Paper Presented at the 2019 ASN World Convention,

Columbia University, 2-4 May 2019

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"Nation and Migration in Late-Ottoman Spheres of (Legal) Belonging"

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Nineteenth century nationality laws legitimized the means by which common law had previously claimed allegiance: *jus solis* and *jus sanguinis*. In this regard, the House of Osman defined its nationals by employing the same vocabulary as the universal standard. After all, these laws were an international conversation about jurisdiction. Accordingly, those born to Ottomans were Ottomans (Art. 1) and those born within the dominions were granted access to membership by virtue of this territorial link (Art. 2).[1] Exceptions to norms of nationality by descent have been used to support the argument that Ottoman law was exclusivist, specifically, the stipulation that children of Ottomans who naturalized as foreigners remained Ottomans while children of foreigners who naturalized as Ottomans remained foreigners (Art. 8).[2] In other words, the offspring's legal relationship with the state was not affected by an alteration of the natural-born status of the paternal authority – a relative anomaly, indeed. The contrast is provided by Great Power nationality laws, which extended the paternal authority's nationality to his wife and child, i.e. "dependent citizenship." This was not the only variance the Ottoman law presented, as many Great

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[1] *Tabiiyet-i Osmaniye Kanunnamesidir*, Atatürk Kitaplığı Belediye Osmanlı Kitaplığı: 0.3261. 5 Kanun-i Evvel 1289 (17 December 1873).

[2] *Tabiiyet-i Osmaniye Kanunnamesidir*; *The Well-Protected Domains: Ideology and Legitimation of Power in the Ottoman Empire, 1876 – 1909* (London: I.B. Tauris, 1998).

Power nationality laws only conferred nationality strictly by descent, i.e. *jus sanguinis*.

British legal articulations of the quality of being a natural-born member began in 1350 alongside considerations for the status of those born at sea.[3] It was conferred by *jus sanguinis.* By the middle of the nineteenth century, those born of natural-born fathers – within or beyond the dominions – were accepted as natural-born subjects, along with those born on British ships (4 & 5 Geo. V, § 17.1—a, b, c).[4] The definition of a natural-born Briton did not undergo any startling transformations in the age of rational modernity, unlike natural-born French status, which was modified on several occasions in the century following the Revolution. By 1889, legitimate offspring of Frenchmen were French – birthplace made no difference.[5] Children born in France of a foreigner born in France were French, too.[6]

German and French conceptualizations of nation, nationhood, and nationalism have been interpreted as oppositional since the beginning of debates that considered them, from Ernest Renan to Rogers Brubaker. The French model has generally been regarded as "political and ideological" and the German as "ethnocultural,"[7] though recent political currents that dominate within the borders of each modern state ironically point to a

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[3] H.S.Q. Henriques, *The Law of Aliens and Naturalization including the text of Aliens Act, 1905* (London: Butterworth & Co., 1906), 167.

[4] "The Act to Consolidate and Amend the Enactments Relating to British Nationality and the Status of Aliens," *4 & 5 Geo. V, Ch. 17* (7 August 1914).

[5] D.O. McGovney, "French Nationality Laws Imposing Nationality at Birth; Part I: Historical Summary of French Legislation," *The American Journal of International Law* 5/2 (April 1911), 342.

[6] Ibid., 348.

[7] Brubaker, *Citizenship and Nationhood in France and Germany* (London: Harvard UP, 2009).

reversal of these values. The 1870 Law enacted by the North German Reichstag claimed citizens in the same manner as the more-discussed 1913 law: children of German fathers and illegitimate children of German mothers were Germans – with no reference to place of birth (Art. 3, 4).[8] Germans were born strictly by virtue of *jus sanguinis*, giving credence to the oppositional quality between the two formulations, not only ideologically – as argued by Brubaker – but also legally. Austrian law, too, opted for *jus sanguinis*: children of Austrians were the political possessions of the Austrian state, regardless of birthplace.[9] In conjunction with Hungary's "principle of reciprocity" with Austria,[10] the former's 1879 legislation took legitimate children of Hungarian men, illegitimate children of Hungarian women (Art. 2), and legitimated children of Hungarian men fathered with foreign women (Art. 3).[11] Nationality was inherited by the blood that passed through the paternal line to legitimate children in British, German, Austrian, and Hungarian law.

