

... as this book discusses a number of topical matters of interest in international law  
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labelled, but a state which has contributed and continues to contribute considerably to the development of international law and the promotion and fostering of its principles, even though this tends to be unfairly omitted frequently. All this makes this book particularly valuable, not just for Irish students of international law – though probably most easily comprehensible and accessible to them – but also for non-Irish lawyers interested in the Irish perspective on international law.

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1. N. Krisch, 'Legality, Morality and the Dilemma of Humanitarian Intervention after Kosovo', 13 *EJIL* (2002) pp. 323-335.

2. C. Symmons, 'The Incorporation of Customary International Law into Irish Law: Recent Developments and Suggestions', 31 *Irish Jurist* (1996) pp. 165-189.

3. I.e., M. Bothe, 'Terrorism and the Legality of Pre-emptive Force', 14 *EJIL* (2003) pp. 227-240.

4. On the justification see further C. Tomuschat, 'Iraq – Demise of International Law', 78 *Die Friedens-Warte* (2003) pp. 141-160. On the Bush Doctrine see further H. Meierstoens, *Die Doktrinen U.S.-amerikanischer Sicherheitspolitik: Völkerrechtliche Bewertung und ihr Einfluss auf das Völkerrecht* (Baden-Baden, Nomos 2006) pp. 187-231.

D. BUSS; A. MANJI, eds., *International Law: Modern Feminist Approaches*, Hart Publishing, Oxford 2005, xi + 303 pp., UK£ 22.50. ISBN 1-84113-427-9.

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Being a European Union lawyer, this present reviewer reads extensively about the deepening and the widening of European integration. In that context, deepening means that integration in traditional fields, as well as related processes, are further developed, and widening refers to the new areas of activity that are added. Reading the book under discussion, the same terms came to my mind, though in an entirely different context, namely that of feminist approaches to international law. Briefly put, the book explores the feminist engagement in the field of international law since its beginnings and asks what needs to be done in the future. It seems to me that the process analysed in the book is in many ways a process of deepening and widening: deepening, in that the original approaches to feminist jurisprudence in the field of international law have since further

developed and continue to do so, and widening, in that new issues and perspectives have been added.

In the introduction to the book, Doris Buss and Ambreena Manji explain that the idea for the book project arose out of a sense that over the years feminist legal scholarship in the international law field unfolded in a piecemeal, *ad hoc* and fragmented manner, which raises questions concerning current developments in this field and whether 'feminists have anything more to say about international law'. The editors refer to 'both the increased attention to the language of feminism and the limited progress women have made'. It seems that the 'international legal academy and its political brethren seem prepared to include feminist scholars within the discipline, provided the discipline's foundational assumptions and modes of operation are left unaltered'. Against this background, the book pursues a double objective, namely that of mapping what it means to bring feminist perspectives to international law, and that of reflecting on what it means for feminists to include 'the international' in their theory and practice. Offering a snapshot of current feminist thinking, the book aims to address three aspects of feminist international legal scholarship in particular, namely 1) the range, direction and implications of *feminist approaches* to international law; 2) the constitution, definition and possibilities of *international law*; and 3) the place of *the modern* in changing global circumstances.

Two essays lay the groundwork by providing a map of feminist engagement with international law as it developed over time. In that sense, both of them are 'deepening' exercises, though at the same time they also have a 'widening' perspective by referring to new developments. Christine Chinkin, Shelley Wright and Hilary Charlesworth are the authors of a seminal article on feminist international law dating from 1991 ('Feminist Approaches to International Law', 85 *AJIL* (1991) p. 613). In their contribution to the book under review, they state that since their original work significant advances were made in the institutions, substance and procedures of international human rights law as it is applied to women. At the same time, some of the advances are merely rhetorical; there are trends that pull in opposite directions and that call for caution about overstating the advances that have been achieved. Specific examples include the Women's International War Crimes Tribunals, the effects of globalisation and the war on terror. On the whole, the transformational effect of feminism in international law has been limited. So far, international law is not truly focusing on *all* people and peoples, which is why 'feminist explorations in international law require critique, theorising, law reform, legal challenges, advocacy, education and grassroots work'.

A second article revisiting earlier work (namely 'International Human Rights and Feminism: Where Discourses Meet', 13 *Michigan JIL* (1992) p. 517) is written by Karen Engle and deals with discourses on feminist critiques of international human rights law in academic writing done in English (which implies, of course, a certain limitation of the article). Engle begins by describing developments that have occurred in the past decade that she would never have predicted when first engaging in her work in the late 1980s and early 1990s. These include, first, an astonishing proliferation of articles theorising

gender and human rights, second the fact that gender has been brought into the mainstream, and third, the noticeable reduction of accounts of structural bias based on gender from critical discussions of human rights. Engle speaks about 'the rise and fall' of feminist critiques. In her analysis, three phases must be distinguished that raise different issues in relation to feminist approaches to international law, namely liberal inclusion (roughly 1985-1990), structural bias critique (1987-1995) and third world feminist critiques (as of 1992). In the latter context, one of the conclusions that seem to emerge is that attention is needed to the ways of how culture and the economy are mutually constitutive. Feminists in the 'West' face the challenge of how to avoid speaking of and for the 'ubiquitous third world woman'. (Interestingly, the present writer suspects that it is no coincidence that the women seen in the picture on the cover of the book under review are most likely not from a Western country. Indeed, such pictures of feminist political activism – raised fists, angry faces – will hardly be seen these days in context of feminism in the Western countries where many women unfortunately no longer see the need for such manifestations.)

