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Lâle Can

THE PROTECTION QUESTION: CENTRAL ASIANS AND EXTRATERRITORIALITY IN THE LATE OTTOMAN EMPIRE

Abstract
This article examines the impact of the Ottoman Empire's battle against legal imperialism on the status of Central Asians in its domains, specifically after the promulgation of a nationality law in 1869 that classified them as foreigners. It traces how the threat of Muslim colonial subjects attaining European consular protections led to the emergence of a "Central Asian protection question": whether Afghans, Bukharans, and Chinese Muslims had legitimate claims to European legal nationality and, by extension, capitulatory privileges. Through a number of case studies, the article shows how the Ottoman Foreign Ministry fused international legal norms and pan-Islamic claims to arrive at the position that Central Asians from informally colonized lands were not "real" subjects of European empires, and that they were under the exclusive protection of the caliphate. This strategy, I argue, undermined the creation of an Ottoman citizenship boundary and opened up a complex field of inter- and intraimperial contestation about who was a foreigner. In contrast to positive associations with legal pluralism in this period, Central Asian migrants and pilgrims who were protected by the caliph but not recognized as Ottomans or European subjects found that they could not benefit from practices such as forum shopping and affiliation switching. And while the notion of foreignness remained subject to multiple and conflicting interpretations across the empire, I argue that nationality as a legal category was incontrovertibly becoming a defining feature of these foreign Muslims' rights and status in the sultan's domains.

Keywords: Central Asian history; extraterritoriality; migration/pilgrimage; Ottoman history; pan-Islam

In a popular song by the late Turkish folk and pop singer Barış Manço, an imaginary interlocutor repeatedly asks him, "my countryman, what is your country?" (*hemşerim, memleket nire?*), to which he responds, "this world is my country" (*bu dünya benim memleket*). This answer only provokes a more insistent framing of the question—"No, you didn't understand; what is your *real* country?"—which in turn leads Manço to despair of people making "long speeches about brotherhood and equality" whilst preoccupied with difference.[1] Listening to the song as a historian of the late Ottoman Empire, the lyrics are oddly evocative of tensions between the central government's promotion of pan-Islamic politics and its increasing preoccupation with nationality in the last

Lâle Can is an Assistant Professor in the Department of History, The City College of New York, City University of New York, New York, N.Y.; e-mail: lcan@ccny.cuny.edu

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decades of the empire's existence. Despite strident rhetoric about Islamic unity, the question of where Muslims were from—specifically their legal nationality and the state to which they belonged—became increasingly imbricated in relationships of political and economic power and questions of jurisdictional sovereignty.[2] As a consequence of both colonial expansion and the 1869 Ottoman Nationality Law, nationality began to determine the rights and protections to which foreign Muslims (i.e., those from beyond Ottoman territory) were entitled, vis-à-vis both the sultan-caliph and European sovereigns. This was as true for pilgrims on the hajj—a ritual associated with the leveling of differences among the *umma*—as it was for migrants and merchants.[3] But if Ottoman legitimacy in the late 19th century rested on claims to universal Islamic authority,[4] why did the nationality of Muslims in the sultan's domains matter? The story of the Bukharan migrant Celal bin Hekim sheds light on this question, as well as the broader themes of protection and extraterritoriality that are the focus of this article.

Sometime in the early 1860s, Celal bin Hekim left the Amirate of Bukhara and traveled across a vast stretch of the fabled Silk Road before settling in the Red Sea port city of Jeddah. Over the course of the next three decades he worked as a *bedelci*, an agent for people who paid to avoid (or were exempt from) military service. The job involved large outlays of money, extensive travel, and strong local and regional connections. During his residence in the empire, Celal "benefited from all the rights of Ottoman subjecthood"—making it all the more galling for Ottoman authorities when, after getting into trouble with the law, he asserted that he was a Russian national and exempt from their jurisdiction. Unsure how to proceed, provincial officials forwarded the case to Istanbul, where the Foreign Ministry would decide whether this Bukharan living as an Ottoman had any valid legal basis for claiming Russian nationality.[5] To paraphrase the lyrics of Manço's song, Ottoman authorities seemed to be asking, "*hemşerim*, what is your real nationality (*asıl tabiiyet*)?" The answer had important implications: if he were an Ottoman, Celal would be subject to shariʿa law; if Russian, he would be exempt from detention or trial in the Hijaz and placed under tsarist jurisdiction. But what if he was a Bukharan subject? Were subjects of the amir—a Russian vassal—entitled to the same rights and protection as subjects of the tsar? According to legal advisors in the Ottoman Foreign Ministry, the answer was a firm no. Protectorates such as Bukhara, they countered, were semisovereign and their subjects were ineligible for European capitulatory privileges or protections.

Central Asian Muslims living in the empire had historically been subject to Ottoman law and enjoyed the rights of the sultan's subjects. However, the conquest of the region by non-Muslim powers in the 19th century changed this equation. To the consternation of the Ottoman central government, in the 1880s Britain and Russia started claiming jurisdiction over Afghans and Bukharans, often through the notion of "protection"—a term that could mean anything from consular patronage of travelers in need to the provision of legal immunity and commercial privileges (*imtiyazat*) that had historically been the purview of European Christians. Collectively referred to as the Capitulations, these sultanic grants dated to the early modern period and "provided non-Muslim foreigners with privileges of safe residence and passage, a variety of tax exemptions and low customs duties, and partial if not complete immunity from the jurisdiction of Ottoman courts."[6] Throughout the 19th century European diplomats worked to render these

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unilateral and theoretically revocable grants binding legal obligations, by incorporating them into bi- and multilateral treaties.[7] To encourage mercantile relationships and expand their spheres of influence, European consuls also began to grant letters of extraterritorial protection (*berat*) to thousands of Ottoman Christian protégés and, increasingly, to Muslim clients.[8] This form of protection marked a new phase in the expansion of extraterritoriality—what Turan Kayaoğlu terms the quintessential legal imperialism—and threatened to place Muslims such as Celal beyond the reach of Ottoman justice as well as to further compromise Ottoman sovereignty.[9]

An extensive body of scholarship has detailed the deleterious impact of the Capitulations on the late Ottoman Empire. In recent years this area of research has benefited from an infusion of new perspectives that shed light on how these imperialist instruments also created opportunities for people who were able to become European protégés or protected persons. Historians bridging imperial and legal history and working at multiple levels of analysis have explored how diverse actors in cosmopolitan cities and borderland settings exploited competition over foreign protection, legal jurisdiction, and spheres of sovereignty.[10] The growth of European consular courts, for example, made practices such as affiliation switching and forum shopping—when individuals within legally pluralist systems switched legal identities and forums in order to maximize benefits—increasingly common.[11] Yet for all of the individuals who achieved favorable results in the legally plural order, there were many others who faced uncertain outcomes and dead ends.[12] This was especially true among Central Asian migrants like Celal whom the Ottoman central government did not consider "real" colonial subjects with the same rights as British Indians or French Algerians.

As recent studies on intersections between mobility, sovereignty, and legal imperialism make clear, Ottoman engagement with the question of protection was part of a complex story unfolding worldwide.[13] However, the Ottoman version of this story had its own important plot twists that have not received adequate attention and that stemmed from its unique position as both sultanate and caliphate. Joining a small body of research on the empire's vexed position vis-à-vis Muslims from beyond its borders,[14] this article argues that the threat of expanding Russian and British jurisdiction prompted the emergence of a "protection question": whether Afghans, Bukharans, and Chinese Muslims in Ottoman lands had legitimate claims to Russian and British legal nationality and, by extension, capitulatory privileges. In contrast to the focus on identity, ethnic kinship, and loyalty that has informed studies of Ottoman–Central Asian relations,[15] this article follows Ottoman statesmen down alternate paths—namely, their engagement with international law (*hukuk-ı düvel*) and differentiated forms of colonial rule. By showing how the Ottoman government developed policies toward Asian peoples based on the type of polities from which they originated rather than their ethnicity, it challenges ahistorical assumptions about the role of Turkic kinship in Ottoman history. It also reveals new perspectives on the instrumentalization of the caliphate by examining how the Sublime Porte (the central government in Istanbul) fused international legal norms and novel pan-Islamic claims to deny foreign nationality rights to Muslim colonial subjects.[16] I argue that the assertion that Bukharans and other Central Asians were protected by the sultan-caliph had little to do with Muslim universalism or ethnic kinship; rather, it was primarily a strategy to curtail the expansion of consular protections to people taking on "borrowed nationalities."[17] The Ottomans did not have the power to dismantle the

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system of extraterritoriality, but they could limit its reach by staking a claim to Central Asians within the empire.

In telling this multilayered story, the article first considers Celal's failed attempt to become a Russian national within the context of late 19th-century legal and political developments at the local and transregional level. In the next section, I draw on case studies involving Afghans who tried to become British nationals, in order to trace how the Porte arrived at the position that "protected people" (*mahmi*) were under the exclusive protection of the caliphate (*taht-ı himaye-yi halife-i islamiye*). This entailed distinguishing between "real" (*asıl, sahih*) European subjects and informally colonized peoples. This latter category comprised a vast group of Muslims from informally colonized lands such as Bukhara, Afghanistan, and Chinese Turkestan (today's Xinjiang Uyghur Autonomous Region). While this group defies contemporary area studies models, I refer to those it includes as "Central Asians" both for simplicity and based on how the Ottoman Foreign Ministry categorized people in cases involving protection. In the last section, I examine the challenges the central government faced in formulating policies that provincial authorities would comply with (particularly in the Hijaz), and that European powers would accept as law.

