

Longue Durée Boyunca Zorunlu Göç: 1858-2015 Arasında Doğu Anadolu'da Toprak, Yerinden Edilme ve Tazmin

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Öz

Zorunlu göç konusunda araştırma yapanlar genellikle mevcut krizlere odaklanırlar ve vaka analizlerinde nispeten kısa zaman dilimlerini seçme eğilimi gösterirler. Ancak, kısa zaman aralıklarındaki vakaları ele almak çatışma, ayrılma, geri dönme ile konutun, arazinin ve mülkün tazminini etkileyen önemli temel konuları belirsizleştirebilir. Bu makale, geniş zaman dilimlerine odaklanıp geçici etkilere daha az dikkat gösterildiğinde zorunlu göçü etkileyen nedensel mekanizmaların daha kolay belirlenebileceğini iddia etmektedir. Bu çalışma Güneydoğu Anadolu'da konutun, arazinin ve mülkün tazminini ve geri dönüşü etkileyen problemlere yönelik bir vaka incelemesidir. Uzun bir zaman dilimini seçerek 19. yüzyılın ortalarındaki tapu kadastro modernizasyonunun başlangıcından günümüze kadar yerel seçkinlerin devletin yasal kurumlarına dâhil edilme biçiminin arazi kullanımında uzun vadeli yapısal sorunların yanında çatışma, topraktan kopma; konutun, arazinin ve mülkün tazminini karmaşıklaştıran sorunlar yarattığını savunmaktadır.

Anahtar Kelimeler

Metodoloji • Onarıcı adalet • Tapu kadastro modernizasyonu • Mülkiyet hakkı

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Forced Migration over the Longue Durée: Land, Displacement, and Restitution in Eastern Anatolia, 1858-2015

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Abstract

Researchers in forced migration studies usually focus on current crises and tend to adopt relatively short timeframes for case studies. And yet, studying cases within narrow timeframes can obscure important underlying issues impacting conflict, flight, return, and restitution of housing, land, and property (HLP). This article argues that using broad time frames and paying closer attention to temporal effects can help us identify underlying causal mechanisms impacting forced migration. It presents a case study of problems affecting return and restitution of HLP in southeast Turkey. Adopting a long-term time frame, it argues that the mode of incorporating local elites into state legal institutions from the beginning of cadastral modernization from the mid-19th century to the present day have created long-term structural problems in land tenure that not only provoke conflict and flight, but also complicate restitution of HLP.

Keywords

Methodology • Restorative justice • Cadastral modernization • Property rights

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Academic work in the field of forced migration studies typically focuses on recent and current crises, and with good reason. Since forced migration studies emerged as a distinctive academic field in the 1980s, researchers have aspired to have a meaningful impact on policy and practice. They not only study those suffering from forced displacement, but also advocate for their rights and seek ways to improve their conditions (Fiddian-Qasmiyeh, Loescher, Long, & Sigona, 2014; Harrell-Bond, 1986). And yet, the fierce urgency of the now should not lead us to neglect the study of earlier episodes of conflict and forced migration, nor should it prevent us from viewing current events as the outcomes of processes unfolding over long periods of time.

Elie (2014) and Marfleet (2007; 2013) have noted that the field of forced migration studies is often criticized for being “ahistorical,” and they urge scholars to adopt more historical approaches in their studies of forced migration. In this article I support this call to focus more on history, but also go a step further by inviting forced migration researchers to engage more fully with *temporal effects*, or causal factors that have a specifically temporal element. This not only entails expanding the time frames used to study subjects in forced migration, but also means paying close attention to underlying causal mechanisms with a temporal component, such as slow-building *longue durée* effects, critical junctures, and path dependency.

Such concepts are derived from the social science school of historical institutionalism (North, 1981; Pierson, 2004; Steinmo, Thelen, & Longstreth, 1992; Thelen, 1999). This school of thought sees strategic interaction in political life structured by both formal and informal institutions - “the humanly devised constraints that structure political, economic, and social interactions” (North, 1991, p. 97). It argues that institutions are created or reshaped at periods called *critical junctures*—moments when actors find the radical reconstruction of the rules of the game both possible and desirable, often due to war, crisis, the founding of a new state or organization, or some other major event. These new institutions then tend to persist over time due to self-reinforcing effects, such as a stronger party using its strength to continuously readjust these institutions in its favor. A common theme in such research is that institutions often outlive their “sell by” date, persisting even when they no longer offer an optimal means for problem-solving or achieving Pareto efficient outcomes. Thus, studies of institutional dysfunction—a painfully relevant subject in forced migration studies—often benefit from a historical institutionalist approach.

