



DR. DICKRAN KOUYMJIAN

Haig & Isabel Berberian Chair Emeritus Professor of Armenian Studies, Emeritus and former Director of the Armenian Studies Program, California State University, Fresno

**THE CRIME AGAINST CULTURAL HERITAGE AND
HISTORICAL MEMORY:
THE QUESTION OF ABANDONED PROPERTY**

I. INTRODUCTION

Nearly a century after the inception of the Armenian genocide, the survivors and their progeny still wait for acknowledgement of the act by its perpetrators. The Armenian homeland is now called by another name and inhabited by people who negate the historical existence of Armenians on these territories. The Turkish Republic deprived Armenians of their past by obliterating the words Armenia and Armenians from its school manuals, history books, and geography. With time, Armenians must try harder and harder to associate changed names of towns and villages with the birthplaces of their forbearers. New generations of Turks, purposely kept ignorant about the past of their country, remain indifferent toward events that occurred less than a decade before the founding

of their Republic. If the genocide of slaughter and ethnic annihilation was accomplished as the prelude to the foundation of the Turkish Republic, the other genocide, the crime against Armenian culture and historic memory, continues.

The Armenian Genocide is unacknowledged, unpunished, little known, and still denied by its instigators. It began in April 1915, in Istanbul, after the Turks entered World War I on the side of the Axis Powers. It was preceded by widespread massacres in 1894 -1896 and again in 1909. During the first year more than a million Armenians were killed or died during forced marches toward the Syrian deserts.¹

Already by 1916, the British Parliament published *The Treatment of the Armenians in the Ottoman Empire*, a

1. There are many recent studies on the history of the Armenian genocide, some written by participants of this conference, among them is the massive *Le génocide des Arméniens*, Raymond Kévorkian, Paris: Odile Jacob, 2006. See also Taner Akçam, *A Shameful Act. The Armenian Genocide and the Question of Turkish Responsibility*, New York: Metropolitan Books, 2006.



massive collection of detailed eyewitness accounts of the annihilation compiled by the young Arnold Toynbee.² The historical Armenian homeland was cleansed of its indigenous population. Today, no Armenians live there.³

Did then the Armenian Genocide end with cessation of hostilities in 1918 or the Peace Treaties of Sèvres of 1920 or Lausanne of 1923? Unfortunately, no, because the perpetrators refused to acknowledge what was then called a “crime against humanity,” while successive Turkish governments continued the genocidal process against its own citizenry through A) discriminatory practices, B) a policy of neglect, even willful destruction, of Armenian monuments, and C) an official government position of denial of both the genocide and even the historical existence of an Armenian presence in what has always been called the Armenian plateau.

II. THE SEIZURE OF SO-CALLED “ABANDONED” ARMENIAN PROPERTY.

Though from the beginning it was quite apparent that the term “Abandoned Property” was a euphemism for “Stolen Property,” the expression was employed as a legal term for a decade and a half after the first seizure of Armenian possessions. In May 1915, hardly a month into the planned extermination, the Ottoman Minister of the Interior, Talaat Pasha, one of the triumvirate leading the Young Turk government, issued an elaborate decree against his own Armenian citizens entitled “Administrative Instructions Regarding Moveable and Immovable Property “Abandoned” by Armenians Deported as a Result of the War and the Unusual Political Circumstances.”⁴ The law called for special committees to inventory all such property, which was to be placed in safe custody in the names of the deportees.

2. Recently republished with additions: James Bryce and Arnold Toynbee, *The Treatment of Armenians in the Ottoman Empire, 1915–1916: Documents Presented to Viscount Grey of Fallodon by Viscount Bryce [Uncensored Edition]*, edited and with an introduction by Ara Sarafian, London: Gomidas Institute, 2nd ed. 2005.

3. There are concealed, secret, dissimulated Armenians living as Islamicized (real or superficial) Turks or Kurds, estimated from to be from hundreds of thousands to more than two million. Many have been slowly revealing their identity. There have been many articles and books in recently and many more projects to investigate more profoundly this population.

