

VERDICT OF THE PERMANENT PEOPLE'S TRIBUNAL

SESSION ON THE GENOCIDE
OF THE ARMENIANS

APRIL 13-16, 1984
PARIS

CONVENED AT THE SORBONNE, PARIS FRANCE, APRIL 13-16, 1984

VERDICT OF THE PERMANENT
PEOPLE'S TRIBUNAL
ON THE QUESTION OF THE ARMENIAN GENOCIDE

IN SESSION AT THE SORBONNE,
PARIS, FRANCE

APRIL 13-16, 1984

THE PERMANENT PEOPLE'S TRIBUNAL
WAS CALLED UPON BY
THE FOLLOWING ORGANIZATIONS TO DEVOTE A SESSION TO
THE CASE OF THE GENOCIDE OF THE ARMENIANS:

- ❖ GROUP FOR THE RIGHTS OF MINORITIES, PARIS FRANCE
- ❖ CULTURAL SURVIVAL, CAMBRIDGE, MASSACHUSETTS, USA
- ❖ GESELLESCHAFT FÜR BEDROHTE VÖLKER, GÖTTINGEN, WEST GERMANY

THE PERMANENT PEOPLES' TRIBUNAL IN PARIS¹

The Permanent Peoples' Tribunal was founded in June 1979 by Senator Lelio Basso of Italy to make up for the moral and political shortcomings of states as instruments for the achievement of justice. It grew out of the "International Foundation for the Rights and Liberation of Peoples" which had been founded in 1976. The PPT met in official session in Paris from April 13 to 16, 1984, to examine the grievances of the Armenians, precisely because of the long silence of the great western democracies (with the exception of France) which maintain relations of all sorts with the Turkish state. For it is not the Turkish people, but the Turkish state and its constant attitude with regard to the events of 1915-1916 that was concerned.

In its verdict the Tribunal stated: "There is no doubt regarding the reality of the physical acts constituting the genocide. The facts are clearly proven by the full and unequivocal evidence submitted to the Tribunal" that the Young Turk government was guilty of this crime not subject to statutory limitations and that 'The Armenian genocide is also an 'international crime' for which the Turkish state must assume full responsibility, without using the pretext of any discontinuity in the existence of the state to elude that responsibility.

This responsibility implies first and foremost the obligation to recognize officially the reality of the genocide and the consequent damages suffered by the Armenian people; the United Nations Organization and each of its members have the right to demand this recognition and to assist the Armenian people to that end."

¹ The Permanent People's Tribunal was founded by the Italian Senator and jurist, the late Lelio Basso. Its President in 1984 is Professor François Rigaux of the Faculty of Law, Catholic University of Louvain. Its Vice-Presidents are: Ruth First of South Africa; Makoto Oda (Japan); Armando Uribe (Chile); and George Wald (United States of America). Its Secretary-General was Gianni Tognoni (Italy): Via della Dognana Vecchia 5, 00186, Rome.

THE PERMANENT PEOPLES' TRIBUNAL

IN SESSION

PARIS, FRIDAY APRIL 13, 1984

FOLLOWING IS A REPORT OF THE VERDICT OF THE TRIBUNAL OF THE PEOPLE ON QUESTIONS PLACED BEFORE IT RELATING TO THE ARMENIAN GENOCIDE.

THE TRIBUNAL OF THE PEOPLE OPENED APRIL 13, 1984 AT 2:15 P.M. IN THE CARDINAL RICHELIEU AMPHITHEATER OF THE SORBONNE, IN PARIS, FRANCE.

MEMBERS OF THE PERMANENT PEOPLES' TRIBUNAL COMPRISING THE JURY FOR THE SESSION ON THE GENOCIDE OF THE ARMENIANS INCLUDE:

- MADJID BENCHIKH OF ALGERIA,
PROFESSOR OF INTERNATIONAL LAW, UNIVERSITY OF ALGIERS.
- GEORGE CASALIS OF FRANCE,
THEOLOGIAN, WRITER AND PROFESSOR, PROTESTANT INSTITUTE OF THEOLOGY, FRANCE.
- HAROLD EDELSTAM OF SWEDEN,
FORMER AMBASSADOR TO CHILE AND ALGERIA.
- RICHARD FALK OF THE UNITED STATES,
PROFESSOR OF INTERNATIONAL LAW, PRINCETON UNIVERSITY.
- KEN FRYE OF AUSTRALIA,
MEMBER OF PARLIAMENT, AUSTRALIA.
- ANDREAS GIARDINA OF ITALY,
PROFESSOR OF INTERNATIONAL LAW, UNIVERSITY OF ROME.
- SEAN MACBRIDE OF IRELAND,
JURIST, PRESIDENT INTERNATIONAL PEACE OFFICE, NOBEL PEACE PRIZE RECIPIENT.
- LEO MATARASSO OF FRANCE,
JURIST AND LAWYER AT THE PARIS BAR.
- ADOLFO PEREZ ESQUIVAL OF ARGENTINA,
NOBEL PEACE PRIZE RECIPIENT, COORDINATOR, PEACE & JUSTICE SERVICE.
- JAMES PETRAS OF THE UNITED STATES,
PROFESSOR OF SOCIOLOGY, STATE UNIVERSITY OF NEW YORK.
- FRANCOIS RIGAUX OF BELGIUM,
PROFESSOR, FACULTY OF LAW, CATHOLIC UNIVERSITY OF LOUVAIN.
- AGIT ROY OF INDIA,
ECONOMIST AND JOURNALIST.
- GEORGE WALD OF THE UNITED STATES,
BIOLOGIST, HARVARD UNIVERSITY, NOBEL PRIZE RECIPIENT.

THE TRIBUNAL OF THE PEOPLE IN PARIS

PREAMBLE AND INTRODUCTION

April 16, 1984

THE PERMANENT PEOPLE'S TRIBUNAL WAS CALLED UPON TO ANSWER THE FOLLOWING QUESTIONS WITH REGARD TO THE GENOCIDE OF THE ARMENIANS:

1. WHETHER THE ARMENIAN PEOPLE HAVE BEEN VICTIMS OF DEPORTATIONS AND MASSACRES DURING THE FIRST WORLD WAR IN THE OTTOMAN EMPIRE.
2. WHETHER THESE DEPORTATIONS AND MASSACRES CONSTITUTE GENOCIDE AS DEFINED BY THE INTERNATIONAL CONVENTION ON THE PREVENTION AND PUNISHMENT OF THE CRIME OF GENOCIDE (1948) AND, CONSEQUENTLY, DO THEY FALL UNDER THE 1968 CONVENTION ON THE NON-APPLICABILITY OF THE STATUTORY LIMITATIONS TO WAR CRIMES AND CRIMES AGAINST HUMANITY?
3. WHAT ARE THE CONSEQUENCES OF THIS FOR THE INTERNATIONAL COMMUNITY AND FOR THE CONCERNED PARTIES?

THE PRESIDENT OF THE TRIBUNAL DECLARED THIS REQUEST TO BE ADMISSIBLE IN ACCORDANCE WITH ARTICLE 11 OF THE STATUTES, AND THE TURKISH GOVERNMENT WAS INFORMED, IN APPLICATION OF THE PROVISION OF ARTICLES 14 AND 15. THE TURKISH GOVERNMENT WAS INVITED TO SEND REPRESENTATIVES OR WRITTEN DOCUMENTS TO MAKE ITS POSITION KNOWN.

SINCE THE TURKISH GOVERNMENT DID NOT REPLY TO THIS INVITATION, THE TRIBUNAL DECIDED TO INSERT INTO THE RECORD THE TWO DOCUMENTS CITED BELOW, WHICH CONTAIN THE ARGUMENTS OF THE TURKEY PARTY IN SUPPORT OF ITS DENIAL OF THE GENOCIDE OF THE ARMENIANS.

THE TRIBUNAL HELD PUBLIC HEARINGS APRIL 13-14, 1984 AT THE SORBONNE IN PARIS AND THE JURY DELIBERATED THE MATTER ON APRIL 15, 1984. AT THE CONCLUSION OF THE HEARINGS, THE TRIBUNAL PRONOUNCED ITS VERDICT, WHICH APPEARS ON THE FOLLOWING PAGES.

