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# HAITI AT THE LEAGUE OF NATIONS: RACIALISATION, ACCUMULATION AND REPRESENTATION

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*When Haiti joined the League of Nations as a founding member, it was under military occupation by the United States. This article charts the fate of that occupation and its relationship to the League. It begins by examining the material context in which the occupation occurred. In particular, it roots the occupation in a twofold challenge faced by the US in relation to Haiti: that of the inter-imperialist rivalry between US, German and French capital, and that of the challenge of accumulating capital within the Haitian state. Following David Harvey, it then frames the occupation as a 'spatial fix' to these two issues — which would legitimate the geographical expansion of US capital.*

*The article contends that this 'spatial fix' was also a 'racial fix', in which a racialised juridical argument was used to reframe Haiti's sovereignty in relation to the occupation. However, the article argues that this was not simply about displacing Haitian sovereignty, but also about affirming that Haiti's legal sovereignty could coexist with US economic and political control. The article demonstrates that the League played a key role in consolidating and stabilising this racial fix, as well as in articulating resistance to the occupation in a language ultimately amenable to global capitalism. The article concludes by arguing that the techniques developed in the Haitian occupation were central to informing contemporary practices of imperialism.*

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## I INTRODUCTION: AN IMPERIAL LEAGUE OF NATIONS?

In August 1920, a young Franklin Delano Roosevelt was running — with James Cox — for Vice-President of the United States. The run took place in the wake of Woodrow Wilson's presidency, and the League of Nations was a major issue. In November 1919, the ratification of the *Treaty of Versailles* had been

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defeated in the Senate.[1] For some of those opposing the Treaty, the League represented a fundamental break with the US's traditional 'isolationism', since it tied the US further to European affairs.[2] Yet it was not simply the isolationists who objected to the Treaty; another group was anxious that the Treaty would undermine the ability of the US to *project* its global power and that it would stymie the growth of US capitalism. This group was concerned with how rival powers in the League might be able to outflank the US politically and economically. Of particular concern here was that Britain — with its extensive empire — would be able to leverage the votes of Australia, Canada, India, New Zealand and South Africa within the League Council.[3]

Responding directly to these claims, Roosevelt argued that such critics were 'playing a shell game on the American people'.[4] For although it appeared that Britain had six votes on the League compared to the US's one, in practice, 'the United States [had] about twelve votes in the Assembly'.[5] Whilst the US did not have any formal colonies that could become League members, 'Haiti, Santo Domingo, Panama, Cuba and Central American countries … all regarded Uncle Sam as a guardian and big brother', meaning that the US 'would have their votes in the League'.[6] Roosevelt boasted, 'I wrote Haiti's Constitution myself, and, if I do say it, I think it a pretty good Constitution'.[7]

Roosevelt's boast was not idle. At its time of joining the League (as a founding member), Haiti was under military occupation by the US. In 1918, a new constitution had been imposed upon the country, and Roosevelt had played a role in its drafting. The occupation, which involved profound social, economic and political transformations, would last until 1934, with Haiti remaining a League member throughout.

Haiti's League membership thus represented something of a paradox. It — along with Ethiopia and Liberia — was one of the 'only independent states at the League of Nations governed by people of African descent'.[8] In becoming a founding League member, the international legal order — and many of the Great Powers — recognised Haiti's sovereignty in a more definitive manner than ever before. Yet at the same time as its sovereign independence was being internationally recognised, Haiti was arguably less independent than it had been in 200 years.

This seeming paradox has remained largely absent from scholarship concerned with the relationship between imperialism and international law. Much of this scholarship has been focused on the League of Nations' mandate

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1 See generally Bear F Braumoeller, 'The Myth of American Isolationism' (2010) 6(4) *Foreign Policy Analysis* 349, 355.

2 Norman A Graebner and Edward M Bennett, *The Versailles Treaty and Its Legacy: The Failure of the Wilsonian Vision* (Cambridge University Press, 2011) 69–70.

3 Herbert F Margulies, *The Mild Reservationists and the League of Nations Controversy in the Senate* (University of Missouri Press, 1989) 79–83, 112.

4 'Says America Has 12 League Votes; Roosevelt Declares He Himself Had Two until Last Week, Referring to Minor Republics', *The New York Times* (New York, 19 August 1920) 11.

5 Ibid.

6 Ibid.

7 Ibid.

8 Musab Younis, 'Race, the World and Time: Haiti, Liberia and Ethiopia (1914–1945)' (2018) 46(3) *Millennium: Journal of International Studies* 352, 353.

system, focusing on how the League dealt with non-sovereign territories and societies.[9] A central lesson drawn from these studies is how the mandate system was able to 'open up' territories to internationalised administration and social transformation. Outside of the mandate system, attention has tended to focus on the Italian invasion of Ethiopia, foregrounding the very spectacular way in which 'sovereignty' and its attendant protection were refracted through issues of racialisation.[10]

There is a very real sense, however, in which the Haitian example illuminates the *contemporary* relationship between imperialism and international law in ways these others do not. Haiti represents an example in which political, economic and social transformations were imposed whilst maintaining — and even buttressing — legal sovereignty. Unlike the case of Ethiopia, the intervention in Haiti was not coded as a dysfunction of the League or a spectacular violation; rather, it was present at Haiti's joining of the League and was understood as compatible with the smooth functioning of the international legal order. In this way, Haiti's membership of the League of Nations indicates the subtle ways in which practices of racialisation are able to intersect with formal international legal sovereignty. This, of course, significantly prefigures contemporary international legal regimes.

This article charts the fate of the US occupation of Haiti and its relationship to the League. It begins by examining the material context in which the occupation occurred. It roots the occupation in a twofold challenge faced by the US in relation to Haiti: that of the inter-imperialist rivalry between the US, Germany and France, and that of the challenge of accumulating capital within the Haitian state. Following David Harvey, the article understands the occupation as a 'spatial fix', in which blockages to capitalist accumulation were overcome through geographical, political and economic restructuring.

This article contends that this 'spatial fix' was at the same time a 'racial fix', in which a racialised juridical argument was used to reframe Haiti's sovereignty in relation to the occupation. By drawing on, and consolidating, racial stereotypes about Haitian backwardness, it was possible to render Haitian sovereignty more fluid and porous and thus legitimate US intervention. Crucially, however, this article argues that this racial fix did not simply involve displacing Haitian sovereignty. Rather, this racial fix was aimed at *affirming* that Haiti's legal sovereignty could coexist with US economic and political control. In this way, the occupation prefigured wider legal arguments around neo-

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[9] See, eg, Antony Anghie, *Imperialism, Sovereignty and the Making of International Law* (Cambridge University Press, 2004); Usha Natarajan, 'Creating and Recreating Iraq: Legacies of the Mandate System in Contemporary Understandings of Third World Sovereignty' (2011) 24(4) *Leiden Journal of International Law* 799; Susan Pedersen, *The Guardians: The League of Nations and the Crisis of Empire* (Oxford University Press, 2015); B Rajagopal, *International Law from Below: Development, Social Movements, and Third World Resistance* (Cambridge University Press, 2003). An important exception in this context is Michael Fakhri's work on Cuba's neo-colonial relationship to the League: see Michael Fakhri, 'The 1937 International Sugar Agreement: Neo-Colonial Cuba and Economic Aspects of the League of Nations' (2011) 24(4) *Leiden Journal of International Law* 899.

[10] See, eg, Rose Parfitt, *The Process of International Legal Reproduction: Inequality, Historiography, Resistance* (Cambridge University Press, 2019).

colonialism.[11] The article demonstrates that such racial fixes are in fact central to capitalist accumulation in general.

The article demonstrates that the League played a key role in consolidating and stabilising this racial fix in Haiti by making Haitian state officials publicly consent to it. It shows how the League consequently helped stymie resistance to the occupation by recasting it in a language ultimately amenable to global capitalism. The article concludes by arguing that the racial fix developed in the Haitian occupation informed contemporary practices of imperialism.

## II ACCUMULATE, ACCUMULATE, ACCUMULATE

The immediate trigger for the US occupation of Haiti occurred on 28 July 1915, when President Vilbrun Guillaume Sam 'was assassinated by a mob infuriated over the massacre of political prisoners'.[12] Sam — who was 'the sixth man to reach the [Haitian] presidency since … 1911'[13] — had fled from the presidential palace to 'the nearby residence of French ambassador Pierre Girard and sought asylum there'.[14] Sam was dragged from the French legation and killed in the street.[15] The public nature of the killing, as well the near-violation of the French legation, made it a perfect pretext for a military intervention. The very same day, Wilson ordered US Marines to occupy Haiti's capital — Port-au-Prince — citing the need to preserve order and the protection of legations as key drivers.[16]

As one might expect, the 1915 intervention was neither as exceptional nor as disinterested as the Wilson administration proclaimed. Just seven months previously, in December 1914, US Marines had entered 'the Banque Nationale d'Haïti' and 'removed from the vaults $500,000 worth of gold belonging to the Haitian government'.[17] The gold was taken to New York under the justification that it 'might be required to cover Haiti's debts to US bankers'.[18] This rather spectacular act of criminality was representative of the broader material interest that the US state had in Haiti and the lengths to which it would go to preserve and protect that interest.

Haiti has long been a site of colonial and imperial contestation. Haiti's full history is impossible to recount here, but it is characterised by colonial exploitation, slavery, intense rivalry between imperial powers, and resistance and

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11 Ali Hammoudi offers an extremely important account of the relationship between informal imperial domination and international law, particularly in the 'Middle East': see Ali Hammoudi, 'The International Law of Informal Empire and the "Question of Oman"' [2020] (1) *Third World Approaches to International Law Review* 121.

12 Leon D Pamphile, *Contrary Destinies: A Century of America's Occupation, Deoccupation, and Reoccupation of Haiti* (University Press of Florida, 2015) 23.

13 Philippe R Girard, *Paradise Lost: Haiti's Tumultuous Journey from Pearl of the Caribbean to Third World Hotspot* (Palgrave Macmillan, 2005) 76.

