
Book Reviews

Cait Storr. ***International Status in the Shadow of Empire: Nauru and the Histories of International Law***. Cambridge: Cambridge University Press, 2020. Pp. 318. £85. ISBN: 9781108498500.

‘Nauru is not a parable of future collapse’, writes Cait Storr, nor is it ‘an island dystopia’ (at 13). *International Status in the Shadow of Empire: Nauru and the Histories of International Law* is precisely about showing that there is more to say about Nauru than the well-worn and often-racialized tropes about the island. Nauru was categorized as a British class-C Mandate through the notoriously racist language of Article 22 of the Covenant of the League of Nations owing to its ‘sparseness’ of population, ‘small size, or . . . remoteness from the centres of civilization’.¹ Indeed, the decision to tell a story about imperial administration through a place that is often deemed marginal is, as Storr argues, both a methodological and a political decision (at 26). The book narrates the story of phosphate-rich Nauru from the 19th century, when it became a German protectorate, until after its independence. One of the book’s primary aims is to centre the history of Nauru, the 21 square kilometre single-coral atoll in the Western Pacific that became an independent nation-state. It starts from the premise that the story of Nauru, while always presented as peculiar and peripheral, ‘is not anomalous to the contemporary international legal order but deeply symptomatic of it’ (at 9).

Storr offers an impressive and thoroughly researched account of Nauru’s imperial history in relation to international law and its different technologies of governance. More specifically, Storr argues that as Nauru’s international status shifted – from being a German protectorate to a German colony to a League of Nations’ British mandate to a UN trust territory and finally to a sovereign state – the imperial administrative form accreted. The book centres these processes of administration as experimentation driven by capital and imperial geopolitics rather than international legal concepts. Through Nauru, Storr argues that there is a disjuncture between international status and internal administration, between concept and practice and between law and the lived reality. Formal independence was only the beginning of the process of decolonization, not its end (at 260). Imperial administration has afterlives, directly producing Nauru’s contemporary ‘failures’ (at 8).

The book is divided by the transitions or changes in Nauru’s international status. Nauru became a German protectorate in 1888 under the company administration of the Jaluit Gesellschaft. The second chapter shows the inadequacy of the concept of the protectorate in capturing the nature of administration in Nauru that was based on a deal struck between the Reich and the company, and motivated by German

¹ Covenant of the League of Nations Adopted by the Peace Conference at Plenary Session, 28 April 1919, 13 *American Journal of International Law Supplement* (1919) 128.

corporate demands in the Pacific. The familiar colonial story of a resource-extraction company involved in administering a territory shows how capital was imbricated within the logics of the protectorate, which ‘was explicitly intended to “protect” not the Nauruan population, but German trading interests on the island’ (at 46). Chapter 3 is a superb account of the commodification of phosphate, inter-imperial competition and the industrialization of agriculture. In this chapter, a picture from the National Archives of Australia depicting a group of Chinese labourers with the Pacific Phosphate Company officers sometime around 1906 to 1908 is a visual articulation of how class and race relations take a particular form in the colony (at 133). The picture is strange yet familiar at the same time. The workers are assembled in a curated pose with the hat-wearing company officers. Some workers are sitting, some are standing, some are lying down from exhaustion, boredom or perhaps it is an act of refusal of this spectacle. Some of these same workers would die in Nauru from dysentery or protein deficiency, as a result of actions taken by the company in retaliation for the workers’ strikes (at 133). This poignant picture is one manifestation of the complexities of property, labour and race as Nauru’s international status shifted from a protectorate to a colony to a mandate jointly administered by Britain, Australia and New Zealand. Importantly, this chapter starts to show how the shift in Nauru’s international status was only a discursive change, and that, for example, the 1888 Jaluit Agreement that calibrated the company and state rule in the territory was later incorporated to this jointly administrated mandate. The shift was simply a reshuffling of imperial rulers and corporate interests. Public authority, formerly vested in the Nauru District Office of the German Marshall Islands Protectorate, was transferred to the new Australian-appointed office of Administrator. And private rights that were enjoyed by the Jaluit Gesellschaft would be transferred to the new British Phosphate Commission (at 100).

Chapter 4 shows how new stages of bureaucratization and internal administration developed as Nauru’s international status shifted from being a mandate to a trust territory in 1947. While the transition from mandate to trust territory crystallized Australia’s international legal relationship with Nauru, administratively, this change meant very little. The Austrian Administration developed its internal bureaucracy of Nauru as a trust territory on the same structures established by the German Protectorate. One significant manifestation of this continuity is that the 1919 Nauru Island Agreement that established the tripartite monopoly over the phosphate industry was incorporated in the Trusteeship Agreement, albeit indirectly (at 202).

Chapter 5 marks the crucial transition of Nauru from a trust territory to a sovereign state in 1968. Importantly, this generally significant transition to statehood is presented as yet another continuation of imperial bureaucracy. The chapter captures the spirit of the United Nations’ tumultuous decades, when formerly colonized states started gaining independence, joining the UN and shifting the discourse in the General Assembly. This eventually helped put pressure on Australia to end its formal administration of the country. Despite this significant transformation in Nauru’s international status, the chapter argues that the country’s 1968 Constitution, drafted mostly

by Australian experts, was yet again a further accretion of the German imperial bureaucratic structures. The new constitution crafted an administrative structure that risked conflation of the roles of the legislature and the executive, an arrangement similar to the one concocted in the 1888 agreement between the company and the German Reich (at 209, 210). Significantly, it excluded the phosphate operation from legal oversight. It also failed to protect financial transparency of the phosphate operation and the disposal of phosphate royalty trust funds, considered to be Nauru's only source of revenue.

