Book Review


While the sanctions regimes of the United Nations have been much discussed in recent years, in particular after the judgments of the Court of First Instance of the European Union in the cases involving Mr. Kadi and Mr. Yusuf, those sanctions regimes have been subjected to very little analysis in the legal literature,¹ and much less still have pleas to install some form of control over the Security Council and its Sanctions Committees been made on the basis on reasoned normative theory. Farrall’s fine recent study does both: it is both an in-depth overview of the work of the sanctions committees to date, and a careful (somewhat “tiptoeing”) foray into jurisprudence. Therewith, Farrall’s study immediately positions itself as the leading study on the topic.

Perhaps the most useful aspect of the book is that Farrell systematically goes through the work of all the sanctions committees established by the Security Council to date, starting with Southern Rhodesia and ending with Iran. Indeed, he does so in two ways: in the main body of text, the approach is a cross-cutting analysis, whereas in a lengthy annex, the sanctions committees are discussed in chronological order. The book therewith becomes an extremely useful tool for further research: Farrall’s painstaking, diligent

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work creates a veritable encyclopedia of sanctions regimes. While the nitty gritty details are not always very readable (not Farrall’s fault, of course: there are only so many ways in which a repetition of essentially similar things can make for interesting reading), they are presented systematically, lucidly and logically. Informed no doubt partly by his experiences within the UN system (Farrall was a UN official from 2001 to 2006), he goes systematically through such things as the composition of a sanction committee, its precise mandate, its reporting activities, the way a committee has monitored things and perhaps applied exemptions, et cetera.

The more lively – and interesting – part of the study however concerns the rule of law and how it is applied or, more to the point, how it should play a role in the work of the sanctions committees: Farrall’s work is unashamedly normative, and he repeatedly asserts (with much justification, to be sure) that the sanctions committees do not meet the standards set by the rule of law. Farrall is realist enough to realize that the rule of law is a highly contested notion, and refrains from laying down a robust and detailed conception of the rule of law. Moreover, he is also realist enough to realize that a thick and detailed concept of the rule of law might not be the most acceptable within the highly politicized context of UN sanctions. So he presents a thin, slim version of the rule of law, one he himself refers to as “pragmatic.” To his mind, such a thin version should comprise five elements: governance in accordance with his pragmatic model should be transparent, consistent in its application, insist on equality, respect due process, and respect proportionality. This, in Jeremy Waldron’s words, helps “take the edge off human political power” (at 31); it would help constrain the arbitrary exercise of power.

Where those five elements themselves come from remains, to some extent, an open question: Farrall does not go much deeper than to suggest that they “feature in some shape or form in most politico-legal systems which promote the rule of law” (at 40). This is fair enough, of course, and essentially correct, but it does point to something else: how well thought-out is the rule of law idea to begin with? Farrall rightly remarks that the rule of law is an open-ended notion, and speaks of a “scholarly crisis,” decrying the uncertainty concerning the contents of the rule of law.² However,