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The process of the Armenians' wealth seizing in Turkey

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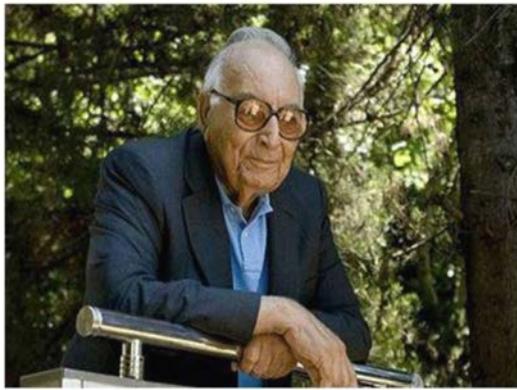
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The process of the Armenians' wealth seizing in Turkey

ANKARA—Notorious Genocide-denying Turkish Minister of EU Affairs said Tuesday that Turkey doesn't know what Genocide is, claiming, once again, that there was never a Genocide in Turkey's history. "If only all countries' past had been simple and transparent just like Turkey's past. No genocides have occurred in Turkey's history. What's genocide? Turkey doesn't know what genocide is," Bagis told the Milliyet daily.

Bagis claimed that Turks are proud of their history and forebears. [1]



**"Annesi İsmail Ağa'ya şöyle öğütler:
'Bir de senden dileğim, oğlum, o kasabaya gidersen, o Ermenilerden kalma evleri, tarlaları kabul etme. Sahibi kaçmış yuvada, öteki kuş barınamaz.
Yuva bozanın yuvası olmaz.
Zulüm tarlasında zulüm biter."
(Yaşar Kemal, Yağmuncuk Kuşu, s.95.)**

[The Mother's admonition to Ismail Ağa:ŞI also ask you, my son, if you go to this settlement, don't accept a house or field left after Armenians. One couldn't take refuge in a house of a master forced to escape. Ruined bird's nest couldn't be a nest for its destroyer. In the field of zulüm (Eng.-violence, injustice) only zulüm can grow». -Yashar Kemal, «The Water Rain/Little Nobody I]

* * *

I would like to start this paper with a quotation from Raffi Bedrosyan's article in «The Armenian Weekly»: « If one person murders another, then takes over that murdered person's property and possessions, he would be living off the proceeds of his crime. Once authorities discover his crime, he would be found guilty—by any court, anywhere—and then sentenced, punished, and forced to return the unlawfully obtained property and possessions. But if a people murders another people, and takes over the property and

possessions of the murdered people, it seems that different rules apply, and the guilty—and their children—can continue living off the proceeds of the crime. It also seems that their successors can continue to threaten the successors of the murdered people with new murders, if, that is, they dared to mention the murder, or dared to demand the return of their property and possessions. This is the evolving saga of the Turkish and Armenian peoples from 1915 to today».[2]

Armenian wealth was seized in 1915 by the Young Turk government. In addition to the slaughter and expulsion of more than 1,5 million souls, wiping out the Armenians from their 4000-year old homeland, the Turkish government stole Armenian assets, seized Armenian property, and destroyed Armenian historical monuments. According to Dickran Kouymjian «collectively these actions represent an enormous illegal transfer of individual and community wealth from the Armenian to the Turkish and Kurdish population through a carefully planned crime.» [3]

This process, started in 1915 by the Ittihadist leadership of Ottoman Turkey, continued uninterrupted with the successor Turkish Republic for many decades using various legislative decrees, or, by definition of Ugur Ungor «using the justice system for injustice».[4]

It was completed with the total Turkification of all Armenian assets and properties—of the Armenians' economic presence—in Anatolia.

Ottoman period

The Armenian Genocide consisted of an overlapping set of processes: elite homicides, deportations, massacres, forced assimilation, destruction of material culture and expropriation. Although these dimensions of the genocide differed and were carried out by different agencies, they converged in their objective: destruction. By the end of the war, the approximately 2,900 Anatolian Armenian settlements (villages, towns, neighborhoods) were depopulated and the majority of its inhabitants dead. What made the massacres genocidal is that the genocide targeted the abstract category of group identity, in that *all* Armenians, loyal or disloyal, were destroyed.[5]

The proclamation of war was used as «convenient cover» for this process of destruction: it could now be systematized into a comprehensive empire-wide policy of harassment, organized boycotts, violent attacks, exclusions from professional associations and guilds, and mass dismissals of Armenian employees from the public service and plunder of their businesses in the private sector.

The deportation decrees of May 23, 1915 and the deportation law of May 27, 1915 were issued after the deportations had already begun in April. The confiscation process began right after the deportation of the Armenian owners.

“Leave all your belongings—your furniture, your beddings, your artifacts. Close your shops and businesses with everything inside. Your doors will be sealed with special stamps. On your return, you will get everything you left behind. Do not sell property or any expensive item. Buyers and sellers alike will be liable for legal action. Put your money in a bank in the name of a relative who is out of the country. Make a list of everything you own, including livestock, and give it to the specified official so that all your things can be returned to you later. You have ten days to comply with this ultimatum.”

Government promulgation hanged in public places in Kayseri, June 15, 1915.[6]

Though under the guise of wartime proceedings, the measures did not go unchallenged. For instance, Ahmed Riza, one of the prominent senators of the Ottoman Parliament, protested the Abandoned Property Law on the 13th of December 1915 in the following manner: It is unlawful to designate the Armenian assets as ‘abandoned goods’ for the Armenians, the proprietors, did not abandon their properties voluntarily [isteyerek terketmemişler]; they were forcibly, compulsorily removed [teb'id edilmiş] from their domiciles and exiled. Now the government through its efforts is selling their goods...Nobody can sell my property if I am unwilling to sell it...If we are a constitutional regime functioning in accordance with constitutional law we cannot do this. This is atrocious. Grab my arm, eject me from my village, then sell my goods and properties, such a thing can never be permissible [Beni kolumdan tut, köyümden dışarı at,

malımı, mülkümü de sonra sat, bu hiçbir sonuç vermez]. Neither the conscience of the Ottomans nor the law can allow it.[7]

Deportation law was followed by The Liquidation Legislation, which tried to give some semblance of legality to the plunder of Armenian assets that took place after the deportations. This legislation, dated June 10, 1915, and further reinforced on Sept. 26, 1915, directed the formation of Liquidation Commission (Emvâl-i Metruke Komisyonu) and commissions in the provinces where the deportations occurred. The legislation defined the Armenians as “transported persons” and their assets as “abandoned assets,” as if the Armenians had willingly abandoned them. It provided the first steps to liquidate the assets, and gave the state power to decide to whom the assets should be given, or sold, and for how much, without the approval of the owners (but on their behalf).

By January 1916, there were 33 Liquidation Commissions formed, covering all of Anatolia, recording, listing, appraising, and holding on deposit some of the assets for future return to the Armenians, but also selling or distributing other assets to Muslim refugees. The legislation also stipulated that assets belonging to Armenian charitable foundations, such as churches or schools, be transferred to the State Directorate of Charitable Foundations or the State Treasury. Cash and movable assets of the transported persons were to be collected and kept in a Special Trust account on behalf of the owners. The entire operation was supervised by the Interior Ministry, which was tasked with an enormous amount of coordination and recordkeeping. To an end of this process of dispossession, on August 29, 1915 the Interior Ministry wired a circular telegram ordering authorities to auction abandoned Armenian property for the benefit of the local Turkish population to the lowest, not highest, bidder.[8]

Naturally, having the pick of any asset left behind, thousands of government officials and members of the Liquidation Commission enriched themselves, as did thousands of local Turks and Kurds who seized the houses, farms, orchards, warehouses, factories, mines, hotels, shops, stores, tools, and livestock once owned by the Armenians.

It's worth to be mentioned that Talaat and the Interior Ministry he presided over were soon facing two acute problems: ambiguity regarding the forms and provenance of property, and delimiting the scope of the expropriations. An example of the former trend was a question asked by the provincial authorities of Aleppo, namely whether only Apostolic Armenians were to be expropriated or also Protestant and Catholic ones. By then, the definition of the victim group had already transformed from a religious definition based on the *millet* system, to a national definition. Thus, the ministry arbitrated that the targets were not only Apostolic Armenians but all “Armenians.” The German consul of Trabzon remarked that under this law, technically, “an Armenian converted to Islam would then be deported as a Mohammedan Armenian.”[9]

The prescriptions were supplemented by prohibitive rules. Those Armenians who attempted to sell their property to foreigners and other Christians (such as Greeks or Christian Arabs) were counteracted. A circular telegram was issued prohibiting “decidedly” (*suret-i katiyyede*) the sale of any land or other property to foreigners.

