NCWA LEGALS & DECREES

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Category: Opinions

LAWS AND DECREES PASSED BY THE SUCCEEDING TURKISH GOVERNMENTS ON THE ARMENIAN ("ABANDONED") PROPERTY

Summary

- 1915 the Committee of Union and Progress (CUP) adopted laws that legalized the liquidation of Armenian properties and foresaw the settlement of migrants from the Balkans and Caucasus on these properties.
- After World War I the new government which was established by Ahmet İzzet Pasha in October 1918 and then by Tevfik Pasha in November 1918 attempted to compensate the Armenians for the damages suffered, rejecting and reversing previous CUP laws.
- In contrast, the Ankara government, which ruled most of Anatolia from 1919 on, abolished the laws of the Istanbul government and reinstated the CUP laws. With the establishment of the Turkish Republic, all Armenian properties became the possession of the treasury. The Kemalists did not allow Armenian refugees to return to their homes and reclaim their property.

Before we turn to a close analysis of these laws, it is necessary to clarify the terms concerning Armenian properties.

- The term 'Abandoned Properties' (emvâl-I metruke) is used in Ottoman legislation, but there is no specific definition about who abandoned these properties. The state applied the laws about abandoned properties to all people including Armenians, Greeks, Bulgarian, Jews and Syriacs. However, in the legislation, there was a separation in the execution of the laws.
- 'Deserters and missing people' (fi rari ve mütegayyib kişiler) referred specifically to Armenians and not the others and the laws on abandoned properties were applied to Armenians only. (Ali Rıza Duzceer, *Kazandırıcı Zamanaşımıyla Taşınmaz İktisabı* (Ankara: Yetkin Hukuk, 1994), p. 96.) In other words, Greeks, Bulgarians, Jews and Syriacs were not considered 'deserters' or 'missing' and the laws about abandoned properties would not be applied to their properties. Their conditions were defined by different categories and applied according to different laws. For instance, the laws about Greek migrants (mübadil) who migrated according to the 1923 population exchange between Greece and Turkey were referred to as 'property transfer laws'(temlik kanunları).

Despite the fact that this separation can be correct from a legal terminology point of view, the government did not use this separation regarding the liquidation of the properties. Indeed, the

properties of Greek migrants were managed according to the specific treaties and contracts between Greece and Turkey. During the Republican period, in some cases, Greeks and Bulgarians were considered in the category of deserted and missing people after all, and decisions were taken accordingly. In other words, in a practical sense, all properties left behind by Armenians, Greeks or other groups were managed according to the legislation on 'abandoned properties'.

La□ws and legal acts passed by the Young Turks Government (1914–1918)

The deportations of Armenians began as early as February 1915. The CUP needed to legalize these deportations and therefore adopted a 'temporary law' about the deportation of Armenians **on 27 May 1915**.

Although this law did not directly specify Armenians, their deportations were justified according to this law. The law did not include any clauses on Armenian properties.

A few days after the adaptation of this temporary law, the cabinet decided to enact a retroactive law about the ongoing deportations. The deportation decision of the cabinet was adopted officially **on 30 May 1915**. This decision legalized the previous temporary law and expanded its scope. This decision directly referred to Armenians. It aimed to deport Armenians that 'have engaged in dangerous activities such as collaborating with the enemy, massacring innocent people and instigating rebellions'. Different from the previous decision, it included articles on property. This decision on 30 May 1915 aimed at protecting the properties left behind or returning the net value of these properties to the deported Armenians. Also, this decision anticipated the determination of the types, values and amounts of the immovable properties and land. After this, all of them including lands and properties were allocated to the migrants. In the law, the term 'migrants' was not defined, but it referred to the people who fl ed or migrated from the Balkans and the Caucasus. In other words, the cabinet gave the order to settle these migrants in the evacuated villages or towns with this decision. All other properties including olive orchards, mulberry orchards, vineyards, orange groves, workshops, roadhouses, factories and stores were sold at auction. The auctioned properties' values were protected by revenue authorities in order to give back to owners. Finally, the decision included the establishment of so-called liquidation commissions to implement the protection and administration of the abandoned properties and to control the administration of the settlements.

The Ottoman government adopted a secret order (talimname) to inform the local government about the management of the Armenian properties immediately after the deportation decision of **10 June 1915**. The laws on abandoned properties were not enough for the local governments to manage the properties of deported people. Thus, the government sent this secret order to give detailed information. With this secret order, the commissions were formed to carry out the management of

properties and lands belonging to Armenians. In the secret order, the type, amount, value and name of the owners of the goods taken under protection would be registered in detail. The movables would be preserved in the name of the owners, but those movables whose owners were unknown would be registered and preserved in the name of the village. Perishable movables and animals would be sold at auction by the commissions. Also, the crops that would be harvested from the abandoned lands would be sold at auction. The money would be preserved in the finance office in the name of the previous owners. The goods, pictures, sacraments and holy books kept at the churches would be preserved in stores after they were registered and listed. The commissions arranged the records by the type, quantity or number and values of goods, and land deserted by the population would be registered by the local government.

In this secret order, there were also articles about the resettlement of migrants from the Balkans and Caucasus on the abandoned properties. During the war period, migrants from the Balkans and Caucasus escaped or were expelled to the Ottoman Empire. The settlement of these migrants became a problem for the Ottoman government and the deportation of Armenians provided an opportunity to solve this problem. The knife would cut both ways. At the beginning of the deportation, the government resettled the migrants in evacuated villages of Armenians by legalizing this resettlement through laws. In the secret order, many articles determined the settlement policies in detail. One of them stipulated that 'migrants will be resettled in evacuated villages and the existing houses and the land will be distributed to the migrants through temporary documents by taking into considerations the capacity of work and demands of the migrant families.' The places of origin, resettlement date and locations of the migrants would be registered in detail. The migrants would receive documents which showed the quantity of land and property given to them. After the resettlement of the migrants, this secret order proposed that nomads were to be settled in the remaining villages and procedures would become similar to those of migrants. During the resettlement, the migrants would be given enough land in line with their financial and economic conditions in the past as well as their productive power. Income generating properties such as shops, inns, factories and depots would be offered for sale by the commissions. The land that no one coveted would be leased for a maximum period of two years. Finally, the sums generated as a result of the sales would be entrusted to the fi nancial offi ces in the name of original owners. However, it was not clear whether the money would be returned or not.

The CUP government legalized the management of the abandoned properties mainly because of foreign pressure. Despite the empowerment that the war granted, it faced some restraints and restrictions on its executive decisions. Regarding the Armenian properties, there were pressures on the government from certain foreign countries. Germany and Austria–Hungary had many Armenian creditors and directly intervened in the process through their consulates. Livid entrepreneurs wrote many complaint petitions to the consulates about their losses. The consulates in turn criticized the Ottoman government and wanted to end the liquidation of the Armenian

properties because there were no legal articles to allow the sale of the properties.

The consulate of Austria–Hungary also protested to the Ottoman government and

declared the sale of the properties at auction as despoilment.

From then on, the direction of the process of juridical dispossession can be partly traced to the economic entanglements of German investors, Armenian businesses and the Young Turk regime. German companies and banks had ties to many individual Armenians. These ties needed to be severed before those Armenians could be dispossessed, deported and murdered. In a memorandum of 4 July 1915, the German ambassador Wangenheim warned the Young Turk government of the losses and damage that German firms would certainly incur as a result of the persecutions. The German government then bitterly claimed that it would hold the Ottoman government responsible for their losses. When Interior Minister Talaat ignored this protest, the Germans put in an official complaint on 13 September 1915 and exerted pressure on the CUP.22 Talaat, in typical CUP fashion, responded by swiftly drafting the **'temporary law' of 27 September 1915. It had a long title: 'The law about the abandoned properties, debts and credits of the population who weresent elsewhere.'** In comparison with the previous secret order, there were few changes about the management of the properties of Armenians in this new law. According to this law, the commissions were established to liquidate the abandoned properties and settle the debts and credits of the persons who were 'sent elsewhere'. The Finance Office was responsible to register all properties. Different from the previous one, this law explained the details of which procedure the creditors would follow to receive their credits from deported individuals. After the enforcement of this law, the creditors would apply to the commissions to claim their rights, Ottomans within two months and foreign ones within four months. However, if disputes arose after the end of these periods, the general rules were applied to them. Thus, anyone who won a case could not apply to claim the abandoned properties liquidated according to this law.

