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Armenian Genocide Looted Art and the Story of the Armenian Genocide Restitution Movement: A Tribute

Armen Manuk-Khaloyan, Michael Bazylar, Kathryn “Lee” Boyd

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Armenian Genocide Looted Art and the Story of the Armenian Genocide Restitution Movement: A Tribute

Armen Manuk-Khaloyan,* Michael Bazyler,* Kathryn Lee Boyd*

This Article explores the emergence and development of the Armenian Genocide Restitution Movement and its founder, Vartkes Yeghiayan, with particular focus on legal efforts to recover looted cultural and private property. Drawing on case law, historical research, and interdisciplinary analysis, the authors examine how U.S. courts have been used to pursue redress for mass atrocity crimes, including lawsuits against insurance companies, corporations, and sovereign entities. Central to the discussion is the Zeytun Gospels case, the first major attempt to reclaim art looted during the Armenian Genocide, which highlights the complex interplay of law, history, and cultural identity in restitution efforts. The Article also introduces the Armenian Genocide Looted Art (AGLA) project, a collaborative initiative aimed at documenting and recovering cultural heritage displaced by genocide. Through this lens, this Article addresses the legal, ethical, and historical challenges of pursuing justice long after mass atrocity.

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I. INTRODUCTION

After being asked to speak and participate in the January 2025 symposium held by *Chapman Law Review*, intriguingly titled *Raiders of the Lost Art: Legal Challenges and Recoveries*, two of us¹ recalled the person who brought us to the juncture where the law meets the horrors of the Armenian Genocide, one of the finest lawyers and individuals we knew: Armenian-American attorney Vartkes Yeghiayan (1936–2017). Without Vartkes, our professional paths as legal restitution experts for looted art, and especially Armenian Genocide Looted Art (AGLA), would have been quite different. We take the opportunity in this Article to pay homage to Vartkes and to tell the story of how he became the father of the ongoing Armenian Genocide Restitution Movement.² Put simply, without Vartkes, there would have been no Armenian Genocide Restitution Movement, and the movement would not have included AGLA restitution without his championship. What drove him to become the first Raphael Lemkin³ of the movement and then the Armenian Indiana Jones who traverses the globe to find and return AGLA?⁴

To make the story complete, we asked Armen Manuk-Khaloyan—a Ph.D. candidate in the Department of History at Georgetown University, as well as a colleague and brother-in-arms with Vartkes—to share his recollections. Armen has known Vartkes the longest of the three of us, going back more than a decade when, fresh out of undergrad at the University of California, Los Angeles, he became the chief researcher in the Glendale, California, law office that Vartkes was operating. Frankly, any commercial work was overshadowed by the firm’s pro bono efforts to bring a measure of

¹ Both Ms. Kathryn “Lee” Boyd and Professor Michael Bazyler participated as panelists in the symposium. *2025 Chapman Law Review Symposium: Raiders of The Lost Art*, CHAP. L. REV. (Feb. 13, 2025), <https://www.chapmanlawreview.com/2025/02/2025-chapman-law-review-symposium-raiders-of-the-lost-art-2/> [<https://perma.cc/KC5X-56CR>].

² For an overview of the Armenian Genocide Restitution Movement, see Michael J. Bazyler & Rajika L. Shah, *The Unfinished Business of the Armenian Genocide: Armenian Property Restitution in American Courts*, 23 SW. J. INT’L L. 223 (2017).

³ Raphael Lemkin was a Polish-Jewish attorney who is best known for his efforts to establish the Genocide Convention after World War II, being dually motivated by his studies of the Armenian Genocide and his own personal experiences during the Holocaust. See *Coining a Word and Championing a Cause: The Story of Raphael Lemkin*, HOLOCAUST ENCYC., <https://encyclopedia.ushmm.org/content/en/article/coining-a-word-and-championing-a-cause-the-story-of-raphael-lemkin> [<https://perma.cc/E8MR-LP4Z>] (May 2, 2023).

⁴ See Mike Boehm, *The Getty Museum Is in a Legal Fight over Armenian Bible Pages*, L.A. TIMES (Nov. 4, 2011, 12:00 AM), <https://www.latimes.com/entertainment/la-xpm-2011-nov-04-la-et-armenian-bible-20111104-story.html> [<https://perma.cc/PZ8Q-BQZ3>].

long-overdue justice to the heirs of the Armenian genocide victims. And so, here we are.

Sadly, Vartkes cannot be with us to wage the legal battles he began in American courtrooms, or to appear at symposia like this one, to discuss how the law can bring justice to historical wrongs and keep alive the memory of those who perished, or whose culture was obliterated in one swoop in a region where they long resided in their ancestral homelands. This legal journey was put into action by Vartkes' long-time dream to bring greater recognition to the mass murder that Armenians experienced living as subjects of Ottoman Turkey in the second decade of the twentieth century—and to the losses they suffered.⁵

II. HOW IT ALL BEGAN

While out bicycling with friends one day in 1947, a young Vartkes caught sight of a fenced encampment built next to the British military base in Dhekelia, Cyprus. At first, he was unable to grasp the significance of the camp, but on his third or fourth trip, he and his friends were approached by a middle-aged man who came up to the edge of the fence and asked who they were. Vartkes informed him that he and the others were students attending the American Academy, a boarding school in Larnaca.⁶ The man identified himself as a Jewish survivor of the recent world war and his fellow inmates as refugees trying to make their way to British Mandatory Palestine. He told the young Vartkes that he once had a son who would have been the same age as Vartkes. When they were still together, the son had enjoyed holding onto the index finger of his father. Now, the man asked if Vartkes could do the same. Not without some hesitation, Vartkes tepidly extended his hand through the chain link fence and gripped the man's finger. Tears slowly streamed down the man's face. When he and his friends bicycled to Dhekelia the following week, they found that the transit camp had been dismantled, the inmates nowhere to be seen. Even after the passing of seventy years, this encounter remained seared in Vartkes' memory.⁷