Furthermore, the government prohibited Armenians from a whole host of strategies to avoid seizure of their property. These included transferring property to non-Ottoman Armenians, sending it abroad to family members, giving valuables to American missionaries and consuls, mailing it directly to their new residences at their final destinations.[10]

It is these kinds of prohibitions that shed light on the rationale behind the expropriations. They strongly suggest that there was no intention of either compensating Armenians fairly for their

dispossession, or offering them any prospect of a future return to their homes. Hilmar Kaiser has rightly concluded that these restrictions were “**a plain admission of official criminal intent.**”[11]

By the words of Ugur Ungor, the expropriation needed to be carried out to “ensure that the transported population will no longer have any connection to possessions and ownership” (*nakledilen ahalinin alâka-ı mülkiyet ve tasarrufu kalmamasını temîn*). In other words, the relationship between Armenians and their property needed to be definitively severed to bring about a lasting “de-Armenization” of the land.[12]

The next stage of this process was the redistribution of Armenian property to Muslim merchants. The CUP government sanctioned “the complete transfer of business and industrial enterprises” to the upcoming Muslim middle class, emphasizing the importance of “Muslims’ familiarization with commercial life” and the build-up of Muslim-owned business enterprises in Turkey. The government admonished the Abandoned Properties Commissions to take proper care and assist the new Muslim owners as much as possible. As a result of this policy, a whole generation of Turkish-owned firms—“established in 1916”—mushroomed across the empire.[13]

The government offered ordinary Turks incredible prospects of upward social mobility. With a giant leap forward, a nation of peasants, pastoralists, soldiers, and bureaucrats would now jumpstart to the level of the bourgeoisie, the “respectable” and “modern” middle classes.[14]

Another important task for CUP government was to settle Muslim refugees in the emptied Armenian villages. In order to send settlers to the provinces, the local capacities to “absorb” them had to be determined. The Interior Ministry requested information on the number of Armenian households deported, whether the emptied villages were conducive to colonization by settlers, and if so, how many. It also demanded data on the size of the land, number of farms, and potential number of settler households. According to Talaat’s own notebook, in 1915 the amount of property allocated to settlers was: 20,545 buildings, 267,536 acres of land, 76,942 acres of vineyards, 7,812 acres of gardens, 703,491 acres of olive groves, 4,573 acres of mulberry gardens, 97 acres of orange fields, 5 carts, 4,390 animals, 2,912 agricultural implements, and 524,788 planting seeds.[15]

Of course, it was the CUP elite taking the «cream of the crop» of Armenian property. According to Ahmed Refik’s observation on Armenian houses in Eskishehir, «A large Armenian mansion for the princes, two canary-yellow adjacent houses near the Sarısu bridge to Talaat Bey and his friend Canbolat Bey, a wonderful Armenian mansion in the Armenian neighborhood to Topal İsmail Hakkı. All the houses convenient for residing near the train station have all been allocated to the elite of the İttihadists».[16]

One can agree with the conclusion of Ugur Ungor that the expropriation of Ottoman Armenians was necessary for the destruction process in general. «Dispossessed and uprooted, the Ottoman Armenians’ chances of survival and maintenance gradually shrunk to a minimum. Every step in the persecution process contributed to the weakening and emasculating of Armenians. It robbed them not only of their possessions, but also of possibilities for escape, refuge, or resistance. The more they were dispossessed, the more defenseless they became against Young Turk measures».

«The structure of this process can be analyzed at three levels: the macro, mezzo, and micro-levels, bearing in mind the relevant connections between the three levels. The macro-level concerns the context and structure of the political elite that led the empire to war and genocide. They launched the policies out of ideological conviction: the war offered an indispensable opportunity to establish the “national economy” through “Turkification.” They created a universe of impunity in which every institution and individual below them could think of Armenians as outlawed and their property as fair

game, up for grabs. If it is the opportunity that creates the crime, then Talaat created an opportunity structure in which ordinary Turks came to plunder on a mass scale».

«Now the second level enters into force. Within the structure of national policy were nestled developments such as complex decision-making processes, the necessity and logic of a division of labor, the emergence of specialized confiscation units, and the segregation and destruction of the victim group [...] Local elites and state institutions such as the army, several ministries, the fiscal authorities, the provincial government, and the party, collaborated for their own reasons. The main agencies were the police, militia, and civil administration». [...]

«At the micro-level, the process facilitated hundreds of thousands of individual thefts of deported victims, carried out by ordinary Turks. The mechanisms that propelled plunder were horizontal pull-factors and incentives (zero-sum competition with other plunderers), and vertical pressure (the beginning of the process did not contain precise decrees but was open for liberal interpretation). Thus, ordinary Turks profited in different ways: Considerable sections of Ottoman-Turkish society were complicit in the spoliation». [...]

But history is full of unforeseen and unintended consequences of policies and ideologies. The great unintended consequence of the Young Turk government's dispossession of Armenians was the opportunity it offered local Turks for self-enrichment. To the Interior Ministry, this was not acceptable nor accepted: Individual embezzlers were punished by having their rights to Armenian property revoked. Those with ties to local Young Turk Party bosses or enough social status and potential to mobilize people got away with their "crime within a crime." One can perhaps even conclude that the Young Turk government bought the domestic loyalty of the Turkish people through these practices—initially irresponsible, then outright criminal. The Armenian Genocide was a form of state formation that married certain classes and sectors of Ottoman society to the state». [...]

«As Armenians went from riches to ruins, Turks went from rags to riches. But Armenian losses cannot simply be expressed in sums, hectares, and assets. The ideology of "national economy" did not only assault the target group economically, but also in their collective prestige, esteem, and dignity. Apart from the objective consequences of material loss, the subjective experiences of immaterial loss were inestimable. Proud craftsmen, who had often followed in their ancestors' footsteps as carpenters, cobblers, tailors, or blacksmiths, now lost their livelihoods. The genocide robbed them not only of their assets but also of their professional identities.[...] entire generations of ...famous artisan families disappeared with their businesses, extinguishing the name and quality of certain brands. Gone were the Dadians, Balian, Duzians, Demirjibashians, Bezjians, Vemians, Tirpanjians, Shalvarjians, Cholakians, and many other gifted professionals».[17]

In the end the assets of these and other Armenians were re-used for various purposes: settling refugees and settlers, constructing state buildings, supplying the army, and indeed, the deportation program itself.[18]

Kemalist period

When the Ottomans were defeated and the Ittihadist leaders fled Istanbul in a German submarine, the newly elected Ottoman government on Jan. 8, 1920, rescinded the Liquidation Legislation and directed the return of all Armenian assets, or equivalent compensation, to their rightful owners.

The issue of abandoned properties and the damages inflicted to Armenian properties appeared on the agendas of the Ottoman Parliament, the Ottoman Military Tribunals, international conferences, treaties, and congresses several times before the establishment of the Republic.[19]

It's important to mention that in dealing with the Ottoman parliamentary debates of 1918, as Ayhan Aktar emphasizes, none of the Ottoman deputies at that time revealed any doubt about the actuality of the mass murder. By using the terminology 'Imha edilmek' [to be annihilated], 'Cinayeti azime' [macabre murder], 'Ermeni kıtali' [Armenian massacre] and 'Ermeni faciası' [Armenian catastrophe], the Ottoman Parliament confirmed that 'crimes against humanity' had been committed against the Armenians during World War I. During these same debates the fate of the confiscated Armenian properties was also discussed in the parliament.[20]

On the 8th of January 1920 the Ali Rıza Paşa cabinet, representing the Istanbul government, decreed an end to the liquidation law [tasfiye kanûn-ı] of the properties of the deported issued during the reign of the Unionists as a violation of the Constitution.

During the Treaty of Sèvres, too, the issue of abandoned property was raised. Article 144 reads:

'The Turkish Government recognizes the injustice of the law of 1915 relating to Abandoned Properties [Emval-i-Metroukeh], and of the supplementary provisions thereof, and declares them to be null and void, in the past as in the future.

The Turkish Government solemnly undertakes to facilitate to the greatest possible extent the return to their homes and re-establishment in their businesses of the Turkish subjects of non-Turkish race who have been forcibly driven from their homes by fear of massacre or any other form of pressure since January 1, 1914.

It recognizes that any immovable or movable property of the said Turkish subjects or of the communities to which they belong, which can be recovered, must be restored to them as soon as possible, in whatever hands it may be found.

