

## *Judgment at Istanbul: The Armenian Genocide Trials*

VAHAKN N. DADRİAN AND TANER AKÇAM  
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As we approach the centennial of the Armenian genocide, denialist scholars still attempt to obfuscate and distort the historical facts of one of the classical cases of genocide in the twentieth century. The volume under review provides the reader with one of the most indisputable proofs on the veracity of the Armenian genocide and specifically the *intent* to commit such a crime. In the past four decades, the scholarship on the Armenian genocide has been developing in tandem with literature in the field of comparative genocides. Since then numerous volumes from different disciplines have contributed substantially to our understanding of this genocide. Despite these promising developments, studies of the Armenian genocide from a legal-criminal perspective have been scarce. Only a handful of works have addressed the subject and even those have done so partially.<sup>1</sup> The volume under review is the most comprehensive and analytical work to address the Armenian genocide from legal-criminal perspective to date. Major portions of the book *Judgment at Istanbul: The Armenian Genocide Trials* written by Vahakn N. Dadrian and Taner Akçam, appeared first in Turkish.<sup>2</sup> In *Judgment at Istanbul* Dadrian and Akçam examine the Armenian genocide as documented by the Ottoman Special Military Tribunal's criminal persecution of the perpetrators who were involved in the genocide. They analyse the genocide from a legal-criminal perspective in order to inquire the specific context and conditions in which the prosecutorial initiatives took place, the huge obstacles that the courts had to overcome, and the series of verdicts

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- 1 See for example Griķēr, *Yozghati Hayaspanut'ean Vaweragrakan Patmut'iwne* [Documentary History of the Armenocide in Yozgat] (New York: Griķēr, 1980), in Armenian; O.S. Kocahanođlu, *İttihat-Terakkî'nin Sorgulanması ve Yargılanması: Meclis-i Mebusan Tahkikatı, Teşkilat-ı Mahsusa, Ermeni tehcirinin içyüzü, Divan-ı Harb-i Örfî Muhakemesi* [The Interrogation and Trial of the Union and Progress: The Investigation of the Ottoman Assembly, Special Organisation, the True Face of the Armenian Deportations, the Military Tribunal] (İstanbul: Temel Yayınları, 1998), in Turkish; idem, *Divan-ı Harb-i Örfî Muhakematı Zabıt Ceridesi: Tehcir Yargılamaları (1919)* [Turkish Military Tribunal Records: The Deportation Trials (1919)] (Çemberlitaş, İstanbul: Temel, 2007), in Turkish; G.J. Bass, *Stay the Hand of Vengeance: The Politics of War Crimes Tribunals* (Princeton, NJ: Princeton University Press, 2000).
  - 2 V.N. Dadrian and T. Akçam, *Tehcir ve Taktik: Divan-ı Harb-i Örfî Zabıtları: İttihad ve Terakkî'nin Yargılanması, 1919–1922* [Deportation and Massacres, Protocols of Military Tribunal, Trial of Union and Progress Party, (1919–1922)] (Şişli: İstanbul Bilgi Üniversitesi, 2008), in Turkish.

that ensued' (p. 3). With this aim in mind the book analyses these courts-martial in a meticulous way from both legal and historical perspectives.

After the armistice of Mudros in the aftermath of World War I, the defeated Ottoman government of Istanbul, under the pressure of the allies especially the British, established Courts-Martial to try members of the Committee of Union and Progress (CUP), government officials, and military leaders, as well as other functionaries, with charges of committing crimes against the Armenians and subverting the constitution by leading the Empire into the War. The Courts-Martial, which began in 1919 and ended in 1922, demonstrated the undeniable role that the Young Turk Party, the CUP, played in the organisation and implementation of the Armenian genocide. The importance of these military tribunals does not only lie in their verdicts and Key Indictment, rather in the process that culminated in these decisions. This process involved the gathering and classification of mass documentary evidence about the centrally organised plan to annihilate the Armenians of the Empire. In the course of these Tribunals new documents surfaced which were authenticated in the pre-trial investigation by officials from the Ministry of Justice and Interior. The authentication of these documents was carried out by affixing to the bottom of the documents the phrase 'it confirms with the original' (*ashna muafikdir*).

The book *Judgment at Istanbul* is divided into two parts: Part I entitled the 'Conditions Surrounding the Trials' which constitutes the major section of the book (9 chapters) is written by Dadrian whereas Part II entitled 'The Trials and Beyond' (3 chapters) is written by Akçam. The final chapter of the book provides verbatim translation into English of the full texts of the Indictments and Verdicts from the original Ottoman. In Part I, Dadrian provides an overview about the political and military conditions of the time, a detailed analysis of the trial preparation, and an analysis of the court procedures. Towards the end of Part I he provides a summary of the series of verdicts. Akçam on the other hand examines closely the Ottoman Turkish press in Istanbul during the period of the courts-martial and provides the reader with a detailed list of the trials in question. What is unique in these courts-martial is that for the first time in the history of the Ottoman Empire all three branches of the Ottoman government (executive, legal, and judicial) were resolved to prosecute and punish the perpetrators.

