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The 'glass palace war' over the international decolonization of South West Africa

Richard Dale


In a recent brief article, characterized by both wit and sagacity, Professor James A. Stegenga of Purdue University attempted to point out the foibles of those who review scholarly books and to suggest a set of ground rules for future reviewers. His analysis was both trenchant and refreshing, especially because he had written a book on an aspect of the United Nations, and that book had been published by a reputable university press.¹ Both Professors Slonim and Dugard have chosen to write about the United Nations, and their books have been published by distinguished university presses. Consequently, it would be fitting for me to pay close attention to Professor Stegenga's counsel, especially his third rule that "Reviewers should describe and appraise the book under consideration, and save most of their own theses for later articles" and also "grade six or seven key aspects of the book (significance, organization, thoroughness, soundness, imaginativeness, style, etc.) and print these grades... at the close of each review."²

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² Stegenga, p. 146.
It would therefore be appropriate to evaluate the book by Professor Slonim and the one by Professor Dugard, grade each, and then proceed beyond the confines of a summary to a review article in order to raise questions and to draw attention to supplementary data bearing on what one South African writer has called the glass palace war over the disputed territory of South West Africa.3

It is preferable to begin with Dr. Slonim's book because it appears to have been written in a more orthodox manner and for a narrower audience. The author, who is an Australian by birth, earned his LLB degree at the University of Melbourne and then took his MA and PhD degrees at Columbia University. He is presently on the faculty at Hebrew University in Jerusalem.4 As far as I can ascertain, his doctoral dissertation at Columbia (entitled “South West Africa and the United Nations: A Struggle over International Accountability” [1967]) was the second dissertation on South West Africa written at an American university to be published.5

The beginning student (who really ought to be at least a college or university senior or a graduate or law student) will find the chronology (pp. xv-xix) and the bibliography (pp. 385-398) most helpful for getting his or her bearings before beginning the arduous task of sorting through the very tightly written study which is interlaced with footnotes. The footnotes alone (1,376 in all) are an especially useful Baedeker to both United Nations and League of Nations documents. The need for such a guide is readily apparent when one realizes the enormity of the documentation: If all the published documents of the International Court of Justice on the territory from 1950 through 1971 are placed next to one another on a library shelf, they measure nearly two feet from beginning to end.

Professor Slonim's basic pattern of organization is essentially chronological rather than topical, and two of the enumerated chapters are devoted to the

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3 The phrase the glass palace war is found in Michael Morris, Terrorism: The First Full Account in Detail of Terrorism and Insurgency in Southern Africa (Cape Town: Howard Timmins, 1971), p. 99. Prime Minister Vorster, in a speech at Rustenburg, South Africa, on October 14, 1967, referred to “the glass palace of [the] UNO.” Extracts of that speech are printed in Morris, p. 137. I have chosen to employ this phrase as a point of departure for the analysis that follows, but I do not necessarily share the views of the prime minister, or Mr. Morris for that matter.

4 Details of Professor Slonim's career were provided to me in a letter dated August 6, 1973 from Miss Suzanne Ford of The Johns Hopkins University Press. There is no dust cover for the book, which customarily carries this information, nor is the author's current position stated on the title page.

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inception and operation of the international mandates system, with the first chapter a reprinting of an unusually fine article on the Paris Peace Conference published in the 1968 Canadian Yearbook on International Law (see p. x). Unlike Professor William Roger Louis’ exemplary study in the diplomatic history of this period, Professor Slonim does not use archival material, but he does draw upon the critical published accounts and adds, where appropriate, material gleaned from the massive International Court of Justice documents. The remainder of the book (pp. 59–365) is devoted to the period from the 1945 San Francisco Conference to the handing down of the Court’s 1971 advisory opinion on Namibia (the name used for the territory following an important resolution of the 22nd session of the United Nations General Assembly in 1968 [see p. 321]). In approximately 100 pages (pp. 59–163), Professor Slonim describes in sufficient detail and analyzes with considerable lucidity the formation of the United Nations machinery intended to give effect to the principle of international accountability—a principle that appears again and again in the text—for the administration of the public affairs of the territory.

