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### Negotiating Subjection: The Political Economy of Protection in the Iraqi Mandate (1914-1932)

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#### Abstract

*The Mandate System provided a viable means for protecting European interests (without annexation), embedding the principle of foreign property protection as the basis for future relations between capital exporting and importing states. At the same time, the Mandates also protected the non-European Mandate inhabitants in preparation for their emancipation by introducing welfare measures, development, and ‘order’ that could support the protection of (foreign) property. The Iraqi example best explicates how the Mandate System uniquely combined vestiges of older imperial protection models and a future model for newly emancipated states, demonstrating the fluidity between the imperial and the international. I argue that such a fluidity helped facilitate a reciprocal causality between protecting people and protecting property, where protecting Iraqis facilitated British propertied interests. Equally, by separating the protection of people and property, I show how political self-determination of Mandate inhabitants remained distinct from their economic emancipation. Through these arguments, I demonstrate how protection of people and property was divergent and mutually constitutive.*

#### Key Words

Emancipation; Private Property; Imperialism; Postcolonialism; Anglo-Iraqi Treaties

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## 1 Introduction

In 1922, Sir Frederick Lugard laid down three catchphrases to characterise the Mandate System under the League of Nations: 'no annexation', 'self-determination', and 'The Open Door'.<sup>1</sup> To Lugard, who went from being the Governor-General of British Nigeria to a member of the Permanent Mandates Commission (PMC) at the League of Nations, the Mandates embodied a new approach of the Allied nations towards each other and to non-European territories and peoples after the World War I. Yet, despite the shifts – from monopoly to free trade via the Open Door policy, from self-sustaining Empires to multilateralism, from conquests to supervision without annexation – much stayed the same. Notwithstanding the move from 'standard colonialism' to an internationally supervised 'Mandate', it became clear that multilateralism was not inimical to imperial interests.<sup>2</sup>

The Mandate System was a new international institutional model for the tutelage of territories lost by the Ottomans and Germans after their defeat in World War I. However, the underlying concept of protection upon which it operated was not new. Protection as a feature of imperial ideology had historically involved both reciprocity and antagonism between protecting people and property. The complex relationship emerged as part of a longer genealogy of imperial authorities' protection of slaves after the abolition of the slave trade in 1807 alongside the protection of planters' and masters' right to property in slaves. Protection was constructed as a means to prepare slaves for emancipation, justifying the exertion of more control over them and demanding even greater obedience in return for their future freedom, thus delaying the abolition of slavery. Protecting the enslaved in this manner was crucial not only to curbing slave revolts, but also in light of planters' and merchants' right to property in slaves, which was at the core of why European traders and merchants sought the sovereign's protection inside and outside the metropole.<sup>3</sup> Even after the abolition of slavery, imperial protection of subjugated non-European people in colonies and colonial protectorates ensured non-European obedience in service of the capital they valorised.

If protection was the end of obedience to authority, as Thomas Hobbes theorised in 1651,<sup>4</sup> it was also a means to emancipation from authority. A group of

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<sup>1</sup> Frederick Lugard, *The Dual Mandates of British Tropical Africa* (Frank Cass & Co., 1922) 53.

<sup>2</sup> Susan Pedersen, *The Guardians: The League of Nations and the Crisis of Empire* (OUP, 2015). On multilateralism and imperialism's coexistence, see China Mieville, 'Multilateralism as Terror: International Law, Haiti and Imperialism' (2008) 19 *Finnish Yearbook of International Law* 63. Robert Knox, 'Valuing Race? Stretched Marxism and the Logic of Imperialism' (2016) 4 *London Review of International Law* 81.

<sup>3</sup> Parvathi Menon, 'Edmund Burke and the Ambivalence of Protection for Slaves: Between Humanity and Control' (2020) 22:2-3 *Journal of the History of International Law* 246.

<sup>4</sup> Thomas Hobbes, *Leviathan*, Richard Tuck (ed.) (CUP, 1996) 153.

liberal economists (whose role in the Mandate System I will discuss later), therefore, feared that the ends of protecting non-European peoples through the Mandate System (ie. their self-determination) would be antagonistic to what, for them, was the end of protecting property (ie. capital's free movement).<sup>5</sup> It was important to them that emancipation of non-European territories would not close off postcolonial resources from Europe.<sup>6</sup> In short, the question posed by the Mandate System was: how to 'separate sovereignty and economic exploitation'?<sup>7</sup> By focusing on the example of the Iraqi Mandate, I argue that the Mandates proved a viable means to protecting British rights to Iraqi property (without annexation), embedding the principle of foreign property protection as the basis for future relations between capital exporting and importing states. At the same time, the Mandates protected the Iraqi people in preparation for their emancipation by introducing welfare measures, development, and 'order' that could support the protection of (foreign) property. The Iraqi example best explicates how the Mandate System uniquely combined vestiges of older imperial protection models and a future model for newly emancipated states, demonstrating the fluidity between the imperial and the international. Consequently, on the one hand, such a fluidity helped facilitate a reciprocal causality between protecting people and property, where Mandate protection of Iraqis facilitated British propertied interests. On the other hand, by separating the protection of people and property, political self-determination of Mandate inhabitants would remain distinct from their economic emancipation.<sup>8</sup> The protection of people and property, therefore, was both divergent and mutually constitutive.

When the Mandate System internationalised protection in 1919, it divided the non-European people and territories into groups A, B, and C based on the 'stage of development of the people, the geographical situation of the territory, its economic conditions and other similar circumstances', as laid down in Article 22 of the League of Nations Covenant. The A Mandates, of which Iraq was a part, comprised of communities formerly a part of the Turkish Empire, considered at the highest 'stage of development' with their independent existence 'provisionally recognised'. The B Mandates were next in the hierarchy and included peoples from former German colonies in Central Africa, who were 'at such a stage' that the Mandatory had to be

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<sup>5</sup> Wilhelm Röpke, *International Order and Economic Integration* (D. Reidel, 1959); see also Quinn Slobodian, *Globalists: The End of Empire and the Birth of Neoliberalism* (Harvard University Press, 2018).

<sup>6</sup> Röpke (1959). See also Michael Fakhri, *Sugar and the Making of International Law* (CUP, 2014) 74.

<sup>7</sup> Wilhelm Röpke, 'Economic Order and International Law' (1954) 86 *Recueil des Cours* 203, quoted in Anne Orford, *International Law and the Social Question* (Asser, 2020) 27.

<sup>8</sup> See Samuel Moyn & Umut Özsu, 'The Historical Origins and Setting of the Friendly Relations Declarations' in Jorge E. Viñuales (ed.), *The UN Friendly Relations Declaration at 50: An Assessment of the Fundamental Principles of International Law* (CUP, 2020) 22.