The significance of this law was that it cancelled all property transactions including cession (feragat) of the property up to fifteen days before the deportation date. This was to prevent preventive and fi ctitious transactions by future victims. In other words, in the law, the government attempted to frustrate the victims' efforts to preserve and safeguard their personal property as best as possible.

In the law, the properties of Armenian foundations and associations were registered by the Ministry of Pious Foundations. However, in the law, the properties of the foundations were allocated to the migrants free of charge, as a result of the bylaws for the migrants' settlement. In this sense, the Ottoman government legalized the administration of the Armenian properties due to the pressures of foreign countries, but these laws did not satisfy these countries.

According to a German embassy official, German legal scholars and Istanbul's business circles had 'dramatically, but not inaccurately' named the law 'legalization of pillage' (Legalisierung des Raubes). The Austro–Hungarian Chamber of Commerce reached similar conclusions, namely that the Young

Turk government had abolished the rights of both creditors and debtors related to Armenians. But since the Germans and Habsburgs were unable to make a fist, the

CUP was not impressed. It overcame this last obstacle and continued to liquidate the Armenian properties through these laws.

On **8 November 1915 a new regulation** was adopted to determine the practice of the items of the 27 September law. This regulation provided much more detailed information about the rules and duties of the commissions. It also gave direct information about the immovable properties of the Armenians. One of the differences was about the books (defter) which included the type, value and amount of the properties, as the secret order proposed. The other difference was about the properties of churches. According to the regulation, all existing goods of the churches were registered and preserved as the secret order had mandated. However, in the new regulation, usage rights of the materials of the schools and monasteries were transferred to the Ministry of Education. Also, the commissions became responsible to sell the movable properties at auction with appropriate values. Because of this objective, the commissions would now decide themselves on an appropriate time and place to define the property values. According to the law, the commissions recorded three different books for the properties. The kinds of the abandoned properties including money, movables, immovable properties, debts and credits were recorded in these books. In the regulation, the layout of the books was defined by a template of how to register the materials in a table. This means that the books were kept in a uniform way.

After this law and these regulations, until 1918 only one amendment to the law about the abandoned properties was passed, adding one item to the first article of the law. According to this addition, deported Armenians were supported by the properties and lands given by the Treasury without any cost. In other words: the deportation of Armenians was being funded with Armenian property.

Laws and legal acts passed during the armistice by the government in Istanbul (1918–1923)

At the end of the war, the CUP fell from the power. The new government was composed

of opponents of the CUP. Also, the Entente Powers, including France and Britain, occupied Istanbul in March 1920, which put pressure on the government. The Entente Powers established a tribunal to try the CUP as war criminals. Specifically, they defined the deportation as a war crime and anyone responsible for it was to be tried. Besides this case, the Istanbul government also judged the members of the CUP with ‘regular’ war crimes. In this political constellation, the Istanbul government took certain decisions about the status of the abandoned properties and the rights of deported

Armenians.

The Istanbul government, which was ruled by Ahmet İzzet Pasha, issued an order which said that deported Armenians could return to their homes on 18 October 1918. **On 4 November 1918** the Istanbul government took an important decision: it rejected the laws passed on 26 and 27 May 1915. As the CUP fell from government, the parliament was reopened and deputies who opposed the CUP began to criticize the policies of the CUP. The parliament also rejected the deportation and abandoned properties laws as a violation of the Ottoman constitution.

On 8 January 1920, the Istanbul government ruled by Ali Rıza adopted **a decree about the properties**. The Istanbul government took a central decision about the abandoned properties. This decree was different from the previous ones and changed all articles and items, because this decree was issued to protect the rights of ex-owners of the properties. The decree included the return of the properties that were liquidated according to the 26 September 1915 law and the 8 November 1915 regulation. If the immovable properties of these people were transferred to someone without the approval of the original owners, the properties had to be returned to their original owners. On the other hand, the value of the properties would be given to the original owners in order to render the liquidations legal. Moreover, if the original owners of the properties were dead and there were no heirs, the value of the properties would be given as financial aid to Armenian communal and charity organizations. If the movables that were liquidated by the government had not been sold yet, they would be given to the real owners. If they were sold, their value would also be returned to the original owners. Again, if the original owners were deceased and there were no heirs, the revenue of the sales would be given to religious leaders in order to distribute to orphans and other needy people. The money that was collected by the liquidation commissions in the name of the deported people would be given back. Anyone who was caught destroying property had to compensate the original owners. From the deportation date to the return of the original owners, the income of the properties would be rendered to the ex-owners by extracting the expenses from the yield. In this decree, only the immovable properties that were expropriated for the benefit of the public were not returned. Rather, this expropriation transaction was seen as valid.

Laws and legal acts passed during the armistice by the government in Ankara (1918–1923)

With the rise of the national movement, the CUP established a new government in Ankara. This shadow government, independent from Istanbul, adopted different decisions. They established the ‘Grand National Assembly of Turkey’ on 23 April 1920. This Assembly ran its own legislative branch, adopting laws without consulting the Istanbul government. The country was now split in a jurisdiction battle. The Assembly adopted a law which invalidated any political and commercial

treaties and contracts adopted by the Istanbul government **on 7 June 1920**. This law covered all treaties and transactions carried out after the invasion of Istanbul on 16 March 1920. In the case of the abandoned properties, the CUP government rejected the decree of the Istanbul government which returned the properties to their original owners. The CUP government re-adopted the laws they had legislated five years before and simply changed some of their articles. The liquidation of the properties was again legal and legitimate.

The resurrected CUP government adopted many laws about the deportations and the abandoned properties, starting with the **law of 20 April 1922**. According to this law, the unclaimed movable properties of the population who had escaped from the places which were freed from the invasion of the enemy were sold at auction, and the immovable properties and agricultural products were owned by the government. The incomes of these properties were registered by the financial authorities. However, if these people returned, their immovable properties and registered incomes would be given back. The second article of the law stipulated that the proxy statements prepared before the publication of this law were accepted. But if they were prepared afterwards, they were not accepted and the right of using these properties would shift to the government. The articles of this law were applied to anyone who had escaped or disappeared as a result of the state of the war and for political reasons. According to this law, if someone denounced any abandoned properties that had been kept secret or were yet undetermined, they would get a denunciation bonus. During the discussions in the Assembly, there were interesting debates about the abandoned properties. When the deputies discussed the second article of the law, Konya deputy Ömer Vehbi rejected it by arguing that this was opposed to the first article since it violated the property rights of the people. However, his objection was not accepted by other deputies. Mustafa Sabri Efendi, Siirt deputy, opposed Ömer Vehbi by quoting a hadith (Islamic tradition): 'The blood of the ones who draw swords to their Muslim brothers is waste, their properties are sugar .' He continued to rationalize the dispossession of Armenian properties by claiming that 'anything seen as good by Muslim believers is good, not a sin'. He also argued that if this article was not accepted, the entire law would be useless, as he claimed there were many fake proxy statements. Th is article would prevent this kind of fraud. In the same session, a speech was given by Erzurum deputy Salih Efendi, who talked about the Muslims to whom some Armenians owed money. He argued that Armenians who were dominant in the economy of the country were doing business by taking credits from Muslims. Muslims were not engaged in trade, instead lending money to Armenians to do business in their name. Because of this, Muslims were the true owners of Armenian capital. Salih Efendi asked how it would be possible for these Muslims to take their money back from the Armenians who fled. His statement was accepted by the Minister of Finance, but it was necessary to form a new regulation for this. The proposal was not included in this law.

After the enactment of this law with unanimity, the restitution decree adopted by the Istanbul government on 8 January 1920 was **rejected by Ankara on 14 September 1922** without discussion.

