina does not correspond to the definition of the crime of genocide.

The term 'political group' covers civilians along with the members of the group engaging in politics or waging an armed struggle. At first glance, this inevitably causes confusion. There are those who question why destruction of civilians affiliated with a group described as political should not be considered genocide. But this is a semantic problem that arises from the 'definition'. A group comes to be called a 'political group' when an attempt is made to destroy it with political aims. In other words, if there is a political struggle between two groups and if, in the course of that struggle, one of these groups commits against the other group acts such as murder, injury, massacre or deportations the injured party comes to be called a political group. Killing civilians in the course of a political struggle continues to be a crime. But that crime is not genocide.

The phrase about a group's cultural contribution to humanity as embodied in Resolution 96 (1) is not included in the Convention. This indicates that the concept of 'cultural genocide' has also been left outside the scope of the Convention.

The fact that the Convention does not consider genocide the acts perpetrated against political groups and the obliteration of the minority cultures through forced assimilation has significantly narrowed down the scope of the Convention when it came to implementation. For this reason, from 1951, when the Convention was adopted, to 1992 it could not be implemented with a few not

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so-significant exceptions. This has drawn strong criticism. Some say that the Convention has not served any useful purpose. On the other hand, many historians, sociologists and thinkers tended to interpret genocide in a broader manner than the definition in the Convention allows. If and when they found out that a significant number of civilians had died in a case they studied, they claimed that this was genocide. Another group of academics, meanwhile, suggested new definitions of genocide in order to expand the scope of Article 2 of the Convention. Both sides ignored the fact that extermination of those groups, which remain outside the four groups protected by the Convention, was already punishable within the framework of “crimes against humanity”. Attempts to expand the concept of genocide to cover also crimes against humanity, seemingly, result from the fact that the international community, which was so sensitive to genocide, failed to display as much awareness toward the crimes against humanity. Indeed, for a long time, the international community was not prepared to set up Nuremberg-type international tribunals to protect the victims of the crimes against humanity. Moreover, these groups could not be protected effectively under human rights law in times of peace or under humanitarian law or the law of war in times of war. Consequently, the definition of genocide was broadened by some commentators to embrace all serious crimes committed under the laws of war and human rights.

That situation changed to a great extent, thanks to the activities of the two international criminal tribunals set up following the incidents in Bosnia-Herzegovina and Rwanda. Those who commit crimes against humanity and war crimes began to be punished. Further, the Statute of Rome related to the International Criminal Court has eliminated all the loopholes in the law. In addition to inter-state wars, ‘crimes against humanity’ can now be committed in times of peace, and together with other war crimes they can be committed in internal conflicts as well. The Statute of Rome took Article 2 of the Convention without any change and made it its Article 6. On the other hand, Article 7 of the Statute of Rome, which is the reformulated version of the Nuremberg Principles paragraph 6(c) on crimes against humanity, as well as the relevant articles of the statutes of the international tribunals set up for former Yugoslavia and Rwanda, covered the crimes of extermination, persecution, deportation and the like committed against “other groups” not protected by the Convention.

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Intent

A crime consists of two parts. One is the mental or subjective element (*mens rea*). This component refers to the intention, aim and will to commit a crime. The other is the act of crime itself, the material or objective element (*actus reus*). In Article 2 of the Convention the phrase “with intent to destroy” represents the mental element. The acts committed with such an intent are listed from (a) to (e).

One of the most important characteristics of the Convention is that for the crime of genocide to exist, acts must have been committed only with the intent to destroy one of the four aforementioned groups. The intent to destroy a group must be in the form of ‘special intent’. In other words, it must be fully evident, i.e., beyond any doubt. If the intent to destroy gets declared openly by those who commit the act of genocide or by those who ensure its commission, then there is no controversy. If there is no such oral or written statement, then the presence of genocide becomes debatable. Some jurists stress that at this point one has to look at the consequences of the actions, and they consider it enough, if a significant number of deaths occurred, as a result of these actions.

However, the concept of ‘general intent’ is valid for ordinary crimes, that is, the short-cut interpretation that the person who committed the act is considered of having an intention commensurate with the consequence of the act. The same concept is simply inadequate in the identification of the acts of genocide. On the other hand, those who commit genocide generally do not declare their intent to destroy. If no clear evidence of an oral or written kind can be found in order to prove genocide, some other elements must be taken into consideration along with the ‘significant number of deaths’. As the crime of genocide mostly gets committed by the states or other large-scale organizations of a similar kind, one tries to determine whether the crime was committed by an “organized force” to find out whether there was ‘special intent’. Since genocide is destruction of a large number of people, that is, members of a group, it is important to determine whether that organization had prepared a ‘plan’ well in advance. Also, that organization must have organized a force to implement its plan and carried it out in a coordinated, systematical and massive manner. .

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From the standpoint of its organization, its implementation and its consequences, the Jewish genocide may be, as an exceptional example, incomparable with the other cases. The decision to introduce a “final solution” for the Jewish genocide was taken at the Wannsee meeting in 1942, and the crime was confessed during the Nuremberg trials. But even if the intent to destroy had not been revealed clearly like that, one could take into account the discriminatory laws passed against the Jews, the “pogrom” type attacks including the “Crystal Night” of 1938, and the way the Jews had been driven out of the society and forced to live in the ghettos where they could not meet normal human needs as the preliminaries heralding a genocide. Besides, the virulent anti-Semitism had begun as a movement no less than fifteen years prior to the genocide, and the words and writings of Hitler and the other Nazi ideologues in the framework of that movement, make it all too clear the intention to destroy the Jews. Similarly, among the Serbs, having an ethnically homogenous homeland had been a widely-used rhetoric since 1981. In fact, the ‘ethnic cleansing’ as a concept was allegedly invented by V. Seselj, one of the Serbian paramilitary leaders.

To prove the presence of the intent to destroy, which must be ascertained to show that a given incident was genocide, one has to look at the period preceding the perpetration of the acts of genocide, and investigate whether that kind of intent had begun to take shape. The presence of a state-like organization, a plan and its implementation by an organized force are being considered as factors leading to a presumption of the presence of the intent to destroy.

Motive

Not only the intent with which the crime is committed, but also the reason or the grounds for that intent are vitally important. This urge is set forth as motive, described in the Nuremberg Principles 6 (e) involving the crimes against humanity, as “murder, extermination, enslavement, deportation and other inhuman acts done to any civilian population, or persecution on political, racial or religious grounds”. Resolution 96 (1), on the other hand, stated that the crime of genocide may have been committed “on religious, racial, political or any other grounds”. According to Resolution 96 (1), the motive for genocide was more comprehensive than even the

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motive for the crimes against humanity as embodied in the Nuremberg Principles. Expressed differently, in an armed clash with a group triggered by an existing religious, political or any other kind of dispute, leading to the deaths of a significant number of civilians, could be both genocide and a crime against humanity.

The Convention created quite a different situation. Article 2, not only limits the “intent” to the destruction of only the four groups, but it also narrows down greatly, as we shall see below, the grounds for destruction compared to the bases cited in the two afore-mentioned documents.

During the debates on the Convention, the issue of grounds to destroy triggered lengthy discussions. The representatives of many countries argued that proving the presence of motive would be very hard. If such a requirement were to be stipulated, that would make it impossible for the courts to deliver genocide verdicts. The important thing was to prove that the act was perpetrated with intent to destroy. However, during debates at the Ad hoc Committee, the Lebanese representative stressed the importance of the motive, saying that genocide was destroying a group “with racial hatred”. Later, during debates at the Sixth Committee, despite the objections of the British and American delegates, the phrase “as such” which meant that only acts aimed at destroying members of one of the four groups due to no other reason than his or her belonging to that specific group, was inserted in Article 2 of the Convention. This was achieved with the insistence of the Soviet Union that was leading the “Anti-Fascist Front” with the support of the majority. This phrase can escape attention at first glance. It does not have its Turkish equivalent and needs to be translated in an explanatory manner. Probably because of that difficulty, it has always been neglected by historians.

One has to take into consideration whether, in the perpetration of the crime of genocide, the motive was collective or individual. When an individual kills a member of the target group, this may not necessarily stem from the fact that the victim was a member of that specific group. The motive may have been something else. For instance, it may be a matter of revenge or a desire to confiscate the victim’s money or other possessions or a mere act of political ambitions. Genocide, on the other hand, is a collective crime. The organizers and planners of genocide must have acted with a racial motive not with a political, religious or any other reason. If they

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acted against the target group with motives other than racial hatred, the acts of genocide cannot possibly be perpetrated, for under those circumstances there would be no way to have an intent to destroy a group “as such”. Only could a murderously intensive racial hatred towards a group gives rise to such a deadly intent. As a result, to prosecute the crime of genocide successfully, one has to prove that the defendants felt racial hatred towards the target group to the extent that they became determined to destroy that group ‘as a group’. Punishment of genocide applies only to this kind of crime. In that context, the Jewish genocide of the Nazis and the Rwanda genocide of the Hutus can be considered classical cases of genocide.

Sociologically and psychologically, the intent to destroy a group due to its group character, emerges only in racism, or, to put it more correctly, in the most intensive stage of racism. Racial hatred is quite different from the ordinary animosity laced with anger parties engaged in a substantial dispute may feel towards one another. Racial hatred is a deeply pathological feeling or a complicated fanaticism the causes of which cannot be explained easily. It is an emotional state such as the racist movements in Western Europe, i.e., anti-Semitism, have harboured and peaked on and off for two thousand years and, more actively, in the past millennium. It is a malignant form of prejudice. The Nazis were the product of that culture under exceptionally difficult socio-economic conditions of the inter-war period and the Great Crash of the 1930s. To understand how different that feeling is, it would suffice to read a few of the publications that fill the libraries. Meanwhile, the Rwanda International Criminal Tribunal documents on the Akayesu case provide information about the history of the racial relations between the farmer Hutus of the Bantu race and the Nilo-Hamitic Tutsis, the shepherds coming from the north eastern parts of the continent probably in the 16th century.

Racial feelings, which exist everywhere in the world, can disturb the target group to varying degrees. However, racism that reaches the stage of actually destroying the target group, has been seen predominantly, even exclusively in the western half of Europe and its white colonies in north America, south Africa and Australia. In this context, one could list the Cathars being subjected to genocide in France in the 1206-48 period, the Jews in Spain through the 14th century to 1492, the genocide of the indigenous peoples who created the Inca, Aztec and Maya civilizations by the Spaniards in

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the 16th and 17th centuries, and the so-called Red Indians, by the Americans in the 18th and 19th centuries. Also, there was the Dutch Boers' apartheid regime in the Union (later, Republic) of South Africa in the 19th and 20th centuries and, during the same time, the Australian aborigines were subjected to some genocidal acts by the white Australians.

Some societies that created other civilizations too persecuted the civilian populations they consider to be the enemy. However, in those cases, no presence of "racial hatred" leading to the intent to destroy those people as a group can be determined. In the Islamic and Turkish civilizations especially, genocide has never been committed. Otherwise, it would have been impossible for those civilizations to found many multi-ethnic and multi-religious empires that survived for centuries. It must not be forgotten that despite their great technological superiority, the colonial empires set up by the powerful countries of the Western civilization managed to survive only a little more than a century on the average.

The fact that the definition of genocide in the Convention became limited to acts perpetrated with the intent of destroying a group as a group leaves out the persecution of civilian societies with other reasons. This loophole, as I stressed earlier, was eliminated with the definition of the crimes against humanity given in the Nuremberg Principles (Article 6/c), a definition, which covers those kinds of crimes. The articles on crimes against humanity in the statutes of the International Criminal Tribunals for Rwanda and former Yugoslavia, and, finally, in the International Criminal Court's Statute of Rome, fulfil this function. Briefly, the crime of genocide has been taken out of the persecution category of the crimes against humanity as defined in the Nuremberg Principles, confined to four groups, based on 'intent to destroy' those groups 'as such' and given the highest or the lowest rank in the hierarchy of crimes.

In Whole or in Part

In Article 2 of the Convention, acts perpetrated with the intent to destroy a group, "in whole or in part", are called genocide. In other words, one does not have to destroy a given group in whole for those acts to constitute genocide. There seems to be a contradiction here. Would the kind of racial hatred that creates the

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will to destroy a group as a group, satisfy itself with destroying only part of that group?

Even the Nazis could not exterminate all the Jews. Until the year in which the war began, they made life for the Jews extremely hard and thus ensured some of them to leave Germany. After the war began, they prevented even those who wanted to flee, from leaving the country, and exterminated all Jews inside Germany. Finally, they subjected to genocide the Jews living in the countries they occupied, rather than expelling them.

Two conclusions can be deduced from all this. Either even for the Nazis, the motive for destroying a group as a group attained the critical intensity only under war conditions or, in reality, the German reach to the Jews was more limited than it looked, and they exterminated those whom they could lay hands on, without permitting them to escape.

With this provision, those who made the Convention probably aimed to ensure that the international community should reach the conclusion that genocide has been committed without waiting for the destruction of a group in whole and to prevent the genocide envisaged in Article 1 and punish it on time.