14 Ibid 77.

15 Ibid.

16 Ibid 77–8; Pamphile (n 12) 22.

17 Laurent Dubois, *Haiti: The Aftershocks of History* (Metropolitan Books, 2012) 204.

18 Ibid.

rebellion from colonised and enslaved peoples.[19] The salient facts are that since 1697, the territory now known as Haiti had been a French slave colony — called Saint-Domingue — oriented around the production of sugar and coffee. In 1791, in part under the influence of the French Revolution, the enslaved black population had risen up to overthrow slavery.[20] Whilst the initial French response was supportive of the end of slavery, the policy shifted with the victory of the counter-revolution under Napoleon, and France moved to suppress the uprising.[21] Only after a long-fought war with the French did the slaves declare an independent black republic in 1804 named Haiti.[22] Importantly, the 1805 Haitian Constitution contained a clause — preserved in some form in all subsequent constitutions — stating that '[n]o white person, of whatever nationality, shall set foot on this territory with the title of master or proprietor nor, in the future, acquire property here'.[23] This provision aimed to prevent foreign capital from operating within Haitian territory.

Despite the declaration of independence, recognition was not forthcoming, as most states — especially the US — maintained an interest in preserving the racial hierarchies that the Haitian revolution had upended. However, by 1860, 'all important countries had representatives in Haiti', including 'Great Britain, Spain, Denmark, Holland, Belgium, Portugal, Sweden, Hanover and Austria'.[24] The most important European state to 'recognise' Haiti was its former colonial master, France. In 1825, France recognised the independence of Haiti, subject to Haiti 'agreeing' — under threat of military force — that Haiti would compensate the French state for the value of slaves lost in the Revolution and grant France a preferential trading status.[25] In order to service these debts, the Haitian state took

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19 See Dubois (n 17); Patrick Bellegarde-Smith, *Haiti: The Breached Citadel* (Canadian Scholars Press, rev ed, 2004); Pamphile (n 12). For accounts of this history from the perspective of international law, see Julia Gaffield, *Haitian Connections in the Atlantic World: Recognition after Revolution* (University of North Carolina Press, 2015) ('*Haitian Connections in the Atlantic World*'); Julia Gaffield, 'The Racialization of International Law after the Haitian Revolution: The Holy See and National Sovereignty' (2020) 125(3) *American Historical Review* 841; Robert Knox, 'Valuing Race? Stretched Marxism and the Logic of Imperialism' (2016) 4(1) *London Review of International Law* 81, 114–25.

20 CLR James, *The Black Jacobins: Toussaint L'Ouverture and the San Domingo Revolution* (Vintage Books, 1989) 81–3.

21 Ibid 83, 269–70.

22 Pamphile (n 12) 1.

23 Sibylle Fischer, *Modernity Disavowed: Haiti and the Cultures of Slavery in the Age of Revolution* (Duke University Press, 2004) 276. See also Anthony Bogues, 'The Dual Haitian Revolution and the Making of Freedom in Modernity' in José-Manuel Barreto (ed), *Human Rights from a Third World Perspective: Critique, History and International Law* (Cambridge Scholars Publishing, 2013) 208, 229–30; Doris L Garraway, '"Légitime Défense": Universalism and Nationalism in the Discourse of the Haitian Revolution' in Doris L Garraway (ed), *Tree of Liberty: Cultural Legacies of the Haitian Revolution in the Atlantic World* (University of Virginia Press, 2008) 63, 80; Philip Kaisary, '"To Break Our Chains and Form a Free People": Race, Nation, and Haiti's Imperial Constitution of 1805' in Whitney Nell Stewart and John Garrison Marks (eds), *Race and Nation in the Age of Emancipations* (University of Georgia Press, 2018) 71, 82.

24 Charles H Wesley, 'The Struggle for the Recognition of Haiti and Liberia as Independent Republics' (1917) 2(4) *Journal of Negro History* 369, 376.

25 Gaffield, *Haitian Connections in the Atlantic World* (n 19) 190–1; Liliana Obregón, 'Empire, Racial Capitalism and International Law: The Case of Manumitted Haiti and the Recognition Debt' (2018) 31(3) *Leiden Journal of International Law* 597.

out loans from French banks, guaranteeing French economic domination over independent Haiti.[26]

Unsurprisingly, US recognition of Haiti was somewhat belated, occurring on 12 July 1862, following the end of the Civil War and the abolition of slavery.[27] Yet during the 1910s, the US moved to supplant France's dominant position. In 1909, the National City Bank began purchasing and selling stock in Haitian transport companies, making large profits in the process.[28] However, the real interest of US banks was in gaining control of Haiti's monetary and financial systems, and in this objective, they were supported by the US Department of State. Accordingly, in 1909, the Department of State 'succeeded in persuading the National City Bank and Speyer and Company to throw their hats in the ring when there arose the possibility of a reorganization of the French-controlled Banque Nationale d'Haïti'; once 'the deal was closed, American bankers held a 50 percent controlling interest'.[29] US capital had also obtained a government concession to the construction of the Haitian National Railway, which had become 'one of the most disastrous financial ventures in the history of the country'.[30] By 1914, only 108 miles had been constructed; the Haitian government refused payment until completion and began foreclosure proceedings.[31] The National City Bank, which had acquired the concession in 1911, asked the US State Department to intervene on their behalf.[32]

## III CAPITALISM, IMPERIALISM AND THE OCCUPATION

The foreign policy of the US can only be understood in the context of its political-economic status as a rising capitalist power. Even after its independence in 1776, the US 'exported primary products and imported manufactured goods', exporting primarily to 'the markets of industrializing Britain and other parts of Europe'.[33] During the intra-European wars of the 1790s and early 1800s, the US lost an export market but gained one in the form of the Spanish American colonies that opened themselves up for trade.[34] These political-economic developments quickened with the Latin American independence movements, which served as a pretext for US continental expansion, and, by the 1820s, the US turned towards Latin America as a site of potential trade.[35]

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26 Dubois (n 17) 102–4.

27 'A Guide to the United States' History of Recognition, Diplomatic, and Consular Relations, by Country, since 1776: Haiti', *US Department of State: Office of the Historian* (Web Page) <https://history.state.gov/countries/haiti>, archived at <https://perma.cc/H3NN-FZW9>.

28 Peter James Hudson, *Bankers and Empire: How Wall Street Colonized the Caribbean* (University of Chicago Press, 2017) 89–90.

29 Mary A Renda, *Taking Haiti: Military Occupation and the Culture of US Imperialism, 1915–1940* (University of North Carolina Press, 2001) 98.

30 Walter H Posner, 'American Marines in Haiti, 1915–1922' (1964) 20(3) *The Americas* 231, 232.

31 Hans Schmidt, *The United States Occupation of Haiti, 1915–1934* (Rutgers University Press, 1995) 38.

32 Ibid 61; Hudson (n 28) 100–2.

33 Tom Kemp, *The Climax of Capitalism: The US Economy in the Twentieth Century* (Routledge, 1990) 4.

34 Luo Rongqu, 'The Origin and True Nature of the Monroe Doctrine' (1982) 16(1–2) *Chinese Studies in History* 77, 80.

35 Ibid 80–2.

After the end of the Civil War, the US turned more decisively towards industrialisation.[36] A consequence of this was the production of manufacturing surpluses, which needed to find markets abroad to continue US profitability and growth. These political-economic transformations necessitated that US capitalism decisively enter the world market in the search for greater and greater profits.[37] In this way, US imperialism — as with imperialism more generally[38] — was driven by the imperative of competitive capitalist accumulation, whereby 'the ideal' was 'to secure for one's own nation the domination of the world, an aspiration which is as unbounded as the capitalist lust for profit from which it springs'.[39]

The occupation of Haiti was thus rooted in two deeper challenges faced by US capitalism at the beginning of the 20th century. The first of these challenges was that of inter-imperialist rivalry. As is well known, since the 1820s, the US had pursued what came to be known as the 'Monroe Doctrine'. Under this doctrine, the US attempted to protect its 'sphere of influence' from rival European capitalist powers.[40] The aim of the doctrine was to expand room for projects of US accumulation of capital through the exclusion of its European rivals. This led to moves throughout Latin America to undercut French, German and Spanish influence throughout the region: economically, politically and — ultimately — militarily.[41] In Wilson's formulation, the role of the US was to act as 'big brother' to the 'Western Hemisphere', guaranteeing its independence and openness to the world.[42]

In the case of Haiti specifically, both French and German capital had penetrated quite deeply. Through the debt accrued in 1825 and 1838, the French had established a significant role in the Banque Nationale d'Haïti.[43] German capital had taken something of a different route. On the one hand, it had strong ties with the Dominican Republic; indeed, between 1905 and 1907, the US had — under Theodore Roosevelt — assumed responsibility for debts that the Dominican Republic owed to various European powers, including Germany, fearing the possibility of intervention.[44] On the other hand, within Haiti itself, German capital had found a way to subvert the ban on foreign ownership.

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36 Kemp (n 33) 8–12.

37 See Walter LaFeber, *The New Cambridge History of American Foreign Relations* (Cambridge University Press, 2013) vol 2, for an overview of this process.

38 Anthony Brewer, *Marxist Theories of Imperialism: A Critical Survey* (Routledge, 2nd ed, 1990).

39 Rudolf Hilferding, *Finance Capital: A Study of the Latest Phase of Capitalist Development* (Routledge, 1981) 335.

40 Christopher R Rossi, *Whiggish International Law: Elihu Root, the Monroe Doctrine, and International Law in the Americas* (Brill Nijhoff, 2019) 64.

41 See generally Alan McPherson, *The Invaded: How Latin Americans and Their Allies Fought and Ended US Occupations* (Oxford University Press, 2014).

42 Woodrow Wilson, *Addresses of President Wilson* (Government Printing Office, 1919) 170.

43 See Obregón (n 25) 612–13.

44 J Fred Rippy, 'The British Bondholders and the Roosevelt Corollary of the Monroe Doctrine' (1934) 49(2) *Political Science Quarterly* 195, 196–7; J Fred Rippy, 'The Initiation of the Customs Receivership in the Dominican Republic' (1937) 17(4) *Hispanic American Historical Review* 419, 429–38. See also Emily S Rosenberg, *Financial Missionaries to the World: The Politics and Culture of Dollar Diplomacy, 1900–1930* (Duke University Press, 2003) 31–56.