Great Power nationality laws that resembled the French in combining *jus soli* and *jus sanguinis*, which, in turn, resembled Ottoman law, were Italian and Russian. The 1865 Italian Civil Code stipulated that a child born of an Italian father was an Italian, as well as a child born in Italy of a foreign father who had been a resident for ten years.[12] The

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[8] "Germany" in Richard W. Flournoy Jr. and Manley O. Hudson (eds.), *A Collection of Nationality Laws of Various Countries as Contained in Constitutions, Statutes, and Treatises* (New York: Oxford UP, 1929), 306.

[9] "Austria" in Flournoy and Hudson, *A Collection of Nationality Laws*, 14. The code was supplemented by additional measures, e.g. 1832, 1833, 1849, 1853, 1860, 1867, 1896, *etc.*

[10] "Hungary" in Flournoy and Hudson, *A Collection of Nationality Laws*, 340. The principle of reciprocity is mentioned in Art. 23 of the Hungarian Nationality Law.

[11] Ibid. The principle of reciprocity is mentioned in Art. 23 of the Hungarian Nationality Law.

[12] "Italy" in Flournoy and Hudson, 361.

1889 reedit of the Russian code of 1847 claimed those born in Russia to Russian parents as Russians and, like the Ottoman case, the law allowed a path to membership to those born within the territories to foreign parents.[13] If the condition was met, the individual in question could apply for naturalization within a year of reaching majority, as indicated by the 1864 ukase (Art. 12).[14] The difference between the Russian and the Ottoman case was the former's articulation that the individual born of a foreign parent needed to have been raised and educated within the domains and had to swear oath of allegiance or join the civil service.[15] Ottoman law was not so specific. The condition was birthplace, and it gave three years instead of one to apply for membership.[16]

The French-German contrast is informative since the two have more-or-less shaped the frame of reference and vocabulary of nations.[17] If, as stated by Brubaker, "for two centuries, locked together in a fateful position at the center of state- and nation-building in Europe, France and Germany have been constructing, elaborating, furnishing to other states distinctive, even antagonistic models of nationhood and national self-understanding,"[18] then the Ottoman formulation of nationhood tilted toward the French – it also pre-dated the German in defining nationals by a slim margin. Besides the obvious, that "Ottoman" was a civic identity rather than an ethnocultural one, Ottoman nation-building followed the periodization of its French counterpart's construction, as well. The

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[13] "Russia" in Flournoy and Hudson, 510.

[14] Ibid.

[15] "Russia" in Flournoy and Hudson, 510.

[16] *Tabiiyet-i Osmaniye Kanunnamesidir*.

[17] Brubaker, *Citizenship and Nationhood in France and Germany*.

[18] Ibid., 1.

state predated the "imagined" nation, to borrow Benedict Anderson's term, not vice versa. Given such differences between the French and German models, it is curious that the German is explained in overinclusive or underinclusive terms (not exclusivist): "underinclusive, excluding above all millions of Austrian Germans [...] overinclusive, including French in Alsace-Lorraine, Danes in North Schleswig, and Poles in eastern Prussia."[19] Like the Ottoman case, the aforementioned groups that made the German case overinclusive "were not simply linguistic but rather, especially in the last case, self-conscious minorities."[20] By the same token, even if the Ottoman state had resembled the German in conceptualizing modern nationhood in ethnocultural terms – which it did not do from a legal perspective – then it follows that it could also be considered under- and over-inclusive.

The 1869 Ottoman Nationality Law being categorized as exclusivist rather being measured in degrees of inclusivity is a consequence of reading history backwards, which is also touched upon by Will Hanley on his elaboration of "What Ottoman Nationality Was and Was Not."[21] The Ottoman state is not a success story for nation-building. This is no secret. Neither is the nationality law the culprit, however, as such a designation would grant the law significantly more capacity than its extremely limited body and scope – and vague construction – could have allowed. As put by Hanley, this is to "put a lot of weight on narrow shoulders."[22] Though one cannot deny that "belonging" is an inherent

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[19] Ibid., 13.

[20] Ibid.

[21] Will Hanley, "What Ottoman Nationality Was and Was Not," *Journal of Ottoman and Turkish Studies Association* 3/2 (November 2016): 277-298.

[22] Ibid., 283.

feature of any nationality law, e.g. the law itself is an articulation of which individuals "belong" to the state, the tendency to attach "labels of belonging, notably ethnicity, sect, and citizenship"[23] to the Ottoman law "situates the 1869 law in the course of the long rise of sectarianism and ethnic nationalism."[24] These ethnoreligious attachments have led to interpreting the Ottoman law as an instrument of upholding Turco-Sunni hegemony, which are features of the House of Osman and the late-Ottoman core-constituency.

