



## WAR CRIMES AND CRIMES AGAINST HUMANITY ON THE EXAMPLES OF THE KATYN MASSACRE, THE HOLODOMOR AND THE ARMENOCIDE

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Para citar este artículo puede utilizarse el siguiente formato:

**Paraskevi Charitidou** (2012): "War Crimes and Crimes against Humanity on the Examples of the Katyn Massacre, the Holodomor and the Armenocide", en *Revista europea de historia de las ideas políticas y de las instituciones públicas*, n.º 3 (junio 2012), pp. 45-92. En línea: <http://www.eumed.net/rev/rehipip/03/pc.pdf>.

**ABSTRACT:** This is a journey to the past to prepare for the future. Based on historic facts, starting from the Katyn massacre of Polish officers in 1940, moving on to the Ukrainian Holodomor 1932-33, ending up to the Armenocide 1894-1923 and always guided by the spirit of Shoah, we will use the lenses of International Humanitarian Law to examine whether these cases constituted either war crimes or crimes against humanity. In the end, we will feel the necessity to invent a strategy for restoring justice.

**KEY WORDS:** Katyn, Holodomor, Armenocide, Genocide, Lygeros.

**RESUMEN:** Este es un viaje al pasado para sentar las bases en el futuro, basado en hechos históricos que se inician con la masacre de oficiales polacos de Katyń en 1940, pasando por el holodomor u holocausto ucraniano de 1932 a 1933 y que finalizan con el armenocidio de 1894 a 1923, todo ello guiado por el espíritu de la Shoá. Se recurrirá al Derecho internacional humanitario para examinar si estos hechos fueron constitutivos de crímenes de guerra o contra la humanidad, para concluir la necesidad de un cambio legal.

**PALABRAS CLAVE:** Katyń, Holodomor, Armenocidio, Genocidio, Lygeros.

### 1. Introduction

If the ink of these pages could have been chosen freely, against all technical requirements, then we would indisputably use the red color. Not merely as an indication of the blood of the innocents spilled over the centuries, but what is more as an homage to the humans for the loss of their lives in times of warfare, as victims of war crimes, and to the humans, who have been 'genocided', if, of course, Lemkin would allow us to use the word, which he first introduced, in the form of a verb.

The purpose of this document is not to reveal the truth or to attribute justice for the type of crimes mentioned in the title. This is, however, the intention of the author as a human being, who merely wishes to dare to know in accordance with Horace's exhortation '*sapere aude*'.

The purpose of this thesis is to examine the difference between on the one hand the war crimes and on the other hand the crimes against humanity and

more specifically genocides, according to the International Humanitarian Law, both conventional and customary.

By all means the task is not easy, mainly because many cases of genocide throughout the history of mankind have been committed during wars. At the same time, some cases of crimes of war bear genocidal elements and could actually constitute genocide. The distinction between the two types of crimes is challenging enough, so that we need examples of crimes to facilitate our examination.

More specifically, we will invoke the following cases: the Katyn massacre (April-May 1940) by the Stalinist regime, the Holodomor (1932-33) by Stalinism again and the Armenocide (1894-1923) by the Ottoman, Young-Turkish and Kemalist regimes.

We will try to examine whether the Katyn massacre was a crime of war or genocide. As second step we will touch upon the Ukrainian famine, the Holodomor, as it is well-known and last we will examine the case of the Armenian genocide, since it is one of the best promoted, in terms of international recognition, cases of genocide.

As last note to the introduction, it would be thoughtful to bear in mind that the pages of history of humanity *de facto* written by crimes are not stain, but scarlet. The numbers below-mentioned are not mere figures, but instead human souls unwarrantably deprived of their future. The least thing one could do is not to forget their sacrifice.

The best would probably be to struggle for justice to prevail, simply because as Martin Luther King Jr. said “injustice anywhere is a threat to justice everywhere”.

## 2. Definitions

At this point the founder of the Cynic School Antisthenes would probably advise us to define the terms we use, since ‘thinking over the names is the beginning of wisdom’<sup>1</sup>.

### 2.1. War Crimes

In this respect, we may start with the term ‘war crime’, which by definition seems to be an oxymoron schema, since for humans, war is a crime *per se*. To avoid a mental impasse, we could alternatively move to Humanitarian Law, which exactly covers the cases of war crimes.

A war crime is a crime committed against individuals during war either officially declared or not. If two states are either expressively or *de facto* in a state of war and specific actions or omissions violating the law of war to the detriment of civilians or combatants take place on the part of one of the belligerents, then war crimes are committed. To be more precise we have to resort to the International Law and more specifically to the International Humanitarian Law.

#### 2.1.1. Laws of war and the International Humanitarian Law (IHL)

##### 2.1.1.1. Conventional IHL

First, it should be noted that after World War II it was generally accepted that war or more precisely use of force ought to be outlawed from the international

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<sup>1</sup> «Ἀρχὴ σοφίας ἡ τῶν ὀνομάτων ἐπίσκεψις», Antisthenes (444-366 B.C.)

arena as a possible means to solve political or other differences in international relations.

Thus, according to the UN Charter Art 2 paragraph 4: «All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations»<sup>2</sup>.

In this light, it is illegal nowadays to wage a war or in other terms to use force in an international difference. But again, in case a state is eventually to use force and conduct warfare activities, as for instance in self-defense, there are certain obligations the state should meet and certain limits to respect, in terms of the methods used against the enemy, as well as the treatment of civilians and the wounded, and of prisoners of war; the latter being of particular importance for our study.

All the above due to the fact that it has been deemed essential for the international community to underline that even in the cases that the *de facto* antagonistic and polemologic framework of international relations actually leads to a war or atrocities, the ultimate goal of the belligerents should not exceed the boundaries set by humanity and should not violate specific rules dictated by international conscience.

This is exactly the reason why the laws of war form the branch of International Law called Humanitarian.

Of course, all the above were shaped after centuries if not millennia throughout which the humankind has been waging wars. From the very beginning certain rules were set by different cultures and civilizations in an effort to put the least accepted boundaries for waging warfare.

One of the most common rules one can identify was the need for a formal declaration of war. We can track this element down as early as the Sumerians' time. Moreover we find the first mentions in favor of the protection of the weak belligerents in the Hammurabi code of Babylon (1728-1686 BC)<sup>3</sup>.

There were also certain unwritten rules to have been respected during wars between ancient Greek city-states, *inter alia* respect for temples and delegates of the opposite side as well as the practice of exchanging of prisoners. In the orders of the first caliph Abu Bakr<sup>4</sup> (circa 632) we may also see some basic elements in favor of the protection of women, children and old people during war.

The same principle had been also strictly governing the wars during the Middle Ages. At the same era the unwritten rules of chivalry, which were respected by the knights, provided for instance the prohibition of certain types of weapons as well as forbidden days to wage a war and even rules about the treatment of prisoners or wounded.

The Order of Saint-John of Jerusalem also known as the Hospitallers<sup>5</sup> played a significant role in this regard.

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<sup>2</sup> <http://www.un.org/en/documents/charter/index.shtml> Charter of the United Nations. Also the preamble reads as follows "...to ensure, by the acceptance of principles and the institution of methods, that armed force shall not be used".

<sup>3</sup> D. Fleck, *The Handbook of Humanitarian Law in Armed Conflicts*, Oxford, United States, Oxford University, 1995, p.12.

<sup>4</sup> *Op.cit.*, p. 14.

<sup>5</sup> C. Herczegh, *Development of International Humanitarian Law*, Akadémiai Kiadó, Budapest, 1984, p. 14.

We should also not forget the war of religion and most particularly the Thirty-Years War (1618-1648), which was characterized by particular cruelty and resulted in the Peace of Westphalia. It was in the course of this war that the father of modern international law the Dutch scholar, Hugo Grotius in 1625 imprinted in his work 'De jure belli ac pacis' the bounds in conducting war.

The contribution of Enlightenment to the International Law was rather a revolutionary one – as the Enlightenment served to the Middle Ages' darkness after all. J.-J. Rousseau points out that the war is a state between states and not men, as men become accidentally enemies.

In this regard when a combatant surrenders he again becomes an individual and no one has the right to take his life. Here one can find the first sperms of the obligation of the opposite side to wage wars against armed forces and not civilians or non-combatants<sup>6</sup>.

The need to codify certain rules and use a more systematic approach emerged during the nineteenth century, when almost after every grave war, which formed the European continent with the nation-state shape we more or less know it today, a new legally binding document would be signed.

One could say that probably the beginning of the conventional Humanitarian Law rests in the 1856 Crimean War impact and moreover the 1859 Italian Unification's war aftermath. More specifically, the 1859 Solferino battle was watched by now famous Genovese merchant, Henry Dunant. The lack of any aid to be offered to the wounded of the battlefield resulted in the augmentation of the number of victims of this war.

This observation shocked Dunant and urged him to write a book entitled "A memory of Solferino". This movement ended up eventually in the foundation of the humanitarian organization of the International Committee of Red Cross in 1863.

A year afterwards the Geneva Convention of 1864 regarding the amelioration of the condition for the wounded armies in the field was signed.

In 1899 'The Hague Convention with respect to the Laws and Customs of War on Land' was adopted. The commonly accepted principles of customary international law regarding among others the prohibition of mistreating the combatants, who are *hors de combat*, was included in this treaty. It is of high significance here to remind that the preamble of the above Convention mentions that in the cases not covered by the spectrum of the text, «populations and belligerents remain under the protection (...) of the principles of international law as they result from the (...) law of humanity and the requirements of public conscience», i.e. the customary international humanitarian law remains the fundamental source of law<sup>7</sup>.

In the twentieth century, the same route was followed; after every world war a Convention would be agreed, as in life humans learn their lessons out of the difficulties they are called upon to deal with, when they avoid listening to the advice of their conscience.

Hence, the WW I was followed by the Convention of 1929 on the Treatment of Prisoners of War and WW II resulted in the 1949 four Geneva Conventions; 1)

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<sup>6</sup> D. Fleck, *The Handbook of Humanitarian Law in Armed Conflicts*, Oxford, United States, Oxford University, 1995, p. 16.

<sup>7</sup> C. Herczegh, *Development of International Humanitarian Law*, Akademiai Kiadó, Budapest, 1984, p. 21.

on the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field, 2) the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea, 3) on the Treatment of Prisoners of War, and 4) on the Protection of Civilian Persons in Time of War<sup>8</sup>.

As we observed in the course of history it was established that humanity should make continuous efforts to put something of its substantial element in the way wars should take place. Thus, gradually the codification of law of wars emerged as a need, if not necessity, almost after every grave battle, which proved costly in lives and heavy in repercussions for the belligerents.

#### 2.1.1.2. Customary IHL

Of course, *jus ad bellum* and in this respect International Humanitarian Law is not limited only to the conventional one, namely the above-mentioned Conventions, which legally bind the Contracting parties. Above all it also involves the customary humanitarian law, which by nature legally binds every state and applies *erga omnes*.

The IHL also includes the general principles, which are related to internal laws, and are equally binding and applicable to all parties or countries everywhere in this world.

Furthermore, by an expansive approach we could argue that especially in the case of International Humanitarian Law, conventional and customary law function complementarily to each other, with the customary law to hold the predominant position in this relationship, since most of the laws of war now in effect are mere codification and typing of customary law.

In other words, even if we did not have conventional IHL at all at our disposal to examine whether a certain case actually constitutes a war crime, customary law would be practically enough.

And this is because customary IHL in reality includes all the proper norms and appropriate regulations, which the human conscience subtly dictates to everyone even in difficult wartime.

Of course warfare is all about human losses and catastrophes; no one disputes the fact that in wartime a simple soldier can/may easily become either an official murderer, licensed to kill, or a victim, deprived of the right to live just in a glimpse of an eye. It is accepted that wars, when enacted in practice, are by nature related with cruelty and loss of lives.

Atrocities are also included in its definition and savage actions actually take place against people.

Nevertheless, there are certain rules, which impose either obligation for certain actions, i.e. treatment of the wounded and the prisoners of war, or abstention from specific actions, which are in contrast with human values, since the purpose of a war should not be neither complete annihilation of the enemy, nor definite eradication of a nation or a part of it, nor deprivation of any future of a people or a specific group of it.

Chess is the best example to better comprehend the above. In chess the aim of the adversaries is not to exterminate completely the enemy by erasing from the board all the chessmen one by one.

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<sup>8</sup> C. Herczegh, *Development of International Humanitarian Law*, Akademiái Kiadó, Budapest, 1984, p. 42-55.

But, exactly on the contrary, victory is declared after the deprivation from one side of its head, the king, who is not by the way the chess pawn privileged with the amplest spectrum of movements.

In the light of the above, customary law of wars sets limits in the behavior of countries in wartime and puts the red line in the way they treat prisoners of war, wounded and civilians in armed conflicts.

In its capacity as *jus cogens*, customary law must be respected by all and makes all accountable for their actions and omissions more towards the humanity according what the sense of justice, inherent to all, dictates, than before courts and judges. In the bottom of the line, human conscience is the best judge of all deeds.

## 2.2. Crimes against humanity: Genocide a '*delictum juris gentium*'

### 2.2.1. Crimes against humanity

It was especially the atrocities of WW II which created the need to use a new term so as to characterize with a single word what the Jews and Gypsies suffered by the Nazi regime. In this respect, the phrase crimes against humanity and the word genocide were invented.

Art. 7 of the Rome Statute of the International Criminal Court<sup>9</sup> reads as follows: For the purpose of this Statute, "crime against humanity" means any of the following acts when committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack:

- (a) Murder;
- (b) Extermination;
- (c) Enslavement;
- (d) Deportation or forcible transfer of population;
- (e) Imprisonment or other severe deprivation of physical liberty in violation of fundamental rules of international law;
- (f) Torture;
- (g) Rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization, or any other form of sexual violence of comparable gravity;
- (h) Persecution against any identifiable group or collectivity on political, racial, national, ethnic, cultural, religious, gender as defined in paragraph 3, or other grounds that are universally recognized as impermissible under international law, in connection with any act referred to in this paragraph or any crime within the jurisdiction of the Court;
- (i) Enforced disappearance of persons;
- (j) The crime of apartheid;
- (k) Other inhumane acts of a similar character intentionally causing great suffering, or serious injury to body or to mental or physical health.

### 2.2.2. Genocide: a type of crimes against humanity

The word 'genocide' stems from the ancient Greek word 'γένος' (genos), which means 'race' or 'kind' and the Latin suffix '-cide', meaning 'to kill'. The term in international relations and law was first introduced in 1943 by Raphael

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<sup>9</sup> See <http://www.icc-cpi.int/NR/rdonlyres/ADD16852-AEE9-4757-ABE7-9CDC7CF02886/283503/RomeStatutEng1.pdf>

Lemkin<sup>10</sup>, a Polish lawyer of Jewish descent, who served as an expert in the Committee, which introduced the first draft of the Convention on genocide<sup>11</sup>.

That was an effort of humanity to label the “crime without a name” as Churchill first observed. From there onwards separate names were used in an effort on the one hand to distinguish each one of the genocidal cases and on the other hand to make them widespread known in the international relations.

As for instance Shoah was invented to label the Holocaust of Jews by the Nazis and Holodomor the genocide under discussion for the Ukrainian victims of 1932-1933.

«Genocide is the crime of destroying a national, racial and religious group»<sup>12</sup>. The question at stake is whether genocide constitutes a national-state crime or an international one. We will resort again to Lemkin, since his valuable contribution to the matter is of paramount importance for humanity.

First, if genocide was a national crime, then it would not constitute a crime at all, since the same nation would be the perpetrator and the judge of its deeds at the same time. This coincidence would logically render any effort to examine, let alone to prevent or punish genocide, doomed to fail.

Second, from a moral and humanitarian point of view, genocide is an international crime, because its brutality and cruelty bring about a huge shock to the public conscience.

Third, the crime of genocide has international implications, since the humankind is deprived of future members, who could flourish and offer to humanity their own contribution to its evolution and more time to it to continue existing. What if Maria Skłodowska-Curie was genocided? How many Nobel Prizes would humanity have missed in this case?

