IN MEMORIAM

THE FOURTEENTH ANNUAL
WADIE JWAIDEH
MEMORIAL LECTURE

REFLECTIONS ON
NATIONALITY AND SECT IN
IRAQI HISTORY

DINA KHOURY
GEORGE WASHINGTON
UNIVERSITY

Thursday, October 15, 2015
7:00 PM
President’s Room, University Club
Indiana Memorial Union
In Memoriam:
Celebrating the Lifelong Contributions of a Legendary NELC Scholar at IU

In celebration of the lifelong contributions of scholarship and education by Professor Wadie Jwaideh, we are honored to present you with a copy of the lecture presented last year by Professor Dina Khoury.

Dr. Dina Khoury, Professor of History and International Relations at George Washington University, will be presenting a fascinating lecture on “Reflections on Nationality and Sect in Iraqi History.” The abstract for the lecture is as follows:

Can nationality be sectarian? I explore this question by examining the historical context of the drafting and implementation of the Ottoman and Iraqi Nationality laws. In both instances, the nationality law made a series of exceptions that rendered a certain class of Shi’is subject to special regulations. It is not clear, however, how such special regulations furnished the basis of a sectarian citizenship. I focus on the processes of implementation, of issuing of passports, of struggles over jurisdictions between different actors and argue that these actors deployed sect, nationality and tribe strategically to achieve specific results. The making of nationality in Iraq was not an inevitably sectarian process, but a result of specific strategies and contexts that did render it sectarian at critical moments.

As always, we rely on your support in making the annual Wadie Jwaideh Memorial Lecture a success every year and in planning ahead for the future. We have benefited enormously from generous contributions in the past, notably from members of the Jwaideh family, as well as from a number of Dr. Jwaideh’s colleagues and students. Please help us continue this noble tradition for many years to come.

Stephen Katz
Professor and Chair
Department of Near Eastern Languages and Cultures
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Reflections on Nationality and Sect in Iraqi History

Dina Khoury
George Washington University
My reflections on nationality and sect today are prompted by two problems: the first has to do with the debates in public culture about the new map of the Middle East and the second is more closely related to Iraqi history, namely whether Iraqi nationality was from its very inception sectarian and discriminatory against the Shi’is of Iraq.

Much ink has been spilt lately on the implication of the dismantling of nation states in the Fertile Crescent that were set up by the Paris system in the aftermath of the First World War. The cornerstone of that system was enshrined in the Treaty of Lausanne in 1923, signed with Turkey after the forces of Kemal Ataturk had defeated the Greeks. The Lausanne Treaty stipulated that the principle of nationality was the cornerstone of citizenship in the newly formed states of the Middle East. That system is clearly fraying at the seams. Instead, in its place the Fertile Crescent is now fragmented into ethnic and sectarian territorial units vying for control of the machinery of states. All are spawning new forms of political and social affiliation. The populations of the Fertile Crescent now make claims to rights as citizens in the language of sect, ethnicity, and minority. Ever since Condoleeza Rice proudly proclaimed that the US war on Iraq and the Israeli war on Hizballah in Lebanon were the birth pangs of the new Middle East, pundits, policy analysts and some scholars have been busy writing about the new political and territorial map of the Middle East.

In most of this analysis the underlying logic is that the post-War settlement that sought to create modern secular nation states under the umbrella of the League of Nations and with the protection of colonial powers, has failed. It has failed due in no small part to the inability of the post-colonial ruling elites to overcome immutable tribal and sectarian divisions within their countries. No mention is made, of course, of the continuous wars that Iraq or Lebanon had to endure. The newly envisioned Middle East gives political form to these old communal identities as the experiment of secular modern nation states had failed. Middle Easterners cannot forge national identity that transcend sect and tribe. The new is really a reworking and instrumentalization of these traditional forms of identity. In the Middle East, according to this logic, the more things change the more they stay the same.

