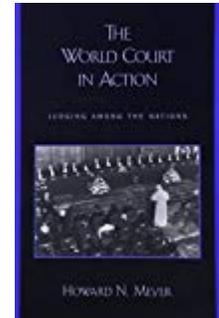


Howard N. Meyer. *The World Court in Action: Judging among the Nations.* Lanham: Rowman & Littlefield Publishers, 2002. xvi + 311 pp. \$34.95, textbook, ISBN 978-0-7425-0924-5.



Reviewed by Anthony Johnstone

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The subject of international law is a missing dimension from peace history, the history of U.S. foreign relations and international relations generally. In *The World Court in Action*, lawyer, activist, and historian Howard Meyer makes a significant attempt to rectify this state of affairs. The book has two main aims. The first is to focus on the establishment of the World Court (officially titled the International Court of Justice since 1946) with particular reference to the United States's role in its creation. The second is to offer an appraisal of the Court's role, and to highlight that the institution still exists—an institution of which the United States should be proud.

The first part of the book (chapters 1-7) takes a broadly chronological view of the World Court, from the Hague conferences of 1899 and 1907 through the direct involvement of U.S. officials such as Elihu Root in the creation of the World Court, up to the Court's "second coming" in the aftermath of World War II. This first part of the book also details how the World Court functioned during the inter-war years and some of the first cases it dealt with. The rest of the book (chapters

8-18) focuses on the history of the Court since 1946, dealing with issues as diverse as the development of the UN Charter and efforts to outlaw nuclear weapons. The strongest emphasis, however, is placed on the significant and contrasting cases of the Iranian hostage crisis, which the United States raised at the Court, and Nicaragua, where the United States appeared as a defendant over its interventions in the mid-1980s. The book ends with an extremely detailed thirty-seven-page chronology of events.

The emphasis is squarely on U.S. involvement with the World Court throughout the text, and while it is clearly Meyer's aim to highlight the links between the United States and the World Court, the title is therefore somewhat misleading. *The United States and the World Court*, a much more appropriate title, has already been taken by Michael Dunne in his excellent work on the debates of the inter-war years.[1] Nevertheless, it is clearly Meyer's underlying aim to remind readers of the long and continued links between the United States and the World Court, with the intention of convincing the reader that it is time the United

States reconsidered its position and rejoined the Court. "It is important that we recognise its potential--if and only if backed by U.S. leadership--to aid in the defense of peace and protection of human rights" (p. xiv).

While the very thought of legal jargon and complexities of international law might put off the more casual reader, you certainly do not need to be a legal expert to appreciate Meyer's arguments. The prologue contains a brief introduction to international law, and Meyer acknowledges that few readers will be "specialists" (p. 5). Similarly, the references to specific Court cases are outlined in sufficient but by no means overwhelming detail. In this respect the text achieves its goal of successfully informing a non-specialist readership.

The book will be of interest to all peace historians interested in the detail of efforts to create a more just and peaceful society. Indeed, the role of the peace movement in creating and supporting the concept and idea of a World Court is briefly touched upon, particularly in the years up to and including World War I (pp. 32-41). However, it must be noted that this brief section builds solely upon secondary sources, including works by Warren Kuehl, Charles DeBenedetti, Roland Marchand, and Charles Chatfield.[2]

While the book provides a very useful survey of the World Court, it does have limitations. One of the more bizarre aspects of the book's presentation is that it contains neither footnotes nor endnotes. For many historians this may be seen as an act of blasphemy; for all historians it is a major inconvenience. While the person or international body that produced a quotation or statement is usually referred to in the text, the specific source of the quote or text is not. For historians wishing to build on Meyer's work, this will prove incredibly frustrating; for those who disagree with him it will be an opportunity to question the veracity of the sources. A lengthy and annotated bibliography

is included, and while its length suggests it is comprehensive, it is impossible to be sure.