Fourth, the obligation of the states to treat their citizens, including minorities, renders the state accountable for its actions not only towards its own citizens, but to international community as well. From the moment that a state enters the UN system and becomes a party of the UN Charter, it assumes the responsibility to protect human rights. Thus, a denial of the human rights’ protection is a matter that concerns every member of the international spectrum.

Fifth, there are also practical and economic repercussions of the crime of genocide that affects other states or nations as well. Massive expulsions or exhaustive confiscations of property, which result in gradual eradication of a national, racial or religious group, can prove detrimental to the international development and growth.

In the light of the above, genocide is a crime directed against humankind, it harms humankind’s collective good as much as slavery, piracy, trade in women and children, trade in narcotics, all of them constituting *delicta juris gentium*, namely international crimes. Logic assumes that an international crime has to be internationally punished the same as a universal value has to be universally protected.

Thus, on December 9<sup>th</sup> 1948, the UN General Assembly adopted the “Convention on the Prevention and Punishment of Genocide”, with which the

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<sup>10</sup> R. Lemkin, *Axis Rule in Occupied Europe: Laws of Occupation – Analysis of Government – Proposals for Redress*, Washington, D.C., Carnegie Endowment for International Peace, 1944, p. 79-95.

<sup>11</sup> J. Quigley, *The Genocide Convention An International Law Analysis*, Ashgate Publishing, USA, 2006.

<sup>12</sup> R. Lemkin, *Genocide*, Volume 15, no. 2, April 1946, p. 227-230.

crime of genocide was for the first time legally defined in a text document. It could be said that this was possibly one date that the humanity noted on its timeline as humankind moved a step towards justice.

This Convention adopted by the UN General Assembly in 1948 and come into effect in 1951, contains an internationally-recognized definition of genocide, which was incorporated into the national criminal legislation of many countries and was also adopted by the Statute of the International Criminal Court.

One hundred thirty-eight states have so far signed the Convention and around eighty have introduced internal law regarding the penalizing genocide, as Article 5 provides<sup>13</sup>.

The Convention in article 2 defines genocide: «...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 crime of genocide falls in the jurisdiction of the Rome Statute as well. For some authors the crime of genocide is differentiated by the crimes against humanity. For others genocide is a type of crime against humanity. We have proven above why genocide should be considered as a type of crimes against humanity.

For us, Art 7 of the Rome Statute constitutes in reality a detailed depiction of Art 6 on genocide. It seems that the authors of this text wished to use a more descriptive and thorough mention to crimes against humanity in the cases where genocide could not be attributed.

### 3. Comparison between the two terms

The difference between the war crimes and crimes against humanity – and here genocide – is that war crimes are committed only in times of armed conflicts. Whereas it is admitted that genocides may also be committed in peacetime, although war usually offers the most convenient pretext and a suitable framework to commit crimes against humanity. At this point it would be necessary to clarify that the post-war Tribunals at Nuremberg and Tokyo deemed that their jurisdiction would be limited to examine acts committed only during the WW II<sup>14</sup>.

Furthermore, a war crime may be constituted even by a single act violating the laws of war in armed conflicts and even if this act was not a part of a widespread practice.

On the other hand the idea of crimes against humanity applies only in cases of crimes of a large scale, which are based on a broader pattern and practice

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<sup>13</sup> Art. 5: «The Contracting Parties undertake to enact, in accordance with their respective Constitutions, the necessary legislation to give effect to the provisions of the present Convention and, in particular, to provide effective penalties for persons guilty of genocide or any of the other acts enumerated in Article 3».

<sup>14</sup> A. Neier, *War crimes, Brutality, Genocide, Terror and the Struggle for Justice*, Times Books, New York, 1998, p. 17.

against civilians of a nation or a part of it on the grounds of national, racial or religious persecutions<sup>15</sup>.

Moreover, genocide is much heavier as a crime *per se* and as an accusation than a war crime. Not only in the cases of genocides which are committed during peacetime. But also in other cases too, when the principle of necessity cannot justify large scale actions taken during war by one part against another with the intent to completely or partially annihilate or eradicate a national, racial or religious group.

Of course, we have to deal with deaths in both cases (war crimes or genocides). However, the circumstances under which a death occurred are always of paramount importance. It is another thing to die by accident, another thing to have given your life for your country as a hero in the battlefield, a totally different thing to have been murdered under the status of a prisoner of war and an absolutely different thing to have been 'genocided',<sup>16</sup>.

At the same time we should not forget that justice treats in a different way someone who has committed a homicide in cold blood and someone who intentionally has taken the life of another human being after a decision, a plan and a selected method.

Another important element to bear in mind is that genocide is one of the most severe accusations to be attributed to a nation or a regime. At the same time, genocide is one of the gravest burdens for one nation to accept that it has suffered from.

This means that on the one hand it is extremely difficult – if not unbearable – for the dignity of a nation to accept that it has perpetrated genocide to the detriment of another one, like it is not easy for a murderer just to admit in the open that he/she has committed the crime of homicide.

On the other part, it is very difficult for nations or groups which have suffered from genocide and still exist to accept that they have been victimized. The same *mutatis mutandis* happens with individuals who enter the phase of denial, when they have suffered from a severe blow and oblivion seems to be the best way to tackle the issue and continue with their lives.

The same however does not work for humanity. For humanity demands justice and truth to prevail and cannot deny the commission of a crime as severe as genocide. Humanity also does not forget the innocents, which remained unborn and does not overcome a crime by placing it aside or throwing it into the oblivion.

This is the reason why humanity needs evidence and proof, records and archives, investigation and revelations to prove that the crime was actually committed and by whom. Most of the time it is the dead body itself that speaks the truth even posthumous. In this regard most of the revelation on genocides and war crimes stems from massive graves. In the light of the above, it is comprehensible why the evidentiary burden on prosecutors when accuse a defendant for crimes against humanity is much greater than when they prosecute the defendant for a war crime.

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<sup>15</sup> *Op. cit.*

<sup>16</sup> The word will be used as a verb as well in this thesis to distinguish it from the word murdered.

#### 4. The Katyn massacre (April-May 1940)

##### 4.1. Introduction

Katyn Forest; for Poles this forest is connected with a past crime committed in 1940. For many years the forest kept in its inwards the secret massacre of the Polish officers by the Soviet NKVD. From the completely opposite point of view, though, the wood of the trees as the only eye-witness of the crime preserved the memory of the facts and their revelation wrote history in another wooden form, in paper.

##### 4.2. Facts

When on August 23<sup>rd</sup> 1939 Ribbentrop, the Nazi Foreign Minister and Molotov, his Soviet counterpart were signing the non-aggression pact, they also co-signed an additional secret Protocol, according to which they envisaged the division of Northern and Eastern Europe as well. In accordance with this infamous Protocol, the invasion of Western Poland by the Nazi forces in September 1<sup>st</sup> 1939 was followed by the Soviet's army one of the Eastern Poland on 17<sup>th</sup> September the same year.

At first the Poles faced the Soviet army as their liberator from the Nazis and collaborators in their resistance. Soon, however, they realized that the Soviets occupied the territory of their country. Along with the occupation the Soviets arrested thousands of combatants, who served at the Polish officer corps.

The Polish officers were transferred to USSR concentration camps and the Soviet army delivered them to the hands of the People's Commissariat for Internal Affairs, NKVD, the secret Soviet police, which imprisoned them in three different areas Kozelsk, Starobelsk, Ostashkov. In March 1940 they amounted totally at 14, 854, the majority of them mid- or high-ranked military officers.

According to the records released in 1990 under Gorbachev and Yeltsin presidency, the Soviet Politburo after the proposal of Beria and the approval of Stalin ordered on March 5<sup>th</sup> 1940 the massive execution of Polish officer-prisoners.

The whole process of execution was carried out in complete secrecy divided into three distinctly compartmentalized phases. The PoW were said that they would be liberated from the concentration camp and that they would be sent back to their homes, they were even given a descent meal before their execution as the last meal of the condemned to death is granted.

Hopes of liberation were created in the hearts of the PoW, who as soon as they entered the convoys to be moved to another place and heard the first gunshots, realized the real intention of the soviet regime and probably its real face. It seems that the method invented served at best the perpetrators, as it took them less time and effort to kill *en masse*.

Every day a group of few tens would be selected. In another stage the members of the group would be deprived of their belongings and they would be transferred to the execution place. There one by one every night in a period of 5 weeks time they would be executed. Afterwards, the dead corps would be gathered and transferred to the burial place.

From early April until mid-May 1940, 21.857 officers were executed by the NKVD officials, over night almost simultaneously in three different places in the Katyn forest in Russia, the Kalinin and Kharkiv prisons and buried in massive graves in three different spots.

According to the exhumations, with the first taking place as early as 1943 in the Katyn forest, all the bodies of the victims bore a single lethal hole in the back of their head, their hands were tightened by a rope with approximately the same length, about one meter, and the same type of the gun and bullet, i.e. revolver using German-manufactured 7,65 mm Geco ammunition was used.

A part of the 21,857 victims were officers arrested during the invasion of Eastern Poland by the Soviet army, another part were police officers and most of the rest members of the Polish intellectual elite: 1,000 lawyers, 800 medical doctors, 110 university professors and academics, as well as numerous writers and journalists, who were alleged as counter-revolutionary and accused by the NKVD of being intelligence agents, gendarmes, landowners, factory owners, saboteurs and priests and any other label that could constitute an accusation of anti-sovietism.

The term 'Katyn massacre' at first referred to the massive execution, which took place in the Katyn forest near Katyn village and Gnezdovo (Russia). The victims of this massacre were the PoW of Kozelsk. It was the first to be revealed by the Polish Committee of Red Cross in 1943, namely after the invasion of Nazi troops in the Soviet Union.

As soon as the Nazi government discovered the graves, made a relevant announcement and in an effort to take advantage from this revelation, it invited independent Germans and Poles to take part in the investigation. The exhumation process revealed the existence of eight mass graves and among others resulted in the disruption of the diplomatic relations between Moscow and the Polish government in exile, which was based in London.

The current Polish investigation covers not only the massacre at Katyn forest, but also the other above-mentioned mass murders.

It was not earlier than 1990 that the Soviet Union admitted responsibility for the massacres and officially recognized and condemned the commission of the execution by the NKVD.

With the basis of on an investigation carried out by the Prosecutor General of the Soviet Union (1990-1991) and after the dissolution of the Russian Federation (1991-2004) Soviet responsibility for the massacres was confirmed. Nevertheless, what was confirmed was the killing of only a small part of the PoW's victims, i.e. 1,803 Polish citizens and refused to call this action as a war crime or an act of genocide.

Later the investigation was considered ended on grounds that the perpetrators were already dead, and since the Russian government would not recognize the dead as "victims of Stalinist repression", rehabilitation was essentially rejected.

It was not earlier than November 2010, when the Russian Parliament (Duma) voted for a declaration putting the blame on Stalin and other top Soviet officials for having personally ordered the massacre. A huge step towards justice was made.

#### 4.3. *Katyn a war crime or genocide*

##### 4.3.1. *The Katyn massacre: a war crime*

As we established the Katyn massacre took place in the beginning of WW II April-May 1940, namely in time of armed conflicts. Even if war of USSR against Poland was never officially declared, an attack of the Soviet troops cannot be disputed, since it actually took place in accordance with the bilateral secret

Protocol annexed to the Ribbentrop-Molotov agreement of August 1939 already mentioned above.

The prisoners were members of the Polish officer corps and were arrested as combatants by their enemy. In this capacity according to the International Law, they received the status of PoW and as such they were under protection of the Humanitarian Law.

At this point, it should be reminded that the USSR was not a Contracting Party of the 1929 Hague Convention regarding among others the treatment of PoW, and in these terms one could argue that the Stalin regime was not bound by this Treaty and its obligations.

Nevertheless, in the struggle for justice humanitarian law has not said its last word. Customary humanitarian law by no means can accept such a methodical massive extermination of prisoners of war. Since in conformity with the moral imperative to treat the PoW, there is an obligation to abstain from killing them.

Since the minor is under protection, namely the minimum conditions to sustain health, the major is logically under protection too, namely the life itself of the prisoners and their right to survival. Besides, a war cannot justify such a massive and methodical murdering of PoW.

Furthermore, the principle of necessity governing the customary humanitarian law has been severely violated by the execution of the PoW. More specifically, by no means was the NKVD, which was responsible for the treatment of the PoW, threatened by them, nor were the Soviet armed forces and services in self-defense, when executing the PoW.

At that stage the two sides, the Soviet NKVD and the PoW, were not of course in a state of war. In this regard, neither was it necessary for the Soviet part, nor justifiable, nor excusable to apply such a method of killing against their enemy.

We have established by now that even though the Conventional Humanitarian Law cannot cover the case of Katyn, customary law was breached and can absolutely apply in favor of the defense of the victims. We have thus proved that the Katyn massacre constitutes in legal terms a war crime.

#### 4.3.2. *The Katyn massacre: a genocide?*

One could also claim that the Katyn massacre was addressed against a specific group and that the main goal of the Stalin's regime was the deprivation of Poland of its intellectual elite and the decapitation of its best-educated and competent asset. One could also say that there was also a selection and distinction procedure of Poles and one can identify a clear intention of executing the upper intellectual class of the Poles.

Moreover, as the dead corps reveal, a specific method was used and followed in this case as well and in total secrecy by the Stalinist regime against their victims. We should at this point also mention that the number of victims is not a constituent element of the crime of genocide.

There has to be a large scale crime committed in a methodical way and with the intention on the part of immolator to destroy, in whole or in part, a national, ethnical, racial or religious group.

In these terms, some argue that the Katyn massacre was genocide, since it had to do with the total extermination of a social group of a nation.

In an effort to explain this ferocious and cruel decision of Stalin many analysts claim that the massacre took place as revenge on the part of Stalin towards the killing of Russian Red army in 1920 during the Soviet-Polish War in the Battle of Warsaw.

On the other hand, some other analysts argue that the real intention of Stalin was to exterminate the upper intellectual Polish class, which could constitute at a later stage the spearhead of Poles against sovietization.

The latter seems to be more convincing, without rejecting the first explanation as a possible motive, though. For a clear aim of the Stalinist regime was the occupation of Poland, as the Ribbentrop-Molotov secret Protocol reveals.

Moreover, on one way or another Stalin wanted to have Poland under his own sphere of influence as the historical facts, which followed, actually prove under the Yalta Agreement, when the Soviet Union, Great Britain and the USA also agreed in 1945, even before the end of the WW II.

According to this agreement Poland like other countries of the Eastern Europe came under the influence of the Soviet regime and belonged for decades to the Eastern block of countries.

In this regard, the motive of cleansing the educated members of the Polish army and its elite would definitely weaken Poland and could facilitate *a priori* the process of sovietization of Poland, especially since the process of indoctrination of the PoW proved absolutely unsuccessful, given that only 70 Poles changed their attitude and accepted to collaborate with sovietism. From this point of view, it seemed that Stalin either by looking in the past wishing to take revenge for the 1920 events of the Vistula river in Warsaw, or by looking ahead, he ordered the perpetration of a crime, which resulted in the massive extinction of a part of the Polish elite.

Thus, it seems that the motivation of the Stalinist regime was rather political and his aim was to destroy a socio-political group than a national one. This means that if the Poles imprisoned were simple low-ranking soldiers, probably the course of the history would be different. Since, Stalin exterminated the Polish intelligentsia and best part of its army, the crime of genocide cannot be attributed.

For the 'Convention on Prevention and Punishment of Genocide' provides that genocide are «...acts committed with the intent to destroy in whole or in part, a national, ethnical, racial or religious group», not a social or political one.

One characteristic element of the genocidists' behavior is that they are indifferent about the social status, or gender or age of the victims, since the perpetrators do not face their victims as humans. We shall see below that one of the stages of genocide is dehumanization<sup>17</sup>.

The immolators consider their victims as animals or insects not as human beings. They only exterminate their victims just because they belong to a certain national, racial or religious group. And the victims are to be blamed just because they were born members of this group. This is the only accusation that suffices for the immolator to perpetrate his crime.

As a conclusion, we saw that the Katyn massacre is a direct violation of customary humanitarian law and clearly constitutes a war crime. It remains under discussion whether it could also be characterized as genocide.

