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**David P. Forsythe on The United States and the Rule of Law in International Affairs by John F. Murphy. Cambridge: Cambridge University Press, 2004. 367pp.**

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**The United States and the Rule of Law in International Affairs by John F. Murphy. Cambridge: Cambridge University Press, 2004. 367pp.**

Murphy, formerly a lawyer in the Legal Office of the Department of State, and now a law professor at the Villanova University School of Law, has written a broad ranging overview of U.S. foreign policy against the background of international law. Despite the balance so evident in his analysis, and the understated way he expresses himself, Murphy repeatedly argues that much of the time the United States no longer fashions its policies so as to accord with international law.

The first chapter comprises a primer on international law. The second treats the complicated subject of the status of that law in U.S. legal jurisdiction. Murphy then takes up a series of issues: UN dues, use of force, arms control, law of the sea, the International Court of Justice (ICJ), international criminal law, and finally human rights and ecology. One of the important subjects left out is international humanitarian law, or the law of war pertaining to human dignity in armed conflicts. A concluding chapter of twelve pages seems rather bland, given the critical analyses so evident in the preceding chapters.

It is not in the conclusion but in other chapters that we find Murphy's biting critiques of U.S. policy. He notes "the declining US support for the rule of law institutions it was instrumental in creating..." (5). He accurately writes that "the Bush administration has waged a 'holy war' against the" (7) International Criminal Court (ICC). He is properly appalled at the views of John Bolton when the latter argued that treaties were not really law but only political arrangements between states (11-12).

At the same time Murphy is not hesitant to point out that other actors are not without fault in relation to a proper understanding of international law. He suggests (23, *passim*) that the UN Human Rights Committee, in monitoring the International Covenant on Civil and Political Rights, and thus in making its "general comments" on the meaning of that treaty, has played fast and loose with arguments about what is and is not customary international law.

In his various chapters dealing with the abovementioned series of issues, Murphy is careful to cite partisans on both sides. Thus he quotes both government lawyers and persistent critics of the U.S. government such as Richard Falk. Besides legal experts, Murphy is also prone to cite political commentators, such as Robert Kagan, on the difference between U.S. and European views toward international law.

Still, it is clear where Murphy comes down in most debates and controversies: his view is often highly critical of the U. S. record in relation to international law. He says that the U.S. view of the ICJ is "at best ambivalent" (49). He quotes a Dutch diplomat to the effect that other states have to defer to U.S. views on international law not because they are correct, but simply because the U.S. has so much power (135-136). He writes that the Bush Administration has abandoned "the rule of law approach" to arms control (217, 221). He correctly observes that the Reagan and Bush policies kept the U.S. from endorsing the Law of the Sea Treaty, "the single most ambitious attempt to bring the rule of law to bear on a major subject of international affairs" (242). With regard to the ICJ and ICC, Murphy writes that "the United States is unlikely to support any international tribunal that it cannot control in large measure" (278).

In sum, this is a very impressive book whose exhaustive research is accompanied by mostly keen insight in analysis. Six legal experts endorse the book on the back cover, and while these sorts of comments are sometimes similar to letters of recommendation written by faculty for students, (to be discounted by perhaps 30 percent) in this case the commentary is accurate. As so indicated, this work is indeed balanced, insightful, thoughtful, rigorous, valuable, lucid, a significant contribution, one that is critical but objective.

No doubt the book is intended for law students. I will use the book in a graduate seminar in political science. Advanced undergraduates at the better colleges and universities would be able to comprehend its analysis. Whether it is too complex for undergraduates at more traditional institutions is an interesting question.

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