

# **The Turkish-Armenian Rapprochement Processes: A Case Study Approach**

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## **Abstract**

Using a case study approach, this study examines Turkish and Armenian attempts at constructing a more positive relationship. It argues that the two countries need to look at what binds them in a web of mutual responsibility towards each other as states first. The only legal link between the two countries is the Treaty of Kars which updated an earlier treaty. Given that the Turkish Armenian Reconciliation Commission and the Turkish-Armenian Accords were both failures, this paper argues that Armenia and Turkey need to litigate their differences on the basis of their only binding agreement.

## **I. Introduction**

The process of reconciliation between Armenians and Turks is regarded by many as an exercise in futility. While there are clear positive incentives for the two states and the two peoples to move forward with the project of reconciliation, it is also clear that the obstacles facing such a project are extensive. This paper argues that the two attempts to move the process forward failed because they were not owned by Turks and Armenians. They were created mainly at the initiative of the United States for the sake of its own interests in Transcaucasia. And while there is nothing particularly sinister in the United States' pursuit of its energy and strategic interests in the region, the United States proceeded without due consideration of the depth of the problems between Turks and Armenians, and failed to lay the groundwork, in both positive and negative incentives for both sides, required to achieve the breakthrough it sought. The foci of this paper are the Turkish Armenian Reconciliation Commission (TARC) and the 2009 Turkish-Armenian accords. Each of these events/agreements is treated as a case for the purposes of this

study. The paper consists of seven parts. In the first part, we discuss the text of the Kars Treaty and the obligations it brings to both Turkey and Armenia. In the second part we present the normative parameters of this work, including its limitations. In the third part, we provide the framework of analysis used for this paper. The fourth part consists of the TARC case, while the fifth part examines the accords. The sixth section examines the lessons learned from each episode and looks at where the process fell short. The final part provides some reflections and policy recommendations that are, in our view, more realistic than those that were made by some of the principal participants in the process.

## **II. The Kars Treaty.**

### *The Historical Context*

The very beginnings of the 20th century were the period where the Soviet Union wholly possessed Russia's territory, international stability and particularly, its security. In this context, The Treaty of Kars signed in 13 the October 1921 was one of the diplomatic contracts whom the Soviet Union aimed the restoration of neighbors' normal relationships with herself, the prevention of the recurrence of new wars, provision of reciprocal military guarantees against future attacks, and a series of regulations intended to prevent the abuse of the territory. According to Graham, the existence of these treaties, their at least casual enforcement and their binding validity were the prerequisite and determinant factors underlying the construction of the Soviet security system (Graham, 1929). Kars Treaty was signed upon the Moscow Treaty of 16 March 1921 by the Russian Socialist Federated Soviet Republic and the Grand National Assembly of Turkey. During the Moscow Treaty where Turkey's eastern borders defined by Gümri Treaty – an earlier Turkish-Armenian agreement superseded by the Treaty of Kars -- were justified and Nakhichevan was accepted as autonomous state by Turkey with the condition of it would never be annexed by another state (Şimşir, 2005), the Russians wanted the representation of Georgia, Azerbaijan and Armenia in the conference but the Turkish side opposed it since she did not prefer to see Russian sovereignty over these states. Moreover, Ankara government wanted to meet these states' representatives one by one since it did not wish to be involved in their conflicts with each other, as that was seen as a Russian responsibility. (Özdilek, 2005)

In the light of given situation, both sides agreed to sign a separate treaty with the official representations of given states in Kars. Whereas Turkey was represented by the General Commander of Turkish Eastern Army Kazım Karabekir, Burdur deputy Veli Bey, Chargé d'affair of Ministry of Public Works Muhtar Bey and Turkish representative of Azerbaijan Mahmut Şevket Esendal, Armenia was represented by Foreign Affairs Commissary Eskinaz Mravva and Internal Affairs Commissary Bagos Makinzinyan. On the other hand, Azerbaijan was represented by Public Commissary Behbut Şahtaxtinski and Georgia was represented by Chalva Eliavva and Alexandr Sunidze. The Soviet delegation was composed of Latvian representative Jaque Hantsky. (Özdilek, 2005)

Once the articles of Moscow Treaty were reapproved, the Kars Conference was opened on 22th of September 1921 based on the general repetition of the Moscow Treaty. Article

X of the Kars Treaty prohibited both sides from hosting any organization that work against other state in their own lands (Gürkün, 1991). At the same time, the frontier was fixed between the Soviet empire and Turkey in March 1921 by which the whole of the Kars territory was ceded to Turkey with a part of the territory of Batum; Kars, Ardahan, and Artvin. This was a partial revival of the conditions of the treaty of Brest-Litovsk that was annulled after the victory of the Allies in the autumn of 1918. Thus, Transcaucasia again became part of the Russian Empire in 1921 within the form that was given to it by the 1917 Revolution and the successes of the Communists from 1918 onwards (Avalov and Cooper 1924, p. 320-336)..

The Kars Treaty of 1921 diplomatically recognized the Eastern borders of Turkey before the Lausanne Treaty that internationally concluded the Turkish war of independence. These borders were twice accepted, approved and clarified both by Armenian Revolutionary Federation (ARF or Tashnag) government and Armenian Soviet Government. With the Treaty of Kars, Turkey's *sine qua non Misak-ı Milli* (National Pact) were also recognized by signatory states and the Sevres Treaty no longer applied for the signatories. The Kars Treaty made Nakhichevan autonomous under Azerbaijan with the condition of not being a part of any third state in the future. (Şimşir,2005). After the Treaty was ratified, Turkish Eastern army was shifted to the Western front and Armenia, Georgia and Azerbaijan became Soviet Republics by losing their sovereignty. However, the territorial aspects of Turkish-Armenian problems were legally solved and the present Turkish-Armenian border was drawn.

In essence, the agreement transfers territory from Armenia and Georgia to Turkey in return for the free movement of goods and mutual most-favored nation status in articles XII, XVII, and XVII. It also calls for the establishment of normal consular relations between the contracting parties within three months of the signing of the treaty. There is also an article that calls for immediate establishment of rail, telegraph, and other communications. This means that Turkish possession of former Armenian territory is conditional rather than absolute and that Turkish sovereignty over the former Armenian province of Kars comes at a clear and stated cost – normal relations with Armenia. Coincidentally, article XV provides for a dual amnesty for war crimes committed during World War I on the Caucasus front. Intriguingly, it assigns responsibility for these crimes to the individuals concerned and then grants them an amnesty. This suggests that the arguments between Turkish and Armenian officials about the course of the events are dead letter as far as the state of law between the two states is concerned, regardless of what actually took place. The Kars treaty does not include United States citizens or their representatives either in government or civil society, so Kars cannot be invoked curtail Armenian-American or French-American communal political activities of any kind, as long as these are within French and United States law.

### *The Current Status of the Treaty*

Armenia and Turkey accuse each other of being in violation of the Kars Treaty. This means that the treaty is at least in theory acceptable to both sides. If the treaty of Kars is being violated by either side, the proper recourse is litigation, and it is perhaps time for

the two states to go the International Court of Justice in the Hague to resolve some of their non-historical differences over their legal and real mutual obligations and responsibilities. Should either side fail in adhering to the Kars Treaty in any article, the remaining articles no longer apply. This means that the two states are no longer obliged not to support insurgencies within each others' territories or to make alliances that redraw the map in their favor.

There is, however, a key aspect of the Kars treaty that is also a key aspect of international relations in general – reciprocity. The word “reciprocally” is mentioned twice in the treaty, and this suggests that relations between Turkey and Armenia must be governed by that principle. There is no consideration without counter consideration, so if one country would like the other to ask its overseas community to refrain from causing political difficulties for it with allies, it needs to offer a tangible concession in return, whether in discourse or in tangible resources. Another way of think of this is to begin with the clear understanding that there is no tributary relationship between the two powers mentioned – one does not exist as an adjunct of the other.

### **III. Similarities and Differences with Dink's Approach.**

This paper is an attempt to bring positivist social science approaches to the issue of Turkish-Armenian relations. The field has been dominated by nationalist discourse for a very long time. Even when nationalist historiography and discourse have not dominated this field of study, it has always had a historical focus, and by that we do not mean recent or current history, but rather Turkish-Armenian relations until circa 1924. There has been no attempt to use the past to build a set of prescriptions for the future at all, save from some of the writings of those active in the TARC – which are ultimately primary source material produced by parties deeply invested in the process. In contrast, the authors of this work are drawn from the Turkish and Armenian communities in order to create a balance in the work. While each author has definite ethnic, national, political, and cultural commitments, this work is situated by itself relatively independently of these. Consequently, this work is *not* about Turkish-Armenian history or about issues such as where *should* the borders be? The two authors believe that Turkish-Armenian relations should be improved, but that is the extent of the normative content of this particular work. We understand that there are persons, interest groups, and parties deeply opposed to that basic aim, but be that as it may, we believe that Turkish-Armenian reconciliation is ultimately beneficial to both societies and can be brought about in the long term.

