

## Epistemic Struggles in the Political Field—Mobilization and Legislation in France

Collectivities struggling for their understanding of history do not just seek to reaffirm knowledge through rituals such as those discussed in chapter 6. They also engage the other side in conflict, carried out in various social fields, politics and law prominent among them. In this and the following chapters, I am interested in conflicts over genocide knowledge in the two countries with the largest Armenian diasporas besides Russia: France and the United States. The relative weight of politics and law as fields of conflict resolution varies between them. In the United States, law has historically been the central stage on which conflicting parties sought to reach binding decisions. This is not accidental, given that the country, far into the nineteenth century, had no strong central government to regulate domestic affairs. Despite changes in the course of the twentieth century, law continues to be the preeminent field of conflict resolution, as the exceptionally high rate of lawyers per population illustrates (Abel and Lewis 1989). By contrast, in France the political field has historically been the primary realm in which conflicting groups carried out societal conflicts. I examine legal struggles over genocide claims in the United States in chapter 8. In this chapter, after a few observations on broader trends, I address political conflict over knowledge regarding the Armenian genocide in France.

Today, faced with intense mnemonic struggles between Armenian communities on one side and Turkey and its ally Azerbaijan on the other, many countries and organizations around the globe face the choice of recognizing the Armenian genocide or abstaining from official acknowledgment. In this conflict between allegiances to human rights principles and interest in a country that holds a crucial geopolitical position in the conflict-ridden Middle East, human rights principles have increasingly prevailed in recent decades. Actors that have recognized

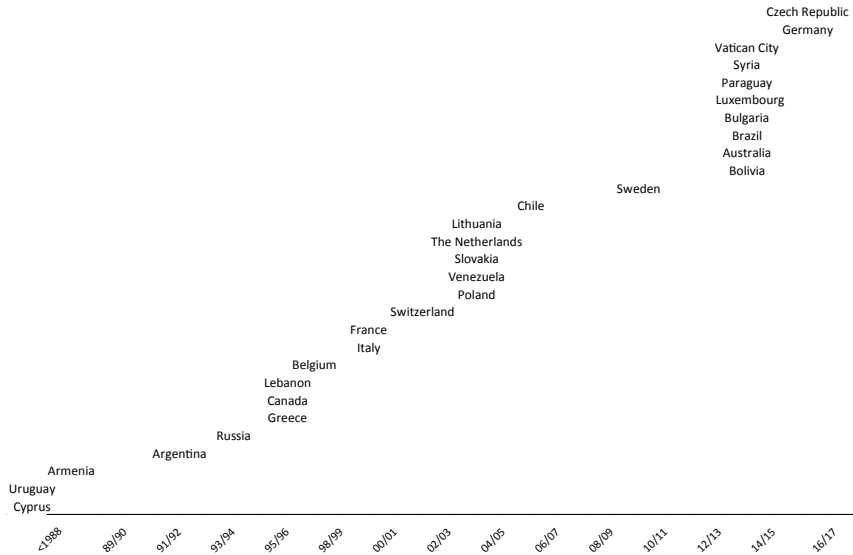


FIGURE 8. Recognition of the Armenian genocide by countries over time.

the Armenian genocide include the UN, with its Genocide Report (or “Whitaker Report,” 1985), the International Association of Genocide Scholars (1998), the International Center for Transitional Justice (2002), the Council of Europe (2011), the Catholic Church (2015), the European Parliament (2015), and several European political parties. Many Jewish organizations, their members traumatized by the memory of the Shoah, joined in this chorus of recognizers, including the Union for Reformed Judaism (1989), the Anti-Defamation League (2007), the American Jewish Committee (2014), the Jewish Council for Public Affairs (2015), and the Central Council of Jews in Germany (2015).

Nation-states, as well, took a stance in growing numbers. While they have recognized the Armenian genocide in different forms and through different decision-making bodies, the following overview can at least provide an orientation (see figure 8). Countries that have traditionally had tense relationships with Turkey, such as Cyprus and Greece, started the trend; Cyprus recognized the genocide in 1975, Greece in 1996. Armenia, not surprisingly, declared its recognition on its way toward independence, in 1988. Russia, its allied superpower in the region, followed suit in 1995. By that year, two other countries had recognized the genocide (Uruguay in 1965, Argentina in 1993). Twelve countries followed in the subsequent decade, bringing the total to seventeen by the end of 2005 (Greece and Canada in 1996; Lebanon in 1997; Belgium in 1998; Italy in 2000; France in 2001; Switzerland in 2003; the Netherlands and Slovakia in 2004; and Lithuania, Poland, and Venezuela in 2005). The next decade brought little change, but Chile (2007)

and Sweden (2010) joined the group of recognizers. Only in 2015, the year of the genocide's centennial, did seven additional countries fall in line (Australia, Brazil, Bulgaria, Luxembourg, Paraguay, Syria, and Vatican City), immediately following Bolivia (2014), with Germany (2016) and the Czech Republic (2017) in close pursuit. In 2019, both chambers of the U.S. Congress recognized the Armenian genocide, even if the presidential administration has not followed suit. Notably, almost all of these countries are European or Latin American.<sup>1</sup>

Recognition of the mass violence against the Ottoman Armenians as genocide seems to fit into a world in which ever more heads of state express apologies on behalf of their countries for atrocities committed in the course of history (Bilder 2006). It also aligns with Minow's (1998) observation about the increasing willingness of countries and the international community to take steps in response to, or as preventive means against, mass violence. We might finally expect a growing inclination to recognize past atrocities, including that against the Armenians, in an era in which Sikkink (2011) identifies a "justice cascade." Clearly, world polity theorists would recognize in the spread of recognition a global human rights script at work that diffuses to the level of nation-states (Meyer et al. 1992; Boyle 2002; Frank et al. 2000; Tsutsui 2017). Others might speak about a *human rights hegemony*, a term to which I return below.

Yet a view of global trends hides as much as it reveals. If thirty-one countries recognized the Armenian genocide, why did the remaining more than 150 countries not do so, and why is recognition limited almost exclusively to European and Latin American countries? Further, what kinds of recognition did the thirty-one countries choose? Which branches of government made the decisions? Why did some countries publicly recognize the Armenian genocide but no other genocides, except for the Holocaust?

Finally, what domestic processes unfold in the mnemonic struggle over recognition? Who favors recognition, and who challenges it? What types of power do the competing sides bring to bear and with what epistemic consequences? Even if we accept the notion of human rights hegemony, such hegemony is not absolute. It still encounters resistance. Under its umbrella play out nation-level power struggles. Here I examine these questions for the case of France.

The French case lends itself to a close examination for several reasons. First, a remarkable political process culminated in legislation that recognized the Armenian genocide in 2001 and criminalized its denial in 2012. To complicate things, France's Constitutional Council (Conseil constitutionnel) ruled the latter law unconstitutional on free speech grounds. We will learn about the process in detail and about its embeddedness in other French "memory laws." Second, France is home to the largest Armenian ethnic community (per capita) in the diaspora. This is not accidental in light of the long and complex history of French-Armenian relations (below, I present a brief overview of that history). Third, France is obviously part of a broader trend, but it displays both particularities and

commonalities with other (democratic) countries. Particularities include unusually close ties between the political field on the one hand and the fields of scholarship and (constitutional) law on the other. Without consideration of such particularities, we cannot understand the political processes that unfold when a country faces the question of recognition of (the Armenian) genocide.

#### WHAT HAPPENED? FRENCH MEMORY LAWS AND RECOGNITION OF THE ARMENIAN GENOCIDE

Around the turn of the century, French legislators made several crucial decisions regarding the recognition of the Armenian genocide.<sup>2</sup> That story, however, can only be understood as part of a broader trend within the French nation, marking a new era of French engagement with dark chapters of history (Michel 2010). Below, I briefly describe both legislation pertaining to the Armenian genocide and the broader context of French “memory laws,” and then suggest explanations.

##### *Laws Pertaining to the Armenian Genocide*

On May 29, 1998, the lower house of the French Parliament, the *Assemblée nationale* (National Assembly), passed a resolution in a legislative act stating in brief and simple words: “France publicly recognizes the Armenian genocide of 1915.” Barely two years later, on November 7, 2000, the Senate followed suit, adopting the bill that recognizes the Armenian genocide. On January 29, 2001, President Jacques Chirac signed that bill into law (loi 2001-70). Obviously, this is but a declaration, symbolic law, and cautiously worded at that. It neither spells out responsible actors nor suggests positive or negative sanctions.

Yet the story does not end here. Mnemonic entrepreneurs in the political field soon began to work toward a law that would criminalize denial of the Armenian genocide. On May 18, 2006, the effort seemed to be defeated, facing substantial opposition in the National Assembly, which indefinitely postponed voting on such a bill. Only half a year later, however, supporters had gathered enough votes, and on October 12, 2006, the Assembly approved the bill to criminalize denial of the Armenian genocide.