Much of the scholarship of colleagues in my profession has tried to counter this narrative by insisting that neither sect nor tribe are old immutable identities. The present forms or sectarian and tribal politics are in many instances newly invented, despite the claims of their advocates that they are old.
My intention today is to question a different assumption made by the commentators on the new Middle East: namely, that the League of Nations and the Paris system created national states with fixed territorial boundaries where forms of modern secular universal citizenship provided the norm for populations. I would like to argue that the Paris system and the Lausanne Treaty introduced a form of national citizenship in the post-Ottoman Middle Eastern states that was neither secular nor universal. In fact, it presumed as its organizing principle that populations are divided into religious communities who were nationalities in the making.

The fact is that citizenship as defined by the Lausanne Treaty, and enshrined in a series of nationality laws for Iraq, Syria, Lebanon, Palestine and Turkey, built on Ottoman Nationality Law, but framed that law in the language of universal liberal secular citizenship and the protection of religious minorities. The result was an amalgam of universal secular citizenship based on clear articulation of individual rights and a citizenship that was framed in the language of minorities and majorities, conceived of in religious and ethnic terms.¹ In the case of the Fertile Crescent, with the notable exceptions of Lebanon and mandated Palestine, the majority of the nation was implicitly Sunni, with religious minorities that needed constitutional and if necessary international protection. In Lebanon, the confessional political system that was set up in the late Ottoman period was reconfigured under French tutelage within a liberal confessional constitutional order that apportioned rights and representation according to multiple minorities.

In Syria and Iraq, the nationality laws created in the aftermath of the Lausanne Treaty, decreed that all citizens of the newly formed states are equal in their rights and duties, but non-Muslim minorities were singled out for protection of religious freedom, communal rights to their own laws in family matters, and by the late 1920s, given the right to appeal to the League of Nation Commission on Minorities if their rights were to be threatened.

Clearly then, if nationality conferred equal citizenship on all, it came with a series of exceptions that presumed that certain groups would be less equal than others, barring special laws that protect their rights. The majority of the population was classified by religion: the majority being Muslim and the minority on the opposite side was non-Muslim. Lausanne provided the blueprint and language for the protection of these

rights that were incorporated into the constitutions of the newly minted states. While ethnicity (the treaty uses the term race) was also a factor in assigning nationality, it was not clear what that meant given that Lebanon, Syria, Iraq, Palestine and Jordan were in 1924, when these nationality laws were passed, merely states in the making. But did majority/minority logic apply to the Shi‘i population? Were Shi‘is designated legally as a different kind of citizen within the nation?

I ask this question because it continues to plague all discussion of nationality in Iraq. Were the legal underpinnings that defined Iraqi nationality/citizenship implicitly sectarian? The answer to the question is part of the rhetoric of grievance of Iraqi Shi‘i politics and has been so since the drafting of the Iraqi Nationality Law in 1924. The Lausanne Treaty and the law that was based on it recognized the rights of non-Muslim minorities. But the Shi‘i of Iraq were not a recognized “minority” by the League of Nation Commission on Minorities. Yet historians and legal scholars have argued that Iraqi Nationality Law, drafted under British rule, discriminated against the Shi‘i population without protecting them as a distinct group. It did so, because the law granted Iraqi nationality only to those residents of Iraq who carried Ottoman nationality, thereby excluding thousands of Shi‘i residents who had opted for an Iranian nationality during Ottoman rule. They find that the law implicitly enshrined a form of sectarian difference that led to the mass expulsion of hundreds of thousands of Iraqi Shi‘i under the Ba‘th regime. So they see a clear line between the original construction of Iraqi nationality and the forced deportation and persecution of certain Shi‘i groups in Iraq.

