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De-Historicizing (Mainstream) Ottoman Historiography on *Tanzimat* and *Tahdith*: *Jus Gentium* and *Pax Britannica* Violate Osmanli Sovereignty in Arabia

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Abstract: The (secular-humanist) philosophical theology governing (positivist) disciplines such as International Law and International Relations precludes *a priori* any communicative examination of how the exclusion of Arab-Ottoman jurisprudence is necessary for the ontological coherence of jurispudent concepts such as society and sovereignty, together with teleological narratives constellating the “Age of Reason” such as modernity and civilization. The exercise of sovereignty by the British Crown—in 19th and 20th century Arabia—consisted of (positivist) legal doctrines comprising “scientific processes” denying Ottoman legal sovereignty, thereby proceeding to “order” societies situated in Dar al-Islam and “detach” Ottoman-Arab subjects from their *Ummah*. This “rational exercise” of power by the British Crown—mythologizing an unbridgeable epistemological gap between a Latin-European subject as civic and an objectified Ottoman-Arab as despotic—legalized (regulatory) measures referencing ethno/sect-centric paradigms which not only “deported” Ottoman-Arab *ijtihad* (Eng. legal reasoning and exegetic hermeneutics) from the realm of “international law”, but also rationalized geographic demarcations and demographic alterations across Ottoman-Arab vilayets. Both inter-related disciplines, therefore, affirm an “exclusionary self-image” when dealing with “foreign epistemologies” by transforming “cultural difference” into “legal difference”, thus suing that it is in the protection of *jus gentium* that “recognized sovereigns” exercise redeeming measures on “Turks”, “Moors”, or “Arabs”. It is precisely the knowledge lost ensuing from such irreflexive “positivist image” that this legal-historical research seeks to deconstruct by moving beyond a myopic analysis claiming Ottoman-Arab ‘*Umran*’ (Eng. civilization) as *homme malade* (i.e., sick man); or that the Caliphate attempted but failed to become reasonable during the 18th and 19th century because it adhered to Arab-Islamic philosophical theology. Therefore, this research commits to deconstructing “mainstream” Ottoman historiography claiming that *tanzimat* (Eng. reorganization) and *tahdith* (Eng. modernization) were simply “degenerative periods” affirming the temporal “backwardness” of Ottoman civilization and/or the innate incapacity of its epistemology in furnishing a (modern) civil society.



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It is probably accurate to imagine the Ottoman Empire as non-European before the late 1400s. Although the two entities already shared much, their ideological, political, military, economic, and historical dissimilarities remained overwhelming. Over the next two centuries, however, the Ottoman Empire and other parts of Europe learned from and more and more resembled each other. *Differences* remained, particularly in the ideological realm Dutch, English, French, and Venetian ambassadors resided in Istanbul, and the Ottomans became part—perhaps even the core—of the diplomatic system that had arisen out of Italy in the fifteenth and sixteenth centuries. Armenian, Greek Orthodox, and Jewish

Ottoman merchants roamed Mediterranean and even Atlantic waters. Islam and Judaism were acknowledged (if not accepted) as part of the re-evaluation of the relationship between religion and society that accompanied the early modern collapse of the Catholic *ecumene*. Even ideologically, then, differences receded and the two societies more and more resembled each other. An examination of this state of affairs opens for the historian a new world of research and interpretation.

—D. Goffman (2002) in *Ottoman Empire and Early Modern Europe*

The twentieth century scholarly writing on Ottoman affairs, the concept, the institution, and the nature of the state have been treated as if, regardless of the passage of time, the state had remained essentially the same. The term state possesses the same connotations and denotations throughout the entire course of Ottoman history, and no differentiation is drawn between the early modern period [14th–17th century] and the modern period [18th–19th century]. Such simplification is bad enough in itself; but to compound the problem, nearly all scholarly literature . . . is premised on the unspoken, perhaps even unconscious, assumption that the modern standards of the *nation-state* constitute the unchallenged norm by which to assess early modern political life.

—R. Abou El Haj (2005) in *Formation of the Modern State: The Ottoman Empire, Sixteenth to Eighteenth Centuries*

1. Introduction

The Adab Al-'Umran (Eng. Ethics/Morals of Civilization) informing Ottoman-Arab cultural reconnaissance has a responsibility to deconstruct [1–5] the immoral consequences of a “dynamic of cultural difference”—acknowledged as a “modern” (competitive) scientific process essential to the constitution and endurance of International Law (IL) and International Relations (IR)—obscuring moral judgements implying positivist jurisprudence as the *ought to be* legal school enlightening both subjects [6–11]. The (secular-humanist) philosophical theology upholding both disciplinary structures have limited our understanding in conscientiously noticing the intimate relationship between a “culturalist difference” and *jus gentium* (International Law/Law of Nations) and/or coloniality and modernity as a liberal-secular telos [6,7,12–16]. The unethical material consequences of a realpolitik approach informing the logic of global relations within a Hobbesian worldview stipulating a (naturalized) *bellum omnium contra omnes* is manifest in mainstream approaches of IR and IL continuously valorizing a “competition” lens when assessing “cultural differences”, thereby presupposing “cultural antagonism” as a necessary disciplinary ethos for ontologically security [2,17]. This zero-sum approach to (foreign) cultural differences:

... fails to untangle the cultural logic of competition itself. It therefore is unable to give anything but a crude and caricatured understanding of the complex motives and desires involved in colonial/neocolonial subjugation or in the resistance to domination ... in its conventional neorealist or neoliberal guises, IR misses the way international society—as both a system of states and a world political economy—forms a competition of cultures in which the principles of sovereignty and self-help work to sanctify inequality and subjugate those outside of the centers of ‘the West’ [17] (pp. 1–2)

Realism during the 20th and 21st century has “rendered culture not merely epiphenomenal, but invisible and mute” since the adoption of a realpolitik lens to deduce foreign policy *a priori* makes “culture invisible by suppressing difference in favor of sameness” [18] (p. 171) even though “culture is about difference” [2] (p. 138). The Latin-European, or more specifically, Judeo-Christian rationalization of law and morality instituting *jus gentium* as a positivist legal regime consisting of ratiocinative legal doctrines (i.e., contesting revealed Law) is asserted by J.H.W. Verzijl when he declares: “now there is one truth that is not open to denial or even to doubt, namely that the actual body of International Law, as it stands today, not only is the product of the conscious activity of the European mind, but also draws its vital essence from a common source of beliefs, and in

both these aspects it is mainly of Western European origin" [19] (p. 435). It should be noted that this manuscript advocates for an appreciation of the inherent interconnection between different areas of law—whether situated in the Orient or Occident—and that every culture has a particular jurisprudence that notices the limits of “universalism” [20]. However, and equally important to note, this legal-historical research seeks to challenge the capability of an “international” law adhering to positivist jurisprudence in being capable of promoting harmony between justice and spirituality among epistemological differences, specifically because modern secular scholastic-humanism naturalizes a distinction between “morals” and “law”, thus understanding legal doctrines informing IR and IL (i.e., *jus gentium*) as being historically contingent on a particular secularized Latin-European philosophical theology reified as *naturellement général* [21–24]. In this ratiocinative governing logic, IL consists of a series of legal doctrines and juridical principles that have their roots in western geographical spaces, that emerged out of Latin-European psyche and historical experiences, and were then rolled out to the ‘non-secular’ world—the Osmanli Caliphate (Lat. Ottoman Imperium) in our case—which was historicized as existing “outside” the realm of *jus gentium* because its creed (Ar. العقيدة) was characterized as an intolerable philosophical theology that according to recognized (Latin-European) sovereigns did not allow it membership in International Society or Family of Nations [2,25–27].

For instance, the concept of *sovereignty* that emerged out of 13–15th-century naturalist jurisprudence, and then latter mythologized in the Treaty of Westphalia in 1648 stipulated that all (Judeo-Christian) sovereigns are equal and that sovereign states have absolute power over their territory [7,28–30]. However, a major critique of literature concerning the symbiotic relation between sovereignty and *jus gentium* is that it overlooks that the “doctrine of sovereign recognition” as a whole was in its inception, and currently remains, exclusionary. Although the legal framework of sovereignty continues to play a significant role in international legal thinking, the relationship between a Latin-European conceptualization of sovereignty espoused by positivist jurisprudence and an Osmanli conceptualization of sovereignty cannot be adequately understood within it [2,27,31,32]. As noted by Anghie,

... the colonial confrontation was not a confrontation between two sovereign states, but between a sovereign European state and a non-European state that, according to the positivist jurisprudence of the time, was lacking in sovereignty. Such a confrontation poses no conceptual difficulties for the positivist jurist who basically resolves the issue by arguing that the sovereign state can do as it wishes with regard to the non-sovereign entity, which lacks the legal personality to assert any legal opposition. Since the state is the central and most important actor in international law, sovereign statehood, as defined by European imperial powers, was the difference between freedom and the conquest and occupation of a people or society [25] (p. 34).

This legal-historical claim is manifest when observing the interaction between European and Osmanli sovereign figures during the “cultural encounter” of the 18th and 19th century, which is not contact between “equal” sovereign states, but rather an encounter between sovereign (secular) European states and (non-secular) Ottoman provinces denied sovereignty. Therefore, a ratiocinative philosophical theology—informing a jurisprudence adhering to positivist scholastic-humanism—naturalizes a “secular differentiation” claiming that “cultural differences” must be transformed into “legal argument” to adjudicate a mission civilisatrice [2,24,25,27,31,33].

Motivated thus, the following legal-historical research is divided into four consecutive sections revealing civilizational experiments constellating multiethnic and multireligious coexistence occurring in early modern times during the Ottoman Caliphate, especially in Vilayet Syria and Vilayet Yemen. This legal-historical deconstruction accentuates that Arab-Ottoman philosophical theology delivered alternate models of social and political organization then to that informing a positivist legal school accenting the “Age of Reason” since Ottoman-Arab epistemology consistently sought to balance between science (reason) and religion (revelation). The first section of this manuscript commits to de-particularizing

mainstream Ottoman historiography generalizing culturalist assumptions deducing that the period of tanzimat and tahdith were simply “degenerative moments” revealing the temporal “stagnation” of Ottoman civilization and the innate incapability of knowledge structures informing Ottoman-Arab philosophical theology in administrating a reasonable society. Additionally, the section unveils that such myopic reading denies Ottoman subjects of their respective “subjective consciousness” (Ar. الذاتي الوعي) by forcibly injecting Ottoman-Arab attempts of (re)organization and modernization into an exogenic socio-cultural (linear) evolutionary *chronos* predicated on a liberal-secular (positivist) jurisprudential idea transforming Ottoman-Arab epistemological differences into a legal difference [2,34]. This denial risks reaffirming the exclusionary ethos of an IL claiming that for societies to be identified as modern or civil, they require furnishing cultural mores reifying the naturalized (governing) assumptions (i.e., nation-state) arising from a Judeo-Christian rationalization of law and morality [6,7,13–15]. The knowledge lost ensued by mystifying a (mainstream) culturally relativist lens analyzing Ottoman modernization—especially 19th-century tanzimat—is manifest in the section by stressing that: (1) tanzimat and tahdith did not succeed or fail because the Ottoman administration *a priori* rejected Latin-European modernity or wanted to become “Westernized”, and equally important, they were not initiated by the Sublime Porte primarily in response to “Western encroachments”; (2) a good part of the meaningful and enduring reforms of tanzimat represented the culmination of a process of social, economic, and political progress having roots in the 17th and 18th century, and finally; (3) the rise of nationalism across the caliphate in the 19th century made it less accepting of religious and cultural difference than previously not because it is ruled by a despotic Sultan or a jurisprudence that is “sick” and prone to “barbarism”; but primarily because the secular nation-state paradigm spearheaded by nationalist ideologies of “border belonging” and “minority rights” transformed culturalist differences into a legal difference, thereby destabilizing cross-cultural civilizational relationships.

The second section deconstructs the tug of war in southern Arabia between the Ottomans and the British in Vilayet Yemen generally, and Aden particularly, which began in 1821 and lasted well into the first two decades of the 20th century. The importance of analyzing how the British Crown came to legally question, challenge, and violate Ottoman territorial sovereignty by claiming Aden as a British Protectorate in 1872 through “treaty” is noticed in how juridical concepts such as property, protection, trade, civilization, and sovereignty were officious rather than emancipatory concepts garbed in the cloak of universal law. By reverting to telegrams exchanged between the Crown and the Porte including correspondences and treaties between Ottoman-Arab chiefs and the caliph, in tandem with research conducted by legal-jurists and political sociologists, the section accentuates three historical developments mainstream Ottoman historians fail to consider. First, the Sublime Porte made every effort to pacify and stabilize southern Arabia by cooperating and settling socio-economic disputes with hundreds of local Arab tribes and appointing several to administrative posts regardless of madhab. Second, assuming—as mainstream Ottoman historians do—that the Ottomans sought to “colonize” Arabia Felix by engaging in “domineering” measures against their subjects risks silencing centuries-old cultural reconnaissance and cooperation between Ottoman governors and local Arabs which made possible the successful modernization of Yemen from a sanjak to a first-level administrative division (i.e., vilayet) in 1870 during tanzimat which included the implementation of vast socio-economic welfare policies commissioned by the central government in Istanbul. Thirdly, recalling that Britain is the first European power to have successfully occupied an Arabian propre territory offers a glimpse at how sovereignty as a positivist juridical concept willed by Britain in Arabia is a process of “violent territorial demarcation” and “societal separation” since it was in 1872 Aden that British Residents first attempted to carve out geographic frontiers by separating Arab communities into “nominal sovereign polities” administered through a canton system. Therefore, the section reveals the nature of Ottoman social governing relations vehemently rejecting ethno-centric and/or sect-centric as ‘legal arguments’ to justify territorial demarcations since

that would violate Arab-Ottoman jurisprudence. Ottoman modernity did not *a priori* dismiss a *jus gentium* dominated by an ethos naturalizing a separation between morality and law, rather correspondences reveal Ottoman legal-jurists and policy-makers using positivist legal doctrines as key-defensive tools to re-assert sovereign territorial integrity and dispute the legality of British territorial encroachments. This is noted in that while the caliph asserted that civilizational differences should not be a 'legal argument' used to negate a "just exchange" between different cultures, the British Crown insisted that a "civilizational hierarchy" informing pax Britannica classifies the "Turks" as rationally incapable of furnishing a civilization that could suggest an "equal exchange".

The third section underlines that the ethnologic and geographic data accumulated by the British Crown in the 19th century informed the "ethno/sect-centric" demographic transfers and 'map-making' spatial delineation orders adjudicated during the inter-war years in the 20th century by the League of Nations and administered by the Mandate System, thus satisfying the objectives of the Sykes-Picot agreement in 1916, Versailles in 1919, and San Remo in 1920. The metaphor of "cultural consciousness" and "societies interiority" was repeatedly invoked by legal-historians during the inter-war period to give legal backing for a project seeking to "rationalize" former Ottoman-Arab provinces. These culturally charged metaphors were transformed into "legal differences" with mandate powers relating them to a "sociology of sovereignty", claiming that since former Ottoman provinces have a "degenerative interior"—by being outside international law—this extends sovereign mandate powers recognized as inside international law the power to proceed in developing new sets of technologies and methods of control referencing positivist juridical concepts such as "self-determination", "decolonization", "modernization", and "development" to "scientifically" progress former Ottoman-Arab provinces. Thus, the gap between the "civilized" and "uncivilized" is transformed in the Mandate System into an "economic difference" between "advanced" and "backward" societies. In other words, this section makes salient that the "dynamic of difference" espoused by the League of Nations is reformulated using not the racial and cultural narratives employed by positivist jurists in the 19th century (civilized/uncivilized) but rather through sophisticated "economic differentiations" claiming it legal and rational to spatially delineate Ottoman-Arab spaces and demographically transfer its inhabitants to temporally progress in time.

