

# Genocide Reparations

Armenian Bar Association

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# Why Discuss Here, Now

- Collective Silence has created a vacuum
- If **we** don't say what we want, **others** will dictate our future
- Attorneys have **professional expertise** in analyzing injury, justifying damages, resolving disputes
- **Public service** to clarify options, components for a package of remedies
- **Other** parties are already **setting pre-conditions**

# Approach

- Start the discussion
  - help clarify options
  - build consensus
  - reduce resistance to Genocide recognition
  - remove obstacles to international and regional resolution of issue
- Suggestive, not exhaustive or preclusive
- Not a demand or claim or opening position for bargaining
- No intention of “speaking for” or “on behalf” of the nation or state

# Dispute Resolution

## Hypotheses:

1. If we do not want others to dictate our future on this issue, we need to articulate our interests, aims and components of a solution
2. This issue will in all likelihood be decided not in a court of law, but in a quasi-legal, quasi-political form of multilateral discourse involving state and non-state players

# Plan for Today

- Consider some aspects of the injury
- Consider some possible remedies
- Start talking about **what** we want
- Articulate **why** we think it is good, fair and reasonable
- Explain what **our vision for the future** on this issue and for the region,
- Start an **open-ended discussion**

# Today's Goal

- Identify some tentative remedial options “may include, but are not limited to”
- Produce a **sub-list** of such components that could be a starter for productive discussion involving not only Armenians but also other interested parties

# Discussion as a Public Service

- a public service to start a healing discourse on this *painful* and *complicated* issue
- *Why painful?* Because we start from the premise that the harm can never be effectively undone
- *Why complicated?* Unprecedented, historically unique, complex region, lapse of time

# Irreparable Harm

**What** cannot be done today:

- Can't achieve perfect justice.
- Can't restore the **millions of "missing" Armenians** that would have been, but for the Genocide
- Can't return **all the land or property** that was taken, destroyed or is now in others' possession
- Can't undo the **damage to Armenian culture**,
- Can't undo destruction to a **way of life** on ancestral lands



# Trade Ups & Trade Offs

**Trade Up Options** - increase value for all players - via actualizing value in the current system.

**Trade Off Options** - involve reallocation of existing value - aim at "**settling the score.**" (always available, typical court justice)

# Trade Ups

1. **Trade Up** Situations that involve **no present or future trade offs - rare or non-existent** - since almost any current act forecloses some future potential
2. **Trade Up** Situations that involve **insignificant ("symbolic") tradeoffs**. - these increase value for all players while not significantly worsening any players' current position (although in some cases, worsening future positions) (**historically rare**)
3. **Trade Up** Situations that involve **significant tradeoffs - (historically fairly common)** these increase value for all, but at a significant cost to one or another player.

**Trade Offs** always available. We live in time where an **Option 2 "Trade Up"** may be possible.

# Kinds of Harm

- People
- Land
- Culture
- Private Property
- National Security
- National Prosperity
- Institutions
- Dignity

# Kinds of Remedies

- **Restitutio in integrum** – put the injured party in the position it would have been, but for the wrong
- **Compensation** - If restitution is not possible, compensate in other ways
- **Deterrent/punitive damages**
- **Redress** – reverse or negate the intention or effects to the extent possible

# Broad Definition of Reparations

- **Redress or “Repair” the wrong**
  - since the primary objective of Genocide was to **annihilate** the Armenian nation
  - the aim should be to provide better conditions to **assure the survival and prosperity** of the Armenian nation
- **Why?**
  - **goal** is a lasting peace and regional stability
  - **solutions** need to address past, current as well as foreseeable irritants to prevent future inflammations.
  - **partial solutions** only sow the seeds of future disputes.

# Minimum Components

- **What** needs to be addressed by any settlement surrounding the Genocide:
  - truth, end to revisionism
  - Land that secures sustainable development for the Armenian nation
  - protection of monuments and Armenian population,
  - access to the sea,
  - self-determination for Artsakh,
  - national security for Armenia

# Claims on Record

## 1919 Paris Peace Conference

1. Armenia “Sea to Sea”
2. Reparations (loss of life, private property, damages) – assumed restoration of ownership and return to ancestral lands

# Armenian Claims at Paris Peace Conference

Category	French Francs (bln)	Equivalent in US Dollars (bln)	Equivalent in Current Dollars (bln)
Damage to Physical Property, Requisitions, etc	11.30	2.18	25.53
Losses of Revenue, Support of Civilians, Repatriations of Refugees	1.08	0.20	2.34
Compensation for Civilian Injuries and Deaths	6.10	1.18	13.82
Compensation for Military Injuries and Deaths	0.62	0.12	1.41
<b>TOTAL CLAIM</b>	<b>19.10</b>	<b>3.68</b>	<b>43.09</b>