'responsible for the administration of the territory' under several conditions. C Mandates, composed of South West Africa and former German Pacific islands, were regarded to exist at such a low level of civilisation that they could be governed practically as parts of the Mandatory power itself. Through a hierarchy of specific and differentiated legal statuses within the Mandate System, contract and consent for protection found its footing between Mandatory powers and A Mandates like Iraq, as a precursor to several impending relationships between the states in the global North and newly independent states in the global South.<sup>9</sup> Although Iraqi quasi-sovereignty was recognised, M Van Rees, member of the PMC, argued that emancipating Iraq would depend upon the welfare of the Iraqis and the consent of Britain. In the case of Iraq, where protection was constructed as a means to their emancipation, protection measures were crucial to increasing Iraqi economic productivity. However, an emancipated (but obedient) Iraq would come to encapsulate postcolonial sovereignty and the role of postcolonial states in the international order that outlasted the end of formal empire.<sup>10</sup> Britain championed Iraqi self-determination to maintain its imperial access and enable the protection of people and (foreign) property in a postcolonial Iraq, which would remain under the protective British gaze of the Anglo-Iraqi Treaties of 1922 and 1930 that were revised in 1948 after Iraqi independence. By combining non-European welfare and development with British imperialism, the Iraqi story manifested the enduring legacies of British imperial protection of people and property in (post)colonial states in a manner that facilitated the protection of British rights and interests.<sup>11</sup> If the promise of protection was a propertied abundance for postcolonial states to prevent their natural subjugation, an uncontained Iraqi economy would be their path to greater inclusion in the 'Society of Nations'.

In this article, first, I show how protection was both a means (to emancipation) and an end (of obedience). The PMC, through the language of protection, entrenched

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<sup>9</sup> In British colonial protectorates, the native subject did not owe allegiance, only obedience. They were 'protected foreigners, who, in return for that protection, owed obedience': *Rex v. Earl of Creve, Ex parte Sekgome* [1910] 2 K.B. 576. On such consensual and contractual protection (of trading interests) through treaties of protection that led up to the Mandates, see Inge Van Hulle, *Britain and International Law in West Africa: The Practice of Empire* (OUP, 2020), and Cait Storr, *International Status in the Shadow of Empire: Nauru and the Histories of International Law* (CUP, 2020). In this paper, I argue that trading interests were always combined with protection of natives, both with the paternalism of what such protection entailed and the correlated support it gave trade through a maintenance of the workforce.

<sup>10</sup> Ludwig Mises, *Liberalism* (Foundation for Economic Education, 1985) 21, 42. See also Slobodian (2018). See also Sundhya Pahuja, *Decolonising International Law: Development, Economic Growth and the Politics of Universality* (CUP, 2011) 95-171, where she describes the ruptures through decolonisation and the New International Economic Order (NIEO) in the 1970s.

<sup>11</sup> For the interplay between national capitalist development and British imperialism in the Global South, see Jairus Banaji, 'The Comintern and Indian Nationalism' (1977) 3:4 *International* 25. For the logic of improvement and logic of biology operating within the argument of 'civilisation', see Ntina Tzouvala, *Capitalism as Civilisation: A History of International Law* (CUP, 2020).

the Mandatory power's ability to valorise capital in the Mandates through the obedience of the protected natives in Iraq, thwarting any revolutionary tendencies that could destabilise the prospects of an imperial world order. Second, I show that, by signaling Iraqi quasi-sovereignty,<sup>12</sup> the Anglo-Iraqi Treaties of 1922 and 1930 created a sound legal basis for continued British interests within an 'emancipated' Iraq. The privilege of sovereignty of the A Mandate inhabitants, appearing as rights-bearing subjects without the legal armour of a state, acted as a placeholder for their future as an independent polity while remaining legally tied to a relationship of subjection.<sup>13</sup>

## 2 Between Protection as a Means, and Protection as an End

As a political concept, Anne Orford argues that 'protection does not have a predetermined political effect'.<sup>14</sup> Rather, 'protection' signalled who is the sovereign and who 'gets to decide what protection will mean and how it will be administered'.<sup>15</sup> Being able to avail the sovereign's protection as the end of obedience to them, in turn, marked one's 'subjecthood' or the extent of one's membership in the political community. As Frederic Lane noted, protection was also a commodity or a 'service sold by the state that produced the very conditions necessary for capital accumulation',<sup>16</sup> making protection also the means to retrieving costs spent by the 'protection-producing enterprise'.<sup>17</sup> Therefore, understood as intertwined yet separate, protection to preserve one's property and protection to acquire a subject-like status in the political community in return for obedience is a part of the history of capitalism. Thus, a study of the political economy of protection, as Philip J. Stern notes, throws open the binary relationship of protector and protected and exposes how protection,

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<sup>12</sup> Ali Hammoudi argues that a unique category of semi-peripheral sovereignty was created by the British to serve their geopolitical interest in Iraq. See Ali Hammoudi, *The Pomegranate Tree Has Smothered Me: International Law, Imperialism and Labour Struggle in Iraq, 1917-1960* (PhD Thesis, York University, Canada, 2018). See also Usha Natarajan, 'Creating and Recreating Iraq: Legacies of the Mandate System in Contemporary Understandings of Third World Sovereignty' (2011) 24 *Leiden Journal of International Law* 799.

<sup>13</sup> For the role of non-state actors in the Mandates and minorities regime, see Natasha Wheatley, 'New Subjects in International Law and Order' in Glenda Sluga & Patricia Clavin (eds.), *Internationalisms: A Twentieth-Century History* (CUP, 2016) 265.

<sup>14</sup> Anne Orford, *International Authority and the Responsibility to Protect* (CUP, 2011).

<sup>15</sup> Ibid.

<sup>16</sup> Frederic Lane, *Profits from Power: Readings in Protection Rent and Violence-Controlling Enterprises* (State University of New York Press, 1979) 24–25, quoted in Philip Stern, 'Limited Liabilities: The Corporation and the Political Economy of Protection in the British Empire' in Lauren Benton, Adam Clulow & Bain Attwood (eds.), *Protection and Empire: A Global History* (CUP, 2019) 93, at 116.

<sup>17</sup> Niels Steensgaard, 'Violence and the Rise of Capitalism: Frederic C. Lane's Theory of Protection and Tribute' (1981) 5:2 *Review (Fernand Braudel Center)* 273.

as a feature of imperialism and liberal internationalism, was 'layered, hybrid, and plural'.<sup>18</sup>

### 2.1 *Capitalising on Protection, or Protecting Capital*

Despite continuities with imperial protection models in slave colonies and colonial protectorates, the Mandate System came with a cosmopolitan ethos through the introduction of 'international accountability', as Ali Hammoudi observed, demonstrating a shift from older models of protection.<sup>19</sup> The League of Nations as protector was devised by Allied powers after the First World War, distancing themselves from previous practices of direct annexation while maintaining their geopolitical agendas.<sup>20</sup> The League, through the Mandates, focused on 'well-being and development', limiting imperial sovereignty. The PMC understood such welfare as dependent on the inflow of capital into Iraq through imperial efforts.