In addition to highlighting the range of views within the empire regarding who was a foreign Muslim, this article suggests that the Porte was in a tenuous position due to its pursuit of two parallel but somewhat incongruous goals: seeking legitimacy through the caliphate—an institution that in theory did not recognize divisions among the *umma*—while trying to legally differentiate among the very same community of global Muslims. Although my focus is on the latter objective, it is clear that the tensions inherent in these endeavors ended up limiting both the government's and foreign Muslims' range of action. As the article demonstrates, the central government often was unable to fully implement reforms designed to protect its sovereignty, and Central Asians who were denied both Ottoman and European legal nationality faced a narrowing of choices. Those who wanted to enjoy the rights of Ottomans (such as landholding) had to officially renounce their foreign nationality and become Ottoman subjects. Yet, given the reluctance of foreign powers such as Russia to relinquish subjects, attempts at Ottoman naturalization could result in a protracted state of liminality that paralleled the pilgrimage but was a product of larger geopolitical struggles.

BECOMING OTTOMAN, FOREIGN, AND PROTECTED

Like many 19th-century residents of Jeddah, Celal was originally from someplace else. During his three decades in the bustling hajj hub, the world around him had changed extensively, as had the status of Central Asians in the empire. In the 1860s and 1870s, Transoxiana, the Ferghana Valley, and the "six cities" (Altishahr)[18] of the Tarim Basin region were conquered by Russia and China. The amir of Bukhara and the khan of Khiva retained independence over their domestic affairs, but their territories became Russian protectorates, while Khoqand and its people were integrated into the new colony of Russian Turkestan. Farther east, the short-lived Amirate of Kashgar (1864–77), whose ruler Yaqub Beg had successfully courted Ottoman support, was reconquered by Qing China (which did not have diplomatic relations with the Ottomans).[19] In Afghanistan, the British took control of Kabul's foreign affairs after the Second Anglo–Afghan War

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(1878–80) and established a protected state.[20] This expansion of colonial power also inaugurated a revolution in mobility, and thousands of Central Asians began arriving in the Hijaz on steamships each hajj season. Unlike when he had first arrived, Celal's *hemşer* were everywhere, with many staying on long after completing the pilgrimage.

This colonial expansion and concomitant revolution in mobility coincided with an extensive period of Ottoman political and administrative "restructuring" known as the Tanzimat (1839–76), during which the Porte sought to secure territorial integrity against nationalist movements and European intervention. Two major reform decrees, the 1839 Rescript of the Rose Chamber and the 1856 Reform Edict, outlined centralizing measures and promised all Ottoman subjects equal rights and protections under the law. The reforms undermined centuries of legal distinctions between Muslim subjects and Christians and Jews, and introduced the legal category "Ottoman" that included subjects of all faiths. The reforms also sought to cultivate an imperial identity among the empire's heterogeneous population, institute more direct forms of control over the citizenry, and curb the proliferation of *berat*s among Ottoman Christians by granting them equal rights and opportunities. The 1839 and 1856 decrees were soon supplemented by legislation that formalized naturalization procedures. According to the 1869 Ottoman Nationality Law (Tabiiyet-i Osmaniye Kanunnamesi), any person born to an Ottoman father was a subject, but one could also become an Ottoman through residence. Those born in the empire to foreign parents could become naturalized within three years of reaching an unspecified age of majority (Article 2), and foreign nationals could become naturalized after fulfilling a five-year residency requirement (Article 3). The fourth article allowed for Ottoman nationality to be granted to exceptional individuals who had not fulfilled the terms listed in Articles 2 and 3, and were deemed "worthy of special permission." The final, ninth article stated that each individual living in the empire was considered an Ottoman and subject to Ottoman law, and that anyone claiming to be a foreign national had to provide evidence to this effect.[21]

As Will Hanley has argued, the law built on an 1863 regulation that forced protégés to choose to naturalize as foreign subjects or submit to Ottoman territorial jurisdiction. When many protégés responded by naturalizing with a foreign state *and* retaining their Ottoman residency and nationality, the Porte sought to resolve this by enacting stricter laws.[22] Per the 1869 law, all non-Ottomans—Muslim and non-Muslim alike—were excluded from the nascent citizenry and legally categorized as foreigners (*ecanib,* sing. *ecnebi*). The word *ecnebi*'s historical association with Christians, however, led Ottoman officials to distinguish non-Ottoman Muslims and refer to them as *ecanib-i müslimin.*[23] "Foreign Muslim" became an unofficial but capacious subcategory that included migrants and travelers from colonies, protectorates, and European spheres or zones of influence in Asia and Africa, as well as pilgrims and long-term pious residents of the Holy Cities (*mücavirin*).

While the Tanzimat reforms did not have an immediate impact on Celal's everyday life, more consistent implementation of an 1867 law prohibiting foreign Muslims from acquiring property in the Hijaz may have given him incentive to become legally naturalized. Since there was no cadastral survey, taxation, or conscription in the Hijaz, there were few drawbacks to becoming an Ottoman subject.[24] And Celal was cognizant that doing so would not foreclose the possibility of later becoming naturalized as the subject of a foreign power. Many Muslim migrants from North Africa, Bukhara, and Afghanistan whom

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he did business with or met while traveling through Alexandria and Istanbul had managed to secure French, Russian, or British nationality or protégé status and were now enjoying the attendant legal and financial advantages. In the Hijaz, some of these people had previously become Ottomans in order to buy land. Sensing that he might one day benefit from holding a Russian passport, Celal decided to register at the Russian Consulate-General in Istanbul during a trip to the city in 1890. When he was detained the next year for a legal matter involving a slave (*bir esir köle maddesi*), his decision seemed prescient. The recently established Russian consulate in Jeddah was eager to support his assertion of immunity from Ottoman jurisdiction and to protest his detention. What Celal did not anticipate, however, was that a decade of similar attempts had prompted the Ottoman Foreign Ministry to formulate policies regarding the rights of Bukharans and Afghans to Russian and British protection that would prevent him from evading Ottoman justice.

When the Hijaz governor learned of Celal's assertion, he wrote to Istanbul for direction on how to proceed. His query was forwarded to the Ministry of Foreign Affairs, which quickly rejected the proof furnished by the Russian consulate to substantiate its claim of jurisdiction: a copy of an 1890 certificate stating that the fifty-seven-year-old, hazel-eyed Bukharan of average height was born in Russia.[25] In their communications with the Hijaz, the contempt of the Ottoman authorities in Istanbul nearly leapt off the page. They pointed out that not only had Celal left Bukhara long before it became a protectorate, but he had also happily taken advantage of being an Ottoman for thirty years and benefited from all the rights this entailed. Adding that even if he were originally from parts of Bukhara that had been formally annexed to Russia—which would have rendered him a colonial subject rather than a *mahmi*—he had no valid claim to Russian nationality, since he had left when the amirate was still completely independent. Celal's scheme had failed.

In a subsequent note to the Russian consul, the Ottoman Foreign Ministry politely asked him to refrain from further interference since the case was outside his purview. While it is not clear whether the consul acquiesced, he and his successors continued to actively offer their services to people like Celal well into the 1910s. Similar to Great Britain, imperial Russia was trying to foster loyalty among colonial Muslim subjects and to establish a foothold in the Hijaz. That Russian authorities differentiated among colonial subjects within Russia's imperial territories—and would have been loath to recognize Bukharans as Russian nationals in the metropole—did not deter them from ignoring these differences when the subjects in question were in Ottoman lands.[26] As Eileen Kane has argued, the conferral of consular protection was part of a broader strategy of extending tsarist power along the pilgrimage routes and into Greater Syria and Hijaz, and exploiting hajj networks and patronage for political capital and legitimacy.[27] This was not always a cynical move, and many Russian subjects abroad and within the empire (in the case of heirs to the estates of relatives who died while traveling or on the hajj) benefited from tsarist patronage. Many so-called pauper pilgrims, for example, relied on this form of protection to complete what was still a long, costly, and dangerous journey.[28] But as Ottoman statesmen feared, tsarist benevolence was primarily strategic; mobile Muslim migrants and pilgrims constituted a promising path for Russia to project authority into Arabia, which constituted a holy landscape for the empire's large population of Muslim subjects. To borrow a term from Lauren Benton's

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work on the Atlantic world, ongoing consular support of claims to Russian nationality and the conferral of protection was a means of casting "shadows of sovereignty" into lands beyond Russia's territorial borders.[29]

REAL NATIONALS, LEGAL FICTIONS, AND THE PROTECTION QUESTION

The emergence of an international legal order privileging the laws of "civilized" nations (over those of "barbaric" and "quasicivilized" ones) pressed authorities in polities as varied as China, Japan, and French Tunisia to find ways to limit the power of foreign consuls and extraterritorial courts and to rein in the privileges of European protégés.[30] Just as the French balked at the idea of recognizing colonial Algerian subjects as French nationals when they crossed the border into Tunisia, Ottoman officials increasingly found themselves exempting foreign Muslims from Ottoman jurisdiction, even though many of them originated from colonies where they would be subject to shariʿa law. The Ottoman Foreign Ministry was keenly aware that Central Asians did not have recourse to the types of rights and protections in St. Petersburg and London that they had started seeking in Ottoman Iraq and Arabia, and that it would have been unimaginable for Russian authorities to intervene on Celal's behalf in Bukhara. Thus, like contemporary authorities in French Tunisia and Morocco, they sought to curtail the expansion of extraterritorial privileges to individuals with borrowed nationalities and to end the abuse of treaties that were never meant to protect Muslims. Faced with attacks on jurisdictional sovereignty throughout the empire, and still recovering from the disastrous 1877–78 Russo-Ottoman War (which ended in major Ottoman territorial losses in the Balkans), the Foreign Ministry embraced the fiction that protectorates such as Bukhara and Afghanistan were autonomous or semisovereign, and countered that even if subjects of these polities were not Ottoman nationals, they were still protected by the caliphate.