Application of the Law to the Armenian Incidents

At a hearing of a U.S. House of Representatives subcommittee on 21 September 2000, the Armenian apologists said that they no longer needed the opening up of the Turkish archives and that on the basis of the existing information a consensus was achieved to the effect that the Armenians had been subjected to genocide. Half of their arguments were right in a way. However, the concluding statement was exactly the opposite of what they argued. The existing archival material was adequate to prove that no genocide had been committed. Hence, it was not possible for the new archival material to contradict the existing information.

The assessment below is made with the assumption that the readers have adequate historical information about the Armenian incidents. Still, it may be useful to take a brief look at the historical context in which the incidents took place. Since the beginning of the 19th century the Russian advance in the Crimea and the Caucasus uprooted the Muslim populations, mostly the Turkish,

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and drove them towards Anatolia in successive waves of migration during which large numbers of them perished. The Armenians in the Caucasus helped the Russian armies in return for which they were settled in regions, which had been ethnically cleansed from the Turks and the other Muslim peoples of the Caucasus. This process of expulsion and resettlement eventually led to the founding of the Armenian state in the early 20th century. In the course of its expansion the Russian forces entered the north-eastern corner of Anatolia during the wars of 1827-29, 1854-56 and 1877-78. On each occasion, the Armenians sided with the Russians, thus sowing the seeds of future ethnic conflict.

During the Balkan Wars (1912-13), the Ottomans lost all their European territories with the exception of Eastern Thrace. In most of those territories, they had constituted the majority, although sometimes slim, of the population. Turks and other Muslims such as Albanians and Pomaks lost their lives in great numbers. Consequently, large civilian groups were uprooted from their homes and driven towards Anatolia. World War I, which began year later, was to seal the fate of the empire. The Ottomans were fighting with the armies of Tsarist Russia in the east, with the British and French navies at Gallipoli, and with the latter's armies on the Egyptian, Syrian and Iraqi fronts in the south. At the start of World War I, the Armenians constituted an estimated 1,3 million and the Greeks about 1,4 million, with the Turks and Muslims making up the rest of the total 17,5 million population of Anatolia. It is known that unlike the Catholic and Protestant churches, the Greek Orthodox and the Gregorian Armenian Churches did not keep population records. For that reason, the exaggerated statistics put forth by the Armenians do not rely on a sound source. The Ottoman statistics are considered closest to the truth, for those statistics could have never been manipulated with the assumption that the country would one day be dismembered and the distribution of the land would be based on statistical data. On the contrary, the sound population statistics were necessary for tax administration and military conscription. Quite naturally, the statistics originating from European sources are not far from the Ottoman ones. Though the first director of the census administration, which was set up in Istanbul in 1892, was a Turk, the department later operated under a Jew named Fethi Franco between the years 1893-1903, subsequently an Armenian named Migirdich Shinopian, and, as of 1908, an American.

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Armenian Aims and Their Struggle in order to prove that the 1915-16 incidents were genocide, that is, that the Armenians were subjected to genocide, not as a political group but as an ethnic or religious group, most of the Armenian apologists either refer only briefly or do not refer at all to the politically-aimed Armenian activities including terrorism. Some of them assert that the Ottoman administration was oppressive, and that the Armenians engaged in political activities to defend themselves against it or to gain their rights. They condone, as legitimate defense against a 'big and cruel power', the way the Armenians resorted to terrorist violence, as in the cases of the 'komitaci', hajduk, klepsos or chetniks of the Christian peoples of the Balkans. Historically speaking, the states do not start ethnic strives except in the case of racist assaults on target groups. But, as I have explained earlier, there was no racism in the Ottoman Empire. It is all the more logical that the ethnic groups initiate struggles for independence in disintegrating empires. That is what happened in the late Ottoman period.

In order to reach their political objectives, the Armenians embraced the Balkan liberation struggle model. Just like the Balkan Christian peoples, they got organized and engaged in political activities. This is, in fact, not so strange. In the aftermath of the French Revolution, the idea of nation-state prevailed, and independence struggles against the multi-religious and multi national empires were considered legitimate. The Armenians clearly engaged in this kind of activity with the blessing, and often with the material support, of the Great Powers. There was no way, some Armenians thought, that this kind of struggle could be successful without resorting to violence. The use of violence would have to comply with the rules of the law of war. However, the Christian peoples of the empire almost always violated the law in the course of their armed struggle. The Balkan-type use of violence constituted a model in that the terrorist groups would attack the civilian Muslim population to provoke them to retaliate. If the Muslims retaliated or if the administration took military action, there would be loud cries of persecution and calls on Europe to intervene. The great Christian Powers would impose on the Ottomans reforms favoring the Christian population. Those reforms started with local administration rights and extended towards autonomy. After some time, Ottoman sovereignty in certain parts of the empire became nominal. With the first armed

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conflict, those regions gained independence with foreign intervention and assistance. In the 1880s, the Hinchags announced, as the goal of their armed struggle, that they established an (imaginary) Armenia in a region called Vilayat-ı Sitte that is the six provinces in eastern Anatolia namely Erzurum, Van, Elazığ, Diyarbakır, Bitlis and Sivas. According to today's administrative division that region covered also the provinces now called Erzincan, Ağrı, Muş, Siirt, Hakkari, Bingöl, Malatya, Mardin, Amasya, Tokat, Giresun, Ordu and Trabzon.

Armenians did not prove successful in that struggle. Therefore, they may compare their lot with that of the luckier Christian peoples of the Balkans and feel unfortunate or injured. However, in order to defend the genocide thesis they cannot simply claim that the Turks subjected them to 'death marches' out of their cruelty, that they were too innocent even to nourish political aspirations, not to mention armed struggle, and that, in view of the above, what they were subjected to was genocide by Turks in the sense of Article 2 of the Convention.

Historical research clearly shows, on the other hand, that the Armenians constituted a political group par excellence that engaged in armed political activities for independence. Opting for relocation in the course of a defensive struggle against a local political group that joined hands with the enemy, i.e., Russian occupiers, and resorted to arms as well as systematic terrorist actions amounting to grave breaches of the law of war, does not constitute genocide in accordance with the definition of that crime. Further, the crimes committed, if any, in the course of this type of struggle would not amount to genocide either.

Motive

A political group entertaining political aspirations and pursuing activities to serve such purposes may also be a national, racial, religious or ethnic group. Some political groups too, as in the case of the Armenians, may well be described, on the basis of some other characteristics they have, as an ethnic or religious group or simply 'other' group. However, being a political group indicates that the incidents in which group gets involved stem from political reasons, first and foremost.

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When evidence points at the fact that a given group has engaged in political and armed activities, there is no way that a particular group cannot be considered as falling under the protective clauses of the Convention which deals only with genocide. As it is explained briefly in the last few paragraphs, the 'parties' or organizations such as Dashnag and Hinchak, as well as the Armenian Patriarchate acting in the name of and supported by the Armenians, aimed as a first step at reforms, which envisaged a broad political autonomy, and eventually, secession and independence. To this end, they zealously engaged themselves in the politics of ethnic struggle, openly advocating and resorting to force including terrorism. Due to these distinctive and well-documented characteristics, the Armenians constituted a political group well before the relocation began.

Furthermore, as already explained earlier in this article while elaborating on the law pertaining to genocide, the intent to destroy a given group emerges only when the racial hatred harboured against that group reaches a certain intensity. It is a well-known fact that in the Ottoman Empire no racial hatred was ever nurtured by the Muslim majority towards the Armenians. In fact, the kind of racial hatred similar to anti-Semitism in the West was never observed in the history of the Islamic and Turkish societies.

A brief comparison may be useful with the Holocaust at this point. The German Jews neither engaged in a struggle for independence, nor did they ever chase after territorial claims. No one can deny that they did not resort to terrorism massacring innocent German civilians. It is common knowledge that they did not join hands with the armies of Germany's enemies in war. They did not stab the German armies on the back by blocking the strategic roads and logistic lines. The Jews of Germany and Europe constituted a totally innocent group with respect to politics. A peaceful, civilized and successful group, which then won eleven of the forty Nobel prizes, a group which had become fully integrated into the German society, was destroyed with a virulent racist hatred called anti-Semitism in an exceptionally efficient and systematic manner, planned in advance and implemented with a massive organizational drive, for no other reason than being a group.

Starting with Hitler, countless authors expressed for many years a profound enmity towards the Jews. Anti-Semitism, which

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rose dangerously fifteen years prior to the Holocaust, was a movement that had been continuing actively since the beginning of the second millennium. In Western Europe in general and in Germany in particular, there had been innumerable cases of attacks on the Jews in the aftermath of epidemics such as plagues, natural disasters such as floods or earthquakes or defeats suffered in wars. In the course of these attacks, members of the Jewish community were killed, and their assets were plundered. In other words, the Christian communities blamed the Jews for the disasters that struck them. They accused the Jews of deicide or killing Jesus Christ, for which they were considered to be 'Anti Christ'. There exist thousands of documents and publications cataloging various aspects of anti-Semitism. There were anti Semites even among the Renaissance writers whom one should expect to be rational thinkers. Anti-Semitism can be discerned frequently also in some of the romantic writers of the age of Enlightenment. It is no secret that to a certain extent Heidegger and even Jung, a leading philosopher and a psychiatrist of the last century, were anti-Semites.

In Ottoman history, on the other hand, there had never been a similar 'anti-Armenianism'. There was no biologically motivated super-race theory for the Muslims to debase the Armenians, portraying them as a subhuman race, or a Social Darwinism that would complement this attitude. Since Islam considered the Christians to be a "people of the book", that is, believers in monotheism, the Muslims never directed against the Christians the kind of accusations the Christians levelled at the Jews. In natural or man-made disasters, the Armenians or the other Christian groups were never turned into a scapegoat. On the contrary, the Armenians came to be called "the loyal people". They were active in the realm of public service. They became civil servants, some of them serving at the highest ranks of the central administration as governors, paşas or provincial governors, representing their state as ambassadors—even serving as the country's foreign minister. Since they had the opportunity to be trained at the schools opened by the missionaries in the Ottoman Empire as of the beginning of the 19th century, they quickly flourished and came to dominate the empire's economy. Unlike the Jews in Europe, they were not banned from practicing certain professions. They were not forced to live in ghettos. Though they were the most affluent class, they were not subjected to pogroms

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out of envy or grudge. Therefore, it cannot be said that the Armenians were destroyed out of racial hatred directed at their group.

Under the circumstances, the determination of the nature of the motive behind the relocation gains importance. If that motive arises from a reason other than the Armenians being Armenians, that is, for example, from a military, political or some other kind of reason, then this cannot accommodate itself with the definition of genocide.

A brief glance at recent history may prove useful to apprehend what has really happened with respect to the Armenians. According to the San Stefano Treaty, signed at the end of the 1877-78 Ottoman-Russian War, 'greater Bulgaria', which, in the Balkans, had coastlines bordering both the Aegean and the Black Seas and which included parts of Macedonia, was to become an independent country. That country attained a more homogeneous population when 260,000 Turkish civilians died during the war, and 515,000 others were driven out of the country. Similarly, the 70,000 Turks amid Muslims of the Caucasus fleeing from the Russian armies, which had advanced all the way to Erzurum, took refuge in eastern Anatolia. The exact number of civilians who died in that region is not known. The treaty also envisaged "reforms" for the Armenians living in the Ottoman lands. A certain article involving reforms was included in the treaty in line with the demand made by the Armenian Patriarch Nerses II during a visit to the Russian Grand Duke Nicholas who had arrived in Yeşilköy, next door to Istanbul. Thus, the Armenians placed themselves under Russia's protection in an internationally binding document. The reforms sought under the Tanzimat and Islahat edicts until then had been envisaged for all Christian subjects of the Ottoman Empire. But this time, reforms were being asked for only one particular group and Russia was going to supervise its implementation.

When the other Great Powers did not endorse these concessions obtained by Russia on its own initiative, the Berlin Congress was held, and it was there that the dimensions of Bulgaria were trimmed down. However, the return of those Turks, who had been forced to leave their homelands, could not even be attempted. The reforms envisaged for the Armenians were confirmed, on the other hand, but this time under the supervision of all the Great Powers.

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During the years 1912-13, the Balkan Wars took place between the Ottoman Empire on one side, and Greece, Bulgaria and Serbia on the other. In those full-scale armed hostilities, 1,450,000 Turkish, Albanian and Pomak civilians died. Another 410,000 were exiled towards Anatolia, fleeing from the attacking armies, under bombardment, leaving behind their destroyed or burnt homes. Thus, in many places that the Turks had known as their homeland for five centuries, including vast areas where they constituted the majority, the Turkish and Muslim existence was brought to an abrupt end. Cultural assets, the legacy of so many years, were torn down. World War I began only a year after hundreds of thousands of those refugees had arrived in the remaining parts of the Ottoman Empire.