Though the core-constituency of the Ottoman state at was dominated by Turco-Sunni features at "the end of empire," this was not necessarily the case when Ottoman nationality was passed into law in 1869. The saliency of these features varied in potency over the course of the Ottomans' existence. Moreover, in the years immediately preceding the passing of the nationality law, the state had been calling on immigrants from diverse origins on top of having a rather mixed home constituency.[25] The suggestion that the Ottoman law was "exclusivist," even more, implying that it carried a Turco-Sunni bias, is colored with the awareness that Ottoman pluralism would ultimately fail to survive the Ottomans into the twentieth century, intact. Even if being an Ottoman was, indeed, conceived as ethno-religiously specific, the legal term "Ottoman" would still remain as "overinclusive" as German conceptualization of the national body; unlike the designation "German," an "Ottoman" was also "racially" ambiguous – the House of Osman inspired the demonym of the citizenry and "Ottoman" does not describe anything more than a link: "*Osmanlı*" literally means "with Osman." If Ottoman nationality had not been an ethno-

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[23] Ibid., 279.

[24] Ibid.

[25] Kemal H. Karpat, *Ottoman Population, 1830-1914: Demographic and Social Characteristics* (Madison: University of Wisconsin Press, 1985).

religiously neutral identifier, however, it would have to be qualified as "underinclusive," as well: it did not include or privilege extra-territorial members of groups it was meant to have favored. The law did not benefit Turco-Sunnis under the sovereignty of other states (e.g. Qajar or Russian). The Ottoman formulation of national identity did not stress nor address the inherent belonging of these identities. Nonetheless, the state hosted them, bargained for their loyalty, and competed for the link, for them to be Osman-*lı*.[26] Though the Ottoman core constituency would come to share the Turco-Sunni features of the House of Osman at the empire's end, whether by design or chance, or both, the latter had formulated sovereignty over a more generic constituency on account of having descended from the same territorial root – with access to the legal identity cluster being granted through *jus sanguinis* and *jus soli*, both.

Involuntary Expatriation: Ejection from the Nation

Ottoman law was consistent with many others in reserving the right to impose involuntary expatriation, which could occur through the adoption of a foreign nationality or by taking up arms for another state. Some states had more detailed grounds for ejecting individuals from its nation, e.g. Panamanian citizenship was revoked for those who had not supported the national cause for independence.[27] Neither did Ottoman law have a clause legitimating the expulsion of resident foreigners, like the British Aliens Act.

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[26] See, for example, James H. Meyer, "Immigration, Return, and the Politics of Citizenship: Russian Muslims in the Ottoman Empire, 1860—1914," *International Journal of Middle Eastern Studies* 39/1(2007), pp.15—32 and James H. Meyer *Turks Across Empires: Marketing Muslim Identity in the Russian-Ottoman Borderlands, 1856—1914* (New York: Oxford UP, 2014).

[27] "Panama" in Flournoy and Hudson, *A Collection of Nationality Laws*, 458.

According to Hungarian Law, one could also lose their citizenship for unauthorized prolonged absence.[28] While nineteenth century nationality laws furnished states with the power to eject members, few articulated reasons other than the mentioned circumstance that would allow this to transpire. Involuntary expatriation also occurred indirectly, as in the case of mixed nationality nuclear households.

Dependent citizenship clauses enshrined in laws ensured women the likelihood of losing their nationalities in the event of marriage to a foreigner. Since many nationality laws that claimed descent were patriarchal formulations, the children would inherit the father's nationality. Among the Great Powers, the French Civil Code of 1804 was the first to institute the annulment of women's citizenship (Art. 12, 19).[29] Austria followed suit in 1832.[30] Despite allegiance to the British Crown having been determined hereditarily since 1350, a woman's status had never been articulated as dispensable until the 1844.[31] British law was not relatively severe, yet. Even in 1844, it referred solely to the nationality of a foreign woman married to a natural-born Briton.[32] It was the British Nationalization Act of 1870 that discarded the natural-born rights of a natural-born woman for the first time; as of 1870, she was "the subject of the State of which her husband is" (Art. 10.1).[33] Subsequently, she did not exist for the State; "married women were included in the list of

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[28] "Hungary" in Flournoy and Hudson, *A Collection of Nationality Laws*, pp. 340-341.

[29] "France" in Flournoy and Hudson, *A Collection of Nationality Laws,* 241.

[30] "Austria" in Flournoy and Hudson, *A Collection of Nationality Laws*, 14.

