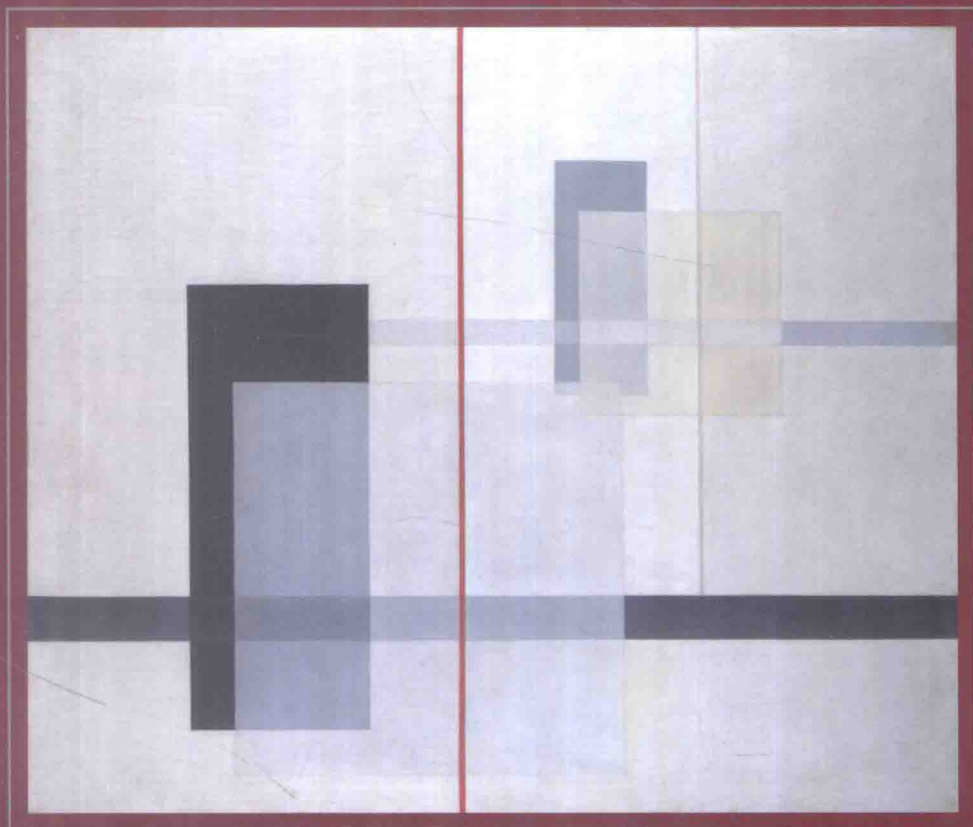


THE HISTORY AND THEORY OF INTERNATIONAL LAW



FORMALIZING DISPLACEMENT

*International Law
and Population Transfers*

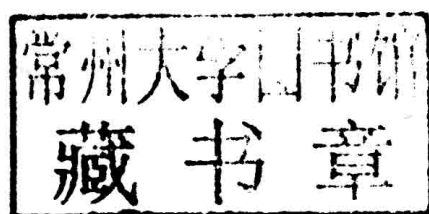
Umut Özsü

OXFORD

Formalizing Displacement

International Law and Population Transfers

UMUT ÖZSU



OXFORD
UNIVERSITY PRESS

OXFORD

UNIVERSITY PRESS

Great Clarendon Street, Oxford, OX2 6DP,
United Kingdom

Oxford University Press is a department of the University of Oxford.
It furthers the University's objective of excellence in research, scholarship,
and education by publishing worldwide. Oxford is a registered trade mark of
Oxford University Press in the UK and in certain other countries

© Umut Özsu 2015

The moral rights of the author have been asserted

First Edition published in 2015

Impression: 1

All rights reserved. No part of this publication may be reproduced, stored in
a retrieval system, or transmitted, in any form or by any means, without the
prior permission in writing of Oxford University Press, or as expressly permitted
by law, by licence or under terms agreed with the appropriate reprographics
rights organization. Enquiries concerning reproduction outside the scope of the
above should be sent to the Rights Department, Oxford University Press, at the
address above

You must not circulate this work in any other form
and you must impose this same condition on any acquirer

Crown copyright material is reproduced under Class Licence
Number C01P0000148 with the permission of OPSI
and the Queen's Printer for Scotland

Published in the United States of America by Oxford University Press
198 Madison Avenue, New York, NY 10016, United States of America

British Library Cataloguing in Publication Data
Data available

Library of Congress Control Number: 2014951281

ISBN 978-0-19-871743-0

Printed and bound by
CPI Group (UK) Ltd, Croydon, CR0 4YY

Links to third party websites are provided by Oxford in good faith and
for information only. Oxford disclaims any responsibility for the materials
contained in any third party website referenced in this work.