4. Shavarsh Toriguian, *The Armenian Question and International Law*, Beirut: Hamaskaïne, 1973, p. 118 ff.; 2nd revised edition, La Verne, CA, 1988, p. 85. The law on abandoned properties, called the *Talimat-nameh*, of 28 May 1915 is published as an appendix in the new English translation of Kevork Kévork Baghdjian, *The Confiscation of Armenian Prosperities by the Turkish Government Said to Be Abandoned*, trans. and ed., A. B. Gureghian, Antelias: Armenian Catholicosate of Cilicia, 2010, pp. 480-487. Baghdjian important original book was published as *La confiscation, par le gouvernement turc, des biens arméniens...dits «abandonnés»*, Montreal, 1987 a reworking of his doctoral thesis of 1968-9, Montpellier, Faculté de Droit et des Sciences Economiques.



Such list-receipts were in fact given to Armenians.⁵ The law further stipulated that Turkish refugees from the Balkan Wars were to be resettled in the homes and on the lands of these Armenians. Clearly, as much as the perpetrators or their present day defenders refer to the arrests and deportations as simply the moving of Armenians away from the war zone, the authorities knew there would be no Armenians returning.⁶ The question of “abandoned” property was discussed in numerous treaties between Turkey, Armenia, and the Allied Powers from 1918 to 1922, including the Treaty of Sèvres,⁷ which cancelled the law of confiscation of 1915, guaranteed the rights of the original owners, and the return of their property. But in 1923, just before the signing of the revised Peace Treaty of Lausanne, a new Law of Abandoned Properties called for the seizure of all possessions of Armenians no longer living in Turkey

whatever the circumstances of their departure.⁸

The Lausanne Treaty provided and still provides for the protection of minorities on the condition that they are citizens of Turkey. However, the Turkish government, in the wake of its successes at Lausanne, promulgated still another law, which forbade Armenians from returning to Turkey. In August 1926, Atatürk’s government publicly declared it would “keep all property confiscated before the entry in force of the Treaty of Lausanne in August 1924.” In May 1927 yet another law revoked Turkish nationality of anyone who had not taken part in the ‘war of independence’ or who had remained abroad between 1923 and 1927, thus virtually burying the Armenian Question.⁹

I have discussed in detail elsewhere the extent and value of this

5. Baghdjian, *The Confiscation of Armenian Properties*, pp. 83-88; the author goes through most of the articles of the law one by one and asks whether the Turkish government respected each of its provisions regarding the inventories and the receipts and wonders where they are kept now?

6. For more details see Dickran Kouymjian, “La confiscation des biens et la destruction des monuments historiques comme manifestations du processus génocidaire,” *L’actualité du Génocide des Arméniens*, Paris, 1999, pp. 223-224. However, land and property not wanted by Turkish refugees were to be sold at public auction and the sums deposited in the names of the Armenian owners.

7. The texts of the Treaty and most other treaties signed by the Armenian Republic in the period can be found in the annexes to the books of Toriguian, *The Armenian Question and International Law*, (1973), pp. 169 ff, and Baghdjian, *The Confiscation of Armenian Properties*, trans., Appendix I, pp. 343-387.

8. Gilbert Gidel, Albert de Lapradelle, Louis Le Fur et André N. Mandelstam, *Confiscation des biens des réfugiés arméniens par le Gouvernement turc*, Paris: Imprimerie Massis, 1929, pp. 87-90; cf., Toriguian, *The Armenian Question*, 2nd ed., p. 88 and Appendix 3, pp. 233-320 for virtually the entire text of the Gidel, de Lapradelle, Le Fur, Mandelstam booklet.

9. *Ibid.* 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 were rejected by Turkey.

confiscated property.¹⁰ It consisted of liquid assets (bank deposits, stocks, bonds, insurance policies, gold, paintings, and other valuables) and immovable property (homes, shops, factories, community centers, farms, stables, barns, mills, cultivated and uncultivated lands, livestock and so forth). It included the most visible symbols of the Armenian community: some 2500 churches, 450 monasteries, and 2000 schools of which only a few dozen survive today. Experts have calculated the combined value of this booty at well over 100 billion present day dollars.¹¹ Thus the Turkish Republic finished the work started by the Ottoman Government of the Young Turks, adding to the horror of the first genocide of the last century, one of the greatest thefts of wealth and land in our time.