[31] "British Empire: Great Britain and Northern Ireland" in Flournoy and Hudson, *A Collection of Nationality Laws*, 59.

[32] Ibid.

[33] "Naturalization Act, 1870. (33&34 VICT. C.14)," in Henriques, *The Law of Aliens and Naturalization*, pp. 175-6.

persons under a disability who could not exercise the right to naturalization, being equal in status to infants, lunatics, and idiots."[34] In short, she became a "undesirable." If a natural-born woman's foreign husband died, she had recourse to readmission (Art. 10.2). But because her circumstances would have converted her into "a statutory alien,"[35] readmission would follow the same course as an "alien" (Art. 8).

Nationality laws of most Great Powers extended the husband's status to wife and child. The paternal authority carried descent. *He* impacted the nationality of the whole family unit. Fathers perpetuated the national body and, "in accepting that women would lose their citizenship upon marriage, nations determined women's citizenship rights in the service of the requirements of geopolitical concerns."[36] This "service" implied involuntary expatriation. Hungarian law stipulated that the status of a man "released" from citizenship – whether requested or "lost" to prolonged absence – was extended to wife and child (Art. 21, 26, 31, 32) and those "released" were required to leave the territories within a year of the certificate being issued.[37] A woman who "lost" her

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[34] M. Page Baldwin, "Subject to Empire: Married Women and the British Nationality and Status of Aliens Act," *Journal of British Studies* 40:4 (2001), 526. According to Article 17 of the 1870 Act, "'Disability' shall mean the status of being an infant, lunatic, idiot, or married woman'," see "Naturalization Act, 1870 (33 & 34 Vict. c. 14)" in Henriques, *The Law of Aliens and Naturalization*, 178.

[35] "Naturalization Act, 1870. (33&34 VICT. C.14)," in Henriques, *The Law of Aliens and Naturalization*, pp. 175-6.

[36] Karen Kern, "Rethinking Ottoman Frontier Policies: Marriage and Citizenship in the Province of Iraq," 12.

[37] "Hungary" in Flournoy and Hudson, *A Collection of Nationality Laws*, 340f.

nationality could reclaim it "if the marriage has been annulled by the proper authorities"[38] as much as a foreign-born woman who gained Hungarian nationality through marriage was entitled to keep it if she divorced or the the husband's died (Art. 35).[39] Dependent citizenship – an inherent component migration – was not entirely irreversible, especially within the Ottoman legal context. While Ottoman law "accepted the standard of dependent citizenship,"[40] it certainly did not enforce it.

Ottoman law was among the family of states that allowed the return of post-marriage women who had lost their nationalities by virtue of marriage to a foreigner. Such women could petition to re-become Ottomans within three years of the marriage expiring, either through death or divorce (Art. 7), hence the implied "acceptance" of dependent citizenship. While "accepting" that women lost nationalities via marriage and offering re-entry into the national body, the law did not specify that a natural-born Ottoman woman in fact "lost" her nationality by "acquiring" her non-Ottoman husband's. Neither did the law articulate that the paternal authority's Ottoman nationality would be extended to his foreign wife and child.

So far as dependent citizenship was concerned, Ottoman law shared less with the Great Powers and more with the Latin American laws, which, by and large, granted women with more agency to shape the national body. A woman losing her nationality as a consequence of marrying a foreigner was not mentioned in Panama's Constitution of 1904, which stipulated that a Panamanian father *or* mother (rather than father *and* mother, or *just* the father') made offspring eligible for citizenship, thus giving women a

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[38] Ibid.

[39] Ibid., 341.

[40] "Ibid.

(re)productive role in forming the constituency.[41] The 1870 Constitution of Paraguay stipulated the same, even rewarding immigrants who married Paraguayan women by reducing their residency requirements from two years to one (Art. 36).[42] The El Salvadoran constitution (of 1872 and 1886) did not deprive women of their natural-born status, either.[43] Despite strict regulations pertaining to foreigners, El Salvador considered legitimate offspring of foreign men and Salvadoran women as nationals, along with Salvadoran women's illegitimate children (and the legitimate children of Salvadoran men) who were born abroad but not naturalized in their country of birth (Art. 42.2, 42.3, and 42.4). The Venezuelan Civil Code of 1904 specified that women who married foreigners did *not* lose citizenship, though foreign women who married Venezuelan men became Venezuelan (Art. 18, 19).[44]

Not articulating the status of women who married foreigners witnessed revision as the twentieth century progressed. "Difficulties" arose when the non-mutual exclusivity of nationality laws engendered stateless women.[45] Argentina, for example, eventually decreed that despite the fact that the law did not "include marriage among the ways of

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[41] "Panama" in Flournoy and Hudson, *A Collection of Nationality Laws*, 458f. Panama's law did not articulate a means by which a woman could be rehabilitated to the nation if she had, in fact, lost her natural-born status due to the dependent citizenship imposed on her by her husband's state, if he was a Great Power national, for example.