OPENING STATEMENT

FRANÇOIS RIGAUX

In opening this session of the Permanent People's Tribunal on the Armenian case it is proper that we pay homage to the memory of two of the most eminent of our colleagues, who have passed away since the previous session of the Tribunal held in Madrid in January in 1983 on the case of Guatemala.

These two members of the Tribunal are Alfred Kastler, the French physicist, and the Argentinean writer Julio Cortázar. To the audience to whom I am speaking, it suffices to recall what both these men in very different domains have added to the universal culture of humanity. Alfred Kastler's discovery of optical pumping is at the origin of laser beams and this brought him in 1966 the Nobel Prize for Physics. The fantastic novels and stories of Julio Cortázar have been read by a sophisticated and large public. I will recall here only one of his titles, *La Rayuela*, published in 1963, in which the reader is invited to participate in the creative process by reconstructing the arrangement of the chapters.

It is not by accident that, as active members of the Russell Tribunal II on Latin America, both participated with enthusiasm in the initiative begun in 1976 by Lelio Basso which led to the constitution of this Tribunal in Bolgna on 23 June 1979. By different paths, both had reached the conclusion that the scientist, the writer, men and women who have distinguished themselves by a more penetrating imagination, have acquired the mastery of a tool with the help of which they are capable of helping humanity confront the great problems of the hour and most of all to push back the frontiers of injustice.

Allow me to invoke a personal memory of each of our deceased colleagues, a memory linked to the activity that brings us together today in Paris. During the three sessions of the Russell Tribunal II on Latin America, respectively in Rome, Brussels, and then again in Rome presided over by Lelio Basso, the member jurists of the Tribunal received from the scientists who were participating in the sessions and I think mainly of Alfred Kastler and Laurent Schwartz — a lesson in exact reasoning which none of us have forgotten. During the hearing of witnesses and experts, Alfred Kastler posed the most pertinent questions for a correct assessment of evidence and he taught us not to be convinced except by demonstration of proof beyond any reasonable doubt.

Julio Cortázar also participated in the international congress on the Latin American exiles, which the Lelio Basso International Foundation organized in October 1979 in Caracas and at the University of the Andes in Merida. When time came to draft the conclusions and the final appeal of the conference, some individuals got together in one of the rooms of the hotel to discuss a draft written in French. But we were in Venezuela and hearing the question of Latin American exiles. A few rationally expressed reflections could not have articulated the suffering of whole peoples nor reached the conscience of those who resisted it. With magnificent humility, Julio Cortázar offered to take the ideas of the French text and translate them into Spanish. Is it necessary to say that he injected in them an intensity and a poetry which were absent in the French text? It is thus that Castilian prose, which is said to be the best since Cervantes, is anonymously part of the resolutions of a conference on Latin American exiles.

Before giving the floor to Dr. Gianni Tognoni, secretary-general of the Tribunal, for reading of the indictment relative to the Armenian case, it is proper to express the reasons the Presidency of the Tribunal decided to accept the indictment that had been addressed to it in the name of the Armenian people by many humanitarian organizations. One might, in fact, be surprised that at this moment when in all parts of the world the rights of so many peoples are so brutally repressed, the Tribunal decided to take into consideration events which, in essence, belong to the past. In this respect, and without any prejudice to the decision which you will have to make, I would like to offer three observations.

Following Article 61 of the Treaty of Berlin, now a century ago, which pressed the Ottoman Empire "to carry out, without delay, improvements and reforms demanded by local requirements in the provinces inhabited by Armenians and to guarantee their security against Circassians and Kurds", the

Armenian people complained of serious and repeated infringements of its fundamental rights and never found a tribunal willing to listen. Our first task is to focus on the facts and to determine their exact nature.

Nonetheless, the Armenian case also raises two juridical questions which have a universal character and that is why it has, at the present, exemplary value for all oppressed peoples. During the last decade, the International Law Commission of the United Nations has elaborated the notion of an 'international crime' which the Tribunal has already made use of in its decision with regard to Argentina on 4 May 1980. According to Article 19, Paragraph 3c of the document on the International Responsibilities of States, an 'international crime' may result from 'a serious and large-scale violation of an international obligation of essential importance for the safety of the human being, such as those outlawing slavery, genocide, and apartheid.' (*Annuaire de la Commission du droit international*, 1976, vol. II, second part, p. 89)

The novelty of the concept of an 'international crime' is that it involves an international illegal act, a State crime, that is, a crime which is imputed to a State itself, and not a classic penal offence which could not occur without a physical person being found personally guilty of it. The judgements pronounced at Nuremberg and in Tokyo on the crimes of the Second World War did, in fact, attribute to organs of the State and rulers a personal responsibility of the State itself, the continuity of which endures beyond constitutional changes and the succession of systems of power. In the case of the acts currently being presented to the Tribunal, the identified or identifiable authors are certainly dead; it is on a State crime that it is necessary to pronounce and not on the individual acts of organs of this state.

My third and last observation concerns one of the juridical consequences of a duly established State crime: this is the obligation to make reparations which must be placed logically on the State to which an illegal international act has been imputed. The notion of the international responsibility of a State is certainly one of the most traditional and best assured of classical international law. Nonetheless, once the obligation to make reparations for the prejudicial act has been placed on the head of the State guilty of an international crime, there still remains the task of designating those who will be the recipients of such reparations.

This is an easy task when the action is pursued by a duly constituted subject of international law, that is a State. When the complainant is a people which has been erased from all or parts of its historic territory and which has never been able to constitute itself as a sovereign state subject to international law, and especially if the illegal act has consisted in making it impossible for this people to exercise or consolidate its right to self-determination, it would constitute a supreme injustice to discharge the responsible guilty State of its obligation to make reparations.

The experts, whom the Tribunal will hear, will report on the nature and extent of the rights which the international community has, since 1878, recognized as those of the Armenian people. It will be the task of the Tribunal to qualify these rights and to assess their impact on the eventual responsibility of the State which had subsequently suppressed these embryonic rights.

It is most important to recall that this tribunal is the Permanent People's Tribunal, that its specific function is to bring justice to peoples who, according to international law and especially to the statute of the International Court of Justice, are deprived of access to interstate judicial institutions or even to states victimized by illegal acts committed by other states if these have evaded their duty to answer for them before the competent judicial institutions.

By way of a preface

— AND BY THE POWER OF ONE WORD

Pierre Vidal-Naquet

Unable to attend the April 13-16 Sessions of the Permanent Peoples' Tribunal, I would simply like to develop the message which I forwarded to the Tribunal and which was read during its last session.

This message, of this testimony if you wish, since I do not belong to the category of judges, is the message of a historian who has always been fascinated by the Armenian example as my friends Anahide and Levon Ter Minassian and Gérard Chaliand know very well. This is also the fascination of a Jew who cannot but pose the problem of the similarities and differences between the destinies of these two strange groupings of human beings: both have been victimized by a major historical crime, both are torn between a centre —real or fictitious — and a dispersed periphery, both struggling against the maddest of the ideologues who, at times, are their own ideologues, both torn between a memory that weighs heavily and a history which does not always deliver, and both struggling with the Great Denial.

The analogies, in fact, catch the eye immediately. Both diasporas in the Western World, have chosen the bourgeois model of the merchant or the financier. The Armenians, a people of peasants in the two zones which were theirs in the north-eastern part of the Ottoman Empire (i.e., in historic Armenia) and in Cilicia were, like the Lebanese, merchants in the cities. In exile, they had their Rothchilds who are called Gulbenkian and, even in the Soviet Union, a Mikoyan who could be seen, vis-à-vis Stalin, as a court Armenian... .