The final chapter focuses on the post-independence period, engaging with the story of how the International Court of Justice (ICJ) case of the Certain Phosphate Lands never reached the merits stage. A settlement was agreed upon by the parties in the form of the Nauru Australia Compact of Settlement (NACOS), incorporating a financial agreement that would effectively absolve Australia from any future legal accountability on its conduct in Nauru from 1920 to 1968. The chapter also weaves in the impact of the horrific story of Australia's offshore detention regime and the brutal immigration system on the rule of law in post-independence Nauru. The book, therefore, charts the history of Nauru as a continuation of imperial bureaucratic structures that continued to develop despite changes in the territory's formal legal status. As such, today's 'failures' are directly connected to this continued administrative system that was set up in the 19th century.

Storr's Weberian analysis shows that imperial bureaucratic forms were entrenched in Nauru from the times of the German protectorate until today. Thus, the changes that occurred in Nauru's international status represented not ruptures, but continuities of the same bureaucratic structures of governance. Storr argues that the change in international status in the form of different legal concepts was not translated into changes in Nauru's lived reality. On the contrary, the changing status reflected different stages in the bureaucratization of the imperial form of administration. Accordingly, the book shows that this is not simply the familiar story of neo-colonialism, but that colonial bureaucratic structures never truly went away. In other words, there has never been a rupture to justify the *neo* in neo-colonialism.

Following Weber, the book insists that bureaucratic forms, once established, become too difficult to destroy. Storr juxtaposes bureaucratic forms against international legal concepts, such as the concept of the protectorate or the mandate or even the sovereign nation-state, to show that she is interested in looking at the lived reality and not legal abstractions. She is interested in looking at how these changes in international status were translated (or not) *in practice*. For Storr, however, *in practice* meant the internal bureaucracy. I wonder whether bureaucracy can truly stand for practice. One could foresee another way of telling that story or another narrative strategy whereby the everyday relations of exploitation are integrated with the story about the bureaucracy. After all, bureaucracy cannot be simply seen as synonymous with lived reality. There is no reality without the people of Nauru – acting, refusing or engaging with this bureaucracy. There is a dissonance between the book's attempt to focus on lived reality and its often-one-sided focus on the story about the bureaucracy. The analysis

assumes some sort of primacy of bureaucratic continuity over the social and the material, and the tensions between them.²

The privileging of bureaucratic continuity means that the story is missing essential texture. It is missing the people at the heart of the problem. After all, it is a story about the continued exploitation of Nauruans at the hands of the company, the state and the empire. The book acknowledges this: ‘The Weberian account of bureaucratisation that shapes the narrative works at times to drain the book of colour and movement of human agency – and more crucially, of Nauruan agency’ (at 38). Storr correctly states that this book will not ‘satisfy those calling for histories of international law that rectify the chronic marginalisation of non-European peoples’ engagements with, modes of resistance to, and authorship of international laws’ (at 38). This is true, but it also will not satisfy those interested in the tensions between the people of Nauru as workers and acting political subjects, and the administration as both the state and the corporation. Showing this tension has a different political motivation from those calling for subaltern inclusion. Scholars of international law and empire know well that ‘doing history’ entails a serious political engagement with the archive and its sources. The book is conscious or perhaps self-conscious of this: ‘[t]he space remains open for accounts of that history, on Nauruan terms’ (at 38). Storr’s ethical consciousness of her own subject position, articulated so beautifully in the evocative prologue of the book, could have served, not to represent the people of Nauru, but to find their stories along the way in and through the story about the bureaucracy. The writing of history is not, and should not necessarily be, an act of representation. The crucial question is how to construct an account that shows tensions other than the all-too-familiar inter-imperial rivalry. The absence, while acknowledged, continues to leave a visible space in the book.

Despite this absence, the book remains an excellent new addition to critical legal scholarship. Storr brilliantly constitutes a narrative about the island that tells a broader story of how the logics of empire and capital have been historically connected, and how these logics were formative of relations of exploitation of land and labour that continue to dispossess and disenfranchise until today. As such, Storr stands with other scholars of empire who argue that imperialism is not simply an event that happened in the past, but a process that continues to manifest itself in different ways (at 39). Importantly, this complex conception of empire means that Storr correctly concludes that true justice from imperial domination is perhaps beyond the capacity of international law (at 29).

Mai Taha

*Assistant Professor, Department of Sociology
London School of Economics (LSE), United Kingdom
Email: m.taha2@lse.ac.uk*

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² While Storr situates the book within the tradition of Weberian Marxism, it is not clear how this tradition sheds light on the story about the bureaucracy in the book. For example, as Michael Löwy shows (whose piece Storr cites), Theodore Adorno and Max Horkheimer, while influenced by Weber, refuse the idea that bureaucracy is an inescapable fate of modernity. Michael Löwy, ‘Figures of Weberian Marxism’, 25 *Theory & Society* (1996) 431, at 436. See also Storr, *International Status in the Shadow of Empire*, at 22.