Such property shall be restored free of all charges or servitudes with which it may have been burdened and without compensation of any kind to the present owners or occupiers, subject to any action which they may be able to bring against the persons from whom they derived title. [21]

But the Istanbul government itself got liquidated before the legislation was implemented, and the nationalist government gaining strength in Ankara immediately took steps to abolish it. The Ankara parliamentarians were mostly ex-İttihadists. They, along with the local Kurdish elites gathered around Mustafa Kemal Atatürk during the «Liberation War», had two strong motives to join the Ankara government: First, to ensure that they held on to the assets that they had plundered, and to ensure that they prevented these assets from being returned to any surviving Armenians; and second, to escape any prosecution and punishment for "crimes against humanity" by the Ottoman Istanbul government and the Allied forces occupying Istanbul, who were actively searching for them. It's not surprising that one of the first law orders passed by the new parliament on May 8, 1920 was the acquit of those who were suspected on cases of Armenian massacres and deportations.[22]

The Ankara parliament later annulled the Istanbul Parliament legislation, reinstated the İttihadist Liquidation Legislation on September 14, 1922, and appointed new members for the Liquidation Commissions. The term "transported persons" was changed to "persons lost or fled from the country." The legislation stated that if these persons ever returned, they would receive their assets and deposits; otherwise, all assets would be sold with the proceeds going to the state treasury, after verification by the courts regarding lost or fled persons. As the requirement of court verification for lost or fled

persons proved difficult, the legislation was revised on April 29, 1923, giving lost or fled persons, or previous owners, four months (if within the country) or six months (if abroad) to claim their assets. Of course these were never implemented. In the 1920s, it was very difficult for Armenians who owned properties outside Istanbul to protect these properties and to prevent them from being appropriated, as they were required to get a travel permit, which was very difficult to obtain, before leaving Istanbul. On August 7, 1921 during a meeting headed by Mustafa Kemal, a resolution on financial provide for the needs of Kuvva-i Milliye (National army) at the expense of Armenian 'abandoned property' was passed. In addition a secret circular to forbid and in every way possible to prevent Armenians from traveling freely was sent round the country. [23]

The Turkish government began issuing new laws of confiscation. The 1922 Ankara Agreement with France, protecting Armenian property in Cilicia after French withdrawal, became just a piece of paper by a new Turkish law confiscating all "abandoned" property in areas "liberated" from the enemy. In 1922, non-Muslims who would go abroad were not allowed to devolve their properties until the parliament issued a decision. The proxies of those who were abroad were not considered acceptable. Those people who were expelled from their historical lands were not allowed to take or to devolve their accumulations.

In September 1923, the parliament passed legislation openly banning the return of Armenians to Cilicia and eastern provinces of Anatolia/Western Armenia/ by the pretext 'they had emigrated'. With further amendments in a new legislation dated March 13, 1926, the state sold the assets to local Turkish investors with a low 1915 wartime assessment on the assets instead of current values. (It is estimated that the assets value would have increased by more than 12 times from 1915-26.). It was also specified that any returning Armenians would not receive the actual assets, but cash, based on the legislated 1915 valuation. In August 1926, legislation was brought in for the state to nationalize any assets left behind and not claimed by the Armenians prior to the 1924 Lausanne Treaty. [24]

On 15 April 1923, just before the signing of the revised Peace Treaty of Lausanne, a new regulation, the "Law of Abandoned Properties," called for the seizure of all possessions of Armenians no longer living in Turkey whatever the reason or the circumstances of their departure. Many Armenian citizens, including former Mail-Telegraph Minister Oskan Efendi, former Minister of Public Works Hallacyan Efendi and former Minister of Foreign Affairs Noradunkyan, were expatriated and their properties were confiscated with the rationale that they had not participated in the national struggle. [25]

The Treaty of Lausanne signed in July 1923, nevertheless, provided, and still provides, protection to minorities, on condition they are citizens of Turkey. Nevertheless nothing prevented Turkey from depriving certain minority groups of their citizenship. In the wake of its success at Lausanne and the virtual burying of the Armenian question In August 1926 the Turkish Government publicly declared it would keep all property confiscated before the entry in force of the Treaty of Lausanne, that is 6 August 1924. In May 1927 a governmental law authorized the exclusion of Turkish nationality to anyone who had not taken part in the War of Independence and had remained abroad between 24 July 1923 and 27 May 1927. This essentially sealed the fate of Armenian claims for confiscated property. Protests to the League of Nations by the Central Committee for Armenian Refugees from 1925 to 1928 were never acted on and rejected by Turkey. The interests of the Allied Powers were no longer with Armenia, already sovietized. Diasporan Armenians and their friends represented little more than a moral force easily ignored. Armenian property claims were forgot along with the Armenians. [26]

The law No. 882 dated May 31, 1926, enabled families and heirs of "martyrs" ("milli şehid"), officials executed by the Istanbul government to the death sentence for their role in the Armenian deportations, or Ittihadists assassinated by Armenians during the "Nemesis operation", to receive

pensions deemed “blood money” from the revenues of the Armenian assets. Thus, for example, the confiscated apartment belonging to Aram Findikliyan was given to Talat’s wife Hayriye Hanim.[27]

However the most important recipient of the redistribution of Armenian properties was the state itself. A famous example of confiscated Armenian property is the story of the Kasabian vineyard house in Ankara. In December 1921, amidst the Greco-Turkish War, Mustafa Kemal was touring the area when he noticed the splendid house of the wealthy Ankara jeweler and merchant Kasabian. The house had been occupied by the noted Bulgurluzâde family after the Kasabians had been dispossessed and deported. Mustafa Kemal liked the house and bought it from Bulgurluzâde Tevfik Efendi for 4,500 Turkish lira. From then on, the compound has been known as the Çankaya Palace (**Çankaya Köşkü**), the official residence of the president of Turkey up to today.[28]

In addition to the Armenian assets held by the Turkish state, the issue of assets held by individual Turks was the subject of fierce debates in parliament. Since most of these assets were held without any documentation, there were problems in their transfer and sale. On May 24, 1928, new deeds were prepared for the Armenian assets, and on June 2, 1929, new legislation gave the right to title and deed to possessors of real estate for a specified period. Accordingly, any vacant land such as fields, orchards, and farmland held for 15 years since 1914, and any buildings or other real estate held for 10 years since 1919, became the legal property of the individuals who had bought, stolen, occupied, or seized them.

Not all of the individuals who had bought the assets from the state treasury were able to make the required payments. New amendments were approved in 1931 that reduced and then canceled debts and mortgages to the treasury, thereby encouraging the growth of the “Turkified” economy. If not destroyed outright or left to deteriorate, the church and school buildings were converted into banks, mosques, state schools, community centers, stables, or warehouses. Armenian houses were taken over by local Turks and Kurds, or by Muslim refugee settlers from the Balkans. The Armenian economic assets such as farms, orchards, olive groves, stores, factories, mines became the foundation stones of the Turkish economy and the starting capital of most of the wealthy Turkish industrialists of today.

Estimation of properties

It is difficult to assess the value of the Armenian assets seized by the Ottoman/Turkish Republic governments and by individuals, but existing pieces of the puzzle can provide a glimpse into the enormity of the theft. In 1916, the sum of 5 million Ottoman Turkish lira, equivalent to 30,000 kilograms of gold, was transferred by the Ottoman government to the Reichsbank in Berlin. This large sum of money, deposited during wartime, would be the aggregate of Armenian deposits and sums gained from the Liquidation Commissions. There are further unknown gold deposits at the Deutsche Bank. The money, like Hitler’s Jewish gold, was moved out of Turkey and placed in Austrian and German banks. After the war, in an official memorandum presented to the British Prime Minister Ramsay MacDonald on why aid must be given to help Armenian refugees, Sir James Baldwin, former Prime Minister, and Herbert Asquith, its authors, say in paragraph four:

“The sum of 5,000,000 Turkish gold pounds (representing about 30.000 kilograms of gold) deposited by the Turkish government at the Reichsbank in Berlin in 1916, and taken over by the Allies after the Armistice, was in large part (perhaps wholly) Armenian money. After the forced deportation of the Armenians in 1915, their current and deposit accounts were transferred, by government order, to the State Treasury in Constantinople.”[29]

The avidity of the Young Turks was not satisfied merely with bank accounts. In 1916 Talaat Pasha, Minister of the Interior, during a conversation with Henry Morgenthau, asked the ambassador of the United States if he would kindly supply him with a complete list from American insurance companies of the names of all Armenians who held life insurance policies, because, Talaat continued, they are almost all dead without leaving behind any living inheritors. Thus, the money from these policies should rightfully pass to the Ottoman government. Formal notices were sent by the Turkish government to all international insurers working with Ottoman clients demanding a thorough list of all Armenians with life insurance. [30]

In this respect the insistence that major insurance companies open their archives relating to life insurance owned by Jews before and during the Holocaust should be of particular importance to those interested in the rights of the Armenian victims of genocide. Court suits against New York Life Insurance Company and AXA Company are also important precedents on this issue.