The first decree by the Ankara government was adopted **on 12 March 1922**. According to this law, the proxy statements of the missing non-Muslim subjects were rejected. These people, Ottoman Christians, were those accused of defending the Pontos movement during the national movement, those who escaped to Greece, Istanbul or other places after the armistic and the Greeks of Trabzon, Samsun, Ordu and Giresun who had 'collaborated with the enemies and betrayed the government'. If they had sent proxy statements, they would not be accepted by the

government.

The other law about the abandoned properties was adopted on 15 April 1923. This law changed some items of the law issued on 26 September 1915 and abolished the 20 April 1922 law. It became the new law about the abandoned properties for the Kemalist era. Through this law, only a few articles were changed. One of the changes was about immovable properties recorded by the Ministry of Pious Foundations and the Finance Ministry. After the liquidation of these properties, their yield was recorded as income for these treasuries in the name of the evacuated people. However, if someone claimed the properties or had outstanding debts with the deportees, after the publication of this law they could apply – within four months if they were residents of Turkey and within 6 months if they were residents of foreign countries.

During the session of the Assembly, the Minister of Finance, Hasan Fehmi Bey made several significant statements about the sale of Armenian properties. During the discussion on the articles of the law legislated on 15 April 1923, Nafiz Bey, a deputy from Canik, said that the government could not manage the abandoned properties, and they were partly destroyed and 'destruction' (tahrip) was continuing. For example, he argued that many vineyards and houses from abandoned properties in Ankara were destroyed. He also said that there was an article in the Liquidation Law: the properties that were destroyed would be sold. He asked the Minister of Finance why these properties were not sold, because, according to Nafiz Bey, if these were sold, they would be used by locals who could work for developing the public works of the country. In this sense, he proposed the integral sale of abandoned properties in some provinces such as İzmir and Bursa. As a response to Nafiz Bey, Hasan Fehmi Bey accepted the claims about the destroyed abandoned properties, but he argued that the law of the abandoned properties restricted the attempts of the Ministry of Finance, since the law did not allow the ministry to sell the properties. According to the law, the ministry would manage the abandoned properties. Hasan Fehmi Bey said that if the law had issued rules to the Ministry of Finance, the destruction of abandoned properties could have been prevented and immigrants could have been settled in the abandoned properties. He also claimed that there was a legal conflict between the Law of Abandoned Properties issued on 20 April 1922 and the Liquidation Law of 27 September 1915. It was not easy to determine which law could be applied for such a case. In this respect, Hasan Fehmi Bey concluded that this new law would solve all these problems, and the Ministry of Finance would gain the right to sell or manage these kinds of abandoned properties.42

The decree issued on 12 March 1922 was changed **on 28 June 1923**, because people from other

regions began sending proxy statements to repossess their properties. The Ankara government changed the decree and proposed that the proxy statements from all missing non-Muslim subjects would not be accepted.

Nevertheless, **on 31 October 1922** the Ankara government adopted a decree by changing some articles of the 8 November 1915 regulation. These changes included some details about the forms and rules of the commissions. Through this change, the commissions had to complete their duties within four months after the date of deportation or migration. An article was added to the regulation stating that after or before the war, all movable and immovable properties of persons who went to foreign or invaded countries for a journey were to be controlled by the government.

In 1923 there were two decisions for the movable and immovable properties of people who were from occupied cities or escaped from Istanbul and disappeared. First was the ordinance (talimatname) adopted on 29 March 1923: The properties of the people who escaped from Istanbul were managed according to the law of abandoned properties. If their family members needed feeding, only their commercial goods were liquidated and their household goods would be given back. After the enactment of the law on 15 April 1923, this ordinance was changed and the decree was adopted **on 29 April 1923**. With this new law, the abandoned properties of missing people who escaped from Istanbul were managed by the 15 April 1923 law.

On 29 April 1923, the Ankara government adopted a regulation to determine the administration of the abandoned properties; this changed a few items of the regulation of 8 November 1915. This was also about the immovable properties and the forms and rules of the commissions. According to this regulation, in any terms, the properties of the persons who escaped to Istanbul, foreign countries or occupied territory became the possession of the treasuries of the Ministry of Finance and Foundation. Again, liquidation commissions were authorized to manage the abandoned properties. The abandoned properties of this group, except those of exchangees (mübadil), were seen as the immovable properties of the Treasury. The properties that did not yield income were sold at auction.

Another law about the abandoned properties was issued on **13 March 1924**. This law directly included articles about distribution and sale of the properties. The first article stated that abandoned properties and lands belonging to the nonexchange people could be given and distributed to the property owners whose properties were destroyed or demolished by enemies, rebels and the government. The article emphasized that anyone who received abandoned properties had to really need them. The other article stated that the value of these abandoned immovable properties that would be distributed could be provided from the state budget.

On the other hand, some articles of this law were changed by a new law which was adopted on 15 April 1925. The government would sell the abandoned properties and lands in the way that was formally announced. Significantly, this new law solved the ambiguity of the previous one which did not include a method of determining the value of the properties. According to the new law, the value

of abandoned properties that were given and distributed would be determined according to its 1915 value, and this would be registered at the Ministry of Finance under the name of real owner.

Other decrees about the abandoned properties were related to the properties of the people who left their places in Anatolia with the permission of the government. Within the scope of the **20 July 1924** decree, these properties were not regarded as abandoned properties. However, the concept of 'Anatolia' created a problem, as it was not clear whether it included Thrace or not. Therefore, a new decree was adopted on **12 November 1924** suggesting that 'Anatolia' be replaced by 'Turkey', which included Thrace.

This decree was also changed through another decree on **18 January 1925**. Within the scope of this decree, if someone left his or her property before the publication of the Lausanne Treaty, their property was considered 'abandoned property'. On the other hand, if the government or the liquidation commissions had not intervened in their properties yet, after this decree they could no longer intervene in them. Also, the property of people who left their places by permission of the Ankara government were not regarded as abandoned property.

International Context

The treaties and agreements of Batumi (1918), Versailles (1919), Alexandropol (1920), Moscow (1921), Kars (1921), Ankara (1922) and Sèvres (1920), all signed by the CUP government, contained specific provisions on minority properties and foresaw restitution and compensation of all kinds. But the Lausanne Treaty of 24 July 1923 cancelled these plans once and for all.

Although there were laws to define the abandoned properties and their liquidation, the CUP government readopted the regulations and decrees relating to the abandoned properties. After the Lausanne Treaty of 24 July 1923, the conditions of the abandoned properties were changed. As a part of the treaty, in a separate convention concluded on 30 January 1923, a population exchange between Greece and Turkey was launched. According to the convention, the Greeks in Turkey would be sent to Greece and vice versa. With this exchange, the Greek properties became a problem and there emerged the necessity to change the law in order to include the people who were exchanged. Before the population exchange, the laws of abandoned properties referred only to Armenians. Unlike the Armenian case, the government would not easily liquidate the properties of Greeks, because it was bound to the international law of the population exchange.

The properties of Armenians were discussed in the Lausanne Conference in terms of the issue of the return of Armenians under the title of general amnesty, but the Turkish Representative Committee rejected these claims. At the conference, İsmet İnönü did not allow discussion of a collective return of Armenian refugees, arguing that this would constitute a national security threat for Turkey.

He also separated the issue of general amnesty from Armenian refugees. According to him, in various periods hundred of thousands of people who migrated were a different problem from general amnesty and it could not be solved in the framework of a peace conference. In this respect, the properties of Armenians and their return were not included in the general amnesty. However, Turkey did have the responsibility to arrange its laws in accordance with the Lausanne Treaty. Thus, the Republican government set up new decrees by changing the previous ones to be in accord with the treaty. The issue of abandoned properties entered a new phase.

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All laws had to be in accordance with the rules of the treaty, because it was a legal foundation for the establishment of the Republic. The Ankara government changed the articles of the laws that were in conflict with the treaty. Also, the government was obliged to give properties back to their original owners. Nevertheless, with the establishment of special laws, the government violated this condition. For example, the government did not accept the proxy statements of evacuated and missing non-Muslim subjects. With the Lausanne Treaty and the population exchange, the abandoned properties again became a problem. How would the government intervene in the properties of Greek and Armenian subjects as their status was not even clear in previous laws or decrees? Thus, the Republican Government adopted more decrees to solve this unclear situation.