THE HISTORY AND THEORY OF
INTERNATIONAL LAW

Formalizing Displacement

THE HISTORY AND THEORY OF INTERNATIONAL LAW

General Editors

NEHAL BHUTA

Professor of Public International Law, European University Institute

ANTHONY PAGDEN

Distinguished Professor of Political Science and History, UCLA

BENJAMIN STRAUMANN

Alberico Gentili Fellow, New York University School of Law

In the past few decades the understanding of the relationship between nations has undergone a radical transformation. The role of the traditional nation-state is diminishing, along with many of the traditional vocabularies which were once used to describe what has been called, ever since Jeremy Bentham coined the phrase in 1780, 'international law'. The older boundaries between states are growing ever more fluid, new conceptions and new languages have emerged which are slowly coming to replace the image of a world of sovereign independent nation states which has dominated the study of international relations since the early nineteenth century. This redefinition of the international arena demands a new understanding of classical and contemporary questions in international and legal theory. It is the editors' conviction that the best way to achieve this is by bridging the traditional divide between international legal theory, intellectual history, and legal and political history. The aim of the series, therefore, is to provide a forum for historical studies, from classical antiquity to the twenty-first century, that are theoretically-informed and for philosophical work that is historically conscious, in the hope that a new vision of the rapidly evolving international world, its past and its possible future, may emerge.

PREVIOUSLY PUBLISHED IN THIS SERIES

The Project of Positivism in International Law

Mónica García-Salmones Rovira

Series Editors' Preface

In 2014, the legacies of 1914 and the Great War are still with us. As this book goes to press, an insurgent armed group in Iraq has declared its intention to revoke the borders drawn up in light of the 1916 Sykes–Picot agreement, and there is much discussion concerning the partition of not one but two states (Iraq and Syria), the boundaries of which were drawn in the 1920s. The collapse and division of multinational empires after 1918 took a diverse population of language groups, religious communities, and ethnicities, and made them states, nations, or minorities. Europe became a continent of over 30 states, few of them ideal-typical ‘nation-states’. As Michael Mann reminded us in *The Dark Side of Democracy* (echoing Hannah Arendt’s summary judgment some 50 years earlier), the period from 1918 to 1939 was characterized by unprecedented ethnic cleansing and population transfer, as firm foundations for the new state were (vainly) sought in the homogenization of peoples along ethnic and linguistic lines—a commonality of blood and soil understood as the decisive guarantee of the ‘state-ness’ of a people, and the viability of their political order.

What was the role of international law in this epoch-making transformation? For much of the twentieth century, the history of international law in the 1920s was deeply coloured by the polemical realist critique against pacifist and legalist proponents of ‘peace through law’. The 1920s were understood as a decade of optimism about the possibilities of the management of international order through law and legal institutions, an optimism which proved unfounded because it failed to grasp the nature of politics and the political. On this understanding, the place of international law in such nakedly political processes as state-formation and population transfer could at best be that of impotent moral critic, if indeed it was not altogether irrelevant. The 1920s were characterized by a strong criticism of state sovereignty and power politics, it is true, but as Mark Mazower (*Governing the World*) has shown, this was also a period in which there were multiple, competing visions and practices about the nature of international order and the role of law.

