



2004

Commentary: Toward a Counterdisciplinary Agenda for Research in International Law and International Relations

Stepan Wood

Osgoode Hall Law School of York University, swood@osgoode.yorku.ca

Follow this and additional works at: http://digitalcommons.osgoode.yorku.ca/all_papers

Repository Citation

Wood, Stepan, "Commentary: Toward a Counterdisciplinary Agenda for Research in International Law and International Relations" (2004). *All Papers*. Paper 240.

http://digitalcommons.osgoode.yorku.ca/all_papers/240

This Conference Paper is brought to you for free and open access by the Research Papers, Working Papers, Conference Papers at Osgoode Digital Commons. It has been accepted for inclusion in All Papers by an authorized administrator of Osgoode Digital Commons.

Commentary: Toward a Counterdisciplinary Agenda for Research in International Law and International Relations

Stepan Wood¹

I have been asked to comment on the papers presented as part of a panel on feminist approaches to the interplay between international law (IL) and international relations (IR). My reactions to the excellent papers by Sandra Whitworth and Robin Teske² will focus on the interdisciplinary theme in the panel's title. My comments will be directed toward the question of what contributions feminist analysis might make to interdisciplinary research involving IL and IR. I will suggest that the most interesting kind of interdisciplinary work is "counterdisciplinary" in character and that feminism can make (and indeed, already has made) a substantial contribution to counterdisciplinary explorations of IL and IR.

I. From Interdisciplinary to Counterdisciplinary Research

It is possible to distinguish at least two modes of interdisciplinary scholarship: unselfconscious *ad hoc* cross-disciplinary borrowings and self-conscious agendas of interdisciplinary collaboration. There are good reasons to be wary, or at least careful, of both. As to the first variety, unselfconscious interdisciplinary research runs the risk of importing incomplete fragments of knowledge and a range of unexamined assumptions, limitations and ethical precommitments from the other discipline. There is always a substantial risk of incomplete interdisciplinary "arbitrage" in such

-
1. Professor of Law, Osgoode Hall Law School, York University, Toronto, Ontario, Canada.
 2. Sandra Whitworth, "Feminism and International Relations," in this volume; Robin Teske, "May We Go to the Places That Scare Us"—Thinking About Feminism, International Law, and International Relations," in this volume.

*In Proceedings of the 31st Annual Meeting of the
Canadian Council on International Law
(The Hague: Kluwer Law International, 2004)*

The Measure of International Law

cases, as Bill Bratton and Joe Mc borrowing economic theories of i

As to the second mode o interdisciplinary collaboration of insecurities of the "home" discip research puzzles at which the inte David Kennedy argues, interdiscij renewal and reconstruction of reconstruction may be pursued th including reassertion of the releva at rapprochement with an estrang "analytical toolbox" of theories questions; and demarcation or exp intellectual struggles within IL. interdisciplinary research is that j expose or question the blind s) participating disciplines.

-
3. William W. Bratton and Joseph Competition: Devolutionary Fed 201.
 4. See, e.g., Annelise Riles, "Rep Rhetoric of Interdisciplinarity" [15
 5. David Kennedy, "When Renewal & Pol. 335 [hereinafter Kennedy,
 6. See, e.g., David Kennedy, "The I Leiden J. Int'l L. 9; David Kenne 421, 426-427; David Kennedy, "[2001] *Eur. Hum. Rights L. Rev.* 1
 7. Hilary Charlesworth and Christin *Feminist Analysis* (Manchester: N the necessity of investigating the "Feminist Methods in Internation silences of international law may structures") [hereinafter Charlesw Teske's paper in this volume.
 8. Martti Koskenniemi, "Carl Schrr International Relations," in Michae (Oxford: Oxford University Press, volume.

nary Agenda for Research ational Relations

nted as part of a panel on feminist
aw (IL) and international relations
dra Whitworth and Robin Teske²
anel's title. My comments will be
s feminist analysis might make to
ill suggest that the most interesting
ry" in character and that feminism
a substantial contribution to

ary Research

s of interdisciplinary scholarship:
ings and self-conscious agendas of
ions to be wary, or at least careful,
interdisciplinary research runs the
ledge and a range of unexamined
ments from the other discipline.
nterdisciplinary "arbitrage" in such

, York University, Toronto, Ontario,

Relations," in this volume; Robin Teske,
hinking About Feminism, International

annual Meeting of the
onal Law
national, 2004)

cases, as Bill Bratton and Joe McCahery have shown in the case of legal academics borrowing economic theories of interjurisdictional regulatory competition.³

As to the second mode of interdisciplinary research, express agendas of interdisciplinary collaboration often reveal as much about the preoccupations and insecurities of the "home" discipline (e.g., international law), as they do about the research puzzles at which the interdisciplinary agenda is purportedly addressed.⁴ As David Kennedy argues, interdisciplinary agendas are often deployed as strategies for renewal and reconstruction of the discipline of IL itself.⁵ Such renewal and reconstruction may be pursued through numerous intellectual projects and strategies, including reassertion of the relevance and self-worth of the discipline of IL; attempts at rapprochement with an estranged "sister" discipline (e.g. IR); expansion of IL's "analytical toolbox" of theories and methods to be applied to existing research questions; and demarcation or expansion of intellectual territory in intradisciplinary intellectual struggles within IL. One of the main dangers of this mode of interdisciplinary research is that it can exhibit a tendency to reinforce rather than expose or question the blind spots,⁶ silences⁷ and normative projects⁸ of the participating disciplines.