Beside bank deposits, stocks, bonds, and insurance policies, that is liquid assets, Armenians in Ottoman Turkey owned other property: individually their homes; yet there are no statistics on the aggregate number of Armenian families who were householders, nor are there approximate data of the number of factories, businesses, stores, and workshops belonging to Armenians. Neither are there proper estimates of how much land Armenians owned; though in the provinces it was considerable. Our knowledge is better for certain towns and villages, but a serious effort to enumerate such holdings still waits to be undertaken.[31]

In terms of real assets, Ittihadist leader Talat Pasha's own records indicate that in 1915, 20,545 buildings, 267,536 acres of land, 76,942 acres of vineyards, 703,941 acres of olive groves, and 4,573 acres of mulberry gardens were allocated to Muslim settlers out of the assets seized from the Armenians. Based on a population loss of 1.5 million, and 10 persons to a family, the loss of houses alone would number at least 150,000. On the other hand, information on community owned property is available. The Catholicosate of Cilicia maintained detailed accounts of its lands and buildings. Among Armenian religious authorities, it lost the most. All of its properties, including the Catholicosate at Sis, was seized or destroyed and the Catholicos and all priest who survived were forced to resettle outside of Cilicia in Syria, and ultimately, Antelias, Lebanon. The Armenian Patriarchate in Constantinople, the official head of the Armenian community who reported directly to the sultan, kept an inventory of the churches, monasteries, and schools under its jurisdiction. In 1912, the Young Turk government ordered the minority communities to prepare inventories of all their assets throughout the Empire. Patriarch Maghakia Ormanian had already provided a province by province record of Armenian churches, monasteries, schools, and population statistics as an appendix to his book *l'Eglise arménienne*, first published in French in 1910. Later, in 1913 and 1914, on the eve of the World War, the Patriarch sent a special mission to the provinces to prepare an up-to-date survey. Those records survive. This information served as the basis for post-genocide calculations of the destruction of Armenian property. Ormanian's list enumerates 2039 functioning Armenian Apostolic churches in the Ottoman Empire, excluding those of Constantinople. Apparently religious edifices belonging to Armenian Catholics and Protestants were not included in this list, although the population of the two communities was.

At the Paris Peace Conference of 1919, the heads of the Armenian delegations, Avetis Aharonian and Boghos Nubar Pasha, presented a joint report entitled "Tableau approximatif des Réparations et Indemnités pour les dommages subis par la Nation arménienne en Arménie de Turquie et dans la République arménienne du Caucase." It spoke of 1860 Armenian churches, 229 monasteries, 1439 schools, 29 high schools and seminaries, and 42 orphanages. Later scholars introduced variants on

these numbers: Kevork Mesrob, 2000 schools; Rev. Adanalian 452 Protestant churches; Haygazn Ghazarian claimed 2050 churches and 203 monasteries; Ardashes Der Khatchatourian, 2300 schools. The most authoritative figures, however, are those carefully compiled by Raymond Kévorkian in the vast 1992 publication co-authored with Paul Paboudjian, *Les Arméniens dans l'Empire ottoman à la veille du Génocide*. The data, largely based on the unpublished archives of the Armenian Patriarchate of Constantinople for the years 1913-1914, list 2538 churches, 451 monasteries, and 1996 schools.[32]

The greatest single loss to the Armenian nation during the genocide, the lives of the victims, cannot be calculated, though a price was assigned them. Monetary assets and property were carefully evaluated in the joint report presented to the Paris Peace Conference. Basing figures on 1,800,000 individuals who were either killed or forced into exile, the «Tableau approximatif des Réparations et indemnités pour les dommages subis par le Nation arménienne en Arménie de Turquie et dans la République Arménienne du Caucase», sought to establish the worth of Armenian possessions left behind. The loss to rural inhabitants, considered to make up three-quarters of the total population, included: buildings (homes, stables, barns, mills); cultivated and uncultivated lands; farm equipment; personal possessions (furniture, clothes, jewelry); annual crop losses; livestock; reserves of food and feed for animals; and capital. The composite result came to 17,000 francs for each of the 270,000 Armenian families living in the country: a total of 4,600,000,000 francs. The estimated value of the damage suffered by the 90,000 Armenian families living in cities (outside of Constantinople) was 36,000 francs per family, or 3,235,000,000. Comparatively less was the proposed worth of the thousands of schools, churches, and other community buildings, 75,000,000 francs. Total property and labor losses were nearly eight billion francs. To this was added the value of human life, nearly seven billion francs, including an assigned value of 5,000 francs for each Armenian killed during the massacres. The grand total of damages expressed in 1919 francs was 14.5 billion. In today's prices it would run into about the 400 billion dollars.

There were 2,900 Armenian settlements emptied of their population; in these settlements, there were 2,300 churches and 700 schools under the jurisdiction of the Istanbul Armenian Patriarchate and the Apostolic Church. Once the Armenian Catholic and Protestant churches and schools are added to this sum, the number easily exceeds 4,000. Most of these churches and schools had their own charitable foundations to generate revenue for their upkeep and maintenance. For example, the Surp Giragos Armenian Church in Diyarbakir/Dikranagerd, one of the largest churches in the Middle East with a large parish and community, owned more than 200 properties in Diyarbakir as part of its charitable foundation. The foundation of the Sanasaryan College in Erzurum/Garin owned several shops and houses in Erzurum, as well as the Sanasaryan Office building in Istanbul, to pay for the school's expenses. The two Armenian hospitals, Surp Prgitch (Holy Savior) and Surp Agop, had vast holdings in Istanbul to pay for the hospital building and staff expenses, as well as to provide subsidized medical care to poor Armenians.

All of these assets, except the two hospitals and some of the Istanbul Armenian churches and schools, disappeared after 1915.

The deposits held by the state treasury on behalf of the deported people was handled by legislation dated May 24, 1928, which legalized the straight transfer of the funds to the state budget, starting with 300,000 Turkish lira in 1928. Based on a proportional increase of the Turkish state budget 920 times from 1928 to 2008, this would be equivalent to 276 billion Turkish lira today, or US\$150 billion. Another 3.9 million Turkish lira from the Armenian deposits was transferred to the state budget by 1931, marked as revenue from the assets or taxes on the assets.

The question of reparations for losses suffered both by individuals and the Armenian nation during the genocide has been studied by several scholars. The Patriarchal statistics and the "Tableau" of the Armenian Delegations to the Peace Conference served as starting points for the examination of international law pertaining to the illegal seizure of property as a consequence of crimes against humanity. The major study on juridical questions is *The Armenian Question and International Law* by Shavarsh Toriguian of 1973, while that dealing with the seizure and destruction of property is Kévork Baghdjian's 1987 work, *La confiscation, par le gouvernement turc, des biens arméniens...dits "abandonnés"*. which incorporates earlier studies. It's worth to mention the studies of Yuri Barsegov and Ara Papyan on the issue.[33]

What is important that last year's not only Armenian and Western scholars are investigating this problem but such Turkish authors as Onaran, Chetinoglu, Ungor and others have also made their input to researching of the problem. Hopefully, such efforts will be continued.

Continuity of seizure

The Turkish government continued the seizure of Armenian assets and the legalization of it up until the 2000s. During the republican period the process of further seizure of Armenian property passed through several stages:

- 1936 Declaration
- 1942 Wealth Tax
- 6-7 September Events
- 1974 Foundation legislation

In 1936, the Turkish government required the non-Muslim minority charitable foundations to submit a list of all their real estate assets to the state, which they did. In 1974, during the height of the Cyprus crisis the Turkish government decreed that any assets not shown on the 1936 lists, that is, properties deeded to the charitable foundations after 1936, are illegally obtained and therefore, must be seized by the Turkish state.

1936 Declaration was a document prepared for eliminating the threat of sharia and for keeping Islamic foundations which were economic basis of these in order. During this practice, non-Muslim foundations too were asked to present a list of their assets. This beyanname (declaration) was remembered in 1974 to pressure non-Muslims due to the *Cyprus Issue* and was transformed into a confiscation measure. An official document was sent to non-Muslim foundations to *bring their foundation contracts*. These foundations do not have contracts since they were established directly by firmans issued by sultans. Foundations General Directorate claims that no foundation can be established without a contract and takes **1936 Declaration** as foundation establishment contract. Thus, the properties that they obtained after 1936, including those were donated to them, were confiscated. As Sait Chetinoglu observes "Non-Muslim community foundations cannot claim their properties or register them. The immovable properties which were registered in **1936 Declaration** and which are at the disposal of these foundations, but not registered on their names in the Land Registry are a problem for them. These immovable properties are used by non-Muslim foundations but are registered as properties of third parties in the Land Registry. This immovable properties are

registered as belonging to 1. people with nicknames, 2. people with fictitious names, 3. people who had donated these properties or left them to a foundation in their wills, but still seem as the owners.

Until 1913 these immovable properties could not be registered in the names of foundations in legal terms, because they were not corporate legal institutions. This opportunity was given with a temporary law which recognized them as legal corporate bodies in 1912. Because of this, non-Muslim foundations had registered these properties as belonging to the leading members of the community or the priests, or given the names of some saints like Meryem binti Ovakim (Ovakim's daughter Miriam) or Kapriyel veled-i Asadur (God's son Gabriel). When the Treasury take the case to the court, and when the angel (Kapriyel veled-i Asadur) did not come to the court hearings no matter how loud their names were cried in court halls, the property was transferred to the Treasury. The Treasury especially targeted properties like this to start the judicial process...There also happen weird events: some foundations find real persons (like Ovakim's daughter Miriam) named as saints to ensure that the property will continue to be at the disposal of the foundation though it can still not be registered in its name and apply to the court for registering the properties in their name. Miriam who registers in her own name sometimes do not care about her part of the deal and seizes the property herself." [34]

Foundations General Directorate turned appropriating the administration of non-muslim foundations into a consistent measure without court ruling by deciding that they "no longer make charity service". Moreover, this systemic appropriation was realized by the prevention of elections and then by confiscation of properties with the claim that *the foundations fail to organize elections* properly.

