

The League of Nations, Ethiopia and the making of states

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I. Ethiopia as a lens on statehood and state-making

In the late nineteenth century, Abyssinia, though nominally recognized as an independent state, remained on the fringes of the international legal order. From 1906, it was the subject of a “Tripartite Agreement” in which Britain, France and Italy, the three European powers controlling surrounding territory, undertook to preserve the integrity of Abyssinia—yet reserved their respective interests against a future in which the country might collapse.¹ During World War I, Italian, and even some British, officials anticipated bringing Abyssinia under protectorate,² and Britain and Italy agreed in 1919 not to entertain any proposals for League membership.³ Even American planners, with no direct imperial interest at stake, took it for granted that “Abyssinia has no place in” the future League. These planners assumed a handful of other polities would be excluded on the basis of their small size or lack of independence, but Abyssinia, alone of the candidates then under discussion, was *self-evidently* disbarred.⁴ Yet in 1923, to “prolonged applause” in the League Assembly, Abyssinia was admitted as a member of the League by a unanimous vote.⁵ This admission was perceived by contemporaries as a startling expansion, and flattening, of a Eurocentric, hierarchical “family of nations.” Indeed the British Foreign Secretary

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Note on terminology, translation, spelling, sources: I here use ‘Ethiopia’ as the term which was preferred by the Ethiopian government in the twentieth century. Unless otherwise specified, translations from French are my own. Spelling of Ethiopian names, titles and places generally follows secondary literature. Abbreviations of sources: FO ((UK) Foreign Office files in National Archives, Kew); LNA (League of Nations Secretariat Archives); *LNOJ* (League of Nations Official Journal, with ‘SS’ denoting *Special Supplement* thereto); *LNTS* (*League of Nations Treaty Series*); MAE ((France) Ministère des Affaires étrangères); PAAP (Papiers d’agents et archives privées).

¹ Agreement between the United Kingdom, France, and Italy respecting Abyssinia, signed at London, December 13, 1906 [Cmd 3298], art 1(a). See Edward C Keefer, “Great Britain, France and the Ethiopian Tripartite Treaty of 1906,” *Albion* 13, no. 4 (1981): 364–80.

² Robert L Hess, “Italy and Africa: Colonial Ambitions in the First World War,” *Journal of African History* 4, no. 1 (1963): 105–126; Peter J Yearwood, “Great Britain and the Repartition of Africa, 1914–19,” *Journal of Imperial and Commonwealth History* 18 (2008): 316.

³ Harold G Marcus, *Haile Sellassie I: The Formative Years* (Berkeley: University of California Press, 1987), 43–45.

⁴ Scott/Miller skeleton draft of the peace treaty in *Papers Relating to the Foreign Relations of the United States 1919: The Paris Peace Conference*, vol. I (Washington DC: Government Printing Office, 1942), 298, 314.

⁵ *LNOJSS* 13 (1923): 125.

fretted privately that “if Abyssinia is admitted there will be no future ground for excluding anybody.”⁶

This article takes the Ethiopian case as a lens on how the existence of the League refracted approaches to statehood and belonging for polities on the margins of the “family of nations.” Unlike many other doctrinal or historical treatments, this article does not focus on any one juridical concept or doctrine, such as sovereignty, statehood, or recognition. Rather, it traces the flux within concepts, and the uneasy relation between them, which come to light when public statements in the League are read alongside deliberations within European foreign ministries, and projects of reform pursued in Ethiopia itself. Refocusing on the complexity of contemporary discussions reveals how juridical approaches have shifted over time in their relation to concrete factors such as military force, bureaucratic organization and political structures, and bridges a distinction entrenched by disciplinary demarcations in the secondary literature on statehood and state-making.⁷

The interwar history of thinking about statehood—or the relations between people, territory and political authority more broadly—is admittedly complex and multifaceted. This was a period of profound intellectual contestation over the relationship between law and the state.⁸ Peace settlements saw the construction of new political and territorial orders, grounded in sometimes-conflicting logics of historic right, self-determination on national or ethnic affiliation, and plebiscitary democracy; but inflected too by the demands of power politics.⁹ Innovations under League auspices, from the crafting of mandates to new arrangements for territorial administration, suggested new and sometimes divergent avenues in thinking about sovereignty, statehood and rule. The League put existing tensions, between a world of “powers” ordered hierarchically and a renewed commitment to nominal sovereign equality,¹⁰ and between an abstract notion of the state

⁶ Curzon to Cecil, 17 Sep 1923, FO 371/8410 [A 5519/5097/1].

⁷ In legal terms, for example, Ethiopian statehood dates from the late nineteenth century, if not earlier, whereas some social scientific accounts suggest that state-making did not begin in earnest until after WWII, and may remain unfinished today: see, eg, Christopher S Clapham, *Africa and the International System: The Politics of State Survival* (Cambridge: Cambridge University Press, 1996), 7–14; John Markakis, *Ethiopia: The Last Two Frontiers* (Boydell & Brewer, 2011), 14–17, 108; Alex de Waal, *The Real Politics of the Horn of Africa: Money, War and the Business of Power* (Cambridge: Polity Press, 2015), 155–73.

⁸ See, eg, Jochen von Bernstorff, *The Public International Law Theory of Hans Kelsen: Believing in Universal Law* (Cambridge: Cambridge University Press, 2010).

⁹ See, eg, Eric D Weitz, “From the Vienna to the Paris System: International Politics and the Entangled Histories of Human Rights, Forced Deportations, and Civilizing Missions,” *American Historical Review* 113, no. 5 (2008): 1313–43; Tara Zahra, “The ‘Minority Problem’ and National Classification in the French and Czechoslovak Borderlands,” *Contemporary European History* 17, no. 2 (2008): 137–65; Volker Prott, *The Politics of Self-Determination: Remaking Territories and National Identities in Europe, 1917-1923* (Oxford: Oxford University Press, 2016); Leonard V Smith, *Sovereignty at the Paris Peace Conference of 1919* (Oxford: Oxford University Press, 2018).

¹⁰ On the importance of the (great) “power,” as distinct from the “state,” as an actor in international society, Edward Keene, “The Naming of Powers,” *Cooperation and Conflict* 48, no. 2 (2013): 268–82.

and the realities of governance in empires, under new pressure. Nevertheless, the Ethiopian example does bring to light a distinct and important part of this larger picture.

The Ethiopian case reveals the League of Nations “making” states in several different ways. Most obviously, the existence of the League created a need for formal criteria for membership. This forced new articulations of what it was to be a state worthy of full membership in the international legal order. Such articulations were shaped in turn by the way the League changed the modalities of interstate interaction. The League made possible proceduralized, often public, exchanges on a footing of notional equality, which helped amplify previously marginalized voices in the initial debates over admission. Beyond admission, the League offered avenues through which Ethiopia could assert its own formal status—ostensibly already secured—as a state equal to other members, but also a potential mechanism for collective or foreign oversight and intervention.

In substantive terms, Becker Lorca has suggested that Ethiopian admission reflected an imperfect shift from a nineteenth-century “standard of civilization,” with strong cultural and religious dimensions, to a “more concrete” and ostensibly culturally neutral paradigm of “statehood.”¹¹ At least superficially, this was a shift from Eurocentric criteria, applied most authoritatively by European powers and publicists, to facially objective criteria applicable by any observer. On the other hand, Parfitt questions the extent to which the League really broke with older cultural and racial hierarchies, emphasizing that Ethiopia’s admission was subject to special obligations which encoded, rather than transcended, inferiority.¹²

Here, I suggest a distinct reading. I argue that the Ethiopian case shows not so much a coherent interwar reformulation of statehood as an *absence* of any formulation which interlocutors found wholly compelling. It shows that, precisely at the moment in which criteria for admission to a new institutional incarnation of the international community were being formalized, there was a curious absence in the League debates of explicit discussion about political authority, and what might crudely be called state capacity. Stated criteria on which applications for admission were examined assumed, but did not explicitly demand, many of the attributes which had loomed large in nineteenth-century discussions. Where European officials sought to think in principled terms, it was clear the formal criteria were not wholly capturing the conscious and unconscious assumptions about the nature of the state. The perceived lack of certain attributes in Ethiopia—and the

Keene and Simpson converge in their emphasis on stratification and hierarchy alongside new legal instantiations of sovereign equality: Edward Keene, “The Standard of ‘Civilisation’, the Expansion Thesis and the 19th-Century International Social Space,” *Millennium* 42, no. 3 (2014): 651–73; Gerry Simpson, *Great Powers and Outlaw States: Unequal Sovereigns in the International Legal Order* (Cambridge: Cambridge University Press, 2004).

¹¹ Arnulf Becker Lorca, *Mestizo International Law: A Global Intellectual History 1842-1933* (Cambridge University Press, 2014), 266.

¹² Rose Parfitt, “Empire des Nègres blancs: The Hybridity of International Personality and the Abyssinia Crisis of 1935-36,” *Leiden Journal of International Law* 24, no. 4 (2011): 849–72; Robbie Shilliam, “Intervention and Colonial-Modernity: Decolonising the Italy/Ethiopia Conflict through Psalms 68:31,” *Review of International Studies* 39, no. 5 (2013): 1140.

unsatisfactory nature of the criteria themselves—was palliated only by a strongly remedial view of League admission. Formal criteria were, implicitly, waived, and admission was less an acknowledgment of status *as fact* than a portal to state-making *as process*, in which the League Council might play an active role.

This approach rendered the League’s “making” of Ethiopian statehood highly contingent on the interests of the European imperial powers, among other things. The linkage of admission and League-sponsored advice on Ethiopian administration—which might have enabled far-reaching interventions into Ethiopia—was ultimately not operationalized in the interwar years, until taken up opportunistically by Italy. The absence of concerted action earlier on was in part a result of inter-imperial competition between the three European powers most closely concerned with Ethiopia, turned to advantage by Ras Tafari to block any one power from insisting on a given program. But it also illustrated the limits of European thinking about processes of state-making in the interwar period. Just as there was uncertainty about the very definition of a state worthy of membership in the international order, there was a real dearth of theorization about how Ethiopia might reform, beyond approaches extrapolated from imperial administration or the mandate system. It was only in Ethiopia itself, under Ras Tafari, that one saw more concrete and experimental approaches to state-making.

This same contingency was present in the League’s procedural dimensions. For a time, Ras Tafari was able to make occasional use of the platform and procedures associated with the League to assert Ethiopian interests in ways not possible within nineteenth-century diplomatic practice. Italian expansionism and Anglo-French appeasement limited the reach and power of League mechanisms to safeguard Ethiopia’s interests in the 1930s, but Ethiopia’s use of the League platform to condemn the League’s own failure may have had resonance over the longer term, helping ensure Ethiopia’s re-emergence as a state after WWII.

The Ethiopian trajectory offers a new perspective on interwar shifts. It reveals a moment of profound uncertainty in conceptions of statehood and belonging, as the international order was reconceived through the League. This offers an important counterpoint to the more abstract European (if not German) debates about the nature of the state and its relation to law, which often dominate intellectual histories of international law; and draws attention to the range and complexity of state-making and statecraft occurring outside any European or League-dominated context. But the interwar episode may also, I argue, complicate and enrich our sense of longer twentieth-century chronologies. Ethiopia is rather unusual in its political trajectory: one of only a few African polities to retain a nearly unbroken claim to independence from the late nineteenth century into the present, and to articulate itself for much of this time as an empire implicitly comparable in structure to contemporary European empires. Yet precisely these unusual characteristics make Ethiopia revealing for global trends, by forcing the articulation of assumptions which went unspoken in other cases. In particular, the Ethiopian case challenges a narrative that locates pathologies of peripheral statehood in post-1945 decolonization. The Ethiopian case suggests that ambivalence about what kind of state was required in an

institutionalized, culturally diverse international order long predated 1945, and the “failed” states emergent from decolonization. Indeed the “failure” might lie in the imagination of the state, and how it could be integrated into a newly-constituted international legal and political community.