The Ottoman Government, whose leaders held a crucial meeting with the Dashnag representatives in August 1914, obtained a pledge from the Armenians to the effect that they would act like loyal Ottoman citizens in the Great War. However, at a secret Dashnag meeting held in Erzurum two months prior to that, a decision had been taken to start a wide-scale Armenian rebellion against the Ottomans to benefit from the opportunity provided by the war. The Armenians failed to honour their promise. And they saw their interests served better in serving the Russian interests.

The Russian Armenians too took their places in the Russian armies, which prepared to attack the Ottomans. Etchmiadzin Catholicos (the highest Armenian religious figure in Russia) assured the Russian Governor General for the Caucasus that ‘the Armenians would unconditionally support the Russian war efforts in return for Russia’s ensuring that reforms be made for the Ottoman Armenians’. Later, when he was received by the Russian Tsar Nicholas II in Tbilisi, the Catholicos told the autocrat: “Armenian liberation will result in an autonomous Armenia in Anatolia outside the realm of Turkish sovereignty, and this will be achieved with Russia’s help”.

In March 1915, the Russian forces moved towards Van. Armenian insurgency, which started in Van, turned into a full-scale rebellion on April 11, during which the Armenian armed groups attacked the Muslim population killing and expelling many. Ten days later, the Tsar sent a telegram to the Van Armenian Revolutionary Committee and thanked them “for their services to the Russians”. Gochnak, an Armenian newspaper published in the

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United States, gave in its 24 May 1915 issue the 'good news' that "only 1,500 Turks" had been left in Van. The Armenian forces inside the Russian army that crossed the Ottoman border were under the command of a former Ottoman deputy named Gareguine Pasdermadjian who had adopted the revolutionary name of 'Armen Garo'. Another former deputy, Hambartsum Boyajian, code-named 'Murat', was at the head of the guerrilla force attacking the Turkish villages and massacring the civilian population. Yet another former deputy from Van, Y. Papazian was the leader of the guerrillas fighting in the Van, Bitlis and Muş region.

After issuing yet another warning, though in vain, to the Armenian Patriarch, the Ottoman administration started on April 24 arresting the leaders of the komitacis' in Istanbul whom the Armenians chose to portray as their 'intellectuals'. One can clearly see from these developments the reason for the relocation decision. The Armenian cooperation with the Russian army, their rebellion in Van, and their guerrilla activity in ethnic cleansing in the neighbouring provinces were, for the Ottomans, a re-enactment of an old story with which they were all too familiar. Just as the Balkan Christians had done in the Balkans in cooperation with the Russians, now the Armenians, moving together with the Russian armies, were starting to subject the Turks and Muslims in eastern Anatolia to ethnic cleansing, killing them and burning their houses. A decision was taken to transfer the Armenians to another part of the empire mainly far from the eastern and also the southern fronts to prevent the Armenians from continuing with these military activities and from attaining their political goals.

The Intent to Destroy

According to Article 2 of the Convention, perpetration of one of the five cited acts was a necessary condition for genocide, provided that it be committed with the intent to destroy one of the four groups 'as a group'. However, the Armenian apologists focused their efforts to prove that the Ottoman administration had the intent to destroy the Armenians since no evidence of the existence of the intent to destroy could be found they did not refrain from what should be called falsification. An Armenian named Aram Andonian published so-called "telegrams" in which Talat Paşa was supposedly "ordering the extermination". Though soon enough

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these were foiled as fakes, they continued to use them as propaganda material.

Nevertheless, after some time, the failure to find any official documents, which could corroborate the intent to destroy', pushed the pro-Armenian circles to adopt a new strategy. Obviously, what mattered was to achieve pre-determined results. They started claiming that 1,5 million Armenians had died during the 'deportation'. Such an unduly high figure was being cited beside its propaganda effect, to prove indirectly the presence of the intent to destroy by way of deporting and thus to prove that genocide had been committed. For that reason, the pre-transfer Armenian population had to be revised upwards. One falsification led to another. History was being distorted to make it coincide with the requirements of the law.

From the Turkish standpoint, Armenian engagement in political and armed struggle for the sake of independence suffices to refute the thesis that members of the group were killed because they were affiliated with that group, and to prove that relocation was not genocide. However, systematic and massive killing of a civilian population, even with political aims, may constitute a crime against humanity. Furthermore, the Armenian genocide claim is now being based on Paragraph (e) of Article 2 of the Convention, namely "Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part".

This claim is presented along the following lines: Since the Ottomans were wary of openly destroying the Armenians, they used the 'deportation' as an opportunity to impose on the Armenians the kind of living conditions that would cause them to perish. Through an 'omission' of their duty to protect the Armenians from attacks during the 'deportation', to ensure safe transportation, no less than to provide food, medicine, medical treatment and shelter, they accelerated the deaths. The Armenian authors accused the Teşkilat-ı Mahsusa, the Ottoman intelligence services, of having actually organized the massacres committed by the criminals released from prisons. These are the claims. It must not be forgotten that along with acts such as murder which has a direct impact, causing deaths deliberately through omission, can also be considered genocide. Therefore, it is important to focus on whether the deaths resulted in the course of relocation from an

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intent to destroy a specific group, hence whether the relocation was a covert genocide. I recounted earlier in this article that the relocation decision was aimed at preventing the Armenians from collaborating with the Russian armies and, at the same time, from saving the Turks living in the areas specified by the Hinchag's map from being subjected to ethnic cleansing as in the case of the Turks in the Balkans. The Armenians had formed their own units inside the Russian military forces and were fighting the Ottoman armies along the eastern front. Ethnic Armenian soldiers were deserting the Ottoman armies fighting on other fronts, joining guerrilla bands inside the country, attacking the Ottomans from behind and cutting their logistic supply lines. The Van rebellion constituted the first step of these activities.

Having seen that all hope of reaching an agreement with the Armenians had been lost, and that the warnings it had issued via the Patriarch were not being heeded, the Ottoman Government was left with no workable alternative but to decide to transfer the Armenians to a region in Syria and northern Iraq, which were then both Ottoman lands. In a telegram sent to Talat Paşa, the Minister of Interior, on 2 May 1915, the Deputy Commander-in-Chief Enver Paşa reported that the Russians were driving the Muslims in Russia towards the Ottoman border, and that these people were in a pitiful state. He referred to the Armenian rebellion in the vicinity of Van and suggested that the Armenians should either be driven towards the Russian border or dispersed towards some other areas. As a result, Talat Paşa personally assumed responsibility to initiate the removal of the Armenians to other parts of the empire instead of pushing them towards the Russian border, and eventually to Russia. After a while, to share the responsibility he ensured the passing of an interim law (30 May) relevant to the issue. The commanders were authorized to instantly deal with those persons who disrupted law and order, staged attacks or put up resistance, and to relocate one by one or en masse the population of those villages or towns that engaged in espionage and committed high treason. Thus, the relocation task was handed over to the army.

It should be obvious that it was out of the question for a decision to have been made well in advance for the Armenian relocation. No advance planning had been made prior to that decision, and the organizational preparations needed had not been done either. A top military commander concerned about the grave

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situation on the eastern front demanded urgent action, and the government wanted to respond to that demand immediately. It is so clear that no pre-arrangements had been made in advance that Talat Paşa himself initiated the population transfer without even having a law passed to this effect. He was so anxious to ensure that there would be no more delay. The law came after action. Under the circumstances, everything points to the fact that no plan was made ready, and no organization set up to implement it with intent to destroy the Armenians.

The text of the law in question envisages, moreover, every effort to ensure the security of the Armenians during the transfer, i.e., inter alia, the safety of their lives and their assets. It states that the food to be provided for them be financed from the 'migration fund', that they be allocated plots of land at their destinations and houses be built for the needy, that the farmers among them be supplied with seeds and equipment, that they receive money for the assets they left behind, and that if anybody were settled in the real estate left behind by them, the value of the real estate should be calculated and the sum in question be forwarded to the former owner.

Furthermore, with regulations issued on 10 June 1915, the properties of the resettled Armenians were placed under protection. They were extended aid in cash and in kind to facilitate them to resettle at their destinations. The real estate left behind were sold at auctions by the government on their behalf, and a commission founded for this purpose made due payments to the Armenians who demanded them. With an order issued to the Anatolian provinces on 25 November 1915, relocation was suspended. The activity that took place beyond that date was of a local scope only. Finally, at the beginning of 1916, the whole operation was actually brought to an end. After the war the Armenians were permitted to return to the places of their choice as much as possible. Some steps were taken, not very successfully, to make it easier for them to get back the property held in trust for them by the commissions or sold at auctions. All these measures could not be taken to conceal a genocidal attempt.

In the communications that took place between the capital city and its provincial administration on the movement of population, there is no reference at all that could create the suspicion that there was any intention to destroy the Armenians. On the contrary,

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one sees in these documents that mutual requests were made to ensure that they be transferred in a safe manner. Most interesting communications were exchanged between the Erzurum Governor's Office and Talat Paşa. Since that province was situated on the Russian border, the region assumed priority. The provincial officials were instructed that the Armenians living there be permitted to take along with them all of their movable personal belongings. In these documents, it was also stated that there was no need to transfer the Armenians living in Diyarbakır, Harput and Sivas. But after the Russian threat grew in the direction of central Anatolia as well, that decision was altered. When some Kurdish citizens attacked a 500-strong group set off from Erzurum while the convoy was travelling between Erzincan and Erzurum, the officials in Diyarbakır, Elazığ and Bitlis were told to punish, in a severe manner, any raiders who might attack the Armenians in the villages and towns situated on their path. Similarly, when Dersim highwaymen attacked the Armenians coming from Erzurum, the Elazığ Governor's Office was ordered to take urgent measures. The Erzurum Governor obviously suspended the operation after seeing that the Armenians could not be fully protected during the transfer. He received a message telling him that a postponement was not possible, on account of military reasons. Putting aside that instruction, transfers from Erzurum were halted from time to time for the same reason. Despite all these measures, some Armenian civilians undoubtedly died during the relocation. But it is obvious that these deaths did not result from the deliberate neglect of state duties. The 65,000-strong Ottoman army, fighting along the eastern front, was also frozen to death in Sarıkamış. The harsh climate and the rough terrain, the inadequacy of the military units charged with protecting the Armenian convoys, lack of adequate food and medicine and epidemics caused natural deaths. The weaknesses of a state experiencing the final days of its dissolution cannot be considered a deliberate neglect of duty, i.e., omission. It seems that the British High Commissioner in Istanbul had access to the Ottoman archives. The original text of a secret order dispatched by Talat Paşa was found in the British archives. The last article of the order says: "...Because this order concerns the disbanding of the Committees [terrorist bodies], it is necessary that it be implemented in a way that would prevent the Armenian and Muslim elements from massacring each other". In his memorandum about this order, D. G. Osborne of the British Foreign Office says: "...[T]he last article of the order states that one

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must refrain from measures which might cause massacre” . The evidences above indicate that the relocation was not arranged with the aim of destroying the Armenians.

Some pro-Armenian writers claim that the Ottoman archives being opened up with a delay (due to the need for classification) was a ploy on the part of the government to eliminate the kind of documents that would prove the Ottoman Government's decision to exterminate. They argue that in the aftermath of the war the İttihatçıs (members of the Union and Progress Party) collected and destroyed the documents implicating them. Yet, in the Ottoman recording system all incoming and outgoing documents would be filed into logs. Once a document was filed into the records, there was no way to destroy it. Besides, the large numbers of communications sent out by the Sublime Porte (Prime Ministry) arrived in various provincial centers throughout the empire. A great part of these were the circulars sent from the capital city to more than one governor office. So, even if we were to assume that the copies kept in the capital city were destroyed, it would be practically impossible to cofrect and destroy the multitude of their originals kept at various centers.

There is another piece of clear evidence indicating that the government of the time had no intention of exterminating the Armenians. Members of the gangs that attacked the Armenian convoys and those officials who exploited the Armenian plight, neglected their duties or abused their powers were court martialled and punished. Until 1918, that is, until the Mondros Armistice, 1,397 persons received various kinds of sentences in this context, with more than half of them being executed during the tenure of the Union and Progress Government. Obviously, the Nazi SS, SA and the Gestapo officers, responsible for the Jewish genocide, were punished only for not carrying out the genocide effectively, and not for the kind of reasons mentioned above.

Acts of Genocide, most of the acts perpetrated in the Jewish genocide committed by the Nazis were “the killing of persons belonging in the group”, that is, the act described in Article 2(a) of the Convention. These massacres took place in the gassing to death of the Jews after they were transported, that is, deported to the camps where they were kept under conditions they would not be able to survive for long. In other words, the deportation itself was not an act of genocide causing deaths. On the other hand, the

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living conditions at the camps were acts that fit the description made in Article 2(c) of the Convention. The Nazis committed these acts after advanced planning. They got organized and then implemented the plan in a systematic and massive manner.