Au lieu a conclusion, the final fourth section emphasizes that by moving beyond mainstream Ottoman historiography, we are then capable of recalling that Ottoman-Arab modernity does not reject Latin-European modernity *per se*; instead, it furnishes an alternative temporal and spatial description of *dunyā* than to that universalized by a positivist jurisprudence distinguishing between law and morality [2]. This alternative worldview is elaborated and identified by uncovering the Ottoman-Arab ecumenical frame which demonstrates the Caliphate reconciling—as early as the 19th century—a principle of secular political equality (Ar. *Qānūn*) that endeavored to coexist—by moving beyond good and evil—with a multiplicity of cultural and religious differences accenting Bilad al-Sham and Bilad al-Yaman [15,35]. This early modern frame figuring an age of coexistence not only reveals that Ottoman-Arab epistemology rejects the naturalized "scientific" consequences of a jurisprudence separating between reason and spirituality, but it also emerges as a heartfelt frame [2] cautioning legal-historians of its desacralized implications which decriminalized the violent demographic separation and transference of Ottoman-Arab subjects to "rationalized spaces" by deliberately transforming civilizational markers of "cultural coexistence" into "markers of antagonism".

2. Discussion

2.1. Ottoman-Arab Jurisprudence Is Neither Despotic Nor Sick

In the past two decades, jurists and legal-historians critical of positivist jurisprudence and the secular worldview it seeks to "universalize" have stressed the importance of deconstructing ahistorical assumptions supposedly explaining the political and sociological "decline" and "sickness" of the Osmanli-Arab Caliphate by proliferating

claims constellating cultural particularism and legal-historical relativism temporally muting Osmanli-Arab philosophical and theological reconnaissance spanning over six centuries [31,35,36]. This irreflexive academic determinism continues to connote “mainstream” historical texts published by secular writers—including amongst others Turkish, Assyrian, Kurdish, Armenian, and Arab nationalists—who identify the “decline” of the Osmanli Caliphate as being linked to its historical temporal evolution reifying primitive ontologies of governance (Ar. Ummah, ‘Umran, Asabiyah) informed by a philosophical theology adhering to revealed Law (Ar. Sharia), Islamic Jurisprudence (Ar. Fiqh), and Tradition (Ar. Sunnah) [22,23].

A particular (ratiocinative) *jus gentium* originated in the 15th century by a group of Salamanca philosophical theologians who developed a naturalist jurist school (i.e., Francisco Suárez, Francisco de Vitoria, etc.) initiating a ratiocinative jurist hermeneutic exercise “universalizing” a Judeo-Christian worldview excessively rationalizing Law. Osmanli jurisprudence, in contrast, unequivocally asserted that a reason-based mental effort (Ar. Ijtihad) seeking a virtuous/wise city (Ar. Madina Al-Fadila) or Ādāb Al-‘Umran cannot naturalize an exogenous secular “humanist” idea claiming that if science (reason) and religion (revelation) clash then the rational attained by the former *a priori* takes precedent over the latter [37]. Osmanli-Arab philosophical theology stresses—considering its natural (transcendental) cultural evolutionary history—that it is Godless hubris for political and cultural relations taking place, whether in Dar al-Islam, Dar al-Sulh, Dar al-Harb, or Dar al-Ahd, to naturalize as “scientific knowledge” the separation between Law and morality—a secular positivist jurist dictum *par excellence*—as no Abrahamic revealed law—whether through Ismael or Isaac—morally condones war or peace founded on cultural differences let alone culturalist differences [2,38–40]. While it is beyond the scope of this manuscript to elaborate on the epistemological differences between an Athenian and Medinian man, it suffices to mention that one of the main civilizational differences between the intellectual history of Osmanli-Arab philosophical theology and Latin-European epistemology is that the struggle to know God and Being—according to a Judeo-Christian rationalization of law and morality—has been linked to the crown intellectual concern of ratiocinated theology while in Islam the struggle to know God and Being has primarily been mystical ijtihad/mental effort. Therefore, Arab-Islamic philosophical theology—which the (Ottoman) Turkic inherited and ameliorated—kept the “Greek genie” inside the bottle by cautioning about the excessive use of pure reason to rationalize God and Being since it could lead to naturalizing as law (unnatural) assumptions contradicting Truth [39–44].

In 1991, Rifa’at Ali Abou El Haj—a leading expert of Osmanli historiography—published the first edition of his famed work entitled Formation of the Modern State—The Ottoman Empire, Sixteenth to Eighteenth Centuries. In 2005, the second edition of the book was published in a series called “Middle East Studies beyond Dominant Paradigms”, with a preface by leading Ottoman legal-historian Suraiya Faroqhi. While two decades elapsed between both editions, the pertinent historical lesson advocated by both authors is that the reassessment of distorted (mainstream) Osmanli historiography and its naturalized “scientific” (social) assumptions (i.e., nation-state paradigm) continues to be a peripheral academic endeavor with secular-humanist *idées*—therefore ratiocinative Latin-European philosophical theology—continuing to dominate knowledge relations informing the standard of “civilization”, “development”, or “modernity” as telos of history [23,31,45,46]. S. Faroqhi is of the opinion that “attempts at critical revaluation are particularly rare in Ottoman history, where well-established paradigms, which will admit some modification but not significant challenge, continue to dominate the field . . . Ottoman state and society appear in the secondary literature largely as objectively known realities that in essence do not even change over time” [31] (p. 11). The immoral consequences of a positivist jurisprudence reifying a “cultural dynamic of difference” is of vital importance in demonstrating how, for instance, the British Crown legally violated Ottoman sovereignty in Arabia Felix—particularly for our case, Vilayet Yemen, discussed in the third section—by transforming

(Ottoman) cultural differences into a legal argument justifying occupation in 1821 and later in 1874. This is legally and historically manifest when Captain Haines of the Indian Navy in 1821 “extracted, through intimidation and threats of bombardment, an agreement from the “sultan” of Lahj . . . In their desperate efforts to justify by international law their occupation of Aden, the India Government undertook to question and challenge the Ottoman right of sovereignty over areas into which they had intruded, a confrontation that was eventually to reach the highest legal authorities in Britain for resolution” [47] (p. 36).

The reluctance of mainstream legal-historians to analyze and demonstrate an alternative historical reading of political and social structures accentuating the Osmanli Caliphate is identified in the lack of their historical cognizance of alternative political systems informed by epistemological registers espousing different philosophical theologies than that referencing a Judeo-Christian rationalization of Being and Law. Mainstream Ottoman historiography concerned with analyzing the political and social systems structuring Osmanli civilization continues to reify positivist jurisprudence as being the ideal legal means necessarily leading to “modern” and “civilized” status. This ahistorical particularization universalizes a ratiocinative episteme (Ar. معرفة فقط عقلانية) particular to the Occident, inferring, for instance, that a protestant individualist ethic of liberal-capitalism and a secular ontological identity of belonging bounded in a demarcated space valorizing an “ethno/sect-centric proprietary lens” is essential to be recognized as sovereign and therefore a member of an International Society of Nations [46,48,49]. This uncontested *universalization* adopted by mainstream historians is problematic for several epistemological reasons since it disregards “conceptualizing the manner in which [Osmanli subjects] thought about politics, who lived within a political system that was definitely not the national state” [31] (p. 12). Positivist jurisprudence projects a false sense of rationality, legitimacy, neutrality, and universality when in reality it reflects historically contingent political power and an unavoidably subjective choice between values [2,50]. This is evident, for instance, with Latin-European (positivist) jurisprudence claiming that “ethno-centric” (Westphalian) conceptions of territorial proprietary boundaries informed by nation-state ontologies of governance are the most rational civil ideas of social belonging leading to temporal advancement [2,29,34,51,52].

Positivist jurisprudence distinguished between civilized and non-civilized societies—by emphasizing a culturalist dynamic of difference—thus asserting that legal principles situated in *jus gentium* only apply to “recognized sovereign states” comprising a civilized “family of nations” [25,45,53,54]. Therefore, with secular sovereign figures willing *jus gentium* into being, positivist lawyers in the 19th century established a comprehensive legal framework that dealt with international socio-economic issues by producing a vocabulary, a set of constraints, and ahistorical considerations which shaped and were shaped by an entirely newly (re)constructed universalized law based on the doctrine of sovereignty. Positivist jurists such as John Austin held that “laws properly so called are a species of commands. But, being a command, every law properly so-called flows from a determinate source” [55] (p. 133). Therefore, to Austin like Hobbes, that determinate organizational source was the non-transcendental sovereign in flesh. Austin’s positivist jurisprudence explicitly highlights the distinction between law and morality which international positivist lawyers took pride in having rid the discipline of with insupportable arguments regarding natural law and its associated idea of objective morality. Another important deterministic juridical concept developed by positivist jurists alongside sovereignty is the concept of society. Society is the central concept used by virtually all international lawyers in the period of the 18th and 19th century—arguably until this day—in their efforts to suggest the existence of rules observed and protected by a sovereign supreme authority. Westlake proclaims that:

... international law is the body of rules prevailing between states. States form a society, the members of which claim from each other the observance of certain lines of conduct, capable of being expressed in general terms as rules and hold themselves justified in mutually compelling such observance, by force if necessary; also that in such society the

lines of conduct in question are observed with more or less regularity, either as the result of compulsion or in accordance with the sentiments which would support compulsion in case of need [56] (pp. 1–2).

This positivist rationalization of law posits that sovereignty is important inasmuch as society since society is constituted by sovereign states. This is cited by Westlake when he says “Without society no law, without law no society. When we assert that there is such thing as international law, we assert that there is a society of states: when we recognize that there is a society of states, we recognize that there is international law” [56] (p. 3). Therefore, “society”, “family”, and “community” became fundamental “civil” signifiers along with sovereignty in constructing a legal definitional framework informing positivist jurisprudence stipulating an unbridgeable cultural gap between a Latin-European (Occident) philosophical theology embodying a rational mode of Being deemed temporally progressive, in contrast to Osmanli-Arab (Oriental) philosophical theology as object identified as embodying an irrational mode of Being denied sovereignty [2,27,35]. A “universalized” cultural personality embodying society then provides the matrix of ideas which “allied with sovereignty establish a positivist international law order” [25] (p. 48). It is important to note that the idea of society—according to positivist jurisprudence—assumes membership and membership assumes that states being accepted as part of an “international society” is contingent on whether they furnish a personality embodying the cultural and political norms proclaimed as “universal”. It is then the concept of society with its cultural relativist tendencies enabling the formulation and elaboration of the positivist legal doctrine known as “sovereign recognition”, which takes in consideration various ahistorical (scientific) cultural distinctions and classification, that *a priori* rejects Osmanli membership in the “family of nations”. Since *jus gentium* maintains and polices the violent culturalist dynamic of difference including legal principles that adhere to a Judeo-Christian rationalization of morality making possible the transformation of cultural differences into legal differences, Osmanli subjects were historicized as “ontologically dead” objects of sovereignty relegated to being temporally “outside” *jus gentium*. Oppenheim’s remarks on sovereignty being a status arrogated to secular Latin-European society has had an enduring significance on positivist legal-history since he is of the opinion that non-European spaces are “not-full Sovereign States” [57] (p. 154). This positivist legal repudiation of sovereignty affirmed by positivist jurists made legally possible the classification of different cultures as civilized and non-civilized, thus proceeding to legally sanction extrajudicial measures ostensibly necessary for temporally stagnant non-Europeans to reach the telos of history—Latin-European civilization.

John Westlake (d.1913), a respected English positivist legal scholar, makes a distinction between European and non-European cultural personalities by (de)valuing non-European societies using scientific atomizing analogies [26] (p. 28). He says, “Our international society exercises the right of admitting outside states to parts of its international law without necessary admitting them to the whole of it” [56] (p. 82). Jurists such as Westlake and James Lorimer argued that the legal capacity of an entity was pre-determined by the degree of civilization—or cultural *qualité*—it furnished, leading Westlake, similar to Lorimer and Oppenheim, to highlight that sovereignty was acquired not “in treaties with natives, but in the nature of the case and compliance with conditions recognized by the civilized world” [56] (p. 145) [58,59]. That is to say, Osmanli civilization furnishing a cultural personality informing a philosophical theology at odds with Latin-Europe denied it “international sovereign recognition” by relativizing Osmanli subjects as being unsociable objects temporally situated in a “state of nature” lacking the intellect to comply and maintain a “social contract”.

Passing the “test of civilization” being conditioned on furnishing a society reifying epistemes embodying “protestant ethics of capitalism” characteristic of liberal-secular capitalist societies separating between reason and revelation is perhaps most directly demonstrated by Westlake when he argues that Asiatic empires such as the great Osmanli Caliphate were capable of “passing” the test only if Europeans sojourning in the empire

are subject to the jurisdiction of a European consul rather than subjects to (Osmanli) local laws. According to Westlake [56] (p. 170), this meant that an international law informed by positivist jurisprudence had to merely “take account” of Asiatic societies rather than accept them as members of the “family of nations” or “international society”. According to positivist jurists, European citizens living or trading abroad were not to be tried or convicted using a “backward” jurisprudential system founded on nomos referencing Arab-Islamic philosophical theology [21,23,53,60]. It is here that treaties of capitulation as a legal-historical case of sovereign violation began acquiring a derogatory connotation in the 19th century since the Osmanli Caliphate was humiliated and forced to sign treaties that gave European powers extra-territorial jurisdiction over the activities of their own citizens sojourning in sovereign Osmanli territory, thus expanding unequal economic policies [25,26,28,46,60,61]. For instance, the Balta Liman treaty of 1838—also known as the Anglo-Ottoman treaty—was according to the British the most liberal agreement based on classical (Scottish Enlightenment) liberal-capitalist concepts of free market, comparative advantage, and the abolishment of monopolies. However, Osmanli jurists and economic ministers beg to differ on its “civilized” trait. Although the treaty undeniably increased trade, imports into the country increased exponentially, thereby crippling Osmanli local exporting industry [61,62], ([63] p. 25).

Thomas, J. Lawrence, a renowned Scottish positivist legal scholar in the 19th century, conditions “sovereign recognition” and “civilizational progress” on whether a society “individualized” its modes of production, or put differently, “secularized/protestantized” commercial and trading ventures (i.e., homo economicus) by framing them as “scientific” transactions between territorially demarcated property units [46,48,49,64]. He states that “international law regards states as political units possessed of proprietary rights over definite portions of the earth’s surface. So entirely is its conception of a state bound up with the notion of territorial possession that it would be impossible for a nomadic tribe, even if highly organized and civilized, to come under its provisions” [65] (p. 136). However, what became clear to Lawrence and other positivists is that the Osmanli Caliphate “passed the test of civilization”, with the Caliphate having continuously modernized its political-economic administrations as highlighted in the tanzimat period relating to the Reorganization of the Finance System in 1840 and the Vilayet Law of 1864 [36,46,66]. Even when positivist jurists such as Westlake seem to acknowledge the fact that different civilizations can possess a system of governance that parallels England, he quickly proceeds to affirm that “our actual England is regulated by law”, with the word “actual” seeming to suppress the suggestion that there could be some other England which compares with Saracen or Turk societies ([25] p. 61, [56] p. 8).