German capitalists had married into prominent Haitian families in order to gain access to valuable concessions and pursue projects of capital accumulation.[45]

The second challenge faced — and one that was intimately interlinked with the question of inter-imperialist rivalry — was gaining a foothold within the Haitian economy. As noted above, finance capital was key here, particularly through the acquisition of significant shares in the Banque Nationale d'Haïti; yet, despite the importance of this manoeuvre, it was both insufficiently profitable compared to the possibility of a more wholesale transformation of Haiti's economy and insufficient to displace German capital. At the same time, the US capital that had made its way into the Haitian economy was under threat and called for aid from the State Department. Accordingly, the US state needed to find a way to further open up the Haitian economy to US capital accumulation and then protect this accumulation from the political uncertainty existing in Haiti.

In his examination of how capitalism responds to crises, Harvey developed the idea of the 'spatial fix'. For Harvey, the spatial fix refers to 'capitalism's insatiable drive to resolve its inner crisis tendencies by geographical expansion and geographical restructuring'.[46] As capitalism's internal contradictions drive it towards crisis — particularly in the form of the overaccumulation of capital — capitalists look 'outside' of their domestic markets for new locations in which to invest and so expand geographically. However, such geographical restructuring is frequently met with 'blockages'. Such blockages may be physical — in the form of natural features or the challenges of distance — but very often they are political or legal — whereby friction and resistance to the expansion of capitalist accumulation are embedded in particular institutions, movements and culture. In such cases, a vital element of any spatial fix involves removing those 'blockages'.[47]

In the context of Haiti, these features were on display in abundance. The political and economic instability, combined with the law forbidding foreign ownership of property, were preventing the expansion and stabilisation of US capital within Haiti. The occupation represented an attempt to remove these 'blockages': the combination of the US military and capital would be able to open Haiti up to rounds of capital accumulation and clamp down on any political unrest.

The way in which the occupation played out underlines its role in facilitating the accumulation of US capital in Haiti. Very quickly after the initial intervention, the US picked a candidate — Phillip Sudré Dartiguenave — and backed him for the presidency.[48] Dartiguenave concluded a treaty — discussed below — that secured Haiti's customs revenue for the US and gave the US significant control over financial and security concerns within Haiti.[49] This was

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45 Schmidt (n 31) 34–5.

46 David Harvey, 'Globalization and the "Spatial Fix"' (2001) 3(2) *Geographische Revue* 23, 24.

47 David Harvey, *The Enigma of Capital and the Crises of Capitalism* (Oxford University Press, 2010) ch 2; David Harvey, 'The Geopolitics of Capitalism' in Derek Gregory and John Urry (eds), *Social Relations and Spatial Structures* (Macmillan Education, 1985) 128, 153–63.

48 Dubois (n 17) 217.

49 Ibid 217–23.

followed by a referendum on a new constitution in 1918, following the forcible dissolution of the Haitian National Assembly, which removed from the constitution the provision forbidding foreign ownership.[50] With the removal of this blockage — and under the protection of the US military — US capital was able to expand its reach within the Haitian economy. At the same time, the threat of inter-imperialist rivalry was decisively neutered, and '[b]y 1920 … American military domination of the Caribbean was no longer threatened by Germany or anyone else'.[51]

## IV FROM SPATIAL FIX TO RACIAL FIX

As noted above, 'blockages' to the accumulation of capital are not simply physical. Physical control over a territory and the ability to conduct certain activities on it are mediated through juridical categories.[52] Accordingly, a crucial part of articulating any 'spatial fix' is the construction of legal arguments designed to enable and legitimate forms of intervention and expansion.[53] In the 'classical' European mould, this was achieved through the legal doctrines of 'civilisation', whereby non-European, non-capitalist polities were — on a sliding scale — deemed as lacking in sovereignty and therefore open to direct forms of European expansion.[54] These arguments still existed at the time of Haiti's occupation, but Haiti posed a different problem. Unlike Britain's colonial 'possessions' and much of the non-European world, Haiti had been recognised as legally sovereign and was, in principle, legally protected from intervention. This sovereignty represented a blockage that would need to be negotiated in any spatial fix.

Here, Haiti was not alone. One of the ways in which the US articulated the Monroe Doctrine was by 'protecting' the sovereignty of those territories within its 'sphere of influence', thus excluding its European rivals. But, of course, sovereignty — even in 1915 — would seem to militate against the idea of a military intervention motivated by purely 'internal' considerations of a state. How, then, was the US able to justify its intervention?

Finding strong international legal arguments to support the invasion was difficult;[55] indeed, in a 1921 US Senate inquiry into the occupation, the representative of the Union Patriotique d'Haiti, Stenio Vincent — a former Haitian Minister, who would later become President — argued that '[f]rom the

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50 Ibid 246–7.

51 Schmidt (n 31) 154.

52 Chris Butler, 'Critical Legal Studies and the Politics of Space' (2009) 18(3) *Social and Legal Studies* 313; Andrew Herod, 'From a Geography of Labor to a Labor Geography: Labor's Spatial Fix and the Geography of Capitalism' (1997) 29(1) *Antipode* 1; Reecia Orzeck and Laam Hae, 'Restructuring Legal Geography' (2020) 44(5) *Progress in Human Geography* 832.

53 BS Chimni, 'International Institutions Today: An Imperial Global State in the Making' (2004) 15(1) *European Journal of International Law* 1, 7.

54 Antony Anghie, 'Finding the Peripheries: Sovereignty and Colonialism in Nineteenth-Century International Law' (1999) 40(1) *Harvard International Law Journal* 1; Knox (n 19); Ntina Tzouvala, 'Civilization' in Jean d'Aspremont and Sahib Singh (eds), *Concepts for International Law: Contributions to Disciplinary Thought* (Edward Elgar Publishing, 2019) 83; Ntina Tzouvala, *Capitalism as Civilisation: A History of International Law* (Cambridge University Press, 2020) ('*Capitalism as Civilisation*').

55 Arthur S Link, *Wilson* (Princeton University Press, 1947–65) vol 3, 535.

point of view of international law it is plain that the Wilson Government had no right to order an invasion of Haitian territory'.[56] The Wilson government had, in fact, attempted to negotiate with President Sam, prior to his overthrow, to conclude a treaty that would achieve the same end of 'stabilising' Haiti.[57]

Despite these difficulties, the invasion was very much justified in international legal terms. The US legal arguments for intervention essentially rested on three interlinked claims: 'first, preservation of national order; second, protection of US diplomatic and economic legations, foreign capital and property; third, infringement of the Monroe Doctrine because of French "intervention"' (in that the French state had sent troops to the island to protect the French legation).[58]

These rationales were most clearly articulated by Philip Marshall Brown in the pages of the *American Journal of International Law* ('*AJIL*'). Brown, who was a former diplomat and editor of *AJIL*,[59] was particularly vociferous in defending the American position, both in relation to Haiti and the Dominican Republic, the latter of which was occupied under a similar rationale in May 1916. Writing in 1917, in response to the latter occupation, Brown argued that there was no absolute prohibition on intervention, since

> if there were no right of intervention, either gross wrongs would be committed by some nations subject to no restrains, or certain countries would relapse into barbarism. Under such conditions, in the absence of an international police, or a special mandate, a nation is bound to intervene in the affairs of another. Intervention, therefore, in the defence of specific rights or the general interests of international society thus becomes legally justifiable. Whether it be characterised as an abatement of an international nuisance, as a measure of self-defence, or as a service to mankind, intervention in many instances may be properly classified as a legal measure of self-redress.[60]

The US, as a 'responsible member of the family of nations' and 'elder brother' of Haiti and the Dominican Republic, was acting both in its specific interests and in the 'general interests of international law and order'.[61] It was this latter point that Brown would stress in his response to the 1921 Senate inquiry into the occupation. Here, Brown castigated those who would criticise America's occupation on 'abstract principles' and 'abstract theories' about sovereignty.[62] In particular, he stressed that '[c]ertain peoples in a retarded stage of political development cannot reasonably be held to rigid interpretations of … international law'.[63] Such '[l]egalistic theories and the tenuous refinements of

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56 *Inquiry into Occupation and Administration of Haiti and Santo Domingo: Hearings before a Select Committee on Haiti and Santo Domingo, United States Senate* (Government Printing Office, 1922) vol 1, 4.

57 Link (n 55) vol 3, 531–2.

58 Julia Leininger, 'Haiti, Conflict' in Rüdiger Wolfrum (ed), *Max Planck Encyclopedia of Public International Law* (Oxford University Press, online at October 2008) [7].

59 Kenneth J Blume, *Historical Dictionary of US Diplomacy from the Civil War to World War I* (Rowman & Littlefield, 2nd ed, 2017) 79.

60 Philip Marshall Brown, 'The Armed Occupation of Santo Domingo' (1917) 11(2) *American Journal of International Law* 394, 398.

61 Ibid 399.

62 Philip Marshall Brown, 'International Responsibility in Haiti and Santo Domingo' (1922) 16(3) *American Journal of International Law* 433, 434, 437.

63 Ibid 434.

abstract principles' should not be allowed to 'thwart any genuine efforts to help raise the general average of civilization and to fit peoples for international privileges and obligations'.[64] Here, of course, Brown echoed the previously mentioned international legal arguments around 'civilisation' that had preoccupied European and American international lawyers since the mid-19th century.[65] At the same time, Brown drew on a deeper well of cultural, political and intellectual representations of Haiti in particular, which cast its people as barbaric or backwards[66] and portrayed Haiti (and its revolution) as outside the purview of modernity.[67]

Ruth Wilson Gilmore has described racism as a 'practice of abstraction' in which difference is displaced 'into hierarchies that organize relations within and between the planet's sovereign political territories'.[68] In so doing, racism 'pushes disproportionate costs of participating in an increasingly monetized and profit-driven world' onto those racialised territories.[69] Such a process was operative in the context of Haiti. By appealing to — and constructing — racialised abstractions about the ability of Haitians to function in the modern world, it became possible to reconfigure Haiti's place within the legal order. Alongside a 'spatial fix' for the accumulation of capital, we can thus also observe a *racial fix*. Haiti's legal sovereignty represented a blockage to the geographical expansion of US capitalist accumulation, which could be removed through Haiti's racialisation.

Racial fixes have, in fact, been a central part of all forms of capitalist accumulation. Capitalism sprung up primarily within Europe. From the beginning, however, capitalist social relations were not geographically confined. The foundations of capitalism were enmeshed with colonial regimes of dispossession and exploitation, and as capitalism matured and expanded, it did so in geographically uneven ways. Over the course of capitalism's existence, the search for greater capitalist profits drove the need for European capital — backed by the state — to politically and economically transform the rest of the world.[70]

As Frantz Fanon noted, '[a] country that lives, draws its substance from the exploitation of other peoples, makes those peoples inferior'.[71] Casting societies

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64 Ibid.

