Introduction

On 27 May 1915 the Ottoman government, using the ongoing world war as a pretext, made the decision to deport its Armenian citizens to the regions of Syria and Iraq, which at that time were Ottoman provinces. However, the true aim was not to change the locations of the Armenians, but to annihilate them.[1] This deportation and destruction also gave rise to an important question: What was going to happen to the properties the Armenians left behind? How would they be administered?

A series of laws and decrees were issued in order to deal with this question. The main idea was that the state should take over these properties and liquidate them based on certain priorities, including their distribution among the Muslim population. Since the entire operation was portrayed as an "involuntary deportation" by the state of a certain group of citizens, their rights to their properties were not completely eliminated and the principle of providing them with the equivalent values of their seized properties was accepted.

In 1918, while the Ottomans were losing the war, some Armenians who had managed to survive the Genocide began to return to their homes and demanded their belongings back. It became necessary to make a series of revisions to the laws and regulations that had been issued. However, during the years following 1918, the country fell into complete chaos. The Armenians who had survived the wave of genocide from 1915 to 1917 and were returning home were forced to leave the country. As a result, a new series of laws and regulations were issued concerning Armenian properties. Even though a final decision

concerning Armenian properties was made in the 1923 Treaty of Lausanne, the administration of these properties continued to remain a serious legal issue; throughout the entire period of the Turkish Republic new laws and regulations continued to be issued about them.

The goal of the present volume is to attempt to understand the spirit of all of these laws and statutes, which were known as the Abandoned Properties Laws.[2] The central thesis of this work is that these laws were a structural element of the Armenian Genocide of 1915 as well as of today's Turkish legal system, and yet, paradoxically, they continue to this very day to protect the rights of the Armenians to their properties. Even when these properties were sold or transferred to others, the government continued to act on the principle that it was administering them in the name of the original owners.

The majority of the relevant laws and regulations were issued in the Republican period. The Republic of Turkey and its legal system were built, in a sense, on the seizure of Armenian cultural, social, and economic wealth, and on the removal of the Armenian presence. In Turkey today the Directorate of Religious Affairs and the army are usually considered the two most important institutions of the Republican regime. A third such institution would be the General Directorate of Foundations, a continuation of the General Directorate of Pious Foundations of the previous period. It was established on 2 May 1920 as a separate ministry; and on 3 March 1924 was turned into a directorate affiliated with the office of the prime minister. One of its most important tasks was to administer the properties of Christians (mainly Armenians) who were exterminated or forced to leave Turkey at different periods.

In 1914 approximately one fourth of the Ottoman population were Christians. If we consider that Christians do not form even 1 percent today, we can begin to realize the importance of this institution. The great majority of the deported and annihilated Christians were Greeks and Armenians. A set of treaties and regulations were conducted with the Greek government concerning the properties left behind by the Ottoman Greeks. Consequently, most of the properties administered by the General Directorate of Foundations belonged to Ottoman Armenians, as well as Orthodox Syrians (Assyrians). Based on this fact, the present work argues that the Republican legal system institutionalized the Armenian (and Assyrian) Genocide of 1915–17.

The Abandoned Properties Laws are perceived as normal, commonplace laws in Turkey. Their existence has never been questioned in this regard. Their consideration as natural is also an indication of why the

Armenian Genocide was ignored throughout the history of the Republic. This commonality is equivalent to considering an issue nonexistent. Turkey was founded on the transformation of a presence—Christian in general, Armenian in particular—into an absence.

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Today, the problems that Christians and Jews have been facing in Turkey are usually discussed and studied under the heading of minority issues. It is accepted that these groups possessing different ethnic, religious, and cultural identities, and being numerically in the minority, face a series of issues in connection with the society of the majority, so their discussion takes place within the framework of minority rights. This approach is quite problematic: the republic was essentially founded on the basis of the destruction of the Christian communities which formed at least 25 percent of the population.

Consequently, it is incorrect to look at the issues of Christians in general (including the Greeks and Assyrians), or Armenians in particular, as the minority of the Republic—it is more complex than that. It is necessary to discuss the topic directly as a question connected to the existence of Turkey. The Turkish Republic is a construction based on the transformation of Christian existence to absence—or, more rightly, on the negation of an existence. This is the reason why the topic, which is called the Armenian Question in Turkey, is basically discussed as a national security issue. Bringing it up, or even just calling for an open discussion, is perceived as a threat to national existence and national security.

