

SCL Lecture

The legal ramifications of the Armenian genocide: compensation, genocidal intent and failure to prosecute

On 12 April 2016, a new lecture in the context of the Supranational Criminal Law (SCL) Lecture Series took place at the T.M.C. Asser Instituut. This lecture, and the launch of the book *The Armenian Genocide Legacy*, was organised in cooperation with the International Humanitarian and Criminal Law Platform.

Alexis Demirdjian, a Canadian lawyer and member of the Quebec Bar, briefly reflected on the main themes of the book. He stated that the project initially started as a legal project, but branched out into various other disciplines. The release of the book, he noted, almost coincided with the centenary of the genocidal campaign starting in April 1915, and the key themes within the book are concerned with the connection between this historic event and the present. He then explained that these two central themes are largely interrelated, one dealing with the relevance of the Armenian genocide in today's world, and one addressing the impact of the Armenian genocide on various (academic and other) disciplines. After that, Mr. Demirdjian explained that he initially wanted to avoid including the word genocide in the title because he did not wish for the term to become the focus of the volume. Moreover, the politicised nature of the debate surrounding it would detract from an objective analysis of the facts and their consequences today. In the end, he chose to include the term genocide, because he felt it is the most accurate term in describing the events.

Mr. Demirdjian then briefly outlined why the actions of the Ottoman Empire are to be regarded as genocide, highlighting, among other things, the forced deportation of the Armenian population, the high death toll and the other crimes committed against them, making it an almost prototypical genocide in line with the present-day definition. After briefly dealing with the historical facts, he then presented the Turkish government's position, which stresses, *inter alia*, the absence of a plan, the unreliability of the sources used, and the existence of an intercommunal conflict rather than a one-way genocidal campaign.

To answer one of the central questions, namely, why the Armenian genocide is still interesting in the present time, Mr. Demirdjian argued that to this day, there is a lack of closure on the issue. He referred to several academic endeavours fostering joint work between Armenian and Turkish academics since the year 2000. Furthermore, the murder of Armenian-Turkish journalist Hrant Dink in 2007 sparked public interest in an open dialogue about the issue. Finally, there are still many more sources to be analysed, so that such a dialogue can be fuelled by evidence rather than subjective political sentiments.



Nolwenn Guibert, a French lawyer who specialises in international criminal law, took the floor next to discuss the consequences of the recognition of the Armenian genocide in a legal context, specifically in relation to compensation. She argued that there were serious economic consequences arising out of these events, some of which remain ongoing for the families and beneficiaries of victims. Using UN General Assembly Resolution 60/147 (2005) concerning reparations as a starting point, she first highlighted the progressive recognition of the Armenian genocide on an international level (satisfaction aspect).

She then turned to the jurisprudence of the European Court of Human Rights (ECHR) that relates to the Armenian genocide and Article 10, which protects the right to freedom of expression. This involved the discussion of three recent cases that referred to the Armenian genocide, including *Dink v Turkey* (2010), *Akçam v Turkey* (2011), and *Perinçek v Switzerland* (2015). In this respect, she noted that the ECHR does not see its role as involving settling historical disputes between parties and that there is only a small scope for the limitation of the freedom of speech under Article 10.

Ms. Guibert finally discussed other claims and reparations sought by victims and their beneficiaries in the USA. She examined the amendments to the Californian Civil Procedure Code, and the associated case law, that attempted to provide some redress. She noted that these recent efforts were ultimately fruitless for victims and their families due to the Federal policy relating to the Armenian genocide. She concluded by mentioning that the Armenian Church filed a claim against Turkey to get its headquarters returned in April 2015. The judgment has not yet been released.

Mr. Demirdjian concluded the lecture by providing a brief overview of the chapters of the book and relating them to the central themes discussed earlier. *The Armenian Genocide Legacy* being an interdisciplinary volume, Mr. Demirdjian explained how this project managed to find common grounds between the various disciplines covered by it, including political science, history, sociology, education, literature and media studies.

The lecture was followed by a lively Q&A session, moderated by Dr. Christophe Paulussen, Senior Researcher at the T.M.C. Asser Instituut and Coordinator of the International Humanitarian and Criminal Law Platform.