Opposition in the Senate was substantial, and proponents modified the bill’s wording to increase its acceptability. No longer specifying the Armenian genocide, representatives instead introduced a bill to criminalize denial of all genocides recognized by French law. In light of French law at the time, this would have included only the Shoah and the Armenian genocide. Nonetheless, on May 4, 2011, the Senate voted to reject the bill. Now members of the National Assembly adopted the more general wording and, a good one-and-a-half years later—on December 22, 2011—the Assembly passed a bill to criminalize denial of genocides recognized by French law. On January 23, 2012, the Senate changed course, voting 127 to 86 in favor of this bill. It was named the Boyer law (loi Boyer) after Valérie Boyer, a

young representative from Marseille who played a leading role in its promulgation. It threatened a term of imprisonment of one year and a fine of 45,000 euros. Yet opposition was still fierce, and a group of legislators referred the law to the Constitutional Council (CC) to have its constitutionality examined—and the law defeated. They succeeded. On February 28, 2012, the CC struck down the law, an event to which I return below.

*In the Context of Memory Laws—A New Era*

We would misunderstand the legislation pertaining to the Armenian genocide if we failed to recognize broader contexts. We might be tempted, for example, to attribute it to motivations and social forces that are unique to the Armenian case. Instead, this legislation is part of a broader pattern of so-called *memory laws*, a term that some have used polemically (see Adjemian 2012), but by which I simply mean quite diverse laws that explicitly address the memory of historical events. The story begins in 1971, when France ratified the International Convention on the Elimination of All Forms of Racial Discrimination. This ratification required an adaptation of domestic law, which the legislature enacted on July 1, 1972. Named the Pleuven Act, the law prohibits incitement to hatred, discrimination, slander, and racial insults. Not a memory law in its own right, it is an early predecessor.

The first of a quartet of memory laws followed almost two decades later. On July 13, 1990, the French legislature passed the Gayssot Act, which prohibits any racist, anti-Semitic, or xenophobic activities, including Holocaust denial. Introduced by the Communist representative Jean-Claude Gayssot, this law criminalizes the questioning of the existence or gravity of the category of crimes against humanity as defined in the London Charter of 1945, based on which the International Military Tribunal at Nuremberg convicted Nazi leaders in 1945–46 (Article 9).<sup>3</sup> This law constitutes a legislative recognition of the Shoah *and* it penalizes denial.

The timing was not accidental. The 1980s, after all, witnessed the rise of the Front National, the country's new radical right-wing party, and the growing prominence of its leader, Jean-Marie Le Pen, an outspoken anti-Semite. The decade also saw the first French trial involving charges of crimes against humanity, specifically the 1987 trial of Klaus Barbie, who was responsible for mass deportations of Jews from the city of Lyon into the German death camps. In the same year, Claude Lanzmann's powerful documentary film *Shoah* appeared—a masterwork with a running time of more than ten hours, based on interviews with surviving victims, perpetrators, and bystanders.

All of these events and the passing of the Gayssot Act accelerated public engagement with the time of German occupation, French collaboration, and the Vichy regime. One highlight was President Chirac's 1995 official recognition of the 1942 "Vel d'Hiv Roundup" (Rafle du Vélodrome d'Hiver) of Parisian Jews, their arrests and encampment in the Winter Velodrome and subsequent deportation into the



FIGURE 9. Commemorative plaque at a school building on the Île Saint-Louis, Paris, mounted in 2004. Photo by the author.

death camps. In 1997–98 followed the trial of Maurice Papon, a prominent police leader during the 1940s and into the 1960s, decorated with high honors by President Charles de Gaulle for his repression of militant Algerian activism, and later a long-term representative and minister of the French Republic. The court found Papon guilty on charges of crimes against humanity for his role in the deportation of more than sixteen hundred Jews from the Bordeaux region to Auschwitz, via the Drancy camp just north of Paris. Plaques mounted on the walls of Parisian buildings in the early 2000s today implicate the Vichy regime, something missing from plaques of earlier decades (see figure 9).<sup>4</sup>

In this heated atmosphere, engagement with past wrongs began to reach beyond the Shoah. The 2001 legislative recognition of the Armenian genocide was a first step. Just a few months later, the French legislature passed the Taubira law (*loi Taubira*),

recognizing slavery as a crime against humanity. The law, which went into effect on May 21, 2001, was named after Christiane Taubira, then a representative to the French National Assembly for French Guiana (Guyane) and a member of the Socialist faction (she would later be minister of justice under President François Hollande). This law targets the practice of slavery beginning in the fifteenth century as directed against African, American Indian, Malagasy, and Indian populations. It also encourages scholarly engagement with the history of slavery. Later, in 2006, President Chirac declared May 10, the date on which the law passed, a day dedicated to the memory of slavery and its abolition (Michel 2016).

While the political Left had promoted the Taubira law on the recognition of slavery as a crime against humanity, the Right soon followed with its own initiative. On February 23, 2005, the French legislature passed a law on the memory of French colonialism and the status of former fighters in the Algerian War (1954–62). The Mekachera law (*loi Mekachera*)—named after Hamlaoui Mekachera, a former military officer and, at the time, minister for ex-combatants—sought, in the minds of its proponents, “recognition of the Nation and national contribution in favor of the French repatriates.” These repatriates were some nine hundred thousand French colonialists in Algeria, the so-called *pieds-noirs*, who returned to France at the end of the war in 1962, and “Harkis,” some ninety thousand Algerians who, having closely collaborated with the French military, fled to France at that time. This law was in part a response to the National Assembly’s 1999 recognition of the Algerian War—a war characterized by massive brutalities and resulting in the end of French colonial rule in Algeria. Previously, France had labeled the conflict a “public order operation.”

Among other specifications, the Mekachera law of 2005 obliged high school (*lycée*) teachers to instruct their students about the “positive values” of colonialism (article 4, paragraph 2). The law generated intense public debate and massive opposition, especially from the Left. Teachers and prominent historians charged historical revisionism, and more than ten thousand signed a petition against the law. In 2006, President Chirac, through his prime minister and an appeal to the CC, secured a repeal of article 4, paragraph 2. The other parts of the law remained on the books.

At this point, the history of memory laws ended, at least for the time being. Four such laws remained on the books: the Gayssot Act of 1990, the recognition of the Armenian genocide of 2001 (*loi 2001-70*), the Taubira law of 2001, and the Mekachera law of 2005.

Clearly, this brief history shows that recognition of genocide is not a simple “dummy variable” that can be coded “yes” or “no.” The quality of recognition varies substantially. Furthermore, recognition involves intense political struggles, and, finally, context matters. The recognition of the Armenian genocide is part of a larger trend, an engagement with dark chapters of national history, embedded in global concerns with human rights and their violation.



TOWARD EXPLANATION: THE POLITICAL FIELD,  
ARMENIAN-FRENCH RELATIONS,  
AND MOBILIZATION

Despite their embeddedness in new mnemonic practices, the laws pertaining to the recognition of the Armenian genocide are not quasi-automatic accompaniments of other memory legislation. In the absence of legislative decisions that recognize other genocides, with the exception of the Shoah, we have to ask what prompted the special treatment of the Armenian case. In answering that question, we must pay attention to the complex interplay between institutional particularities of the political field in France, the history of French-Armenian relations, the mobilization of French Armenian civil society, and the roles of academia (especially historical scholarship), foreign relations, and the CC. Below, and in chapter 9, I address each of these forces in turn. We will see that the unfolding legislative drama and the political and epistemic outcomes it yielded illustrate interactions between action-based power, played out in concrete legislative struggles on the one hand and human rights hegemony on the other.

*The French Political Field in Context*

In France, as elsewhere, state actors operate with substantial amounts of material, social, symbolic, and cultural capital. They make binding decisions, in this case decisions to recognize historical events on behalf of the French nation. In Bourdieu's terms, "the state is to produce and impose . . . categories of thought that we spontaneously apply to all things of the social world" (1994:1)—issues of mass violence and genocide included. In other words, the state holds significant epistemic power.

Yet the state does not operate in isolation. In France, it exists in close vicinity to the academic field, and this closeness matters for the convertibility of resources, including academic and political capital, across fields. This particularity results from the high level of centralization of French society and state and from the concentration of politics and intellectual life in Paris, a pattern to which scholars from Norbert Elias ([1939] 2000) to Pierre Bourdieu (1988) have alerted us.

The French political field has another close neighbor that plays a crucial role in the unfolding story of memory legislation: the field of constitutional law, especially its central institution, the Constitutional Council, the French equivalent of a constitutional court. The CC, while part of the judicial branch of government, closely overlaps with the political sector through recruitment mechanisms and the character of its membership (to which I will return below).

Finally, as in all Western democracies, the political field and its neighbors are surrounded by civil society, made up by social movements and organizations that bundle and communicate interests. Ethnic groups and their organizations, cultural associations, schools, and religious institutions are crucial in the case of memory legislation.



