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ARTICLE

Nation and Migration in Late-Ottoman Spheres of (Legal) Belonging: A Comparative Look at Laws on Nationality

A. Ebru Akcasu*

Department of Middle Eastern Studies, Charles University, Prague, Czech Republic
*Corresponding author. Email: ebru.akcasu@gmail.com

Abstract

The last century of the Ottoman state's existence witnessed the transformation of the term "Ottoman" from an elite, class-based, and exclusive designation to one including and identifying all whose allegiances were tied to the state. Despite this semantic shift, the verdict is still out on the question of late-Ottoman inclusivity. Indeed, exclusivist is a term more frequently coupled with policy and law. Though the former can be considered exclusivist in many instances from the late 19th century through the dissolution of the empire, the designation does not fit the legal framework and terminology that articulated belonging. To recognize this, it is imperative to approach the 1869 Ottoman Nationality Law from a comparative perspective, especially, though not strictly, with reference to Great Power laws, since these legalities are the yardstick by which Ottoman rational modernity has been measured. This article considers access to actual and potential membership in various nationality laws in relation to their Ottoman counterpart and concludes that the exclusivist designation is questionable. Instead, Ottoman law does not present an anomaly and was in many instances both more expansive and more inclusive than others—even if it has been subjected to a different vocabulary than contemporaneous laws with similar stipulations.

Keywords: Ottoman Empire; migration; national identity; Great Powers; territorialization

The Imposition of Nationality: Great Powers and the Ottomans

19th-century nationality laws legitimized the means by which common law had previously claimed allegiance: *jus solis* (law of the soil) and *jus sanguinis* (law of the blood). The formulation could also entail one law being complemented by elements of the other. In this regard, the House of Osman defined its nationals by employing the same vocabulary as the universal standard. After all, nationality laws were an international conversation about territoriality and jurisdiction. The Ottoman Nationality Law, promulgated on January 19, 1869, was one of those laws that combined elements of *jus soli* and *jus sanguinis* and thus resembled the French model, specifically the 1851 formulation, which it is argued to have been inspired by (Serbestoğlu 2011, 205). Accordingly, those born to Ottomans were Ottomans (Art. 1), and anyone born in the Ottoman domains was granted access to membership by virtue of this territorial link (Art. 2). Nevertheless, citizenship was not an automatic outcome of birth in Ottoman lands, as becoming a member of the Ottoman national body required the individual born in the dominions to non-Ottoman parents to petition the Ministry of Foreign Affairs at the age of majority. The age of majority was determined by the laws of the country the paternal authority was subject to (United States Secretary of State 1906, 527). Exceptions to norms of acquiring Ottoman nationality by descent have been used to support the argument that the law was exclusivist.

The Ottoman Nationality Law has been labeled as exclusivist specifically with respect to its stipulation that children of Ottomans who naturalized as foreigners remained Ottomans while, in a reciprocal manner, children born to foreigners who naturalized as Ottomans remained foreigners (Art. 8).[1] Summarily, according to the Ottoman law, an offspring's legal relationship with the state was not impacted by an alteration of the paternal authority's natural-born status. Though the law does not specify the difference, this article really only applied to children born after the paternal authority gave up his Ottoman nationality to take up another (United States Secretary of State 1906, 531). While Article 8 being demonstrative of exclusivist tendencies is debatable, that it was a relative anomaly is not. Laws that did not automatically extend the paternal authority's altered nationality to the family unit are rare but not nonexistent. Bulgaria was another example (United States Secretary of State 1906, 533). The weighty contrast is provided in nationality laws of the more dominant states among the Great Powers (Great Britain, Austria-Hungary, Germany, France, Russia, and Italy) according to the severity of vested interests in the sultan's dominions. In the laws of Great Power states that measured Ottoman modernity (rational, and otherwise) by their own examples, the altered nationality of the paternal authority was extended to wife and child, that is, dependent and derivative citizenship. Nor is this the only variance. At least half of the laws of these states—for example, Great Britain, Germany, Austria-Hungary—were unambiguously more restrictive than their Ottoman counterpart, as they granted membership by narrower standards, nor did they combine *jus sanguinis* and *jus soli.* Like the absence of enforced dependent citizenship embedded in law, however, this discrepancy does not suggest exclusivism on account of the Ottoman law, which, on the contrary, was framed to accommodate an expansionist vision. As it will become evident, the formulation of Ottoman law allows for an unlimited number of potential Ottomans.

The legal articulation of the quality of belonging to the British crown began in 1350 alongside considerations for the status of those born at sea (Henriques 1906, 167). Nationality was conferred by *jus sanguinis.* By the middle of the 19th 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 ("The Act to Consolidate and Amend the Enactments Relating to British Nationality and the Status of Aliens," *4 & 5 Geo. V, § 17.1*—a, b, c 1914). 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 underwent changes in the century following the Revolution (1789). Among others, rules for acquisition of French nationality by descent and birthplace were modified on several occasions, as was the duration of the minimum residency requirement for application for membership. By 1889, the standard most relevant for the period in question, Frenchmen's legitimate offspring were considered French and birthplace made no difference (McGovney 1911, 342). If born in France, children born to foreigners, who were also born in France, were French, too (McGovney 1911, 348). French law, like the Ottoman law, allowed for the constituency's expansion with the addition of newcomers who themselves had not become French by blood. The example of its opposite is visible in the German law.

French and German 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 "state-centered and assimilationist, German understandings ethnocultural and 'differentialist.'" (Brubaker 2009, xi). The 1870 law enacted by the North German Reichstag claimed members in the same manner as Germany's more-discussed 1913 law, that is, by way of (primarily patrilineal) descent: children of German fathers and illegitimate children of German mothers were Germans—place of birth was deemed irrelevant in the 1870 law (Art. 3, 4) and is not mentioned in the 1913 law (Art. 4, 5; "German Imperial and State Citizenship Law. July 22, 1913" 1914; "Law on Nationality and Citizenship 1870"). Germans were born strictly by virtue of *jus sanguinis*, giving credence to the oppositional quality between the two formulations, not only ideologically—as Brubaker argued—but also legally. Austrian law opted for *jus sanguinis*, as well: children of all Austrians were political

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possessions of the Austrian state, regardless of birthplace (Flournoy and Hudson 1929, 14).[2] In conjunction with Hungary's "principle of reciprocity" with Austria (Flournoy and Hudson 1929, 340),[3] the former's 1879 legislation took the legitimate children of Hungarian men, illegitimate children of Hungarian women (Art. 2), and legitimated children Hungarian men fathered with foreign women (Art. 3) (Flournoy and Hudson 1929, 340). Nationality was inherited by the blood that passed through the paternal line to legitimate children in British, German, Austrian, and Hungarian law.

