Book Reviews

Guy Fiti Sinclair. ***To Reform the World: International Organizations and the Making of Modern States***. Oxford: Oxford University Press, 2017. Pp. 368. £70. ISBN: 9780198757962.

Disagreements regarding the appropriate scope of the mandates of international organizations (IOs), played out in legal doctrines such as implied powers, have long been a staple of international institutional law. And debates about the relationship between states and international organizations and concerns about IO 'mission creep' have long pervaded the international relations literature. Guy Fiti Sinclair, in this learned, thoughtful, and well-researched book, argues that the expansion of the powers of international organizations over the course of the 20th century was inextricably linked with those organizations' attempts to 'mak[e] and remak[e] . . . modern states on a broadly Western model' (at 283). In case studies of three organizations spanning the bulk of the 20th century – the International Labour Organization (ILO), the United Nations, and the World Bank – he details the liberal policies and programmes that those institutions sought to promote and pursue as well as the interpretations and arguments developed by their officials, particularly their lawyers, and subsequently affirmed by judges who justified those goals and the powers designed to implement them. As Sinclair explains it, IO expansion was not in the service of internationalism for internationalism's sake, nor was it conducted by rogue officials. Rather, the doctrinal moves and decisions to extend IO authorities were taken in the service of particular projects born of a certain (if evolving) conceptualization of the state, as advocated by multiple participants, public and private. In short, IO expansion and its supporting legal doctrines and other techniques of justification had a politics. Sinclair's book is therefore a double history. It is a story of how IOs were used by states and other international actors to promote policies that required actions by IOs going beyond those apparently authorized by the formal strictures established by their founding charters. It is also an exploration of the legal arguments and related practices that were formulated and reformulated to justify these innovative moves and the people (famous and obscure) who crafted them. In so doing, Sinclair both contextualizes the work of IOs and looks deeply into their workings, moving seamlessly between external machinations and internal debates. Remarkably, and unusually, he does this for not one but three IOs, making a unique contribution to the historiography of international organizations.

In Sinclair's telling, IO expansion 'has, to a significant extent, been envisaged, rationalized, and carried out as necessary to the purpose of forming and reforming modern states' (at 14). States themselves, he writes (quoting Foucault) are 'a kind of superstructure or codification of powers that is formed by the "gradual, piecemeal, but continuous takeover by the state of a number of practices, ways of doing things, and, if you like, governmentalities"' (at 14). The state consequently is produced through a process of cultural amalgamation of rationalities and technologies. International organizations promoted state formation by supporting the production of such practices. And, indeed, the process was advantageous for IOs, as their authority and work grew along with those of states. Though Sinclair is quick to disclaim the notion that all IO expansion was due to 'the making of modern states', thereby eschewing inevitability and stressing contingency and contestation, he sees the growth of IOs and states over the course of the 20th century as mutually constitutive. Indeed, he writes, 'IO expansion is intimately bound

up with the creation of states, the construction of state powers, and the very constitution of modern statehood' (at 16).

State formation can take various forms, and Sinclair argues that IO expansion in the 20th century was the particular product of 'liberal reform'. By liberalism, Sinclair means 'a critical ethos and practice [based on the principle of individual freedom] that . . . is constantly concerned with the problem of "governing too much"' (at 17). Liberalism both wishes to separate certain areas of society (the family, the market) that should be free from government interference to allow for individual liberty, and, at the same time, authorizes and even requires the state to exercise powers to provide individuals with the security and the necessary capacities that allow them to exercise their liberty. Sinclair describes the constant, endless, and inevitably imperfect balancing and rebalancing of these opposing claims on states, the redrawing of the lines between public and private, as 'liberal reform'. Law plays a critical role in liberal reform as it is both authority-conferring and authority-limiting, providing one valence for the continual contestation of liberalism's two poles.