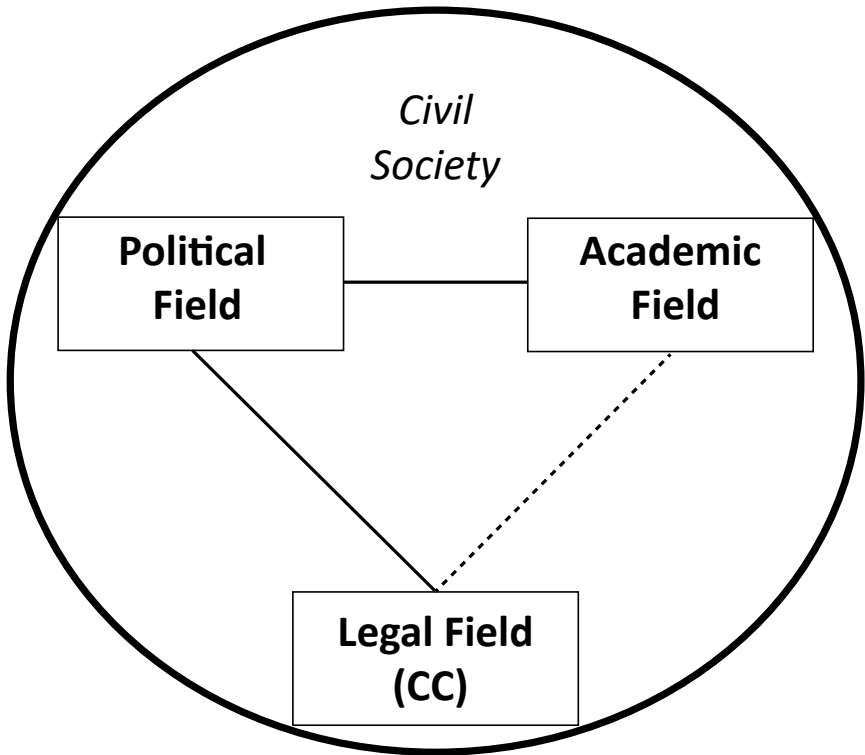


FIGURE 10. The “French triangle”: Politics, scholarship, and constitutional law within civil society.

Figure 10 represents the position of the political field vis-à-vis other social fields. At the center is what I call the “French triangle,” made up of the closely related political, academic, and constitutional law fields. The strongest connections are symbolized by thick connecting lines, while the dotted line indicates the relatively weaker link between the academic and legal fields. The circle around this triangle symbolizes civil society, in which all three social fields are nested. The depiction in figure 10 is not complete, of course, given that nation-states are embedded in international relations. In our case, relations between France and Turkey play a significant role, as do relationships to the global field of human rights, as a generator of human rights scripts. All of these forces come into play in the unfolding story of legislation pertaining to the recognition of the Armenian genocide.

*French Armenian Civil Society: Mobilization and Epistemic Effects*

Historical roots lead up to contemporary civil society mobilization of French Armenians without which the laws of 2001 and 2012 would not have been promulgated and passed.

*Historical root 1: A sense of guilt.* In his massive volume *La France face au génocide des Arméniens* (France facing the genocide of the Armenians), historian Vincent Duclert (2015) traces the history of the relationship between the French state and French intellectuals vis-à-vis the fate of the Armenian people. He spells out the guilt (*culpabilité*) of the victors of World War I, who—after the defeat of the Axis powers—did not ensure that the Ottoman rulers be held accountable and that the Armenians be protected and, to the degree possible, compensated. This abandonment carries special weight in light of the Allies' declaration of May 24, 1915, that accused the responsible actors of "crimes against humanity and civilization" (Duclert 2015:205–208). Duclert here does for France what Samantha Power (2002) did for the United States in *A Problem from Hell*, accusing his country of repeatedly standing by even in the face of the gravest atrocities. In Duclert's words, "The French position toward the extermination of the Ottoman Armenians illustrates, in the long run, the attitude of the Great Powers toward abandoning that persecuted minority and their renouncement of principles on which are based their repeated promises to protect its threatened existence" (Duclert 2015:35, translated).<sup>5</sup>

Yet Duclert also describes another France, one that spoke up on behalf of the Armenian people of the Ottoman Empire at the time of the Hamidian massacres (1894–96) under the reign of Sultan Abdülhamid II, which took the lives of up to three hundred thousand Armenians. While the French government joined Russia to block any intervention, prominent representatives made their voices heard in the legislature, and renowned intellectuals backed them up. For example, on November 3, 1896, the historian and Catholic Denys Cochin and the philosopher and socialist Jean Jaurès, both members of the National Assembly, spoke forcefully on behalf of the Armenians, an event that Marcel Proust describes in his first major novel, *Jean Santeuil*. Historian Raymond Kévorkian, author of a massive volume on the Armenian genocide, reconstructs this event and its consequences: "The Parisian newspapers, each of which knows that they receive generous subsidies from agents of the Ottoman sultan, now change their tone" (Duclert 2015:46, translated). The new movement overlapped with the defenders of Alfred Dreyfus, the French officer who, in 1894, was falsely accused and convicted of spying for the German military, a prosecution motivated by anti-Semitism. Once born, this Armenophile movement grew impressively, especially after 1900, organized around the newly founded magazine *Pro Armenia*.

The new Armenophiles again urged intervention in 1915. Prominently, writer Anatole France spoke up powerfully on behalf of the Armenians throughout World War I. Yet activists did not convince their government to intervene until the end of the war, when the French Navy saved the lives of Armenian villagers who had defended themselves, on the mountain Musa Dagh (Mount Moses), against the onslaught of the Ottoman army. Jewish Austrian writer Franz Werfel described this event, famously and dramatically, in his 1933 novel on the Armenian genocide, *The Forty Days of Musa Dagh*.

Mass immigration of survivors of the Armenian genocide to France followed the end of World War I, partly owing to French domination of many of the territories that housed the survivors, partly encouraged by an intense labor shortage in France after the war. Yet civil society engagement subsided in the 1920s and 1930s, and the years of Nazi Germany's occupation and the Vichy regime obviously were ill suited to revive the memory of Armenian suffering.

A revival of civil society engagement would not occur until six decades later. In March 1979, a large group of prominent French intellectuals and academics issued a new plea for genocide recognition, this time to the United Nations and its Human Rights Commission. They included prominent jurists such as Robert Badinter; social scientists, including Raymond Aron and Roland Barthes; Nobel laureate François Jacob; philosopher Jacques Derrida; physicians such as Bernard Kouchner (cofounder of Médecins Sans Frontières); and famous writers, including Simone de Beauvoir. Just five years later, on April 13–16, 1984, in Paris, the Permanent Peoples' Tribunal—an international opinion tribunal founded in Bologna, Italy, in 1979—dedicated its session to the Armenian genocide. On the basis of historical documents and legal doctrine, the tribunal concluded that “the extermination of the Armenian populations by way of deportation and massacre constitutes a crime of genocide, not subject to statutory limitations as defined by the Convention of 9 December 1948 for the prevention and punishment of the Crime of Genocide” (in Duclert 2015:57, translated).

This historical trajectory of genocide recognition interacted with changes in the nature of French Armenian civil society to which I turn now. Together, both trends formed the foundation without which we cannot understand the later civil society mobilization and legislative initiatives toward Armenian genocide recognition.

*Historical root 2: The path from discrimination to recognized social force.* Following the years of violence in the Ottoman Empire, hundreds of thousands of surviving Armenians sought refuge either in Armenia—the small, newly independent country, soon to be absorbed by the Soviet Union—or in the diaspora. The United States and France were privileged destinations. In France, many settled in the cities of Marseille, Lyon, and Paris and in surrounding departments. Yet their legal status initially was tenuous. They gained citizenship only after World War II. Like other victimized peoples—and maybe more so, given their marginal status—those who had survived the killings did not easily remember and pass on their knowledge to their children and grandchildren. (Chapter 1 provides evidence for patterns of silencing in the biographies of French Armenians, albeit with some important exceptions of acknowledgment.)

Significant public events paralleled the biographical patterns described above. For example, after decades of silence, Armenian voices made themselves heard on the fiftieth anniversary of the genocide. In France as elsewhere, “demonstrations are organized, brochures published, appeals issued to save the genocide from forgetting. In Paris, a great mass brings together thousands of Armenians in the

Pleyel Auditorium” (Duclert 2015:339, translated). The first French historical study of the Armenian genocide, entitled *Un Génocide exemplaire, Arménie 1915* and authored by Jean-Marie Carzou, appeared in 1975, a decade after the commemoration of the fiftieth anniversary (Carzou [1975] 2006). Plans for a first memorial, to be set up in an Armenian church in Marseille, were about to materialize in 1973. Yet French government action, prompted by Turkish intervention, initially prevented the realization of this project. Terrorist actions by militant Armenian groups in the 1970s and 1980s, while causing a backlash against the Armenian cause in Turkey and elsewhere, were violent proof that the history of the genocide had caught up with young Armenians.