In the opinion of the writer the crime bears many genocidal elements, but it seems to be rather a form of selective genocide or a social group cleansing. In political terms this can stand, but legally this cannot easily stand before a court

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<sup>17</sup> H. Gr. Stanton, *The 8 stages of Genocide*. See on line <http://www.genocidewatch.org/aboutgenocide/8stagesofgenocide.html>

as a term. It would be preferable to attribute to this crime the elements of a war crime, since it would be impossible for any human being to defy this.

## 5. *The Holodomor*

### 5.1. *Introduction*

Yellow the symbolic color of Ukraine and definitely not a mournful one. But, exactly on the contrary it is considered to be a joyful color, reminding of the sun, therefore of life. In the case of Ukraine, though, yellow symbolizes wheat, because of the vast Ukrainian land of wheat.

Besides, history of Ukraine is not joyful at all. Ukrainian is a nation that has also endured a lot of suffering by the Stalin regime. In this regard, we will examine the Holodomor case, which means killing by famine, or for us and for this study, as we shall see, Genociding by Famine.

### 5.2. *Facts*<sup>18</sup>

Brain, soul and body indisputably constitute the three fundamental characteristics and parts of a human being. The same holds for a nation too. In this respect, an effective and efficient process of dismantling a nation requires elimination first of its brain, then elimination of its soul and last extermination of its body. This practice was ferociously implemented in the case of the Ukrainian nation by the Stalinist machinery.

In 1920 and the 1926 the Soviet regime inflicted the first blow against Ukraine by savagely extinguishing the intelligentsia of Ukraine, namely its brain, as Lemkin first observed. «Teachers, writers, artists, thinkers and political leaders were liquidated, imprisoned or deported»<sup>19</sup>. Later, in 1931 as much as 51,713 Ukrainian intellectuals were forced by the Stalinist regime to deportation to Siberia.

The second objective hit was Ukraine's soul, namely the Autocephalous Orthodox Church, the Metropolitan and clergy of which were exterminated as well.

The third target to attack was the farmers, the Ukrainian body. In this last case another method, different than the first two, was chosen and it was probably the most direful one, namely starvation.

The fourth phase of the same process was the fragmentation of the Ukrainian people and its dispersion in Eastern Europe, as a form of the 'divide et impera' method.

We will focus our study on the facts and successive official decisions constituting the gradual killing of 7 millions of Ukrainians by starvation.

In 1928 Stalin introduces the first Five-Year Plan aiming at collectivization. As Ukraine was the granary of the USSR, it was naturally expected that the main opposition to this plan would stem from Ukrainian farmers.

In 1930 700 intellectuals, among them professors, former ministers, academicians etc. were gone through a mock trial on the basis of accusation of

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<sup>18</sup> "Poland and Ukraine in the 1930's – 1940's Unknown Documents from the Archives of the Secret Services, Holodomor The Great Famine in Ukraine 1932-1933".

<sup>19</sup> R. Serbyn, "Holodomor: The Ukrainian Genocide", in A. Biencyk-Missala and S. Desbski, *Raphal Lemkin: A hero of humankind*, Warsaw, PISM (Polish Institute for International Affairs), 2010, p. 205-232.

belonging to a fake organization, aiming at liberating Ukraine and invented by the Ukrainian Communist party.

Most of the accused were sent to *gulags*<sup>20</sup>. The Autocephalous Orthodox Church was forced to proclaim by its own its dismantling. In 1929 Stalin officially announced that *kulaks*, the independent farmers, should be eliminated “as a class”.

The process of de-kulakization, meaning confiscation of property, was carried out in two phases; the first early in 1930 and the other one a year later. According to Kossior’s report until 1934 one million souls had been dekulakized.

Several hundred thousands were deported, the majority of which perished en route. The *kulaks* were forced to abandon their homes and land and they were either given a smaller part of land or they were expelled to Siberia.

In November 1929 the Central Committee decides according to Stalin’s declaration to start with the “total collectivization of entire districts”<sup>21</sup>. To this end, cadres of the regime were assigned to conduct the procedure by any means, mainly violent.

By March 1930 almost 63% of the Ukrainian households were subjected to collectivization, i.e. they were forced to become members of collective farms. The success of the process was a result of the use of force and terror on the part of the above-mentioned cadres of the regime sent to conduct the collectivization.

As a consequence of the severe measures of obligatory dekulakization and collectivization, disturbances and protests emerged. Probably by fear of massive and uncontrollable insurrection, Stalin provisionally proceeded to a retreat, essentially tactical, by shifting from the commune system to the so-called ‘artel’ association, as a group system would be deemed looser. The farmers were allowed to maintain a minor plot of land and a house. They could also keep few domestic animals to nourish themselves.

In line with the above decision peasants withdrew their land, cattle and farmer equipment from their *kolkhozes* and by September 1930 only 28% of households remained in collective farms.

However, turbulences and insurrection continued and skirmishes with authorities and the peasants emerged. As the rebels were arrested and punished, the collectivization procedure continued by force. In December 1931 around 70% of the land was mandatory collectivized.

Along with the dekulakization and collectivization the struggle for bread was taking place. A law was passed in 1930 demanding high grain procurement quotas for both collective farms and individual ones. The confiscation of grain deprived the peasants of a substantial and fundamental means for their nutrition.

It is of high importance to underline in this regard that one million tons of grain is sufficient for five million people for one year.

This is a crucial element to bear in mind, because the amount of grain confiscated, clearly shows the intention of Stalin’s regime, as we will see below.

Either due to denial of peasants to cultivate the land or due to their incompetence, because of exhaustion, or due to the climatic conditions of that year, the harvest of 1930 was not satisfying enough so the peasants would not be in a position to give their contribution.

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<sup>20</sup> *Op. cit.*, p. 208.

<sup>21</sup> *Op. cit.*, p. 209.

Thus, the reserves for their own sustainability ran out by 1931. In combination with the imposition of high delivery quotas the peasants did not have in their disposal the least indispensable means to survive.

First signs of famine appeared in 1931 and by mid-1932 hundreds of thousands lost their life out of starvation. Meanwhile, protests riots and resistance by avoiding procurement continued.

By the time, starvation became widespread phenomenon across the granaries and peasants suffering from it resorted in extreme ways to survive, i.e. eating animal carcasses, human hunter and cannibalism.

The rate of famine mortality raised more and more, since people started dying out of diseases, which broke out due to malnutrition. Children with bloating bellies and older men were of the first victims.

The peasants continued reacting and struggling to demand for an end to the situation. Nevertheless, the communist party leaders obeyed to Stalin's rules and orders. The latter seeking for a way to fully implement the grain-procurement plan, albeit the starvation deaths, called for a high level conference...

Stalin insisted that the plan must be carried out unconditionally and at any price, while he rendered the first secretaries of the regions producing grain "personally responsible" for the collection of the grains. The only consent made was the lowering of the quota, which in any case remained high and virtually impossible to be delivered by the peasants, given the situation.

The process took an even worse course when in August 1932 a law was issued providing: a) railroad freight, collective-farm property and cooperative property were confiscated, b) theft of any of the above was punishable by death or a minimum of ten years' imprisonment and c) right to amnesty was revoked for these three types of crime. This party-state decree constituted the basic legal tool, which Stalinist regime used to essentially doom Ukrainians to death by famine.

Of course, the law was applicable to the entire USSR. Archives though have revealed that it was published in connection with Ukrainian problem.

Indeed, Stalin personally to one of his letters he ordered the issuing of a directive to describe the methods to be used for the implementation of the above-mentioned law. In this letter he refers to the Ukrainian question especially<sup>22</sup>.

On the grounds of the above-mentioned law of August 7<sup>th</sup> the peasants were blacklisted, arrested, tried and exiled or executed for theft or sabotage. In 1932 8,881 farmers were arrested.

On November 25<sup>th</sup> 1932 Stalin approved a new legislation providing that grains and edibles would be confiscated and the opposition would be fully repressed.

Moreover, any possible reserve would be delivered for state procurement and in the cases of *kolkhozes*, which had allowed theft, there was a meat tax and, if meat was not available, a potato tax. Thus, the peasants were left with absolutely none means to escape famine.

Naturally, competent authorities continued in the merciless attitude, which they had already adopted, regarding the implementation of Stalin's orders and savagely demanded the application of the new mandatory law.

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<sup>22</sup> *Op. cit.*, p. 216.

Indicative of the degree of cruelty of Stalin's regime is the fact that the grains collected, despite the limited harvest of 1930 and 1931, were exported! About a million and a half tons of grain was exported.

It is estimated that this amount could be enough to cover the nutrition needs of about six to seven millions Ukrainians. This figure almost equals to the number of Ukrainian souls who fatally starved to death and perished out of Stalin's genocidal laws and decisions.

To all this it must be added that the official party-state line about famine was simply concealment. The deaths out of starvation were a common secret. Nobody was allowed to talk about it, let alone to report it.

Nevertheless, this veil of silence was torn apart by the memoirs of eye witnesses, who have depicted their horrific experiences of women resorting to cannibalism for the sake of their children or of the images of bloated child bellies.

Nothing is over yet. We have not reached 1933. In the course of the events, Stalin signed a new document in the end of 1932 relating short deliveries in grain with Ukrainization, by ordering: a) solving the grain procurement problem, b) fighting counter-revolutionary peasants, c) curbing Ukrainization. The party and state local heads were again personally responsible for the implementation of the new command.

In 1933 uncounted millions, estimations say around 6-8 millions Ukrainian peasants, already exhausted by the cruelties and suffering of the previous year and absolutely incapable of reacting in any of the measures and in any way died out of hunger, cold and maladies. The only way out could be fleeing from the hell of steady and certain death. Yet, Stalin was determined not to allow such a way out in favor of the peasants.

Early in 1933 he ordered the closure of borders of Ukraine to the neighboring Belarus, North Caucasus and Russia. The nightmare seems always endless and this one truly was.

The peasants were not allowed to buy train tickets and, if arrested in the borders, they would be either driven back to their village, or, if they did not wished for (alas), they would be either imprisoned to concentration camps or expelled to "special settlements to Kazakhstan".

However, 87% of 225,024 Ukrainians arrested on the borders until March 1933 were sent back to their home to starve.

In 1933-34 the famine period was over. What was not over though was the struggle of the Ukrainians to confirm that they had been actually submitted to a mass slow extermination and that the blame was to be put on them, because of their separatist aspirations against the Stalin regime and the Soviet establishment, as we shall see below.

All the above shape the murk scenery according to which Ukrainians were enslaved, deprived of their human right – not to live – but even to exist and were brutally condemned to gradual and painful death.

One which would be veiled deep into the darkness of secrecy for years until the crime would be brought into the light of truth.

To the human eyes this savagery of orders and the brutality of their implementation would be horrific enough to read as a scenario, let alone as pages of history, describing a chain of real decisions, decided actions, actual facts, with all resulting in one: Holodomor.

### 5.3. *A genocide or not*<sup>23</sup>

It was not earlier than 1991<sup>24</sup> when the Holodomor first emerged on international fora and was made more broadly known to the international public opinion. Nevertheless Lemkin had already studied the Ukrainian case.

In this regard, by no means could the dominating spirit of Lemkin be absent from this chapter as well, not because he is considered to be the father of the genocide convention, but because he was the first to have posed the question on this case and the first to have worked thoroughly on an analysis on what we nowadays call Holodomor.

It should be kept in mind that the reason why Holodomor was not known as historical fact was because first as we already mentioned above talking about the famine in Ukraine was forbidden by Stalinist regime. There was a tacit, but well-formulated order, not to mention about the merciless way Ukrainians were left to wither and die.

Secondly, the famine the Ukrainians suffered from was attributed on grounds of the efforts held to implement the collectivization program. In this context, Ukrainians suffered due to their own unwillingness to conform to the decision of the regime and abide by Stalin's rules. In this respect, no crime can be attributed to the stalinized-way Soviet establishment.

Third, for many years during the Cold War Holodomor was denied, as deemed to be propaganda against the soviet and communist regime.

However, as early 1953 Lemkin had already formulated his relevant paper under the title "Soviet Genocide in the Ukraine". In an effort to examine whether his theory on genocide and therefore the Convention on Genocide could be applicable in other cases too, apart from Shoah, Lemkin investigated Holodomor as well. And it is mostly on his work that we rely upon for our study as well.

#### 5.3.1. *Reasoning of Holodomor-Intent of Stalinism*

As Lemkin's archives reveal, Kossior Secretary General of the Central Committee of the Communist Party in Ukraine writes in one of his documents entitled «Itogi i blizhaishie zadachi provedeniia natsional`noi politiki na Ukraine»: «Now the main danger in Ukraine stems from the local Ukrainian nationalism»<sup>25</sup>.

In this regard, the aggressive policy of Stalin against the Ukrainians seemed to be inspired by deep anti-Ukrainian sentiments, rooted in a solid nationalist idea. However, Stalinist brutal policy against Ukrainians was disguised under the socio-economic long-term reforming program of collectivization, of which the first part would be dekulakization.

It should be kept in mind that Ukrainian peasants made up over 80% of the Ukrainian population. Thus, the decision on collectivization regarded mainly Ukraine and depriving farmers from their property and liberty would naturally provoke negative reactions and opposition towards the central government decision.

As facts disclose, Stalin's aim was to curb nationalist and separatist ideas in Ukraine, mainly because his real geopolitical aim<sup>26</sup> was the absolute control of

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<sup>23</sup> N. Lygeros, Opus <http://www.lygeros.org/Holodomor.htm>.

<sup>24</sup> N. Lygeros, *Holodomor: de l'envergure de l'oubli à la grandeur de la mémoire*, in <http://www.lygeros.org/2698-fr.php>.

<sup>25</sup> N. Lygeros, *Raphael Lemkin ως ο πρώτος δίκαιος του Holodomor*, that we can see in <http://www.lygeros.org/4233-gr.html>.

<sup>26</sup> N. Lygeros, *L'apport géopolitique du Holodomor* in <http://www.lygeros.org/2637-fr.php>, «Cette fois l'enjeu est bien géopolitique dès le commencement. L'objectif de Staline était le contrôle

the USSR's granary and Ukrainian land in general. In this context, Stalin needed an idea that could serve as a basis to his actions and would, at the same time, cover his intentions of eradicating massively a part of Ukrainian's nation. To this end, the first goal to attain was to manage an identification of anti-revolutionary and enemies of the regime with the Ukrainians *en masse* as a nation.

Stalin deeply and firmly connected in his language the characteristics of *kulaks*, independent farmers, with Ukrainians in such a degree that he made the two notions identical<sup>27</sup>. In this way, Stalin shifted the negative connotation, which the word *kulak* and *bourgeoisie* bear for communists, onto the word Ukrainian. By this identification, liquidation of any nationalist policy on the part of Ukrainians was made an imperative, since Ukrainians as a nation were dangerous and could bring about major turbulences at his regime.

Thus, Stalin in his rhetoric united in a firm and solid way the notion of *kulak*, namely the independent farmers, who had to be exterminated for the best interest of the regime, with the notion of Ukrainian. Since *kulak* was an enemy to be destroyed and since in Stalin's language, Ukrainians were all labeled as *kulaks*, Ukrainians were all enemies and it was rightful to kill them or "let them all die", according to a notorious slogan of that time referring to starving-to-death Ukrainians.

Moreover, Stalin managed at the same time to avoid any racial and national accusations against him. Indeed, in this way the reasons and the reasoning of relevant collectivization decisions were not taken on national or racial grounds, but on social ones. In this context, Stalin invented a sufficient and rightful basis to move forward with the extinction of a part of the Ukrainians. This is the explanation of the announcement that *kulaks* should be eliminated "as a class".

In this regard, the reactions of Ukrainians farmers to dekulakization and of peasantry to obligatory confiscation of their land and collectivization were used as the best pretext for Stalin's regime to adopt a strict behavior towards the Ukrainians.

Nevertheless the situation would have been probably different, if the attitude of the Soviet-Stalin regime was only strict. The extreme measures gradually taken aimed at making the Ukrainian nation vanish.