Those who oppose Turkish-Armenian reconciliation are invited to ponder the alternatives. At the same time, we do not think that an idealistic or *realpolitik*-free approach that negates the existence of some very real conflicts and problems is rational either. Albeit in a highly modified form, idealism was the approach advocated by the late Hrant Dink, which obviously attracted a very negative visceral reaction from the Turkish far right. We aim to deal with problem of Turkish-Armenian reconciliation from a realistic paradigm. Put simply, we operate off the assumption that Turks and Armenians have problems that they must resolve; we also posit that these are real problems and not

simply artifacts of discourse or propaganda on either side. These are not problems that can simply be overcome by the promotion of mutual understanding or trans-cultural communication. Dialogue and discussions between civil society representatives are good adjuncts to the process, but are no substitutes for political solutions that must entail governments and diplomacy.

The limitations facing this work are first its deep vulnerability to events. This project has been ongoing for several years and has been reversed with changes in the news. Consequently political events such as a sudden reconciliation, an Azeri-Armenian war, and/or a major Russian thrust into Transcaucasia can very rapidly undermine the foundations of this study. The second problem is related to the emotional and political minefield this work is attempting to navigate. Charges and counter-charges are flung about by parties on both sides of the Turkish-Armenian dispute. We believe that these are best avoided within the context of this work. While each author has his views on these issues, we do not believe that it is productive to pursue these debates and discussions at this stage of Turkish-Armenian relations. Furthermore, the legacy of the Hrant Dink and his assassination strongly suggests that the problem is extremely complex and it cannot be resolved through civil society and dialogue alone, because it is profoundly political problem and will need inter-state solutions; Dink believed in Turkish Armenian dialogue and reconciliation, while his opponents in Armenian life firmly believed that such pursuits are futile. The position taken by this paper is that civil society relations and dialogue are welcome but cannot substitute for political resolution, which entails diplomacy as well as legislative and economic moves such as the Turkish embargo on Armenia and the Armenian attempt to pass resolutions in Western legislatures adopting the Armenian point of view concerning the events of World War I. The focus on the current and on the political may be regarded as a weakness of this paper by some, and a strength by others. Finally, this paper attempts to use a comparative case study methodology, so some elements of the framework given below are open for question.

## **VI. The Framework of Analysis**

With regard to the two previous attempts at constructing a political relationship between Turkey and Armenia, the Turkish Armenian Reconciliation Commission was the clearest example of utter failure, despite the attempts of those who promoted it as an “unsilencing of the past” – the process actually illustrates the futility of attempting to bridge the gaps with the assumption that the only problems between Armenia and Turkey are communicative. The framework for studying it along with the accords of 2009 must entail first a brief history. Second, it must include a brief stakeholder analysis of all the players present in the event. Third, the reasons for the failure of the process must be outlined and the various vetoes that derailed the process would have to be discussed. One of the major problems of Turkish Armenian relations has been the relative lack of pressure on the two sides that could be backed by credible sanctions. Finally, the process would be compared to the Kars Treaty to derive lessons and policy recommendations for the future.

## *History*

The account of what took place is designed to be deliberately “cold,” because without such an approach, it is not possible to glean any lessons. In both cases, narrative accounts by principal actors and people close to them will be used to construct a picture of what took place. The setting of the meetings, the persons present as well as the items discussed on the agendas will be examined. For TARC, we are fortunate to have the account of the U.S. handler of the program, David Phillips. In the case of the accords, there are nearly moment-by-moment accounts of the strange events that led to the even stranger signing ceremony which has been characterized by some as the “silent peace.” To that extent, we are capable of constructing an account of the two sets of interactions being studied here. These events and their settings can provide us with some significant insights into the process, its ownership and the animating forces behind it. And while it is possible to remain somewhat detached, it is noteworthy that many of the countries involved are ones that come with significant baggage towards both Armenia and Turkey, so it is crucial to conduct an inventory of interests and concerns of each player whether private or as a state.

## *Stakeholder Analysis*

The account of these events will be followed by a stakeholder analysis that examines the stakes held by the principal participants in the case and the countries and interests involved. This aspect is not without controversy, because at first, United States involvement in TARC was placed behind an academic façade as well as “track two” diplomacy. As a Turkish ally which strove and strives to set aside the complaints of its Armenian community regarding Turkey, the United States lacks the necessary impartiality necessary for constructing any outcome seen as positive sum by at least Armenia. It also makes concessions by the Armenian side less likely, because it is seen as the power underwriting Turkish policy, which is in a conflict-ridden relationship with Armenia. Russia, on the other hand, faces the same hurdle with Turkey as well as Azerbaijan. Consequently, the extent of Russian and American involvement must be carefully structured in any meeting or diplomatic exchange. Like Russia, France is seen as a largely pro-Armenian state and cannot be assumed to be neutral as far as Turkey is concerned. Finally, the United Kingdom has even less credibility among Armenians than the United States and is best kept out of any Turkish Armenian de-escalation or rapprochement effort.

At another level, there are also the motives of the “track two” participants, who included powerful persons with their own interests and agendas that may or may not overlap the stated and implicit interests of the communities and states they represent. For example, Antranik Migranyan, a citizen of the Russian federation and a political scientist resident in Moscow and New York, was involved in the TARC project, and while he is certainly credible academically, he has had a policy-oriented career as the director of an institute involved in Russian-American reconciliation and as an advisor to Boris Yeltsin. While not in any way impinging his integrity, his involvement in TARC suggests a partial internal conflict of interests as a person of Armenian origin who is a citizen of the

Russian Federation and a valued member of its elite – a conflict coincidentally shared with Sergei Lavrov. While it is not possible for anyone not to have an agenda of some kind, it is sometimes the case that the balance of views in any group pre-disposes it to one side or another. In the case of TARC, one of the primary causes of its failure was its illegitimacy among Armenian, especially Diaspora, circles. In the case of the accords, the primary cause of failure was Turkish domestic politics.

### *Veto*

Who insured the failure of each of the two processes? What were their motives and to what extent did they use institutional, public information and political instruments to insure the process's failure? In both cases studied here, failure came as a result of powerful interests within both Turkish and Armenian societies opposing reconciliation and even the slightest improvement. TARC was opposed by representatives of the ARF and its associated organizations both in Armenia and in the Diaspora; the accords were sunk in Turkey by the pro-Azeri lobby which enjoys widespread support among the Turkish public. Aligned to the Azeri lobby were nationalists opposed to any movement towards normalcy with Armenia without the acceptance of the latter of terms that Ankara dictates concerning Azerbaijan, the Diaspora and the characterization of the "Medz Yeghern." And while it is easy from a U.S. perspective to condemn "nationalism" for these failures, such an argument ignored the American contribution to the empowerment of such nationalism through projects like funding the Baku-Tbilisi-Ceyhan pipeline, the armament of Azerbaijan and the use of various elements of the Armenian Diaspora during the Cold War. Rather than standing in judgment of those opposed to both processes, it is more intellectually honest to find out why they took the positions they did and to also deconstruct the role the facilitating power played in attracting their opposition. If the United States is perceived as pro-Turkish in Armenia and in the Armenian-American community, it is often also seen as hostile to Turkey by Turkish nationalists – who would also share the suspicions of their Armenian counterparts concerning the United States. The similar yet contradictory world views render those excluded from these processes unlikely to accept solutions that are created without their participation.

Yet, there is a dilemma – can members of Alp Arslan Turkes' Turkish National Party have a civilized dialogue with Tashnags today? Perhaps the answer before the assassination of Hrant Dink was "maybe," but today the answer is certainly "no." Consequently, we are left only with recourse to what Friedrich Kratochwil calls "jurisprudential diagnostics." The only document in common between Armenia and Turkey aside from UN, OSCE and other European oriented documents is the Kars Treaty. The Kars Treaty is a concluded document while TARC was a process and the Turkish Armenian Accords are currently null and void due to their failure to pass either parliament. Nevertheless, it is possible to compare the principles underlying each case with those in the Kars Treaty.