The story, however, is much more complicated. Iraqi nationality was the product of particular struggles between different stakeholders in the framing of the law. The law was not created by a fully formed state that attempted to regulate and impose systematic legal regime, assert territorial sovereignty and define difference.\(^2\) In fact the law was drafted

\(^2\) This argument was presented most cogently by Iraqi legal scholar Abd al-Hussayn Sha‘ban, Man huwa al-Iraqi? Ishkaliyat al-Jinsiyya wa al-Lajinsiyya fi al-Qanun al-Iraqi wa al-Duwali (Who is an Iraqi? The Problem of Nationality and non-Nationality in Iraqi and International Law), (Beirut: Dar al-Kunuz al-Dhahabiyya, 2002). More recently Zainab Saleh has provided a cogent analysis of the sectarian nature of the Iraqi nationality law and its implication for gendered definitions of citizenship in “On Iraqi Nationality: Law, Citizenship, and Exclusion,” Arab Studies Journal, 21(2013), 480-8. The question, however, undergirds much of the analysis of the formation of the Iraqi nationality law during the mandate. Scholars have posited that the law was meant to punish Shi‘i clerics who refused to accept the constitution and the monarchy under British tutelage. Jean Luizard, La Formation de L’Irak Contemporain, le Role politique des ulemas Chitte a la fin de la domination Ottomane et au moment de la creation de L’etat Irakien (Paris: Edition CNRS, 1991).
before the borders of Iraq were set. There were no border treaties with Iran, Jordan, Saudi Arabia, Syria, Kuwait or Turkey. The law was aspirational at its best, conferring nationality on as yet an undetermined population. The drafting and implementation of the law was a complicated and contentious process in which struggles over what Lauren Benton calls “jurisdictional politics” between the Iraqi government dominated by a Sunni elite, the Shi’i opposition calling for communal representation and opposed to the Iraqi government, the British, Turkish, Iranian, Saudi, and French governments, and myriad groups of administrators, tribal leaders and others over who was to be an Iraqi national. Well into the late 1920s, Basra leaders were pushing for a decentralized form of rule in the south, some Shi’i leaders were calling for an independent Shi’i state under the sponsorship of the British, as were the Kurds, and the inclusion of Mosul within Iraq was not a foregone conclusion.

It is within this context that the creation an Iraqi nationality took place. The attempts to implement the law came into conflict with plural, fluid and overlapping claims to sovereignty: colonial, territorial, regional, national, tribal and communal. So that nationality, the juridical construction of belonging as one limited to a territorial sovereign state that issues passports, controls movement, roots mobile populations, outlaws political economies and social life that straddle borders was and continues to be a complex, an incremental and contingent process.

What I would like to do in the rest of the time allotted to me today is to examine these struggles over the implementation of the law in 1920s Iraq. I chose this period because of the precariousness of the Iraqi national project for the reasons I mentioned above. By focusing on the process of implementation, the quotidian ways of counting people, of controlling movement, issuing passports and nationality papers, I would like to shed light on the processes by which the language of sect and nationality is used by people to make claims to very specific things that have less to do with sectarian or national identity, and more to do with control over land, labor and population movement. That is not to underplay the importance of the language of sect. The 1920s saw the polarizing

of politics in Iraq around clearly sectarian lines, with significant section of the Shi’i political leadership deploying the language of majority and minority to push for their rights to be represented in the state, and at one point calling for a majority Shi’i state in which sectarian citizenship furnished the basis of the national state. They saw the King and the elites that supported him as mere extensions of a form of Ottoman/Sunni citizenship into the newly created national state. While much of the politics of implementation of the nationality law was over jurisdiction, it helped crystalize communal identities. Thus the law itself did not employ sectarian language, but the struggle over its implementation took on a sectarian coloring.

Iraqi nationality law cannot be understood without situating it in the context of late Ottoman imperial projects to create citizen subjects of the Empire. Nationality laws drafted in the aftermath of the Lausanne Treaty for all the Middle Eastern states were based on the Ottoman nationality law of 1869. That law was created in the context of new understandings of sovereignty that had developed in the second half of the nineteenth century. As historian Eric Weitz has argued, the late nineteenth century marked the beginning of a shift from an international model of states built on territorial sovereignty (created by the Congress of Vienna in 1815) to states based on the ideal of sovereignty as inherent in populations. The new order was based on the notion that the majority of people must be homogenous (ethnically or religiously). In the absence of such homogeneity minority rights had to be protected, or they were to be forcibly deported in the interest of homogeneity. To paraphrase Weitz, the late nineteenth century saw a shift from the politics of states to the politics of populations, one that was enshrined in the post WWI settlement.