3. William W. Bratton and Joseph A. McCahery, "The New Economics of Jurisdictional Competition: Devolutionary Federalism in a Second-best World" (1997) 86 *Geo. L.J.* 201.
4. See, e.g., Annelise Riles, "Representing In-between: Law, Anthropology, and the Rhetoric of Interdisciplinarity" [1994] *U. Ill. L. Rev.* 597.
5. David Kennedy, "When Renewal Repeats: Thinking Against the Box" (2000) 32 *Int'l L. & Pol.* 335 [hereinafter Kennedy, "Thinking Against the Box"].
6. See, e.g., David Kennedy, "The Disciplines of International Law and Policy" (1999) 12 *Leiden J. Int'l L.* 9; David Kennedy, "Thinking Against the Box," *supra* note 4 at 408-421, 426-427; David Kennedy, "The Forgotten Politics of International Governance" [2001] *Eur. Hum. Rights L. Rev.* 117.
7. Hilary Charlesworth and Christine Chinkin, *The Boundaries of International Law: A Feminist Analysis* (Manchester: Manchester University Press/Juris, 2000) 60 (asserting the necessity of investigating the silences of international law); Hilary Charlesworth, "Feminist Methods in International Law" (1999) 93 *Am. J. Int'l L.* 379 at 381 ("the silences of international law may be as important as its positive rules and rhetorical structures") [hereinafter Charlesworth, "Feminist Methods"]. Both are cited in Robin Teske's paper in this volume.
8. Martti Koskeniemi, "Carl Schmitt, Hans Morgenthau, and the Image of Law in International Relations," in Michael Byers, ed., *The Role of Law in International Politics* (Oxford: Oxford University Press, 2000) 17 at 34, cited in Robin Teske's paper in this volume.

To understand the significance of this fact it is useful to consider briefly the question of power and the role of academic disciplines such as IL and IR in its constitution and operation. As Robin Teske suggests in her paper, the conventional conception of power as domination or "power-over" is inadequate. Most legal and political thought, including that of mainstream IL and IR, shares this conception of power as repressive and coercive. In this view power is a resource wielded by some actors over others and manifested in relations of domination and subordination. Against this conventional conception, various thinkers have suggested that power is better conceived as productive or creative. This has been expressed in many ways: for Hannah Arendt, power is not repression but the ability of groups of people to act in concert; for Nancy Hartsock it is not domination or control but the collective energy or capacity of the community as a whole; and for Carolyn Heilbrun it is "the ability to take one's place in whatever discourse is essential to action."⁹ For Michel Foucault power does not simply dominate, deny or repress, it produces knowledge, things, human subjects and indeed all aspects of social life.¹⁰ Power in this productive sense is manifested in the countless mundane mechanisms of everyday life by which we are measured, recorded, calculated, molded, normalized and, in a word, constituted as subjects, and by which we constitute ourselves and our social worlds.

Knowledge, in particular the specialized "knowledges" (*savoirs*)¹¹ and "know-how" of the professions and academic disciplines, is a key term in the exercise of

9. Hannah Arendt, *On Violence* (New York: Harcourt, Brace and World, 1970) 44; Nancy Hartsock, *Money, Sex, and Power* (Boston: Northeastern University Press, 1983) 225, 253; Carolyn Heilbrun, *Writing a Woman's Life* (New York: Ballantine Books, 1989) 18. All are cited in Robin Teske's paper in this volume.
10. See, e.g., Michel Foucault, *Power/Knowledge*, ed. Colin Gordon (New York: Pantheon, 1980) 90-98, 119, 139-140; Alan Hunt and Gary Wickham, *Foucault and Law: Towards a Sociology of Law as Governance* (London: Pluto Press, 1994) 81. Foucault insists, for example, that:

We must cease once and for all to describe the effects of power in negative terms: it 'excludes', it 'represses', it 'censors', it 'abstracts', it 'masks', it 'conceals'. In fact, power produces; it produces reality; it produces domains of objects and rituals of truth. The individual and the knowledge that may be gained of him belong to this production.

Michel Foucault, *Discipline and Punish: The Birth of the Prison*, trans. Alan Sheridan (London: Allen Lane, 1977) 194.