⁵ See MICHAEL BOBELIAN, CHILDREN OF ARMENIA: A FORGOTTEN GENOCIDE AND THE CENTURY-LONG STRUGGLE FOR JUSTICE 4–5, 137 (2009); see also *The Armenian Genocide (1915-16): Overview*, HOLOCAUST ENCYC., <https://encyclopedia.ushmm.org/content/en/article/the-armenian-genocide-1915-16-overview> [https://perma.cc/Y3YT-8QUV] (Nov. 7, 2024).

⁶ BOBELIAN, *supra* note 5, at 134.

⁷ This story was relayed to co-author Armen Manuk-Khaloyan.

Vartkes Yeghiayan had many such striking anecdotes to share with friends and acquaintances. That was partly because he had lived during such extraordinary times. The son of Armenian Genocide survivors, he was born in Addis Ababa, the capital of Abyssinia (modern Ethiopia), in 1936.⁸ His childhood had been marked by Italy's occupation of that country and the Second World War on the African continent. After the war, his father's modest business in Addis and the family's close connections with Ethiopia's royal dynasty had afforded him the opportunity to study abroad, first at the American Academy in Cyprus, then at the University of California, Berkeley, and Lincoln Law School in the United States.⁹ In the 1960s, he worked as an attorney alongside César Chávez in securing rights for Latino laborers in California. In 1974, he was tapped by President Nixon to become the Special Assistant for International Operations to the director of ACTION, a federal government umbrella organization responsible for global aid operations.¹⁰ During his tenure, he met with world leaders in the Middle East and South Pacific and had many stories to tell about those interactions and travels as well. Vartkes was a firm believer in the U.S. Agency for International Development's (USAID) mission to the Third World,¹¹ but he also encouraged self-sufficiency. To that end, in 1976, he organized a much-celebrated conference on the future of volunteerism in Vienna that gathered together over 230 participants from 108 countries.¹²

Vartkes' personal background, activism, and work as a civil servant drew him toward championing a number of such causes. Even after he left government to start his own practice in Los Angeles, he was able to apply his skills in new areas.¹³ When Armenia gained its independence from the Soviet Union, he visited the country to arrange for USAID assistance and even offered his

⁸ *Brief Biography of Vartkes Yeghiayan*, ARMENIAN EDUC. FUND [hereinafter Vartkes Biography], http://www.aefweb.org/Files/Vartkes_Biography.pdf [https://perma.cc/4UCR-RD7U] (last visited July 12, 2024).

⁹ BOBELIAN, *supra* note 5, at 134–37.

¹⁰ See *Yeghiayan v. United States*, 649 F.2d 847, 848 (Ct. Cl. 1981).

¹¹ See BOBELIAN, *supra* note 5, at 207; Vartkes Yeghiayan & Armen Manuk-Khaloyan, *Vartkes Yeghiayan on Henry Morgenthau III*, USC SHOAH FOUND. (Apr. 9, 2015), <https://sfi.usc.edu/video/vartkes-yeghiayan-henry-morgenthau-iii> [https://perma.cc/MU3H-7VSA].

¹² See generally COLIN BALL, JEFFREY M. HAMMER & VARTKES YEGHIAYAN, VOLUNTARISM: THE REAL AND EMERGING POWER (1976), <https://ellisarchive.org/sites/default/files/2021-09/Voluntarism.pdf> [https://perma.cc/7EU5-YA4P].

¹³ Michael J. Bobelian, *Vartkes's List*, LEGAL AFFS., Mar.–Apr. 2006, at 38.

expertise in drafting its first constitution.¹⁴ His support for the new republic could only have been expected from someone who had grown up hearing—in hushed voices and whispers—the stories about his parents’ ordeal during the genocide. He was an avid reader of history and could hold forth on a number of subjects, including but certainly not limited to the Ottoman Empire, the modern Middle East, World War I, and Winston Churchill.

In 1987, Vartkes came across a passage in a book that led him to leap from his feet. It was the memoir of Henry Morgenthau, Sr., the U.S. Ambassador to the Ottoman Empire during World War I and the Armenian Genocide.¹⁵ Morgenthau recounted a conversation he had had in 1915 with Ottoman Interior Minister Talaat Pasha, the top leader of the ruling Committee of Union and Progress government and one of the main architects of the Armenian Genocide.¹⁶ Talaat had demanded that the ambassador provide him with a list of Armenians who held life insurance policies with American companies, confidently assuring Morgenthau that, with the beneficiaries all deceased, the state could now stand to claim those benefits.¹⁷ Indignant, the ambassador refused the request.¹⁸

And so marked the beginning of Vartkes’ arduous journey to seek legal restitution for the victims of the genocide, long denied by the Republic of Turkey, the Ottoman Empire’s principal successor.¹⁹ Not just insurance benefits, but confiscated bank accounts, landed properties, and artwork and other cultural objects would fall under the attorney’s purview.²⁰ Vartkes’ work formed one part of a much wider global and post-colonial discourse

¹⁴ See Vartkes Biography, *supra* note 8; see also *Secret List of Insurance Policyholders Found*, ARMENIAN WEEKLY (Mass.), Apr. 13, 2002, at 5. For additional biographical information on Vartkes, see Bobelian, *supra* note 13; BOBELIAN, *supra* note 5, at 134–38, 208–19; Beverley Beyette, *He Stands Up in the Name of Armenians*, L.A. TIMES (Apr. 27, 2001, 12:00 AM), <https://www.latimes.com/archives/la-xpm-2001-apr-27-cl-56190-story.html> [<https://perma.cc/TEG8-GVLH>]; *Impact in Profile: Vartkes Yeghiayan*, USC SHOAH FOUND., <https://sfi.usc.edu/profiles/vartkes-yeghiayan> [<https://perma.cc/CD93-NBZT>].