The first decree was adopted **on 5 February 1925**. This decree proposed that the properties of the people who left after the Treaty of Lausanne would not be interfered with. If these properties were liquidated, they would be given back. A new decree issued **on 15 July 1925** suggested that the distraint of the bank account deposit (bakiye) of the missing persons who were not subject to the population exchange would be abolished. They were given to the owners.

Another decree was adopted **on 30 September 1925** about the mines owned by the missing people. The decree decided that the grants, lots and rights of the mines of the missing people were cancelled. They were now considered as mines found by the state.

The Treaty of Lausanne changed the scope of the abandoned properties. The government made a decision to improve the laws according to the Treaty of Lausanne. A major decision was taken **on 13 June 1926**. The government accepted the ordinance which changed the 26 September 1915 law and the 20 April 1923 law. The first article of the ordinance suggested that after the publication of the Lausanne Treaty, it was necessary to seize the abandoned properties. The second article proposed that if the government was aware of the abandonment of the properties before this publication date, the government could seize them. The other articles stated that if the government discovered the properties after this date, these properties would be given to the owners. On the other hand, if the owners or their heirs were not found, the government would control the properties in the name of

their owners. If these properties were given to the migrants, their values would be returned to the owners.

On 17 July 1927 the government adopted a decree which changed the above ordinance. This decree changed the first and second articles of this ordinance, instead proposing that the government continue to apply the laws on the abandoned properties liquidated before the Lausanne Treaty. However, if the government had not intervened in the properties, and the owners returned and managed their properties, the government could not intervene in these properties.

The other laws related to the abandoned properties were adopted **on 28 May 1928**. The first one was about giving the title deed to exchange and non-exchange people and migrants who possessed the immovable properties in return for the transfer documents. According to this law, the immovable properties that were allocated to the immigrants or liquidated by the Treasury according to the laws of abandoned properties would not be given to their original owners. Rather, their values (decided by the 15 April 1925 law) were paid by the Ministry of Finance. The second article of the law meant that the title deed could be given to the non exchange people, immigrants, refugees, members of tribes and victims of fires. According to the seventh article of this law, movable and immovable properties liquidated according to the laws of 27 September 1915 and 15 April 1923 would not be given back to their owners, but their value, which was determined according to the 15 April 1925 law, would be rendered. This is significant, because the 15 April 1925 law stated that the value of the abandoned properties would be determined according to its 1915 value.

On the other hand, **on 2 June 1929** the Assembly took a decision about the seventh article of the 28 May 1928 law. This interpretation again confirmed the value determination of the abandoned properties according to their 1915 value. The interpretation stated that restitution of the abandoned properties liquidated according to the 1915 and 1923 laws had to be fulfilled according to their 1915 value.

The second law was about the current accounts (cari hesap) of the abandoned properties. According to this law, the balances of the current accounts of the abandoned properties were recorded as income in the income budget of the 1928 fiscal year. In addition, the amount of about 300,000 Turkish lira from this income was used by the Ministry of Finance to supply the cost of the management and organization of the abandoned properties.

Finally, the Ankara government adopted a law on the distribution of properties which was different from other laws in the sense that it was not related to the management of the properties. This final law for the abandoned properties was adopted directly in terms of nationalist claims.

Despite the fact that the Ankara government suppressed certain former CUP members in 1926, in the same year it also declared the assassinated ex-leaders of the CUP as martyrs. Their families were lavished with Armenian property. The **31 May 1926 law** was related to the Turks killed by Armenian hitmen: Talaat Pasha, Cemal Pasha, Cemal Azmi, Bahaeddin Shakir, Sait Halim, governor of

Diyarbekir Mehmed Reshid, the aides of Cemal Pasha and the district governors of Urfa, Boğazlıyan and Muş. (Some of these men had not even been assassinated by Armenian hitmen.) According to the law, the families of these people were given immovable properties from the Armenian abandoned properties which were worth 20,000 Turkish lire. They also took the title deeds for these properties with the stipulation that they were not allowed to sell these properties within ten years. This was a significant law since it aimed to reestablish the reputations of the old CUP leaders who had played central roles in the genocide.

In the Assembly, there was an interesting discussion that demonstrates the perception of the deputies of these former leaders as well as the continuity between the Kemalists and the Ittihadists. In the first draft of the law, the amount of money that would be given to the families was planned to be taken from the budget of 'national properties' (emvali milliye). While the draft was being discussed, Sinop deputy Recep Zühtü Bey objected and suggested that this money should be taken from the 'abandoned properties of deserter Armenians' instead of national properties – this would teach the Armenians a lesson, he added. He justified his suggestion as follows: 'You can organize an assassination and kill any Turkish person. But we will raise his children in order to gouge out your eyes and crack your head again with your own money.' His speech ended to bravos and applause, his suggestion was accepted by the assembly and the draft was legalized.

Conclusion

The legal management of Armenian property began immediately after the decision of deportation, with secret regulations. The CUP government legalized the application of rules of the regulation with the help of external factors. Each period had its own conditions and these conditions affected the contents of the laws. From the beginning of the deportation, the CUP aimed to liquidate the Armenian properties. Some articles of laws were composed of granting the return of properties to original owners, whereas other articles did not allow to the return of these properties. The settlement of migrants from the Balkans and Caucasus on abandoned property was also managed by the laws. In addition, the return of Armenians after the war was not permitted. This demonstrates that the CUP never aimed to return these properties. The 'laws' only aimed to legalize the liquidations.

After the war the Istanbul government arranged for regulations and laws to protect the rights of deported people and solve their problems, including their properties. However, with the resurrection of the CUP in Ankara, two clashing powers dominated Turkey and their decisions diff ered. Moreover, the Ankara government abolished the regulations and laws of the Istanbul government and re-adopted the laws they had launched themselves in 1915. After the success of the national movement and establishment of the Republic, the Kemalists became the sole power and could freely adopt laws about abandoned properties. Although the Lausanne Treaty included some

restrictions on the adaptation of laws relating to minorities, the new republic solved these restrictions by issuing special regulations. After 1925 the Kemalists began to consolidate their power into a single-party dictatorship. The Grand National Assembly easily adopted the laws. In the case of abandoned properties, the liquidated properties were registered as income in the national budget, and migrants or nomads who were settled on abandoned properties were allowed to take the title deeds for these properties.

The laws of abandoned properties were only abolished **on 11 June 1986**. This means that these laws had stayed in effect for 73 years. The Turkish Republic continued to liquidate the abandoned properties in this period. However, the abolishment of the law did not mean that the liquidation stopped. The 'General Directorate of Land Registry and Cadastre' (Tapu ve Kadastro Genel Müdürlüğü) published a circular order about the abandoned properties **on 29 June 2001**.

According to this order, all abandoned properties would be transferred to the state and it was made impossible to give any title deed, information or document to anyone. This indicates that Armenian property had ultimately been transferred to the state and the real owners or their heirs cannot claim any rights to their properties, whether according to international law or Turkish law.

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 were rejected by Turkey. The interests of the Allied Powers were no longer with Armenia, already Sovietized by that time. Diasporan Armenians and their supporters represented little more than a moral force easily ignored, and Armenian property claims were forgotten along with the Armenians. In 1929, a group of international legal scholars became engaged with Armenians' claims for restitution, lodged at the League of Nations for adjudication. The scholars discussed complex legal questions regarding the abandoned properties commission. But despite all correspondence by Mandelstam, Pachalian and Drummond, international law failed in this period to bring about justice. There was no restitution, no redress and no compensation. The Young Turk hawk Tevfik Rüşdü Aras was inexorable in his answers: he reported that the government considered the affair *définitivement liquidée*, rejected the legal arguments of Pachalian and politely thanked the gentlemen for their letters.