11. While the term "knowledges" may sound unfamiliar and awkward in English, Foucault speaks of knowledges in the plural (*savoirs*) to emphasize the multiplicity of the forms of knowledge involved in the exercise of power and also to reflect his skepticism regarding the possibility of "objectively" validated knowledge.

this productive form of power. In Foucault's famous coupling of 'same time depends for its effectiveness place their own rituals of truth. Th to knowledge'¹³ and the sites where disciplines and professions. Accord

The result of this line of sites of production of 1 professions, in order to ur Just as discourses exclud while empowering others other knowledge. Politica attend to or listen to these

It is no coincidence that the disciplines. They discipline not or practitioners but the individuals, pe that are the objects of their speci kinds who rely on and use their s others. The disciplines exert this

12. Foucault writes:

We should admit . . . that power encouraging it because it se useful); that power and knowl no power relation without knowledge, nor any knowledg the same time power relations be analysed, therefore, not on or is not free in relation to t subject who knows, the obj knowledge must be regarded implications of power-knowlec

Foucault, *Discipline & Punish, sup* perpetually creates knowledge and, power." Foucault, *Power/Knowledg*

13. This phrase appears as the subtitle Foucault's *History of Sexuality*. See *volonte de savoir* (Paris: Editions G of *Sexuality*, vol. 1: *An Introduction*,
14. Hunt & Wickham, *supra* note 10 at

it is useful to consider briefly the disciplines such as IL and IR in its contexts in her paper, the conventional 'cover' is inadequate. Most legal and IL and IR, shares this conception of power is a resource wielded by some forms of domination and subordination. Thinkers have suggested that power is power has been expressed in many ways: the ability of groups of people to act in domination or control but the collective power; and for Carolyn Heilbrun it is "the power is essential to action."⁹ For Michel Foucault, power or repress, it produces knowledge, effects of social life.¹⁰ Power in this sense is mundane mechanisms of everyday life, regulated, molded, normalized and, in a sense, constitute ourselves and our social relations. 'knowledges' (*savoirs*)¹¹ and "knowing-subjects", is a key term in the exercise of

this productive form of power. Indeed, knowledge is integral to power, as reflected in Foucault's famous coupling of "knowledge/power."¹² Power engenders, and at the same time depends for its effectiveness upon, a range of knowledges which put in place their own rituals of truth. This leads Foucault to direct our attention to the "will to knowledge"¹³ and the sites where knowledge is produced, in particular the learned disciplines and professions. According to Hunt and Wickham,

The result of this line of thought is to direct attention toward the sites of production of knowledge, the learned disciplines and professions, in order to unearth their complicity in power relations. Just as discourses exclude or marginalise some other discourses while empowering others, so sites of knowledge also subordinate other knowledge. Politically this leads [Foucault] to insist that we attend to or listen to these alternative knowledges.¹⁴

It is no coincidence that the academic and professional disciplines are called *disciplines*. They discipline not only the minds and actions of their students and practitioners but the individuals, populations, institutions, knowledge and behaviour that are the objects of their specialized knowledge and the authorities of various kinds who rely on and use their specialized knowledge to govern themselves and others. The disciplines exert this disciplinary influence by, among other things,

12. Foucault writes:

We should admit . . . that power produces knowledge (and not simply by encouraging it because it serves power or by applying it because it is useful); that power and knowledge directly imply one another; that there is no power relation without the correlative constitution of a field of knowledge, nor any knowledge that does not presuppose and constitute at the same time power relations. These 'power-knowledge relations' are to be analysed, therefore, not on the basis of a subject of knowledge who is or is not free in relation to the power system, but, on the contrary, the subject who knows, the objects to be known and the modalities of knowledge must be regarded as so many effects of these fundamental implications of power-knowledge and their historical transformations.

Foucault, *Discipline & Punish*, *supra* note 10 at 27-28. In short, "[t]he exercise of power perpetually creates knowledge and, conversely, knowledge constantly induces effects of power." Foucault, *Power/Knowledge*, *supra* note 10 at 52.

13. This phrase appears as the subtitle of the original French edition of the first volume of Foucault's *History of Sexuality*. See Michel Foucault, *Histoire de la sexualité*, vol. 1, *la volonté de savoir* (Paris: Editions Gallimard, 1976), published in English as *The History of Sexuality*, vol. 1: *An Introduction*, trans. Robert Hurley (London: Allen Lane, 1978).

14. Hunt & Wickham, *supra* note 10 at 13.

court, Brace and World, 1970) 44; Nancy Jortheastern University Press, 1983) 225, *ibid.* (New York: Ballantine Books, 1989) 18. *ibid.*

, ed. Colin Gordon (New York: Pantheon, 1977); Wickham, *Foucault and Law: Towards a Genealogy of Law* (Pluto Press, 1994) 81. Foucault insists, for

the effects of power in negative forms, it 'abstracts', it 'masks', it 'produces reality'; it produces the individual and the knowledge production.

2 *Birth of the Prison*, trans. Alan Sheridan

familiar and awkward in English, Foucault also emphasize the multiplicity of the forms of power and also to reflect his skepticism regarding knowledge.

claiming to speak the truth from a neutral or privileged vantage point, privileging certain knowledges and methods of validating knowledge while disqualifying others, stirring or quieting particular fears and hopes and justifying or condemning certain actions and outcomes.¹⁵

The disciplines of international law and international relations constitute and normalize the "international," its boundaries, structures, processes, subjects and objects, its actors and their identities, interests, aspirations and possibilities for action. These learned disciplines are significant locales for the construction, contestation, rationalization and operation of power relations. Indeed, as Sandra Whitworth points out in her paper, the discipline of international relations was founded in large part to serve the needs of political authorities, particularly the US government. Martti Koskenniemi goes so far as to argue that the "academic intelligentsia" of international law and international relations "has been thoroughly committed to smoothening the paths of the hegemon."¹⁶

Whatever the merits of Koskenniemi's assertion, it seems clear that the disciplines of international law and international relations are implicated in the constitution and operation of power relations. If this is so, then in my view the principal task for interdisciplinary research in these fields—or any research, for that matter—should be to disturb the disciplines, not to reinforce them. The goal should be to shake up disciplinary common sense, transgress disciplinary boundaries,¹⁷ question the taken-for-granted character of disciplinary methods and knowledge, bring to light the knowledges and experiences marginalized or excluded by disciplinary conventional wisdom and ultimately open a space for a transformative politics (or at least a politics of resistance, which may amount to the same thing).