¹⁵ BOBELIAN, *supra* note 5, at 207–08.

¹⁶ *Id.* at 208.

¹⁷ *Id.*

¹⁸ *Id.*; see also HENRY MORGENTHAU, AMBASSADOR MORGENTHAU’S STORY 339 (1918).

¹⁹ See Samuel E. Plutchok, *Denial Is Not an Option, or Is It? How the Turkish Denial of the Armenian Genocide Blocked Recovery in the United States*, 13 U. MASS. L. REV. 234, 237 (2018).

²⁰ See *Davoyan v. Republic of Turkey*, 116 F. Supp. 3d 1084, 1102 (C.D. Cal. 2013) (“[T]he Ottoman Empire and later the Republic of Turkey stripped ethnic Armenians of their property and . . . these expropriations were integrally related to the government-sanctioned genocidal policies.”); see also *Bakalian v. Cent. Bank of Republic of Turkey*, 932 F.3d 1229, 1235–36 (9th Cir. 2019).

in the late twentieth century on human rights and restitution in the era of genocide and mass violence.²¹ Most recently, this conversation has been reenergized by efforts to recover controversial art objects like the Elgin Marbles²² and the Benin Bronzes.²³ In the Armenian case, the study of the provenance and movement of Armenian art objects already has a name: the Armenian Genocide Looted Art Research Project.²⁴ The following section examines the long road it has taken to arrive at this point, much of it paved by Vartkes himself, a worthy spiritual descendant of Raphael Lemkin, who first coined the word genocide.²⁵ It examines the course of Armenian Genocide restitution over the past twenty-five years, the work done with regard to AGLA, and prospects for the recovery of artwork.

III. FROM LAMENTATION TO LITIGATION: HOLOCAUST RESTITUTION IN AMERICAN COURTS

For Vartkes to have initiated any legal action back in 1989 for the unpaid insurance benefits would have posed a significant challenge at the time. Historian Michael R. Marrus has noted that, up until World War II, reparations “were understood to be a

²¹ VARTKES YEGHIAYAN, *THE ARMENIAN GENOCIDE AND THE TRIALS OF THE YOUNG TURKS*, at ix (1990); see Richard Goldstone, *The United Nations’ War Crimes Tribunals: An Assessment*, 12 CONN. J. INT’L L. 227, 228 (1997) (“In particular, the Holocaust led to the realization that the traditional approach of humanitarian law which focused upon the rights of nations but failed to set out rights of individuals was hopelessly inadequate in protecting innocent civilians during times of war.”); Diane F. Orentlicher, *International Criminal Law and the Cambodian Killing Fields*, 3 ISLA J. INT’L & COMPAR. L. 705, 706 (1997); see also Payam Akhavan, *The International Criminal Tribunal for Rwanda: The Politics and Pragmatics of Punishment*, 90 AM. J. INT’L L. 501, 502 (1996).

²² See Nadia Banteka, *The Parthenon Marbles Revisited: A New Strategy for Greece*, U. PA. J. INT’L L. 1231, 1238 (2016) (“The British Government has since retained a consistent position on the debate having declined all subsequent requests for full return of the Parthenon Marbles [to Greece].”); see also Dea Sula, *Where Will the Parthenon Marbles Go?*, CTR. FOR ART L. (Nov. 28, 2023), <https://itsartlaw.org/2023/11/28/where-will-the-parthenon-marbles-go/> [<https://perma.cc/QHX4-Z9VW>].

²³ See Elaine Kim, Note, *Returning the Benin Bronzes: An Analysis Under International and U.S. Law*, 14 NOTRE DAME J. INT’L & COMPAR. L., May 26, 2024, at 4–6 (noting that cultural internationalists support Britain’s claim to the Benin Bronzes, while cultural nationalists support Nigeria’s claim); see also Alex Marshall, *Who Owns the Benin Bronzes? The Answer Just Got More Complicated.*, N.Y. TIMES, <https://www.nytimes.com/2023/06/04/arts/design/benin-bronzes-nigeria-ownership.html> [<https://perma.cc/Q85T-NLYX>] (June 5, 2023).

²⁴ See *Armenian Genocide Looted Art Research Project (AGLARP)*, THE PROMISE ARMENIAN INST. UCLA (June 14, 2023), <https://www.international.ucla.edu/armenia/article/267152> [<https://perma.cc/Q7AG-GJ8E>].