As the Hitlerian genocide contributed to fix, even to freeze, Jewish identity, the genocide of 1915, decided upon and perpetrated by the government in Constantinople and the Union and Progress movement, contributed in a decisive fashion to fix or freeze Armenian identity. These two events are even more closely linked than appears at first. First of all, the massacre of the Armenians served as a model.² What is more important or even of capital importance is that the intentional murder of Jews (and of Gypsies) has, as a consequence, thrown light on and defined the very meaning of the massacre of Armenians as a *state massacre*, starting the series that is already long of the modern massacres perpetrated by states. And, therein lies the properly totalitarian dimension of the phenomenon which is common to the genocides of the Armenians and the Jews. Is it necessary to state or repeat that one explains neither one of the events by speaking of a Holocaust? A Holocaust [presupposes] Priests. Neither in 1915 nor in 1943 were there any priests; there were, rather, servants of a totalitarian order of two nation-states, armed with varying techniques.³ This obvious fact remains, regardless of the absence of clarity in some of the reflections of both groups. Is it, however, necessary to recall that having suffered an attempted genocide gives one 'the right to remember'⁴, but not the right to a decoration?

The Turkish argument of denial was constructed step by step during the four years that followed the collapse of the central powers and their allies, the Bulgarians and the Turks, between the end of 1918 and August 1923, when the Treaty of Lausanne was signed. It was a by-product of the unified and centralized Turkish state created by Mustafa Kemal.

At first the government of the Sultan recognized the crimes of the Union and Progress group, the Ittihad of Talaat and Enver and, in 1919, had them condemned to death in absentia by the military tribunal

² See the discussion on Hitler's 'little phrase' in Yves Ternon, op. Cit., pp.167-9 [*A Crime of Silence*, Zed Press]. We know that Hitler is supposed to have said in August 1939, "Who remembers today the massacres of the Armenians?"

³ The fact is naturally more evident for Nazi Germany, a power with an advanced technology, than for Turkey of 1915. But one should not forget that if the executioners in 1915 were generally the 'underdeveloped', the members of the Committee of Union and Progress who had overthrown Abdul-Hamid II in 1908 were modernizers who were welcomed to power as progressives, including by the Armenian leaders.

⁴ *Arménie: le droit à la mémoire*, the title of the April 1984 issue of *Esprit*.

in Constantinople. The facts seemed to be established at the time: coded telegrams established the responsibility of the central government. The telegrams were translated and read publicly.⁵

Beginning in 1919, however, a first evasion appeared: the deportations were legitimate but the massacres were condemned. Soon nothing remained but the deportations. Following the takeover by Kemal, the language changed drastically: his highest priority became the assertion of the unity of the Turkish lands, be it real or imaginary. The Armenian problem had been resolved by the massacres and the exile; the Greeks, defeated following their mad adventure, became subjects of an exchange of population which left them temporarily only in Istanbul, which was no longer the capital; the Kurds became nothing but the 'mountain Turks', which did not, however, stop them from revolting in 1925. In Lausanne, Ismet Inonu, assistant to Kemal Ataturk, was able to declare placidly:

“The responsibility for all the calamities to which the Armenian element was exposed in the Ottoman Empire falls upon their own deeds: the Turkish government, in every case and without exception, only having had recourse to repressive measures or reprisals, and that only after they had exhausted all their patience.”

Of course, in a country where diverse cultures oppose each other, the majority is always right and the minority is always wrong. The Turks are certainly not the only ones to think this way. What has happened following that remark, from 1923 to the present day, has been nothing but endless variations on an already determined theme within which elements could be replaced without causing any shift in the fundamental argument.

All this meant that the non-existence of the great massacre of the Armenians, which, after the Second World War, came to be called the genocide of the Armenians, became in Turkey a state truth, or, [rather], a national truth, with a totalitarian dimension, that all in positions of authority — diplomats, academics, and even professional historians adopted. The rule in this kind of language is expressed perfectly in the *witz* of the pot which Nadine Fresco has recalled with regard to the genocide of the Jews⁶ and which one could interpret thus: ‘There has not been a genocide of the Armenians; this genocide was fully justified; the Armenians massacred themselves; it was they who massacred the Turks.’⁷

The most worrying point is that those who contest the social order prevailing in Turkey have also adopted this line of argument while giving it a progressive colouration. And certainly, as in all massacres, there are elements of truth in this manner of reasoning that has become totally distorted. They take up the military argument, used by some, that the Turks in April 1915 were threatened both by Russians in the north and by the French and the British who, without being aware of it, had almost broken through at the Dardanelles, and add new considerations on imperialism. The Armenians, a Christian minority unlike the Kurds, were effectively exploited, like the Copts and Maronites, by Western imperialism, including, when occasion demanded, German imperialism, and might eventually have welcomed the Russians as liberators.

⁵ On this point, see Yves Ternon, op. cit., pp. 174-81 and Gérard Chaliand and Yves Ternon, *Le Génocide des Arméniens* (Complexe, Brussels, 1983), pp.120-42 from which I have borrowed some quotations. There is reason to be more reserved on the issue of the authenticity of other, more direct, telegrams, read in 1921 during the trial of Tehlirian who had assassinated Talaat.

⁶ N. Fresco, ‘Les Redresseurs de morts’, *Temps Modernes*, June 1980, pp.2111-80. The *witz* may be summarized this way: A has returned to B in bad shape a pot which he had borrowed from B. In his defence he said, ‘I have not borrowed a pot; it was already broken; and I have returned it intact.’

⁷ The Turkish arguments have been summarized by Yves Ternon and M. Marian in *Esprit*, April 1984, pp.80-5. One can find them stated with perfect clarity by the Turkish ambassador in France, Adnan Bulak, in *Le Monde* of 2 May 1983; the most elaborate ‘scientific’ version of the Armenian dossier, sponsored by the Turkish Historical Society, is contained in Kamuran Gurun’s book, *Le Dossier arménien 9n.p., Triangle. 1984*).

This projected scenario had not stopped Armenians, as far as is known, from responding to the Turkish orders to mobilize⁸ and one cannot see how this possible sympathy for the enemy could have justified the murder of Armenian babies. Were these babies the accomplices of imperialism? But there are, we are asked to believe, denied genocides which it is, however, discreetly suggested, lie within the logic of history.⁹ The most serious point perhaps is that this state truth has been raised to the international level: paragraph 30, concerning the Armenian case, of a United Nations Human Rights Sub-Committee Report was removed in September 1978 under pressure from Turkey; the US State Department denied in November 1981 the historical fact of the Genocide itself; in 1982 Israel submitted to Turkish pressures regarding a conference on genocide in history and withdrew its sponsorship; the Russell Tribunal itself, which in 1967 abused the word¹⁰ and condemned American crimes in Vietnam in the name of genocide, eliminated the murder of Armenians from the list of genocides in history in order to satisfy the Turkish judge who, in turn, was sustained by the Pakistani judge in the name of Islam.¹¹

No one can suspect me of underestimating the Importance of historical 'revisionism' in the matter of the extermination of the Jews. When, following the European elections of 17 June 1984 and the success of Jean-Marie Le Pen, a journalist mentions, among the causes of this success, the 'loss of memory' and 'historical revisionism' on the Jewish genocide,¹² I am tempted to think him right. Everything goes on as if a taboo has been lifted. Having said this, however abundant revisionist publications in Germany and especially in the United States [are], internationally the revisionists remain a small despicable band which does not seriously threaten the historical consciousness of Jews in the Western World. There exists certainly in some Arab countries a state revisionism that is derived largely from the 'war racism' analysed by Maxime Rodinson,¹³ but no country, even for reasons of petroleum, has agreed to adopt such a vision of history. As to Germany herself, she has recognized her crime.

Let us imagine then what Armenian minorities can feel. Let us imagine Faurisson (the leading French revisionist) as minister, Faurisson as president, Faurisson as general, Faurisson as ambassador, Faurisson as president of the Turkish Historic Commission, Faurisson as member of the university senate in Istanbul,¹⁴ Faurisson as an influential member of the United Nations, Faurisson responding in the press every time there is mention of the Jewish genocide.¹⁵ In brief a state Faurisson coupled with an

⁸ This is a point which sometimes represents a problem in the Armenian argument to the extent that there exists among Armenians a tradition which represents them as defenders of Western and Christian values against Islam. See, for example, the testimony of Mrs Kilindjian in *Les Arméniens en cours d'assises* (Parenthèses, Roquevaire, 1983), p.36: 'My father and my uncle had become soldiers by force, like all the Armenians.'

⁹ R. Marienstras, 'Un génocide dans le sens de l'histoire'. In *Etre un peuple en diaspora* (Maspero, Paris, 1975), pp.205-13.