At its best, interdisciplinary scholarship can facilitate critical reflection within and about the disciplines involved, inducing productive self-doubt and inventiveness about disciplinary methods, knowledge, purposes, preconceptions, boundaries and so on. This is the mode of interdisciplinarity that promises to offer the most to both international law and international relations. Interdisciplinary research should strive, in other words, to be "counterdisciplinary"¹⁸ in the sense that it is concerned more

15. Cf. Foucault, *History of Sexuality*, *supra* note 13 at 53-54 (discussing nineteenth century medical discourse on sex).

16. Koskenniemi, *supra* note 8 at 34.

17. Cf. Charlesworth & Chinkin, *supra* note 7.

18. The idea of "counterdisciplinarity" is not new to international law. A number of international law scholars, among them numerous scholars associated with the self-titled "New Approaches to International Law" (NAIL) meetings in the 1990s, have embraced the idea in their own work. When the convener of the final "NAIL" meeting (self-consciously entitled *Fin de NAIL*) attempted to summarize the shared vocabulary of the

privileged vantage point, privileging knowledge while disqualifying others, and justifying or condemning certain

international relations constitute and structures, processes, subjects and ts, aspirations and possibilities for cant locales for the construction, power relations. Indeed, as Sandra pline of international relations was itical authorities, particularly the US r as to argue that the "academic ional relations "has been thoroughly mon."¹⁶

assertion, it seems clear that the onal relations are implicated in the . If this is so, then in my view the hese fields—or any research, for that ot to reinforce them. The goal should transgress disciplinary boundaries,¹⁷ disciplinary methods and knowledge, ences marginalized or exluded by ely open a space for a transformative h may amount to the same thing).

can facilitate critical reflection within roductive self-doubt and inventiveness es, preconceptions, boundaries and so at promises to offer the most to both nderdisciplinary research should strive, in the sense that it is concerned more

13 at 53-54 (discussing nineteenth century

new to international law. A number of rous scholars associated with the self-titled (IL) meetings in the 1990s, have embraced venger of the final "NAIL" meeting (self- to summarize the shared vocabulary of the

with destabilizing disciplinary common sense than it is with identifying common ground on which different disciplines can collaborate comfortably or multiplying the analytical tools available to be brought to bear on existing research problems.¹⁹

II. Reflections on the Contribution of Feminism to Counterdisciplinary IL/IR Scholarship

Without pretending to have more than a passing knowledge of feminist scholarship, I believe nonetheless that it can contribute, and indeed has already contributed substantially, to the sort of counterdisciplinary explorations I have in mind. It can do so in at least two ways: first, by drawing attention to some of the "silences" of IL, IR and current IL/IR interdisciplinary projects; and second, by pointing to possible transformative alternatives.

A. The Silences of International Law and Relations

The silence of women permeates international law and politics, is integral to their structure and operation and critical to their stability. As Hilary Charlesworth says of international law:

All systems of knowledge depend on deeming certain issues as irrelevant or of little significance. In this sense, the silences of international law may be as important as its positive rules and rhetorical structures. Permeating all stages of the excavation of

NAIL, he included in his list the slogan "not interdisciplinarity but counterdisciplinarity." Kennedy, "Thinking Against the Box," *supra* note 5 at 496. While this slogan, like the rest of the list and perhaps the NAIL itself, was self-consciously tongue-in-cheek, it does reflect a vision of cross-disciplinary research that is shared by a number of international law scholars and that is understood by its participants to be distinct from the mainstream vernacular of "interdisciplinarity."

19. This is not to say that these latter objectives have no place in a counterdisciplinary research agenda. Identifying shared ground, enlarging the research toolbox and encouraging interdisciplinary collaboration on questions of shared interest can be very productive insofar as they prompt self-conscious reflection on the questions and approaches held dear by researchers in their respective disciplines. Taking stock of existing interdisciplinary scholarship in a particular area and "mapping" interdisciplinary spaces are important parts of this process of questioning and self-reflection, particularly if they propose new ways of conceiving research questions and approaches rather than simply reinforcing existing ones. This is how I view my earlier co-authored work on interdisciplinary scholarship in international law and international relations. See Anne-Marie Slaughter, Andrew Tulumello and Stepan Wood, "International Law and International Relations Theory: A New Generation of Interdisciplinary Scholarship" (1998) 92 *Am. J. Int'l L.* 367.

international law is the silence of women. This phenomenon does not emerge as a simple gap or hollow that weakens the edifice of international law and that might be remedied by some rapid construction work. It is rather an integral part of the structure of the international legal order, a critical element of its stability.²⁰