The novelty of the Mandates was a result of the after-effects of World War I. Public power incursions into the 'sacred space' of private property protection were certainly not new, but the massive destruction of private property at the end of the war gave liberals a renewed faith in what they imagined was a balance between the state's role (limited government) and the realm of private property without border restrictions (free market).<sup>21</sup> As Quinn Slobodian notes, 'there needed to be a respect for private property that trumped national law. Investment must be able to cross borders back and forth without fear of obstacles or expropriation'. By reinstating the role of state intervention to protect capital investments, the Mandate System required sufficient imperial supervision and 'development' to support the agenda of a well-ordered state flanked by businesses, without granting imperial powers commercial monopolies or absolute sovereignty over their Mandates. Much like the older institutional models of protection that intertwined public and private authorities and interests, the Mandate System combined protecting people in the service of property alongside the protection of property in the service of (certain) people.

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<sup>18</sup> Ibid.

<sup>19</sup> Hammoudi (2018) 79.

<sup>20</sup> The Sykes-Picot Agreement, a product of Anglo-French secret diplomacy to divide the Middle East between them, guided the Mandate System's allocation of Iraq, Syria, and Palestine to Mandatory powers. See Antony Anghie, 'Introduction to the Symposium on the Many Lives and Legacies of Sykes-Picot' (2016) 110 *AJIL Unbound* 105; Megan Donaldson, 'Textual Settlements: The Sykes Picot Agreement and Secret Treaty Making' (2016) 110 *AJIL Unbound* 127; Viktor Kattan, 'Palestine and the Secret Treaties' (2016) 110 *AJIL Unbound* 109; Karin Loevy, 'The Sykes Picot Agreement's Regional Moment: Drawing Lines of Development in a New and Open Space' (2016) 110 *AJIL Unbound* 120. Loevy argues that the Sykes-Picot Agreement marked the loss of the Arab region's political potency.

<sup>21</sup> F.A. Hayek, *A Road to Serfdom* (University of Chicago Press, 1944); F.A. Hayek, *Law, Legislation and Liberty: A new statement of the liberal principles of justice and political economy* (Routledge, 1973).

Lord Amery, Secretary of State for the Colonies, opined that Britain should be glad to consider its responsibility 'the happiness and welfare of [Iraqi] people', who otherwise would have 'no defensible frontier, whose revenue and resources would have shrunk away, whose country would be swarming with hordes of starving refugees'.<sup>22</sup> As Article 22 of the League Covenant outlined, the 'well-being of such peoples' was the basis of the Mandate System, since they 'cannot stand by themselves under the strenuous conditions of the modern world'. Furthermore, the humanitarianism motivating protection for Mandate inhabitants included in Article 23(1) an 'endeavour to secure and maintain fair and humane conditions of labour', notwithstanding Britain's successful lobbying to exempt forced labour in territories under its tutelage or control from the 1926 Slavery Convention.<sup>23</sup> Other measures included provisions for health and education of natives, protection of minorities and their places of worship, and so on. Such measures were crucial to pacifying the Iraqis and harmonising their internal conflicts, preventing organised opposition among the Iraqi nationalists, and among the oil, port and railway workers.<sup>24</sup> Welfare measures that would create an obedient Iraqi population were necessary to let the British 'complete our [their] task' of exploiting Iraqi oil wells.<sup>25</sup>

British trade unionist and Member of Parliament, Albert Purcell, was clear that 'the oil-workers who are brought in to help in exploiting these oil wells [must] get adequate wages, and proper housing and clothing.'<sup>26</sup> Purcell added that, 'we [the British] should set ourselves up as the parties to see that proper education is given to them, that proper instruction is meted out to these natives, in order that we may properly complete our task ... in the general uplifting of these backward races'. At the same time, he suspected that welfare for Iraqis under the treaties drawn between Britain and Iraq (discussed in Part 3 below) was for 'the oil interest', where the 'Government is helping capitalist interest'. And in the event of native demands for

<sup>22</sup> Lord Amery, 'Anglo-Iraq Treaty', (18 February 1926) *Hansard House of Commons Debate* column 2171.

<sup>23</sup> 'Slavery Convention', 25 September 1926, Article 5 allowed for forced labour in public works, <http://www.ohchr.org/EN/ProfessionalInterest/Pages/SlaveryConvention.aspx> (accessed 24 December 2020). For the contrast between lobbying by the Anti-Slavery Society and that of the British Foreign Office officials including Lugard to 'tailor the Slavery Convention to suit the objectives of British foreign policy and the preferences of imperial administrators', see Kevin Grant, *A Civilised Savagery: Britain and the New Slavery in Africa, 1884-1926* (Routledge, 2005) 141.

<sup>24</sup> Hammoudi describes Iraqi labour movements and strikes as demonstrating real unity among workers after 1930. Hammoudi (2018) 65.

<sup>25</sup> I argue elsewhere that similar welfare measures were used in the case of the enslaved after slave trade was abolished, between 1807 and 1833, to maintain and reproduce slave labour that was crucial to sustaining capitalism. Menon (2020). See also Jairus Banaji, *Theory as History: Essays on Modes of Production and Exploitation* (Haymarket, 2010) for an elaboration of how 'unfree labour' could form the basis for 'capitalist relations of exploitation', at 282. Hammoudi also explains how semi-feudalism could 'exist in harmony with capitalism'. Hammoudi (2018) 31. See also Tzouvala (2020) 115-117.

<sup>26</sup> 'Anglo-Iraq Treaty', (1926) *Hansard House of Commons Debate* column 2199.

better working conditions, citing examples of the Royal Dutch, the Anglo-Persian and the Shell Mex companies, Purcell feared that 'British troops will be used to help the oil companies to suppress and even to shoot down these workers'. However, he also criticised welfare for Iraqis because he felt that such measures would be implemented at the cost of the British working class. Whether the cost borne by Britain in ensuring such protection was profitable was the subject of much parliamentary debate.<sup>27</sup>

Balancing these two aspects of protection – providing Iraqis with welfare and infrastructure to prepare them for emancipation while protecting Iraqi natural resources to fulfil British imperial interests – was often precarious. Welfare for the Mandate inhabitants (protection of persons) was often discussed by PMC members such as Count de Penha Garcia as flowing from economic development of the Mandate (through protection of private property), combined with promoting the 'common good' (among the League members through an Open Door policy).<sup>28</sup> At the same time, PMC member Van Rees noted, the social and economic development of the Mandate can only be secured by the participation of a 'highly developed people'.<sup>29</sup> Establishing possibilities for the reciprocal development of Iraq's people and property, the British politicians often referred to the Anglo-Persian oilfield to assert that 'there exists two classes of labour – European and native. Underpaid? No. In miserable conditions? No ... the European population living in houses, which they cannot get here [in Britain] at present, and the native labour receiving wages they never dreamt of before in their lives'.<sup>30</sup> As Taina Tuori writes, it was thought that 'taking care of the welfare of the [Mandate] inhabitants would lead directly to greater productivity [of labour]', and in turn better both native and European lives.<sup>31</sup> Similarly, Ntina Tzouvala notes how welfarism in the Mandates was crucial to sustain working capacity, and consequently to reproduce labour power for a capitalist mode of production.<sup>32</sup> Therefore, protecting natives demonstrated an 'uneasy compact between capital and labour brokered by an interventionist state that paid great attention to the social as

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<sup>27</sup> Ibid.