In this densely argued and richly empirical historical study, Dr Umut Özsu both cuts against the grain of any simplistic understanding, and recovers a complex picture of the role of law in the Greek–Turkish population exchanges of 1923, in which over 1.5 million persons were compulsorily uprooted and repatriated as a means of ‘solving’ the problem of Turkish minorities in Greece, and Greek minorities in Turkey. Özsu reconstructs the history of population exchange in Europe as a policy technique for addressing heterogeneity (perceived as dangerously destabilizing to political order) and building states, and shows that it was understood as an alternative means of minority protection, not incompatible with it. International law and lawyers would play a ‘pragmatic and technical’ role in the Greek–Turkish exchange, formalizing and legally legitimating the displacement,

and in an important sense accepting an instrumental role for law in this human catastrophe in the interest of greater political goals. These goals—international peace and national stability—were thought to be served by the transfer in no small part because of the powerful influence of what Özsü calls ‘ethno-nationalism’, an assemblage of ideas, theories, and practices which he identifies as central to both the nationalist political project in Atatürk’s Turkey *and* the internationalists’ diagnosis of the sources of international order (and disorder) in the East. In his careful (and to my knowledge, unprecedented) analysis of the negotiating record of the Treaty of Lausanne, Özsü demonstrates vividly how these considerations underlay the national delegations’ articulation of the purposes of the exchange, and the League of Nations’ representatives’ endorsement of these objectives. The ‘unmixing’ of populations was grasped as a ‘technical’ and legally manageable solution to the political problem of the ‘true pacification’ of the East. Law was believed to be a means for the constitution of order, provided it hewed closely to political reality in order to moderate and humanize it.

This study repays careful reading, and narrates a complex story of the ways in which lineages of law, political thought, national and international political projects, and colonial and imperial histories, converged in the making of the Greek–Turkish population transfer and its legal architecture. It also opens a window on the situation of international legal thought, its diverse currents and influences, at a time when it was a key medium for contending and competing visions of the international.

Nehal Bhuta

Florence
July 2014

Acknowledgments

This book is a revised version of a doctoral dissertation written and defended at the University of Toronto. I thank Jutta Brunnée and Karen Knop for supervising the original dissertation. Karen went to great lengths to finesse my argument, while Jutta pressed me to engage with the question of legal form, a question I eventually came to understand as central to the project. Nehal Bhuta, who also served on my supervisory committee, offered astute suggestions on the dissertation's orientation, and encouraged its subsequent revision for publication. Anne Orford, my external examiner, provided an exceptionally thoughtful reading of the dissertation, and has supported my work in too many ways to count.

I was fortunate to benefit from the advice of a number of outstanding scholars during the course of writing this book. Nathaniel Berman, David Kennedy, Martti Koskeniemi, Erez Manela, and Mark Mazower provided comments on an early version of Chapter 3. For conversation and correspondence at various points, I am also grateful to Antony Anghie, Helmut Aust, Tanıl Bora, B. S. Chimni, David Dyzenhaus, Anver Emon, Bardo Fassbender, Will Hanley, Fleur Johns, Alexandra Kemmerer, Hans-Lukas Kieser, Benedict Kingsbury, Nico Krisch, Dino Kritsiotis, Patrick Macklem, Susan Marks, Lauri Mälksoo, Frédéric Mégret, China Miéville, Liliana Obregón, Anne Peters, Kerry Rittich, and Teemu Ruskola. I owe a particularly strong debt to Thomas Skouteris, whose support has been both spirited and unstinting. I am also happy to thank my three anonymous reviewers, whose observations helped to sharpen the book in a number of key respects.

Book projects often require a significant degree of technical and financial assistance. The present work has been no exception in that regard. Ahmet Yüksel helped to obtain sources in Ankara. Jacques Oberson was of assistance at the League of Nations Archives in Geneva. Gail Mackisey and Elena Yakovchuk at the University of Manitoba's E. K. Williams Law Library were patient and resourceful. John Louth, Merel Alstein, Anthony Hinton, and Emma Endean, all of Oxford University Press, were efficient and encouraging while coordinating the book's production. Finally, I must thank the University of Toronto and the Social Sciences and Humanities Research Council of Canada for facilitating work on the original dissertation, as well as the University of Manitoba for making subsequent research and revision possible.

Weighty as these debts are, this book would not have been possible without the grace and wisdom of Allison Glaser, my wife. I would most likely have given up on the project, and much else besides, had it not been for the elegance with which she persevered through years of research and writing. Aklan, our son, joined us while I was finalizing the book. Among other things, his arrival has allowed me to see many of the issues broached here from a radically different perspective. For her part, Emma, our cocker spaniel, has spent the later years of her life putting

up with my work on this and other projects. I hope she finds the final result to be worth the wait. My parents, Nuran and Tamer Özsü, deserve a final acknowledgment for having supported this project from the beginning.