65 Tzouvala, 'Civilization' (n 54).

66 See generally Joan Dayan, *Haiti, History, and the Gods* (University of California Press, 1998); Philip Kaisary, *The Haitian Revolution in the Literary Imagination: Radical Horizons, Conservative Constraints* (University of Virginia Press, 2014).

67 See generally Michel-Rolph Trouillot, *Silencing the Past: Power and the Production of History* (Beacon Press, 1995).

68 Ruth Wilson Gilmore, 'Fatal Couplings of Power and Difference: Notes on Racism and Geography' (2002) 54(1) *Professional Geographer* 15, 16.

69 Ibid.

70 The literature around this is rich and varied, but for a representative sample, see Samir Amin, *Eurocentrism: Modernity, Religion, and Democracy*, tr Russell Moore and James Membrez (Monthly Review Press, 2009); Samir Amin, *Imperialism and Unequal Development* (Monthly Review Press, 1977); Nikolai Bukharin, *Imperialism and World Economy* (Martin Lawrence Press, 1917); VI Lenin, *Imperialism, the Highest Stage of Capitalism: A Popular Outline* (Foreign Languages Press, 1973); Rosa Luxemburg, *The Accumulation of Capital*, tr Agnes Schwarzschild (Routledge, 2003); Walter Rodney, *How Europe Underdeveloped Africa* (Howard University Press, 1982).

71 Frantz Fanon, *Toward the African Revolution: Political Essays*, ed François Maspero, tr Haakon Chevalier (Grove Press, 1967) 40–1 ('*Toward the African Revolution*').

and peoples as racially inferior played a central role in facilitating the geographical expansion of capitalism and its attendant exploitation and transformation. In this way, the construction of racial hierarchies has been absolutely central to 'fixing' problems of capitalist accumulation through the dispossession and genocide of indigenous peoples, taking, controlling and transforming non-European lands and protecting capitalist investment.[72] These processes are, of course, juridical ones, involving questions of ownership and legal subjectivity. As such, law has played a crucial role in facilitating and consolidating capitalist social relations through racial fixes.[73]

In the context of the US occupation of Haiti, Musab Younis argues that the net effect of these arguments was that 'Haiti's sovereignty was … discursively delegitimised through the association of race with pre-sovereign atavism'.[74] Owing to Haiti's '"racial" character', it was understood as 'intrinsically non-sovereign, regardless of its juridical status'.[75] In this way, Haiti could be portrayed as an entity that existed in a pre-modern *past*. This was complemented by 'the idea of regression, since it was often accepted that at one point — under French rule — Haiti had truly been "modern"'.[76] Taken together, these arguments suggested that a military occupation was needed to bring Haiti back to the civilised, modern present.

However, the particular racial fix deployed in relation to Haiti was necessarily more complex than a simple *denial* of its sovereign status. As such, in order to understand the specific course of the occupation, and the importance of the League of Nations, it is necessary to go beyond Younis' argument that Haiti was understood as 'intrinsically non-sovereign'.[77] One of the seeming paradoxes of Wilson's presidency was the way in which he combined the promotion of international freedom, independence and self-determination with extensive interventionism in America's near abroad.[78] Racial assumptions played a key role in bridging this 'paradox' insofar as 'freedom' and 'independence' could be understood as only available to certain states.

However, in the case of Latin America, such racial assumptions were not couched in a denial of sovereignty. The US needed to insist on the continuing sovereignty of these territories for several reasons: first, because their

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72 These processes have been documented in great detail — if not always explicitly conceptualised — in Marxist and Third World Approaches to International Law scholarship: see, eg, Anghie, *Imperialism, Sovereignty and the Making of International Law* (n 9); BS Chimni, *International Law and World Order: A Critique of Contemporary Approaches* (Cambridge University Press, 2nd ed, 2017); Michael Fakhri, *Sugar and the Making of International Trade Law* (Cambridge University Press, 2014); James Thuo Gathii, 'Imperialism, Colonialism, and International Law' (2007) 54(4) *Buffalo Law Review* 1013; China Miéville, *Between Equal Rights: A Marxist Theory of International Law* (Brill, 2005); Parfitt (n 10); Sundhya Pahuja, *Decolonising International Law: Development, Economic Growth and the Politics of Universality* (Cambridge University Press, 2011); Rajagopal (n 9); Tzouvala, *Capitalism as Civilisation* (n 54).

73 Knox (n 19); Tzouvala, *Capitalism as Civilisation* (n 54).

74 Younis (n 8) 360.

75 Ibid 358.

76 Ibid 360.

77 Ibid 358.

78 Alongside Haiti, Wilson had launched military interventions in Mexico, Nicaragua and Russia: see Joan Hoff, *A Faustian Foreign Policy from Woodrow Wilson to George W Bush: Dreams of Perfectibility* (Cambridge University Press, 2008) chs 1–2.

sovereignty served as a buttress to European rivals, preventing future colonisation efforts; secondly, because the maintenance of such sovereignty provided a powerful ideological differentiation between US imperialism and its rivals; and finally, because the US state did not generally desire to incur the *costs* of prolonged formal colonial administration.

It is precisely for these reasons that Brown's formulation was of the US as an 'elder brother' whose role was to help the Haitian state fulfil its international obligations. For Brown, far from an intrusion into Haiti's independence, the US occupation was there to safeguard it.[79] Because of the relatively 'backwards' nature of the Haitian people, they would require the 'help' of the US to secure and exercise their sovereignty, but that sovereignty was to be upheld. The racial fix then operated in a particularly complex way: its role was not to deny Haiti sovereignty but rather to hold together the idea that sovereignty and intervention could coexist.

## V CREATING 'TRANQUILLITY'

The clearest evidence of the importance of sovereignty in the US's racial fix lies in its actions to support the continuing legality of occupation. Here, the US state did not rely directly on arguments about Haiti's inability to govern or its threat to global stability; rather, it sought to sign a treaty that would legitimate its presence in Haiti.

In the early months of the occupation, until April 1916, US forces under Admiral William Caperton exercised direct control over Haiti, 'disarming Port-au-Prince and arresting … revolutionaries'.[80] During this period, they sought a pliant figure to act as President and support US interests, personally interviewing the two leading candidates — Rosalvo Bobo and Dartiguenave.[81] The former had led initial resistance to US occupation but promised to make any concessions necessary, and the latter was something of an unknown quantity.[82] Eventually, the occupying forces settled on backing Dartiguenave, and he was duly elected 'on August 12, 1915, by the Haitian legislature, which convened under the protection of United States Marines'.[83]

Dartiguenave was quickly presented with a treaty drafted by the US, which he signed on 16 September 1915. It was approved by Congress on 11 November 1915 and was formally ratified in May 1916.[84] The *Treaty between Haiti and the United States regarding the Finances, Economic Development and Tranquillity of Haiti* ('*1915 Treaty*') became the formal legal source for the continuing US occupation.[85] The preamble of the Treaty set out that it resulted from the desire of the US and Haiti 'to confirm and strengthen the amity existing between them

79 Brown, 'The Armed Occupation of Santo Domingo' (n 60) 398.
80 Renda (n 29) 30.
81 Ibid 30–1.
82 Dubois (n 17) 216–17.
83 Schmidt (n 31) 74.
84 Renda (n 29) 31.
85 'Treaty between Haiti and the United States regarding the Finances, Economic Development and Tranquillity of Haiti' (1916) 10(4) *Supplement to the American Journal of International Law* 234.

by the most cordial coöperation in measures for their common advantage'.[86] Such cooperation centred around Haiti remedying 'its revenues and finances' and maintaining 'tranquillity' on the island, with the US 'being in full sympathy with all of these aims and objects and desiring to contribute in all proper ways to their accomplishment'.[87]

These objectives were to be achieved through political and economic restructuring outlined by the Treaty. Under art II, the President of Haiti was obliged to appoint, 'upon nomination by the President of the United States', a General Receiver and a Financial Adviser.[88] The General Receiver was to take control of all customs duties generated by the Haitian economy (art III),[89] and the Financial Adviser was entitled to 'collate, classify, arrange and make full statement of all the debts of the Republic, the amounts, character, maturity and condition thereof, and the interest accruing and the sinking fund requisite to their final discharge' (art IV).[90] The General Receiver would also send monthly reports of all customs collections to the US Department of State (art VII),[91] with the US retaining a veto over Haiti incurring any further debt or financial obligations (art VIII)[92] and over any modification to 'the customs duties in a manner to reduce the revenues therefrom' (art IX).[93] Given the particular nature of Haiti's political-economic development, customs 'provided the Haitian government's sole source of revenue' at the time.[94]

Alongside these mechanisms of *economic* control, the Treaty also consolidated US political and military control over Haiti. Under art X, the Haitian government was obliged, 'for the preservation of domestic peace, the security of individual rights and full observance of the provisions of this treaty, to create without delay an efficient constabulary, urban and rural, composed of native Haitians'.[95] The officers of this constabulary were to be Americans nominated by the US President.[96] In time, the Treaty envisaged these officers being replaced by native Haitians who had been trained by US forces.[97]

Under the Treaty, the US was empowered to control the largest part of the Haitian state's revenue and it shaped and controlled its internal security measures. This control was used to secure US interests in Haiti, stabilising it as a site of capitalist accumulation. To this end, art V set out the priority order of how the customs money was to be spent: first, on the salaries and expenses of the Receivership; secondly, on servicing US debt; and thirdly, on the maintenance of

86 Ibid 234 (Preamble).
87 Ibid.
88 Ibid 234–5 (art II).
89 Ibid 235 (art III).
90 Ibid 235 (art IV).
91 Ibid 236 (art VII).
92 Ibid 236 (art VIII).
93 Ibid 236 (art IX).
94 Bellegarde-Smith, *Haiti: The Breached Citadel* (n 19) 98.
95 'Treaty between Haiti and the United States regarding the Finances, Economic Development and Tranquillity of Haiti' (n 85) 237 (art X).
96 Ibid.
97 Ibid.

the 'constabulary', with only the remainder going 'to the Haitian Government for purposes of current expenses'.[98]

Writing about the mandate system of the League of Nations, which began four years after Haiti's occupation, Antony Anghie and Balakrishnan Rajagopal have noted the role it played in transforming the relationship between international law and colonialism. For Rajagopal, the distinct element of the mandate system was that it helped transform international law 'from a system of rules to a science of administration', concerned with governing and administering the colonised territories.[99] This transformation enabled international law to have 'complete access to the interior'[100] of particular territories and engage in widespread social and economic transformation. In this, both Anghie and Rajagopal see the seeds of future international legal institutions — particularly the international financial institutions — and their ability to fundamentally reshape the economic conditions of the 'developing' world.