III. RELATIONSHIP OF PROPERTY/MONUMENTS TO THE CRIME OF GENOCIDE

As I pointed out in my testimony before the 1984 Permanent Peoples' Tribunal in Paris considering the Armenian

genocide, the destruction of historical, religious, or cultural monuments is an integral part of modern genocides, an effort to annihilated the memory of the people who created them and for whom they are the major symbols of their culture.¹² Seventeen years later in an article in *The Times* of London on January 1, 2001, Alexander Stillie commenting on the Armenian Genocide, the Holocaust, and the recent action of the Serbian belligerents during the war in Bosnia, remarked: "First, they intentionally destroyed mosques and monuments and libraries, understanding that destroying someone's culture is a way of destroying the will to resist. Perhaps even more insidious, they destroyed archives with birth and residency records, so that scattered refugees could not even prove that they had been born or lived in their homes."¹³ Three months later, activist Prof. Michael Sells reinforced this notion: "I often discussed the efforts to exterminate not only as many people as possible, but the objects that represent cultural memory, so that any survivors... would no longer be part of... the community of memory they were..."

10. Dickran Kouymjian, "Confiscation and Destruction: A Manifestation of the Genocidal Process," *Armenian Forum*, vol. 1, no. 3 (Autumn, 1998), pp. 3-4, see also Kouymjian, "La confiscation," p. 222.

11. Details in Kouymjian, "La confiscation," pp. 221-223.

12. Dickran Kouymjian, "Destruction des monuments historiques arméniens, poursuite de la politique de génocide," *Le Crime de Silence*, Paris: Flammarion, 1984, pp. 295-310; English trans., "The Destruction of Armenian Historical Monuments as a Continuation of the Turkish Policy of Genocide," *The Crime of Silence, Permanent Peoples' Tribunal*, London: Zed, 1985, pp. 173-185.

13. Alexander Stillie, "Don't Let the Past Turn into History," *The Times*, London, 1 January 2001. In his discussion of the intentional process of destroying memory, Stillie cites Hitler's quote, "Who remembers the fate of the Armenians?"



I often had people object: ‘Why should we care about objects instead of human beings?’ I said: ‘The effort to destroy a monument is an effort to annihilate the memory of the people who created it and who still find it at the center of their cultural lives.’”¹⁴ Thanks to this very conference and the paper of Prof. Donna-Lee Frieze on Raphael Lemkin’s unpublished autobiography it has become evident that Lemkin already clearly understood the essential role of cultural annihilation or assimilation to any systematic attempt at Genocide.¹⁵

In those same years, perhaps because of sensitivity to the Muslim populations under threat in Bosnia, there was a cautious but clear awakening on the part of certain Turkish intellectuals and politicians toward the Armenians. An article in the *Los Angeles Times* by a Turkish journalist in December 2002 addressed the genesis of the project to restore the tenth-century Armenian Church on the island of Aght’amar in Lake Van, clearly an attempt by the newly elected Justice and Development Party to demonstrate both its religious tolerance and its respect for minority rights at a time when Turkey was aggressively campaigning to

join the European Union. Spearheading the restoration was Huseyin Celik, the Minister of Culture and a member of the ruling Islamicist party of Recep Tayyip Erdoğan. His surprisingly candid remarks reveal much about the clear understanding of the past tragedy and the dilemma of a Turkish government confronted by the success of 70 years of its own historical revisionism. “What we are up against is an undeclared policy by certain narrow-minded individuals, within the state, of discrimination against Armenian monuments in Turkey.” He continued, “The fear of these policymakers is that if Christian sites are restored, this will prove that Armenians once lived here and revive Armenian claims on our land.”¹⁶