The jurisprudence regarding the issue of how sovereignty was acquired over “non-secular” peoples concerned concepts such as cession, property, occupation, and discovery. With Ottoman-Arabs imagined as “outside” law, this meant that there were no legal limitations on European states ability to commence war and/or be accountable for extrajudicial practices committed during a “mercantile venture” since economic exploitation between a civilized and non-civilized is not based on mutual civilizational growth, but rather a substantial “comparative advantage” [25,46,67–70]. For instance, the secularization of capitalism through positivist legal concepts exogenous to Arab-Ottoman philosophical theology legalized British attempts at acquiring the Aden port in the 19th century using “protectorate” as legal concept [28,47,71,72]. European states adhering to a naturalist then positivist legal school in the 17–18th century openly relied on the legal doctrine of dominium or protectorate as a basis for legally acquiring land in non-European spaces by exercising extrajudicial practices pertaining to the “economization of sovereignty”, leading to spatial demarcations exacerbating social divisions [16,25,54,67,72]. This meant that societies that did not furnish a Westphalian ontology of space (i.e., nation-state) and a liberal-capitalist ethos of political economy could have their space appropriated with positivist legal scholars arguing that the “cultural personality” informing, for instance, Osmanli territorial organization is “sick” or “premodern” since it abides by a philosophical

theology affirming that transforming commerce into a secular “natural science” is illegal and therefore immoral [21,46,48,60].

Therefore, the unfolding of sovereignty as a positivist legal concept exercised by the British Crown seeking the “ordering” of different cultures situated across Ottoman sovereign territory (Caliphate) consisted of scientific mechanisms of exclusion based on technologies of ethno/sect-centric differences which sought to expel and silence different (epistemic) modes of Being from the realm of *jus gentium*, thereby becoming a *raison d’être* for the grand redeeming project of (Latin-European) sovereigns bestowing “modern” civilization to Osmanli subjects. Accordingly then to positivist jurisprudence, once the initial culturalist differentiation was determined and accepted—that Osmanli-Arab subjects inhabiting the Osmanli Caliphate were designated as temporally “outside” *jus gentium*—the discipline was then capable of creating for itself—by presenting it as inevitable and natural—the grand redeeming project of bringing periphery peoples into the realm of sovereignty in tandem with developing juridical techniques and doctrines necessary for sanctioning a “civilizing mission” [13–15]. Put differently, the positivist doctrine of “sovereign recognition” expels the “exotic desert dweller” or the “Turk” from its realm and then proceeds to “legitimize” domineering practices that are deemed necessary to incorporate the Saracen world into the system of international law.

This cultural relativist project is manifest with “mainstream” historical analysis on Ottoman civilization reifying a linear conception of time observing that history took the form of progressive changes through successive stages, thereby assuming that the history of Osmanli “modernization” comprises merely the history of the tanzimat period when Ottoman legal scholars and ulema attempted but failed to become “modern like Latin-Europe” because their Arab-Islamic philosophical theology is considered as resistant to liberal-secular modernity. This is methodologically problematic—as will be elaborated in detail below—since it assumes that Osmanli-Arab subjects inhabiting the Caliphate in the 19th century were not simply passive agents of history, but rather did not have a modern history or civil society until they encountered Latin-European epistemology and were under French or British “protectorate/mandate” [2,27].

2.2. “Internal” and “External” Factors Influence Tanzimat—Osmanli-Arab Modernity Challenging the “Universalized” Worldview of Positivist Jurisprudence

As elaborated by Abou El Haj, “if history is a science, it should be possible to treat and analyze Ottoman history according to criteria commensurate with those that have been developed in studying the history of other areas”, thus enabling an entry into the discourse of comparative history “allowing communication across ethnic, national, civilizational, and continental divides” ([31] p. 5). For example, when analyzing corruption as an occurrence in England during the 18th century, historians and disciplinary specialists treat the “phenomenon of corruption as a topic for legitimate scholarly analysis. Yet when treating the equivalent feature in Ottoman state and society historians do not analyze corruption—they simply condemn it” [31] (pp. 8–9). Therefore, an entry is further enabled when un-disciplined voices from the Orient and the Occident pollinate across a variety of disciplinary approaches with an objective of deconstructing the hubristic attitude claiming that the “peculiarities, oddities, and particularism of Ottoman history and civilization” [31] (pp. 1–2) is sufficient “historical evidence” to judge and generalize one of the most prosperous multiethnic and multiconfessional civilizations in modern history as simply “lawless”, “uncivilized”, “sick”, and/or “despotic” [31], ([73] pp. 361–365). More to the point, disciplinary averseness begins to flirt with legal-historical obliviousness when we recall that according to the “standard of civilization” espoused by “recognized” European sovereigns during the 18th and 19th century, the Osmanli Caliphate was not only one of the most advanced civilizations during its time, but continuously embarked on political, social, and economic reforms similar to any modern(izing) political entity of that time in Europe (i.e., French, German, and British) [31,69,70]. Distorted ahistorical imaginaries silencing the real historical objectives concerning Ottoman socio-political reforms adjudicated by Ottoman jurists and statesman are manifest when we deconstruct how the period

of reorganization—legally decreed in 1839 through the *Gülhane Hatt-ı Şerif* (Eng. Supreme Edict of the Rosehouse) also referred to as *Tanzimât Fermânı* (Eng. Imperial Edict of Reorganization)—is particularized by some Oriental and Occidental legal-historians in the way they assess whether the Caliphate furnished the naturalized cultural mores informing positivist jurisprudence, or more specifically, a ratiocinative Latin-European philosophical theology. Using the nation-state as the superior and inevitable culmination of “modern” governance, most Ottoman legal-historians of the modern period have used developments occurring in 19th-century Britain and France, for instance, as a basis for analyzing earlier centuries of Osmanli history. Abou El Haj, therefore, cautions about irreflexive scholarship in the 20th and 21st century, proclaiming the period of the *tanzimat* as simply a “historical juncture for the appearance of the modern state which, with its streamlined and seemingly autonomous institutions, was adopted wholesale by the Ottomans” [31] (p. 61).

This hapless historicist lens dominating scholarly research concerned with the *tanzimat* reforms is not simply ahistorical, but, more importantly, methodologically problematic since it postulates that “Ottoman reforms of the nineteenth century are based on an external (i.e., Western) model, which was imported and superimposed on Ottoman society. The assumption is that somehow the older system of government and social organization had ceased to regenerate and renew itself. Therefore, the changes of the nineteenth century are depicted as sudden and new, indeed, unprecedented” [31] (p. 62). The methodological issue with such scientific self-image of (positivist) international law accentuates the consequences of secular discursive legal techniques seeking to identify and interpret relevant forms of “non-secular” state behavior by imposing an anthropological judgement that denies Arab-Islamic philosophical theology temporal coevalness. Johannes Fabian describes the “denial of coevalness” within ratiocinated Latin-European philosophical theology as the “persistent and systematic tendency to place the referent of anthropology in a Time other than the present of the producer of anthropological discourse” [51] (p. 71 [52]). Thus, in ratiocinative Latin-European anthropological accounts of societies with different cultural traditions, i.e., Ottoman-Arabs, a temporal difference is bounded to a violent dynamic classifying and relativizing Osmanli subjects as objects of (Latin-European) sovereignty. Consequently, the Osmanli-Arab-subject-now-object is relegated as lacking the required “cultural dynamism” to “progress in time” by being imagined as embodying cultural mores temporally transmuted into our primitive past ancestor which is an essentialist and deterministic positivist “Othering” strategy central to positivist jurisprudence. In 18th- and 19th-century accounts of Osmanli civilization and contemporary historical analysis, denying coevality represented the studied object—the Ottoman-Arab in our case—as stuck in a “state of nature” with only the expert, the Latin-European sovereign subject, knowing how to order, progress, and civilize the informant. This linear conceptualization of time hastened the scientific image of international law being a “secular science” because of the wide range of cultural encounters during the 18th and 19th century, which, according to Anghie, created “a general flux and confusion of international relations”, thus requiring an elaboration of new scientific doctrines to “legally” categorize and classify different cultures deemed “resistant to (Western) modernity” [25] (p. 49).

The epistemological problem posed by such essentialist generalization should make any historian gravely skeptical—especially when demonstrative reasoning highlights the opposite—since it implies a misreading and a fundamental improbability assuming that “Ottoman society was static and that a complete change took place within a short period of time, with virtually no preparation or precedent. Given the usual bias of historians in favor of gradual change, such an assertion should not have been accepted without strong supporting evidence” [31] (p. 62). In addition, such essentialist proposition has tactlessly become a “historical fact” stipulating that “Ottoman society, being traditional, had no way to become a modern or better society”, by emphasizing that the “the structural form that this transformation took was the nation-state” [31] (p. 62). Legal-historians reifying a “universal” worldview claiming a natural separation between Reason and Revelation have reified the exogenous ontological idea asserting the Westphalian nation-state as being

the exclusive modality of governance allowing membership in *jus gentium*; or put differently, the exclusive modality of “social belonging” furnishing a civil legal personality” extending “sovereign recognition” [2,22,23,29]. This “universalization” denying Osmanli society temporal coevalness discourages and dismisses as useless the systematic study of reforms adopted by early modern societies by rendering it a waste of time to devote sustained intellectual energies analyzing what was, when all is said and done, classified as an Osmanli “lifeless” or “sick” society [31] (p. 63). The historiography yielded by most secondary literature concerned with analyzing the Supreme Edict of the Rosehouse is based on disregarding any genuine historical examination to the three centuries backgrounding the initiation of the tanzimat such as the importance of Arab-Islamic philosophical theology engineering Osmanli institutions, society, and cultural mores [26,72]. Therefore, the task of any historian engaging in responsible research seeking to deconstruct the tanzimat period as an endogenous Osmanli-Arab process of modernization demands the systematic study of Osmanli-Arab philosophical theology engineering Osmanli modernity or else the assessment of 19th-century reforms risks remaining precarious by reifying exogenous (secular) ontologies of governance (i.e., nation-state) based on an esoteric (positivist) ratiocinated jurisprudent idea stipulating that Arab-Islamic philosophical theology is inherently averse to reason but receptive to despotism [2,16,22,45,74]. As poignantly exclaimed by Abou El Haj:

It is deplorable that researchers and social thinkers continue to view the nation-state as the pinnacle of early modern Ottoman historical development. Their narrow perspective denies them the many opportunities available to them for first theorizing and then evaluating the potential experiments in multiethnic and multireligious coexistence in the social organization of early modern times as alternate models of social and political organization . . . research in Ottoman history must be guided by the fact that a good part of the meaningful or enduring reforms of the tanzimat represent the culmination of a process of change having roots in the seventeenth century [31] (p. 63).

For instance, socio-economics reforms in the 1839 Edict of Gulhane—adjudicated by Osmanli legal scholars and jurists through the sovereign proclamation of *Amir al-Mu'minin* Abdulmecid I and by engaging in communal and provincial *shūrā* (Eng. consultation) [21–23,75] across religious and cultural affiliations—sought the reformulation and restructuring of institutional processes through *ijtihad* (Eng. independent reasoning) [21,37,75] that were already centuries in the (re)making and therefore in the process of *tahdith* (Eng. regeneration/rejuvenation/modernization). This is evident in 1856 with the *Islâhat Hatt-ı Hümayûnu* (Eng. Imperial Reform Edict) emphasizing a continued (re)consolidation and (re)adjustment of social and political governing structures accenting the Caliphate. While it beyond the scope of this research to mention each legal policy and its epistemological roots adjudicated during the period of tanzimat, it suffices to mention a few legal reforms highlighting the methodological and scientific hubris of “mainstream” Osmanli historiographers generalizing the period of tanzimat as being an “Ottoman attempt at pleasing Europe”, or more disturbingly, a “modern” and “civil” experiment that was bound to fail since the interlocutors are legal-jurists and philosophical theologians positioned “outside” *jus gentium* since their philosophical theology bounds them to a transcendental sovereign (i.e., Allah) rather than an apotheosis sovereign in flesh (i.e., the King, the Father) [2,6,7,13–15,39]. For instance, the policy adjudicated in 1840 entitled the Reorganization of the Finance System was not influenced by local Osmanli aspirations wanting to become a mercantile economy recognized as “inside” *jus gentium*, or “civilized” by “external” metropole European powers but was rather a culmination of socio-economic processes that had roots in the 17th century and continued well into the 18th century [31,46,48,72,76]. For example, the encounter between the Mamluks and Osmanlis in the 16th century initiated what would later become known as a “political Ottoman Egyptian elite” [72,77], ([78] p. 275). This suggests that the process of this elite formation—which had begun by the mid-17th century and was complete in the closing decades of the 18th century—should be analyzed in a wider Osmanli historical context of modernization which is defined “by the change the

Ottoman provincial policy underwent in the 17th century and the rise of provincial elites in the 18th century” ([78] p. 275) ([79] p. 814, 818). Considering the endogenous socio-economic historical developments occurring across the Caliphate further ameliorates our historical assessment considering the decision deciding to adjudicate other inter-related reforms such as the administrative (provincial) reform during tanzimat called the Law of Vilayets in 1864 [80] (p. 89). The enacted law—transforming eyalets into vilayets and furthering sanjak subdivisions—was responding to the ascendancy of political social elites identified as Ayan’s (i.e., notables) holding private-property across the Caliphate addressed by the Finance System Law of What is historically fascinating is that there is a “striking correlation between Ottoman Egyptian elite and that of other local power groups, chiefly in the Empire’s Anatolian and Rumelian provinces [Vilayet]” [78] (p. 275). Therefore, the Osmanli reforms were responding to an endogenous socio-economic evolutionary process accenting “Islamic Capitalism” [60,71], ([48] p. 91) with affluent notable merchants across religious persuasions in the Caliphate—whether in Anatolia, Damascus, Aleppo, Cairo, Tripoli, Beirut, Baghdad, or San’aa—experiencing an economic and social disarticulation/disengagement that became according to Abou El Haj:

manifest in part as peasants resisted giving up an increasing share of their production in taxes. The evolution in tax collection led to the evolution of a secondary social mechanism in the form of a local ruling elite whose task it was to more directly, systematically, and steadily supervise the collection of taxes, on its own behalf as well as on the behalf of the Istanbul-based ruling class. By the later seventeenth and in the eighteenth centuries, the material base of local elites in some regions at least, was dramatically changed by occasional grants of large tracts of land as private property (mulk). When a bureau of registry for private property was established in the later nineteenth century, it was the end result of a long process of conversion of public held lands into de facto private holdings [31] (p. 64).

Similarly, Faroghi and Frank evaluate whether a general thesis of a “seventeenth-century (economic) crisis” applies to the Ottomans and conclude that it does not. For instance, concerning textile production, while trade through Bursa did decline because of a profit squeeze, other textile centers grew as part of an increased regionalization and diversification, and productive trading cities such as Aleppo, Beyrouth, and Izmir intensifying their commercial links with their respective hinterlands [66] (pp. 454–456). Similar to A. G. Frank, Faroghi further demystifies mainstream Ottoman historical analysis stipulating that the “Ottoman economic crisis” is primarily linked to its despotic Asiatic mode of production. She cautions historians claiming AMP or Marxist dialectic deductions as “sufficient historical information” explaining Ottoman “economic regression” by plainly stating:

... it seems overly hasty to assume that around 1600 the Ottoman economy was transformed, once and for all, into an appendage of the European world economy. Rather it would seem there was a period of ‘economic disengagement’ (lasting from the early seventeenth to the mid-eighteenth century). Certain Ottoman crafts recovered, and others were newly created and thrived ... the Ottoman economy possessed potential of its own, and was not inert and defenceless. Even in the eighteenth-century assertions of global decline should be taken for what they are, unproven assumptions [66] (pp. 469, 525–526).

