

## SYMPOSIUM ON THE MANY LIVES AND LEGACIES OF SYKES-PICOT

### SYKES-PICOT AND “ARTIFICIAL” STATES

*Ash Bâli\**

A century after they met to conclude a secret agreement dividing Ottoman territories into British and French zones of influence, Mark Sykes and François Georges-Picot have been back in the news. Images of an ISIS (the Islamic State of Iraq and Syria) bulldozer rolling over a small section of the frontier between Syria and Iraq in order to destroy the “Sykes-Picot” border shone a spotlight on the agreement.<sup>1</sup> Western commentators reflecting on the centenary of the agreement have tended to share the view that colonial borders bear a share of responsibility for the ills of the region.<sup>2</sup> The underlying argument is that the “artificial” boundaries drawn by European colonial powers produced faultlines that have driven subsequent conflicts.

Such arguments draw into question the wisdom and legitimacy of the *uti possidetis* principle, which provided that post-colonial states would presumptively inherit the administrative boundaries set prior to their independence.<sup>3</sup> The borders that were eventually set in the region bore the imprint of the mandatory powers. The normative problems attendant to colonial border-drawing are indisputable. Sykes-Picot itself is rightly remembered with opprobrium as a self-interested act of imperial hubris, an attempted carve up of Ottoman territories with little regard to existing geopolitical configurations and no regard to local preferences.

Still, the Sykes-Picot agreement neither set the borders of the region nor proves their artificiality. The *uti possidetis* principle was widely applied during decolonization as a means of accomplishing independence without inviting territorial conflict. Understanding that all borders are at some level artificial—that identity does not naturally coincide with geography—preserving *these* borders was deemed better than shedding blood in pursuit of adjustments. Why then, in the Middle East, do new borders now hold appeal as a conflict resolution strategy?

In this short contribution, I interrogate the underlying logic of claims that setting different borders a century ago or new borders today would produce a more stable or peaceful Middle East. To be clear, what I offer is not a defense of Sykes-Picot, but rather a modest defense of *uti possidetis* in the cases of Iraq and Syria.

\* *Professor of Law, UCLA School of Law.*

Originally published online 28 September 2016.

<sup>1</sup> Malise Ruthven, *The Map ISIS Hates*, NYR DAILY (June 25, 2014, 1:45 PM).

<sup>2</sup> David Ignatius, *Piecing together the shattering Middle East*, WASH. POST (June 17, 2014).

<sup>3</sup> *Frontier Dispute Case (Burkina Faso v. Mali)*, 1986 ICJ REP. 554, 565 (Dec. 22): “[*Uti possidetis*] is a general principle, which is logically connected with the phenomenon of obtaining independence, wherever it occurs. Its obvious purpose is to prevent the independence and stability of new states being endangered by fratricidal struggles provoked by the challenging of frontiers following the withdrawal of the administering power.”

*Sykes-Picot and Borders*

If there is one thing that historians of the modern Middle East can agree on, it is that the borders of the region were not set by the Sykes-Picot agreement.<sup>4</sup> The most obvious sense in which this is true is that the agreement was never implemented. More generally, the Sykes-Picot agreement was one link in a long chain of agreements that determined more or less the boundaries that were established in the region following the break-up of the Ottoman Empire. It was not the first<sup>5</sup> nor would it be the last<sup>6</sup> in the chain, and it is arguable whether it was among the most consequential.<sup>7</sup> The agreement remains particularly infamous because it was negotiated in secret even as the British were simultaneously seeking the support of local Arab leaders against the Ottomans by promising them independence. Sharif Hussein, who was leading the Hashemite revolt against the Ottomans in Arabia, was promised a united Arab kingdom with vague boundaries that would exclude British positions in the Ottoman provinces of Iraq and French claims on Ottoman Syria.<sup>8</sup>

The Sykes-Picot agreement divided Ottoman lands into two areas: one was to be under direct British rule and contained the Ottoman provinces of Basra and Baghdad (leaving Mosul to the French), as well as a portion of what is today Kuwait and the Gulf coast of Saudi Arabia. The second area was to be under direct French control and contained a large part of southeastern Anatolia together with Mosul and the eastern Mediterranean coast. Neither area corresponds to the political boundaries of any current state in the region. The central area of the map was divided into “A” and “B” territories that were to become an “independent Arab state” or a “confederation of Arab states” with the northern A region envisioned as a French sphere of influence and the southern B region as a British sphere of influence. The agreement on the ultimate status of these territories was left ambiguous possibly to enable the eventual reconciling of this map with British promises to Hussein.