In order for IOs to help make and reform states in these ways, they needed to attain through argument and persuasion the requisite formal and informal authority to act, as well as the attendant legal capacity to do so. This required the development of certain forward-leaning ways of thinking about an organization's powers, including the introduction and development of the metaphor of 'constitutional growth' to support interpretive methods that pushed an organization's charter beyond its original, plain text. It also demanded that an IO's civil servants, including their lawyers, be envisioned as depoliticized and as retaining moral and expert authority, in multifarious forms. Liberal reform was buttressed in these three ways by those inside and outside IOs – states, secretariats, individuals, social movements, non-state actors – who sought to promote, legitimize and influence IO action in complicated ways. Thus, as international organizations sought to reform states, so too were IOs formed and reformed.

To get a sense of what Sinclair is after, it is worthwhile to examine his three case studies, if only in brief. He begins by describing the expansion of powers of the ILO in the 1920s and 1930s, from standard-setting to technical assistance. In particular, he writes, 'the practices of technical assistance undertaken by the ILO were increasingly directed toward educating and assisting peripheral states in the adoption of technologies of government that aimed at both the reform of individual conduct and the regulation of society as a whole' (at 30–31). The ability of the ILO to undertake these innovations was challenged, leading to three advisory opinions by the Permanent Court of International Justice in the 1920s that affirmed the legal basis of the ILO's activities (its competence) and established the foundation for the continued extension of its mandate. By the late 1920s and into the 1930s, the ILO began to take its Western social welfare model of the state beyond Europe, ultimately 'to construct an intellectual and institutional framework for a universal project of development that would become entrenched in the decades following World War II' (at 76).

Taking up its second case, the book then goes on to describe the creation of UN peacekeeping, proceeding from the Korean conflict in 1950, to the UN Emergency Force in 1956, and the Opération des Nations Unies au Congo (ONUC) in the early 1960s. Here, too, arguments were developed by IO lawyers and subsequently affirmed, now by the International Court of Justice famously in its Advisory Opinion on *Certain Expenses of the United Nations* that supported the expansion of the institution's powers. Much of this story is familiar, but most interestingly Sinclair shows how peacekeeping, with the Congo intervention, expanded beyond concern for territorial integrity and state sovereignty and became intertwined with a programme of modernizing the state in the age of decolonization. As Sinclair writes, the 'Congo operation, in particular, was distinctive in attempting . . . to link the goals of peacekeeping to a model of the state

in which the provision of social welfare was central to the concerns of government' (at 115). The example is also important because it was not a success, insofar as its model was not taken up again for decades.

The book concludes with a narrative of the evolution of the World Bank's operations from its founding to the near present. A more familiar story, the extension of the World Bank's mandate most obviously supports the thesis presented of IO attempts to make and remake modern states, through policies like structural adjustment. Each of these case studies follows the same trajectory in which the organization's mandate is extended, challenged, and, once upheld, extended further.

Sinclair's history shows that the operationalization of international organizations is not predetermined but rather stems from particular moments in time and the relative power of the many actors that participate in and exert influence over IO decision-making. By bringing together the histories of these three IOs he convincingly builds a broader understanding of how and why international organizations developed over the 20th century in the specific ways that they did. Things – including legal doctrines – don't just happen randomly. They occur or are created because individuals or governments or social movements or organizations want them and because they satisfy a perceived need. It follows that IOs will expand the scope of their activities (or not) for different reasons, and to his credit Sinclair disclaims the notion that the dynamic of liberal reform he describes applies to all IOs.

To put it differently, or perhaps crudely, expansion allowed IOs to provide a desired service that governments and private organizations could not. The service provided in these case studies was the reinforcing of states according to a particular model. While most thinking about IOs assumes that states and international organizations are involved in a zero-sum power game, in which the gains of one are directly offset by the losses of the other, the expansion of IO authority is often designed to bolster the authority of states.[1] IOs and states are not in opposition but in fact mutually reinforcing. One might say that states 'win' by 'losing' their authority to IOs, but in fact such calculations misapprehend the mutually supportive logic. Everybody wins, at least if everybody agrees on the policies being promoted. Sinclair recognizes this dynamic. As he writes, 'IO expansion leads not to the transcendence of the nation-state system, but rather its ongoing (re)formation, strengthening, and imbrication with the international' (at 295). While he maintains a critical distance, the particular story Sinclair tells in this book is of 'liberal reform', and hence the dynamic relationship between states and IOs, and particularly the expansion of IO powers over the course of the 20th century to 'make modern states', reflects the liberal imperative. He describes the overlapping justifications for and practices employed by both IOs and states: the 'morally inflected ethical discourse', the 'technical vocabulary of expertise', 'the adoption of managerial attitudes and techniques', 'the use of humanitarian appeals', and 'the ever-converging concerns of security, development, and good governance' (at 296).