This article applies a historical institutionalist approach to explain problems affecting recent attempts to restore housing, land, and property (HLP) to internally displaced persons (IDPs) in southeast Turkey. It notes that recent attempts to restore HLP have coincided with a cadastral modernization program sponsored by the World Bank. Unfortunately, neither the plans for restitution nor the cadastral modernization

program seem to have taken account of the underlying structural problems of the land tenure regime in this region. Projects to promote return have fared poorly while violent land conflicts have emerged as a result of the issuing of new land titles under a cadastral modernization program that seeks to allocate lands without providing adequate conflict resolution mechanisms. Given that this region is a post-conflict region where state authority is often challenged, locals are armed, and violence is a common solution to disputes, such omissions have led to grave problems for human security and have failed to successfully promote restorative justice.

The remainder of this article is divided into four main parts. The first elaborates on the importance of temporal effects in social science research. It identifies a few subjects from the field of forced migration studies that would benefit from a focus on temporal effects and suggests ways that research designs could incorporate them. The second section addresses the importance of land tenure regimes and property rights for understanding forced migration, return, and the restitution of HLP. This section argues that although cadastral modernization projects of the past two decades hold great importance for many issues affecting forced migration and restorative justice, they have not received the scholarly attention they deserve. The third section presents a case study of southeast Turkey in the 21st century, a region that had recently seen the conclusion of a major conflict (which has since restarted as of 2015) and some efforts to restore HLP to the mostly Kurdish local IDPs who had left farms and villages for the cities of Turkey. This has not gone particularly well, with attempts to retake HLP sometimes even resulting in bloody feuds over land claiming dozens of victims. This was due in part to lack of security over land rights, lack of authority of local courts, ongoing influence of local elites over land tenure, and incentives to use self-help (violence) rather than state law to resolve conflicts. The fourth main section explains the dysfunctions in the land regime of southeast Anatolia through a look at history, arguing that the problems today have their roots in the Ottoman 19th century, when the central state made alliances with local elites in order to win their support for military campaigns and local security. This created a self-reinforcing sequence wherein state officials agreed to share power with local elites, local elites used this power to acquire more land, cultivators were displaced from their lands or forced into exploitive labor relationships, displaced or exploited cultivators rebelled, and, returning to square one, the state would re-enlist local elites to quell the rebellion.

Temporal Effects and the Study of Forced Migration

Expanding the time frames we use to analyze issues related to forced migration can reveal underlying processes that an exclusive focus on shorter-term case studies might obscure. The political scientist [Paul Pierson](#) addressed these methodological issues in his book *Politics in Time* (2004), an influential work that argued for the importance of

time frames in social science research and encouraged scholars to reflect on temporal effects in research design. In seeking to explain political phenomena, we are forced to make difficult choices. Not only must we select the outcomes in which we are interested and define them, we must also select the possible causal factors to be examined and the scope of the study, including the population, the geographic area, and the scale of time. Pierson argues that social science researchers pay insufficient attention to the scale of time, focus on short-term cases at the expense of long-term cases, and often fail to account for important temporal effects in their exploration of causal factors. For example, there are *longue durée* effects - processes that unfold slowly over time, such as demographic, socioeconomic, and ecological changes - that can critically impact the phenomena that social scientists wish to explain.

By adjusting the time frames and the sorts of causal factors we examine, social scientists can produce very different answers to the same questions. For example, suppose a researcher wants to explain why a left-wing candidate triumphed over a right-wing incumbent in a certain election. A researcher focusing on this election alone might conclude that this outcome was due to the candidate's charisma, style of campaigning, mode of fundraising, or a particular scandal that occurred during the campaign. A longer-term study, however, would reveal that the electoral district had been steadily drifting leftwards for decades, in itself the result of long-term demographic and socioeconomic changes leading the voters to increasingly prefer candidates promising to deliver a stronger social safety net. In this case study, the left-wing victory seems less the result of the candidate's particular characteristics or the unique characteristics of this one campaign, but rather a more likely outcome for *any* candidate offering the more left-wing platform. Of course, observing these slow, *longue durée* trends would not allow us to predict just when such an office might flip from a right-wing incumbent to a left-wing challenger, whether it were to occur in this election or the next. Yes, contingencies will always be present. But what this long-term approach does provide is a much fuller explanation for the phenomenon that we wish to explain while also telling us something meaningful about the likelihood of left-wing candidates winning in the future.

