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The United Nations, International Law, and the Rhodesian Independence Crisis

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THE UNITED NATIONS, INTERNATIONAL LAW, AND THE RHODESIAN INDEPENDENCE CRISIS. By *Jericho Nkala*. New York: Oxford University Press. 1985. Pp. vii, 288. \$49.

*I don't believe in black majority rule ever in Rhodesia — not in a thousand years.*¹

On November 11, 1965, Ian Smith's white minority Government of Rhodesia proclaimed a unilateral declaration of independence (UDI) from the United Kingdom (p. 1). This resulted in a series of United Nations Security Council resolutions calling for economic sanctions against Britain's rebellious colony. Notwithstanding Mr. Smith's thousand-year prediction,² after fourteen years of international ostracism and internal unrest, Rhodesia fell and Zimbabwe, a majority rule state, was born.³

The United Nations, International Law, and the Rhodesian Independence Crisis by Jericho Nkala⁴ sets an ambitious agenda for reviewing a multitude of legal issues raised by the UDI. Dr. Nkala addresses the United Nations Security Council's "non-military enforcement action" (i.e., economic sanctions) under Chapter VII of the United Na-

1. P. 219 (quoting Mr. Ian Smith, Prime Minister of white minority Rhodesia, *Sunday Times* (London), Mar. 21, 1976).

2. See note 1 *supra* and accompanying text.

3. On December 21, 1979, Rhodesia and Britain signed the Lancaster House Agreement in London, England. The Agreement "[set] up a machinery for transferring political power in Rhodesia genuinely to the African majority." P. 187. See also S.C. Res. 460, 34 U.N. SCOR, Res. & Decs. 15-16, U.N. Doc. S/RES/460 (1979) (noting the Lancaster House Agreement as the basis for terminating economic sanctions against Rhodesia).

4. Jericho Nkala is Lecturer in Law at the University of Zimbabwe. Dr. Nkala was born in Southern Rhodesia. He holds an LL.B. from the University of Leeds, and received a Ph.D. from the University of Keele in 1978. This book is based on his doctoral thesis.

tions Charter⁵ and related international law questions such as the legality of the UDI. Furthermore, he draws conclusions as to the future use and effectiveness of United Nations economic sanctions. Dr. Nkala's review of Rhodesia's recent history is timely in light of its potential application to, and implications for, the continuing problems of South Africa's apartheid system.

The book consists of fourteen chapters and an appendix. The first four chapters provide basic background material. Dr. Nkala traces Rhodesia's colonial history under Great Britain. The reader learns that Rhodesia's white minority system was established early; "[f]rom 1923 the history of Rhodesia is dominated by the way in which the white settlers of that territory consolidated their power and ensured that the African majority . . . remained . . . subservient to the interests of the white minority" (p. 3). Nkala also provides a helpful primer on the complex history of the black African majority political parties.⁶ In addition, the early chapters discuss United Nations resolutions on Rhodesia prior to the UDI, the UDI's alleged illegality, and the lack of international recognition of white minority Rhodesia as an independent state.

The remaining chapters discuss the imposition of sanctions by the United Nations Security Council, the Council's sources of power for taking such action, and the effectiveness of the sanctions. After reviewing the termination of sanctions following the Lancaster House Agreement, Nkala attempts to draw some conclusions as to the future of United Nations nonmilitary enforcement measures.

Several chapters are devoted to what could be called "textbook" material. Material in some of these chapters would be more appropriate for a textbook than for a discussion specifically related to the Rhodesian independence crisis. For instance, Chapter Seven reviews the effects of United Nations resolutions on nonmember states. Dr. Nkala notes that "[t]he members [of the United Nations] would certainly not want to see their organization fail simply because its efforts were torpedoed by non-members" (p. 115). The author overstates his case, considering that virtually every state is a United Nations member.⁷ As he points out in Chapter Fourteen, the actions of the United

5. U.N. CHARTER arts. 39-51 ("Action with Respect to Threats to the Peace, Breaches of the Peace, and Acts of Agression").

6. Nkala discusses, for example, the formation of the African National Congress (ANC) in 1957 and its subsequent banning in 1959 (p. 5), the National Democratic Party's (NDP) 1960 formation (p. 5) and its 1961 banning (p. 8), and ultimately the existing Zimbabwean African People's Union (ZAPU), the Zimbabwe African National Council (ZANU), and the African National Council (ANC) (pp. 8-9).

7. Dr. Nkala points to Switzerland and West Germany (which later joined the United Nations) as nonmember states having no obligation to enforce the United Nations sanctions. P. 127. However, both of those states *did* comply. Enforcement problems were in fact much greater with regard to United Nations members such as Portugal, South Africa, and the U.S. See note 8 *infra* and accompanying text.