II. The nineteenth-century “family of nations” and its fringes

In the late nineteenth century, the status of particular polities vis-à-vis a larger international community was approached through a largely Eurocentric “standard of civilization.” Although contemporary treatments—and later commentary—underscore the importance of a common religious and cultural core to the so-called “standard,”¹³ this “standard” also encompassed at least some reference to governmental machinery, including the government’s ability to assert authority over the whole of its territory. Such capacity was, in turn, a functional precondition for other markers of “civilized” status of particular importance to European commerce, like the operation of courts; protection of the person and property of foreign nationals; and fulfilment of obligations under the law of nations.¹⁴

Despite the growing specificity of the “standard of civilization,” it never functioned in a binary way as the threshold for recognition or membership of what was often called the “family of nations.” Polities might be recognized as sovereign states, at least in and for the purposes of treaty-making, but this did not necessarily amount to *full* membership in the “family.”¹⁵ Indeed, provisions in many treaties for protection of foreign nationals, extraterritorial jurisdiction and the like marked the distance between non-European polities and the “civilized” world.

Ethiopia existed on the fringes of this system, and exemplified its complexities. Successive rulers in the Ethiopian empire, sometimes styling themselves as subordinate rulers, and sometimes claiming a title of emperor over other rulers, had been able to consolidate power through alternating cooperation and conflict with European powers in adjacent territories.¹⁶ Menilek II (then *negus* or King of Shoa, one of two kings under Emperor Yohannes IV (r 1872–89)), solicited weapons from, and signed treaties with, Italy. By a convention of 1887, the Italians promised Menilek rifles, and undertook not to annex any of Menilek’s territory, in exchange for Menilek’s neutrality in any conflict between Italy and Emperor Yohannes. Attacks on Ethiopia’s western

¹³ See, eg, Georg Schwarzenberger, “The Rule of Law and the Disintegration of the International Society,” *American Journal of International Law* 33, no. 1 (1939): 64–65; Mark Mazower, “An International Civilization? Empire, Internationalism and the Crisis of the Mid-Twentieth Century,” *International Affairs* 82, no. 3 (2006): 553.

¹⁴ Gerrit W Gong, *The Standard of Civilization in International Society* (Oxford: Oxford University Press, 1984), 14–17.

¹⁵ *Ibid.*, 24, 32–34. On the significance of treaty-making as entailing at least some recognition of *de jure* sovereignty, Charles Henry Alexandrowicz, *The European-African Confrontation. A Study in Treaty Making* (Leiden: Sijthoff, 1973).

¹⁶ See, eg, on British relations with rulers in what would later be Ethiopia, E Hertslet, R W Brant, and H L Sherwood, eds., *Map of Africa by Treaty*, 3rd ed, vol. II (London: HMSO/Harrison & Sons, 1909), 419ff.

flank by Mahdist forces from the Sudan provided an opportunity for Menilek to move for the imperial throne. Yohannes IV was killed fighting the Mahdists, and Menilek was able to prevail over Yohannes' son and heir, proclaiming himself Emperor in March 1889.

Following his accession, Menilek entered into the Treaty of Wichalé with King Umberto I of Italy, settling Italo-Ethiopian relations, and acceded in 1890 to the General Act of the Brussels Conference relative to the African Slave Trade, a key article of which committed “[powers] exercising sovereignty or protectorate in Africa ... to proceed gradually, as circumstances permit ... with the repression of the Slave Trade.”¹⁷ The entry into treaties at least implied recognition of Ethiopia as an independent state. However, a key provision of the Treaty of Wichalé concerning relations between the two polities was ambiguous, or even intentionally deceptive on the part of Italian negotiators.¹⁸ The Italian Government claimed Ethiopia as a protectorate under the Berlin Congress regime for the management of claims to African territory. Menilek denied any protectorate existed. Italy turned to a strategy of force, but suffered a dramatic defeat at the battle of Adwa (1896).

This Ethiopian victory at Adwa, felt as a profound shock across Europe, secured recognition by Italy of Ethiopia's “absolute independence ... as a sovereign and independent state.”¹⁹ However, Ethiopia remained confounding to a “standard of civilization” which tended to see Christianity, military prowess, and European forms of government and administration as being closely linked. Ethiopia's adherence to an ancient Christianity, together with military success, had vindicated its standing against some aspects of this civilizational account. Many of Menilek's modernization projects, pursued with the assistance of foreign advisers, and a small number of nationals educated abroad, also involved the creation of institutions and infrastructure broadly congruent with European states (state educational establishments; mail, telephone and telegraph services; a Bank of Abyssinia operated under concession to the National Bank of Egypt; and a railway, operated by a French concessionaire, which would by 1917 connect Addis Ababa to the coast at Djibouti).²⁰

¹⁷ Art 3. On accession, see Edward Hertslet, *Map of Africa by Treaty*, 2nd and rev ed, vol. I (London: HMSO/Harrison & Sons, 1896), 48. The circumstances of the accession are not entirely clear; on the disputed question of whether Italy's “representation” at Brussels strengthened Italy's protectorate claim, Carlo Giglio, “Article 17 of the Treaty of Ucciali,” *Journal of African History* 6, no. 2 (1965): 226; Sven Rubenson, “Professor Giglio, Antonelli and Article XVII of the Treaty of Wichale,” *Journal of African History* 7, no. 3 (1966): 446.

¹⁸ Richard Caulk, *Between the Jaws of Hyenas. A Diplomatic History of Ethiopia (1876-1896)*, ed. Bahru Zewde (Wiesbaden: Harrassowitz Verlag, 2002), 153–267.

¹⁹ Treaty of Addis Ababa (with Italy), 26 October 1896, art 3, *CTS* 183 (1979): 423. Similar recognition was implicit in other treaties with European powers, although post-1896 treaties did not, of themselves, unravel the agreements which other European powers had made with Italy since 1889 on the basis of its dubious status as protector.

²⁰ Harold G Marcus, *A History of Ethiopia* (Berkeley: University of California Press, 1994), 106–107; Bahru Zewde, *Pioneers of Change in Ethiopia: The Reformist Intellectuals of the Early Twentieth Century* (Oxford: James Currey, 2002), 23–24.

But European powers considered modes of government and administration of justice divergent enough from European norms to warrant assertions of extraterritorial jurisdiction.²¹

Under Yohannes and Menilek, Amharic- and Tigrinya-speaking peoples, Christianized since the fourth century, had expanded southwards. The resulting empire encompassed dozens of other ethnic and linguistic groups, some Muslim, and others adhering to a range of indigenous religions. Beyond Addis Ababa, imperial authority was mediated through *rases* (variously translated as “heads,” “governors” or “dukes”) exercising considerable independent authority. In this regard, conceptions of sovereignty and authority were more layered than borderlines on the map suggested. This was true also for surrounding European colonies subject to systems of “indirect rule,” and for the Somaliland protectorates, administered from centres on the coast with limited reach into the hinterland. But Ethiopia was unique in having deeply entrenched slave-raiding and –trading practices. This had been central to the expansion of the empire and endured thereafter, although Menilek had formally prohibited sale and purchase of slaves in 1875. Slaves worked in domestic contexts far removed from the plantations of European colonies,²² and had some social mobility through education, but circumstances of capture and transfer were brutal, and raiding devastated whole regions.

Despite formal independence after 1896, Ethiopia was left physically, juridically, and procedurally vulnerable. Ethiopia lacked any independent access to the sea, and was thus dependent on European colonial powers controlling surrounding territory (particularly the French in Djibouti) for importation of vital goods, including firearms. Paradoxically, recognition of Ethiopia as a territorially-bounded polity threw into sharp relief the weakness of the imperial centre in actually controlling the entirety of the territory.²³ Britain, whose colonial possessions shared the longest stretch of frontier with Ethiopia, complained regularly about cross-border slave-raiding.

Juridically, both publicists and the corpus of treaty law reflected ambiguity about Ethiopia’s status. Westlake numbered Ethiopia among the “Christian states to the dealings with which international law would be considered to apply, though they can hardly be ranked as contributing to its development or enforcement.”²⁴ Oppenheim listed Ethiopia (along with Morocco) as “full-

²¹ Treaty of Friendship and Commerce between France and Ethiopia, 10 Jan 1908, art 7, *British and Foreign State Papers* 101 (1912): 997. Equivalent arrangements applied to other foreign nationals by virtue of “most favoured nation” clauses in other bilateral treaties with Ethiopia.

²² Kevin Grant, *A Civilised Savagery: Britain and the New Slaveries in Africa, 1884-1926* (New York: Routledge, 2005).

²³ On this perverse effect of delimiting borders, Ian S Spears, “The Ethiopian Crisis and the Emergence of Ethiopia in a Changing State System,” in *Collision of Empires: Italy’s Invasion of Ethiopia and Its International Impact*, ed. G Bruce Strang (Farnham: Ashgate, 2013), 37.

²⁴ John Westlake, *International Law Part I: Peace* (Cambridge: Cambridge University Press, 1904), 40. A similar treatment appears in the 2nd (1910) edition, without reference to the intervening Tripartite Agreement.

Sovereign States, but for some parts only within the Family of Nations.”²⁵ The 1906 “Tripartite Agreement,” prompted by Menilek’s failing health, spoke with two voices about Ethiopia’s future, describing the status quo (at least as between British, French and Italian signatories) with reference to border delimitation agreements made by Italy as “protector,” yet proclaiming that “the various Conventions mentioned in this Article do not in any way infringe the sovereign rights of the Emperor of Abyssinia.”²⁶ Under the Tripartite Agreement, the European powers undertook that, in the event of the status quo being disturbed, they would “make every effort to preserve the integrity of Ethiopia” but, in any case, concert to protect each others’ interests. A separate agreement bound the European powers to “exercise a rigorous supervision over the importation of arms and ammunition.”²⁷ This ambiguity of Ethiopia’s standing in the international legal order on the eve of WWI was reflected, too, in procedural terms. The Ethiopian court remained on the margins of diplomatic dealings, with only limited and belated access to the texts of agreements which directly concerned Ethiopia.

III. The League system and the idea of the state

The political upheaval of WWI opened possibilities for a profound restructuring of relations between people, territory and political authority. Many of the more radical challenges to the status quo were quickly curbed: anti-colonial nationalism was marginalized within the post-war settlement, for example, and “minorities” provisions restricted to the new states of Eastern Europe, rather than being extended to religious or racial minorities everywhere. Nevertheless, in innovative structures of mandate colonialism, minorities supervision and territorial administration, the League Covenant seemed to hold out new trajectories of state-creation and development. The international community, as incarnated in the League, would be directly implicated in the cultivation of states *of the right kind to function in a quasi-universal international order*.

As mentioned earlier, approaches to statehood and belonging under the aegis of the League were not necessarily coherent. In terms of legal technicalities, pathways to original membership, including being a signatory to the Treaty of Versailles, or a separate invitation to accede to the

²⁵ L Oppenheim, *International Law: A Treatise* (London: Longmans, Green and Co., 1905), 157; L Oppenheim, *International Law: A Treatise*, ed. Ronald Francis Roxburgh (London: Longmans, Green and Co., 1920), 35, 180, 190. The leading French text, which divided states into “sovereign,” “protected” and “vassal” states, had no separate listing for Ethiopia in the 1894 edition, presumably encompassing it in a general reference to protected states in Africa. Editions after 1896 placed the entry for “Abyssinia” under “protected” states but noted Italy’s 1896 recognition: Henry Bonfils, *Manuel de droit international public*, 1st ed. (Paris: A Rousseau, 1894), 99; Henry Bonfils and Paul Fauchille, *Manuel de droit international public*, 5th ed. (Paris: A Rousseau, 1908), 105 (again without noting the Tripartite Agreement).

²⁶ See above n 1, art 1(a).

²⁷ Agreement between the United Kingdom, France and Italy respecting the Importation of Arms and Ammunition into Abyssinia, signed at London, December 13, 1906 [Cmd 3299], art 1. This was in some tension with Ethiopia’s position following accession to the Brussels General Act (see above n 17).

