

Michigan Law Review

Volume 59 | Issue 8

1961

Taylor: Indonesian Independence and the United Nations

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Recommended Citation

Durward V. Sandifer, *Taylor: Indonesian Independence and the United Nations*, 59 MICH. L. REV. 1283 (1961).

Available at: <https://repository.law.umich.edu/mlr/vol59/iss8/15>

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INDONESIAN INDEPENDENCE AND THE UNITED NATIONS. By *Alastair M. Taylor*. Published under the auspices of The Carnegie Endowment for International Peace. Ithaca, N.Y.: Cornell University Press. 1960. Pp. xxix, 503. \$7.50.

The author disclaims a "definitive" character for this account of "Indonesian Independence and the United Nations," calling it a case study of the activities and effectiveness of the United Nations in the field of pacific settlement under Chapter VI of the Charter. However, his meticulously thorough, detailed and comprehensive treatment is likely to remain the standard treatment of the subject for a long time to come. He writes from the vantage point of having served, as a member of the United Nations Secretariat, with the Security Council's field machinery in Indonesia until shortly before the adjournment, *sine die*, of the United Nations Commission for Indonesia in April 1951. He writes, therefore, with authority from first-hand knowledge, making effective use of interviews with participants as well as the voluminous United Nations documentation. The more interesting and useful part of the book, especially from the point of view of the lawyer or political scientist, is to be found in the analysis in Parts Four and Five of the roles of the protagonists, the United Nations, and the permanent members of the Council, plus Australia, Belgium and India. It requires concentration to maintain one's bearings in the multiplicity of details which make up the historical account in Parts One to Three.

In his Foreword, Lester B. Pearson, former Foreign Minister of Canada, speaking of World War II as a forcing ground of change in the existing political order, remarks that in no place were the hopes for the future and the frustrations and bloodshed in the means of realizing them more tragically associated than in Indonesia. This was the more tragic, he points out, because the freedom of the Indonesian people was an objective admitted by all, including the Dutch, as something both necessary and desirable. But it took four years of struggle for the Parties, and of testing for the new United Nations, before this came to pass. Pearson observes that its intervention there established a pattern of policy, if not of machinery for the future, and adds: "In particular, decisions taken by the Security Council began the process of whittling away the Charter reservation of 'domestic jurisdiction' until now it is not much more than something to be observed at the United Nations only if you have the votes, or the influence, to make good your claim that it must be."

The Republic of Indonesia was born, Taylor tells us, on August 17, 1945 — two days after Japan's capitulation to the Allied Powers. It was inaugurated in Djakarta with the reading at the residence of the nationalist leader, Sukarno, of what is undoubtedly the shortest proclamation of independence on record: "We the Indonesian people proclaim the independence of Indonesia. All matters pertaining to the transfer of power, etc., will be carried out efficiently and in the shortest possible time. On behalf of the Indonesian people — Sukarno, Hatta." It is not surprising that there should be conflict and trial in the transfer to a nation so informally launched of the sovereignty over the rich Indonesian archipelago that had been vested in the proud Dutch State for over three hundred years.

The Indonesian case is notable in a number of ways for the United Nations — it was one of the first political cases to be brought to the Security Council; it was the first case in which the United Nations played an instrumental part in the erection of an independent state out of a former colony; it was the first case in which the United Nations carried a major political problem through to a definitive and successful conclusion.

It appeared first on the Security Council Agenda in January 1946 at the Council's First Session, on a charge by the Ukrainian S.S.R. that British troops and Japanese enemy armed forces were participating in military operations against the local Indonesian population. "I give you the lie that we have attacked the Indonesians," was Foreign Minister Bevin's reply to the charges. A proposal by the Ukraine calling for a Commission to investigate was rejected, with supporting votes only from the Soviets and Poland. The Netherlands representative, invoking Article 2 (7) on domestic jurisdiction, declared there was no threat to international peace as "a sincere and whole-hearted attempt" was being made to put Indonesia "in order on a very liberal basis."