Portions of this book have previously appeared in print. Chapter 3 and parts of the Introduction refine and augment material first published in 'Fabricating Fidelity: Nation-Building, International Law, and the Greek-Turkish Population Exchange', *Leiden Journal of International Law* 24 (2011), 823. Chapter 4 is a revised version of '“A thoroughly bad and vicious solution”: Humanitarianism, the World Court, and the Modern Origins of Population Transfer', *London Review of International Law* 1 (2013), 99. I thank Cambridge University Press and Oxford University Press, respectively, for permission to draw upon these articles. Certain passages also owe a debt to 'Ottoman Empire', in *The Oxford Handbook of the History of International Law*, ed. Anne Peters and Bardo Fassbender (Oxford: Oxford University Press, 2012), 429, and to 'Politis and the Limits of Legal Form', *European Journal of International Law* 23 (2012), 243. I thank Oxford University Press for permission to rely upon them here.

Table of Cases

<i>Apostolidis c Gouvernement turc, Recueil des décisions des tribunaux arbitraux mixtes</i> 8 (1929), 373	113
<i>Case concerning Certain German Interests in Polish Upper Silesia (The Merits)</i> (Germany v Poland) PCIJ Rep. Series A No 7 (1926)	41, 116
<i>Case concerning the Factory at Chorzów (Claim for Indemnity) (Merits)</i> (Germany v Poland) PCIJ Rep. Series A No 17 (1928)	41
<i>Case concerning the Payment in Gold of Brazilian Federal Loans Contracted in France</i> (France v Brazil) PCIJ Rep. Series A No 21 (1929)	116–17
<i>Case concerning the Polish Agrarian Reform and the German Minority (Interim Measures of Protection)</i> (Germany v Poland) PCIJ Rep. Series A/B No 58 (1933)	41, 117
<i>Case of the S. S. 'Lotus' (France v Turkey)</i> PCIJ Rep. Series A No 10 (1927)	69, 119
<i>Case of the S. S. 'Wimbledon' (Britain et al. v Germany)</i> PCIJ Rep. Series A No 1 (1923)	115
<i>Exchange of Greek and Turkish Populations (Lausanne Convention VI, January 30th, 1923, Article 2), Advisory Opinion</i> , PCIJ Rep. Series B No 10 (1925)	10, 12, 99–100, 112–15
<i>German Settlers in Poland, Advisory Opinion</i> , PCIJ Rep. Series B No 6 (1923)	41
<i>Interpretation of Article 3, Paragraph 2, of the Treaty of Lausanne (Frontier between Turkey and Iraq), Advisory Opinion</i> , PCIJ Rep. Series B No 12 (1925)	97, 119
<i>Interpretation of the Greco-Turkish Agreement of December 1st, 1926 (Final Protocol, Article IV), Advisory Opinion</i> , PCIJ Rep. Series B No 16 (1928)	108–9
<i>Island of Palmas (Netherlands v United States)</i> 2 RIAA 829 (1928)	41–2
<i>Jurisdiction of the European Commission of the Danube between Galatz and Braila, Advisory Opinion</i> , PCIJ Rep. Series B No 14 (1927)	117
<i>Legal Status of Eastern Greenland (Denmark v Norway)</i> PCIJ Rep. Series A/B No 53 (1933)	96
<i>Minority Schools in Albania, Advisory Opinion</i> , PCIJ Rep. Series A/B No 64 (1935)	36–7
<i>Rights of Minorities in Upper Silesia (Minority Schools) (Germany v Poland)</i> PCIJ Rep. Series A No 15 (1928)	41
<i>Status of Eastern Carelia, Advisory Opinion</i> , PCIJ Rep. Series B No 5 (1923)	109
<i>The Greco-Bulgarian 'Communities', Advisory Opinion</i> , PCIJ Rep. Series B No 17 (1930)	35
<i>The 'Société Commerciale de Belgique' (Belgium v Greece)</i> PCIJ Rep. Series A/B No 78 (1939)	116–17