### *Comparing the cases with the Kars Treaty*

Using a teleological reading of the Kars Treaty, it is possible to derive the values that it is based on. The primary value underlying it is reciprocity – it is based on a *quid pro quo* notion. The Kars treaty trades land for access and it regards the secession of territories to Turkey by Armenia and Georgia as contingent on continued access to the Turkish side. In other words, the Kars agreement assumes that there is a relationship between Turkey, Russia and the three Transcaucasian states that is based on mutual obligations by the four Soviet Republics on one side and Turkey on the other. It assumes a world that does not envision likely conflict between Soviet Republics. While Turkey and Russia are set aside as principal actors, it assumes that the three Transcaucasian states are sovereign as have the right to expect that any concessions they make are to be made in consideration for concessions on the part of the other parties. The question that the Kars Treaty poses to each of our two cases is whether its basic premise has been upheld. Should the Kars Treaty be null, then the basis of the current Turkish Armenian border would be null and there would be legal impediment to demands that the border be moved. Turkey has repeatedly called on Armenia to reaffirm the Kars Treaty (Davutoglu, 2009), so the importance of the treaty to Ankara cannot be discounted. The Armenian argument has been that the country recognizes all of the Treaty of Kars and that Turkey is in violation of the Treaty of Kars (Oskanian, 2006).

At its core, TARC represents an attempt to side-step the Kars Treaty's primary values. The two states were not represented equally on it at any stage, and it is clearly based on the idea that it is possible to transcend reciprocity through dialogue and mutual understanding. Unfortunately, as TARC's attempt to refer the *Meds Yeghern* to the Center for Transitional Justice shows, both sides expect the process to simply lead to whatever they would like to see happen without making the slightest concession to the other side, and in the case of Turkey's economic embargo, Ankara has expectations that no Armenian government, no matter how liberal and pro-Western can meet. The Accords on the other hand show that the two countries, when dealing with each other as states, so gravely distrust each other and have such maximalist expectations that ordinary diplomacy is as ineffective as the second track of TARC. Armenia and Turkey need to go to court in an adversarial setting, because to pretend otherwise is an act of gross self-deception.

In contrast, the Kars Treaty, offers us a clear set of principles that we can use to make some progress towards resolving Turkish-Armenian issues and moving the relationship between the two states forward. It should be the basis of any and all future interactions. Should an item be outside the ambit of the treaty or its penumbras, it should be places in a reciprocity shelf. Since there is no other bilateral document that can serve as the basis for the relationship, there is no escape from the Kars Treaty. It cannot be "reaffirmed," because any such move would mean accepting that the current status quo reflects the treaty – which is not the case.

## **V. The Case of the Turkish Armenian Reconciliation Commission.**

Judged by the total failure of even a single item on its list of recommendations to be implemented, it cannot be argued that the work of the Turkish Armenian Reconciliation



Commission was anything other than a waste of time and money. While David L. Phillips would like to believe that his efforts with the commission led to taboos being broken in Turkey, a more sober assessment would find otherwise. Table 1 (appendix) show the current status of TARC's 14 April 2004 recommendations. While many of its opponents considered TARC to be a simple artifact of United States embarrassment over the annual 24 April controversy. Many in the ARF condemn it as a creature of their old opponent, the United States State Department, which they view as a lobby for Turkey. This view does not judge TARC by the criteria it set for itself and may be considered unfair. Nevertheless, TARC can be judged as a failure on the basis of its own recommendations. Whatever its motives may have been, whoever established it and whoever funded its meetings, it has failed to inform policy in either country and has also failed to create an environment conducive to civil discourse and dialogue in Turkey. At best, TARC may have made Armenian-Turkish contacts less taboo, but at worst, TARC can be blamed for taking pressure off Turkey to reform its laws that govern speech concerning Armenian issue. It is noteworthy that not a single one of its recommendations has seen even partial implementation. Given the passage of time, it is unlikely that it will see any change that is related to its existence. Should the Karapakh Armenians and the Azerbaijanis choose a return to the battlefield, Armenia could use Turkey's linkage of progress in the relationship against it – it may condition any progress on Armenia's relationship with Turkey on Azeri concessions. This would be catastrophic for the relationship. So if it was such a clear case of failure, what was the TARC, why did it fail, and how does it compare to the Kars Treaty?

### *TARC History*

In sharp contrast to the initial State Department discourse describing TARC as a private initiative, it was actually a United States government program, tacitly supported by the Armenian and Turkish governments at the time. TARC came in the wake of repeated failures by the Ter-Petrossian administration to get to any conclusion with Turkey. From the beginning, significant elements within the Armenian community opposed it, while some supported it. Phillips, a former state department official, attempts to defend its United States links in his book on the issue, but there are retorts that he simply cannot address. First, they involve his own perceptions of Armenian politics. For example, he equates the Armenian Revolutionary Federation party with the Turkish extreme right, without any clear understanding of either. Excluding the ARF from TARC insured the opposition of a significant portion of Armenian life both in Armenia and in the Diaspora. It appears that Phillips' image of the party was formed almost wholly by the Turkish perceptions. It is actually closer to the Turkish Republican People's Party than it is to the Turkish National Party in terms of nationalist zeal. Second, there are problems with his characterization of Ter-Petrossian as a "moderate" and Robert Kocharian as a "hard-liner." These naïve statements reveal a cursory understanding of Armenian politics and even of the personal histories of the politicians he discusses. Additionally, they ironically exonerate Phillips and the United States from the nefarious motives that the ARF ascribes. Ter-Petrossian's hostility to the ARF had more to do with his father's forced migration from Syria than with any coup attempts, whether real or not. Ter-Petrossian's father was seen as a Communist by local Tashnags who then proceeded to make his life

very difficult in Aleppo, forcing him to migrate to Armenia after World War II. It was the “hard-line” president Kocharian that undertook making gestures to Turkey to reassure it about reparations and territorial demands – a fact relayed by Phillips himself. Yet Phillips ignores mentioning that Kocharian later complained bitterly that there was no reciprocating gesture by Turkey. In the chapters discussing the establishment of the TARC, Phillips essentially concedes the criticism it faced. TARC was established to delay and to prevent the passage of resolutions in Congress that in Phillips’ words “legislate history” during the September 2000 session of Congress. Third, the State Department, the Center for Strategic and International Studies, organizations with which Phillips had intimate ties, were and many would argue still are an anathema to many Armenians, not only Tashnags but also anyone who has sought the passage of laws and bills unfavorable to Turkey and favorable to Armenians or Armenia. Phillips’ discourse is not sensitive to that reality, and while the pursuit of United States interests is something that is not seen in a jaundiced light here, Phillips’ own discourse reveals that he felt himself to be in a competition with the Diaspora in general and not only the Armenian National Committee of America (ANCA) -- the lobbying arm of the ARF.

With the Armenian Diaspora pledging to reintroduce the resolution as soon as the next Congress convened, I accelerated plans to visit Armenia and Turkey. Helena Finn became my trusted advisor. She and I had met at an embassy reception in 1998. Subsequently serving as the Principal Deputy Assistant Secretary in the Bureau of Educational and Cultural Affairs, Helena encouraged me to “Go to Ankara first and have an embassy briefing. Then I recommend that you sound Turks out for their suggestions on possible approaches for track two conflict resolution. (Phillips, p. 35).

Fourth and finally, the Armenian Liberal Democratic Party (ALDP – Ramgavar party) and its lobbying arm, the Armenian Assembly of America (AAA), as well as the former officials from the Levon Ter-Petrossian administration participating in TARC needed some assurance of success, perhaps even a Turkish gesture that showed the possibilities of benefits to Armenia as a result of future cooperation. The repair and opening of Akhtamar, for example, could have taken place as part of the announcement of TARC’s formation; “allowing” Armenians to travel to Turkey to spend their money is hardly a goodwill gesture, given the closed borders. The Armenian members’ and associated institutions’ support for the TARC exposed them to criticisms that their more intimately state-linked Turkish counterparts did not face in terms of accusations of betrayal by the ARF as well as some of the harshest nationalists. At very least, TARC should have released an enlargement schedule that foresaw the addition of representatives of all the major political trends in both societies, in order to prevent allegations of opaqueness and un-representativeness. Indeed, Phillips seems to understand this. “Dashnaks may have had genuine policy concerns, but I believe they resented TARC because they were excluded from its activities” (Phillips, p. 65). Yet, this again begs the question, if Phillips is aware that the ARF is willing to participate in a reconciliation effort, this strongly suggests that they are not the extremists he paints them to be and that his reasons behind excluding them had more to do with Turkish sensitivities than a desire to make TARC

work properly. Associated with this problem is the troubling observation that the Turkish ex-officials excluded as extremists by Phillips, Omer Lutem and Mumtaz Soysal, were interviewed by TARC, but there is no equivalent effort to conduct outreach to Armenians he labels as such. According to Phillips, Omer Lutem directly threatened Armenians' existence (Phillips, p. 43), so it is safer to say that Lutem's proper Armenian counterpart is the Armenian Aryan Union, *Tseghpesh*, which calls for "retaliatory genocide." Assuming that reaching out to the ARF was not a possibility during the brief existence of the TARC, has Phillips, who continues to speak on Turkish Armenian issues and acts as a witness at congressional hearings, tried to bridge the gap of acrimony between himself and the organization? Unfortunately, the answer seems to be in the negative. Phillips is clearly committed to the eventual reconciliation of the two communities, but he appears to be incapable of understanding that his professional identity makes him particularly ill-suited to either actively assist in the process or participate as an expert witness, unless attempts to talk to the very people he engaged in a cycle of mutual demonization. If at that point, the ARF and its arms reject discussions with him and his associates, they would self-exclude and can no longer complain about him or his efforts.