Defining Ottoman sovereignty and subjecthood became critical for the Ottomans in the late nineteenth century because of this shift in the understanding of sovereignty and of the regulations of population flows. For the first time, identity cards, laissez passers, censuses become the cornerstones of a new order in which populations had to be grouped and their movements recorded. The nationality law was issued in the midst of a massive influx of migrants and refugees from territories conquered by Russia. How to integrate them and how to classify them, migrants Muhajirun or subjects, took over the energies of several institutions of state. Equally important was the need of the Ottoman government to regulate and contain the increasing number of subjects who claimed protection of

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foreign countries under the capitulatory regime.\(^6\)

The Ottoman nationality law was sandwiched between the Crimean War, a war generated by the conflict between France and Russia over Christian spaces in the Empire, and the Russo-Turkish war that entrenched further the capitulatory powers of Europeans. It also set up, in a clear presaging of the mandate system, European commissions to oversee the implementation of reforms in the Balkans and among Armenians in eastern Anatolia. Clearly, the Ottomans felt that they had to assert their sovereignty over their population at the precise time that this sovereignty was challenged by the expansion of European intervention in the day to day controls over their Christian populations. In no small measure, the Ottoman government's definition of Ottoman subjecthood and citizenship in Sunni terms was a reaction to this development. Thus when the Qajar government asked for the same rights to protect the Shi'i subjects of the empire as those accorded to European powers to protect Christian subjects, the Ottoman government saw this as a twin problem. First, how to handle the Iranian claims that Muslim subjects belonging to a sect were now viewed as a minority to be protected by an outside power, and second how to prevent erosion of its sovereignty over Iraqi territory.

Let me begin with the question of territorial sovereignty. The first map of the Iranian-Ottoman frontier came out in 1869, the same year that the Ottoman Nationality Law was promulgated. The map, produced by British and Russian members of the border commission, set the borders of Iranian and Ottoman states.\(^7\) The Ottoman Nationality Law and the Iranian Nationality Law issued in 1893 tied the subjects living within the boundaries of Iran and the Ottoman Empire to the state.\(^8\) Both governments asserted sovereignty over subjects and territory at a time of retrenchment.


In Iran, the British and the Russians carved out spheres of influence in the country. Their push to delimit the border between the Ottoman and Qajar was an attempt to carve out more clearly their spheres of influence. In the 1850s, Nasir al-Din Shah, with Russian support, began making claims to protect the Shi’a of Iraq and requested the same privileges of most favored status state that other capitulatory powers had over Christian communities. It was an assertion of sovereignty over subjects of the Ottoman Empire that the Ottomans interpreted, as they did with European powers, as a direct challenge to their claims over their own subjects.  

Imperial sovereignty over borders was also challenged by tribal and princely confederations that had established commercial statelets in southern Iranian/Ottoman borderlands, owned fleets and conducted an independent foreign policy. In the north, princely Kurdish leaders as well as tribal confederations had established a form of suzerainty. They oscillated between allegiance to the Ottomans and Qajars. As the work of the two border commissions, most struggles over sovereignty were in reality struggles over jurisdictional control: who collects taxes, who owns the land, what are the patterns of migration of tribes.

The Ottomans and the Iranian, however, asserted their claims by strategically deploying the question of subjecthood and sect. Sabri Ates demonstrates how incremental, incomplete and reversible the process of creating Iranian/Ottoman sovereignty was. He argues that the Ottoman and Iranian governments deepened and sometimes created sectarian divisions among the Kurdish and Arab populations living on the frontiers pitting sections of tribes against each other along sectarian lines. Thus subjecthood was intimately bound to a sectarian logic in the granting of Ottoman or Iranian nationality.