The fact that the Ottoman forces did not stage armed attacks on the Armenian population or settlements during the relocation shows that the acts described in Article 2 (a) and (b) were not committed. Since the relocation lacked that basic element of ethnic cleansing, pro-Armenian writers who are adamant to portray the relocation as genocide claim that the deportation was used deliberately to deteriorate the group's living conditions to ensure physical extermination of the Armenians in an indirect manner, and that Article 2(c) would apply to that situation. In other words, they assert that although the Ottomans did not openly and directly exterminate the Armenians, they adjusted the "deportation" conditions to ensure that the Armenians would die anyway. The Armenian genocide thesis came to be based almost entirely on this argument.

There is no evidence to prove that relocation was planned to commit genocide in an indirect way. It is not possible to come across statements or instructions that would indicate the presence of the intent to destroy through relocation, which must be done to prove genocide. On the contrary, the entire archival material pertains to the implementation of the resettlement decision with as little harm to the Armenians as possible.

To distort these facts, the Armenian apologists take two different tracks to explain the situation. They report in an extremely inflated manner the number of people who died as a result of the relocation. To that end, they first inflate the overall population figures and then the ratio of the casualties. Thus, they try to prove that the aim had been murder rather than relocation. The second path they try is that of "oral history". They want to prove that there had been intent to destroy by gathering the personal accounts of the events related by the people who had survived the transfer or by their children. One could say that in almost all of the books written by Armenian historians, genocide is supposedly "proven" with these methods.

No one doubts that a great number of families and individuals experienced personal tragedies during the relocation. Even

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population exchanges cause similar tragedies, albeit less dramatic. However, this does not show that the group in question was subjected to genocide. The oral history approach, not only does not carry any legal weight, but also is problematic when it comes to writing down history. It is a twilight zone between history and memoirs.

As stated above, the relocation decision was taken officially after Enver Paşa reported in writing to Talat Paşa on 2 May 1915, that the Russians had sent across our borders on 20 April 1915, a multitude of Muslim civilians who were in a wretched state. At more or less the same time, the Armenians rebelled in Van, and operations began against armed Armenian groups. Therefore, the arrest of 235 Armenians on 24 April 1915, was neither the beginning of the relocation nor were they prominent intellectuals of the Armenian community, for they were “komitacı” or terrorists, to use the contemporary jargon. In other words, the claim that the “deportation” that started with the arrest of the Armenian intellectuals constituted genocide is not valid.

The Ottoman Government could have opted for the second alternative suggested by Enver Paşa. As the Russians had done to the Muslims, it could have openly driven the Armenians towards the Russian border, which would have caused by far the higher casualty figures than the relocation brought about. The Balkan countries had done that to Turkish and Muslim populations much bigger than the Armenian population. An empire that was locked in a life and death war with the British and the French had no reason to fear the potential reaction of the British or the French public. It had no reason to hide behind a “deportation” process. In other words, offering the Armenians the same treatment the Balkan Turks and Muslims had been given was not so difficult for the Young Turks, as some seem to believe. The Ottoman Government chose the relocation option not to get the Armenians killed indirectly but to have them transported to a safer part of the realm, a place less hazardous with respect to national security during the war.

Let us come to the issue of the Armenian population at that time. In the pre-World War I Western sources, that figure varies from 1,056,000 (London, Annual Register) to 1,555,000 (The French Yellow Book). In recent publications, however, this figure sometimes rises up to 3 million. François Rochebloine, the

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rapporteur on whose account dated 15 January 2001, the French National Assembly's genocide bill was based, gives the figure of 1,8 million. The 'Rochebloine report', says in an unprecedented way, that 1,2 million Armenians died (600,000 of them where they were and another 600,000 during the deportation), and that 200,000 others fled to the Caucasus with the Russian armies, 100,000 were supposedly abducted (?), 150,000 survived the deportation and that another 150,000 fled before they could be deported. This must be a feat of imagination! The casualty figures too have climbed continually over the years. The 1918 edition of the Encyclopaedia Britannica says that 600,000 Armenians had died. In the 1968 edition of the same publication, this figure rose to 1,5 million.

It would be sounder, on the other hand, to take the Ottoman statistics as a basis, and accept that the Armenian population figure was 1,295,000, simply because the Ottomans had reasons of taxation and conscription to keep correct statistics. This figure is, in fact, also the average of the figures provided by two Western sources of that period as mentioned above.

To calculate the number of the dead, we should first find out the number of the Armenians who reached Syria and Iraq, safe and sound. In its 7 December 1916 report, the Ottoman Interior Ministry states that 702,900 persons were transferred, and specifies the overaft sum spent for the relocation. The Migrations Commission of the League of Nations gives the number of Armenians passing from Turkey into Russia throughout World War I as somewhere in the 400,000-420,000 range. Considering that the number of Armenians living in İstanbul, Kütahya, Edirne, and Aydın (including İzmir), areas where they were not transferred, was around 200,000, one concludes that the number of Armenians who died due to relocations, could not have been high at all, with due respect for the dead of the two sides.

According to the information the İstanbul Armenian Patriarchate provided to the British prior to the Sevres negotiations, the Armenian population that remained within the Ottoman borders following the 1920 Mondros Armistice amounted to 625,000 people. If one adds to that figure the number of Armenians who went to the Caucasus, the total would reach 1,045,000. Since the pre-war Armenian population amounted to 1,3 million the number of the dead, whatever the causes may be, turns out to be no more than 265,000.

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Boghos Nubar Paşa, who attended the Paris Peace Conference as the head of the Armenian National Committee, declared that 6-700,000 Armenians migrated to other countries and that 280,000 Armenians were living within the Turkish borders. If one would add up these two figures and then deduct the total from the 1,3 million, one would get 220,000-320,000 as the number of Armenian deaths, again caused by a number of reasons. However, he himself claimed that over one million Armenians had been killed. For that to be true, the pre-war Armenian population should have been over 2 million. The person in question claimed that the pre-war Armenian population had been 4,5 million. Thus, he provided the first example to the subsequent generations of the practice of "bidding higher and higher", as if at an auction.

Arnold J. Toynbee, who was, among others, responsible for war propaganda, said in his "Blue Book" that 600,000 Armenians had died. Later this figure was quoted by the Encyclopaedia Britannica. On the other hand, Toynbee said, in footnote no. 38, that the number of deportees reaching Zor, Damascus and Aleppo, as of 5 April 1916, was 500,000. Along with the 200,000 who were not subjected to deportation and the 400,000 that went to the Caucasus, that brings the Armenian population up to 1.7 million, which is higher than the British figures for the Armenian population. If, on the other hand, the population figure is put at 1,3 million, the number of the dead has to decline from 600,000 to 200,000.

The figures above indicate that, depending on the various estimates about the overall Armenian population, the Armenian losses vary between a couple of hundred thousand to 600,000. Obviously, all the statistics that put the losses over 300,000 happen to inflate grossly the pre-war Armenian population figure. One should never lose sight of the fact that, despite the deaths that occurred during the relocation, those who safely arrived at their destination, even according to Toynbee, were around half a million. This proves that the relocation was not genocide in disguise, for, had it been genocide, there would be no reason for the Ottomans to let them survive.

Considerable number of people may have died. On the other hand, it must not be forgotten that not all (not even most) deaths occurred during the transfers. In the wars of the time, those fleeing from the enemy armies too were in a state of migration vulnerable

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to many dangers. After the Russian army's operation which began around Van in May 1915, the Ottoman army took back the places it had lost. Then, a much bigger Russian attack began and reached all the way close to Elazığ. After the 1917 October Revolution the Russian armies retreated, and the Ottomans advanced once again. While the armies thus advanced and retreated, both the Turks and the Armenians, who found themselves on the path of these armies, had to move back and forth. For example, an estimated 900,000 Turks had to be displaced from eastern Anatolia towards the central parts of the country. In a region with an extremely rough terrain, people tried to travel in carriages, on horseback and mostly on foot, braving cold weather and the attacks of the gangs of brigands who did not discriminate between Muslims and Christians. In a few days, their food would finish and the children and the elderly especially, would be weakened by fatigue and lack of adequate water, and typhoid fever or typhus epidemics would cause the number of deaths soar aft of a sudden.

One can even assert that an orderly relocation, which took place in the same region under similar physical conditions, was safer and caused less health hazards than the haphazard movements of populations mentioned above. For example, some 5,000 Armenians left with the French who evacuated Maraş during the Turkish War of Independence. In the course of their 10-24 February journey, 2-3,000 of these Armenians died on account of the harsh travelling conditions, though they did not come under any attack from outsiders.

Due to all these reasons, Boghos Nubar Paşa, referring to a German report, said at the Paris Peace Conference that the Turks lost more people than the Armenians did, that the entire Turkish losses during the war amounted to 2,5 million, that this occurred from 'war, epidemics, scarcity of food and inadequacy of drugs and hospital personnel', that at least half of these deaths occurred among those Turks who were "in the Armenian provinces occupied by the Russian and Armenian armies". This means that a minimum of 1,25 million Muslims must have perished in eastern Anatolia.

Indeed, population research done later confirmed the validity of this figure to a great extent. The Ottoman war zone losses in World War I were in the 500,000-550,000 range, and the civilian losses amounted to some two million. Since the war zone was eastern Anatolia, it is only natural that more than half of the overall civilian

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deaths occurred in that region. Indeed, McCarthy estimates that 1,19 million Muslim civilians perished in the region between 1914-1921.

Finally, the Turkish and Armenian civilians, who died in clashes with one another, called 'mukatele' in old Turkish, that is, mutual killings, are included in those casualty figures, though the definite number is not known. According to the findings reported in the course of the Şüheda (Martyrs) Project launched in the early 1980s, mass graves abound in eastern Anatolia. Anthropological research determines scientifically to which group each mass grave belongs. Although it is early to make a general assessment, one sees that the mass graves belonging to Turks are more numerous. These grave sites indicate that the people's tales of Armenians persecuting Muslims are not a myth. The Muslims who took part in the war did not desert the army until the very end of the armed hostilities. Soldiers of Armenian origin, on the other hand, deserted in large numbers. They formed armed groups which attacked the Muslim towns and villages where there would hardly be men at fighting age able to protect them. So, these peoples could not defend themselves effectively. This is why the Muslim deaths were more numerous than the Armenian ones.

There is a difference between the fates of those Armenians who were transferred from western Anatolia and those from eastern Anatolia. The partial relocation carried out in the west caused considerably fewer deaths, because of the availability of railways. A greater number of them returned to their homes in the western parts after the war ended. In the east, Armenian deaths were more numerous because of the rough terrain, lack of railways and the fact that only small gendarmerie units that were spared from the war front were available to protect them.

Still, the number of Armenian deaths were a lot less than claimed. The fact that many of these deaths occurred outside the relocation process indicates that the relocation was not an act of genocide hiding the intent to destroy. Otherwise, we would be faced with a strange, hard-to-explain kind of genocide in which the "genocide-committing" Turks lost much more people than the "genocide victim" Armenians did.

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In Whole or in Part

For a case to be considered genocide certain acts must have been committed with the intent to destroy a group in whole or in part. Since members of a group get destroyed in genocide, because they belong to that group, that is, out of racial hatred, it is logical to say that the intent to destroy must be directed against the whole of the group. In genocide cases survival of some of the group members results, not because there was no intent to destroy the group in whole, but either because those group members had simply been inaccessible or because the organization committing the genocide did not have time to complete its job. That is what happened in the Jewish genocide committed by the Nazis.

Only Gregorian Armenians were subjected to relocation. Catholic and Protestant Armenians were left outside this process. The fact that only one of these groups were transferred shows that the Ottomans did not feel racial hatred against the Armenians as a whole, including the Gregorian Armenians. Considering the fact that Islam perceives all three religions merely as different branches of Christianity, this is all evident enough. It is common knowledge that in the Ottoman Empire there was no religious dispute between the Muslims and Christians, a dispute which could lead to forced displacements. It is obvious that the desire to prevent the Gregorian Armenians, who embraced the similar creed as the Orthodox Russians, from engaging in ethnic cleansing with the help of the Russians or the Muslims in the region, played an important part in the relocation decision. This biggest group of Armenians were situated on the path of the advancing Russian army, and the terrorists and guerillas that came out of that group were hitting the Ottoman army from behind, cutting the logistic lines and staging massacres at Muslim settlements. All these murderous actions rendered the relocation imperative from the military standpoint. This shows that the reason behind the decision was security concern of the highest order as well as the need to protect the Muslims of the region.

Meanwhile, the Armenians living in certain cities were left outside the resettlement process regardless of their religious creed. That occurred, for example, in İstanbul, Edirne, Kütahya and Aydın (including İzmir). Almost all of the Armenians transferred from İzmit, Bursa, Kastamonu, Ankara and Konya returned to their homes at the end of the war. The majority of the

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Kayseri, Harput and Diyarbakır Armenians too returned, but most of them apparently could not go to their villages. Those from Erzurum and Bitlis crossed into Cilicia from northern Syria and fought the Turks on the side of the French during the Turkish War of Independence.

In those provinces, including the capital city of İstanbul, left outside the relocation process, some 200,000 Armenians were living. This has a great symbolic significance. In the Jewish genocide caused by racial hatred, it would be inconceivable to have the Jews, for example, in Berlin or Munich, not to be subjected to deportation and genocide. Even that example alone makes it all very clear that the Ottomans did not commit genocide against the Armenians.