Covenant (doled out with some discretion by the major powers),²⁸ facilitated the membership of many polities which would not have satisfied the criteria for admission *after* the League’s founding (on which this article focuses). The British Empire presented some particularly anomalous cases: the British Empire as a whole was a member of the League, yet the four dominions (not yet independent states) and India (which fell even further short of the “self-governing” threshold applicable to polities seeking admission after the League’s establishment) were also original members.²⁹ While criteria for admission after the League’s founding became more formal and culturally neutral, the mandates regime remained grounded explicitly in civilizational hierarchies. Conditions devised in the 1930s for the release of polities from a mandate turned out to be considerably more searching than those for admission to the League by polities like Ethiopia, never subject to a mandate; even if these criteria for emergence to independence were never strictly applied.

The development of criteria for admission to the League for those polities which were *not* original members, nor invited by consensus to accede to the Covenant, was shaped in part by the imagined dynamics of the future institution. In a system in which all members would have some (admittedly unequal) say in decision-making, there were incentives for the great powers to avoid a proliferation of smaller members. The notion of collective security also mitigated in favour of only admitting polities which could make some, even nominal, military contribution. As Zimmern observed, “difficulties about opening the League to all states, small or great, civilised or uncivilised, respectable or disreputable” led to “compromise in which one can see legalism at grips with considerations both of a realistic and of an ethical order.”³⁰

Although Wilson, (supported to some extent by the French) had sought to include in criteria for admission a requirement of popular self-government, it proved difficult to find a test that could accommodate the enormous diversity of polities thought to merit membership.³¹ Article 1 of the Covenant ultimately retained only faint traces of a substantive threshold for admission:

Any fully self-governing State, Dominion or Colony [Fr: *qui se gouverne librement*] ... may become a Member of the League if its admission is agreed to by two-thirds of the Assembly, provided that it shall give effective guarantees of its sincere intention to observe

²⁸ See Georg Schwarzenberger, *The League of Nations and World Order. A Treatise on the Principle of Universality in the Theory and Practice of the League of Nations* (London: Constable & Co, 1936), 36–37.

²⁹ David Hunter Miller, *The Drafting of the Covenant*, vol. II (New York: G P Putnam’s Sons, 1928), 260–261, 303. On the situation of India, Stephen Legg, “An International Anomaly? Sovereignty, the League of Nations and India’s Princely Geographies,” *Journal of Historical Geography* 43 (2014): 100–103.

³⁰ Alfred Eckhard Zimmern, *The League of Nations and the Rule of Law* (London: Macmillan, 1935), 165. See also discussion in Alison Duxbury, *The Participation of States in International Organisations. The Role of Human Rights and Democracy* (Cambridge: Cambridge University Press, 2011), 63–68.

³¹ Malbone W Graham, *The League of Nations and the Recognition of States* (Cambridge University Press, 1933), 3.

its international obligations, and shall accept such regulations as may be prescribed by the League in regard to its military, naval and air forces and armaments.

Confronted with the first applications for membership, the League's Fifth Committee (comprising representatives of all League members), seems to have felt a need for some more detailed assessment of potential members. Contrary to claims that the Fifth Committee "thoroughly investigated the problem [of criteria for admission] and ... drew up a questionnaire" for consideration of whether applications satisfied the test in art 1,³² there seems to have been little principled examination of which polities ought to be admitted. The Fifth Committee simply adopted a questionnaire prepared by Viviani, a French delegate:

- (a) Was [the applicant's] application for admission to the League in order?
- (b) Was the Government applying for admission recognised *de jure* or *de facto* and by which States?
- (c) Was the applicant a nation with a stable government and settled frontiers? What were its size and its population?
- (d) Was it fully self-governing?
- (e) What had been its conduct, including both acts and assurances, with regard to (i) its international obligations; (ii) the prescriptions of the League as to armaments?³³

Each application for membership went first before a small sub-committee of delegates, meeting in private and keeping minutes for circulation to the Committee only; their deliberations were presented back to the Fifth Committee in a report, later published, and the Committee's own deliberations were open, with reasonably detailed minutes published. The Committee in turn drafted a report for the plenary Assembly.

The Viviani questionnaire mingled language from the Covenant ("fully self-governing," and assurances regarding international obligations and armaments), with pre-war recognition practice, and some basic practical desiderata (eg stable government and settled frontiers). Although Gong sees in the questionnaire "a codified expression of the standard of 'civilization'," ³⁴ the questionnaire criteria actually involved far less explicit reference to structures of political authority, or internal administration, than had featured in nineteenth-century accounts of the "civilized" polity. Such considerations were captured only obliquely, in references to "stable government" and ability to satisfy international obligations. The loss of focus on internal political structures is reflected in the way in which different conceptions of "self-governing" flicker through early admission cases. In some cases reference to an absence of other polities claiming authority

³² Lilian M. Friedlander, "The Admission of States to the League of Nations," *British Yearbook of International Law* 9 (1928): 89.

³³ *The Records of the First Assembly: Meetings of the Committees*, vol. II (Geneva: League of Nations, 1920), 159.

³⁴ Gong, *Standard of Civilization*, 126.

over the applicant sat alongside discussion of democratic modes of government,³⁵ and in others the latter only was mentioned.³⁶

On the surface, the absence from the questionnaire of explicit reference to internal structures of political authority is surprising. Under the Covenant, states were assuming novel responsibilities, including (under art 10 of the Covenant) to preserve against external aggression the territorial integrity and “existing political independence” of all members. One might therefore have expected greater attention, for example, to a basic Weberian desideratum of a monopoly of force over a fixed area. The relative absence of such a conception from the Viviani questionnaire may have been due to the fact that Viviani was likely focused on ensuring strict scrutiny of any future *German* application.³⁷ He may simply have assumed that the German government would be able to overcome postwar disorder in the country, and thus focused more on what were, for France, the key issues: “*guarantees* of [an applicant’s] *sincere intention* to observe its international obligations” (in the Covenant’s words), and the ability to investigate an applicant’s *conduct* and *acts* under para (e) of the questionnaire.

Aspects of the Viviani questionnaire were challenged, and quickly fell by the wayside. Latin American delegates contested any requirement for recognition as a condition of membership, and in practice this criterion was read loosely. Practice on early admissions indicated that, as a matter of practicality, admission would entail eventual recognition of the state (if not the government then in power) by most other League members.³⁸ Recognition, previously a discretionary and bilateral process, was to some extent superseded by a majoritarian decision about admission into the international community—although the absence of the US and the USSR from the League precluded this shift from being wholly entrenched.³⁹

In strictly legal terms, the Viviani questionnaire was not determinative of anything. League members had the right to vote as they wished on applications for admission (and arguably might vote against admission *even if* they believed the applicant satisfied criteria in art 1(2) of the Covenant).⁴⁰ However, the parameters of the questionnaire, together with the formalized and partly public nature of discussions, seems to have curbed the sorts of arguments which delegates felt comfortable raising *against* admission. At least in Committee sessions, objections were lodged within the questionnaire’s categories (and even then, with some diffidence). Certain contested cases related essentially to doubts about the political intentions of former Central Powers.

³⁵ See, eg, *Records of the First Assembly: Meetings of the Committees*, vol. II, 220 (on Costa Rica).

³⁶ See, eg, *The Records of the Second Assembly: Meetings of the Committees*, vol. II (Geneva: League of Nations, 1921), 580 (on Estonia).

³⁷ Graham, *The League of Nations and the Recognition of States*, 63 n 49 (citing interviews with Secretariat staff).

³⁸ *Ibid.*, 39–41.

³⁹ Martin Clark, “A Conceptual History of Recognition in International Law,” *British Yearbook of International Law* 87 (2016).

⁴⁰ Jean Ray, *Commentaire du Pacte de la Société des Nations* (Paris: Sirey, 1930), 97.

Applications from some of the Caucasus states (Ukraine, Georgia, Azerbaijan and Armenia) and Baltic states (Latvia, Estonia, Lithuania) were subject to serious questions concerning stability of government, territory and borders. Given ongoing conflict in the Soviet Union, there was a reluctance to extend to these polities an undertaking to contemplate action in their defence.⁴¹

On the other hand, discussion reflected an impetus *for* inclusion at the expense of a strict application of the Covenant or questionnaire criteria.⁴² The admission in 1921 of the Baltic states was urged not despite, but *because* these states “were experiencing great political, financial, and commercial difficulties.”⁴³ Provided there was *some* government in place, even if “not of the most elaborate description,” and defensible borders, even instability of government was not treated as weighing seriously against admission — and instability of government was sometimes weighed against other factors, such as “strong national sentiment” and a “definite ... race, speaking a common ... language.”⁴⁴ Where the Fifth Committee supported applications, the plenary Assembly tended to vote unanimously or near-unanimously in favour, in a spirit of celebration at the expansion of the League. The only concession to anxieties about internal administration was a proposal to impose on some new states obligations relating to protection of minorities, analogous to those imposed by some of the peace treaties. While conceding that it was undesirable to “interfere in the internal policy of States,” Robert Cecil pointed out that these struggles were *not* purely internal but rather fueled inter-state conflict.⁴⁵ However, there was uneasiness among other delegates about imposing additional conditions, and the idea was ultimately confined to Albania and Baltic/Caucasus states, and framed as a recommendation.⁴⁶

IV. Ethiopian admission and the outer bounds of the League community

Ethiopia presented a unique challenge to criteria for League admission. Unlike some of the Baltic and Caucasus states, Ethiopia enjoyed recognition by major European powers. It also had relatively defined borders. In 1919, Ethiopia was ruled by Menilek’s daughter (Empress Zawditu), and Ras Tafari (as regent and heir),⁴⁷ and thus enjoyed “stable” government, in the sense that there was no

⁴¹ A decision on the Baltic states was postponed to 1921, when they were finally admitted; the Caucasus states were not ultimately admitted: Friedlander, “The Admission of States to the League of Nations,” 95–96.

⁴² When the Serb–Croat–Slovene delegate relinquished opposition to Bulgaria’s admission, for example, he observed that he was “[f]ollowing most of his colleagues” in “abandon[ing] the strict application of the Covenant.”: *Records of the First Assembly: Meetings of the Committees*, vol. II, 194.

⁴³ *Records of the Second Assembly: Meetings of the Committees*, vol. II, 532 (Nansen).

⁴⁴ See, eg, Report of Sub-Committee Vb on the Admission of Albania, Bulgaria, Austria and Liechtenstein, 27 Nov 1920, in *Records of the First Assembly: Meetings of the Committees*, vol. II, 212, 214 (dealing with Albania).

⁴⁵ *Records of the First Assembly: Meetings of the Committees*, vol. II, 204.

⁴⁶ See Duxbury, *Participation of States in International Organisations*, 78.

⁴⁷ This conjunction resulted from a coup displacing Menilek’s immediate successor, Lij Iyasu, who appeared to the court too erratic, and too drawn to Islam, to continue in power. Marcus, *Haile Sellassie I*,

clear rival to the imperial dynasty, despite tensions within it (Ras Tafari, educated in French by the head of a Capucin school in Ethiopia, and the son of a trusted collaborator of Menilek, had reformist ambitions, but had to contend with more “conservative” forces in the form of the clerical hierarchy, Empress and the Minister for War).⁴⁸ Ethiopia was “self-governing” in the sense that it was not subject to any formal external influence. However, the imperial court’s ability to govern remained constrained by the power of provincial *rases*, who pursued their own financial and dynastic interests. While this weakness of central control was not necessarily qualitatively distinct from that seen in some then-chaotic European polities,⁴⁹ Ethiopia did present a particularly stark test of the extent to which internal political structures, and the extent of governmental control over territory, might be relevant to League admission.