In 1942 during the Second World War Wealth Tax decree was enforced as a mechanism of economic discrimination of minorities. . Armenians were expected to pay a tax amounting to 232 per cent of the value of their belongings. The rate for Muslims was 4,92%. Those who could not pay these astronomic amount were sent to Erzurum to work in road building and snow cleaning in the winter and to the work camps in the hottest region of Anatolia in summer. It is not known how many of these wealth tax victims whose ages were over 50 died. According to Chetinoglu "Wealth Tax was a measure of economic and cultural genocide which extorted all belongings of minorities including their subsistence tools". [35]

The bloody pogrom took place in 6-7 September 1955. In 6-7 September, a huge looting attack against Greek and Armenian citizens was organized in Istanbul to enforce Turkey's hand in the tripartite conference in London for Cyprus Issue. The results of the events soon came out. According to Turkish media, 11 people were killed, but only the names of 3 people were declared. The number of those who were injured was 50 according to official numbers, according to non-official accounts it was 300. It is estimated that more than 200 women were raped. During the events, many buildings and shops of Greeks and Armenians were attacked: 5.300 according to official numbers, around 7.000 according to non-official accounts. The minimum estimate of financial loss was 150 million liras, the maximum was 1 billion liras in value of that time. Those people who had to leave their historical lands during these events left everything behind and headed to uncertainty.

With legislation brought in 1974, more than 1,400 legally obtained assets of the Istanbul Armenian charitable foundations since 1936, were declared illegal and seized by the state, thus suddenly depriving the foundations from their beneficial uses and revenues.

Destruction of monuments

The logical consequence of Genocide was to complete it by removing forever any association of the Armenian people with their historical homeland. Thus, the name Armenia was completely dropped from all Turkish maps and documents; when it inadvertently surfaced, in textbooks or popular literature, the edition was confiscated and destroyed.

In all parts of the former Ottoman Empire under Turkish control, except Istanbul, which has a high tourist profile and an Armenian community, the Genocide has been persistently pursued by eliminating all Armenian cultural remains or depriving them of their distinguishing national content.

Armenian churches as witnesses to national life, represented intolerable embodiments of the historic Armenian presence. Religious monuments of the victims are a great embarrassment to the perpetrators of genocide; the greater their number the more difficult is the campaign of disinformation. For this reason all Armenian monuments were and are threatened. There is a huge amount of materials showing visual proof of the destruction of a large number of monuments, but in this paper we will only summarize some of the ways Armenian churches suffered, and still suffer, ruin or neutralization.

1. Willful destruction by fire or explosives of churches, civil buildings, and homes during the period of the massacres. Nearly every Armenian region was affected. During the years 1915-23, some 1,000 Armenian churches and monasteries were leveled to the ground while nearly 700 other religious structures were half-destroyed.
2. Subsequent, but conscious, destruction of individual monuments by explosives or artillery.
3. Destruction by willful neglect and the encouragement of trespassing by peasants. It is well known that the finely cut stones used on the facades of Armenian churches make perfect prefabricated building material.
4. Conversion of Armenian churches into mosques, museums, prisons, sporting centers, granaries, stables, and farms.
5. Destruction by failure to provide minimal maintenance. All remaining Armenian churches in Turkey are endangered by this neglect.
6. Demolition for the construction of roads, bridges, or other public works.
7. Neutralizing of a monument's Armenian identity by effacing its Armenian inscriptions.
8. The intentional reattribution of buildings, especially of monuments of touristic importance, to Turkish, usually medieval Seljuk, architecture.

Turkey continues its policy by allowing this destruction while being a member of the international community through its subscription to various international treaties on the protection of minority rights and monuments. On 7 January 1969 Turkey signed the International Treaty for the Preservation of Cultural Monuments, which includes clear provisions for the care and preservation of minority cultural monuments. Many have suggested that UNESCO, with a vast section devoted exclusively to the preservation of historical monuments, play an active role in the safeguarding of at least those edifices of recognized importance to the general history of art. But UNESCO cannot engage in conservation unless the government ruling the area in which the monument stands invites it to intervene.[36]

When the Turkish state decided to restore the Akhtamar Holy Cross Church in Van, it did so only by converting it to a state museum and the permission for holding liturgy only once a year. When the Armenian communities raised funds worldwide to restore the Surp Giragos Church in Diyarbakir as a working church, the Turkish state refused to provide any funding. The process of reclaiming the 200 properties belonging to the Surp Giragos Church is ongoing through the courts and negotiations with the Diyarbakir city government. The Istanbul Armenian Patriarchate decided to go to court to reclaim the Sanasaryan Office building in Istanbul as the first test-case related to the return of an Armenian asset seized in 1915. But the government is vigorously challenging this case, as it may set a precedent for multiple claims to follow. Sanasaryan Foundation is an interesting example worth to be mentioned. The Sanasaryan High School in Erzurum, which provided education of such high caliber that it even surpassed the Istanbul Armenian schools in the late 19th century, was closed down in 1915. It is still a little known fact in Turkey that Mustafa Kemal Ataturk, when drumming up support and organizing the resistance to the Allied occupation of Anatolia, convened the famous Erzurum Congress in this Armenian school in July-August 1919. The Sanasaryan School Foundation, had built and owned one of the largest office buildings in Istanbul in the late 19th Century, in order to support the Sanasaryan School in Erzurum. It is also a little known fact that the famous Sanasaryan Han Office Building in Istanbul was seized first by the Ottoman and then the Turkish Republic governments and converted into the General Security and Police Headquarters of Istanbul. This building became notorious for the imprisonment, torture and murder of hundreds of intelligentsia during the military government regimes in the 1970's and 1980's.[37]

One of the latest examples of destruction is St. Astvatsatsin (Holy Mother of God) Armenian Church on Mount Maruta, Sasun. Some 100 Armenian pilgrims from Armenia and Turkey visited St. Astvatsatsin Armenian Church on Mount Maruta to light candles and offer a prayer on July 30. Several days later the church's entrance and ceiling were reported to have been partially destroyed by unidentified people. It was reported later that the order was given by local authorities because some of the participants were carrying the Armenian flags.[38]

Discussion on Armenian property and the government steps

The issue of Armenian properties confiscated during and after Genocide was silenced for a decades in Turkey, it was "taboo within taboo". The whereabouts of the dossiers belonging to above mentioned Liquidation Commissions is a mystery. As Raffi Bedrosyan emphasized, the Turkish state, which boasts that all their archives are open (and persistently calls for Armenian archives to be opened even though they are, in fact, open), continues to keep these crucial records of Armenian assets a secret. Interestingly, in 2005 when the present Turkish government attempted to comply with European Union (EU) modernization initiatives by translating, digitizing, and opening up the old Ottoman land registry and deed records to the public, it was prevented from doing so by a stern warning-dated Aug. 26, 2005-from the security department of the Turkish Armed Forces* (**MGK Seferberlik ve Savas Hazirlıkları Planlanma Daire* – special department in the structure of the National Security Council). "The Ottoman records kept at the Land Register and Cadaster Surveys General Directorate offices must be sealed and not available to the public, as they have the potential to be exploited by alleged genocide claims and property claims against the State Charitable Foundation assets," read the warning. "Opening them to general public use is against state interests." [39]

However this information leaked out and the “taboo” issue started to be actively discussed in Turkish media. [40]

On April 24, 2010 a groundbreaking two-day conference on the Armenian Genocide began at the Princess Hotel in Ankara.

The conference, organized by the Ankara Freedom of Thought Initiative, attracted around 200 attendees, mostly activists and intellectuals who support genocide recognition. Among the prominent names from Turkey were Ismail Besikci, Baskin Oran, Sevan Nishanian, Ragip Zarakolu, Temel Demirer, and Sait Cetinoglu. The foreign scholars and activists who were scheduled to speak were David Gaunt (genocide scholar, author of *Massacres, Resistance, Protectors: Muslim-Christian Relations in Eastern Anatolia During World War I*), Henry Theriault (professor of philosophy, Worcester State University), Khatchig Mouradian (doctoral student in Holocaust and genocide studies, Clark University; editor, the Armenian Weekly), Harry Parsekian (president of Friends of Hrant Dink in Boston), and Eilian Williams (writer and activist from Wales). All of them spoke on the panels dealing with “Armenian property and the historical context”, “Reparations: Unjust or Indispensable?” and “The Armenian Issue: What is to be done and how?”

It was the first time that a conference on the Armenian Genocide that did not host any genocide deniers was held in Ankara. Moreover, the conference did not simply deal with the historical aspect of 1915. For the first time in Turkey, a substantial part of the proceedings was dedicated to topics such as confiscated Armenian property, reparations, and the challenges of moving forward and confronting the past in Turkey.[41]

For many years Turkish state was adamant in its unwillingness to allow the property issue to be researched or “touched”. But as “the genie was out of the bottle” it became possible for Turkey’s Armenians to discuss openly the problems of confiscated community properties and take up legal struggle for reparation of the unjust practices of the past.[42]

However in the last three years, the Turkish state has taken some steps to reverse the process of nationalizing Armenian assets. After losing several cases (taken by Istanbul-Armenian charitable foundations to the European Human Rights Court), related to the seizure of assets, and a pressure of international community last year the state recently announced that 162, or about 10 percent, of the assets seized after 1974 would be returned to the Armenian charitable foundations.