TARC was a very short lived outfit. It did not meet continuously. It disbanded itself on 15 April 2004 having met a few times since being set up in Geneva on 9 July 2001. But since December 2001, TARC was on life support and was essentially dying. In November of that year, Phillips had announced that TARC had asked the International Center for Transitional Justice (ICTJ) for an opinion concerning the applicability of the 1948 UN Genocide Convention to the events of 1915. This led the Turkish members to independently ask the ICTJ not to conduct the study; their action in turn led the Armenian members to withdraw from the TARC without resigning. Gunduz Atkan, a former Turkish diplomat and TARC member, placed the blame for TARC's failure on Armenian nationalism, and repeated Turkish arguments that the Armenian people brought about justifiable death upon themselves by rebelling (Mooradian, p. 20).

TARC collapsed on 15 April 2004 after some changes to its membership which included the addition of a professional conflict resolution expert to the team. This belated addition tells us that the United States State Department did not understand the depth of the gap between even Liberal Armenians and the mainstream in Turkey. The collapse came after about one year of the release of the ICTJ study of the events of 1915, which held that there can be no retroactive redress in terms of money and reparations but that these events, constituted in the view of the ICTJ, in their own words, a genocide.

The crucial issue of genocidal intent is contested, and this legal memorandum is not intended to definitively resolve particular factual disputes. Nonetheless, we believe that the most reasonable conclusion to draw from the various accounts referred to above of the Events is that, notwithstanding the efforts of large numbers of "righteous Turks" who intervened on behalf of the Armenians, at least some of the perpetrators of the Events knew that the consequence of their actions would be the destruction, in whole or in part, of the Armenians of eastern Anatolia, as such, or acted purposively towards this goal, and, therefore, possessed the

requisite genocidal intent. Because the other three elements identified above have been definitively established, the Events, viewed collectively, can thus be said to include all of the elements of the crime of genocide as defined in the Convention, and legal scholars as well as historians, politicians, journalists and other people would be justified in continuing to so describe them (ICTJ, 2003, p. 17).

The ICTJ document was met with a wave of rejection in Turkey and for its supporters like Justin McCarthy despite its finding that the 1948 Genocide Convention cannot be used by the Armenian community to receive either land or money by from Turkey (McCarthy, 2003, p. 1). Again, the parameters of this work address this issue only in terms of their effect, we do not stand to evaluate the merit of the ICTJ view despite our individual own opinions of it. The arrivals of the ICTJ report was followed by a year of inertia, resignations by the whole Turkish membership and by Migrany an, attempts of revival through the introduction of a second facilitator, and eventually collapse (Mooradian, p. 23). There were some second thoughts in Turkey, but these tended to attempt to use the collapse of TARC as tool with which to assign blame to the Armenian side (Kasim, 2004). For the Armenian opponents of TARC, its collapse was a cause for celebration politically and intellectually. Unfortunately, TARC has now become a synonym for American efforts to manipulate both the Armenian government and Armenian public opinion in a manner detrimental to Armenian interests.

The demise of TARC led to another assault on its critics and even on its lukewarm supporters. President Robert Kocharian was accused of being “increasingly beholden to the Armenian Revolutionary Federation,” for whose support he was forced “to make the recognition of the Armenian Genocide a high-priority government policy, even at the expense of relations with its largest neighbor, Turkey.” ... In his book about TARC, David Phillips reserves the harshest scorn for Kocharian and Foreign Minister Oskanian. He claims Oskanian had committed to “publicly endorsing the initiative,” but that he “backed off in the face of vocal opposition and intimidation” and that “instead of standing by its commitments, the Kocharian government ran for cover.” The criticism of Kocharian and Oskanian raised questions in the Armenian community, where there have long been suspicions that the State Department prefers a politically weak Armenian president who might be more pliable in the Karabagh peace negotiations. Since the ARF had led the opposition to TARC, it was branded as ‘refusing to speak to Turks.’ But this is a false claim because its opposition was not to all dialogue, but to these two flawed cases. ... True dialogue is impossible when the Armenian participants are in an inferior position of power as compared to their Turkish counterparts (Kaligian, 2008).

Three years after TARC, the ANCA successfully blocked the nomination of Richard Hoagland as ambassador to Armenia, leading the post to remain unoccupied for two years and prompting extremely negative verbal exchanges between the State Department and

the ANCA (“United States Embassy Disappointed ...,” 2007). TARC has made the already tense and negative relationship between the United States State Department and the portion of the Armenian-American Community represented by the ANCA into an intractable conflict on its own right. This is a problem best overcome with direct dialogue with it and a *quid pro quo* exchange – itself an emblem of distrust. The ANCA is an organization that represents some United States citizens of Armenian origin, to that extent no outside power whether Armenia or Turkey has a right to veto such an interaction. Since the State Department does have a good working relationship with the AAA, it could ask it to mediate its conflict with the ANCA, such an interaction could lead to a reduced level of friction and could help gradually increase the credibility of the United States in Armenian circles.

### *TARC Stakeholders*

The primary stakeholder in TARC was the United States State Department through its informal representative David L. Phillips. The funding for TARC came from the State Department. This means that TARC was a process owned by the United States – a formal ally of Turkey’s and a state that is not in any way impartial or necessarily fair to both parties in the Armenian Turkish dispute. Furthermore, the United States helped Azerbaijan, Turkey and Georgia build the Baku-Tblisi-Ceyhan pipeline, a project which has helped Azerbaijan purchase weapons for its disputes with Armenia. It is not and cannot be, under current policy, any more of an honest broker for the Turkish-Armenian dispute than it is for the Arab-Israeli conflict. To catch a glimpse of the dark nature of United States Armenian relations, all one has to do is to read the ultimatum handed by Negroponte to the Armenian government concerning weapons trans-shipments to Iran.

Secretary Rice, Assistant Secretary Fried, Deputy Assistant Secretary Bryza, and Ambassador Yovanovitch have raised with you our deep concerns about Armenia’s transfer of arms to Iran which resulted in the death and injury of U.S. soldiers in Iraq. Notwithstanding the close relationship between our countries, neither the Administration nor the U.S. Congress can overlook this case (Negroponte, 2008).

Will the United States welcome an equivalent letter when Western and Turkish (American-licensed) weapons kill and injure Armenians in Karapakh or Armenia? Given that Iran was and is currently the only reliable outlet Armenia has to the sea, the Negroponte letter must be understood as a tacit United States endorsement of the Turkish economic blockade of Armenia. Armenia has no security treaty obligations to the United States, aside from the Conventional Forces in Europe treaty, and it is not a beneficiary of any security guarantees from the United States. Iran, in contrast, is a neighboring state that has been very willing to supply Armenia with gas, natural resources, food, and transport venues. That Armenia is dependent on Iranian goodwill should not surprise Negroponte, Rice, Clinton or Bryza. The Negroponte letter does not even acknowledge this dilemma.

Furthermore, there was and is no discernable United States pressure on Georgia to ease the movement of goods and services to Armenia or to reduce its exorbitant transit fees. Given this particular structure, it is no surprise that the Turkish participants in TARC viewed the whole exercise as a stage where Turkey's demands of Armenia and of Armenians are simply met without reciprocal concerns being addressed. Gunduz Aktan and his Turkish colleagues understood that the United States is not likely to place them in a position where they have to make any concession. While there are occasions where a biased mediator can be more attuned to events and could actually be more capable of conflict resolution than a neutral player, in this case, it is more appropriate for Armenia to view the United States as the underwriter of Turkish power and a rather unfriendly one. It cannot trust the United States, let alone Turkey. None of this should be viewed as a condemnation of the United States, but it does mean that Armenia has no reason to trust the United States with mediation or conflict resolution with Turkey. At the very least, United States should act jointly with Russia for balance. It is also not our intent to use this work to impinge on David L. Phillips's motives, which we believe were genuine if unreflective. He certainly did not deserve the demonization he received, although he could have taken measures to reduce it.

