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Senate Committee on the Judiciary
Subcommittee on Human Rights and the Law

“The Law of the Land: U.S. Implementation of Human Rights Treaties”

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I would like to first thank Chairman Dick Durbin, Ranking Member Tom Coburn, and all the distinguished members of this vital Subcommittee – and to share the appreciation of the Armenian National Committee of America and all Armenian Americans for your leadership in promoting the implementation of human rights treaties.

Today, I will, in the interest in helping the panel explore how we can better live up to our ideals and our international obligations, focus on an unfortunate chapter in the history of U.S. human rights policy, namely our federal government’s ongoing policy of complicity in Turkey’s state-sponsored denial of the Armenian Genocide, and the implications of this policy on the implementation, in both spirit and letter, of the Convention on the Prevention and Punishment of the Crime of Genocide (“Genocide Convention”).

As you know, the United States was the first nation to sign the Genocide Convention in 1948, but failed to ratify this landmark treaty until 1988. The Genocide Convention Implementation Act of 1987 (“Proxmire Act”) amended the United States code to enumerate criminal penalties for committing genocide, which now include death or imprisonment for life and a fine of not more than \$1,000,000.¹ The most recent amendment to this code by the Genocide Accountability Act of 2007 extended criminal liability for genocide to non-U.S. citizens, who are found in the United States.

Although the Genocide Convention has two main objectives, which are to prevent and punish genocide, the United States’ implementation of the Convention has focused more on the duty to punish, rather than on the duty to prevent genocide.

The duty to prevent genocide is a very real duty, however. As International Court of Justice Judge Lauterpacht wrote in his separate opinion in *Bosnia v. Serbia II*, “The duty to ‘prevent’ genocide is a duty that rests upon all parties and is a duty owed by each party to every other ...”² Furthermore, when considering the recent Genocide Accountability Act of 2007, the House

¹ 19 U.S.C. § 1091.

² Application of the Convention on the Prevention and Punishment of the Crime of Genocide, Provisional Measures, 1993 I.C.J. 325, 436.

Judiciary Committee report stated, “[T]he states’ duty to prevent genocide does not stop at their own borders.”³

The United States’ understanding of that duty was illuminated early on through its 1951 filing with the International Court of Justice, which had been tasked by the United Nation’s General Assembly to issue an advisory opinion on the Genocide Convention. The United States wrote, “the Convention is a very clear expression of the will of the United Nations that every responsible State give its **undertaking to prevent** the recurrence of those heinous offenses against mankind that condemned whole groups, in the twentieth century, to mass destruction.”⁴ (emphasis added). Earlier in this filing, the United States noted that such “outstanding examples of the crime of genocide” included the “Turkish massacres of Armenians.”⁵

Considering this filing and the moral and legal obligations we have undertaken as parties to the Genocide Convention, it is truly astonishing that the United States has more recently pursued a policy of complicity in Turkey’s state-sponsored denial of the Armenian Genocide and has even gone to the lengths of assisting Turkey in covering up a crime that was publicly cited by Raphael Lemkin as one of the major motivating factors in the very drafting of the Genocide Convention.

Instead of preventing genocide, the United States complicity in covering up a past genocide actually emboldens other states to commit genocide and undermines one of the two pillars of the Genocide Convention.

In 2003, when the House Judiciary Committee was considering H. Res. 193, a resolution to mark the 15th anniversary of the Genocide Convention Implementation Act of 1987 (“the Proxmire Act”), Congressman John Conyers emphasized that the United States’ ability to prevent genocide would be compromised by its inability to recognize past genocides. He noted, “If we intend to prevent genocide, we must begin by identifying genocide for what it is. If we fail to recognize historical genocidal events, we not only do a disservice to those who died and the survivors, but we also create conditions where genocide can continue with impunity.” Congressman Conyers was specifically referring to efforts to oppose the resolution, including from the U.S. State Department, because it merely mentioned the Armenian Genocide. In part as a result of this pressure, a resolution to rededicate the United States to preventing genocide, which enjoyed strong bipartisan support, did not reach the House floor.

Although the United States worked valiantly to protest the Armenian Genocide, as it occurred, sustained Turkish government pressure over the decades has resulted in 180 degree reversal in U.S. policy, with successive Administrations failing to properly recognize this crime and opposing Congressional resolutions that discuss the Armenian Genocide. In both 2005 and 2007, in response to the Turkish government’s threats to retaliate against the United States, the U.S. Executive Branch opposed the Congressional Armenian Genocide resolutions, although

³ Report of the House Committee on the Judiciary, Genocide Accountability Act of 2007, H. Rpt. 110-468 (2007).