The laws of Italy and Russia were similar to the French and Ottoman in combining elements of *jus soli* and *jus sanguinis*. 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 (Flournoy and Hudson 1929, 361). The 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 specialized path to membership to those born within the territories to foreign parents (Flournoy and Hudson 1929, 510). As of 1864, the individual in question could apply for naturalization within a year of reaching majority if the condition was met (Flournoy and Hudson 1929, 510). 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 an oath of allegiance or join the civil service (Flournoy and Hudson 1929, 510). The Ottoman law of 1869 was not so specific. The condition was birthplace, and it gave three years instead of one to apply for membership (*Tabiiyet-i Osmaniye Kanunnamesidir*).

The French-German contrast is informative since the two have more or less shaped the frame of reference and vocabulary of nations (Brubaker 2009). If, as Brubaker stated, "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" (Brubaker 2009, 1), then the Ottoman formulation of nationhood tilted toward being informed by the French. Both were expansive and claimed members by virtue of *jus sanguinis* complimented with elements of *jus soli*. The conditional *jus soli* element was also formulated in the same way, in that those born on French and Ottoman soil were not automatically members of the respective states but had to declare their intention of becoming so by following the necessary procedure once they reached majority. Like the French Civil Code, the Ottoman law "defined two types of members: actual and potential" (Brubaker 2009, 89). The Ottoman formulation also predated the German formulation by a slim margin, and, besides the obvious, that is, that Ottoman was a civic identity rather than an ethnocultural one, Ottoman nation-building also followed the periodization of its French counterpart. In other words, the existence of the state predated the imagined community of the nation, to borrow Benedict Anderson's term, not vice versa.

Given the oppositional qualities between the French and German models of nation and nationals, that neither is explained in "exclusivist" terms, as Ottoman law has been, is curious. While French law cannot at all be argued to be such, and is plainly inclusivist, the German is also explained in measures of inclusivity, either as overinclusive or underinclusive: "underinclusive, excluding above all millions of Austrian Germans. At the same time it was overinclusive, including French in Alsace-Lorraine, Danes in North Schleswig, and Poles in eastern Prussia" (Brubaker 2009, 13). The German case has been considered overinclusive because, like the Ottoman, it claimed territories with a resident profile that included those who "were not simply linguistic but rather […] self-conscious minorities" (Brubaker 2009, 13). By the same token, even if the Ottoman state had resembled the German state in conceptualizing and formulating modern nationhood in ethnocultural terms—which it did not, from a legal perspective—then it follows that it could also be considered underinclusive and overinclusive. The terminology of over- and under- inclusivism does not carry the same connotations and associations as exclusivism; the former determines who is not included while the latter implies a conscious effort to exclude for the purpose of creating an exclusive home constituency. Since the Ottoman construction of the nation did not explicitly

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articulate that anyone was excluded, the difference in which designation is applied to the Ottoman law and which is applied to the German has less to do with legislation but more to do with the foreign stakes rampant in the Ottoman domains at the time of nation formation and a rhetorical reaction to how Ottoman statesmen endeavored to protect the empire's interests.

At the time the Ottoman nationality law was being drafted, the greatest threat to Ottoman jurisdiction within the territories lay in the exploitation of capitulatory privileges. An 18th-century scenario that entailed "a large and increasing number of native subjects of the Porte who, without obtaining foreign nationality, were yet partakers of the general extraterritorial privileges enjoyed by foreigners," had transpired, by the 19th-century, to "wholesale naturalizations, granted by some representatives of certain powers not only to protégés, but even to non-Moslem subjects of the Porte who had never been outside the frontiers of the empire" (United States Secretary of State 1906, 526). This state of affairs, though in the interest of both the individuals enjoying the extraterritorial privileges and the Great Powers who granted them in the process of reinforcing their respective spheres of influence, blatantly came at the Ottoman state's expense. The quest for "a remedy" for the "unfortunate state of affairs [that] could only cause difficulties and complications for the Ottoman government" is expressed in the memorandum and commentary prepared by a Mr. Schvamonian, the legal advisor to the American Embassy in Ottoman Istanbul, to accompany the law's translation for a 1906 government publication (United States Secretary of State 1906, 526–527). No pressing domestic circumstances other than the capitulations are mentioned in the memorandum preceding the explanatory notes for the various articles of the law in this volume.

The 1869 Ottoman Nationality Law being categorized as exclusivist rather than being measured in degrees of inclusivity is a consequence of reading history backward, which is touched upon by Will Hanley on his elaboration of "What Ottoman Nationality Was and Was Not" (Hanley 2016). That the Ottoman state is not a success story for nation-building is no secret. As can be seen in the discussion above, neither is the 1869 nationality law the culprit, as this would grant the law significantly more capacity than its extremely limited body and scope—and vague construction—could have allowed. As Hanley articulated, this is to "put a lot of weight on narrow shoulders" (Hanley 2016, 283). Though one cannot deny "belonging" to be an inherent feature of any nationality law—the law itself is an expression of which individuals belong to the state—the tendency has been to interpret the Ottoman law in tandem with more value-laden "labels of belonging, notably ethnicity, sect, and citizenship. These categories are ascribed to the law, but their pertinence is rarely explained" (Hanley 2016, 279). Ottoman nationality was simply not framed to explicitly exclude based on such factors, which is not to say that the formulation of the Ottoman Nationality Law should be disassociated from a raised conscious awareness of ethnocultural nationalism and irredentism as well as imperial expansion and encroachment on the part of the more dominant Great Powers into the Ottoman territories at the time of its consideration, drafting, and promulgation.

The Ottoman Nationality Law of 1869 has gained plenty of mention in literature addressing segmentation and exclusion, from the late 19th through the early 20th century, but the law itself has seldom been analyzed in a manner detached from this greater ethnocultural emphasis. In this regard, the works of Will Hanley and İbrahim Serbestoğlu are worthy of mention here (Hanley 2016; Serbestoğlu 2011).[4] These make it evident that the law was in conversation with phenomena linked to the challenges faced by the Ottoman government that were associated with non-core constituency concerns and were ethnocultural in nature. Changing demographics, shifts in population and allegiances in lost territories, irredentist nationalisms, the status of hundreds of thousands of refugees from Crimea and the Caucasus, and the aforementioned exploitation of capitulatory privileges, much of which was associated with the non-core constituency, made the question of jurisdiction and nationality more urgent. Indeed, the justification of the Ottoman Nationality Law did specifically mention concerns about "non-Muslims" taking foreign passports and claiming foreign nationality (Serbestoğlu 2011, 205, 209). But the law aimed to curb challenges to territorialization rather than perpetuate their tendencies. An exclusivist nationality regime would

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have only exacerbated these. Thus, with what Serbestoğlu has termed "an example of forced modernization," the Ottoman government crafted a law that has widely been considered a landmark secularization of legislation on nationality in the Islamic world (Serbestoğlu 2011, 205; Cardahi 1937, 532).