Today, the desire to spread knowledge about the genocide and the longing for recognition continue unabated, but they no longer translate into violence. Stopping over at Charles de Gaulle Airport on a journey to attend an April 24 genocide commemoration in Yerevan, the traveler may observe groups of children with T-shirts identifying them as Armenians. Similarly, in the American diaspora, Armenian churches offer summer trips to Armenia for young Armenian Americans (see chapter 4). Large crowds attend commemorative events in Armenia and in the diaspora (chapter 6). In intellectual life, we observed new interest, for example, when historian Claire Mouradian and Anaïd Donabédian recreated and reoriented, in 1992, the Société des Études Arméniennes. Only one year later, a group of academics founded an allied association with a complementary journal, the *Revue du Monde Arménien moderne et contemporain* (Duclert 2015:356–357).

In short, delays to the recognition of the Armenian genocide, even among Armenians, reflect period and cohort effects known from multiple cases of memory formation. Today, however, genocide knowledge is firmly sedimented. It is hard to imagine the legislative initiatives in support of the recognition of the Armenian genocide without the changes unfolding in the Armenian community of France. Yet ethnic consciousness does not suffice. Civil society mobilization is another necessary component in the transmission of popular will into legislative action, as the following section demonstrates.

#### *Political Debate and Contemporary Armenian Mobilization: Epistemic Efficacy*

Six of the seven sessions in the National Assembly and in the Senate in which legislators deliberated on laws concerning the Armenian genocide are well documented.<sup>6</sup> Together with my research assistants, I identified all speakers in these debates, their political party affiliations, the regions or departments they represented, their positions for or against the law under debate, and the types of arguments they articulated.

As an illustration, consider the last debate by the French Senate, in January 2012, about the Boyer law pertaining to the criminalization of denial of the Armenian genocide. Patterns of statements by senators reveal that the facticity of the genocide is one of the most frequently raised themes (table 2). Other

TABLE 2 Arguments Presented by French Senators, January 23, 2012,  
during Debate over the Boyer Law

Senator	Position	Party <sup>b</sup>	Issue Discussed <sup>a</sup>												
			1	2	3	4	5	6	7	8	9	10	11	12	13
Patrick Ollier	In favor	UMP		X	X			X				X	X		X
Jean-Pierre Sueur	Against	Committee	X	X	X				X						X
Isabelle Pasquet	Against	CRC						X		X		X	X		
Jacques Mézard	Against	Radical Left		X	X		X		X	X					
Roger Karoutchi	In favor	UMP		X								X	X		
Esther Benbassa	Against	Env.		X						X			X		
Hervé Marseille	In favor	UDI	X	X	X							X	X		X
Philippe Kaltenbach	In favor	Socialist	X	X	X		X					X	X		
Luc Carvounas	In favor	Socialist	X	X				X				X	X		
Bruno Giles	In favor	UMP	X	X								X	X		
Jean-Vincent Place	Against	Env.	X	X	X	X		X							
Nathalie Goulet	Against	UDI	X	X				X							
Bernard Piras	In favor	Socialist	X	X				X	X			X			X
Ambroise Dupont	Against	UMP		X	X		X	X							
Sophie Joissains	In favor	UDI	X	X								X	X		X
Nicolas Alfonsi	Against	RDSE	X	X	X										
Nicole Borvo	In favor	CRC	X	X								X	X		
Jean-Jacques Pignard	Against	CRU		X	X										
Jean-Michel Baylet	Against	RDSE	X	X	X	X	X						X		
Natacha Bouchart	In favor	UMP	X				X					X	X		
Anne-Marie Escoffier	Against	Radical Left		X	X					X					
Yannick Vaugrenard	In favor	Socialist		X	X			X				X	X		X
Christian Poncelet	Against	UMP		X	X			X							X
Robert Hue	Against	RDSE		X	X										
Catherine Tasca	Against	Socialist	X	X	X	X	X	X		X					
Jean-René Lecerf	Against	UMP		X	X				X						
Jean-Noel Guerini	In favor	Socialist	X	X								X	X		
Gaëtan Gorce	Against	Socialist	X										X		
Gérard Larcher	Against	UMP		X	X										
Jean-Claude Gaudin	In favor	UMP		X											

<sup>a</sup>Code for issues discussed: 1 = Existence of the Armenian genocide; 2 = Role of Parliament in writing history; 3 = Constitutionality; 4 = Prospects for Turkey's joining the EU; 5 = Armenian-Turkish relations; 6 = French-Turkish relations; 7 = Recognition of other genocides; 8 = Political maneuvering; 9 = French atrocities in Algeria; 10 = Insufficiency of 2001 law; 11 = Comparison to Gayssot Act; 12 = Pleven Act; 13 = Aligning French law with European law.

<sup>b</sup>Political party affiliations: Committee = Law Committee of the Senate; CRC = Communist, Republican, and Citizen; Env. = Environmentalist; UDI = Union of Democrats and Independents; RDSE = European Democratic and Social Rally; CRU = Centrist Republican Union.

prominent topics include the role of the legislature in the writing of history, the constitutionality of the bill, the quality of French-Turkish relations, the sufficiency of the 2001 law of genocide recognition (*loi 2001-70*), and the discrepancy between the 1990 Gayssot Act, which had criminalized denial of the Shoah, and the 2001 law, which did not reinforce recognition with the threat of sanctions. While positions on most themes are divided and in line with the senators' utterances in favor of or against the legislation, they are almost unanimous, and in the affirmative, in statements about the facticity of the genocide.

Some details illustrate the spirit of deliberations. The Senate debate of January 23, 2012, opened with a statement by Patrick Ollier, minister for relations with Parliament. Ollier, speaking in support of the Boyer law, quoted philosopher George Santayana's words that are engraved on many memorials: "Those who forget the past are condemned to repeat it."<sup>7</sup> He insisted that the law under consideration simply sought to fill a legal vacuum in providing consistency with the Gayssot Act. He also argued that it would be applied only to cases of outrageous denial, to be punished by one-year imprisonment and a fine of 45,000 euros. Ollier further insisted that the government support the law even though it was aware of potential repercussions for French-Turkish relations.<sup>8</sup>

Several speeches by senators echoed his comments. Some underlined their supportive position by establishing links to the Shoah and its recognition by French law. Senator Roger Karoutchi, of the center-right UMP (*Union pour un mouvement populaire*) faction, stressed the need for France to be consistent in its enforcement of memory laws. Given that the French Parliament had passed laws recognizing both the Holocaust and the Armenian genocide, he argued, the denial of both genocides should be sanctioned in the same way. The drawing of such parallels, however, sparked vocal protests.<sup>9</sup> Senator Esther Benbassa, a French-Turkish-Israeli historian and politician and a member of the Green Party, opposed the legislation. She drew a clear distinction between the Shoah (followed by the Nuremberg trials) on the one hand and the Armenian genocide on the other. She reminded the Senate that the latter was not declared criminal by an international court. Her comments drew applause from the environmentalist group and from some members of the Socialist faction.<sup>10</sup>

Importantly, however, even opponents of the criminalization of denial explicitly and strongly recognized the Armenian genocide. Prominent among them was Jean-Pierre Sueur, rapporteur and president of the Constitutional Law Commission (*La commission des lois constitutionnelles, de législation, du suffrage universel, du règlement et d'administration générale*). Sueur spoke in clear opposition to the criminalization of Armenian genocide denial. He clarified that he did not speak on behalf of his political party (the Socialist Party), but on behalf of the commission (equivalent to a committee in the U.S. Congress). He insisted that the legislation was at high risk of constitutional censure, citing (fellow) Socialist Catherine Tasca, who had stressed in committee that allowing the law to rule

on historical facts violates the principle of separation of powers. Additionally, the commission believed, according to Sueur, that the bill violated the principle of freedom of opinion and expression, as well as the principle of legality of offenses and penalties.<sup>11</sup> Sueur's arguments are reflected in the commission report submitted to the Senate before the debate: "Condemning all forms of denialism, which constitutes despicable harm to the memory of the disappeared and the dignity of the victims, and reiterating its infinite respect for the Armenian people and the terrible hardship it had to endure, [the commission] has examined the legitimacy of legislative intervention in the field of history—concluding that the adoption of resolutions and the organization of commemorations probably are better means to express the Nation's solidarity with the suffering endured by the victims" (p. 5, translated).<sup>12</sup>

The body of the report spells out (and I paraphrase its wording) the suffering of the Armenians under Young Turk rule, the decision of deportation after an uprising by Armenians in the city of Van in April 1915, the arrest and killing of 650 Armenian notables in Constantinople on April 24, 1915, and the loss of some 800,000–1,250,000 Armenian lives. The report also applies the term "génocide de 1915" (p. 9) to the violence. In short, even opponents of the bill that sought to criminalize denial of the Armenian genocide documented and reinforced a knowledge repertoire that strongly overlaps with that of Armenians as described in chapter 4. Armenian mobilization was one social force that enhanced this documentation of genocide knowledge, and empirical support is about to follow. A broader human rights culture may have contributed, but it would not explain why exactly the Armenian genocide received this recognition while other genocides are not subject to legislative affirmation.