Many important subjects in forced migration studies lend themselves to study through such a politics in time approach. For example, a number of works have studied the UNHCR, seeking to determine the extent to which the organization possesses bureaucratic autonomy or is ultimately subject to the interests of the states that support it (Betts, 2013; Betts & Loescher, 2011; Barnett & Finnemore, 1999, 2004). Adopting long-term time frames can help us better understand the ways in which the UNHCR has been able to develop its own autonomous power as a player in the international refugee regime, which in turn would allow us to better evaluate its ultimate impact as an institution.

As [Carpenter \(2001\)](#) argues, bureaucratic autonomy can look very different depending on whether one analyzes a case in the short term or the long term. A principal-agent model using a narrow time frame may give us the impression that the principal (such as a state making demands on an international organization or an elected politician making demands of a state bureaucrat) has been successful in persuading the agent to follow its orders. But, by viewing the same case in the longer term, a researcher may see that over time, the bureaucracy has been the main actor shaping the agenda, using its expertise and professional reputation to alter the preferences of the states or elected officials. Such a longer-term study would turn the results of the short-term study on its head, revealing that over time, the bureaucrats themselves, rather than being passive agents, exerted much power over their supposed principals ([Carpenter, 2001](#); [Pierson, 2004](#)).

Such an approach could help illuminate the nature of the “push and pull” between the UNHCR and individual states over policies toward refugees and asylum-seekers. In a study of the UNHCR’s role in Burma and Bangladesh in the early 1980s, [Barnett and Finnemore \(2004\)](#) argued that the UNHCR had developed its own bureaucratic autonomy, taking the initiative in choosing how to assign refugee status to Rohingya asylum-seekers. [Betts \(2013, pp. 50–51\)](#), however, finds that UNHCR missions in Angola, Botswana, Kenya, South Africa, Tanzania, and Yemen have taken the back seat to the individual states in the process of determining who is to be granted refugee status. A longer-term study of the struggle over determining refugee status since the UNHCR’s founding in 1951 could shed more light on this issue by illuminating the long-term impact of the UNHCR on states’ practices of assigning refugee status to asylum-seekers.

In another study, [Betts \(Betts & Loescher, 2011\)](#) examines four donor conferences convened by the UNHCR between 1980 and 2005 in an attempt to investigate whether the UNHCR has been successful in persuading wealthy Northern states to contribute more burden-sharing to refugee relief efforts in the global South and, if so, by what means. [Betts](#) found that the UNHCR was not very effective when it relied on humanitarian norms alone to elicit state contributions for the support of refugees in the places where they were hosted in the global South, such as sub-Saharan Africa or Central America. Over time, UNHCR officials discovered that wealthy states in the global North were much more responsive to arguments that appealed to their self-interests based on the issues of security, trade, and limiting informal migration. However, in making these arguments the UNHCR also managed to develop a measure of autonomy and, hence, power in shaping states’ reactions to forced migration crises. The UNHCR developed a reputation for expertise in these matters, successfully convincing officials from donor states that money spent to help refugees close to their temporary homes in the global South would prevent them

from trying to move to the global North and causing an immigration and security problem for the wealthy Northern states. By examining the pattern of bargaining and contestation between the UNHCR and individual states over a broader time frame, this study tells us much about the strategic interactions between the UNHCR and its donors and reveals ways in which the UNCHR has both succeeded and failed in developing its own autonomous institutional power.

Additionally, the concepts of path dependency and institutional inertia can be very useful for understanding the pathologies of the UNHCR and the global refugee regime itself. The United Nations passed the 1951 Geneva Convention on Refugees and established the UNHCR at a very specific historical instance. World War II had just ended and the Cold War had just begun. Influenced by both the horrors of the Holocaust, which targeted victims based on ethno-religious criteria, as well as the outflow of dissidents seeking political asylum from the Soviet Union, this agreement committed states to offer protection to those escaping state persecution based on their ethnic, religious, or political identities. This case can be seen as a classic critical juncture, a moment in which a durable set of institutions is formed in response to a specific crisis. The ongoing failures of the institutions produced by this critical juncture seem to make a strong case for institutionalist arguments, which see institutions as persisting past their “sell-by” date and contributing to suboptimal outcomes.

