This supplemental issue of the Newsletter is brought to you for the principal purpose of sharing legal perspectives about the recent mass murder in Gyumri where a Russian soldier killed an Armenian family of seven. We have chosen to report on the issue of Armenia’s and Russia’s competing claims to jurisdiction in the hopes of offering a better understanding of the rule of law in Armenia. Future issues will similarly feature developments in court cases and legislation. We welcome the active engagement of our members in selecting topics on which to report and in Armenia itself. Please let us know if you are planning a trip to Armenia as we would love to publish stories and photos of the Armenia you see, taste and experience.

The Armenian Bar Association’s Winter Meeting 2015
Setting the Course of Recovery of Our Patrimony

Dozens of members of the Armenian Bar Association from across the United States and Canada gathered on the Martin Luther King, Jr. commemorative weekend of January 16-17, 2015, at the luxurious Wynn Hotel in Las Vegas, Nevada to hold its winter meeting.

The weekend kicked off on Friday afternoon with a meeting of the Board of Governors. The meeting focused on the geographically-dispersed, yet ideologically-unified activities of the Association’s board members in the various Centennial Comemorations that will take place in April, 2015. During the board meeting, the governors charted the course for the Association’s activities for the upcoming several months.

Following the meeting, members gathered for a scrumptious family-style Italian dinner at the very popular Maggiano’s restaurant on the Las Vegas Strip where they had an opportunity to socialize and engage in professional networking.

Serious work and educational opportunities resumed Saturday morning. In his opening remarks, Chairman Armen K. Hovannisian reminded the audience: “2015, along with its monumental importance for the Armenian nation and for all of humanity, are no longer far-off destinations in the horizon. It’s not next year, it’s not next month, it’s not next week, and it’s not tomorrow. Today is the day when we together rec-

Upcoming Events:

January 31, 2015 - Northridge, CA - Armenian Genocide Conference
January 31, 2015 - Los Angeles, CA - Southwestern Law School Career Day

Please visit our website frequently for more information on these and other upcoming events.
On January 12, 2015, Armenia woke up to disturbing news from the city of Gyumri that six members of the Avetisyan family had been murdered inside their home in the early hours of the morning. The lone initial survivor of the attack, a six month old boy, died one week later in a hospital while being treated for stab wounds. There is strong physical evidence that the perpetrator is Russian army conscript Valery Permyakov, who had deserted his post at the 102nd Russian military base in Gyumri. Investigators reportedly found military boots left behind at the scene of the crime imprinted with Permyakov’s name. A military uniform and Russian assault rifle were also reported to have been found at the Avetisyan home. Later in the day on January 12, Armenian law enforcement authorities released information that Permyakov had been captured and detained by Russian military personnel who are stationed at the Armenia-Turkey border. The Armenian authorities added that Permyakov was apprehended while trying to cross the border into Turkey. After being detained, Permyakov was taken to the Russian military base in Gyumri, where he is currently in the custody of Russian authorities.

In the days immediately following the crime and apprehension of Permyakov, protests erupted in Gyumri, Armenia’s second largest city, as citizens demanded the accused be handed over to the Armenian authorities for investigation and trial. Because Permyakov was being held for killing an Armenian family on Armenian territory, the protestors argued, Permyakov should be tried and punished, if found guilty, by an Armenian court under Armenian law. However, given the unusual factual circumstances and novel legal issues in this case, there is uncertainty about whether the demands of the protestors will be met.

From a criminal procedure law point of view, the main issue in the case is one of jurisdiction. Simply put, does Armenia or Russia have legal jurisdiction over Permyakov’s murder case? To answer this question, we must first refer to the “Agreement between the Russian Federation and the Republic of Armenia on Jurisdiction and Mutual Legal Assistance in Cases Related to the Presence of Russian Military Base on the Territory of the Republic of Armenia” (“the Agreement”).