[42] "Paraguay" in Ibid., 471. Paraguay was especially liberal with its policies towards resident-foreigners and their naturalization, prior to which they enjoyed the same legal rights as citizens (thus making long-term residence without naturalization a viable option).

[43] "El Salvador" in Flournoy and Hudson, *A Collection of Nationality Laws*, 517.

[44] "Venezuela" in Flournoy and Hudson, *A Collection of Nationality Laws*, 639.

[45] "Argentina" in Flournoy and Hudson, *A Collection of Nationality Laws*, 13.

acquisition and loss of citizenship ... the foreign woman married to an Argentine follows the condition and status of her husband *in her exercise of civil rights* [emphasis added]."[46] Though the women could not be considered "Argentines," there was no "objection to delivering them passports or other documents in place thereof."[47] The most nuanced treatment of women can be found in Japanese legislation: Law No. 21 of 1898 and Law No. 66 of 1899 made an exception for the status of women who were "head of the house."[48] Japanese law was consistent with Great Power nationality laws in the status of women and offspring being contingent upon and following the husband's—whether becoming Japanese or adopting another nation (Art. 8, 13, 15, 18).[49] The anomaly was a woman who was "head of the house" – she did not lose her nationality upon marriage to a foreigner. Instead, Japanese nationality was extended to her husband (*nyufu*) (Art. 5.2).[50]

Involuntary expatriation through dependent citizenship operates indirectly in the Ottoman case, *if* the nationality law binding the Ottoman woman's foreign husband enforces it. That having been said, the Japanese anomaly of a woman not only retaining but also passing her nationality has an Ottoman counterpart in supplemental legislation. Karen Kern's study of the "protection" of the marriage ban between Ottoman women and Iranian men reveals that women who married Iranians retained their nationalities and their

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[46] Ibid.

[47] Ibid.

[48] "Japan" in Flournoy and Hudson, *A Collection of Nationality Laws*, pp. 381-2.

[49] "Ibid., 383.

[50] Ibid., 382.

children were considered Ottomans is a significant exception.[51] This exception could be coupled with a conversation of Article 8 of the Nationality Law, since the protection of the marriage ban and the nationality of children of fathers whose nationalities have been altered are both instances in which Ottoman law does precisely the opposite of the "standard" of Great Power nationality laws.

Great Power nationality laws imposed involuntary expatriation through the instrument of dependent citizenship clauses. Quite the opposite, Ottoman law imposed the retention of nationality in cases where the "paternal authority" relinquished natural-born Ottoman status, which, in turn, yielded the same consequences as the protection of the marriage ban and the Japanese *nyufu* exception. In other words, Ottoman law nullifies the patriarch's agency to pass his acquired non-Ottoman nationality to the family unit. If, for example, a husband with one child was born an Ottoman but opted to switch his allegiance to a Great Power state that imposed dependent citizenship, then the Great Power state would automatically assume the nationality of all three individuals by virtue of its own law: husband, wife, child. That having been said, Ottoman law refused to explicitly relinquish the state's claims to two of the three individuals that would have been adopted into the Great Power national bodies, by refusing to include a dependent citizenship clause in its nationality law. Furthermore, the child of that union was unambiguously articulated to be an Ottoman national (Art. 8). By virtue of the same article, if the man had been born a Great Power national but later became an Ottoman, then his offspring would remain a Great Power national despite the change in the paternal authority's status. Because, however, Great Power laws would automatically eject the

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[51] Kern, "Rethinking Ottoman Frontier Policies: Marriage and Citizenship in the Province of Iraq."

woman and child out of their own national bodies, father, mother, and child would by default all become nationals of the Ottoman state by virtue of the Great Power law. By this means, rather than the law being "exclusivist," the number of Ottomans and their potential descendants was actually maximized. According to Ottoman law, natural-born status was hereditary, but joining and leaving the Ottoman nation was the prerogative of the individual and not a family affair. In this sense, the law treated constituents as individuals and not as units that were hostage to the status of the patriarch. In fact, the only Ottoman law to explicitly impose dependent citizenship was a matriarchal formulation.