Table of Treaties and Other Instruments

Act of the Congress of Vienna, signed between Austria, France, Great Britain, Portugal, Prussia, Russia, and Sweden, 9 June 1815, 64 CTS 453	23	Convention concerning the Status of Refugees Coming from Germany, with Annex, signed at Geneva, 10 February 1938, 192 LNTS 59. . . .	106
Agreement with a View to Promoting Peace, with Protocol relating thereto, Protocol concerning Its Coming into Force, and Exchange of Notes, signed at Ankara, 20 October 1921, 54 LNTS 177	75	Convention of Commerce and Navigation between Great Britain and Turkey, signed at Balta-Liman, 16 August 1838, 88 CTS 77	26
Armistice Convention between Great Britain and the Allied Powers, and Turkey, signed at Mudros, 30 October 1918, 224 CTS 169	110	Convention on the Prevention and Punishment of the Crime of Genocide, 9 December 1948, 78 UNTS 277	11, 123
Arrangement between France, Great Britain, and Russia, and Turkey, for the Definitive Settlement of the Continental Boundaries of Greece, signed at Constantinople, 21 July 1832, 82 CTS 477	24	Convention regarding the Final Settlement of the Questions resulting from the Application of the Treaty of Lausanne and of the Agreement of Athens relating to the Exchange of Populations, signed at Ankara, 10 June 1930, 108 LNTS 233 . . .	119, 126
Arrangement with respect to the Issue of Certificates of Identity to Russian Refugees, signed at Geneva, 5 July 1922, 13 LNTS 237	2	Convention relating to the International Status of Refugees, signed at Geneva, 28 October 1933, 159 LNTS 199 . . .	106
Commercial Convention, signed at Lausanne, 24 July 1923, 28 LNTS 171	95	Convention relating to the Status of Refugees, signed at Geneva, 28 July 1951, 189 UNTS 150	123
'Constitution, promulguée le 7 zilhidje 1293 (11/23 décembre 1876)', reproduced in <i>Législation ottomane, ou Recueil des lois, règlements, ordonnances, traités, capitulations et autres documents officiels de l'Empire ottoman</i> , ed. Aristarchi Bey, vol. 5 (Constantinople: Imprimerie frères Nicolaïdes, 1878), 7	29	Convention respecting Conditions of Residence and Business and Jurisdiction, signed at Lausanne, 24 July 1923, 28 LNTS 151	95
Convention between Greece and Bulgaria respecting Reciprocal Emigration, signed at Neuilly-sur-Seine, 27 November 1919, 1 LNTS 67. . .	56-7	Correspondance relative à la reconnaissance et à la protection d'un État arabe en Syrie, 9-16 May 1916, reproduced in G. Fr. de Martens, <i>Nouveau recueil général de traités et autres actes relatifs aux rapports de droit international</i> , 3rd series, ed. Heinrich Triepel, vol. 10 (Leipzig: Librairie Dieterich, 1920), 350	63
Convention concerning the Exchange of Greek and Turkish Populations, and Protocol, signed at Lausanne, 30 January 1923, 32 LNTS 75 . . .	9, 96-7, 109-10, 113	Covenant of the League of Nations Adopted by the Peace Conference at Plenary Session, 28 April 1919, <i>AJIL Sup.</i> 13 (1919), 128 . . .	43-4, 112
		'Déclaration des droits internationaux de l'homme', <i>AIDI</i> 35 (1929-II), 298	40