IV. THE PRESENT SITUATION

The highly publicized celebration of an Armenian mass in the church of Aght’amar, sanctioned and encouraged by the government on September 19, 2010, and the earlier million dollar restoration of it are considered by many as another propaganda ploy, like the signing of the Armenian-Turkish Protocols

14. Prof. Michael Sells in a long email entitled “Why annihilation of monuments matters,” posted on the GENOCIDE-AND-HOLOCAUST discussion group on March 13, 2001; the general discussion was on the destruction of the Buddha statues by the Taliban and the mosques, shrines, and burial complexes in Bosnia-Herzegovina.

15. Donna-Lee Frieze, “Genos – the Human Group’: How the Concept of ‘Culture’ Underscores Raphael Lemkin’s Notion of ‘Genocide,’” *The Crime of Genocide: Prevention, Condemnation and Elimination of Consequences*, Erevan, 14-15 December 2010, published elsewhere in this volume.

16. Amberin Zaman, “Armenian Church Caught Up in Ethnic Enmity,” *Los Angeles Times*, December 25, 2002, p. 12; Ms. Zaman is a regular reporter with the Turkish paper *Taraf*.



in October 2009, to show the world, especially the European Union, that Turkey is respectful of its minorities and their property. Other symbolic gestures toward the Greek Orthodox Church, repairs at the medieval Armenian city of Ani,¹⁷ and the projects to renovate additional Armenian churches give the appearance of officials scrambling to present an enlightened Turkish attitude towards minorities. It ought to be noted that as of this writing, January 26, 2011, the Turkish Foreign Ministry has made a statement that it is ready to recruit minorities, by which is meant the legal minorities under the Lausanne Treaty, namely, Greeks, Armenians, and Jews, adding that members from these minorities simply do not apply for Foreign Service jobs.¹⁸

In the past decade diasporan Armenians have succeeded with class action suits against international insurers to obtain payment with damages of policies taken out by Armenians before the Genocide but never claimed for lack of surviving beneficiaries.¹⁹ The pioneer in these efforts was attorney Vartkes Yeghiayan, who also published a number of works related to the Armenian Genocide; along with Brian Kabateck and Mark Geragos, he brought to Federal Courts in California a number of cases against insurance and other entities involved in the events of the Armenian Genocide.²⁰ Class action suits were brought and won against New York Life in 2004 (\$20,000,000)²¹ and AXA insurers of France in 2005-2007 (\$17,500,000); a third suit against

17. However, much of this effort was undermined, perhaps intentionally for electoral reasons, by the *namaz*, Islamic pray, conducted by the leader of the ultra conservative party MHP, Devlet Bahçeli on October 1, 2010 in the ruins of the Armenian Cathedral of Ani, a desecration for many, and then the photo shoot with Polish fashion models for the December 2010 issue of *Elle Turkey* in and around the monuments of the medieval city of Ani. Both acts caused international indignation.

18. Sevil Küçükoum, "An Open Door in Turkey with No One Knocking," *Hurriyet Daily News*, January 26, 2011. The article also interviewed Rober Kopta, editor of the Turkish-Armenian weekly *Agos*, who said that until now Turkey has shown no real interest in recruiting minorities, thus there was no encouragement or incentive for young minority students to seek this career path. The article suggested a quota for minority applications might help reverse the situation.

19. Hrayr S. Karagueuzian and Yair Auron, *A Perfect Injustice. Genocide and Theft of Armenian Wealth*, New Brunswick & London: Transaction, 2009; for an earlier version with more documents see Hrayr S. Karagueuzian, *Genocide and Life Insurance. The Armenian Case*, La Verne, CA: University of La Verne Press, 2006.

20. The history of this legal campaign to gain justice and compensation for survivors of the genocide and their descendants is nicely summarized in a very carefully reasoned article by legal scholar and lawyer Michael J. Bazylar, "Genocide Restitution Civil Litigation in the United States: Comparative Analysis of Armenian Genocide Victims and Other Victim Groups," forthcoming; Part III is devoted to the history of Armenian insurance cases.