Access to Membership: The Litmus Test of Inclusivism and Exclusivism

One could argue that the true litmus test of a state's inclusivism and exclusivism is not how natural-born members are defined, but by the extent to which polities provide access to membership. The conditions for those with no previous ties to the Sublime State to become an Ottoman was the fulfilment of five years of residence (Art. 3).[52] Beyond this, the government reserved the right to confer nationality on whomever it pleased (Art. 4).[53] Since there were no restrictions on who could apply, the only advantage of this would have been to become an Ottoman faster. Potential Ottomans petitioned the Ministry of Foreign Affairs for membership.

Most nationality laws require a minimum residency as a requisite for application for membership, though the number of years differ. As put by Bill Hanley, minimum residency was also a way "to check loyalty with time before according political rights."[54]

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[52] *Tabiiyet-i Osmaniye Kanunnamesidir*.

[53] Ibid.

[54] Hanley, "What Ottoman Nationality Was and Was Not," 293.

Great Power nationality laws required anywhere from five to ten years of residence. Austrian law required ten, while British and Hungarian required five. The key in determining ease of access to membership has less to do with the number of years one had to live within the borders of a specific state and more with whether there were additional conditions. Ottoman law simply did not articulate additional conditions. Austrian legislation required that the ten years were continuous, voluntary, and retrospective, with exceptions (e.g. military service);[55] in the meantime, the applicant also should not have "become a public charge."[56] Acquiring Hungarian nationality was not solely dependent on years, either.[57] The applicant needed to prove intent to live within the dominions or to serve the Crown (Art. 7).[58] Naturalization would only be granted for those who were legally competent or represented (Art. 8.1), were (or were expected to be) registered as residents of a municipality (Art. 8.2), financially self-sufficient, and met "the standards of living in their place of residence" (Art. 8.5).[59] Potential members must have "been listed as a taxpayer for five years" (Art. 8.6), to which there were exceptions.[60] Finally, the individual under consideration had to be "of good character" (Art. 8.4), to

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[55] "Austria" in Flournoy and Hudson, *A Collection of Nationality Laws*, 15.

[56] "Ibid.,16. Tax exemptions for school, stipends, and temporary reliefs were not considered public charges.

[57] "Hungary" in Flournoy and Hudson, *A Collection of Nationality Laws*, 338.

[58] "Naturalization Act, 1870 (33 & 34 Vict. c. 14)" in Henriques, *The Law of Aliens and Naturalization,* 174.

[59] "Hungary" in Flournoy and Hudson, *A Collection of Nationality Laws*, 338.

[60] Ibid.

which there were no articulated exceptions.[61] Similar to the Ottoman law, the Hungarian Crown reserved the right to naturalize those who did not meet the articulated conditions.[62]

The Austrian and Hungarian laws were more selective than the Ottomans when it came to the legal articulation of who could become a national. British law was the most selective. The 1905 Aliens Act allowed the Secretary of State to determine if the applicant would be "conducive to the public good" (Art. 7), which is highly subjective.[63] Access to membership was further limited by actively blocking entry. In other words, British government agents were granted "*the power to prevent the landing of undesirable immigrants*."[64] Similar to Austrian concerns, those not endowed with the means of financial self-sufficiency were not desirable. [65] An "undesirable immigrant" was also "a lunatic or idiot, or owing to any disease or infirmity appears likely to become a charge upon the rates or otherwise a detriment to the public."[66] Immigrants could also be denied entry if sentenced for non-political crimes in a country that had the power to extradite by treaty or "if an expulsion order under this Act has been made in his case."[67] An undesirable could not be refused on account of any of the aforementioned financial factors if they escaping "prosecution or punishment on religious or political grounds or for an offense of a political character, or persecution, involving danger of imprisonment or

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[61] Ibid.

[62] Ibid., 339. Exceptions were the second, third, and sixth conditions stipulated in Art. 8.

[63] "Naturalization Act, 1870 (33 & 34 Vict. c. 14)" in Henriques, *The Law of Aliens and Naturalization,* 174.

[64] "Aliens Act, 1905 (5 EDW. 7, c.13)" in Henriques, *The Law of Aliens and Naturalization*, 185.

[65] Ibid.

[66] Ibid.

[67] Ibid.

danger to life or limb, on account of religious belief."[68] The British government could thus champion itself as the defender of the freedom of conscience, while at the same time condoning the expulsion of resident "undesirables."[69] It was also generous; in the event of expulsion the government would pay for the "whole or any part of the expenses of or incidental to the departure from the United Kingdom and maintenance until departure of the alien and his dependents (if any)" (Art. 4).[70] In other words, as of 1905, the British Crown was willing to bear the financial burden of protecting its natural-born and (dependent) constituency, as well as its national economy, from the legal assimilation of "undesirable" immigrants.