The author very wisely categorizes the 1945-60 period as the first period of the dispute, with his criteria for temporal demarcation being “the goals set by the organization [that is, the United Nations] with respect to the phenomena of colonialism and racialism generally” (p. 348). In his judgment, this particular period “centered on the question of international accountability—whether, and in what form, South Africa was obligated to submit its administration of South West Africa to the supervision of the United Nations” (p. 348). During this decade and a half, the General Assembly turned to the International Court on three separate occasions (1950, 1955, and 1956) for advisory opinions concerning both the validity of the mandate instrument and the correctness of General Assembly procedures for replicating the operation of the mandates system. This fifteen year period is a fascinating one not only for those interested in the dismantling of Western empires under United Nations auspices but also for those intrigued by the comparative study of international organizations. Indeed, two separate international organizations coexisted in this period, the United Nations and a partially reconstructed

League of Nations (see p. 127). This, in the author’s view, was a most vexing phenomenon “because a mandate was something of a fossilized remnant of an earlier colonial age, and the United Nations was not equipped to handle relics. How does a gasoline station service a horse and buggy?” (p. 92)

Slightly less than half of the book (pp. 167–309) is devoted to the exceedingly complex and nettlesome topic of the 1962 and 1966 decisions of the Court in the contentious proceedings of Ethiopia and Liberia (in a joint action endorsed by both the General Assembly and the 1960 Conference of Independent African States) against South Africa concerning the latter’s administration of the territory of South West Africa. The United Nations itself could not be a party to the legal action that was taken under an appropriate article of the mandate instrument. It took from 1960 until 1962 for the Court to decide that it had jurisdiction in the matter and a further four years to decide that the plaintiffs “were not entitled to a decision on the merits [of the case], since they lacked a ‘legal right or interest’ in the subject matter of their claim” (pp. 282–283).

The second period of the dispute, lasting from the beginning of the contentious proceedings in 1960 until the famous (or infamous, depending upon one’s vantage point) decision of 1966, is one which Professor Slonim wisely summarizes as a United Nations “action [though the applicants] . . . designed to outlaw racialism [at least in South West Africa], but not colonialism” (p. 349). His analysis of this period ranks, in my estimation, as the most incisive and lucid in the entire book. He is at his best and at his most original in sifting through the fourteen volumes (twelve of which contain the written and oral pleadings) of Court documents, arranging the data into meaningful clusters, and explaining the nature of the judicial decision-making process and the judicial strategies utilized by both applicants and respondent.

The third and final period that Professor Slonim analyzes is one beginning in 1966 and ending with the 1971 advisory opinion of the Court regarding the termination of the South African mandate for South West Africa. During this half decade, he avers, “the political principle arising under the [1960] Declaration [on Colonialism], that colonialism was an untenable status in international relations, was . . . applied by both political organs [namely, the General Assembly and the Security Council] as a rule of law in order to establish that South Africa, in the absence of the mandate, had no right to remain in South West Africa” (p. 350).

Possibly one of the most striking of Dr. Slonim’s findings is that political, rather than legal or juridical, concerns were of overriding importance and that the advisory opinions sought from the Court by the General Assembly and/or the Security Council from 1950 until 1971 were of minimal jurisprudential value. Yet these opinions were of immense importance in winning the critical marginal seats in the United Nations, especially the United States delegation which was anxious always to have the “law” on its side (pp. 351–352). He argues quite persuasively that the General Assembly and/or the Security Council dealt with the political future of the territory at the same time that the Court was considering the matters at stake in the case, rather than delaying their consideration of this subject until
after the Court had rendered its opinion. One begins to wonder whether the American delegation was cast in the role of Hans Christian Andersen's naked emperor.

Professor Slonim's study could be characterized as primarily traditional rather than nontraditional, and it constitutes scholarship of a high order, especially in terms of international legal analysis and textual exegesis. But one gets the distinct impression that one is reading a very tightly organized and succinct account of a particular problem even though one is not altogether certain just what the dimensions or the significance of the problem at hand are. To what extent and in what ways is South West Africa *sui generis* and to what extent and in what ways is it not? Moreover, if one decides that the problem (however defined) is worth studying, then how should one study it? What are the appropriate and efficient research strategies? What questions and what data will be omitted? What research strategies are best suited to one originally trained in the field of law as compared with one trained, for instance, in political science or history or economics?