The limitations of this notion of asylum in terms of protecting human rights were made clear by subsequent waves of forced migration, with millions of people fleeing not targeted persecution by states, but rather famine, warfare, economic crisis, and other calamities depriving them of basic human rights. [Betts \(2013\)](#) has argued that we should replace the concept of *refugee*, which refers to those subject to targeted persecution by states because of their identity or political beliefs, with that of the *survival migrant* - someone who is forced to cross an international border in order to achieve basic human rights and security, whether because of persecution, war, ecological, and/or economic crisis in their home country. He notes that as climate change renders more areas uninhabitable and affects food yields in agricultural regions, the concept of survival migration will become increasingly relevant for managing international migration flows.

In a way, maintaining the 1951 legal concept of the refugee may benefit states by restricting their obligations to care for those fleeing their home countries, allowing them to spend less on humanitarian aid and reduce the number of survival migrants they accept into their countries. However, the fact that the 1951 Convention and the international refugee regime it anchors have so drastically failed to offer minimum protections to the millions of desperate asylum-seekers has come to haunt these states in today’s refugee crisis. Thousands of survival migrants have taken matters into their

own hands and made their way to Europe via land and sea routes, overwhelming the border controls and causing a political crisis within the EU.

A final insight of the politics in time approach worth considering is that asymmetries in political power are often self-reinforcing over time. Actors holding political power at an early period often manage to change the formal and informal rules of the game to ensure that they and their successors will have more power in the future. Over time these power imbalances become routinized, leading the actors involved to tacitly accept the power relationships and cease contesting them directly (Pierson, 2004, pp. 36–37). Such an awareness of the self-reinforcing mechanisms of political power over time could, for example, help researchers investigate how and why refugee communities show variation in their efforts to contest political and economic exclusion in countries where they are hosted but have not been granted rights of citizenship. This could be used to better understand the political activism of long-term refugee populations lacking citizenship rights such as Palestinian refugees in Jordan, Lebanon, and Syria since the exodus of 1948 or Afghan refugees in Iran and Pakistan since the 1980s.

The remainder of this article will examine the self-reinforcing nature of political power in governing local property rights to land and its impact on efforts to promote return and the restitution of HLP to refugees and IDPs. Before turning to the empirical case study examining these issues in southeast Anatolia over the past century and a half, the following section describes the challenges that can arise when states or international organizations seek to resolve disputes over HLP in regions where land tenure regimes are contested or localized.

Cadastral Modernization, Land Regimes, Return and Restitution of HLP

Since the mid-2000s, international law has increasingly sought two solutions to forced displacement. First, it has increasingly emphasized the return of refugees and IDPs as the sign of a successful conclusion to a violent conflict or political crisis. Second, it has sought the restitution of HLP. This has been expressed in the Principles on Housing and Property Restitution for Refugees and Displaced Persons (also called the Pinheiro Principles) of 2005 and reaffirmed when the UN General Assembly adopted The Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law in 2006.

These new commitments to the restitution of HLP occurred at the tail end of a broader global process emphasizing the importance of property rights for the world's poor and disadvantaged (de Soto, 2000; Payne, Durand-Lasserve, & Rakodi, 2009). By the 1990s, breakthroughs in information and geographic information system (GIS)

technologies revolutionized states' abilities to map land and store records of property ownership. At the same time, the wave of neoliberal economic thought increasingly pushed development agencies to promote well-regulated formal property rights in land. Since then, cadastral modernization - the technological and administrative upgrading of state maps and legal records of land ownership - has spread like wildfire throughout much of the world. The World Bank and other development agencies have made cadastral reform a top priority. For example, in Turkey's neighborhood alone the World Bank has supported cadastral modernization projects in Russia, Azerbaijan, Bosnia, Croatia, Macedonia, Romania, Bulgaria, Ukraine, and Serbia (World Bank, 2008, p. 3).

Unfortunately, today many international agencies and states tend to treat land tenure issues as strictly legal-technical matters, even in regions where conflicts are ongoing or have recently been concluded. They thus fail to provide mechanisms to adequately manage land conflicts. In transitioning from a land rights system based on legal pluralism or (neo-) traditional land tenure practices to a Roman Law-style system of strong property rights enforced by the central state, inevitable questions arise concerning the issuing of title: Whose claims to the land are to be honored and whose are to be rejected? How will this be adjudicated? How will collective land ownership practices be converted into the exclusive land rights conferred by title under Roman law?¹ How effective will state courts be in adjudicating cases that were previously decided not by the state, but by local elites or communities through local, non-state modes of law or in collusion with state officials embedded in local networks?