Arguably, these processes can be observed in the Haitian occupation. The *1915 Treaty* enabled US officials to map out Haitian revenue, granted the US almost total control over Haitian state expenditures and guaranteed that US debt would be paid off. At the same time, the US was given a fundamental role in shaping and training a police force that could act independently of the social forces within Haitian state. Remarkably, as per art V, this control would be financed by the Haitian state itself.

This was further deepened in a 1919 protocol to the *1915 Treaty*, which provided a loan for the Haitian state to repay its debts.[101] Under art VIII of the protocol, it was

> agreed that the control by an officer or officers duly appointed by the President of Haiti, upon nomination by the President of the United States, of the collection and allocation of the hypothecated revenues, will be provided for during the life of the loan after the expiration of the aforesaid Treaty so as to make certain that adequate provision be made for the amortization and interest of the loan.[102]

Thus, to ensure the protection of US bondholders with a financial interest in the loan, even upon its expiry, the regime of economic control established by the Treaty would continue.

The true masterstroke of the *1915 Treaty* — and what distinguished it to some degree from the later mandate system — was that this control was able to be achieved through relatively indirect means: only a small number of US officials were needed, and they would create legal *obligations* on the part of the wider Haitian state to comply. Perhaps more importantly, despite the overwhelming degree of control granted to the US under the Treaty, it nonetheless maintained Haiti's legal sovereignty. The Treaty presented the occupation as an agreement concluded between two equal states. The deep paradox here is that in signing the Treaty, Haiti affirmed its status as legally sovereign, even as that Treaty essentially eliminated its nominal independence. To this paradox, we can add

98 Ibid 235–6 (art V).

99 Rajagopal (n 9) 62.

100 Anghie, *Imperialism, Sovereignty and the Making of International Law* (n 9) 149.

101 *Protocol between the United States of America and the Republic of Haiti*, 8 Bevans 678 (signed and entered into force 3 October 1919).

102 Ibid art VIII.

another source of disquiet. As many argued, although the Haitian state had signed and ratified the Treaty, it had done so under a military occupation, thus vitiating its consent.[103]

These contradictions and paradoxes were managed through techniques of racialisation. In casting Haiti as a 'backwards' state in need of aid, the Treaty effectively argued that Haiti was legally sovereign but lacked the ability to fully exercise that sovereignty. As such, the US, as an 'elder brother' in the family of nations, was not *violating* Haitian sovereignty but rather protecting it. This dynamic is best captured in art XI of the Treaty, in which Haiti ironically agreed not 'to enter into any treaty or contract with any foreign power or powers that will impair the independence of Haiti'.[104]

This construction of a racialised narrative meant that the sequence of events leading up to the Treaty could be fundamentally reimagined. Instead of a military occupation leading to a treaty being imposed at the barrel of a gun, the US as 'elder brother' had responded to a 'request' by the backwards Haitian state for aid. Thus, in his commentary on the Treaty in *AJIL*, George A Finch — who in later years became a staunch advocate of respecting the rights of small states — framed the Treaty as an 'attempt on the part of enlightened leaders of Haiti to secure order and peace in their country by appealing to its happier neighbor of the North'.[105]

Kwame Nkrumah famously defined neo-colonialism as 'the granting of political independence minus economic independence';[106] in a neo-colonial situation, a state 'has all the outward trappings of international sovereignty', but '[i]n reality its economic system and thus its political policy is directed from outside'.[107] Although neo-colonialism became the 'predominant expression of imperialism' following the Second World War, Nkrumah notes that it 'had reared its head in Latin America and elsewhere' before then.[108] Haiti represented an important moment in the creation of neo-colonialism in Latin America; indeed, as Nick Nesbitt puts it — in respect of the Haitian revolution and its aftermath — '[t]wo of the processes that came to distinguish the twentieth century were invented in Haiti: decolonization and neo-colonialism'.[109]

## VI STABILISING RACIAL SOVEREIGNTY

The Haitian occupation, like the mandate system, represented an experimental form of colonial rule. The crucial difference between the two was that Haiti provided a model whereby legal sovereignty could be maintained even as a

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103 Frederick Bausman et al, *The Seizure of Haiti by the United States: A Report on the Military Occupation of the Republic of Haiti and the History of the Treaty Forced upon Her* (Report, April 1922) 11–13 <https://ufdc.ufl.edu/AA00001147/00001/1>, archived at <https://perma.cc/25RR-356W>.

104 'Treaty between Haiti and the United States regarding the Finances, Economic Development and Tranquillity of Haiti' (n 85) 237 (art XI). In this aspect, the Treaty resembled the protectorate agreements concluded by European empires: see Hammoudi (n 11) 127–33.

105 George A Finch, 'The Treaty between the United States and Haiti of September 16, 1915' (1916) 10(4) *American Journal of International Law* 859, 860.

106 Kwame Nkrumah, *Revolutionary Path* (Panaf, 1973) 172.

107 Kwame Nkrumah, *Neo-Colonialism: The Last Stage of Imperialism* (International Publishers, 1966) ix.

108 Kwame Nkrumah, *Revolutionary Path* (n 106) 312.

109 Nick Nesbitt, 'The Idea of 1804' [2005] (107) *Yale French Studies* 6, 6.

state's political and economic spheres were dominated. The *1915 Treaty* represented the perfect medium through which this could occur: concretising a particular racial fix in which — via the medium of debt — the 'backwards' Haitian state 'requested' the aid of its 'elder brother' in the US. However, despite the coding of the Treaty in these racialised terms, the situation remained precarious, with its legality regularly challenged.[110] In order to continue with the aims of the occupation, therefore, the critical task was to maintain and stabilise this racial fix. It is in this light that we can see why Haiti's entry into the League of Nations — an organisation constructed around the sovereignty of its members — was central.

In the US, Haiti's membership was specifically invoked by those who opposed the League. William D Guthrie, at the time a law professor at Columbia University, worried that the equality demanded by the League would mean that even 'Haiti and Panama could defy us, for Haiti and Panama are members of the League!'[111] Indeed, in relation to the President's ability to initiate military actions without recourse to Congress, Guthrie noted specifically that '[w]arlike measures and "occupations" are now being carried on by the President in Haiti and San Domingo'.[112] Miles Poindexter, at the time a Republican Senator, asked whether the League was 'necessary to enable the United States to preserve peace instead of war in Haiti' and argued that it was

> difficult to see what element of value in the establishment of universal and perpetual peace in these countries [Haiti, San Domingo, Mexico and Honduras] would be provided by a league of nations not already possessed by the United States …[113]

In both Guthrie and Poindexter's case, the racial anxieties around the League remained implicit and submerged; for others opposing the League, Haiti's membership — along with that of Ethiopia and Liberia — triggered a full-blown race panic. Thus, James Alexander Reed, a Democratic Party Senator, noted that '[p]ractically 99 per cent of the [Haitian] people are negroes … [i]lliteracy is the common condition' and that '[t]he Republic was established by assassination'.[114] Reed's deepest fear was that 'these baby murderers, these creatures of the forest who sacrifice children to their idols' would 'have a place in the councils of the nations', with 'their vote … to be the equal of the vote of the United States'.[115] The fear, then, was that, alongside strengthening the power of the US's rivals, the 'racial equality' embedded at the League of Nations would undermine the ability of the US to dominate its smaller neighbours and open it to judgment from those states. In practice, however, these fears were somewhat misplaced.

Membership requirements for the League were relatively ad hoc in nature. However, Haiti had signed and ratified the *Treaty of Versailles*, thus

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110 See above n 56 and accompanying text.

111 William D Guthrie, *The League of Nations and Miscellaneous Addresses* (Columbia University Press, 1923) 55.

112 Ibid 88.

113 Miles Poindexter, *The Proposed League of Nations: Speech of Hon Miles Poindexter of Washington, in the Senate of the United States, February 19, 1919* (1919) 13.

114 James Alexander Reed, *Racial Equality and the League of Nations: Speech of Senator James A Reid of Missouri in the Senate of the United States, May 26, 1919* (1919) 8.

115 Ibid 9.

guaranteeing its membership to the League. In March 1919, at the Paris Peace Conference, Tertulien Guilbaud — the Haitian representative — approached Wilson and his Secretary of State, Robert Lansing, 'in an attempt to capitalize on Wilson's widely publicized posture as the champion of self-determination'.[116] Guilbaud had been specifically instructed by Haitian Foreign Minister Constantin Benoit to raise the issue of the continuing martial law imposed by the US Marines and the power of the Haitian government to appoint its own employees within Haitian customs houses.[117]

Crucially, this was not to be raised publicly during the Conference itself, but bilaterally, on a personal basis with Wilson and Lansing. The aim was to highlight the contradiction between Wilson's advocacy of rights for small states and the particular treatment of Haiti.[118] Despite the fact that, through their spy networks, the US had been aware that such an approach was forthcoming, it initially had some success. Lansing himself had already had worries as to the 'high handed'[119] manner in which the US was treating the Haitian government, and the approach further confirmed those fears. As such, Lansing floated the idea of formally withdrawing the Marines and leaving a smaller number to guard the US legation. This was met with opposition 'on the ground' in Haiti itself, as the Marines were helping the gendarmerie in repressing an uprising at the time. Consequently, Guilbaud's advances were rebuffed, and the occupation remained in place.[120]

This event neatly embodies the way in which joining the League mediated and stabilised Haiti's racial fix. The Haitian state and its representatives, through their presence at the Peace Conference, were recognised as sovereign and as capable of participating in international life. Yet they could not use this sovereignty to raise the issue of the occupation publicly. Instead, they were forced to rely on private approaches to the US, which ultimately failed.