In any case, Stalin needed a rhetoric. As it was to predict that the first to resist and react to his 5-Year Program of collectivization would be the farmers in Ukraine, he then initiated a strategy massively attacking them.

So, first it was the *kulaks* to be eliminated. Without farmers the peasants lost their natural leaders, after they had also been deprived of their cultural and intellectual asset earlier and spiritual leaders later on.

### 5.3.2. Methodical plan

The most important element to bear in mind is that the whole process was methodically carried out and it was fragmented into separate phases shaping a chain of decisions, aiming at the liquidation of the Ukrainian people<sup>28</sup>, as the implementation of these decisions were gradually chaining the Ukrainians around death.

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absolu du territoire ukrainien dans un cadre avant tout logistique. Cet objectif avant tout logistique pouvait se réaliser par les biais des kolkhozes».

<sup>27</sup> N. Lygeros, *De la confusion stratégique au génocide de la famine*. Ad casum de qua vid. on line <http://www.lygeros.org/2592-fr.php>.

<sup>28</sup> N. Lygeros, *Le caractère subversif du Holodomor* in <http://www.lygeros.org/2822-fr.php>.

Each decision separately examined cannot by itself constitute a crime, let alone a crime against humanity. Nevertheless, the decisions were registered in a certain series and governed by the same reasoning, so that the repercussions of each one of them would have gradually augmented the suffering and would have led with accuracy millions of Ukrainians to death. There is a common ground in each one of these official decisions and there also is a common reasoning coiling them all to extinguish Ukrainian farmers.

First the expulsion and extermination of Ukrainian intelligentsia and later the law of August 1932 and others, which followed regarding the strict implementation of the grain procurement quotas delivery, regarded all the USSR but targeted the Ukrainians. Of course, the totally inhuman decree of closing the borders makes part of the same chain of decisions.

All the above in combination, constitutes a clear set of decisions and actions aiming principally at the exhaustion and gradual eradication of the Ukrainian nation.

Furthermore, Stalinist regime's tackling of the issue of famine is in absolute contradiction to the way his predecessor, Lenin, reacted when a situation of famine occurred due to large-scale droughts<sup>29</sup>. In fact, in 1921 Lenin asked the West workers' help. In that case the International Workers Aid responded positively and starvation was avoided.

In the light of the above, Holodomor comes under the provisions of the Convention on Prevention and Punishment of Genocide. Since there is:

a) clear *intention* of Stalinist regime, according to the relevant decrees and secret orders

b) destruction in whole or in part a *national* group, 6-8 millions Ukrainians,

c) *killings* of members of the group, i.e. intelligentsia,

d) serious bodily *harm* to the members and deliberate infliction on the group's conditions of life calculated to bring about their physical destruction, in this case by depriving indispensables for nutrition, expulsions to Siberia, forbidding escape to neighboring countries

e) measures intended to *prevent births* within the group, since famine affected future births too,

f) *responsibility* on the part of the regime, since decisions were taken and implemented all by the official state and its cadres.

A last but not less unimportant element to clarify is that Holodomor accuses Stalinist regime and not the Sovietism or communism, which would constitute a grave mistake. As Shoah, the Holocaust, accuses Nazism and not the Germans; similarly the Holodomor veers against Stalinism.

## 6. *The Armenocide (1894-1923)*

### 6.1. *Introduction*

Centered in the coat of arms of Armenia, Ararat is the mountain which for centuries had constituted the focal point of the Armenian nation widely spread on the land situated between three seas, namely the Mediterranean, the Caspian and the Black Sea. The Armenian was one of the first nations to be Christianized and of the few nowadays with such a large diaspora worldwide.

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<sup>29</sup> N. Lygeros, *L'apport du Holodomor dans la confrontation entre le léninisme et le stalinisme* in <http://www.lygeros.org/4194-fr.html>.

Indisputably, the main reason why Ararat does not belong today to the small Armenian state of Southern Caucasus and why Armenians are scattered in the four corners of the world, rests exactly on the genocide, which the Armenians underwent in three successive phases, by essentially the same concept of systematic non-Muslim populations' purges, which first the Ottoman Empire under Abdul Hamid, then the Young-Turkish and last the Kemalist regime decided, planned, staged and savagely implemented.

## 6.2. Facts

### 6.2.1. *The Hamidian phase (1894-96)*

By 1890's the Ottomans had lost large parts of their huge territory, as the Balkan peoples began to realize their national identity and to steadily gain their freedom from the Ottoman rule. Greece in 1830, Montenegro in 1860, Romania in 1862, Serbia in 1876 and Bulgaria in 1878 were successively established first as autonomous and then as independent states, at the same time when the 'Sick Man of Europe' was agonizing to remain alive as Empire.

It was after the Russian-Turkish war of 1878, which resulted in an absolute Waterloo for the Ottomans, that the Sublime Porte was obliged under the Art. 61 of the Treaty of Berlin (July 13th 1878) to periodically inform the Great Powers, namely France, Great Britain and Russia about the fulfillment of the reforms promised according to the Art 16 of the San Stefano Treaty of March 3rd same year, which was at first signed between the Russian and the Ottoman Empires.

It is to be noted and taken into consideration that Art. 16 of this latter Treaty provided that Russian troops would remain in the provinces inhabited by the Armenians, until all reforms and improvements for the protection of the Armenians from Kurds and Circassians would be guaranteed.

This is important to keep in mind in our study, because Russia appears here to be the protector of the Christian Armenians, an element that the Ottomans will use at a later stage to accuse the Armenians of affiliation and alliance with Russia against them during WW I.

Thus, after the intervention of France and mainly of Great Britain the Art 61 of the Treaty of Berlin was not providing anymore for Russian troops to remain on Ottoman ground. However, the Sultan was still obliged to move forward with reforms for the improvement of the living conditions of Christian Armenians.

Despite the above commitment, not only was no step taken, but exactly on the contrary absolutist Abdul Hamid II responded with brutal persecutions and massacres. Specifically, early in 1890's a special paramilitary group, i.e. a cavalry called 'Hamidye', obviously named after its inventor, was made up by irregular Kurds and Turks with a permission to operate in Eastern Anatolia against the Armenians, as its members wished<sup>30</sup>.

Between 1894 and 1896 during the so-called Hamidian years massacres took place. Massive slaughtering in Armenian populated towns, such as Sasun (1894) and Zeitun (1895-96) was conducted by these special regiments with the tolerance, if not tacit approval of the Sublime Porte, since nothing was done to halt them.

According to estimations, 100,000 – 300,000 Armenians perished during these years of oppression and blood.

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<sup>30</sup> Moussa Prince, *L'Arménocide: Un génocide impuni*, Introduction, Fondation Moussa Prince, 1975, p. 29.

In the meanwhile, Armenian inhabitants of the Ottoman provinces demonstrated against the systematic pogroms conducted to their detriment. At the same time, young Armenians studying in the European universities had already begun to demand from the European capitals to press the Sultan for substantial implementation of political reforms in the Ottoman Empire and mainly for an end to the discriminatory policy of Hamid, as well as forming of a constitutional government and granting constitutionally guaranteed rights.

As we have seen so far, the systematic destruction of the Armenians en masse started already from 1894 under the Abdul Hamid II, or the 'bloody Sultan' as he was notoriously named by history.

The decline, which the Ottoman Empire was passing through late in the 19<sup>th</sup> century, while other super powers of that time were advancing, in addition with the absolute and despotic way of Hamid's running politics, provoked increasing discontent and frustration to his own population.

#### 6.2.2. *The Young Turkish phase (1915-1918)*

It is mostly in this context that the Young-Turkish movement was born. The Young-Turks constituted a combination of roughly two parts. On the one hand the reform-oriented, liberal and pro-constitutional elements envisaged a modernized country according to the European standards. On the other hand, nationalists were aiming at the purification of the Turkish nation from non-Muslim populations as well as the establishment of a new Turkish Empire called Turan centered in Anatolia and as far as Central Asia.

The augmenting agitation mentioned as above resulted in a military uprising in July 1908 organized by the junior officers of the Third Turkish army based in Thessaloniki. Members of this regiment, which staged a coup d'état, belonged to the secret Young-Turkish Committee of Union and Progress (CUP).

Under the pressing situation the Sultan in an effort to save his throne, was obliged to concede a Constitution and to transform Ottoman Empire's political system from absolute despotism to a constitutional monarchy. Ironically, the Armenians were the only national group of the Ottoman Empire that was delighted at the Young Turkish insurgence, as they hoped for implementation of reforms repeatedly promised and eventual safeguarding of their rights as well.

By the end of 1908, the Sultan was dethroned. However, brutalities against the Armenians did not cease to continue. It was in this framework that the Adana massacre<sup>31</sup> in 1909 took place, when a counter coup was staged on the part of the pro-Sultan forces, which planned to reconstitute Hamid back to his throne.

During the upheaval the Islamic nationalists favoring Hamid turned against the Armenian segment of the Adana population, which was by the way the richest one. According to reports, this series of pillaging and pogroms had as a result the death of about 15,000- 30,000 Armenians by carnage.

All hopes of the Armenians for a new era in their life in a new and modern Turkish state dashed away when in 1913 the triumvirate of Young Turks, Mehmed Talaat, Ismail Enver and Ahmed Djemal assumed powers in a dictatorial way. It should be reminded that two years earlier in 1912 the Balkan Wars broke out.

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<sup>31</sup> J. A. Toynbee, *Armenian Atrocities The Murder of A Nation*, Hodder & Stoughton, London, New York, Toronto, 1915, p. 21.

This is another important element to pin down, not only because it is of paramount importance to take into consideration the overall historic background, but also because the result of the Balkan Wars was detrimental to the Ottoman Empire, which lost most of its European territories.

The Muslim populations situated in the above-mentioned areas were forced by the course of events to move to the mainland of the Turkish territories and were systematically encouraged<sup>32</sup> to settle in the Eastern Anatolia in the Armenian provinces.

This is not necessarily negative. Nevertheless the Muslims expelled from the lost European territories of the Ottoman Empire played a significant role to the confiscation of the properties of the Armenians, who were at a later stage, as we shall see, "relocated" or to be more descent and accurate deported massively to mandatory marches to death.

These acts of confiscation and pillage on the part of the Ottomans, may nowadays constitute a basis, so that the victims' descendants establish right to restitution.

In November 1914 the Ottoman Empire entered WW I in the side of the Central Empires, namely Germany and Austria. The war framework always provides for the best-justified scope of action and the best-illustrated background to commit severe crimes.

In this context, in February the Turkish government and more specifically Minister of War, Enver Pasha issued a decree ordering full disarmament of the Armenians, under the pretext that they would collaborate with the Christian Russians against the Turks, as we have already insinuated above. In this regard, any weaponry in the hands of Armenians was forcibly confiscated by the Turks, thus leaving them totally defenseless.

Following the decree, Armenian officers of the Turkish army were imprisoned, Armenian officials were dismissed and labor battalions consisted of disarmed Armenian soldiers were shaped. The elimination of the military potential of the Armenians took place under Talaat's order, according to which the unarmed Armenian soldiers would be split into groups and then exterminated.

April 1915 is in many terms the most crucial point in the Armenian history as we examine it. For, the historic facts taken place during that month launched possibly the most brutal phase of the extermination of this nation.

First, the events of Van as American Ambassador to Constantinople, Morgenthau<sup>33</sup> described them; ones that constituted for the Turks the 'justification', pretext or alibi of their merciless actions, which they committed. Second the unforgotten and unforgettable date of April 24<sup>th</sup> is the day when the Armenian body was decapitated.

In April 1915 Djevdet Bey ordered the conscription of 4,000 soldiers citizens of Van. Armenians realized that behind the order there was a deliberate intention of massacring the most competent soldiers of the Armenian population of the city, with the aim to leave Van essentially defenseless.

When the Armenians offered instead only five hundred soldiers and asked to pay exemption money for the rest, Djevdet Bey accused Armenians of "rebellion", and expressed openly his resolve to crack down on it by all means.

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<sup>32</sup> Moussa Prince, *L'Arménocide: Un génocide impuni*, Introduction, Fondation Moussa Prince, 1975, p. 32.

<sup>33</sup> H. Morgenthau, *Ambassador's Morgenthau Story*, Kessinger Publishing, 2004, p.186.

«"If the rebels fire a single shot", he declared, "I shall kill every Christian man, woman, and" (pointing to his knee) "every child, up to here.<sup>34</sup>».

The siege of Van lasted for about 5 weeks<sup>35</sup>, as 1,500 able-bodied riflemen supplied with antique weapons defended with peerless heroism 30,000 residents and 15,000 refugees in a small area of about one square kilometer of the Armenian quarter. The conflict lasted until the Russian army came to rescue the city under siege.

A hideous prelude resonated in Constantinople on Sunday night 24 April 1915. As the Allied forces, France, Great Britain and Russia landed at Callipoli, around three hundred Armenian notables and intellectuals clergymen, physicians, editors, journalists, lawyers, teachers, politicians and community leaders were arrested by the Turkish government and according to Talaat's order, who was the Minister of Interior of the time, were moved to camps near Ankara and imprisoned.

After the adoption of a law concerning dispatching and settlement, those still alive were deported<sup>36</sup>.

The majority of them though had already lost their life en route to the concentration camp due to the inhuman conditions of 'transportation', if not expulsion to death.

Later, in May 1915 another decree was issued according to which Enver Pasha as Minister of War was allowed to carry out the process of expulsion and resettlement of Armenian residents from their homeland to the Arabian deserts, the steppes of Mesopotamia.

The massive deportation was organized and committed after the formation of the "Special Organization" made up of slaughtering agents, most of them Turkish and Kurdish convicted murderers and bandits released from prisons and allowed to carry out the process. During this marches to death 75% of the Armenians did not survive due to the horrible conditions of their movement. More specifically there was no supply in food, water or medicines.

Thus, the people would die out of starvation, thirst or diseases. Furthermore, the hundreds of miles to be covered on foot were so exhausting that some would be left behind. In these cases, they would be either abandoned to die or savagely beaten to comply and continue marching or simply shot. Those who remained alive, when they arrived at the destination, would be left nude in the desert and deprived of the essentials for their survival<sup>37</sup>.

The Armenian villages and towns were evacuated one by one, as the residents were expelled from their fireplaces. Their houses and fortune was confiscated and expropriated either by the Turkish officials or by Muslims resettled from the Balkan areas and according to the relevant Law on Abandoned Goods. From North to South and from West to East the Armenians were led to die in the Arabic deserts.

On May 24<sup>th</sup> 1915 the Allied Powers having been informed by their representatives on the ground about the Turkish atrocities issued the following declaration<sup>38</sup>:

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<sup>34</sup> *Op. cit.*, p. 187.

<sup>35</sup> Herbert Adams Gibbon, *Armenia in the World War*, this document we can see in [http://www.armenews.com/IMG/Armenia\\_in\\_the\\_world\\_war\\_Gibbons\\_1926.pdf](http://www.armenews.com/IMG/Armenia_in_the_world_war_Gibbons_1926.pdf).

<sup>36</sup> <http://www.ermenisorunu.gen.tr/english/relocation/law.html>.

<sup>37</sup> [http://www.genocide-museum.am/eng/eye\\_witnesses4.php](http://www.genocide-museum.am/eng/eye_witnesses4.php).

<sup>38</sup> <http://www.genocide-museum.am/eng/France.php>.

«For about a month the Kurd and Turkish populations of Armenia has been massacring Armenians with the connivance and often assistance of Ottoman authorities. Such massacres took place in middle April (new style) at Erzerum, Dertchun, Eguine, Akn, Bitlis, Mush, Sassun, Zeitun, and throughout Cilicia. Inhabitants of about one hundred villages near Van were all murdered. In that city Armenian quarter is besieged by Kurds. At the same time in Constantinople Ottoman Government ill-treats inoffensive Armenian population. In view of those new crimes of Turkey against humanity and civilization, the Allied governments announce publicly to the Sublime-Porte that they will hold personally responsible [for] these crimes all members of the Ottoman government and those of their agents who are implicated in such massacres»<sup>39</sup>.

The Turkish response constitute a straight denial<sup>40</sup> of the facts and the deportations and massive massacres from Afion Carahisar, Kesaria, Sivir, Mersin, Marash, Alep and Eshkisehir continued irreducibly the months to follow with the Armenians, in some cases, to struggle to defend themselves and save their lives and properties.