In 2006 the Turkish National Security Council decided that making land records covering the 1915 period available to archives and researchers was contrary to national security and prohibited it.[3] The fundamental motivation behind the assassination of the outspoken Turkish-Armenian newspaper editor Hrant Dink and the killings of three Christians in Malatya in 2007[4] was anxiety about national security. It was not a coincidence that Ergenekon[5] suspect İbrahim Şahin, former executive director of the Special Forces Department, labeled a group of intellectuals proposing an open discussion of the Armenian issue as "threateners of national security" in 2009.[6] The Istanbul Second Criminal Court of the First Instance, which sentenced Arat Dink (son of Hrant Dink and owner now of Dink's newspaper *Agos*) and Sarkis Seropyan (a journalist with *Agos*) to prison for having used the word "*soykırım*" (genocide), considered the use of this word to be a threat to

national security.[7] The truth revealed by these examples is very simple: because Turkey founded its existence on the absence of the other, every conversation on the other's existence inspires fear and anxiety. The chief difficulty in speaking on the Armenian issue in Turkey lies in this existence-absence dilemma.

The institutionalization of the elimination of the Christian-Armenian presence was fundamentally realized, along with many other things, through the Abandoned Properties Laws. These laws are structural components of the Armenian Genocide and one of the elements connected to the basis of the legal system of the Republican period. In this way, the Republic adopted genocide as its structural foundation. This is a cue to take a fresh look at the relationship between the Republic as a legal system and the Genocide. This is what is done in this work.

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Raphael Lemkin introduced the concept of genocide for the first time in 1944 in his book entitled *Axis Rule in Occupied Europe*.[8] The book consists of a compilation of 334 laws, decrees, and regulations connected with the administration of seventeen different regions and states under Nazi occupation between 13 March 1938 and 13 November 1942. Lemkin did not introduce the concept of genocide together with barbaric practices like torture, oppression, burning, destruction, and mass killing observed in all genocides, but rather through a book quoting and analyzing legal texts. Could this be a coincidence?

Given its importance, it is necessary to stress this one more time: in the year that Lemkin completed the writing of his book, 1943, he already knew of all the crimes perpetrated by Nazi Germany. However, he did not present the concept of genocide in a framework elucidated by these crimes. On the contrary, he introduced the term through some laws and decrees proclaimed by the Nazi Regime to administer occupied territories that perhaps in the logic of war might be considered normal. This situation is not in accordance with our present way of understanding genocide. The general perception is that genocide is the collapse of a normally functioning legal system; it is the product of the deviation of the system from the so-called normal path. In this point of view, genocide means the institutions of civilization are not working and are replaced by barbarism. Lemkin, however, seems to be saying the complete opposite of this: that genocide is embedded in ordinary legal documents. By doing this, it is as if he is telling us not to look for

the traces of genocide as barbaric manifestations, those that can be defined as inhuman, but to follow their trail in legal texts.[9]

Genocide as a phenomenon operating as an integral part of the legal system—this is an interesting definition. And this definition is one of the central theses of this work. Therefore, the Armenian Genocide does not just exist in the displays of barbarity carried out against the Armenians, but is may also be hidden in a series of ordinary legal texts.

Genocide does not just mean physical annihilation. Going even further, physical annihilation is only one detail of the process. How many Armenians died during the course of the deportations or destruction, or how many remained alive—as important as this is on the human level—is just a secondary issue from a definitional point of view; what is important is the complete erasure of the traces of the Armenians in their ancient homeland. Interior Minister Talat Pasha's 30 April 1916 telegram sent to the governor of Syria and commander of the Fourth Army, Cemal Pasha (both were members of the governing Committee of Union and Progress Party triumvirate), in connection with the Armenian Catholicate in Sis is the clearest expression of this policy: "Essentially the goal of the abolition of the Sis Catholicate and, at the first opportunity, the expulsion of the Catholicos from there aimed at completely eliminating the existence of this place which possesses a very great historical and national value in Cilicia for Armenians and is presented by them as supposedly the final seat of an Armenian government."[10]

In Talat Pasha's expression, everything was arranged in a way suitable for "completely eliminating the existence" and place of the Armenians. In this understanding, genocide is not a deviation from the normal operative legal system. It is in itself a product of the legal system, and has been implemented by means of this system. Hasan Fehmi Bey, the first secretary of the treasury of the Turkish Republic, on 15 April 1923 while discussing the new Abandoned Properties Law, spoke about "splitting a hair into forty in legal theory," and said, "It has been two or three years since we here set out to take into consideration the [20 April 1920 dated] Law of Abandoned Properties as one of the most delicate and fine points of our legal bases." Through these words he demonstrated the extremely crucial relationship between law and the regime of genocide.[11]

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Genocide is defined in Lemkin's work *Axis Rule in Occupied Europe* as "a coordinated plan of different actions aiming at the destruction of essential foundations of the life of national groups, with the aim of annihilating the groups themselves."[12] The expropriation of the property of the groups being annihilated varies from genocide to genocide.[13] The Ottoman experience naturally also has some unique elements compared with other examples. First, during this process it was not only the properties of Armenians that were seized. Other Christians were also subjected to the same procedure. Second, the properties of Armenians who were not deported were not seized. Confiscation was confined only to the properties of those Armenians who were deported.