We were able to relate positions taken in the Assembly and Senate debates by departments (*départements*) to data on the density of Armenian cultural associations in those jurisdictions. Patterns reveal substantial variation across departments of the French Republic, with concentrations in Paris and the Ile de France region surrounding the capital, and in Marseille (bouches du Rhone) and Lyon (Rhône) and their environs.<sup>13</sup> A selection of departments illustrates such uneven distribution (see table 3).

Descriptive analyses indeed show a link between the concentration of Armenian cultural associations and the positions legislators took in debates regarding the Armenian genocide between 1998 and 2012.<sup>14</sup> Table 4 demonstrates that senators and representatives from departments with larger numbers of Armenian cultural associations were much more likely to intervene in favor of each of the legislative projects concerning the Armenian genocide, even if the difference diminishes somewhat in debates on the criminalization law. It comes to full display again, however, in the final vote.

Descriptive statistics always warrant caution. For example, some departments are Left leaning, while others gravitate to the political Right, and political position



TABLE 3 Numbers of Armenian Cultural Associations, by Département, 2015

Département	Number of Associations
Aisne	1
Alpes-de-Haute-Provence	1
Hautes-Alpes	1
Alpes-Maritimes	15
Ardèche	1
Bouches-du-Rhône	110
Calvados	1
Pyrénées-Orientales	2
Bas-Rhin	2
Rhône	55
Sarthe	1
Haute-Savoie	1
Paris	130
Seine-Maritime	3
Seine-et-Marne	4
Haute-Vienne	1
Essonne	1
Hauts-de-Seine	43
Seine-Saint-Denis	11
Val-de-Marne	27
Val-d'Oise	6
74 other départements	0

SOURCE: [www.acam-france.org/contacts/index\\_associations\\_culturelles.php](http://www.acam-france.org/contacts/index_associations_culturelles.php) (last viewed on April 12, 2019).

TABLE 4 Average Numbers of Armenian Cultural Associations in Départements of Senators or Representatives Intervening in Favor of and against Armenian Genocide Legislation, by Date

Date	In Favor	Against
2000	43.8	0.6
May 2006	67.8	0.5
October 2006	38	11.5
May 2011	44.8	10
December 2011	40.4	28
2012	62	12.4
<b>Average</b>	<b>47.3</b>	<b>10.5</b>

TABLE 5 Regression Analysis: Armenian Cultural Associations per Département in Relation to Position Taken in Legislative Debates, by Political Party of Speakers and by Date

	Odds Ratio	Standard Error	<i>z</i>	<i>P</i> > <i>z</i>	95% Confidence Interval	
Number of Associations	1.038	0.01	3.5	0***	1.016	1.059
Socialist Party						
UMP	0.175	0.14	-2.22	0.026*	0.037	0.813
Radical Left	0.172	0.19	-1.61	0.107	0.020	1.459
Centrist/Independent/ Center-Right	0.908	0.86	-0.10	0.919	0.142	5.808
Moderate Left	0.079	0.10	-2.03	0.042*	0.006	0.911
2000						
May 2006	0.478	0.61	-0.58	0.561	0.039	5.751
October 2006	1.032	0.98	0.03	0.973	0.161	6.596
May 2011	0.331	0.33	-1.12	0.264	0.047	2.301
December 2011	3.615	3.79	1.23	0.221	0.462	28.255
2012	0.146	0.13	-2.15	0.031*	0.025	0.841
_Constant	5.014	4.83	1.67	0.094	0.759	33.108

NOTE: \**P* < 0.05, \*\**P* < 0.01, \*\*\**P* < 0.001.

may well affect interventions in debates and votes on genocide laws. It is also possible that the distribution of participants from various regions in debates varied over time. We thus conducted a regression analysis that controls for potentially distorting factors.

Results displayed in Table 5 confirm the patterns revealed by descriptive statistics. Representatives and senators from departments with many Armenian cultural associations are more likely to speak in favor of legislation pertaining to the Armenian genocide than speakers from other regions, even when we control for time and political party. In other words, Armenian representation was decisive for the patterns of arguments in the legislature and for the outcome of the legislative process.

How, then, does representation translate into political and legislative positions? The strength of the Armenian vote may have been decisive, even if leaders of the French Armenian community insist that there is no Armenian voting bloc, and even if French Armenians count only an estimated three hundred thousand to five hundred thousand people among the sixty-three million French (2010)—and not all French citizens of Armenian descent identify as Armenian. Nevertheless, organizational representation, in addition to (anticipated) voting patterns and civil society mobilization, as manifested by many well-attended demonstrations around the time of legislative debates, appears to have sufficiently impressed

French politicians to adjust their voices, and likely their votes, to the strength of their Armenian constituents.

Electoral politics as a driving force were indeed on the minds of some participants in legislative debates. For example, in the final Senate debate on the bill, Isabelle Pasquet—a member of the Central Revolutionary Committee (CRC), a Marxist-inspired political party—raised questions regarding the politics of the administration of President Nicolas Sarkozy and its supporters in the legislature. Claiming that the president had attempted to gain the votes of five hundred thousand French citizens of Armenian descent by supporting the legislation, she accused legislators from his party, the center-right UMP faction, of changing their position for political reasons. Pasquet rejected the bill, concluding that it would lead to more outrage from Turkish protesters.<sup>15</sup>

Indeed, presidential elections were approaching fast when the 2012 bill came to a vote. Importantly, also in support of the legislation was Sarkozy's challenger, the Socialist François Hollande, a long-term friend of French Armenian leader Mourad Papazian, copresident of the Coordination Council of Armenian Organizations.

In short, building on a long-term process of identity formation, French Armenians mobilized successfully to enhance the chances of the recognition laws. Legislators, it seems, heard their voices well. Yet French Armenians are not the only constituents in these debates, and neither the quality of deliberations nor the final decision-making outcome can be understood without considering the role of three other types of actors: historians, the Turkish government, and the CC.

### *Epistemic Politics and Academia: Legislation and the Historians*

The “French triangle” (figure 10) indicates the close relationship between the political and academic fields in France. This closeness is due to the concentration of the country's political and academic elites in Paris (Elias [1939] 2000), the often shared educational experience of political and academic leaders in the same elite institutions (Bourdieu 1988), and media practices, whereby prominent academics frequently articulate their positions in debates over political issues. Geographic proximity, network ties, and academic access to civil society via prominent media allow for a comparatively easy conversion of political capital (power, votes) into academic capital and vice versa. Historians obviously matter, especially in the context of memory laws. Their utterances register with the French political field far more than in other countries, especially the United States.

*Political mobilization of scholarship.* Given the weight of scholarly interventions in the political field, political actors seek to mobilize scholarly contributions to public debates. The numerous historians' commissions initiated by the French state include one, for example, that President Emmanuel Macron established in spring 2019 to examine the role of France in the Rwandan genocide.<sup>16</sup> Another commission,

under the leadership of historian Vincent Duclert and also sponsored by the French government, produced a broader report on conditions of genocide.

The interest of political actors in the work of historians manifests itself, especially and not surprisingly, in the history of memory laws. Two such laws explicitly appeal to research and instruction. Article 2 of the Taubira law of 2001, addressing the legacy of slavery, states: “Educational and research programs in history and the human sciences accord to the treatment of people of African descent and to slavery the weight they deserve. Cooperation should be encouraged and favored that allows for synergy between archival sources in Europe and oral sources as well as archaeological knowledge accumulated in Africa, the Americas, the Caribbean and in all the other territories that knew slavery” (translated).<sup>17</sup> Note, however, that this is symbolic law. The legislature attached neither positive nor negative sanctions to scholarship that does or does not follow its plea. It also does not specify the content of scholarship it expects historians to produce, even if the qualification of slavery as a crime against humanity in the same law speaks to the legislature’s reading of history.

The law of 2005 pertaining to those repatriated from the North African colonies uses similar wording. Article 4 states: “Research programs in universities grant the deserved place to the history of the French presence overseas, especially in North Africa. The law encourages cooperation that allows for mutual engagement of oral and written sources available in France and abroad” (translated). Here, as in the Taubira law, the law entails neither positive nor negative sanctions. It also does not prescribe the content of research or instruction. It is worth remembering, however, that the current wording is a modification of the original text. The original text had required history teachers to cover the “positive impact” of colonialism in their instruction (article 4, paragraph 2). After the legislature had initially passed the entire act, this part of the law was later overruled.

The only memory law that threatens criminal sanctions is the 1990 Gayssot Act against genocide denial. Article 9 indeed modifies the criminal code and adapts the media law (*loi de la presse*) of 1881 that guarantees freedom of the press.<sup>18</sup> Yet this law does not specifically address scholarship and instruction.

