

Her normative prescriptions, in other words, by insisting on a framework of constitutional pluralism and rejecting other forms of legal pluralism, leave aside the many other powerful global institutions and bodies that generate rules and norms, other than the UN Security Council or other UN bodies on which the book concentrates. While it is clear that the UN is the predominant global security organization, and the one with military power at its service, there are also many other organizations and bodies which have morphed or are morphing, as Cohen puts it in the book, into global governance institutions. Yet the book's focus on the need for political communities which participate in an overarching 'political community of communities' seems to leave many of these other important sites of legal and political authority out of the picture, and to reject as inadequate some of the more modest but perhaps also more currently feasible legal reform proposals which have been made.

Further, the demands of the constitutionalism prescriptions put forward in the book are strong, pushing towards an acknowledgment of the sovereignty or sovereign quality of the global governance institutions, and towards very significant reform of these bodies. These two features – the limited scope of the global governance institutions under scrutiny in the book, and the demanding reform prescriptions – both of which result from the choice of constitutional pluralism as the normative frame preferred by the author, risk limiting the likely success or influence of the book's otherwise attractive proposals.

These quibbles aside, this book is a very impressive achievement and well worth reading by anyone interested in the debates on global governance, international law and constitutionalism, and reform of the UN system. The author does a superb job in weaving together some of the diffuse and often somewhat inaccessible bodies of literature that together present the complex picture of scholarly understandings of the future of global governance.

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Sari Kuovo and Zoe Pearson (eds). ***Feminist Perspectives on Contemporary International Law: Between Resistance and Compliance?*** Oxford: Hart Publishing, 2011. Pp. 250. £36. ISBN: 9781841134284.

Gina Heathcote. ***The Law on the Use of Force: A Feminist Analysis***. London: Routledge, 2012. Pp. 230. £24.95. ISBN: 9780415870238.

Feminist engagement with international law is coming into its own. From the early days of Charlesworth, Chinkin, and Wright's tentative yet electrifying alchemy of international law and feminism in 1991,¹ feminists have enthusiastically taken up the implicit challenge those authors made to their colleagues to contribute to the creation of a richer and deeper understanding of the discipline.² While feminist scholarship is rich in its complexity and diversity and does not

¹ Charlesworth, Chinkin, and Wright, 'Feminist Approaches to International Law', 85 *AJIL* (1991) 613.

² Although the literature is now considerable: see, e.g., Engle, 'International Human Rights and Feminism: When Discourses Meet', 13 *Michigan J Int'l L* (1991–1992) 517; D. Dallmeyer, *Reconceiving Reality: Women and International Law* (1993); Charlesworth, 'Alienating Oscar? Feminist Analysis of International Law', 25 *Studies in Transnat'l Legal Policy* (1993) 1; Knop, 'Re/Statements: Feminism and State Sovereignty in International Law', 3 *Transnat'l L & Contemp Probs* (1993) 293; Binion, 'Human Rights: A Feminist Perspective', 17 *Hmn Rts Q* (1995) 509; Charlesworth, 'Feminist Methods in International Law', 93 *AJIL* (1999) 379; H. Charlesworth and C. Chinkin, *The Boundaries of International Law: A Feminist Analysis*

represent a single unified approach to international law, feminist scholars have a shared interest in addressing discrimination and injustice experienced by women.

One key contribution of feminist scholarship has been its revelation of the unattractive underbelly – the structural biases – of international law that traditional scholars, uncomfortable with any apparent lack of finesse in the discipline, take considerable (typically unacknowledged) pains to gloss over. In particular, feminist scholars have pointed to the patriarchal structures upon which the male-dominated discipline is founded and to the very real suffering that occurs in its blind spots. Chinkin, Wright, and Charlesworth, for example, have focussed their attention on the biases inherent in the discipline's normative principles, such as the public/private divide that leaves women's suffering and abuse liable to be met with inaction.³ State sovereignty, a cornerstone of liberal accounts of international law, has also been seen to render women 'analytically invisible because they belong to the State's sphere of personal autonomy'.⁴ Other scholars have critiqued specific areas of international law, arguing, for example, for the recognition of women's rights as human rights⁵ and for the urgent need to enhance international law's inadequate response to sexual and gender-based violence.⁶