Similarly, Bruce McGowan attempts to ameliorate this myopic approach analyzing Ottoman socio-economic developments by claiming that the “the sheer volume of fiscal innovation implemented by the Ottoman government in the eighteenth century belies the myth of stagnation so popular among historians until recently” [81] (p. 710). The reforms executed during tanzimat developed from a need to secure the territorial integrity of the Caliphate by consolidating economic and social institutions considering the growing threat posed by external aggressors, especially after the humiliating Balta Liman Treaty allowing for British merchants in the Caliphate to be taxed equally to the locals. In addition, there was a growing concern that European powers in concert with internal nationalist

movements were legally justifying encroaching on Osmanli public and private commercial law and territorial sovereignty by using positivist legal terms such as “religious minority rights” and “free-market ethics” as a cultural difference transformed into a legal argument to sanction land acquisition and occupation [27] (p. 14). European sovereigns and their local nationalist petty organizations used “minority rights”—as a legal category initiating socio-economic sectarian disputes based on ethno-religious affiliations—by arguing that Greek Orthodox, Armenians, Kurds, Arabs, Chaldeans, and Assyrians were non-Osmanli subjects, thus transforming religious and/or ethnic affiliations into a politicized (economized) legal category [72] (pp. 216 and 226). Osmanli jurists thought that if they could further centralize power and unite different communities under a more efficient administrative institution then that would deter European attempts at encroaching on Osmanli sovereignty by violating the rights of Osmanli citizens.

The Reorganization of the Civil and Criminal Code in 1840, the Edict of Toleration in 1844, the Edict on Religious freedom and Citizenship Rights in 1856, and the Nation(ality) Law of 1869 were all legal principles and doctrines developed through *shūrā* (Eng. democratic consultation) and *ijtihād* (Eng. independent reasoning) by Osmanli sociologists, economists, and jurists to address the growing Godless hubris accenting nationalist groups across the Caliphate seeking to impose external ontologies of governance (i.e., delineating a nation-state using ethnicity and religion) and liberal-secular concepts of governance (i.e., party based parliament, secular constitution, and a form of capitalism based on protestant ethics) effectively grooming a petty bourgeois profit-maximizing capitalist “class” sectarianizing socio-economic relations [82–84]. Makdisi reminds us that during tanzimat European powers continuously intervened in the Caliphate on “an explicitly sectarian basis”, resulting in growing tensions which led to ‘sectarian violence’ mirroring an 11th-century “gentle crusade” episode [82] ([85] pp. 15, 19). In 1860, over a span of almost two months, Maronite peasants and Shihab nobility supported by French expeditionary forces of the Second French Empire (amongst others) and rural Druze peasants including the Jumblatt Clan (amongst others) engaged in en-masse “religious” massacres ([86] pp. 2, 3) ([87] p. 29) [88].

“Sectarian warfare” or “religious antagonism” in Mount-Lebanon arose not as a result of the Caliphate being “resistant to modernity” or “naturally sectarian”, but rather because French powers mobilized different religious identities mainly for political and economic purposes [82,85,89,90]. Following the carnage across Vilayet Syria in 1860, Chesterman and Hanssen and Safieddine claim that the “first humanitarian intervention” or the “world’s first humanitarian aid operation” took place seeking ‘Caliphate change’ with members of *jus gentium* (i.e., France) demanding an investigation relating to the causes instigating the carnage in Osmanli-Arabia [91] ([87] p. 29) ([92] p. 32). General Charles de Beaufort d’Hautpoul was put in charge of the expeditionary force and had instructions to collaborate with the Osmanli minister Fuad Pasha in reestablishing order [85,93]. Although Osmanli officials and statesman had already quelled civil tensions, the French expeditionary corps headed by Beaufort remained in Vilayet Syria until June 1861, thereby directly violating the sovereign agreement made with the Osmanli Sublime Porte [89] (p. 35). An important consequence of the French expedition was territorially demarcating *à la* Westphalia the beginning of a “quasi-nation-state” demarcated as Mount Lebanon-now-Mutasarrifate from 1861 until 1918, with the Caliph nominating an Armenian Christian Governor from Constantinople named Daud Pasha in June 1861 as mutasarrif to ease sectarian sentiments [86,87]. It should be evident that the events of 1860—having roots in the first two decades of the 19th century (i.e., Ma’an and Shihab disputes)—resulted in European powers encroaching on Osmanli sovereignty and exacerbating sectarianism by suggesting—while not successful—‘Mount Lebanon’ as a ‘promised homeland’ for Maronite Christians including sectarian administrative and judicial techniques, making legally binding the demand of a Maronite Christian as mutasarrif [72,85,93,94].

The moral issue with “mainstream” historians claiming that “liberal-secular” cultural mores primarily initiated tanzimat is that these articulations reify a Godless nation-state

paradigm and a Judeo-Christian rationalization of law and morality, thereby directly essentializing Arab-Islamic philosophical theology as inherently “resistant to modernity” and therefore prone to “religious warfare”. For example, reforms during tanzimat concerned with religious freedom and citizenship rights are discussed by “mainstream” historians as “historical evidence” demonstrating that the Osmanli Caliphate violated the rights and persecuted the livelihood of non-Muslims before the period of tanzimat [31,72,95]. The historical reductionism informing such ahistorical deductions seems to not be aware that reforms concerning “toleration of religious diversity” during tanzimat were a reaction to local socio-economic developments and foreign intrusions occurring within the Caliphate. British, German, Russian, and French ambassadors and emissaries have on several occasions been called upon by the Sublime Porte in Istanbul on grounds that they are deliberately destabilizing local markets and violating Osmanli sovereignty by taking advantage of capitulations treaties, and more importantly, favoring “religious minority groups” as trading partners, thereby exacerbating sectarianism [61,63,72,82,96–99]. Mainstream historians concerned with Osmanli legal-history also seem to not be conscientious of the legal demonstration revealing that the Osmanli millet (Eng. religious community) system was based on an ontology of social-belonging linked to Islamic jurisprudence dictating the rules of treatment applying to (non)-Muslims situated in an abode of peace (i.e., Dar al-Islam) identified as people of the book (Ar. Ahl al-Kitāb) or conscientious people (Ar. Ahl Dhimma) [35,97,100]. The term millet specifically refers to the separate legal courts pertaining to personal law under which non-Muslims self-governed with fairly little interference from the Osmanli central government in Istanbul [86] (pp. 2–3).

Citizens of the Caliphate were bound to their millet by their confessional affiliations, rather than their ethnic origins as emphasized by a (positivist) nation-state ontology. Additionally, the millet system extended a great deal of autonomy and power since different religious communities were free to set their own laws, collect, and distribute their own taxes [95,101,102]. For instance, when a member of a millet committed a crime against a member of another confessional community, the law of the injured party applied [95,98,103]. The millet system has been called an example of “pre-modern” religious pluralism since the system whether during the Abbasid, Umayyad, or Osmanli Caliphate provided a modern secular paradigm—based on Arab-Islamic jurisprudence—of a “religiously pluralistic society by granting each religious community an official status and a substantial measure of self-government” [100] (pp. 27–28) [97] (pp. 96–97). The legal conceptualization of millet in tandem with Dīn was sectarianized in the 19th century with nationalist organizations adopting ratiocinative ontologies of governance identifying “religious creed” with “ethno-centric religiousness”. It should be noted that Dīn is inaccurately translated in English as simply meaning “religion”. According to Arab-Islamic philosophical theology, Dīn is more accurately defined as custom, judgement, and Law that is unchanging with the passing of time—across different Ahl al-Kitāb (i.e., Dīns) [21,44,104]. That is to say that a secular system of belonging (i.e., nation-state) sectarianized Dīn by transforming millet differences into a legal reason to violently separate—therefore transform—cultural differences into a legal difference demanding a “national border” cloistered from other confessional communities [105]. Smith explains that religion as a ratiocinative concept—involving (positivist) social stratification procedures separating and demarcating territories by equating “religion” with “ethnicity”—was willed by recognized secular sovereign figures during the Renaissance and Enlightenment period and is a concept of “polemics and apologetics”. He continues by saying that:

... One’s own “religion” may be piety and faith, obedience, worship, and a vision of God. An alien “religion” is a system of beliefs or rituals, an abstract and impersonal pattern of observables. A dialectic ensues, however. If one’s own “religion” is attacked, by unbelievers who necessarily conceptualize it schematically, or all religion is, by the indifferent, one tends to leap to the defence of what is attacked, so that presently participants of a faith—especially those most involved in argument—are using the term in the same externalist and theoretical sense as their opponents [44] (p. 43).

Furthermore, consider a communiqué between Armenian Patriarch Nerses Varjabedian and British Secretary of State for Foreign Affairs, Lord Salisbury on 13 April 1878 revealing the sectarian processes unfolding carnage in 1860 Vilayet Syria. The Patriarch says that “It is no longer possible for the Armenians and the Turks to live together. Only a Christian administration can provide the equality, justice and the freedom of conscience [Ar. dhimmah]. A Christian administration should replace the Muslim administration. Armenia (Eastern Anatolia) and Kilikya, are the regions where the Christian administration should be founded. The Turkish Armenians want this. That is, a Christian administration is demanded in Turkish Armenia, as in Lebanon” [1H]. The correspondence highlights—whether consciously or not—the essentialism resulting in the “secularization” of Din—therefore millet—by correlating it with ethno-centric myths of “nationalism” [76,82,106–108] ([100] pp. 25 and 31).

Considering the aforementioned legal-historical (re)evaluations seeking to deconstruct “mainstream” historiography on tanzimat are vital to consider when attempting to un-learn the dominant history of the Osmanli Caliphate filtered through problem-solving (governing) paradigms reifying knowledge structures characterizing an epistemology that is different to the temporal cultural evolution of Latin-European modernization [31,79]. A responsible historical analysis concerned with discussing the organic motives surrounding tanzimat in general, and Osmanli civilization in particular, should bear in mind that the Caliphate continuously engaged in socio-economic tahdith enabling them to “maintain flexibility and adapt to changing circumstances” [79] (p. 819). It is historically interesting to note that Karen Barkey, in her renowned work entitled *Empire of Difference: The Ottomans in Comparative Perspective* states that during tanzimat the Caliphate “lost their Empire and the best of what they possessed: their diversity, ingenious flexibility, and resiliency” [35] (p. 3). Barkey continues—as highlighted by Endelman—by emphasizing that the Caliphate before the reforms allowed for cultural and religious “differences while maintaining some degree of control through the hub-and-spoke system where provinces were connected vertically with the center but not horizontally with each other” [79] (p. 819). While one might hasten to claim that Barkey or Endelman are arguing that the Caliphate became antagonistic towards cultural and religious differences because the period of tanzimat sought “civilized mores” extraneous to a society adhering to Arab-Islamic jurisprudence, they are arguing quite the opposite in that it is the “rise of nationalism in the Ottoman Empire in the nineteenth century” which began making it less “accepting of religious and cultural difference than previously” with the nation-state paradigm “sectarianizing” cross-cultural civilizational relationships [26,34] ([32] pp. 374–375).

Motivated thus, any ethical historical analysis seeking to deconstruct socio-political developments occurring across the Caliphate would benefit from considering the epistemological violence occurring between European powers attempting to eject Osmanli subjects from their natural historical evolution adhering to a philosophical theology balancing between reason and revelation which vehemently rejects the positivist jurist (secular) idea claiming as natural the distinction between law and morality. By demystifying myopic assumptions presuming that “modern standards” of the (Westphalian) nation-state constitute the unchallenged norm by which to assess modern political life, and by bearing in mind the legal and social consequences of such sectarian territorial logic on Osmanli conceptualizations of social administration, the following sections will attempt to accentuate how ratiocinative sovereign logic attempted to acquire Vilayet Yemen as “protectorate” using positivist legal doctrines related to sovereignty, property, and trade, thereby transforming Osmanli cultural differences into legal differences to “moralize” the acquisition and demarcation of Vilayet Yemen (i.e., Arabia Felix, Bilad Al-Yaman) as British Crown property. British sovereignty competed for influence in Osmanli-Arabia by seeking to (re)shape Vilayet Yemen’s already-flourishing cultural and commercial traffic with attempts to enforce and delineate—while clashing with Osmanli-Arab philosophical theology—a statist territorial boundary in accordance with ratiocinative Latin-European ontologies of governance (i.e., nation-state) and economics (i.e., protestant ethics of capitalism). Such “cultural encounter” proved remarkably fruitless and exclusionary—at

least momentarily in the 19th century—since positivist jurisprudence classified subjects of Osmanli sovereignty *a priori* as temporally degenerative since they adhered to a philosophical theology—according to positivist jurists and some orientalist ethnographers and geographers—that predestined them to remain in *jāhiliyah* (Eng. Age of Ignorance).

3. Results of the Aforementioned Legal-Historical Findings

3.1. Ottoman Sovereignty in Vilayet Yemen and British Attempts at Rationalizing Geography—Spatially Contesting the Legal Rights of Ottoman-Arab Subjects

The process involving the “rationalization of geography” by British Residents—particularly regarding the demarcation of territory already under the sovereign legal jurisdiction of the Caliph administrated as Eyalet Yemen later Vilayet Yemen—sheds light on what Lisa Wedeen identifies as “the connection between empire and distinct forms of knowledge” ([109] p. 32) [110]. This connection is highlighted with the philosophical theology informing Ottoman-Arab epistemology being particularized by Occidental historicism as a knowledge system averse to reason [2,35,45,66]. In this case, and especially in the aftermath of the Berlin Conference in 1884, the weaponization of “exact sciences” such as geography, ethnography, and cartography facilitated the construction of sovereign (British) rationalized geographies reifying positivist jurisprudence, thereby lending epistemological clarity to *jus gentium* being characterized by a cultural dynamic of difference historicizing Ottoman socio-political progress as “degenerating in time”, thus necessitating a mission temporally advancing Ottoman-Arab civilization [36,111,112].

After all, the imposition of “order” and the “manipulation of space” using “race war discourses” was an integral part of the “culturally essentializing project” in Aden which sought to violate Ottoman “international law” to save Latin-European *jus gentium* [113] (p. 61). Of course, Aden was not steamrolled into the British imperial orbit solely on British terms. Ottoman-Arab subjects frequently dictated the pace, nature, and terms of place making. From the outset, attempts to co-opt, create, displace, and appropriate space entailed negotiation, compromise, and occasionally the use of violence [110,114,115]. To grasp the multilayered diffusion of power which influenced the outcomes of this violent process of sovereign territorial demarcation, the “dialectical mode of spatial” analysis referenced by Lefebvre and Harvey is pertinent [116,117]. The product of colonial space by separating Aden from Vilayet Yemen, and the dialectical relationship pitting exogenous conceptions against local endogenous spatial perceptions, left a lasting imprint on Arabia Felix in totality. According to a *jus gentium* that finds it “rational” to transform cultural differences into a legal difference, thereby sanctioning territorial infringement, “if one is tribal, one operates outside modern frameworks of civilized behavior, and unless such individuals can be coaxed into “settling into the modern way of living,” they are likely to face a violent state response” [118] ([114] p. 26). However, despite the imposition of British boundaries in Aden, it quickly became apparent that the British “had only limited means of enforcing new forms of social, economic and political order created as a response to the imposition of a frontier” since Ottoman ontologies of governance did not territorially “containerize” its subjects based on ethnic or religious static categories especially since the Caliphate was already engaging in *tanzimat* across its provinces [36], ([114] p. 93) [119]. Demarcations and spatial reclassification of Aden reflected colonial ambitions and anxieties, as “ascribing boundaries to a region would turn into an extremely important and ideologically fraught practice in the 19th century, as those regions became increasingly considered within the exclusive domain of a certain “racial” group ... as they became territorialized” [120] (p. 82). As it turned out, the inter-related politics of “demarcation”, “development”, and “space making” in Aden had a reverberative effect not only within the Protectorate, but on the placement of Vilayet Yemen in the imperialist scramble for markets and influence in South Arabia along the Red Sea coastline [110,121,122], ([115] p. 35) [123].