The Austrian, Hungarian, and British governments narrowed paths to citizenship in the latter nineteenth and early twentieth centuries. Though the regulations may have differed, ranging from the applicant's intention to remain to mental well-being, what is remains consistent is the potential cost that the national member-in-waiting would incur upon the state. Knowing what we know about the Ottoman economy at this moment in history, it is surprising that a concern for the financial burden of new Ottomans was is not expressed by the Ottoman government. On the contrary, imperial beneficence was often a pull factor that drew new comers to the Sultan's "well-protected domains."

Migration in the Legal Framework

Nineteenth-century nationalisms often exhibited exclusivist tendencies. The era's nationality laws—by and large—did not. Liberia was perhaps one of the few exceptions in having an explicitly exclusivist nationality law; its *raison d'être* was "to provide a

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[68] Ibid., 185-186.

[69] Ibid., 187. Undesirables are further specified in Art. 3 of the same law.

[70] Ibid.

home for the dispersed and oppressed children of Africa."[71] How states define relationships with generic individuals impacted the pull and push of newcomers and natural-born members. That there was a significant Ottoman community in the Americas signals something about the relative ease of legal assimilation provided by the legal framework of some of these new countries,[72] which is verified by an analysis of their nationality laws. Migration was not unidirectional, however. And there was a plethora of individuals from diverse states who became Ottomans after the establishment of this legal identity.

Recent scholarship highlights previously-neglected aspects of Ottoman migration in the late-nineteenth century. Akram Fuad Khater, Steven Hyland Jr., Stacey Fahrentold and Sarah Gualtieri are among those who considered the South American pull for Arabic speaking Ottomans from Greater Syria. Their works show that these Ottomans negotiated

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[71] "Liberia" in Flournoy and Hudson, *A Collection of Nationality Laws*, 410.

[72] See, for example, Sarah Gualtieri, "Gendering the Silk Migration Thesis: Women and Syrian Transatlantic Migration, 1878 – 1924," *Comparative Studies of South Asia, Africa and the Middle East* 24, no. 1 (2004): 67 – 78, Hyland Jr., "Arisen from Deep Slumber: Transnational Politics and Competing Nationalisms among Syrian Immigrants in Argentina, 1900-1922," Karpat, "The Ottoman Emigration to America, 1860-1914," in *Studies on Ottoman Social and Political History*, pp. 90-131, Akram Fouad Khater, "Becoming "Syrian" in America: A Global Geography of Ethnicity and Nation," *Diaspora: A Journal of Transnational Studies* 14, no. 2/3 (Fall/Winter 2005): 299 – 331 and Khater, ""House" to "Goddess of the House": Gender, Class, and Silk in 19th-Century Mount Lebanon," *International Journal of Middle East Studies* 39:1 (2007): 15 – 32.

multiple identities, and belongings.[73] In deliberating structures for exclusivist, inclusivist, accommodationist, and assimilationist tendencies, it is important to keep in mind that "[o]ne of the most important aspects to examine in any political system, a sort of litmus test for the classification of a polity, is whether it allows members of a minority within it *dual identity* amounting to full acceptance by the larger political community as well as within their own particular ethnic community."[74] It is safe to conclude that some South American countries allowed for this, which promoted a growth in numbers, which, in turn, reached a density that was capable of making an impact on both home and host state cultures in the process.[75] Buenos Aires hosted more Syrians than any other Argentine city, "registering as the sixth largest immigrant group by 1914 and numbering nearly 16,000 people."[76] The laws were in harmony with this predilection.

The Argentine Constitution of 1860 allowed foreigners to "enjoy"[77] citizen benefits without obliging them to naturalize or subjecting them to "extraordinary

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[73] Steven Hyland Jr., "The Syrian-Ottoman Home Front in Buenos Aires and Rosario during the First World War," *Journal of Migration History* 4 (2018): 211-235; Hyland Jr. "'Arisen from deep slumber'" transnational politics and competing nationalisms among Syrian immigrants in Argentina, 1900-1922." *Journal of Latin American Studies* 43:3 (2011): 547-574; Stacy Fahrentold, "Transnational modes and media: the Syrian press in the *mahjar* and emigrant activism during World War I," *Mashriq & Mahjar* 1 (2013): 30-54.