After providing a brief historical background about the Armeno-Turkish conflict, Dadrian concentrates in chapter two on the Ottoman Parliamentary debates about the Armenian genocide and the inception of the Mazhar Inquiry Commission appointed by the Cabinet which was tasked with the 'investigation of misdeeds' (*tetkiki seyyiat*) of officials only. Assigned to conduct large-scale pre-trial criminal investigation, the Commission began gathering eyewitness accounts and official and quasi-official documents. The latter proved to be instrumental in the trial process and a testament to the complicity of parliamentary deputies and provincial governors in the Genocide (p. 60). Before its termination, the Commission collected some 200 dossiers and handed them over to the courts-martial authorities (p. 64). In chapter three Dadrian discusses the preparations for the courts-martial and the array of impediments that it had to overcome in order

to provide its verdict. The most important of which was the existence of CUP sympathisers within these administrations who intentionally obstructed the process of the trials. Afterwards Dadrian concentrates on the importance of the Key Indictment whose trial began on 28 April 1919 and which constituted a singular phenomenon in Ottoman-Turkish history as a whole. This is because for the first time in Ottoman history 'high-ranking Turkish officials, including two wartime prime ministers and [a] host of cabinet ministers were being criminally prosecuted for crimes' (p. 83). The collection of documents in the hands of the courts-martial was crucial in incriminating the chiefs of the Special Organisation (SO), the most prominent of which were Drs Mehmet Nazim and Bahaeddin Şakir. Through analysing the Indictment, Dadrian demonstrates how Talat Paşa, the chief architect of the genocide, was 'singled out as being in secret communication with Şakir, the director of the SO operating in the Eastern provinces' (p. 86). Furthermore, he demonstrates that two groups organised and supervised the killings in the eastern provinces: the CUP leaders who were in charge of the SO units and a coterie of ex-officers who had resigned from the military and were sent by the CUP to deliver special orders to the provinces. In chapter four Dadrian discusses the initiation of the courts-martial and demonstrates the challenges that they endured in this process. The most important of these obstacles were the instability of post-war Turkish governments, local political resistance, and the rising tide of Kemalism in Anatolia, all of which created problems for the operating military tribunals. It is interesting to note in this chapter that Dadrian provides the list of the defendants and the names of their lawyers (pp. 96–97). If the documents of these defence lawyers exist today it will provide a new aspect of understanding the arguments they made in defending their clients (read perpetrators). Chapter five of the book deals with the emergence of Kemalism and the rise of Turkish nationalism, both of which had a huge impact on aborting justice in the case of the courts-martial. This was because Kemalism became more and more entwined with the remaining CUP leaders many of whom played leading roles in the Armenian genocide. Chapter six of the book deals with the series of major trials and the related verdicts. In this chapter Dadrian concentrates on the courts-martial proceedings that took place in the cities of Yozgat, Bayburt, Erzincan, and the provinces of Harput and Trabzon (pp. 110–116). In addition, he concentrates on the trials of the responsible secretaries and delegates of the CUP (pp. 116–119) and on cabinet ministers' and CUP chieftains' trial series (pp. 120–121). The central theme of the Key Verdict with regard to the cabinet ministers and CUP chieftains was that 'crime of mass murder' against the Armenians was 'organized and carried out by the top leaders (*erkân*) of CUP' (p. 120). Dadrian notes that the significance of all these major trial series was that the verdicts were solely based on Muslim testimony, which supported the majority of the existing documentary evidence (p. 109). Chapter seven should be regarded as the most important chapter of the book. Here Dadrian analyses the pre-trial parliamentary initiatives 'in terms of examining and ascertaining the principal determinants of the crime of the World War I Armenian Genocide' (p. 127). For Dadrian these determinants are: 1) Premeditation and special intent (pp. 133–337); 2) The Special Organisation (pp. 137–144); 3) Responsible secretaries (pp. 144–146); and 4) The

central authorities especially the Central Committee of the CUP (pp. 147–148). The most important of these determinants is the premeditation and special intent (*dolus specialis*) which is considered to be the critical component in qualifying a mass crime as genocide by the UN definition. Another important point that Dadrian raises is the way in which the CUP leaders sidelined the cabinet and the parliament and war was declared without the requisite cabinet approval. In chapter eight Dadrian provides a summary of the conditions surrounding the trials. The last chapter of Part I deals with the judicial liquidation of some of the arch perpetrators of the genocide by both CUP and Kemalist authorities. Dadrian argues that in liquidating these perpetrators the Kemalist regime 'ended up administering punitive justice against some of the most prominent authors of the Armenian Genocide' (p. 182).

The second part of the book, written by Akçam, surveys the press during the period of the courts-martial and provides important details that do not appear in the official gazette of the government, *Takvim-i Vekayi*. Akçam confirms that there existed sixty-three different court cases directly involved in crimes against the Armenians. He briefly discusses each case (pp. 202–242). Of these sixty-three only twelve appeared in *Takvim-i Vekayi*. Akçam divides the documentation of these trials into four categories: the first consists of complete accounts of the trials, the second of partial accounts, the third includes those trials that were documented only by their verdicts, and the fourth includes those sentences that were decreed officially by the Sultan (p. 202). In his last chapter Akçam discusses the formation and operation of the Ottoman Military Tribunals. Though the information in this chapter appears in the first section of the book written by Dadrian, it nevertheless provides a useful overview of the political situations in both Istanbul and Ankara during the formation and operation of the Military Tribunals and their demise in 1922 when the Ankara Nationalist movement took Istanbul. It would have been much better if this chapter had been placed in the beginning of Part I of the book. The final chapter of the book provides English translations of the full texts of the Indictments and Verdicts (pp. 271–332).

The book *Judgment at Istanbul* should be regarded as an important contribution to the field of Armenian genocide studies, Ottoman legal history, and the history of War Tribunals. It provides readers with a compelling argument about the historical veracity of the Armenian genocide. It also demonstrates that the post-war government in Istanbul was willing to try the culprits of the Armenian genocide and deliver justice to the victims. However, for reasons discussed in the book these attempts failed to attain their goal. *Judgment at Istanbul* is a valuable contribution to the field of legal aspects of genocides. The book would be useful to students in genocide studies, late Ottoman history, legal experts on mass crimes, and comparative genocide scholars.

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