After these revisiting exercises, the other articles in the book deal with a variety of issues and do so from a variety of perspectives, usually including both 'deepening' and 'widening' aspects. In the following, some selected aspects are mentioned. Two contributions appear to be written from a theoretical perspective. First, Thérèse Murphy analyses the question of why feminists are engaging with international law, and what this tell us about feminism and choices made by women in particular. Her main question is what is implicated when a feminist selects an international orientation over a domestic one, or vice versa. There is no 'sure and total' answer to this question. Indeed, the author's suggestion is that there is a need for a new critical project within feminism, namely to think about how domestic and international legal feminism relate to one another. The other article written from a theoretical perspective deals with gendered subject(s) of international human rights law. Dianne Otto takes up Smart's analysis of the construction of female subject positions in law to consider the gendered subjectivities that have emerged in international human rights over the long period of feminist engagement at the United Nations Organisation (UNO). One important finding is that the differences of gender, even as conceived by feminists, have tended to repeat women's marginalisation and exclusion from full humanity by reproducing the earlier female subjectivities and their masculine counterparts. In the author's analysis, this has serious consequences for the usefulness of the 'women's rights are human rights strategy', to the point where the international struggle for the inclusion of women in the paradigm of universal human rights has reached a point where it needs reinvention.

In three contributions in the book the authors use novels or films as starting points and instruments for their analysis, though in quite different contexts. Ambreena Manji's uses the novel *The Beautiful Ones Are Not Yet Born*, written by the Ghanaese writer A Kwei Armah and published immediately after Ghana's reaching independence (1968), as illustrative material to think about law and development, in particular in a context of the dominant patriarchal conceptions of globalization. In a very different cultural

context (namely that of the USA), Ruth Buchanan and Rebecca Johnson consider nation building, violence and gender in the West(ern). They build their argument on a critical analysis of Clint Eastwood's Film *Unforgiven* (1992), which in their analysis opens up for consideration several key insights about the operation of modern law, and in particular about social narratives about justice, gender and violence. The authors argue for a practice of reading the public sphere as we might read a film, and to read against the grain in order to alter the narratives that shape our thinking and the law. The third contribution based on literature is Doris Buss's article about 'Austerlitz and International Law'. The title of her essay relates to the novel *Austerlitz* (2001), written by Winfried Georg Sebald, a German writer who lived in England, and dealing with memories of the Holocaust and the conditions of exile. Buss takes this acclaimed novel as a starting point for exploring the architecture of space (the global versus the local, the international and the national) and its meaning for law, in particular feminist international law. Against this background, the author argues in favour of a closer consideration of feminist accounts of the public/private divides in international law.

Two articles in the book have been put in specific regional contexts by their authors. However, both of them deal with issues that, *mutatis mutandis*, will also be relevant in other and wider contexts. Vesna Nikolic-Ristanovic writes about sexual violence, international law and restorative justice and, more specifically, about the effectiveness and the consequences of international prosecution of sexual violence against women through the legal apparatus of the war crimes tribunals for the Former Yugoslavia and Rwanda. The author explains that the approach chosen in recent times in Europe and in Africa to address sexual violence committed in war has very serious inherent limitations, in particular because women are at risk of being victimised by the legal system itself, which focuses on the perpetrator and public interest, rather than on the victim. Whilst progress achieved within international law regarding prosecution of offenders and protection of victims of sexual violence in war is significant, it is not sufficient for acknowledging the suffering of victims and addressing the consequences of sexual violence in a comprehensive manner. The author therefore suggests the use of alternative mechanisms, such as truth and reconciliation processes, to work alongside the legalism of criminal trials.

The second article that is put in a regional setting is by Rachel Murray, which deals with Women's Rights and the Organization of African Unity and African Union and, in particular, the Protocol on the Rights of Women in Africa (as attached to the African Charter on Human and Peoples' Rights). The idea behind the Protocol was to create a specifically African instrument, though Murray notes that it has as yet not been clearly developed what this 'African' vision is. In the author's analysis, the Protocol waivers between of the being an interpretation of the African Charter on Human and Peoples' Rights (which in its main text makes only a passing reference to women) on the one hand, and a collection of some existing international standards (such as the CEDAW) on the other. However, the document falls short of both objectives. Further, the mechanisms and rights available outside of the Protocol have not been exploited to their full potential. More generally with respect to the use of international law by African institu-

tions, Murray argues that these institutions should be less wary of validating their own findings through African jurisprudence, and that they should have the courage to rely on their own standards and African initiatives, rather than solely on European or UN ones.