But, before turning to the Agreement, there is one thing that must be stated. Had the Armenian authorities captured and detained Permyakov, the jurisdictional issue that is currently the cause of much angst and confusion would have been moot. It is an indisputable fact that the crime was perpetrated on Armenian territory against Armenian citizens, thus Permyakov would have been subject to the Armenian legal and judicial system, regardless of the fact that he is a Russian soldier. Notwithstanding the location of the crime – Armenia – and the citizenship of the victims – Armenian – the current tension regarding jurisdiction exists because Permyakov was detained by Russian military personnel, transferred to the Russian military base and is in Russian military custody. Furthermore, the Russian authorities have not given any indication they would be willing to hand over Permyakov, even if a formal request for transfer is made by the Armenian side.

Our analysis of the jurisdictional issues of the case begins with Articles 4 and 5 of the Agreement, which purport to regulate such matters when crimes are committed by Russian soldiers stationed at the 102nd military base in Gyumri.
as follows: “In cases of crimes and other offenses committed in the territory of the Republic of Armenia, members of the Russian military base, and family members of those persons, are subject to the legislation of the Republic of Armenia, acting by its competent authorities.”

If the Russian authorities adhere to the legally binding terms of Article 4, they would be obligated to turn Permyakov over to the Armenian side. As previously stated, it is a fact that the attack on the Avetisyan home took place “in the territory of the Republic of Armenia,” and the suspect Permyakov is a “member[s] of the Russian military base.” Accordingly, Permyakov is “subject to the legislation of the Republic of Armenia, acting by its competent authorities.” In other words, Permyakov is subject to the criminal courts, the criminal code and criminal procedure code of the Republic of Armenia.

Even the exceptions to Article 4, which are contained in Article 5, do not provide Russia with a legal basis to maintain jurisdiction over Permyakov’s murder case. The relevant sections of Article 5 state: “[T]he procedure provided for in Article 4 of this Agreement shall not apply in cases of crimes and other offenses committed by members of the Russian military base, and family members of these individuals, in the territory of the locations for the Russian military base; committed against the Russian Federation or persons belonging to the Russian military base, and the families of such persons; in cases of military crimes. Cases of crimes referred to in this article are subject to the legislation of the Russian Federation, acting by its competent authorities.”

According to Article 5, the crime Permyakov has committed over which Russia has exclusive jurisdiction is that of desertion of the base and his post, which is a “military crime.” The murders at the Avetisyan home appear to be outside of the exceptions foreseen by Article 5 because the crimes were committed a few kilometers beyond the physical confines of the 102nd military base and the victims are in no way associated with the Russian military. Yet, the Russian authorities have filed murder charges against Permyakov in addition to the desertion charge, disregarding the fact that Article 4 clearly gives jurisdiction to the Armenian side for crimes committed on Armenian territory by Russian soldiers – as is the case with the Avetisyan murders.

Legally speaking, it appears Armenia has strong grounds for jurisdiction over Permyakov’s murder prosecution. Thus, Armenia also appears to have strong grounds for custodial control over the accused as well. However, the Russians are maintaining physical custody of Permyakov, citing the constitution of the Russian Federation, which they argue prevents them from handing over a Russian citizen. Article 61, Clause 1, of the Russian Constitution states: A citizen of the Russian Federation may not be deported from Russia or extradited to another State. Although this constitutional provision is unequivocal in preventing the Russian authorities from extraditing one of its citizens to another country, it begs the following question: Would it be considered extradition to hand Permyakov to the Armenian authorities given the fact that Permyakov is in custody in Armenia, albeit on a Russian military base?

At first glance, it appears Russia’s stance on citing its Constitution as a basis for maintaining exclusive jurisdiction over Permyakov is erroneous given Article 4 of the Agreement between the two countries. However, Article 4 does not specifically regulate perhaps the most important factual circumstance in Permyakov’s case – that of physical custody. Although Article 4 gives Armenia jurisdiction over Permyakov’s murder case, this jurisdiction is currently illusory because the Russian authorities have physical custody of Permyakov.

For lawyers and legal commentators, this case presents many complex and rarely visited issues given the unusual facts and circumstances of the case. However, given the nature of the strategic military relationship between Armenia and Russia, there is little doubt that political calculations, not legal obligations, will largely dictate the course of the legal proceedings in Permyakov’s case.