The Turkish participants included the Turkish Cypriot American Professor of Psychology and Conflict Resolution expert Vamik Volkan who is a vocal opponent of the Armenian community in the United States. Three Turkish members (Gunduz Aktan, Ozdem Sabeck and Ilter Turkmen) came from the Turkish Foreign Ministry – whose perspective on Armenians is deeply influenced by Armenian terrorist attacks that saw the deaths of over 30 Turkish diplomats. There was only one academic in the initial phase of TARC, Üstün Ergüder – the former President of Boğaziçi University. The sixth Turkish representative, Sadi Ergüvenç, was a retired lieutenant general. The only Turkish member with experience in conflict resolution was Volkan; none of the Armenian members had experience in this field. The first Turkish team was entirely composed of persons deeply linked with the the Turkish state, save for the academic. The four Armenians never changed and included two diasporan Armenians. The chairman of the Armenian Assembly of America, Van Kirkorian, an experienced lawyer who helped author Section 907 that bans United States aid to Azerbaijan without an executive waiver was the most vocal Armenian member. The two Armenian officials were David Hovhannissian (Professor at Yerevan State University and Former Armenian Ambassador of Syria) and Alexander Arzoumanian (Chairman of Armenian National Movement and former Foreign Minister of Armenia) were associated with the Levon Ter-Petrossian administration and lacked political support from the Kocharian government and the rest of Armenian society. Finally, they were joined by Andranik Migrarian, a Former Presidential Advisor to Russian President Boris Yeltsin (Mooradian, 2004, p.14).

In the first edition of the TARC, the Turks were deeply connected to their government and their policy making elites, but the Armenians lacked this power. The All National Movement had no support at the time, because of Ter-Petrossian's perceived corruption, violations of human rights and subservience to Turkey. And while the AAA could call on substantial support in the Diaspora, its political affiliate the Ramgavar Party could not and still does not muster enough votes to even sit in Parliament in Armenia. The AAA

and its parent organization are respected members of the Diaspora Armenian community and can be said to represent a substantial portion of opinion in it, but they are not, at least by themselves, representative in any more a capacity than the ANCA. A more balanced state/society composition in each national team within TARC may have helped.

### *Vetoed Against TARC*

TARC failed because it attempted to address head-on the main problem between Armenians and Turks: the issue of memory and the interpretation of the events of 1915. This was a very wrong headed approach. While the ICTJ did render a reasonable middling solution to that particular problem, its findings were rejected by the Turkish side due to the implication that the Armenian claims are valid. A better focus should have been the Treaty of Kars and its implications for both countries. Ironically, this assessment is shared by both Kasim and Mooradian. A second reason for failure was Azerbaijan and the commitment of some in Turkey to its cause. There are over a million Turkish citizens of Azeri origin and they are an important lobby for their co-ethnics. To them, TARC appeared to be a betrayal. Baku began to attempt to derail it (Phillips, p. 57). TARC failed for the same reasons that led to the demise of the Viennese Armenian-Turkish Platform, a program for historians to exchange documents about the genocide – public opinion in both societies did not welcome the program. In the case of Armenians, the skepticism was fed by the ARF which had already developed an extremely negative relationship with the State Department and could not trust it, especially since it felt excluded. It continues to condemn TARC years after its dissolution and obvious failure rather than regard it as a noble if misguided experiment.

It also failed because there were no clear benefits accruing to the Armenian side. The basic question that many people in Armenian society asked was “what is in it for Armenia and for us?” It appeared that the only reasonable answer to this was “America’s goodwill of course,” and put bluntly this was not a response that Armenians needed and wanted to hear – they had heard that before from France and the United Kingdom and had no reason to trust the United States. The inability of the American side to provide clear and coherent incentives to Armenia independent of Turkey meant that the United States had little or no standing, and its words were little more than talk. Put another way, United States aid to Armenia is actually less than the amount transferred by the Diaspora in terms of private sector aid and remittances.

The United States also prevented Armenian from accessing the Millennium Challenge Account funds to renew its five year 236 million USD grant, which itself saw the placement of an operational hold on a portion of the remaining funds ostensibly for human rights concerns (Millennium Challenge Corporation, 2009). In contrast, Turkey enjoys an American security umbrella within NATO, trade agreements with the United States and a strategic dialogue. It is noteworthy, that Turkey’s own problems with human rights are always disregarded in terms of United States aid. And while, it is perfectly reasonable for the United States to indicate a preference based on its interests, it should then logically avoid presenting itself as a friend of both sides and offering its offices for

mediation without taking any measures that at least reassure the Armenian side of its intent to be more balanced on Armenian issues at least materially if not discursively.

Finally, it also failed because it was packed with traumatized people. The Turkish diplomats had seen colleagues assassinated, and Volkan's website is full of references to nostalgia to a "Cyprus that was" – and if he has to live with loss, then so should the Armenians. The two Armenian All National Movement politicians had lost power, and Migranyan has seen his boss removed by Putin. Academics may have been better initiators of discussion as we are more prone to value chatter. It is possible that Phillips had hoped that Volkan could set aside his hostility towards Armenian people, use the event as an opportunity to explore being in their shoes and to act a catalyst for a breakthrough between the two communities. From Phillips' own accounts, it appears as if Volkan sought to test and confirm his perceptions of Armenians rather than to try apply some of his interesting and insightful ideas to the problem. As a psychologist, he ought to have realized that he will find whatever he goes looking for.

### *TARC Compared to the Kars Treaty*

Volkan's approach is one of blaming the other, whether he is victim or perpetrator. His web site includes references to the Armenians perceptions of history as "chosen trauma." Turkey's historic enemies like Serbia are always there to be criticized, analyzed, and deconstructed, while he spares his own community any responsibility for the others' perceptions of it. Volkan may find that most Armenians do not believe they have had much of a "choice" in their trauma, and it would be very interesting to see any attempts to apply this perspective to the Holocaust and observe the Israeli response. The same applies to Turkey, whose "chosen" trauma can be the Sevres Treaty and Allied occupation.

Fortunately, Armenians and Turks need not have this perspective at all. There are ways of assigning responsibilities towards the other in International Relations, and these are largely self-assumed and self-assigned through treaties. The Kars Treaty includes provisions for reciprocal treatment. At no point was this issue discussed by the TARC. The question of whether or not either country was in compliance with its obligations under the treaty of Kars never came up. Indeed the focus on the events of 1915 itself strongly suggests that TARC was created in part to spare the United States problems with Turkey concerning the passage of resolutions in congress that adapt the Armenian perspective of events.

One interesting question is whether each side was asked about what they perceived their obligations to each other to be and where to look for them. The most worrying aspect about TARC, however, was its implicit violation of the principle of reciprocity found in the Kars Treaty. There was an imbalance in the Commission that favored Turkey numerically, and there was also an imbalance in passion. Only one of the Armenians, Kirkorian, had the personality to challenge Gunduz Aktan. You had Turkish nationalists in a room with Armenian Liberal Democrats and this is a structure that guarantees the hegemony of one side over the other. Nevertheless, TARC showed that the minimum



Armenians were willing to accept was still higher than the maximum Turkey was willing to give, and the enterprise failed.

### *Positive Side Effects of TARC*

Except some Turkish and Armenian nationalists, TARC was regarded as a positive development. In Taner Akçam's view, such a reconciliation body could be regarded as a victory for the circles that have been striving for a Turkish-Armenian dialogue for a long time (Akcam, 2001). Türkmen stated that it was the first time there had been an attempt at structured dialogue between civil society in Turkey and Armenia and the Armenian Diaspora. Moreover, Carolyn Mugar, from the AAA) commented that the TARC would benefit and build on the experiences of other similar international efforts. Harair Hovnanian, another AAA member additionally stated that TARC could be the first multi-disciplinary, comprehensive attempt to reconcile differences between two neighbors, separated by bitterness and mistrust (Kasim, 2004). The AAA regards TARC as well as the Armenian-Turkish Accords as examples of success for its strategy of engagement. In contrast, the ANCA regards them as almost wholly negative.

## **VI. The Case of the 2010 Armenian-Turkish Accords.**

### *Background: The Dink Murder and Football Diplomacy*

On 19 January 2007, Istanbul faced a new sort of shower. The editor in chief of *Agos*, a Turkish-Armenian publication, was assassinated in front of his office by a teenager called Oğün Samast. Dink appears to have been targeted for assassination after he had published a piece arguing that Atatürk's daughter by adoption, Sabiha Gökçen, could have been an Armenian orphan (Dink, 6 February 2004). After publishing the article, Dink was interrogated by the mayor of Istanbul and the Şişli Municipality began legal proceedings against him on the basis that he had violated article 301 of the Turkish criminal code. About three weeks later a nationalist group protested him in front of his office. These activities continued until assassination about three years later.