The Ottoman Nationality Law defined Ottoman nationals by residence, i.e. those who were resident in the Ottoman Empire, even if they were foreign, could acquire Ottoman nationality after five years. Nationality was also acquired through birth. The Ottoman law also prohibited its subjects from holding dual nationality. It was based on the French law of 1851 that granted nationality to women married to Ottoman men, but excluded these women and their children from Ottoman nationality if they married a foreigner. The only exception to this principle of national-

11 Ates, *Ottoman-Iranian Borderlands*. 
ity was one that covered marriage between Iranian and Ottoman subjects. If such a marriage was contracted, those who carried it out were punished. In a reversal of the Ottoman Nationality Law, the Ottoman woman who married an Iranian man did not lose her nationality and she and her children remained Ottoman subjects.¹²

How do we make sense of this law? To what extent was it shaped by the ideological struggle between Iranian Shi’ism and Ottoman Sunni-ism? After all, Ottoman subjects, Muslim and non-Muslim were not prohibited from marrying other nationals. Nor is it clear from these prohibitions whether Shi’i Ottoman subjects could marry Sunni subjects without the threat of prosecution. The exception to the Ottoman Nationality Law covered only those Ottomans who married Iranian nationals.

Karen Kern explains the exception to the Nationality Law in the context of the Ottoman government’s policy under Abdul Hamid to Sunni-fy Iraq’s diverse population, attempts that included the conversion of Yezidis and Shabaks to Sunni Islam and the training of Sunni preachers to convert recent converts to Shi’ism among Iraq’s tribal population. In addition, the prohibition came at a time of intense conflict of jurisdictional control of the populations of Iraq. By the 1880s, the Iranian government asked for the right to establish a number of consuls in the smaller towns of Iraq. Court cases between Iranians and Ottomans were no longer settled in shari’a courts but in special tribunals, although matters of personal status remained the purview of the Muslim courts. What emerged was a plural and often contradictory legal regime that governed the rights of nationals and foreigners.¹³ Iran was now on equal footing with European states, with the significant caveat that it insisted the Shi’is of Iraq, despite their being Muslims, be considered a minority that needed foreign protection by a Shi’i state.

The gradual transformation in Iranian and Ottoman policies and discourse of confessional differences between Shi’is and Sunnis into a discourse of minority and majority shaped the politics of implementation of Iraqi nationality law in the 1920s. The Iraqi nationality law came into effect in September 1924 and

¹² The discussion below derives from Karen Kern, Imperial Citizens. Kern is particularly good at highlighting the confusion over implementation. The convention allowed Iranian men to marry Ottoman women and gave them the same rights as other foreign nationals. Yet, local administrators continued to report to the government on marriages between Persians and Ottomans and the government issued orders to punish the culprits. Jurisdictional politics, a politics born out of the existence of plural legal regimes and plural articulations of sovereignty, was the result of challenges presented by subjects who crossed boundaries.
was drafted, together with the Syrian, Lebanese and Palestinian laws, to adhere to articles 30-36 of the Lausanne Treaty. These articles addressed the rules governing the acquisition of nationality by inhabitants of the post-Ottoman states in the Middle East.\textsuperscript{14} At the time of the drafting of the law, the territorial boundaries of Iraq had not been settled.\textsuperscript{15} Thus the implementation of the Nationality Law had no clear jurisdictional reach. It was remarkably open ended in its definition of nationality’s inclusions. What appears to have been of utmost concern to its drafters were the borders with Turkey and Syria rather than its territorial boundaries with Iran.

Who was to be considered Iraqi of the Ottoman subjects of the Empire? Any resident of Iraq of Ottoman citizenship who had resided in the country since the 23rd of August 1921, the official date of the founding of the Iraqi state and August 6, 1924, the date of the ratification of the Lausanne Treaty, lost his Ottoman nationality and became an Iraqi national. Residence and paternity was the determinant of Iraqi nationality. An Iraqi was someone who was born to an Iraqi father, regardless of his place of residence. At the same time, the law set up a provision for naturalization allowing residents of Iraq of foreign fathers who had reached majority to apply for nationality. The law prohibited Iraqis from holding dual nationalities.\textsuperscript{16} Like the Ottoman Nationality Law, the new law assumed that all residents of Iraq were Iraqi unless they officially renounced their Iraqi nationality in favor of the nationality of another country. The Iraqi Nationality Law set the date for the renunciation of Iraqi nationality in favor of other nationalities as December 31, 1927, three months after the official gazette announced the new law to the population at large. Orders were sent to various district chiefs to make the law public.\textsuperscript{17}