In a secular-humanist legal context claiming the Crown as civic and the Sublime Porte as despotic, the “rationalization of space” not only excuses the use of violence, but also decriminalizes such act. In Yemen, this relationship emerged shortly after the British arrival in Aden. As “the first colonial acquisition of Queen Victoria’s reign,” Aden held symbolic

as well as geostrategic significance [119] (p. 1). For the British, consolidating their position in Aden necessitated spatial reorganization in Aden and its surroundings. With “security against tribal attacks” serving as a pretext, Executive Engineer Lt. J. Western demanded the use of the entire seafront along the eastern bay for a new military barracks [123] (p. 16). In order to build these military fortifications, Western demanded the immediate eviction of all the fishermen living in the area, the demolition of their homes, and their relocation to the southern outskirts of the city. While the necessity of spatial reorganization in Aden was self-evident from the perspective of British colonial officials, the geographic boundaries of Aden itself had yet to be decided. As it turned out, the essential first step in this decision-making process was the demarcation of boundaries by infringing on Ottoman provincial sovereignty [36,47,124].

Eyeing Arabia Felix, map-makers—authorized by the British Crown—recognized that “the state of affairs changed dramatically in the 19th century, when the domain of the “Grand Turc” became more accessible and developments in the fields of geography and ethnography introduced novel methods of map making, classification and cartographic representation” [120] (p. 82). Through the consummation of treaties, at times the co-optation and cooperation of local Arab chief notables, and attempts to carve out “spheres of influence,” British cartographers tried to radically redefine the spatial organization of the district of Aden—during tanzimat—thereby violating Ottoman sovereign law and the will of local Ottoman-Arab subjects who perceived Tai’zz as a sanjak administered by Vilayet Yemen. In the context of Aden and its environs, the process of demarcating boundaries helped British colonial officials “... make sovereign claims over geographical, historical and, more importantly, sociological spaces defined by ethnicity and faith” [114] (p. 91). Furthermore, British planners and contemporary observers viewed the demarcation of boundaries as a quintessentially “modern” phenomenon, thereby regarding all competing concepts of spatial organization as “pre-modern,” “tribal” and in need of replacement. As a result, local “concepts of territorial organization were largely ignored in imposing or otherwise deciding boundaries” [124] (p. 10). Consequently then—from the perspective of ethnologists and anthropologists—it was only in the aftermath of this violent process of “social-displacement” that wealth could be extracted, “modern” infrastructure built, and power projected deep into the previously unreachable hinterland.

The imposition of boundaries thus represented a critically important dimension of the “cultural(ist) encounter” in Aden. Yet, for nearly 60 years following the British occupation of Aden, it was far from clear how far British authority extended inland. To be sure, the drawing of boundaries and the creation of “sovereign territorial traps” [2] (p. 135) [125] on maps did not result in the immediate emergence of coherent ethno/sect-centric or proto-national space, as “frontiers became inter-imperial “borderlands,” zones of interaction, like frontiers, where lines were blurred and power was contested” [121] (p. 14). Disproportionate focus on great power disputes between the British and Ottomans often obscures the historical significance of Ottoman-Arab subjectivity as being a decisive factor in protracting Britain being capable of extending its “sovereignty” over Vilayet Yemen. To address this issue, our line of inquiry addresses questions related to Britain’s failure to “address the concerns of the inhabitants of affected regions,” and the subsequent impact of this failure in the realm of spatial production [110] ([114] p. 93). As it turned out, this process of negotiation and contestation preoccupied the attention of British officials for several decades following the seizure of Aden. In practice, any attempt to stake out a “legal” or “sovereign” claim to the hinterland surrounding Aden necessitated negotiating and/or feuding with the Sublime Porte and Ottoman-Arab subjects inhabiting Vilayet Yemen.

As discussed in previous sections, mainstream Ottoman historiography concerned with analyzing the period of tanzimat and tahdith—whether in Western Arabia (i.e., Bilad al-Sham) or Southern Arabia (i.e., Bilad al-Yaman)—generally refers to such a 19th-century period as revealing the “despotic” nature of Ottoman politics by historicizing their political and social administrative policies using a linear historical lens, inexorably leading to an “Ottoman civilizational problem” as answer to an “Eastern Question”. The issue with such

hubristic legal and historical generalization is that it assumes that Ottoman reforms were catalyzed because the “older” “sick” system of government and social organization ceased to regenerate itself because its philosophical and theological referent is closely associated with a jurisprudence (i.e., Sharia) that is averse to reason. Therefore, mainstream Ottoman historiography has continuously irreflexively claimed that the Ottoman “return” to the highlands of Northern and Southern Yemen in the latter half of the 19th century was an act of “reconquest aiming at re-establishing imperial dominance over the whole country” ([126] p. 49) [121,122].

However, Ottoman archives including telegrams exchanged between the Sublime Porte and British ambassadors and emissaries, including Ottoman-Arab subjects in Vilayet Yemen, and more importantly, current scholarship seeking to de-particularize Ottoman historiography in the 20th and 21st century, accentuates a different picture in that it was with reluctance and considerable hesitation that the “Ottomans undertook the difficult task of re-establishing themselves in the highlands in response to urgent appeals from the reigning imam to provide military support for his effort to stay in office” [126] (p. 49). Since the period in question is tanzimat, archival embassy telegrams between the Sublime Porte, Arab chiefs, and European powers accentuates that administrative failures in furthering welfare policies in the province are not demonstratively linked to Ottoman arbitrary acts of repression and domination, but rather to financial constraints and extensive campaigns of pacification across Yemen concerned with suppressing rebellion against Zaidi Imam Al-Hadi Ghalib’s (d.1885) authority, including intractable Arab chiefs refusing to pay legitimate taxes to Istanbul [36,118,126–128].

The records highlight that it was only after the Ottoman’s pacified the Red Sea coastal plain of Tihāmah from the Gulf of Aqaba to Bab-el-Mandeb and the Asīrī region in Sa’dah by 1871 that the government of the 32nd Caliph—Abdūlaziz—deemed it “appropriate to respond to the urgent repeated requests from the imam at Ṣan’ā to provide him with the military assistance he requested” [126] (p. 49). Correspondences between Istanbul and other Arabian centers (i.e., Mecca, Egypt, Damascus, Baghdad, and Sana’a) affirm that the Ottoman’s did not “return” per se to a region “outside” of their sovereign jurisdiction since Yemen was already part of the Ottoman Dar al-Islam especially since it neighbored the two sanctuaries of Mecca and Medina administered and situated in Vilayet Hejaz. It is crucial to note that Ottoman governors—whether in the 16th or 19th century—engaged in an intercultural reconnaissance between different Arab tribes across Islamic madhabs by setting up various types of charitable and religious buildings, service projects and educational schools, government buildings and the formation of the administrative structures of Yemen (i.e., Waqf) [4,36,47,48,129,130]. The aesthetic brilliance of mosques, forts, and castles that were maintained and/or refurbished before and during tanzimat and tahdith familiarizes the observer of Ottoman and Arab civilization cross-pollinating especially since, for instance, the physical and strategic layout of mosques, including their architectural design and intricate decorative features illustrates Ottoman’s complimenting and valuing the cultural heritage that the Abbasid and Umayyad Caliphate, the Kingdoms of Aksum, Sabaeans, Sassanids, and Hadramawt had on local socio-cultural imagination [36,129,130]. According to Enab, “Ottoman influence appears in the planning of Mosques like Muradiyya, Bakiriyya, and Talha...Ottoman influence is identified in the overall shape and content while the decorations were represented both by Ottoman and local Yemeni civilizational aesthetics. Some new Ottoman architectural and artistic elements appear in Mosques located in Sana’a like decorations related to Ottoman Baroque, Rococo, and Tughra calligraphy. Political and Religious differences between the Ottomans and the State of Zaydi Imams influenced the shape of these mosques” [131], ([129] p. 132) ([130] p.124).

Immediately upon their arrival in Yemeni highlands during the 19th century, Ottoman authorities “conscientiously embarked on a policy to pacify and stabilize the land by putting in place an administrative structure that would serve such ends . . . Ottoman officials in Yemen made every effort to implement a just and equitable administrative system by suppressing acts of rebellion against the imam, streamlining the administrative

structure of Yemen, and introducing measures to advance the economic well being of the land" [126] (p. 49). Imam Muhsi Shahari had previously usurped the imamate from Imam Ghalib and continued to agitate supporters among Arab tribes against Ghalib and his Ottoman defenders. While it is beyond the scope of this section to analyze each pacifying campaign in different Yemeni areas such as Kawkaban, al-Tawilah, al-Mahwit, and Jabal Raymah—which included hundreds of different Arab tribes and subclans—it suffices to highlight that to counter Shahari's continuous hostility against Ottoman authority and Ottoman-Arab subjects, the Sublime Porte found itself involved in suppressing multiple rebellions in a variety of regions in the highlands before it could be assured of administrative stability across the sanjak-not-yet-vilayet [36,119,123]. For instance, in Kawkaban, Ahmad ibn Muhammad Sharaf al-Din withdrew his support to Imam Ghalib in favor of Shahari; in al-Tawilah and al-Mahwit, Shaykh Yayha ibn Hasan and Sheikh Sarm, respectively, decided not to resist and surrendered peacefully; in Jabal Raymah, Sayyid Abdallah al-Dili at first refused to reach a peaceful settlement with Ottoman authorities, thereby leading to casualties on both sides but nevertheless ending with Sayyid al-Dili yielding and submitting to Ottoman authority in return for Field Marshall Ahmed Muhtar Pasha pardoning him and his followers [126] (pp. 51–53). Between the year 1871 and 1872, emissaries of Imam Ghalib and notable Arab chiefs from Sana'a led by Sheikh Muhsin Muid reached Manakhah to meet Ahmed Pasha. Not only was he and his troops ceremoniously and warmly welcomed by Muid as Ottoman-Arab citizens, but they were also re-assured that as subjects under the abode of Ottoman sovereignty, the Caliphate would honor the agreement which took place in the year 1849 between Ghalib and Tefvik Pasha ensuring the practice of the Zaydi madhab in peace [126] (p. 50).

The British in Aden not only claimed "protective rights" in 1874 over the area of Lahj and its port by justifying their actions using legal doctrines informing *jus gentium* to demarcate its boundary as sovereign property, but they completely disregarded Ottoman sovereignty in Bilad al-Yaman. Until now, the Arabian Peninsula had been spared foreign occupation. Britain claiming Aden as their Protectorate marks the first time a European country penetrated Arabia proper by claiming that civilizational differences could be transformed into a legal argument, thus "moralizing" sovereign territorial delineation, geographic acquisition, and demographic transfers [2,47,110,124]. The tug of war in southern Yemen between the Ottomans and the British began in 1821 when Captain, S.B Haines of the Indian Navy and British Political Agent at Aden extracted using tactless methods of intimidation and threats of bombardment an agreement from the Abdali "sultan" of Lahj who was illiterate and unaware of what he had endorsed [47,124,128]. While the more literate family members of "sultan" Ahmad ibn 'Abd al-Karim al-'Abdali declared the agreement null and void, Haines would not countenance such gauche and baseless agreement, thus leading to a series of confrontations and internal turmoil in the Lahj district [36,47,126,132]. Conflict did not simply arise amongst rebellious Arab tribes in Lahj contesting British Residency, but, more importantly, with Ottoman authorities who were in the process of completing the modernization of the sanjak of Tai'zz in 1872 and attempting to protect their subjects combating British intrusion who in their "desperate efforts to justify by international law their occupation of Aden, the India government undertook to question and challenge the Ottoman right of sovereignty over the areas into which they had intruded", thereby resulting in a conflict that eventually reached the highest authorities in Britain for legal resolution [47] (p. 36).

According to archival accounts in the Bombay Office of Public Records, the East India Company decided to capture Aden not simply for coaling purposes, but more specifically, for commercial (i.e., access to coffee in the highlands) and political purposes. As a matter of legal historical fact, Arab legal-jurist Husayn Ibn Ahmad Al-Irshi highlights that "for twenty years the British circled the area like a bird of prey waiting to pounce on its wounded victim, seeking a pretext to seize it" [133] (p. 176). To solidify British control over Aden—which had a population of no more than one thousand inhabitants—Haines bombarded Aden using warships on 19 January 1839 and sought to evict Abdali which

led to another conflict with local Arab tribes and another defeat for the “sultan” [47]. The British compelled him to agree on conditions which not only violated Ottoman sovereignty, but, more importantly, informed the formative exogenous structures of a “nation-state”. The conditions were as follows: (1) the sultan will acknowledge English dominance and submit to their “protection”, (2) the interior of the country is to be completely independent, (3) encounters between Arabs and the sultan were to be direct, without English interference, (4) the sultan was to have the right to issue laws as required by his country, (5) the sultan was to conclude no agreements with foreigners (i.e., Turks), (6) the sultan was to have his own flag and soldiers, and the right to grand title and rank, (7) Bab’ Adan was to serve as the dividing line, and finally, (8) no foreigner was to own property in Lahj [133] (p. 178).

In November of 1839, approximately 5000 Arabs from Tai’zz—with a population of around 130,000—sought to evict British occupiers, resulting in 200 Arab tribesmen being killed. Another attack with approximately the same number of casualties took place in May and July of 1840 with the Fadlis tribe joining the Abdali’s [47,126]. Captain Haines punished the Fadlis for joining the conflict by blocking their coast, cutting off essential supplies from Aden, and bombarded the coast of Shuqra. This ratiocinative policy continued until 1843 when both Arab tribes sued for peace in return for a stipend of 541 dollars in tandem with negotiations and coercive measures, eventually leading to a number of agreements with Arab tribes in the areas around Aden for the purpose of furthering political and commercial ends [47] (p. 39). According to Reverend, G.P Badger—a chaplain at Aden from 1846 to 1862—the actions of Captain, S.B Haines were “rogue” [128] (p. 10.44) and that the Bombay government should recognize that the “prosperity and tranquility of Aden and its garrison depended at all times upon the state of their relations with the neighboring tribes, which required that they rest on a firm and satisfactory basis. This was all the more important in the event that the British had to engage an unfriendly European power [i.e., the Ottoman]” [47] (p. 39).