The silence of women in international law and international relations takes at least two forms. First, there is the literal exclusion or subordination of women, their lives and experiences in the construction, operation and content of international law and politics. The players in international legal and political crises are almost exclusively male:

Men are the protagonists, men are at the negotiating table, men are making threats, retaliating, intervening. The lives of women are considered part of a crisis only when they are harmed in a way that is seen to demean the whole of their social group. For example, international law regards massive and organised rapes of women in times of armed conflict as illegal because they affect the honour of a community. Other forms of systemic violence, or structural discrimination against women, do not constitute a crisis for international lawyers.²¹

As for international relations, it is concerned primarily with the "high politics" of international security. As Sandra Whitworth says in her paper (quoting Ann Tickner), this is very much "a man's world, a world of power and conflict in which warfare is a privileged activity,' and from which women traditionally have been excluded."²² Not only are women excluded from the operation of the international system, they tend to be disadvantaged in myriad ways by it—a fact which, moreover, is routinely ignored by both international law and international relations. Numerous feminist scholars in both IL and IR have examined how the adverse impacts of international law, institutions and politics on women are routinely ignored in international law and international relations: the disproportionate impacts on women of international financial institutions' liberalization and structural adjustment policies; the impacts of United Nations peacekeeping operations on prostitution, violence against women and the sex worker traffic in host countries and elsewhere; the status of women in Kuwait and Iraq before and after the 1991 Gulf War and the

20. Charlesworth, "Feminist Methods," *supra* note 7 at 381.

21. Hilary Charlesworth, "International Law: A Discipline of Crisis" (2002) 65 *Modern L. Rev.* 377 at 389 [footnote omitted] [hereinafter Charlesworth, "A Discipline of Crisis"].

22. Whitworth, *supra* note 2 at 233.

effects on women of the war, the liberation of Kuwait and the economic sanctions against Iraq. These and other impacts of international institutions and processes on women are typically neglected in the study and practice of international law and relations.

So there is a vast assemblage of literal exclusions and subordinations of women in the practice and study of international law and international relations. Nonetheless, as Sandra Whitworth observes in her paper, looking at the presence or absence of women, their experiences, their marginalization, etc., only tells part of the story. It gives us answers to questions about *how* women (and men) appear in and are affected by international law and relations, but not *why*. This brings us to a second, more subtle and insidious category of silences: the gendered nature of the very building blocks of international law and international relations. One of the most valuable and challenging contributions of feminist analysis has been to show how gender permeates the basic structures of knowledge in international law, international relations and many other fields. Feminist analysis holds that the discourses of international law and international relations rest on a series of binary oppositions, for example: objective/subjective, universal/particular, logic/emotion, order/chaos, mind/body, culture/nature, active/passive, public/private, state/society, protector/protected, independence/dependence, international/domestic, global/local, centre/periphery, self/other and civilized/primitive.²³ Hilary Charlesworth explains the significance of these conceptual dichotomies for feminist analysis:

Feminist scholars have drawn attention to the gendered 'coding' of these binary oppositions with the first term ... signifying 'male' characteristics and the second ... signifying 'female'. Like many other systems of knowledge, international law typically values the first terms more than their pairs. The marking of particular concepts and strategies as feminine devalues them and makes them problematic to articulate. They seem illegitimate, embarrassing and irrelevant.²⁴

Looking at the problem of gender, and in particular the gendered conceptual structure of both IL and IR, takes one well beyond the traditional concerns of the two

23. Cf. Charlesworth, "A Discipline of Crisis," *supra* note 21 at 390. Of course lists of this sort can be problematized, complicated and contested. For instance, a given term (say, "culture") may figure in more than one conceptual opposition, being celebrated in one context as representing order, accomplishment and civilization (as in the culture/nature dichotomy) and simultaneously being devalued in another context as particular, parochial or dangerous (as in the law/culture dichotomy).

24. Charlesworth, *ibid.* [footnotes omitted].

disciplines. Indeed it involves a deep disruption of the settled assumptions and common senses of the disciplines. As Sandra Whitworth points out in her paper, this means moving from the international plane of global politics to the constitution of some of the most intimate elements of the psyche. As such, *gender* may not be accommodated within IL and IR as easily as *women* have been, because gender signals "a configuration of power relations, the terrain of which is far more subtle than the brute exercise of superior military capabilities or economic might, the avenues through which it is articulated more complex than the acts of 'states' or 'individuals'".²⁵

What might such an analysis of IL and IR reveal? While international law and international relations may not share precisely the same binary oppositions or may value them differently (for example, the law/politics distinction may not be as prominent in international relations as it is in international law, or its value may be inverted) they share a basic gendered conceptual structure in which one term in a series of binary oppositions is masculinized and valorized over its feminized counterpart. Thus, for example, in the discourse and practice of "humanitarian intervention" the international lawyer or diplomat (and by extension, international law or politics themselves) may be masculinized as the "hero," the active, muscular humanitarian²⁶ intervening to rescue the feminized, helpless, passive, often irrational "victims" who may not know what is best for them.²⁷

This gendered structure is also mapped onto a range of encounters between the (Western) international system and a range of exotic "others," from Islam to colonial or postcolonial societies to "authoritarian" Asian cultures. In these encounters the "other" tends not just to be feminized but sexualized and racialized as well: the "other" is dangerous, exotic, seductive, earthy and dark. This self/other dichotomy has also been problematic within feminist discourse, as Western feminists have struggled to come to grips with the "exotic other female" encountered in such practices as female genital mutilation or Muslim womens' wearing of the veil.²⁸

25. Whitworth, *supra* note 2 at 237.

26. Cf. Anne Orford, "Muscular Humanitarianism: Reading the Narratives of the New Interventionism" (1999) 10 *Eur. J. Int'l L.* 679.