²⁵ See RAPHAEL LEMKIN, *AXIS RULE IN OCCUPIED EUROPE: LAWS OF OCCUPATION, ANALYSIS OF GOVERNMENT, PROPOSALS FOR REDRESS* 79 (1944) (“This new word, coined by the author to denote an old practice in its modern development, is made from the ancient Greek word *genos* (race, tribe) and the Latin side (killing) . . .”).

matter of *interstate* negotiations and payments . . . less a matter of justice to individuals than they were part of the restoration of global equilibrium”²⁶ Against the backdrop of the enormous tragedy of the Holocaust, legal experts in 1945 confronted the inadequate protections for victims of state-sponsored violence and persecution more fully than they had in the past.²⁷ In relation to restitution, the United States had taken an early lead. Shortly after the conclusion of the war with Germany, the U.S. Office of Military Government for Germany issued Military Government Law No. 52 as a first step in addressing the issue of expropriated property.²⁸ A number of similar postwar-era laws followed.²⁹ In 1952, the Federal Republic of Germany and the newly established state of Israel signed the Luxembourg Accords, which outlined a plan that would compensate Holocaust victims in several paid installments.³⁰

It was only in recent years, however, that scholars and genocide survivors increasingly regarded restitution to personal victims as a crucial element of justice for human rights violations. In the 1990s, Jewish survivors began to file lawsuits to reclaim looted artwork and restitution for seized bank assets and unpaid insurance policies in U.S. civil courts.³¹ Holocaust survivors and their attorneys considered the American federal and state court system an ideal forum to bring forth suits for restitution. The U.S. justice system allows foreign citizens to initiate claims for human rights abuses that took place outside the United States, recognizes class action lawsuits, and promotes a legal climate enabling

26 MICHAEL R. MARRUS, *SOME MEASURE OF JUSTICE: THE HOLOCAUST ERA RESTITUTION CAMPAIGN OF THE 1990S*, at 63 (2009).

27 See, e.g., LEMKIN *supra* note 25, at 7–8.

28 Also known as the Blocking Control Law, Law No. 52 placed all property in Germany under the jurisdiction of military occupation authorities and stripped the Nazi Party and its affiliated organizations of all property owned or in their control. See *Bernstein v. Van Heyghen Freres Societe Anonyme*, 163 F.2d 246, 250 (2d Cir. 1947) (“Law No. 52 makes it clear that it was contemplated that property transferred under duress by ‘Nazi officials’ is to be sequestered by the local authorities.”); see also *Ergänzung Nr. 1 zur Allgemeinen Anordnung No. 1 Gemäß Gesetz No. 52 der Militärregierung* [Supplement No. 1 to General Order No. 1 Pursuant to Military Government Law No. 52], Dec. 1, 1946, *SAMMLUNG DER GESETZE, VERORDNUNGEN, ANWEISUNGEN UND ANORDNUNGEN DER MILITÄRREGIERUNG DEUTSCHLAND* at 9 (Ger.).

29 For instance, Law No. 59 was also enacted. See *Estate of Reihis*, 102 Cal. App. 2d 260, 265 (1951) (“The object of Law 59 was to return to the victims of Nazi persecution the properties of which they had been deprived by duress and other unlawful means.”).

30 See MICHAEL BAZYLER, *HOLOCAUST, GENOCIDE, AND THE LAW: A QUEST FOR JUSTICE IN A POST-HOLOCAUST WORLD* 158 (2016).

31 See *United States v. Portrait of Wally*, 663 F. Supp. 2d 232, 246 (S.D.N.Y. 2009); see also Barry Meier, *Jewish Groups Fight for Spoils of Swiss Case*, N.Y. TIMES (Nov. 29, 1998), <https://www.nytimes.com/1998/11/29/world/jewish-groups-fight-for-spoils-of-swiss-case.html> [<https://perma.cc/B7YM-6N7C>].

lawyers to assume the risks and costs involved in pursuing cases that involve countless hours in discovery, depositions, and the courtroom.³² In some instances, pre-existing law lent itself to the claims of prospective plaintiffs. For instance, the exception clauses of the Foreign Sovereign Immunities Act of 1976 (FSIA), which exempt foreign states from protection in American courts, were instrumental for attorney Randy Schoenberg and his client Maria Altmann in their long and ultimately successful quest to retrieve five paintings from the Austrian government that Nazis had confiscated in the 1930s.³³ In other cases, new legislation was drafted to clear legal hurdles, such as statute of limitations laws.³⁴

The success of the early Holocaust restitution cases was nevertheless mixed: none of them went to trial, and a number of them were defeated in court. In most cases, the plaintiffs settled with the defendants, and the sums attained were not always very significant. Co-author Michael Bazyler has opined, “[W]e call these payments ‘symbolic justice’” because “[m]uch more important than the sums received was the recognition by the perpetrators of the wrongs committed against the victims and an issuance of an apology to those victims.”³⁵ Many in the Jewish community likewise considered the settlements “some measure of justice” obtained for the Holocaust’s victims.³⁶ A number of these cases continue to await adjudication in U.S. courts.

A. Suing Life Insurances for Profiting from the Armenian Genocide

Holocaust reparations and restitution efforts would serve as a precedent for Vartkes. Like other Armenian advocates, Vartkes

³² See MICHAEL J. BAZYLER, *HOLOCAUST JUSTICE: THE BATTLE FOR RESTITUTION IN AMERICA’S COURTS*, at xii–xiii (2003); see also Leora Bilsky et al., *From Kiobel Back to Structural Reform: The Hidden Legacy of Holocaust Restitution Litigation*, 2 STAN. J. COMPLEX LITIG. 139, 156 (2014).