\textsuperscript{15} National Archives, CO/730/130/10. Mosul province was not as of yet part of Iraq, the borders with mandate Syria were still being mapped as were the borders with Kuwait and the unsettled and nascent Saudi state. In addition, there was no agreement between the Government of Iraq, Britain and Iran on the boundaries between Iran and Iraq. In fact well into the late twenties, the Iranian government refused to deal with the Iraqi government, insisting that Iraq was Ottoman territory occupied by the British. As occupied Ottoman territory, all agreements on border issues, particularly the finding of the border commission of 1913-14 were to remain in force. The British were held responsible for all dealings between the Iraqi and Iranian government.

\textsuperscript{16} National Archives, CO/831/1/5-7, and CO 730/141/2.

\textsuperscript{17} NA, CO/109/5
As you can imagine, the implementation of the law created a host of problems, not the least of which is the short time it allowed residents of Iraq to determine what nationality to choose. Thus for example, there is the example of 60 families from Baghdad, none Muslims, who have been residents of Hamadan for generations and had operated in Iran as Ottoman subjects. They found that they had decide fairly quickly what nationality they were to apply for. In the words of the British consul of Hamadan, “their attitude to nationality is that it is a matter of business connections and consular protection. Their business connections draw them to Baghdad and many of them have since the British occupation gotten Iraqi certificates of identity and laissez passer.” They had hoped to become British subjects and enjoy the jurisdiction of British diplomats. Since this was not forthcoming, they were now turning toward acquiring a Turkish nationality.18

However, the most enduring and vexing of the problem of implementation was the one that touched populations on the as yet undefined boundaries of the new states in making. These included all mobile populations who frequently crossed borders between what was then the sultanate of Najd (which issued its own passport), Iran, Syria, Turkey and Jordan.

In the case of Shi’i populations who worked as cultivators, coolies and laborers on either sides of the Shatt al-Arab waterway and in the ports of the Gulf, the attempt to register them as Iraqi or Iranian nationals was often framed by Iranian officials as an attempt to protect Shi’is as a “minority.”

The question of Iranian and Iraqi nationality became the centerpiece of the struggle between the two states over control of borders in the 1920s. The government of Iraq represented by the British government insisted that it be recognized as an independent sovereign state, while the Iranian government of Reza Shah continued to insist that Iraq was occupied Ottoman territory. The Iraqi government complained that Iranian frontier officials refused to acknowledge Iraqi passports and Iraqi nationals conducting business in Iran had to avail themselves to the British consulate.19

18 Ibid
19 It is in the context of the late nineteenth century competitive politics of the land, hearts and minds of Iraq’s borderland populations that we need to understand the particularly virulent form of anti-Persian rhetoric with its implicit criticism of Shi’is that exploded in the public culture of Iraq in the 1920s and early thirties. This virulence is viewed by historians of monarchical Iraq as a polarization between those who articulated an Iraqi national identity that was implicitly Sunni and Arab, championed by the monarchy’s foremost intel
At the same time, the Iranian government continued to petition the British and the Iraqi governments to establish consular office in small Iraqi border towns as well as larger cities. British administrators in Basra and Mendilli complained, as did the government of Iraq, of the propaganda campaigns undertaken by the Iranian government among the southern tribal populations, particularly among semi-settled tribes. At one point the Iraqi government accused the Iranian consul in Mendilli of inviting members of a local tribe into the consulate, locking the gates, and forcing them to take out Persian nationality papers. The head of the tribe lodged a complaint with the local police. The conflict escalated in 1928, in the wake of the Iraqi government’s attempt to conduct a census in the province of Basra, particularly of populations resident on the right side of the Shatt al-Arab waterway, claimed as part of Iraqi territory.\footnote{CO730/130/10.}

As it worked on the ground, however, the implementation of the Nationality Law over passports and papers, permits and over who had jurisdiction over the movement of people was more complex. I would like to turn two stories before I conclude to give you a sense of the intersection of several jurisdictions, national, tribal, and commercial in the attempt to implement the Nationality Law.