¹⁰ As a determined opponent of the American war in Vietnam I had intervened with one of the judges, Laurent Schwartz, to attempt to block such a reservation which seemed improper to me.

¹¹ A. Ter Minassian, op. cit., p.8, n.3. On this point I had the testimony of Laurent Schwartz and it is from him that I have obtained the detail on the Pakistani judge.

¹² E. Plenel, *Le Monde*, 19 June 1984.

¹³ Maxine Rodinson, 'Quelques idées simple sur l'antisémitisme,' *Revue des études palestiniennes*.1 (1981), pp.5-21.

¹⁴ The Senate of the University of Istanbul adopted in 1981 a resolution justifying the deportation of the Armenians and talking of 'libel' in relation to the great massacre.

¹⁵ There is among the associates of Faurisson at least one person, Vincent Monteil, who also denies the genocide of the Armenians out of his love Islam; see his *Les Musulmans d'Union soviétique* (2nd edition, Seuil, Paris, 1982) and his contribution to *Intolérable intolérance* (Editions de la Différence, Paris, 1982).

international Faurisson and, on top of that, Talaat-Himmler enjoying since 1943 a formal mausoleum in the capital.

That the state where the murder was committed should deny the existence of the murder, and succeed in getting many others to share this denial, sometimes in the name of well understood diplomatic interests, and sometimes in the name of the respect due to all peoples, poses some problems to the heirs of the victims.

That the fixation on the genocide, the obsession with genocide which denies the possibility of completing the 'labour of mourning', may also involve a danger is quite obvious. The identity of a people cannot be limited to the disasters that it has suffered; and, just as it is necessary to protest against the lachrymose conception (S. Baron) of Jewish history and against its transformation into a permanent *vale of tears*,¹⁶ similarly, the most conscious Armenians know too that their history is not made of horrible remembrances alone and that a culture that nourished itself solely on genocide would very quickly become a dead culture.

There exists between the Armenians and the Turks as strange and sinister dialectic. The Armenians can, through terrorism, embarrass the functioning of the Turkish state by striking at its diplomats or ministers. It serves no purpose to observe, as governments favourable to Armenians often do, that the current Turkish government is not responsible for the atrocities committed by the Committee of Union and Progress. But the current government is responsible to the extent that it acquits the past.

That a Turkish head of state may some day imitate the famous gesture, the gesture so often recalled in this respect, of Chancellor Brandt in Warsaw, does not depend on the Armenians. The question that is in fact posed — and that is why that gesture is so difficult — is that of the very identity of the state founded by Mustafa Kemal, a homogeneous, even Jacobin, state, succeeding the hierarchical and multinational empire of the Ottomans. Paradoxically, the destiny of the Armenian cause is perhaps in the hands of the Kurds, the very Kurds who once killed so many Armenians. But let some day such a gesture or speech be made and everything will be possible, including reconciliation.

'And by the power of one word, I start my life all over...'¹⁷

¹⁶ Based on the title of a famous work by Joseph Hacothen of Avignon completed in 1560, two generations after the expulsion from Spain in 1492.

¹⁷ Quotation from a famous poem by Paul Eluard 'Liberté — 'Et par le pouvoir d'un mot, je recommence ma vie.'

PERMANENT PEOPLES' TRIBUNAL

VERDICT OF THE TRIBUNAL

April 16, 1984

“...they [Armenians] constitute a people protected by the right to self determination which necessarily implies that they also constitute a group, the destruction of which is outlawed by virtue of the rule pertaining to genocide.”

Preamble

The most fundamental of all assaults on the right of peoples is the crime of genocide. Nothing is graver in a criminal sense than a deliberate state policy of systematic extermination of a people based on their particular ethnic identity.

This centrality of genocide to the works of the Permanent Peoples' Tribunal is embodied in its basic framework of law set forth in the Universal Declaration of the Rights of Peoples (Algiers, 4 July 1976).

Article 1 of the Algiers Declaration asserts: “Every people has the right to existence.” Article 2: “Every people has the right to respect of its national and cultural identity.” Article 3: “Every people has the right to retain peaceful possession of its territory and to return to it if it is expelled.”

And finally, Article 4 confronts directly the reality of genocide: “None shall be subjected, because of his national or cultural identity, to massacre, torture, persecution, deportation, expulsion or living conditions such as may compromise the identity of integrity of the people to which he belongs.”

Yet, it may still be asked, why so many years after the alleged genocide, should the Tribunal devote its energies to an inquiry into the allegations of the Armenian people. After all, the basic grievance of massacre and extermination is fixed in time sixty-nine years ago in 1915. The Tribunal is convinced that its duties include the validation of historic grievances if these have never been properly brought before the bar of justice and acknowledged in an appropriate form by the government involved.

In this instance, the basis for an examination and evaluation of these Armenian allegations is especially compelling. Every government of the Turkish state since 1915 has refused to come to grips with the accusation of responsibility for the genocidal events.

In recent international forums and academic meetings, the Turkish government had made a concerted effort to block inquiry or acknowledgement of the Armenian genocide.

Furthermore, the current Turkish government has not taken cognizance of these most serious charges of responsibility for extermination the Armenian people. On the contrary, additional charges implicate the present Turkish government in continuing these exterminist policies.

Particularly relevant in this regard are the charges of deliberate destruction, desecration, and neglect of Armenian cultural monuments and religious buildings.

The Tribunal adopts the view that the charge of the crime of genocide remains a present reality to be examined and, if established, to be appropriately and openly acknowledged by leaders of the responsible

state. The victims of a crime of genocide are entitled to legal relief even after this great lapse of time, although this relief must necessarily reflect present circumstances.

Here, also, the attitudes of the Armenian survivors and their descendants are also relevant. Any people rightfully insist and seek a formal recognition by legal authorities of crimes and injustices found to have been committed at their expense. The more extreme the injustice and the longer it is covered up, the more profound is this longing for recognition. The Tribunal notes with regret that the frustration arising from this denial of acknowledgement has seemingly contributed to the recourse to terroristic acts against Turkish diplomats and others. The hope of the Tribunal is to facilitate a constructive process of coming to terms with the Armenian reality, which may lead to a resolution or moderation of the conflict that may arise from it.

Genocide is the worst conceivable crime of state. Often, the state responsible is protected from accountability by other states and by the international framework of the organizations, including the United Nations, composed exclusively of states. One striking feature of the Armenian experience is the responsibility of other states who, for reasons of geopolitics, join with the Turkish government in efforts to prevent, even at this late date, a thorough inquiry and award of legal relief.

The Permanent Peoples' Tribunal was brought into existence partly to overcome the moral and political failures of states as instruments of justice. The Tribunal has inquired into the Armenian grievances precisely because of the long silence of the organized international society and, especially, of the complicity of leading Western states (with the recent exception of France) who have various economic, political, and military ties with the Turkish state.

The Tribunal also acts because it is deeply concerned with the prevalence of genocide and genocidal attitudes in our world. As members of the Tribunal we believe that the uncovering and objective documentation of allegations of genocide contributes to the process of acknowledgement. To uncover and expose the genocidal reality makes it somewhat harder for those with motives of cover up to maintain their position. By validating the grievances of the victims, the Tribunal contributes to the dignity of their suffering and lends support to their continuing struggle.

Indeed, acknowledging genocide itself is a fundamental means of struggling against genocide. The acknowledgement is itself an affirmation of the right of a people under international law to a safeguarded existence.

The Facts

I. Historical Introduction

The presence of the Armenian people in eastern Anatolia and the Caucasus is attested from the sixth century B.C. onward. For two millennia the Armenian people alternated between periods of independence and vassalhood. A succession of royal dynasties came to an end with the collapse of the last Armenian kingdom in the fourteenth century. Having adopted Christianity as their state religion in the early part of the fourth century as well as their own alphabet, both of which gave them a national identity from this period, the Armenians were often persecuted because of their faith by various invaders and suzerains. Though they occupied a geographical position which, as a strategic crossroads, was particularly vulnerable, the Armenians were able until the First World War to create and preserve on their historic territory - which the Turks themselves called Ermenistan - a language, a culture, and a religion: in short, an identity.