The Linggadjati Agreement initialled on November 15, 1946 and signed by the Dutch Government and the Government of the Republic of Indonesia on March 25, 1947, provided that the parties should "cooperate in the rapid formation of a sovereign democratic state on a federal basis to be called the United States of Indonesia." Increasingly violent disagreements over this agreement culminated in the inauguration by the Dutch on July 20, 1947 of "police action" against the Republic's forces, and on July 31 Australia and India brought the case to the Security Council. Australia, invoking Article 39 of the Charter, alleged the hostilities constituted a breach of the peace, and called upon the Parties, pursuant to Article 40, to cease hostilities forthwith. The Netherlands Representative maintained the question was one essentially within the jurisdiction of his government, that under Article 2 (7) the Council was without jurisdiction, and that Chapter VII (Action with Respect to Threats to the Peace, Breaches of the Peace, and Acts of Aggression) was not applicable since there was no danger to international peace and security, "let alone breaches of the peace or acts of aggression in the sense of the Charter." The "application of enforcement

measures under Chapter VII" is a specific exception to the domestic jurisdiction limitation.

In order to enable the Council to take timely action to halt the conflict the United States proposed to delete references to any article of the Charter. This was done and in the fourteen Resolutions adopted by the Council in the ensuing three years no Charter provision was invoked as a basis for its action.

While the Council could no doubt have found basis for some of its actions in Chapter VII, and did without invoking them, it preferred to finesse the question of the basis for its jurisdiction. It acted as a political organ, and essentially on political grounds. Confronted with a situation which would not wait, the Council chose in effect to treat it as a matter likely to endanger international peace and security. Taylor says that, "At all times the majority of the members favored a solution of the dispute on a political, rather than a juridical basis." He adds at a later point, "A strictly juridical approach by the United Nations, namely, to have accepted the Netherlands argument and to have washed its hands of the problem, could not have solved the issue because of the international friction which had already been generated and which threatened to become worse." As indicated by Pearson's statement quoted above, the Security Council has not shown too tender a regard for the Domestic Jurisdiction limitations imposed by Article 2 (7). It has demonstrated a continuing penchant for action to implement what it considers the overriding purpose of the Charter—the maintenance of peace. It has exhibited a strong disinclination to be confined by restrictive juridical interpretations.

The problem and position of the Council was further complicated by the fact that it was dealing not with two contestants equal in law, but with the emergence of a colonial entity into the condition of statehood. While the Republic of Indonesia at first contended that the sovereignty of the Netherlands had been terminated with the Japanese conquest, it later receded in practice from this position. In its Resolution of January 28, 1949, the Council spoke explicitly of "the transfer of sovereignty over Indonesia by the Government of the Netherlands to the United States of Indonesia." Nevertheless, in the Council's proceedings and in the measures carried out by it the Republic was dealt with as at least a *de facto* sovereign, its action implying, according to Kelsen, "an indirect recognition of the Indonesian Republic as a 'State.'"

The measures employed by the Council during the more than three years it was seized of the case were of a character to fall both under Chapters VI and VII of the Charter—cease fire orders, establishment of military supervision machinery, calls for troop withdrawals under Chapter VII, and good offices under Chapter VI. In the early stages it relied on a Good Offices Committee, converted into a United Nations Commission by the Resolution of January 28, 1949. Taylor portrays two United States representatives as playing key, influential roles, Dr. Frank Graham in the earlier

stages, and Ambassador Merle Cochran later, particularly in the successful conclusion of the Round Table Conference at the Hague from August 23 to November 2, 1949. The overall United States role comes out of Taylor's pages with a rather Machiavellian cast, but as a decisive factor in the final successful outcome.

On September 28, 1950, Indonesia became the sixtieth Member of the United Nations. The Indonesian Representative in the Security Council declared: "We realize that without the intervention of the Security Council the Indonesian Question would have been solved on the battlefield by force." Taylor's final appraisal is that the settlement was achieved *ex acquo et bono* and that the United Nations was able thus to perform what the Powers that brought it into existence could not have achieved either singly or in disparate groups.

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