Ideally, the creation of comprehensive new property rights systems should serve to reduce the amount of violent conflict, supplanting extra-legal violence with the rule of law as the means of resolving disputes over land. However, the state awarding exclusive rights of ownership to one party or another can also exacerbate conflict where the rule of law is weak, local actors are armed, and institutions for conflict resolution, be they state courts or local adjudication mechanisms, are ineffective. Such is often the case in post-conflict situations (Trczinski & Upham, 2014). Land tenure reform often entails invalidating previously-issued land titles as new titles are issued, which potentially leads to conflict between parties bearing titles to the same areas of land or titles that are ambiguous in specifying the areas of the land owned. Cadastral modernization also typically entails state efforts to replace local forms of land management with expanded central state control. This can lead to problems in regions where the state is attempting to extend its legal-administrative power over land tenure for the first time, or where such power has previously been weakened, as is often the case after the outbreak of violent conflict.

1 Ostrom and Cole (2012) have pointed out that there have always been limits to the "absolute" nature of property rights under Roman law since Justinian's code was formulated in the 7th century CE.

Southeast Anatolia: Cadastral Reform and Restorative Justice in the 21st Century

In 2008, Turkey began the implementation of the Land Registry and Cadastre Modernization Project. Sponsored by the World Bank, this project aimed to complete the cadastral process begun in the mid-19th century under the Ottoman Empire: the mapping of all the lands under the state's jurisdiction and the recording of all ownership rights. It spent some 210 million USD to update the technologies for cadastral surveying and the storing of information and represents, in many ways, a vast administrative improvement over the system that preceded it. It has greatly speeded up the process of accessing cadastral records and obtaining title documents. Landowners can now use the internet to obtain a record of their *tapu senedi*, or land title, in hours rather than the days or weeks it took under the old system (World Bank, 2015).

Unfortunately, despite these achievements, the cadastral modernization project has proceeded without acknowledgment of the issues of conflict and restorative justice that affect southeast Anatolia. [The World Bank's Project Appraisal Document \(2008\)](#) shows a limited awareness of the issues that would arise from the cadastral reform. For example, nowhere in this document is there recognition that since 1984 Turkey has experienced war between the Kurdistan Workers Party (PKK), the Turkish state, and local state-allied militias and landowners, a conflict that has resulted in over a million displaced persons and over 40,000 deaths. This is despite the fact that such violence invariably has a transformative impact on land tenure relations, complicating the process of post-conflict return and threatening to reignite concluded or abated conflicts (McCallin, 2012; Unruh & Williams, 2013).

There is evidence that the application of the cadastral reform program has resulted in, or at least contributed to, outbreaks of violence over land. While there is no detailed statistical information on the trends in land violence in Turkey, reports in the Turkish media indicate that violent land disputes are increasing because of the lack of adequate arbitration mechanisms and policing to accompany the cadastral reform program. An official from the land ministry anonymously told journalists from the daily newspaper *Milliyet* ([Elebaşı katliam anlattı!](#)) that the cadastral modernization process had caused an increase in violence in the East as those who had fled their lands earlier in the conflict were returning to find these lands occupied by those who remained.

The worst such case to date has been a massacre occurring at a village wedding in the province of Mardin on May 4, 2009 in which 44 members of a family were executed. Turkish officials explained that the conflict emerged from a dispute over lands taken over from IDPs during the Turkey-PKK conflict by members of the Village Guards, the local Kurdish militias raised by the Turkish state to assist it in its struggle with the PKK. These members of the Village Guards later received title to the lands from the state under the cadastral modernization program. The perpetrators

of the attack were the family of the former landowners who had fled their lands to escape the violence but had returned hoping to reclaim their HLP. A Turkish official surmised that the massacre of the family members was so thorough because the attackers hoped to wipe out any potential heir who might receive the lands upon the deaths of the current title-holders. Blaming the cadastral project for the massacre, this official added that a correction to the program be done immediately to prevent more such incidents from happening ([Elebaşı katliamı anlattı! 2009](#)).