The privacy of this approach was not simply a matter of political expediency or judgment: the very structure of League membership *precluded* Haiti from raising the occupation in a formal legal sense. By joining the League, members affirmed that they were 'fully self-governing'.[121] If the Haitian government had publicly stated that the presence of US troops on its territory was involuntary, and that much of its economic and political life was controlled by the US without Haitian consent, it would have been acknowledging that it was *not* in fact 'fully self-governing'. In its 1924 application for League membership, the Dominican Republic — which had itself been occupied by the US until July of that year — had to demonstrate to a League sub-committee that it was freely governed. That sub-committee stated that the 'Dominican Republic is an independent and

116 Schmidt (n 31) 115.

117 Michael Streeter, *Central America and the Treaty of Versailles* (Haus Histories, 2010) 101.

118 Ibid 101–2.

119 Letter from Robert Lansing, US Secretary of State, to President Wilson, 13 August 1915, reproduced in United States Department of State, *Papers Relating to the Foreign Relations of the United States, The Lansing Papers, 1914–1920* (Government Printing Office, 1940) vol 2, 526 (doc 358).

120 Streeter (n 117) 104.

121 *Treaty of Peace with Germany (Treaty of Versailles)*, signed 28 June 1919, 2 Bevans 43 (entered into force 10 January 1920) pt I ('*Covenant of the League of Nations*') art 1 ('*Covenant of the League of Nations*').

sovereign State' but did specifically note that it 'was temporarily occupied by troops of the United States of America'.[122]

What this meant was that as a consequence of acceding to the League, the Haitian state had to reinforce the narrative already established by the Treaty: that Haiti, as a free and sovereign state, had requested aid from the US and that the continued presence of the US stemmed from Haitian consent. The representatives of the Haitian state had to publicly disavow the fact that they remained under US control. Dissension from this narrative would have disqualified Haiti from League membership.

Haiti's League membership both relied on the racialised assumptions already embodied within the Treaty — whereby Haiti needed help from its 'elder brother' to protect its own sovereignty — and further stabilised that logic, by making the Haitian state itself publicly endorse it. In practice, therefore, the price of securing the recognition of Haiti's sovereignty was retroactively legitimating the military occupation. This was eerily reminiscent of France's 1825 'recognition' of Haiti, in which the Haitian state was forced to 'compensate for the loss of slave property' and thus recognise 'both the legality and legitimacy of the racialised slave trade'.[123]

Whilst — as we shall see — Roosevelt was not entirely correct that Haiti would be an American 'vote' in the League (although we cannot be sure of this, since the US never joined), the more explicit fears around racial equality were ultimately misplaced. Far from empowering the Haitian state against the occupation, League membership buttressed the logic of the occupation: it fundamentally confirmed that sovereignty could coexist with extensive forms of financial and political control.

In a 1956 lecture titled 'Racism and Culture', Fanon argued that racism is always 'only one element of a vaster whole: that of the systematized oppression of a people'.[124] In this sense, racism did not stand as 'a constant of the human spirit',[125] but rather was rooted in 'a flawless logic'[126] whereby any country that 'draws its substance from the exploitation of other people, makes those peoples inferior'.[127] For Fanon, as the nature and character of this exploitation changed, so too did the forms in which racism was articulated. In particular, Fanon argued that as capitalism became more sophisticated, '[v]ulgar racism' gave way to 'more subtle forms' of racism.[128]

Looked at through this lens, Haiti's membership of the League represents a transition point in the evolution of global forms of racism and racialisation. Whilst vulgar racists decried the membership as undermining a particular 'racial regime',[129] League membership ultimately stabilised a newer, more subtle form of racial fix. Here, Haiti's full legal sovereignty was perfectly compatible with

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122 'Annexe 7: Application of the Dominican Republic for Admission into the League of Nations' (1924) 29 *League of Nations Official Journal, Special Supplement* 24, 24.

123 Knox (n 19) 119 (emphasis omitted).

124 Fanon, *Toward the African Revolution* (n 71) 33.

125 Ibid 41.

126 Ibid 40.

127 Ibid 41.

128 Ibid 35.

129 See generally Brenna Bhandar, *Colonial Lives of Property: Law, Land, and Racial Regimes of Ownership* (Duke University Press, 2018).

its subordination to US capital because of a number of racialised assumptions about the inability of Haitians to manage their own affairs and the US's role as elder brother. League membership forced the Haitian government to formally and publicly *accept* these subtle forms of racism.

This was not simply a 'contradiction' between the formal equality of the law and the 'real' subordination of Haiti. Rather, the set of racialised assumptions that were articulated through international law — and concretised in League membership — became a constituent element the Haitian state's integration into the US's orbit and, more generally, into the capitalist world economy.

## VII RESISTANCE AT THE LEAGUE

The strongest demonstration of the League's power to stabilise Haiti's racial fix was the absence of mentions of the occupation during its accession to the League and in the League's opening years. Indeed, despite the professed fears of those who opposed the League, the US occupation was able to continue in much the same fashion even after Haiti's membership. This was not to say, however, that League membership did not provide a forum for resistance to the occupation and imperialism in general.

Perhaps the most famous figure in this regard was Dantès Bellegarde. Bellegarde was a highly educated member of the Haitian elite who had entered into the diplomatic service.[130] A domestic progressive as well as a fierce opponent of the US occupation and imperialism in general, he was active in a number of international fora, and in '1920, … sought to bring the question of US occupation before the first [League] assembly … but other members blocked the effort because they still hoped the United States would join'.[131]

Bellegarde is perhaps best remembered for a 1930 speech delivered to the League Assembly. In that speech, Bellegarde argued that there was 'no doubt' that 'imperialism really exist[s]', and he saw this imperialism embodied in 'the economic and financial power of the United States', which, through this power, 'controls to-day the affairs of the world'.[132] Adopting a register consonant with the Marxist ideas of imperialism circulating at the time, Bellegarde noted that the 'economic and financial policy of the United States has led to the accumulation of enormous capital, the whole of which cannot be used in the country itself, and in mass production over-stepping the needs of home consumption'.[133] This over-accumulation of capital meant that the US needed to extend and expand its market, which led to its exploitative role in Latin America.[134]

Accordingly, Bellegarde went on to criticise the Monroe Doctrine, which had become 'a menace to those it purports to defend'.[135] These general reflections were a prelude to Bellegarde's explicit denunciation of the US occupation:

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130 Mercer Cook, 'Dantes Bellegarde' (1940) 1(2) *Phylon* 125, 125–6.

131 Emily S Rosenberg, 'World War I, Wilsonianism, and Challenges to US Empire' (2014) 38(4) *Diplomatic History* 852, 858.

132 'Fourth Plenary Meeting' (1930) 84 *League of Nations Official Journal, Special Supplement* 39, 44.

133 Ibid.

134 Ibid.

135 Ibid 45.

> The fairest utterances count for nothing compared with facts. So long as the military occupation of the Republic lasts, an occupation unjustifiable in law, based as it is on a treaty imposed by force on the people of Haiti, so long will fear and mistrust hold sway among the American nations. Such fear and mistrust, as we have seen, constitute at once an obstacle to trade and a threat to peace.[136]

Whilst these utterances did not produce any response from the League itself, they did represent the tenor of Haiti's own contributions. In September 1930, Bellegarde pressed for a wider understanding of the prohibition of war, noting that in a small occupied state, 'when resistance occurs later on, because it has no regular army to put in the field, because it has no aeroplanes, cruisers or artillery, you [The League] do not regard this resistance as war'.[137] It was statements like these, as well as his wider activism and defence of Africa at the League,[138] that led WEB Dubois to characterise Bellegarde as 'the international spokesman of "black folk"'.[139]

Dubois' sentiments reflect a more general appreciation for the role that Haiti played in the League. For some, Haiti's behaviour represented a kind of Third Worldism *avant la lettre*, in which Haiti acted to protect the interest of smaller, peripheral and colonial states. Most notably, in 1935, on the eve of Italy's invasion of Ethiopia — and a year after the US had withdrawn from Haiti — General Alfred Nemours gave an impassioned speech in which, speaking on behalf of Haiti 'as a small nation and as a nation of colour', he called for 'liberty and racial equality'.[140] Appealing to the fact that '[n]o discrimination has ever been made among the Members of our League', Nemours argued that 'there can be no question of applying two moral standards — a higher one for certain continents and peoples and a less human one for other continents and other peoples regarded as secondary'.[141] As such, Nemours insisted that the League — which represented 'a temple of reconciliation affording sanctuary to all the nations' — could not refuse Ethiopia's plea for aid.[142]

## VIII LIMITS TO RESISTANCE: RACE, CLASS AND LEGAL FORM

It is important, however, to understand the League's limitations regarding the possibility of challenging and resisting imperialism. Most strikingly, despite Nemours' impassioned denunciation of Italy's invasion of Ethiopia in 1935, by July 1936, Haiti had unilaterally ended its League-mandated sanctions against Italy. According to Haiti's representative, Constantin Mayard, the 'sanctions had become purposeless' and had made a 'very difficult situation' for Haiti, since

136 Ibid.

137 'Fifth Meeting' (1930) 85 *League of Nations Official Journal, Special Supplement* 43, 51.

138 Tilman Dedering, 'Petitioning Geneva: Transnational Aspects of Protest and Resistance in South West Africa/Namibia after the First World War' (2009) 35(4) *Journal of Southern African Studies* 785, 792.

139 Glenda Sluga, *Internationalism in the Age of Nationalism* (University of Pennsylvania Press, 2013) 67.

140 'Ninth Plenary Meeting' (1935) 138 *League of Nations Official Journal, Special Supplement* 81, 84, 89.

141 Ibid.

142 Ibid.

Italy took '33% of Haiti's exports'.[143] In other words, whilst the Haitian government was willing to offer racial solidarity in *words* at the League, it was ultimately unwilling, or unable, to take practical measures.