The 1869 Ottoman Nationality Law has been interpreted as secularizing simply because it defined Ottomans in consistency with the principles of rational law, and in a manner devoid of race or creed.[5] There was thus no particularly exclusivist clause etched into the legislation that could contribute to the constituency's further fragmentation, or to the exclusion of actual or potential nationals who could be profiled as ethnoculturally nondominant in the Ottoman context. This is evident not only when a comparison is drawn with contemporaneous laws but also with those of post-Ottoman states, which were significantly and without exception more exclusivist than their legal predecessor. One can observe this especially in Mandate Palestine, for example, where the migration regime aimed to foster the creation of a specifically Jewish and capitalist state with an economically independent citizenry.[6] Ethnocultural associations that have led to the suggestion of the Ottoman law being an instrument of upholding Turco-Sunni hegemony in the "line of scholarship that situates the 1869 law in the course of the long rise of sectarianism and ethnic nationalism" (Hanley 2016, 279), on the other hand, are just not evident within the legal framework that also regulated migration into the sultan's dominions.

Though the core constituency of the Ottoman state was dominated by Turco-Sunni features at the so-called end of empire, that is, features of the House of Osman this was not necessarily the case when the articulation of Ottoman nationality was passed into law in 1869. The saliency of these features varied in potency over the course of the Ottomans' existence. Besides the home constituency's already varied composition, demographic shifts were also subject to inward and outward migration—both were accelerated with 19th-century innovations in transport and communications. Besides folding refugees into the Ottoman constituency, it is fair to conclude that liberal Tanzimat-era population policies additionally demonstrated openness with respect to inward migration of non-refugee migrants. An 1857 decree called on immigrants from diverse origins to settle in the territories, for example.[7] The underlying conviction was that "a large population was the pre-condition for economic development as well as for a strong defense against outside enemies" (Karpat 1985a, 62). Accordingly, this decree was accompanied by the declaration that "migration into the Ottoman state was open to anyone who was willing to give his allegiance to the sultan, to become his subject, and to respect the country's laws" (Karpat 1985a, 62). Land grants and tax exemptions were offered as incentives regardless of the individual's state of origin, religion, or ethnicity. In fact, this openness prompted the Ottoman consul in New York to demand more information regarding the profile of potential immigrants from the USA and to inquire whether "persons of colour who are natives of this country or others are included in these conditions"—the response was affirmative, stating that "the imperial government does not recognize any difference of color" (Karpat 1985a, 63). The profile of immigrants the imperial domains would have left its borders open to crossing by virtue of such policies could not have aided any ambitions of ethnocultural homogeneity, thus rendering assumptions of the government seeking to exclusivize its forming citizenry moot.

The suggestion that the Ottoman law was exclusivist or carried a Turco-Sunni bias is colored with the awareness that Ottoman pluralism would ultimately fail to survive the Ottomans into the 20th century, intact. Though, this was not for a lack of effort on the part of diverse Ottomans who came to be dispersed over post-Ottoman Mandate territories in the aftermath of the Great War (Provence 2017). Regardless, even if Ottoman had indeed been conceived as an ethnoculturally specific identity, the legal term Ottoman would remain as overinclusive as the German conceptualization of the national body. Furthermore, 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: the Turkish *-lı* suffix designates belonging and *Osmanlı* literally means "with Osman."[8] The identity would have to be qualified as underinclusive,

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as well, as it did not include or privilege extraterritorial members of groups it was meant to have favored. Nor did it benefit Turco-Sunnis under the sovereignty of other states.[9] The Ottoman government's formulation of nationals did not stress nor address that these identities inherently belonged to the Ottoman sphere. Nonetheless, the state hosted them, bargained for their loyalty, and competed for the link for them to become Osman-*lı*. 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, sovereignty was formulated in a manner that envisioned authority 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.

In/Voluntary Expatriation: Ejection from the Nation

Ottoman law was consistent with others, save some exceptions, in reserving the right to impose involuntary expatriation.[10] Universally, the most common reason for expatriation was the adoption of foreign nationality or taking up arms for another state. Some states had more detailed grounds for ejecting individuals. For example, Panamanian citizenship was revoked for those who had not supported national independence (Flournoy and Hudson 1929, 458). Neither did Ottoman law have a clause legitimating the expulsion of resident foreigners, like the British Aliens Act of 1905. According to Hungarian Law, one could also lose citizenship for prolonged unauthorized absence (Flournoy and Hudson 1929, 340–341). While 19th-century nationality laws furnished states with power to eject members, few articulated reasons other than the aforementioned circumstance that would have allowed for this to transpire. Involuntary expatriation also occurred indirectly, as in the case of mixed nationality nuclear households.

Dependent citizenship clauses enshrined in laws on nationality ensured that the women who were cocreators of mixed nationality households would, in all likelihood, lose the nationalities they were born into as a consequence of their union with a foreigner. Since many nationality laws that claimed descent were patriarchal formulations, children inherited their father's nationality. Among the Great Powers, the French Civil Code of 1804 was the first to institute the annulment of women's citizenship (Arts. 12, 19; Flournoy and Hudson 1929, 241). Austria followed suit in 1832 (Flournoy and Hudson 1920, 14). Despite allegiance to the British Crown having been determined as hereditarily since 1350, a woman's status had never been articulated as dispensable until 1844 (Flournoy and Hudson 1929, 59). British law was not so severe, yet. Even in 1844, when the responsibility of controlling immigration and naturalization was transferred to the Home Office, the law referred solely to the nationality of a foreign woman married to a natural-born Briton (Flournoy and Hudson 1929, 59). It was the British Naturalization Act of 1870 that discarded the natural-born rights of a natural-born woman; as of 1870, she was "the subject of the State of which her husband is" (Art. 10.1) (Henriques 1906, 175–176). Subsequently, she did not exist for the state; "married women were included in the list of persons under a disability who could not exercise the right to naturalization, being equal in status to infants, lunatics, and idiots" (Baldwin 2001, 526).[11] She became what British law termed "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" (Henriques 1906, 175–176), readmission would follow the same course as an "alien" (Art. 8). Whether they were wives married to foreigners or others who were deemed expendable, the British government had few qualms about ejecting members from the national body, as stresses on the domestic labor market upon its entry into free market in the early 19th century came hand in hand with a new tendency to encourage emigration (Torpey 1999, 68–70).