The Land Regime in Southeast Anatolia: From the 1858 Land Code to the 21st century

The pathology of this system is not a new development, but rather has shown strong continuities over time, surviving even the transition from the Ottoman Empire to the Turkish republic. Today's Turkish state has, in essence, subcontracted its Weberian aspirations to a state monopoly over violence to local actors to help it in its quest to put down the PKK insurgency. In doing so, it has allowed these actors to acquire and keep lands that they have settled, sometimes using violence to do so - violence that the state perforce ignores. State courts, despite the pretense of apolitical bureaucratic impartiality, often cede to local actors in making decisions. Such decisions not only often lead individuals to use violence to reclaim lands, but also create more anger against the state and within communities in the Southeast.

In the 19th century, the Ottoman Empire carried out a wave of modernizing reforms aimed at strengthening the central state's authority and increasing its ability to extract revenue from agriculture. This included the 1858 Land Code, which sought to improve the state's ability to collect revenue from agriculture through strengthening the institution of the *tapu*, a legal document that functioned much like title deeds under Roman law, and the Department of Land Registry, or *Tahrîr-i Emlâk Nezâreti*, that began the process of surveying and recording usufruct-property rights ([İslamoğlu, 2004](#); [Shaw & Shaw, 1977](#)). Although the Ottoman *tapu* did not grant absolute fee simple over the land owned, it did provide both usufruct rights and strengthened the possessor's ability to buy and sell those rights. Thus, although scholars have debated the extent to which the 1858 Land Code constituted a true turn towards private property in land ([Arıcanlı, 1991](#); [Owen & Bunton, 2000](#)), it was certainly part of a broader process of extending state administration of land tenure that included the first modern cadastral surveys.

The success of these efforts was uneven throughout the geographic expanse of the Empire, with southeastern Anatolia posing a particularly difficult region for the extension of state administrative power over property rights. Southeast Anatolia was a mountainous borderland between the Ottoman and Persian empires, just south of the Ottoman-Russian border in northeast Anatolia. Low agricultural output, difficult terrain, and the relative autonomy of local elites increased the costs of extending the

state's administrative and legal institutions, making it more efficient to share power with the local notables rather than to rule directly. Local elites in the Southeast were seen as valuable assets in the effort to maintain the security of the border, as they could mobilize soldiers from their peasants and offer them to the Ottoman army as auxiliary forces in the fight against the Russians. Finding it difficult to conscript these peasants directly, the state instead accepted the aid of these local militias, legitimating the authority of the elites in the process (Klein, 2011; van Bruinessen, 1992).

The fact that the state chose to grant local elites much autonomy in exchange for military support did not mean that the new *tapu* system and cadastral surveys had no effect in the Southeast. Rather, local elites were able to augment their local power through the manipulation of the Ottoman state's new willingness to intervene in the realm of property rights, giving them the best of both worlds. They could appropriate land for themselves extra-legally and then acquire legal recognition of their property rights, backed up by state legal power. They could also use their local political power and influence with state officials, maintained through the threat of violence and the promise of bribery, to manipulate the granting of *tapu* to others. This increased their ability to act as adjudicators in local property disputes and paved the way for the legal pluralism that has persisted into the current day.

The pattern of turning a blind eye to the land grabs of local power holders in exchange for contributions to military campaigns became more pronounced with the founding of the *Hamidiye* corps in 1890. These irregular regiments, named for the Ottoman Sultan Abdulhamid II (r. 1876-1909), were loosely modeled on the Russian Cossacks. They granted the leaders of local militias military rank as *Hamidiye* officers, seeking to better incorporate them into the Ottoman military. This new status allowed them to use their connections with the state to further take advantage of the emerging property rights system. They could now use their influence over local judges and police to obtain *tapu* rights to more land, even taking over the lands of farmers able to produce their own previously issued *tapu*, which began to seem worthless in the hands of less well-connected actors. It increasingly appeared that the *tapu* granted secure property rights only to those with the local political and social power to have them enforced (Gözel, 2007; Kaligian, 2003; Klein, 2011).