During the 1913 to 1918 period, the properties of two large Ottoman communities, Greeks and Armenians, were seized through special laws connected to a central policy that removed these people from their homes.[14] The policies carried out against each of them did have some differences. However, these dissimilarities were not formulated within the framework of ethnic and religious differences but were determined by the changing policies followed by the Committee of Union and Progress government in different periods and circumstances. Careful distinctions were made through laws and decrees not only between Greeks and Armenians, but also within each of these communities.

As an example, the two categories pertaining to Greeks in the 1913 to 1918 period can be mentioned. The first category includes the Ottoman Greeks who were the subject of a population exchange program between the Ottoman Empire and Greece at the beginning of World War I. The exchange of Greek property was to be administered according to the principle of reciprocity. Although this agreement did not enter into force because of the war, the seizure and use of the properties of Ottoman Greeks falling into this category was still different from that of the remainder of the Greek masses in the Empire. The second category includes Greeks deported to internal regions from coastal areas during the later years of the war.

In this way there were two separate political practices enacted toward the Ottoman Greeks. On the one hand there were the Greeks forcibly deported to Greece, and on the other hand there were those driven from coastal cities to interior regions. In order to rectify the resultant confusion, the regulation called Directive on the Manner of Filling Out Tables on the Exchange of Migrants[15] was created to specify the two groups of Greeks, the differences in the administration of their goods, and the amount of consideration necessary.

The administration of Armenian goods confiscated as a result of the deportation law of 1915 was treated as a matter distinct from the administration of the aforementioned Greek properties. In government correspondence with the provinces it was specifically requested that authorities pay attention to the differences.[16] The most important one was that the Greek goods were not subject to certain liquidation. Orders to the provinces emphasized this point.[17] The government's aim was to exchange the properties left behind by the Greeks going to Greece with properties of Muslims coming from Greece. Additionally, it was expected that the Greeks deported to internal Ottoman districts for military considerations would eventually return, so their property was not liquidated.

Similar developments were observed at the end of 1919. Among the Greeks distinctions made were between those subject to the 1923 Turkish-Greek Population Exchange Convention and those who were not subject to it. While Istanbul Greeks were not subject to the exchange, the situation of many Greeks who settled in Istanbul and its environs from Anatolia in the 1918–22 period, on the other hand, was different. The people who came to Istanbul later were included among the Greeks subject to the exchange (which created the possibility of seizing their goods). The government attempted to clarify any confusions that might arise in the situations discussed above through special decrees.[18]

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In the case of Armenians during the period of deportation: only the belongings of Armenians who were being deported were subject to liquidation. The property of the Armenians who were not being deported was not confiscated. In various telegrams sent to the provinces it was distinctly specified that only the goods of people being expelled should be liquidated: "The non-Muslims who are not being transported [continue to] possess their movable and immovable properties. The property of Armenians . . . being transported and the other non-Muslims who were being deported together with them at that time [is] subject to liquidation."[19] In addition, if Armenians who stayed in the places where they were located and were not deported had properties in other regions, those properties were not touched. This occurred, for example, with Armenians living in Istanbul.[20]

Second, because the confiscation of the Armenians' property did not take place on the basis of a racist ideology, unlike the case of the Jews in Nazi Germany, no discussion of removing the citizenship of

the Ottoman Armenians took place during the deportations and genocide. Moreover, if Armenians did not have their citizenship removed specifically by a decision of the Council of Ministers or through their own individual resignations, their citizenship was preserved until as late as 1964.

Third, while the material wealth of the Armenians was being seized, it did not take place in the form of a simple appropriation, or irreversible plunder; that is, it was not said that the goods or their equivalent values would not be returned to their owners. On the contrary, it was stated that the goods, or their value, would be administered by the state in the name of their owners. Everything was organized around the idea that the goods or their equivalent worth would eventually be returned to their true owners—though when this would actually occur was uncertain. The decision to do this was based on the way the Genocide was structured and its ideological justifications. This approach made it difficult for the government to simply confiscate the properties without addressing ownership rights. Moreover, the forcible seizure of goods not in the form of appropriation or plunder, but through the preservation of the rights of the Armenians to their ownership, created internal tension and contradiction. Again, the state accepted that the true owners of the properties taken were the Armenians, and adopted the principle that the equivalent values of these properties would be given to the latter. In the post-genocidal period, even the right of restating the ownership was accepted, which created serious and complicated legal problems for the state. The tension or contradiction mentioned is this: on the one hand, there is a state that does not wish to be accused of appropriating goods by force, and the language of the Abandoned Properties Laws was set accordingly; however, on the other hand, the same state wished to destroy the bases of existence of the Armenians, and institutionalize and render official the appropriation. The present legal system was founded on this tension and contradiction.