European powers had tended to see Ethiopia primarily through the lens of imperial interests, albeit of somewhat different kinds. Italy nurtured aspirations, of varying specificity over time, for territorial gain, and even settlement. French and British interests reflected a more commercially-inflected imperial project, preoccupied with territory only as a means of furthering commercial exploitation. France was chiefly interested in Ethiopia as a means of stimulating trade through the small and otherwise worthless coastal colony of Djibouti, and the chief British interest in Ethiopia after WWI was the construction of a dam on Lake Tana that would enable the development of cotton plantations in the Sudan.⁵⁰ In addition, the European powers also had a concrete interest in Ethiopia’s internal administration, particularly capacity to maintain order in the border areas and rein in cross-border slave-raiding. This last concern was most acute for Britain, insofar as British colonies shared much longer borders with Ethiopia than French or Italian possessions did.

Within the Foreign Office, officials understood Ethiopia to be in a sort of no-man’s-land: formally independent but also in need of fundamental reordering. This reordering would, it was assumed, unfold with the sponsorship of European powers. A British national, Colonel Sandford, who had served in the British legation in 1913–14, and returned to Addis Ababa in a commercial capacity, laid out the most detailed vision in an unsolicited proposal to the FO in 1921. Sandford saw the fundamental difficulty as “the lack of a stable Government strong enough to impose its will on the chiefs and peoples of the country.” In an odd transposition of English history, he characterized the situation as reminiscent of “the struggles between the King and the barons ... of Plantagenet days”:

3–4; Bahru Zewde, *A History of Modern Ethiopia 1855-1991*, 2nd ed (Oxford: James Currey, 2001), 128–31.

⁴⁸ Zewde, *History*, 130–31.

⁴⁹ For an argument that material conditions in Europe and Africa were in fact not as far apart as engrained racial and cultural assumptions suggested, see Siba N Grovogui, “Sovereignty in Africa: Quasi-Statehood and Other Myths in International Theory,” in *Africa’s Challenge to International Relations Theory*, ed. Kevin C Dunn and Timothy M Shaw (Basingstoke: Palgrave, 2001), 29–45.

⁵⁰ For this regional, hydraulic vision, see, eg, Terje Tvedt, *The River Nile in the Age of the British: Political Ecology and the Quest for Economic Power* (London: I B Tauris, 2004); “Hydrology and Empire: The Nile, Water Imperialism and the Partition of Africa,” *Journal of Imperial and Commonwealth History* 39, no. 2 (2011): 173–94.

the *Negus* (king) was forced to maintain his authority by giving offices and lands as rewards, but crushing any chief who became too powerful, with the effect that the *rases* lacked security of tenure, and resorted to unstable combinations among themselves to maintain their positions against the centre. Sandford suggested that Britain offer to back Ras Tafari and his heirs as against the *rases*, on the condition that he offer the *rases* equivalent security of tenure. This, Sandford thought, would secure a more stable political structure, and lay foundations for a treaty by which Britain would guarantee Ethiopian independence and integrity.⁵¹ British officials were not averse to projects of this kind, and even believed that “a large portion of the people ... would welcome the establishment of competent administration under pressure by the interested powers.”⁵² But Britain was forestalled by the Tripartite Agreement from acting alone, and neither Italy nor France would cooperate on the lines envisaged.⁵³ In the circumstances, the FO saw no alternative to “let[ting] Abyssinia totter along and trust[ing] that the inevitable eventual dissolution does not occur until the general political situation is more favourable for dealing with it.”⁵⁴

On the other hand, anti-slavery activists were envisaging new techniques of intervention in and through the League. J H Harris, head of the Anti-Slavery and Aborigines Protection Society (ASAPS), took press accounts by former British officials, detailing slave-raiding and trading, and decay in Menilek’s work of modernization, as the basis for a public campaign in favour of some *sui generis* role for the League in Ethiopia.⁵⁵ Arguing (implausibly) that the Tripartite Agreement was already “in the closest harmony with the main principles of the League of Nations,” Harris proposed that it be “transfer[red]” to the League. Ethiopia could apply for membership, but would be held not to have the requisite sincere intentions to observe international obligations (on the basis that slavery was rife); in the interim, the League would extend protection, and assistance through one or more commissioners.⁵⁶ Other liberal internationalists agreed: “strong and independent and progressive African Government” could only be attained with “disinterested assistance.” As the commissioner/s would act for the League, there would be no fear of annexation.⁵⁷ Frederick Lugard, then a key figure in British colonial administration, was skeptical that League commissioners would be welcomed by Ras Tafari unless they brought weapons to match the *rases*. Commissioners, however, would only furnish such weapons if there was reliable supervision of their use, which Ras Tafari would not accept. For Lugard, the more plausible alternative would be

⁵¹ Sandford to Dodds, 22 Jul 1921, FO 371/5509 [A 5725/5725/1].

⁵² Dodds, 26 Sep 1921, FO 371/5509 [A 5725/5725/1].

⁵³ Minutes Seymour, 16 Oct 1921, Sperling and Tyrrell, both 20 Oct 1921; all FO 371/5509 [A 5725/5725/1].

⁵⁴ Minutes Curzon, 24 Oct 1921; Sperling, 20 Oct 1921; both FO 371/5509 [A 5725/5725/1].

⁵⁵ On Harris’ activism, Suzanne Miers, *Slavery in the Twentieth Century. The Evolution of a Global Problem* (Walnut Creek, CA: AltaMira Press, 2003), 63–65, 75.

⁵⁶ [John H Harris], “Slavery in Abyssinia. How the League Could Help. A Modern Gordon Needed,” *Westminster Gazette*, 28 Apr 1922, 1.

⁵⁷ Gilbert Murray to Editor, *Westminster Gazette*, 2 May 1922, 3. See also accompanying letter in same sense from Henry Cavendish-Bentinck.

American or British “advisers ... qualified by African administrative experience,” with League supervision or partition into spheres of influence a second resort.

Ras Tafari had made tentative inquiries of French contacts in 1919 about League membership, seeing this as a vehicle for vindication of Ethiopia’s status, and protection against imperial domination.⁵⁸ However, it appears to have been increasing pressure from anti-slavery activists for something like a mandate which precipitated an application for admission.⁵⁹ Ras Tafari saw membership as a guarantee of, and protection for, statehood, and persuaded the Empress, Fitawrari Habta Giorgis, and important *rases* and clergy, of the benefits,⁶⁰ including in relation to access to arms.⁶¹

The application for admission, made formally on 1 August 1923, required states to articulate their positions on Ethiopia’s status in a manner compatible with the new parameters established by art 1 of the Covenant and the Viviani questionnaire. France was supportive of admission, and helped make the Ethiopian case, if only because a thriving independent Ethiopia guaranteed commerce through Djibouti. Italy was not disposed to support admission, believing that this would undermine what leverage remained under the Tripartite Agreement. However, Italy would change position in the course of deliberations, to avoid needlessly offending Ras Tafari, and to align with France (French support then being required in connection with the Corfu crisis).⁶² Britain was perhaps the most focused of the three European imperial powers on systemic considerations, and British deliberations showcase in particular detail efforts to grapple with the compatibility of political conditions in Ethiopia with the demands of League membership.

Echoing longstanding, and circular, arguments over access to arms, officials expressed doubts about the ability of the imperial government to maintain order:

[If admitted, e]ither Abyssinia, as a member, would be left to give effective guarantees as provided in Art 1 of the Covenant, which would mean that France would flood the country with rifles on the pretext that Abyssinia required them to put down slavery;

⁵⁸ Pierre-Alype, *Sous la couronne de Salomon: L’Empire des Négus. De la Reine de Saba à la Société des Nations [1925]*, new, updated ed (Paris: Plon, 1935), 265.

⁵⁹ Miers, *Slavery in the Twentieth Century*, 72–74. See also Amalia Ribí Forclaz, *Humanitarian Imperialism: The Politics of Anti-Slavery Activism, 1880-1940* (Oxford: Oxford University Press, 2015), 64–66.

⁶⁰ Lukian Prijac, *Lagarde l’Éthiopien: Le fondateur de Djibouti, 1860-1936* (Paris: L’Harmattan, 2012), 271–281; on the deft way in which Ras Tafari rendered into Amharic the idea of the League, see Parfitt, “Empire des Nègres blancs,” 861–863.

⁶¹ France had advised Ras Tafari that, on joining the League, Ethiopia could accede to the Treaty of St Germain, and negotiate for arms supplies under it, rather than being consigned to the “prohibited zone” in which importation was heavily controlled: Convention for the Control of the Trade in Arms and Ammunition, signed 10 Sep 1919 (never entered into force), *LNTS* 7 (1921–22): 331.

⁶² For a general outline of the main actors’ positions, Antoinette Iadarola, “Ethiopia’s Admission into the League of Nations: An Assessment of Motives,” *International Journal of African Historical Studies* 8, no. 4 (1975): 601–22.

Or Abyssinia would announce its inability to comply with the requirements of the League without outside assistance, which would mean that we, having taken the initiative, should be called upon to do the dirty + expensive work of policing the country, a proceeding fraught with the certainty of political complications with France and Italy.⁶³

One commented that if the League “insists on Abyssinia putting her house in order, before admission, then the date of admission will be somewhat remote + will be preceded by a bloody revolution.”⁶⁴

Misgivings were strengthened by consular letters describing conditions in some remote provinces. Governors were not paid by the central government, and could not support soldiers from the surrounding tenant farmers, so permitted them to engage in looting. Slave-raiding was widespread. The consuls understood not simply as a failure of the central government to assert authority, but as a matter of the composition and structure of the polity:

... no piece of country south of Addis Ababa is Abyssinia. It all belongs to different and distinct tribes. If Abyssinia ... said to the Powers, “You bully me because you are strong,” exactly the same words could be said by the subject tribes to Abyssinia. ... One is sorry for Ras Taffari, who has an impossible task in hand. ... The Ras himself can have no idea how this part of Abyssinia has been devastated. The King’s writ does not run here.⁶⁵

Officials knew that slavery, in particular, was a problem in mandates and even other potential League member states, but they believed its prevalence in Ethiopia indicated “the absurdity of Abyssinia being considered ... a civilized or even semi-civilized country.”⁶⁶ Rennell Rodd, who had negotiated with Menilek in the late nineteenth century, conceded that Ethiopia’s ancient Christianity might favour admission on civilizational grounds, but reiterated colleagues’ concerns about the viability of Ethiopian statehood, and framed them in the new language of the Covenant:

[H]ow far is Abyssinia a real entity as a *self-governing State*? Abyssinia consists of a number of kingdoms or principalities, the ruler of one of which from time to time has established his authority as overlord or king of kings. When he has been a strong man like Menelik he has undoubtedly ruled over the whole country, and treated the other princes or rasses as mere vassals. The [current] central Government ... hardly exercises the control

⁶³ Minute Sperling, 20 July 1923, FO 371/8405 [A 4543/142/1].

⁶⁴ “... If the League admits her without radical reforms, the one result will be to bring the League into disrepute, without achieving any of the good purposes which prompted those who have put the Abyssinian Govt up to making this demand.”: Minute Dodd, 11 Aug 1923, FO 371/8405 [A 4789/142/1].

⁶⁵ Hodson to Russell, 6 June 1923, encl with Russell to Curzon, 14 Aug 1923, FO 371/8409 [A 5378/2781/1]. Russell, then the British plenipotentiary in Addis, would also later object to a territorial guarantee being offered to the whole of Abyssinia, seeing scope for European influence or beneficent rule over tribes in the south: Russell to Curzon, 14 Aug 1923, FO 371/8409 [A5380/5097/1].

⁶⁶ Minute Warner, 13 Sep 1923. Officials added observations on: Tyrrell, 14 Sep 1923; both FO 371/8409 [A 5378/2781/1].

over certain sections of the country which would entitle it to give “*effective guarantees of its sincere intention to observe its international obligations.*”⁶⁷

These internal deliberations showcase the range of civilizational and functional considerations deployed to assess Ethiopian standing.

The instructions issued by the FO to Robert Cecil, then the British Empire delegate in Geneva, indicated that the application ought not to be accepted, and stipulated that this should be “delicately handled” to avoid suspicion that Britain had designs on Ethiopia.⁶⁸ These instructions did not ultimately determine Cecil’s course: they did not reach him in time, and he instead followed his own inclinations.⁶⁹ But the instructions do offer a useful reflection of how little the FO had understood about the way in which the League procedures changed the possibility of Britain “delicately” stifling outcomes it did not favour.