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*Information taken from:**Uğur Ümit Üngör and Mehmet Polatel "Confiscation and Destruction The Young Turk Seizure of Armenian Property, First published 2011, pp. 41- 59.***

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LAWS AND DECREES PASSED BY THE SUCCEEDING TURKISH GOVERNMENTS ON THE ARMENIAN ("ABANDONED") PROPERTY

Summary

- 1915 the Committee of Union and Progress (CUP) adopted laws that legalized the liquidation of Armenian properties and foresaw the settlement of migrants from the Balkans and Caucasus on these properties.
- After World War I the new government which was established by Ahmet İzzet Pasha in October 1918 and then by Tevfik Pasha in November 1918 attempted to compensate the Armenians for the damages suffered, rejecting and reversing previous CUP laws.
- In contrast, the Ankara government, which ruled most of Anatolia from 1919 on, abolished the laws of the Istanbul government and reinstated the CUP laws. With the establishment of the Turkish Republic, all Armenian properties became the possession of the treasury. The

Kemalists did not allow Armenian refugees to return to their homes and reclaim their property.

Before we turn to a close analysis of these laws, it is necessary to clarify the terms concerning Armenian properties.

- The term 'Abandoned Properties' (emvâl-I metruke) is used in Ottoman legislation, but there is no specific definition about who abandoned these properties. The state applied the laws about abandoned properties to all people including Armenians, Greeks, Bulgarian, Jews and Syriacs. However, in the legislation, there was a separation in the execution of the laws.
- 'Deserters and missing people' (fi rari ve mütegayyib kişiler) referred specifically to Armenians and not the others and the laws on abandoned properties were applied to Armenians only. (Ali Rıza Duzceer, *Kazandırıcı Zamanaşımıyla Taşınmaz İktisabı* (Ankara: Yetkin Hukuk, 1994), p. 96.) In other words, Greeks, Bulgarians, Jews and Syriacs were not considered 'deserters' or 'missing' and the laws about abandoned properties would not be applied to their properties. Their conditions were defined by different categories and applied according to different laws. For instance, the laws about Greek migrants (mübadil) who migrated according to the 1923 population exchange between Greece and Turkey were referred to as 'property transfer laws'(temlik kanunları).

Despite the fact that this separation can be correct from a legal terminology point of view, the government did not use this separation regarding the liquidation of the properties. Indeed, the properties of Greek migrants were managed according to the specific treaties and contracts between Greece and Turkey. During the Republican period, in some cases, Greeks and Bulgarians were considered in the category of deserted and missing people after all, and decisions were taken accordingly. In other words, in a practical sense, all properties left behind by Armenians, Greeks or other groups were managed according to the legislation on 'abandoned properties'.

La□ws and legal acts passed by the Young Turks Government (1914–1918)

The deportations of Armenians began as early as February 1915. The CUP needed to legalize these deportations and therefore adopted a 'temporary law' about the deportation of Armenians **on 27 May 1915**.

Although this law did not directly specify Armenians, their deportations were justified according to this law. The law did not include any clauses on Armenian properties.

A few days after the adaptation of this temporary law, the cabinet decided to enact a retroactive law about the ongoing deportations. The deportation decision of the cabinet was adopted officially **on**

30 May 1915. This decision legalized the previous temporary law and expanded its scope. This decision directly referred to Armenians. It aimed to deport Armenians that 'have engaged in dangerous activities such as collaborating with the enemy, massacring innocent people and instigating rebellions'. Different from the previous decision, it included articles on property. This decision on 30 May 1915 aimed at protecting the properties left behind or returning the net value of these properties to the deported Armenians. Also, this decision anticipated the determination of the types, values and amounts of the immovable properties and land. After this, all of them including lands and properties were allocated to the migrants. In the law, the term 'migrants' was not defined, but it referred to the people who fl ed or migrated from the Balkans and the Caucasus. In other words, the cabinet gave the order to settle these migrants in the evacuated villages or towns with this decision. All other properties including olive orchards, mulberry orchards, vineyards, orange groves, workshops, roadhouses, factories and stores were sold at auction. The auctioned properties' values were protected by revenue authorities in order to give back to owners. Finally, the decision included the establishment of so-called liquidation commissions to implement the protection and administration of the abandoned properties and to control the administration of the settlements.

The Ottoman government adopted a secret order (talimname) to inform the local government about the management of the Armenian properties immediately after the deportation decision of **10 June 1915**. The laws on abandoned properties were not enough for the local governments to manage the properties of deported people. Thus, the government sent this secret order to give detailed information. With this secret order, the commissions were formed to carry out the management of properties and lands belonging to Armenians. In the secret order, the type, amount, value and name of the owners of the goods taken under protection would be registered in detail. The movables would be preserved in the name of the owners, but those movables whose owners were unknown would be registered and preserved in the name of the village. Perishable movables and animals would be sold at auction by the commissions. Also, the crops that would be harvested from the abandoned lands would be sold at auction. The money would be preserved in the finance office in the name of the previous owners. The goods, pictures, sacraments and holy books kept at the churches would be preserved in stores after they were registered and listed. The commissions arranged the records by the type, quantity or number and values of goods, and land deserted by the population would be registered by the local government.

In this secret order, there were also articles about the resettlement of migrants from the Balkans and Caucasus on the abandoned properties. During the war period, migrants from the Balkans and Caucasus escaped or were expelled to the Ottoman Empire. The settlement of these migrants became a problem for the Ottoman government and the deportation of Armenians provided an opportunity to solve this problem. The knife would cut both ways. At the beginning of the deportation, the government resettled the migrants in evacuated villages of Armenians by legalizing this resettlement through laws. In the secret order, many articles determined the settlement policies in detail. One of them stipulated that 'migrants will be resettled in evacuated villages and the

existing houses and the land will be distributed to the migrants through temporary documents by taking into considerations the capacity of work and demands of the migrant families.' The places of origin, resettlement date and locations of the migrants would be registered in detail. The migrants would receive documents which showed the quantity of land and property given to them. After the resettlement of the migrants, this secret order proposed that nomads were to be settled in the remaining villages and procedures would become similar to those of migrants. During the resettlement, the migrants would be given enough land in line with their financial and economic conditions in the past as well as their productive power. Income generating properties such as shops, inns, factories and depots would be offered for sale by the commissions. The land that no one coveted would be leased for a maximum period of two years. Finally, the sums generated as a result of the sales would be entrusted to the fi nancial offi ces in the name of original owners. However, it was not clear whether the money would be returned or not.

The CUP government legalized the management of the abandoned properties mainly because of foreign pressure. Despite the empowerment that the war granted, it faced some restraints and restrictions on its executive decisions. Regarding the Armenian properties, there were pressures on the government from certain foreign countries. Germany and Austria–Hungary had many Armenian creditors and directly intervened in the process through their consulates. Livid entrepreneurs wrote many complaint petitions to the consulates about their losses. The consulates in turn criticized the Ottoman government and wanted to end the liquidation of the Armenian

properties because there were no legal articles to allow the sale of the properties.

The consulate of Austria–Hungary also protested to the Ottoman government and

declared the sale of the properties at auction as despoilment.

From then on, the direction of the process of juridical dispossession can be partly traced to the economic entanglements of German investors, Armenian businesses and the Young Turk regime. German companies and banks had ties to many individual Armenians. These ties needed to be severed before those Armenians could be dispossessed, deported and murdered. In a memorandum of 4 July 1915, the German ambassador Wangenheim warned the Young Turk government of the losses and damage that German firms would certainly incur as a result of the persecutions. The German government then bitterly claimed that it would hold the Ottoman government responsible for their losses. When Interior Minister Talaat ignored this protest, the Germans put in an official complaint on 13 September 1915 and exerted pressure on the CUP.22 Talaat, in typical CUP fashion, responded by swiftly drafting the **'temporary law' of 27 September 1915. It had a long title: 'The law about the abandoned properties, debts and credits of the population who weresent elsewhere.'** In comparison with the previous secret order, there were few changes about the management of the properties of Armenians in this new law. According to this law, the commissions were established to liquidate the abandoned properties and settle the debts

and credits of the persons who were 'sent elsewhere'. The Finance Office was responsible to register all properties. Different from the previous one, this law explained the details of which procedure the creditors would follow to receive their credits from deported individuals. After the enforcement of this law, the creditors would apply to the commissions to claim their rights, Ottomans within two months and foreign ones within four months. However, if disputes arose after the end of these periods, the general rules were applied to them. Thus, anyone who won a case could not apply to claim the abandoned properties liquidated according to this law.