Shortly after the arrival of Captain Haines and representatives of the Bombay Government in 1839, the struggle with Sultan Muhsin and the Lahej Sultanate threw into stark relief the vulnerabilities of Aden [123] (p. 12). It quickly became clear that the colony would not remain viable unless access to the mainland could be secured through negotiations. Haines set out to negotiate with Arab notables residing in the Abdali region even before the formal seizure of Aden in 1839 [119] (p. 36). The Abdali region—also referred to as the Lahej Sultanate—functioned as an inland artery of trade connecting Aden to the rest of South Yemen [134] (p. 42). For this reason, “Aden’s [Protectorate] administration negotiated its first political treaty with various representatives of the Abdali in the 1840s” [72], ([114] p. 97). The terms of the treaty Haines signed with the Abdali “Sultan of Lahej” set a precedent for future negotiations elsewhere. In theory, such treaties guaranteed considerable autonomy for the Arab tribe concerned while “creating an area on the mainland behind and near Aden free from interference by any foreign State and bound by mutual friendship and interest to the British” [135] (p. 15). For British planners and cartographers in Aden, securing treaty relations with local Ottoman-Arab subjects in the countryside furthered British interests in two interrelated ways. First, by locking in local Arab polities with “treaties of friendship and mutual recognition”, British planners hoped to pre-emptively undermine Ottoman efforts to make inroads in Southern Arabia during tanzimat. After all, by the mid-19th-century Ottoman officials hardly concealed their opposition to the British presence in Aden, claiming Yemen as a sovereign vilayet administered by the Porte [36] ([135] p. 15). While the Ottomans annexed much of western and northern Yemen into Dar-El Islam during the reign of Caliph Suleiman the Magnificent (d.1566), British officials countered that “Turkish sovereignty over the Yemen, if it ever existed de jure, has, at all events, fallen into desuetudo now for two centuries.” [1c]. Aside from the British Crown irreflexively identifying an Ottoman conceptualization of sovereignty from an ethno-centric lens (i.e., Turkish)—similar to the events of 1860 in Vilayet Syria—it became clear that British imperialists intended to use Aden as a launchpad to project power further into Arabian territory in general, and Yemeni hinterland in particular, thereby

prompting the Porte to reestablish a foothold in Sana'a by 1871 [124] (p. 23). With Sana'a under nominal Ottoman control, Ottoman forces quickly moved south in an attempt to contain the spread of British influence near the city of Ta'izz. Ottoman authorities contesting British sovereign infringements in Vilayet Yemen overlapped in many areas, [1a] which redounded to the benefit of opportunistic local Arab chiefs who suddenly found themselves in an enviable position: by being capable to play the two competing powers off of each other, many managed to extract maximum returns from both sides in the form of patronage, privilege, and power [1i]. Thus, the territorial rationalization of Ottoman territorial sovereignty in Vilayet Yemen began with the consummation of "treaties of friendship" linking the fortunes of the British Residential project to the so-called "nine cantons" located throughout Ta'izz.

More specifically, British officials had by 1872 informed Ottoman authorities in Ta'izz that the Abdali (Lahej), Fadli, Aqrabi, Hawshabi, Alawi, Amiri, Subayhi, Yafi and Awlaqi tribes were "nominally sovereign polities" enjoying the diplomatic and military protection of the British government as part of the "Aden Protectorate" [124] (p. 26). Interestingly, while the British government asserted authority over the "nine-cantons" and the newly minted Aden Protectorate, "the formal declaration of the Protectorate did not include formal boundaries" [114] (p. 171). While this geographic ambiguity undermined British authority in contested territories, it further reaffirmed the modern political-legal competence and expertise of Ottoman-Arab philosophical theology. On several occasions, Ottoman authorities politically engaged British weaknesses by making overtures to community leaders in these disputed borderlands [1j]. British colonial officials quickly realized that "if they did not designate areas on a map that they could use to reinforce their claims, these Ottoman tactics would completely reorder the Aden highlands" [114] (p. 102). To achieve this, the colonial government dispatched survey crews, engineers, cartographers, and geographers into the countryside throughout the late 19th and early 20th century. While the British "sphere of influence" existed in a quasi-legal sense, the geographic definition of the nine cantons remained fluid and susceptible to the Porte contesting British infringements on Ottoman sovereign territory. Or to put it another way, British planners could not yet impose upon Ottoman-Arab subjects or opportunistic Arab chiefs the rigid protestant ethics of capitalist "order" characterizing protected territory as "private property" separate from its nearest neighbor, i.e., Vilayet Hejaz or Ummah at large [36,72,136]. Only through the imposition of rigid, inflexible borders could this issue be put to rest and British sovereignty guaranteed [36,72,110,114,128]. With this mandate in hand, boundary commissions attempted to impose upon their "tribal" client's spatial abstractions known as "frontiers". By the late 19th century, the Aden Boundary Commission selected Colonel Robert Alexander Wahab, "a veteran of the region" [114] (p. 102) to supervise the creation of a comprehensive geographic survey covering the areas concerned [128].

The Sublime Porte regarded British interference through the Government of Bombay (i.e., East Indian Company) in Arabia Felix as a violation not simply of their sovereign right over the territory, but as threatening the rights of their Yemeni and neighboring Hejazi citizens. A report entitled fully as "Memorandum on the Turkish Claim to Sovereignty over the Eastern Shores of the Red Sea and the whole of the Western Shore of the same Sea, including the African Coast from Suez to Guardafu" dated 5 March 1874 and compiled by E. Hertslet of the British Foreign Office explicitly dismisses Ottoman sovereign claims and discussions asking the British to "cede" Aden [47] (p. 45). The cultural dynamic of difference structuring sovereignty as a violent process of separation adhering to positivist jurisprudence are further evidenced with the report identifying Ottoman Viceroy Muhammad Ali's presence in Tihāmah (south of Yemen) between 1833 and 1838 as "occupation" [47] (p. 45). The report, therefore, reveals the culturalist dynamic of difference animating positivist legal concepts since Britain occupying Aden in 1839 was legally interpreted as "protection" (i.e., Protectorate) even though the Sublime Porte legally identified it as an aggression against Ottoman territorial sovereignty [36,128,132].

Ottoman forces reclaiming their rights of territorial sovereignty by “occupying” Lahj and Hawashib in 1873 presented British authorities with more legal problems. Aside from the British consistently demanding that Ottoman forces withdraw, the hostilities brought into focus the baseless claims of British sovereignty over Aden and its surrounding areas when we recall that Abdallah—the brother of the sultan of Lahj—called upon Ottoman administrators and jurists to help him settle a dispute with his brother. The Ottoman governor at Ta’izz—legally administering the area British forces had intruded upon—responded to the British by simply saying that Abdallah was an “Ottoman subject” [47] (p. 50). On 12 January 1874, Ottoman Ambassador in London—Musurus—sought to reach a compromise with the British by relaying through the Duke of Argyll to Earl of Granville to consider that with “the Sultan as Khaliph” than that should legally allow him to “grant an autonomy to the Lahej and Howshebee countries” [47] (p. 49). The response from the India Office to Musurus’s suggestion was antagonistic as according to positivist jurisprudence that would imply recognizing Ottoman sovereignty over Yemen since only “recognized sovereigns” informing *jus gentium* are legally sanctioned to “grant autonomy” to regions in their dominium [22] (p. 278). In another legal-historical event highlighting British baseless claims over Ottoman sovereign territory on 26 January 1874, we read a telegram from Ottoman Foreign Minister Reshid Pasha—addressed to the Duke of Granville through Ambassador Musuru—stating that “our imperial government does not compromise sovereignty over Lahj but won’t interfere with treaty obligations transacted between the shaykhs and others; the presence of our imperial army in Yemen is by right; Arabia is the cradle of Islam; the Sultan is the Prophet’s khalifah; he has rights and obligations vis-à-vis the Holy Cities” [47] (p. 49). The British continued to deny Ottoman legal claim to the interior of Yemen whether by “occupation, priority of discovery, or even by statement” [47] (p. 49). Such “legal” claim employed an ethno-sectarian discourse to delineate space (i.e., canton system) by figuring Ottoman subjects as “irrational bodies” and in the process emphasize the supposed lawlessness of Ottoman-Arab civilization breeding “objects” lacking the spirit of reform evidenced in their Asiatic mode of production ([46] p. 324) [66]. The transformation of such ahistorical “cultural” difference into a “legal” difference is evident with the British relaying to the Sublime Porte that recognizing the “Khaliph” would entitle the “sultan to sovereignty over half of the world and the pope to the other half” [47] (p. 48).

Considering the testimonies and reports of British Residents in Aden and Bombay, the British were unable by the end of 1874 to effect a working relationship based on tranquility and prosperity with Arab chiefs fearing what they termed “Turkish interference in the affairs of Lahaj and Aden” since Ottoman administrators held the upper hand over the region and the chiefs were more “apt to back away than to stand with [the British] under demonstrable pressure from Ottoman governing officials in the region” [47] (pp. 55 and 56). While British intrusion on sovereign Ottoman territory in Arabia included a long record of forced “treaty” arrangements with “hapless” native chiefs [47] (p. 49), such arrangements accentuate the political wisdom and civil character of Ottoman governance generally, and Vilayet Yemen particularly. The negative British response to Reshid Pasha’s telegram highlights the deliberate colonial policy the British sought to implement in Arabia since it disregarded not only the important legal historical fact that Arabs in Arabia Felix had no issue identifying themselves as Ottoman-Arab subjects, but also the “unequal essence” of these treaties since their objective was to divert local revenue from reaching the administrative machinery needed to fund modernizing reforms put into place in the newly declared first-level division—Vilayet Yemen. Two momentous legal-historical documents written by Fadl ibn Alawi from Hadramawt dated 6 August 1879 reveal the blatant British disregard of Ottoman-Arab subjective consciousness who they simply considered as their “stipendiaries” and used them to entitle the Crown to “rights not justified by international law” [47] (p. 49). The first document written in Arabic and addressed by Alawi to Caliph Abdul Hamid II reads:

... Article II: Centers of the Arabian peninsula consist of Sana’a, Mecca, Baghdad, Damascus, and Egypt which passed into possession of the imperial state (Osmanli); Article

III: After taking possession of these centers, the imperial government granted the chiefs of the tribes berats over their lands; Article IV: If any foreign state encroaches upon lands under the tribal chief, it is its responsibility to inform the nature of this encroachment so it can be on the alert; Article V: If it becomes known that interference constitutes encroachment, warning is issued to cease such interference harmful to governing in keeping with commonly observed rules; Article VIII: Should the imperial government overlook at this time the encroachment of foreigners on its territories, most of the coast districts of Arabia will pass under their control and great harm will befall the Muslims on the Arabian peninsula, and particularly the two sanctuaries of Mecca and Medina which are in their proximity; and Article IX Proof thereof: when France took possession, from certain Arabian chiefs, of land near Bab al-Mandeb (Shaykh Sa'id) for a certain amount of money and erected buildings thereon, the imperial government declared the sale of lands belong to it as illegal, whereupon France immediately withdrew and left the buildings standing until today [47] (p. 49).

With the tanzimat period of 1839 modernizing and reorganizing the financial system and administrative divisions across the Caliphate, by 1869 Ahmed Muhtar Pasha had already begun to reorganize the administration of Sana'a after securing its sanjak and receiving instructions from the Sultan for the administrative restructuring of Yemen. The reorganization process lasted from March 1869 until April 1870 when it was completed in keeping with direct instructions from Istanbul [2e]. This included financial outlays necessary to meet administrative costs [2f]; appointing Ismail Efendi as chief secretary (mektupcu) directed and guided by the Minister of Interior located in Istanbul [2g]; and granting pensions for the elderly and also compensating subjects on their faithful service in the past [2i]. Yemen became a first-level administrative division (i.e., vilayet) in 1870 and it was divided into four sanjaks identified as Sana'a, Hudaydah, Asir, and Tai'zz. Similar to Vilayet Syria, mutasarrifs were appointed across all sanjak areas [108] (p.54-55). After all administrative personal were appointed across Yemeni sanjaks, ordering the financial affairs of the vilayet was organized by the Sublime Porte, thereby assuring a constant flow of revenue to the treasury of the province [2h]. On 12 September 1874, Ahmed Muhtar Pasha boarded the Austrian Lloyd Company's steamer Oreste since he was informed that his work in Vilayet Yemen was completed and that he was to be rewarded by being appointed Minister of Public Works in Istanbul. In the three years the Ottomans took to pacify the whole of Yemen (1869–1873) over “twenty-two thousand troops had seen service in that country. In their campaigns against rebels, they lost about four thousand . . . some eighteen hundred were confined to hospitals for a variety of illnesses contracted often due to the lack of housing facilities while on the campaign trail and the need to use tents in bad weather” [47] (p. 56).

It should be noted that prior to Reshid Pasha departing Vilayet Yemen, he along with other Ottoman officers such as Nuri Pasha surveyed the region on an expedition from 1871 to 1873 and concluded that the development of a railway system stretching from Vilayet Hejaz to Bilad Al-Sham is necessary if security in the Arabian region was to be maintained [137]. By 1882, Vilayet Yemen began to witness other rounds of rebellions and turmoil between local Arab chiefs in tandem with mutasarrifs continuously dealing with British infringements. Other political events developing across provinces in the Ottoman Caliphate further destabilized and protracted the implementation of social welfare projects in Vilayet Yemen. Additionally, since the Hejaz Railway was yet to be constructed, distance and time worked against the central government as it took several months for proposals to reach Istanbul, thereby delaying recommendations made by Commissions of Inquiry reaching the capital of Vilayet Yemen—Sana'a [36,128,137]. However, what is noteworthy is that a remarkable amount of construction and rehabilitation in Vilayet Yemen did take place when funds were available as noticed with the construction of courts of adjudication, medical facilities, bridges, the telegraph line reaching Sana'a, and the rehabilitation of several ports [138] (pp. 242–247).

Even the ethnologist and boundary delineator Eduard Glaser (d.1908)—one of the first Europeans to record and explore ancient South Arabian (Sabaic) inscriptions—noted during his three famous journeys to Vilayet Yemen (1882–84, 1885–88, and 1892–94) while accompanying Ottoman officials that the efforts conducted by vali Izzat Pasha necessitates praising. However, he also noted that provincial productivity deteriorated during his governorship when the administrative and military machinery reached a halt because of political (nationalists), financial (free-market capitalists), and commercial (mercantilists) developments exhausting resources across the Caliphate [126,128,139]. It is equally important to note, however, that at no point during the 1880s did the Caliph Abdul Hamid II compromise sovereign rights over the whole of Arabia or concede any portion of its territory legally to the British. As a matter of legal historical fact, in November 1882 a cable between London and the Ottoman Foreign Ministry explicitly states that the government of Lord Granville should desist from infringing on Ottoman sovereign territorial rights in Arabia [47] [2d].

As boundary negotiations between the Ottomans and the British dragged into the 20th century, Indian Office officials became increasingly impatient and again began to rely on Col. Wahab's expertise in talks with Ottoman authorities. For his part, "Wahab complained that the India Office misunderstood far-away Yemen through "misinterpretations" of his maps" [114] (p. 103). In a letter to the India Office Resident at Aden, Colonel Wahab—an expert in boundary delineating—argued that "the line of my survey in 1891–92 would prove absolutely impractical as a frontier, it was never intended to be one, and was merely the line formed by the high peaks visible from the stations of the survey" [1k]. From Wahab's point of view, at issue was the prospect of establishing a boundary which would threaten the "territory occupied by two tribes, the Humedi and Ahmedi, whose territory would be cut in two by such a demarcation . . . [for them] it would be a very serious hardship" [110]. Such concerns did not alter the calculus of British planners and cartographers. Responding to Wahab's letter in a positivist legal manner, the India Office replied: "the main object in view is the safety of Aden and not of the tribes" [1k].