Over the summer of 1928 tribal cultivators in the villages of Basra attacked a police station as well as a number of tribal landlords. Attacks against police stations and tribal shaykhs were not an uncommon phenomenon in the mid-Euphrates districts of Iraq. These particular attacks, however, involved a flurry of correspondence between the British Foreign Office, the Iraqi ministries of Foreign Affairs and Interior, the Colonial Office, the Iranian government and its representative in Khuzistan, the British Consul in Iran and the office of the High Commissioner of Iraq. On August 4, 1928, twenty-five inhabitants of the village of Zayyadia who had taken Persian papers had abducted two Iraqi nationals, carried them to Abadan where they were promptly imprisoned. When the British Consul in Iran, then the sole representative of the Government of Iraq in that country, asked the governor of Khuzistan for an explanation, he claimed that these two Iraqis had prevented Persian subjects from crossing to the eastern side of the Shatt al-Arab river. It soon emerged, however, that the intellectual Sati’ al-Husari on the one hand, and an Iraqi national identity that is more pluralistic and open to incorporating Shi’is championed by Iraqi poet Muhammad al-Jawahiri on the other. For a concise analysis see Sami Zubaida, “The Fragment imagine the nation: The Case of Iraq,” International Journal of Middle East Studies, 34(2002) 205–215. For a detailed and nuanced analysis of this debates see Orit Bashkin, The Other Iraq (Stanford: Stanford University Press, 2012).
two abducted Iraqis had just been granted lease by the landlord on land that had been cultivated by some of the twenty-five holders of Persian papers who had spirited them away to Abadan. The struggle was not so much about the aborted right of Iranian subjects to cross into their country, as much as it was over the control of a land lease.  

The other example of the how multiple jurisdictions complicated the question of implementing Nationality Law is also evident in the case of the Muhaisin tribe that elicited a small diplomatic crisis in the wake of the Iraqi government’s attempts to conduct a census in the Shatt al-Arab area. It is in the process of implementation of the census that the politics of population and nationalism clashed most clearly with other forms of affiliation that have nothing to do with nationality or sect.

The census is perhaps the best instrument of the politics of population. The census commission was set up to count populations, to classify them by ethnicity and nationality, and to fix categories on populations whose identities are difficult to box into one category. The census law that went into effect in July of 1927 was certainly conceived for that purpose, but the aim of the government was to survey the population for purposes of conscription. By any standards, it was a failure as a large part of the Iraqi population refused to be counted. Its application in the southern province of Basra started in January of 1928.

The police and the headmen of the various villages and towns in the south posted printed notices in public places. They instructed people to appear before the census commission and warned of penalties for failure to comply. A day or two before the committee of the census arrived to the village, they informed the village headman or the manager of an agricultural estate to round up men to register them for the census.

From the beginning of the process, however, the work of the census committees required their poorly trained members to make instantaneous decisions based on very poor knowledge of the Nationality Law, the census law and the passport law that governed the regulation of movements of peoples between the borders of Iran and Iraq. Thus, for example, the committee was required to register all inhabitants as Iraqi unless they produced Iranian identity papers (known as tezkerelis). Many of the inhabitants of the area of Abu al-Khasib, particularly in the village of Kut al-Zain, which had large properties owned by the Shaykh of Muhammarah, belonged to the Muhaisin and Cha’ab tribes who owed allegiance to the Shaykh and worked as sharecroppers in his domains. Some had Iranian identity papers, but the vast majority did not and were used to the

\[21\] Ibid
free movement between Iran and Iraq without producing exist visas or passports. The census takers had assumed that many of the Muhaisin who had no papers and had lived for generations in Iraq, were Iraqis. They begged to differ as they viewed themselves as protégés not of Iran, but of the Shaykh who held the key to their livelihood as sharecroppers.