The debate in a November 1922 secret session of the Turkish Grand National Assembly between the deputy for Kirşehir Yahya Galip Bey and Treasury Secretary Hasan Fehmi Bey showcased this contradiction very well.[21] The treasury secretary criticized Yahya Galip Bey for saying that the abandoned properties henceforth must be known as the property of the state because they had passed into the state's hands.

> Hasan Fehmi Bey: Yahya Galip Bey asked how the property of the state will be administered. It is not the property of the state; it is abandoned property.

Yahya Galip Bey: It is not abandoned property. They all fled; it is the property of the state.

Hasan Fehmi Bey: This is the law that we have for abandoned property—the Abandoned Properties Law. It consists of income being registered in a current account that is going to be opened and managed in the *name of people who have disappeared*.

Yahya Galip Bey: It is not so, it is not so.[22] [italics are ours]

The tension and contradiction mentioned continued to exist throughout the entire period of the Republic, whether at the negotiations for the 1923 Treaty of Lausanne with the Allied powers victorious in World War I or during the development of the laws of adjustment issued in the 1920s, and even with the 2001 circular of the General Directorate of Land Registry and Cadaster. They still are present today and form the foundation of the Turkish legal system.

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The law was used in a dual manner for the removal of the economic foundations of the survival of the Armenians. First, in 1915 the Armenians were legally forbidden the right to any arrangement over the goods they left behind. Second, although the law formally granted them the right to the value of their properties, not a single step was taken to reimburse them. None of the promised laws and regulations were issued.

In the entire era of the Ottoman Empire and the Republic of Turkey, the laws and decrees issued in connection with abandoned properties have been infused with the principle that these goods or their values should be given back to the Armenians. However, on the other hand, this procedure of restitution was not arranged in any manner, and the same legal system also followed the principle of not ceding even a single step to the Armenians. Especially in the Republican period, in the rare case when some Armenians who somehow survived or their heirs were able to ask for their properties or their equivalent values, they only ended up lost in the corridors and passages of the existing legal order. There are a multitude of cases today that are dragging on in similar circumstances.

The argument that the Abandoned Properties Laws and decrees basically do not deny the rights of the Armenians to their property has a special significance for the present debate on the question of compensation and reparation. The existing Turkish laws and decrees cannot

be used as the reason for the Armenians' irreversible loss of all rights to their properties. On the contrary, it can easily be claimed that the existing laws and decrees can be used as the basis for the thesis that the Armenians are still the true owners of these goods and it is imperative that those goods or their equivalent value be returned to the Armenians.

The Committee of Union and Progress government was aware that this was the situation too. A report prepared by an interministerial commission in February 1918 stressed that the rights of the Armenians to their properties remained in tact. As this historic report stated, "Although the Armenian abandoned properties have been designated for legal liquidation, [and] while, as required by law, the remittance of the equivalent values is required to be given to the owners of the properties transferred to the pious foundations treasury and the treasury [proper], they are not being given until now," it was clearly accepted that the equivalent values of Armenian properties had not been given until that date. Furthermore, it emphasized "the fulfillment and consummation of the phases of the procedures shown by the law as soon as possible being essential because of the elimination of the right of ownership for people whose properties are subject to liquidation also in accordance with the provisions of the aforementioned law, on condition of the payment of their equivalent values as required by law; and because while the aforementioned properties are being impounded, it will not be suitable not to take into consideration the rights of the owners in connection with them and their appeal concerning the selection of this right." [23]

The meaning of the report is clear. By February 1918 the equivalent value of the Armenians' properties had still not been given to them. The report asked for the fulfillment of the requirements of the law as quickly as possible, and that, taking into consideration the rights of the property owners, the equivalent value of these properties be given to them.