Following the disappearance of the last Armenian kingdom, the greater part of "Armenia fell under Turkish domination, while the Eastern regions were under the control first of Persia, then of the Russians, who annexed them in the nineteenth century.

Like other religious minorities, the Armenian community (or 'millet') enjoyed religious and cultural autonomy within the Ottoman Empire and, indeed, was left more or less in peace during the classical period of the Empire's history, in spite of the Armenians' status as second-class citizens ('rayahs').

But with the decline of the Empire in the nineteenth century, conditions grew steadily worse and the climate became one of oppression. The growth in population and the arrival of successive waves of Turkish refugees from Russia and the Balkans as well as the sedentarization of nomads (Kurds, Circassians, etc.) upset the balance of populations and increased the pressure of competition for land, creating numerous problems of tenure in the agrarian sector. The result was a deterioration in the fortunes of the Armenian population, who were mostly peasants and farmers. Modernization and reform were made difficult by the fossilized structure of the Empire. The few attempts at reform (formation of a modern army, taxation in coin) merely impoverished the peasantry further.

At the same time, the emergence of national feelings in the Balkans was leading increasingly to the independence of peoples who had hitherto been under Ottoman rule. The empire was being steadily weakened, not least due to its foreign debt.

From 1878, following the Russian-Turkish war the Armenian question became a factor in the question of the Orient. Article 16 of the Treaty of San Stefano (1878) provided that a series of reforms would be carried out in Armenian areas under Russian guarantee. However, following a reversal of alliances, the Treaty of Berlin (1878) relieved Turkey of part of its obligations and charged Great Britain to supervise the reforms; but they were never implemented.

A revolutionary movement began to develop within the Armenian community (Dashnak and Hunchak parties). Following the Sasun insurrection in 1894, approximately 300,000 Armenians were massacred in the eastern provinces and in Constantinople on the orders of Sultan Abdul Hamid. Protests by the Powers led to more promises of reforms which, again, were never kept; the guerilla ('fedayis') struggle continued. From the turn of the century onward, Armenian revolutionaries also began to cooperate with the Young Turk party in the definition of a federalist plan for the Empire. Following the hopes generated by the constitutional revolution of 1908 Young Turk ideology, under pressure of the exercise of power and external events as well as from the radical wing of the movement, began to develop toward a form of exclusive nationalism which found expression in Pan-Turkism and Turanism.

The Armenians' situation in the Eastern province had not changed either as the result of the revolution or of the overthrow of Abdul Hamid in 1909 (massacres of Adana), and demands for reforms were again made by the Entente Powers. These demands were eventually heard in February 1914, and two inspectors were appointed to supervise their implementation. The appointments were considered by the Ottoman government as unacceptable interference.

At the outbreak of the First World War, the Ottoman Empire was uncertain as to which side to join. At the beginning of November 1914, under German pressure, it sided with the Central Powers. This placed the Armenians in a difficult position. They occupied a territory which Turkey considered as vital to the realization of its Turanist imperialistic ambitions with regard to the peoples of Transcaucasia and Central Asia. Furthermore, the division of the Armenian people between the Ottoman Empire (2,000,000 Armenians) and Russia (1,700,000) inevitably meant that the two sections of the population found themselves on opposing sides. At the Eighth Congress of the Armenian Revolutionary Federation at Erzerum in August 1914, the Dashnak party rejected Young Turk requests to engage in subversive action

among the Russian Armenians. From the beginning of the war, the Turkish Armenians behaved in general as loyal subjects, signing up with the Turkish army.

The Russian Armenians, on their side, were routinely conscripted into the Russian Army and sent to fight on the European fronts. In the first months of the war, Russian Armenians enrolled with volunteer corps which acted as scouts for the Tsarist army - the Russian answer to the plan Turks had submitted to Armenians in Erzerum some months earlier. The Erzerum refusal and the formation of these volunteer battalions were used as arguments by the Young Turks to allege Armenian treachery. Enver, who had been appointed Supreme Commander of Turkish forces, achieved a breakthrough into Transcaucasia in the middle of winter, but was defeated at Sarkamish as much by the weather conditions as by the Russian army. Of the Turkish Third Army's 90,000 men, only 15,000 remained. In the depressed aftermath of the defeat in the Caucasus, the anti-Armenian measures began.

II. THE GENOCIDE

Beginning in January 1915, Armenians soldiers and gendarmes were disarmed, regrouped in work brigades of 500 to 1,000 men, put to work on road maintenance or as porters, then taken by stages to remote areas and executed. It was not until April that the implementation of a plan began, with successive phases carried out in a disciplined sequence. The signal was first given for deportation to begin in Zeytun in early April, in an area of no immediate strategic importance. It was not until later that deportation measures were extended to the border provinces.

The pretext used to make the deportation a general measure was supplied by the resistance of the Armenians of Van. The Vali of Van, Jevdet, sacked outlying Armenian villages and the Van Armenians organized the self-defense of the city. They were saved by a Russian breakthrough spearheaded by the Armenian volunteers from the Caucasus. After taking Van on May 18th, the Russians continued to press forward but were halted in late June by a Turkish counter-offensive. The Armenians of the vilayet of Van were thus able to retreat and escape extermination.

When the news of the Van revolt reached Constantinople, the Union and Progress (Ittihad) Committee seized the opportunity. Some 650 persons—writers, poets, lawyers, doctors, priests and politicians were imprisoned on April 24th and 25th, 1915, then deported and murdered in the succeeding months. Thus was carried out what was practically the thorough and deliberate elimination of almost the entire Armenian intelligentsia of the time.

From April 24 onwards, and following a precise timetable, the government issued orders to deport the Armenians from the eastern vilayets. Since Van was occupied by the Russian army, the measures applied only to the six vilayets of Trebizond (Trabzon), Erzerum, Bitlis, Diarbekir, Kharput, and Sivas. The execution of the plan was entrusted to a 'special organization' (SO), made up of common criminals and convicts trained and equipped by the Union and Progress Committee. This semi-official organization, led by Behaeddin Shakir, was under the sole authority of the Ittihad Central Committee. This semi-official organization, led by Behaeddin Shakir, was under the sole authority of the Ittihad Central Committee. Constantinople issued directives to the valis, kaymakans, as well as local SO men, who had discretionary powers to have moved or dismissed any uncooperative gendarme or official. The methods used, the order in which towns were evacuated, and the routes chosen for the columns of deportees all confirm the existence of a centralized point of command controlling the unfolding of the program.

Deportation orders were announced publicly or posted in each city and township. Families were allowed two days to collect a few personal belongings; their property was confiscated or quickly sold off. The first move was generally the arrest of notables, members of Armenian political parties, priests, and young men, who were forced to sign fabricated confessions then discreetly eliminated in small groups. The

convoys of deportees were made up of old people, women, and children. In the more remote villages, families were slaughtered and their homes burned or occupied. On the Black Sea coast and along the Tigris near Diarbekir boats were heaped with victims and sunk. From May to July 1915, the eastern provinces were sacked and looted by Turkish soldiers and gendarmes, SO gangs ('chetes'), etc. This robbery, looting, torture, and murder were tolerated or encouraged while any offer of protection to the Armenians was severely punished by the Turkish authorities.

It was not possible to keep the operation secret. Alerted by missionaries and consuls, the Entente Powers enjoined the Turkish government, from May 24, to put an end to the massacres, for which they held members of the government personally responsible. Turkey made the deportation official by issuing a decree, claiming treason, sabotage, and terrorist acts on the part of the Armenians as a pretext.

Deportation was in fact only a disguised form of extermination. The strongest were eliminated before departure. Hunger, thirst, and slaughter decimated the convoys' numbers. Thousands of bodies piled up along the roads. Corpses hung from trees and telegraph poles; mutilated bodies floated down rivers or were washed up on the banks. Of the seven eastern vilayets' original population of 1,200,00 Armenians, approximately 300,000 were able to take advantage of the Russian occupation to reach the Caucasus; the remainder were murdered where they were or deported, the women and children (about 200,000 in number) kidnapped. Not more than 50,000 survivors reached the point of convergence of the convoys of deportees in Aleppo.