In the League, Ethiopia’s application was sent first to a sub-committee (comprising representatives of the British Empire, France, Italy, Latvia, Persia, Romania and Finland). The French representative was quick to head off anticipated objections by proposing a form of declaration concerning Ethiopia’s obligations under the Arms Traffic Convention of 1919. Italy was by this time deciding that it ought not to bear the opprobrium of opposing admission if it seemed impossible to block.⁷⁰ The rubric of the questionnaire channeled discussion in ways that made it difficult to air British objections. As Cecil explained to the FO, the sub-committee’s “duty is only to enquire into the facts of the Government of Abyssinia, the extent to which she has carried out her international obligations, etc. ... *The whole of the brunt of showing that Abyssinia is not yet fit to become a member of the League has been thrown upon us.*”⁷¹

Cecil succeeded in introducing some of the British concerns into debate:

“The Sub-Committee is of opinion that Abyssinia is fully self-governing, *but has not been able to determine with any certainty the extent of the power of the central authority over provinces remote from the capital ... [and] [i]t cannot ... state that her engagements have always been strictly fulfilled in the past.*”⁷²

⁶⁷ Note by Sir R. Rodd on the Abyssinian Request for Admission to the League of Nations, 26 Aug 1923, FO 371/8409 [A 5209/5097/1] (emphasis added).

⁶⁸ Memorandum for Lord R. Cecil, 3 Sep 1923, FO 371/8409 [A 5205/5097/1].

⁶⁹ Cecil was anxious not to be too severe on Ethiopia lest the same thresholds hamstring Britain’s then-planned attempt to have Iraq join the League (something which ultimately only occurred much later); he thought it unwise to ask for effective guarantees on slavery, which he believed could only lead to exclusion: Cecil to FO, 7 Sep 1923, FO 371/8409 [A 5356/5097/1].

⁷⁰ FO to Mr London (Geneva) for Cecil, 5 Sep 1923, FO 371/8409 [A 5351/5097/1].

⁷¹ Tufton to Sperling, 15 Sep 1923, FO 371/8410 [A 5570/5097/1] (emphasis added).

⁷² Abyssinia’s Application for Admission to the League. Report of the Second Sub-Committee, 14 Sep 1923, *LNOJSS* 19 (1923): 32 (emphasis added).

Deliberations in the Sixth Committee illustrated the tensions between competing approaches to statehood and belonging in the international legal order. The Australian delegate spoke an older language of “degrees” of civilization, and defended its ongoing force by reference to the way it grounded the continuing division between “A,” “B” and “C” mandates.⁷³ The Ethiopian delegation engaged in distinctive ways with the civilizational discourse, offering ancient biblical antecedents of the ruling house, and Christian observance, as evidence of a civilization that was distinct yet commensurable with the thresholds assumed by international law.⁷⁴ Others resisted as “unwise and dangerous” a “classification which might re-open the way to prejudices of race, caste, colour and nationality,”⁷⁵ and asserted as the appropriate rubric the more formal criteria developed in the Covenant and League.⁷⁶

Yet the questionnaire criteria, posited as the new threshold for admission, were not felt to be satisfactory either. Motta (Switzerland) pointed out that the question of the central government’s power over remote provinces “was a very important one,” and favoured further inquiries.⁷⁷ The Venezuelan representative, continuing earlier Latin American objections to imposing conditions other than those explicitly mentioned in art 1 of the Covenant, called this “a question of internal politics.”⁷⁸ But this “internal politics” was critical to coexistence with other surrounding polities. The British Empire representative tried to insinuate a concern about state capacity back into the four corners of the questionnaire by adverting again to the connection between past failures to uphold engagements and the viability of effectual guarantees as to future conduct.⁷⁹

The repression of slavery, a key signifier of civilization in the nineteenth century, re-emerged in these debates as a proxy for a new, functional vision of statehood, proper to a League system which, in guaranteeing states’ territorial integrity, and envisaging ever-closer interstate cooperation, arguably demanded a greater degree of control over territory than looser nineteenth-century arrangements had done. One response from Ethiopia and France was to concede weaknesses in the degree of control which would be functionally optimal, but excuse it on the

⁷³ See, eg, *LNOJSS* 19 (1923): 12–13, 15, 21.

⁷⁴ Parfitt, “Empire des Nègres blancs,” 863–865. It may not be possible, however, to read the Abyssinian delegation’s interventions as wholly reflective of Abyssinian choices. Léonce Lagarde, founder of the Djibouti colony, helped to shepherd the application through the League apparatus, acting as a go-between between Tafari and the French Ministère des affaires étrangères. Ras Tafari’s French legal adviser, Bellefonds, was present in Geneva and reported by British anti-slavery activists to dominate the delegation’s discussions with others: FO 371/8406. That said, Ras Tafari was insistent on receiving reports from the delegation, and retaining the ultimate decision-making authority: Prijac, *Lagarde l’Éthiopien*, 274–79.

⁷⁵ *LNOJSS* 19 (1923): 20 (Jouvenel (France)).

⁷⁶ *Ibid.*, 15 (Louwers (Belgium)). See detailed discussion in Becker Lorca, *Mestizo International Law*, 278–279.

⁷⁷ *LNOJSS* 19 (1923): 14.

⁷⁸ *Ibid.*

⁷⁹ *Ibid.*, 15 (Wood (British Empire)).

basis of an implicit comparison between unitary states and empires. The French delegate took seriously Ethiopia's self-understanding as an empire, and suggested that Ethiopia's lack of "effective control" was not markedly worse than that of "*all Colonial Governments*."⁸⁰ Yet even on this basis, Ethiopia's claim was precarious. Repression of the slave trade had long been a marker of sound imperial administration so, whether assessed against an implicit model of statehood or empire, Ethiopia appeared frail.

As if conceding that there were concerns which were not captured by the questionnaire, delegates embraced a remedial view of membership. As Motta put it: *even if* an enquiry showed that Ethiopia could not presently undertake the engagements made in its declarations, it ought still to be admitted as admission "must assist the work of that Government."⁸¹ Following Ethiopian complaints regarding comments on the extent of the central government's power, and fulfilment of obligations in the past, this language was massaged somewhat in the final subcommittee report. But, on French advice, Ras Tafari agreed to declare adherence to an obligation in the Convention of St-Germain-en-Laye (1919) to inter alia "endeavour to secure the complete suppression of slavery in all its forms and of the slave trade by land and sea,"⁸² to conform to its stipulations on arms importations, and to "furnish the Council with any information which it may require, and to take into consideration any recommendations which the Council may make with regard to the fulfilment of these obligations."⁸³ The British Empire sensed that further objection would be fruitless. The Sixth Committee and Assembly voted unanimously for admission.

Ethiopia's rapid evolution from a polity not even considered by leading powers as a potential member in 1919, to one admitted with universal support in 1923, illustrated major shifts in thinking about statehood and belonging under the aegis of the League. The old touchstone of "civilization," with its assemblage of European-style governing and judicial institutions, military prowess, cultural and religious dimensions, had become highly contested, and was supplemented, at least on the surface, by new criteria that were considerably less searching on matters of internal political structures and governmental capacity.⁸⁴ The minimalist account of statehood against which

⁸⁰ *Ibid.*, 20 (Jouvenel (France)) (emphasis added).

⁸¹ *Ibid.*, 16; see also comments by Portuguese and Belgian delegates at 13, 15.

⁸² The Convention revised the general obligations in the Berlin and Brussels General Acts; hence the need for it to restate the general obligation to suppress slavery and the slave trade.

⁸³ Admission of Ethiopia, Proposal by the Special Subcommittee, A.VI 5 1923; Report of the Second Sub-Committee of the Sixth Committee, revised text, *LNOJSS* 19 (1923): 34.

⁸⁴ They look all the more minimalist when contrasted with those proposed later for the exit of polities from mandatory rule, including that a mandate

- (a) ... have a settled Government and an administration capable of maintaining the regular operation of essential Government services;
- (b) ... be capable of maintaining its territorial integrity and political independence,
- (c) ... be able to maintain the public peace throughout the whole territory
- (d) ... have at its disposal adequate financial resources to provide regularly for normal Government requirements;

Ethiopia was measured, and the relatively constrained attention to internal political structures, was carried over into the definition of a state in the Pan-American *Montevideo Convention on the Rights and Duties of States* (1933).⁸⁵ This definition would, over time, come to attain general relevance and even the status of customary international law (though it was never determinative in contested cases of when states came into being, or ceased to be).⁸⁶ Yet the older civilizational language would re-emerge in League debates in the 1930s, and remained influential in political rhetoric and legal thought.⁸⁷

The partial displacement of older civilizational criteria was only really possible in conjunction with changes wrought by the League to modes of interstate diplomacy. Passage from a system in which both recognition and subtler determinations of the outer bounds of the “family of nations” were controlled by other (largely European) states or publicists, to super-majoritarian determination of their application, and collective, relatively public assessment of candidates, did not eliminate the preponderance of great powers in deliberations. It did, however, mean that, if admission was supported by at least one major power, it was difficult for others to build a coalition against admission. The opportunity for public deliberation about Ethiopia’s status allowed the Ethiopian delegation to offer an account of their own civilization, and forced delegations to mute or attenuate their attacks on Ethiopian status (though still treating the Ethiopian delegation in a way they would not have treated European peers). Whereas British and Italian governments had been able to agree between themselves in 1919 to exclude Ethiopia as a founding member, these positions were much harder to maintain in the League’s public fora, when adverse comments would antagonize the Ethiopian government, other small states, and domestic humanitarian and internationalist constituencies. Moreover, the very existence of the League, and the remedial possibilities it offered, seems to have underwritten an expansive approach to admission.

What might we make of this admission process, both for Ethiopia and for larger histories of statehood? Parfitt highlights the way in which League admission reinscribed, rather than transcended, older hierarchies. She argues that Ethiopia “passed all [the] tests” in the standard questionnaire; the fact that Ethiopia was nevertheless “forced to accede” to “special obligations”

(e) ... possess laws and a judicial organisation which will afford equal and regular justice to all:
LNOJ 12 (1931): 2056, 2057.

However, the announced criteria were not strictly applied in the only case of exit from a mandate (Iraq) : see Susan Pedersen, *The Guardians: The League of Nations and the Crisis of Empire* (Oxford: Oxford University Press, 2015), 268–286.

⁸⁵ “The state as a person of international law should possess the following qualifications: (a) a permanent population; (b) a defined territory; (c) government; and (d) capacity to enter into relations with the other states.” On the genesis of the *Montevideo* criteria, and the deliberate marginalization of a culturally-inflected reference to “civilization,” see Becker Lorca, *Mestizo International Law*, 334–341; see also Thomas D Grant, “Defining Statehood: The Montevideo Convention and Its Discontents,” *Columbia Journal of Transnational Law* 37, no. 2 (1999): 403–458.

⁸⁶ The definition alone did not settle questions about the terms on which secession, for example, or the extinction of statehood, could occur.

⁸⁷ See above n 13.

in the form of two treaty articles on slavery and arms imports “constituted Ethiopia’s interwar personality as ... both sovereign and less-than-sovereign.”⁸⁸ I share the sense that admission to the League involved encoding a “hybrid” personality for Ethiopia. Yet the imposition of specific treaty obligations, while invidious, was only one mark of Ethiopia’s subjection (especially as the obligation to suppress slavery, in particular, reiterated one already acceded to by Menilek).⁸⁹ The more telling dimension of admission might be the acknowledged hollowness of the formal criteria as applied. Ethiopia (like some of the other European polities considered around the same time) might technically have “passed” the tests in the questionnaire, but it was clear that many felt that the questionnaire did not address squarely the critical desideratum of effective control over territory; and that strict compliance with the questionnaire criteria had effectively been waived. This bypassing of formal criteria was linked conceptually to a remedial emphasis, and an undertaking to “take into consideration any recommendations which the Council may make with regard to the fulfilment of [Ethiopia’s] obligations.” While Becker Lorca highlights the way in which formal criteria for statehood, articulated and defended within the League, privileged territorial control as a means of asserting political independence, and were later harnessed to Latin American arguments for non-intervention,⁹⁰ the Ethiopia case suggests another contrasting development. Territorial control was weak or non-existent in the outer reaches of the empire. The response was not exclusion, but admission “on credit” (*à crédit*),⁹¹ with a mechanism for Council oversight: a new model of statehood with a permanent potential for intervention.