21. The details of the work of Yeghiayan on this case can be found in Michael Bobelian, "Vartkes's List," *Legal Affairs* (March/April 2006), online http://www.legalaffairs.org/issues/March-April-2006/feature_bobelian_marapr06.msp. See also Michael Bobelian, *Children of Armenia. A Forgotten Genocide and the Century Long Struggle for Justice*, New York: Simon & Schuster, 2009, pp. 134-138, 207-234.



the German insurer Victoria is now in appeal.²² It should be pointed out that in nearly all these Armenian cases, legal procedures and precedents established through Holocaust litigation, were closely followed.

Similar cases brought against the Turkish government by Armenian, Cypriot, and Greek individuals before the European Court of Human Rights have culminated in the recent class action suit filed on behalf of the victims of the Genocide and their descendents in Federal Court in California against the Turkish Government and two of Turkey's leading banks, seeking billions in compensation for property seized as a result of the massacres.²³ And just recently, Vartkes Yeghiayan has filed a case for Alex Bakalian, et al, against the Turkish Government, which is accused of seizing lands of the family of the plaintiffs during the Genocide that are now part of the Incirlik Air Base leased to the U. S. Government.²⁴

This fight of a diasporan David against the Turkish Goliath, represents a long-term legal process not waiting for nor dependent on Turkey's recognition of

the Genocide, but rather assuming its historical validity through official acts of the United Nations, the European Parliament, twenty governments, 42 of the United States, and virtually all genocide and holocaust scholars. This activist policy is also nurtured by a more open Turkish attitude induced by the requirements of EU membership and accelerated by the brutal assassination four years ago of Armenian-Turkish journalist Hrant Dink, founder and editor of *Agos* as well as a participant of the Erevan Genocide conference of 2005.

Some Turkish intellectuals and journalists are openly speaking out about the circumstances of the genocide as well as its role in the establishment of a Turkish middleclass through the acquired wealth of martyred fellow citizens. The facsimile publication in 2005 by the Turkish journalist Murat Bardakçi of *Talaat Pasha's Black Book*,²⁵ written in the Minister's own hand during the forced exiles and killings, recording the number of Armenian deaths village by village and day by day (a total of nearly a million), has been followed by regular comments on the more secret and suppressed aspects of the mass slaughter.

22. Details in Bazzyler, "Genocide Restitution Civil Litigation in the United States."

23. "Events in Turkey From 1915 Find Way to Los Angeles Federal Court," *Wall Street Journal*, July 30, 2010. The class action suit was filed on behalf of Garbis Davouyan of Los Angeles and Hrayr Turabian of Queens, NY, and seeks compensation for property allegedly seized by Turks, along with bank deposits.

24. *Armenian Weekly*, December 20, 2010; Yeghiayan is joined by colleagues Michael Bazzyler, Kathryn Lee Boyd, and David Schwarcz in demanding hundreds of millions of dollars in potential damages.

25. Originally in *Hürriyet*, April 27, 2005, but fully edited the next year: Murat Bardakçi, *Talat Paşa'nın Evrak-i Metrukesi*, Istanbul, 2006.



In the same year the Turkish Land Registry Office, charged with providing copies of ledgers recording property deeds and land transfers, requested permission from the Turkish National Security Council to duplicate them. Murat Belge, who five years ago also participated in the Genocide Conference in Erevan, reported on the quick response of the National Security Council: “[I]t is more desirable that those ledgers stay in the Land Registry Offices with limited access,” because contents of the registers from Ottoman times “are liable to ethnic and political manipulations (like the unfounded genocide, the Ottoman [Charitable] Foundations, property claims, etc.)”²⁶ When Ankara Prof. Baskin Oran, an astute political analyst and another participant in the 90th anniversary Genocide Conference in Armenia, was asked what the National Security Council is trying to hide, he replied: “Obviously, this secret note tries to conceal what happened in 1915, but deep down, it [also] tries especially to dissimulate the origin of (Turkish) capital [or wealth] accumulation.” To hide it from whom? he was asked. “From Turkish citizens of course; the rest of the world knows the story by heart.” Why? “Because if we start to reflect on 1915, the entire matter

unravels. ... This is why the National Security Council continues to sweep it all under the carpet.”²⁷