Because of this oversight in clearly explicating his aims at the outset, Professor Slonim's book is better suited to those who already have some familiarity with the basic contours of the fields of international politics, law, and organization or even African studies. Those who are well versed in the international and national politics of that region of Africa will find this book to be a real gem and the product of a labor of love.

II

Turning now to the second book, it would be apposite to learn something about the author and about his aims in editing such a tome. John Dugard is a South African lawyer who was educated at the Afrikaans-medium University of Stellenbosch and at Cambridge University, thus following a pattern set by the late Field Marshall Smuts. In addition to being a professor of law at the English-medium University of the Witwatersrand in Johannesburg, he served as a visiting professor at Princeton and Duke Universities, and he is currently one of the four vice-presidents of the South African Institute of Race Relations. He writes not only for South African and overseas legal journals but also for the monthly literary and political review, *New Nation*, formerly edited by Professor Denis Worrall, recently the director of the Institute for Social and Economic Research at Rhodes University in Grahamstown, Cape Province. He was not a member of the official South African legal team in any of the South West African cases before the International Court, and he can hardly be typed as an enthusiastic academic supporter of the National party government of Prime Minister Vorster.

*I have deliberately used this dichotomy in order to avoid getting tangled in the epistemological morass involving the meaning and applicability of science to international relations research, a subject adequately explored in Klaus Knorr and James N. Rosenau, eds., *Contending Approaches to International Politics* (Princeton, N.J.: Princeton University Press, 1969).*
Professor Dugard has explained that he chose to present "The evolution of the present stalemate between South Africa and the United Nations and its historical antecedents...in 'live' form, through contemporary documents and comments, so that readers may themselves judge the merits of the respective claims advanced by the United Nations and South West Africa. The connecting commentary is deliberately kept to a minimum, as the selected documents and writings speak for themselves" (pp. xi–xii, italics added). The materials are arranged, with the exception of the first chapter (which is devoted to the geography and human and natural resources of the territory), in chronological order, from the time of the founding of German South West Africa until the 1972 visit of the United Nations Secretary-General to South Africa and Namibia. The volume contains a valuable bibliography and index.

The book is somewhat lacking in interdisciplinary balance, which is something it needs if it is to serve the needs of the attentive public. The first three chapters, entitled "The Territory and Its Peoples," "History of the Territory until the End of German Rule," and "Transition from Conquered Territory to Mandate," respectively, tend to be among the least illuminating chapters of the book. The student, who is not likely to be able to visit the territory, gets precious little insight into the geography and the economy of this disputed territory and he or she does not get a particularly balanced historical account. If, as often asserted by those who take the strongest exception to the policy of apartheid and who uphold the tenets of majority African rule for Namibia, the Africans are to inherit the political kingdom of Namibia by nonviolence or otherwise, it is nevertheless important to know something about this kingdom. What, after all, is the nature of the political prize?

Under German rule, for example, the territory was hardly an economic asset, at least in the short run, and it did not afford the German government or its citizens with much more than the tinsel of international prestige, a place in the galaxy of colonial powers. It was hardly a profitable short-run investment or an attractive outlet for alleged German overpopulation. The territory did not become much of an economic asset until after the Second World War, when it attracted overseas capital investment, especially in the mining sector. One need not be an economic determinist in order to appreciate that dimensions of affluence (and poverty, for that matter) are an important component in the management and possible resolution of this quarter-century-old dispute. Because the editor casts the reader in the role of judge in assaying the claims of the United Nations and the Republic of South Africa, the reader needs to be furnished with more than a mere modicum of economic (and related geographical) data.