The only border of present-day Iraq that coincides with the Sykes-Picot lines is the southern section of the border with Syria. Yet, when this border was eventually established between present-day Syria and Iraq, it was not on the basis of the Sykes-Picot agreement, but on earlier Ottoman administrative designations together with demands made by local resistance movements.<sup>9</sup> Elsewhere, Sykes-Picot was superseded by subsequent events and maps that set the contemporary borders of the Arab world in the aftermath of WWI. ISIS now seeks to control a swath of territory that actually corresponds more closely to the French sphere of influence designated by the Sykes-Picot map, joining central and eastern Syria with the Mosul province of Iraq.<sup>10</sup> Rather than erasing the Sykes-Picot border, ISIS has unwittingly sought to resurrect it.

*Deriving Cartography from Demography*

While most analysts might agree that the Sykes-Picot agreement did not set the borders of the modern Arab state system, they might argue that these are nonetheless artificial states produced by a more complicated series

<sup>4</sup> James Gelvin, *Don't blame Sykes-Picot*, OUPBLOG (Feb. 7, 2015).

<sup>5</sup> Among earlier significant agreements, for example, was the “Reglement Organique” that separated Mount Lebanon from Syria. An international commission composed of France, Britain, Austria, Prussia, Russia, and the Ottoman Empire came to a joint agreement that the territory would be given a semi-autonomous status. CAESAR FARAH, *POLITICS OF INTERVENTIONISM IN OTTOMAN LEBANON, 1830-1861* (2000).

<sup>6</sup> The final link in the chain came in 1939 with the cession of Alexandretta/Hatay province from the French mandate of Syria to Turkey through an arrangement brokered by the League of Nations. EMMA JORUM, *BEYOND SYRIA'S BORDERS: A HISTORY OF TERRITORIAL DISPUTES IN THE MIDDLE EAST* 91-94 (2006).

<sup>7</sup> See, e.g., Nick Danforth, *Forget Sykes-Picot. It's the Treaty of Sèvres That Explains the Modern Middle East*, FOREIGN POL'Y (Aug. 10, 2015).

<sup>8</sup> EUGENE ROGAN, *THE FALL OF THE OTTOMANS: THE GREAT WAR IN THE MIDDLE EAST* (2015).

<sup>9</sup> Reidar Visser, *Proto-political conceptions of 'Iraq' in late Ottoman times*, 3 INT'L J. CONTEMP. IRAQI STUD. (2009).

<sup>10</sup> Sara Pursley, *Lines Drawn on an Empty Map: Iraq's Borders and the Legend of the Artificial State (Part 1)*, JADALIYYA (June 2, 2015).

of European agreements and negotiations. This alleged artificiality has led some analysts—like Ralph Peters,<sup>11</sup> Jeffrey Goldberg<sup>12</sup> and Robin Wright<sup>13</sup>—to experiment with designing new borders for the region that better correspond to the “component communal parts” in Arab lands.

What these new maps share in common is a perceived mismatch between current frontiers and the reality of underlying social divisions that are ethnic, tribal, and sectarian. In seeking to remedy this mismatch, the new maps draw lines that are said to better correspond to social cleavages. The result is that these latter-day cartographers imagine new entities like “Alawitestan” or the “Shiite Islamic State of Iraq” to border on the “Sunni Republic of Iraq.”

The authors of these new maps readily acknowledge that the borders they imagine do not capture events on the ground, serving instead as projections of future geographies based in the current demographic makeup of the region. They also recognize that current world powers have evinced little desire to see borders rearranged. Even in the Kurdish case, the United States and other major world powers formally oppose the creation of an independent Kurdistan with new borders. The emergence of *de facto* autonomous enclaves in Iraqi Kurdistan or Syrian Rojava have not been discouraged, but the proposition of translating these developments into *de jure* border shifts enjoys neither regional nor international support.<sup>14</sup>

Still these remappings remain significant because of what they may reveal about prevailing arguments concerning how best to resolve conflicts in the Arab world and produce a more stable basis for regional order.

The new maps are grounded in an explicit critique of the artificial borders of the “Sykes-Picot” order. One commentator argues that Sykes-Picot was “inadvertently progressive” for the Middle East, which just “isn’t the sort of place” where “modern multicultural and multiconfessional states” can be established.<sup>15</sup> The states produced by the Sykes-Picot maps encompassed a cross-section of the underlying communal identities of the region. Such states were not only artificial but unsustainable, the argument goes, for a region where loyalties are tribal, ethnic, and religious. To echo a scholar of *uti possidetis* writing in another context, preserving such borders might amount to a kind of “cosmopolitan diktat” forcing diverse peoples to live together.<sup>16</sup>

Yet, the historical evidence of the “artificiality” of the postwar Arab state system is thin. European powers set the post-Ottoman boundaries of Iraq through a process controlled by the British and the French but impacted by historical antecedents, local actors, and national resistance movements. Ottoman maps from the eighteenth and nineteenth centuries clearly designated the three administrative provinces of Basra, Baghdad, and Mosul together as *al-‘Iraq al-‘Arabi*. The geographical nomenclature adopted by the mandate powers was a continuation of the Ottoman designations, themselves adaptations from earlier Arab dynasties dating back to the eighth century. Iraqi nationalists resisting British rule demanded independence within borders that coincided not only with the contours of mandate Iraq but with their own sense of political geography.