³³ See Foreign Sovereign Immunities Act, 28 U.S.C. § 1605(a)(3) (abrogating foreign states’ sovereign immunity in cases involving property taken in violation of international law); *Republic of Austria v. Altmann*, 541 U.S. 677, 688 (2004). Altmann’s remarkable life story and the legal challenges of her case were portrayed in the 2015 biographical film *Woman in Gold*, starring Ryan Reynolds and Helen Mirren. See *WOMAN IN GOLD* (BBC Films 2015).

³⁴ For example, section 354.3 of the California Code of Civil Procedure was passed to extend the statute of limitations for Holocaust art recovery. See CAL. CIV. PROC. CODE § 354.3 (West 2003), *invalidated by* *Von Saher v. Norton Simon Museum of Art at Pasadena*, 862 F. Supp. 2d 1044 (C.D. Cal. 2012).

³⁵ Michael J. Bazyler, *From “Lamentation and Liturgy to Litigation”: The Holocaust-Era Restitution Movement as a Model for Bringing Armenian Genocide-Era Restitution Suits in American Courts*, 95 MARQUETTE L. REV. 245, 254 (2011).

³⁶ MARRUS, *supra* note 26, at 5.

had watched the Holocaust restitution cases of the 1990s closely and saw them as a model.³⁷ An Armenian-American, Martin Marootian, whose uncle had once held a life insurance policy with New York Life Insurance Company, became the lead plaintiff in the class action lawsuit that Vartkes and his firm filed against the company in 1999.³⁸ With the help of California State Senator Charles Poochigian (who is also Armenian-American), Vartkes was able to push for legislation—specifically, section 354.4 of the California Code of Civil Procedure, which explicitly provides redress for “Armenian Genocide victim[s]” and extends the statute of limitations for an event that had taken place nearly eighty-five years earlier.³⁹ In 2004, after years of legal wrangling and negotiations, the two sides agreed to settle for \$20 million, the first such settlement in the Armenian Genocide Restitution Movement.⁴⁰ Another class action suit, filed in 2001 against French insurance giant AXA, settled four years later for \$17 million.⁴¹

B. Suing Other Willing Business Partners to the Armenian Genocide

Over the next decade, Vartkes’ firm would file class action lawsuits against a host of businesses, corporations, and entities accused of complicity in the genocide.⁴² Despite some successes,

³⁷ See BOBELIAN, *supra* note 5, at 213.

³⁸ See Elaine Woo, *Martin Marootian Dies at 95; Lead Plaintiff in Suit over Armenian Genocide Victims’ Insurance Policies*, L.A. TIMES (Mar. 12, 2011, 12:00 AM), <https://www.latimes.com/local/obituaries/la-me-martin-marootian-20110312-story.html> [<https://perma.cc/2PZP-XFGG>].

³⁹ See CAL. CIV. PROC. CODE § 354.4 (West 2011), *invalidated by* *Movsesian v. Victoria Versicherung AG*, 670 F.3d 1067 (9th Cir. 2012). Section 354.45 provided a legal avenue for Armenian Genocide claimants to pursue the recovery of stolen assets. *See id.* § 354.45, *invalidated by* *Deirmenjian v. Deutsche Bank, A.G.*, 526 F. Supp. 2d 1068 (C.D. Cal. 2007).

⁴⁰ Henry Weinstein, *Insurer Settles Armenian Genocide Suit*, L.A. TIMES (Jan. 29, 2004, 12:00 AM), <https://www.latimes.com/archives/la-xpm-2004-jan-29-me-genocide29-story.html> [<https://perma.cc/4N9W-RPYR>].

⁴¹ Associated Press, *French Firm Settles Armenian Genocide Suit*, L.A. DAILY NEWS, <https://www.dailynews.com/2005/10/14/french-firm-settles-armenian-genocide-suit/> [<https://perma.cc/FAW8-DUQB>] (Aug. 29, 2017, 3:23 AM). The Armenian Genocide restitution cases were not free from controversy. In 2016, the State Bar of California initiated disciplinary proceedings against Vartkes Yeghiayan, alleging mismanagement of funds designated for Armenian Genocide survivors in the AXA settlement. *Vartkes Boghos Yeghiayan*, Docket No. 11-O-11758 (Cal. State Bar Nov. 20, 2017). The State Bar terminated the proceedings without a decision on the merits due to Vartkes Yeghiayan’s death in 2017. *Id.*

⁴² For further discussion on these cases, see Second Amended Class Action Complaint, *Movsesian v. Victoria Versicherung AG*, No. 2:03-cv-9407, 2007 WL 9728507 (C.D. Cal. June 22, 2006); First Amended Class Action Complaint, *Deirmenjian v. Deutsche Bank*

these cases, like the Holocaust restitution suits before them, encountered resistance in the courts. Even with the passage of California legislation, many of the defendants challenged the legal merits of the cases and in various instances, such as *Movsesian v. Victoria Versicherung AG* and *Deirmenjian v. Deutsche Bank AG*,⁴³ defendants succeeded in having the case dismissed. At the heart of the matter was the legislation's constitutionality and whether American courts were the appropriate forum to consider such weighty issues involving events from nearly a century ago.⁴⁴ The defendants argued that two principles in particular deprived the plaintiffs of any legal standing.⁴⁵ On the one hand, there was the doctrine of field preemption, which upholds the supremacy of federal over state law in the second clause of Article VI of the Constitution, reserves the prerogative to conduct foreign affairs to the U.S. government.⁴⁶ On the other hand, the early nineteenth-century political question doctrine maintains that certain matters are fundamentally political and remain outside the competence of the judicial branch.⁴⁷ The courts were inclined to agree with the latter.