According to the decree of 2011, which was published in the Official Gazette (Resmi Gazete) minority foundations would be able to reclaim real property that they had declared back in 1936, as the “expropriation acts were in violation of both the Lausanne agreement and property rights.”

All real property, cemeteries and fountains “will be returned to their rightful holders. Immoveable property currently belonging to third persons will also be paid for”. Minority foundations had to apply to the Turkish authorities within 12 months to reclaim their property.

The government’s move has been welcomed by great joy among non-Muslim communities. Markar Esayan, a journalist of Armenian background, has said “the move is of particular importance because it shows that the mentality of the state is undergoing a transformation in addition to making up for the unfair practices that were imposed on non-Muslims by the state for a long time”. Ayhan Aktar described the government decision as a “revolutionary one”. [43]

Although this was an encouraging first step, there was no mention of any return of the assets seized in 1915. And the figure of 162 pales in comparison with the hundreds of thousands of seized assets. That’s why while this decree was hailed by the EU, Turkish media as well as the minority charitable

foundations in Turkey; it was met by the Armenian Diaspora as an insufficient gesture. According to the Turkish expert Sait Chetinoglu's critical estimation "this last decree law regulations about non-Muslim foundations are regulations regarding non-Muslim foundations, but they do not bring a solution regarding the real nature of these problems and do not provide a ground for the return of confiscated properties which were illegally seized." Here are some of his argumentations: "Foundations General Directorate turns appropriating the administration of non-Muslim foundations into a consistent measure without court ruling by deciding that they "no longer make charity service". Moreover, this systemic appropriation is realized by the prevention of elections and then by confiscation of properties with the claim that *the foundations fail to organize elections* properly. What is more there is not an institution for appeal against these systemic extortions. Most of the cases related to the properties that are registered in the **1936 Declaration** but still in a problematic situation in terms of ownership are taken to the ECHR in Strasbourg. Turkey accepted ECHR as a judicial authority in 1987 and stated that the problems that took place before this date cannot be taken to this court.

According to the temporary article number 11 of the bill law, *the foundation properties which were registered in the 1936 Declaration but the owners of which were not stated in official documents and those properties which were registered in the 1936 Declaration but which were appropriated for confiscation, sale and barter* were excluded. The properties which were appropriated through confiscations that were carried out as extortions were then given to public institutions and private bodies. Pangalti Armenian Cemetery (Surp Hagop Cemetery) is an example of this extortion. Today there are many buildings belonging to private or public bodies, Turkish Radio and Television, Military Museum, Hilton Hotel and Divan Hotel, in the land of this cemetery which was appropriated through confiscation. This property which is located in the most precious center of Turkey cannot be reclaimed or returned, as it was confiscated in 1934. The temporary regulation does not include these kind of cases which happened before the enactment of 1936 Declaration. This bill law does not present a solution for the confiscated properties which were not registered in the **1936 Declaration**.

The bill law also does not mention any arrangement regarding the return of cemeteries and fountains which were registered in **1936 Declaration** but registered as belonging to public institutions. First of all, these cemeteries were devolved to local governments in order to be used as food markets, bazaars for the sale of wood, coal and animals in the 1920s, despite the fact that they were protected by the Lausanne Agreement. With some decrees cemeteries were given to local governments, but the stones and marbles of graves were picked out. Marbles and stones were used in decoration. Despite the fact that the government of Turkey guaranteed to "protect cemeteries of non-Muslims in full terms" in Lausanne article 42/3, many public buildings and Sabanci Mosque were constructed upon Adana Armenian Cemetery. Secondly, as cemeteries were not considered as properties, they were not registered.

Besides these, for taking a property, which carries all these conditions, back, a foundation needs to get a positive opinion statement from Foundations General Assembly, as this additional condition is "indexed to the conjuncture", the return is very difficult in practice.

The term of "properties at their disposal" in the temporary article 7 is very problematic, because those properties which were registered in **1936 Declaration** but were taken away from them is not at their disposal. The Decree does not bring any regulation about the rent revenues of long extortion years, and does not include any articles regarding what will be done against unlawful collections of these revenues. In sum, it is possible to say that confiscation becomes legalized and the toleration against those who take their share from the cake of the properties of foundations continues." [44]

Below is a partial list of the Armenian charitable foundation assets to be returned by the government:

1. Gedikpasha Armenian Protestant primary school – the building is already demolished, at present used as a park
2. Gedikpasha Armenian Protestant Church – one apartment building in Kumkapi, a restaurant, a playground
3. Surp Harutyun Armenian Church – several flats in Beyoglu
4. Ferikoy Surp Vartanants Church – an apartment building and a vacant lot in Sisli
5. Kurucheshme Surp Khatch Yerevman Church – one building in Arnavutkoy
6. Kumkapi Surp Harutyun School – a store in Kumkapi and a store in Kadikoy
7. Kumkapi Mayr Asdvadzadzin Church – a flat in Eminonu
8. Yenikoy Surp Asdvadzadzin Church – a vacant lot in Istinye
9. Bomonti Mkhitaryan Armenian Catholic School – school buildings, two shops and a flat in Sisli
10. Yedikule Surp Prgitch (Holy Saviour) Armenian Hospital – a total of 19 properties, including one building lot, a house and four shared lots in Sariyer, a residential building in Moda, 2 residential buildings in Sisli, one flat in Beyoglu, one store in Kapalicarsi Covered Bazaar, a house in Uskudar, one apartment building, one flat and a warehouse in Kurtulus, a four storey hotel in Taksim, a retail and office commercial building in Beyoglu, a flat in Chamlica, a 47,500 sq. m. vacant lot in Beykoz, and a 44,000 sq. m. land adjacent to the Hospital, formerly the gardens of the Hospital, presently used as Zeytinburnu Soccer Stadium, a sports building, a parking lot and a tea garden, and the valuable office building called Selamet Han in Eminonu, Istanbul, which was donated in 1953 by well known businessman and oil magnate Caloust Gulbenkian.

Today, a year after the 2011 decree was proclaimed, we can state that the skeptical prognosis about the implementation of this law came true: during the prescribed term 430 asset petitions from 56 charitable minority foundations were submitted. Only 51 of those were returned and only 1 received a financial compensation.[45]

Evaluations and recommendations

Turkish recognition of the Armenian Genocide has been an enduring goal of Armenian communities at home and internationally. Yet, the political, financial, and legal consequences that might emerge in the wake of recognition have not been fully articulated. During the discussions on the Armenian Genocide the topic of reparations has, for far too long, been the proverbial «elephant in the room». Although the topic is virtually on everyone's mind, it tends to be left largely unaddressed or ignored for one reason or another

Recently, scholars and lawyers have pursued concrete efforts to secure reparation, restitution, and compensation.

One of the most dramatic events in the aftermath of the Holocaust has been the recent success in having European governments and corporations pay restitution for unjust financial activities carried out before and during World War II. As a result of the \$1.25 billion agreement with Swiss banks in August 1998, the newly revived Holocaust restitution movement expanded to other Nazi-era wrongs,

including German and Austrian corporations' use of slave labor; European insurance companies' failure to pay policies belonging to Holocaust victims; French, British, and American banks' roles in the "Aryanization" of accounts in their branches located in Nazi-occupied Europe; and the possession of stolen art by museums worldwide.[46]

As a result of the settlements made with European private and public entities, claims are now being made regarding other historical wrongs. Japanese companies and the Japanese government are being sued for their wartime atrocities; survivors of the Armenian Genocide are seeking compensation from American insurance companies for their failure to pay insurance policies issued to Armenians in Ottoman Turkey in the early twentieth century; and some African Americans are demanding redress for injustices stemming from slavery. The African-American reparations movement had remained largely dormant until it began emulating strategies used in Holocaust restitution.

Other real and debatable historical injustices—long forgotten, except, of course, by the victims or their heirs—also are being reexamined. A dramatic example is the increasing call by Sudeten Germans for restitution and for restoration of their properties in the former Czechoslovakia. No one could have imagined in 1995, when the first claims were made against the Swiss banks, that the matter of restitution would engulf most of Europe.

Exploring the question of historical wrongs in his book *Gilt of Nations* Elazar Barkan describes the painful moral dilemma faced by Holocaust survivors and Israeli officials as they try to determine whether such moneys should be accepted, or even whether it is appropriate to discuss how much the German Federal Republic should pay for the horrors committed by the Nazis. Barkan labels this "the Faustian predicament." [47]

Thus «for some, the idea of reparations is a radical "dream"; an impossible and fanatic proposition which takes away from the more feasible task of achieving recognition. It is taken for granted that the most Armenians can reasonably hope for is acknowledgment and an apology from Turkey. Among many such individuals, the cause of reparations is looked upon with automatic disapproval and disdain. On the other side of the spectrum, there are those who maintain that recognition without reparation is meaningless; that the Turkish government must «pay for the crimes it has committed» and not be allowed «to walk away scot-free».[48]

However many individuals, historians, lawyers, organizations or politicians argue that, not only are reparations far from being an unreachable goal, they are the only practical means for effectively bringing the Genocide issue to any sort of a **just resolution**.

