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Democracy, Dialogue and Justice

Ladies and gentlemen,
Dear friends, distinguished colleagues,

Before we start our discussion on democracy, dialogue and justice I would like to attempt an introduction into these complex and highly relevant topics. We are going to discuss them against the background of a post-genocidal situation, which is characterized by more than a century of denial from the side of the republican successor of the Ottoman Empire and the failure of international justice to deal with the genocide that – together with the extermination of European Jewry – has become the prototype of the United Nations definition of genocide. We also discuss the chances of dialogue against the background of ongoing discrimination and intimidation of religious minorities in the Turkish Republic.

As you will know, about three million indigenous Christians lost their lives during the last decade of Ottoman rule, mainly in the Ottoman realm, but also adjacent areas, in particular in Ottoman occupied Iran. Scholars of genocide studies understand the massacres, deportations, starvation and compulsory labor that took the lives of these Ottoman and Iranian citizens largely as crimes committed in the process of building a Turkish nation state. As we know from the writings of the author of the UN Genocide Convention, Raphael Lemkin, the crime of genocide consists not only of massive killings, but intends the entire replacement of one ethnic or religious group by another. In our case the replacement of Non-Muslims in Asia Minor and Mesopotamia by Sunnite Muslims, or Turks respectively were intended.

The crimes that had accompanied the emergence of a republican Turkish nation state went largely unpunished, despite earlier announcements of the victorious Allies and despite the abortive attempt of the Ottoman government to bring the perpetrators to justice, which by the way, has been the first attempt in the 20th century to juridically deal with the crime of genocide. Seen from a nationalist Turkish perspective, the massacres and deportations both of the Committee for Union and Progress and the Kemalists were successful and subsequently served and serve as role models for patriotic behavior. Public squares, boulevards, schools and kindergartens and in Ankara even a mosque are named after Talat and other responsible for the genocide. The arch perpetrators of the Unionist and Kemalist genocide are still venerated and remembered as heroic patriots, whereas the Ottoman rescuers and Righteous fell into oblivion. And as it had to be expected, genocide and other crimes against humanity continued throughout the republican era of Turkish history. The genocidal killings in central Dersim in 1937 and 1938 by the Turkish forces are the most known example.

The Kemalist legislation of 1926 expatriated those survivors who did not dare to return into the Turkish Republic. It also legalized and continued the wholesale dispossession of the deportees and expelled that had started soon after the Young Turkish military coup d'état of 1908 and reached its peak after the Balkan Wars and during the World War.

The Christian survivors of the Ottoman genocides had not only lost their collective and individual possessions, their homes and properties, but a homeland. In the European and North American Diasporas, they and their descendants were again exposed to racism, discrimination and persecution. In the Soviet South Caucasus, immigrants of previous Ottoman nationality were persecuted and deported as alleged nationalists during and after the Stalinist purges.

To my knowledge there are no representative empirical surveys about the perception of justice among the survivors of the Ottoman genocide and among their descent. My personal inquiries revealed an amazing diversity of individual opinions and demands, ranging from today Turkey's official acknowledgment of the Ottoman crimes and subsequent apology to territorial restitution. A Berlin based descendent of Armenian immigrants from Turkey once said: "I want to read in Turkish school textbooks that it was genocide." Even with regard to this understandable and useful demand, reality is still far from it, as the study of current textbooks in Turkey shows. The polarizing disparity of historic narratives in Turkey, Armenia, Greece and their respective Diasporas continues, and the troubled past casts a long shadow on contemporary relations, be it on official or unofficial and societal levels.

Of particular concern is the intentional destruction, neglect or dispossession of cultural legacy that occurs during and in the aftermath of genocides. All victim groups in question here have experienced tremendous losses of material cultural heritage, or had to witness the conversion of churches into mosques, as it is in particular the case with Greek Orthodox heritage.

If dealing legally with this and other aspects of a troubled past, there exist several conventional instruments to judge state responsibility, starting with the UN Genocide Convention of 1948, followed by the 1954 *Hague Convention on the Protection of Cultural Property in the Event of Armed Conflict*, the 1972 *World Heritage Convention*, and the 2003 *Convention on the Safeguarding of Intangible Cultural Heritage*. Material or moral damage will be also compensated under the International Legal Commission's *Draft Articles on Responsibility of States for Internationally Wrongful Acts*¹ (2001). Although these instruments mainly create obligations towards other states, the argument has been made that claims of indigenous people are to be considered in this inter-state frame since indigenous people were illegally deprived of their sovereignty.

Genocide always bases on the negation of the right to exist. In order to achieve closure and reconciliation, the perpetrating state or its legal successor has to re-establish the victims' right of existence by condemning the crime and expressing remorse and apology, followed by remedies, restitution or compensation, at least in symbolic, apologetic ways. But the usual chronology does not exist in the given case. Rather we face a post-genocidal situation in which, after decades of stagnation, several fields of action demand our simultaneous

¹ Draft articles on Responsibility of States for Internationally Wrongful Acts, with commentaries; Text adopted by the International Law Commission at its fifty-third session, in 2001, and submitted to the General Assembly as a part of the Commission's report covering the work of that session (A/56/10). The report, which also contains commentaries on the draft articles, appears in the Yearbook of the International Law Commission, 2001, vol. II, Part Two, as corrected. -

http://legal.un.org/ilc/texts/instruments/english/commentaries/9_6_2001.pdf

attention: While official genocide denial and the struggle for legislative affirmation continue, a growing number of human right defenders, authors, journalists, scholars in Turkey and its Diasporas began to critically explore the late Ottoman history and to condemn the related crimes. Not only add Turkish scholars to the existing state of arts, but they also established an academic dialogue with colleagues in and from Armenia and third countries. Indispensable preconditions for the further development of such collaboration in the fields of academic research and education are safeguarded liberties: the freedom of research, the freedom of thought and the freedom of expression. Here we can only deplore the continuing deterioration of basic and human rights in Turkey. Those in the panel and in the audience, who are citizens of Turkey, will better than me explain the negative repercussions for conciliatory dialogue and collaboration, if a democracy is threatened and endangered.

The fields of action that we have simultaneously to address to are obvious:

- Prevention of further destruction, neglect or conversion of material (architectural) heritage of non-Turkish, in particular non-Muslim indigenous people;
- Restitution, restoration and compensation for losses suffered from individual and collective dispossession and confiscation; this includes the restitution of original toponyms. It also includes the return of the confiscated properties to legal heirs of the victims, including the Ecumenical Patriarchate and the Armenian Apostolic Patriarchate of Istanbul;
- Fostering closure and reconciliation by establishing appropriate justice, be it through truth commissions, transitional justice, joint bi- or trilateral commissions for textbooks and curricula.

We shall start our panel by hearing statements of the panelists about their perception of justice and perhaps their experience with the before mentioned forms of justice, be it legal justice, including legal remedies, be it transitional justice, truth commissions or international educational work in the area of diverging historical narratives (circumscribed by the European Commission as “troubled past”). We then should proceed to discuss the necessity and possibilities of conciliatory dialogue and look into the threats and challenges to democracy in Turkey and Armenia. Of particular interest is here the question, to which degree the given societies are prepared to enter a conciliatory dialogue, and which are the current obstacles, hopefully in combination with suggestions, how the situation can be improved.