Garen Nazarian earned his J.D. degree from UCLA School of Law and his B.A. from UC Berkeley. He spent a number of years in the Los Angeles County Public Defender’s Office before being selected to serve as the first Legal Fellow of a unique program of the Southwestern University School of Law and Republic of Armenia’s Ministry of Justice (with the participation of the Armenian Bar Association) working directly with the Ministry to strengthen Armenia’s legal system. At the conclusion of the program, Mr. Nazarian remained in Armenia, and currently serves as the Criminal Law Specialist for the American Bar Association Rule of Law Initiative and Manager of the Mining Legislation Reform Initiative at the American University of Armenia Center for Responsible Mining.
Members Play Central Role in the Genocide Centennial Committee of Canada

The Armenian Genocide Centennial Committee of Canada received almost $10,000 of financial support from the Montreal membership of the Armenian Bar Association during the Centennial Committee’s gala fundraiser on Sunday, November 16, 2014.

Richard Elliott, Executive Vice-President TD Bank Tony Aksa, Dr. Carine Bou Karam, Emilie Kokmanian, President of the Armenian Jewelers Association Pierre Akkelian, Armenian Bar Co-Vice Chair Harry Dikranian

Armenian Bar Sponsors Fethiye Cetin Visit in Montreal

The Association of Istanbul Armenians, supported by the Armenian Bar Association in Montreal, held a lecture on January 16, 2015 for human rights attorney and author Fethiye Cetin. The activity was part of the Canadian Genocide Centennial Committee events scheduled for 2015 to honor the memory of Hrant Dink.

Over the participants attended the standing room only lecture with many attorneys and law students in attendance.

Co-Vice-Chairman Harry Dikranian introduced Ms. Cetin who was invited on the occasion of the 8th tragic anniversary following the death of Hrant Dink.

In his introduction, Harry Dikranian said: “it is thanks to the efforts of individuals like our speaker this evening, who are not afraid to share her Armenian ancestry, not afraid to speak in favor of human rights and free speech, to continue to vigorously defend Hrant’s family and his memory that we push for the democratization process in Turkey; that we favor the rights of the dozens of journalists who according to PEN are in prison in Turkey and the dozens more now on trial. This is what we need more of and what the Armenian Bar Association steadfastly supports to help bring peace and understanding in Turkey and reap the benefits to - its neighbor so dear to our hearts – our motherland, Armenia.”
New York Members Celebrate the Holiday in High Style

A rainy and windy night in New York City could not dampen the festive spirit of almost 60 members and friends of the Armenian Bar Association who gathered on December 5th to celebrate the 3rd annual Holiday Party.

A warm, collegiate atmosphere filled the air as members gathered to celebrate the season at Byblos Restaurant on glamorous Madison Avenue in Manhattan. “We were particularly fortunate this year to have among us Co-Vice Chair Edvin Minassian from California and Secretary Kathryn Ossian from Michigan,” said Gary T. Moomjian, Co-Vice Chair and co-organizer of the festive gathering. Mr. Moomjian continued, “Their presence was an honor for us all and confirms once again that we are one organization united around the world.”

As the revelers enjoyed a delicious array of Mediterranean cuisine, a jazz duo created a soothing, vibrant atmosphere with a variety of classic interludes and holiday favorites.

“It was an elegant evening,” said Yelena Nersesyan, co-organizer of the Holiday Party. “I was very pleased to see so many new lawyers and seasoned practitioners who had never attended an Armenian Bar function before.” Ms. Nersesyan added, “We look forward to their continued involvement in our growing organization.”

“This is my first Armenian Bar event,” said one attendee, “and I felt welcomed from the moment I came through the door. I definitely plan to attend other Association events in the future.”

Other Armenian attendees included newly-elected Nassau County Family Court Judge Danielle Peterson; business leader James Tufenkian; Frederick A. Whitney Professor of Law, St. John’s School of Law, Mark Movsesian; Federal prosecutor Claire Kedeshian; and Tufenkian Foundation Executive Director Antranig Kasparian. Also present was Armenian Bar friend, New York State Supreme Court Judge John Colangelo.