At the end of July 1915, the government began to deport the Armenians of Anatolia and Cilicia, transferring the population from regions which were far distant from the front and where the presence of Armenians could not be regarded as a threat to the Turkish army. The deportees were driven south in columns which were decimated en route. From Aleppo, survivors were sent on toward the deserts of Syria in the south and of Mesopotamia in the southeast. In Syria, reassembly camps were set up at Hama, Homs, and near Damascus. These camps accommodated about 120,000 refugees, the majority of whom survived the war and were repatriated to Cilicia in 1919. Along the Euphrates, on the other hand, the Armenians were driven ever onward toward Deir-el-Zor; approximately 200,000 reached their destination. Between March and August 1916, orders came from Constantinople to liquidate the last survivors remaining in the camps along the railway and the banks of the Euphrates.

There were nevertheless still some Armenians remaining in Turkey. A few Armenian families in the provinces, Protestants and Catholics for the most part, had been saved from death by the American missions and the Apostolic Nuncio. In some cases, Armenians had been spared as a result of resolute intervention by Turkish officials, or had been hidden by Kurdish or Turkish friends. The Armenians of Constantinople and Smyrna also escaped deportation. Lastly, there were cases of resistance (Urfa, Shabin-Karahisar, Musa-Dagh). In all, including those who took refuge in Russia, the number of survivors at the end of 1916 can be estimated at 600,000 out of an estimated total population in 1914 of 1,800,000, according to A. Toynbee.

In Eastern Anatolia, the entire Armenian population had disappeared. A few survivors of the slaughter took refuge in Syria and Lebanon, while others reached Russian Armenia. In April 1918, in order to circumvent provisions of the Treaty of Brest-Litovsk stipulating that Bolshevik Russia cede Batum, Kars, and Ardahan to Turkey, Transcaucasia declared independence, forming a short-lived Federation which was to break up into three republics in May 1918: Georgia, Armenia, and Azerbaijan.

At its defeat in November 1918, Turkey recognized the Armenian state and even ceded to it in the following year the vilayets of Kars and Ardahan.

All the allied governments had solemnly promised on several occasions, in statements by their representatives Lloyd George, Clemenceau, Wilson, etc., to ensure that justice was done by the 'martyred Armenian people'.

In April 1920, the San Remo Conference proposed that the United States accept an Armenian mandate, and that, whatever the United States decision, President Wilson should define the frontiers of the Armenian State and that the peace treaty with Turkey should designate him as a referee in the question of the Turkish-Armenian frontiers.

The Treaty of Sèvres (August 10, 1920), which recognized the Armenian state and ratified the frontiers drawn by President Wilson, did not, however, settle the issue. This Treaty, which was signed by the government in Constantinople and which shared out large sections of Anatolia to the Italians, the British, and the French as well as favoured the Greeks in the Aegean Sea, was unacceptable to Mustafa Kemal, who rejected it. The Republic of Armenia under the leadership of the socialist Armenian Revolutionary Federation (Dashnak) was soon caught in a vice between the Kemalist offensive and Bolshevik Russia. When, on November 20, 1920, President Wilson officially set forth the territorial limits of the new state, the collapse of the Republic was only a few days off. The vilayets of Kars and Ardahan were retaken by Turkey (Treaty of Alexandropol) and what remained of Armenia (approximately 30,000 sq. km.) became Soviet on December 2, 1920.

On July 24, 1923, the Treaty of Lausanne was signed by the Great Powers and the new Republic of Turkey with no mention of Armenia or the rights of Armenians. The Armenian question was closed.

III. THE EVIDENCE

The Tribunal is invited to pronounce judgement on the charge of genocide brought on the basis of the events of 1915-1915.

The Tribunal considers that the facts presented above are established on the basis of substantial and concordant evidence. This evidence has been produced and analyzed in the various reports heard by the Tribunal, to which numerous documents have been submitted.

A near-exhaustive bibliography of these sources has been drawn up by Professor R.G. Hovannisian, *The Armenian Holocaust*, Cambridge, Massachusetts, 1981.

Not counting the Ottoman archives-which are inaccessible-the main documents are as follows:

- The German archives, which in view of the status of Germany as ally of the Ottoman Empire, are of prime significance. Especially worthy of note are the reports and eyewitness observations of Johannes Lepsius, of Dr. Armin Wegner, of the charitable organization 'Deutscher Hilfsbund', of Dr. Jacob Kunzler, of the journalist Stuermer, of Dr. Martin Niepage, of the missionary Ernst Christoffel, and of General Liman von Sanders; the latter related how the Armenian populations of Smyrna and Andrinopolis were spared as a result of his resolute personal intervention.
- The reports of German diplomatic and consular personnel who were eyewitnesses of the conditions of the dispersion of the Armenians at Erzerum, Aleppo, Samsun, etc.
- The American archives, which also contained very ample material in confirmation of the above (reports by missionaries, consuls, and charities) and 'Internal Affairs of Turkey, 1910-1919, Race Problems', State Department, and the memoirs of the of the American Ambassador in Constantinople, Henry Morgenthau.

- The British authorities' Blue Book on these events, published in 1916 by Viscount Bryce.
- The minutes of the Trial of the Unionists (Ittihadists) on charges brought by the Turkish government following the defeat of the Ottoman Empire.
- At the time of this trial, which took place between April and July 1919, the Turkish government collected evidence of the deportation and massacres and tried those responsible - the majority in their absence - by a court martial. The court convicted most of the defendants, including Talaat, Enver, and Jemal, who were sentenced to death in absentia.
- The reports submitted to the Tribunal by four survivors of the massacres who lived through the events as children.

IV. THE TURKISH ARGUMENTS

The Tribunal has examined the Turkish arguments as set forth in the documents submitted to it.

The refusal of the Turkish government to recognize the genocide of the Armenians is based essentially on the following arguments: lower estimate of death toll; responsibility of Armenian revolutionaries; counter-accusations; denial of premeditation.

The number of Armenians living in the Ottoman Empire in 1914 has been variously estimated at 2,100,000 by the Armenian Patriarchate; 1,800,000 by A. Toynbee; and about 1,300,000 by the Turks. In spite of different estimates of the number of victims, the Armenians and almost all the Western experts agree on the proportion; approximately two thirds of the population.

The Turks claim that the consequences of the 'transfer' were on a much smaller scale, resulting in the disappearance of 20-25 percent of the population due to generally poor wartime conditions. The Turkish state also points out that losses were heavy on the Muslim side. This argument appears to overlook the fact that Armenians have almost entirely disappeared from Anatolia. The population of Turkey is currently about 45 million, of whom less than 100,000 are Armenians.

In order to shift responsibility away from itself, the Turkish government alleges that Armenians committed acts of sedition and of treason in time of war. However, the Tribunal has found that the only armed actions undertaken within the Ottoman Empire were the Sassun revolt and the resistance of Van in April 1915.

A further argument advanced by the Turkish state is the accusation that it was the Armenians who supposedly committed genocide against the Turks. It is true that in 1917 (i.e. more than a year after the deportation and extermination of the Armenians was completed) a number of Turkish villages were annihilated by Armenian troops. The Tribunal considers that these acts, however blameworthy, cannot be considered as genocide. Furthermore, the Tribunal notes that these acts were committed some considerable time after the mass slaughter suffered by the Armenians.

Lastly, the Turkish state rejects the charge of premeditation, impugning the authenticity of the five telegrams sent by the Minister of the Interior, Talaat, which were certified as authentic by experts appointed by the Court at the trial of Soghomon Tehlirian at Berlin-Charlottenburg in 1921. Tehlirian was acquitted of the murder of Talaat in view of the crimes against humanity perpetrated by the Young Turk government. The German Ambassador, Wangenheim, for his part, left no doubt, as early as July 7, 1915 as to the premeditation of the events: "these circumstances and the manner in which the deportation is being carried out are a demonstration of the fact that the government is indeed pursuing its goal of

exterminating the Armenian race in the Ottoman Empire.” (Letter concerning the extension of the deportation measures to provinces not under threat of invasion by the enemy [No. 106 in the collection Deutschland und Armenien, 1914-1918] in the Wilhelmstrasse archives and published by the Rev. Lepsius.)