A 1908 rendering of Wahab's abstract demarcated border reveals the illegality of the boundary delineating Aden as Protectorate while also simultaneously naming and territorializing the "nine cantons" previously mentioned [110,134] [1G]. While British spatial reorganization is dictated by the logic of sovereignty understood as the "power to violently separate", Isa Blumi reminds us that "the boundaries of empire in the end were the result of bureaucratic reactions to indigenous agency" [116] (p. 104). For the British, a desire to separate Aden—whether during the 19th or 20th century—from the rest of the vilayet dictated the ethno/sect-centric terms and severity of the entire process: boundaries separated British from Ottoman, and Aden from the Ummah. The British Residency at Aden relying on the "nine cantons" logic indicated a profound lack of understanding *vis-à-vis* the civilization and social conditions informing Ottoman-Arabia [114] (p. 103). Attempts to remedy this structural instability led to the strengthening of abstract borders by the eve of WWI, as British and Ottoman negotiators hammered out a new border agreement known as the "Violet Line" [83] (p. 176). While the India Office sought the imposition of the Violet Line as a means of pressing "the Turks into formally recognizing the whole south-east extremity of Arabia as beyond their sphere of influence," the prologue of the March 1914 Convention—which effectively replaced the Blue Line of 1913—nevertheless reinforced British reliance on the "canton" system informing both lines, stating that the Violet Line must "separate the Yemen Vilayet from the territory of the nine cantons of Aden" [124] (p. 104).

Contrary to mainstream Ottoman historiography that would have us believe that the cause of rebellion and social decay in Yemen rests on the Ottoman state "degenerating in time", one has to credit the Sublime Porte in making every effort to pacify and stabilize the region. They cooperated with hundreds of local Arab tribes, forgave chiefs who had rebelled, and even appointed them to administrative posts regardless of madhab. They initiated socio-economic reforms that streamlined the administrative system, levied fair taxes,

and embarked on social projects with an objective to facilitate mobility and improve health conditions across the Caliphate. However, most notable is the consistency in attempting to assert and demand diplomatic comportment and civil cooperation as revealed in the telegrams exchanged between the Porte and the Crown. The aforementioned telegrams, for instance, exchanged between Reshid Pasha on one hand, and the Duke of Argyll and Earl of Granville on the other, reveal the prominent ethical difference between Arab-Ottoman jurisprudence and Latin-European (positivist) jurisprudence. While the former jurisprudence recognized and negotiated epistemological difference by insisting that the Caliph could equally will what a (British) Sovereign could, the latter interlocutors emphasized epistemic violence and denied (temporal) coevalness by insisting that a “civilizational hierarchy” classifies the “Turks”, “Arabs”, or “Saracens” as rationally incapable of furnishing a civilization that could suggest an “equal exchange” between both parties. This is further noted in how Pasha asserted that while inhabitants of Vilayet Yemen are Ottoman-Arab citizens and are legally permitted to engage in commercial ventures with the British (or any other Occidental merchant), this however does not legally lead to the Porte “ceding” sovereignty over “areas of production”.

Additionally, interestingly, the exchange between Fadl Ibn Alawi and the 33rd Caliph—Abdul Hamid II—accentuates two important philosophical and theological differences between Arab-Ottoman and European jurisprudence. Ottoman modernity did not *a priori* dismiss a *jus gentium* dominated by an ethos naturalizing a separation between morality and law, rather we notice Ottoman lawyers and policy makers using positivist legal doctrines to their advantage or as key-defensive tools to re-assert sovereign territorial integrity and legally dispute encroachments [32] (p. 373). Article IX of the exchange between Ibn Alawi and the Caliphate reveals how Ottoman lawyers attempted to use legal precedents—France ceding the land it illegally purchased around Bab al-Mandeb by recognizing Ottoman sovereignty—as means to solve disputes instead of reverting primarily to methods of engagement (i.e., war and/or commercial sanctions) *ipso facto* dismissing cooperation and consultation based on “culturalist difference” [2]. Alawi’s written-text—undeniably evoking French and Ottoman *coopération mutuelle*—is indicative of how he contrasts Ottoman experience with French sovereignty to British sovereignty with the British Crown promoting the exclusionary and domineering possibilities of a positivist *jus gentium* finding it “legal” to transform anthropological myths into argument adjudicating sovereign territorial intrusions. The second important Ottoman civilizational element revealed in the correspondence is that it reaffirms the *adab* [5] (p. 22) of Ottoman social relations by vehemently rejecting an ethno-centric—therefore secular nationalist—ontology of governance as being a “civilizational prerequisite” for proper sociabilité. This is affirmed in how the Porte never employed as legal argument the ethnic genealogy of the Abdali and Fadali communities in Arabia Felix. That is, while both tribes are ethnologically Turkic and have inter-married with Arabs for centuries, Ottoman civil administrators did not contemplate ethnicity as legal argument for administering Vilayet Yemen since that would violate Ottoman-Arab (Islamic) jurisprudence which does not find it wise (Ar. حكم) to claim ethnic or religious differences as argument to extend the title of amir, or vali, and/or adjudicate harb or salām [47] (p. 56) [140] (p. 126).

Motivated thus, Yamani “tribal” variety, like Shami “religious” diversity, complicated the task of appeasing Arab chiefs or merchants without one of either party assuming some sort of “alienation”, leading to social processes sectarianizing/tribalizing social relations consequently developing a derogatory form of Asabiyah straining civilizational progress. More specifically, while the temporary financial and administrative success witnessed during the tahdith of Vilayet Yemen is not historically grounded on the Ottomans rejecting “Western civilization”, it is equally important to be aware of two unequivocal legal historical facts. Ottoman modernization did not fail as some mainstream deliberations would have us accept as historically constituted claims because the Ottomans were incapable of implementing a modality of governance reminiscent of a (European) Westphalian “nation-state” paradigm, or because they “conquered” and sought to establish “imperial

dominance" in the highlands of Vilayet Yemen, thereby "tribalizing" and/or "sectarianizing" its inhabitants [29]. However, and as poignantly expressed by Farah, "we need to set the record straight by placing the blame where it belongs, namely on those who disturbed the peace to further their own aims . . . the blame in the end does not rest with the Ottomans alone, as some Western authors would have us believe" [126] (p. 59).

3.2. Ottoman-Arab (Now-Mandate) Territories: The League of Nations Scientifically Delineates Territorial Frontiers by Economizing Sovereignty

In February 1902, British surveyors led by Colonel, R.A. Wahab moved into the Adeni hinterland to formally stake out the boundaries of British-held South Yemen. Predictably, the task set before the British Boundary/Delimitation Commission provoked the Ottoman government and angered the Imamate in Sana'a. In fact, "The moment the Turkish [sic] local authorities understood that delimitation work was to be carried out on the general basis of actual effective occupation, they proceeded to seize various points in the Amiri territory, which, it was understood, was to be the first taken in hand." [1b] Imam Yahya, the eventual ruler of what would become in 1918 the first independent state in the Arabian Peninsula—the Mutawakkilite Kingdom of Yemen—refused to recognize British presence from the outset [124] (p. 24) [141] (p. 59). Nevertheless, whilst Sana'a remained under nominal "Ottoman" control, British cartographers based in Aden mapped, labeled, and delineated "frontiers" on Yemeni territory [9,110,124,134]. The sovereign British project demanded the expansion of existing spheres of influence, but to do so, it required the construction of new colonial spaces, beginning with the imposition of boundaries [110].

British cartographers and ethnographic planners—in the 20th century—conceived of the canton system as a rational exercise demarcating frontiers, thus securing access to trade routes into the interior for their coaling station and trading post in Aden [118] ([123] p. 68). Paradoxically, however, British officials insisted on emphasizing Aden's "separateness" from the hinterland while simultaneously attempting to tie the hinterland to the city through the canton system. In contrast to the tribal spaces of the "untamed" countryside, Aden represented a "border-limit" identified as being a beacon of "civilization," a fortress of "progress" and "commercial activity" [119] (p. 189). This contradiction, which blurred the logic of spatial organization from the outset of the British occupation, undermined the very foundation of the "modernizing project". Manifestations of this phenomena included local resistance, incessant border incursions, and legal disputes with Ottoman and post-Ottoman policy making circles. Of course, any attempt to excavate the historical significance of this contradiction, and its impact on the process of colonial space-making, requires a closer look at the socio-political evolution of Aden during the inter-war period concerned.

As Aden's population increased, British colonial officials implemented immigration controls in an effort to restrict entry into the city. For many Arab-Yemenis, claiming the right to exist in Aden depended on their ability to secure paperwork validating their status as "legal" property owners, thereby transforming local Arabs into "migrant" or "displaced" figures. For others, the right to the city could only be claimed following the acquisition of passes indicating ones' status as a worker [119] (p. 189). Echoing Timothy Mitchell's example of the "model village" in the Egyptian context, British officials also resorted to the wholesale demolition of "diseased" and "disorderly" reed huts. On one occasion, the occupying regime oversaw the replacement of one such settlement with "150 houses, a school, and a dispensary, erected at government expense" [100,111]. Critically, "a register of population was begun and a pass system controlling entry to the "fortress" area [was also] instituted" [119] (p. 189). At the same time, the Resident at Aden dispatched soldiers to forcibly expel "surplus Arab settlers" away from Steamer Point. In colonial Aden, British planners grappled with increasingly bold expressions of spatial contestation; Yemenis simply refused to cede public spaces on British terms or relinquish their right to their "village" [110,113]. Aden's ascendance and improving economic fortunes prompted vested interests (the Perim Coal Company, the Aden Port Trust, British Petroleum among others) to control the means of production in Aden seeking out avenues of investment for the surplus capital they had accumulated [110] ([119] p. 184).

Colonial planners recognized that pouring capital into the development of strategic infrastructure would accelerate the conversion of Yemeni terrain into “sovereign” colonial territory [121] ([122] p. 575). To that end, installing telegraph lines, building railroads, and digging wells occupied the attention of colonial engineers and development “experts” eager to territorially demarcate Yemen’s geography within the framework of the colonial project. Consequently, the pace of “development” accelerated dramatically by the mid-20th century, as British investors and ethnologists believed they could project the political economy into the countryside from Aden through infrastructure development projects and the concurrent reallocation of productive space. “Backward” and “inefficient” systems of spatial organization would be swept away through the imposition of rationally allocated productive space in Aden [9] (p. 140).

The “development” of Aden and the extension of British influence into the hinterland coincided with a recalibration of the ideological impetus driving the colonial project which shifted in the 20th century from “mercantile concerns with holding ports and strategic positions toward occupation and full control over lands and peoples” [142] (p. 11). For British imperialists, the spatial development of Aden thus served an economic as well as ideological purpose: extract wealth while projecting capitalist market forces, and the “productive” spatial reorganization of society into the “untamed” hinterland. As it turned out, British attempts to reorganize productive space directly contributed to the demise of the colonial regime in Aden [110,121,122,143]. The construction of aqueducts, telecommunications infrastructure, and “modern” housing in Aden accelerated dramatically in the aftermath of WWII. The post-war emphasis placed on “economic development” followed the precedent set by Bernard Reilly who stated that the “administration of Aden” or the “governmentality of Aden” from 1930 to 1940 would adhere to a “policy of intervention and promotion of “progress and development” in the hinterland” [142] (p. 15).

To that end, in 1949, the British government allocated nearly one million pounds to the “development” of Aden and the surrounding countryside: colonial officials earmarked nearly half of the total amount for the city of Aden [1d]. Additionally, the British government injected one hundred thousand pounds into the construction of paved roads linking Aden to Dhala and the port city of Mukalla [110]. Highway construction, conceived as a means of facilitating Aden’s trade with the “separate” and inaccessible countryside, further cemented the unnatural divide sanctioned by British Residents in Aden and the vast majority of Arabs who were now legally treated as a “minority” group in their homeland. In addition, many Arabs feared that increased motor traffic would devastate the caravan trading routes upon which their communities depended [9] (p. 140). As Helen Lackner points out, “Free access for all to the roads and allowing motor vehicle traffic destroyed the economy of the caravan tribes and of those who controlled the trade routes . . . it is little wonder that the nomadic peoples who had previously controlled trade were hostile to the new regime” [142] (p. 18).

Significantly, the political economy of oil exploration also began to play a role in dictating the character of spatial production in Aden [110,144]. Oil exploration in the Aden Protectorate began in the late 1930s at the behest of the British Colonial Office [103]. British officials in Aden soon commissioned several geological surveys in an attempt to locate oil deposits in Hadramawt, a sparsely populated swath of desert terrain located in the East Aden Protectorate [144] [1E]. Representatives from British Petroleum (BP) expressed a sense of urgency as they laid plans to search for oil; American corporations had, apparently, “showed a similar interest in the Protectorate” [110,144]. Since British officials viewed the entire colonial enterprise in Yemen through the prism of protecting Aden, the construction of roads went ahead despite local Arab opposition. However, this fateful decision eroded British standing among communities which previously enjoyed significant autonomy [1d]. In Aden, the “rationalization of space” in accordance with the logic of “economizing sovereignty” invited further resistance. Increased British investment in “economic development” in the 20th century while disregarding local endogenous alternatives to development by advancing cultural relativist arguments characterizing the “interior”

of post-Ottoman Arab spaces as “backward” seems to have inspired concurrent waves of anti-colonial resistance directed against local clientelist regimes and “internationalist encroachments” [36,115,143,145]. The political economy of spatial reorganization—expressed in the built environment through the “development” of South Yemen’s infrastructure—impacted the city of Aden and the surrounding countryside simultaneously. Attempts to “develop” the countryside in accordance with a laissez faire capitalist spatial proprietary logic failed to account for local Arab conceptualizations of spatial allocation, which in turn alienated locals and undermined support (passive or active) for the established “economized sovereign order”. Local Arab subjects took it upon themselves to cut telegraph lines, block highways, and “violate” scientifically naturalized boundaries deemed unnatural and illegitimate by those experiencing them on the ground [110,114,115].

Perhaps another demonstrative legal historical development emphasizing the unique character of British and French ethnographic and archeological ventures in Ottoman-Arabia in the 19th century is remembering that the geographic and ethnologic data accumulated by both powers during tanzimat informed the boundary delineation coordinates adopted by mandate powers (i.e., British and French) in the 20th century. These ventures were essential in providing the coordinates required to manage and impose geographic demarcations and demographic transference in (former) Ottoman-Arab provinces while receiving legal sanction from international institutions such as the League of Nations [25,84,118,146]. The metaphor of “consciousness” was repeatedly adopted by legal-historians and international jurists following the Treaty of Versailles in 1919 and subsequent conferences arising from the London Conference of 1920 (i.e., Sèvres, San Remo, and Lausanne) which sought to geographically alter and demographically transfer former subjects of the Ottoman Caliphate, thereby delineating ethno-religious spaces reifying a sectarian nation-state paradigm of governmentality. For instance, the work of J.L Brierly and Geoffrey Butler, similar in some aspects to Descartes and Locke, had a powerful impact on inter-war lawyers [147]. Brierly, for example, discusses the degree of “social consciousness” characterizing states for the “coherence” and “stability” of international law by emphasizing the belief that elements of “social consciousness are present in international life” [91] ([148] p. 35). Butler explicitly draws on the term from the emerging field of psychology and uses the metaphor to describe the way in which a state’s consciousness may evolve continuously. He says, “Interests within the subconscious sphere will demand admittance into the conscious sphere in ways that finally will find expression in international affairs, thus justifying international organization” [149] (pp. 42, 44). Given Butler’s own aim to erode the division between internal and external sovereignty, Anghie highlights that “it may not be extending his metaphor too far to suggest that we could view the interior life of the state, its government, its social, economic and political organizations, as the subconscious” [25] (p. 133). As mentioned in earlier sections, naturalist, positivist, and/or pragmatist legal jurists were deeply aware that internal sovereignty (i.e., the social quality of inhabitants) and external sovereignty (i.e., sovereign states recognizing that the studied society passed the test of civilization) were intimately connected, and that the specific form of government within a state had a decisive impact on whether it was accepted by “recognized sovereigns” situated in *jus gentium* as a state “mindful” or “rational” enough to become a member of the Family of (Conscious) Nations.