During the peace negotiations in Lausanne, the Turkish government expressed similar views. When the victorious Allied powers of World War I—especially Great Britain, France, Italy, and Greece—learned that Turkey had issued on 15 April 1923 another Abandoned Properties Law (about liquidation) they forcefully protested, in particular because it was applicable to their own citizens. İsmet Pasha, who reported the situation to Ankara on 22 June 1923, received the following response, which must be considered of historical import, on 26 June: "In the Abandoned Properties Law, prepared and put into effect by the Turkish Grand National Assembly, our government's sole

point of consideration being directed toward the protection of citizens' assets and the law, for the purpose of the protection from damage of the abandoned properties of those fleeing or absent, their sums are to be registered in their own current accounts [held by the Finance Ministry], and in this respect whatever is required for the safeguarding of laws will also be assured."[24]

The government repeated that the Armenians are the true owners of the properties, and in order for the goods and possessions of the citizens of the state not to be destroyed, it took the goods and possessions of the citizens for purposes of protection, and registered them in the citizens' names. For this reason, it is extremely difficult to point to the Abandoned Properties Laws and say that the Armenians cannot receive their goods or their equivalent values.

The examples cited show that both the Ottoman and Republican governments openly repeated the principle that the Armenians possessed rights to their goods. This point is crucial to the reparations question.

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In order to understand how the laws and decrees concerning abandoned properties were constructed as an important element of the Armenian Genocide, it is necessary to study their connection to three different issues. First, which principles were going to be used to determine how the deported Armenians would be settled in new places? Second, were the goods they left behind, or their equivalent values, given to them—and if they were then how would this take place? Third, who used the properties that had been left behind, and how?

When we examine the laws and decrees in this fashion, we are confronted with an interesting picture. Concerning the first issue—that is, the topic of how the Armenians were going to be settled in their new locales—the laws and decrees play almost no role. This issue was dealt with only in one decree issued at the very beginning of the deportations, in an extremely limited matter. It was as if such an issue did not exist. As for the second issue, a general principle was only repeated several times—that is all. It was accepted that the true owners of the properties were the Armenians and the state was administering these properties in their names. However, when and how these properties or their equivalent values would be given to their true owners was not discussed in any way, and no arrangement was going to be made concerning this issue.

The absence of the first two issues shows us something: the Ittihadists in their mental world and practical politics believed that the Armenians ceased to exist from the moment they were deported from their homes. And making any sort of arrangements for a community considered nonexistent was unnecessary. With such characteristics, these extant laws are the best evidence to refute the official Turkish state thesis concerning the Armenian deportations, and implicate them otherwise. According to the official thesis, the aim of the Armenian deportations was to settle the Armenians in a new region and give the equivalent value of the goods left behind to them. If there was such a goal, then there would have also existed laws and regulations reflecting it. Indeed, the February 1918 report cited above openly accepted that the equivalent value of the goods was not given and no arrangements had been made in this regard.

A similar situation existed for the period of the Republic. Of course problems pertaining to the first issue of the relocation of the Armenians were absent. The Armenians had been to a great degree annihilated; those surviving (if not assimilated in Anatolia) remained outside of the borders of the new state. As far as the second set of issues was concerned, the laws and decrees issued were like those of the Ittihadist period, repeating the same general rule. The true owners of the properties were Armenians; the properties or their equivalent values would be given back to the latter. The state was administering these properties or revenues in their names only because of the absence of the Armenians. Nevertheless, in order to be able to give back the goods, the Armenians had to be present together with their properties as of 6 August 1924. This was the principle accepted in the Lausanne Treaty.

From Turkey's point of view, what would happen if the surviving Armenians wanted to return, or if their heirs tried to ask for their goods back, constituted a serious problem. This has been the fundamental issue to be solved in the Republican period. In order to prevent the Armenians from taking back their belongings an elaborate legal system was formed, with all the details thought out and any holes or gaps coming to view filled in, similar to the refinement of a silkworm spinning its cocoon.

The biggest goal of this system was to erect a barricade in front of the Armenians who might enter the country en masse or as individuals and demand their properties. There were some situations where it would be impossible to prevent their entry legally. In these instances there was no hesitation in transgressing the law. The internal tension

and contradiction of laws and decrees could be observed throughout the Republican period. Examples of this situation will be discussed throughout this work.

While the first two aspects are absent legislatively, the main topic of the laws and decrees of the Ottoman and Republican eras is connected with the third aspect: how will the Armenian movable and immovable properties that were left behind be liquidated? If they are sold, how will they be sold? If they will be distributed, to whom and according to which rules will they be distributed—and how should they be registered? The primary goal of the laws and decrees, by seizing all the movable and immovable property of the Armenians, was to eliminate the physical foundations of Armenian existence in Anatolia. Thus, the removal of the physical and cultural existence of the Armenians was intrinsic to the Turkish legal system. This is why we call the system a genocidal regime.