As several historians of Iraq have shown, the origins of the Iraq-as-artificial-state thesis are colonial.<sup>17</sup> The argument did not emerge as an indigenous critique of new boundaries but as a British assertion that “Iraq was

<sup>11</sup> Ralph Peters, *Blood Borders: How a better Middle East would look*, ARMED FORCES J. (June 1, 2006).

<sup>12</sup> Jeffrey Goldberg, *After Iraq: A report from the new Middle East—and a glimpse of its possible future*, THE ATLANTIC (Jan./Feb., 2008).

<sup>13</sup> Robin Wright, *Imagining a Remapped Middle East*, INT’L N.Y. TIMES SUNDAY REV. (Sep. 28, 2013)

<sup>14</sup> There is indigenous Kurdish support for an autonomous Kurdistan. While sometimes expressed in secessionist terms, there are equally arguments in favor of autonomy in a federal arrangement—whether in Iraq (Cale Salih, *Kurdistan Isn’t About to Leave Iraq Amid ISIS Fighting*, TIMES (Aug. 6, 2014)), Syria (Anne Barnard, *Syrian Kurds Hope to Establish a Federal Region in Country’s North*, INT’L N.Y. TIMES (Mar. 16, 2016)), or Turkey (*PKK leader reiterates Kurdish confederation a ‘stateless solution’*, DAILY NEWS (Apr. 8, 2013))—without new borders.

<sup>15</sup> Jeffrey Goldberg, *The New Map of the Middle East: Why should we fight the inevitable break-up of Iraq?*, THE ATLANTIC (June 19, 2014).

<sup>16</sup> Stephen R. Ratner, *Drawing a Better Line: Uti Possidetis and the Borders of New States*, 90 AJIL 590, 617 (1996).

<sup>17</sup> CHARLES TRIPP, *A HISTORY OF IRAQ* 37 (2d ed., 2002) (noting that the lands of Mesopotamia had been designated *al-‘Iraq* since the eighth century by Arab geographers, were incorporated as an administrative unit in the Ottoman empire during the sixteenth and

not yet coherent enough to govern itself, contrary to the claims of Iraqi nationalists.”<sup>18</sup> In other words, the putative artificiality of Iraq was invoked to justify the colonial administration of the territory.<sup>19</sup> Further, the artificiality thesis served to obscure the history of the 1920 Iraqi revolt, a nationalist resistance movement pursuing independence *within* the post-Ottoman boundaries of Iraq. The adoption of the banner of an independent Iraq by its inhabitants was replaced with a narrative that Iraq was an ungovernable territory in need of tutelage to create a cohesive nation. The artificiality argument was later invoked to similar purposes in the aftermath of the 1991 and 2003 wars against Iraq to justify the soft partition of Kurdistan and, later, more ambitious plans of federation or partition.

A similar history may be provided for post-Ottoman Syria, the borders of which were set around the provinces of Aleppo and Damascus. The Ottoman designation “greater Syria” encompassed a much larger territory, including most of the Levant from Aleppo to Gaza, including contemporary Lebanon, Palestine, and Jordan. From this wider area, the French had already come to terms with the Ottomans in the nineteenth century to carve out a separate governance arrangement for Mount Lebanon, which eventually led to an independent Lebanon.<sup>20</sup> In 1919, the American King-Crane commission traveled through Palestine, Lebanon, and Syria, polling local elites. The commission found widespread support across the post-Ottoman Levant for a united and independent greater Syria.<sup>21</sup> There was little to no local support for according independence to smaller units based on communal identities.

The trouble with the artificiality thesis, then, is twofold. First, the states that are deemed most precarious in the post-Ottoman region today—Syria and Iraq—have historical antecedents that predate Sykes-Picot and other Anglo-French agreements that partially defined their modern borders. Second, these geographic designations were sources of identity for the populations living on the territories, as is made plain by the history of nationalist mobilizations they engendered beginning in the 1920s.

The claim that the contemporary borders are problematic because they produced multicultural states in a region riven by particularist loyalties is also ahistorical. Underlying demographic divisions such as ethnicity, sect, or tribe never served as the basis for geographic designations in a region characterized by millennia of multi-ethnic, multiconfessional political order. The Ottomans ruled for centuries over a multicultural empire where political order was based on loyalty to dynastic rule (and a degree of pluralism and decentralization) rather than shared ethnic, religious, or tribal identity. Indeed, from the establishment of Islamic rule in the seventh century, the Levant, Mesopotamia, and Arabia maintained an astonishing array of ethnically and religiously diverse communities governed by a succession of dynasties without a history of sectarian or ethnic secessions.

