Genocide Reparations

Armenian Bar Association
Washington, DC
April 29, 2006
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
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 vs. 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)

In short, increase the size of the “pie” before dividing it up.
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 (Karabagh),
  - national security for Armenia
Claims on Record

1919 Paris Peace Conference

- Armenia “Sea to Sea”
- Reparations (loss of life, private property, damages) – assumed restoration of ownership and return to ancestral lands
### Armenian Claims at Paris Peace Conference 1919

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

Present Value of Claim – $565 bln.
Armenian Claims at Paris Peace Conference 1919 (Transcaucasia)
Recognition & Apology

- Recognition and apology, followed by reconciliation and normalized 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?
Treaties of Gulistan, Adrianopole, San Stephano, and Berlin
Wilsonian Armenia 1919 (border in red)
Treaties of Brest Litovsk, Batum, Alexandropol, Moscow and Kars
Land - Value

- **Intrinsic value**, it is a form of natural wealth
- Geopolitical value.
- Repository of culture - fixtures to the land
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.
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 (Nakhichevan, North Artsakh, Georgia)
  - limitations on Armenian Church in Turkey
Church Damages and Property

- largest private Armenian property owner, repository of national wealth and culture
- greatest institutional loss
  - 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 where 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 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 (ruins) 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
- Other?
Symbolic Land Settlements

- 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 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.
The problem involved many parties, so many parties should contribute to fixing it:
- Turkey, Germany, Russia, England, Azerbaijan, France, US, Italy

Most 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