The real significance of Dink assassination was that it ironically improved Turkish-Armenian relations in some ways, because of the intensive civil protests by the Turkish community. In the days that followed the assassination, many Turkish people including Non-Governmental organizations, political parties, authors, poets, artists, actors and students organized events to condemn the murder with several participations of Turkish political elites as well. In İstanbul's Taksim Square, a quarter million people protested. In Ankara, police and some protest groups fought the police who wanted to stop them. The common motto in these demonstrations was "*All of us are Armenians and all of us are Hrant Dink*". There was for once a public expression of empathy with at least one Armenian, and this caught all off guard. Dink's assassination wounded Turkish intellectual life and also opened more wounds in Turkish-Armenian relations, even as it led to some healing. Some Turkish nationalists focused on the protestors' slogans rather than on the assassination itself or its details ("What do you mean ...," 24 January 2007). As with Armenian society, Turkish society has seen nationalism take over the coding of

life meanings for a long time, and the Dink funeral processions marked the first overt and public challenge to that that discourse in Turkey.

Despite the murder, there was no movement in the relationship for another two years. The first signs of potential change came when in the immediate aftermath of the Russian-Georgian War of August 2008, which revealed the vulnerability of Georgia, the transit country between Azerbaijan and Turkey, to Russian military pressure. Armenia was the evacuation route for Western persons escaping the war, and the country acquired a new importance. The Armenian government invited President Abdullah Gul of Turkey to the Armenian-Turkish world cup eliminations game in Yerevan in September 2009. He accepted the invitation and invited Sarkisian to attend the second game which was played in Turkey. Both presidents attended the games, and despite protests by the ARF in Yerevan and by persons supporting Azerbaijan in Turkey, the visits took place without incidents. In many ways, the accords are the outcome of soccer diplomacy. The visits helped show that movement between the two societies is possible and perhaps desirable for both governments. The opposition to the visits was noisy but it was neither violent nor disruptive.

### *The History of Accords*

In October 2009, the Turkish Armenian Accords were announced with Swiss mediation backed by the European Union, especially France, the Russian Federation and the United States. While being far more balanced and inclusive of powers tilted or aligned with both sides rather than one, the accords were still largely a United States-driven agreement. The humorous exchange between the journalists and the Ms. Clinton speaks to the level of United States involvement in the process. Responding to the questions surrounding the accords, Ms. Clinton was clear that she had to literally drag the Armenian foreign minister to the signing of the accords. The delay was caused by disagreement over statements that the sides had intended to make after signing the accords. The statements proposed by the two sides led Nalbandian to refuse signing the treaty in the last minute. It appears that one side or the other had intended to make statements suggesting that the terms of the accords. At the end, Clinton had to drive to Nalbandian's hotel, retrieve him and get him to the university where the accords were being signed (Clinton, 2009). The signing scene was extremely quiet with no statements made in conjunction, unlike a normal signing ceremony. The accords were intended to be ratified quickly and they confirmed, in no uncertain terms the Kars treaty.

Shortly after the signing, the accords faced immense opposition in each society. Turkey again insisted on the resolution of the Karapakh dispute along lines favorable to Azerbaijan. The accords have not been ratified by either legislature. Turkey also protested Armenia's referral of the accords to its Constitutional Court. The Armenian Supreme Court found that the accords were complaint with the constitution, but Davutoglu insisted that the language used by the court was not in Turkey's liking. The Armenian government had hoped to use the court decision to silence nationalist criticism that the accords entail an abandonment of the effort to persuade third countries of the Armenian perspective on the events of 1915. Davutoglu transformed this into an issue

and argued that Armenia's Constitutional Court is not authorized to have that judgment ("Turkey Warns," 2010). In a meeting with reporters in July 2010 in Almaty, Davutoglu explicitly linked the implementation of the accords with Armenian concessions in Karapakh ("Armenia border opening ...," 19 July 2010). Obviously, Turkey and Armenia do not share the same definition of the word "preconditions" and do not have the same understanding either of the accords or of the Treaty of Kars. To that extent, there is absolutely no escape from litigation. Turkey views the Treaty of Kars as simply establishing a border. The Armenians view it as a set of mutual obligations that have to be met by both parties.

Anticipating criticism on a the policy of linkage on 23 April 2010, Turkey's President claimed that Turkey was pursuing silent diplomacy with Armenia and that it believed that the "status quo in the Caucasus is serving nobody" (Gul, 2010). Gul's remarks included references to the Caucasus platform, which includes Russia, Turkey, Georgia and Azerbaijan. Despite United States appeals not attach preconditions on either side and despite American attempts to request prompt passage of the accords in Turkey, ratification stalled in Ankara ("U.S. again urges ...," 2010) Denying claims that silent diplomacy is being pursued, Nalbandian used stinging language towards his Turkish counterparts:

Answering the question on the Armenian-Turkish normalization process, Edward Nalbandian said; "The negotiations between Armenia and Turkey were finalized by the signature of the protocols. There is neither "silent diplomacy", nor "a second season" of Zurich, nor any new round of negotiations. Some of the Turkish politicians and some Turkish media outlets like to mention about it, but I do not know with whom a "silent diplomacy" is conducted. The Roman philosopher-emperor Marcus Aurelius's writing, the famous Meditations was entitled "Thoughts addressed to himself". Philosophers or some emperors probably address thoughts to themselves, but diplomats address their thoughts to other diplomats if they are looking for diplomatic solutions. The only remaining step in this long lasting process is the ratification and implementation of the Armenian-Turkish protocols without further ado. Armenia will be ready to move forward if Turkey is again ready to go ahead with the normalization process without preconditions" (Nalbandian, 12 November 2010).

By January and February 2011, the Armenian government was all but clear that the accords were dead. In January, Sarkissian visited Cyprus and Greece and took the opportunity to heap invective on Turkey. By February 2011, the Armenian government was declaring the accords dead (Danielyan, 14 February 2011). The issue of Cyprus was explicitly linked to the issue of Azerbaijan in some of the statements associated with the events before the declaration of the accords. The two states were to focus strictly on their mutual problems with each other and not involve their disputes with third parties in the discussion.

### *Accords Stakeholders*

The main stakeholder of the accords appears to have been the United States. Unlike TARC, the venue allowed for the presence of other stakeholders like Russia which had alliances and interests at odds with those of the United States and this allowed the outcomes to be a great deal more balanced than in the TARC. Also, the accords were set into legal documents, so they did not engender any emotional issues and should have been allowed to remain so. The reality was that the accords reflected Armenia and Turkey acting as states in their own interests when these are seen independently of the expectations of others from them. The accords did not reflect the interests of Cyprus, the ARF, Azerbaijan and the views of Turkish citizens of Azeri descent, but did an overall service of reflecting common views of the two states and amplifying them.

Properly understood, the accords reflected a re-emphasis rather than a re-affirmation of the Kars Treaty. Russia has seen its trade relationship with Turkey bloom and it has a very large and active Armenian community, so it has a stake in both Armenia and in the normalization of its relations with Turkey. Like Russia, France too have a stake in Armenia, because of the latter's membership in La Francophonie and the large French-Armenian community. Other actors included the European Union and Switzerland who were largely providing good offices and aid. The overall picture is that of a better effort than the TARC and one that focused on real issues that can be discussed such as the border, trade, diplomatic relations and other forms of cooperation.

### *Vetoed Against the Accords*

The most vocal opponent of the accords, as always came from the ARF, which pursues a policy of preconditions in terms of relations with Turkey. Its condemnation of the accords came with unusual gusto, and ARF members protested Nalbandian and Sarkissian when they visited Diaspora communities in an effort to drum up support for reconciliation with Turkey. The ARF's hostility hid none of its bitterness about them. It can be argued that excluding the ARF from the TARC helped feed its unusually terse attitude towards the accords. It may have been possible to have had it oppose the accords in a calmer, more rational manner than it did, but it certainly did not use diplomacy or moderation in its language.

President Sargsyan has claimed that he is conducting his speaking tour of the Diaspora's largest communities to hear their views on the protocols. However, normally stakeholders are engaged to provide input into critical policy decisions before policy formulation and public announcement, not after their release. Such illogical timing is compounded by additional claims that the government will not entertain any attempts to amend these protocols. Viewed in this light, the President's upcoming visit is not only late, but lacking in political and moral sincerity, particularly when Armenia and Turkey have announced that the timetable for protocol signing and ratification has been accelerated to occur sometime during the

next two weeks (ARF Central Committee Eastern Region, September 2009).