In sum, the French state seeks to mobilize, and thereby at times to regulate, scholarship and education. With the exception of the Gayssot Act, it does not threaten penalties for denialist utterances, but it occasionally encourages or demands—as in the laws regarding slavery and colonialism—consideration of specific subjects in research and education. The 2001 law recognizing the Armenian genocide (*loi 2001-70*) does not pose demands on research or education, nor does it threaten penalties. The 2012 Boyer law, by criminalizing denial of the Armenian genocide, sought to correct this omission. Yet the CC overruled this law.

*The agency of (divided) historians vis-à-vis the political field.* Historians were not just targets in this unfolding legislative history. Instead, they displayed substantial

agency. They entered the stage early on, in response to the Gayssot Act, which criminalized Holocaust denial. Prominently, historian Madeline Rebérioux (1990) published an article in the November issue of the journal *L'Histoire* that criticized the new law. She stressed that earlier law had already allowed for a civil court condemnation, on grounds of public defamation, of Holocaust denier Robert Faurisson in 1981, without necessitating that the courts cast judgment on historical truth. She found herself in the good company of renowned historian Pierre Vidal-Naquet, an outspoken challenger of denialist claims.

While these powerful but isolated scholarly voices in response to the early memory law found little echo in the political field, the situation would change radically a good decade later. Three events prepared fertile ground for an uprising among historians against laws that regulate articulations about history. First, in June 21, 1995, Princeton historian of the Middle East Bernard Lewis was convicted in a Parisian civil court. Lewis—although he had written about the “Holocaust against the Armenians” in publications decades before—had referred, in an interview with *Le Monde*, to the mass killings of Armenians in 1915 as “la version arménienne de cette histoire” (the Armenian version of this story). He was sentenced to the payment of one (symbolic) franc to the state, 10,000 francs to the Forum des associations arméniennes de France, and 4,000 francs to the Ligue internationale contre le racisme et l'antisémitisme. Lewis subsequently softened his language but continued to insist on his rejection of the term *genocide*, claiming that the Young Turk government had no deliberate plan to exterminate the Armenian people.<sup>19</sup>

The second event that shook the scholarly field occurred in 1998: the election of Ottomanist historian Gilles Veinstein to the Collège de France almost failed over an article he had published three years earlier in *L'Histoire*, for which he was accused of denialism, a charge other prominent historians such as Pierre Vidal-Naquet forcefully challenged. The third event occurred in 2005, when a group called the Collectif des Antillais, Guyanais, Réunionnais (representing peoples of French overseas territories) filed a complaint, later withdrawn, against Olivier Pétré-Grenouilleau, a historian of slavery who—in an interview with the newspaper *Le Journal du Dimanche* on June 12, 2005—refused to apply the term *genocide* to the history of slavery. Hundreds of academics turned out to support Pétré-Grenouilleau.

It was against this background that scholars reacted to the memory laws initiated and/or passed after 2005 with an intensity not known in the context of the Gayssot Act of 1990. On March 25, 2005, historian Claude Liauzu and several colleagues published an article in the daily *Le Monde* in response to the Mekachera law. They demanded, “Non à l'enseignement d'une histoire officielle” (No to the teaching of an official history). Their statement was supported by the Ligue des droits de l'homme (Human Rights League) and by several teachers' unions. The initiative soon took organizational form, when members of this group of

historians, later in spring 2005, founded the Comité de vigilance face aux usages publics de l'histoire (Committee of vigilance against the public uses of history).<sup>20</sup>

Similarly, and soon after the March 25 article in *Le Monde*, the Comité national de l'Association des Professeurs d'Histoire et de Géographie (National Committee of the Association of Teachers of History and Geography) took action against article 4, paragraph 2 of the Mekachera law (May 22, 2015). They demanded that the legislature "must end practices that constitute an instrumentalization of history curricula in the service of memory obligations" (translated). They further insisted "that the content of history and geography curricula must be based on the state of scientific research for which the university and the National Center for Scientific Research (CNRS) should be sufficient means" (translated). Yet the majority of the legislature remained unimpressed, and thus, in early December 2005, the Ligue des droits de l'homme and a collective of historians issued a petition under the title "We Shall Not Apply Article 4 of the Law of February 23, according to which school curricula must acknowledge the positive role of Colonialism" (translated). Within a month, the petition gathered more than 1,120 signatures, including 572 provided by historians and history teachers.

The historians' opposition, specifically against the law's demand to teach the benefits of colonialism, finally yielded political results. On December 9, 2005, President Chirac declared that "in the Republic, there is no official history. It is not the role of the law to write history. The writing of history is the task of historians" (translated). Presidential intervention no doubt augmented the weight of subsequent actions on the part of historians.

The next such action followed soon, when—on December 12, 2005—nineteen renowned academics and intellectuals signed a new declaration, entitled "Liberté pour l'histoire" (Liberty for history) and founded an association with the same name. In their declaration, they demanded an end to legislative dispositions unworthy of a democratic regime ("dispositions législatives indignes d'un régime démocratique"). They directed their attack broadly against what they called "memory laws," with a derogatory intent, subsuming under this category laws as diverse as the Gayssot Act (aiming at the Shoah and threatening criminal sanctions), the 2001 Armenian genocide recognition law (simply recognizing the genocide), and the Mekachera and the Taubira laws (not threatening criminal sanctions while, however, demanding instructional and research programs). These historians accused the four laws of having restrained the liberty of historians ("restraint la liberté de l'historien") and of having instructed them, under the threat of sanctions ("sous peine de sanctions"), what to do research on and what to find. This was different from previous declarations, in that these intellectuals claimed to speak for all historians.

Yet many historians challenged such claims. Prominent among them, Marcel Dorigny expressed his regret about the shocking amalgam ("amalgam choquant") of laws that the signatories had attacked. Others charged this new group of historians with political bias, demonstrating that members of the group

themselves did not stick to their historiographic work, but instead took political positions in divisive public debates. Boris Adjemian quotes Pierre Nora to show that keeping the law out of the task of history writing was certainly not the only objective of the “Liberté pour l’histoire” activists: “Two thousand years of Christian culpability against human rights have been reinvested . . . in broad accusations and radical disqualification of the French nation. And public schooling was sucked into the rupture, with zeal, as it, favoring multiculturalism, found a new mission in national repentance and masochism. Historically the tug boat of humanism, France now became the avant-garde of the universal bad conscience” (Pierre Nora quoted in Adjemian 2012:18, translated).

Other signatories of the declaration expressed concerns about a fractioning (“fragilization”) of French society because of a “multiplication of memory laws,” and about minorities imposing on the entire nation their particular memories. In short, the “Liberté pour l’histoire” signatories and their spokespersons were not just concerned with the independence of scholarship, but also with an identity of French society, reflected in some of the memory laws, that they did not embrace.

When President Chirac expressed his opposition to article 4, paragraph 2 of the Mekachera law, in response to the earlier and more narrowly conceived objections by historians and teachers, its revocation was almost certainly not the result of the “Liberté pour l’histoire” group, even if the removal followed shortly after their proclamation. Six years later, however, the group’s rhetoric did color the political debate over the Boyer law, passed in January 2012, criminalizing denial of the genocide against the Armenians. Its members expressed their opposition to the law in the strongest possible terms, speaking about a civil memory war (“une guerre civile des mémoires”; Nora in Adjemian 2012:23). This language aligns with previous objections against repentance (“contre la repentance”) and the victim claims of insufficiently assimilated minorities (“victimisme” des “communautés imparfaitement assimilées”). The new law, Nora argued further, prohibits “all historical research dedicated to one of the first great tragedies of the twentieth century” (translated). He in fact wrote about the risk of a sovietization of history (“risque de soviétisation de l’histoire”).

In short, historians made their voices heard in struggles over the appropriate form of memorializing mass atrocity crimes, including the Armenian genocide. The intensity and character of their positions changed over time. Individual interventions turned into collective action. Initially cautious articulations gave way to strong statements driven by political agendas of different sorts, prominent among them concerns with the purification of Western, Christian, and specifically French history.

Our analysis of legislative debates suggests that historians’ critiques and legislative voices reinforced each other. Concerns with the role of the legislature in writing history certainly featured prominently in Assembly and Senate deliberations. In the November 2001 Senate debate, twelve out of nineteen interventions raised



the issue of legislative history writing. The respective numbers for subsequent sessions are, for the Assembly debate of May 2006, six out of eight; for the Assembly debate of October 2006, thirteen out of twenty-one; for the Senate debate of May 2011, nine out of sixteen; and for the Assembly debate of December 2011, eleven out of twenty. Finally, and topping all others, in the January 2012 Senate debate, twenty-seven out of thirty interventions raised the issue of legislative history writing. Not all of these came from challengers. Yet, in this concluding debate, the majority of legislators who addressed the issue were in opposition to the bill (fifteen opposed and twelve in favor).