As the festivities were winding down, the attendees watched a sea of marchers file along Madison Avenue protesting a New York grand jury’s refusal to indict a white police officer in the death of Eric Garner. It was a jolt of reality for the revelers and certainly a poignant sign of the times.

Mr. Moomjian, Ms. Nersesyan and co-organizer Denise Darmanian extended their special thanks to owner Geeta Sundrani and the staff of Hudson Court Reporting & Digital Media for their generous sponsorship of the Armenian Bar Holiday Party.
ognize that the reckoning is upon us and that it will become whatever we make of it.” Hovannisian continued, “Through its truly indelible brand of devotion, the Armenian Bar Association has gone beyond being primarily a professional organization. We are vibrant, we are strong, and we are both excited and undeterred in offering new ideas and innovative actions in a year when we seek the recovery of our patrimony.”

He then welcomed board member Vanna Kitsinian to moderate the first panel of the day entitled “Domestic Violence in the Armenian Community: The Growing Pain and How We Can Help.” Ms. Kitsinian introduced panelists Lieutenant Lola Abrahamian of the Glendale Police Department, Natalie Samarjian, Dickran Tevrizian Fellow at the Neighborhood Legal Services of Los Angeles, and Michael Amerian, a veteran prosecutor with the Los Angeles City Attorney’s Office.

The audience learned that the tragedy of domestic violence cuts across all ethnic and socio-economic groups. Lt. Abrahamian spoke about the challenges that those involved in law enforcement and public interest law face, such as victims who recant their stories to assist the accuseds only to fall into a pattern of further violence. Ms. Samarjian discussed the cultural narratives that are peculiar to the Armenian community. She explained that some of the barriers that are faced in assisting abused Armenian women include such things as the taboo of seeking counseling, of the feeling of guilt that comes with depriving the children of visiting with their father, or the responsibility to maintain a cohesive family and also a mistrust of law enforcement. Deputy City Attorney Amerian spoke of the progression of violence that is often seen in domestic violence cases. One of the most important things he sees is to help counsel the victim and hopefully get them out of the cycle of violence that exists with an abusive relationship.

Following the panel on domestic violence, the audience was treated to a thought-provoking and very open discussion that featured Professor Taner Akcam of Clark University and the Chairholder of the Kaloosdian and Mugar Chair in Armenian Genocide Studies. The dialog was masterfully moderated and directed by Co-Vice Chairman Edvin Minassian. Professor Akcam described the increasing number of lawsuits being brought by descendants of the victims of the Armenian Genocide in Turkish courts trying to recover property and assets which were misappropriated during the Genocide. Professor Akcam offered some hope that these claims could yield the return of assets as long as this issue is separated from the issue of official state recognition of the Genocide. He sees the two issues as mutually exclusive and sees a greater willingness on the part of the government of Turkey to resolve property issues, rather than recognition issues.

The luncheon keynote speaker was Maurice Missak Kelechian who spoke about the ANC-WR’s “America, We Thank You” campaign which highlights the extraordinary efforts of the American community to provide relief to the orphans of the Armenian Genocide. True to form, inspiring introductory remarks were made by Chairman Ex-Officio Garo Ghazarian, followed by Vanna Kitsinian who set the stage with a synopsis of this great humanitarian effort. Mr. Kelechian researched
ARMENIAN BAR ASSOCIATION LAUNCHES GENOCIDE LEGAL JOURNAL

On the occasion of the centennial of the Armenian Genocide, the Armenian Bar Association will publish a law journal encompassing a collection of manuscripts focusing on the range of potential legal responses to the events of 1915-1923, which resulted in genocide and dispossession. A call for papers is hereby initiated on the 100th day before the 100th year and is directed exclusively to students currently enrolled in any law school in the world. The authors of the top three articles will be awarded monitory scholarships, with $3,000 for first place, $2,000 for second place, and $1,000 for third place. The deadline to submit manuscripts is April 24, 2015.