This competition for land occurred in a region suffering from divisions based on language, religion, and, increasingly, ethno-national identity. The *Hamidiye* officers and local *aghas* and *sheikhs* were all Muslim, while many of the peasants and traders were Armenian and Syriac Christians. Land grabs targeted Muslim and Christian villagers alike, with Kurdish and Armenian peasants both suffering predation (Klein, 2011). However, it was the Armenians whose resistance found support from a broader nationalist movement that was emerging among Armenians in Ottoman, Russian, and

European cities at the time. These urban nationalist intellectuals established links with local Armenian peasants' resistance to land predation in the Southeast. The Young Turk revolution in 1908 led to new elections and optimism about the future of the Ottoman state. Armenian nationalists sought to cooperate with the new Turkish leadership to restore HLP to displaced Armenians. Unfortunately, the new government failed to follow through on its promises to successfully restore much of the lost HLP, whether due to the weakness of the local legal-administrative institutions or their growing indifference to the Armenians' grievances (Kaligian, 2003).

When World War I broke out and the Ottomans entered the war on the side of Germany and the Austro-Hungarians, the conflicts over lands in the Southeast fueled antagonisms and created the perception of a zero-sum conflict. In 1915, members of the Ottoman state and local forces began a genocidal program of violence, murdering and exiling Armenians, Syriacs, and Greek Orthodox Christians (Akçam, 2012; Suny, 2015), taking over the houses, lands, and properties of those killed or expelled. When the Turkish Republic replaced the Ottoman Empire in 1923, the new state was able to consolidate fairly effective rule over the western and central regions of the country. In the East, however, the pattern of power sharing with local elites persisted. Just as in the late Ottoman era, the new Turkish Republic saw the Southeast as a zone of insecurity. The Soviet Union continued to threaten the eastern borders just as the Romanovs had earlier. While Armenian nationalism was feared the most at the end of the Ottoman Empire, Kurdish insurrection became the new concern. An uprising in 1925 led to a major battle between the armies of the new Turkish state and Kurdish rebels, a fight that consolidated Turkish ethno-nationalism and the rejection of Kurdish identity at the heart of the new regime. In order to maintain state control over the Kurdish territories, the state came to make alliances with local Kurdish landholding elites willing to align themselves with Ankara. This entailed allowing them a great deal of local autonomy in exchange for their support. These patterns endured throughout the decades of the Turkish Republic and were recreated when violence erupted again in the 1980s.

Not surprisingly, when the fighting erupted in the 1980s the state turned to its traditional allies in seeking to put down the revolt - local landowning elites (Bozarslan, 2006; Romano, 2006). The Ottoman pattern was recreated, as Turkish leaders drew on familiar scripts to try to put down the insurgency, including offering more lands to its local allies and depriving actual or alleged PKK supporters of restitution of HLP lost in the conflict (Kurban, 2012). The startling success of the PKK led the Turkish military to carry out two classic counter-insurgency techniques leading to high levels of forced displacement. First, beginning in 1992 the Turkish state created a militia from local residents in the Kurdish regions, named the Village Guards system. As Kalyvas (1999, p. 266) has demonstrated using the Algerian example, the raising of militias to fight

insurgency creates a dangerous new dynamic in civil wars, noting that “militias almost always cause an escalation in violence” due to their embeddedness in local society, their superior information about the allegiance of civilians, and their penchant for expropriating the wealth and properties of other locals through the new opportunities opened up by the conflict. The second technique was the demographic reshaping of the insurgent region, which has led to the expulsion of hundreds of thousands of villagers from their homes and lands (Jongerden, 2007). Most of these refugees became IDPs within Turkey, while many were also able to emigrate or find asylum abroad. Kurban (2012) notes how many members of the Village Guards units were able to benefit from this policy, often obtaining access to the lands of those forced to leave.

The fighting has waxed and waned since the PKK leader Abdullah Öcalan was captured in 1999. From that time until the resumption of fighting in 2015, Turkish governments and the PKK have shown sporadic interest in solving the conflict through a negotiated political settlement. During this period there have been some attempts at the resettlement of refugees and programs trying to carry out some sort of restorative justice, such as a program in the province of Van (Yükseker & Kurban, 2009). But, as Kurban (2012) points out, these have benefitted members of the Village Guard units and their families while dispossessing those suspected of PKK membership or pro-PKK affinities. As of 2012, some 43% of applicants for restitution have had their claims rejected, a process that occurs without outside monitoring or possibility of appeal (Kurban, 2012, p. 5). This seems likely to have provoked more grievances and deepened the divisions in society.