The most explicit remarks on the Land Registry question were by Prof. Cemil Koçak of Sabanci University in a November 2006 interview. “The mentality of the Young Turk rulers responsible for the Ottoman annihilation of the Armenians continues into the Republican government of Atatürk. There is no regime change, but rather a change of rule. ... The Union and Progress Party changes its name and the Unionists become the Republican People’s Party. The Unionists destroy the Ottoman Empire, but they also found the Republic. ... There was no rupture . . . and this is why the Armenian massacre cannot be [publicly] discussed.” When asked how he as an historian defines the events of 1915, Koçak responded, “The deed registers contain the ... knowledge about ... this matter because 1915 is not only limited to the murder of large numbers of Armenians. There is also the transfer of a huge amount of wealth... to the Muslims [from the Armenians]. This could only be known through the property deeds. Approximately one million Armenians are removed from their places and they never return. Someone else possesses those vineyards, gardens, stores, and businesses. ... From the deeds between [the years] 1915-1918 one can easily see the amount of total property

26. Murat Belge, “Before Challenging, Check It,” *Radikal*, November 7, 2006.

27. Baskin Oran, *Radikal*, September 25, 2006.

28. Interview with Cemil Koçak, *Radikal*, November 13, 2006, trans. by Muge Fatma Göcek.



Armenians had [then] and who this property was transferred to. This is what the resistance [of the Turkish state] is all about....”²⁸

The sensitivity of this issue to the Turkish government was reconfirmed eighteen months later in March 2008 by Dr. Hilmar Kaiser in an interview with Khachig Mouradian, editor of the *Armenian Weekly*. When asked what in the past couple of years has changed in the Ottoman archives, Kaiser replied. “The Directorate for Demography in the Ministry of the Interior was reopened. ... The opening of other files is rapid, tremendous.... However, there are still files — ... like the files of the so-called abandoned property commissions — that are not made available.”²⁹ When these deed-records become public, along with the receipts given to Armenians as their property and possessions were sequestered during the genocide, they will further stimulate legal action on both national and international levels, while helping to restore the cultural memory of the Armenians.

CONCLUSION

The question of Armenian monuments and property may prove to be the key to breaking Turkish recalcitrance toward the events of 1915, until now essentially absent from Turkish discourse.³⁰ One year ago Prof. Henry Theriault remarked: “What is striking about the persistence of historical efforts like the civil rights movement in the United States or Gandhi’s struggle for Indian independence is that these ... demands came from great material, political, and military weakness and yet still succeeded because of the moral strength of the position of the “weak” vis-à-vis the “strong” Moral legitimacy is a great force in geopolitics and is the reliable ally of the weak, oppressed, and marginalized. It is (because of this) force that those committed to power politics... ridicule those who believe in [moral legitimacy] in the hope that they will stop believing and thus be tricked into giving up the most powerful tool of change. It is Armenia’s one advantage today.”³¹

29. Khachig Muradian, *Armenian Weekly*, March 8, 2008. Available at <http://khatchigmouradian.blogspot.com/2008/03/interview-with-hilmar-kaiser.html>.

30. In this context during the fourth anniversary commemorations of the assassination of Hrant Dink, Turkish and Kurdish parties of the left issued a declaration in English, Armenian, and Turkish from Ankara on January 19, 2011 in which among other things they mention Armenian property during the Genocide: “[Hrant Dink] had deciphered the genocidal face in the foundational constituents of this state. He had deciphered the active roles of the collaborators of the genocide, known as “Malta Exiles”, in the capital, policy and state management in the formation process of this state. He was questioning the fate of the Armenian properties which were seized in the genocide.”

31. Henry Theriault, “The Final Stage of Genocide: Consolidation,” *Armenian Weekly*, October 11, 2009.