⁴ Reservations to the Convention on the Prevention and Punishment of the Crime of Genocide, 1951 I.C.J. Pleadings 23, 42 (May 28, 1951 Written Statement of the U.S.A.). <http://www.icj-cij.org/docket/files/12/11767.pdf>

⁵ Id. at 25.

they both had been adopted by the House Foreign Affairs Committee and enjoyed strong bipartisan support.

Furthermore, instead of exhibiting remorse for undermining the principles and spirit of the Genocide Convention through its opposition to the Armenian Genocide resolution, Undersecretary of Defense Eric Edelman and Assistant Secretary of State Dan Fried traveled to Turkey in October 2007 to “express regret” to the Turkish government that the resolution had passed the House Foreign Affairs Committee.⁶

The United States’ complicity in Turkey’s state-sponsored denial of the Armenian Genocide has not been limited to opposition to Congressional resolutions. One of the most disturbing manifestations of this policy was the retaliation against former U.S. Ambassador to Armenia John Evans in 2005 for speaking honestly about the Armenian Genocide. Turkish foreign agents protested, after Ambassador Evans honestly spoke about the Armenian Genocide before an American audience in California.⁷ Ambassador Evans was eventually forced out of office, after over 30 years of exemplary service to his country and an American Foreign Service Association award for constructive dissent was stripped from him, because “very serious people from the State Department” objected.⁸

Turkey’s success in silencing one of the most powerful countries in the world on one of the best documented cases of genocide emboldens other states to commit genocide and undermines the ability of the U.S. and the international community to prevent crimes against humanity. The starkest example of this consequence is Sudan’s mimicking of Turkish genocide denial tactics and the growing alliance between these two countries.

As the rest of the world is trying to isolate the genocidal regime of Sudan, Ankara is increasing its military and economic ties to Khartoum and Turkish Prime Minister Recep Tayyip Erdogan has broadcast his denial of the genocide in Darfur, claiming, most recently, that there is no genocide in Darfur, because “a Muslim can never commit genocide.”⁹

Sudanese President Omar Hassan al-Bashir has followed in Turkey’s genocide denial footsteps, claiming, like Turkey, that the killing of innocent women and children was justified to put down a supposed rebellion, which was instigated by foreign countries. In 2007, Prime Minister

⁶ Statements by U.S. Officials, Undersecretary of Defense Eric Edelman and Assistant Secretary of State Daniel Fried at Ministry of Foreign Affairs, Ankara, October 12, 2007, http://turkey.usembassy.gov/statement_101207.html.

⁷ “Double Genocide Correction from US Yerevan Ambassador,” *Anadolu News Agency*, March 4, 2005; “US Envoy Fired Over ‘Genocide’ Claims,” *Turkish Daily News*, May 27, 2006.

⁸ “Association Withdraws Award to U.S. Envoy: Ambassador Was to Be Honored for Dissent,” *Washington Post*, June 9, 2005.

⁹ “Slipping in Turkey,” *Washington Post*, November 23, 2009.

Erdogan denied the Armenian Genocide and claimed, “There was rebellion in different part of the empire. But given the context of the time and the events that took place at that time, there was provocation by some other countries and the Armenians became part of the rebellion in those years.”¹⁰ Likewise, al-Bashir claimed, “There is a rebellion problem in Darfur, and it is the duty of a government in any state to fight the rebellion. When war takes place, civilian victims fall, and this has been exaggerated.”¹¹ Al-Bashir alleged, “The people who really commit murders in Darfur are receiving help from Europe and others.”¹²

The Turkish-Sudanese alliance illustrates how the enabling of the denial of a past genocide undermines the prevention of future genocide. As the United States wrote in 1951 in its brief to the International Court of Justice, the Genocide Convention’s “basic purpose and major commitment is to put an end to genocide.”¹³ In order to realize this goal, the United States must end its complicity in the denial of the Armenian Genocide.

Thank you very much for this opportunity to share our thoughts with the Subcommittee. We look forward to working with you to fully realize the noble and necessary aims of the Genocide Convention and its implementation in the United States.

¹⁰ Turkish Prime Minister Erdogan Delivers Remarks at the National Press Club About his Meeting with President Bush, November 5, 2007.

¹¹ Asharq Alawsat Interview, February 17, 2007.

¹² “Sudan promotes militia leader in Darfur violence,” *Los Angeles Times*, January 22, 2008.

¹³ Reservations to the Convention on the Prevention and Punishment of the Crime of Genocide, 1951 I.C.J. Pleadings 23, 42 (May 28, 1951 Written Statement of the U.S.A.).