The path to this decision is outlined in an 1886 case involving an Afghan migrant in Baghdad, who, after thirty-five years as an Ottoman, had tried to become a British national. A few years prior to Celal's unsuccessful experiment with affiliation switching, Hacı Habib had tried something similar in Ottoman Iraq, a province where the British held sway over an extensive system of extraterritorial courts that served mostly Indian pilgrims to Shiʿi shrines and the diasporic communities that had formed in the vicinity of these holy sites. Britain's readiness to extend jurisdiction to another group of Muslims—the large community of Afghans in this frontier province—was a worrisome development for the Porte, and prompted it to try to definitively quash this trend.[31] The task of figuring out how was given to legal advisors in the Bureau of Legal Counsel (Hukuk Müşavirliği İstişare Odası), an office within the Foreign Ministry staffed by senior legal experts who advised the government on matters related to international law. From its inception circa 1883, it considered a host of complex issues related to extraterritoriality and issued legal opinions that informed policymaking in other organs of government such as the Council of State.[32]

After researching customary law and dominant international legal norms, Ottoman legal advisors maintained that Afghans who had left their country prior to its "annexation" could not claim British nationality ex post facto, and that these migrants preserved their

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"original" or "real" nationality (*muhaciret halinde ahali-i merkume tabiiyet-i asliyelerini muhafaza ederler*). In formulating this opinion, they drew on a landmark 1881 Foreign Ministry decision that stated explicitly that "Bukharan and Afghan migrants living and traveling in the empire cannot be considered Russian or British subjects if they are not from *nevahi* [administrative units] annexed to Russian Turkestan or India," and that the only protection to which these peoples were entitled was that of the Ottoman state (*Devlet-i Aliyye himayesi tahtında bulunmaları lazım gelir*).[33] While this ostensibly settled the case in question, the bureau issued a more general opinion regarding Muslims who had left their countries long before annexation and settled in the Ottoman Empire. After years of residence as de facto Ottomans, these migrants were subject to Article 9 of the 1869 Ottoman Nationality Law, and, as such, had "absolutely no right to the protection of a foreign state." What this meant for Hacı Habib was that he could not claim British protection, for he had left Afghanistan when it was completely independent and established permanent residence in Iraq.[34]

The bureau next considered whether foreign Muslims who were *not* Ottomans (naturalized, or in accordance with Article 9) and who "originated from states and tribes that, while under Russian and British protection, more or less retained their independence and autonomy," could claim the nationality or protection of either empire.[35] Not surprisingly, the answer was again no. Engaging contemporary international law, the bureau held that protectorates were semiautonomous states, and that their subjects were *mahmi*. All existing treaties and capitulatory privileges applied exclusively to "real" European nationals, and not to these protected peoples, who, as the bureau noted, were not to be confused with European protégés.[36] The Hukuk Müşavirliği held that since the 1869 nationality law had started to diminish the numbers of Christian protégés (this may have been a hopeful assessment), the Porte would not tolerate the rise of a new innovation in the form of Muslims claiming protégé status.

Hacı Habib, like Celal, got nowhere with his claim. The Foreign Ministry would not allow Habib to switch roles and perform as an Englishman on the Ottoman stage. But he had prompted the articulation of a major Ottoman legal decision: Afghans and Bukharans (and later subjects of Chinese Turkestan) were prohibited from claiming rights in the Ottoman Empire that they could not enjoy at home—whether "home" was an amirate they had left prior to its annexation, or an imperial protectorate or territory where the local population did not have the rights of imperial citizens. The idea that protectorates were independent—which the French employed to maintain their rule in Tunisia—served as the scaffolding for the Porte's position that Bukharans and Afghans were not entitled to the same rights as Russian and British nationals, as well as colonial subjects of Russian Turkestan and British India. While it would prove difficult to enforce, this differentiation informed Ottoman policy through World War I. But despite the nomenclature employed by the Ottoman government, "the protected" were not so protected. First the 1869 law had categorized them as foreigners and excluded them from enjoying certain rights that had previously been customary among Sunni Muslims, and now the Porte did not recognize them as nationals of any state other than the protectorates from which they originated. However, these polities—Afghanistan, Bukhara, and Chinese Turkestan—had no power to independently conduct foreign policy or negotiate international agreements.[37] And while the bureau was adamant that Habib had no rights as a foreign national, it did not elaborate what it meant to be a foreign Muslim "under the exclusive protection of

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the Ottoman caliphate" or how this argument fit into the framework of international law.

Despite the intended finality of the decision, Russian and British consuls and their subjects continued to press the issue of extraterritoriality. Like the Ottomans, the Russian government also tried (unsuccessfully) to establish a precedent that would put an end to the continual diplomatic contestation arising from individual incidents. For example, in 1895—and again in 1911—the Russian ambassador to Istanbul notified the Ottoman Foreign Ministry that the Bukharan amir wanted his subjects to enjoy Russian protection abroad, and that henceforth Bukharans would "enjoy the protection of Russian consuls" and "the protection assured by international law," that is, the Capitulations.[38] The note presented the issue as a fait accompli and did not provide an explanation as to why the amir's purported request should entail the extension of capitulatory rights to all Bukharans in the empire. Was there a valid legal basis for the extension of these privileges? Had other great powers (*düvel-i muazzama*) been notified?

The Foreign Ministry posed these questions to diplomats in St. Petersburg, Paris, Berlin, London, Rome, and Vienna in a series of missives in 1895. The responses made clear that Russia had notified only the Porte, reaffirming its concerns about the dangers of budging on the question of Bukharans' rights to foreign protection. While the Foreign Ministry did not oppose the provisioning of financial or logistical consular patronage to pilgrims and travelers in need, and was generally silent when Russian consuls paid for pilgrims' steamship tickets back home, it did not want to establish any legal precedent of allowing Muslim colonial subjects to benefit from the Capitulations. Ultimately, the Foreign Ministry concluded that Bukharans were not "real subjects" (*veritable sujets*), reaffirming the Hukuk Müşavirliği's differentiation between real subjects and *mahmi*. The investigation also confirmed that the "protection question"—as the archival dossier was labeled—had crystallized as a major issue.

However, as evidenced by Russia's second attempt in 1911 to formalize the tsar's protection of Bukharans, the Porte was not able to put the question to rest. It is also worth noting that the Ottoman Foreign Ministry explicitly expressed its lack of geopolitical interest in Central Asia and made clear that its assertion of caliphal protection was only in response to Russia's claims. As one statesman bluntly put it in 1895, the region had never been central to Ottoman interests or under the empire's sphere of influence.[39] And, in his correspondence to Osman Nejami Pasha (a diplomat posted in Berlin) in 1911, the legal advisor Hakkı Pasha expressed his frustration with Russia's continuing attempts to expand its power through Bukharans. In a pointed comment about international law that also captured how some Ottoman statesmen regarded these colonial subjects, he wrote: "Great Britain has many subjects in Africa—are the Germans to accept that the negroes should enjoy the prerogatives of British subjects in Germany?"[40]

THE PROTECTION QUESTION IN THE HIJAZ

Not all Ottoman government officials thought like Hakkı Pasha. This was especially true in the Hijaz, where resolution of the protection question was particularly fraught. Home to the holy cities of Mecca and Medina, the province had been key to legitimizing the government's Islamic credentials since the early 16th century. During the Hamidian period (1876–1909), it became the lynchpin of the sultan's claims to a diffuse form

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of universal religio-political and "spiritual" authority.[41] But the sultan-caliph's actual power in the province was tenuous and sovereignty was shared with the *sharīf* of Mecca. As Michael C. Low has shown, the Porte had good reason to fear foreign interventions. Britain's continual insistence that the Porte honor the Capitulations in Mecca and Medina and schemes to prop up the *sharīf* as an alternate sovereign, were fundamentally at odds with its pledges to guarantee Ottoman sovereignty at the 1856 Treaty of Paris.[42] With the threat of the Capitulations reaching the gates of Mecca and Medina and fears that wealthy foreigners could act as a fifth column on behalf of European colonial powers, the Porte began to take steps to prevent non-Ottoman subjects from amassing more power.[43]