The significance of this law was that it cancelled all property transactions including cession (feragat) of the property up to fifteen days before the deportation date. This was to prevent preventive and fi ctitious transactions by future victims. In other words, in the law, the government attempted to frustrate the victims' efforts to preserve and safeguard their personal property as best as possible.

In the law, the properties of Armenian foundations and associations were registered by the Ministry of Pious Foundations. However, in the law, the properties of the foundations were allocated to the migrants free of charge, as a result of the bylaws for the migrants' settlement. In this sense, the Ottoman government legalized the administration of the Armenian properties due to the pressures of foreign countries, but these laws did not satisfy these countries.

According to a German embassy official, German legal scholars and Istanbul's business circles had 'dramatically, but not inaccurately' named the law 'legalization of pillage' (Legalisierung des Raubes). The Austro–Hungarian Chamber of Commerce reached similar conclusions, namely that the Young Turk government had abolished the rights of both creditors and debtors related to Armenians. But since the Germans and Habsburgs were unable to make a fist, the

CUP was not impressed. It overcame this last obstacle and continued to liquidate the Armenian properties through these laws.

On **8 November 1915 a new regulation** was adopted to determine the practice of the items of the 27 September law. This regulation provided much more detailed information about the rules and duties of the commissions. It also gave direct information about the immovable properties of the Armenians. One of the differences was about the books (defter) which included the type, value and amount of the properties, as the secret order proposed. The other difference was about the properties of churches. According to the regulation, all existing goods of the churches were registered and preserved as the secret order had mandated. However, in the new regulation, usage rights of the materials of the schools and monasteries were transferred to the Ministry of Education. Also, the commissions became responsible to sell the movable properties at auction with appropriate values. Because of this objective, the commissions would now decide themselves on an appropriate time and place to define the property values. According to the law, the commissions recorded three different books for the properties. The kinds of the abandoned properties including money, movables, immovable properties, debts and credits were recorded in these books. In the

regulation, the layout of the books was defined by a template of how to register the materials in a table. This means that the books were kept in a uniform way.

After this law and these regulations, until 1918 only one amendment to the law about the abandoned properties was passed, adding one item to the first article of the law. According to this addition, deported Armenians were supported by the properties and lands given by the Treasury without any cost. In other words: the deportation of Armenians was being funded with Armenian property.

Laws and legal acts passed during the armistice by the government in Istanbul (1918–1923)

At the end of the war, the CUP fell from the power. The new government was composed

of opponents of the CUP. Also, the Entente Powers, including France and Britain, occupied Istanbul in March 1920, which put pressure on the government. The Entente Powers established a tribunal to try the CUP as war criminals. Specifically, they defined the deportation as a war crime and anyone responsible for it was to be tried. Besides this case, the Istanbul government also judged the members of the CUP with 'regular' war crimes. In this political constellation, the Istanbul government took certain decisions about the status of the abandoned properties and the rights of deported Armenians.

The Istanbul government, which was ruled by Ahmet İzzet Pasha, issued an order which said that deported Armenians could return to their homes on 18 October 1918. **On 4 November 1918** the Istanbul government took an important decision: it rejected the laws passed on 26 and 27 May 1915. As the CUP fell from government, the parliament was reopened and deputies who opposed the CUP began to criticize the policies of the CUP. The parliament also rejected the deportation and abandoned properties laws as a violation of the Ottoman constitution.

On 8 January 1920, the Istanbul government ruled by Ali Rıza adopted **a decree about the properties**. The Istanbul government took a central decision about the abandoned properties. This decree was different from the previous ones and changed all articles and items, because this decree was issued to protect the rights of ex-owners of the properties. The decree included the return of the properties that were liquidated according to the 26 September 1915 law and the 8 November 1915 regulation. If the immovable properties of these people were transferred to someone without the approval of the original owners, the properties had to be returned to their original owners. On the other hand, the value of the properties would be given to the original owners in order to render the liquidations legal. Moreover, if the original owners of the properties were dead and there were no heirs, the value of the properties would be given as financial aid to Armenian

communal and charity organizations. If the movables that were liquidated by the government had not been sold yet, they would be given to the real owners. If they were sold, their value would also be returned to the original owners. Again, if the original owners were deceased and there were no heirs, the revenue of the sales would be given to religious leaders in order to distribute to orphans and other needy people. The money that was collected by the liquidation commissions in the name of the deported people would be given back. Anyone who was caught destroying property had to compensate the original owners. From the deportation date to the return of the original owners, the income of the properties would be rendered to the ex-owners by extracting the expenses from the yield. In this decree, only the immovable properties that were expropriated for the benefit of the public were not returned. Rather, this expropriation transaction was seen as valid.

Laws and legal acts passed during the armistice by the government in Ankara (1918–1923)

With the rise of the national movement, the CUP established a new government in Ankara. This shadow government, independent from Istanbul, adopted different decisions. They established the 'Grand National Assembly of Turkey' on 23 April 1920. This Assembly ran its own legislative branch, adopting laws without consulting the Istanbul government. The country was now split in a jurisdiction battle. The Assembly adopted a law which invalidated any political and commercial treaties and contracts adopted by the Istanbul government **on 7 June 1920**. This law covered all treaties and transactions carried out after the invasion of Istanbul on 16 March 1920. In the case of the abandoned properties, the CUP government rejected the decree of the Istanbul government which returned the properties to their original owners. The CUP government re-adopted the laws they had legislated five years before and simply changed some of their articles. The liquidation of the properties was again legal and legitimate.

The resurrected CUP government adopted many laws about the deportations and the abandoned properties, starting with the **law of 20 April 1922**. According to this law, the unclaimed movable properties of the population who had escaped from the places which were freed from the invasion of the enemy were sold at auction, and the immovable properties and agricultural products were owned by the government. The incomes of these properties were registered by the financial authorities. However, if these people returned, their immovable properties and registered incomes would be given back. The second article of the law stipulated that the proxy statements prepared before the publication of this law were accepted. But if they were prepared afterwards, they were not accepted and the right of using these properties would shift to the government. The articles of this law were applied to anyone who had escaped or disappeared as a result of the state of the war and for political reasons. According to this law, if someone denounced any abandoned properties

that had been kept secret or were yet undetermined, they would get a denunciation bonus. During the discussions in the Assembly, there were interesting debates about the abandoned properties. When the deputies discussed the second article of the law, Konya deputy Ömer Vehbi rejected it by arguing that this was opposed to the first article since it violated the property rights of the people. However, his objection was not accepted by other deputies. Mustafa Sabri Efendi, Siirt deputy, opposed Ömer Vehbi by quoting a hadith (Islamic tradition): 'The blood of the ones who draw swords to their Muslim brothers is waste, their properties are sugar .' He continued to rationalize the dispossession of Armenian properties by claiming that 'anything seen as good by Muslim believers is good, not a sin'. He also argued that if this article was not accepted, the entire law would be useless, as he claimed there were many fake proxy statements. Th is article would prevent this kind of fraud. In the same session, a speech was given by Erzurum deputy Salih Efendi, who talked about the Muslims to whom some Armenians owed money. He argued that Armenians who were dominant in the economy of the country were doing business by taking credits from Muslims. Muslims were not engaged in trade, instead lending money to Armenians to do business in their name. Because of this, Muslims were the true owners of Armenian capital. Salih Efendi asked how it would be possible for these Muslims to take their money back from the Armenians who fled. His statement was accepted by the Minister of Finance, but it was necessary to form a new regulation for this. The proposal was not included in this law.

After the enactment of this law with unanimity, the restitution decree adopted by the Istanbul government on 8 January 1920 was **rejected by Ankara on 14 September 1922** without discussion.