We can note similar reversals in many of the examples of Haitian resistance in the League. Thus, Bellegarde was only able to mention the occupation in 1930, having been previously prevented in 1920. Whilst the response in the press to Bellegarde's speech was very appreciative, the response from League delegates was somewhat more muted. As the French paper *La Liberté* noted at the time, 'all the delegates were busy tracing little figures on sheets of paper and this activity was so absorbing that it prevented them from rendering to [Bellegarde] the homage which his courage and talent deserved'.[144] Despite the lack of any concrete effect, the speech was nonetheless poorly received by the US, and, as a result of this intervention, Bellegarde was recalled from the League by the Haitian government at the urging of General John Russell, the US High Commissioner in Haiti.[145]

Bellegarde's dismissal illustrates the fact that there was not simply a relation of pure antagonism between the Haitian government and the US occupying forces. No Haitian government would have been able to take power in occupied Haiti without the approval and backing of the US. Thus, whilst Nemours was willing to denounce the Italian invasion of Ethiopia, he had nonetheless testified 'in favor of continuing the US military presence in the aftermath of the Aux Cayes massacre' (as discussed below).[146] Nemours had in fact been a member of the Conseil d'Etat in Haiti, a body that had been set up to replace the Haitian legislature, which had been 'dissolved at the outset of the occupation because of its refusal to act as a rubber stamp for US decisions'.[147]

In *The Wretched of the Earth*, Fanon famously rooted the rise of neo-colonialism in the nature of the 'national bourgeoisie'.[148] For Fanon, under colonialism, the development of a native industrial capitalist class was impossible. Productive activities were all carried out by foreign firms linked to the colonial power or by the colonial state itself.[149] The native bourgeoisie in the colonial period was confined primarily to 'activities of the intermediary type', such as trade, small enterprise and securing commissions.[150] As such, the national bourgeoisie that emerged after decolonisation was inexperienced and unable to coordinate large scale production.[151]

Importantly, this local bourgeoisie did share the same characteristic as all bourgeoisies: a desire for profit. However, whilst the European bourgeoisie had 'developed' Europe as an indirect consequence of its search for profit,

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143 'Meeting Held on Monday, July 6th, 1936, at 10am' (1936) 149 *League of Nations Official Journal, Special Supplement* 56, 58.

144 Cited in Patrick Bellegarde-Smith, *In the Shadow of Powers: Dantès Bellegarde in Haitian Social Thought* (Vanderbilt University Press, 2nd ed, 2019) 77.

145 Ibid 73.

146 Raphael Dalleo, *American Imperialism's Undead: The Occupation of Haiti and the Rise of Caribbean Anticolonialism* (University of Virginia Press, 2016) 32.

147 Ibid.

148 Frantz Fanon, *The Wretched of the Earth* (Grove Press, 1963) 149.

149 Ibid 149–52.

150 Ibid 179.

151 Ibid 149–52.

in decolonised nations, the desire for profit took a different path. The national bourgeoisie in newly decolonised nations wished to lay hands upon the economy of the former colony not to *develop* it but rather to 'transfer into native hands … those unfair advantages which [were] a legacy of the colonial period'.[152] This bourgeoisie is thus 'quite content with the role of the Western bourgeoisie's business agent'.[153]

Whilst Fanon's account does not apply perfectly to Haiti, it illuminates an important feature of the occupation: namely, that sectors of the Haitian ruling class benefited from the occupation or felt that resistance to it was pointless. This was compounded, in the Haitian example, by the historical role that racial stratification had played, and continued to play, in the ordering of wealth and power.[154]

It was through this set of complex class and racial relations that US rule in Haiti was mediated. Whilst the US state did, of course, deploy direct military violence to deadly effect, much of its power was exercised in an indirect way through the backing of candidates who would support the occupation and institutions staffed with those willing to cooperate. In 1918, the Marines (with Dartiguenave's backing) had dissolved the Haitian Congress and Senate — bodies elected by popular vote, which then elected the President. In their place was established a *Conseil d'Etat* mandated by the new constitution, a 21-person strong body.[155] The role of the *Conseil* was to act in the stead of the legislature in terms of passing legislation and electing the President, with its members being appointed by the President himself.[156] Despite this, Dartiguenave failed to be 're-elected' in 1922 and was replaced by Louis Borno, a figure eager to cooperate with the occupation.[157] Alongside this, after the 1922 Senate hearings, the US appointed General John Russell as 'High Commissioner', combining civilian authority with the highest rank in the Marine Corps.[158] The occupation's governance structure relied upon a strengthening of the power of the Haitian executive and the sidelining of the Haitian legislature, which reflected the more combative mood of the Haitian population.

Of course, these are not dynamics that international law can take into account. From the perspective of international law and international legal institutions, it is precisely the executive that 'speaks' as the voice of the state as a whole. The representatives of Haiti at the League were all necessarily appointed by the Haitian executive and, as such, reflected the relationship that the executive had with the occupation forces. It was for this reason that a figure like Bellegarde was ultimately circumscribed in his ability to criticise the occupation in any 'official' capacity at the League.

This was, of course, buttressed by the composition and function of the League itself. As has been well rehearsed at this point, the League was hardly a bastion

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152 Ibid 152.

153 Ibid 152–3.

154 See Magdaline W Shannon, *Jean Price-Mars, the Haitian Elite and the American Occupation, 1915–1935* (Macmillan Press, 1996) 35–8.

155 Schmidt (n 31) 97–100; Donald B Cooper, 'The Withdrawal of the United States from Haiti, 1928–1934' (1963) 5(1) *Journal of Inter-American Studies* 83, 84.

156 Cooper (n 155) 84.

157 Dubois (n 17) 278–9.

158 Ibid 277.

of anti-imperialism. On a formal level, the League recognised the legitimacy of colonialism and imperialism. It included colonial powers, colonies and dominions as members and, through the mandate system, continued to reproduce the colonial logic of civilisation.[159] At the same time, the League was organised around the 'co-operation' of sovereign equals.[160] Logically, therefore, the League could not be a site in which the underlying capitalist dynamics of imperialism could be challenged.

In this respect, alongside the more overt limits to political resistance described above, we can also note the way in which resistance in the League assumed a language that was ultimately amenable to the status quo. Take, for instance, Bellegarde's celebrated speech. In his analysis of US imperialism, Bellegarde clearly drew on a Marxist-inflected explanation, which rooted it in the overproduction of capital. Yet whereas Marxists argued that this called for the overthrow of capitalism,[161] Bellegarde took a different tack. He stated that the solution to US overproduction could be found through increasing the 'purchasing-power' of the US's 'Latin American clientèle'.[162] For Bellegarde, this purchasing power could only be achieved through loans from the US, which had 'become the world's creditor and lender on the largest scale'.[163] This was the nub of the problem, since, according to Bellegarde,

> [c]redit, in its etymological sense, is synonymous with confidence. If you lend money to someone it means that you believe in him, in his solvency, or in the value of the real securities he offers. But the borrower also must have confidence in the lender — he must be sure that behind the loan there lurks no idea of monopoly, of conquest, of laying violent hands on his property, his liberty or his rights; he must believe that the money offered him is not a trap in which he risks life or limb.[164]

This lack of confidence was felt on 'both sides', with US investors fearing to 'place their money in enterprises which are unsound' and Latin American borrowers seeing 'behind each Yankee capitalist the shadow of serried ranks of American marines'.[165] Such mutual distrust needed to be 'dispelled by political action based on frankness and loyalty, as well as by close co-operation between business men in all American countries'.[166] Ultimately, Bellegarde fell back on 'the strict application of the principle of … legal equality … and absolute respect for … independence' as a solution.[167] In order to ensure that such debt did not bring with it the desire of intervention, Bellegarde, following Herbert Hoover's recommendation in 1927, suggested that money should not be lent 'for military objects, for armaments, for unproductive expenditure'.[168]

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159 Tzouvala, *Capitalism as Civilisation* (n 54) ch 3.
160 *Covenant of the League of Nations* (n 121) Preamble.
161 See generally Brewer (n 38).
162 'Fourth Plenary Meeting' (n 132) 45.
163 Ibid.
164 Ibid.
165 Ibid.
166 Ibid.
167 Ibid.
168 Ibid.

The invocation of sovereign equality demonstrates how even a radical objection to the existing order could be transformed through the legal language of the League. As previously noted in this article, Haiti's acceptance of the *1915 Treaty* — understood as the foundation of the occupation — was framed as an *exercise* of Haitian sovereignty. Bellegarde objected to this, noting — correctly — that the Treaty was clearly the result of the exercise of military force. But even as Bellegarde repudiated the particularities of the occupation, he nonetheless ultimately articulated its basic, racialised logic: that states in the US's orbit needed 'aid', and that 'aid' would come in the form of US loans.

Ultimately, then, Bellegarde was unable to publicly oppose the very system that underlay imperialism and ultimately the occupation. By acknowledging that US investors had *legitimate* concerns about the safety of their investments in Latin America, Bellegarde left the door open to extensive forms of economic and political transformation, even if explicit military violence was off the table.

## IX ENDING THE OCCUPATION

The indifference of the League to the Haitian occupation was in stark contrast to the mood 'on the ground' in Haiti. Armed rebel groups — dubbed Cacos — launched regular guerrilla wars from the mountainous regions, and many of Haiti's traditional elites chafed under the 'unbalanced joint dictatorship' of Borno and the US Marines.[169] A particular source of tension was Borno's continued refusal to reinstate the Haitian legislature (thus maintaining his own presidency). In October 1929, Borno declared that, once again, there would be no popular elections, precipitating mass unrest amongst the Haitian population.[170] Borno's announcement came amidst a strike by Haitian students against the occupation. In response, martial law was declared, and leaders of the student strike were arrested. These events culminated in December 1929, when a 1500-strong group of Haitians who demanded the release of three strike leaders was fired upon in Aux Cayes, killing between five and 24 people.[171]

In response to this growing tension, US President Hoover deployed a commission led by William Cameron Forbes — 'a former governor of the Philippines and leading expert on American colonial matters' — to investigate the situation.[172] Whilst publicly praising the achievements of the occupation, the commission criticised American racism and policy failures, and essentially called for both democratic elections and a move away from US military governance.[173] Borno stepped down as President and a temporary technocratic President — Eugene Roy — was 'elected' by the Council of State, who called for new legislative elections.[174]

In the elections, the decisive winner was the 'Cartel' — a collection of anti-occupation figures — who elected Stenio Vincent, 'mulatto and longtime

169 Cooper (n 155) 84; Dubois (n 17) 225.
170 Cooper (n 155) 89; Dana G Munro, 'The American Withdrawal from Haiti, 1929–1934' (1969) 49(1) *Hispanic American Historical Review* 1, 5–6.
171 Cooper (n 155) 90–2.
172 Schmidt (n 31) 208.
173 Ibid 211–16.
174 Ibid 211.