Nations members who contravened the economic sanctions caused far more problems.⁸

Other chapters provide additional examples of "textbook" material. Chapter Nine discusses at length the military option for eliminating the Rhodesian rebellion, even though military force was never seriously considered by the Security Council. Chapter Ten expounds on the Security Council's voting procedure. The procedure, a straightforward application of Article 27 of the United Nations Charter, was not an issue in the Rhodesian crisis. A possible explanation for the extensive amount of theoretical discussion not directly related to the Rhodesian crisis is the book's genesis as a dissertation, where discussion and definition of terms are requisite.⁹

An in-depth review of Dr. Nkala's fifth chapter is worthwhile. This chapter contains an examination of the many nonmilitary enforcement measures introduced through the United Nations Security Council. For example, Resolution 216, a nonbinding resolution passed in 1965, "condemned UDI and called upon all states not to recognize the illegal administration in Rhodesia and to refrain from rendering any assistance to it" (p. 78). Resolution 221, adopted in 1966 as the first binding resolution, called for "a mandatory oil embargo under Chapter VII [of the United Nations Charter]" (p. 82). It was followed in 1968 by the comprehensive economic sanctions of Resolution 253 (p. 85). Chapter Five is the best chapter in the book for two reasons: first, it provides a clear, concise account of the Security Council's actions; second, it demonstrates that the weakness of the Council's actions account "for the enormous number of resolutions" it passed (p. 90).

One of the reasons for the large number of resolutions was that not all members of the Security Council perceived the Rhodesian problem in the same way. Britain suggested bilateral negotiations as a solution to the Rhodesian problem. Thus, "she saw the Security Council's action as a means necessary to create an atmosphere in which meaningful negotiations between the British Government and the Smith regime could take place" (p. 79). Britain "insisted on the enforcement measures being introduced on a piecemeal fashion" (p. 79). In contrast, "[t]he African members of the Security Council . . . believed that the Smith regime should be forced into submission since by seizing power illegally it had forfeited its right as a party whose views should be taken into account" (p. 80). Britain's failure to resolve the problem

8. South Africa and Portugal "overtly adopted policies of non-compliance." P. 232. In addition, the U.S. "openly violated those obligations" by ordering chrome from Rhodesia. P. 232. See also p. 89. For an excellent discussion of the United States' importation of chrome from Rhodesia, see Note, *The Rhodesian Chrome Statute: The Congressional Response to United Nations Economic Sanctions Against Southern Rhodesia*, 58 VA. L. REV. 511 (1972).

9. See, e.g., D. MADSEN, *SUCCESSFUL DISSERTATIONS AND THESES* (1983).

bilaterally eventually led to a broader consensus to impose mandatory measures, including Resolutions 221 and 253 noted above.

In addition to describing the United Nations resolutions, Dr. Nkala discusses some of the reasons for their ineffectiveness. A major impediment was "the non-observance of the selected economic measures" (p. 88) by certain member states. For example, "South Africa and Portugal overtly declared at the outset that they were not prepared to observe the decisions of the Security Council" (p. 88). Portugal's participation in the sanctions was important because, until 1974, Mozambique was a Portuguese colony. These two "backdoors" accounted for part of Rhodesia's success in weathering the economic sanctions for the first ten years.

The United States also violated binding United Nations economic sanctions through an amendment to the Military Procurement Act of 1971.¹⁰ This act barred the President "from prohibiting the import of Rhodesian chrome . . . into the United States" (p. 89). A law review note discussing the statute states that "[t]he ostensible purpose of the statute was to compel the President to violate United Nations Security Council Resolution 253."¹¹ In 1972, the United States "imported nearly three times as much chrome from Rhodesia as it did in 1965" (p. 89).

Nkala tells us that ultimately it was not the United Nations sanctions which brought down the Smith regime. These sanctions were weakened by the United States, South Africa and Portugal. The regime "only ended as the result of the development of the guerrilla war" (p. 239). Regrettably, the reader is told little else about Rhodesia's internal unrest, which apparently played a major role in bringing down the white minority government. In light of the relative ineffectiveness of economic sanctions against Rhodesia, the future of United Nations sanctions becomes a particularly interesting question.