Cosmopolitanism is not an artificial imposition but an indigenous legacy. By contrast, European-style states with political boundaries engineered to correspond to ethnonational or religious identities were foreign to the Middle East a century ago. Contemporary efforts to discern “natural” lines in the region that form around ethnosectarian divisions are projections of the history of European state formation on to the complex political and demographic makeup of the Arab world.

seventeenth centuries, with the common effects of nineteenth century Ottoman reform integrating the three provinces into a cohesive unit with a multiethnic, multiconfessional population). *See also*, REIDER VISSER & GARETH STANSFIELD, IRAQ OF ITS REGIONS (2007).

<sup>18</sup> Pursley, *supra* note 10.

<sup>19</sup> The contrast with the African experience, where indigenous populations explicitly marked postcolonial borders as artificial, is striking. *See* Makau wa Mutua, *Why Redraw the Map of Africa: A Moral and Legal Inquiry*, 16 MICH. J. INT’L L. 1113 (1995).

<sup>20</sup> The “Règlement Organique,” negotiated from 1860-64 granted Lebanon a semiautonomous status half a century before World War I. FARAH, *supra* note 5.

<sup>21</sup> For the full King-Crane report, see The King-Crane Commission Report, August 28, 1919. *See also* Nick Danforth, *The Middle East That Might Have Been*, THE ATLANTIC (Feb. 13, 2015).

*A Modest Defense of Uti Possidetis*

All of the new mapping projects for the region begin from the premise that better, or at least more stable, borders can be discerned in the ruins of existing Arab states. Most of the authors identify ethnicity and sect as the guiding principle for their new boundaries. And yet, despite years of conflict in both Iraq and Syria the millennia old plurality in both countries persists in urban centers and their provinces. Dividing this plurality into homogenous component units would require ratifying current paroxysms of ethnic cleansing in some parts of these countries while inviting extensive additional displacement and communal violence to complete an ethnosectarian territorial division elsewhere.

The notion that new boundaries once set might end ethnosectarian conflict is contestable as well. States with new ethnic or sectarian majorities are unlikely to improve the region's record in minority rights protections. Moreover, small states devised to coincide with ethnosectarian identity would likely invite intervention from larger neighbors, whether in the form of Turkish pressure on Kurdistan or Iranian influence over a new Arab Shia state.

The recent record of partition as a conflict resolution strategy reinforces these concerns. In Sudan, the division of the country in two did little to quell violence<sup>23</sup> or improve governance.<sup>24</sup> One analysis suggests that where state partition has been applied as a “solution” to intractable conflicts, the strategy has “generated enduring inter-state rivalries, chronic state fragility and reproduced the same ethnic inequalities that led to partitioning in the first place.”<sup>25</sup> In Libya, the bifurcation of the state into two separate governments has contributed to the deaths of thousands of civilians and the displacement of hundreds of thousands. Violence, political polarization, and the rise of jihadi extremism have prompted international efforts to piece the country back together through a UN-brokered unity government.

The “artificial states” thesis that connects Sykes-Picot to arguments for new borders is flawed because it overstates the arbitrariness of existing borders, ignores earlier histories of pluralism and radically understates the costs attendant to any attempt to change the boundaries. The original logic of *uti possidetis* remains valid, at least for Iraq and Syria. Sykes-Picot is still remembered with resentment not because of the particular borders it proposed but because it reflected a presumption of continued imperial rule. A century later invoking the widespread revulsion at Sykes-Picot to overturn *uti possidetis* in favor of new borders is no more defensible than earlier attempts to carve up the region. By insisting that the alleged noncorrespondence between the political geography of the region and its ethnosectarian divisions is the source of Arab state fragility, these arguments also divert attention from the role played by other factors, including external intervention, in precipitating conflict in these states. In so doing, arguments in favor of new borders might invite further interventions to “correct” for colonial borders, an especially worrying risk given the regional and international proxy wars already convulsing Syria.

<sup>23</sup> ‘Senseless cycle of violence’ in South Sudan must end—UN humanitarian chief, UN NEWS CENTRE.

<sup>24</sup> Mario Silva, *After Partition: The Perils of South Sudan*, 3 U. BALT. J. INT’L L. 63 (2015).

<sup>25</sup> Goitom Gebreluel & Kjetil Tronvoll, *South Sudan’s Post-Secession Crisis in Comparative Perspective*, YALE J. INT’L AFF. (Mar. 12, 2014) (surveying the postpartition trajectories of South Sudan, Eritrea, and Somaliland).