Essentially, the ARF's official statement against the accords reflected a binary approach to the issue, very similar to the approach espoused by the Turkish government. The negotiating partner is expected to perform a certain set of tasks that are a pre-condition for all subsequent "normal" interaction. The approach forecloses normal treatment of the other in favor of a zero-sum approach that views Turkish-Armenian relations from the sole perspective of the era between Hamidian Massacres and the wealth tax of 1955. And while the organization's perspective on these issues is valuable and should perhaps be a part of a dialogue, these issues are not the sole or defining aspects of the relations between Turkey and Armenia today or even between Turks and Armenians worldwide.

The second veto came from Azerbaijan. The two countries have often stated that they are two states reflecting one nation, so while Azerbaijan certainly had the right to make its preferences known, it should have also acknowledged Turkey's interest in fence mending with Armenia. In a blatant intervention in what should be a bilateral matter concerning two other sovereign actors, Azerbaijan protested the signing of the Turkish Armenian accords.

As we have repeatedly noted, establishment of relations between states is in principle their sovereign right. However, mending relations between Turkey and Armenia before the withdrawal of Armenian forces from the occupied Azerbaijani territories directly contradicts the national interests of Azerbaijan and overshadows the spirit of brotherly relations between Azerbaijan and Turkey built on deep historical roots. Taking into the consideration the importance of opening all borders and communications in the region, Azerbaijan is of the opinion that the one-sided opening of Turkish-Armenian border will put into question the architecture of peace and security in the region (Ministry of Foreign Affairs, Azerbaijan, 2009).

Ironically, Azerbaijan found political allies among the sections of Armenian public opinion that dislike it most. It also mobilized its lobby in Turkey to sink the accords and largely achieved its goals there. The result is that Turkey and Armenia are back to how things were at the end of TARC. Part of the problem is the legacy of TARC in terms of the deep suspicions the ARF feels towards the State Department. Another aspect of TARC is the confidence it has brought to sections of Turkish and Azeri cognoscenti about the lack of any real American pressure on the issues related to Armenia. Some nationalists in both countries continue to veto progress on Turkish-Armenian rapprochement. As a result, TARC may have reduced the patience of the Armenian side with Turkey and when the process faced the expected and inevitable delays, the message received by Yerevan is that Turkey does not plan to act without preconditions. The Turks on their part, tended to see in every Armenian move an attempt to thwart their positions.

*The Accords and the Treaty of Kars*

Given the problems that binary thinking is bringing to the relationship, it may be better if legal approaches are used at the earliest stages of the rapprochement process. Plainly put, nothing in the accords appears to contradict the Treaty of Kars and they seem to be an updated statement on the treaty. That having been said, it is clear that Turkey and Armenia read the treaty very differently, to that extent, its meaning should probably be decided by the International Court of Justice rather than here. Nevertheless, the articles are clear and they include some very specific obligations on both sides that include the transfer of territory and the establishment of easements. It is noteworthy that aside from Nakhichevan, there are no references to the issue of Turkish guarantees to Azeri exclaves or enclaves. Karapakh was not envisioned as an object of the treaty and the treaty contains no provisions for an Armenian-Azeri border.

## **VII. Conclusion: “See you in court” is better than endless talk.**

The European Stability Initiative celebrated football diplomacy by publishing an article on the accords titled “Noah’s Dove Returns.” The article, published 21 April 2009, is filled with nearly poetic discourse on the possibilities of reconciliation. Unfortunately, it is also focused on the psychology of Armenians and Turks. It is unfortunately useless for that reason. It does not do anything other than encourage the view that there are no surmountable problems that cannot be overcome through reaching out to the other, ignoring all the non-territorial dimensions of the Kars Treaty and the conditional nature of the transfer of territory. The piece appears to be written to evoke mutual sympathy between Armenians and Turks without acknowledging their problems. Another work, an article by Michael Gunter and Dirk Rohtus, came out in Summer 2010 with the impression that the accords were a “breakthrough” in relations and had some interesting discourse on the issue of characterizing the events of 1915. Aside from being patronizing to Turks and Armenians about what language they should use, it also revealed profound ignorance of Armenian politics. It is based on an anti-ARF standpoint, calling the party “a right-wing nationalist party” (Gunter and Rohtus, 2010, p. 161). While the ARF concedes that it is nationalist, it is also a member of the Socialist International – which is hardly a “right wing” organization. Perhaps for Gunter and Rohtus support for social democracy along with a nationalist foreign policy constitutes an unacceptable ideology, but it is not possible to accept this characterization of the ARF as fair, despite the organization’s shortcomings which have been mentioned and dealt with in this paper.

There is one topic that united the Armenian government, ARF and the AAA in terms of approach. It is very clear that none of these actors believes in eternal talks with Turkey. There is no base for a claim by Armenia against Turkey on any point of international law aside from the Treaty of Kars. The two countries accept that it alone governs their relationship at this stage. Issues related to history, psychology, and deconstructions of identity are not directly relevant to the relationship between the two states. Addressing these issues in innovative ways is good, but it is not something that needs to hinder progress on the basis of the Kars Treaty. The two states have an agreement that takes these issues out of the relationship. Any progress in acknowledging each others’ grievances will have to come as a result of internal discussions within both societies and not between them. In the meantime, the two states do have urgent business to conduct

with each other. The Treaty of Kars and its implications are objects of dispute. The way out for Turkey and Armenia is litigation. Continuing endless talks without outcomes is futile and frustrating for all involved. If Turkey believes that the Treaty of Kars grants it the right of acting the way it has acted towards Armenia since 1993, let it prove so in court. If Armenia believes that Kars does not cover relations with third parties, then it needs to prove this in court as well. United States involvement with TARC and the accords was designed to either take political pressure off the administration in Congress or to secure pipelines in the wake of the Russian-Georgian war, and while these were proper moves, they also ignored the central core of the remaining actionable dispute – the Kars Treaty, whose content remains open to interpretation and litigation. Once the treaty is litigated upon, it will be important for the United States and Russia to force their clients to accept the outcome and begin returning Turkish-Armenian relations to their right context – International Law and Relations.

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## Appendix I

**Table 1 – TARC Recommendations and Current Realities.**

<b>Recommendation</b>	<b>Status</b>
Official contacts should be improved	Football diplomacy has failed, Sarkisyan visited Cyprus and Greece amid anti-Turkish discourse.
Opening of the Turkish Armenian border should be Announced and Implemented in 2004.	The border is still closed about seven years later.
The two governments should publicly support civil society programs on education, science, culture and tourism.	There is no joint support for such programs. There are programs run for and by grant hunters seeking money from private donors and Western para-statal.
Standing mechanisms for cooperation on humanitarian disaster assistance and health care should be established.	No such program exists. Turkey conditioned U.S. aid in the wake of the Bursa earthquake on the lack of conditionality.
Security and confidence building measures between Turkey and Armenia should be enhanced.	Turkey has signed a strategic partnership with Azerbaijan, Armenia signed an alliance with Russia. There is no CBM program between Turkey and Armenia.
Religious understanding should be encouraged.	Armenian churches in Turkey are reopened as mosques and museums. Friday prayers were held at Ani Cathedral, and Armenia has restored the former Azeri mosque in Yerevan as a “Persian” monument.
The Turkish and Armenian people need to develop more confidence that their governments are working to surmount the difficulties related to the past.	Four years after the Dink assassination, there is no accountability for his killer. There are ongoing prosecutions in Turkey on the basis of article 301 of the Turkish criminal code. Armenia indicates that it considers Turkey an “unfriendly” country and will vote against Turkish diplomats running for office in international organizations.

Source: David L. Phillips, *Unsilencing The Past: Track Two Diplomacy and Turkish-Armenian Reconciliation*, New York, Berghan Books, 2004, pp. 152-154.

## **Appendix II – The Kars Treaty**

### **Kars Treaty**

#### **Article I**

The Government of the Grand National Assembly of Turkey and the Governments of the Socialist Soviet Republics of Armenia, Azerbaijan, and Georgia consider as null and void the treaties concluded between the Governments which have previously exercised sovereign rights over territory actually forming part of the territory of the Contracting Parties and concerning the above-mentioned territories, as well as the treaties concluded with third states concerning the Transcaucasus Republics. It is understood that the Turkish-Russian Treaty signed in Moscow on March 16, 1921 (1337) will be exempted from the terms of this Article.