The secret of why Turkey followed such an aggressive policy of genocide denial, both domestically and internationally, lies in the realities discussed above. The Turkish state knew that it was very difficult to prevent the return of the Armenians' goods through the logic of the existing legal system. If it said, "These properties do not belong to the Armenians and will not be returned," it would have accepted that a crime was committed. It would be forced to accept the fact of their appropriation because not a single cent was paid in exchange for the Armenian goods. This aside, the Abandoned Properties Laws already constitute a crime according to the existing Turkish constitution. According to the principles of international law, they are a clear violation of human rights.

On the other hand, if Turkey says, "The owners of the properties are the Armenians," the means would have been available for the goods or their equivalent values to be returned to their owners. Unable to say either of the above alternatives openly, only one choice remained—obstinacy and taking an aggressive stance on the topic. Putting aside the fact that Armenian properties were seized by force and plundered, the law is a face-reddening moral crime, and Turkey is belligerent because it knows that it committed this offense.

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The last point necessary to add is that even though there is a direct connection between the Abandoned Properties Laws and the issue of indemnity, it is necessary to discuss them as two separate issues. The

Abandoned Properties Laws, as in the examples of the treaties of Sèvres and Lausanne, whether on the international level or in the Turkish legal system, basically were understood as a mechanism for paying the equivalent values of the goods of the Armenians who survived the Genocide. The Armenians who ended up outside of Turkey, whether as survivors of genocide or as a result of the clashes of 1919–22, sought compensation for their losses in accordance with their rights born from treaties by applying to the governments of the countries in which they later lived—the mixed arbitral tribunals established pursuant to the Treaty of Lausanne, or to the League of Nations. A similar process took place in Turkey, and if Armenians were present in Turkey as of 6 August 1924, the date on which the Lausanne Treaty entered into force, they could ask for the return of their properties.

However, as is known, the issue of compensation is not only limited to the request for the return of properties of Armenian survivors of genocide or their heirs, but also is a question of the destruction of the economic, social, and cultural existence of the Ottoman Armenian community and of compensation for this mass crime. Consequently, it is not right to discuss this issue as if it is only limited to whether properties confiscated by the Abandoned Properties Laws or from individual Armenians should be returned to their owners.[25]

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The present volume is an attempt to understand the dominant logic of the laws, decrees, and regulations concerning the abandoned properties, which are related to the Armenian Genocide. As historians we tried to read and understand the laws and decrees in question from a social science perspective. We are not in a position here to develop legal arguments or propose legal theses. The legal meanings and interpretations of the extant laws and decrees in and of themselves form a separate topic for discussion, which falls outside of the field of our expertise. No matter how much we attempted to refrain from making any type of legal interpretation, we still apologize for any errors we may have made in this vein. One of the greatest difficulties we encountered during the preparation of this work was the lack of relevant serious legal studies. We hope that our work will encourage young legal scholars to pursue this issue.

We wish to repeat our belief: no matter what type of legal interpretation is carried out concerning this topic, we believe that in the end it is not a legal question, but a moral one. The topic we are confronting

is very simple. As Ahmet Rıza, president of the Ottoman parliament of the time, said in December 1915, when the Abandoned Properties Law was being discussed in the parliament, the essence of the matter "is an oppression." He continued: "Hold me by my arm, throw me out of my village, then sell my goods and property later; this is not lawful at any period of time. Neither Ottoman conscience or law accepts this." Ahmet Rıza Bey rightly said that the goal of this law was the completion of plunder as soon as possible. He added, "The goods of the Armenians were partially plundered. Nothing will be left by the time the legislative power rejects the law."[26] Indeed, it took place likewise.

How and to what extent these laws were applied, or the issues encountered while they were being applied, are not part of the topic of this volume. Moreover, the events of the time concerning these laws and decrees are only dealt with in an extremely limited manner. Another topic outside the scope of this work is the question of the possessions of the pious foundations of the minorities during the Republican period. This issue hurt, and still continues to hurt, Turkey a great deal during its process of achieving full membership in the European Union. The reason why this is not discussed here is that we believe that this issue is a byproduct of the Armenian Genocide of 1915–17. Moreover, several studies have been carried out on the issue. Insofar as we are able to see, the most important defect of these studies is that they do not at all discuss the connection of these issues of the minority pious foundations with the Genocide.[27] It can be said that the present work fills this gap.

A final word of thanks: this work could not have been realized without the valuable contributions of many people. In particular, Professor Dr. İştar Savaşır and lawyer Cem Murat Sofuoğlu were kind enough to assist us in the interpretation of the laws of the Republican period. There is no need, of course, to add that full responsibility for the views expressed here lies with us.