<sup>28</sup> PMC, Report to the Council of the League of Nations, 17<sup>th</sup> session, June 3-21, 1930, 52, 39. [https://biblio-archiv.unog.ch/Dateien/CouncilMSD/C-355-M-147-1930-VI\\_EN.pdf](https://biblio-archiv.unog.ch/Dateien/CouncilMSD/C-355-M-147-1930-VI_EN.pdf) (accessed 24 December 2020).

<sup>29</sup> Ibid.

<sup>30</sup> Ibid.

<sup>31</sup> Taina Tuori, *From League of Nations Mandate to Decolonisation: A History of the Language of Rights in International Law* (PhD Thesis, University of Helsinki, 2016) 1.

<sup>32</sup> Tzouvala (2020) 91, 115-117. See also Chris Pierson, 'Marxism and the Welfare State' in Andrew Gamble, David Marsh & Tony Tant (eds.), *Marxism and Social Science* (University of Illinois Press, 1999) 175.

well as individual wage'.<sup>33</sup> Except, in this case, it was accompanied by international oversight.

## 2.2 *Racialised Hierarchies and the Cost-Benefit Analysis*

Protection was, in the end, also a means to emancipation of the Mandates. However, in keeping with President Woodrow Wilson's call for self-determination, readying these territories for independence would require their sufficient development so as to aid capital's free movement.<sup>34</sup> In this regard, emancipatory goals were perverted into both serving and benefiting from the protection of private property, thus becoming what Adom Getachew calls the 'counterrevolutionary end'.<sup>35</sup> For Wilson, there could be no such thing as a 'universal right to independence'. In keeping with his liberal views, Wilson's concept of self-determination was more of a reward for capacities built by 'nascent entities' desiring to become nation-states. Along with Wilson, Jan Smuts, the South African Premier, also rejected any visions of universal inclusion as being unsustainable and dangerous. Smuts was, after all, the architect of the League of Nations. He envisioned the League as a 'real live controlling authority' that would balance the protection of racial minorities with the open economic door that would prevent rivalry among the Mandatory powers and instead facilitate free trade.<sup>36</sup> Inspired by the success of the British Empire, which Smuts called 'the nearest approach to the League of Nations',<sup>37</sup> he was equally intent on characterising the 'Constitution of the League of Nations' as 'gigantic and entirely novel'.<sup>38</sup> However, in the League's capacity as the 'successor to the defunct Empires', Smuts viewed the Mandate System as a compromise he made 'to conciliate the great Powers' and appoint them as 'mandataries of the League in the more backward peoples and areas'.<sup>39</sup>

Both Wilson and Smuts imagined Mandatory protection and its emancipatory goals operating within the confines of a racialised and hierarchical global order. They feared the revolutionary ideals associated with the principle of self-determination and were not the only ones to think so. A group of economists in Germany, referred to as ordo-liberals, expressed their disapproval of an international system that combined

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<sup>33</sup> David Harvey, 'Neo-liberalism as Creative Destruction' (2007) 610 *The Annals of the American Academy of Political and Social Science* 22, at 27 See also Banaji (2010).

<sup>34</sup> Slobodian (2018).

<sup>35</sup> Adom Getachew, *Worldmaking after Empire: The Rise and Fall of Self-Determination* (Princeton University Press, 2019) 40.

<sup>36</sup> Jan Smuts, *The League of Nations: A Practical Suggestion* (Hodder & Stoughton, 1918) 29.

<sup>37</sup> Ibid.

<sup>38</sup> Ibid, 31.

<sup>39</sup> Ibid, 28.

self-determination and free trade.<sup>40</sup> In the aftermath of the First World War, during which the right to private property was violated through the creation of centralised regimes for the allocation of resources,<sup>41</sup> the need to elicit the support of public authority in maintaining private power was heightened. Of these economists, Ludwig Von Mises and William Rappard became directly involved in the workings of the League of Nations. Mises was in charge of the Austrian Reparations Commission for the League of Nations, with regard to settling outstanding prewar debt.<sup>42</sup> Rappard was a member of the Permanent Mandates Commission from 1925 to 1945, and later went on to host the first meeting of the Mont Pèlerin Society in 1948, founded by F.A. Hayek. A society of like-minded intellectuals, the Mont Pèlerin Society globalised their project to defend the world economy from democracy.<sup>43</sup>

In sketching a blueprint for a world economy, the neoliberal economists supported delaying self-determination. Prolonging the period of protection, through Mandatory tutelage, Mises asserted, would help 'preserve a global capitalist order based on free trade and private property'.<sup>44</sup> If all the colonies could become Mandated territories before achieving self-determination, Mises was of the opinion that it would help facilitate an 'international division of labour'.<sup>45</sup> It was clear to Mises that Mandatory protection could foster obedient new states through social engineering by the international mechanism of the PMC. In keeping with such strategies, warding off Bolshevik tendencies was very much a part of how Wilson and Smuts reconfigured the meaning of self-determination.<sup>46</sup> Inspired by Edmund Burke's principle of 'trusteeship', Wilson had previously shown his support for the protectorate model in the case of Egypt, so Wilson wanting to institutionalise trusteeship through the Mandate System was unsurprising.<sup>47</sup> Wilson was convinced by Burke's ideology that the 'aim to give to the people the substance of what [he] knew they desired, and what [he] thought was right, whether they desired it or not' was part of the emancipatory

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<sup>40</sup> Ludwig Von Mises, 'Autarky and its Consequences' in Richard Ebeling (ed.), *Money, Method, and the Market Place: Essays by Ludwig von Mises* (Kluwer Academic Publishers, 1990) 157.

<sup>41</sup> Mary Nolan, *The Transatlantic Century: Europe and America, 1890–2010* (Cambridge University Press, 2012) 57.

<sup>42</sup> Richard Ebeling (ed.), *Political Economy, Public Policy and Monetary Economics: Ludwig Von Mises and the Austrian Tradition* (Routledge, 2010) 90.

<sup>43</sup> Angus Burgin, *The Great Persuasion: Reinventing Free Markets since the Depression* (Harvard University Press, 2012).

<sup>44</sup> Slobodian (2018) 111.

<sup>45</sup> Mises (1990) 161.

<sup>46</sup> Getachew (2019).

