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Book Review. Why Federations Fail: An Inquiry into the Requisites for Successful Federalism

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from abroad is the major problem of those who seek to reconstruct their societies through systems of "social engineering." If Asians and Africans associate the protection of the individual only with the legal system of their former colonial masters, there can be little hope for the preservation of humanistic concepts after independence. However, if the former colonials appreciate, as is usually the case, that in their own traditional social order there is a philosophy of respect for the individual, they are far more likely to borrow from abroad or even to preserve some of the features implanted by the colonial power, because these features can be used to achieve the traditional ends of an African or an Asian society.

Perhaps this is where the Human Rights Commission of the United Nations has a role to play. In spite of disappointments among many over its lack of accomplishment, the Commission has at least demonstrated that men of all races and geographical regions have some common aspirations. Implementation of these aspirations will take time, but it will be hastened if foreign institutions are considered useful tools for implementing indigenous cultural values rather than carriers of hostile forces from abroad.

Franck set out to prove that there is a unity in legal culture throughout the common law world, and that there is an interaction between legal systems tending to enhance that unity. On balance he has achieved that purpose in a thought-provoking study which should be read by every public lawyer concerned with development.

JOHN N. HAZARD*

WHY FEDERATIONS FAIL: AN INQUIRY INTO THE REQUISITES FOR SUCCESSFUL FEDERALISM. Edited by Thomas M. Franck. New York: New York University Press, 1968. Pp. xv, 213. \$7.50.

In his introduction to this volume Frank N. Trager, Professor of International Affairs at New York University, asserts:

What we mean by federalism is not a fixed point on a map, but a tendency which is neither unitary nor separatist. . . . A federalized state is one in which the several units and their respective powers are constitutionally or otherwise legally united under the ultimate power of a

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central state and government. But it is also an essential mark of a federalized state that the subordinate units retain or have reserved some irreducible powers operative within the same territory and regulating the same population over which the federal authority also applies with respect to other matters or different aspects of the same matter.¹

He notes that governments controlling over half the land mass of the world can with some justification claim a federal structure.² Studies of abortive efforts to establish or maintain such unions in East and Central Africa, the West Indies, and Malaysia form the body of the book.

Thomas M. Franck, Professor of Law at New York University, seeks to explain the failure of Kenya, Tanganyika, Uganda, and Zanzibar to federate following their independence in the early years of the present decade. He notes:

If ever the right political galaxies appeared to be in propitious conjunction, it was in East Africa in the summer of 1963. Here four nations . . . come of age with historic, functional, political and personal ties so strong that their failure to seize the moment seems, at first glance, almost a flouting of destiny.³

The states, formerly British dependencies, share a heritage of English language and law. They retain the super structure of interterritorial government, substantial economic integration, and jointly administered communication and transportation services.⁴ Their borders cut across topographic, economic, and ethnographic regions. Although Tanganyika and Zanzibar have merged to form Tanzania, further coalescence has been resisted despite these seemingly dispositive cohesive forces. Franck attributes continuing autonomy to self-seeking by national leaders:

It is, in fact, a near-classic example of political wrecking: of personal ambitions and ego triumphant over the logic of history. In place of a great federation a handful of politicians created, instead, an illusion of identity between the national interest and their personal ambitions.

1. WHY FEDERATIONS FAIL: AN INQUIRY INTO THE REQUISITES FOR SUCCESSFUL FEDERALISM at x-xi (T. Franck ed. 1968) [hereinafter cited as FEDERATIONS].

2. W. RIKER, FEDERALISM: ORIGIN, OPERATION, SIGNIFICANCE (1964).

3. FEDERATIONS 3.

4. For a detailed review of efforts toward East African economic and political integration, see Comment, *Economic Integration in East Africa: The East African Treaty for Co-operation*, *supra* at 302.