In general, the “role of the legislature in the writing of history” and the “constitutionality” of legislative interventions are among the most frequently raised themes in the final Senate debate on the Boyer law, the attempted criminalization of denial of the Armenian genocide (table 2). Senators who raised the issue and opposed the Armenian memory laws clearly aligned with the skepticism articulated by influential historians. This alignment shows in a speech Jean-Pierre Sueur, rapporteur and chair of the Constitutional Law Commission, delivered in the Senate. Senator Sueur had spoken—as we saw earlier—in opposition to the law. Here, he partly repeats the reasoning in the commission’s report:

The Commission inquired into the legitimacy of the legislative intervention in the field of history . . . considering that the adoption of resolutions and the organization of commemorations probably constitute more appropriate methods to express the Nation’s solidarity with the suffering endured by the victims. It has further reasoned that the creation of a criminal offense of the challenge and the outrageous minimization of genocides recognized by the law would constitute a substantial risk of offending against several principles of our Constitution—especially the principle of legality of criminalization and penalties [*nullum crimen, nulla poena sine lege*], the principle of the freedom of speech and the principle of the liberty of research. (p. 5, translated)

In an interview I conducted with Senator Sueur, he confirmed his strong identification with some of the “Liberté pour l’histoire” positions. He referred particularly to the arguments of Pierre Nora, one of the main drivers of this movement. Clearly, a conversion of scientific into political capital was at work when close ties between politics and academia played out in this legislative drama concerning memory laws. This affected, especially, laws concerning the recognition of the Armenian genocide and the criminalization of its denial. Scholarly interventions colored debates on the Senate floor, and they may have motivated referral of the Boyer law to the CC.

*Epistemic Politics and Foreign Policy: The Turkish State  
and the French Legislative Process*

Attempts to intervene in legislation concerning the Armenian genocide did not just originate within the French Republic and French society. Most noteworthy,

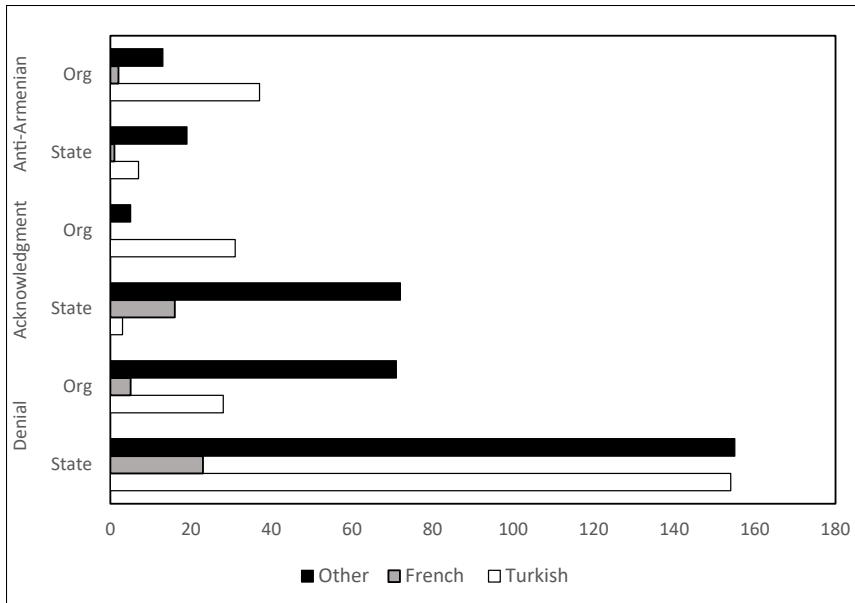


FIGURE 11. Frequency of types of actions and actors identified by Collectif VAN (sample of every third entry) between 2006 and 2016.

the Turkish state intensely sought to affect the outcome of the legislative process, as indicated by an analysis of data on denialist acts collected by a civil society group, Collectif VAN (*Vigilance Arménienne contre le Négationnisme*), since 2006.

Figure 11 shows that the vast majority of actions measured by Collectif VAN are denialist actions, as opposed to either statements of recognition or anti-Armenian actions such as vandalism of memorials and hate crimes. This is not surprising, given that the movement names itself “vigilance against denialism.” Further, most denials result from state action, and almost half of these are statements articulated by the Turkish state and its representatives. Note that the more than 150 Turkish actions documented here tell only part of the story, because figure 11 is based on a random sample of one-third of the incidents recorded by Collectif VAN. The actual number of known denialist interventions by the Turkish state in the ten-year period is thus likely to be closer to 450.

Numbers alone never tell the full story, and a few examples suffice to illustrate the prominence of Turkish actors and the character of their statements:

- The passing of the recognition law by the National Assembly in May 1998 prompted protest letters from the Turkish president (Süleyman Demirel), prime minister (Mesut Yılmaz), foreign minister (İsmail Cem Ipekci), and parliamentary Speaker (Hikmet Çetin). In addition, Turkey suspended the

purchase of missiles from France, and it canceled a previously scheduled high-level meeting between officials of both countries.

- In response, some French officials expressed hope that the resolution would die in the Senate. That response only partially calmed the concerns of Turkish government representatives. They sought the actual defeat of the bill. They expressed concerns that the adoption of a genocide resolution in France could set an example for other parliaments in Europe and elsewhere. Some argued publicly that such a bill might encourage Armenian militants like the gunmen who killed thirty-four Turkish diplomats and their relatives in the 1970s and 1980s.
- After attempts in May 2006 by the National Assembly to criminalize denial of the Armenian genocide, Turkish officials warned France of “irreparable damage” to bilateral ties if the bill passed. Turkey temporarily recalled its ambassador to France and suspended military collaboration.
- After the National Assembly actually passed a bill to criminalize denial of all genocides recognized by French law, interventions intensified. Turkey halted diplomatic consultations and military cooperation. Turkish lawmakers joined their government to denounce the bill and called on France to investigate its own atrocities in Algeria and Rwanda. Turkish Foreign Minister Ahmet Davutoğlu stated that the bill violated the spirit of the French Revolution and of European principles like that of free speech. Prime Minister Recep Tayyip Erdoğan (later president) recalled Turkey’s ambassador and canceled the annually issued permission for French military planes to use Turkish airspace and for French naval vessels to enter Turkish harbors. The French air force now had to apply for permission for each flight. Turkey finally refused to cooperate with France in joint European Union projects and declined to participate in an economic summit meeting scheduled to take place in Paris in January of 2012.

We do not know if these objections and actions affected the French government and the outcome of the legislative process. We do know, however, that legislators worried that Armenian memory laws might harm French-Turkish relations. Their concerns permeated all legislative sessions on the laws pertaining to the memory of the Armenian genocide. In a corpus of 113 speeches given in six sessions, thirty-two representatives, senators, or ministers addressed Turkish-French relations. Seventy-four arguments pertained to international relations more broadly, including Armenian-Turkish relations and complications for a potential admission of Turkey to the European Union.

Again, examples must suffice. During the Senate session of November 7, 2000, Senator Jacques-Richard Delong, of the conservative Rally for the Republic, argued that the benefit of genocide recognition would not outweigh an almost certain backlash from Turkey and a complication of French-Turkish relations.<sup>21</sup> Jean-Jack

Queyranne, minister for relations with Parliament, expressed similar concerns in the same session. He stressed that France had worked for years to bring Turkey closer to Europe, and he argued that the passage of the bill could reverse such improvements. He referred to Dominique de Villepin, at the time chief of staff for President Chirac and later foreign minister, who—according to Queyranne—was concerned that the recognition bill, if passed, would damage France's relationship with Turkey.<sup>22</sup> Philippe Douste-Blazy, minister of foreign affairs, similarly intervened to speak against the bill. He, too, argued that France could easily anger Turkey with the legislation.<sup>23</sup>

Ministers and representatives expressed similar concerns during the National Assembly deliberation on the criminalization bill of October 12, 2006. Catherine Colona, minister for European affairs, spoke against the bill on behalf of the government. One of three reasons she cited was the government's concern that its passing could have detrimental effects on France's relationship with Turkey.<sup>24</sup> Socialist Charles Gautier expressed similar objections and received applause from a few members of the Socialist Party and from most of the center-right UMP.<sup>25</sup> Senator Bruno Giles, a proponent of the law, and thus in a minority position within his UMP faction, contended that most constitutional arguments were actually rooted in economic worries that Turkey could act against French business interests.<sup>26</sup> Concerns about French-Turkish foreign and economic relations indeed permeated the legislative debates until their final stages. During the Senate session of January 23, 2012, Isabelle Pasquet, member of the left-wing CRC, further contemplated that foreign policy complications could spill over into domestic unrest, pointing at the risk of intensified outrage from Turkish protesters.<sup>27</sup>