Sinclair suggests that this form of governance, which was the mainstay of international organizations in the 20th century, will continue to define those institutions during this century. At the very end of the book, he writes that 'the "new" forms of governance emerging in the twenty-first century may not be so new after all' (at 296). But it is unclear whether the liberal justification, which is so central to Sinclair's story, will endure. That does not mean that the alliance between IOs and states will dissolve or that some aspects of the old order, such as IO claims of expertise, will not last. Just as IO expansion over the course of the 20th century was, as Sinclair well documents, 'imagined, understood, and undertaken as necessary to a process of

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[1] *See, e.g.*, Cogan, 'Stabilization and the Expanding Scope of the Security Council's Work', 109 *American Journal of International Law* (2015) 324.

making modern States on a broadly Western model' (at 2), the continued relevance of IOs going forward may depend on their promotion of a non-Western one. IOs, like international law, can serve an illiberal project just as easily as a liberal one.

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Christian Henderson (ed.). ***Commissions of Inquiry: Problems and Prospects***. Oxford: Hart Publishing, 2017. Pp. 371. £75. ISBN: 9781782258766.

The post-Cold War era has seen a dramatic proliferation in the use of 'inquiry bodies' – that is, ad hoc institutional arrangements that engage in fact-finding and legal analysis to arrive at non-binding conclusions and recommendations. Calls to establish new commissions of inquiry – to fill a perceived need for the impartial, independent assessment of the latest international crisis – have become commonplace. UN organs, regional bodies and individual states have established such bodies (commissions of inquiry, fact-finding missions, high-level expert panels – the label used usually reveals little about their function) for a wide array of purposes: to promote compliance with international law and accountability for its transgression; to facilitate diplomatic settlement; to inform (or, perhaps, to forestall) collective action by international bodies or to realize a so-called 'right to truth'. This is but a partial list.

Legal scholarship has begun to catch up with practice, and *Commissions of Inquiry: Problems and Prospects*, edited by Christian Henderson of the University of Sussex, is the most recent book-length entrant into the fray.[1] Comprising an introduction and 13 chapters divided into four sub-categories (the diversity of commissions of inquiry; their relationship with international courts and tribunals; substantive engagement with international law; and procedural questions and working methods), the contributors include those with established track records in writing about inquiry and fact-finding (for example, Théo Boutruche, Russell Buchan and Rob Grace) alongside legal scholars who work primarily in other areas of international law. The book thus brings several new voices into ongoing debates about where, as Henderson writes in the introduction, commissions of inquiry 'fit within ... the legal landscape' (at 5).

Most of the contributors work from the prevailing assumptions that attach to commissions of inquiry in both scholarship and policy-making circles: namely, that commissions of inquiry have the capacity to clarify and resolve disputed facts, establish a historical record and make authoritative determinations about alleged violations of international law and that they make a positive contribution to the work of international organizations and international courts and tribunals – in short, that commissions of inquiry are *useful*. Several chapters recount (in various levels of detail) the now familiar narrative that inquiry has evolved from being an instrument aimed at interstate dispute settlement, as envisioned by the 1899 and 1907 Hague Peace Conventions[2] (and as famously used in response to the 1905 *Dogger Bank* incident) to 'providing

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[1]   Recent edited collections on commissions of inquiry and fact-finding include M. Bergsmo (ed.), *Quality Control in Fact-Finding* (2013); P. Alston and S. Knuckey (eds), *The Transformation of Human Rights Fact-Finding* (2016). Like these earlier volumes, *Problems and Prospects* offers a wide-ranging, diverse collection of articles but is arguably less focused around a central organizing question or theme.

[2]   Convention for the Pacific Settlement of International Disputes (adopted 29 July 1899, entered into force 4 September 1900); Convention for the Pacific Settlement of International Disputes (adopted 18 October 1907, entered into force 26 January 1910).