Courts

After İstanbul was occupied at the end of the war, courts were set up to investigate the Armenian incidents in line with the provisions of the Sevres Treaty. The most famous one of these was the Nemrut Mustafa Court. In a cable he sent to London on 24 January 1919, Admiral Calthorpe referred to the Ottoman Prime Minister who had told him that 160-200 people had been arrested. The court had one significant characteristics in that it had been created by the members of the 'Liberty and Agreement' Government which was the deadly enemy of the Union and Progress Party. Another characteristics was that the defendants were denied the right to defend themselves. After a while, realizing that the court would not be able to stage a fair trial -and may be that it would not be able to operate effectively- the British occupation forces transferred the 144 defendants to Malta and asked the crown prosecutor to try them in a move that ran against the judicial rules of the time. Due to the United States' delay in entering the war, the American Embassy and the consulates in Anatolia operating under it had remained open until 1916. The British asked the U.S. Department of State to hand over to them the evidence collected by these American missions. After an expert from the British Embassy in Washington examined the American archives, the following was stated in a cable sent to London by the British Ambassador on 13 July 1921: "...There was nothing therein which could be used as evidence against the Turks who are being detained for trial at Malta.. .The reports in the possession of the Department do not

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appear in any case to contain evidence against these Turks which would be useful even for the purpose of corroborating information already in the possession of His Majesty's Government”.

The British Prosecutor General of the Crown said in his report dated 29 July 1921: “. . .Up to the present no statements have been taken from witnesses who can depose to the truth of the charges made against the prisoners. It is indeed uncertain whether any witnesses can be found...Until more precise information is available as to the nature of the evidence which will be forthcoming at the trials, the Attorney General 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”. Under the weight of such evidence, the accusation that the crime of genocide has been committed against the Armenians would be legally unsustainable, not only because it would imply the implementation of a convention retroactively, but also would amount to demanding that the people that could not even be put on trial in the past due to lack of evidence, be judged in the absence of fresh evidence after so many decades.

Was Armenian Relocation a Crime against Humanity?

As explained above in detail, relocation was not genocide, because it did not “deliberately” worsen the Armenian conditions of life calculated to bring about their destruction. Nevertheless, can the losses suffered by a relocated group be covered by the concept of crimes against humanity?

When the Armenian relocation began, the British, French and Russian Governments issued in a joint communiqué on 24 May 1915, speaking about “...crimes of Turkey against humanity and civilization..”, and declaring that they would hold the persons concerned responsible. At that time, crimes against humanity was merely an unbinding phrase. It had not yet been adopted as a legal concept. For this reason, no link can be established between the Armenian relocation and crimes against humanity just because of that communiqué. The concept of crimes against humanity was cited for the first time at the international level in 1946 among the Nuremberg Principles (6/c). That crime was envisaged to be committed during war time. It covered acts such as the persecution of any civilian society on political, racial or religious grounds,

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murdering or exterminating its members or forcing them to migrate, and the like.

The definition of genocide given in Article 2 of the Convention was created from the concept of crimes against humanity as embodied in the Nuremberg Principles. As a result of genocide being taken outside the category of crimes against humanity, what was left was incorporated as the modern concept of crime against humanity into Article 7 of the Statute of Rome of the International Criminal Court.

Accordingly, the precondition that crimes against humanity would have to be committed during war as provided in the Nuremberg Principles was abandoned. The groups against whom such crimes could be committed were not listed. It was assumed that such crimes could be committed against any civilian population. In the introduction to Article 7, no reference was made to the perpetration of crimes against humanity on “political, racial or religious” grounds. The fact that the reasons for the presence of such a crime were not listed indicate that regardless of the reasons, such perpetration would suffice. On the other hand, in Article 7, the only condition put forth for an act to be considered a crime against humanity was that the acts must have been committed “as part of a wide-spread and systematic attack directed against any civilian population with knowledge of the attack”. In other words, the eleven acts listed in Article 7(1) from ‘a’ to ‘k’ would not constitute a crime against humanity, if committed in isolation. Unlike the Nuremberg Principles, “persecution of any identifiable group or collectivity on political, racial, national, ethnic, cultural, religious, gender...or other grounds” came to be considered not the general motive for the crime. Accordingly, no special motive is necessary for crimes against humanity.

Although both of them are international crimes subjected to international adjudication, the differences between genocide and crimes against humanity are obvious. Compared with the definition of genocide given in the introduction to Article 2 of the Convention these differences are as follows: Genocide can be committed against only four kinds of groups, namely, national, racial, ethnic or religious. Acts committed against ‘political groups’ do not come under the scope of genocide. Crimes against humanity, on the other hand, can be committed against any group. In genocide the enumerated acts must have been committed with

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the intent to destroy a given group. For the crime against humanity the presence of this intent is not necessary. A “wide-spread and systematic attack against the group” suffices for that. In genocide the motive for the acts is the intent to destroy the group ‘as a group’. This implies the existence of racial hatred. Paragraph 1 of Article 7 of the Statute of Rome, on the other hand, does not specify any general motive for crimes against humanity.

Under the circumstances, some commentators may attempt to use or abuse the acts cited in Article 7, such as murder (a), extermination (b), deportation (d) and persecution (h) in order to define the Armenian relocation as a crime against humanity. After aft, they may assert that some people died as a result of the relocation carried out, albeit without intent to destroy.

As can be deduced from above, the basic condition for crime against humanity is that certain acts must have been committed against a civilian population “as part of a wide-spread and systematic attack”. For that reason, the characteristics of such an attack must be properly defined. If there is an open military attack on a civilian population, no other proof would be necessary. But the ‘attack’ in the sense of Article 7 does not necessarily have to be of a military nature. Simultaneous and intensive (i.e., multiple commission of acts) perpetrations against a civilian population of most of the acts cited in Article 7 have to occur. Also stipulated is that such an attack must have been actively developed, directed and encouraged by a state or some other large (sub-state) organization.

It may be useful to examine the 1915-16 Armenian relocation in the light of the acts related to ‘deportation’ listed in Article 7 Paragraph (1). The acts of killing or causing ‘deaths’ cited in Article 7 (1/a) have to be part of a wide-spread and systematic attack and must be ‘known” by the persons who commit the crime.

According to Article 7 (2/b), the ‘extermination’ must, again, have to be part of a wide-spread and systematic attack directed against the group and include intentional infliction of conditions of life, calculated to bring about the destruction of part of a population. For example, deliberately denying that group food or medicine would come under that heading. ‘Deportation and forced transfers’ cited in Article 7 (1/d) and 7 (2/d) also would have to occur as part of a wide-spread and systematic attack and, at the

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same time, these must be staged without grounds permitted by international law. 'Persecution' cited in Article 7 (1/h), means in accordance with Article 7 (2/g) "the intentional and severe deprivation of fundamental rights contrary to international law by reasons of the identity of the group". Persecution consists of 'multiple of commission' of acts that constitute an intensive violation of almost all of the fundamental rights. Those who commit that crime would be motivated by the kind of political, racial, national, ethnic, religious, gender or other grounds not permitted by international law.

Applying the concept of crimes against humanity as enshrined in the Statute of Rome to the 1915- 16 Armenian incidents some eight decades after these incidents occurred would not be compatible with common sense, let alone the law. Still, an examination of the issue from this standpoint would reveal the following facts.

For the acts listed in Article 7 Paragraph (1) to constitute crimes against humanity, these acts must be part of a widespread and systematic attack on a given civil population. Yet, the Ottoman security forces did not stage any such attack on the Armenians in order to carry out their relocation. In other words, Armenians were not subjected to the multiple commission of the specified acts that make up the concept of "attack" as defined by law.

The Armenians were not persecuted on account of their identity as a group on any grounds. Until World War I when a dangerous situation arose in the eastern front for the survival of the country, they continued to exercise their fundamental rights like everybody else. There was no policy to deprive them of these rights prior to their armed revolt and the relocation. During the relocation, which necessarily constituted a derogation to a set of rights, their fundamental rights were respected to the extent possible.

The deaths of some group members in circumstances where no wide-spread and systematic attack was underway does not constitute either an element or a part of such an 'attack'. The gang attacks on the Armenians in the course of relocation were basically and exclusively a law and order issue.

While discussing the genocide claims earlier in this article, it was stated that the intent to destroy did not exist. The Armenians claim

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that the Ottomans used the 'deportation' to impose on them the kind of living conditions that would cause them to perish. The relocation was not carried out as part of a 'wide-spread and systematic attack' on the Armenians. Relocation, which does not constitute any such attack, was not the kind of deportation as defined in Article 7 (1/d) and 7 (2/d), hence not a crime against humanity.

In the genocide section above, it was explained that it was out of the question that the relocation was imposed deliberately in ways that would cause the Armenians to perish. Relocation was initiated in response to the request Enver Paşa made as a result of the developments taking place on the eastern front. It was aimed at eliminating the threats the armed elements inside the Armenian population posed in collaboration with the Russian troops against the security of the Ottoman army. This military requirement constitutes, from the standpoint of international law, permissible grounds for a forced population transfer.

On the other hand, the government of the time did not impose any limitations in food and medicine supply to the Armenians during the relocation. In fact, the Turkish-Muslim population which was also frantically migrating in the same region fleeing the Russian and Armenian invasion forces, suffered the loss of more people due, inter alia, to a lack of food and medicine, as was clearly stated by Boghos Nubar Paşa, the leading Armenian at the Paris Peace Conference.

In the light of the outcome of the Balkan Wars, the relocation also aimed at preventing the Armenian attempts to unite with the invading Russian armies, to conduct an ethnic cleansing of genocidal proportions in the eastern region which had predominantly Turkish and other Muslim populations, and thus to set up their own state. In those days especially, such a common action would constitute a major security concern from the standpoint of international law. The concept of self-preservation accounts for this situation.

Under the circumstances, the Armenian relocation was legitimate. The crimes that occurred, much more limited than generally assumed, in the course of relocation constituted common crimes according to criminal law. Indeed, it is known that 1,397 people who committed such crimes were punished in an extremely severe fashion.

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For a better understanding of the subject at hand, it may be useful to take a brief look at issues such as ethnic cleansing, relocation and population exchange in a comparative manner. Both ethnic cleansing and relocation seem, at first glance, to be aimed at creating a more homogeneous demographic structure on a certain piece of land by driving a given ethnic group from that region. However, a closer look reveals that there are serious differences between the two with regard to motive, method and geography. The ethnic cleansing, which is not a legal concept, began to be used in the 1980s in former Yugoslavia. In fact, it was reportedly coined by a Serbian guerrilla. For this reason, one has to take as a basis the ethnic cleansing in Bosnia-Herzegovina and compare that, first, to the appalling conduct freely exhibited towards the Turks and other Muslims during the Balkan Wars and, then, to the Armenian relocation.

Ethnic cleansing starts with the armed forces of one side attacking the civilian population of the other warring party. Naturally, the civilians, who do not have the capacity to defend themselves, get killed or wounded. Their houses and settlements are destroyed and burned down. Humanitarian convoys bringing food and drugs are not permitted to enter the region. Men of fighting age get arrested, imprisoned at camps with poor living conditions or killed right away. Women get raped in a systematic and massive manner. The cultural assets of the target group, including temples and libraries, get burned. If they do not leave their homes, they face continual fire or bombardment. The massacre continues. After a while, these attacks bear fruit, and masses of people start fleeing in the direction their attackers want them to proceed. They get driven outside the region where the attackers intend to cleanse ethnically, that is, outside the potential borders of the state to be founded. The members of the target group get prevented at all costs from returning to the region. At a certain stage of ethnic cleansing, the attacking group comes to be dominated by a certain feeling similar to racial hatred when dealing with the target group. For example, the Muslim Bosnians came to be called “Turkish seed”, and in this way they were dehumanized. These persons get presented with the entire bill for Ottoman sovereignty in the past. Rape gains a new biological meaning, becoming an effort aimed at breeding a new generation dominated by the aggressive race. Even after a region is rendered homogeneous from the ethnic standpoint, civilian men get

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massacred in large groups and buried into mass graves as in the case of Srebrenica. According to the law in force, the acts constituting ethnic cleansing amount to crime against humanity, and these acts may also be accompanied by acts of genocide that aim to destroy a group 'as such', as in Srebrenica. For these reasons, the prosecutor of the International Criminal Tribunal of former Yugoslavia said in the indictment he prepared for Karadzic and General Mladic that acts of genocide were committed on nine counts.

The crimes inflicted in connection with the Turkish and Muslim populations during the 1877-78 Russian-Turkish War and the 1912-13 Balkan Wars are similar in essence to the ethnic cleansing the Serbs committed in Bosnia-Herzegovina. The only difference is that what had happened to the Turks and Muslims in the Balkan Wars was of a much greater magnitude. The number of Turks and Muslims who died in those two wars amounted to some two million, and nearly one million had been forced to emigrate to Anatolia.