Dr. Nkala addresses this question in the final chapter, deriving several principles from the lessons of Rhodesia. First, any sanctions must be imposed "quickly and effectively so as to prevent the subject of the action [from] adapting its economy to neutralize the effects of those measures. This means that the measures should be both mandatory and comprehensive" (p. 228). The "slow graduation of enforcement measures deprived the measures of their sting and allowed the Rhodesian economy to adapt" (p. 228). Second, there must be "universality of . . . application" (p. 231). Dr. Nkala reiterates that Switzerland and West Germany were not United Nations members,¹² and that some members such as South Africa, Portugal, and the United States did

10. Pub. L. No. 92-156, 85 Stat. 423 (1971).

11. See Note, *supra* note 8, at 512.

12. In this case, both countries *did* comply with the measures, even though they were not UN members. See note 7 *supra* and accompanying text.

not comply with the sanctions.¹³ Third, there must be “effective machinery for monitoring . . . implementation” (p. 232). Nkala points out that the Security Council Sanctions Committee had no independent method of verifying the accuracy of information provided to it, and that it lacked the power to stop ships suspected of violating the embargo.

While all three of Dr. Nkala’s points are valid, they will not necessarily guarantee that future sanctions will be effective. His second and third points are variations on the theme that sanctions will be ineffective without compliance and that compliance cannot be enforced without giving enforcement power to a central body. This is not a new problem. As one authority pointed out more than twenty years ago, international law sanctions “are not systematic or centrally directed, and . . . accordingly they are precarious in their operation.”¹⁴ None of the United Nations members seem willing to give up any of their sovereign powers to a central enforcement body, which is the only true way to obtain compliance.

After pointing out the weaknesses of sanctions, Rhodesia’s fourteen year defiance of those sanctions, and the significant role of the guerrilla war in ending the white minority government, Dr. Nkala submits that such factors “should not detract from the usefulness of the United Nations enforcement action in other cases” and that “the economic weapon is merely one of a range of measures” (p. 239). His most persuasive argument is that “there is at present nothing better than [United Nations sanctions]” (p. 223). Such sanctions are “the only major weapon the international community has which can command the widest possible international consensus” (p. 237). Thus, Nkala’s final message is that United Nations sanctions may not be the most effective method, but they’re all we have.

Although Dr. Nkala seems to believe that future sanctions could be successful, he is skeptical about the possibility of applying sanctions to South Africa. He argues that “the Western powers are not too keen to uphold the efficacy of the non-military enforcement action of the United Nations in case there should be demand for it to be used against . . . South Africa” (p. 223). Unfortunately, Nkala does not elaborate on this statement, nor does he provide any support for it.

Nkala’s analysis leaves the future application of economic sanctions at an abstract level. He does not attempt to use the Rhodesian experience as a guide to applying sanctions against South Africa.¹⁵ The book, however, touches on many of the parallels between Rhode-

13. See notes 7-8 *supra* and accompanying text.

14. J. BRIERLY, *THE LAW OF NATIONS* 101 (6th ed. 1963).

15. A recent newspaper article does compare the Rhodesian sanctions to their possible implications for South Africa. Based on differences in four broad areas — economic, political, importance in world markets, and internal unrest — it concludes that “Rhodesia is unlikely to prove a reliable model for forecasting how sanctions might affect South Africa.” Hawkins, *Rhodesia’s*

sia and South Africa. For example, the first chapter discusses the late nineteenth-century legislation establishing minority rule in Rhodesia. It "contained all the pass laws, labour control measures, urban controls and land legislation" (p. 3). Again, similar to South Africa's homelands policy, "[I]and was divided between African reserves, which were generally poor in fertility and had lower rainfall, and white-controlled land with the best agricultural potential" (p. 4). Just as South Africa presents a threat to many of its neighbors, "[t]he [Smith] regime became brutally aggressive against the neighbouring states of Botswana, Mozambique, and Zambia" (p. 218).

Overall, *The United Nations, International Law, and the Rhodesian Independence Crisis* provides a useful reference for many of the legal issues surrounding Rhodesia's path from white minority rule to majority rule. The reader is provided with a basic understanding of Rhodesia's colonial history, its internal political structure, and the international community's attempts to quell the white minority's unilateral declaration of independence through United Nations sanctions. While Dr. Nkala does not thoroughly extend his analysis to the possible application of sanctions to South Africa, he has established a foundation enabling the reader to draw some tentative conclusions of her own.

The book's primary shortcoming is its attempt to cover too much ground without focusing on any particular theme. Every subject is treated as if it were equally important. Thus, areas which could benefit from additional development are slighted in order to include areas better left to a textbook discussion. For example, analysis of potential future application of United Nations sanctions to South Africa could be expanded while the chapters on United Nations voting procedures and the military option could be merely mentioned as background. Nevertheless, this book reminds us that the struggle for majority rule in Rhodesia was a success. While the United Nations sanctions may not have been the primary factor, they provided at least some impetus toward this ultimate achievement.

— Gary A. MacDonald