V. Ethiopian state-making in the shadow of the League

The creation of the League had fostered new criteria against which Ethiopia’s status would be assessed, and shaped the sorts of positions other states could take in that assessment. Yet the League also offered ongoing possibilities for the shaping of Ethiopian statehood. On one hand, it was a site in which Ethiopia could interact with European powers on a footing of greater equality than that existing in the late nineteenth century, and thus entrench and confirm its sovereign status.

⁸⁸ Parfitt, “Empire des Nègres blancs,” 859.

⁸⁹ Allain mentions that Ethiopia had not acceded to the Brussels General Act: Jean Allain, “Slavery and the League of Nations: Ethiopia as a Civilised Nation,” *Journal of the History of International Law* 8, no. 2 (2006): 222. However, see above n 17. Menilek had clearly understood the Brussels obligation: see comments to British negotiators in 1897, described in James Rennell Rodd, *Social and Diplomatic Memories 1894–1901. Egypt and Abyssinia* (London: Edward Arnold, 1923), 165–166. Menilek’s predecessor, the Emperor Yohannes, had also bound himself and successors in an 1884 treaty with Britain to prohibit, to the best of his ability, buying and selling of slaves within his dominions, and their import or export: FO 93/2/3.

⁹⁰ Becker Lorca, *Mestizo International Law*, 306ff; Juan Pablo Scarfi, *The Hidden History of International Law in the Americas: Empire and Legal Networks* (Oxford: Oxford University Press, 2017), 151–52.

⁹¹ Pierre-Alype, *Sous la couronne de Salomon: L’Empire des Négus. De la Reine de Saba à la Société des Nations [1925]*, Note liminaire pour la nouvelle édition, ii. Pierre-Alype, a French colonial administrator involved in commercial affairs in Ethiopia, was involved with the admissions negotiations.

On the other hand, the League offered procedural mechanisms through which European powers, dominant in the Council, might seek to advise and guide governmental policy. The operation of these dimensions of the League was contingent on the issues at stake, and larger interests of the major powers, which enjoyed disproportionate influence in the Secretariat and League organs, but the League apparatus itself imposed some constraints.

Although the Ethiopian delegations at the League Assembly were often small, and made very few contributions in the Assembly or committees,⁹² Ras Tafari did occasionally use mechanisms offered by the League to vindicate Ethiopia's status as a full member of the international legal order. One striking example occurred in 1926. Frustrated by an inability to advance their own interests in bilateral negotiations with Ethiopia, Britain and France entered into an exchange of notes providing that Mussolini would support British requests (for a concession for construction of a massive dam on Lake Tana), in return for British support for Italian desiderata (concessions for a railway to loop through Ethiopia connecting Eritrea and Italian Somaliland, and a zone of Italian "exclusive economic influence"). The coordination of these far-reaching requests was highly threatening to Ethiopian interests, and the form of the exchange of notes, together with the fact it was only shown to Ras Tafari well after the fact, was reminiscent of the Tripartite Agreement of 1906.

At this point, the League made a tangible difference to Ras Tafari's position. He sent a letter of protest to the League, contrasting assumptions of equality and independence bound up with admission with the fact that "the two Governments are endeavouring to exert pressure on us in order to induce us to comply with their demands prematurely, without leaving any time for reflection or consideration for our people's needs."⁹³ The British and Italian governments were forced to disclaim any coercive intent.⁹⁴ The League involvement invited critical questions, particularly in the British Parliament. Ras Tafari might have pressed to have the matter listed in the Council, but chose instead to simply place on record his view that the exchange was incompatible with the Covenant, and the subsequent anodyne interpretations offered by the governments, which robbed the exchange of much of its political utility. League procedures offered a forum in which Ethiopia could contest great power machinations on a footing of formal equality, and indeed drawing on the natural sympathies of other smaller states confronting great power oppression.

The prospect of League-sponsored investigation or intervention on slavery, on the other hand, constituted a recurring threat to Ras Tafari and the standing of the Ethiopian Empire. Perhaps surprisingly, given the terms on which Ethiopian admission was granted, the vision of League

⁹² Based on a survey of all Assembly and committee proceedings during Ethiopia's membership of the League. There was a brief and ambitious effort to use Chinese campaigns for revision of unequal treaties as a means of revisiting the Tripartite Agreement, but this seems not to have been pursued: *LNOJSS* 76 (1929): 47, 55–56.

⁹³ As published in *LNOJ* 7 (1926): 1517.

⁹⁴ See *LNOJ* 7 (1926): 1524–25.

Council advice or assistance on slavery did not materialize. Indeed, Ethiopia was largely beyond the reach of the League's more technocratic efforts towards the remaking of state policy and administrations. The work of the League and International Labour Organization in shaping domestic policies in areas such as finance, transport and infrastructure, health and labour,⁹⁵ barely touched Ethiopia. The mandate apparatus engaged comprehensively, if fitfully, in "establishing ... the underlying sociological structure and the political, social and economic substance of the juridical state,"⁹⁶ and remained a common touchstone for those thinking about what the League might do in Ethiopia. Yet mandate-style oversight was inapposite for a polity recognized as an independent state and already accorded the status of League member. What was absent was any vision of international assistance relevant to Ethiopian conditions but *distinct* from something like the imposition of a mandate, or a logic of indirect rule under international advisers.

Left to his own devices, Ras Tafari was increasingly able to pursue locally inflected modernization initiatives (particularly following the death of the conservative Minister for War in 1926, and Ras Tafari's coronation as Haile Sellassie in 1930). His reforms mingled personal vision, Japanese and other foreign precedents with gradual bureaucratic and interpersonal experimentation: a form of statecraft which addressed questions like slavery in a wider matrix of relations between centre and provinces, educated bureaucrats and ancient families.⁹⁷ Ras Tafari sketched the juridical lines of a centralized polity in Ethiopia's first written constitution, promulgated in 1931. Inspired by English, American, German, Italian and particularly Japanese sources,⁹⁸ the text included a brief catalogue of liberal rights, but was primarily concerned with establishing Haile Sellassie's lineage and dynastic transmission, and furthering centralization.⁹⁹ Crucially, the constitution contained no express reservation of the powers of provincial governors, holding these positions open for the Emperor's appointment. Haile Sellassie continued efforts to place the educated élite in positions of importance (overseeing the railway, presiding over the special court adjudicating cases involving foreign nationals; customs posts, envoys).¹⁰⁰ However, the ministers still tended to be dominated by old families. Haile Sellassie seems often to have tried to sow change from within,

⁹⁵ See, eg, the increasingly sophisticated "technical assistance" offered by the International Labour Office to governments on labour and welfare issues, and, through the 1930s, to peripheral polities engaged in modernization projects: Guy Fiti Sinclair, *To Reform the World: International Organizations and the Making of Modern States* (Oxford: Oxford University Press, 2017), 29–110.

⁹⁶ Antony Anghie, *Imperialism, Sovereignty, and the Making of International Law* (Cambridge: Cambridge University Press, 2005), 148.

⁹⁷ For a narrative that focuses on Ethiopia's own initiatives on slavery, Christine Whyte, "Everyone Knows That Laws Bring the Greatest Benefits to Mankind': The Global and Local Origins of Anti-Slavery in Abyssinia, 1880–1942," *Slavery & Abolition* 35, no. 4 (2014): 657–61.

⁹⁸ Marcus, *Haile Sellassie I*, 116. On inspiration from the Meiji Constitution, see J Calvitt III Clarke, *Alliance of the Colored Peoples. Ethiopia & Japan before World War II* (Woodbridge: James Currey, 2011), 37–38, 172–73.

⁹⁹ Tekle Hawariat, as quoted in John Markakis, *Ethiopia: Anatomy of a Traditional Polity* (Oxford: Clarendon Press, 1974), 273; Zewde, *Pioneers*, 182.

¹⁰⁰ Zewde, *Pioneers*, 179–81.

allowing older families to hold the ministry itself but appointing an educated reformer as Director, or executive, immediately beneath the minister, or at the somewhat lower rank of Secretary or Secretary-General.¹⁰¹ This offered some prospect of advancing reforms but could also lead, in cases of ministerial resistance, to “the dislocation of the whole administrative machinery.”¹⁰²

In 1932–33 Haile Sellassie succeeded in breaking the special prerogatives of two of the more independent provincial chiefs.¹⁰³ He identified a number of “model provinces” ripe for reform, and gave the governorship to trusted collaborators, like Tekle Hawariat (a Russian-educated protégé of Ras Makonnen, Ras Tafari’s father), and Workneh Eshaté (anglicized as Dr Charles Martin; an Ethiopian taken as a child from the battlefield during Britain’s 1868 punitive expedition against Emperor Tewodros, and educated in India). Haile Selassie also experimented with appointing advisers directly to the provincial government, nominating Colonel Sandford (of long residence in Ethiopia, and working both for his own commercial interests and occasionally for the British government) in Maji.¹⁰⁴ These figures themselves seem to have sought some guidance from colonial models,¹⁰⁵ but in the context of what they understood as a complex interplay between central and provincial authority, reformist and traditional mores. The provincial reorganisation unfolded under the personal control of Haile Sellassie, through his “Ministry of the Pen” (a sort of chancellery), reflecting a tension like that with ministerial reform, whereby centralization was achieved by the personalization of rule. This was not uncontested. Tekle Hawariat occasionally resisted Haile Sellassie’s personalization of authority.¹⁰⁶ There were tensions too between Ethiopian educated élites and foreign advisers, as the former resented the greater influence and pay offered to foreigners,¹⁰⁷ and in the 1930s Haile Sellassie began censoring views expressed by some reformists in the newspaper he himself had established.¹⁰⁸

¹⁰¹ Ibid., 176–78.

¹⁰² Report by Mr de Halpert on his Period of Service with the Ethiopian Government, 22 May 1934, encl with Barton to Simon, 18 Jun 1934, FO CP 14809, No 36(i), 77, 81–82. Halpert, a British adviser to the Ministry of the Interior, had proposed a bundle of reforms to provincial administration. He faced opposition from the Minister of the Interior, and a succession of Directors, immediately under the Minister, were also opposed or, where committed, blocked by the Minister. Halpert resigned in frustration in 1934.

¹⁰³ Marcus, *Haile Sellassie I*, 119–124.

¹⁰⁴ The ideas Sandford had sketched in 1921 disclaimed mandatory ambitions, but the whole conception was grounded ultimately in Britain being able to “bring [Ras Tafari] quickly to heel”: see above n 51.

¹⁰⁵ On Dr Martin’s use of techniques he developed in the Indian Civil Service, Peter P Garretson, *A Victorian Gentleman & Ethiopian Nationalist: The Life & Times of Hakim Wårkenåh, Dr. Charles Martin* (Suffolk: James Currey, 2012), 173–196. On Sandford, in Maji, seeking advice from British officials in the Tanganyika mandate, Eleanor Casbon, *The Incurable Optimists. Chris and Dan Sandford of Ethiopia* (Cornwall: United Writers, 1993), 98.

¹⁰⁶ Zewde, *Pioneers*, 169–70.

¹⁰⁷ Ibid., 174–75, 196–97.

¹⁰⁸ Ibid., 193.