One of the earliest fields in which the government sought to limit the rights of non-Ottomans was property holding. As Selim Deringil has argued, Ottoman statesmen began to voice concerns about foreign Muslims' accumulation of property in the Hijaz in the 1860s.[44] As early as 1861, the Council of Ministers in Istanbul warned the amir of Mecca and the governor of Jeddah that long-term pious residents of the Holy Cities (*mücavirin*) should not be permitted foreign protection and that Javanese and Indian Muslims should only be allowed to settle in the cities if they agreed to abide by shariʿa law.[45] These warnings took the shape of legislation in 1867, when the Porte prohibited foreigners from buying immoveable property in the Hijaz. The Law on the Rights of Foreign Citizens to Own Land (Tebaa-yı Ecnebiyenin Emlake Mutasarrıf Olmaları Hakkında Kanun) had actually formalized the rights of foreigners to purchase real estate throughout the empire, but made an exception for the Hijaz due to sensitivities about foreign intervention.[46]

Over the next three decades, the central government sent a series of decrees directing authorities in Mecca, Medina, and Jeddah to enforce prohibitions on land sales and regulations on naturalization. However, these efforts met with continual resistance. Provincial authorities contended that honorable men—some who had been treated as Ottoman subjects for centuries, and many others who were deeply entangled in the religious and economic life of Mecca and Medina—were not foreigners.[47] The "state" was not united in the view that Bukharans and Chinese Muslims could become "stalking horses for European political subversion and extraterritorial control."[48] As a result, Central Asians continued to purchase and endow land with the aid of local judges and officials, who allowed them to act through guarantors and legal proxies who were prominent members of local communities. To the Porte's dismay, between 1877 and 1879 the Medina commander approved the sale of twenty-four houses and one mill, and Meccan officials authorized the sale of ninety houses and 290 parcels of land to foreigners.[49] An ensuing investigation placed the blame on shariʿa court judges and other officials who derived income from fees associated with transferring and endowing real estate. The Council of State issued a strong statement reiterating the need for the prohibition and calling for the punishment of officials who flouted the law. They did not, however, order the confiscation of the illegally acquired properties because, as they put it, doing so would not "suit the glory of the exalted caliphate." Instead, the council asked for a register of all of the properties in question and recommended further deliberation on the proper course of action. There is no evidence that they were ever seized.[50] The council's admission is an important example of how the need to maintain Islamic legitimacy hampered effective enforcement of the law.

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As Will Hanley observes in the Egyptian context, legal nationality needed time to take root. Imperial statesmen and bureaucrats had difficulty imposing their view of what it meant to be an Ottoman or a foreigner, and in replacing local (*mahalli*, *yerli*) forms of belonging with imperial or national ones.[51] Where local authorities saw pious Muslims engaged in everyday life, the Porte saw potential chinks in their armor against the Capitulations. Moreover, the Porte's position that some foreign Muslims were exclusively protected by the caliphate—with no clear explication of what this meant in legal terms—may have reinforced the notion that being a Sunni Muslim was still integral to membership in the Ottoman Empire. However the Porte chose to classify Muslims from outside the empire, many Ottoman subjects still considered Central Asians locals, and imperial legislation and legal decisions emanating from Istanbul had limited success in convincing provincial authorities that they should be treated otherwise.

The prohibition on land sales also proved difficult to implement due to the historical role that foreign Muslims played in building housing and renting it to their compatriots. If Central Asians could no longer buy land or property, who was going to meet the housing needs of the thousands of people traveling to Arabia each year? This was the question the Hijaz Provincial Assembly posed to Istanbul in early 1882 when a wealthy Kashgari named Abdurresul Efendi was prevented from building a philanthropic foundation in Medina that would provide lodging to pilgrims.[52] The 1867 law had banned sales of land and immoveable property not only for commercial or private use but also for Islamic endowments. In correspondence with Istanbul, the members of the assembly proposed an interim measure that would permit Kashgaris to buy and sell land acquired within the last two years. More importantly, they reiterated that subjects of a Muslim sovereign should not be deprived of rights to landholding. Although Kashgar was no longer ruled by Yaqub Beg (r. 1865–77)—who had recognized the sultan as his sovereign, and minted coins and read the Friday sermon in his name—they contended that people from the city and its environs did not have relations with or citizenship in "a foreign state."[53] This suggests that they equated foreign rule primarily with Christian Europe or, more likely, that they thought Kashgar was still under Muslim rule.

Local attempts at negotiation with the central government largely fell on deaf ears. Instead of complying with the spirit of the law, officials in the Hijaz continued to sell land, but added window dressing that they believed would nominally satisfy the Porte's demands. This is apparent in a 1902 case involving irregular naturalization attempts and involvement of local agents, which came to the attention of the Interior Ministry via the Medina garrison commander. Two Bukharans (Hoca Abdülhadi and Molla Ustan) had purchased land in Mecca worth 4,150 lira and then endowed it as waqf, acting on behalf of the alleged shaykh al-Islam of Bukhara, Mir Bedreddin bin Sadreddin. The act triggered concern that highly placed foreign Muslims such as Mir Bedreddin could evade the law, leading to an investigation that pointed to a cover-up.[54] The Hijaz governor said the shaykh had been given Ottoman identity papers (*tezkire-i osmaniye*) on 17 April 1901, but there was no record of his naturalization in the Citizenship Affairs Bureau. The Interior Ministry next inquired on what basis the shaykh had been given the said papers. This time, Hijaz authorities responded that Mir Bedreddin was a *mücavir*, and that his request for a *tezkire* had been approved "in the recognized way"—that is, through the provision of an oath and guarantee by an honorable member of the community (the Bukharan pilgrimage leader Şeyh Ahmed).[55] The Hijaz governor's

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office also claimed they had no knowledge of Mir Bedreddin's position—which given Şeyh Ahmed's involvement seemed unlikely—and that he had since left Mecca and died. As the inquiry progressed, the details became even more confusing. It seemed that Mir Bedreddin had never been naturalized and that his agents had obtained the identity papers of another Bukharan with the same name and then used them to purchase the land. Every reported method of legalizing the sale had been unlawful. But given the Porte's sensitivity to its prestige, it did not risk compromising the "glory of the caliphate" by annulling the transaction. Given that Mir Bedreddin had died, it was fortuitous that he had endowed the land, since the Russian consul was less likely to demand the right to adjudicate the shaykh's estate.

The central problem with land sales to Bukharans was that European authorities often did not recognize the naturalization of their subjects, particularly when there were large estates involved. Even when Ottoman authorities provided proof of Ottoman nationality, Russian authorities challenged the legality of what we might term Central Asian citizenship or nationality conversions. As Eric Lohr and James H. Meyer have shown, tsarist officials insisted that their subjects had to first renounce their citizenship in Russia before obtaining Ottoman nationality. This meant that people who decided to naturalize after arriving in the sultan's domains had to travel to distant Russian cities and file expensive paperwork in order to "legally" become Ottomans—a costly and laborious enterprise that few were likely to undertake.[56] Effectively, these would-be Ottomans were unable to break free of the bonds of their Russian subjecthood. This was true even in death, and especially if they had amassed property in the Ottoman Empire.[57] While a full discussion of Russia's insistence on preserving subjects falls outside the scope of this article, the salient point is that Russian reluctance to accept Ottoman naturalization rendered the Porte increasingly cautious about allowing Central Asians to buy land and to obtain Ottoman identity papers without prior approval from Russian consular officials.

The insistence of European consuls in Jeddah (and beyond) on the right to regulate the legal affairs of their subjects was not only about protecting the interests of heirs of deceased men and women under their jurisdiction. In the 1900s, the British and the Russians also tried to extend their protection to Muslims from Chinese Turkestan, making clear that the zeal to protect the dead was motivated in no small part by broader imperial ambitions. In 1908, for example, the Russian consul in Jeddah claimed the authority to settle the affairs of a deceased pilgrim from Kashgar.[58] In a letter to Istanbul, the Hijaz provincial commander Mehmed Kazım Pasha explained that when the man died, local authorities followed customary Ottoman practices from "days of old" and absorbed his estate into the treasury. But the Russian consul objected, claiming that the pilgrim was under Russian protection (*taht-ı himaye*).[59] In a clear-cut yet misguided instance of "speaking shariʿa" to Ottoman authorities,[60] he berated them for acting against Islamic law and insinuated that the heirs of the deceased man included orphaned children—perhaps thinking he was bolstering his argument by emphasizing the special status of orphans in Islamic law. "It might be the case that when their father died," he wrote, "far from home (*diyar-ı gurbet*) and in the path of God . . . orphans back home were suffering and in need."[61]

That might very well have been the case, but Mehmed Kazim Pasha was not moved. Nor were the legal advisors in Istanbul, who determined that the Russian consulate "had no right to seize the estate in order to send it to the heirs of the Chinese hajji who

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died in Jeddah," and "no authority to intervene in the affairs of Kashgaris or Afghans." They advised the government to find another way to regulate these types of estates so as not to invite continual foreign intervention. The pasha was directed to transfer such estates to the Porte in the future.[62] More importantly, the Hukuk Müşavirliği now argued that Muslims from China—like Afghans and Bukharans—were exclusively under the protection of the Ottoman caliphate. This endeavor to stake a claim to an "unprotected" population, however, left Muslims from Chinese Turkestan with no recourse to foreign consular support and no clear sense of what it meant to be under Ottoman protection. The Hukuk Müşavirliği had still not elaborated what caliphal protection meant in the legal and diplomatic sense, and in the framework of international law. This ambiguity may have been an intentional strategy for leaving the door open to a future articulation of the caliph's authority.