**Present Value of Claim – \$565 bln.**



# Recognition & Apology

- **Recognition and apology**, followed by reconciliation and normal relations,
- teaching the **truth**
- end **discrimination**, scapegoating
- **Restore Armenian place names**; stop misidentifying Armenian sites

# Land: Baselines

- Treaty of Berlin (1878)
- Sevres/Wilsonian Armenia (1920)
- Armenian Republic (1918-1920)
- 1919 Paris Peace Conference “Sea to Sea”
- Kars (Moscow, Batum, Alexandropol) Treaties
- Soviet Armenia/Republic of Armenia
- Karabagh/Artsakh – 1921
- Other?

# Land - Value

- **Land has intrinsic value**, it is a form of **natural wealth**
- Land also has **geopolitical value**.
- Land is also a **repository of culture - fixtures to the land**

# Alternatives

- **Considering alternative forms of compensation:**
  - free access and transit
  - guaranteed preservation/right to intervene to safeguard historical sites
  - priority right to use various natural resources that are part of the indigenous nation's patrimony,
  - regional security arrangements
  - transportation lines and infrastructure (e.g., rail, road, harbors)
  - moral and monetary compensation.

# People

- impossible to put a **value on lost generations,**
- nevertheless, lawyers and legal institutions do this all the time
- **perpetrators/ beneficiaries can contribute** to the well being of the heirs and their culture - (1) **moral** and (2) **monetary** compensation.

# Culture

- **Damage to Culture** is a continuing problem.
- **Financial support** is appropriate for conservation and restoration
- **Continuing Violations** – destruction of Armenian Culture, limitations on Armenian Church in Turkey

# Historical Cultural Monuments

- RAA Statistics
- IWPR Report on Nakhichevan
- Armenian sites in Northern Artsakh – e.g. Gandzak

# Church Damages and Property

- **largest private Armenian property owner, repository of national wealth and culture,**
- **greatest losses as an institution**
  - more than 2000 churches, per official Ottoman era records; thousands of clergy (1:140 parishioners)
- **weakened for Soviet era**
- **the Armenian Church bore brunt of the Genocide and the humanitarian disaster thereafter;**



# Church Reparations

- **Restoration of ownership of traditional Armenian Church properties**, wherever possible within Turkey, to the Armenian Church,
- **fair compensation** for property and damage when restoration is not possible.

# Religious Freedom

- **Protection of the Armenian Patriarchate of Constantinople and the remaining Armenian population of Turkey, elimination of discrimination and legal impediments to their free practice of religion and cultural expression.**

# National Security

- **Multilateral pact that guarantees Armenia's security and clarifies Armenia's relations with Turkey and its other neighbors to clear up the contradictory legacy of WWI-era treaties**

# Nakhichevan

- **Clarification of the status of Nakhichevan** and its relationship with Armenia, Turkey, Iran and Azerbaijan.

# Natural Resources

- **Fair allocation of water and other resources** in the region
- with certain priority rights for Armenia (mineral rights, pasture, arable land, timber) to use of natural resources on Armenian ancestral lands

# Symbolic Land Settlements

**Symbolic Land Settlements and International Rights of Way**, which may include, but are not limited to:

- **return of Mount Ararat to Armenia**
- **return of the medieval Armenian capital of Ani to Armenia**
- **preservation of and access to Armenian religious, cultural and historic sites** in Turkey, Georgia, Iran and Azerbaijan, with right of Armenian intervention (either direct or through an intermediary) to preserve and oversee preservation

# Symbolic Land Settlement

- **de jure recognition of Karabagh's de facto status as part of Armenia**
- **free access for Armenia and Azerbaijan to the Black and Mediterranean Seas,**
- **with appropriate railroads, road, and international harbors, Black and Mediterranean Sea free ports**

# Symbolic Monetary Redress

- **Symbolic monetary reparations** in recognition of victims in the form of contributions to a fund for support of Armenian culture.
- Why symbolic? – Because no number can be placed on the value of what was lost and no amount can restore it



# Who should Pay? What's the Cost?

- The problem involved many parties, so many parties should contribute to fixing it:
  - Turkey, Germany, Russia, England, Azerbaijan, France, US, Italy
- Most of options are not trade offs, rather trade ups
- Indeed, on the whole, these **merely require Turkey and other countries to honor already existing international commitments**

# Why now? What now?

- Geopolitical pressures and processes
- EU accession
- Kurdish self-determination
- Iraq/Iran
- Political/Cultural changes in neighborhood
- Centenary coming up
- Historically rare moment – trade ups, rather than trade offs