<sup>47</sup> In the event of Wilson accepting Egypt's status as a protectorate, there was a lot of backlash from the Egyptian Association of Paris, which decried his recognition as 'being in absolute contradiction to all principles of liberty proclaimed in his speeches'. The National Archives (TNA) Foreign Office (FO) 407/184, Earl of Derby to Earl Curzon, 26 April 1919.

process.<sup>48</sup> Protecting the natives was the only way to help them know what *they* desired, while simultaneously developing their territories towards inclusion in the legal order. Thus, racialising Mandate inhabitants was key to legitimising protection strategies, which in turn facilitated a 'mutual' arrangement. Defending this so-called 'mutually beneficial arrangement', Rappard wrote in 1925 that even if the interests of the natives, the Mandatory powers, and the League may not be the same, 'they are not necessarily antagonistic'.<sup>49</sup>

According to Rappard, the Mandate System provided the Mandatory powers with a convenient new means to 'draw pecuniary resources for their own national exchequers from the financial administration of the former German colonies and Arab provinces' than if they were annexed territories.<sup>50</sup> Unlike annexation, Rappard felt that the Mandate System surely procured 'additional commercial profit for their traders' and 'appreciable military or strategic advantages for their own defence'. Equally, he felt that such institutional means of accumulating profit avoided any 'real international friction and native discontent which annexation and exploitation would have produced and which the administration under mandate at least minimises'.<sup>51</sup> The Mandate System, therefore, fostered an orderliness conducive to protecting private property. Under the presumption of a symbiotic relationship, the Mandates were built as a model that characterised 'dependencies' based on Mandate protection of their people and resources, whilst ensuring protection of European privileges and access to non-European markets.<sup>52</sup> Protection reconciled the emancipatory potential of dependent peoples with limiting their economic self-determination.<sup>53</sup>

By classifying Iraq as an 'A' Mandate, the Mandate System balanced Iraq's proximity to independence with a regulation of its path to emancipation. Iraq had its own native government, but the quasi-Mandated standing implied an interim status or such government's inability to self-govern. Admission into the League of Nations was the only signifier of sovereignty akin to the Allied Powers. In its report to the League Council regarding the 'problem of the independence of Iraq', the PMC reported that Iraq's entry to the League of Nations must deal particularly with 'Iraq's ability

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<sup>48</sup> In a tribute to Burke, see Woodrow Wilson, 'Edmund Burke and the French Revolution' (1901) 62(12) *The Century Magazine* 784.

<sup>49</sup> William Rappard, 'Practical Working of the Mandates' (1925) 4:5 *Journal of the British Institute of International Affairs* 205, at 215

<sup>50</sup> Rappard (1925) 217.

<sup>51</sup> *Ibid.*

<sup>52</sup> See Rose Parfitt, *The Process of International Legal Reproduction: Inequality, Historiography, Resistance* (CUP, 2019).

<sup>53</sup> Getachew (2019) 62. See also Susan Marks., 'Exploitation as an International Legal Concept' in Susan Marks (ed.), *International Law on the Left: Re-examining Marxist Legacies* (CUP, 2008) 281; Antony Anghie, *Imperialism, Sovereignty and the Making of International Law* (CUP, 2005) 180.

effectively to govern itself, with its relations with member states of the League of Nations, as for instance, the position of foreign nationals as regards judicial matters, religious liberty and economic equality'.<sup>54</sup> It was evident that the PMC members were interested in gauging Iraq's political progress as a measurement of its ability to 'stand alone'.<sup>55</sup> Their concern for Iraq's economic progress, on the contrary, was tied to the Open Door policy and ensuring economic equality between the League member states.<sup>56</sup> As the next section will demonstrate, the yardstick for formal independence had to do with a factual determination of Iraq's political capacities. Economic independence was deferred for the future, even if only to prove elusive ultimately for postcolonial states.

In fulfilling the Mandate for 'political maturity' and 'economic equality',<sup>57</sup> while aware that the Iraqi institutional structure would profoundly influence the operation of the economic system, Britain had to weigh the costs against possible returns from investing in the Mandate territory. Although the British, whether at home or in Iraq, continued to insist that their main aim was to help Iraq 'stand on its two legs',<sup>58</sup> that did not mean the British wanted to continue taking on the military and financial obligations on behalf of Iraq. Speaking in the House of Commons in 1926, Lord Amery assured other members that the cost was reducing gradually since 1921: 'In 1921, when the present policy was laid down by the Chancellor of the Exchequer, we were spending over £23,000,000 a year in Iraq. The following year, in 1922–23, we spent under £8,000,000; in 1923–24 we spent £5,750,000; in 1924–25, £4,500,000, and in the current year, 1925–26, we are spending £4,000,000.'<sup>59</sup> His praise for Iraq taking upon itself all matters relating to civil administration in the territory insinuated that the British could focus on their capital investments in Iraq, sans the burden of administrative tasks and costs. The desire to separate protecting British interests in Iraqi property from the protection of Iraqi people became manifest within the mutually constitutive relationship of the two that defined the Mandate System.

At the same time, gauging the extent to which the British must remain interested in Iraq, Members of the House of Commons compared Iraq to Egypt,

<sup>54</sup> Quincy Wright, 'The Proposed Termination of the Iraq Mandate' (1931) 25:3 *American Journal of International Law* 436, at 438.

<sup>55</sup> League of Nations, *Opinion formulated by the Permanent Mandates Commission in conformity with the Council Resolution of September 4<sup>th</sup>*, 1931, C.116.1932.VI.

<sup>56</sup> PMC, Report to the Council of the League of Nations, 17<sup>th</sup> session, 3-21 June 1930, 75. [https://biblio-archiv.unog.ch/Dateien/CouncilMSD/C-355-M-147-1930-VI\\_EN.pdf](https://biblio-archiv.unog.ch/Dateien/CouncilMSD/C-355-M-147-1930-VI_EN.pdf) (accessed 24 December 2020).

<sup>57</sup> League of Nations, *Opinion formulated by the Permanent Mandates Commission in conformity with the Council Resolution of September 4<sup>th</sup>*, 1931, C.116.1932.VI.

<sup>58</sup> Lord Amery, 'Anglo-Iraq Treaty', (1926) *Hansard House of Commons Debate* column 2175.

<sup>59</sup> *Ibid.*

unsure whether Iraq would bring riches comparable to the Suez Canal. Through the discussion of the terms of the Anglo-Iraqi Treaty, past and future, Lord Amery highlighted the benefits accrued to the British through its development projects around the world. Whether it was the project of the Ugandan Railways, dismissed at the time as a 'ludicrous waste of money', or the Canadian Pacific Railways, Lord Amery reminded the members of the House that even though those projects won support on the ground of Britain's 'missionary obligations and duty to suppress slave trade', its strength was always in its economic possibilities.<sup>60</sup>

Reflecting the late nineteenth century preoccupations of the British Empire, it was cotton, not oil, that had centre stage in House of Commons debates. Carrying on their cotton trade through the establishment of protectorates in the African continent, and the increasing role played by the British Cotton Growing Association since 1902, the imperial authorities were constantly on the lookout for new parts of the Empire suitable for cotton cultivation. Iraq was on that map. Developing irrigation projects there would prove the region's worthiness, almost comparably to Egypt and Sudan. Although oil was mentioned several times during the discussion in the House of Commons, at the time its discovery was written off as a mere possibility,<sup>61</sup> a possibility that the British could explore only if such discovery attempts had a legal basis. Such legal basis was found in the Anglo-Iraqi Treaties of 1922 and 1930.