Many long-term residents of Mecca and Medina, it seemed, could not opt out of being foreign Muslims and become naturalized Ottoman subjects, leaving them stuck in a sort of legal limbo. This is clear in a 1913 incident during which the Medina garrison commander lamented that he had been waiting for a response from the Jeddah Russian consul for over a year about a Central Asian resident who wanted to become an Ottoman subject. The commander voiced his frustration that Russian consular officials did not recognize Ottoman naturalization procedures, and explained that, as a result, local Muslims were complaining about delayed real estate deals and housing problems. Their attempts at becoming Ottomans were blocked by the Porte's insistence that they furnish proof that Russia had relinquished them as subjects.[63] As in the 1882 case involving Abdurresul Efendi of Kashgar, the view from Medina was that Bukharans and other Central Asians who had resided in the empire since "days of old" were locals and should be permitted to buy land. The garrison commander cited the practice of allowing Tunisians to do so, contingent upon swearing oaths that they would not seek foreign protection in any future disputes, and that failure to abide by these oaths would result in confiscation of their property and immediate exile.[64] But his letter suggested that even these measures were unnecessary, and that resolving the matter was urgent for the local population, public improvements, and nothing less than the progress of the country.[65] The Porte, however, did not agree.

Later that year, the secretary to the minister of foreign affairs communicated to the Interior Ministry that certain pilgrims and *mücavirin* were trying to revert to their original nationality to claim foreign protections. He admonished his colleagues to enact strict precautions in granting Ottoman nationality in order to avoid "serious dangers."[66] The measures he prescribed, however, were not markedly different from procedures laid out in the 1867 regulations on foreigners' property rights, the 1869 Ottoman Nationality Law, or numerous legal opinions and decrees that had been issued since the 1880s. This was, in effect, old news. It was now the Foreign Ministry that lamented its situation. Authorities held that each country should be able to determine independently who could become a subject, and that the Ottomans had never recognized Russian procedural requirements in this regard. But the point was moot: tsarist consuls continued to intervene on behalf of Muslims they considered their subjects, and for over three decades the ministry had not been able to effectively challenge their claims.[67] With the possibility of another war with Russia on the horizon, the Council of State reiterated its concerns that allowing foreign Muslims to purchase property could cause them to act against Ottoman interests.[68]

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And yet despite the council's insistence, authorities in the Hijaz continued to push back. They pledged to follow the decree, while actively questioning its logic and insisting that Central Asians, particularly *mücavirin*, were not foreign. "Whether they themselves or their father and grandfathers married and established families here," wrote the Medina commander, "they had become part of the *ahali* [the people]." In earlier times, he wrote, these Muslims had been able to purchase land and real estate; there was "no reason" that they should be exempt now.[69] Protection and nationality had become as much intraempire issues as international ones, as local communities asserted their own understandings of belonging and what it meant to be a foreigner against those of the metropole. As a result, the Porte struggled to implement policies that limited the rights of "protected peoples" and was left continually vulnerable to Russian and British infringements on Ottoman sovereignty.

CONCLUSION, OR THE LIMITS OF PROTECTION

As recent scholarship has shown, revolutions in steam and print technology and the expansion of global markets, particularly after the opening of the Suez Canal in 1869, led to unprecedented flows of people, goods, and ideas across the Muslim world.[70] But, as Valeska Huber argues, this era of heightened connections was marked as much by the deceleration of certain types of movement as it was by acceleration. Biopolitical controls such as quarantine and passports, and the hardening of political boundaries and identities, created new chokepoints that slowed down many migrants and travelers.[71] Huber's analysis of the tensions inherent in globalization and attention to how "distinction[s] between categories of movement became a central instrument to speed up the movement of some of them, such as troops and colonial travelers, and develop a bureaucratic apparatus to control and if necessary detain or repatriate others,"[72] is instructive for thinking about evolving dynamics between the late Ottoman state and significant segments of the *umma*. Even as conceptions of time and space shrank, new hajj hubs emerged, and Muslims from so-called peripheries became more connected to the central Islamic lands, non-Ottoman Muslims in the last Islamic empire were concurrently becoming legal outsiders. If 1869 represented a watershed for transregional mobility, as this article has shown, it also marked a major legal rupture. While the notion of foreignness was subject to multiple and conflicting interpretations that informed praxis and experience, nationality as a legal category was incontrovertibly becoming a defining feature of Muslims' status in the empire.

This shift was a consequence of the Tanzimat reforms, which created a citizenship boundary—"the line between members and nonmembers" of the polity[73]—that fundamentally challenged the structure of Ottoman society. The reforms also altered the relationship between the sultan and what I term his spiritual subjects, the Muslims over whom the Ottoman state claimed to wield an imprecisely defined spiritual and political authority. In a sense, the Tanzimat reforms began to sever the link between the constituency of the sultanate and that of the caliphate: the sultan was now the sovereign of a territorially bounded empire where religious distinctions among Ottoman subjects were theoretically leveled, while the caliph claimed to have authority that extended beyond Ottoman subjects to foreign Muslims. However, in reality there was no separation within the Ottoman government reflecting this division. Moreover, despite the

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pan-Islamic rhetoric associated with this period—as well as the position detailed here that certain *ecanib-i müslimin* were protected only by the caliphate—religion and religious identities did not dictate *realpolitik* and the caliph's protection had very real limits. Even as authorities in Mecca and Medina offered plausible reasons why Central Asians should not be considered foreigners, the Porte maintained that they could not enjoy rights in the empire simply by dint of being Sunni Muslims. As distances across the Muslim world were shrinking, the Ottoman central government was introducing new distinctions among Muslim colonial subjects to combat the expansion of a legal order that threatened the empire's sovereignty. These distinctions, in turn, had important repercussions for Central Asians.

The changes brought on by mass pilgrimage, concurrent processes of exclusion and inclusion, and the expansion of extraterritoriality and the protégé system necessitated a steep learning curve for people traveling across empires, whether they were permanent migrants or pilgrims. The literature on the resulting legal pluralism has commonly understood these processes as demonstrating how ordinary people navigated, negotiated, and manipulated flexible identities, and how they pursued strategies to maximize subjecthood rights. Without a doubt, contested and overlapping spheres of sovereignty enabled many people with one foot in two or more empires to maximize economic and political gain.[74] But this is only part of the picture. Although many migrants quickly learned to work within the interstices of imperial mobility regulations and to live as dual nationals in Ottoman and Russian territories, these strategies were not uniformly available to all Muslims, and particularly not to those from protectorates or empires that did not have diplomatic relations with the Ottoman Empire. Rather than overstate the potential for negotiation in a search for subaltern agency (which implies that the parties were on equal footing), this article's exploration of Central Asians in the Ottoman Empire cautions us to recognize how plural legal orders also constrained rights and opportunities.[75] The Porte's view that Bukharans were not real Russian subjects, coupled with the fact that Afghans or Turkic peoples from Qing China lacked a recognized foreign nationality, impels us to recognize that these liminal subjects could not benefit from extraterritorial rights and battles over jurisdiction without recourse to various ruses.[76] The stories of Celal and Hacı Habib attest to the limits of their power to negotiate or exploit Russo- and Anglo-Ottoman legal and jurisdictional ambiguities. This limitation also applied to the men and women who could not renounce their Russian subjecthood, as well as to those whom Ottoman statesmen did not recognize as legal nationals of any empire—Russian, British, or Ottoman. Central Asian "protected peoples" were effectively doubly excluded in legal terms: first designated as non-Ottomans by the state, then labeled *mahmi*s who did not bear the rights of European nationals or protégés, including capitulatory rights. The claim of being protected by the caliphate could even result in the denial of rights via Islamic law; in the 1908 dispute over the deceased Kashgari pilgrim's estate, for example, the man's legal heirs—who may or may not have included orphans—would never receive their share of his wealth.

Nationality slowly started to occupy a more important place in people's lives, and became a major preoccupation for the Ottomans. Legal advisors approached each protection case that came before them with the question "My countryman, what is your real nationality?" But like Manço's interlocutor, they were often dissatisfied with the answers they received. Despite decades of trying to defend Ottoman sovereignty by

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working within the system of international law, the Porte met with only limited success in preventing the expansion of extraterritoriality and protection. And even as nationality seemed to be the question on everyone's lips, it was by no means universally clear what this term meant. For the *mücavir* waiting throughout 1913 to become Ottomans, nationality was about settling down, buying land, and, possibly, living a pious life in Medina. For officials at the Porte it was a legal status tied to concerns about jurisdictional sovereignty. For people desiring to transact real estate deals or judges and provincial administrators in the Hijaz, it was not always apparent what was at issue: why were people from Bukhara, Afghanistan, and Kashgar not able to enjoy rights their forefathers had—especially if they were under the protection of the caliph? Contestation, confusion, and diplomatic struggles had resulted in a type of legal limbo in which many "protected peoples" bore the burdens of colonial pressures and jurisdictional disputes. As the Central Asians in Medina waited for their naturalization to be approved, they had no national identity to use to their advantage in any legal forum, and no clear sense of what it meant to be protected by the caliph. Was there a passport or a consul that would serve them? If asked where they were from, they would likely have said "Bukhara the Noble" or the "City of the Prophet" (*medīnat al-nabī*), inspiring intense frustration among Ottoman legal advisors in Istanbul who were interested in their legal nationality. In trying to navigate the international legal order, foreign Muslims and Ottoman statesmen alike were joined in an increasingly arduous pursuit that often led to one dead end after another.