The Armenian relocation too involved a forced migration. But since forcing to migrate did not happen in the form of staging armed attacks against them, there were almost no cases of killing, wounding, starving or keeping under fire during the process of evacuation. Secondly, the relocation did not aim to send Armenians outside the borders of the country and create a homogeneous population within. They were taken to other parts of the Ottoman territory. Therefore, they benefited from certain facilities in cash and in kind to adjust to the new conditions when they were resettled. One could say that after the relocation began, due to the conditions prevailing at that time deaths occurred anyway. This is correct. On the other hand, the relocation led to much fewer deaths than an ethnic cleansing would have caused. Unlike the victims of an ethnic cleansing, they could take along with them a greater amount of personal belongings and assets. They could use horses and carriages. Those assets they left behind were spared to a great extent from being plundered. Their cultural assets remained largely intact. As is obvious from the above, relocation is quite different from ethnic cleansing in that it is much less violent.

If one tried to identify the first case of genocide in the 20th century, one would undoubtedly arrive at the conclusion that the ethnic cleansing committed during the 1912-13 Balkan Wars was

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the first such instance, not the 1915-16 Armenian relocation. Indeed, the relocation was carried out in order to prevent the Armenian guerrillas or terrorists, in cooperation with the Russian army, from launching in eastern Anatolia an ethnic cleansing similar to the one done to the Turks of the Balkans. According to the Ottoman statistics, the overall population in the Anatolian regions where the transfer took place, was 5,061,857 of which only 811,085 were Armenians. In other words, Armenians accounted for 16% of the population. If they had not been relocated and if Russia had not withdrawn its forces at the end of 1917 under the Brest-Litovsk Treaty, one can imagine the dimensions the potential ethnic cleansing of the Turks and Muslims would gain in the region. In fact, this ethnic cleansing had already begun.

One could compare relocation to other kinds of forced migration too. During World War II, the Americans transferred to the east the Japanese living in the western parts of the country. That relocation was prompted by “three minor bombing incident’s and certain mysterious radio signals”. Four months had passed since the raid on Pearl Harbor. It had been seen that Japan was not going to cross the Pacific and try to invade the United States. Japan had neither such intention nor capacity. It was not as if the American Japanese were going to join hands with the Japanese army and stage armed operations against the United States. However, the U.S. Supreme Court stated briefly in its decision it took on the Korematsu Case on 18 December 1942, that 112,000 men and women of Japanese origin, including children and the elderly, had been transferred to another place on the grounds that “it was impossible to bring about an immediate segregation of the disloyal from the loyal [citizens]”, with military considerations such as “preventing espionage and sabotages”. Therefore, the relocation had not been unlawful. It cited as an excuse that during the war all Americans had met with hardships. Major General J. L. DeWitt’s reports had contained phrases about the Japanese, which could be considered racist. The local groups who had “lobbied” for the transfer of the Japanese to the east had also used racist arguments.

After World War II, some 15 million Germans were forced to immigrate to Germany mostly from western Poland under Article 13 of the Potsdam Protocol. With the population exchange made in the wake of the Turkish War of Independence, 900,000 Greeks went from Turkey to Greece, and 430,000 Turks arrived in Turkey

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from Greece, in addition to those who had taken refuge during the Balkan Wars. Between the years 1914-45, a series of twenty such population exchange agreements were concluded.

Population exchanges were also forced upon the people since their approval has never been sought. Undoubtedly, some deaths occurred, albeit fewer, since these migrations took place in peace time in a much better organized manner and physical conditions, with appropriate transportation. But this does not change the fact that they were forced migrations.

In short, the Armenian relocation was not carried out with the aim of destroying a group as a group or for any other unlawful reason. Its aim was to transfer them to a region in the south far from the war zone of eastern Anatolia where they cooperated with the invading Russian armies, served as spies and guides for them, instigated rebellions, attacked the Ottoman army and cut the Ottoman army's supply lines, launched terrorist guerrilla attacks on Turkish-Muslim settlements, committing massacres and ethnic cleansing, all in order to gain their independence and establish their own state where there was a huge Turkish and Muslim majority. This ground for the relocation based on 'imperative military reasons' is in line with international law even today.

Besides, all signs were pointing to the fact that without relocation the Armenian forces joining with the Russian army were going to eradicate the Turkish and Muslim majority in the region with an ethnic cleansing campaign of genocidal proportions, as in the Balkans. In this context also, the grounds for the relocation were clearly and definitely military within the concept of self-preservation. It aimed at protecting the non-Armenian majority population against destruction.

Conclusion

1. The Armenians constituted a political group since they engaged in armed political activities, first to gain autonomy and then to found an independent state on the Ottoman lands. For this reason, they were not one of the four groups protected by Article 2 of the Convention.

2. Since the Ottomans did not harbour towards the Armenians an 'anti-Armenianism', that is, a racial hatred akin to the anti-

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Semitism the Nazis displayed towards the Jews, the relocation was not carried out with a motive which could have led to the intent to destroy them as a group. The relocation decision was taken to prevent the military operations the Armenians had initiated together with the invading Russian armies to exterminate the Turks and Muslims that made up 84% of the population in the eastern Anatolian region through an ethnic cleansing of genocidal proportions, as had been done to the Turks during the Balkans Wars.

3. The Ottoman Government did not have the intent to destroy the Armenians, a condition stated in Article 2 of the Convention. Not only are there no written documents, there are no oral accounts either attesting to the intention to destroy on the part of the administration. Aft the documents available envisage the protection of Armenian convoys in the course of relocation and their safe resettlement. The number of Armenian deaths, which is grossly exaggerated, is far from proving the presence of genocide. A significant part of the Armenian deaths resulted from reasons not related to the relocation. The Turkish civilian deaths occurring in the same region due to the similar reasons were more numerous than the Armenian loss of life. Therefore, in the context of Article 2 (c) of the Genocide Convention, the relocation was neither a covert genocide nor an indirect one.

4. The Catholic and Protestant Armenians aft over the country as well as the Gregorian Armenians living in İstanbul, Aydın (including İzmir), Edirne and Kütahya, that is, the western part of Anatolia, were not subjected to relocation. This partial relocation did not stem from the Ottoman administration's weakness. The Gregorian Armenians in other areas were transferred, because they were situated on the path of the advancing Russian armies and, having the same religious faith as the Russians, they were collaborating with them against the Ottoman army and the Muslim population. This clearly shows the military rationale for the relocation.

5. Under the circumstances, the relocation, not only did not constitute genocide according to the Convention, but also did not affect a crime against humanity, considering the military imperative that prompted it as a permissible ground in international law. On the other hand, the relocation does not meet the conditions cited in Article 7 of the Statute of Rome. This is not

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a case of “multiple commission of acts” as part of a “wide-spread and systematic attack’ that constitute crimes against humanity in accordance with Article 7 (b) of the said Statute. Moreover, the Armenians have never been subjected to persecution on religious or other grounds.

6. Along with the “imperative military reasons”, the relocation was aimed at foiling the efforts of the Armenians in collaboration with the invading Russian armies to ethnically cleanse the Turks and Muslims who made up the large majority of the population in the region, as in the case of the Balkan Wars. The Ottomans, who were fighting on three fronts all at the same time, could not always protect aft of the Armenians effectively with the limited number of troops available. The gangs in the region attacked the Armenian convoys, killing some of them and plundering their possessions for their private purposes. The civilian Turks who were forced to migrate under similar conditions of rough terrain, harsh climate, lack of adequate food and medicine in the face of epidemics, lost more people than the Armenians did. This clearly shows that the relocation was not the cause for aft Armenian casualties.

7. And, finally, those who ordered the relocation came to have feelings of regret due to undesirable incidents, feelings of sympathy for the Armenian victims and a resentment towards the persons who had attacked them. The culprits of the robbery and murder cases, which came under the ordinary crimes category, were put on trial before the war ended, and most of them were executed.

**Hearing before the Subcommittee on International
Relations, House of Representatives,
14 September 2000**

Mr. Chairman,

I thank you very much for inviting me to this hearing. It is privilege and honor for me to address this sub-committee in my personal capacity as a private citizen, although the topic is not a pleasant one.

The question before us is too complex to treat in five minutes. Therefore, I will not dwell on it's historical aspects.

Let me stress, however, that the Turkish people firmly believe that what happened to the Armenians was not genocide.

It was relocation to other parts of the Ottoman Empire of only the eastern Anatolian Armenians, away from a war zone in which they were collaborating with invading Russian armies with the aim of creating an independent state of their own in areas where they were only a minority by ethnically 'cleansing' the majority Turks.

This tragedy occurred during the war between the Ottoman Empire and Tsarit Russia, which was greatly aided by the Armenians, a long inter-communal struggle between Armenian irregulars and defending Muslim civilians as well as a thoroughly disorganized relocation of the Armenian population under the exceptionally difficult conditions of the day.

As a result many Armenians were killed. But many more Muslims and Turks perished as well.

The Turkish people will be deeply offended by this resolution which practically accuses them of being genocidal. They will also find it disrespectful of their unmentioned millions of dead.

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Were it to be adopted, I am afraid, it would have two immediate effects: one on Turco-Armenian relations, the other on Turco-American relations.

Under the tremendous pressure of public opinion, the Turkish government will be compelled to toughen its foreign policy towards Armenia. Turkey earnestly rejoiced at Armenia's independence after the demise of the Soviet Union. As a token of friendship the Turkish government provided wheat to the Armenian people who were then in dire need. I feel personally gratified have played a part, together with Mr. G. Libaridian, in accomplishing this Turkish gesture of fellowship.

Turkey integrated Armenia into the Black Sea Cooperation Council, although it is not a littoral state.

Despite the so-called embargo, Turkish governments have deliberately turned a blind eye to the porous nature of the common border through which vital provisions reach the Armenians.

Armenia, however, maintains its occupation of 20% of Azerbaijani territory, creating one million refugees with the help of Russian protection purchased at the cost of its newly gained independence.

Now, by insisting on the recognition of the genocide, the Armenian leadership and the diaspora will finally silence the few remaining voices favorable to them in Turkey. This will effectively result in sealing the border. Given the situation in Armenia this attitude of the Armenian government is akin to suicide.

However, I am personally more worried about Turkey's relations with the U.S. A strategic cooperation has been developed over the decades with great care and patience on the basis of mutual interest.

The first casualty of this resolution would be Cyprus, for the U.S. will immediately lose its honest broker status in the eyes of Turkish public opinion. Mr. Moses, the President's special, representative, may no longer find any interlocutor.

Turkey and the U.S. closely cooperate in the Caucasus especially in the field of energy, which has recently acquired great importance due to the rapidly increasing oil prices. In the region

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where Armenia is situated, the potential for cooperation with a country that considers Turks genocidal will be bound to remain severely limited.

But above all our cooperation on Iraq will inevitably suffer. The support for the American policy in northern Iraq, already slim, will dwindle immediately, for the Turkish people already feel enough of effect of the economic embargo with Iraq, which costs them billions of dollars. Why to continue to make his sacrifice?

This would mean the military base at İncirlik would no longer be used by U.S. war planes to bomb northern Iraq. Without air power to deter Saddam Hussein from regaining the control of the region, this could very well be the end of the INC.

The crucial question is why the Armenians, not content with the word 'tragedy' or 'catastrophe', insist on genocide.

I am not a jurist. But I served as ambassador to the UN section in Geneva where questions related to humanitarian law (or the law of war) are also dealt with. In connection with the former Yugoslavia we thoroughly discussed the genocide convention.

What determines genocide is not necessarily the number of the casualties or the cruelty of the persecution but the 'intent to destroy' a group. Historically the 'intent to destroy a race' has emerged only as the culmination of racism, as in the case of anti-Semitism and the Shoah. Turks have never harbored any anti-Armenianism.

Killing, even of civilians, in a war waged for territory, is not genocide. The victims of genocide must be totally innocent. In other words, they must not fight for something tangible like land, but be killed by the victimizer simply because of their membership in a specific group.

Obviously, both Turks and Armenians fought for land upon which to build their independent states.

Since genocide is an imprescriptable crime, Armenia has recourse to the International Court of Justice at the Hague and may therefore ask the court to determine, according to article IX of the Convention, whether it was genocide.

But I know they cannot do it. They do not have a legally

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sustainable case. That is why they seek legislative resolutions which are legally null and void.

One last point: I would humbly suggest that all the references to Great Britain in the text of the resolution be dropped, for in July of this year the British Government declared in the House of Lords that 'in the absence of unequivocal evidence to show that the Ottoman administration took a specific decision to eliminate the Armenians, the British Governments have not recognized the events of 1915-16 as genocide'.

Let us not forget that Great Britain was the occupying power after the First World War and the Ottoman archives were at its disposition.

Thank you Mr. Chairman.

