



BOOK REVIEW

*Lauren Fielder Redman**

Jason Ralph **Defending the Society of States: Why America Opposes the International Criminal Court and its Vision of World Society (Oxford, 2007)**

Jason Ralph's *Defending the Society of States* is an important addition to the body of literature on the International Criminal Court. Ralph's work is a weighty intervention into the debate over the appropriateness of the United States' opposition to the ICC because it examines the issue from an international relations perspective. Ralph's work thus joins the sparse but growing body of interdisciplinary scholarship on the ICC. What makes this book so valuable is that it contributes to an understanding of what really drives US opposition to the ICC.

Defending the Society of States has two major features. First, Ralph claims that the Rome Statute of the International Criminal Court helps constitute world society by creating an institution and a court "that respond to a universal interest in prosecuting individuals who commit crimes against universal values...even when the society of states is unwilling or unable to do so" (21). The second element of this work is Ralph's analysis of U.S. opposition to the ICC through the lens of the Court's impact on world society. Specifically, the book uses the English School of international relations to explore this problem. Ralph views the problem through the lens of the English School because of its strong normative focus and the centrality of international law in its formulation of international society.

Ralph introduces the idea that the ICC has the potential to bring about a sea change in international society. In Ralph's opinion, "international society is made up of a set of constitutive rules," which can be equated to international law *jus cogens* norms (29). Ralph points out that while the US supports democracy, it does not support a democratization of international law. This is evident in the US position that international law is based on consent rather than consensus. Ralph supports this claim by thoroughly exploring the role of positivism in international law, and questioning its validity. Positivism, according to Ralph, defends the privileges that the powerful have in society.

The argument is carried further by a look at the alternatives to the ICC and their shortfalls. Ralph acknowledges a near universal agreement that inhumane behavior must not go unpunished. The major disagreement lies in finding agreement on the appropriate forum for punishment. Two alternatives to the ICC are ad hoc tribunals and universal jurisdiction. Ralph considers ad hoc tribunals as flawed because they are ferociously expensive, lack deterrent power, and require reinventing the wheel with each new tribunal. Universal jurisdiction carries its own set of difficulties as the *ex parte* Pinochet case and the Arrest Warrant case summarized in the text demonstrate. Ralph points out that "justice was dependent on states using their national courts, or on the U.N. Security Council setting up international courts, in order to sustain a global conscience that valued humanity...[I]t lacked the institution of criminal justice to help maintain societal cohesion when its core value (i.e. humanity) was so obviously violated" (89). Ralph suggests that the problem with both of these forms of justice is that they are selective, and selective justice carries profound costs for society.

Ralph moves from the inadequacies of alternatives to the ICC to a description of the workings of the ICC. He shows that criminal justice adds to the institutional depth of society, stating that the ICC identifies the form society should take by codifying fundamental principles, and structures social processes that help construct and reaffirm common val-

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