27. Cf. Charlesworth, "A Discipline of Crisis," *supra* note 21 at 387-388; on international lawyers' heroic fantasies see David Kennedy, "Autumn Weekends: An Essay on Law and Everyday Life," in Austin Sarat and Thomas R. Kearns, eds., *Law in Everyday Life* (Ann Arbor: University of Michigan Press, 1993) 191.

28. See, e.g., Karen Engle, "Female Subjects of International Law: Human Rights and the Exotic Other Female" (1992) 26 *New Eng. L. Rev.* 1509; Lama Abu-Odeh, "Post Colonial Feminism and the Veil: Considering the Differences" (1992) 26 *New Eng. L. Rev.* 1527.

ption of the settled assumptions and Whitworth points out in her paper, this f global politics to the constitution of psyche. As such, *gender* may not be as *women* have been, because gender he terrain of which is far more subtle capabilities or economic might, the e complex than the acts of 'states' or

IR reveal? While international law and ly the same binary oppositions or may aw/politics distinction may not be as 1 international law, or its value may be ptual structure in which one term in a ed and valorized over its feminized course and practice of "humanitarian ologat (and by extension, international ized as the "hero," the active, muscular ized, helpless, passive, often irrational : them.²⁷

onto a range of encounters between the f exotic "others," from Islam to colonial Asian cultures. In these encounters the sexualized and racialized as well: the shy and dark. This self/other dichotomy discourse, as Western feminists have tic other female" encountered in such slim womens' wearing of the veil.²⁸

mism: Reading the Narratives of the New 79.

" *supra* note 21 at 387-388; on international y, "Autumn Weekends: An Essay on Law and s R. Kearns, eds., *Law in Everyday Life* (Ann 191.

of International Law: Human Rights and the *Eng. L. Rev.* 1509; Lama Abu-Odeh, "Post ring the Differences" (1992) 26 *New Eng. L.*

Another fundamental dichotomy arguably shared by both international law and international relations is the metaphor of inside/outside.²⁹ The international system draws a foundational distinction between the "outside," the international realm in which states interact, and the "inside," the realm of domestic society and politics that is largely invisible, inaccessible and irrelevant to international law and politics. This, too, is a gendered distinction, the "outside" signifying the harsh, relatively simple "male" world of war, (in)security, law and geopolitical strategy, the "inside" signifying the complicated, highly socialized "female" domain of society, politics and culture.

These gendered concepts and distinctions are reflected in some of the central concerns of international law and international relations. They are reflected in the preeminent place each discipline accords to sovereignty: the concept of sovereignty must come close to being the ultimate exercise in universality and order, the ultimate suppression of the unruly, complex, private "inside" of domestic society. They are seen, too, in the narrowness of the central *problematique* of both disciplines: the problem of order among sovereign states, the preoccupation with which erases from view a wide swath of human (not just women's) experience and reduces the task of both disciplines to maintaining the international status quo. Finally, they are seen in the preoccupation of both disciplines with violence and crisis, a preoccupation which, ironically, submerges the vast experience of everyday, systemic violence including, for example, most violence against women and the militarization of masculinity in the training of soldiers.³⁰

In short, feminist analyses of the IL/IR interplay might focus on two "silences:" on the one hand, the exclusion of women from the constitution and operation of the international system and the routinely overlooked impacts of that system on the bodies and lives of women; and on the other hand, the gendered conceptual structure of the international system and the disciplines that serve it. For the sake of illustration, let me speculate briefly how a feminist approach to the IL/IR interplay might apply to the field with which I am most familiar: international environmental affairs. Until now, the IL/IR interplay in the field of environmental issues has focused on debates about such issues as the role of norms and normative discourse in international affairs, the formation, operation and effectiveness of international environmental regimes and institutions (including their "compliance pull" on states), the influence of epistemic communities (usually of scientists) and the role of non-

29. R.B.J. Walker, *Inside/Outside: International Relations as Political Theory* (Cambridge: Cambridge University Press, 1993).