opponent of the occupation',[175] as President.[176] At the same time, following the 'resignation' of General Russell, a civilian — Dana Munro — was appointed as Minister in Haiti, replacing the role of High Commissioner.[177] All of this set the scene for the end of the military occupation and the 'Haitianisation' of the government. Yet the question remained as to what role the US would continue to play in relation to Haitian debt. This was a question of international law, since

> [n]either Haiti nor the United States, in fact, was free to terminate American supervision of Haiti's finances, even after the treaty expired, because the protocol of 1919 provided that an official nominated by the president of the United States should control the collection and allocation of the Republic's revenues during the life of the loan which the protocol authorized.[178]

This was especially significant, since by 1936, 'debt service would consume nearly one-fifth of the government's normal revenue'.[179] Given the resistance of the Haitian legislature, numerous options were pursued: a treaty was initially signed by President Vincent but was refused ratification, and finally an accord was reached between President Vincent and the US.[180] The details of this accord maintained much of the financial control that had been initially established in the *1915 Treaty* by appointing a 'fiscal representative' who

> would control customs, inspect the Internal Revenue Service, set limitations on the Haitian government budget, and be able to set up and control reserve funds. The Haitian government was forbidden to increase its indebtedness, change tariffs and taxes, or dispose of investments without his consent.[181]

The accord remained in force until 1941, when 'a new agreement … abolished the office of fiscal representative and entrusted most of its functions to the National Bank of Haiti, which was reorganized with three American and three Haitian directors with an American as manager'.[182] In a sense, then, the limitations of Bellegarde's vision at the League were illustrated in stark terms. Even after the end of the military occupation and the Haitianisation of the government, debt remained the crucial mechanism through which Haiti's economic policy was integrated into the objectives of US capital. Sovereignty and independence were perfectly capable of existing with economic subordination, mediated through the racialised inability of Haiti to pay off its debts.

## X CONCLUSION: IMPERIALISM, NEO-COLONIALISM AND THE LEAGUE

Despite the somewhat ignominious nature of its departure, the US state achieved many of its objectives in Haiti. Very early on, the occupation had displaced both French and German capital. The political and legal structures that mandated debt repayment above all else meant that the interests of US financial

175 McPherson (n 41) 257.
176 Ibid 256–7.
177 Schmidt (n 31) 220.
178 Munro (n 170) 8.
179 Ibid 21.
180 Schmidt (n 31) 225–6.
181 Ibid 226.
182 Munro (n 170) 25.

capital had been firmly preserved. This was justified through the idea that by not defaulting on its debts, Haiti would become a creditworthy country attractive to foreign investment. Predictably, however, the lopsided development occasioned by diverting a large part of the Haitian state's revenue away from investment and into debt service left the Haitian state unable to pursue forms of economic development.

The combination of debt, financial control and economic reality bound the Haitian economy quite tightly to that of the US, and by 1947, 'the American share of the Haitian import trade regained its previous level of 75 percent'.[183] With the end of the occupation, the attendant fear of political instability and the lack of any rivalry, US capital did not invest intensively within Haiti itself. Owing to the prioritisation of customs duties during the occupation, the Haitian economy became more decisively oriented to exports, particularly coffee.[184] The net result of this was to increase Haitian dependence on the US as an export market. Given the nature of coffee as an export, Haiti's international 'competitiveness' was almost entirely dependent upon repressing the wages of and imposing discipline upon workers so as to suppress the costs of export production.

These economic measures also had the effect of further centralising the Haitian economy. With the defeat of French and German capital, and a greater focus on the export of coffee, the economic centre of gravity shifted more decisively to the capital city, and wealth became more centrally concentrated.[185] At the same time, the creation and consolidation of the *Gendarmie* — renamed the *Garde d'Haiti* — had brought into being a militarised and independent power base in Haiti. This, combined with the political centralisation — especially in the executive — that had crystallised under the occupation, created the conditions for the further centralisation of power in a number of dictators who would 'stabilise' Haiti so as to guarantee continued export production.[186] The end result of the occupation was thus the creation of the perfect conditions for the continuation of neo-colonialism — with or without the 'supervision' of the US.

As previously noted, critical international legal scholars have understood the League as a 'laboratory' for unpacking and unravelling sovereignty and its relationship to imperialism. Here, however, the focus has been on the mandate system. Rajagopal, for instance, argues that it was in the mandate system that 'the colonial powers' were able to 'shift the moral burden for the administration of the colonies from themselves to a technocratic, faceless bureaucracy'.[187] Anghie goes further, proposing that the mandate system was where the tension between the desire of colonial peoples for independence and 'their economic value and their significance for the metropolis' could be mediated in the latter's favour.[188] Specifically, this 'was achieved by a technique of rendering the whole

183 Schmidt (n 31) 232.
184 Michel-Rolph Trouillot, *Haiti: State against Nation* (Monthly Review Press, 1990) 103.
185 Kurt B Young, 'Walter Rodney and the Politics of the Haitian Ruling Class: Rethinking the State in Haiti' (2011) 28(1) *Journal of Third World Studies* 61, 70–1.
186 Ibid 71, 73–5.
187 Rajagopal (n 9) 52.
188 Anghie, *Imperialism, Sovereignty and the Making of International Law* (n 9) 144.

of mandate society in economic terms';[189] this enabled the system to devise 'a set of technologies that would compromise that independence and maintain — indeed, entrench — the division between advanced and backward states'.[190]

Crucially, then, for both Anghie and Rajagopal, 'the techniques invented by the Mandate system' were 'fully deployed'[191] in the context of the Bretton Woods institutions of the World Bank and International Monetary Fund, which became 'the contemporary successors of the Mandate System'.[192] In this new system, '[r]ace is distanced from international law',[193] and — as Sundhya Pahuja puts it — it was replaced by a 'new scale secured by the ostensibly "scientific" measure of Gross National Product (GNP)'.[194]

Haiti's occupation and membership in the League complicates this narrative. Whilst it is true that the mandate system did develop a number of techniques to delve deep within the internal life of particular societies, it did so explicitly in the context of these societies being composed of peoples 'not yet able to stand by themselves under the strenuous conditions of the modern world'.[195] The techniques developed in the mandate system were ultimately premised on a lack of sovereignty. Yet in Haiti — and indeed in other states within the US periphery — a set of techniques had been devised whereby legal sovereignty could be maintained at the same time as extensive forms of economic surveillance and control. Indeed, in legal terms, these forms of surveillance and control were, as a matter of law, only possible *because* of Haiti's sovereignty.

The authority of the mandatory state necessarily rested upon a structure of formal subordination, in which the mandate territory was not a fully formed legal subject. By contrast, in Haiti, the authority of occupation, and its financial control, was rooted in the legal consent and 'request' of the Haitian state. League membership forced the Haitian government to publicly accept this state of affairs and limited its ability to oppose the occupation. Perhaps most importantly, even after the occupation had ended, the nexus of debt and legal obligation enabled direct US supervision over Haitian finances for decades. It is precisely *this* set of legal techniques that have been generalised by the Bretton Woods institutions. Whilst these institutions have clearly 'opened up' the sovereignty of their target institutions and are able to exercise surveillance and discipline, they do so explicitly on the basis of the consent of their sovereign members.

Of course, in the case of Haiti, this consent looked somewhat problematic, since Haiti had in fact been *invaded and occupied*. It was here that a particular racial fix emerged, as concretised in the law. Whilst Haiti was always understood as sovereign, racial assumptions were used to cast doubt on Haiti's ability to exercise that sovereignty — and fulfil its international obligations — correctly. These racial assumptions were then used to reframe the invasion of Haiti as a 'request' from backwards Haiti to its 'elder brother' in the US for financial and political aid, as underlined in the *1915 Treaty*. The League played a vital role in

189 Ibid 179.
190 Ibid 192.
191 Rajagopal (n 9) 25.
192 Anghie, *Imperialism, Sovereignty and the Making of International Law* (n 9) 191.
193 Ibid 193.
194 Pahuja (n 72) 48.
195 *Covenant of the League of Nations* (n 121) art 22.

stabilising this racial fix, by forcing Haitians to paradoxically reaffirm their sovereignty and thus deny the force of the occupation. These racialised logics are recapitulated in the Bretton Woods institutions, which present states hit by the ravages of global capitalism as lazy, corrupt or inefficient actors seeking aid.[196] At the same time, by participating in these institutions, and by publicly requesting funds, peripheral states publicly perform their consent to this characterisation.

What is crucial in this lineage is that it militates against the idea of a wholesale break — inaugurated via the mandate system — between a legal order based on 'race' and one based on 'economics'. The logics of racialisation have, from the start, been deeply imbricated in processes of economic exploitation and accumulation, with these processes in turn being unthinkable *without* racial dispossession.[197] Capitalism has always needed racial fixes. On a concrete level, examining Haiti's occupation demonstrates that 'race' and 'economics' are simply not separable. Practices of racialisation were *always* coded in an economic language, particularly around the inability of racialised populations to shoulder their debt burdens and their need for economic and financial aid from 'elder brothers'. The 'economic' arguments deployed in the wake of Second World War were forged in this crucible and are essential in articulating the relationship between sovereignty and imperialism.

In this way, the Haitian example also demonstrates the vital importance of understanding the way in which the changing forms and patterns of capitalist accumulation are closely tied to changing juridical logics, as mediated through particular forms of racialisation. As these forms and patterns shift — through crisis, through inter-imperialist rivalries and through anti-imperialist struggles — new racial fixes come into being. In this respect, the League was important not just because of its formal mandate system but because it served as a laboratory for a world in which imperialism was not simply imposed 'from above' on subject territories. Instead, techniques were developed suitable for an imperialism rooted in the 'consent' of peripheral states to the global economy, with their own internal complex class struggles. Operating at a critical transition point, Haiti's membership in the League demonstrates the techniques through which a sovereign, independent state could be subjected to capitalist imperialism whilst simultaneously affirming its sovereignty.[198] It moreover demonstrates how the particular structures of an international organisation could channel such resistance and dissent into mechanisms that did not fundamentally call the status quo into question.

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196 James Thuo Gathii, 'Representations of Africa in Good Governance Discourse: Policing and Containing Dissidence to Neo-Liberalism' (1998) 15(4) *Third World Legal Studies* 65.

197 Knox (n 19).

198 Many international legal scholars continue to misapprehend the nature of imperialism, identifying it with conquest and loss of sovereignty. For a recent critique of this approach, see Tor Krever, 'Into the Bramble Patch' [2020] (126) *New Left Review* 79.