



1-1-2000

Foundations of World Order: The Legalist Approach to International Relations, 1898-1922

Pratheepan Gulasekaram

Santa Clara University School of Law, pgulasekaram@scu.edu

Follow this and additional works at: <http://digitalcommons.law.scu.edu/facpubs>



Part of the [Law Commons](#)

Automated Citation

Pratheepan Gulasekaram, *Foundations of World Order: The Legalist Approach to International Relations, 1898-1922*, 36 STAN. J. INT'L L. 181 (2000),

Available at: <http://digitalcommons.law.scu.edu/facpubs/665>

This Article is brought to you for free and open access by the Faculty Scholarship at Santa Clara Law Digital Commons. It has been accepted for inclusion in Faculty Publications by an authorized administrator of Santa Clara Law Digital Commons. For more information, please contact sculawlibrarian@gmail.com.

Book Notes

Foundations of World Order: The Legalist Approach to International Relations, 1898–1922. By Francis Anthony Boyle, Durham and London: Duke University Press, 1999. Pp. 168. \$18.95 (paper).

Foundations of World Order provides an excellent and balanced analysis of U.S. foreign policy during the period beginning with the end of the Spanish-American war in 1898 and ending with the creation of the League of Nations and Permanent Court of International Justice in 1921–1922. Professor Francis Boyle, with his expertise in both political science and international law, compellingly argues that the 1898 to 1922 developments in international law created by U.S. lawyers built the foundation for the post-World War II world order. Boyle's analysis is notable for its fair appraisal of both the achievements and failures of U.S. foreign policy during the era.

The author's stated thesis is to establish that the U.S. international lawyers who encouraged the United States to promote international public law and organizations to the world were neither naïve nor idealistic in their belief that legal norms could shape the exercise of power in the international forum. Despite the fact that those efforts did not actually succeed in creating a stable world order—as evidenced by the outbreak of two world wars—Boyle argues that their vision was not a flawed one. Rather, Boyle asserts, the breakdown of world order and peace was the fault of shortsighted legislators in Congress of the time. Furthermore, Boyle contends that the subsequent establishment of the United Nations and the International Court of Justice were based upon the work begun in 1898, making it a truly foundational period.

The book's persuasiveness is partially due to its clear and instructive organization. The first chapter explores the theoretical distinctions between legalist and moralist views of foreign policy. After establishing the inspiration and framework for legalist analysis, Boyle elucidates the five objectives of the legalist approach to international relations: 1) creation of a system of obligatory international arbitration; 2) creation of an international court of justice; 3) codification of customary international law; 4) arms reduction; and 5) solidifying the practice of periodic peace conferences. The remainder of the book explores the dynamic domestic and international political furor surrounding the attainment of each of those objectives.

The reader should be aware that Boyle does not provide much substantive background to the cases, controversies, or treaties that he discusses. This is especially evident in the chapters on international arbitration and codification of international customary law. Boyle's tendency to launch into in-depth analyses of political figures and historical events assumes a level of historical knowledge that is probably too advanced for an audience with no prior formal background in history or international politics. However, one of the virtues of the book, its brevity, could not have been achieved without assuming a sub-

stantial level of reader familiarity with the subject matter. Moreover, Boyle avoids repeating work done by other scholars, choosing instead to reference their work and use it to springboard into more instructive insights. In this way, Boyle has the advantage of examining the *process* of foreign policy negotiation, compromise, and promulgation rather than rehashing basic factual settings.

One of the book's major virtues is its balanced admiration and critique of U.S. foreign policy. Instead of slipping into disingenuous patriotism, in Chapter Six, Boyle explores the hypocrisy and tension inherent in the U.S. government's stance towards European imperialism and its own imperialism and military interventionism in Latin America. In the course of his critique, however, Boyle at times launches into naked proselytizing. For example, after a reasoned and critical examination of U.S. policy towards Latin America, Boyle unabashedly concludes:

No point would be served here by trying to sum up or make sense of U.S. military interventionism Nothing has changed. No lessons have been learned. No progress has been made

. . . Perhaps the time has come for the U.S. government to do the one thing it has not done for the past century in the Western hemisphere: Pack up, go home, and allow these tormented peoples to sort out their own destinies. (p.102)

Similarly, when discussing the Senate's refusal to allow U.S. involvement in the League of Nations or the Permanent Court of International Justice, Boyle boldly opines, "[h]ad the Senate cooperated in these efforts, the Second World War might not have occurred" (p.55). In both examples, Boyle's view may be ultimately defensible, but in neither situation does he advance his position with sustained support through counterfactual exploration. Such support would definitely strengthen Boyle's critique.

Boyle ends by examining the post-World War I debates over U.S. membership in the League of Nations and the Permanent Court of International Justice. Although the United States' nonparticipation in both organizations may have precipitated the eventual collapse of a world order, which in turn led to the Second World War, Boyle still manages to portray U.S. international legalists from 1898 to 1922 as men with the correct vision, years ahead of their time. Overall, Boyle provides the reader with a lucid framework within which to view the period from 1898 to 1922. By the force of his compelling and relentless argument, this reader is left convinced that the early twentieth century was truly a unique and foundational period for international law and world order. In addition, Boyle's presentation, which consistently references both earlier and subsequent periods, allows the reader to see clearly how the foundational period influenced later efforts to promote peaceable resolutions to international conflicts.

—Pratheepan Gulasekaram