They also argue that there are **legal ways for Armenians to reclaim their lost properties**, with or without Turkish recognition of the Armenian Genocide. Below we present the observation of some principal argumentations on this issue.

Because of the continuing character of the crime of genocide in factual and legal terms, the remedy of restitution has not been foreclosed by the passage of time

The punishment of the crime of the Armenian massacres, as well as the obligation to make restitution to the survivors were envisaged by the victorious Allies of World War I and were included in the Peace Treaty of Sèvres, signed by the Ottoman Empire alike. The treaty contained not only a commitment to try Turkish officials for war crimes against the Allied Nations, but also for crimes committed against subjects of the Ottoman Empire of different ethnic origin, in particular the Armenians, concluded in the texts as Crimes Against Humanity. While it was never ratified, many experts share the thoughts of Henry C. Theriault who thinks: ...some of its elements retain the force of law and the treaty itself is not superseded by the 1923 Treaty of Lausanne. In particular, the fixing of the proper borders of an

Armenian state was undertaken pursuant to the treaty and determined by a binding arbitral award. Regardless of whether the treaty was ultimately ratified, the committee process determining the arbitral award was agreed to by the parties to the treaty and, according to international law, the resulting determination has legal force regardless of the ultimate fate of the treaty. This means that, under international law, the “Wilsonian boundaries” are the proper boundaries of the Armenian state that should exist in Asia Minor today.[49]

It should be emphasized that Armenia has never issued a declaration regarding land claims since its independence.

The United Nations Basic Principles and Guidelines on the Right to Reparation for Victims of Gross Violations of Human Rights and International Humanitarian Law provide in part:

Reparation may be claimed individually and where appropriate collectively, by the direct victims of violations of human rights and international humanitarian law, the immediate family, dependents or other persons or groups of persons closely connected with the direct victims.

According to Professor Alfred de Zayas while current members of Turkish society cannot be blamed morally for the destruction of Armenians, the present-day Turkish Republic, as the successor state to the Ottoman Empire and as beneficiary of the wealth and land expropriations brought forth through the genocide, is responsible for reparations. Professor de Zayas states the following:

The lands, buildings, bank accounts and other property of the Armenian communities in Turkey were systematically confiscated. Should there be no restitution for this act of mass theft, accompanying, as it did, the ultimate crime of genocide?

Pr. de Zayas states that the restitution of confiscated Armenian property remains a continuing State responsibility also because of Turkey's current human rights obligations under international treaty law, particularly the corpus of international human rights law. Particularly important are Principles 9 and 12 that state that civil claims relating to reparations for gross violations of human rights and international humanitarian law shall not be subject to statutes of limitations (article 9), and that restitution shall be provided to re-establish the situation that existed prior to the violations of human rights or international humanitarian law. The restitution requires, *inter alia* - return to one's place of residence and restoration of property.

For reparations of gross violations of human rights, two other general principles are relevant: the principle of *ex injuria non oritur jus* (translation: from a wrong no right arises), meaning that no State should be allowed to profit from its own violations of law, and the principle of “*unjust enrichment*”. It is a general principle of law that the criminal cannot keep the **fruits of the crime**. [50]

Despite the recent large experience and advance in dealing with similar issues, (for instance, the case with the Jewish survivors of the Holocaust), there are ascertains that the existing legal background provides *insufficient mechanisms for the resolution of the subject issue* unless mutually agreed on. There is little doubt that Turkey will join any discussion concerning its responsibility towards the victims as it continued to deny the very fact of Armenian Genocide.

One of my Turkish colleagues has consulted to lawyers and legal scholars in Turkey to get answers to the question whether Turkey can be brought an international court of law and sentenced to restitution and material compensation.

Here is the synopsis of their collective opinion:

1. As regards passing judgment on crimes of genocide the first court to consider is the International Criminal Court. Turkey does not recognize the power of this court as yet. Let us think for a moment that Turkey recognizes the authority of this court soon. Still engaging this court for the assumed crime is impossible. This is because the International Criminal Court works on the principle of “individual penal (or criminal) responsibility” of the alleged perpetrators. In case Turkey recognizes the power of litigation of the ICC and even if court decisions work retroactively, none of the alleged perpetrators are alive today. Hence initiation of a case at the ICC is virtually impossible because the persons who bear responsibility for the deeds of 1915 are all dead.
2. As regards obtaining a judgment from the International Court of Justice (ICJ) to litigate Turkey for past deeds before its legal and political existence, this venue has been closed by the previous (2003-2004) efforts of the Armenians to bring cases against Italy and other European countries. ICJ has found these appeals to be too “abstract”. According to Orhan Kemal Cengiz, a lawyer with expertise on human and minority rights, Prof. William Schabas (Irish Centre for Human Rights), an internationally recognized scholar on international criminal and human rights law has stipulated that only Turkey can incriminate itself at the afore mentioned court. No other actor can do it.” (Source: Orhan Kemal Cengiz, “Ermeni Soykırımı ve Toprak Talepleri” [Armenian Genocide and Land Demands], Radikal, 9-4-2012 and “Hukuk, Tazminat ve Çözüm” [Law, Reparation and Solution], Radikal, 10-4-2012)
3. Neither is it possible to bring a case before the European Court of Human Rights (ECHR) on the grounds of genocide. This court sees only cases concerning violations involving the European Convention on Human Rights. Some cases were brought before this court concerning the confining clauses of the Turkish Penal Code (such as Article 301) that forbid the discussion of the ‘Armenian problem’ in Turkey. Such cases may continue to be pursued. But these were all on the matter of restricting freedom of expression, not the act of genocide that lies outside the jurisdiction of the ECHR.
4. Nearly a century has passed since the unfortunate events. Even though legal matters such as time elapsed or time limitations may be overcome by innovative methods, litigation of the matter is still legally impossible at newly created special criminal courts such as Nurnberg because Turkey is not presently in an armed confrontation with any concerned party.

All the above are related to existing international law and legal institutions. However new venues and procedures may be created within national legal systems according to Orhan Kemal Cengiz. In fact, the recent court cases against American, Turkish, and French insurance and private companies; the decision of the U.S. Congress to urge Turkey to return churches and church-related properties to their owners, and the Turkish government’s decision on Aug. 27, 2011 decided to return to the minorities the properties confiscated since 1936, are functional examples in this regard. International law is not very functional for the reparation of Armenian losses but “national legal venues may be created to entice Turkey to take a more responsive stance against Armenian losses and suffering. Such a venue may end the a-political position of Turkey” says Orhan Kemal Cengiz (ibid).

The Armenians have undoubtedly a strong and legitimate claim to receive reparation from Turkey for the material and moral injury that accompanied the genocide.

It is only normal that Armenians should continue to press their demand for reparation in the form of restitution of their cultural and religious heritage, including churches and monasteries, compensation for destroyed property as well as for the immense moral suffering endured, and a measure of satisfaction in the form of an **official apology from the Government of Turkey** and recognition of

their status as victims of genocide. This right to the various levels of reparation can and should be invoked by the survivors of the descendants of the Armenian genocide both in Armenia and in the diaspora. The government of Armenia should become a more active in the field and utilize its position as a world player to pursue the international recognition of the Genocide. After all, this matter is etched into Armenia's Constitution and whoever ascends to the leadership of the country, must make this a priority

By the same token, the push by the Diaspora for the recognition of the Armenian Genocide should take on renewed impetus and be based on the logic that reparations and restitution for the Genocide go hand-in-hand with its recognition.

As Alfred de Zayas states the fact is that the Armenian claims did not arise with these instruments and judgments, but were already in existence in 1915 and were recognized internationally. Nevertheless, these norms are not always self-executing and may require legislative action in order to identify the specific legal basis and establish the proper forum where claims for restitution and reparation may be adjudicated. What is most needed is the **political will of governments** throughout the world to ensure that appropriate legislative and judicial measures are taken in order to implement the applicable norms of international law. For this political will to materialize, it is necessary to **mobilize civil society** in all countries, **to educate through the universities, high schools and the media, and to appeal to the overarching principle of human dignity from which all human rights derive.**

Law is not mathematics, continued Pr.Zayas. And the norms – as good as they may look on paper – are certainly not equivalent to their enforcement. On the other hand, the non-enforcement of norms, even for a prolonged period of time, does not detract from their validity. **It is the right of an aggrieved people to continue pressing the claims until they are satisfied.**

In this connection it is useful to recall that in 1993 President Bill Clinton issued an apology to the people of Hawaii for the crimes and abuses committed in connection with the overthrow of the legitimate government of the Hawaiian Queen one hundred years earlier, in 1893. Similarly, on 13 February 2008 the Prime Minister of Australia Kevin Rudd issued an apology to the Aborigines of Australia for the injustices visited upon them. It should be noted that title to huge areas of Australia has been returned to the Aborigines, who are now administering these territories in cooperation with Australian authorities. Thus, even “historical inequities” can be partly redressed provided that there be a modicum of good will. Indeed, over the past decades the various governments of Germany have issued countless apologies to the governments and peoples of Israel, Poland, Czechoslovakia, Belgium, the Netherlands, France, etc. in connection with the Holocaust. Germany has also made meaningful reparation in the form of both restitution and compensation to the survivors of the victims of the genocide.