Thus, in *Movsesian*—a case in which descendants of Armenian Genocide survivors sued two German banks over unpaid insurance benefits—the defendants argued that, given the fact that the U.S. government had at the time yet to categorize the 1915 killings as genocide, federal law preempted section 354.4 of the California Code of Civil Procedure.⁴⁸ The plaintiffs pushed back, contending that regulation of insurance matters was well within California's remit. The case went back and forth in the courts until early 2012, when all nine judges of the Ninth Circuit Court of Appeals agreed that the case was outside the

A.G., No. 2:06-cv-774, 2006 WL 4749756 (C.D. Cal. Oct. 16, 2006); Complaint, *W. Prelacy of the Armenian Apostolic Church v. J. Paul Getty Museum*, No. BC438824, 2010 WL 2257369 (Cal. Super. Ct. June 1, 2010) [hereinafter *Getty Complaint*]; Complaint, *Bakalian v. Republic of Turkey*, No. 2:10-cv-9596, 2011 WL 13128870 (C.D. Cal. Dec. 15, 2010). For a concise overview on, and legal analysis of, these cases in general, see Bazyler & Shah, *supra* note 2, at 244–76.

⁴³ *Movsesian v. Victoria Versicherung AG*, 670 F.3d 1067, 1077 (9th Cir. 2012); *Deirmenjian v. Deutsche Bank AG*, 548 F. App'x 461, 466 (9th Cir. 2013).

⁴⁴ See *Movsesian*, 670 F.3d at 1069; see also *Deirmenjian*, 548 F. App'x at 463–64.

⁴⁵ See *Movsesian*, 670 F.3d at 1071, 1077 (finding that the foreign affairs doctrine and field preemption rendered section 354.4 unconstitutional); see also *Deirmenjian*, 548 F. App'x at 463–66.

⁴⁶ See *Movsesian*, 670 F.3d at 1071–72.

⁴⁷ See *Baker v. Carr*, 369 U.S. 186, 210, 217 (1962).

⁴⁸ *Movsesian v. Victoria Versicherung AG*, 578 F.3d 1052, 1055–56 (9th Cir. 2009).

court's competence.⁴⁹ When the Supreme Court declined a writ of certiorari, the case was dismissed.⁵⁰

C. Suing Turkey

Other cases face similar legal hurdles. In *Bakalian v. Central Bank of the Republic of Turkey*, the plaintiffs sought compensation for Armenian land in Incirlik, Turkey, which the Ottoman government had expropriated⁵¹ and that the Turkish government in the 1950s began renting out to the North Atlantic Treaty Organization (NATO) to build and operate a massive air base.⁵² Although the plaintiffs asserted jurisdiction under the FSIA takings exception, the case languished in the courts for almost a decade.⁵³ The defendants raised a number of objections, including the matter's infringement upon the political question doctrine and the appropriateness of the court system as a forum to adjudicate such issues.⁵⁴ Oral arguments for *Bakalian* were heard before the Ninth Circuit Court of Appeals in August 2016 and again in December 2018.⁵⁵ Less than a year later, the Ninth Circuit affirmed the decision on the ground that the case was time barred.⁵⁶

⁴⁹ *Movsesian*, 670 F.3d at 1077 (“[S]ection 354.4 expresses a distinct point of view on a specific matter of foreign policy. Its effect on foreign affairs is not incidental; rather, section 354.4 is, at its heart, intended to send a political message on an issue of foreign affairs by providing relief and a friendly forum to a perceived class of foreign victims. Nor is the statute merely expressive. Instead, the law imposes a concrete policy of redress for ‘Armenian Genocide victim[s],’ subjecting foreign insurance companies to suit in California by overriding forum-selection provisions and greatly extending the statute of limitations for a narrowly defined class of claims.”) (alteration in original) (footnote omitted)).

⁵⁰ See Bazyler & Shah, *supra* note 2, at 251–52.

⁵¹ *Bakalian v. Cent. Bank of Republic of Turkey*, 932 F.3d 1229, 1231–32 (9th Cir. 2019).

⁵² See *Incirlik Air Base History*, INCIRLIK AIR BASE, <https://www.incirlik.af.mil/About-Us/Fact-Sheets/Display/Article/300814/incirlik-air-base-history> [https://perma.cc/8WMG-SEG6] (Nov. 2018).

⁵³ See *Bakalian*, 932 F.3d at 1232–33.

⁵⁴ Bazyler & Shah, *supra* note 2, at 260–61.

⁵⁵ 2016 Oral Argument, *Bakalian v. Cent. Bank of Republic of Turkey*, 932 F.3d 1229 (9th Cir. 2019) (No. 13-55664), <https://www.ca9.uscourts.gov/media/audio/?20160804/13-55664/> [https://perma.cc/6WWC-9RFY]; 2018 Oral Argument, *Bakalian v. Central Bank of Republic of Turkey*, 932 F.3d 1229 (9th Cir. 2019) (No. 13-55664), <https://www.ca9.uscourts.gov/media/audio/?20181217/13-55664/> [https://perma.cc/4P9G-CBTE].

⁵⁶ Martin Macias Jr., *Ninth Circuit Says Too Late on Claims of Armenian Genocide Land Grab*, COURTHOUSE NEWS SERV. (Aug. 8, 2019), <https://www.courthousenews.com/ninth-circuit-says-too-late-on-claims-of-armenian-genocide-land-grabe/> [https://perma.cc/78HT-G9M9].