Today international law is in something of a period of uncertainty. The unprecedented harm unleashed in the name of the war against terror and globalization has, perhaps counter-intuitively, led to greater faith being placed in international law, which has become the shrine at which the hopeful leave their offerings; but the returns have appeared scant.⁷ International law is revealed to be impotent – or, worse, collusive – in the face of the very wrongs that the discipline has dedicated itself to ending: war; famine; environmental destruction; human rights violations. The reaction of many scholars has been to dig deeper into the annals of international law, convinced the solution is there to be found if only we look hard enough and interpret its provisions correctly. Others point warily to the accommodation by international law (traditionally conceived) of the very wrongs it professes to abhor.⁸ A recently published collection and monograph demonstrate that feminist scholars, however, are leading the way in both critiquing the foundations of international law and offering an alternative vision.

Feminist Perspectives on Contemporary International Law: Between Resistance and Compliance, edited by Sari Kuovo and Zoe Pearson, contains high-level, cutting-edge research that will be of

(2000); Orford, 'Feminism, Imperialism and the Mission of International Law', 71 *Nordic J Int'l L* (2002) 275; Meyersfeld, 'Reconceptualizing Domestic Violence in International Law', 67 *Alamy L Rev* (2003–2004) 371; D. Buss and A. Manji (eds), *International Law: Modern Feminist Approaches* (2005); Otto, 'Lost in Translation: Re-scripting the Sexed Subjects of International Human Rights Law', in A. Orford (ed.), *International Law and its Others* (2006); C.A. MacKinnon, *Are Women Human? And Other International Dialogues* (2006); A. Orford, *Reading Humanitarian Intervention: Human Rights and the Use of Force in International Law* (2007); Otto, 'The Exile of Inclusion: Reflections on Gender Issues in International Law over the Last Decade', 10 *Melbourne J Int'l L* (2009) 11; M. Fineman and E. Zinsstag, *Feminist Perspectives on Transitional Justice: From International and Criminal to Alternative Forms of Justice* (2013).

³ Chinkin, Wright, and Charlesworth, 'Feminist Approaches to International Law: Reflections from Another Century', in Buss and Manji (eds), *supra* note 2.

⁴ Knop, *supra* note 2, at 295.

⁵ Bunch, 'Women's Rights as Human Rights: Toward a Re-Vision of Human Rights,' 12 *Hmn Rts Q* (1990) 486.

⁶ B. Meyersfeld, *Domestic Violence and International Law* (2010).

⁷ For a discussion of the limits of law see, e.g., the contributions in S. Meckled-García and B. Çali (eds), *The Legalization of Human Rights: Multidisciplinary Perspectives on Human Rights and Human Rights Law* (2006).

⁸ See, e.g., C. Douzinas, *The End of Human Rights* (2000); D. Chandler, *From Kosovo to Kabul and Beyond – New Edition: Human Rights and International Intervention* (2005); D. Kennedy, *The Dark Side of Virtue: Reassessing International Humanitarianism* (2004).

interest to all those working in the field of international law. This collection of essays reflects the sophisticated nature of contemporary feminists' engagement with international law. The standard of the contributions is consistently high, and overall the book raises a number of important questions about the future of feminism and international law and points to a range of international law spaces, both large and small, that are open to radical re-understandings. Bringing together eminent writers with a great variety of scholarly interests, it also demonstrates the utility of inter-disciplinarity to feminist thought and methodology.

Kuovo and Pearson's collection is explicitly concerned with the impact of 9/11 and the 'war on terror' on feminist engagement with international law. Several of the contributions are inter-disciplinary, drawing on innovative insight, for example, from critical legal feminists and feminist geographers and psychoanalytical theory. The book is also given a contemporary edge as several of the contributors respond to Janet Halley's proposal that we should 'take a break from feminism'.⁹ What emerges strongly from these contributions is the potential for absorption of international law's human rights and peace agenda into the dominant security agenda.