When the census committee came, many rushed to Muhammarah without procuring an exit visa, and they managed to get Iranian identity papers from the officials in the city. They brought them back to Basra, had them officiated by the Iranian consul there, and submitted them to the census committee members as proof of their Iranian nationality. The census officials promptly put 77 of them in prison and prosecuted them under articles in the nationality, census and passport laws. Their imprisonment caused the other Muhaisin to flee into Iran, and created in the words of the Iranian consul in Britain and the Iranian government a small refugee crisis. Soon, the Iranian government set up a special fund to take care of the refugees and brought their plight to the British government. Its nationals were being persecuted and were forced to register as Iraqis against their will. They had not been informed of the December 31, 1927 deadline set up by the Iraqi government to renounce their Iranian nationality, and hence they were victims of the inefficiency and machinations of an Iraqi government bent on claiming Iranians as Iraqi citizens. A commission of inquiry was set up, and the census was suspended.\(^{22}\)

What becomes clear from the example of the census that the Iranian, British and Iraqi attempts to root populations of southern Iraq, to define them as Shi‘i, Sunni, Iranian, Iraqi, came against quite a bit of resistance. But that resistance did not come in the form of open rebellion, but in a manner that deployed the language of nationality and tribe to achieve goals that had more to do with economic and family interest than they had with sect. They seem to have used the language and the rules of the game with remarkable skill. They used documents, they appealed to their landlords despite very little allegiance to the abstract notion of a nation, they appealed to their mujtahids in Muhammarah even if it was not clear that their sectarian identity was critical. In the words of Isa Blumi, who has observed a similar phenomenon in the Albanian highlands, the Muhaisin and countless others deployed the possibility of identity to make claims of protection and economic rights.\(^{23}\)

Let me conclude by going back to the questions I raised at the

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\(^{22}\) CO 730/132/2

beginning of this talk. The first being that the introduction of the concept of nationality to the Middle East, under both the Ottomans and the Mandate system was from the beginning far from a secular enterprise. Whether Ottoman or Iraqi, the concept of nationality was not based on the liberal secular concept of national rights attached to individuals but to populations, split up between majorities and minorities. The Lausanne Treaty and the series of nationality laws that were based on it, assumed that religion was intimately intertwined with nationality, singling out non-Muslims for special protection. How do we fit the Shi’a of Iraq into this schema? The mandate system and the nationality laws enacted under the guidance of colonial powers and protection of the League of Nations, provided the Shi’a of Iraq and Lebanon with an opportunity to claim a set of rights in the name of community. Ussama Makdisi has called this process “sectarianization, that is to say a process by which claims to self representation in an empire and a nation were made in communal terms.”

In Iraq, these claims were intensified by its unique geographic position as a borderland between two states, so the process of sectarianization began in the late 19th century. The Shi’i political leadership understood nationality, the census and conscription, that is to say, the politics of population, as an opportunity to stake claims to their version of a nation, an opportunity available to them only after the destruction of the Ottoman Empire.

Professor Wadie Elias Jwaideh had a long and distinguished career both within and outside of Indiana University. He received the degree of Licentiate in Law from the University of Baghdad in 1942. In 1960, he received his PhD from the Maxwell School of Citizenship and Public Affairs at Syracuse University. During this time, he also held a lecturer position in Arabic at Johns Hopkins University.

His dissertation entitled “A History of the Kurdish Nationalist Movement” is the most comprehensive study ever made into the Kurdish question. This work established him as one of the world’s leading experts on the Kurds. It will be published in English in the spring of 2006 by Syracuse University Press.

Dr. Jwaideh joined the faculty of Indiana University in 1960 and became the founder and chairman of the Department of Near Eastern Languages and Literature and Professor of History until his retirement.

In 1972, Professor Jwaideh was given the Lieber Memorial Award for Distinguished Teaching. A number of his colleagues and former students contributed articles for a Festschrift in his honor. Dr. Robert Olsen edited this book, entitled Islamic and Middle Eastern Society (Amana Books, 1987).

After his retirement from IU in 1985, Dr. Jwaideh accepted an appointment as Adjunct Professor of History at the University of California at San Diego, where he taught until 1990.

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