Comparison of the complex initiatives undertaken by Ras Tafari and others with the relatively undeveloped proposals for assistance under League auspices illustrates the limits of international expertise and imagination concerning how states might be fashioned to function in a universal international order. The limits of the League's ability to advance reform in Ethiopia were clearest in connection with slavery, the one area in which the League had been anticipated to act most boldly. Ethiopia always featured prominently in the fact-finding efforts of the League's "Temporary Commission on Slavery" (1924–25) and its successor bodies,¹⁰⁹ but the League did not progress to intervention of the kind that many anti-slavery groups had envisaged in 1919.

To some extent, the lack of action through League bodies was due to inter-imperial rivalries, which Ras Tafari played to his advantage. The French government, in keeping with its support for Ethiopia within the League, largely shielded Ethiopia from criticism. The Italian expert, too, showed little interest in slavery before the 1930s. The British position was more varied, torn between a desire on the part of government officials and "experts" like Lugard to see change, both in the interests of adjacent British territories and their own sense of humanitarian mission, and an inclination to use the threat of criticism as a bargaining chip against Ethiopia in the service of other imperial agendas.

Yet the lack of action was also a reflection of the limited expertise which the League, or anti-slavery bodies, could actually offer. While proposals for action under League auspices showed some grasp of the interconnectedness of slavery and the slave trade with the local economy, and centre-province relations, there was little sense of how to go about addressing these interconnections. Matters came to a head with a resurgence of attention to slavery, the creation (under US pressure) of a special Commission to investigate forced labour in Liberia, and appointment in 1931 (after British pressure) of a new League "Committee of Experts on Slavery" (CES). Alarmed by the Liberian precedent, Haile Sellassie asked the Anti-Slavery and Aborigines Protection Society (one of the leading anti-slavery organizations) to send a mission to advise him. This could have been a vehicle for the behind-the-scenes assistance the FO had sometimes contemplated (particularly on funds to free slaves, and means of occupying them after release). But the ASAPs ended up sending Lord Noel-Buxton, a longstanding anti-slavery campaigner but someone lacking detailed knowledge of Ethiopia, and unlikely to have practical insights. On Noel-Buxton's visit in 1932, Haile Sellassie agreed to proposals for slavery judges, police and enforcement. However, Noel-Buxton prioritised a humanitarian agenda aimed at internationalist audiences, submitting his report to the League without first showing it to Haile Sellassie, and mentioning in the *Times* the prospect of a League mandate over Ethiopia. Sandford, then an adviser to Haile Sellassie, reported with frustration that this was hindering real progress on the ground.¹¹⁰

In the CES, Lugard used the Noel-Buxton report to press again for a League adviser and perhaps League funding. This time, the Italian expert, too, eagerly embraced the opportunity to depict

¹⁰⁹ On the work of these bodies, Miers, *Slavery in the Twentieth Century*, 100–133, 174–179, 197–316.

¹¹⁰ *Ibid.*, 177–79

Ethiopia as hopelessly backward.¹¹¹ The usual support from the French expert, who argued for Ethiopia's right to comment on the report and evidence, and reports from the British adviser to the Ministry of the Interior detailing reforms, held back more comprehensive inquiries.¹¹² But it is not clear that these inquiries could have produced any more nuanced program of reform than those being developed iteratively in the "model provinces."

The fact that the League's engagement with Ethiopia, even on slavery, turned out to be rather limited, is not to downplay the relations of power inherent in the perpetual *possibility* of more decisive League action. But the limits of the actual expertise on offer through the League does reflect again the ambivalence of notions of statehood evident at the moment of Ethiopia's admission. In moving from imperialism to quasi-universal international organization as the basic structure of the international legal order, there was a critical evasion of the question of how to bring states into being. Neither the parsimonious and somewhat artificial criteria for admission, nor the more fine-grained institutional dealings with polities once admitted, grappled with the relation between juridical status as states and League members, reform on specific questions such as slavery, and the larger structural issues of centre-periphery relations, and extension of effective control, with which Ras Tafari was preoccupied.

As geopolitical circumstances shifted in the 1930s, Ethiopia's status as a League member came under pressure. As Parfitt has argued, the developments of the 1930s are not so much a contradiction of Ethiopian admission as an exploitation of the ambivalences involved in the admission process, which reformulated rather than transcended Ethiopia's precarity.¹¹³ However, admission had nevertheless entailed certain protections. Relative to its stated ideals, and the protections to which Ethiopia was formally entitled, the League failed utterly, but relative to a position in which Ethiopia was not a member at all, the League offered juridical and institutional avenues for the preservation of statehood.

After Italy drew Ethiopia into a border incident near the un-demarcated boundary between Ethiopia and Italian Somaliland, the dispute was channelled first into an arbitration that ultimately found neither party responsible. A "Committee of Five" drawn from the Council proposed a "Charter of Assistance" to Ethiopia which combined the recurring recourse to mandate-like structures with outright "colonial appeasement."¹¹⁴ Even this was rejected by Italy. A Committee of Thirteen (ie all Council members, except Italy) then prepared a report on the situation, but Anglo-French

¹¹¹ Ribi Forclaz, *Humanitarian Imperialism*, 143ff.

¹¹² Miers, *Slavery in the Twentieth Century*, 201–2.

¹¹³ Parfitt, "Empire des Nègres blancs."

¹¹⁴ On colonial appeasement, see Pedersen, *The Guardians*, 325–354. For the "Charter of Assistance," see Report by Committee of Five to the Council, 24 Sep 1935, C.379.M.191.1935.VII in *LNOJ* 16 (1935): 1620. The Charter amounted in effect to a complete takeover of sovereign functions by foreign specialists. It was only minimally a "League" initiative: advisers were to be overseen by a delegate of the League accredited to the Emperor, but the three European powers would be heavily involved, and Italy would have special recognition of economic interests as against Britain and France.

imperatives to placate Italy undermined the sanctions regime and the League failed to give effect to the guarantee of territorial integrity in art 10 of the Covenant.

These exchanges offer a retrospective lens on how the parties understood the significance of admission in rearticulating Ethiopia's status. Just prior to invasion, the Italian Government submitted a long memorandum to the Council which cast Ethiopia as the negative of a legitimate state: a treaty-breaker, a slave state, indeed not a state at all, but rather a failed and exploitative colonial administration by a small "Abyssinian" polity of much larger, and very distinct, populations.¹¹⁵ The memorandum combined a focus on treaty compliance, and Ethiopia's failure to adhere to its "special obligations" (criteria which had been discussed on admission) with general complaints about a lack of internal order (something not central to the admissions criteria, but a preoccupation of the delegations in 1923), and general language about civilization and barbarism in the treatment of prisoners and the ill. The Committee of Five's proposed "Charter of Assistance" had defaulted to an imperialistic model of intervention which implicitly accepted critiques of this nature. Yet once the Charter of Assistance was rejected by Italy, and the Committee of Thirteen had to consider the Italian memorandum, it defended Ethiopia's position by invoking precisely the status granted "on credit" in 1923.

Where Italy complained that Ethiopia had not respected the special obligations attached to its admission, the Committee read these special obligations as reserving an exclusive role for the Council to make recommendations as to their observance. The fact that there had been no proposal for the Council to do so became a means of undermining Italy's unilateral critiques.¹¹⁶ As for border raids, the Committee of Thirteen pointed to the "great difficulty of ensuring the application by the subordinate provincial authorities if the policy of the Central Government." The lack of control over territory thus figured as a means of defending Ethiopian status, not attacking it. And insofar as Italy tried to use this internal disorder as a complaint in its own right, the report implicitly suggested that Ethiopia was not to be held to standards applicable elsewhere:

the Governments which, in 1923, supported Ethiopia's request for admission ... were aware of the internal situation of the Empire at that time ... those Governments considered that the entry of Ethiopia into the League would not only afford her a further guarantee for the maintenance of her territorial integrity and independence, but would help her to reach a higher level of civilisation. There does not appear to be more disorder and insecurity in Ethiopia to-day than was the case in 1923.¹¹⁷

In other words, Ethiopian admission had been granted on a basis which may have diverged from that prevailing in other states; but that admission created rights which could not be contested by invocation of more general criteria of "stateness" or "civilization." The Council was willing to

¹¹⁵ *LNOJ* 16 (1935): 1355ff.

¹¹⁶ *Ibid.*, 1616.

¹¹⁷ *Ibid.*, 1605, 1618. Part of this statement was quoted by Haile Sellassie in his 1936 speech to the Assembly: see *LNOJSS* 151 (1936): 23.

contemplate subjecting Ethiopia to a regime of quasi-colonial rule under nominal League auspices, but not to contemplate an unmaking of the state altogether on Italian demands.

In procedural terms, the League gave Ethiopia some minimal claim to be heard. The Ethiopian delegation filed responses to the Italian memorandum, refuting its accuracy, pointing out that any lack of control on the empire's fringes was not dissimilar to patterns seen in European empires, and seeking an international commission of inquiry to ascertain the true position. The impact of these representations was limited to a large extent by the great powers' influence in shaping League procedure, and the outlook of the Secretariat. The then-Secretary-General, Joseph Avenol, and Secretariat staff, helped curb the publicity of discussion and avoid open confrontation with Italy.¹¹⁸ This steered discussions into and out of certain League fora, dissuaded recourse to the Assembly, and postponed League discussions in order to accommodate ad hoc negotiations.¹¹⁹ Secretariat decisions amplified Italian positions and marginalized Ethiopian ones. Excuses were found, for example, not to circulate a letter from Dr Martin, then the Ethiopian Minister in London, mentioning the torture of an Italian political prisoner and contending that "the Fascist form of Government is by no means suitable for Colonial administration, and that people living in glass houses are ill-advised to throw stones."¹²⁰ Council members did not publicize what they knew of Italian gas attacks in Ethiopia,¹²¹ and correspondence to the Secretariat registering British liberal opposition to the invasion was carefully managed.¹²² Yet efforts to bar Ethiopian access to the Assembly and Council by ruling their credentials invalid did not succeed.¹²³ Haile Sellassie's personal appeal to the League Assembly in 1936 helped build powerful popular support in Britain and the US for the Ethiopian cause, despite the stance taken by the British government. Thus, regardless of the micromanagement of particular statements by the Secretariat, and the limits on Ethiopian ability to make full use of the League machinery, the narratives for which the League provided a formal stage may have helped preserve the Ethiopian state as an international actor,

¹¹⁸ See, eg, untitled, marked at top in pencil "L'original a été remis à la Section Politique ...," MAE PAAP Avenol 29.

¹¹⁹ See, eg, John H. Spencer, "The Italian-Ethiopian Dispute and the League of Nations," *American Journal of International Law* 31, no. 4 (1937): 640.

¹²⁰ Martin to Secretary-General, 9 Sep 1935; Walters to Martin, 12 Sep 1935; minutes; all LNA R3654 [1/19840/15227].

¹²¹ See, for Britain, Steven Morewood, "The Chiefs of Staff, the 'men on the Spot' and the Italo-Abyssinian Emergency, 1935–36," in *Decisions and Diplomacy: Essays in Twentieth-Century International History*, ed. Dick Richardson and Glyn Stone (London: Routledge, 1995), 98.

¹²² See, eg, [illegible] to Avenol, 2 May 1937, LNA R3649 [1/15227/15227].