In the second place, I am not entirely pleased with the selection of historical materials in these early chapters. The selection of studies dealing with the disposi-

11 For a recent appraisal of the economy, consult "Desert Deadlock," a supplement to The Financial Mail (Johannesburg), March 2, 1973.
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tion of the German colonies and the Paris Peace Conference diplomacy concerning the genesis of the mandates system is praiseworthy and includes selections from the work of Professor Slonim and of Professor William Roger Louis, a distinguished American historian at the University of Texas at Austin. Yet the editor seems unaware of the current trends in African historiography, and this neglect has important ramifications in the field of African nationalism both in the continent and in the territory. The historical accounts dealing with the nature of the German rule in the territory are not particularly exciting or novel, and he slights the topic of African resistance to colonial rule, which is an important leitmotif in current African historical research and writing. Indeed, none of the historical accounts in this section of the book are written by Africans themselves, and this introduces (unwittingly or not) a certain Eurocentric bias into the volume. This would not endear the volume to African readers even though they may be delighted with the other choices the editor has made.

Thirdly, it seems rather strange that the editor should devote so little space in chapter four (which is only fourteen pages long) to the period from 1920 until 1946. This chapter contains only one primary document (the germane portions of the text of Rex v. Christian, a 1924 South African case which dealt with the locus of sovereignty over South West Africa) and inexplicably contains no League of Nations documents. Like all good scholars, he turns to the late Quincy Wright’s magnum opus on mandates, yet he seems to overlook the fact that this brilliant book was published nine years before the mandates system ended in fact, if not in theory or law. No mention is made of the rise of National Socialism among the German-speaking minority in the territory in the 1930s and of the consternation among the ranks of the Afrikaner nationalists in South Africa about the persistence of the claim of the Third Reich for the return of its lost colonies, South West Africa included. This was a very neuralgic point separating the political forces repre-

12 See, for example, Arnold V. Wallenkampf, “The Herero Rebellion in South West Africa, 1904–1906: A Study in German Colonialism” (Ph.D. dissertation, University of California at Los Angeles, 1969). Professor Dugard does cite one of the finest pieces of recent historical research on the territory, namely, Helmut Bley, South West Africa under German Rule, 1884–1914 (London: Heinemann, 1971), in both the bibliography (p. 545) and the appropriate footnotes (on pp. 22, 25, 26), but he does not use extracts from this study.


sented by General Smuts, on the one side, and Dr. Malan, on the other. The German presence in the territory in the 1930s was not unrelated to the desire of numerous whites in South Africa and in the territory to effect a closer union between the two adjoining areas, and there was a lingering bitterness against the wartime Smuts government for the internment of German aliens.¹⁵

Beginning with chapter five, however, the volume improves enormously in quality and includes some extremely fine selections. Particularly praiseworthy are Professor Dugard's selections from the South African Parliamentary Debates in the period from 1945 onward and the inclusion of the texts of two very important addresses to the South African Institute of International Affairs by two prominent white political figures connected with the Opposition political parties, Mr. Colin Eglin of the Progressive party and Mr. Japie Basson of the United party. Moreover, it includes the text of a pastoral letter to the prime minister from two clerics in the territory, one of whom is a highly esteemed African clergyman in Owambo, the African homeland in the north of the territory.¹⁶ The editor has been admirably open-minded and impartial in affording space to both friend and foe of the Pretoria government. The virtues of the volume far outnumber the faults, and this is one book that needs to be in as many libraries, personal as well as public and university, as possible.

III

On the basis of these two books, what observations can be made about the state of research on South West Africa? What contributions remain to be made, or have Professors Slonim and Dugard exhausted the field of inquiry? Especially if one takes a regional perspective (which is implicit in the University of California Press series on Southern Africa), the field is far from exhausted.¹⁷ Several possibilities suggest themselves at once, especially because they were omitted from the two volumes which have been reviewed. First, there is the fascinating question of the nature of the international colonial elites, in the League of Nations and in the United Nations. There have been studies done on the nature of the administrative cadre of the metropolitan nations who ran the empire in terms of their socio-economic background, their secondary and university educations, and their philosophical dispositions.¹⁸ Surely, because (as Professor Slonim so correctly contends)

¹⁵ This bitterness, although muted, can still be seen in the displays in the museum in Swakopmund and in the Old Fort in Windhoek, which I visited in July 1970. Documentary evidence can be found, of course, in a close reading of the Debates of the House of Assembly, especially those in the 1945–50 period when the National party was jockeying for support among embittered Afrikaners and German internees in South West Africa.