This collection of essays demonstrates that feminist engagement with international law has come of age, reflecting on the impact of feminist theory and method, from the margins to the mainstream of international law. While some feminists have recently retreated from their bruising and disappointing engagements with the law,¹⁰ this collection of essays provides feminists with a number of tools with which they can return to their vital task of reimagining both the concrete detail and the foundational principles of international law. Those looking for unified tangible conclusions about the future of feminist engagement with international law, however, will be disappointed; the authors demonstrate that a great diversity of thought and rich debate shelter under the term 'feminism'.

The Law on the Use of Force: A Feminist Analysis by Gina Heathcote, first published in 2012 and in 2013 republished in paperback form, demonstrates the functional utility of feminist perspectives in offering an opportunity both to dismantle and re-imagine the foundations of international law. It builds on the structural bias approach to international law, as set out by Western scholars Chinkin, Charlesworth, and Wright. In short, this approach argues that 'international law has persistent structural flaws that are sexed and gendered' (at 6). Heathcote chooses to examine the place of force in international law as the entry point to her critical task. Using both legal and political materials, Heathcote's critical gaze is brought to bear on the UN's collective security system; the role of self-defence in international law; self-determination as a justification for force; and, finally, the emerging principle of humanitarian intervention. The importance of this study strikes the reader at once – force is central both to feminist thought and international law, yet surprisingly scant attention has been paid from a feminist perspective to how force and international law might be mutually revelatory. Heathcote's book analyses in close detail the law that justifies collective and unilateral force.

The analytical tools in her kit that enable the author to shed fresh light on this aspect of the discipline are feminist understandings of sex and gender as categories for interrogating law and the role of law in constructing gender. Feminist legal scholarship has in various ways used these categories to interrogate the subject of law.¹¹ Heathcote herself builds upon feminists' accounts of law's prioritization of the (male/rational) mind over the (female/irrational) body.¹² Thus Heathcote's examination of force in international law is engaged with the task of

⁹ J. Halley, *Split Decisions: How and Why to Take a Break from Feminism* (2008).

¹⁰ See, e.g., Kapur, 'Revisioning the Role of Law in Women's Human Rights Struggles', in Meckled-García and Çali (eds), *supra* note 7, at 186.

¹¹ N. Naffine and R. Owens, *Sexing the Subject of Law* (1997).

¹² Olsen, 'Feminism and Critical Legal Theory: An American Perspective', 18 *Int'l J Sociology of L* (1990) 191.

personalizing suffering, giving it a face and a physical presence in her text. The justifications offered for the use of force are presented as the repetition and reaffirmation of a gendered discipline. Without acknowledging this facet of international law, the author argues, we cannot fully understand international law; without such understanding, we cannot resolve its failings. Heathcote both critiques ‘domestic analogy’ and uses it as a method to connect her global study to local examples. Through this lens, Article 51 of the UN Charter is revealed as inadequate due to the gendered subject of the domestic self-defence justifications from which it is drawn. The UN Charter thus ‘construes the state in analogy with the masculine subject of interpersonal self-defence laws, despite the inclusion of collective self-defence in the international model’ (at 79). Turning to humanitarian intervention as a justification for the use of force, Heathcote uses feminist accounts of responses to domestic abuse¹³ to argue that humanitarian intervention serves to cast the state as a ‘hero on horseback’ and thus disempowers the victim, whose private knowledge is neglected.

Viewed through Heathcote’s feminist lens, the use of force is seen to be enshrined at the centre of a discipline that professes to be a civilizer of nations. Particularly striking is her argument that as the Security Council widens its justification for its authorization of force, so justifications for unilateral force – such as humanitarian intervention – follow suit because ‘state justifications function by referencing authorised force’ (at 74). She further reminds us that the Security Council continues to authorize force, even in the face of evidence that military force – even that unleashed for humanitarian reasons – typically serves to aggravate violence against women.¹⁴ She thus echoes Dianne Otto’s contribution to Pearson and Kuovo’s edited volume, in which Otto cautions that ‘the discourse of crisis requires the kind of thinking that is antithetical to an emancipatory agenda’ (at 92). This point is further supported by Kouvo’s study in the edited volume under review here of the impact on women’s lives of the US-led military intervention in Afghanistan. Viewed through a feminist lens, any illusion that international law is a tool through which peace is secured is shattered; indeed, Heathcote’s unpackaging of this illusion is both surgical and comprehensive.