Armen K. Hovannisian, Chairman of the Armenian Bar Association, described this important research, writing and implementation initiative as follows: “Turkey pirouetted to the vulgar dance of denialism throughout most of the first century after the Genocide. While the tricksters’ spins and swirls of indecency will reappear, probably stronger still, in the second century after the Genocide, they had better get used to having some company. A whole nation will lie in wait little longer. Though many years and several lifetimes have passed between the wrongful acts and their judgment days yet to come, we-and not time—will heal our own wounds.”

Contributors are asked to concentrate their efforts on the following: Research, analyze, and write on the viability of legal claims, under the laws of the United States and/or under international law, to reparations and restitution for damages and losses resulting from the Armenian Genocide. Please discuss who (i.e., descendants of victims/survivors, the Republic of Armenia, Armenian Churches, etc.) has standing to sue, the applicable substantive law, the appropriate forum for the prosecution of claims, and any applicable judicial/tribunal precedent. Included in the discussion should be an analysis of the status of the Republic of Turkey as a successor state to the Ottoman Empire and the Republic of Turkey’s legal responsibility to pay damages and make reparations for events that occurred during the Ottoman Empire. In addition, a critical study of the anticipated defenses (i.e., statutes of limitation) and a discussion of a claimant’s potential arguments against such defenses should be made.

The editorial board offers the following recommendations: the articles to be printed will analyze the given issue and suggest a solution. Such analysis usually articulates some background information to inform the reader, before turning to an existing or novel argument. Along these lines, published articles regularly follow a traditional roadmap of introduction, background, analysis/argument, and conclusion, and provide a comprehensive treatment of a particular area of law. Articles tend to be formal in both the author’s tone and in the obligation to ground information and analysis in comprehensive substantive support via consistent citation.

We encourage contributors to submit their manuscripts electronically, preferably in Microsoft Word format, to info@armenianbar.com. Articles must be under 12,500 words in length—the equivalent of 25 law review pages—including text and footnotes. Please use footnotes rather than endnotes. Footnotes should conform to the 19th edition of The Bluebook. Please also include a table of contents, a current CV, and a cover letter with the author’s name, address, telephone number, and email address.
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Message from the Editors

The Newsletter was the great passion of Vicken I. Simonian. He was the author of many of the articles that were featured over the years. We hope to continue in Vicken’s tradition of writing informative articles for the Armenian Bar Association members and friends.

The Newsletter Committee extends its appreciation to Stepan Partamian for his significant and kind voluntary efforts in the preparation and production of the Armenian Bar Association Newsletter. For several years in our organization’s early history, Stepan helped distinguish our publications in the most favorable, positive and colorful of ways. We welcome Stepan back to our “newsroom” and thank him for bringing along his inimitable flair and standard professionalism.

Saro Kerkonian and Lucy Varpetian

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www.ArmenianBar.com
The Armenian Bar Association is a non-profit, non-partisan organization, formed in 1989 to enable attorneys of Armenian heritage to better serve the law, the legal profession, and the Armenian community.

The Association provides pro bono services and legal education in Armenian communities across the country and sponsors programs to promote democracy and the rule of law in the Republic of Armenia.

Coming together socially and professionally, members from around the world have the opportunity to learn from one another as they join their different backgrounds and experiences in Association activities.

The Association is a democratic organization. It is supported and directed by its members, who approve its bylaws, elect its Board of Governors, nominate prominent jurists as honorary members, and set the Association’s annual goals and policies.

The Armenian Bar Association is committed to serving the profession of law, addressing the legal concerns of the Armenian community and fostering respect for human and civil rights.

Some of the Association’s operations include:

• Worldwide network of attorneys
• Continuing legal education seminars & workshops
• Pro bono program
• Rule of law projects in the Republic of Armenia
• Armenian Rights Watch
• Annual and mid-year national meetings
• The Newsletter
• Membership directory
• Amicus curiae submission on issues of interest
• Topical and regional practice groups
• Cooperation with other bar associations and lawyers’ societies

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