[74] Ilan Peleg, *Democratizing the Hegemonic State: Political Transformation in the Age of Identity* (Cambridge: Cambridge UP, 2007), 80.

[75] See, especially Akram Khater.

[76] Hyland Jr., "The Syrian-Ottoman Home Front in Buenos Aires and Rosario during the First World War," 216.

[77] Argentina, in Flournoy and Hudson, *A Collection of Nationality Laws*, 10.

compulsory taxes" (Art. 20).[78] The Argentinian pull becomes evident when one considers that foreigners there were entitled to "all the civil rights of citizens,"[79] and could earn a livelihood, buy, own, and sell property, freely practice their religion (Art. 20). The residency requirement was two years, but it could be shortened. According to Law No. 346 of 1869, for example, a residency minimum was not required for naturalization under eight conditions, which included those who married Argentinian women (§ 2, Art. 2.7) or those "settling or peopling national territory within or without the present boundaries" (§ 2, Art. 2.6).[80] According to the same law, nationals were determined by virtue of *jus soli*, which meant that everyone born in the republic was an Argentinian, irrespective of their parents' nationality (§ 1 Art. 1). Given the inclusive nature of Argentine law, the evident will of the young republic to expand demographically and territorially, and the liberties granted to foreigners, it is not surprising that immigrants flooded Argentina's yet-*unfixed* borders. Maintaining one's home state identity without being imposed Argentine nationality or being financially penalized must have allowed resident foreigners the ability to negotiate their multiple identities on their own terms. This sheds extra light into the vocal sentiments of long-distance nationalism of Ottomans in Argentina.[81] "Exclusivism" is often correlated with ethno-religious hegemony.[82] As was

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[78] Ibid.

[79] Ibid.

[80] Ibid, 11.

[81] Steven Hyland Jr. *More Argentine than You: Arabic-Speaking Immigrants in America*. Albuquerque: University of New Mexico Press, 2017.

[82] Ilan Peleg, *Democratizing the Hegemonic State: Political Transformation in the Age of Identity* (Cambridge: Cambridge UP, 2007), 80.

demonstrated with Argentina, one approach to determining whether a state is accommodationist or an ethno-hegemony is through an evaluation of the degree to which it allows dual or multiple identities, not only for existing natural-born members, but also for newcomers. Multiple identities were a given in the Ottoman case.

Analyses of late-nineteenth and early-twentieth century migration patterns reveal that while the Ottoman state pushed members out, it also pulled some in. That there were resident foreigners in the Ottoman dominions from origins as diverse as Great Britain, Qajar Iran, the United States of America, and Japan[83] demonstrates that the domains were accommodating. One can reasonably assume that the room that the host state's laws afforded in terms of navigation and one's potential placement on the status spectrum factored into relocation considerations, even if relocation was motivated by the will to steer clear of radars. Ottoman stances on natural-born, potential, and eject-able members place the Ottoman law on different points of the "inclusivity" spectrum.

Whether we categorize the Ottoman state as exclusivist or in different measures of inclusivity, it is important to remain conscious of the fact that such formulations are often colored by current notions of belonging, rights, and state obligations. This bundle often takes the individual's desire of being imposed legal bondage and debt to a state for granted. In the final analysis, being an Ottoman, like being the national of any other state, was perhaps less about how the individual could hold the state accountable than it was about what the state could extract from the individual.

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[83] See, for example, Selçuk Esenbel, "A "fin de siècle" Japanese Romantic in Istanbul: The Life of Yamada Torajiro and His "Toruko Gakan"," *Bulletin of the School of Oriental and African Studies, University of London* 59, no. 2 (1996): 237 – 252.

The Ottoman law defined and adopted individuals in a manner most conducive to national interest. Will Hanley's analysis of the law's genealogy makes the convincing case that the law was a measure that aimed to prevent further abuse of capitulatory benefits by those Ottomans who had taken on the status of foreigners.[84] The timing also followed an international current. This nineteenth century moment that legally distinguished between national and foreigner put the law at the service of the state and allowed it to maximize the extraction of resources and revenue from as many individuals as possible. Inward migration of foreigners who did not mirror the House of Osman's dominant Turco-Sunni identity registers was as old as the Ottoman state itself. As the state began to rationalize in the nineteenth century, its ambition was to convert as many of these foreigners into nationals, which entailed taxation, conscription, and jurisdiction. The Ottoman state simply could not *afford* the flexibility of being selective in its articulations of who would be included or excluded from legal spheres of Ottoman national belonging.

[84] Hanley, "What Ottoman Nationality Was and Was Not."