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" (Kern 2007, 12). The service was involuntary expatriation. Hungarian law,

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for example, stipulated that the status of a man released from citizenship—whether requested or lost to prolonged absence—was extended to a wife and child (Arts. 21, 26, 31, 32). Those who were released were required to leave the territories within a year of the certificate being issued (Flournoy and Hudson 1929, 340–341). A woman who lost her nationality could reclaim it, "if the marriage ha [d] been annulled by the proper authorities" (Flournoy and Hudson 1929, 340–341), as much as a foreign-born woman who gained Hungarian nationality through marriage was entitled to keep it if she divorced or the husband died (Art. 35; Flournoy and Hudson 1929, 341). While Ottoman law "accepted the international legal standard of 'dependent citizenship' " (Kern 2007, 11), it did not enforce it.

Dependent citizenship was intricately linked to migration as well as access to state resources and, by implication, the policies controlling the numbers of those who could benefit from them. As states began to take up welfare responsibilities in the 19th century, it was in their interest to craft nationality legislations in a way that (re)enforced a woman's dependency on her husband (rather than on the state) by ejecting her and her offspring from the national body in the event the paternal authority took up foreign nationality, since this formula would relinquish the home state of the financial burden of potential dependency.[12] This was not entirely irreversible, since nationality legislation in many states allowed for the women's return within a certain number of years of the dissolution of dependency on the masculine citizen that their own citizenship was a derivative of. The Ottomans were among the family of states that allowed the return of postmarital women who had lost their nationalities by virtue of marriage to a foreigner. Such women could petition to become Ottomans, once more, within three years of the marriage expiring (Art. 7), such as the husband's death or divorce, hence the implied acceptance of dependent citizenship. While the law accepted that women lost nationalities via marriage and offered reentry into the national body, it did not specify that a natural-born Ottoman woman in fact lost her nationality by acquiring that of 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.

Ottoman women who married foreign nationals to then depart the domains would in most cases be regarded as nationals of territories they became residents of by virtue of the laws of those lands. Despite the fact that "a woman marrying a foreign subject ipso facto becomes a foreign subject," also in Ottoman spheres of belonging, the wording of Article 7 remains "obscure" (United States Secretary of State 1906, 531). The reason Ottoman legislators "did not wish to state clearly this principle" of dependent citizenship, "sanctioned by almost all civilized countries," at that time, was explained according to two possibilities (United States Secretary of State 1906, 531). One assumption relied on this principle contradicting *sharia* laws in that a Muslim woman's belonging in a Muslim state may not cease as a consequence of an interfaith marriage, which would also have "very serious consequences in the matter of inheritance" (United States Secretary of State 1906, 531)—this explanation is not supported by Ottoman legislators having drawn a supplementary 1874 measure stipulating that women who married Iranians (defined in a religiously neutral manner, but likely formulated with Muslims in mind, even those adhering to a different school of Islamic jurisprudence) would still be considered Ottomans, as would their children. The alternative argument, somewhat more persuasive, is that the Ottoman law considered that women may become stateless if their husbands' home states' nationality laws did not extend citizenship to the entire family unit. Either way, Article 7 was "worded in this way in order to meet all exigencies" (United States Secretary of State 1906, 531). A spelled-out policy of denationalizing members of the domestic constituency would certainly not have aided the Ottoman government in securing the jurisdiction it sought in its own territories. As for the children, if they remained in the territories, they could be subjected conscription or exemption fees in the event they were male. These practical gains outweighed the costs, especially since the Ottoman state was not averse to distributing welfare. Quite the contrary, partially in hope of curtailing foreign encroachment, the 19th century saw the establishment of institutions that would demonstrate to the home state constituency and outside observers alike that the Ottoman sultan was a just, pious, and generous sovereign.[13]

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So far as dependent citizenship was concerned, Ottoman law shared less with the Great Powers and more with Latin American laws, which, by and large, seemed to afford women their own, nonderivative, nationalities. 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 an offspring eligible for membership, thus giving women a (re)productive role in forming the constituency (Flournoy and Hudson 1929, 458–459.[14] 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; Flournoy and Hudson 1929, 471).[15] The El Salvadoran constitution (of 1872 and 1886) did not deprive women of their natural-born status either (Flournoy and Hudson 1929, 517). 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 (Arts. 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 (Arts. 18–19; Flournoy and Hudson 1929, 639). Not unrelated to the process of decolonization, these new republics granted women agency in shaping the national body in the formulations of their respective popular sovereignties.

Not articulating the status of women who married foreigners underwent revisions as the 20th century progressed. Nonmutual exclusivity among nationality laws engendering stateless women resulted in some "difficulties" (Flournoy and Hudson 1929, 13). Argentina, for example, eventually decreed that despite the fact that the law did not "include marriage among the ways of 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*" (Flournoy and Hudson 1929, 13; italics for emphasis). Though the women could not be considered Argentines, there was no "objection to delivering them passports or other documents in place thereof" (Flournoy and Hudson 1929, 13). The most nuanced treatment of women can be found in Japanese legislation: Law No. 21 of 1898 and Law No. 66 of 1899 retained elements of the first 1873 Council of State law that stipulated on Japanese nationality in making an exception for the status of women who were "head of the house" (Flournoy and Hudson 1929, 381–382; Sik 1990, 182–184). For the most part, 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 another national (Arts. 8, 13, 15, 18; Flournoy and Hudson 1929, 383). The anomaly was a woman who was head of the household—she did not lose her nationality upon marriage to a foreigner. Instead, Japanese nationality was extended to her husband who married or was adopted into the wife's household (Art. 5.2), *nyufu* or *mukoyoshi*, respectively (Flournoy and Hudson 1929, 382; Sik 1990, 182; Kim 1992, 2).[16] This matrilineal exception to Japanese descent distinguishes between a family's "genetic" and "corporate" continuity and is due to practical considerations that factor in the possibility of the absence or inability of a male to perpetuate the latter (Befu 2004, 34). Summarily, dependent and derivate citizenship was not universally enshrined in 19th-century nationality laws.