- Declaration relating to the Administration of Justice, signed at Lausanne, 24 July 1923, 36 LNTS 161. 95
- Declaration relating to the Settlement of Refugees in Greece and the Creation for this Purpose of a Refugees Settlement Commission, signed on behalf of Great Britain, France, and Italy at Geneva, 29 September 1923, 20 LNTS 41 105
- Draft Code of Crimes against the Peace and Security of Mankind, 51 UN GAOR Supp. (No 10) at 14, UN Doc. A/CN.4/L.532, corr.1, corr.3 (1996) 123
- Draft Declaration on Population Transfer and the Implantation of Settlers, annex to Awn Shawkat Al-Khasawneh, *Human Rights and Population Transfer: Final Report of the Special Rapporteur*, UN Doc. E/CN.4/Sub.2/1997/23 (1997), 26 123
- 'Firman en faveur des sujets ottomans protestants, 14 novembre 1850', reproduced in *Corps de droit ottoman: Recueil des codes, lois, règlements, ordonnances et actes les plus importants du droit intérieur, et d'études sur le droit coutumier de l'Empire ottoman*, ed. George Young, vol. 2 (Oxford: Clarendon Press, 1905), 108 31
- General Treaty for the Re-Establishment of Peace between Austria, France, Great Britain, Prussia, Sardinia, and Turkey, and Russia, signed at Paris, 30 March 1856, 114 CTS 409. 24-7, 32
- Geneva Convention relative to the Protection of Civilian Persons in Time of War, 12 August 1949, 75 UNTS 287 11, 123
- 'Hatti Humayoun relatif aux réformes de l'Empire ottoman, 18 février 1856', reproduced in *Recueil d'actes internationaux de l'Empire ottoman*, ed. Gabriel Noradounghian, vol. 3 (Paris: Librairie Cotillon F. Pichon, 1902), 83 25
- 'Loi de nationalité, 19 janvier 1869', reproduced in *Corps de droit ottoman: Recueil des codes, lois, règlements, ordonnances et actes les plus importants du droit intérieur, et d'études sur le droit coutumier de l'Empire ottoman*, ed. George Young, vol. 2 (Oxford: Clarendon Press, 1905), 226 113
- Minorities Treaty between the Principal Allied and Associated Powers (the British Empire, France, Italy, Japan, and the United States) and Poland, signed at Versailles, 28 June 1919, 225 CTS 412. 37, 48
- 'National Pact', reproduced in Arnold J. Toynbee, *The Western Question in Greece and Turkey: A Study in the Contact of Civilisations* (London: Constable & Co., 1922), 207 64, 76
- 'Ottoman Circular Announcing the Abrogation of the Capitulations, 9 September 1914', reproduced in *Diplomacy in the Near and Middle East: A Documentary Record: 1535-1956*, ed. J. C. Hurewitz, vol. 2 (New York: Octagon, 1972), 2. 90
- Pact of Balkan Entente, and Protocol-Annex, signed at Athens, 9 February 1934, 153 LNTS 153. . . . 126
- 'Patriarcat arménien catholique, béat, 5 janvier 1831', reproduced in *Corps de droit ottoman: Recueil des codes, lois, règlements, ordonnances et actes les plus importants du droit intérieur, et d'études sur le droit coutumier de l'Empire ottoman*, ed. George Young, vol. 2 (Oxford: Clarendon Press, 1905), 103 31
- Protocol relating to Certain Concessions Granted in the Ottoman Empire and Declaration, signed at Lausanne, 24 July 1923, 28 LNTS 203 45
- Rome Statute of the International Criminal Court, 17 July 1998, 2187 UNTS 90 123
- Traité de paix, signed at Athens, 1/14 November 1913, reproduced in G. Fr. de Martens, *Nouveau recueil général de traités et autres actes relatifs aux rapports de droit international*, 3rd series, ed. Heinrich Triepel, vol. 8 (Leipzig: Librairie Dieterich, 1914), 93 55
- Traité de paix, signed at Constantinople, 16/29 September 1913, reproduced in G. Fr. de Martens, *Nouveau recueil*

<i>général de traités et autres actes relatifs aux rapports de droit international, 3rd series, ed. Heinrich Triepel, vol. 8 (Leipzig: Librairie Dieterich, 1914), 78</i>	Treaty of Peace, signed at Lausanne, 24 July 1923, 28 LNTS 11 9, 46–8, 94–6, 98, 108
Traité de paix, signed at Lausanne, 18 October 1912, reproduced in G. Fr. de Martens, <i>Nouveau recueil général de traités et autres actes relatifs aux rapports de droit international, 3rd series, ed. Heinrich Triepel, vol. 7 (Leipzig: Librairie Dieterich, 1913), 7</i>	Treaty of Peace between Belgium, the British Empire, China, Cuba, Czechoslovakia, France, Greece, the Hedjaz, Italy, Japan, Poland, Portugal, the Serb-Croat-Slovene State, Siam, and the United States, and Bulgaria, signed at Neuilly-sur-Seine, 27 November 1919, 226 CTS 332.
Treaty between Austria–Hungary, France, Germany, Great Britain, Italy, Russia, and Turkey for the Settlement of Affairs in the East, signed at Berlin, 13 July 1878, 153 CTS 171	56
Treaty between France, Great Britain, and Russia for the Pacification of Greece, signed at London, 6 July 1827, 77 CTS 307.	Treaty of Peace between the Allied Powers and Turkey, signed at Sèvres, 10 August 1920, <i>AJIL Sup.</i> 15 (1921), 179
Treaty of Friendship and Collaboration, signed at Ankara, 28 February 1953, 167 UNTS 21	6, 50, 58
Treaty of Friendship between Russia and Turkey, signed at Moscow, 16 March 1921, 118 BFSP 990.	Treaty of Peace with Germany, signed at Versailles, 28 June 1919, <i>AJIL Sup.</i> 13 (1919), 151
	37
	Treaty of Perpetual Peace and Amity between Russia and Turkey, signed at Kuçuk Kainardji, 10/21 July 1774, 45 CTS 349
	25
	Treaty with Turkey and Other Instruments, signed at Lausanne, 24 July 1923, <i>AJIL Sup.</i> 18 (1924), 1 . . .
	9
	Universal Declaration of Human Rights, GA Res. 217A (III), UN Doc. A/810 at 71 (1948).
	123