¹⁸ Consult Robert Heussler, Yesterday's Rulers: The Making of the British Colonial Service
international accountability was the core issue for so long in the dispute between South Africa and the organized international community, it would not be unreasonable to investigate the backgrounds of the stewards of what might, if only for analytical or heuristic purposes, be regarded as the international empire. We need to know more about the membership of the Permanent Mandates Commission of the League of Nations, the Mandates Section of the League Secretariat, and the analogous bodies of the United Nations. Were they all proponents of "the white man's burden" in the days of the League, what values did they share in common, how innovative were they, and what was their operational code? One gets the nagging feeling that reification keeps creeping into studies of the sort reviewed here and that authors make convenient, if not facile, assumptions about those entrusted with responsibility for carrying out either the "scared trust" mentioned in Article 22 of the League Covenant or presiding over the liquidation of empires. Here is an area in which cross-national and national-transnational studies may be undertaken.

A second area in which creative research could be conducted is one that can also be subsumed under the national-transnational heading used above. The problem is to determine the patterns of interaction between international organizations, such as the League and the United Nations, and certain constituent groups within the nation. In the case of South West Africa, one encounters the widely held notion among National party MPs who speak in the annual foreign affairs debates or the ad hoc debates on the territory that their government must stop the discussion of the status of the territory in the United Nations in New York. In their cognitive maps, they have posited a relationship between discussion of an issue in the United Nations and the subsequent undermining of their own power base by the Africans in South Africa and/or South West Africa. In comparative terms, how does the United Nations General Assembly and its Fourth Committee, in addition to the Trusteeship Council, affect the growth of African (or, conversely, Afrikaner) nationalism in South Africa, South West Africa, or in any of the trust territories? What are the important independent and intervening variables in such implicit hypotheses? How does one measure the impact of these international bodies on the growth (or decay) of African (or Afrikaner) nationalism? Can it be said that certain United Nations' policies or strategies are counterproductive in terms of the promotion of the goals of certain subnational groups?

A third area for investigation is one well known to students of political science, namely, the role of non-governmental organizations, which can subsume


The only study that I have been able to locate so far is over 40 years old. See Samuel D. Myers, Jr., "The Permanent Mandates Commission: A Study in International Administration" (Ph.D. dissertation, University of Texas at Austin, 1929). I am also not aware that the Mandates Section of the League Secretariat has been analyzed in any depth. With the greater accessibility of the League archives (in Geneva), this study could probably be undertaken now.
the multinational corporation and the transnational interest group. Here one gets away from the billiard ball model so useful to exponents of what has been termed political realism\textsuperscript{20} and to students of international law with particular regard to the International Court (where only states may be parties to contentious proceedings). The role of the multinational corporation in Southern Africa, and especially Namibia, is of great interest to the US government particularly in light of the 1971 Court advisory opinion concerning nonrecognition of the South African presence in the territory.\textsuperscript{21} Similarly, one would like to explore the role of both British-based and American-based interest groups (both pro- and anti-apartheid) and of the Namibian political organizations that have offices overseas. What persons and what organizations are targets for these aforementioned groups and what are the strategies of persuasion involved? How significant are these groups in effecting policy changes?

Finally, political scientists could continue with the pioneering studies already undertaken by Professor Deutsch, Rosenau, and others in the field of the racial dimensions of foreign policy.\textsuperscript{22} In particular, what is the impact of race upon the formulation and execution of South African foreign policy? Just how important is race as a variable, and under what conditions? Are there areas of South African foreign policy where racial factors have little explanatory or predictive utility? To what extent, for example, has South Africa's northward expansion been an external manifestation of a domestic need? How do states that adopt policies of white paramountcy at home (such as Rhodesia and South Africa) differ in terms of foreign policy and how much of the difference can be accounted for by racial factors?\textsuperscript{23} These, then, are some of the aspects of the South West African elephant that research pluralism\textsuperscript{24} may help to explore and chart. Fortunately for research pluralists, elephants have been famous for both their memories and their longevity, and this will be a boon to researchers who need more time and for those who need to be reminded of their predecessors' mistakes.