### 3 Anglo-Iraqi Treaties and Imperial Internationalism: Entrapment of the Postcolonial

The Anglo-Iraqi treaties were a set of treaties entered into between Iraq and Britain between 1922 and 1950. Analysing these treaties shows that Iraq was subjected to British 'guidance' especially in matters of international and financial obligations,<sup>62</sup> while also stating clearly that such advice would be 'without prejudice to her [Iraqi] national sovereignty'.<sup>63</sup> Hammoudi calls this 'semi-peripheral sovereignty'<sup>64</sup> – also referring to Egypt, Japan, Siam, and China – noting that this 'unique category' was taking shape and on the rise. Without deeming Iraqi sovereignty as uniquely constructed for 'geopolitical purposes pertaining to the semi-peripheral region of the

<sup>60</sup> Ibid, column 2178.

<sup>61</sup> Ibid.

<sup>62</sup> 1922 Anglo-Iraqi Treaty, TNA FO 93/124/2, Article 4 reads: 'King of Iraq agrees to be guided by the advice of His Britannic Majesty ... on all important matters affecting international and financial obligations and interests of his Britannic Majesty'.

<sup>63</sup> 1922 Anglo-Iraqi Treaty, TNA FO 93/124/2, Article 1.

<sup>64</sup> Ali Hammoudi, 'The Conjunctural in International Law: The Revolutionary Struggle against Semi-peripheral Sovereignty in Iraq' (2016) 37:11 *Third World Quarterly* 2028. On 'semi-colonial' Siam, see Prabhakar Singh, 'Of International Law, Semi-Colonial Thailand, and Imperial Ghosts' (2019) 9:1 *Asian Journal of International Law* 46.

Middle East',<sup>65</sup> I argue that Iraqi sovereignty was a precursor to the relationship between capital exporting and importing states. It laid the groundwork for entrapping postcolonial states in a web of dependencies in the global economic order. Sovereignty for global South states appeared in the form of political emancipation, where the separation between sovereignty over postcolonial people and property was key, as embodied in the Anglo-Iraqi treaties.<sup>66</sup> However, such separation was unsustainable, since, as Getachew argues, economic dependence undermined possibilities for nation building in postcolonial states.<sup>67</sup>

Notwithstanding the fact that Iraqi nationalists played a pivotal role in rejecting the Mandate agreement and asserting a status more in line with a 'quasi-Mandate' standing, Iraqi sovereignty was cannibalised and manipulated to give shape to the British plan, while allowing the 'natives' to appear as right-bearers. As Nadim Pachachi, an expert in petroleum technology and negotiator on behalf of Iraq in the 1950s, recognised, the concessions Iraq granted to Britain 'compelled the Iraqi negotiator to be lenient with the oil companies'.<sup>68</sup> Granting Iraq 'sovereignty' was essential to enable contractual relations between the Mandatory power and the Mandated territory that could extend even beyond the existence of the Mandate.

The 1922 Anglo-Iraqi Treaty stipulated that by 1928 Iraq would become a member of the League of Nations. Disrupted by the frontier dispute between Turkey and Iraq, the League of Nations Commission, which visited Iraq in this regard, recommended to the League Council to extend British responsibility and protection for a maximum period of 25 years.<sup>69</sup> Article 1 of the revised treaty of 1930 recognised Iraq 'as an independent sovereign state'. The British representative to the Council of the League of Nations, Lord Parmoor, doubted whether such a construction could be reconciled with the 'quasi-mandated status of Iraq'.<sup>70</sup> During the debates regarding the revised treaty in the House of Commons in 1927, J.E. Hall, a colonial administrator, responded to Lord Parmoor's concerns by pointing out that 'there are various types

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<sup>65</sup> Hammoudi (2018) 25.

<sup>66</sup> It was only in 1952 that the UN General Assembly adopted a resolution indicating 'economic self-determination' as inherent in sovereignty, which came to be known as the doctrine of 'permanent sovereignty over natural resources'. G.A. Res. 626 (VII) Dec 21, 1952. See Doreen Lustig, *Veiled Power: International Law and the Private Corporation, 1886-1981* (CUP, 2020).

<sup>67</sup> Getachew (2019) 157.

<sup>68</sup> Nadim al-Pachachi, *Iraqi Oil Policy: August 1954–December 1957* (Beirut: The Research and Translation Office, 1958) 1 quoted in Christopher R. W. Dietrich, *Oil Revolution: Anticolonial Elites, Sovereign Rights, and the Economic Culture of Decolonisation* (CUP, 2017) 95.

<sup>69</sup> 1927 Revision of Anglo-Iraqi Treaty, TNA Colonial Office (CO) 730/125/12.

<sup>70</sup> 1927 Revision of Anglo-Iraqi Treaty, TNA CO 730/125/12. See also Hammoudi (2016).

of independence and sovereignty: neither are precise terms'.<sup>71</sup> Iraq's dual status, as an independent state and a Mandate territory, implied that British protection enabled political sovereignty and limited economic sovereignty among Mandates that were at an advanced 'stage of development' according to Article 22 of the League Covenant.

What Britain desired was to enable its continued protection of Iraqi property (British assets in the oil resources) and limit its protection of Iraqi people, although disentangling the two aspects of protection would require emancipating Iraq. The 1922 Anglo-Iraqi treaty provided the British with the required legal basis to oil these wheels into motion. As Lord Amery stated during the debates at the House of Commons, 'now, for the first time, we have a firm, juridical basis to go upon, or will have as soon as this Treaty is ratified'.<sup>72</sup> Even if the treaty was negotiated taking into account the 'duty of the mandatory power to protect the people of Iraq',<sup>73</sup> it also had a sunset clause that allowed the British to absolve themselves of any responsibility towards Iraq once it was 'emancipated'. Hence, League membership would not only free Iraq, but also Britain as its protector from the money Britain had to spend on its 'ward' towards realising Iraq's readiness for importing capital.<sup>74</sup> As Pedersen argues, Iraqi emancipation would emerge from 'pragmatic calculations' that were at the heart of constructing protection as both a means to emancipation and as the end of obedience.<sup>75</sup>

Mandatory protection was distinct in that it would enable emancipation through a gradual transformation of the Mandate territories to protect the free flow of capital. Although this was largely true across the various Mandates, the Iraq model was also distinct. The Iraqi model showed how the PMC, as the international protector of the Mandate, required the Mandatory power to intervene in state contracts – between the Iraqi Petroleum Company or IPC (a British company with multiple shareholders) and the Iraqi government – and formalise the protection of British corporations and interests in Iraq.<sup>76</sup> In discussing a petition from the British Oil Development Company, Ltd. (BOD) to the PMC, Rappard reminded the British representative,

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<sup>71</sup> 1927 Revision of Anglo-Iraqi Treaty, TNA CO 730/125/12, JE Hall to J Shuckburgh.