Involuntary expatriation by way of 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. Though both laws provided exceptions to dependent citizenship, however, the Ottoman exception was formulated to favor the perpetuation of the nation rather than the family name and occupation, which was the consideration for the Japanese case. Karen Kern's study of the "protection" of the 1874 marriage ban between Ottoman women and Iranian men elaborates on women who married Iranians and rightly points to the women retaining their nationality and their children being considered Ottomans as a significant exception (Kern 2007, 12). This exception could be coupled with a conversation about Article 8 of

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the Nationality Law, since the protection of the marriage ban and the nationality of children of fathers whose nationalities had 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 by way of dependent citizenship clauses. Quite contrary to this, Ottoman law imposed the retention of nationality in cases where the paternal authority would have relinquished his natural-born Ottoman status, which, in turn, yielded the same consequences as the protection of marriage ban and the Japanese *nyufu* and *mukoyoshi* exception. In other words, Ottoman law nullified the patriarch's agency to pass his acquired non-Ottoman nationality to the family unit under particular circumstances. 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 not including a dependent citizenship clause in its law and by articulating, unambiguously, the existing child of that union to be an Ottoman national (Art. 8). By virtue of the same article, in a reciprocal manner, if the man had been born a Great Power national but later became an Ottoman, his offspring would remain a Great Power national despite the paternal authority's changed status. On the other hand, since Great Power laws automatically ejected 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. Though this particular article has been given as evidence for the Ottoman law's "exclusivist tone" (Deringil 1998, 197), it is not so cut and dry, especially since the law only applied to children who had already been born when the paternal authority changed his nationality. In line with international norms and consistent with the 1869 law itself, those born after a foreigner became an Ottoman would be Ottomans, and those born after an Ottoman became a foreigner would be considered foreigners.

Voluntary loss of Ottoman nationality was another matter. Given the expressed motivations for the law, that is, to retain and expand the citizenry, it is cogent that to become an Ottoman was considerably easier than to unbecome one. The article pertaining to the latter, Article 5, must be read alongside an understanding that the exploitation of capitulatory benefits by natural-born Ottomans factors majorly as a reason that "led to the drafting of the present law and why the Ottoman legislator [was] careful to lay down as principle that in no case can an Ottoman subject change his nationality without previously obtaining permission from his sovereign" (United States Secretary of State 1906, 527). The nationality of those that did not obtain the permission beforehand was not accepted as legitimate by the state, which, in any case, seldom granted such requests. Such individuals would be treated as Ottomans and their rights or responsibilities would not have changed even if they left and returned to the dominions. Inheritance rights differed according to whether the individual switched nationality with or without approval. In the former case, the individual in question was dispossessed of property and heirs could not inherit and, in the latter, property would be retained and passed to descendants if the country granting the new nationality had "signed the protocol attached to the law allowing the acquisition of landed property by foreign subjects" (United States Secretary of State 1906, 530). The Ottoman government did nevertheless expatriate *ex post facto*. That is, this was "more in the nature of an official recognition of the foreign naturalization" (United States Secretary of State 1906, 529). There were also other exceptions to the government's resistance to expatriation. It was easier and quite common, for example, for "a certain class of Ottoman subjects, especially those emigrating to America, [to be …] allowed to leave the country on condition that they abandon their Ottoman nationality" (United States Secretary of State 1906, 529). Leaving the Ottoman national body need not be permanent, however, as former Ottomans could, in theory, rebecome Ottomans by the same procedure required of foreign-born applicants, that is, petitioning to the Ministry of Foreign Affairs.

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In the absence of legislation on dual nationalities for all states concerned, governmental bodies would have had little power to strictly enforce their nationality laws beyond their own dominions. That having been said, it is evident that the rationale of Ottoman law rested on specifically domestic concerns, such as the aforementioned matters of jurisdiction, especially in terms of taxation, conscription, property rights, and the exploitation of the capitulatory system by Ottomans who became foreigners while remaining residents. As early as the first quarter of the 18th century, when a growing numbers of non-Muslim subjects were becoming consuls and vice-consuls and taking the protection of Great Powers who sought to expand their populations and influence by this means, the Ottoman government had been struggling to prevent, in the words of Selim III, the "*rayah* from becoming Franks" (Serbestoğlu 2011, 197–198; United States Secretary of State 1906, 526). The Nationality Law addressed this problem while at the same time protecting Ottoman-born women and children against statelessness and maximizing the number of Ottomans, Ottoman descendants, and potential Ottomans within its borders. According to the same reasoning, the 1869 Nationality Law attempted to gain rather than lose citizens. It could therefore be considered expansionist rather than exclusivist, especially since the paternal authorities who opted for alternative nationalities—whose dependents would still have been considered and treated as Ottomans—were most frequently *not* those widely considered to be members of the core constituency.

According to the Ottoman Nationality law, in force from 1869 until the dissolution of the Ottoman state, natural-born status was not ethnoculturally specific and was hereditary. 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 (a hallmark of modernity) and not as units who were hostage to the status of the patriarch. In fact, the only piece of Ottoman legislation to impose explicitly 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. It is cogent that the more restrictions for access to membership, the more exclusionary the state and the more exclusivist its constructed identity. Like for many others, residence in the Ottoman dominions was one manner of access to membership in the national body. Specifically, the condition for those with no previous ties to the Sublime State to become Ottomans was the fulfillment of five years of residence (Art. 3) (*Tabiiyet-i Osmaniye Kanunnamesidir*). If an individual completed the years of residence an application for naturalization was submitted to the Ministry of Foreign Affairs. There is little evidence to suggest that the Ottoman government systematically discriminated or rejected naturalization based on ethnocultural distinctions, though it did tend to forego the residency requirement for the appeals of Muslims, especially converts (United States Secretary of State 1909; Cardahi 1937; Serbestoğlu 2011). It was only in 1913 that it was decided conversion would no longer provide privileged access to membership (Serbestoğlu 2011, 206). Nevertheless, since there were no restrictions for who could apply for naturalization and little discrimination on who would be granted it if the residence requirement was met, this exception would have done nothing more than expedite the naturalization of converts (Akcasu 2016). Neither was foregoing the residency requirement of converts beyond the remits of the 1869 law. Similar to the laws of many other states, the Ottoman government had reserved the right to confer nationality on whomever it pleased (Art. 4; *Tabiiyet-i Osmaniye Kanunnamesidir*).[17]

As mentioned above, most nationality laws required a minimum residency as a requisite for application for membership, though the number of years differed. As put by Will Hanley, minimum residency was also a way "to check loyalty with time before according political rights" (2016, 293). Great Power nationality laws required anywhere from five to ten years of residence. Austrian law required ten (Flournoy and Hudson 1929, 15), while British (Henriques 1906, 174) and Hungarian (Flournoy and Hudson 1929, 338) required five, for example. The key in determining ease of access

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to membership had 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. The Ottoman law on nationality simply did not articulate additional conditions. Austrian legislation required the ten years to be continuous, voluntary, and retrospective, with exceptions (e.g., military service; Flournoy and Hudson 1929, 15); in the meantime, the applicant also should not have "become a public charge" (Flournoy and Hudson 1929, 16).[18] Acquiring Hungarian nationality was not solely dependent on years either (Flournoy and Hudson 1929, 338). The applicant needed to prove intent to live within the dominions or to serve the Crown (Art. 7; Henriques 1906, 174). 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), were financially self-sufficient, and met "the standards of living in their place of residence" (Art. 8.5; Flournoy and Hudson 1929, 338). Potential members must have "been listed as a taxpayer for five years" (Art. 8.6), to which there were exceptions (Flournoy and Hudson 1929, 338). Finally, the individual under consideration had to be "of good character" (Art. 8.4), to which there were no articulated exceptions (Flournoy and Hudson 1929, 338). Similar to the Ottoman law, the Hungarian Crown reserved the right to naturalize those who did not meet the articulated conditions (Flournoy and Hudson 1929, 339).[19]