The first decree by the Ankara government was adopted **on 12 March 1922**. According to this law, the proxy statements of the missing non-Muslim subjects were rejected. These people, Ottoman Christians, were those accused of defending the Pontos movement during the national movement, those who escaped to Greece, Istanbul or other places after the armistic and the Greeks of Trabzon, Samsun, Ordu and Giresun who had 'collaborated with the enemies and betrayed the government'. If they had sent proxy statements, they would not be accepted by the

government.

The other law about the abandoned properties was adopted on 15 April 1923. This law changed some items of the law issued on 26 September 1915 and abolished the 20 April 1922 law. It became the new law about the abandoned properties for the Kemalist era. Through this law, only a few articles were changed. One of the changes was about immovable properties recorded by the Ministry of Pious Foundations and the Finance Ministry. After the liquidation of these properties, their yield was recorded as income for these treasuries in the name of the evacuated people. However, if someone claimed the properties or had outstanding debts with the deportees, after the publication of this law they could apply – within four months if they were residents of Turkey and within 6 months if they were residents of foreign countries.

During the session of the Assembly, the Minister of Finance, Hasan Fehmi Bey made several significant statements about the sale of Armenian properties. During the discussion on the articles of the law legislated on 15 April 1923, Nafiz Bey, a deputy from Canik, said that the government could not manage the abandoned properties, and they were partly destroyed and 'destruction' (tahrip) was continuing. For example, he argued that many vineyards and houses from abandoned properties in Ankara were destroyed. He also said that there was an article in the Liquidation Law: the properties that were destroyed would be sold. He asked the Minister of Finance why these properties were not sold, because, according to Nafiz Bey, if these were sold, they would be used by locals who could work for developing the public works of the country. In this sense, he proposed the integral sale of abandoned properties in some provinces such as İzmir and Bursa. As a response to Nafiz Bey, Hasan Fehmi Bey accepted the claims about the destroyed abandoned properties, but he argued that the law of the abandoned properties restricted the attempts of the Ministry of Finance, since the law did not allow the ministry to sell the properties. According to the law, the ministry would manage the abandoned properties. Hasan Fehmi Bey said that if the law had issued rules to the Ministry of Finance, the destruction of abandoned properties could have been prevented and immigrants could have been settled in the abandoned properties. He also claimed that there was a legal conflict between the Law of Abandoned Properties issued on 20 April 1922 and the Liquidation Law of 27 September 1915. It was not easy to determine which law could be applied for such a case. In this respect, Hasan Fehmi Bey concluded that this new law would solve all these problems, and the Ministry of Finance would gain the right to sell or manage these kinds of abandoned properties.42

The decree issued on 12 March 1922 was changed **on 28 June 1923**, because people from other regions began sending proxy statements to repossess their properties. The Ankara government changed the decree and proposed that the proxy statements from all missing non-Muslim subjects would not be accepted.

Nevertheless, **on 31 October 1922** the Ankara government adopted a decree by changing some articles of the 8 November 1915 regulation. These changes included some details about the forms and rules of the commissions. Through this change, the commissions had to complete their duties within four months after the date of deportation or migration. An article was added to the regulation stating that after or before the war, all movable and immovable properties of persons who went to foreign or invaded countries for a journey were to be controlled by the government.

In 1923 there were two decisions for the movable and immovable properties of people who were from occupied cities or escaped from Istanbul and disappeared. First was the ordinance (talimatname) adopted on 29 March 1923: The properties of the people who escaped from Istanbul were managed according to the law of abandoned properties. If their family members needed feeding, only their commercial goods were liquidated and their household goods would be given back. After the enactment of the law on 15 April 1923, this ordinance was changed and the decree was adopted **on 29 April 1923**. With this new law, the abandoned properties of missing people who

escaped from Istanbul were managed by the 15 April 1923 law.

On 29 April 1923, the Ankara government adopted a regulation to determine the administration of the abandoned properties; this changed a few items of the regulation of 8 November 1915. This was also about the immovable properties and the forms and rules of the commissions. According to this regulation, in any terms, the properties of the persons who escaped to Istanbul, foreign countries or occupied territory became the possession of the treasuries of the Ministry of Finance and Foundation. Again, liquidation commissions were authorized to manage the abandoned properties. The abandoned properties of this group, except those of exchangees (mübadil), were seen as the immovable properties of the Treasury. The properties that did not yield income were sold at auction.

Another law about the abandoned properties was issued on **13 March 1924**. This law directly included articles about distribution and sale of the properties. The first article stated that abandoned properties and lands belonging to the nonexchange people could be given and distributed to the property owners whose properties were destroyed or demolished by enemies, rebels and the government. The article emphasized that anyone who received abandoned properties had to really need them. The other article stated that the value of these abandoned immovable properties that would be distributed could be provided from the state budget.

On the other hand, some articles of this law were changed by a new law which was adopted on 15 April 1925. The government would sell the abandoned properties and lands in the way that was formally announced. Significantly, this new law solved the ambiguity of the previous one which did not include a method of determining the value of the properties. According to the new law, the value of abandoned properties that were given and distributed would be determined according to its 1915 value, and this would be registered at the Ministry of Finance under the name of real owner.

Other decrees about the abandoned properties were related to the properties of the people who left their places in Anatolia with the permission of the government. Within the scope of the **20 July 1924** decree, these properties were not regarded as abandoned properties. However, the concept of 'Anatolia' created a problem, as it was not clear whether it included Thrace or not. Therefore, a new decree was adopted on **12 November 1924** suggesting that 'Anatolia' be replaced by 'Turkey', which included Thrace.

This decree was also changed through another decree on **18 January 1925**. Within the scope of this decree, if someone left his or her property before the publication of the Lausanne Treaty, their property was considered 'abandoned property'. On the other hand, if the government or the liquidation commissions had not intervened in their properties yet, after this decree they could no longer intervene in them. Also, the property of people who left their places by permission of the Ankara government were not regarded as abandoned property.

International Context

The treaties and agreements of Batumi (1918), Versailles (1919), Alexandropol (1920), Moscow (1921), Kars (1921), Ankara (1922) and Sèvres (1920), all signed by the CUP government, contained specific provisions on minority properties and foresaw restitution and compensation of all kinds. But the Lausanne Treaty of 24 July 1923 cancelled these plans once and for all.

Although there were laws to define the abandoned properties and their liquidation, the CUP government readopted the regulations and decrees relating to the abandoned properties. After the Lausanne Treaty of 24 July 1923, the conditions of the abandoned properties were changed. As a part of the treaty, in a separate convention concluded on 30 January 1923, a population exchange between Greece and Turkey was launched. According to the convention, the Greeks in Turkey would be sent to Greece and vice versa. With this exchange, the Greek properties became a problem and there emerged the necessity to change the law in order to include the people who were exchanged. Before the population exchange, the laws of abandoned properties referred only to Armenians. Unlike the Armenian case, the government would not easily liquidate the properties of Greeks, because it was bound to the international law of the population exchange.

The properties of Armenians were discussed in the Lausanne Conference in terms of the issue of the return of Armenians under the title of general amnesty, but the Turkish Representative Committee rejected these claims. At the conference, İsmet İnönü did not allow discussion of a collective return of Armenian refugees, arguing that this would constitute a national security threat for Turkey.

He also separated the issue of general amnesty from Armenian refugees. According to him, in various periods hundred of thousands of people who migrated were a different problem from general amnesty and it could not be solved in the framework of a peace conference. In this respect, the properties of Armenians and their return were not included in the general amnesty. However, Turkey did have the responsibility to arrange its laws in accordance with the Lausanne Treaty. Thus, the Republican government set up new decrees by changing the previous ones to be in accord with the treaty. The issue of abandoned properties entered a new phase.

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All laws had to be in accordance with the rules of the treaty, because it was a legal foundation for the establishment of the Republic. The Ankara government changed the articles of the laws that were in conflict with the treaty. Also, the government was obliged to give properties back to their original owners. Nevertheless, with the establishment of special laws, the government violated this condition. For example, the government did not accept the proxy statements of evacuated and missing non-Muslim subjects. With the Lausanne Treaty and the population exchange, the

abandoned properties again became a problem. How would the government intervene in the properties of Greek and Armenian subjects as their status was not even clear in previous laws or decrees? Thus, the Republican Government adopted more decrees to solve this unclear situation.