This occurred in the case of Sasun in July, which ended to the detriment of the Armenians, and in the case of Musa Dagh. The latter resulted successfully for the locals, who were saved by the Allied Powers, which came to their rescue.

Mass burnings of children and women<sup>41, 42</sup>, drowning in the sea en masse<sup>43, 44</sup>, brutal slaughtering<sup>45, 46</sup>, use of poison and drug overdoses, addiction to morphine, gas intoxication, typhoid inoculations<sup>47</sup>, rapes of young women in public<sup>48</sup>, stealing of children, compulsory conversion to Islam<sup>49, 50, 51</sup>, hangings and confiscation of Armenian property and real estate were also methods and techniques broadly used by the Young-Turkish Special Organizations for the annihilation of the Armenian population.

In this context, Talaat taking pride in the extermination of the Armenian population, admitted to US Ambassador to Constantinople, Morgenthau that «in three months he managed to do more than Abdul Hamid did in 30 years to resolve the Armenian question»<sup>52</sup>.

<sup>39</sup> <http://www.genocide-museum.am/eng/France.php>.

<sup>40</sup> Moussa Prince, *L'Arménocide: Un génocide impuni*, Introduction, Fondation Moussa Prince, 1975, p. 36.

<sup>41</sup> [http://www.genocide-museum.am/eng/eye\\_witnesses1.php](http://www.genocide-museum.am/eng/eye_witnesses1.php).

<sup>42</sup> V. A. Bryce, J. A. Toynbee, A. Sarafian, *The treatment of Armenians in the Ottoman Empire 1915-1916*, Tanderon Press, England, 2000, p. 122. See also the book of Moussa Prince, *L'Arménocide: Un génocide impuni*, Introduction, Fondation Moussa Prince, 1975, p. 37.

<sup>44</sup> V. A. Bryce, J. A. Toynbee, A. Sarafian, *The treatment of Armenians in the Ottoman Empire 1915-1916*, Tanderon Press, England, 2000, p. 22.

<sup>45</sup> [http://www.genocide-museum.am/eng/eye\\_witnesses3.php](http://www.genocide-museum.am/eng/eye_witnesses3.php).

<sup>46</sup> V. A. Bryce, J. A. Toynbee, A. Sarafian, *The treatment of Armenians in the Ottoman Empire 1915-1916*, Tanderon Press, England, 2000, p. 556.

<sup>47</sup> N. Lygeros, *Sur la nouvelle édition de persécutions des médecins arméniens*, in <http://www.lygeros.org/lygeros/7905-fr.html>.

<sup>48</sup> Moussa Prince, *L'Arménocide: Un génocide impuni*, Introduction, Fondation Moussa Prince, 1975, p. 38.

<sup>49</sup> *Op. cit.*, p. 37.

<sup>50</sup> V. A. Bryce, J. A. Toynbee, A. Sarafian, *The treatment of Armenians in the Ottoman Empire 1915-1916*, Tanderon Press, England, 2000, p. 414.

<sup>51</sup> H. Morgenthau, *Ambassador's Morgenthau Story*, Kessinger Publishing, 2004, p. 194.

<sup>52</sup> Moussa Prince, *L'Arménocide: Un génocide impuni*, Introduction, Fondation Moussa Prince, 1975, p. 36.

In a period of six months, as Morgenthau describes in the Chapter the “Murder of a Nation”, about 1,200,000 Armenians were forced to deportation<sup>53</sup>,<sup>54</sup> to Syrian Desert<sup>55</sup>.

According to Lord Bryce in Toynbee’s book (both famous British historians), a very moderate estimation is that 500,000 Armenians have perished and “still they go on”<sup>56</sup>. Whereas other estimate that between 1915 and 1916 during the second phase of the Armenocide by the Ottomans more than 1,000,000 Armenians were genocided<sup>57</sup>.

The Allied Powers after the end of WW I did not forget their commitment to bring to justice the persons responsible for the Armenian population savage massacres. In this regard, the three powerful men of the Young-Turkish regime along with about 100 accomplices were brought to justice.

However, just before the end of the War Talaat, Enver and Djemal, resigned their posts and fled to Germany, where they had been offered asylum. Moreover, in an effort to safeguard the objectivity of the investigation needed, all the criminals of the Armenian massacre between 1914 and 1918 were transported to Malta<sup>58</sup>. Thus, all persons holding responsibility for the Armenocide were tried and convicted in absentia.

During the Paris Conference, which followed WW I, the Armenian delegation requested the inclusion of a provision regarding the establishment of their state. The Allied Powers accepted the request under the condition that the US would guarantee the safety and viability of the new state. W. Wilson, the then US President, was eager to assume this responsibility, but the Congress rejected the decision to turn Armenia in a US protectorate.

The following step was to include a provision regarding the establishment of an independent Armenian State in the Treaty of Sèvres (August 10<sup>th</sup> 1920). The Treaty was never implemented, though, due to the Kemal’s nationalism, which rejected it and refused to apply the commitments Turkey assumed after WW I as a country belonging to the defeated side of belligerents.

### 6.2.3. *The Kemalist phase (1919-1923)*

The Armenian question and torture did not finish with the fall of the Ottoman Empire. Kemal was determined to eradicate any trace of Armenians left alive along with other non-Muslim populations. In this regard, this last phase of the Armenian genocide is firmly connected with the genocide of the Greeks of Pontus and of the Assyro-Chaldeans.

Most analysts accept that the Armenian genocide was a part of a broader strategic plan of the Turks to erase from the map of their county any element that did not fit the model of the Turkishness and differentiated itself from the Turks by its very existence. All this was aiming at creating a new map of homogenous population inhabiting Anatolia and demanded the expulsion and extermination of

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<sup>53</sup> H. Morgenthau, *Ambassador’s Morgenthau Story*, Kessinger Publishing, 2004, p. 195.

<sup>54</sup> J. A. Toynbee, *Armenian Atrocities The Murder of A Nation*, Hodder & Stoughton, London, New York, Toronto, 1915, p. 12.

<sup>55</sup> Moussa Prince, *L’Arménocide: Un génocide impuni*, Introduction, Fondation Moussa Prince, 1975, p. 38 “de toutes parts les caravanes des déportés étaient acheminées vers les déserts de Syrie et de Mésopotamie”.

<sup>56</sup> V. A. Bryce, J. A. Toynbee, A. Sarafian, *The treatment of Armenians in the Ottoman Empire 1915-1916*, Tanderon Press, England, 2000, p. 359.

<sup>57</sup> Moussa Prince, *L’ Arménocide: Un génocide impuni*, Introduction, Fondation Moussa Prince, 1975, p. 40.

<sup>58</sup> *Op.cit.*, p. 44.

significant proportions of the population of the Turkish state, most of which were well-educated, prosperous and culturally advanced.

The Kemalist movement was established during the Congress in Erzeroum (July 1919) and Sivas (September 1919) on the doctrine of extreme nationalism and racial chauvinism, which new Turkey did not escape to inherit<sup>59</sup>.

Kemal himself had earlier clearly declared in an effort to exhort the Turks «to the sacred national struggle to save the fatherland from the Greeks and the Armenians»<sup>60</sup>.

The reason why, however, there were no such large scale massacres of Armenians during the Kemalist phase is because most of the Armenian population was already exterminated<sup>61</sup>.

Nevertheless, the genocidal acts on the part of Kemal's extreme nationalist cadres continued without less cruelty and roughness. In this respect Kemalism committed the genocide in Cilicia<sup>62</sup>.

To conclude, during the Kemalist phase whatever was left over anything Armenian continued in an irreducible way. The cultural Armenian heritage and monuments of its unique and distinguishing architecture were demolished by the Kemalist regime.

All the above was conducted in an effort to eliminate any Armenian element from the historic framework, thus depriving humanity of another cultural asset. What is lamentably more, along with the Armenians the Greeks of Pontus and Assyro-Chaldeans were contemporaneously exterminated as infidels threatening the cohesion and homogeneity of the Turkishness.

### 6.3. *Genocide or a war crime?*

#### 6.3.1. *Why a genocide?*

The Armenocide is considered to be the first genocide perpetrated in the 20<sup>th</sup> century. Shoah followed. These two cases seem to bear many common elements in such a degree that we may deem the Holocaust as a genocide paradigm on the Armenian model.

Thus, it seems that Hitler in many ways copied the methods used by the Ottoman, Young-Turkish and Kemalist regime against the Armenians, since many similarities are obvious. This also demonstrates that Hitler had too well studied the methods used.

The total death toll of the Armenians reach 1.5 million people. In any case, the exterminating crimes were committed to a large scale, even if this amount equaled to 10% of the Ottoman population<sup>63</sup>.

It is to wonder, though, how 10% of the population of an Empire could actually constitute a threat to its security, especially since according to the current official Turkish side Armenians were so dispersed in the Ottoman land

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<sup>59</sup> Moussa Prince, *L'Arménocide: Un génocide impuni*, Introduction, Fondation Moussa Prince, 1975, p. 42.

<sup>60</sup> *Op. cit.*, p. 41.

<sup>61</sup> *Op. cit.*, p. 42.

<sup>62</sup> *Op. cit.*, p. 43.

<sup>63</sup> [http://www.unitedhumanrights.org/genocide/armenian\\_genocide.htm](http://www.unitedhumanrights.org/genocide/armenian_genocide.htm) "Armenians totaling some two million persons, making up about 10 percent of the Empire's overall population".

that they could not establish a solid right for the creation of their own independent state after WW I<sup>64</sup>.

In the light of the above Armenocide comes under the provisions of the Convention on Prevention and Punishment of Genocide. Since there is:

a) clear *intention* of Ottoman, Young-Turkish and Kemalist regime to eradicate the Armenian race as a whole according to relevant decrees, statements and most of all massive massacres blind to gender, sex and age of the Armenians,

b) systematic and methodical destruction<sup>65</sup> in whole or in part of a national group. We have analytically displayed the methods used, which resulted in the liquidation of 1.5 million Armenians. Of the total population of the Armenians it is estimated that only 500,000 survived,

c) *killings* of members of the group, brutal massacres and savage carnages,

d) serious bodily *harm* to the members and deliberate infliction on the group's conditions of life calculated to bring about their physical destruction; in this case by death marches in absolute inhuman conditions, by deprivation of indispensables for nutrition, by expulsions to the deserts, by public massive rapes etc.,

e) *responsibility* on the part of the regime, since decisions were taken and implemented all by the official state and its cadres. The Armenocide was concluded in three successive stages. In each one of them there were official laws issued (disarmament, confiscation of properties etc.) as well as secret orders given (organization of Hamidiye group and of the 'Special Organizations'). There was in this sense a systematic and methodical planning specifically targeting the Armenian race.

All three stages, as presented above, were altogether connected by the clear aim to purify the Turkish nation from the Armenians and from another point of view of the Christians constituting the Genocide of Armenians, Assyro-Chaldeans and Greeks of Pontus and Anatolia.

### 6.3.2. *Why not a war crime?*

The first reason why the Armenocide is not simply a crime conducted during war is mostly due to the fact that the first and third phases, namely the Hamidian (1894-96) and the Kemalist (1919-1923) did not take place during wartime between Ottomans and Armenians as belligerents.

Turkey was not involved in warfare in 1894. Though in 1920 Turkey was actually conducting war against Greece; one which resulted in 1923 Treaty of Lausanne. Yet, the atrocities against the Armenians cannot be connected with this one.

Let's now examine the Young-Turkish phase (1915-1918), which more or less coincides with WW I. The justification for the Turks to proceed in atrocities against the Armenians<sup>66</sup> and accuse them of rebellion and affiliation with the Russians (who sided the Allied Powers against the Central Empires, whose ally was the Ottoman one), was their failure to conquer Van due to the courageous resistance of the Armenians.

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<sup>64</sup><http://www.mfa.gov.tr/data/DISPOLITIKA/Ermenilddialari/ArmenianGenocideFactsand Figures Revised.pdf>, p. 11.

<sup>65</sup> J. A. Toynbee, *Armenian Atrocities The Murder of A Nation*, Hodder & Stoughton, London, New York, Toronto, p. 27-38.

<sup>66</sup> H. Morgenthau, *Ambassador's Morgenthau Story*, Kessinger Publishing, 2004, p. 187.

Moreover, Talaat accused the Russian Armenians, as he called them, of assuming a position against the Ottomans, citing as examples the Zeitun resistance in 1915 and the Siege of Van as displayed above.

From there on, the Young Turks nearly 10% of their population, about 2-2,5 million Armenians constituted 'danger' and a 'threat' to the security of the Empire, one to be eliminated. As always propaganda was needed first to polarize and then justify the extreme actions. And it proved to be a useful tool, indeed.

According to the Turkish side the massive relocation of the Armenians, as the death marches were characterized, took place in an effort to protect the civilians, women and children by moving them out of the scenery of the war. Nevertheless, the theatre of the war was far from the areas from where the Armenian population was forced to be relocated.

Furthermore, this theory could not explain why the first blow inflicted to the Armenian body was against its head on 24<sup>th</sup> April 1915 and then a well coordinated strategy of collective vanishing of any Armenian label followed. In this case again, as seen above in the cases of Katyn and Holodomor one, it is the intelligentsia and the notables the first to be exterminated. But the Ottoman and Turkish policy did not stop there.

Obviously, the Turks experienced in waging wars through centuries and determined to initiate their extermination campaign, knew that they should first start with the potential spiritual leaders, the tongue and pen: intelligence and then the able-bodied Armenian soldiers, afterwards the civilian population and in the meantime the rich Armenian cultural heritage, temples, monuments, buildings etc.

Last, the civilian population, women, children and the elderly were treated in such a way that the atrocities and cruelties against them cannot constitute simply war crimes, due to the massive and horrific way the relocations were conducted as well as due to the high degree of inhuman behavior adopted against the innocent victims.

In this light, the Armenocide constitutes a crime certainly graver than a war crime, since the systematic destructive methods applied, the long duration of the eliminating strategy from 1894 to 1923 and its deplorable efficiency in timeline resulted in the horrible extermination of 1.5 million Armenians along with their cultural offer to human history.

### *7. The three examples under the lens of Stanton<sup>67</sup>*

According to Stanton's article, all genocides seem to bear common elements which constitute a strategy divided into 8 stages<sup>68</sup>. We will, thus, examine whether the theory of the '8 stages' is applicable to our three examples, namely the Katyn massacre, the Holodomor and the Armenocide.

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<sup>67</sup> <http://www.armeniaforeignministry.com/conference/speakers.html#stanton>. Founder and president of 'Genocide Watch', (<http://www.genocidewatch.org/resources/bydrgregorystanton.html>), director of the 'Cambodian Genocide Project', founder and Chair of the 'International Campaign to End Genocide', president of the 'International Association of Genocide Scholars (IAGS)' (2007-09) <http://www.genocidescholars.org/>.

<sup>68</sup> <http://www.genocidewatch.org/aboutgenocide/8stagesofgenocide.html>.

### 7.1. Classification

Categorization is one of the primary functions of the human brain, so that it may distinguish between different and similar things, persons, situations etc. with the aim to perceive the world.

Thus, it is natural for people and cultures to distinguish between 'us' and 'they', in an effort to establish an identity, grouping 'us' in one side and 'they' in the other.

In the example of the Katyn massacre, there was a by definition process of classification, since the prisoners arrested were all Polish officers, as they were captured during the invasion of Eastern Poland by the Soviet army.

In these terms, the distinction was made from the beginning. However, as we already mentioned their extermination constitute a war crime and not genocide, since the aim was to decapitate the Polish army head and able members of its society.

In the Holodomor case, the classification is much clearer, since the Ukrainians were pointed as the nation and under the pretext of a class differentiation than the rest Soviets, due to the land properties they owned.

In the Armenian case, the classification was made according to their religion as non-Muslim population and their race as Christian Armenians, who as such would be more eager to have affiliations with the Christian Russians, the oldest foe of the Ottomans and Turks over the centuries in their neighboring status.