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; Henriques 1906, 174), which is a highly subjective parameter. 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" (Henriques 1906, 185). Similar to Austrian concerns, those not endowed with the means of financial self-sufficiency were not desirable (Henriques 1906, 185). An "undesirable immigrant" could be "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" (Henriques 1906, 185). Precedence of similar measures across the Atlantic may provide clues to the motivations behind such legislation. As of 1882, the USA enforced exclusionary immigration policies to prevent settlement based on mental or physical "defects," which grew more restrictive in the early 20th century, were closely interlinked with eugenics laws, and aimed to alleviate "popular fears about the decline of the national stock" (Baynton 2005, 33). Like the Aliens Act, it was framed in economic terms, "but at two steps removed," based on the presumption that employers would discriminate against those deemed "defective" because their labor potential would be evaluated as inferior, which would, in turn, make such individuals likely to be reliant on assistance (Baynton 2005, 38). The United States' 1882 Act reserved the right to exclude anyone considered a "lunatic, idiot, or any person unable to take care of himself or herself without becoming a public charge" (Baynton 2005, 33). Britain's 1905 Aliens Act echoed the terminology and justification.

Immigrants could also be denied entry if sentenced for nonpolitical 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" (Henriques 1906, 185). An undesirable could not be refused entry into England on account of any of the aforementioned financial factors if they were escaping "prosecution or punishment on religious or political grounds or for an offense of a political character, or persecution, involving danger of imprisonment or danger to life or limb, on account of religious belief" (Henriques 1906, 185–186). The British government could thus champion itself as the defender of the freedom of conscience while at the same time denying entry to those with disabilities and condoning the expulsion of resident, undesirables (Henriques 1906, 187).[20] It was also generous in the event of expulsion, as 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; Henriques 1906, 187). In other words, as of 1905, the British Crown was willing to bear the financial burden of protecting its natural-born and dependent

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constituency, as well as its national economy, from the legal assimilation of those it considered to be undesirable. immigrants.

The Austrian, Hungarian, and British governments narrowed paths to citizenship in late 19th and early 20th centuries as well. Though the regulations may have differed, ranging from the applicant's intention to remain to mental well-being, what remains consistent is the potential cost that the national member-in-waiting would incur upon the state. The Ottomans were not only in a deficit at this time (Pamuk 2009) but were severely affected in terms of trade during the Great Depression of 1873–1896 (Pamuk 1984) and had their debilitating arrears from heavy borrowing managed by the foreign-controlled Public Debt Administration from 1881 onward. Thus, knowing what we know about the Ottoman economy at this moment, it is surprising that a concern for the financial burden of new Ottomans was not a primary one for the government, even if some revenue could be saved by preventing Ottomans from taking up foreign protection. On the contrary, imperial beneficence was often a pull factor that drew newcomers to the Sultan's "well-protected domains." Unlike the British government, which had encouraged outmigration when faced with hurdles in the domestic economy in the 19th century, the Ottoman government strongly encouraged naturalization because its perceived benefits outweighed the fiscal costs of taking up the responsibility for more citizens, not the least because, in theory, some of those costs would be recovered with the revenue that would have been lost on account of the benefits enjoyed by those who exploited the capitulatory system.

Migration in the Legal Framework

19th-century nationalisms often exhibited exclusivist tendencies. The era's nationality laws—by and large—did not. Among states, Great Powers or otherwise, Liberia was perhaps one of the few exceptions in framing an explicitly ethnoculturally exclusivist nationality law, an understandable exclusivism, since Liberia's *raison d'être* was "to provide a home for the dispersed and oppressed children of Africa" (Flournoy and Hudson 1929, 410). How states defined relationships with generic individuals impacted the pull and push of newcomers and natural-born members. There was a significant Ottoman community pushed by social and economic factors into the Americas, for example. This phenomenon signals something about the relative ease of assimilation provided by the legal framework (as well as the opportunities) of some of these new countries, which is verified by an analysis of their nationality laws. Ottoman emigres to the Americas were largely from the eastern regions of Anatolia and the Mediterranean (Karpat 1985b), and overwhelmingly Christians, from Greater Syria. 200,000 peasants from Mount Lebanon alone made their way to the Americas from 1890 to 1915 (Khater 2001, 1). That having been said, the Ottoman population on the move included those from other regions and religions, as well. From the end of the 19th century until the 1924 Immigration Restriction act was passed, for example, approximately 60,000 Ottoman Jews and 25,000 thousand Muslims had made their way to the USA (Naar 2015, 174–175) where there were already 150,000 Syrians by 1915 (Gualtieri 2001, 29). Nor was migration unidirectional. There was a plethora of individuals from diverse states who came to the Ottoman domains to become nationals after the establishment of an Ottoman legal identity in 1869.

Recent scholarship highlights previously neglected aspects of Ottoman migration in the late 19th century. Since Kemal Karpat's "Ottoman Emigration to America" (1985), Akram Fuad Khater, Sarah Gualtieri, Steven Hyland Jr., and Stacey Fahrentold have been among those whose scholarship has considered the transatlantic pull (mostly for the Arabic speaking population of Greater Syria).[21] Their works demonstrate that these mobile Ottomans negotiated identity and belonging in their new settings. Whether such individuals were granted the flexibility to embrace multiple identities while still feeling secure in their long-distance nationalist sentiments or status with respect to home state belonging is key to understanding if the sending and receiving structures inclined toward exclusivist, inclusivist, accommodationist, or assimilationist tendencies. This is critical, since "one of the most important aspects to examine in any political system, a sort of litmus test for

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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" (Peleg 2007, 80). States that did not seek to enforce strictly ethnocultural homogenization and undivided patriotic loyalty of the domestic constituency or its immigrants in the process of legally assimilating them would fall into this category. It is safe to conclude that some countries in the Americas allowed for such integration in the late 19th and early 20th centuries, also to their own advantage. This approach inevitably promoted growth in numbers, which, in turn, reached immigrant densities capable of making an impact on both home and host state cultures in the process.[22]