Finally, the book under review contains three articles that deal with global themes and organizations from a feminist perspective. One particularly important global issue is the protection of the environment, which is the subject of Annie Rochette's article. Having sketched the feminist involvement in international environmental law during the past decennia, the author argues that international environmental law and organizations working in this field are not equipped to deal with global challenges such as poverty, epidemics of diseases, the increase in natural disasters and the continuing destruction of the environment, as well as the uneven distribution of the negative impacts of such challenges. In a second article about global issues and organizations, Sari Kouvo discusses gender equality mainstreaming at the United Nations Organisation. Whilst the 'woman question' has been part of the UN Agenda since 1945, a 'gender turn' in UN equality politics can be observed in the 1990s, when the US explicitly began to use the language of gender. Since the mid-1990s, the UN committed to gender mainstreaming at policy and institutional level. Nevertheless, questions regarding the advancement of women and gender equality remain marginalised within the UN system. Finally, Fiona Beveridge's article is about feminist perspectives in international economic law. It explores potential foundations for feminist critiques in this particular area of law and describes structural limitations of institutional reform. The author contrasts two international organizations in particular, namely the World Trade Organization (WTO) with its near-complete absence of gender from its discourses (and corresponding track record in addressing gender issues) on the one hand and the World Bank with much better results on the other hand. According to the author, the claim that the WTO as an institution has singularly failed to include a gender perspective in its work is sustainable. Moreover, core values of the WTO may be at odds with feminist objectives. It may, therefore, not be astonishing that the UN's call that the WTO should be contributing more to efforts to tackle gender equalities has so far not resulted in very tangible results.

In conclusion, the book under review provides the reader with a valuable analysis of feminist international law. Even though it may be that from a non-UK European perspective (such as the one of the present reviewer) the book appears to lean somewhat heavily on work done in the English language, in terms of content it is much broader. In her foreword to the book, Mary Robinson, former UN High Commissioner for Human Rights and President of Ireland, recalls the traditional and misplaced assumption of objectivity and neutrality of international human rights law and the now increased attention given to the fact that women's rights are human rights. She then states that the question to be addressed now is how to translate the current international consensus on the human rights of women into meaningful change in practice. This challenge continues to exist, and the present book helps the reader to reflect not only on where the discipline of feminist international law has arrived today, through a process of deepening and widening, but also on where it should go in the future. Overall, the conclusion appears

to be that much has been accomplished, quite a bit has been achieved, but much more still needs to be done.

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M. FITZMAURICE; O. ELIAS, *Contemporary Issues in the Law of Treaties*, Eleven International Publishing, Utrecht 2005, xvi + 398 pp., € 75. ISBN 90-77596-06-2.

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Since Lord Arnold McNair described the treaty as a victim of its own success and as the ‘work-horse’<sup>1</sup> of international society, much has happened. This includes the advent of a new generation of self-contained treaty regimes with extensive monitoring mechanisms, and also the rise of *concepts*, such as ‘international community’, ‘international legislation’ and *jus cogens*, which put a strain on the contractual precepts of international law. These developments notwithstanding, the treaty instrument and the law of treaties discourse as yet remain a prime vehicle in international legal relations and regulation.

The essays in *Contemporary Issues in the Law of Treaties* are a case in point. The book does not aim systematically to discuss the law of treaties, but instead addresses a number of assorted topics directly relevant to international legal practice. Method-wise the essays may be roughly divided in two categories: one which looks into tenets of the law of treaties as such, and one which proceeds from a particular legal regime or case.

The first category covers time-honoured questions relating to the treaty instrument (chapter 1 – The Identification and Character of Treaties and Treaty Obligations Between States; and chapter 6 – Methods of Expression of Consent to Be Bound By A Treaty); some classic doctrinal tenets (chapter 3 – Aspects of the Law Relating to Material Breach of Treaty; and chapter 4 – The Doctrine of Fundamental Change of Circumstances Revisited); and a general survey of the dynamics in modern treaty-making practice (chapter 2 – Actors and Factors in the Treaty-Making Process).

The latter contains an examination of particular legal set-ups. These include the relation between the Security Council and the International Criminal Court, and the ICJ Statute’s Optional Clause mechanism – both considered through a law of treaties prism – (chapter 7 – The Law of Treaties and the Relationship Between the Security Council and the International Criminal Court; and chapter 5 – Optional Clause Declarations and the Law of Treaties); ‘case studies’ for the applied law of treaties (chapter 8 – The Kyoto Protocol Compliance Regime and the Law of Treaties; and chapter 9 – Conflicts Between Environmental Treaties); and two recent judgments of the International Court of Justice in which the law of treaties plays a prominent role (chapter 10