### 7.2. Symbolization

Stanton argues that the stage of symbolization comes next to reinforce the phase of classification. In our cases, we do not seem to have specific tangible symbols in material used to make the distinction more visible, as for instance the yellow star for the Jews. However, there were labels used to name the 'other'.

More specifically, the Ukrainians were labeled as '*kulaks*' and the word *kulak* received a direct negative connotation indicating the bourgeois land owners, who oppose the collectivization project of the Soviet state, constituting in these terms an enemy of the state. In this view '*kulak*' was equal to the word 'enemy'. The symbol, thus, used for the Ukrainians was the word '*kulak*'.

The Ottoman, Young Turkish and Kemalist propaganda used the characterization of 'infidels' against the Armenians, as they were Christians. Naturally, for the Muslims the Armenians, along with Assyro-Chaldeans and the Pontic Greeks were *kâfir* or *gâvur*, meaning infidels in the Turkish language.

Moreover, all three nations were also deemed to constitute a threat to the security of the Ottoman/Turkish Empire and thus an obstacle to the expansion of Turan to all its own '*Lebensraum*'.

### 7.3. Dehumanization

As Stanton underlines, the first two stages are basic operations in every culture in general. However, they constitute part of genocide process only when they lead to dehumanization.

This means that when classification and symbolization aim at the elimination of the human character of the victims, then we are in the third phase of genocide, i.e. dehumanization.

In this stage, the victims are treated not as human beings but as a form of life less important than the human one, f.i. as insects or animals. In this way, it

is much easier for the executors to bring their mission to an end. From this point of view, when the victims are inferior to humans, there is no crime committed against human life, but instead the perpetrators have a duty to accomplish, namely to clean their own population from the odds. It is in this way not a surprise that hideous mutilations or extreme forms of murders take place.

In all three cases under examination, we may conclude from the ferocious way the victims were treated and the deplorable circumstances under which they were exterminated, that they were not treated as human persons, especially in the case of women and children in the genocides of the Ukrainians and Armenians.

#### *7.4. Organization*

The next stage to the chain is organization. This means that genocides are not a case of couple of days or an incident which took place in the spur of a moment. It also implies that genocides are collective crimes, which means that a group of people is needed for their completion, a special force that is shaped exactly for the commission of the genocide and which has been officially given specific instructions.

Sometimes organizing a genocide may lead to bureaucratic mechanisms as well and most of the time, as Stanton notices, these groups are organized by states, according to an official order either public or secret.

As regards the Katyn massacre, from the very beginning it was not the Soviet army that kept the Polish officers imprisoned but rather the Soviet secret police, NKVD, which cannot be considered as the competent body to be responsible for guarding prisoners of war.

The element of organization is also evident in the case of Holodomor since Stalin ordered cadres from the Soviet army to move to Ukraine and execute his plan of dekulakization rendering them personally responsible to carry out the project. In addition, the extermination of the Armenians was undertaken by the 'Hamidiye' group, during its first phase, by the 'Special Organizations' during its second and third phase. All these organizations were especially and in secret instructed to finish with the Armenians in an absolute and definitive way.

#### *7.5. Polarization*

Stanton observes that, due to their savage and brutal character, genocides may provoke counterattacks and the generation of a ferocious revenge circle. From this point of view, the ones who could slow this circle would be the moderate leaders. In this respect, the extremists choose the moderates as "the first to be killed" from the victims and thus polarization becomes the 5<sup>th</sup> step of the genocide.

In these terms, we could interpret in another way as well the decapitation of Ukrainian and Armenian intelligentsia. Namely, if the intellectuals had remained alive, they could have played a leading role in organizing the defense of the victims.

But, they could have also played the role of the moderate mediator in the process of a possible negotiating settlement that could follow the attacks against the victims. In this way, since the perpetrators first aim at the elimination of the moderate leaders, they are aiming at polarizing and electrifying the situation by causing a shocking blow to their victims.

This idea cannot be applied, however, in the case of the Katyn massacre, since the Poles executed by the NKVD were all Polish officers, so that we cannot make a distinction between moderate leaders and other parts of the population and, in this way, the Katyn massacre cannot *per se* and by itself constitute genocide. It may, though, possibly constitute a step towards this direction at a later stage, which however never occurred at least on the part of the Stalinist Soviets.

#### 7.6. *Preparation*

The 6<sup>th</sup> stage of preparation includes several intermediate steps to be taken such as identification, expropriation of the victims' property, concentration and transportation. This stage clearly shows in a more evident way that genocide is premeditated, systematic and methodical procedure demanding a thorough and analytical planning.

The victims should be first identified and enlisted; their real estate and property would be then confiscated, since the return of the owners is of course not envisaged. Next, the victims to be exterminated would be first transported, deported and generally placed away from their fireplaces and then gathered *en masse* in concentration camps, stadiums churches etc. or simply imprisoned in already existing ghettos.

In the case of the Katyn massacre, the preparation of the execution of the Polish officers has been analytically described. However, the process of identification and separation was not needed, as they were all Poles, as already mentioned.

In the Holodomor case, there might be no transportation, but the Ukrainians were obliged to remain to their places without possessing the necessary means to survive though. In this case, their right to free movement would possibly bring their salvation. However, the Ukrainians were deprived of this right and condemned to starve to death. We can easily identify the stage of preparation in the Armenocide, since all intermediate steps were taken thoroughly and implemented one by one.

#### 7.7. *Extermination*

The final solution, but not the final stage of genocide, is the extermination one. This stage concerns the attainment of the core and main goal of the genocidists for their ethnic, national and religious cleansing by the final application of their decisions taken.

The methods range according to their efficiency, but they are usually connected with massive massacres and in general with methods and techniques aiming at the liquidation of the whole national, ethnic or religious group or a part of it by abandonment, slaughtering, burning, murdering irrespective of the victims' age and sex.

Children and women compose a common target group for genocidists not only because they are by nature more fragile and defenseless, but also because they are the most dangerous group, in terms that especially children constitute the continuation and the future generation of the victims.

We have established that the above have been deplorably and savagely implemented by the Stalinist and Ottoman as well as Young-Turkish and Kemalist regime against humanity in the faces of Ukrainians, in the first case and the Armenians, in the latter.

It seems, however, that the same cannot be applied in the case of the Katyn massacre, because the execution of the Polish officers concerned the extermination of this particular military class of the Polish army and was not a systematic blow on a national group encompassing other parts of the population as well.

### 7.8. *Denial*<sup>69</sup>

The last and least stage of genocide is denial. This stage aims at producing results in the future, having thus an enduring character in time as long as the truth is not revealed.

The perpetrators of genocides hide the evidence, data and documents, which could be used by the historians of the future to prove the commission of this crime against humanity. Usually, massive graves are concealed and relevant archives are burnt.

Accusations of genocide are rejected as propaganda or as based on falsified and distorted reports. Genocidists bet on oblivion to save themselves from culpability and punishment.

In the case of Holodomor, the stage of denial had started already since the phase of extermination<sup>70</sup>. Indeed, as we mentioned, during Holodomor, Stalin had already imposed censorship tacitly forbidding talking about the Famine.

In addition, the Stalinist policy tried to conceal any evidence and insisted in denying the existence of Ukrainian deaths out of starvation and famine. In this way, an *a priori* denial was shaped; a denial built already from the moment of the commission of the genocide.

It is to be noted that especially as regards this final stage of genocide, Stanton has made a more thorough analysis and research and has observed that states, who have committed genocides resort to different ways to deny genocide.

It is especially in the Armenian case that the attitude, which the current Turkish state has adopted, confirms 100% Stanton's theory on denial, as described in his relevant article on "The 12 Ways to Deny a Genocide"<sup>71</sup>, which will use as a tool to examine, by cross checking it with the official stance of the Turkish Ministry of Foreign Affairs, as presented in the relevant report of the Center for Strategic Research in 2007 entitled "The Armenian "Genocide"? Facts and Figures"<sup>72</sup>.

More specifically, in pages 10 and 31 the Turkish Ministry presents data appearing the Armenian proportionalities and population in specific areas mostly inhabited by them as to be less than the number of the deaths recorded, less than ½ million Armenians in comparison to about 1-2 million given by most researchers. As Stanton argues, the first way to deny genocide is by questioning and minimizing the statistics.

Secondly, the Turkish official competent body states that after the outbreak of WW I, Armenian guerillas savagely attacked Turkish cities and villages in the

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<sup>69</sup> <http://www.genocidewatch.org/aboutgenocide/12waystodenygenocide.html>.

<sup>70</sup> N. Lygeros, *Holodomor: de l'envergure de l'oubli à la grandeur de la mémoire*, see on line in <http://www.lygeros.org/2698-fr.php>, <http://www.lygeros.org/Holodomor.htm>.

<sup>71</sup> <http://www.genocidewatch.org/aboutgenocide/12waystodenygenocide.html>.

<sup>72</sup> <http://www.mfa.gov.tr/data/DISPOLITIKA/ErmeniIddialari/ArmenianGenocideFactsandFiguresRevised.pdf>.

East, merciless massacring the inhabitants and sabotaging against the Turks in favor of the Russians<sup>73</sup>.

In this context, and with the Russian army advancing along in the East and the Armenian guerillas attacking the Ottoman army, the Ottoman decision to relocate Armenians from the war areas was a moderate and legitimate measure of self-defense.

Only that it first does not justify the massive “relocation” of hundreds of Armenians, which were far away from the Eastern front inhabiting the Southern parts of Anatolia. With this false argument the Turkish side blame the victims for their decision to affiliate the Russians (the 11<sup>th</sup> way to deny genocide according to Stanton) and at the same time rationalize the deaths as a result of a conflict (way Number 5, as Stanton sets).

Thirdly, the Turkish MFA argues that «The missionaries and consular representatives sent by the Powers to Anatolia played major roles in spreading this propaganda in the Western press, thus carrying out the aims of the Western powers to turn public opinion against Muslims and Turks to gain the necessary support to break up the Ottoman Empire»<sup>74</sup>.

In this way, the Turkish state implies that Christian eye-witnesses of that time deployed a planned propaganda against the Muslims, in an effort to take the public opinion by their side and, thus, to justify the turning of the Allied Powers against the Ottoman Empire during WW I. Stanton would comment that attacking the motivation of the truth-tellers constitutes the second method.

Furthermore, in the same Turkish study we read “Out of 700,000 Armenians resettled (sic) until 1916, «certainly some lives were lost as the result of both of large scale military and bandit activities then going on in the areas through which they passed (...) the relocation and settlement of the transferred Armenians took place at a time when the Empire was suffering from severe shortages of fuel, food, medicine and other supplies as well as large-scale plague and famine (...) the same conditions that affected the relocated Armenians»<sup>75</sup>.

According to Stanton, here we find at once two additional ways to deny genocide, namely putting the blame to ‘out of control’ forces for committing the killings (Stanton’s way Number 6); and claiming that the deaths were inadvertent (way Number 3).

Moreover, in p. 15 of the same report we read «great care was taken to make certain that the Armenians were treated carefully and compassionately, as they were relocated to the southern territories of the Empire, generally to Syria and Palestine when they came from southern Anatolia, and to Iraq if they came from the north». Stanton would say that this constituted the 9th tactic to deny genocide, by claiming that the victims are receiving good treatment.

Last and least, the negation of the Turkish government is clearly set when it declares in the same p. 15 of the report: «No such massacre, however, took place, at this or any other time during the war». In this way, the Turkish government officially refuses to assume responsibility of the crimes of the past regime, implies that it was the conditions of the war that provoked any loss of

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<sup>73</sup> *Op. cit.*, p.14.

<sup>74</sup> *Op. cit.*, p. 7.

<sup>75</sup> *Op. cit.*, p. 16.

life and, of course, is trying to establish inculpability of the Ottoman and Young-Turkish regime.

We should, also, not omit to note the resounding omission: Not a single word of course about the atrocities continued during the Kemalist era 1920-23. The only reference made is to deny the continuation of the Ottoman Empire to the current state, thus implying that the Turkish state is not the successor of the Ottoman Empire exactly.

In the light of the above, we have presented that the current Turkish government has used almost all typical and classic ways to deny that Armenians were genocided by the successive Ottoman, Young-Turkish and Kemalist regimes.

## 8. *Restoration of justice*<sup>76</sup>

### 8.1. *Introduction*

After drama, catharsis becomes a need. This is an ancient mental scheme describing the necessity to release all the emotions fueled in the spectators' soul by the course of the dramatic events taking place in front of their eyes. The dipole should apply in our study as well. Nevertheless, here there is a clear distinction.

The spectators viewing a drama at theatre have made ab origine a convention with the theatric writer, that what they will watch is based on a myth, on a story, known from the beginning how it would end.

Here, the reader of these pages has gone through the process of a gradual augmentation of pain, displayed in letters. Historic facts constituting crimes of war and against humanity truly and actually were perpetrated and resulted in real deaths of people screaming in panic and flames, crying out of despair, withering out of starvation, dying in horrible pain, leaving their single breath in the hands of their murderers.

This is not a myth. This is not logos either, of course. It is not logic, but it is the very truth, however. No human being can deny it. Wise psychoanalysts would argue that denial may constitute an efficient mechanism or tool of the psyche, as oblivion could also work, so the individual puts aside the unbearable scenery of mass graves, skeleton bodies genocided by famine, bloated bellies bearing death inside them, millions of slaughtered, burnt, beaten to death, repeatedly violated, murdered, butchered, merciless left behind in the death marches, unburied, all our genocided ancestors.

Yes, denial, oblivion and the 'life goes on' mentality could actually constitute a solution. And it really is. For, individuals in societies ensconce themselves by forgetting real human problems and dealing with petty things of everyday life, distracting themselves from the essential, wasting their time and energy in the unsubstantial, missing the point of their gift, i.e. given time to learn how to learn and live and live to leave something for the next to come. Live for the previous and the next.

Altruism has always been in the end a revolutionary idea in every society and every era. This has always been the tough way, but it has always been at the same time the correct path. Because, 'life goes on' and 'business as usual' do not certainly constitute the point of life, neither its meaning. On the contrary,

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<sup>76</sup> <http://www.lygeros.org/genocide.php>.

the substance is how life goes on, in which direction and to be more provocative, the point is us to make life go on and move on to the future, and to a better one.

In this way, an individualist and an individual would opt for the easy way; denial, oblivion, indifference, inertia. Namely, forget what has happened/ it has not happened, become indifferent to the facts/they never occurred, continue with household/it is more important.

Human nature, though, totally on the contrary, revolts at the atrocities and cannot simply forget them. A human being feels the necessity to learn more, to accept and most important to bear the truth, to recognize the crimes and the genocide. A human denies forgetting, refuses to forget and acts upon the restoration of justice.

And this is exactly how catharsis will come in our study. We have read. Now we know. No excuse of ignorance is acceptable now. Some of us may have experienced – through these pages and not only – the drama. Catharsis emerges as a need and it will come by struggling for the restoration of justice and the peace of innocent victims' spirit. This is what a human being would do. This the only option humans have, simply because there is a need to act in this respect. One option means no option at all.

## *8.2. Law – Legal basis*

Themis holding her scales of justice either as an ancient goddess personalizing justice or as the very substance of the just and fair sense we all bear is the key to our puzzle at this point. How can we characterize the above examined crimes as genocides or as war crimes, since the International Conventions covering them were signed after the acts had been committed?

One of the disadvantages of the conventional law is that it always follows events. The same holds for the penal law as well, since its evolution depends upon the evolution in crimes. Thus, conventional penal law, the category in which the Genocide Convention and the International Humanitarian Law belong, could not escape the mental scheme.

This is because military technology on the one hand and the improvement in methods of immolators regimes deriving from the lessons learned by the previous ones on the other, can actually lead to new forms of crimes and new types of genocidal murdering. Nuclear bomb for instance is a weapon unthinkable to be banned before its invention and use.

The reason why we have used these International Conventions on the protection of Prisoners of war (1949) and on Prevention and Punishment of Genocide (1948) as a tool, is because they help us better interpret the facts in conformity with what has been officially declared as internationally agreed and acceptable at an United-Nations level.