NOTES

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[1]"Hemşerim Memleket Nire" was released on the 1992 album *Mega Manço* by Emre Plak.

[2]Throughout this article I use "nationality" to mean a type of affiliation with a state that enabled claims to rights, without modern connotations of loyalty or political citizenship. This is in line with Will Smiley's usage, also in the context of negotiations over Russo-Ottoman sovereignty. As Smiley succinctly puts it, "all Russian subjects, when abroad, were Russian 'nationals'—sharing membership of the same state, regardless of their status within that state." See "The Ottoman State, Russian Fugitives, and Interimperial Law, 1774–1869," *International Journal of Middle East Studies* 46 (2014): 73–93.

[3]According to Victor Turner, communitas was an intense form of comradeship and equality experienced by people during rites of passage such as hajj. It was "a spontaneously generated relationship between leveled and equal total and individuated human beings, stripped of all structural attributes." Turner, *Dramas, Fields, and Metaphors: Symbolic Action in Human Society* (Ithaca, N.Y.: Cornell University Press), 202.

[4]On the role of Islam and pan-Islamic ideology in the late Ottoman Empire, see Selim Deringil, *The Well-Protected Domains: Ideology and Legitimation of Power in the Ottoman Empire 1876–1909* (London and New York: I.B. Tauris, 1998); and Kemal Karpat, *The Politicization of Islam: Restructuring Identity, State, Faith, and Community in the Late Ottoman State* (Oxford: Oxford University Press, 2001). On the sultan's custodianship of the hajj, see Suraiya Faroqhi, *Pilgrims and Sultans: The Hajj under the Ottomans* (London and New York: I.B. Tauris, 2014).

[5]Başbakanlık Osmanlı Arşivi (BOA) HR.H 571/27 (2 July 1892) and HR.HMŞ.İŞO 177/34 (11 July 1892).

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[6]Umut Özsu, "The Ottoman Empire, the Origins of Extraterritoriality, and International Legal Theory," in *The Oxford Handbook of the Theory of International Law*, ed. Florian Hoffman and Anne Oxford (Oxford: Oxford University Press, 2016), 124. For additional background on the Capitulations, see Feroz Ahmad, "Ottoman Perceptions of the Capitulations, 1800–1914," *Journal of Islamic Studies* 11 (2000): 1–20; and John T. Spagnolo, "Portents of Empire in Britain's Ottoman Extraterritorial Jurisdiction," *Middle Eastern Studies* 27 (1991): 256–82.

[7]Özsu, "The Ottoman Empire," 129.

[8]For studies of how Russia and Britain sought to establish themselves as Muslim powers though patronage of the hajj, see Eileen Kane, *Russian Hajj, Empire and the Pilgrimage to Mecca* (Ithaca, N.Y.: Cornell University Press, 2015); and John Slight, *The British Empire and the Hajj, 1865–1956* (Cambridge, Mass.: Harvard University Press, 2015). On British claims to protect Afghans, see Faiz Ahmed, "Contested Subjects: Ottoman and British Jurisdictional Quarrels *in re* Afghans and Indian Muslims," *Journal of Ottoman and Turkish Studies Association* (forthcoming, winter 2016).

[9]Kayaoğlu defines extraterritoriality as "the extension of a state's legal authority into another state and limitation of legal authority of the target state over issues that may affect people, commercial interests, and security of the imperial states." Turan Kayaoğlu, *Legal Imperialism: Sovereignty and Extraterritoriality in Japan, the Ottoman Empire, and China* (Cambridge: Cambridge University Press, 2010), 6.

[10]This scholarship is too extensive to cite all of it here, particularly on the Capitulations, which are discussed in most works on the late Ottoman Empire. In addition to Ahmad, "Ottoman Perceptions" and Spagnolo, "Portents of Empire," see Maurits Van den Boogert, *The Capitulations and the Ottoman Legal System: Qadis, Consuls, and Beratlıs in the 18th Century* (Leiden: Brill, 2005). On legal pluralism in the Ottoman Empire, see Karen Barkey, "Aspects of Legal Pluralism in the Ottoman Empire," in *Legal Pluralism and Empires, 1500–1850,* ed. Lauren Benton and Richard Ross (New York: New York University Press, 2013). Studies by Julia Clancy Smith and Mary Dewhurst Lewis have been particularly influential for reconceptualizing the possibilities and problems ushered in by legal imperialism and legal pluralism. Clancy-Smith, *Mediterraneans: North Africa and Europe in an Age of Migration, c. 1800–1900* (Berkeley, Calif.: University of California Press, 2012); Lewis, "The Geographies of Power: The Tunisian Civic order, Jurisdictional Politics, and Imperial Rivalry in the Mediterranean, 1881–1935," *Journal of Modern History* 80 (2008): 791–830. On the protégé system, see Salahi R. Sonyel, "The Protégé System in the Ottoman Empire," *Journal of Islamic Studies* 2 (1991): 56–66. Other works of note on nationality, sovereignty, legal pluralism, and protection include Will Hanley, "Foreignness and Localness in Alexandria, 1880–1914" (PhD diss., Princeton University, 2007); Eric Beverly, *Hyderabad, British India, and the World: Muslim Networks and Minor Sovereignty* (Cambridge: Cambridge University Press, 2015); Jessica M. Marglin "The Two Lives of Masʿud Amoyal: Pseudo-Algerians in Morocco, 1830–1912," *International Journal of Middle East Studies* 44 (2012): 651–70; and Sarah Abrevaya Stein, "Protected Persons? The Baghdadi Jewish Diaspora, the British State, and the Persistence of Empire," *American Historical Review* 116 (2011): 80–108.

[11]Lewis, "The Geographies of Power," 180.

[12]On the uncertainties of colonial law and legal pluralism, see Sally Engle Merry, "Colonial Law and Its Uncertainties," *Law and History Review* 28 (2010): 1067–71; and Julia Stephens "An Uncertain Inheritance: The Imperial Travels of Legal Migrants, from British India to Ottoman Iraq," *Law and History Review* 32 (2014): 749–72. Stephens traces how how legal uncertainty frustrated both colonial authorities and litigants in British consular courts in Iraq, but concludes that "uncertainty and certainty were mutually constitutive" and ultimately expanded the reach of imperial law.

[13]For these studies, see n. 10. I am influenced here by Clancy-Smith, who writes, "the legal quagmire created by conflicts involving the subjects of local rulers, recognized protégés, resident expatriates, recent immigrants, or familiar strangers under shifting or uncertain jurisdictions was presented as an episode in modern Middle Eastern history, not as one chapter in larger struggles unfolding across the world in much the same manner and period. Conflicting jurisdictions are universal phenomena, which haunt our world, ever more today due to high-intensity 'globalization.'" Clancy-Smith, *Mediterraneans,* 200.

[14]On the Porte's views of foreign Muslims, see Selim Deringil, "The Ottoman Empire and Russian Muslims: Brothers or Rivals?," *Central Asian Survey* 13 (1994): 409–16; and Michael Christopher Low, "The Mechanics of Mecca: The Technopolitics of the Late Ottoman Hejaz and the Colonial Hajj" (PhD diss., Columbia University, 2015).

[15]Kemal Karpat analyzes Ottoman–Central Asian relations through the lens of ethnic kinship and brotherhood in *The Politicization of Islam*. In another influential but problematic study, Mehmet Saray considers

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kinship and loyalty as crucial to Ottoman–Central Asian political relations. Saray, *The Russian, British, Chinese and Ottoman Rivalry in Turkestan: Four Studies on the History of Central Asia* (Ankara, Turkey: Turkish Historical Society Printing House, 2003). Michael A. Reynolds offers a critique of pan-Turkism and pan-Islam as categories of analysis in "Buffers, Not Brethren: Young Turk Military Policy in the First World War and the Myth of Panturanism," *Past and Present* 203 (2009): 137–79.

[16]International law emerged as a Eurocentric framework for the practice of international relations by diplomats, based on treaty and customary law and, increasingly, the Capitulations.

[17]These were colonial subjects who had no connections to the legal nationalities they acquired and who, according to colonial authorities, employed various ruses solely for the purpose of obtaining rights and protections. Lewis uses the term "borrowed nationalities" to describe how French authorities in Tunisia viewed non-European protégés such as Algerians. Lewis, *Divided Rule: Sovereignty and Empire in French Tunisia, 1881–1938* (Berkeley, Calif.: University of California Press, 2014), 61.

[18]Rian Thum makes the case for referring to this region as "Altishahr," using the designation that people in the region used historically. Thum, *The Sacred Routes of Uyghur History* (Cambridge, Mass: Harvard University Press, 2014).