The first decree was adopted **on 5 February 1925**. This decree proposed that the properties of the people who left after the Treaty of Lausanne would not be interfered with. If these properties were liquidated, they would be given back. A new decree issued **on 15 July 1925** suggested that the distraint of the bank account deposit (bakiye) of the missing persons who were not subject to the population exchange would be abolished. They were given to the owners.

Another decree was adopted **on 30 September 1925** about the mines owned by the missing people. The decree decided that the grants, lots and rights of the mines of the missing people were cancelled. They were now considered as mines found by the state.

The Treaty of Lausanne changed the scope of the abandoned properties. The government made a decision to improve the laws according to the Treaty of Lausanne. A major decision was taken **on 13 June 1926**. The government accepted the ordinance which changed the 26 September 1915 law and the 20 April 1923 law. The first article of the ordinance suggested that after the publication of the Lausanne Treaty, it was necessary to seize the abandoned properties. The second article proposed that if the government was aware of the abandonment of the properties before this publication date, the government could seize them. The other articles stated that if the government discovered the properties after this date, these properties would be given to the owners. On the other hand, if the owners or their heirs were not found, the government would control the properties in the name of their owners. If these properties were given to the migrants, their values would be returned to the owners.

On 17 July 1927 the government adopted a decree which changed the above ordinance. This decree changed the first and second articles of this ordinance, instead proposing that the government continue to apply the laws on the abandoned properties liquidated before the Lausanne Treaty. However, if the government had not intervened in the properties, and the owners returned and managed their properties, the government could not intervene in these properties.

The other laws related to the abandoned properties were adopted **on 28 May 1928**. The first one was about giving the title deed to exchange and non-exchange people and migrants who possessed the immovable properties in return for the transfer documents. According to this law, the immovable properties that were allocated to the immigrants or liquidated by the Treasury according to the laws of abandoned properties would not be given to their original owners. Rather, their values (decided by the 15 April 1925 law) were paid by the Ministry of Finance. The second article of the law meant that the title deed could be given to the non exchange people, immigrants, refugees, members of tribes and victims of fires. According to the seventh article of this law, movable and immovable properties liquidated according to the laws of 27 September 1915 and 15 April 1923

would not be given back to their owners, but their value, which was determined according to the 15 April 1925 law, would be rendered. This is significant, because the 15 April 1925 law stated that the value of the abandoned properties would be determined according to its 1915 value.

On the other hand, **on 2 June 1929** the Assembly took a decision about the seventh article of the 28 May 1928 law. This interpretation again confirmed the value determination of the abandoned properties according to their 1915 value. The interpretation stated that restitution of the abandoned properties liquidated according to the 1915 and 1923 laws had to be fulfilled according to their 1915 value.

The second law was about the current accounts (cari hesap) of the abandoned properties. According to this law, the balances of the current accounts of the abandoned properties were recorded as income in the income budget of the 1928 fiscal year. In addition, the amount of about 300,000 Turkish lira from this income was used by the Ministry of Finance to supply the cost of the management and organization of the abandoned properties.

Finally, the Ankara government adopted a law on the distribution of properties which was different from other laws in the sense that it was not related to the management of the properties. This final law for the abandoned properties was adopted directly in terms of nationalist claims.

Despite the fact that the Ankara government suppressed certain former CUP members in 1926, in the same year it also declared the assassinated ex-leaders of the CUP as martyrs. Their families were lavished with Armenian property. The **31 May 1926 law** was related to the Turks killed by Armenian hitmen: Talaat Pasha, Cemal Pasha, Cemal Azmi, Bahaeddin Shakir, Sait Halim, governor of Diyarbekir Mehmed Reshid, the aides of Cemal Pasha and the district governors of Urfa, Boğazlıyan and Muş. (Some of these men had not even been assassinated by Armenian hitmen.) According to the law, the families of these people were given immovable properties from the Armenian abandoned properties which were worth 20,000 Turkish lire. They also took the title deeds for these properties with the stipulation that they were not allowed to sell these properties within ten years. This was a significant law since it aimed to reestablish the reputations of the old CUP leaders who had played central roles in the genocide.

In the Assembly, there was an interesting discussion that demonstrates the perception of the deputies of these former leaders as well as the continuity between the Kemalists and the Ittihadists. In the first draft of the law, the amount of money that would be given to the families was planned to be taken from the budget of 'national properties' (emvali milliye). While the draft was being discussed, Sinop deputy Recep Zühtü Bey objected and suggested that this money should be taken from the 'abandoned properties of deserter Armenians' instead of national properties – this would teach the Armenians a lesson, he added. He justified his suggestion as follows: 'You can organize an assassination and kill any Turkish person. But we will raise his children in order to gouge out your eyes and crack your head again with your own money.' His speech ended to bravos and applause,

his suggestion was accepted by the assembly and the draft was legalized.

Conclusion

The legal management of Armenian property began immediately after the decision of deportation, with secret regulations. The CUP government legalized the application of rules of the regulation with the help of external factors. Each period had its own conditions and these conditions affected the contents of the laws. From the beginning of the deportation, the CUP aimed to liquidate the Armenian properties. Some articles of laws were composed of granting the return of properties to original owners, whereas other articles did not allow to the return of these properties. The settlement of migrants from the Balkans and Caucasus on abandoned property was also managed by the laws. In addition, the return of Armenians after the war was not permitted. This demonstrates that the CUP never aimed to return these properties. The 'laws' only aimed to legalize the liquidations.

After the war the Istanbul government arranged for regulations and laws to protect the rights of deported people and solve their problems, including their properties. However, with the resurrection of the CUP in Ankara, two clashing powers dominated Turkey and their decisions diff ered. Moreover, the Ankara government abolished the regulations and laws of the Istanbul government and re-adopted the laws they had launched themselves in 1915. After the success of the national movement and establishment of the Republic, the Kemalists became the sole power and could freely adopt laws about abandoned properties. Although the Lausanne Treaty included some restrictions on the adaptation of laws relating to minorities, the new republic solved these restrictions by issuing special regulations. After 1925 the Kemalists began to consolidate their power into a single-party dictatorship. The Grand National Assembly easily adopted the laws. In the case of abandoned properties, the liquidated properties were registered as income in the national budget, and migrants or nomads who were settled on abandoned properties were allowed to take the title deeds for these properties.

The laws of abandoned properties were only abolished **on 11 June 1986**. This means that these laws had stayed in effect for 73 years. The Turkish Republic continued to liquidate the abandoned properties in this period. However, the abolishment of the law did not mean that the liquidation stopped. The 'General Directorate of Land Registry and Cadastre' (Tapu ve Kadastro Genel Müdürlüğü) published a circular order about the abandoned properties **on 29 June 2001**.

According to this order, all abandoned properties would be transferred to the state and it was made impossible to give any title deed, information or document to anyone. This indicates that Armenian property had ultimately been transferred to the state and the real owners or their heirs cannot claim any rights to their properties, whether according to international law or Turkish law.

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 were rejected by Turkey. The interests of the Allied Powers were no longer with Armenia, already Sovietized by that time. Diasporan Armenians and their supporters represented little more than a moral force easily ignored, and Armenian property claims were forgotten along with the Armenians. In 1929, a group of international legal scholars became engaged with Armenians' claims for restitution, lodged at the League of Nations for adjudication. The scholars discussed complex legal questions regarding the abandoned properties commission. But despite all correspondence by Mandelstam, Pachalian and Drummond, international law failed in this period to bring about justice. There was no restitution, no redress and no compensation. The Young Turk hawk Tevfik Rüşdü Aras was inexorable in his answers: he reported that the government considered the affair *définitivement liquidée*, rejected the legal arguments of Pachalian and politely thanked the gentlemen for their letters.

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*Information taken from:**Uğur Ümit Üngör and Mehmet Polatel "Confiscation and Destruction The Young Turk Seizure of Armenian Property, First published 2011, pp. 41- 59.***

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