Thus, the 1949 Geneva Convention and the 1948 Genocide Conventions guide us to better examine whether the provisions are applicable to the cases under examination. In any case, we should not forget that the Jews received restitutions compensations by the post-Nazi regime for the Holocaust they and their relatives underwent in a retroactive way of application of the Genocide Convention.

Besides, as we have already presented the Convention for the protection of the prisoners of war has simply established in written what the customary international humanitarian law has already stated. As far as the Convention on

Prevention and Punishment of Genocide 1948 is concerned, we could say that it has essentially ratified the Art. 230 of Treaty of Sevres (August 10<sup>th</sup> 1920) regarding the crimes against humanity.

Furthermore and most importantly, we have backed our study on the above mentioned Conventions because the UN Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes against Humanity (adopted November 26<sup>th</sup> 1968) and in force November 11<sup>th</sup> 1970<sup>77</sup> allows us to do so. More specifically according to Art 1 of this Convention

*“No statutory limitation shall apply to the following crimes, irrespective of the date of their commission:*

(a) *War crimes* as they are defined in the Charter of the International Military Tribunal, Nürnberg, of 8 August 1945 and confirmed by resolutions 3 (I) of 13 February 1946 and 95 (I) of 11 December 1946 of the General Assembly of the United Nations, particularly the "grave breaches" enumerated in the Geneva Convention of 12 August 1949 for the protection of war victims;

(b) Crimes against humanity whether committed in time of war or in time of peace as they are defined in the Charter of the International Military Tribunal, Nürnberg, of 8 August 1945 and confirmed by resolutions 3 (I) of 13 February 1946 and 95 (I) of 11 December 1946 of the General Assembly of the United Nations, eviction by armed attack or occupation and inhuman acts resulting from the policy of apartheid, and the crime of genocide as defined in the 1948 Convention on the Prevention and Punishment of the Crime of Genocide, even if such acts do not constitute a violation of the domestic law of the country in which they were committed. (emphasis added).

Moreover, the preamble of the same Convention reads as follows: «...it is necessary and timely to affirm in international law, through this Convention, the principle that there is no period of limitation for war crimes and crimes against humanity, and to secure its universal application».

From this, we can easily conclude that war crimes and crimes against humanity cannot be subject to prescription, namely no maximum time can be set after the commission of these crimes for the legal proceedings to be initiated against the perpetrators.

In this regard, by virtue of the above-mentioned Convention both the 1949 Geneva and the 1948 UN ones have gained a retroactive and non prescriptive character. Hence, both conventions may be applicable to the cases under examination. Especially in the case of Russia, since Russia is a contracting party of the UN Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes against Humanity and is the successor state of the Soviet Union.

In any case, customary humanitarian law and, in other more sophisticated terms, Themis holding scales of justice would constitute the key to the door in front of us. For, justice cannot be misguided exactly because it is blind. Deprived of its natural sense of eyesight Themis remains impartial to those behind the facts and on her scales, she only weighs the criminal acts or the acts of genocide on the one hand and the impact of them to the victims on the other.

Themis remains indifferent to the power, which the perpetrator may possess. She does not count numbers of victims genocided or brutally murdered during

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<sup>77</sup> [http://treaties.un.org/doc/Treaties/1970/11/19701111%2002-40%20AM/Ch\\_IV\\_6p.pdf](http://treaties.un.org/doc/Treaties/1970/11/19701111%2002-40%20AM/Ch_IV_6p.pdf).

war. She only feels the weight of the merciless pain and their harmful impact to humanity. Being blind safeguards her objectivity, because she is the only one to feel on behalf of humanity the unbearable burden of the pain provoked to innocents en masse by crimes against humanity and war crimes. And pain in this case becomes the sufficient libra, which falls so heavy to the detriment of the immolators, i.e. the Stalinist and the Ottoman, Young-Turkish and Kemalist regimes that the scales collapse.

War crimes and genocides constitute blows in universal ethics. In substance, they attack human progress and the maturity process of souls in time. In some cases, it is the very future of humanity that is put in jeopardy.

What if ancient Greeks would have been genocided, Themistocles, Thucydides, Socrates, Sophocles or Ippokrates from Kos, Archimedes of Syracuse? How would in this case the course of history evolve? Who can guarantee that out of these millions of people unwarrantably deprived of their life, there is no highly intelligent person, which could change with his/her work the course of the history of the human species? The trajectory of human evolution would be certainly different. Only we will never find out in which terms.

In this light, we ought to note that Themis would not opt for acts of revenge on the part of victims. It is not a matter of peoples or nations taking revenge for the past crimes. It is not – as mentioned above – a matter of vengeance, because war crimes and crimes against humanity attack humanity as a whole and not only to a part of it. It is a matter of decency before the humankind and respect of the death of the innocents, who have to remain alive in our memories.

Thus, our legal basis is mainly Themis holding her scales of justice, seeking to find the equilibrium and restore peace.

Let's see now, how we may materialize this idea and this ideal. In the next pages to follow, we will embark on the endeavor of inventing a strategic approach of methods, ways and possible means to help humanity in its struggle to attribute justice.

We may follow a trajectory of gradual steps each one of them leading steadily to restoration of justice. Every stage of the below analyzed ones shapes a new framework, which is more powerful and durable than the previous one, all together gradually leading to our aim, i.e. justice.

### *8.3. Strategy for restoration of justice*

#### *8.3.1. Commemoration*

Memory is probably the most vital element of the identity of oneself. What are we if we do not have perception of our past? What kind of future can we envisage or build, if we do not have recollections, which construct our personality and our character by the time?

Which memories do we choose to keep? How can we interpret our behavior (actions, reactions or omissions), decisions, ideas and visions, if – as personalities – we are not in a position to perceive, know and describe the memories of our past?

Without memory there would be no evolution, there would be no perceived life as such. If there is no recollection of past mistakes, we are doomed to repeat them again and again. If we do not recall our experiences, what is the point of even characterizing something in this way? Knowledge is built upon

memory. Accumulation of knowledge leads to thoughts. Thoughts and will to action. Action producing results shape works. Works contain, conceptualize and incarnate memory. It is thus a circle.

All the above is what holds for a human being, for each one of us. In an isomorphic way the same applies for humanity as well. Humanity's evolution is depended upon the memory of its past and works is the means to preserve it through time for the future generations to come. That is the reason why we need to remember. *Yes, but what?*

As the children grow up and get more and more mature, they have to bear in memory their mistakes, so they would not repeat them and so they would grow mature. And this observation is related with the regimes that have committed mistakes, crimes and genocides not only against a people, a national, ethnic, or religious group, but to humanity as a whole.

At the same time, it is important to humanity as well to bear in its memory its own wounds. For scars is our dowry. Humanity never forgets injustice, not of course out of immature vengeance, but because it as the proper stance towards the innocents victimized and punished for simply being born with a specific label ("Armenians", "Greeks", "Ukrainians"). Because it as the due homage to the children, women, defenseless brains and souls, who brutally perished with no convincing reasoning, or simply with no reason at all.

Humanity does not forget the unjust deaths of its cells, refuses to throw into oblivion the merciless decapitation of its future – i.e. intelligence –, resists by keeping alive the memory of the innocent victims of war crimes and genocides, bears in mind that justice should prevail and time helps it do that. Oblivion of an unjust murder equates with killing again. As long as we forget the innocents, we repeat their killing. We, this time, are the perpetrators.

Surprisingly enough, Hitler would definitely agree with that!

*«So habe ich, einstweilen nur im Osten, meine Totenkopfverbände bereitgestellt mit dem Befehl, unbarmherzig und mitleidslos Mann, Weib und Kind polnischer Abstammung und Sprache in den Tod zu schicken. Nur so gewinnen wir den Lebensraum, den wir brauchen. Wer redet heute noch von der Vernichtung der Armenier?»*

*'Accordingly, I have placed my death-head formation in readiness—for the present only in the East—with orders to them to send to death mercilessly and without compassion, men, women, and children of Polish derivation and language. Only thus shall we gain the living space which we need. Who, after all, speaks to-day of the annihilation of the Armenians?'*<sup>78</sup> [Adolf Hitler, Chancellor and Führer of Nazi Germany (1933-1945)].

Perpetrators aim exactly at future oblivion of their past crimes. They ponder at the individuals who will forget their ancestors, they bet on the mechanism of denial and repulsion, the easy way, as we have already seen and in this way they envisage their exculpation.

The power of innocence, *le pouvoir de l'enfance* to put it more poetically is by any means much greater though and prevails.

In these terms, the descendants of the innocent victims of genocides and war crimes, i.e. the survivors, bear a heavier duty than the rest of the humans.

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<sup>78</sup> <http://www.armenian-genocide.org/hitler.html>.

They ought to prove that they deserve to be called descendants of their genocided or murdered ancestors. For, they, above all, should not forget of their painful past and they, above all, should be the first to take action accordingly.

Moreover, the descendants as the survivors of the genocides and war crimes still constitute the aim of the perpetrators in the future. Every survivor is a failure of the genocidists. But, as long as survivors do not perceive their duty and opt for the individualistic stance of oblivion and inertia, they side themselves with the genocidists.

Their silence and apathy equals to a second conviction in death for their genocided ancestors. Because if the descendants of the innocent forget, then why should the rest care more about their pain?

Survivors are lucky to be alive and their life is a target missed by the perpetrators of their ancestors. However, their gift given, namely their life, will not worth it, if they do not preserve the memory of their genocided or murdered ancestors.

In this light, commemoration becomes indispensable element in the process of the restoration of justice and possibly step number one. In this regard, a date, a symbolic date is needed so that the descendants, the survivors and humanity will use it as the focal point of the memory of the past crime.

In this respect, the remembrance day of the victims of the Katyn massacre is April 13th symbolizing the day when the first massive graves of the Polish officers were discovered in 1943 by the Nazi regime<sup>79</sup>.

We commemorate the Ukrainians genocided by famine every November 25<sup>th</sup> in the memory of the Stalin's relevant convicting decree. And we attribute homage to the genocided Armenians on 24<sup>th</sup> April every year in the memory of the notables and intellectuals arrested deported and eliminated in 1915.

In the same framework, we also need a special word to characterize the crime and at the same time making it to distinguish from other similar cases. For instance, the Jews have used beside Holocaust, the word Shoah, meaning the same thing but in Hebrew. The Poles when referring to their case, they use the Katyn massacre, Ukrainians use the word *Holodomor*, killing by famine, and it is in this term known worldwide now. The Armenians use the word *Mec Yegerin*, meaning the Great Crime, Armenocide is also used.

Last, in the same respect building monuments and statues bearing a symbolic meaning is not only a way to pay respects to the murdered and genocided ancestors, but also a reminder for the future generations to come of their past and their duty towards their history.

From this aspect, stone monuments, such as statues incarnate the collective memory of a nation and display to the next the bookmarks of their historic past.

Commemorating is the first step to restore justice and in this modus operandi, called life, memory is the means to transcend death.

Collective memory is even more powerful, but it is not enough by itself to produce results in our struggle to attribute justice. For this reason we need to move to the next steps, of which the first is recognition of the crimes.

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<sup>79</sup> After the crash of the Presidential airplane, which resulted in the tragic loss of 96 passengers in Smolensk en route to commemorate Katyn victims, the date April 10<sup>th</sup> was officially declared for the commemoration of the Katyn massacre.

### 8.3.2. *Recognition*

#### 8.3.2.1. *International recognition*

As for a state it is of vital importance its international recognition, the same applies with these crimes too. A non recognized genocide or war crime simply does not exist. What does this mean? Crimes (war crimes and against humanity) are facts, which have actually taken place and history can not be rewritten, since it is written just once by facts.

However, if we want commemoration to produce results, namely punish these crimes and attribute justice, we have to name them and recognize them in the exact terms, in which they were committed, either if we deal with war crimes or with genocides.

Hence, in our steps upwards justice the second sine qua non one, is recognition, i.e. an official recognition on the part of countries. There must be formal declarations issued officially by states laws or decrees characterizing, stating and labeling in written that what Polish officers in 1940, Ukrainians in 1932-33, Armenians from 1894 to 1923 underwent by Stalinism the first two and by Kemalism the latter, were a war crime in the first case and genocides in the last two ones.

The simplest way to achieve that, yet certainly not the easiest one -most of the time simple is difficult - is via the United Nations Organization. In these terms, the UN is the best forum to raise a case of the recognition of war crime or a crime against humanity and resolve the matter of recognition, since in this way we achieve the collective and simultaneous recognition.

It is logic to assume that as long as a crime is recognized by the General Assembly of the UN, either as a war crime or genocide, it is automatically and officially recognized internationally and contemporaneously. Besides, this has already been applied for Shoah, the Holocaust of Jews by the Nazi regime.

We may as well end to the same thought, that the UN is the most competent body to recognize genocides, by following the quite opposite path. More specifically, if the UNO wishes to be descent vis-à-vis its own self and role, then it has to ask itself: the Nations are indeed United under its auspices, but with what? Which is the unifying factor between nations? Which is the element that unites all nations together? The human of course<sup>80</sup>! In this respect the UN GA renders itself the most competent and ... human body to recognize war crimes and genocides.

Naturally, this objective is extremely difficult to achieve. Mainly due to the fact that quite often, if not always, the UN becomes the main theatre of waging diplomatic wars and political rivalry can there produce multiple results of practical zero in the end. Balance of political power and equilibrium of interests are always taken into consideration in shaping alliances and lobbying against the one or the other thesis, thus impeding the process of making decisions.

So far, there is only one instance of recognition of a genocide case by the UNGA. This has been succeeded only by Israel, which managed to pass the relevant Resolution adopted by the 60th UN GA in 2005 on the recognition of Holocaust and not only this. In the same Resolution denying Holocaust is also

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<sup>80</sup> Moussa Prince, *L'Arménocide: Un génocide impuni*, Introduction, Fondation Moussa Prince, 1975, p. 88.

condemned<sup>81</sup>. No individual recognition is thus needed for each state separately.

The same effort was made on the part of Ukraine when in 2003 the Ukrainian government embarked on the endeavor of raising the Ukrainian question of Holodomor to public awareness and requested for an international recognition at the UN level. The motion failed, since only a Joint Statement was attained, subtly rejecting Stalin's regime responsibility<sup>82</sup>. However, the Holodomor started to exist, since it received first a specific name singling it out of the other genocides, then a remembrance date on 25<sup>th</sup> November and the most important it had attained 24 recognitions mostly by countries, among them Argentina, Australia, Azerbaijan, Belgium, Canada, Estonia, Georgia, Hungary, Italy, Latvia, Lithuania, Moldova, Poland, USA and the Vatican.

The European Parliament also with its resolution of 23<sup>rd</sup> October 2008<sup>83</sup> recognized «the Holodomor (the artificial famine of 1932-1933 in Ukraine) as an appalling crime against the Ukrainian people, and against humanity» and condemned «these acts directed against the Ukrainian peasantry, and marked by mass annihilation and violations of human rights and freedoms».

Furthermore, the European Parliament expressed «its sympathy with the Ukrainian people, who suffered in this tragedy, and pays its respects to those who died as a consequence of the artificial famine of 1932-1933» and last called on «the countries which emerged following the break-up of the Soviet Union to open up their archives on the Holodomor in Ukraine of 1932-1933 to comprehensive scrutiny so that all the causes and consequences can be revealed and fully investigated». The EP thus paved the way ahead for humanity.

As far as the Armenian question is concerned, the countries or the National Parliaments, which have recognized it as genocide are<sup>84</sup> Uruguay, Cyprus (Chamber of Representatives), USA (Chamber of Representatives), Russia (Duma), Greece (Parliament), Belgium (Senate), Sweden (Parliament), of Lebanon (Parliament), the Vatican, France (Parliament & Senate), Switzerland (National Council), Argentine, Italy, the Netherlands, Slovakia, Canada, Poland, Lithuania, Venezuela, Chile. In Germany Bundestag has issued a resolution condemning the massacres but without using the term genocide.

Furthermore, in the UN framework the Sub-commission for prevention of discrimination and protection of minorities<sup>85, 86</sup>, the Permanent Peoples' Tribunal (a UN think tank, now defunct) in 1984<sup>87</sup>, the European Parliament in 2005<sup>88</sup>, the Council of Europe Parliamentary Assembly in 2001<sup>89</sup> and the World Council of Churches<sup>90</sup>, Mercosur in 2007<sup>91</sup>.