The discovery of interiority and its relation to consciousness is unique because of its central operation in historicizing teleological narratives informing “development”, “civilization”, and “modernity”. This is manifest in the language textualizing conceptual frameworks characterizing legal doctrines adjudicated by recognized sovereigns before and after WWI to partition, manage, and dominate former Ottoman-Arab sovereign provinces. With interiority highlighting the connection between sociology and sovereignty—since it gave liberal-secular institutions access to the interior of a state and used previous and/or new data to claim that the interior quality of the state is outside international law—sovereign states recognized as inside international law proceeded to develop new set of technologies and methods of control referencing “race war discourses” to address

colonial problems in the 20th century. For instance, the gap between the civilized and the uncivilized is transformed in the Mandate System into an “economic” difference between “advanced” and “backward” societies. In other words, the dynamic of cultural difference is reformulated during the inter-war years using not the racial and culturalist narratives employed by positivist jurists in the 19th century (civilized-uncivilized), but rather through sophisticated “economic discourses” using scientific categories such as “backward” and “advanced” [2,16,25]. The governing techniques operationalized through these culturalist discourses (i.e., minority rights) allowed mandate powers to have and exercise extraordinary power since scientific standards:

create difference with respect to the most intimate and minute aspects of social life in mandate territories—native “customs, traditions, manner of living, psychology, and even resistance to disease. Each rendition of difference in turn creates a project for the Mandate System, as the native’s deficiency must in some way be remedied. In the colonial setting, then, the grand themes of law and politics played themselves out, not in the attempts of international law to outlaw aggression or to establish collective security and to control the nationalist passions of Eastern Europe, but rather in the less spectacular but relentlessly effective project of acquiring more data on backward native peoples and their societies in order to further the extraordinary project of creating government and sovereignty in these territories [25] (pp. 154–155).

Similarly, Wright claims that the “concept of “backwardness” connotes a lack of self-determination, a lack of Europeanization and a lack of economic progress; of these three inter-related concepts, however, the economic sense of the term has been most significant, the others tending to follow as consequences” [150] (p. 584). It is in the Mandate System, then, that we arrive at this pivotal moment, when the “uncivilized” are transformed into the economically backward; when international law begins to discard a vocabulary that appears “racist and problematic and adopts a new series of concepts that appears neutral and universal because it is based on economics and on expression of scientific fact rather than on an assertion of cultural superiority by a European civilization” [91] ([25] p. 189).

To understand how the novel systems of subordination and control informing the mandate system functioned, it is crucial to elaborate on the link between “sovereignty” and “governance”. Formal sovereignty is based on the existence of effective government; and government—according to the mandate powers—was created for the transference of economic power to external forces which were already territorially demarcated and integrated into a particular system of (international) political economy. This was achieved by a technique of rendering the whole mandated (territorially demarcated) society in economic terms by a process called the “economization of government” or “economization of sovereignty” [25] (p. 157). Therefore, the mandate system spearheading supposed emancipatory concepts adjudicated by the League of Nations such as “self-determination”—or later the UN expounding “decolonization”—transferred only sovereignty to mandate peoples, not the powers associated with government in the form of control over the political economy hence Third World revolutionaries and/or anti-colonial politicians claiming the development of a new form of colonialism (i.e., neocolonialism) after formal colonialism ended and “national independence” was granted [2,25]. The mandate system demographically altered—through de jure population transfers—territories formally inhabiting Ottoman-Arab subjects from a variety of religious persuasions by transforming them into an “economic entity” and proceeded to establish an:

intricate and far-reaching network of economic relationships that connected native labor in a mandate territory to a much broader network of economic activities extending from the native’s village to the territory as a whole, to the metropolis and, finally, to the international economy . . . the entire mandate society . . . became vulnerable to the specific dynamics of the network. Given that the mandate territory was inserted into this system in a subordinate role, its operation inevitably undermined the interests of mandate peoples [25] (p. 180).

Motivated thus, it is in the mandate system that we see international law developing a formidable set of institutions and legal techniques to address the political economy of a supposed non-sovereign entity. The point to note is that the “specific system of political economy that directs and shapes the government in these territories is a colonial political economy” [25] (p. 181). The mandate system established novel forms of “governance” by creating, in effect, new sciences of social and economic development that precluded the promotion of endogenous alternative systems of society or political economy furnished by former subjects of the Osmanli caliphate. The territories fulfilled two objectives: they provided information that is synthesized into scientific models by the Permanent Mandate Commission (PMC), and secondly, they were ethnographic laboratories in which this new “developmental science” attempted to perfect itself through “deductive and experimental method” [2,25]. The science of economics “was crucial for this project, for it was understood to be a universal discipline that transcended the cultural particularities of specific mandate territories” [25] (p. 185). The invocation of “science” rather than “culture” by the League formulated a new justification and guise for colonial practices since mandate practices were now identified as having an objective of “developing” or “modernizing” an economically backward society. The mandate mission seeking the transformation of “backward territories”, therefore, is no longer undertaken by colonial powers wanting to further their own interests but is rather furthered by a “disinterested body of colonial experts” intent on acquiring detailed knowledge of native societies and economies, not for the purpose of exploiting them but to enable the formulation of the policies necessary to ensure the proper development of native peoples. Objective, disinterested scientific knowledge, then, justifies these practices” [25] (p. 185).

This universal(ized) science enabled the League—especially France and Britain—to deal with former Ottoman territory by classifying them collectively as Class A Mandates [151]. Such abstract category of classification not only accents the technocratic and problem-solving objectives of the mandate project, but also makes salient the scientific approach adopted by the League to administer and govern former civilized Ottoman spaces. The peculiarities of each territory and method of administration strengthened, rather than disrupted, the master science and logic of a sectarian nation-state it sought to produce. The peculiarities of each vilayet represented a “scientific experiment” assimilated into the mandate system which in turn enabled it to adjust and perfect the League’s effort in economizing and sectarianizing former Ottoman-Arab provinces. It therefore followed that if “particular native practices were to justify themselves now, they had to do so against the massive system of scientific truth constructed by the mandates, which could now make new and more powerful claims to being universal” [25] (p. 185).

The conceptualization of sovereignty as a cognitive process that could be created not only in its juridical form but also in its sociological form by dissecting the supposed “threatening interior” of a “non-secular” society while universalizing a “scientific (cultural) standard” casting Ottoman-Arab subjects as pre-discursive, unconscious—or more deceitfully—genocide prone [152], provoked the development of desacralized techniques. These techniques now understood territory in terms of resources and economic development; population in terms of health issues, mortality rates, hygiene and labor concerns; and government in terms of the reform of native political institutions to meet the advanced scientific models supposedly leading to economic development and social progress. In the mandate system, therefore, the dynamic of difference operates with respect to the most intimate (interior) aspects of Arab civilization—their psychology, customs, ethics, morals, and health—all of which could be characterized as degenerative by “recognized sovereigns” encompassing the Family of Nations supposedly naturally familiar with the “standard of development”. Mandate powers adjudicating sanctions protracting the suffering of former Ottoman-Arab subjects because of their resistance and/or failure to meet “universally posited standards” no longer simply took the form of punishment alone, but also the application of new and formidable disciplines of cultural management, spatial

demarcation, and demographic transfer ostensibly necessary to “develop” or “modernize” the “aberrant” underdeveloped society.

4. Conclusions

Au Lieu a Conclusion Let’s Recall the Age of Coexistence and the Ecumenical Frame Accenting Ottoman-Arab Modernity

Perhaps it might be time, and scholarly ethical, to acknowledge Ottoman-Arab civilization and the alternative modernity it sought to administer through tanzimat as being temporarily successful in adjourning the enactment of ratiocinative scientific knowledge structures seeking the “self-determinization” of former Ottoman-Arab spaces by permanently cloistering its citizens in territories emphasizing “ethno/sect-centric” and/or “minoritizing” ideas of “belonging”. Mainstream historiography concerned with analyzing the failure of late Ottoman and post-Ottoman-Arab attempts at “modernization” have obsessively emphasized the cause of “degeneration” as being the “non-secular” or “sectarian” nature of Arabia. By sourcing such failure to a “despotic past Sultanate” informed by “primitive governing structures” constellating Arab-Islamic philosophical theology, their obscurantism completely particularizes developments making salient that tanzimat—as evidenced in the socio-economic achievements in Vilayet Syria and Vilayet Yemen—attempted to “cohere modern political solidarities . . . and to reconcile those solidarities with the reality of religious and ethnic difference in the region. These attempts unfolded within complex geopolitical shifts that saw the Arab region pass from the Ottoman dominion to European colonial rule” [153] (pp. 6–7).

These attempts inform an Ottoman-Arab age of coexistence identified through the ecumenical frame (Ar. مَسْكُونِي هَيْكَل). Such frame was not “external” to Ottoman-Arab civilization but was rather completely “internal” in that it was made out of “eclectic Ottoman, European, and Arab materials. Its construction commenced during a specific nineteenth century moment . . . it included many people of the region who belonged to different religious communities; it could and did change over time; and it was neither permanent nor impervious to its social and political environment” [153] (pp. 6–7). The ecumenical frame, therefore, suggests the rich diversity of the Maghreb and Mashreq, “that has stubbornly confounded repeated attempts to reduce the region to one religious’ hue” [153] (pp. 6–7). Similarly, Sayyid mentions that the epistemology informing the caliphate and the process stimulating (attempted) tahdith is “an entity that both inspires and disappoints. An entity that was flawed and in need of reform, and at the same time an entity that promised to secure a Muslim presence and project Muslims into the future” [154] (p. 188).

Recalling the Ottoman-Arab ecumenical frame—while remembering its sublime and agonizing moments—is not an attempt at “re-establishing” or “dismissing” the caliphate, but instead it is commemorating a civilizational memory (Ar. حضارية ذكرى إحياء) of “something less than perfect” [24] ([154] p. 190). The destabilization and de-establishment of the ecumenical frame by historically muting the ordeal of such an inspiring frame are not a result of “Ottoman-Arab Muslims” looking to establish Islamic hegemony or attempting to “grapple with the implications of a system of pervasive discrimination that affected dress, architecture, forms of address, and sociability across the Islamic Middle East” [153] (p. 11). Rather, Ottoman subjects generally, and Muslims particularly, were conscious that the dismembering and fall of the caliphate symbolized a millenary epistemological struggle between philosophical theologies seeking to balance between spirituality and reason [2,24] ([155] p. 85) ([156] p. 59). As mentioned by Makdisi, Ottoman-Muslim subjects “viewed the ending of Islamic privilege as a concession at a time of aggressive Western military and missionary assault on Islam itself. This defensiveness affected and shaped the contours of the post-tanzimat ecumenical frame” [153] (p. 11). Therefore, the ecumenical frame provides a “key-hole historical entry” assisting legal-historians in freeing mainstream Ottoman historical analysis from the shackles of (secular-humanist) reason which vitiated the history of an alternative “international law” based on a theology and

philosophy emphasizing spirituality (i.e., objective Truth) rather than reifying reason (i.e., subjective truths).

This historical entry seeks to appreciate the development of modern social coexistence informing Ottoman-Arab civilization honoring moral principles committed to the *adab* of citizens embracing diverse faiths and civic ethos [2,4,5]. Deconstructing Ottoman *tanzimat* and *tahdith* by evoking the ecumenical frame emphasized attempts by Ottoman statesman, jurists, and policy makers to: (1) reconcile a principle of political equality attempting to integrate Muslims and non-Muslims as citizens, (2) reorganize the governing modality informing the Caliphate which often retained vestiges and signs of Islamic paramountcy while upholding the equality of all citizens irrespective of religious affiliation; and finally (3) solidify a new political and legal order (Ar. *Qānūn*) upholding both the constitutional “secularity” of citizens. Although the frame emerged amid massive political, economic, and technological transformations, it continued to be modified long after the official de-establishment of the Caliphate in March 1924 [24] ([8] p. 137). As noted by Makdisi, inhabitants of former Ottoman vilayets were “pressed to articulate and express new sovereign political forms of the ecumenical frame. They did so in a variety of conservative monarchical, consociational, and republic[an] ways. Rather than dismissing their labor as a reflection of the derivative, predictable, and self-serving schemes of native nationalists who were only interested in power . . . Arabs went about rebuilding the ecumenical frame in their post-Ottoman world” [153] (p. 9). Furthermore, agonizing entries recollecting the disfigurement of the ecumenical frame can be identified, for instance, with the League of Nations legally backing the Balfour Declaration in 1917 and subsequently the British White Paper of 1922 which demarcated a new frontier called “Palestine” by rationalizing Vilayet Syria (i.e., Sanjak Jerusalem) and forcibly displacing millions of Ottoman-Arab inhabitants from the Levant [8,94,157]. This “rationalization of space” also laid the foundation in 1948 for the United Nations to legally sanction the delineation of a “sovereign space” characterized as a “National Jewish home” or a “Jewish Commonwealth” based on an ethno-sect centric myth of “self-determination” instigating demographic transfers espousing a return to a “promised (home)land” [8,157]. In addition, and crucial to note in relation to the ecumenical frame, (most) “non-Arab-Jewish” immigrants during *aliyah*—such as Ashkenazic Europeans—did not seek to ascent and/or join a multireligious and multiethnic Ottoman-Arab civilization, but rather sought to violently create and artificially generate a “buffer-state” sacrificing the idea of being an Arab-Jew [2,6,8,16,95,153,157].

The (ethno-centric) nationalism of a (Zionist) sovereign nation-state made the “identification of being an Arab Jew . . . an unacceptable anomaly that had to be erased as quickly as possible, together with Palestine’s Arab past and present” [153] (p. 201). The forced deportation of Arab-Jews from neighboring areas (i.e., Baghdad, Beirut, Sana’a, etc.) to their “historical homeland” reveals that sovereignty—as exercised by mandate powers and colonial subjects in the “post-Ottoman” Arab world in 1919—is not a “liberating” act. Instead, it accentuates that sovereignty is a ratiocinative juridical concept that violently separated faithful societies by sectarianizing *Dīn* and racializing ethnic differences, thereby corroding the real-life topographies of difference affirming the success of Ottoman-Arab epistemology navigating multiple relations of belonging [5,35,158–160]. It is essential for the revitalization of Arab-Ottoman ‘Umran that inhabitants of Arabia and Anatolia revivify the *adab* of the ecumenical frame, but first, it will demand that they persevere in transcending the unnatural sectarian and ethnic tendencies naturalized by (abstract) borders which defaced their organic interiority and discolored their civilizational canvas cherishing a multi-relational Ummah (Ar. *العلاقات متعدد مجتمع*) prejudicially mapped as sacred by Chaim Weizmann, François Georges-Picot, and Mark Sykes [161] (p. 291) [162] (p. 284).

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