List of Abbreviations

<i>AIDI</i>	<i>Annuaire de l'Institut de droit international</i>
<i>AJIL</i>	<i>American Journal of International Law</i>
<i>AJIL Sup.</i>	<i>American Journal of International Law Supplement</i>
<i>ASIL Pd.</i>	<i>American Society of International Law Proceedings</i>
<i>BFSP</i>	British Foreign and State Papers
<i>BYIL</i>	<i>British Year Book of International Law</i>
<i>CTS</i>	The Consolidated Treaty Series
<i>EJIL</i>	<i>European Journal of International Law</i>
<i>HILJ</i>	<i>Harvard International Law Journal</i>
<i>LNOJ</i>	<i>League of Nations Official Journal</i>
<i>LNTS</i>	League of Nations Treaty Series
<i>PCIJ Rep.</i>	Permanent Court of International Justice Reports
<i>RCADI</i>	<i>Recueil des cours de l'Académie de droit international de La Haye</i>
<i>RDILC</i>	<i>Revue de droit international et de législation comparée</i>
<i>RGDIP</i>	<i>Revue générale de droit international public</i>
<i>RIAA</i>	Reports of International Arbitral Awards
<i>TGS</i>	<i>Transactions of the Grotius Society</i>
<i>UNTS</i>	United Nations Treaty Series
<i>ZaöRV</i>	<i>Zeitschrift für ausländisches öffentliches Recht und Völkerrecht</i>

Note on Translations and Terminology

Readers familiar with the history of the Ottoman Empire and its successor states will be accustomed to large doses of diacritics, as they will to inconsistencies in translation and transliteration from one text to another. In the case of Turkish terms, I have aimed for simplicity by favouring usages common to modern Turkish. Thus, I prefer 'paşa' to the more familiar 'pasha'. I have, however, made exceptions in the case of recognizable place names, where I usually follow English-language practice rather than contemporary or contemporaneous usages in other languages, Greek, Turkish, or otherwise. Hence, I write 'İzmir' rather than 'Izmir' or 'Smyrna'.

In keeping with most legal and diplomatic documents prior to and contemporaneous with the Greek-Turkish population exchange, I have not maintained a strict distinction between 'Turkey' and 'Ottoman Empire' unless discussing matters specific to the Ottoman Empire or the Republic of Turkey, or to the former's succession by the latter. It should be noted, though, that the Ottomans referred to their multilingual and multi-confessional state as 'Turkey' relatively infrequently, and even then mostly in the context of diplomatic exchanges with Western states or when writing for Western audiences during the empire's final decades.

My occasional reliance upon the dated and always problematic term 'Near East' also warrants explanation. The term is both orientalist, having gained wide currency in late nineteenth-century European literature concerning the 'Eastern Question', and notoriously ambiguous, with a range of application that fluctuates radically from one source to another. Yet, as a key instrument of geopolitical demarcation in the early twentieth century, it captures many of the assumptions held by those involved in or commenting upon the exchange. As a result, I have chosen to retain it in certain contexts, using it in roughly the same sense in which it was generally employed at the time of the Greek-Turkish exchange, namely as a geographical term whose centre of gravity lies in Anatolia and the Balkans.

Unless otherwise indicated, all translations from the French, German, and Turkish are mine.