30. For a feminist critique of international law's preoccupation with crisis see Charlesworth, "A Discipline of Crisis," *supra* note 21; the idea of militarized masculinity in the creation of soldiers is discussed in Sandra Whitworth's contribution to this volume.

governmental organizations in international law and politics. A feminist analysis of this interplay might redirect attention to the ways in which international environmental law and politics tend to marginalize or exclude vast domains of environmental degradation and environmental knowledge and politics as outside the boundaries of the "international" by, for instance:

- focusing predominantly on transboundary or global environmental problems;
- largely excluding "domestic" environmental problems from their ambit (or when they are included, leaving their disposition largely to the discretion of individual states, as in the case of biological diversity or "sustainable development");
- largely ignoring the global processes of production and consumption, in particular the role of transnational corporations, foreign investment and growth-oriented industrial development policies in producing environmental degradation;
- focusing on environmental problems that are most relevant to the (masculinized) "North"—e.g., ozone depletion, climate change—and neglecting those environmental problems that are closest to women and the (feminized) "South"—e.g., clean water, adequate food, fuel (especially wood), urbanization, desertification and human migration (especially migration associated with armed conflict or hunger)
- largely neglecting the environmental and resource knowledge and expertise of women, for instance in the areas of agriculture and biodiversity where international law and politics have arguably failed women (and humanity) twice: first in promoting the "green revolution" of the 1970s in which chemical-dependent, pest-vulnerable, high-yield, market- and export-oriented monocultures replaced more diverse, resilient, environmentally sensitive cultivation systems of which women were often the principal custodians; and later in promoting a model of biodiversity conservation in the 1990s oriented around intellectual property rights and corporate biodiversity "prospecting" which again appears to ignore or devalue (or "pirate," in Vandana Shiva's opinion)³¹ women's special knowledge and custodianship of biological resources.

These are just initial and incomplete musings, but at least they indicate the sorts of directions that could be taken by a feminist analysis of interdisciplinary IR/IL research on environmental issues.

31. Vandana Shiva, *Biopiracy: The Plunder of Nature and Knowledge* (Toronto: Between the Lines, 1997).

law and politics. A feminist analysis of arginalize or exclude vast domains of al knowledge and politics as outside the ince:

y or global environmental problems; nental problems from their ambit (or when on largely to the discretion of individual ity or "sustainable development"); s of production and consumption, in orations, foreign investment and growth-olicies in producing environmental

at are most relevant to the (masculinized) imate change—and neglecting those owest to women and the (feminized) od, fuel (especially wood), urbanization, pecially migration associated with armed

nd resource knowledge and expertise of of agriculture and biodiversity where ably failed women (and humanity) twice: tion" of the 1970s in which chemical-ield, market- and export-oriented e, resilient, environmentally sensitive were often the principal custodians; and rsity conservation in the 1990s oriented nd corporate biodiversity "prospecting" alue (or "pirate," in Vandana Shiva's edge and custodianship of biological

usings, but at least they indicate the sorts inist analysis of interdisciplinary IR/IL

Nature and Knowledge (Toronto: Between the

B. Transformative Alternatives

The second major way in which feminism might contribute to a counterdisciplinary exploration of the interplay between IL and IR is by pointing to possible transformative alternatives. Feminism is, after all, a politics of protest directed at transforming the historically unequal power relationships between women and men, as Sandra Whitworth reminds us in her paper. Feminism, according to Robin Teske,

is transformative, and 'invites new worlds'—a world where gender is an important category of analysis, and female agency is an important subject; where the needs and experiences of the world's women are visible; where the basic concepts of international law and international relations 'do not support the domination of women by men,' or the domination of other oppressed groups.³²

Sandra Whitworth's paper hints at the magnitude of the challenge.³³ Robin Teske's paper points to what might be a central dilemma of counterdisciplinary thought and practice: strategies for transformation are bound in various ways by the constraints of (patriarchal) power. Or are they? Teske hints at some possible directions a transformative alternative might take. She proposes to overcome IL and IR's myth of universality and their binary opposition of universal and particular, sameness and difference, via a politics of "hybridization" which embraces the apparently impossible simultaneity of sameness and difference, integration and fragmentation, that characterizes contemporary global politics. To deny the constraints of patriarchal power she proposes to reconceive power as productive and nonviolent, a collective energy or agency. This is more or less in line with my own remarks about power earlier, yet it gives rise to certain concerns.

First, Teske redefines power as (among other things) the "ability to take one's place in whatever discourse is essential to action and the right to have one's part

32. Teske, *supra* note 2 at 244.

33. She does so by pointing out some of the obstacles to feminist analysis in IR. In her view the problem is not just that feminism and IR theory have different concerns (which they do: IR's central concern with the causes of war, the conditions of international peace, order and security and the maintenance of the international status quo is antithetical to the study of women), but that *disciplinary* IR has the power to define the relevant questions and determine the correct ways of answering those questions. As a result if you ask questions not acknowledged by the discipline (e.g. the sex trade, foreign domestic servants, international population policies) your work is dismissed as irrelevant "whining," whereas if you attempt to conduct a gender analysis of "core" IR questions (e.g. war, sovereignty) you risk undermining the political and theoretical questions you had attempted to stake out. See Sandra Whitworth's paper in this volume.

matter.”³⁴ Yet clearly this does not go far enough toward kicking over the traces of mainstream conceptions of power in international affairs. It is more or less equivalent to Abe and Toni Chayes’ managerialist reconception of sovereignty as the ability to participate in the increasingly thick network of international regimes and their attendant “justificatory discourses,” inclusion in which is quickly becoming the *sine qua non* for satisfying national needs and desires—i.e. for enjoying sovereignty.³⁵ These discursive perspectives on power, like theories of communicative rationality generally, tend to downplay the ways in which power imbalances may be embedded in the very “discourses essential for action” so that participating and “having one’s part matter” may produce only an illusion of empowerment.