In obtaining reparation the Armenians should **also appeal to international solidarity and to the erga omnes obligation not to recognize the effects of war crimes and crimes against humanity.**

Article 10 of the *United Nations Draft Declaration on the Illegality of population transfers* of August 1997 stipulates:

“Where acts or omissions prohibited in the present Declaration are committed, the international community as a whole and individual States, are under an obligation: (a) not to recognize as legal the situation created by such acts;

Of particular relevance to the Armenians are *the Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law*, adopted by the General Assembly in its Resolution

60/147 of 16 December 2005. Section VII, paragraph 10 of the Basic principles stipulates: “Remedies ... include the victim’s right to the following as provided for under international law:

“(a) Equal and effective access to justice

(b) Adequate, effective and prompt reparation for harm suffered,

(c) access to relevant information concerning violations and reparation mechanisms.”

Paragraph 17 stipulates:

“States shall, with respect to claims of victims, enforce domestic judgments for reparation against individuals or entities liable for the harm suffered and endeavor to enforce valid foreign legal judgments for reparation in accordance with domestic law and international legal obligations. To that end, States should provide under their domestic laws effective mechanisms for the enforcement of reparation judgments”

One problem is that of **non-self-executing international norms**. This is why Austria and Germany have adopted laws related to the restitution of objects to victims, as has the United States in the form of its Law on Restitution for the World War II Internment of some 120,000 Japanese-Americans and Aleuts.

Since only a state that has accepted the jurisdiction of the International Court of Justice may submit a case to it, it is **the responsibility of politicians** to propose such legislation in parliaments, e.g., to make Armenian claims against Turkey justifiable in local courts.[51]

Some experts discuss the issue of reparations in relevance with the **security** problems or an asymmetrical domination relation between Turkey and Armenia as the direct or indirect product of the genocide.

As they point out, Turks today enjoy economic power built in part on the massive amount of expropriated wealth taken from Armenians and on land depopulated of Armenians. Not only has the wealth been passed down through the generations, it has been the basis for further economic development. This gain has been matched by the increasing loss of not only the initial wealth and land, but all the economic gains that would have been made with it by Armenians.

A decade ago, many of those considering the issue of the Armenian Genocide, including some deniers, recognized that some kind of development on the issue was necessary. Desires for a resolution of the issue were loaded into a vague notion of “dialogue” that dominated for a number of years. Hoped-for progress in Turkish-Armenian dialogue was presented as the path to the resolution of the Armenian Genocide issue. **Dialogue about dialogue**, however, **did not engage** substantively the **issue of justice**—or, in fact, that of differential power between Turks and Armenians in their national dimensions. Some in the Armenian community, echoed by a few voices in Turkey such as Ragip Zarakolu and Temel Demirer, raised this challenge. The Armenian Genocide should be addressed **not with just any resolution, but with a just resolution**.

By perhaps three years ago, a critical mass of Armenians followed other victim groups in recognizing the importance of justness in any resolution of genocide, slavery, Apartheid, etc., and reparations as the most obvious and productive means of gaining that justice. As a result, reparations is now recognized as a legitimate concern regarding the Armenian Genocide. While in previous eras, the question was whether or not the concept of reparations would even be allowed a minimal presence in

discourse concerning the Armenian Genocide—in scholarly works on it, in commemoration programs, in political discussions, etc.—the issue is now no longer whether reparations for the genocide will be a topic of discussion, but instead whether **reparations are a requirement for a just, long-term resolution of the Armenian Genocide**. Some genocide scholars, Armenian Genocide scholars, Turkish scholars, Turkish political activists, Turkish community members, Armenian community members, and others still reject reparations as a component of a just resolution, but even they **now recognize that formulation of a legitimate plan for resolution of the Armenian Genocide issue must go through a consideration of and debate about reparations**.

As conceived by the Armenian Genocide Reparations Study Group and explained in its draft report, reparations are not about a cash payment. **Reparations are about the Turkish state and society taking responsibility** for the ways in which they have benefited from the Genocide territorially, economically, politically, militarily, etc., and how much Armenians continue to be affected in terms of their identity, psychologies, culture, political prospects, economics, and more; reparations are about addressing both the **morally wrong benefits** and the desperate political and material needs of Armenians and their undermined identity and dignity resulting from the Genocide. These problems must be addressed, if not fully, at least to a reasonable degree, to change the horrific legacy of the Armenian Genocide. Reparations, by their opinion, are the most appropriate means to do this. Offering substantive reparations would be **a choice by the Turkish state and society** to make some kind of meaningful sacrifice to share the burden of genocide in some very partial ways with Armenians, for whom the burden will always be much more than for Turks, even if Turks do as much as possible to address the genocide's outstanding harms.[52]

As another author indicates «the matter of reparations has profound meaning for the security and viability of the Armenian Republic. Let us not forget that the motivation behind the Genocide itself was to destroy Armenians as an entity in the region. The present borders of Armenia were purposely designed under pressure from Turkey as a way of reducing the country into one incapable of surviving on its own. Such a policy of aggression was fueled by an institutionalized prejudice against Armenian national self-determination which continues to manifest itself in Turkish society to this day. Changing this reality will require more than a mere symbolic apology or recognition of historical facts.» [53]

Various reparations proposals do exist. Many Armenians demand a restoration of the Turkish-Armenian border as demarcated by former United States President Woodrow Wilson in his Arbitral Award and a hefty amount of cash reparations. Some demand a land corridor between Armenia and the Black Sea in order to ensure the long-term viability of the Armenian state, while others only want the symbolic inclusion of Mount Ararat in Armenia and a formal apology by Turkey. Ümit Kardaş, a retired Turkish military judge, proposes the unconditional opening of the Turkish-Armenian border, as well as an invitation by the Turkish state to all Armenians living in the diaspora to settle in their ancestral lands in Turkey.[54]

The report of AGRSG discusses multiple options regarding land return, from a symbolic return of church and other cultural properties in Turkey to full return of lands as designated in the Treaty of Sèvres. The report includes the very innovative option of allowing Turkey to retain political sovereignty over the lands in question but demilitarizing them and allowing Armenians to join present inhabitants with full political protection and business and residency rights.

As it's seen there is no consensus on this issue. But it is obvious that the formal recognition of the Armenian Genocide is a **conditio sine qua non** for any attempt or process aimed at restoration of justice.

Recognition and reconciliation are impossible without an open dialogue on inter- state and societal level. And, as it was pointed out during one of the workshops in Turkey «this is one of the most important and challenging issues that must be faced today, because it requires to question the origin of certain wealth, which will very likely be met with some strong resistance.»[55]

Despite all these challenges, ‘coming to terms with ’ and thus ‘overcoming’ 1915 will, in general, be a positive contribution to Turkey’s political culture, because unfortunately the political and intellectual circles today in Turkey have still not purged itself from the logic of extermination of the other. Throughout its history, after 1915, Turkey continued to witness massacres – such as the massacres of Dersim, Maraş, Çorum and so on. As one of the participants said, since there was no coming to terms with the “biggest” incident, “smaller” ones followed it.

The events of 1915 were an act of exterminating what was different; legitimizing or turning a blind eye to this act today will mean acknowledging the extermination of what is different by the powerful and taking it as something ordinary. [56]

While solving the issue which is called as the ‘Armenian Question’ in Turkey, it is important to **talk with the diaspora, Armenia and the Armenians of Turkey** on equal conditions , listen to and try to understand the other side.

The most important **platform for inter-state dialogue** is, undoubtedly, **diplomatic relations**. The lack of any such official relations between Turkey and Armenia makes dialogue difficult. Moreover, the attempts of Turkey to put pre-conditions or pressure upon Armenia ended with a failure of steps aiming to institute a normal diplomatic relationship between two countries. Armenia has learned how to live with closed borders, and hence it will not allow the borders to be opened “at whatever cost”. It would not yield any results to propose Armenia to **forget about the genocide or leave Karabagh in return for opening borders**.

In such circumstances the **dialogue on civil society level** aiming to create «the islands of mutual understanding and evaluation of the shared past» becomes crucial. It is important to **encourage universities and institutes** to pursue broader research on matters pertaining to the Genocide, it's legal aspects, preferably with the engagement of third-party scholars. It is also important to **have a support of donor organizations** to NGO projects and independent Turkish- or Armenian- led scholarly endeavors to research and discuss different aspects of the 1915 events with the focus of influencing public opinion for Armenian-Turkish Reconciliation.

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