Yet Turkish threats did not impress all legislators. Some doubted that Turkish protestations would actually translate into deteriorating international or economic ties. For example, during the National Assembly session of December 22, 2011, Representative François Pupponi, a member of the left-wing SRC (Socialiste, républicain et citoyen), used his speaking time to summarize five reasons to vote for the proposed bill. They included his belief that it is not productive to continue a relationship, in fact a strong partnership, with Turkey, based on taboos and false pretenses.<sup>28</sup> During the Senate session of January 23, 2012, Socialist Luc Carvounas pointed out that in 2002, a year after the passing of the recognition act had evoked Turkish outrage, trade between the two countries actually increased by 22 percent. He concluded that foreign policy considerations should not preclude a vote for the bill. Legislators should instead focus on remembering the genocide.<sup>29</sup>

Yet others were willing to accept negative foreign policy outcomes should they in fact materialize. At this point, with the Sarkozy government favoring the bill, the minister in attendance also pleaded for a "yes" vote. Patrick Ollier, minister for relations with Parliament, concluded his introductory remarks to the Senate by stating that the government was aware of potential implications the legislation

could have in regard to French-Turkish relations, but the government was still in support.<sup>30</sup>

In short, many French legislators across party lines did indeed take Turkish threats and concerns about French-Turkish political, economic, and military relations seriously. Further, actors responsible for foreign policy dominated among those who expressed concerns. Many had not only French-Turkish relations in mind, but also relations between Armenia and Turkey and between Turkey and the European Union. The latter relationship was a special concern for the Left, which had worked with particular intensity for Turkish admission to the EU. Prominently, Daniel Cohn-Bendit of the Green Party, leader of the 1968 student movement and son of survivors of the Shoah, opposed the criminalizing bill, motivated, he argued, by the desire to advance Turkey's EU admission.

More broadly, we observe a tension between human rights principles on the one hand, including the desire to represent and remember mass atrocities as crimes, and the foreign policy field on the other. The tension results in part from the concern of foreign policy makers with diplomatic capital, built through networks of international collaboration. It is intensified by a desire to achieve substantive outcomes that often collides with the process orientation of human rights law and the values focus of its supporters. Previous studies have demonstrated such tension in debates surrounding human rights violations in the former Yugoslavia (Hagan 2003) and in Darfur (Savelsberg 2015).

Again, foreign policy concerns may have impeded, but did not derail, the French legislative projects pertaining to the memory of the Armenian genocide. Yet the CC had not yet spoken. I now turn to that final and decisive stage of the French story of Armenian memory legislation.

*The Constitutional Council, the Political Field,  
and Armenian Genocide Laws*

The final act regarding the Boyer law, which had criminalized denial of the Armenian genocide, was the Constitutional Council decision that declared the law unconstitutional. The CC made this decision on February 28, 2012—just one month after a majority of the Senate had passed the law. It proceeded most economically, addressing only one of several grievances expressed by the legislators: the charge of an unconstitutional limitation on the freedom of expression and communication. In the words of the CC:

Article 1 of the law referred punishes the denial or minimization of the existence of one or more crimes of genocide recognized as such under French law; that in thereby punishing the denial of the existence and the legal classification of crimes which Parliament itself has recognized and classified as such, Parliament has imposed an unconstitutional limitation on the exercise of freedom of expression and communication; that accordingly, without any requirement to examine the other grounds

for challenge, Article 1 of the law referred must be ruled unconstitutional; that Article 2, which is inseparably linked to it, must also be ruled unconstitutional. (Conseil Constitutionnel—Décision n° 2012–647 DC du 28 février 2012)

We do not know if considerations of constitutionality alone informed this decision, as suggested by the formal reasoning and the above quotation. Might political dynamics have played a role? Might CC members have been more concerned with power, with direct or mediated pressure from the academy and/or the Turkish Republic, than with norms? Might constitutional arguments only have disguised political intent?

Two members of the CC whom I was able to interview articulated their conviction that indeed, constitutional concerns were decisive. One expressed his dismay at Turkish news media's interpretation of the decision as a victory for the Turkish cause and a confirmation of the denial of genocide. He added credibility to his account by his familiarity with the history of the genocide and the centennial exhibits—seemingly supporting his identification with the Armenian cause.

This constitutionality position is supported further by the description of the CC by its (sole and former) sociologist member, Dominique Schnapper (2010). Schnapper, after concluding her term, published a book in which she highlights the central role of a staff of highly trained jurists who prepare the CC's decisions. The book's core message seeks to instill confidence in the institution. It speaks to the continuity of the CC's actions, the core role of the general secretariat, and the weight of professional jurists who prepare the dossiers for its members. Professional and highly competent jurists, Schnapper argues, make sure that decisions are rationally founded on reference to jurisprudence and precedent.

Others insist, instead, that political rationales played a central role in the CC's decision regarding the Boyer law. Leading French Armenians, especially, strongly believe that the articulation of constitutional concerns are mere rationalizations, a formal façade behind which are hidden political motives. Several members of Armenian civil society pointed, in interviews, to close ties between a high-level Turkish official and a prominent member of the CC. Information circulating within French Armenian circles suggests that the decisive communication between these two actors occurred just days before the CC overturned the Boyer law. I can neither confirm nor reject this position. To understand the impact of power politics on the CC, we need a sociology of the CC that, to my knowledge, does not exist to date. Its construction, summarized on the CC's own website, certainly suggests close ties with the political field: "The Constitutional Council was established by the Constitution of the Fifth Republic adopted on 4 October 1958. It is a court vested with various powers, including in particular the review of the constitutionality of legislation. . . . The Constitutional Council is comprised of nine

members who are appointed for nine-year terms. The members are appointed by the President of the Republic and the presidents of each of the Houses of Parliament (National Assembly and Senate)."<sup>31</sup>

The staffing of the CC is, not surprisingly, highly political, which is reflected in its membership. Almost all members at the time of the Boyer law decision had been appointed after successful political or administrative careers. Jean-Louis Debré, then president of the CC, had previously served as president of the National Assembly (2002–7). He had been minister of the interior from 1995 to 1997, during the presidency of Jacques Chirac. Jacques Barrot had previously occupied several ministerial positions, including those of minister of health, minister of trade, and minister of labor. Claire Bazy Malaurie had held high-level administrative posts in the ministries for transportation and health. Michel Joseph Charasse is a career politician, holding the position of a senator before President Sarkozy appointed him to the CC. Renaud Denoix de Saint Marc is a lawyer who had served as head of the Conseil d'État before his appointment to the CC. Jacqueline de Guillenchmidt had been a member of a national council that regulates electronic media. Hubert Haenel was a career politician and senator before Senate President Gerard Lercher appointed him to the CC. Finally, Pierre Steinmetz had pursued a high-level government administrative career, previously serving as chief of staff of Prime Minister Jean-Pierre Raffarin. Guy Canivet is the only exception. He joined the CC following a career as a judge. The background of the CC's members thus differs radically from that of members of the U.S. Supreme Court, for example, or the German *Verfassungsgericht*, where successful judicial careers pave the way to membership. The CC's constitution confirms the strong tie with the political field marked in the depiction of the "French triangle" (figure 10).

In short, a politically oriented CC, albeit supported by a professional and well-trained staff of lawyers, decided on the Boyer law in a highly politicized environment. On one side, civil society organizations, especially Armenian ethnic organizations, pleaded for the law. On the other side, the Turkish state and its representatives exerted substantial pressure, threatening complications to political, military, and trade relations between Turkey and the French Republic. Were these, or the critical sentiments historians had expressed, on the minds of CC members? They certainly were aware of them, given their high visibility in public debates and reflection in legislative sessions. Yet, as the CC decided to declare the law unconstitutional, it referred neither to Turkish interests nor to the concerns of historians. The explicit reasoning backing the legal decision follows purely formal and constitutional arguments. We will encounter formal reasoning again when examining court disputes in chapter 8, and there, too, massive substantive battles over genocide knowledge turn out to be driving forces. Further, in both the legislative and the judicial cases, the impact of formal decisions was substantive and political, in unexpected ways, a finding to which I turn in chapter 9.



## CONCLUSIONS: BATTLES IN THE FRENCH POLITICAL FIELD AND EPISTEMIC OUTCOMES

Increased recognition of the Armenian genocide may be indicative of the weight of global human rights scripts in the current era. This in-depth study of the French case has shown us, however, that recognition can mean different things, and that—even in an era of human rights hegemony—struggles over knowledge pervade the political field before a decision on recognition is reached and partially defeated. The French case shows further that ethnic representation and civil society mobilization likely affect the outcome of epistemic struggles in the political field, not surprising in a democratic context. The analysis teaches us further that specifics of epistemic struggles in the political field, their unfolding and outcome, depend on the relationship between the political and neighboring fields. In the French context, the academic field has particular weight. Similarly, the realm of constitutional law aligns closely with the political field. In the end, the legislative process—advanced by civil society mobilization but constrained by what I call the French triangle and by foreign policy pressure—resulted in the formal recognition of the Armenian genocide and legislation criminalizing denial of this genocide, as well as a successful challenge of the criminalizing law by a sizable group of legislators before the Constitutional Council. France thus partakes in the global trend toward recognition, but recognition here takes a specific shape in light of the particular institutional arrangements and conditions of the political field.