The opinions articulated in this work must be understood as a part of the effort to confront Turkish society with the reality that it was founded on an immense crime against humanity: genocide. We hope that our writings will contribute in a modest way to the efforts to create a democratic society freed from the destructive influences of genocide and able to fulfill its moral responsibilities concerning this issue.

Notes

1. There are many works on the Armenian Genocide, which took the lives of approximately 1 million human beings: Raymond Kevorkian, *The Armenian Genocide: A Complete History* (New York: I.B. Tauris, 2011); or Taner Akçam, *A Shameful Act: Armenian Genocide and the Question of Turkish Responsibility* (New York: Metropolitan Books, November 2006) are good starting points for readers.
2. The term used at the time, "abandoned properties," is used in this work for ease of reference, but of course it embodies a falsehood since the deportees did not willingly "abandon" their properties but were forced to leave them behind.
3. *Hürriyet*, 19 September 2006, http://www.hurriyet.com.tr/gundem/5109117_p.asp and *Radikal*, 20 September 2006, http://www.radikal.com.tr/haber.php?haberno=199165; in addition, see http://bianet.org/bianet/bianet/85432-osmanli-arsivleri-acilirsa-resmitez-zayiflar.
4. Hrant Dink was assassinated in Istanbul in front of his office on January 19, 2007; three Christians in Malatya were killed in their office on April 18, 2007. It became evident from the investigations conducted after each crime and the testimonies of witnesses and supporting evidence obtained in the lawsuits initiated afterwards that these crimes were prepared by the Special War Department connected to the Office of the Commander of the General Staff in Ankara. When these lines were written, the lawsuits were still in progress.
5. Ergenekon is the name of a clandestine, secularist ultra-nationalist terror organization in Turkey with ties to Turkish military and security forces. In 2008 an investigation was launched against this organization and close to 300 people were arrested. There were several trials, which ended with verdicts on August 2013. The defendants were sentenced to heavy penalties. For more detailed information about Ergenekon, see İhsan Bal, "Ergenekon Case in Turkey," *USAK Yearbook of International Politics and Law* (3/2010): 489–4950.
6. *Radikal*, 11 February 2009; *Milliyet,* 19 February 2009.
7. Şişli Second Criminal Court of First Instance of the Republic of Turkey, File E: 2006/1208, K: 2007/1106, T: 11.10.2007.
8. Raphel Lemkin, *Axis Rule in Occupied Europe: Laws of Occupation, Analysis of Government, Proposals for Redress* (Washington, DC: Carnegie Endowment, 1944).
9. It is difficult to find the exact distinction made here between civilization and barbarism in Lemkin's works. Lemkin in essence is more disposed to see genocide in the classic framework of civilization vs. barbarism. For more information on this topic see Michael Freeman, "Genocide, Civilization and Modernity," *The British Journal of Sociology* 46, no. 2 (June 1995): 207–23; Dirk Moses, "Toward a Theory of Critical Genocide Studies," ed. Jacques Semelin, Online Encyclopedia of Mass Violence, http://www.massviolence.org/IMG/article_PDF/Toward-a-Theory-of-Critical-Genocide-Studies.pdf.
10. Ottoman Prime Ministry Archives [Başbakanlık Osmanlı Arşivi henceforth BOA], Cipher Office of the Interior Ministry [Dahiliye Nezareti Şifre Ofisi henceforth DH.ŞFR] 68/215, Directorate of Public Security of the Interior Ministry cipher telegram to Fourth Army Commander Cemal Pasha, 7 October 1916.
11. Türkiye Büyük Millet Meclisi [henceforth TBMM], *TBMM Zabıt Ceridesi*, Period 1, Assembly Year 3, Vol. 29 (Ankara: TBMM Matbaası, 1961), 161.
12. Raphael Lemkin, *Axis Rule in Occupied Europe: Laws of Occupation, Analysis of Government, Proposals for Redress* (Clark, NJ: The Lawbook Exchange, 2008), 79.