While clearly repelled by the consequences of states’ use of force, Heathcote does not herself attempt to answer the pressing question whether circumstances exist in which a feminist conception of international law could or would permit the use of force. Nevertheless she does move beyond the dismantling of international law’s core principles. Drawing on Hannah Arendt’s concept of natality, in which understanding of human freedom is rooted in biological life,¹⁵ Heathcote gleans a political alternative to the dominant conceptions of freedom that have justified widespread destruction. She argues that this concept, ‘which is a focus on creativity through a central focus on birth rather than mortality’, is an essential tool in disrupting the relationship between law and violence. In short, she suggests the possibility of creating an alternative corporeal international law, without force at its centre. It is hoped that this element of her thesis will be developed further in future work. *The Law on the Use of Force: A Feminist Analysis* is an essential text for all those who invest hope in international law’s capacity to restrain states’ use of force.

Feminist scholars of international law are enabling a different narrative to emerge about the discipline. Through their lenses, a more complex and less palatable understanding of the subject emerges. Far more than simply calling for token participation, texts such as these are making an urgent call for the discipline’s structural biases to be acknowledged and addressed. It is clear that questions remain to be answered. How, for instance, can feminists highlight the problems facing

¹³ L.G. Mills, *Insult to Injury: Rethinking our Responses to Intimate Abuse* (2003).

¹⁴ See also Orford, *Reading Humanitarian Intervention*, *supra* note 2.

¹⁵ H. Arendt, *The Human Condition* (1958).

women globally without casting them as one-dimensional victims (a trap that both these books fall into at times)? Further, both these texts demonstrate that merely acknowledging the importance of intersectional discrimination and cultural diversity is wholly insufficient. Feminists have cast international law as a narrative, allowing, in Heathcote's words, 'the sanctity of the legal text to be challenged' (at 15). There is an urgent need for a greater range of marginalized participants to contribute their stories to international law's narrative structures.

Individual Contributions to Sari Kouvo and Zoe Pearson (eds), *Feminist Perspectives on Contemporary International Law*

Sari Kouvo and Zoe Pearson, Introduction;

Vanessa Munro, Navigating Feminism: At the Margin, In the Mainstream or Elsewhere? Reflections on Charlesworth, Otomo and Pearson;

Hilary Charlesworth, Talking to Ourselves: Feminist Scholarship in International Law;

Yoriko, Otomo, Searching for Virtue in International Law;

Zoe Pearson, Feminist Project(s): The Spaces of International Law;

Anna Greer, Three Feminist Critiques of Varying Feminist Capitulations to Crisis Hegemony. Reflections on Otto, Mertus and Grahn-Farley;

Dianne Otto, Remapping Crisis through a Feminist Lens;

Julie Mertus, Read Blocks, Blind Spots, Speed Bumps: A Feminist Look at the Post-9/11 the Landscape for NGOs;

Maria Grahn-Farley, The Politics of Inevitability: An Examination of Janet-Halley's Critique of the Criminalization of Rape as Torture;

Alice Edwards, From the Margins to the Mainstream and Back Again: Problems and Paradoxes of Feminist Engagement in Global and Local Justice. Reflections on Nesiah, Kouvo, Andersson and Thomas;

Vasuki Nesiah, Missionary Zeal for a Secular Mission: Bringing Gender to Transitional Justice and Redemption to Feminism;

Sari Kouvo, Taking Women Seriously? Conflict, State-Building and Gender in Afghanistan;

Ulrika Andersson, Trafficking in Human Beings: Vulnerability, Criminal Law and Human Rights;

Dania Thomas, Women Workers Take over Power at the Margins: Economic Resistance, Political Compliance;

Sari Kouvo and Zoe Pearson, Concluding (or Beginning) Thoughts: Postcards to the Future.

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