[19]On the Russian Empire in Central Asia, see Seymour Becker, *Russia's Protectorates in Central Asia: Bukhara and Khiva, 1865–1914* (Cambridge, Mass.: Harvard University Press, 1968); Jeff Sahadeo, *Russian Colonial Society in Tashkent: 1865–1923* (Bloomington, Ind.: Indiana University Press, 2007); and Alexander Morrison, *Russian Rule in Samarkand, 1868–1910: A Comparison with British India* (Oxford: Oxford University Press, 2008). On Chinese Turkestan, see Hodong Kim, *Holy War in China: The Muslim Rebellion and State in Chinese Central Asia, 1864–1877* (Stanford, Calif.: Stanford University Press, 2004). The meaning of the terms "protectorate" and "protected states" as used in this article is not synonymous with post–World War I Mandates. In the Russian protectorates of Khiva and Bukhara, the khan and the amir were Russian vassals who were granted local autonomy but no control over foreign policy. While their territories were neither fully annexed (although parts of Bukhara were annexed to the Russian colony in Turkestan) nor subject to settler colonialism, they were internationally recognized as part of the Russian Empire. In Afghanistan, the amir technically retained independence as the head of a "protected state." The country was never officially part of the British Empire, and the amir controlled internal affairs. But as in the case of the Bukharan protectorate, the British controlled Afghanistan's foreign policy.

[20]On British involvement in Afghanistan, see Thomas Barfield, *Afghanistan: A Cultural and Political History* (Princeton, N.J.: Princeton University Press, 2010).

[21]For a file that summarizes five decades of Ottoman and citizenship- and nationality-related problems and provides the 1869 law in full, see HR.HMŞ.İŞO 221/1 (5 November 1919). For an English translation of the law, see Richard Flournoy and Manley Hudson, eds., *A Collection of Nationality Law of Various Countries as Contained in Constitutions, Statutes and Treaties* (New York: Oxford University Press, 1929).

[22]Will Hanley, "What Ottoman Nationality Was and Was Not," *Journal of the Ottoman and Turkish Studies Association* (forthcoming, winter 2016).

[23]Prior to the Tanzimat, *ecnebi* was primarily used as a term to describe people from Christian lands.

[24]DH.SN.THR 54/45 (3 August 1914). On the government's decision not to implement the Tanzimat reforms in Yemen and other "exceptional provinces," see Thomas Kuehn, *Empire, Islam, and Politics of Difference: Ottoman Rule in Yemen, 1849–1919* (Leiden: Brill, 2011).

[25]HR.H 571/27 (2 July 1892); HR.HMŞ.İŞO 177/34 (11 July 1892). On the consular system in Jeddah, see Ulrike Freitag, "Helpless Representatives of the Great Powers? Western Consuls in Jeddah, 1830s to 1914," *Journal of Imperial and Commonwealth History* 40 (2012): 357–81.

[26]According to Daniel Brower, "tsardom had become the patron of [Central Asian pilgrims]" as a consequence of attempts to regulate the hajj. Brower, *Turkestan and the Fate of the Russian Empire* (London and New York: RoutledgeCurzon, 2003). As Alexander Morrison argues, even if Russian colonial administrators claimed that inhabitants of Tashkent, Samarqand, and other cities were "considered to be as much Russian citizens as those of Moscow," this claim was patently false because "they were not accorded equal rights with the population of European Russia." Morrison, "Metropole, Colony, and Imperial Citizenship in the Russian Empire," *Kritika: Explorations in Russian and Eurasian History* 13 (2012): 327–64. According to Eric Lohr, "the emirates of Bukhara and Khiva (formally acquired by Russia and given protectorate status in 1867 and 1873, respectively) retained their own subjecthood and their subjects were treated as foreigners in nearly all respects when they crossed the border between the emirates and the empire proper." Their status was different from that of subjects of "parts of Central Asia that were annexed and fully incorporated directly" and "ascribed

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subjecthood on a full *jus soli* [right of the soil] basis." Lohr, *Russian Citizenship: From Empire to Soviet Union* (Cambridge, Mass: Harvard University Press, 2012), 32–33.

[27]Kane, *Russian Hajj.*

[28]I explore Ottoman and Russian patronage of Central Asian pilgrims at greater length in my forthcoming manuscript, provisionally titled "Spiritual Citizens: Central Asian Pilgrims in the Late Ottoman Empire."

[29]Lauren Benton, "Shadows of Sovereignty: Legal Encounters and the Politics of Protection in the Atlantic World," in *Encounters Old and New: Essays in Honor of Jerry Bentley* (Honolulu, Hawaii: University of Hawaii Press, forthcoming).

[30]For a comparative study of legal imperialism, see Kayaoğlu, *Legal Imperialism*. Lewis's work on French North Africa is indispensable for understanding the complexity of overlapping and divided sovereignty. Lewis, *Divided Rule*. See also works cited in n. 10; Lauren Benton, *Law and Colonial Cultures: Legal Regimes in World History, 1400–1900* (Cambridge: Cambridge University Press, 2002); and Benton and Ross, *Legal Pluralism and Empires*.

[31]HR.TO 369/98, 1 March 1886. On British Indians and consular courts in Iraq, see Stephens, "An Uncertain Inheritance"; and Gökhan Çetinsaya, "The Ottoman View of British Presence in Iraq and the Gulf: The Era of Abdülhamid II," *Middle Eastern Studies* 39 (2003): 194–203. Although the archival record does not reveal why Hacı Habib tried to become a British national, he may have been motivated to do so if he had sons who faced conscription. Cases involving *muhacir* in Iraq and Greater Syria suggest that while first-generation migrants were exempt from serving in the military, their children were not. On conscription, see Mehmet Beşikçi, *The Ottoman Mobilization of Manpower in the First World War: Between Voluntarism and Resistance* (Leiden: Brill, 2012). Karen Kern explores citizenship, marriage, and conscription in Iraq. Kern, *Imperial Citizens: Marriage and Citizenship in the Ottoman Frontier Provinces of Iraq* (Syracuse, N.Y.: Syracuse University Press, 2011).

[32]*BOA Rehberi* [BOA Guidebook], Osmanlı Arşivi Daire Başkanlığı Yayın Nu: 108, İstanbul, 2010, 381–82. On the training and composition of the legal advisors in the Hukuk Müşavirliği, see Aimee Genell, "The Well-Defended Domains: Eurocentric Law and the Making of the Ottoman Office of Legal Counsel," *Journal of the Ottoman and Turkish Studies Association* (forthcoming, winter 2016).

[33]HR.TO 365/86, 27 January 1881.

[34]HR.TO 369/98, 1 March 1886.

[35]The reference to tribes here should be understood in the context of Russian subjecthood/ extraterritoriality, where prominent tribal and clan leaders were sometimes given subjecthood rights in negotiations for colonial expansion.

[36]HR.TO 369/98, 1 March 1886.

[37]In the case of Afghanistan, the British had made this very clear by sending the Porte a copy of the agreement signed with the amir. See, for example, HR.TO 264/51, 8 September 1890.

[38]HR.SYS 1304, Gömlek 2, June 1895.

[39]See, for example, HR. SYS 1304, Gömlek 2, for a 15 October 1895 memorandum issued by the Hukuk Müşavirliği.

[40]HR.SYS 1304, Gömlek 2, 16 December 1911.

[41]Deringil, *The Well-Protected Domains*. On Ottoman rule in the Hijaz, see William Ochsenwald, *Religion, Society, and the State in Arabia: The Hijaz under Ottoman Control, 1840–1908* (Columbus, Ohio: Ohio State University Press, 1984). The claim to "spiritual authority" dated to the 1774 Treaty of Küçük Kaynarca, which the Ottomans signed with Russia after the loss of the Crimea. The treaty recognized the tsar as the protector of Orthodox Christians in Ottoman lands, and the sultan-caliph's authority over Russian Muslims. On the treaty, see Roderic H. Davison, "'Russian Skill and Turkish Imbecility': The Treaty of Kuchuk Kainardji Reconsidered," *Slavic Review* 35 (1976): 463–83.

[42]There is a growing area of research that explores how engagement with international law informed Ottoman governance in autonomous and "exceptional" provinces. See Aimee Genell, "'Empire by Law': Ottoman Sovereignty and the British Occupation of Egypt, 1882–1923" (PhD diss., Columbia University, 2013); Low, "Mechanics of Mecca"; Will Hanley, *Nationality Grasped: Identification, Protection, and Law in Turn-of-the-Century Alexandria* (New York: Columbia University Press, forthcoming); Mostafa Minawi, *The Ottoman Scramble for Africa: Empire and Diplomacy in the Sahara and the Hijaz* (Stanford, Calif.: Stanford University Press, 2016); and Matthew Ellis, "Desert Borderland: Territoriality, Sovereignty, and the Making of Modern Egypt and Libya" (unpublished manuscript).

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[43]Low elaborates that the Council used the autonomous status of the holy cities "to deflect and circumvent the internationally binding requirements of the Capitulations and prevent the application of foreign protection beyond Jeddah." Low, "Mechanics of Mecca," 136–37.

[44]Deringil, *The Well-Protected Domains*.