<sup>72</sup> Lord Amery (1926) column 2179.

<sup>73</sup> Ibid.

<sup>74</sup> See Ramsay McDonald, 'Anglo-Iraq Treaty', (1926) *Hansard House of Commons Debate* column 2182, where he describes the relationship between Britain and Iraq as one akin to a custodian and his ward.

<sup>75</sup> Susan Pedersen, 'Getting Out of Iraq – in 1932: The League of Nations and the Road to Normative Statehood' (2010) 115 *The American Historical Review* 975, at 985.

<sup>76</sup> Muthucumaraswamy Sornarajah, 'The Battle Continues: Rebuilding Empire through Internationalisation of State Contracts' in Jochen von Bernstorff & Philipp Dann (eds.), *The Battle for International Law: South-North Perspectives on the Decolonisation Era* (OUP, 2019) 175. Cait Storr, "'The War Rages On': Expanding Concepts of Decolonisation in International Law' (2020) 31:4 *European Journal of International Law* 1493.

Major Young, how entwined the duties of the Mandatory power were with the interests of the IPC.<sup>77</sup> Young believed that the British government, as the Mandatory power, must refrain from interfering in the negotiations between the IPC and the Iraqi Government because furthering Britain's interest, after all, ran counter to the concept of trusteeship. However, Theodoli and Rappard insisted that any delays made by the IPC in securing the 'best plots' in Iraq would go against the interests of the Iraqis, who were awaiting royalties from its developed oil fields.<sup>78</sup> Therefore, since protecting the interests of the Iraqi people was the duty of the Mandatory power, the PMC required Britain to harness selfish interests towards fulfilling a 'common' interest.<sup>79</sup>

In other words, the logic of protecting foreign property within the Mandates was framed in terms of economic development that would in turn protect the Iraqi people, while also fulfilling the property rights of shareholders in corporations.<sup>80</sup> Protecting the Iraqi people (through necessary expenditure on airbases and 'measures of defence')<sup>81</sup> was necessary to ensure a well-ordered commonwealth required for the safety of foreign investment. This logic would continue to ring true for Iraq until the 1972 nationalisation of the IPC, creating until then the context for protection as a means to both cultivating a suitable environment for exporting capital into Iraq and for controlling its people through air policing.<sup>82</sup> Iraqi sovereignty appeared managed and sustained by British sovereignty.

Antony Anghie argues that the League of Nations 'could be seen as [a] creation of sovereignty, as increasingly sophisticated exercises of the powers of sovereignty, and, in effect, as an elaboration of positivism rather than a departure from it'.<sup>83</sup> It was held by the Permanent Court of International Justice in its first contentious case, *S.S. Wimbledon (UK, France, Italy, Japan v Germany)*, that treaty-making was an assertion of sovereignty, even if to curtail it.<sup>84</sup> Therefore, by entering into the Anglo-Iraqi treaty (as

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<sup>77</sup> PMC Minutes, 19<sup>th</sup> session (1930) C. 643. M. 262, 91.

<sup>78</sup> Ibid.

<sup>79</sup> See Lustig (2020) 164 for the case of the Anglo-Iranian Oil Company, which in many respects demonstrated how the public authority (British government) was seeking ways to overcome the public-private distinction to prevent Iran from violating its private concession agreement.

<sup>80</sup> 1952 ICJ Rep 93. In the *Anglo-Iranian Oil Co.* case (United Kingdom v Iran), even after the ICJ ruled in favour of Iran, the British ambassador to the United Nations, Gladwyn Jebb, made clear that 'Iranian oil was clearly the legal property of the Anglo-Iranian Oil Company'. ICJ, *Anglo-Iranian Oil Co.*, Press Release, 7 July 1952, quoted in Dietrich (2017) 34.

<sup>81</sup> 1930 Anglo-Iraqi Treaty of Alliance, Indian Office Records (IOR)/R/15/2/640, British Library, Articles 4 and 5.

<sup>82</sup> Priya Satia, 'The Defense of Inhumanity: Air Control and the British Idea of Arabia' (2006) 111:1 *The American Historical Review* 16.

<sup>83</sup> Anghie (2005) 132.

<sup>84</sup> 1923 PCIJ Ser. A, No.1, at 25.

opposed to settling for the Mandate agreements that were not tantamount to treaties evincing an exercise of sovereignty),<sup>85</sup> the Iraqis exercised their sovereignty to negotiate their own exploitation.

Iraqi officials had certain responsibilities during the period of the British Mandate in order to convince the PMC of Iraq's readiness for League membership (and lower British expenditure in Iraq). For example, under the 1922 Treaty's supplementary Military Agreement of 1924, the Iraqi government had the responsibility of spending 25 per cent of their annual revenue on the army to maintain it. In the 1922 Treaty, British interference was allowed only to test the 'efficiency' of the Iraqi Army or in the event that their forces were joined.<sup>86</sup> But the 1930 Anglo-Iraqi Treaty allowed the Iraqi government to use the British Air Force to quell any internal disorder, as the Kurds fearfully noted in one of their petitions to the PMC, even if the High Commissioner Humphrys responded that the treaty 'contained no obligation to assist the Iraq Government to suppress internal disorder'.<sup>87</sup> However, when it came to 'matters affecting internal and financial obligations and interests of His Britannic Majesty', the 1922 Treaty required the King of Iraq to seek guidance from His Britannic Majesty.<sup>88</sup> Thereby, Britain hoped to continue receiving the customs exceptions and privileges accorded to it under a supplementary 1924 financial agreement that they were afraid the Iraqis would imagine the 1930 Treaty revoked. In a letter to J.E.W. Flood, another member of the Colonial Office, Hall notes that these exemptions and privileges had been frequently criticised and challenged by the Iraqi government. Therefore, he writes, it was not 'impossible that the Iraq Government, once they realised that they were under no treaty obligation to maintain them, might between now and the date of the entry into force of the new Treaty withdraw these privileges either in whole or in part'.<sup>89</sup>

As the supervisory body, certain PMC members, especially the Spanish reformer and political economist, Leopoldo Palacios, suspected that the Anglo-Iraqi Treaty was just a means for Britain to liberate itself from international supervision, whilst placing the Mandate under British protection.<sup>90</sup> Was it, in the words of the historian Susan Pedersen, 'an independence safe for empire?'<sup>91</sup> It was known, of

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<sup>85</sup> Jan Klabbers, *The Concept of Treaty in International Law* (Kluwer, 1996) 182-187.

<sup>86</sup> 1924 Military Agreement, TNA FO 93/124/2, Article 4, 6, 7, and 9.