As a class, and with important exceptions, *nouveau puissant* behaved exactly like *nouveau riche* in the ostentatious display and excessive protection of their new resource.⁵

In 1953 Britain created the Federation of Rhodesia and Nyasaland, an amalgamation of the Colony of Southern Rhodesia and the Protectorate of Northern Rhodesia and Nyasaland. At the end of 1963 this union was dissolved: Nyasaland and Northern Rhodesia became the independent states of Malawi and Zambia in 1964, while Southern Rhodesia unilaterally repudiated her colonial status in 1965. Herbert J. Spiro, Professor of Political Science at the University of Pennsylvania, correctly attributes the failure of the Federation to inability to resolve problems of race relations inherent in its structure and goals. Control was vested at formation in a rapidly expanding European minority of fewer than 200,000 persons, while an indigenous population in excess of six million was left almost unrepresented. In the thirty-five-member joint assembly six seats were reserved for Africans and three seats provided for Europeans defending native interests; "of the Africans, two were elected from Southern Rhodesia by an electorate 98 per cent white, and two each from Northern Rhodesia and Nyasaland were appointed by the governors."⁶ Subsequent modification of the structure of the legislature did not significantly alter the discriminatory pattern. The resulting partnership between the races has been compared to that between a horse and its rider. Possibilities of meaningful reform were so restricted that even semantic remedies appeared attractive: "The opposition to Federation . . . has indeed become so strong that . . . retention of the name 'Federation' which has become a hated word and is associated . . . with a policy of white domination, will cause opposition to linger on. . . . It should be changed."⁷ As Professor Spiro notes, internal liberalization sponsored by Britain in the two northern territories eventually increased political contradictions in the federal structure beyond the point of toleration.

Gisbert H. Flanz, Professor of Political Science at New York University, comments on the West Indian Federation, a union of Jamaica, Trinidad, and smaller Caribbean islands formed in 1958

5. FEDERATIONS 3-4.

6. Chitepo, *Developments in Central Africa*, in *FEDERALISM AND THE NEW NATIONS OF AFRICA* 3, 8 (D. Currie ed. 1964).

7. ADVISORY COMMISSION ON THE REVIEW OF THE CONSTITUTION OF THE FEDERATION OF RHODESIA AND NYASALAND, REPORT, CMND. NO. 1148, at 16, 21 (1960).

but abandoned three years later. Here commitment to combination appears never to have exceeded enlightened apathy: the weakness of the federal government was revealed by its assertion in 1961 that taxation of incomes and efforts to promote industrial development should be postponed to avoid hampering or endangering territorial economies. The author concludes:

[M]ost of the leading personalities of the West Indies Federation . . . never came sufficiently to grips with the economic realities. Their entire approach was excessively petty-political. Well-preserved insularity and economic self-interest . . . were the stuff of which the Federal Constitution was made, and in this it correctly foretold its own failure.⁸

The Federation of Malaysia was created in 1963 by integration of the Federation of Malaya, an eleven-state combination formed in 1948, with the adjacent commercial and industrial island of Singapore and the less populous territories of Sabah and Sarawak. Expulsion of Singapore from the union in 1965 has reduced what appeared a potentially prosperous amalgamation to two economically complementary states of doubtful autonomous viability. Professor Trager carefully reviews the reasons for incompatibility, stressing the inevitability of conflict between the conservative indigenous Malay Muslims and the aggressive secular Chinese community, dominant in Singapore but constituting a substantial minority elsewhere.

In his conclusion Professor Franck offers a tripartite catalogue of factors promoting federation and goals which those supporting it hope to achieve. Perhaps tautologically, an overriding political or ideological commitment to union as an end in itself is felt prerequisite to success. He classifies as secondary those elements, for example a common language or the prospect of gain through economic cooperation, believed important yet presumed insufficient alone to assure a continuing relationship. Such tertiary considerations as a need for ethnic balance or the hope of earlier independence from foreign rule are thought useful in motivating combinations but likely to prove disintegrative unless complemented or replaced by more durable stimuli.

An alternative analysis would appear more rewarding. There is less need to explain the frustration of presupposed propensities toward federation than to isolate those forces capable of overcoming the inertia inherent in autonomy. Professors Franck and Flanz

8. FEDERATIONS 115-16.

unrealistically attack national leaders for their unwillingness to sacrifice personal power to promote unification. Their criticism requires the premise, essentially unarticulated, that coalescence will prove beneficial to the populations of the states involved. On purely political grounds such an assumption would appear unwarranted: the fate of Nigeria, an experiment in federalism under British auspices like the four cases studied, illustrates the dangers of overly ambitious integration.