[45]For the 1861 decision, see A.}MKT.UM 511/80 (25 R 1278/30 September 1861). Low also quotes this ruling in "The Mechanics of Mecca," 136–37.

[46]For the law in its entirety and a summary of foreigners' property rights and the central government's concerns about the extension of capitulations, see BEO 4338/325334 (17 January 1915). To preempt European intervention, the law stipulated that any future disputes or legal matters involving property would be subject to Ottoman legal jurisdiction alone. It also required states to sign separate protocols in order for their subjects to benefit from the law. Though selectively enforced, this stipulation could be used to prevent *mahmi* from acquiring real estate, since their home countries could not independently sign such international agreements.

[47]It is common to come across phrases in these sources that acknowledge that Central Asians had "until recently" (at various points between the 1880s and 1910s) been treated as Ottomans. An 1887 Meclis-i Vükela decision*,* for example, begins by stating that, "even though Central Asians residing in the empire have until recently been treated as Ottomans..." MV 17/38 (30 Ca 1304/24 February 1887).

[48]Deringil's analysis draws on a source in the YA.RES 15/38 file, which states that, "If we remain indifferent to the accumulation of property by devious means in the hands of foreign Muslims, with the passage of time we may find that much of the Holy Lands have been acquired by the subjects of foreign powers. Then, the foreigners, as is their wont, after lying in waiting for some time, will suddenly be upon us at the slightest opportunity and excuse and will proceed to make the most preposterous claims." This citation accurately reflects the Şura-yı Devlet's position but, I argue, does not fully represent debates within the government. Deringil, *The Well-Protected Domains*, 60.

[49]YA.RES 15/38 (5 C 1299/24 April 1882). Cezmi Eraslan cites similar numbers in *II. Abdülhamid ve İslam Birliği: Osmanlı Devleti'nin İslam Siyaseti, 1856–1908* (Divanyolu, İstanbul: Ötüken, 1991)*,* 31.

[50]YA.RES 15/38.

[51]Hanley examines what it meant to be an Ottoman or a local in Egypt, and argues that Egyptians' Ottoman status persisted into the 20th century. "When Did Egyptians Stop Being Ottomans? An Imperial Citizenship Case Study," *Multilevel Citizenship,* ed. Willem Maas (Philadelphia, Pa.: University of Pennsylvania Press, 2013), 89–109. In *Nationality Grasped,* he argues that administrators and bureaucrats met with extensive difficulty in replacing local (*mahalli, yerli*) as a focal point of identity.

[52]YA.RES 15/38, 24 S 1299 (15 Ocak 1882).

[53]Until the early 1880s, Kashgar was technically under Ottoman suzerainty. Kim, *Holy War in China*; Kemal Karpat, "Yakub Bey's Relations with the Ottoman Sultans: A Reinterpretation," *Cahiers du Monde russe et soviétique* 32 (1991): 17–32.

[54]DH.MKT 543/13, 18 July 1902. The question of Mir Bedreddin's identity is thorny. He may have been the son of the chief qadi (*qazi al-quzat*) of Bukhara, Mulla Mir Sadr al-Din Khuttalani, but there is no evidence that this individual ever went to the Hijaz. According to Robert D. McChesney, he may have had a surrogate acting in his name, or—in a twist on Martin Guerre—the Mir Bedreddin in this case may have been an impostor adopting a well-known but not easily verifiable identity. On the chief qadi and his son, see Edward Allworth et al., eds., *The Personal History of a Bukharan Intellectual: The Diary of Muhammad-Sharif-i Sadr- Ziya* (Leiden: Brill, 2004), esp. 97n50.

[55]The Bukharan pilgrimage leader provided the guarantee (*kefalet*). This was an official appointed by the *sharīf* of Mecca and a member of the most important guilds in the Hijaz.

[56]Lohr argues that a defining feature of citizenship policy through 1914 was an "attract and hold" approach that sought to counter "a persistent shortage of people and a sense that immigration and naturalization helped expand the economic power of the empire, while emigration and denaturalization were to be avoided for the same reason." Lohr, *Russian Citizenship,* 5 and chap. 4. James H. Meyer makes a similar argument in "Immigration, Return and the Politics of Citizenship: Russian Muslims in the Ottoman Empire, 1860–1914," *International Journal of Middle East Studies* 39 (2007): 15–32.

[57]Smiley, "The Burdens of Subjecthood."

[58]According to a 1908 report from Jeddah, the Russian consul there reported that Chinese Muslims claimed Russian protection when it suited them, and suggested to the central government that it would make sense to formally assume responsibility over Kashgaris. *Fond* 143, *opis* 491, *delo* 2305, Chinese in Turkey. I thank David Brophy for sharing this source with me.

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[59]DH. MKT 2736/37, 10 February 1909; DH.MKT 2691/30, 24 December 1908. Also, in 1908, the Ministry of Foreign Affairs stated that Kashgaris were under the protection of the *hilafet-i mukaddese-i İslamiye* (holy Islamic caliphate), but did not engage at all with tsarist arguments about shariʿa. HR.HMŞ.İŞO 194/68 (30 December 1908); DH.MKT 2691/30 (24 December 1908).

[60]Adapting Stephen Kotkin's idea of "speaking Bolshevik" (*Magnetic Mountain: Stalinism as a Civilization* [Berkeley, Calif.: University of California Press, 1995]), Meyer uses the term "speaking shariʿa" to show how Russia and Russian Muslims articulated social, economic, and political conflicts. Meyer, "Speaking Sharia to the State: Muslim Protesters, Tsarist Officials, and the Islamic Discourses of Late Imperial Russia," *Kritika* 14 (2013): 485–505.

[61]DH.MKT 2691/30, 24 December 1908; DH.MKT 2736/37, 10 February 1909.

[62]HR.HMŞ.İŞO 194/68, 30 December 1908; DH.MKT 2736/37, 10 February 1909.

[63]DH.SN.THR 54/45, document dated 5 Ca 1331 (22 April 1913).

[64]DH.SNTHR 54/45, copy of letter from Medine Muhafiz ve Kumandanlığı 15 Ca [1]331.

[65]DH.SN.THR 54/45 nos. 14 and 16, correspondence between Foreign Ministry and Medine Muhafız. Officials in Medina and the province at large repeatedly advocated on behalf of the needs of long-term residents, raising questions about relationships among the Central Asian community, the guild of pilgrimage guides, and the *sharīf*. This might suggest a type of patron–protégé relationship with mutual economic benefit.

[66]DH.SN.THR 54/15, Hicaz Vilayet to Dahiliye, 2 Şubat [1]329.

[67]DH.SN.THR 54/45, Hariciye to Dahiliye, 16 L 1331.

[68]DH.SN.THR 54/45, Hariciye to Dahiliye, 19 S 1332.

[69]Ibid.

[70]Notable works on this broad topic include James Gelvin and Nile Green, eds., *Global Muslims in the Age of Steam and Print* (Berkeley, Calif.: University of California Press, 2014); Nile Green, "Spacetime and the Industrial Journey West: Industrial Communications and the Making of the 'Muslim World,'" *American Historical Review* (2013) 118 (2): 401–29; and Eric Tagliacozzo, *The Longest Journey: Southeast Asians and the Pilgrimage to Mecca* (Oxford and New York: Oxford University Press, 2013).

[71]Valeska Huber, *Channelling Mobilities: Migration and Globalisation in the Suez Canal Region and Beyond, 1869–1914* (Cambridge: Cambridge University Press, 2013).

[72]Ibid., 6.

[73]In his analysis of naturalization and migration policies aimed at Russian and Soviet citizens, Lohr defines the citizenship boundary as "the line between members and nonmembers, on the rules and practices that define the boundary, and on the various ways citizenship was acquired, lost, ascribed, or removed." Lohr, *Russian Citizenship*, 3.

[74]James Meyer shows how Russian Muslims held onto their Russian nationality in Ottoman lands, and how they utilized borrowed (or purchased) identity papers to pass as Ottomans. Meyer, *Turks across Empires: Marketing Muslim Identity in the Russian-Ottoman Borderlands, 1856–1915* (Oxford: Oxford University Press, 2014). In an article on Alexandria, Ziad Fahmy describes consular agents as "borderlanders par excellence" and "legal chameleons" who "used the capitulatory system to manipulate their official identities, juggling at times two or three 'nationalities.'" Fahmy, "Jurisdictional Borderlands: Extraterritoriality and 'Legal Chameleons' in Precolonial Alexandria, 1840–1870," *Comparative Studies in Society and History* 55 (2013): 305–29.

[75]This supports Smiley's argument that interimperial mobility regulations "hardened the empires' human and geographic boundaries," and could result in foreign subjecthood becoming a liability. Smiley, "The Burdens of Subjecthood," 73.

[76]On liminal subjects in other settings, see Erin G. Carlston, *Double Agents: Espionage, Literature, and Liminal Citizens* (New York: Columbia University Press, 2013); Anne Haour, *Outsiders and Strangers: An Archaeology of Liminality in West Africa* (Oxford: Oxford University Press, 2013); and Andrew Arsan, *Interlopers of Empire: The Lebanese Diaspora in Colonial French West Africa* (New York: Oxford University Press, 2014).

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