In 1971, the United Nations Commission on Human Rights asked its Sub-Committee on the fight against discriminatory measures and the protection of minorities, comprising independent experts, to undertake a ‘study of the question of the prevention and punishment of the crime of genocide.’

In 1973 and 1975, the two interim reports which were submitted to the Sub-Committee by the special rapporteur contained a paragraph 30 which read as follows: ‘In modern times, attention should be drawn to the existence of fairly abundant documentation relating to the massacre of the Armenians, considered as the first genocide of the twentieth century.’

In the final report submitted to the Commission in 1979, the aforementioned paragraph 30 was omitted.

The Commission's Chairman observed that the omission had given rise to such a wave of protest that its effects were assuming proportions which had possibly not been anticipated by the author. He therefore invited the rapporteur, when putting the finishing touches to his report, to bear in mind this reaction and statements made by the Commission delegates following the omission

The special rapporteur never reported back to complete his mission and the Sub-Committee, in pursuance of Economic and Social Council Resolution 1983/33, appointed another special rapporteur with instructions to fully revise and update the study on the question of the prevention and punishment of the crime of genocide.

The Tribunal has found that the Turkish delegation, in opposing the adoption of the above-mentioned paragraph 30, essentially advanced the following arguments:

1. that the facts alleged were a distortion of historical truth.
2. that the term genocide did not apply since the events concerned were not massacres but acts of war.
3. and lastly, that harking back to events which took place as long ago as the beginning of the century would merely serve to stir up ill feeling.

On the first two points, concerning the facts and the law, the Tribunal has examined the arguments submitted in the case before it and trusts that in so doing it has contributed to meeting the wish of the Commission for Human Rights that efforts should be made to enable the Sub-Committee to complete its task taking into consideration all the material which has been submitted to it.

On the third point, the Tribunal can only observe that the refusal to adopt paragraph 30, quoted above, far from allaying concern, has given rise to passionate reaction.

In Law

IV. On the Rights of the Armenian People

The Tribunal notes that the Armenian population groups which were the victims of the massacres and other atrocities which have been reported to it constitute a people within the meaning of the law of nations.

Today, this people has the right of self-determination in accordance with Article 1,S2 of the United Nations Charter and the provisions of the Universal Declaration of the Rights of Peoples adopted in

Algiers on July 4, 1976. It is incumbent upon the international community, and primarily, on the United Nations Organization, to take all necessary measures to ensure the observance of this fundamental right, including measures the prime object of which shall be to enable the effective exercise of that right.

The Tribunal wishes to stress the special obligations which are placed upon the Turkish state in this regard arising from the general rule of the law of nations as well as from individual treaties to which it has been party and which date back approximately one hundred years.

In this connection, the Tribunal draws special attention to the fact that by virtue of Article 61 of the Treaty of Berlin, the aforementioned state entered into an obligation as early as 1878 to assign the Armenian people within the Ottoman Empire a regime guaranteeing its right to flourish in a climate of security under the supervision of the international community.

The Tribunal also notes that promises of self determination which were made to the Armenian people at the time of the First World War were not kept, since the international community unduly permitted the disappearance of an Armenian state which in principle had been clearly recognized both by the Allied and associated Powers and by Turkey in the Treaty of Batum.

The fact that the right of this state to peaceful existence within recognized borders as a member of the international community has not been observed, no more than was the right of the Armenian population to exist peacefully within the Ottoman Empire, cannot however be considered as effectively extinguishing the rights of the Armenian people, or of relieving the international community of its responsibility toward that people.

The Tribunal records that the fate of a people can never be considered as a purely internal affair, entirely subject to the whims, however well intentioned, of sovereign states. The fundamental rights of this people are of direct concern to the international community, which is entitled and duty bound to ensure that these rights are respected, particularly when they are openly denied by one of its member states.

In this particular case, this conclusion is still further corroborated by the fact that, even before the right of peoples to self determination was explicitly affirmed by the United Nations Charter, the rights of the Armenian people had already been recognized by the states concerned under the supervision of representatives of the international community.

III. ON THE CHARGE OF GENOCIDE

A) General rules applicable to charges of genocide

According to the Convention on the Prevention and Punishment of the Crime of Genocide, which was adopted by the United Nations General Assembly on December 9, 1948, genocide is 'a crime under international law', 'whether committed in time of peace or in time of war' (Article I).

Genocide means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnic, 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. (Article II)

According to Article III:

The following acts shall be punishable:

- a) Genocide;
- b) Conspiracy to commit genocide;
- c) Direct and public incitement to commit genocide;
- d) Attempt to commit genocide;
- e) Complicity in genocide.

Lastly, Article IV stipulates that persons guilty of one of the aforementioned acts shall be punished: 'whether they are constitutionally responsible rulers, public officials or private individuals.'

The Tribunal considers that these provisions must be accepted as defining circumstances in which genocide is to be punished in accordance with the law of nations, in spite of the fact that certain broader definitions exist.

This convention formally came into force on January 12, 1951 and was ratified by Turkey on July 31, 1950. It should not be inferred from this, however, that acts of genocide cannot be the object of an indictment in law if such acts were committed either before the convention came into force or within the territory of a state which had not ratified the Convention. While it is true that the Convention places upon signatory states obligations to prevent or punish a crime which is not defined in any other instrument, it must nevertheless be judged to be declaratory of law inasmuch as it condemns genocide itself.

This declaratory force of the instrument arises from the wording of the Convention itself. In the preamble, the contracting parties 'recognize that throughout history, genocide has inflicted severe losses on humanity' and 'confirm' in Article I that genocide constitutes a crime in the law of nations. This confirmation necessarily implies that this crime existed before December 9, 1948. It is, moreover, generally acknowledged by international legal doctrine of states, which reflects the undeniable reality of a collective conscience of states. It is of little consequence that the term 'genocide' itself was only recently coined. The only point of relevance is that the acts which it describes have long been condemned.

Once such declaratory force is accepted, the Tribunal is not required to determine the precise date of origin of the rule proscribing genocide codified by the Convention. It is sufficient for the purposes of the Tribunal to establish that this rule was undisputedly in force at the time when the massacres described to it were committed. Indeed, it emerges clearly from the deeds that have been done and the statements that have been arising from the Armenian question, however justifiable these may or may not be or have been for various reasons, that the 'laws of humanity' condemned the policy of systematic extermination pursued by the Ottoman government.

The Tribunal wishes to stress in this regard that such laws, however pressing the need for their formalization at the present time, do not merely reflect imperative moral or ethical rules: they also express positive legal obligations which cannot be ignored by states on the pretext that they have not been expressed formally in treaties, as is confirmed by the example of the Martens clause in the area of the law of warfare.

Moreover, the condemnation of crimes committed during the First World War bears out the belief of states that such crimes could not be tolerated legally even though no written rules explicitly forbade them. The Tribunal recalls in this connection that such condemnation was pronounced on crimes against humanity as well as war crimes; it should furthermore be emphasized that Article 230 of the Treaty of Sèvres expressly invoked the responsibility of Turkey in massacres perpetuated on Turkish territory.

Certainly this treaty has not been ratified, and the obligation of punishment which it stipulated has therefore never operated; however, this fact does not detract from the clear manifestation afforded to us today by the content of that treaty that the states of that time were indeed conscious of the illegality of the crime which we now call genocide.

For these reasons, the Tribunal considers that genocide was already prohibited in law from the time of the first massacres of the Armenian population, since the 1948 convention served only to give formal expression, and indeed in a qualified formulation, to a rule of law which is applicable to the facts which formed the basis of the charge brought before this tribunal.

b) The Charge of Genocide of the Armenian People

The following observations would seem to be necessary on examination of the evidence which has been submitted to the Tribunal, the substance of which is reported below.

There can be no doubt that the Armenians constitute a national group within the definition of the rule outlawing genocide. This conclusion is all the more evident since they constitute a people protected by the right to self determination which necessarily implies that they also constitute a group, the destruction of which is outlawed by virtue of the rule pertaining to genocide.