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<sup>81</sup> <http://daccess-ddny.un.org/doc/UNDOC/GEN/N05/487/96/PDF/N0548796.pdf?OpenElement>

<sup>82</sup> Joint Statement on the Great Famine of 1932-1933 in Ukraine (Holodomor) on Monday, November 10, 2003 at the United Nations in New York.

<sup>83</sup> <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P6-TA-2000523+0+DOC+XML+V0//EN&language=EN>

<sup>84</sup> <http://www.genocide-museum.am/eng/states.php>

<sup>85</sup> Un Sub-commission on prevention of discrimination and protection of minorities, 38<sup>th</sup> session E/CN.4/Sub.2/19885/6,2 Juillet 1985.

<sup>86</sup> [http://www.armenian-genocide.org/Affirmation.169/current\\_category.6/affirmation\\_detail.html](http://www.armenian-genocide.org/Affirmation.169/current_category.6/affirmation_detail.html)

<sup>87</sup> [http://www.armenian-genocide.org/Affirmation.66/current\\_category.5/affirmation\\_detail.html](http://www.armenian-genocide.org/Affirmation.66/current_category.5/affirmation_detail.html)

<sup>88</sup> [http://www.armenian-genocide.org/Affirmation.341/current\\_category.7/affirmation\\_detail.html](http://www.armenian-genocide.org/Affirmation.341/current_category.7/affirmation_detail.html)

<sup>89</sup> <http://assembly.coe.int/Main.asp?link=/Documents/WorkingDocs/Doc01/EDOC9056.htm>

<sup>90</sup> [http://www.armenian-genocide.org/Affirmation.65/current\\_category.5/affirmation\\_detail.html](http://www.armenian-genocide.org/Affirmation.65/current_category.5/affirmation_detail.html)

In addition, some countries did not limit themselves only in the recognition of the Armenian genocide, but have stepped one move forward by penalizing the non recognition.

Specifically, for countries like Switzerland, Belgium and France, it is not enough to simply recognize that the crime against humanity was committed, but also to penalize by fine whoever denies that the genocide took place and insults the memory of the genocided victims. So far, this has found an application in the case of Shoah.

Indeed, as it has been already mentioned, according to the relevant UN Resolution it is prohibited to deny the Holocaust. These states by the posture they have chosen to stand for, have offered to international community an excellent paradigm to follow. And in these terms have dealt a real and enduring blow to the oblivion of the genocides in favor of the human rights protection by showing the path towards the everlasting pay of respects to the memory of the victims.

As last note, we would like to point out that the Resolution of the European Parliament 2005 contains a very significant element.

At point 5 it "Calls on Turkey to recognize the Armenian genocide; considers this recognition to be prerequisite for accession to the European Union". And in this way we may pass to the next step, which is the recognition on the part of the perpetrator.

#### 8.3.2.2. *Recognition on the part of immolator*

This is the most difficult aim, as it is always extremely hard for a criminal to admit having committed a murder.

First, because penal law criminals really believe in their justifiable actions and reasoning that led him/her to the murder, even if we have to do with a premeditated murderer, even if we deal with a serial killer.

Second, because the criminals after the commission of the crime they tend to hide evident and conceal proof, they take care of erasing their traces and caching the truth, thus making even difficult for their descendants or heirs to know the true range of their past.

Secrets, crimes and lies are definitely not a good heritage for one to leave behind and certainly not a light inheritance for the heirs to accept and bear.

This observation leads us to our next idea in all these cases. It is not a nation to be blamed collectively for the crimes perpetrated by its past regimes. Namely, in the Katyn massacre it was not the Russian nation against the Polish officers.

The same applies in the Holodomor case, since it was not the Russians as a people and as a whole nation turning against the Ukrainians. In both cases it was the Stalinist regime against the Poles in the former case and against the humanity in the latter.

It was Stalin and his methods and techniques, that led to these crime and it was Stalinist cadres the ones that committed them.

Nor was it the Ottomans or the Turks against the Armenians, but mainly Young Turks of CUP (in a prekemalist phase) and the Kemalists who committed the genocide.

Thus, we should not aim at accusing the current Russian government nor nowadays Russia, nor the Turks, nor the current Turkish government.

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<sup>91</sup> <http://www.armenian-genocide.info/2007/11/mercosur-parliament-recognises-and.html>.

Nevertheless, a major observation is needed to be put down and kept in mind. These countries Russia and Turkey are the successors of the past regimes. Hence, as it happens with heirs who may receive their ancestors' wealth and fortunes, they may quite well inherit debts as well!

It is, thus, logic to assume that since the perpetrators of these crimes are not still alive, so that they would be obliged by humanity to admit culpability and acknowledge their crimes, we have to turn to their successors in power and demand from them not to assume responsibility of course, but to recognize that their past regimes, have been liable for the Katyn massacre, the Holodomor and the Armenocide to the international justice.

In these terms, current Russia and Turkey carry a huge debt towards humanity and justice. In this regard, they have to admit that Stalinism decided and launched a lamentable atrocity against the Ukrainians that resulted in the tragic loss of 7 millions Ukrainians, as they were genocided by condemnation to starvation.

As far as the Armenocide is concerned, the Turkish government must first erase from its existing penal law (Art. 305<sup>92</sup>) the censorship on the genocide of the Armenians – what an indirect admittance of culpability, that is! – admit that the Ottoman Empire, first with the Young-Turks launched the most severe and merciless massive campaign of eradicating the Armenian as a national group and then the Kemalist regimes continued with the genocidal process, so that no Armenian would be left alive.

A policy well organized, best conducted, successfully efficient in its implementation resulted in the brutal extermination of 1.5 million Armenians.

Besides, admitting a mistake and apologizing for it is always a characteristic trait of a powerful person, secure and mature enough to acknowledge even crimes – if committed – and thus to assume responsibility and become liable to the people harmed before the eternal court of Themis.

The same applies with countries, as well, and, in this case, it is even easier, since it is not the current governments, which are called upon by humanity to admit and apologize.

It is easier to claim that some of your ancestors holding power made cruel decisions and have turned themselves in serial killers, because that is what genocidists are.

They are not criminals of the common penal law, they are not simple murderers. They are serial-killers of humanity.

In this respect, the International Association of Genocide Scholars in an open letter addressed to current Prime Minister of Turkey, Mr. Recep Tayyip Erdogan on June 13<sup>th</sup> 2005 in response to his call for an impartial study by historians, clearly calls «the Turkish people (...) to acknowledge the responsibility of a previous government for the genocide of the Armenian people, just as the German government and people have done in the case of the Holocaust»<sup>93</sup>, because as it is mentioned it is clearly in its interest.

Thus, if Turkey wants to get pride in being an Islamic country *en route* to the Western world, culture and civilization, of which the best proof would be its eventual entering in the EU, then she ought first to recognize the crimes against humanity committed by her past regimes from 1894 to 1923.

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<sup>92</sup> <http://www.osce.org/fom/14672>, p. 5.

<sup>93</sup> <http://www.genocidescholars.org/images/OpenLetterTurkishPMreArmenia6-13-05.pdf>.

On the other hand, if the EU wishes to be descent vis-à-vis its own foundations and values, it cannot by any means accept in its framework as an equal partner and Member State the first serial killer of the 20<sup>th</sup> century, the country of which a past regime has committed the first crime against humanity of the past century by the massive elimination of the non-Muslim populations.

The recognition of the genocide of Armenians, Assyro-Chaldeans and Greeks of Pontus and Anatolia must constitute for Turkey a sine qua non condition to be met as well along with the other criteria set for her membership in the EU.

Besides, this is what the European Parliament has voted for, as seen above.

#### 8. 4. *Restitution and Reparations*<sup>94</sup>

The next step towards the process of restoring justice would be the phase of restitution. In this respect, the descendants of the victims, if they establish right to reparation, they should move forward with the procedure of claiming reparations from the successor states of the past regimes-perpetrators. In other words, it is simply not enough that humanity commemorates every year the loss of the victims. It is not enough that the international community recognizes the crime committed.

What is more important is that the state, whose past officials are culpable of war crimes and crimes against humanity before the international community, apologizes by compensating the descendants of the victims and offer complete restitution, so that to the most possible extent *the status quo ante* would be restored.

Naturally, the moral duty to compensate for the deprivation of life comes first, if the cost of a lifetime can be in any way determined in figures representing amount of currency.

Then it is logic to come up with the conclusion that, since the land property and wealth of the genocided in the Holodomor and Armenocide cases had been then confiscated, the official state of that time gained in wealth.

The successor states have in these terms in their possession wealth gained illegally, one that they have to attribute back to the righteous holders. The above holds *mutatis mutandis* for the case of the Katyn massacre as well.

Moreover, we may find a sufficient legal basis for claiming for restitution on the *UN Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law*<sup>95</sup> of 2006.

From this point of view, the descendants, relatives and family members of the Ukrainians proven to have been genocided by famine in 1932-1933, may establish the right to restitution, according to the above mentioned UN Treaty, since its wide range may cover their case as well.

The same legal basis can be used by the relatives of the Polish officers massacred in Katyn in 1940, as the Convention is well applicable in their cause too.

As the genocide of the Armenians is the most advanced in terms of international recognition, it is worth to take a closer look of how the Armenian diaspora has managed so far to promote its cause in the international arena.

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<sup>94</sup> <http://www.lygeros.org/recours.php>.

<sup>95</sup> [http://www.un.org/ga/search/view\\_doc.asp?symbol=A/RES/60/147](http://www.un.org/ga/search/view_doc.asp?symbol=A/RES/60/147).

More specifically, first Art 230 of the Treaty of Sèvres<sup>96</sup> (August 10th 1920), which closed the WW I between the Allied Powers and Turkey, stipulates the obligation of the Turkish government to hand over to the Allied Powers those responsible for the massacres against the Christian minorities.

In addition, Art 144 of the same Treaty nullifies the 1915 law regarding the Abandoned Properties of the non-Muslim population, which had been forced to abandon their fireplaces. In substance, the phrase in the Article “null and void, in the past as in the future”, renders the rights, described in the paragraph to follow, imprescriptible.

Moreover, according to the same Article the Turkish government assumed the responsibility to fully recover and restore these populations back to their home bases.

Even though the Treaty of Sèvres was never implemented due to the Kemalist movement, which changed the course of Turkey’s future as well as of the Christian minorities’ ones, we can argue that the right to restoration still holds, since the Treaty of Lausanne does not provide for anything different on the matter.

Furthermore, the signing of the European Convention on Human Rights<sup>97</sup> on the part of Turkey in 1989 made it by virtue of Art 34 possible for individuals to bring her before the European Court of Human Rights for remedy. Additionally, Turkey ratified in 2003 the International Covenant on Civil and Political Rights<sup>98</sup> along with the Relevant Protocol in 2006 and so she has to adjust her penal law according to the provisions stated in this Covenant and according to the relevant obligations assumed by its signing and ratifying.

In the light of all the above, the Armenian diaspora issued on November 25<sup>th</sup> 2004 a declaration entitled “la Déclaration du Collectif 2015: reparation”<sup>99</sup> with which they have put forward the claiming for reparations by the current Turkish state.

In this, the Armenian diaspora underlines that the Turkish state owes reparations to the Armenians, which should include «the value of human lives cost, the deprivation of moral and political rights, the psychological suffering of the survivors of the genocide and their descendants, the restitution of confiscated national properties and the rehabilitation of cultural monuments, compensation for spoliated private goods (land and buildings), restitution of bank savings and investment».

### 8.5. *Writing history books by using archives*

History is written by facts which take place. However, as time goes by and present becomes past, it becomes indispensable to put in written what has occurred, according to the Latin saying: *scripta manent*.

Historians, though, after a thorough research of sources, ought to make a selection, in order to investigate the true facts. For this reason, they usually resort to the most trustworthy sources, namely official archives.

In this respect, the most useful and valid sources for historians and researchers are the state archives.

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<sup>96</sup> [http://wwi.lib.byu.edu/index.php/Section\\_I\\_Articles\\_1\\_-\\_260](http://wwi.lib.byu.edu/index.php/Section_I_Articles_1_-_260).

<sup>97</sup> [http://www.echr.coe.int/NR/rdonlyres/D5CC24A7-DC13-4318-B457-5C9014916D7A/0/ENG\\_CONV.pdf](http://www.echr.coe.int/NR/rdonlyres/D5CC24A7-DC13-4318-B457-5C9014916D7A/0/ENG_CONV.pdf)

<sup>98</sup> <http://www2.ohchr.org/english/law/ccpr.htm>.

<sup>99</sup> <http://www.collectif2015.org/index.html>.

Official internal documents, laws, ministerial decrees, written decisions and announcements of governmental or local authorities, minutes of official meetings, statements, reports as well as cables coming from external authorities, Embassies and Consulates and memoirs of eye-witnesses belong in this category.

Of course, all this needs to be cross-checked, thoroughly investigated in terms of what lies beneath and in general combined with the overall historical background of the broader spectrum and at an upper level.

From this point of view, it is of paramount importance that history books are written straight on the basis of archives and not on the basis of already written books, in a reproduction-styled way. It is in this way that their accuracy and closeness to the truth rests.

At the same time, history books become the monuments of pages in which the collective memory is being safeguarded and the future generations to come learn about the past and are taught of the mistakes and crimes committed, committing in parallel themselves not to repeat them again. Thus, writing history books becomes one of the most efficient ways to prevent genocides in the future.

Any falsification of the truth, any altering of history would result in one or in the other way in its repetition and in the case of war crimes and crimes against humanity the second time will not be a farce as W. Churchill quoted in his famous line "History repeats itself, first as tragedy, second as farce".

The second and next time if – alas – to come, will be worse than the previous one, because, as we established, genocidists learn one from the other and especially genocidists learn from the mistakes of the previous ones, thus improving their methods and techniques and provoking each time even worse pain to humanity.

## *9. Conclusion*

We have gone through a difficult path of taking a close look of historic facts having resulted in the death of millions of our ancestors.

By using law as a pair of glasses, we examined in a more thorough, cerebral and objective way the same events, in order to establish their character in legal terms and better comprehend the nature of their impact onto humanity.

In this light, we have seen that the Katyn massacre constitutes a war crime committed by the Stalinist regime, recognized by the Soviet Union in 1990. The Russian state, as the successor of the Soviet Union has recently labeled it as 'political crime' and has openly accepted the responsibility of the Soviet NKVD for its commission.

Russia has proven itself wise enough to allow the Polish side to officially carry out commemoration ceremonies on the spot of Katyn forest. In addition, a large part of the Soviet archives are at the disposal of the Polish side for research and study enabling history to be put down properly and in written. Thus, the road for relatives to exert their right for restitution remedy may open in a second stage in due time.

Regarding Holodomor, we have established that the killing 7 millions Ukrainians by condemning them to starvation constitutes a case of genocide, which was not committed in war time or war conditions.

The Russian state as successor of the USSR has denied responsibility on the genocide of Ukrainians. Ukrainians, though, should continue the struggle for international recognition of their cause by as many countries as possible for the restoration of justice.

Rights to restitution may be established in this case too, according to the International Law.

Last, the Armenocide the genocide prototype, the first genocide of the 20th century cannot certainly be any longer denied by anyone. Certainly, it took place during WW I but the crimes of the Ottoman Empire, the Young Turkish one and the Kemalists are way too far to be deemed as war crimes.

The systematic destruction of the Armenian people, as we examined, indisputably constitutes a case of genocide extended to Assyro-Chaldeans and Greeks of Pontus and Anatolia as most scholars on genocide accept.

The endurance in time, the depth of repercussions and severe impact, which war crimes and crimes against humanity bring about onto humanity, oblige us to seek a strategic approach for the restoration of justice.

This stance is dictated by the sense of fairness and the sense of responsibility towards the whole world, which each one of us should bear, feel and act upon. And exactly in this respect, we have presented the ways and the steps to follow in the struggle of humanity for remedy and justice so as to best safeguard the prevention of genocide in the future.

<i>Recibido el 29 de abril de 2012 y aceptado el 14 de mayo de 2012.</i>
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