In the summer of 2015, the Turkish military and the PKK once again resumed large-scale hostilities. Unlike the mostly rural conflict of the 1980s and 1990s, today’s battles have been mostly fought in the cities of the Southeast, with great cost in lives. Downtown urban neighborhoods have been devastated in scenes reminiscent of the war across the border in Syria, while large numbers of non-combatants have also been killed in the fighting. IDPs from the villages or their descendants form the basis of these new urban PKK brigades (Jenkins 2015). In part, the intensity of this new round of conflict represents the failure to address the needs of IDPs. The state’s practice of rewarding members of loyal militias with easy access to the lands of those who fled may have been effective in attracting and retaining the loyalty of militia members, but this also appears to have contributed to the ongoing willingness to fight on behalf of those dispossessed.

In conclusion, a hybrid formal-informal system has evolved over time since the first cadastral modernization project in the Ottoman Empire in the mid-19th century. Since that time the Ottoman state and, after 1923, the Turkish state have engaged in power-sharing with local elites in order to achieve state security objectives and put

down local rebellions. However, this has meant giving state allies the ability to claim land, which has in turn increased insecurity and grievances against the state, leading to rebellions that the state must again put down by once again subcontracting stately authority to local actors. The following chart illustrates this causal chain:



This occurs over time as a self-reinforcing process as described above in the section on temporal effects. An awareness of the long-term persistence of such a problem could have informed both the cadastral modernization project as well as efforts to promote restorative justice. Unfortunately, the failure to account for such dynamics or provide effective conflict resolution mechanisms for land disputes caused by the conflict has contributed to both bloody land conflicts such as the massacre in Mardin as well as the ongoing grievances experienced by many in the Kurdish minority today.

Conclusions

Forced migration researchers can serve a valuable function in calling attention to the impact of land tenure regimes on the issues of flight, return, and restitution. To do so, a greater focus on long-term processes and temporal effects is warranted. By viewing crises of displacement using longer time frames, we may better see how waves of conflict and flight exhibit cyclical qualities and how institutions, whether formal or informal, become self-reinforcing. In doing so, we may better understand the mechanisms provoking flight and complicating restorative justice projects.

Conflicts that lead to forced migration are often provoked and stoked by disputes over housing, agricultural land, and other forms of property. The possibilities for successful return and restitution of HLP are similarly contingent upon local land tenure regimes. Post-conflict transitional justice programs that attempt the restitution of HLP must thus incorporate a thorough understanding of local land tenure practices and property rights regimes. Understanding these regimes requires a long-term view, as they are often classically “sticky” local institutions resistant to change from outside the local community. Conflict tends to transform land tenure relations radically, as people flee their lands and others settle them in their absence. This often leads to more land conflicts when displaced persons attempt to return. Post-conflict areas also frequently suffer from weak rule of law, reducing the state’s power to act as an arbiter in land disputes. During or after a conflict, many actors resent and mistrust both state institutions as well as local sources of political-legal authority.

Those who have acquired weapons and experience in their use during the conflict will be tempted to use them to settle land disputes, rather than relying on state or local powers (McCallin, 2012; Unruh & Williams, 2013).

Such conditions have certainly been present in southeast Anatolia. A durable solution to the conflict between the Turkish state, the PKK, and its rival militias must address the issue of HLP in a way that gives all actors an incentive to participate. Capacity building for state legal-administrative institutions is important, but of course, it cannot proceed without the compliance and trust of the local population. As Belge (2008) has shown in the case of “honor killings,” Kurds in southeast Anatolia frequently wish they could obtain help from the Turkish police, yet feel alienated from the system while also fearing the backlash they would receive from Kurdish nationalists for appearing to collaborate with the Turkish state.

Underlying structural mechanisms affecting conflict and flight can persist for generations. As this article has demonstrated using the case of southeast Anatolia over the past 150 years, technologies have changed while many of the issues fueling conflict have remained the same. A focus on the *longue durée* reveals that the state practice of subcontracting its monopoly of violence to local actors became self-reinforcing over time, leading to surprisingly durable mechanisms structuring conflict and flight from the Ottoman 19th century up to the present day. Awareness of these mechanisms, based on formal and informal institutions, in turn should alert us to the risks of carrying out cadastral modernization and titling projects without also providing adequate dispute resolution mechanisms. As we consider the methodological tools at our disposal for studying forced migration, we should be aware that expanding our time horizons will not only provide us with insights about the past, but better inform our understandings of the present and prospects for the future as well.

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