<sup>87</sup> 1931 Kurds in Iraq: Petitions, TNA CO 730/161/2, at 48.

<sup>88</sup> Anglo Iraqi Treaty 1922, TNA FO 93/124/2, Article 4.

<sup>89</sup> 1931 Financial Questions: Negotiations with Iraq Prime Minister, TNA 730/167/1.

<sup>90</sup> PMC Minutes, 19<sup>th</sup> session (1930) C. 643. M. 262, 87.

<sup>91</sup> Pedersen (2015) 261.

course, that such 'liberation' would allow the British to ignore the League's Open Door Policy or any type of 'economic equality' between League members. Positing the controlling aspects of such British protection, Chairman Theodoli questioned the maintaining of British military, naval, and air bases in Iraq as per the Treaty of Alliance between two so-called independent powers.<sup>92</sup> It was clear to certain members that the Treaty was blatantly unequal, reinforcing a tried and tested method of dispossession and subjugation through inclusion into the international community.<sup>93</sup>

Unlike the disgruntled PMC members, William Rappard was a believer that development could be achieved through private capital investments and the integration of Mandates into the world market.<sup>94</sup> Rappard's belief in the liberal market, one where progress and freedom would have more value than social security and equality, was unsurprising in one of the founding members of the Mont Pèlerin Society.<sup>95</sup> However, as Rappard noted in the early days of his role as a member of the PMC, 'the real or alleged insecurity of title of the Mandatory Power has discouraged investment of private and public funds in mandated areas' since 'would be investors feared that mandated territories may change hands and property titles therein be endangered.'<sup>96</sup> Although PMC member Pierre Orts was uncertain whether the Mandate prohibited monopolies, Rappard believed that protecting the property rights of investors was pivotal to the success of the Mandate, discussed in the context of the IPC's monopoly in Iraq.<sup>97</sup> In 1931, his approach was ostensible in his response to the BOD's petition against the monopoly of the IPC in Iraq. Rappard urged the Mandatory to grant BOD concessions.<sup>98</sup> He felt that the IPC's presence in some regions of Iraq, without granting other companies access to the remaining regions not under the IPC's control, was not in the interest of the economic development of Iraq. As I mentioned earlier, Rappard and the Chairman Theodoli were keen to remind the British representative that it was the Mandatory's duty to foster 'economic equality' in the Mandates through competition, towards which British intervention was necessary.<sup>99</sup> However, he also made clear that such intervention must merely 'secure

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<sup>92</sup> Satia (2006).

<sup>93</sup> Jennifer Pitts, *Boundaries of the International: Law and Empire* (Harvard University Press, 2018) 8-10.

<sup>94</sup> Jessica Whyte, *The Morals of the Market: Human Rights and the Rise of Neoliberalism* (Verso, 2019) 46.

<sup>95</sup> Whyte (2019) 35-74, Slobodian (2018) 23.

<sup>96</sup> William (1925) 211.

<sup>97</sup> PMC Report to the League Council, 20<sup>th</sup> session, C-422-M-176-1931-VI., 98, [https://biblio-archive.unog.ch/Dateien/CouncilMSD/C-422-M-176-1931-VI\\_EN.pdf](https://biblio-archive.unog.ch/Dateien/CouncilMSD/C-422-M-176-1931-VI_EN.pdf).

<sup>98</sup> PMC Report to the League Council, 19<sup>th</sup> session, C-643-M-262-1930-VI., 90-92, [https://biblio-archive.unog.ch/Dateien/CouncilMSD/C-643-M-262-1930-VI\\_EN.pdf](https://biblio-archive.unog.ch/Dateien/CouncilMSD/C-643-M-262-1930-VI_EN.pdf).

<sup>99</sup> Ibid.

for those who have been placed under its protection conditions of life, prosperity, and development at least equal to those obtaining under the traditional colonial administration'.<sup>100</sup>

Rappard suggested that, on cessation of the Mandate, the new government must accept whatever financial obligations its former Mandatory power assumed.<sup>101</sup> While Rappard's suggestions were incorporated into the Mandate model, the PMC (as the protector of the Mandates from abuses by the Mandatory power) did not see many developmental measures as economically exploitative. The inter-war years set the ball rolling for what later gathered momentum as the developmental discourse to (re)establish hierarchy among political communities, as Sundhya Pahuja demonstrates through the example of trusteeship over dependent territories under the United Nations.<sup>102</sup> The Mandates, thus, infused a welfarist interventionism and a competitive economic internationalism into international legal discourse.

#### 4 Conclusion

Marginalising and exploiting communities from capital-importing regions did not begin with the Mandates and certainly did not end there. Protecting populations in these regions in the name of trusteeship principles served multiple purposes. Through the language of protection, the protected inhabitants could be steered towards a 'standard of civilisation' prescribed by the European criteria.<sup>103</sup> Additionally, it could ensure that the territory, and not just its people, is prepared and legally empowered to protect foreign capital investments. Straddling between people and property, protection possessed the unique characteristic of legitimising intervention for the sake of both.

The Mandates were both novel and familiar. Iraq is one of several Mandate regions that encountered imperial powers refashioned as Mandatory authorities. Continuing colonial interactions based on experiences in Africa, the Mandates were, to an extent, an internationalised version of the protectorates, that instilled emancipatory goals entangled with liberal ideals of protecting individual rights, especially the right to property. At the same time, by moving beyond the model of self-sustaining empires, the Mandates dawned a new era of international law that could

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<sup>100</sup> Rappard (1925) 209.

<sup>101</sup> Benjamin Gerig, *The Open Door and the Mandates System: A Study of Economic Equality before and since the Establishment of the Mandates System* (Allen and Unwin, 1930) 169.

<sup>102</sup> Pahuja (2011).

<sup>103</sup> Tzouvala (2020).

bureaucratise the alliances between European powers and their non-European former colonies.

By recognising Iraq as simultaneously sovereign and not, the Mandatory power blurred the line between the imperial and international, while reinforcing the significance of the new international legal order. Protection, as entrenched in legal terms, became the language used by various actors to articulate their contestations as well as their alliances. We might believe in protection strategies' humanitarianism, but to reach that conclusion alone is to evade how protection also laid the groundwork for commercial exploitation through multilateral institutional authorities such as the League of Nations. It is at the intersection of the two possibilities that protection's multivalence proves both emancipatory and profitable for its beneficiaries.

Iraqi history serves as an important reminder that protection may have ranged from the crown colony and colonial protectorate to the Mandate models, but the end of empire did not imply that the new international mechanisms could not accommodate the inequality that was crucial to creating dependencies through negotiating for relations of subjection. Such negotiations, while ostensibly observing international law principles of consent, have long characterised unequal alliances in history. The ambivalence of the Iraqi state's position, which gained independence on the condition of ceding its economic and military privileges to its former Mandatory power,<sup>104</sup> best describes the strategy of protection – where emancipation looks a lot like obedience.

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<sup>104</sup> Pedersen (2015) 285.



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