Second, Teske also embraces a Foucaultian conception of productive power, with its focus on “those local, minute, and pervasive power relations which characterize contemporary cultures.”³⁶ There is also a risk here. By overemphasizing the radical diffusion of power throughout society and even within individual selves this conception of power may lose its analytical force. As Boaventura de Sousa Santos points out, if power is “everywhere,” as Foucault insists, then it is nowhere.³⁷ Santos argues that Foucault’s conception of disciplinary micro-power goes too far in stressing the dispersion and fragmentation of power and pays inadequate attention to the ways in which hierarchical patterns in the forms of power emerge and change.³⁸ According to Alan Hunt and Gary Wickham, Foucault is left with “no means of accounting for the aggregation or globalisation of power.”³⁹ Without attempting to resolve this issue, it is sufficient to note that this dilemma leads one back to the perennial problem of accounting for the relation between “big power” (the condensation of power in the state, corporations, etc.) and “small power” (the innumerable capillary mechanisms of power in everyday life). The stakes are high. “If there is no principle of structuration and hierarchy,” Santos warns, “there is no strategic framework for emancipation.”⁴⁰

34. Teske, *supra* note 2 at 257.

35. Abram Chayes and Antonia Handler Chayes, *The New Sovereignty: Compliance with International Regulatory Agreements* (Cambridge, MA: Harvard University Press, 1995).

36. Annie Bunting, “Feminism, Foucault, and Law as Power/Knowledge” (1992) 30 *Alta. L. Rev.* 834 at 852, quoted in Robin Teske’s paper in this volume.

37. Boaventura de Sousa Santos, *Toward a New Common Sense: Law, Science and Politics in the Paradigmatic Transition* (New York: Routledge, 1995) 406.

38. *Ibid.*; see also Hunt & Wickham, *supra* note 10 at 31.

39. Hunt & Wickham, *ibid.*

40. Santos, *supra* note 37 at 406.

ough toward kicking over the traces of
ernational affairs. It is more or less
rialist reconception of sovereignty as the
ck network of international regimes and
lusion in which is quickly becoming the
needs and desires—i.e. for enjoying
ctives on power, like theories of
to downplay the ways in which power
“discourses essential for action” so that
ter” may produce only an illusion of

ultian conception of productive power,
and pervasive power relations which
e is also a risk here. By overemphasizing
ociety and even within individual selves
alytical force. As Boaventura de Sousa
” as Foucault insists, then it is nowhere.³⁷
f disciplinary micro-power goes too far in
of power and pays inadequate attention to
the forms of power emerge and change.³⁸
iam, Foucault is left with “no means of
ation of power.”³⁹ Without attempting to
that this dilemma leads one back to the
he relation between “big power” (the
porations, etc.) and “small power” (the
er in everyday life). The stakes are high.
nd hierarchy,” Santos warns, “there is no

ayes, *The New Sovereignty: Compliance with*
nbridge, MA: Harvard University Press, 1995).
l Law as Power/Knowledge” (1992) 30 *Alta. L.*
paper in this volume.

New Common Sense: Law, Science and Politics
k: Routledge, 1995) 406.
te 10 at 31.

Third, Teske suggests that a transformative feminist politics should embrace a conception of power as nonviolent. As she acknowledges, this strategy poses the danger of reinforcing sexual stereotypes of women as “naturally” nonviolent, or at least less violent than men. This strategy may thus, as feared, fall victim to the constraints of patriarchal power. Teske’s solution is simply to insist that feminists, “whoever and wherever we are in all our complexity,” nonetheless “need nonviolent power.”⁴¹ This does not seem to me an adequate defence against the constraints of patriarchal power, but perhaps it is the best that is possible.

Finally, Teske suggests that nonviolent feminist power is based on love. While this suggestion has eloquent precedents in the works of, among others, bell hooks and Martin Luther King, Jr., it may also fall afoul of the constraints of patriarchal power. Like Carol Gilligan’s “ethic of care” which supposedly distinguishes women from men and which sparked such controversy within the feminist community,⁴² this idea of power as love may imply or at least reinforce an essentialized image of women as loving, caring and nurturing.

Subject to these caveats, both Whitworth’s and Teske’s basic message remains powerful and apt: feminism, by challenging disciplinary common sense and reconceiving power, sameness and difference, strives to reconceive reality⁴³ and thus to change it. It is in this way that feminism can contribute to counterdisciplinary explorations of the IL/IR interface. The magnitude of the challenge may seem more manageable if we keep in mind that the task is not necessarily to transform the disciplines of IR and IL themselves—to commandeer and redirect the disciplinary “mainstreams”—but to offer a transformative alternative to those disciplines. Ultimately, as Robin Teske reminds us in her paper, there may not be reason for optimism, but there is always reason to hope.

41. Teske, *supra* note 2 at 262.

42. Carol Gilligan, *In A Different Voice* (Cambridge, Mass.: Harvard University Press, 1982).

43. Cf. Dorinda G. Dallmeyer, ed., *Reconceiving Reality: Women and International Law* (Washington, D.C.: American Society of International Law, 1993).