The structure of the book could also be clearer. The book explicitly spells out the two main themes discussed and how they take up the two halves of the book, but does not do so until page 235, at the beginning of the bibliography. This should have been included in the preface, which merely states that the "book's focus is the Court's origin (and the U.S. contribution to it), makeup, history, and functioning. It also offers an appraisal of the Court's role" (p. xiii). This gives the reader little indication of the specific aims of the book, which simply dives straight into the chronological narrative. The book also lacks a concluding chapter, which is unfortunate when chapter 16 asks "Was it 'Worth the Trouble?'"--a question perfectly set up for concluding remarks. Instead, the book sticks with its chronological approach and concludes two chapters later with a discussion of the Court and nuclear weapons.

While a study of the Court is clearly of interest to historians of U.S. foreign relations, the narrative rarely connects with wider issues, events, and influences on U.S. policy. Why did the United States reject the World Court in 1935? There is no examination of the non-interventionist or unilateralist themes guiding U.S. foreign policy in the 1930s. The Court appears isolated from wider international affairs and domestic U.S. politics. As a result, the case Meyer makes for the World Court is extremely one-sided. U.S. objections to the World Court, whether historical or contemporary, are barely mentioned, let alone addressed and opposed. The reasons behind the United States's rejection of the Court in 1935 and U.S. withdrawal in the mid-1980s are scarcely raised. While this can be put down to Meyer's desire to make the strongest possible case, it hardly engages with current political debate.

Indeed, perhaps the most unfortunate drawback with Meyer's book--through no fault of its own--is that it was clearly written prior to the

events of September 11, 2001. For some, recent events only highlight the need for international bodies to administer international law. In the light of contemporary events in Iraq, it is hard to disagree that the position of the United States with regard to the World Court and international law is in need of reassessment. Meyer cites the attack on the U.S. paddle-wheeler *Caroline* in the 1830s as an example of the creation of international law, which includes reference to the Webster principle (named after U.S. Secretary of State Daniel Webster). It proclaimed that for a state to prove it has acted in self-defense, it must show "(a) instant, overwhelming necessity; (b) no alternative choice of means; and (c) an obvious need to ignore deliberate processes" (p. 8). Many would argue that these conditions were most certainly not met with regard to the war in Iraq.

Yet there is no contemporary debate and no apparent desire for the United States to re-engage with the World Court or to join its counterpart, the International Criminal Court, in prosecuting individuals. While Meyer specifically highlights the difference between the World Court and the International Criminal Court, he admits they have one common problem: "resistance in Washington" (p. xiv). The unilateralism that runs through U.S. foreign policy continues to win out over any international judicial principles, and this theme has only been reinforced in the last two years. Historically, as Dunne has written, "the United States will use the World Court instrumentally and cynically when such recourse serves American interests." [3] There is even less incentive for the United States to re-engage the World Court today, as it fights not only against nations, but against transnational networks that are beyond the World Court's remit.

While *The World Court in Action* is an essential step in promoting U.S. involvement in the World Court, it is only the first step. Meyer quotes American World Court jurist Hardy C. Dillard as despairing that "international law and third-party

judgment suffer from the two extremes of those who claim too much for both and those who claim too little for either" (p. xiv). While it is true that those who claim too much have all but disappeared, Meyer, while claiming a great deal, does not go far enough. Far more still needs to be done to address and counter existing political objections and public apathy in order to meet Meyer's larger aim of U.S. enthusiasm for the rule of law in international affairs and involvement in international legal institutions. Until then, the World Court will merely remain part of the United States's past, rather than its future.

Notes

[1]. Michael Dunne, *The United States and the World Court, 1920-1935* (London: Pinter, 1988).

[2]. Works on peace movements cited by Meyer include Warren Kuehl, *Seeking World Order* (Nashville: Vanderbilt University Press, 1980); Charles DeBenedetti, *The Peace Reform in American History* (Bloomington: Indiana University Press, 1980); Roland Marchand, *The American Peace Movement and Social Reform, 1898-1918* (Princeton: Princeton University Press, 1972); and Charles Chatfield, *Peace Movements in America* (New York: Schocken Books, 1973).

[3]. Dunne, p. 267.

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