The economic consequences of unification seem to play a more central role than the authors indicate. The problem of inadequate internal markets currently confronts almost all developing countries: among those outside the Communist bloc, gross national product exceeds seven billion dollars only in the already federated states of India, Brazil, Mexico, and Pakistan. Over ninety of the underdeveloped nations have populations below fifteen million; more than sixty have fewer than five million people. Inability to achieve industrial economies of scale would hinder growth even in a relatively wealthy state of fifteen million.⁹

Professor Franck states that "the most impressive gains of the Central African Federation were economic"¹⁰ and that in East Africa "shared experience of economic cooperation was not enough to hold the common market together, let alone serve as a base for federation."¹¹ From failure in the African cases he concludes that economic incentives cannot adequately motivate coalescence. That union may facilitate development of the integrated region as an entity does not, however, dispose of the issue faced by an individual state of the advisability of joining a prospective combination or of continuing participation in a functioning amalgamation: benefit to member nations as a group will most likely be viewed by all as profitable only if gains are so distributed that the position of each is superior to that probable in isolation.

Closer association among Kenya, Tanzania, and Uganda has been impeded because Kenya, the industrial center of East Africa, has profited from regional economic ties at the expense of its neighbors. Tanzania has probably suffered a net loss from integration.¹² In Central Africa gain was also unevenly divided. In the

9. See B. BALASSA, *ECONOMIC DEVELOPMENT AND INTEGRATION* 80 (1965); S. DELL, *A LATIN AMERICAN COMMON MARKET?* at v (1966); Robinson, *Introduction to ECONOMIC CONSEQUENCES OF THE SIZE OF NATIONS* at xviii (E. Robinson ed. 1960).

10. *FEDERATIONS* 176.

11. *Id.*

12. See P. NDEGWA, *THE COMMON MARKET AND DEVELOPMENT IN EAST AFRICA* 136 (1965); B. Massell, *The Distribution of Gains in a Common*

three years immediately preceding union the money economies of Nyasaland and Southern Rhodesia expanded fifty-eight and thirty-seven per cent; in the interval from 1954 to 1957 growth was thirty-five and forty-seven per cent respectively. The bulk of federal revenue, raised primarily through taxation of copper production in Northern Rhodesia, was expended in Southern Rhodesia rather than in impoverished Nyasaland. Hazlewood and Henderson state: "There can be few if any federations elsewhere in which a distinctive and conspicuously poorer region, containing over one-third of the population, would receive so small a share of public funds."¹³ Here, however, economic inequalities merely aggravated independently insuperable racial difficulties.

Surveying the dialogue concerning union in Jamaica in 1961, Professor Franck notes:

"[B]oth parties failed to put the important political concepts of Federation and separatism" before the electorate. The debate took place entirely in narrow terms of economic self-interest, which made it both inconclusive and certainly uninspiring to the average voter, rather than in terms of commitment to a federal ideology. No doubt there were those whose thoughts were of a manifest destiny, of pan-Caribbeanism, of the challenge to be big and great. But the politicians only challenged the voters to decide whether federation would cut administrative overhead and whether Trinidad or Jamaica would glean the benefits of new markets in the smaller islands.¹⁴

In this case attention was probably focused on the most important issues; federation seems to have failed primarily because potential economic benefit was insufficient to overcome a desire for political independence. Visions of a West Indian Reich are at best paranoid.

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Market: The East African Case 13 (Rand Corporation Paper P-2956, Aug. 1964); Due & Robson, *Tax Harmonization in the East African Common Market*, in 2 FISCAL HARMONIZATION IN COMMON MARKETS 553, 590, 591, 592 (C. Shoup ed. 1967).

13. A. HAZLEWOOD & P. HENDERSON, *NYASALAND: THE ECONOMICS OF FEDERATION* 58 (1960). See 1963 *FEDERATION OF RHODESIA & NYASALAND ECON. REP.* 21.

14. *FEDERATIONS* 179.

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