Gündüz Aktan, Diploması ve Psikanaliz

Prof. Vamık VOLKAN

Gündüz Aktan'ı ve Türk diplomasisinde oynadığı büyük rolü anmamız ve onunla gurur duymaya devam etmemiz için hazırlanan bu kitaba bir Son Yazı ekleme görevi bana verildiği için çok mutluyum. Burada “bilimsel” bir yazı yazmaktansa kişisel anılarım üzerinde duracağım. Bu anılarım, diploması ve psikanaliz konularını birbirlerine tanıştırmakta Gündüz Aktan'ın ne kadar önemli katkıları olduğunu ortaya koyacaktır.

Geleneksel olarak, diploması ile psikanalizin yakınlaşmasına karşı gelişen dirençler vardır ve bu dirençler bu günkü dünyada azalmış olsa da hala devam etmektedir (Volkan, 2001). Sigmund Freud'dan itibaren bazı istisnai psikanalistler (Glower, 1947 ve Fornari, 1966); etnik veya dini nitelikli büyük grupların psikolojilerini, insanın savaşa yönelik eğilimini, politik liderler ve takipçileri arasındaki ilişkilerin özelliklerini incelemek için çalışmışlardır. Genel olarak teorik nitelikteki bu çalışmalar, diplomatlara pratikte kullanabilecekleri bazı yollar göstermekten uzaktır. Üstelik 1932'de Freud'un başlattığı geleneği takip eden psikanalistler, diploması konusunda sessiz kalmışlardır. 1932'de Albert Einstein, Freud'a bir mektup göndermiş ve o zaman yeni bir bilim dalı olan psikanalizin dünyada yaşananları aydınlatmadaki rolünün ne olduğunu sormuştu. Freud Einstein'a yanıtında, psikanalizden ümit verici bir cevap beklenmemesini söyledi (Freud, 1932). Bence psikanalistler bu geleneği benimsediler ve diploması ile psikoanalizin yakınlaşması için katkıda bulunmadılar.

Psikanaliz ve diplomasının yakınlaşmasına karşı bir direnç de diplomatlardan gelmiştir. Genel olarak diplomaside hala daha büyük bir ölçüde, 1853'de Ludwig von Rochau'un isimlendirdiği, *Realpolitik'in* prensipleri kullanılır. Realpolitik kısaca, siyaset ve diplomasideki sorumlu kişilerin, kendi gruplarının ve karşıdaki büyük grubun durumlarını ve gerçeklerini mantıksal olarak anlamaya çalışmak ve ona göre bir politika yürütmek demektir. Bu prensipler daha sonra Amerika'da *Akılcı Aktörler Modeli (Rational Actors Model)* olarak isimlendirildi. Bu modelin, uluslararası ilişkilerde ve büyük grupların diğer çatışmalarında her şeyi tam olarak açıklamadığı görüldükten sonra 1970 ve 1980'de Amerikan diplomasısı, bilişsel psikolojiden (cognitive psychology) faydalanmaya başladı. Fakat bilinçdışı süreçleri incelemeyi de içine alan psikanalizden yararlanmayı denemediler (Volkan ve ark, 1998). Gerçekte psikanalizi

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diplomasiye takdim etme girişimi ilk kez 1920'lerin sonunda yapılmıştı (Lasswell,1930; Ascher ve Hirscheelder, 2004). Buna rağmen diplomasi ve psikanaliz, genelde birbirinden uzak tutuldu. Etnik ve dini kimlik meselelerinin ve terörizmin yayıldığı, teknolojinin ve elektronik iletişimin bildiğimiz medeniyeti değiştirmeye başladığı son senelerde, iç ve dış siyasete yaklaşımda akılcı çözümlerin yanında, birey ve toplum psikolojilerinin siyasette yarattığı olumlu ve olumsuz yöndeki etkileri derinden incelemenin önemi de anlaşıldı. Bu farkındalık Türkiye de yaşandı. Gündüz Aktan, onu ilk tanıdığım andan itibaren diplomaside böyle bir gelişmenin gerektiğinin farkındaydı.

Gündüz Aktan'ı ilk defa 1992 Ocağında gördüm. Tanışmamızdan bir süre sonra aramızdaki arkadaşlık ilerleyince, bana Paris'te öğrenciyken baş ağrıları olduğunu anlattı. Bir kütüphanede Sigmund Freud'un kitaplarını görmüş, bu kitapları okumaya başlayıp kendi iç dünyasını anlamaya çalışmış ve psikolojik nedenlerle ortaya çıktığına karar verdiği baş ağrılarını kendisi tedavi etmişti. Bu kişisel deneyimin, toplumları anlamak için psikanalizden faydalanma eğiliminin gelişmesinde büyük bir rol oynadığını sanıyorum.

Ocak 1992'de dünyanın birçok yerinden gelen 200 kişi, Atlanta şehrinde eski Amerika Cumhurbaşkanı Jimmy Carter'ın adını taşıyan *Carter Merkezi*'nde toplandı.¹ Türkiye'yi temsil eden kişi ise Büyükelçi Gündüz Aktan'dı.

Toplantı sırasında bazı stratejiler konuşuldu. Jimmy Carter, Kıbrıs'a gidip orada iki tarafı yakınlaştırmak için hazır olduğunu bildirdiği halde, hem Türk hem de Rum tarafı onu Kıbrıs'a davet etmekten çekinmişti. Gündüz Aktan, Jimmy Carter'ın derin dini inançlarının farkına varmış, fakat eski Amerika Cumhurbaşkanı'nın dini, politika ve diplomaside kullanmamak için gösterdiği başarılı gayreti takdir etmişti.

Gündüz Aktan'ın, diplomaside sürekli çatışma içinde olan tarafların tarihlerini ve toplum psikolojilerini derinlemesine bir biçimde inceledikten sonra bir süreç başlatılmasını düşündüğünü sezdim. Ben de aynı fikirdeydim. O zaman Gündüz Aktan'ı iyi tanımıyor ve psikanalize olan ilgisini bilmiyordum.

Carter Merkezi'nin Kıbrıs girişimi daha ileriye gitmedi. Fakat oradaki toplantı, Gündüz Aktan'la aramızda, onu kaybedişimize kadar sürecek çok yakın bir dostluğun ve bazı konular üzerinde kurduğumuz işbirliklerinin başlangıcı oldu. Atlanta toplantısından bir süre sonra Gündüz Aktan, Amerika'da benim üniversitemin bulunduğu Charlottesville şehrine gelip beni ziyaret etti. Onu Zihin ve İnsan İlişkilerini İnceleme Merkezi'ndeki

1 http://www.cartercenter.org/news/publications/peace/conflict_reports.html

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arkadaşlara tanıttım. Bu arada onun psikanalize duyduğu ilgiyi daha iyi öğrenmiştim. Cumhurbaşkanı Turgut Özal'ın *Turkey in Europe and Europe in Turkey* (Avrupa'daki Türkiye ve Türkiye'deki Avrupa) isimli kitabının yazılmasında en çok Gündüz Aktan'ın fikirlerine yer verildiğini anladım (Özal, 1991). Bu kitapta, eski İyonya ve Helen uygarlıklarından başlayarak 1990'a kadar, Anadolu'da ve Avrupa'da gelişen tarihi olayların imajları ve bu imajların Türkiye ve Avrupa arasındaki ilişkilere etkileri incelenir. Turgut Özal ve Gündüz Aktan'ın amacı, Türkiye'nin Avrupa'nın bir parçası olduğunu, bilime ve Türk diplomasisine yardım edecek bir şekilde, hem Fransızca hem de İngilizce olarak açıklamaktır. Türkiye'nin, Avrupa'nın bir parçası olduğunu anlatırken, Türkiye'nin kendine ait karakterini muhafaza ettiğini de belirtmişlerdi. Türkiye'de yüksek seviyede, çok yönlü ve incelikli düşünen bir cumhurbaşkanının ve diplomatların bulunduğunu vurgulamak o zaman için önemliydi. Gündüz Aktan bu kitabın yanında, bu defa yalnız Türk ve Yunan ilişkilerine odaklanacak ve İngilizce yazılacak ikinci kitabın da yayınlamasını istiyordu. Bu nedenle asırlar boyu süren Türk ve Yunan ilişkilerini psikopolitik bir açıdan incelemeye çalıştığımız ve hem Princeton Üniversitesinde tarih profesörü hem de Zihin ve İnsan İlişkilerini İnceleme Merkezi ekibinin bir üyesi olan Norman Itzkowitz ile benim, *Turks and Greeks* (Türkler ve Yunanlılar) (Volkan ve Itzkowitz, 1994) isimli kitabımızı yazmamızı destekleyen o oldu.

O zamanlar Gündüz Aktan, Avrupa'da Türk imgesinin nasıl algılandığı üzerinde duruyor ve bu imgenin Avrupa-Türkiye ilişkilerinde oynadığı görünmez ve sessiz etkenleri inceliyordu. Bu konular üzerinde psikopolitik ve diplomatik teoriler geliştirmişti. Bu teoriler yalnızca Osmanlılar ile Avrupalılar arasındaki tarihi olayların imajlarını içermiyordu. Gündüz Aktan, Hristiyanlığın Avrupa'daki toplumların bilinçlerindeki ve bilinçdışlarındaki etkilerini ve daha sonra Doğu Avrupa'da ortaya çıkan bazı olayların toplumlarda yarattığı psikolojik etkilerini inceliyordu. Avrupa'da demokrasi, baba figürü olan krallar öldürüldükten sonra ortaya çıkmıştı. Böyle olayların, tüm toplumca paylaşılan bilinçdışı suçluluk duyguları yarattığını ve bu duygulardan kurtulmak için yapılan dışsallaştırmaların (" 'Kötü' olan ben değilim, 'ötekidir.'" gibi) bazı Avrupa toplumlarında ırkçılığı desteklediği fikrindeydi. Avrupa toplumlarının toplumsal psikolojilerini bilmenin, onlarla daha olumlu diplomatik ilişkiler kurmada Türkiye için yararlı olacağına inanıyordu.

Bu kitapta yayınlanan konuşma ve yazılarda, onun buluşlarını ve düşüncelerini okuyabiliyoruz. Ayrıca, bu konudaki fikirlerini Zihin ve İnsan İlişkileri Merkezi'nin dergisinde Mehmet Suphi adı altında yayınladık (Suphi, 1996 a,b). O zamanlar Gündüz Aktan bir diplomat olduğu için bu yazılara kendi ismini koymaktan çekinmişti. Aklımda kaldığına göre Mehmet Suphi bir dedesinin ismiydi.

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İkimiz de, toplumların geçmişinde yaşanmış olan dini ve tarihi olayların oluşturduğu imajların, bugünkü dünyadaki siyasi ve politik durumlara nasıl yansıdığı üzerinde paralel çalışmalar yapıyorduk. Dünyanın birçok çatışmalı bölgesindeki gayri resmi diplomatik deneyimlerimden edindiğim bilgiler arttıkça, toplumların da, bireyler gibi, bazı tipik psikolojik ritüelleri olduğunu ve toplumlar arasındaki ilişkilerin toplumların psikolojilerini derinden araştırmakla daha iyi anlaşılacağını görmüştüm (Volkan, 1988, 1997, 2004, 2006). Psikanaliz, 1990'lara ve 2000'lere kadar, toplumlara ait bilinçteki ve bilinçdışındaki süreçleri yakından incelememişti, ama artık bu süreçleri anlamamız gerektiği açıkça ortadaydı. Büyük gruplar arasında gelişen şiddetin ve bu durumlarda uygulanacak politik, askeri, yargısal ve ekonomik faaliyetlerin bir çok yönü vardır. Hiç bir akademik veya mesleki alan tek başına bu konuları anlamaya yeterli değildir. Savaşlar veya başka biçimlerdeki büyük grup çatışmaları, genel toplumun psikolojisi nedeniyle ortaya çıkmazlar. Fakat böyle durumlar ortaya çıktıktan ve bilhassa kronikleştikten sonra toplumun psikolojik tepkileri; sosyal, politik, ekonomik, kanuni ve askeri süreçlere bulaşır. Benim üzerinde çalıştığım alan, büyük grupların psikolojileridir ve bu psikolojik yaklaşımı geliştirmemde arkadaşım Gündüz Aktan'la yaptığım birçok sohbetin bana çok yardımı olmuştur.

Seneler boyunca Gündüz Aktan'la; Ankara'da, İstanbul'da, Cenevre'de, Washington'da, Charlottesville'de her fırsatta buluştuk. Türkiye Dışişleri Bakanlığı'nda müsteşar yardımcılığı görevindeyken, birkaç defa Zihin ve İnsan İlişkilerini İnceleme Merkezi ekibinden ve Amerika Psikanaliz Cemiyeti üyelerinden arkadaşlarla, Türkiye'nin büyükelçileri ve diğer diplomatları için, politik psikoloji üzerine seminerler düzenledik. Ayrıca, Gündüz Aktan'ın desteği ile Charlottesville'deki Zihin ve İnsan İlişkilerini İnceleme Merkezinde, Avrupa'daki Türk göçmenlerin psikolojileri ve maruz kaldıkları ırkçılık üzerine toplantılar organize ettik. Bu konularda Dışişleri Bakanlığı'na iki dosya sunduk (Thomas, Harris ve Volkan, 1993; Volkan ve Harris, 1993). Gündüz Aktan İstanbul'da Toplumsal Ekonomik Siyasal Araştırma Vakfı (TESAV) ve daha sonra Ankara'da Avrasya Stratejik Araştırmalar Merkezi (AKSAM) düşünce kuruluşlarını yönetmeye başlayınca onu bu merkezlerde de ziyaret ettim.