¹²³ See, eg, "Participation de l'Ethiopie à la prochaine réunion de l'Assemblée de la S.D.N.," 15 June 1936, MAE PAAP Avenol 29; 'Extrait des Archives Secrètes du Comte CIANO, page 31. Chapitre III', MAE PAAP Avenol 29; cf Council minutes, 93rd sess, 1st mtg (private) [18 Sep 1936] *LNOJ* 17 (1936): 1138, 1139.

strengthening claims for independence after WWII, and contributing to a draining of persuasive force from old languages of European trusteeship.¹²⁴

VI. The interwar episode in twentieth-century chronologies of statehood and state-making

The Italian invasion was a violent caesura in state-making within Ethiopia itself. It drove Haile Sellassie into exile in Britain, dissolved solidarities between leading reformists, and saw the systematic slaughter in 1937 of intellectual élites who might otherwise have been in the vanguard of the Ethiopian bureaucracy.¹²⁵ Despite the violence and disruption of the Italian occupation, however, there were continuities in both the juridical status of Ethiopia, and the concrete practices of state-making, spanning WWII. In the abstract retrospection of international law, Ethiopian statehood never actually disappeared.¹²⁶ Britain, France and many other states had recognized Italian sovereignty over Ethiopia by 1938, but this recognition was withdrawn by Britain in November 1940, and the British government declared in 1941 that it would welcome the re-emergence of an independent Ethiopia under Haile Sellassie. After the defeat of Italian forces in Ethiopia, authority was exercised by an unstable combination of the emperor, the British military forces, and the (British) Occupied Enemy Territory Administration (OETA).¹²⁷ An Anglo-Ethiopian Agreement of 1942 recognized that Ethiopia was “free and independent,” albeit subject to British oversight in crucial matters (“for all practical purposes a British protectorate”).¹²⁸ With the prospect of US support, and the appointment of what would be a longstanding American legal adviser, John Spencer, to the foreign ministry, Haile Sellassie was able to secure a less overbearing Anglo-Ethiopian treaty in 1944.¹²⁹ In keeping with the theory that the Ethiopian state had persisted despite the temporary destruction of all independent government, Ethiopia took its seat in the UN as of right, as a founding member.

On the ground, state-making activities after WWII followed many of the patterns seen in the interwar years. Several individuals who had served as advisers in the 1930s played a role in the

¹²⁴ Pedersen, *The Guardians*, 297–98; Ribi Forclaz, *Humanitarian Imperialism*, 190–91; on African-American and black Caribbean mobilization, Joseph E Harris, *African-American Reactions to War in Ethiopia 1936–1941* (Baton Rouge: Louisiana State University Press, 1994), 34–84; Shilliam, “Intervention and Colonial-Modernity,” 1144–46.

¹²⁵ Bahru Zewde, “The Ethiopian Intelligentsia and the Italo-Ethiopian War 1935–1941,” *International Journal of African Historical Studies* 26 (1993): 271.

¹²⁶ James Crawford, *The Creation of States in International Law*, 2nd ed (Oxford: Clarendon Press, 2007), 519–20, 702–3.

¹²⁷ John H. Spencer, *Ethiopia at Bay: A Personal Account of the Haile Selassie Years* (Algonac: Reference Publications, Inc, 1984), 95. Spencer served as legal adviser to the Ethiopian Ministry of Foreign Affairs.

¹²⁸ *Ibid.*, 99.

¹²⁹ *Ibid.*, 140–45.

wartime administration and beyond.¹³⁰ Tendencies towards centralization and absolutism, central elements of Haile Sellassie's interwar efforts, were crystallized in the 1955 Constitution;¹³¹ indeed British involvement advanced centralization by marginalising Ethiopian republicans in exile in Sudan, who favoured popular rule and federalism rather than centralized monarchy.¹³²

One can also see important continuities between the way in which the League's admissions criteria crystallized and framed questions of legal status, and the way such questions were approached in the UN. Under the UN Charter, the test for admission of states after the founding of the UN was, as in the League, relatively minimalist. The UN was, under art 4(1), "open to all ... peace-loving states" ("state" then being roughly as defined in the *Montevideo Convention*),¹³³ which accept Charter obligations, and, in the judgment of the UN, are "able and willing" to meet them. Admission of new members operated much as it had under the League, effectively driving (although not superseding in a juridical sense) bilateral recognition, and admission would come to be considered conclusive of the fact of statehood.¹³⁴ The institutional context of decision-making about admission remained important, although the Charter's reference to Security Council recommendation gave the major powers an effective veto over membership which the League Council had *not* enjoyed. As in the League, practice moved rapidly away from literal application of even the minimalist art 4(1) criteria, towards an aspiration to universality. The question of whether an applicant was a "state" remained important, but deliberations tended to turn on doubts about the plausibility of territorial claims, and whether polities were genuinely independent, rather than features of their internal government. This meant that, by the time the wave of decolonization accelerated, a precedent had already been set for avoiding any searching inquiry into whether these newly independent states satisfied art 4(1).¹³⁵

¹³⁰ Sandford, for example, was involved in the British military action, and then served as adviser to Haile Sellassie, acting as go-between and mitigating conflicts with other British nationals in the OETA more dismissive of Ethiopian independence. On his later career, see Casbon, *The Incurable Optimists*, 136–38; Asfa-Wossen Asserate, *King of Kings: The Triumph and Tragedy of Emperor Haile Selassie I of Ethiopia*, trans. Peter Lewis (London: Haus, 2015), 160–61.

¹³¹ Spencer, *Ethiopia at Bay*, 130–32. This was drafted with some assistance from US experts, and contained a list of rights, but was largely shaped by Emperor's demands: at 256–60.

¹³² Zewde, *History*, 176.

¹³³ See above n 85.

¹³⁴ John Dugard, *Recognition and the United Nations* (Cambridge: Grotius Publications, 1987), 41ff; Thomas D Grant, *Admission to the United Nations* (Leiden: Nijhoff, 2009), 252–57.

¹³⁵ Duxbury, *Participation of States in International Organisations*, 99; Dugard, *Recognition and the United Nations*, 67–73; contra Rosalyn Cohen, "The Concept of Statehood in United Nations Practice," *University of Pennsylvania Law Review* 109 (1961): 1127–1171 (emphasizing that there was some reference to juridical criteria concerning statehood). The trend to universality reached its logical conclusion in the 1990s with the admission of several "micro-states," in contrast to the relatively uncontroversial exclusion of polities like Liechtenstein from the League. See Bruno Simma et al., eds., *The Charter of the United Nations: A Commentary*, 3rd ed., vol. I (Oxford: Oxford University Press, 2012), 347; Grant, *Admission*, 238–244.

Despite superficial continuities in the minimalist definition of statehood, however, the Charter order implied major changes to how statehood functioned within a larger international legal order. The greater emphasis on individual rights relative to the 1920s legitimated a certain international scrutiny of, and concern with, the internal government of states which had been bounded under the League by specific regimes, like that for minorities. The international order increasingly also articulated grounds for looking inside empire-states, as “self-determination” was given new force and legal articulation. With decolonization, there was a further entrenchment and operationalization of the link seen already in the League era, between an expansive approach to admission criteria, on one hand, and far-reaching possibilities of international oversight. After WWII, international organizations like the UN became more sophisticated and intrusive vectors of expertise in “development” and later “governance,” and supported or even led the sorts of “state-making” projects which Haile Sellassie had pursued in the interwar period. In situations of conflict or crisis, dispute settlement, peacekeeping and “transitional justice” processes came to address acute questions about the locus of political authority.¹³⁶ Often mediated by international institutions, if still dominated by major powers,¹³⁷ such processes linked status in international law, and admission to international organizations, with the reformulation of internal constitutional and political arrangements. If the definition of statehood as such remained thin, functional, and loosely applied, the task of, and expertise in, state-making spread itself through new institutional and disciplinary sites.

These patterns are reflected in the Horn of Africa, as elsewhere. Having earlier espoused an understanding of Ethiopia as an empire, Haile Sellassie argued after WWII for narrow definitions of colonialism and non-self-governing territories, as those geographically separate from the metropole. This effort insulated Ethiopia from some of the fissiparous pressures of self-determination and decolonization (but not ongoing tensions with Eritrea and peoples in the south). However, the surrounding colonies each had troubled passages into statehood, with “self-determination” a recurrent argument, if not solution,¹³⁸ and Ethiopia’s own current constitution now incorporates self-determination for “nations, nationalities and peoples” through sub-federal states.¹³⁹ The Horn of Africa has also seen a pattern of international involvement in maintaining statehood through the UN and other international and regional bodies, in everything from the

¹³⁶ Fiti Sinclair, *To Reform the World*; Anne Orford, *International Authority and the Responsibility to Protect* (Cambridge: Cambridge University Press, 2011).

¹³⁷ Bridget Coggins, *Power Politics and State Formation in the Twentieth Century: The Dynamics of Recognition* (Cambridge: Cambridge University Press, 2014).

¹³⁸ Alex de Waal and Sarah Nouwen, “The Necessary Indeterminacy of Self-Determination: Politics, Law and Conflict in the Horn of Africa,” *Forthcoming*, n.d., (manuscript on file with author).

¹³⁹ See Mulugeta Gebrehiwot Berhe and Fiseha Haftetsion Gebresilassie, “The Norms and Practices of Nationalism and Self-Determination in Contemporary Ethiopia,” *Forthcoming*, n.d., (manuscript on file with author).

unusual “federation” between Ethiopia and Eritrea brokered by the UN,¹⁴⁰ to various peacekeeping missions, and extensive international involvement in shepherding into existence the Republic of South Sudan.

Although the post-1945 history of the Horn of Africa is highly complex, the Ethiopian trajectory can, I argue, prompt us to look again at dominant narratives about the changing nature of statehood over the twentieth century. One such narrative suggests that post-WWII decolonization broke fundamentally with pre-WWII emphasis on effectiveness for statehood and recognition. On this account, decolonization gave rise to states “‘posited’ by international society,” the continued existence of which depended on the “normative, legal, and organizational superstructure” of international law and the UN.¹⁴¹ These accounts are open to criticism in multiple grounds, but Ethiopia, often erroneously listed among the “quasi-states” or “failing states” emerging from decolonization,¹⁴² presents a particular chronological and analytical challenge.

If Ethiopia does share certain common traits with surrounding decolonized polities, many of these traits turn out to be intimately related to questions about internal structures within Ethiopia which were raised, if only tentatively, in the 1920s. The ambiguities of self-determination in multi-ethnic polities, and the fragility of political order within arbitrary boundaries, are familiar artefacts of decolonization, but they are also merely continuations of Ethiopia’s longstanding difficulties in centre-periphery relations, and in building a machinery of state capable of functioning in the distinct conditions of that polity. If there is a disjuncture between effectiveness of authority and formal status in the twentieth-century international legal order, its origins long predate 1945, and are particularly apparent in the interwar period.

As sketched here, criteria for membership of the League, and the questionnaire developed to implement them, saw a shift away from nineteenth-century understandings of a loose “standard of civilization.” This shift involved an imperfect effort to bracket religious, cultural or racial dimensions of status, but also, more significantly for my purposes, a turning *away* from explicit consideration of internal political structures and governmental capacity at exactly the moment when the creation of a new international organisation seemed to demand greater emphasis on these matters. One response to the unease about whether, and how, Ethiopia satisfied the criteria for membership was to recast membership as a process of reform, possibly overseen by the League

¹⁴⁰ GA Res 390(V) of 1950. On the contested role for the UN in upholding this arrangement, Spencer, *Ethiopia at Bay*, 223–48.

¹⁴¹ Robert H Jackson, *Quasi-States: Sovereignty, International Relations and the Third World* (Cambridge University Press, 1991), 80, 81. This is also the thrust of, eg, Mikulas Fabry, *Recognizing States: International Society and the Establishment of New States Since 1776* (Oxford University Press, 2010), 155–65.

¹⁴² See, eg, Krasner’s listing of Ethiopia as among states of a “pre-modern world” enjoying “possibly Westphalian, Vattelien sovereignty, but not domestic sovereignty”: Stephen D Krasner, “The Durability of Organized Hypocrisy,” in *Sovereignty in Fragments. The Past, Present and Future of a Contested Concept*, ed. Hent Kalmo and Quentin Skinner (Cambridge: Cambridge University Press, 2010), 100; Spears, “The Ethiopian Crisis and the Emergence of Ethiopia in a Changing State System,” 34.

(or European empires operating through the League), rather than as recognition of a status already achieved. In the interwar period, the substantive content of international oversight in nominally independent states had not been found. The League as such had offered limited independent expertise, that of colonial administrators: a sort of indirect rule that was too static for what Ras Tafari was trying to accomplish. Seen in this light, Ethiopia is not a “failed state” *avant la lettre*, but a marker of where a certain effort to think through the nature of the state—under conditions of international organization—failed first, opening questions which remain pressing today.