There is no doubt regarding the reality of the physical acts constituting the genocide. The fact of the murder of members of a group, of grave attacks on their physical or mental integrity, and of the subjection of this group to conditions leading necessarily to their deaths, are clearly proven by the full and unequivocal evidence submitted to the Tribunal. In its examination of the case the Tribunal has focused primarily on the massacres perpetrated between 1915 and 1917, which were the most extreme example of a policy which was clearly heralded by the events of 1894-1896.

The specific intent to destroy the group as such, which is the special characteristic of the crime of genocide, is also established. The reports and documentary evidence supplied point clearly to a policy of methodical extermination of the Armenian people, revealing the specific intent referred to in Article II of the Convention of December 9, 1948.

The policy took effect in actions which were attributable beyond dispute to the Turkish or Ottoman authorities, particularly during the massacres of 1915-1917. The Tribunal notes on the one hand, however, that in addition to the atrocities committed by the official authorities, the latter also used malicious propaganda and other means to encourage civilian populations to commit acts of genocide against the Armenians. It is further observed that the authorities generally refrained from intervening to prevent the slaughter, although they had the power to do so, or from punishing the culprits, with the exception of the trial of the Unionists. This attitude amounts to incitement to crime and to criminal negligence, and must be judged as severely as the crimes actively committed and specifically covered by the law against genocide.

On the evidence submitted, the Tribunal considers that the various allegations (rebellion, treason, etc.) made by the Turkish government to justify the massacres are without foundation. It is stressed, in any event, that even were such allegations substantiated, they could in no way justify the massacres committed. Genocide is a crime which admits of no grounds for excuse or justification.

For these reasons, the Tribunal finds that the charge of genocide of the Armenian people brought against the Turkish authorities is established as to its foundation in fact.

c) The Consequences of the Genocide

The Tribunal recalls that, as is the case with all other crimes against humanity, genocide is by definition a crime to which no statute of limitations can apply by virtue of general international law, as confirmed by the Convention on the Non-Applicability of Statutes of Limitations to War Crimes and Crimes against Humanity, which was adopted by the United Nations General Assembly on November 26, 1968.

All those responsible for the massacres, whether 'they are constitutionally responsible rulers, public officials or private individuals' are thus subject to penalties, which states are under an obligation to apply in order to observe the guarantees attached to the exercise of the enforcement of justice.

Apart from the question of penalties, genocide is furthermore a violation of the law of nations for which the Turkish state must assume responsibility. Its first duty arising from this position lies in a basic obligation incumbent upon it to admit the facts without seeking to dissemble and to deplore the commission of this act. This in itself would constitute minimal redress for the incalculable moral injury suffered by the Armenian nation.

The Tribunal wishes to draw special attention to the fact that international practice as applied to the Turkish state since the time of these events affords sufficient legal basis to establish that the identity and continuity of this state have not been affected by the upheavals in the country's history since the dissolution of the Ottoman Empire.

Neither its territorial losses nor the reorganization of its political system have been such as to detract from its continued identity as a subject of the law of nations. Consequently, it cannot be considered that successive Turkish governments since the constitution of a Kemalist republic are justified in refusing to assume a responsibility which remains with the state they represent in the international community.

The Tribunal further notes that nothing in the statements or conduct of the Armenian people or of the states sharing the responsibility of safeguarding its rights can be interpreted as implying their waiver of the blame attaching to those guilty of the genocide. Like its predecessors, the present Turkish government is therefore bound to assume this responsibility.

A crime of this nature violates obligations which are so essential to the international community that the authors of a recent draft Article on the responsibility of states have rightly described it as an 'international crime of state' within the meaning of the law on the responsibility of states, in other words, no longer within the purview of ordinary criminal law.

As a result, and as is indeed confirmed by the special obligations of the international community toward the Armenian people, any member of this community has the right to call the Turkish state to account regarding its obligations, and in particular, to elicit official recognition of the genocide should this state persist in denying it, and is furthermore authorized to take any measure of aid and assistance on behalf of the Armenian people as provided by the law of nations and the Declaration of Algiers, without being accused in so doing of illicit interference in the affairs of another state.

Finally, it is incumbent upon the international community as a whole, and more especially through the United Nations Organization, to recognize the genocide and to assist the Armenian people to this end.

Indeed, it cannot be considered entirely justified, neither in allowing a crime to be committed against one of its peoples which it is obligated to protect in the same way as anyone of its states, nor in tolerating the wrongful denial of such a crime until today.

The Armenian genocide which took place during the First World War was the first act of its kind in a century during which genocide and the horror associated with it have, alas, become widespread.

The perpetration of such atrocities has not been confined to societies which certain might describe as underdeveloped. On the contrary, in some cases they have been committed by nations generally considered to be the most developed and the most scientifically advanced. In fact, the most significant example in the whole of the twentieth century involved the application of advanced technology and sophisticated organization in the genocide of the European Jews by the Nazis, a genocide which caused human suffering to a degree barely conceivable and which ultimately led to the extermination of approximately six million people.

In previous sessions, the Tribunal had had occasion to condemn genocides committed against the people of El Salvador (decision of February 11, 1981), the Maubere people of Eastern Timor (decision of June 21, 1981), and the Indian people of Guatemala (decision of January 31, 1983).

The Tribunal notes that one of the most serious consequences and one of the most disturbing effects of genocide - above and beyond the irreparable wrongs inflicted upon its immediate victims - is the degradation and perversion of humanity as a whole.

FOR THESE REASONS

In answer to the questions which were put to it, the Tribunal hereby finds that:

- The Armenian population did and do constitute a people whose fundamental rights, both individual and collective, should have been and shall be respected in accordance with international law;
- The extermination of the Armenian population groups through deportation and massacre constitutes a crime of genocide not subject to statutory limitations within the definition of the Convention on the Prevention and Punishment of the Crime of Genocide of December 9, 1948. With respect to the condemnation of this crime, the aforesaid Convention is declaratory of existing law in that it takes note of rules which were already in force at the time of the incriminated acts;
- The Young Turk government is guilty of this genocide, with regard to the acts perpetrated between 1915-1917;
- The Armenian genocide is also an 'international crime' for which the Turkish state must assume responsibility, without using the pretext of any discontinuity in the existence of the state to elude that responsibility;
- This responsibility implies first and foremost the obligation to recognize officially the reality of this genocide and the consequent damages suffered by the Armenian people;
- The United Nations Organization and each of its members have the right to demand this recognition and to assist the Armenian people to that end.

PERMANENT PEOPLES' TRIBUNAL

— VERDICT AND CONCLUSIONS OF THE TRIBUNAL —

ON THE QUESTION OF THE ARMENIAN GENOCIDE
IN SESSION AT THE SARBONNE, PARIS, FRANCE

APRIL 16, 1984

“...they [Armenians] constitute a people protected by the right to self determination which necessarily implies that they also constitute a group, the destruction of which is outlawed by virtue of the rule pertaining to genocide.”

CONCLUSIONS OF THE TRIBUNAL¹⁸

It follows from the [deliberations of the Tribunal] that:

- 1) The Armenian people constitute a people, which has a right to determine freely its own destiny according to international law as well as on the basis of the particular obligations agreed upon by Turkey since the Treaty of Berlin;
- 2) The massacre of Armenian populations constitutes a genocide according to the Convention of 9 December 1948 which, while condemning genocide, are declaratory of existing law;
- 3) The Turkish authorities must be judged guilty of genocide, of instigation to genocide, and of complicity in genocide for their role in the massacres perpetrated in 1894-96 and in 1915-17;
- 4) The Armenian genocide is an ‘international crime’ for which the Turkish government must assume responsibility without the ability to use the pretext of discontinuity in the Turkish state to avoid such responsibility;
- 5) This responsibility assumes mainly the obligation to make reparations for the moral and material harm to which the Armenian nation was subjected;
- 6) Every member of the international community has the right to demand sanctions for the moral and material harm to which the Armenian nation was subjected;
- 7) The United Nations has the obligation, based both on the general rules of international law to self-determination and on the particular responsibilities which weigh upon the Powers since the Treaty of Berlin, to ‘watch over the fate of Armenia’, according to the Assembly of the League of Nations, and to take all necessary measures to respect its rights.

¹⁸ Excerpted from *A Crime of Silence, The Armenian Genocide - Permanent People's Tribunal*, p209, Zed Books, London, 1985.