2001'de Amerikalılar *Türk Ermeni Yakınlaşma Komisyonu* (*Turkish Armenian Reconciliation Commission- TARC*) olarak adlandırılan bir süreç başlattılar. Benim bu komisyondan haberim yoktu. Bir gün Gündüz Aktan bana telefon etti ve bu komisyona üye olmamı istedi. Amerika'dan ve Rusya'dan Ermeni asıllı kişiler bu komisyonda olduklarından, bir ABD vatandaşı olarak benim de Türk ekibinde yer almamı istiyordu. Gündüz Aktan'a olumlu cevap verdim ve iki sene boyunca Avrupa'da, Amerika'da ve Türkiye'de toplanan TARC toplantılarına katıldım. TARC'ın, bir Amerikalı

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tarafından idare ediliş şeklini beğenmediğim ve sürecin gidişinden kuşkulandığım için TARC'dan ilk istifa eden ben oldum. Bir sene sonra Gündüz Aktan beni takip etti ve o da bu süreçten çekildi. Bu kitapta, Gündüz Aktan'ın Ermeni sorunu hakkındaki düşünceleri yazılıdır. Ben de TARC'ın anılarını, en son Nuriye Atabey'le yazdığımız *Osmanlı'nın Yasından Atatürk'ün Türkiye'sine* adlı kitabımızda anlattım (Volkan ve Atabey, 2010).

Gündüz Aktan; çok alçakgönüllü, ailesine çok bağlı ve çok iyi bir insandı. Türkiye halkı arasında ortaya çıkan dini ve etnik ayrılıklar onu üzüyordu. Kafasında daima çözümler bulmak için geliştirdiği yeni düşünceler olurdu. Psikanalizin yanında birçok başka konuyu da merakla incelerdi. Tokyo'daki büyükelçilik görevini bitirip de Ankara'ya döndüğünde, onu Ankara'daki evinde ziyaret etmiştim. Japonya'dan aldığı bazı sanat eserlerini heyecanla bana gösterdi, onlar hakkında bilgiler verdi. Ansızın bana, "Japonca'da kaç tane Türkçe kelime var, biliyor musun?" diye bir soru sordu. Japonya'dayken merak etmiş ve Japonca'da 200 kadar Türkçe kelime bulmuştu. Bunları söylemeye ve saymaya başladı.

İkimiz de puro içmeyi seviyorduk. Bir çok defa ikimizin bir odada, bir bahçede veya bir parkta, yan yana oturup puro içtiğimizi hatırlarım. Sessiz olduğumuz zamanlarda bile önemli şeyler düşündüğünü sezerdim.

Bu kitabın, Gündüz Aktan'ı anmamızın yanında, genç Türk diplomatlarının onu tanımaları, bir model olarak görüp yeni bilgilere karşı açık kalmaları ve mesleki ufuklarını geliştirmeleri açısından önem taşıdığına eminim.

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Gündüz Aktan, Diplomacy and Psychoanalysis

Prof. Vamık VOLKAN

It is a pleasure for me to write an epilogue to a book on Gündüz Aktan and his great role in Turkish diplomacy so we can continue to be proud of him in the future. Instead of writing a “scholarly” piece, I will relate my personal memories. These will show how important contributions Gündüz Aktan made to introducing diplomacy and psychoanalysis to each other.

There is historical resistance against bringing diplomacy together with psychoanalysis, and this resistance continues to date, albeit reduced (Volkan, 2001). From Sigmund Freud onwards, some exceptional psychoanalysts (Glaser, 1947 and Fornari, 1966) have worked on the psychology of large ethnic or religious groups, the tendency of humans towards war, and the particulars of the relationship between political leaders and their followers. These efforts are theoretic in general, and are far from being turned into practice by diplomats. What is more, psychoanalysts following the trend set by Freud in 1932 have generally remained silent on diplomacy. In 1932, Albert Einstein had sent a letter to Freud, asking how psychoanalysis, then a new branch of science, could help to shed light on what was happening in the world. In his response, Freud had said that no promising answer should be expected from psychoanalysis (Freud, 1932). I believe that psychoanalysts adopted this tradition and did not contribute to the convergence of diplomacy and psychoanalysis.

Another act of resistance against the convergence of psychoanalysis and diplomacy is maintained by diplomats themselves. Even today, diplomacy mostly utilizes the principles of *realpolitik* christened by Ludwig von Rochau in 1853. Realpolitik involves a rational understanding of the realities and situations of political and diplomatic figures, their groups, and the large groups opposing them, and implementing an appropriate policy. These principles were later named the Rational Actors Model in the United States. When it was realized that this model failed to explain everything in international relations and conflicts between large groups, US diplomacy began to utilize cognitive psychology in the 1970s and '80s. However, they did not attempt to utilize psychoanalysis, which also incorporates unconscious processes (Volkan et al., 1998). In fact, the first attempt to introduce psychoanalysis to diplomacy had been made in the late 1920s

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(Lasswell,1930; Ascher and Hirscheelder, 2004). Nevertheless, diplomacy and psychoanalysis were usually kept at a distance. Recently, as ethnic and religious identity issues and terrorism began to expand and technology and electronic communications began to transform civilization as we know it, it was understood that it was as important to bring rational approaches to interior and foreign policies as to make in-depth analyses of negative and positive influences of individual and social psychologies on politics. This was realized in Turkey, too. From the day I met him, Gündüz Aktan was aware of the need for such a transition in diplomacy.

I met Gündüz Aktan in January 1992. We became friends a while later; that is when he told me that he suffered from headaches when he was a student in Paris. He had come across books by Sigmund Freud at a library, which he began to read to gain insight into his inner self, and, deciding that his headaches were rooted in psychology, he had cured himself of them. I believe this experience of his played a large part in the development of the tendency to utilize psychoanalysis to understand societies.

In January 1992, 200 people from all over the world gathered at the Carter Center in Atlanta, named after the former US President Jimmy Carter.¹ The representative from Turkey was Ambassador Gündüz Aktan.

Some strategies were discussed. Although Jimmy Carter had declared that he was prepared to visit Cyprus to reconcile the sides, both the Turkish and the Greek sides were reluctant to invite him. Gündüz Aktan was aware of the devout religiousness of Jimmy Carter, but he had admired the successful efforts of the former President to avoid utilizing faith in politics and diplomacy.

I realized that Gündüz Aktan intended to initiate a process after making an in-depth analysis of the histories and social psychologies of the two sides that were always in diplomatic conflict. I was in agreement. But then, I did not know Gündüz Aktan very well, and was not aware of his interest in psychoanalysis.

The Carter Center initiative on Cyprus did not go any further. However, it was the beginning of a close friendship and collaboration with Gündüz Aktan that lasted until he passed away. Sometime after the Atlanta meeting, Gündüz Aktan visited me in Charlottesville, where my university was located. I introduced him to my colleagues in the CSMHI. I was better aware of his interest in psychoanalysis. I realized that the ideas of Gündüz Aktan were very prominent in the writing of President Turgut Özal's book *Turkey in*

1 http://www.cartercenter.org/news/publications/peace/conflict_reports.html

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Europe and Europe in Turkey (Özal, 1991). This book discusses the images of historic events occurring in Anatolia and Europe starting from the ancient Ionian and Hellenic civilizations up to 1990, and the influence of these images on the relations between Turkey and Europe. Turgut Özal and Gündüz Aktan's purpose was to clarify that Turkey was a part of Europe in a way to contribute to science and Turkish diplomacy, in English and in French. They had argued that Turkey was a part of Europe while it also preserved its unique character. It was important at the time to underline that Turkey had a president and high-level diplomats capable of thinking on many high levels with nuances. In addition to this book, Gündüz Aktan wished for a book in English, focusing only on Turkish-Greek relations. This is why he supported me in co-authoring the book *Turks and Greeks* (Volkan and Itzkowitz, 1994) with Norman Itzkowitz, a professor of history at Princeton University and my colleague in the CSMHI, with whom we attempted to make a psycho-political analysis of Turkish-Greek affairs throughout centuries.

Back then, Gündüz Aktan focused on how the image of the Turk was perceived in Europe, and its invisible and silent impact on European-Turkish affairs. He had devised psycho-political and diplomatic theories on the subject. These were not limited to the images of historical events between the Ottomans and Europe. Gündüz Aktan was investigating the influence of Christianity in the conscious and unconscious minds of the peoples of Europe, and the psychological impact of various subsequent events in Eastern Europe on the society. Democracy in Europe had emerged after the monarchs as father figures were overturned. He believed that the widespread social unconscious guilt shared after such events led to an externalization as a defense mechanism (for example, "I" am not evil; the "other" is), which in turn fueled racism in some European societies. He argued that knowing the social psychologies of European nations would benefit Turkey in developing better diplomatic relations with them.

His thoughts and ideas may be traced in the speeches and articles in this book. We also published his opinions in the publication of the CSMHI under the pseudonym Mehmet Suphi (Suphi, 1996 a,b). Since Gündüz Aktan was an appointed diplomat at the time, he preferred not to use his real name. As far as I can remember, Mehmet Suphi was a grandfather of his.

We were making parallel studies on how the images created by historical and religious events in the histories of societies were reflected on the political situation in the world today. As I gained more knowledge through my unofficial diplomatic experiences in many regions of conflict around the world, I had understood that societies, like individuals, had psychological rituals, and that the relations between societies would be better understood by analyzing the psychologies of those societies (Volkan, 1988, 1997, 2004,

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2006). Until the 1990s, psychoanalysis had not focused on the processes in the collective conscious and unconscious, but now it was clear that we had to understand these processes. The violence that erupts between large groups and the political, military, judicial and economic measures to be implemented in such cases have many aspects. No singular academic or professional field is adequate to fully understand these issues. Large group conflicts like wars and others do not emerge due to the overall psychology of the society. However, once they emerge and particularly become chronic, the psychological reactions of the society have ramifications on social, political, economic, legal and military processes. My field is the psychology of large groups, and the conversations I had with my friend Gündüz Aktan contributed greatly to my development of this psychological approach.

For years, Gündüz Aktan and I came together in Ankara, Istanbul, Geneva, Washington and Charlottesville on many occasions. During his post as deputy undersecretary in the Ministry of Foreign Affairs, we held seminars on political psychology for Turkish ambassadors and other diplomats with the help of my colleagues from the CSMHI and the American Psychiatric Association. With the support of Gündüz Aktan, we also organized meetings on the psychologies and the acts of racism suffered by Turkish immigrants in Europe at the CSMHI in Charlottesville. We submitted two studies to the Ministry of Foreign Affairs on these issues (Thomas, Harris and Volkan, 1993; Volkan and Harris, 1993). When Gündüz Aktan began to lead the Turkish Economic and Social Studies Foundation (TESEV) in Istanbul and the Eurasian Strategic Research Center (ASAM) in Ankara, I visited him at these think tanks as well.

In 2001, Americans initiated a process titled the Turkish Armenian Reconciliation Commission (TARC). I did not know of this commission. One day, Gündüz Aktan phoned me and asked me to join this commission. Since there were US and Russian nationals of Armenian descent in the commission, he wanted me to be a part of it as a US national of Turkish descent. I agreed with Gündüz Aktan and attended TARC meetings in Europe, America and Turkey for two years. I did not come to terms with how TARC was directed by an American and had doubts about the progress of the commission, so I was the first to resign. Gündüz Aktan followed one year later. This book includes the opinions of Gündüz Aktan on the Armenian issue. Meanwhile, I related my memories of TARC in the book *Osmanlı'nın Yasından Atatürk'ün Türkiye'sine (From Post-Ottoman Mourning to Atatürk's Turkey)* which I co-authored with Nuriye Atabey (Volkan and Atabey, 2010).

Gündüz Aktan was a great man who was equally humble and was loyal to his family. The religious and ethnic separation among the people of Turkey

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was his greatest concern. He would always have new ideas for solutions. He was interested in many subjects besides psychoanalysis. I had visited him in his Ankara home after his return from his office as Ambassador in Tokyo. He was enthusiastic about the pieces of art he had bought in Japan, and explained them to me. Out of nowhere, he asked me, “Do you know how many Turkish words there are in Japanese?” It turns out that he wondered this when he was in Japan, and looked into it. He had found approximately 200 Turkish words in Japanese. He started counting them.

We both enjoyed smoking cigars. I remember many times when we sat side by side in a room, a garden or a park, smoking cigars. I would feel that he had important things in mind, even when he was not talking.

I am certain that this book not only helps us remember Gündüz Aktan, but also helps young diplomats of Turkey to know him better, take him as a role model and stay open to new ideas, expanding their perspectives.

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