#### **Article II**

The Contracting Parties agree not to recognize any treaty of peace or other international act imposed upon one any of them against its will. In virtue of this agreement, the Governments of the Socialist Soviet Republics of Armenia, Azerbaijan and Georgia agree not to recognize any international act concerning Turkey which has not been recognized by the National Government of Turkey, actually represented by its Grand National Assembly. (By the term Turkey is meant, in the present Treaty, the territories included in the Turkish National Pact of January 28, 1920 (1336), developed and proclaimed by the Ottoman Chamber of Deputies in Constantinople and communicated to the press and to all States). For its part, the Government of the Grand National Assembly of Turkey agrees not to recognize any international act concerning Armenia, Azerbaijan, and Georgia that may not be by the respective Governments of these countries, actually represented by the Soviets of Armenia, Azerbaijan, and Georgia.

#### **Article III**

The Governments of the Socialist Soviet Republics of Armenia, Azerbaijan and Georgia, recognizing that the system of capitulations is incompatible with the free life of the national development of all countries, as well as with the full exercise of sovereign rights, consider as null and abrogate the exercise, in Turkey, of all offices and rights included in this system.

#### **Article IV**

The northeast border of Turkey (according to the map of the Russian General Staff, on a scale of 1:210000.5 verstes to the inch) is determined by the line which, beginning at the village of Sarp on the Black Sea, passes by the Mt. Khedis Mga, the watershed line of at Mt. Shavshet- Mount Kana Dag; from there, it always follows the former northern administrative borders of the sanjaks of Ardahan and Kars, the thalweg of the Arpachai

River and that of the Arax as far as the mouth of the Nijni Kara Su river. (For details of the border and questions pertaining to it, see Annexes I and II and the map inclosed, signed by the two Contracting Parties. In the event of discrepancies between the text of the Treaty and the Map, the text of the treaty shall prevail over the map). A mixed commission of delimitation, comprised of equal number of members, with the participation of a representative of the RSFSR, is directed to determine in detail and to establish the actual border of the state, and to erect boundary markers. (Annex IV: the map). [not reproduced]

#### **Article V**

The Turkish Government and the Soviet Governments of Armenia and Azerbaijan are agreed that the region of Nakhichevan, within the limits specified by Annex III to the present Treaty, constitutes an autonomous territory under the protection of Azerbaijan.

#### **Article VI**

Turkey agrees to cede to Georgia suzerainty over the town and port of Batum, with the territory to the north of the frontier, indicated in Article IV of the present Treaty, which formed part of the district of Batum, on condition:

1. That the population of the localities specified in the present Article shall enjoy a greater measure of local administrative autonomy, that each community is guaranteed its cultural and religious rights, and that this population may introduce in the above-mentioned places an agrarian system in conformity with its own wishes.
2. That Turkey be assured free transit through the port of Batum for commodities and all materials destined for, or originating in, Turkey, without customs duties and charges, and with the right for Turkey to utilize the port of Batum without special charges. For the application of this Article, a commission of representatives of the interested Parties shall be created immediately after the signing of the present Treaty.

#### **Article VII**

The Government of the Grand National Assembly of Turkey and the Government of SSRG agree to facilitate the crossing of the border by the inhabitants of the bordering zones, on condition of the observance of the customs, police, and sanitary regulations which shall be established in this regard by a mixed commission.

#### **Article VIII**

The Government of the Grand National Assembly of Turkey and and the Government of SSRG consider that it is necessary for the inhabitants of the bordering districts of two countries to make use of summer and winter pastures on the other side of the border, and agree to accord to these inhabitants the right to cross the border with their animals and to

avail themselves of the customary pasturage. Customs formalities, and police, sanitary, and other measures applying to border crossings shall be determined by a mixed commission.

### **Article IX**

With the view to assuring the opening and free passage through the Straits for the commerce of all peoples, Turkey and Georgia agree to submit the definitive elaboration of the international regulations for the Black Sea and the Straits to a subsequent conference composed of delegates from the littoral states, unless the decisions there reached encroach upon the sovereignty and security of Turkey and of Constantinople, its capital.

### **Article X**

The Contracting Parties agree not to admit upon their territories the formation or sojourn of organizations or groups pretending to assume the role of government of the other country or a part of its territory, nor the sojourn of groups having for their purpose war against the other country. It is clearly understood that the Turkish territory mentioned above in the present Article is the territory under the direct civil and military administration of the Grand National Assembly of Turkey.

### **Article XI**

Nationals of each of the two Contracting Parties, residing in the territory of the other Party, shall be treated in accordance with the duties and obligations decreed by the laws of the country in which they reside, with the exception of those concerning the national defense, from which they shall be exempt. Questions of family right, inheritance, and legal capacity are also excepted in the present Article, and shall be settled by a special agreement.

### **Article XII**

The Contracting Parties will apply the most favored nation rule to nationals of one of the Contracting Parties residing in the territory of the other. This Article does not affect the rights accorded reciprocally by the Soviet Republics to citizens of allied Soviet Republics on their territory, as well as to the rights accorded by Turkey to nationals of the Moslem states allied with Turkey.

### **Article XIII**

All inhabitants of territory that was part of Russia before 1918, and over which the sovereignty of Turkey is affirmed, shall have the opportunity, if they desire to relinquish their Turkish nationality, to leave Turkey freely, taking with them their possessions and goods, or the proceeds of their sale. Likewise, all inhabitants of territory whose sovereignty has been ceded to Georgia by Turkey shall have the opportunity, if they

desire to relinquish Georgian nationality, to leave the territory of Georgia freely, taking with them their possessions, goods, and capital. The inhabitants mentioned in the above sentences shall be granted a deferment of one month from military service, beginning on the date on which they shall have signified in due form their intention of leaving the territories in question.

#### **Article XIV**

The Contracting Parties agree to conclude, within the period of six months from the signature of the present Treaty, special arrangements with regard to the refugees of the wars of 1918 and 1920.

#### **Article XV**

Each of the Contracting Parties agrees to promulgate, immediately after the signature of the present Treaty, a complete amnesty to citizens of the other Party for crimes and offenses committed during the course of the war on the Caucasian front.

#### **Article XVI**

The Contracting Parties agree to effect reciprocally, within the period of two months after the signature of the present Treaty, the repatriation of former military and civilian prisoners residing in the territory of one of the Contracting Parties.

#### **Article XVII**

In order to ensure the continuance of relations between their countries, the Contracting Parties agree to take, in a common agreement, all the measures necessary to maintain and develop as quickly as possible railway, telegraphic, and other communications, as well as to assure free transit of persons and commodities without any hindrance. It is understood, however, that the entry and departure of travelers and commodities will be governed by the full application of all the regulations established in this regard by each of the Contracting Parties.

#### **Article XVIII**

With a view to organizing commercial relations and regulating economic, financial, and other questions necessary to strengthen the friendly relations between the two countries, a commission of representatives from the interested countries shall convene at Tiflis immediately after the signature of the present Treaty.

#### **Article XIX**

The Contracting Parties agree to conclude consular conventions within the period of three months from the signature of the present Treaty.

## **Article XX**

The present Treaty, concluded between the Governments of Turkey, Armenia, Azerbaijan, and Georgia, shall be subject to ratification. The exchange of ratifications shall take place at Yerevan within the shortest possible time. The present Treaty shall enter into force immediately after the exchange of the acts of ratification, exception being made to Articles VI, XIV, XVI, XVIII, and XIX, which enter into force immediately after the signature of the Treaty.

*Source:* The Treaty of Kars (1922). Retrieved on November 1, 2010 from the Armenian News Network – Groong, <http://groong.usc.edu/treaties/kars.html>. The original text is in French and Russian which have legal force. The Armenian News Network provided this English translation, and the text has been checked by Mr. Volkan Ipek who is fluent in Russian and has been found to appear to be in conformity with the original.



## Appendix III

### Map Showing the Effects of the Kars Treaty.



- State borders, 2006
- Borders of Russian provinces, 1914
- - - - - Borders of Russian districts, 1914
- Soviet republics established by 03.1921
- Former possessions of Russian Empire taken over by the Turks by 03.1921
- Autonomous Achara within Georgia, as per the Treaty of Kars / 13.10.1921
- Turkish claims in the Caucasus, as of 09.1921
- Soviet-Turkish border, as per the Treaty of Kars / 13.10.1921
- Territory claimed by both Armenia and Azerbaijan and promised to Armenia by the "Caubureau" of the RCP(b) Central Committee as the price for Sovietization including:
  - Karabakh, assigned to Azerbaijan under the condition of limited autonomy
  - Zanghezur, assigned to Armenia
  - Sharur, Naxcivan, Julfa and Ordubad districts to be organized into an "autonomous republic" under the protectorate of Azerbaijan, as per the Treaty of Kars / 13.10.1921

Source: Andrew Andersen and George Partskhaladze, *The Treaty of Kars*, Centre for Military and Strategic Studies, Victoria, British Columbia, Canada, 2006, available at <http://www.conflicts.rem33.com/images/Armenia/kars.htm>, accessed 15 February 2011.