13. For a general summary of the process during the Jewish Holocaust, see Peter Hayes, "Plunder and Restitution," in *The Oxford Handbook of Holocaust Studies*, ed. Peter Hayes and John K. Roth (Oxford, New York: Oxford University Press, 2010), 540–59.
14. Documents could not be found among the laws and decrees specifically concerning the Assyrians (or, to use a broader term, Syriac Christians). What happened to the properties of the Assyrians is not clear, at least from Ottoman laws and decrees, so this topic is not covered in the present study. It is most probable that their goods met the same fate as those of the Armenians, and the same laws were applied to them, but this is a topic requiring more research.
15. For the exact text of the regulation, see BOA, Third Department of Public Security of the Interior Ministry 2/26-A, 14 October 1914.
16. On the differences in administration of Armenian and Greek properties during the war years, see Taner Akçam, *Ermeni Meselesi Hallolunmuştur: Osmanlı Belgelerine Göre Savaş Yıllarında Ermenilere Yönelik Politikalar* (İletişim Yayınları: Istanbul, 2008), 127–29. For a more detailed work on this subject, see Ahmet Efiloğlu, Raif İvecan, "Rum Emval-i Metrukesinin İdaresi," *History Studies* 2/3, 2010, 125–46.
17. As examples, the reader can examine the following documents: BOA/DH.ŞFR72/229, 73/69, 74/69, and 89/113.
18. The report prepared by the Office of Tribal and Immigrant Settlement of the Interior Ministry [Dahiliye Nezareti İskan-ı Aşair ve Muhacirin Müdüriyeti henceforth İAMM] dated 29 January 1917 and titled "Memorandum about People Being Transported to Other Places Due to Extraordinary Conditions and Necessities and Their Abandoned Properties" discussed in detail the various policies the Committee of Union and Progress regime implemented concerning the properties of different groups. The report discusses four different groups: Armenians, Greeks, Syrian families (Arabs), and Bulgarians, and summarizes the different practices concerning their goods (BOA/Sublime Porte Documents Office [henceforth BEO] 4505/337831).
19. BOA, Cipher Office of the Interior Ministry, Office of Tribes and Immigrants of the Interior Ministry [Dahiliye Nezareti Aşair ve Muhacirin Müdiriyeti Umumiyesi; henceforth AMMU], cipher telegraph to Diyarbakır Province, 23 November 1916. Another telegraph sent to Sivas said, "The property of those exempt from deportation due to conversion to Islam or other reasons and being kept in their places is not subject to liquidation" (BOA/DH.ŞFR, 61/253, Interior Ministry Directorate of General Security, cipher telegram to Sivas province, 9 March 1916).
20. The fourth article of the Regulation dated 13 June 1926 concerns only this topic, and is connected to the ruling that the belongings in other regions of people not being removed from their homes cannot be touched. The article specifically mentions Istanbul. Thus, there is a decision of the Council of Ministers of 1 August 1926 that declares that the property of Istanbul Armenians "not fleeing and disappearing in any direction" who are in places like Kartal and Pendik outside of the borders of the city of Istanbul should not be seized as abandoned properties, and if they have been, this seizure was illegal (Prime Ministry Republican Archives [henceforth BCA]/General Directorate of Land Settlement Archive [henceforth TİGMA] 030_0_18_01_01_020_49_014). The authors owe special thanks to Sait Çetinoğlu for directing their attention to the documents in the Republic Archives, which are used in this work.
21. On 16 March 1920, the capital city of the Ottoman Empire, Istanbul, was occupied by the victorious Allied Powers (Great Britain, France, etc.). The sultan officially disbanded the parliament on 11 April 1920. The same parliament, with some newly elected deputies, resumed its work in Ankara on 23 April 1920. The parliament

elected a "temporary" council of ministers, which was the beginning of the Turkish Republic.

22. *TBMM Gizli Celse Zabıtaları,* Period 1, Assembly Year 3, Vol. 3 (Ankara: Türkiye İş Bankası Kültür Yayınları, 1985), 1139–40.
23. BOA/BEO 4505/337831 Prime Ministry Office to Justice, Treasury Ministry and Interior Ministry, 28 February 1918.
24. Bilal N. Şimşir, *Lozan Telgrafları II* (Şubat-Ağustos 1923) (Ankara: Türk Tarih Kurumu, 1994), 473–74, 494.
25. For a general introduction to this topic, see Henry Theriault, "The Global Reparations Movement and Meaningful Resolution of the Armenian Genocide," *Armenian Weekly* (6 May 2010), http://www.armenianweekly.com/2010/05/06/reparations-2/.
26. *Meclis-i Ayan Zabıt Ceridesi*, Period 3, Assembly Year 2, Vol. 1, 13 Dec. 1915 session (Ankara: TBMM Basımevi, 1990), 133–35.
27. The following works can be consulted on this topic: Yuda Reyna, Ester Morenzo Zonana, *Son Siyasal Düzenlemelere Göre Cemaat Vakıfları* (Istanbul: Gözlem Gazetecilik Basın ve Yayın A.Ş., 2003); Dilek Kurban, Kezban Hatemi, *Bir 'Yabancılaştırma Hikâyesi: Türkiye'de Gayrimüslim Cemaatlerin Vakıf ve Taşınmaz Mülkiyet Sorunu* (Istanbul: TESEV, 2009).