The United States and Argentina were top destinations for immigrants in the late 19th and early 20th centuries. With the latter "attracting more than six million immigrants, half of whom settled permanently" (Hyland 2017, 2), Argentina hosted many temporary and permanent Ottomans. 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" (Hyland 2018, 216). Laws were in harmony with the predilection and hospitable to newcomers—this is not to say race did not matter to the framers. The Argentine Constitution of 1860 allowed foreigners to "enjoy" citizen benefits without obliging naturalization or subjecting those who were hosted to "extraordinary compulsory taxes" (Art. 20; Flournoy and Hudson 1929, 10). The Argentinian pull becomes evident when one considers that foreigners there were entitled to "all the civil rights of citizens" (Flournoy and Hudson 1929, 10) and could earn a livelihood, buy, own, and sell property, all the while freely practicing their religion (Art. 20). Such privileges were generous in comparison to those granted by Great Power laws, or the USA, where one would have had to naturalize to enjoy the same rights. The discrepancy was for good reason, since many South American states needed to populate and develop vast territories within their dominions. Like elsewhere, the immigration regime in the case of Argentina developed in a manner particular to how those formulating the national image conceptualized the citizenry at various times. In other words, though the law did not specifically exclude, the nation was framed as being "racially distinct" in the continent: "Nineteenth-century Argentinian admirers of Europe, evangelists of globalization *avant la letter*, projected their nation into Europe's consciousness as best they could. Domingo Faustino Sarmiento, Argentina's liberal president from 1868 to 1874, hired agents and took out advertisements in European immigrants to recruit immigrants" (Kaminsky 2008, 105). The new Argentina was thus framed as an immigrant country populated by "white" Europeans—a formulation that disregarded the indigenous community (Kaminsky 2008). Even if a given government and the law's practitioners could promote migration in ethnoculturally specific terms, the law itself did not discriminate on who could become a member.

The constitution of Argentina only stipulated a residency requirement of two or less years to be eligible for naturalization. Law No. 346/1869 stipulated that exceptions could relieve an immigrant of the requisite two year residence, such as in the case of marriage to Argentinian women (§ 2, Art. 2.7) or if one was "settling or peopling national territory within or without the present boundaries" (§ 2, Art. 2.6; Flournoy and Hudson 1929, 11). The law determined nationals by virtue of *jus soli*; birthright citizenship meant that everyone born in the republic was an Argentinian, irrespective of their parents' nationality (§ 1, Art. 1), which supports the pro-immigrant nature of the migration regime. 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 follows that immigrants flooded Argentina's yet-unfixed borders. Maintaining one's home state identity without having Argentine nationality imposed on them or being financially penalized for not taking it up allowed resident foreigners the room and ability to negotiate their multiple identities on their own terms, even if the late 19th-century government preferred this additional identity to be a white European one. Along these lines, one could inquire into whether Ottomans sought to better their position in such racialized social hierarchies by seeking to "claim whiteness" in Argentina, as was the case for Christian Syrians in the USA (Gualtieri 2001). Regardless of where they landed on in this hierarchy,

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the Ottoman diaspora was vocal in its sentiments of long-distance nationalism and participated in Middle East politics well into the Mandate era (Hyland 2017). Though both allowed for the expression of multiple identities, the question of whether the receiving state of Argentina was exclusivist does not yield any more a straightforward answer than when posed for the Ottoman state. Exclusivism is correlated with ethnoreligious hegemony (Peleg 2007, 80), and while various Ottoman and Argentine governments may have attempted to influence their demographic makeup by appealing to a certain profile's migration into their domains, this is not reflected in the legal framework or vocabulary of either state. The laws themselves were liberal in terms of immigration, and newcomers were allowed multiple identities.

Analyses of late 19th and early 20th-century migration patterns reveal that while social and economic motivations invariably pushed Ottomans out of the domains, many visitors, residents, and neo-Ottomans were nevertheless pulled in for the same reasons. Resident foreigners and immigrants in the Ottoman dominions who were potential nationals came from origins as diverse as Great Britain, Qajar Iran, the USA, and Japan.[23] Just some examples of those who crossed borders into Ottoman territories in search of opportunity and respite, for both ephemeral and perennial stays, were economic migrants, the variety of which ranged from engineers working on behalf of concessionaries to innkeepers and prostitutes.[24] Foreign missionaries were certainly easy to come by, as were non-Ottoman Zionists, Jewish and Muslim refugees from the territories of the Ottomans' Russian neighbor to the north, pilgrims-turned-nationals, as well as religious nonconformists, including Babis and converts, from east and west alike.[25] Finally, as much as the Ottoman domains pushed political dissidents out, it also hosted plenty, among the notable in the period in question were Iranian constitutionalists.[26] Nor was it difficult for immigrants to become an Ottoman, should an individual opt for a nationality change (though it was not necessary to naturalize to remain in the territories). As with converts whose process of naturalization could be expedited by the state, "immigrants who came to Turkey for permanent residence acquire [d] nationality with no other formality than that of taking an oath of allegiance" (United States Secretary of State 1906, 528). 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 member to nonmember spectrum factored into relocation considerations, even if relocation was sometimes motivated by the will to steer clear of radars. Given this, the Ottoman government's legal stances on natural-born, potential, and ejectable members place the Ottoman law on different points of a complex inclusivity spectrum.

Whether the Ottoman state is categorized as exclusivist or in varying 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 less about how the individual could hold the state accountable than it was about what the state could extract from the individual. The Ottoman government, too, was moved by the international current in adopting a law that distinguished those accountable to the state and those the state was accountable to. Accordingly, its 1869 law on nationality was crafted in a manner that defined and adopted individuals in a manner most conducive to its self-interest. Will Hanley and İbrahim Serbestoğlu's analyses of the law's justifications and genealogy, as well as Mr. Schvamonian's early commentary on its 1906 translation for the US government, all make a convincing case for the law being, in large part, a measure to prevent further abuse of capitulatory benefits by those Ottomans who had taken on the status of foreigners without relinquishing their natural-born citizen benefits (United States Secretary of State 1906; Serbestoğlu 2011; Hanley 2016), a practice that had adverse legal and economic consequences for the Ottoman state. According to the estimates of the American ambassador, in Istanbul alone, there were already 50,000 Ottomans under foreign protection in 1860 (Serbestoğlu 2011, 204). Foreign interests that perpetuated Ottomans becoming foreigners while remaining resident in the territories made it nearly impossible for the government to tax and conscript or subject a growing number of

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individuals to Ottoman law. The status quo prevented the Ottomans from being the masters of their own House (of Osman).