IV. THE ZEYTUN GOSPELS LITIGATION

AGLA has been a forgotten part of the Armenian genocide. As University of California, Davis art history professor Heghnar Watenpaugh explains in a passage worth quoting here at length:

For Armenians who experienced the genocide, the near-total loss of their centuries-old religious and cultural heritage was painfully apparent. However, to this today, a full reckoning of the cultural losses of the Armenian Genocide has not taken place, because the genocide itself has not been fully reckoned with. The Republic of Turkey, the successor state to the Ottoman Empire, adopted an official policy of denial. Denial, continued persecution, hatred, expropriation of wealth, destruction of cultural monuments, appropriation of cultural achievements: there has not been acknowledgment, let alone apology, atonement, or reparation to any degree and any kind, even the most minimal, by Turkish state institutions. In the last years, a new wave of scholarship has begun to break the silence. Nevertheless, official state denial of the violence and the proscription of the use of the word ‘genocide’ continue.

The genocide and its painful afterlives haunt the history of Armenian cultural heritage and the historiography of Armenian art itself. This is due to the fact that the entry of some Armenian artworks into the art world and art writing coincided with the genocide, the violence of looting and dispersal, and entry into the more shadowy corners of the art market. I do not suggest that every single Armenian manuscript in European or U.S. collections today was looted during the Armenian Genocide. Indeed, works of Armenian art have been circulating in a global art market since the medieval period. However, I do argue that a large corpus of Armenian works of art made their entry in the art world and in art collections in a single wave as a result of the disruptions of the Armenian Genocide. This sudden transfer of Armenian art in a time of war and dispossession is comparable to the mass movement of Nazi-looted artworks during World War II, which continues to haunt the art world today.⁵⁷

Even as he was filing lawsuits for unpaid insurance claims and confiscated property, in 2010, Vartkes initiated perhaps one of his most daring legal broadsides to Armenian Genocide restitution.⁵⁸ Much like how section 354.4 of the California Civil Code had paved the way for the Armenian Genocide insurance cases, section 338(c)(3) provided the legal foundation to bring suit against museums, institutions, and entities alleged to have

⁵⁷ Heghnar Zeitlian Watenpaugh, *Provenance: Genocide. The Transfer of Armenian Sacred Objects to Art Collections*, in VARIANT SCHOLARSHIP: ANCIENT TEXTS IN MODERN CONTEXTS 219, 234 (Neil Brodie et al. eds., 2023) (citations omitted) .

⁵⁸ See Getty Complaint, *supra* note 42.

illegally acquired stolen Armenian artwork.⁵⁹ In June 2010, Vartkes filed a lawsuit against the J. Paul Getty Museum in Los Angeles to return several missing pages from a medieval Armenian illuminated manuscript called the Zeytun Gospels.⁶⁰ Commissioned for production in the thirteenth century, the manuscript had survived down the ages in the safekeeping of the Armenian Church in the Ottoman Empire.⁶¹ During the genocide, it had passed from hand to hand and ended up finally in a museum in Yerevan, the capital of then-Soviet Armenia—with eight of its most precious pages mysteriously absent.⁶² In the lead-up to the case filing, Vartkes and his research team determined that the pages had been torn out during the genocide by an Armenian individual, who later immigrated to the United States and kept them in his possession before ultimately selling them to the Getty in 1994.⁶³

In 2019, Watenpaugh, who wrote an authoritative biography of the Zeytun Gospels in her book *The Missing Pages*, listed its most salient facts:

The Zeytun Gospels was created in 1256 by Toros Roslin, the greatest medieval Armenian illuminator. He worked in the scriptorium of the castle of Hromkla, then the seat of the catholicos of the Armenian Apostolic Church and located in present-day southwestern Turkey, on the westernmost bend of the Euphrates River. The manuscript is called the Zeytun Gospels after the remote mountain town where it was once kept. When the Armenians of Zeytun were exiled from their homes and exterminated during the Armenian Genocide a century ago, the manuscript too was removed from its church. It was passed from hand to hand, and caught in the confusion and brutality of war. Today the Zeytun Gospels survives almost intact, divided into two parts. The main manuscript is preserved in the Mashtots Institute of Ancient Manuscripts, known as the Matenadaran, in Yerevan, Republic of Armenia (Ms. 10450). The Gospel Book's Canon Tables, in eight illuminated pages, were separated and are kept in the J. Paul Getty Museum in Los Angeles (Ms. 59). The manuscript was sundered as a result of the Armenian Genocide. The circumstances of the separation of the manuscript and the fragment were central to a

⁵⁹ See Second Amended Complaint and Demand for Jury Trial at 9–10, *Western Prelacy of the Armenian Apostolic Church v. J. Paul Getty Museum*, No. BC438824 (Cal. Super. Ct. filed Aug. 1, 2011) [hereinafter Second Amended Getty Complaint]. For a discussion on Armenian art and cultural property recovery, see Rajika L. Shah, *The Making of California's Art Recovery Statute: The Long Road to Section 338(c)(3)*, 20 CHAP. L. REV. 77 (2017).

⁶⁰ See Getty Complaint, *supra* note 42.

⁶¹ See Second Amended Getty Complaint, *supra* note 59, at 5–6.

⁶² See *id.* at 8. For a study on the history of the Zeytun Gospels itself, see HEGHNAR ZEITLIAN WATENPAUGH, *THE MISSING PAGES: THE MODERN LIFE OF A MEDIEVAL MANUSCRIPT, FROM GENOCIDE TO JUSTICE* (2019).