Contents

<i>Table of Cases</i>	xi
<i>Table of Treaties and Other Instruments</i>	xiii
<i>List of Abbreviations</i>	xvii
<i>Note on Translations and Terminology</i>	xix
 Introduction	 1
I. The Argument's Architecture	5
II. Distinguishing the Problem	13
III. Analysing an International Legal Field	17
 1. The Ottoman Empire and the International Law of Minority Protection, 1815–1923	 21
I. Managing Minorities in the Long Nineteenth Century	22
II. Minority Protection, the League of Nations, and a New World Order	33
III. Before and After the Compulsory Greek–Turkish Exchange	44
 2. Early Experiments in Population Transfer, 1913–19	 51
I. The First Legally Mediated Transfers	52
II. Dynamics of Displacement	59
III. Toward a Definitive Exchange Arrangement	68
 3. 'A Subject which Excites the Deepest Interest throughout the Civilised World': Legal Diplomacy at the Conference of Lausanne	 70
I. Between Technocracy and Ethno-Nationalism	71
II. An Enterprise neither European nor Non-European	83
III. Two Tensions Enshrined: The Legal Form of the Exchange	94
 4. Humanitarianism, the World Court, and the Relation between Domestic and International Law	 99
I. 'The Embodiment of Internal Disorder and Cruelty'	100
II. 'National Sovereignty is not Affected by the Convention in Question'	108
III. Interpretation as Internationalism	116
 Conclusion	 121
 <i>Bibliography</i>	 131
<i>Index</i>	165

Introduction

In the autumn of 1922, more than three years after the commencement of the Paris Peace Conference, Fridtjof Nansen left for Istanbul. He went as League of Nations High Commissioner for Refugees, having had his mandate extended to include Greeks fleeing war in Asia Minor. Once in the city, then under Allied occupation, he wrote to Eleftherios Venizelos, until recently prime minister of Greece and still a leading figure in European diplomatic circles, to propose measures for the resettlement of Greek refugees. Among these proposals was an exchange of minority populations between Greece and Turkey, which Nansen described as being 'within the scope of the mission with which the League of Nations' had entrusted him.¹ Venizelos replied swiftly, asking the distinguished Norwegian to speak to Turkish officials with a view to laying the groundwork for a formal exchange.²

Reluctant though he initially seems to have been to accept his League appointment,³ Nansen was a natural choice for the job. A seasoned diplomat, he would receive the Nobel Peace Prize later in 1922 for his efforts to resettle, repatriate, and provide aid to refugees and prisoners of war, whose numbers had grown considerably as a result of the First World War and the ensuing Russian Civil War.⁴ As the League's first High Commissioner for Refugees, he seemed the ideal person to design and supervise a population exchange of the sort envisioned by Greek, Turkish, and west European authorities alike. But Nansen left for Istanbul not simply as a decorated representative of the 'international community'. Having achieved fame for his expeditions to the Arctic,⁵ conducted research in zoology and oceanography as a natural scientist,⁶ made a name for himself as something of

¹ Quoted in Roland Huntford, *Nansen: The Explorer as Hero* (London: Duckworth, 1997), 526.

² For the correspondence see Bruce Clark, *Twice a Stranger: The Mass Expulsions That Forged Modern Greece and Turkey* (Cambridge: Harvard University Press, 2006), ch. 2.

³ See André Durand, *From Sarajevo to Hiroshima: History of the International Committee of the Red Cross* (Geneva: Henry Dunant Institute, 1984), 209.

⁴ For his acceptance speech see Fridtjof Nansen, 'The Suffering People of Europe', in *Nobel Lectures: Peace*, ed. Frederick W. Haberman, vol. 1 (Amsterdam: Elsevier, 1972), 361.

⁵ See Fridtjof Nansen, *Vers le Pôle*, trans. Charles Rabot (Paris: Ernest Flammarion, 1897); J. Arthur Bain, *Life and Adventures of Nansen, the Great Arctic Explorer* (London: The Walter Scott Publishing Co., 1897). Nansen himself would write a history of earlier expeditions to the North: *In Northern Mists: Arctic Exploration in Early Times*, 2 vols., trans. Arthur G. Chater (London: William Heinemann, 1911).

⁶ See, e.g., Fridtjof Nansen, ed., *The Norwegian North Polar Expedition, 1893–1896: Scientific Results*, 6 vols. (Christiania: Jacob Dybwad, 1900–5).