The 1869 Nationality Law promised to ameliorate the Ottoman government's weakness with respect to its ability to enforce its laws by reinforcing its jurisdiction within the territories, first, as previously mentioned, by ejecting natural-born Ottomans who took up alternate nationalities without permission. A penalty that was decided as early as 1851 but unsuccessfully enforced, that is, prior to the passing of the nationality law, attempted to deterritorialize those taking up foreign nationality without permission to leave the dominions indefinitely and to dispossess them of their properties within three months (Serbestoğlu 2011). The latter policy was revisited and formalized by the Council of State in 1893, in tandem with an increase in the number of Armenians who departed from Ottoman lands (Serbestoğlu 2011, 208). Coinciding as they did with what has been termed the Hamidian massacres, many Armenians who departed after the mid-1890s left in fear for life and property. This was evident upon arrival in their prospective host countries. Concerns did not always fall on sympathetic ears, however. As the USA began to tighten immigration and deny entry to those who could be perceived as disabled from fear them becoming a public charge or degrading the national stock, a Donabet Mousekian was denied entry by the authorities in 1905 for feminism, despite his pleas that, compared to him returning to the Ottoman lands he had departed, "it would be much better that you kill me" (Baynton 2005, 37). Certainly, becoming an Ottoman was at times easier than being an Ottoman. The Ottoman migration regime accommodated incoming members more generously than the outgoing. The formulation of its law makes it evident that the state sought to expand rather than contract the citizenry that it would enforce jurisdiction over and hold accountable.

Conclusion

The 19th-century moment that gave rise to the proliferation of states' compulsion to legally distinguish between their nationals and foreigners also prompted them to put the law at their service in a manner that would allow them to maximize the extraction of resources and revenue from as many individuals as possible. Divergences among these laws can be explained by varying interests. Among the Great Powers, Ottoman law most closely resembled the French in how nationals were laid claim to—*jus sanguinis* complemented by elements of *jus soli*—thus more inclusive than those who strictly enforced *jus sanguinis* for membership. In terms of dependent citizenship and immigration, it more closely resembled some of the decolonizing new republics of the Americas and, in small part, Japan, with respect to its sole articulated exception to otherwise unmentioned dependent citizenship. The law legislating more precisely on the (semi)international standard would have carried the potential of denationalizing members of the domestic constituency, which would have challenged Ottoman jurisdiction within its territories. Expelling Ottomans who took up alternate allegiances and protections, and encouraging nationalization of foreigners, on the other hand, had the opposite effect. Otherwise, the Ottoman state did not encourage emigration and was open to immigration. Though it took up welfare responsibilities for the citizenry and experienced a fiscal downturn in the 19th century, similar to others, such stresses did not entail encouraging the departure of natural-born members in the Ottoman case. Though many Ottomans did depart on account of poverty, persecution, and in search of opportunities elsewhere, the government's practice did not demonstrate similarities with the British in its readiness to actively eject its own members and prohibit the landing of undesirable immigrants. This is evident in the latter approach being coupled with putting the responsibility of proving nationality on the individual. Contrary to this, the Ottoman government put the responsibility of proving being a foreigner on the individual.

Article 9 of the 1869 Nationality Law asserted that the state assumed the Ottoman nationality of each and every individual living within the territories; they had to prove they were foreign. This was the crux of the Ottoman Nationality Law and its primary concern (United States Secretary of State

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1906). Nationals could be conscripted and taxed and, most importantly, they were within Ottoman jurisdiction. Given its vulnerabilities, the Ottoman state simply could not afford the flexibility of being selective in its articulations of who would be included or excluded from the legal spheres of Ottoman national belonging. Accordingly, everyone was either an actual or a potential Ottoman. Those not born as such could become Ottomans after five years of residence, at the most, regardless of race, creed, ability, or potential economic (in)dependence. This is not to say that Ottoman lands and the domestic circumstances were equally hospitable to all. Only, there were no articulated exclusions in how a legal Ottoman was formulated in the 1869 law on nationality that would have made this identity an exclusive one benefiting one particular identity group within the domestic constituency more than any other. As such, the process of Ottoman territorialization does not present an anomaly when compared to other states undertaking the same venture at the same historical moment, and thus does not warrant the utilization of a different vocabulary than what is employed in evaluating other, especially dominant Great Power, legalities that have often been the yardstick by which Ottoman rational modernity is measured.

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Notes

1 See, e.g., Deringil (1998).
2 The code was supplemented by additional measures, for example, in 1832, 1833, 1849, 1853, 1860, 1867, and 1896.
3 For the principle of reciprocity, see Art. 23 of the Hungarian Nationality Law.
4 Will Hanley's "What Ottoman Nationality Was and Was Not" (2016) provides an overview of the existing literature on the law's various interpretations.
5 This was also the case for later legislation, such as the 1876 Ottoman Constitution.
6 See, among others, Provence (2017, 213) and Banko (2018).
7 For more on immigration policy with respect to this decree, see, e.g., Karpat (1985a), Kale (2014), and Fratantuono (2019).
8 In the case of referring to belonging in geographical territories, the *-lı* suffix is translated as "from."
9 See, e.g., Meyer (2007), Freitag (2020), Can (2020).
10 1873 Proclamation of the Great Council of State, which was the first legislation that addressed Japanese nationality, did not articulate conditions for expatriation, for example. See Sik (1990).
11 According to Art. 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 (1906, 178).
12 For more on masculine citizenship, see Levine-Clark (2015).
13 See, e.g., Özbek (2005, 2008).
14 Panama's law did not articulate how a woman could be rehabilitated to the nation if she had lost her natural-born status due to the dependent citizenship imposed on her by her husband's state.
15 Paraguay was especially liberal with its policies toward 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).
16 These marital institutions were abolished in the aftermath of World War II, in 1947, along with unequal inheritance rights for offspring. See Kim (1992, 2) and Befu (2004, 34).
17 On the association of a Muslim bias with Art. 4, see Cardahi (1937).

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18 Tax exemptions for school, stipends, and temporary reliefs were not considered public charges.
19 Exceptions were the second, third, and sixth conditions stipulated in Art. 8.
20 Undesirables are further specified in Art. 3 of the same law.
21 See, e.g., Gualtieri (2004), Hyland. (2011, 2018), Khater (2005, 2007), and Fahrentold (2013). Kemal Karpat (1985b) has also written on Ottomans in America.
22 See, especially, Khater (2007).
23 For an example of the latter, see Esenbel (1996).
24 See, e.g., Dimitriades (2018), Fuhrmann (2009, 2010, 2019), Rosenthal (1980).
25 See, e.g., Blumi (2013), Philips Cohen (2014), Hamed-Troyansky (2017), Maksudyan (2010), Meyer (2014), Reynolds (2011), Freitag (2020), Can (2020), and Zarcone and Zarinebaf (1993).
26 See, e.g., Bonakdarian (1995), Hanioğlu (1995), Kaynar (2012), Keddie (1983), Shissler (2008), and Taglia (2015).

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