⁶³ See Watenpaugh, *supra* note 57, at 222, 224.

lawsuit between the Armenian Church and the Getty, begun in 2010. In the lawsuit, the Western Prelacy of the Armenian Apostolic Church of America sought the return of the Canon Tables, asserting that the illuminated pages were sacred and had been stolen: they had been removed from the main manuscript, the Zeytun Gospels, during the Armenian Genocide. The museum's legal counsel maintained that the Getty owned the pages as works of art, having acquired them legally.⁶⁴

Yeghiayan represented the Armenian Church in the effort to return the eight missing pages to the mother manuscript in Yerevan—in his words, like an orphaned child being miraculously reunited with his parents.⁶⁵ In any event, the two parties came to a settlement in 2015, where the pages would remain in the Getty Museum's collection.⁶⁶

The future of Armenian Genocide art restitution became a subject of intense discussion among legal specialists in the years following the *Getty* case. Watenpaugh explains her own journey and what happened next: “While litigation was ongoing, I became intrigued by the work of art/sacred object dichotomy outlined in legal documents. I set out to learn more about the history of the Zeytun Gospels. The provenance the Getty had for this manuscript at that time was brief, as provenance lists are.”⁶⁷

When it acquired the Canon Tables, the Getty presented them to museum-goers in the following way:

*Catholicos Constantine I (1221-67); bound into a Gospel book in Kahramanmaras, Turkey; Nazareth Atamian; private collection, U.S. (Getty Museum 1995: 89).*⁶⁸

Watenpaugh notes that, “[e]ven to an untrained eye, this provenance had some gaps, and raised some questions.”⁶⁹ She elaborates: “Here was a layer of loss: due to the violent events of the twentieth century, the history of the manuscript had been lost in the fog of time, people connected to its history were dead, some of them murdered, and documentation was elusive.”⁷⁰

⁶⁴ Watenpaugh, *supra* note 57, at 221–22.

⁶⁵ See WATENPAUGH, *supra* note 62, at 3.

⁶⁶ See *id.* at 18.

⁶⁷ Watenpaugh, *supra* note 57, at 222.

⁶⁸ *Id.*

⁶⁹ *Id.*

⁷⁰ *Id.*

In 2016, after the case was settled, the Getty adjusted the provenance:

*1256, Catholicos Konstandin I, died 1267; by 1923–1994, in the possession of the Atamian Family; 1994, acquired by The J. Paul Getty Museum; 2016, gift of the Catholicosate of the Great House of Cilicia, by agreement.*⁷¹

The *Getty* case represented a major milestone in the recovery of Armenian looted art. Yeghiayan's boutique law firm went up against the world's wealthiest art museum in the first art case emanating from the Armenian Genocide.⁷² The case catapulted the Zeytun Gospels into the global conversation on art heritage and restoration, and demonstrated the reaches and limits of the American legal system on such matters. It highlighted those challenges while at the same time demonstrating new paths forward.

V. THE FUTURE OF ARMENIAN GENOCIDE LOOTED ART

In the wake of the Biden administration's recognition of the Armenian Genocide in 2021, a number of legal and history experts gathered in the summer of 2023 to launch the multidisciplinary project, AGLA.⁷³ AGLA set out to conduct research on suspected looted Armenian art, cultural heritage, and other cultural objects and foster a conversation on different aspects of restitution and art.⁷⁴ In 2023 and 2024, the AGLA Movement hosted participants at two conferences intended to answer the important questions relating to restitution: "[W]hat are the possibilities of creating an Armenian Genocide reparation movement post-recognition? What opportunities does the American legal system offer for reparation? Can the Holocaust restitution movement serve as a model for the Armenian Genocide?"⁷⁵ Stuart Eizenstat, Special Representative of the President and Secretary of State on Holocaust-era Issues, lent his weight to the project in 2023, discussing his experience in helping to facilitate Holocaust restitution in the 1990s on behalf of the Clinton administration.⁷⁶ The project has ambitious aims, hoping to expand the ambit of its activities from collaborating with universities, the U.S. government, and the Armenian

⁷¹ *Id.*

⁷² See Bazylar & Shah, *supra* note 2, at 267, 274.

⁷³ See *Armenian Genocide Looted Art Research Project (AGLARP)*, *supra* note 24.

⁷⁴ *Id.*

⁷⁵ *Id.*

⁷⁶ *Id.*

diaspora to developing curricula, working with organizations to establish controls over the traffic of looted artwork, organizing conferences and exhibitions, and broadening knowledge on Armenian art and history more generally.⁷⁷

VI. CONCLUSION

Vartkes' encounters and experiences of his early youth shaped much of his understanding of the world. He carried these memories with him when he decided to enter law and then applied them when he began the Armenian Genocide Restitution Movement in the 1990s. In a span of twenty years, Vartkes moved the ball forward on cases involving the payment of insurance policies, the restoration of landed properties, and the safe return of art objects determined to have been removed from Ottoman Armenian churches and homes during the genocide. Each of these cases, as we have seen, encountered its own respective challenges and enjoyed varying degrees of what we may call success. Yet at each step, legal experts have come away with a slightly firmer knowledge of how to proceed—AGLA being one of the most vibrant examples. It is this forward momentum that will allow us to make the best use of our courts to attain justice and honor the ideals of pioneers like Vartkes Yeghiayan as we look toward the future.

⁷⁷ *Id.*

