



Book Review: Susan Harris Rimmer and Kate Ogg (eds), *Research Handbook on Feminist Engagement with International Law*

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The time has passed for feminist theories of law to be placed at the back of a jurisprudence book. Equally, experts in all, including international law would benefit greatly by expanding their theoretical approaches and methodologies, to include feminist expertise. In this edited research handbook,¹ Edward Elgar introduces a much-needed collection of expert views on feminist engagement with international law, adding to some of the pre-existing literature.² With thirty chapters and an Afterword,³ this edited volume is a welcome addition to the research literature on international law and feminist jurisprudence, to be read by experts and novices alike. For readers not yet familiar with feminist theories, this edited collection offers a glimpse to the possibilities (both theoretical and methodological) that feminist approaches offer in all areas of fragmented international law.

In the **Introduction** the editors offer a brief historical overview of the feminist engagement with international law, which started in the 1990s. Based on an empirical account, the editors find that the growth of feminist international law literature has been modest,⁴ and “slow to move beyond traditional concerns such as human rights (in particular violence against women) and international criminal law.”⁵ As there are multiple and diverse feminist visions for the future in international law, the editors sought to achieve four objectives with their volume: (1) to diversify feminist engagement with international law (new areas now examined through a feminist lens in Part I);⁶ (2) to find ways in which feminist ideas are more influential (Part II);⁷

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¹ Susan Harris Rimmer and Kate Ogg (eds), *Research handbook on Feminist Engagement with International Law* (Edward Elgar Publishing, 2019) (Harris Rimmer and Ogg).

² For a recent contribution, see: Gina Heathcote, *Feminist Dialogues on International Law* (Oxford University Press, 2019).

³ The research handbook (n1) includes thirty contributions, and opens with the following two: (1) Kate Ogg and Susan Harris Rimmer, ‘Introduction to the Research Handbook on Feminist Engagement with International Law,’ pp 1-16; (2) Sima Samar, ‘Keynote address: On women, peace and security (Brisbane, June 2016),’ pp 17-24.

⁴ Ogg and Harris Rimmer (n3) 12.

⁵ Ogg and Harris Rimmer (n3) 12-13.

⁶ Ogg and Harris Rimmer (n3) 13-14. There are eight contributions in **Part I**: (1) Susan Harris Rimmer, ‘Women as makers of international law: towards feminist diplomacy,’ pp 26-43; (2) Katie Woolaston, ‘Wildlife and international law: can feminism transform our relationship with nature?’ pp 44-62; (3) Rowena Maguire, ‘Gender, climate change and the United Nations Framework Convention on Climate Change,’ pp 63-80; (4) Aoife O’Donoghue and Ruth Houghton, ‘Can global constitutionalisation be feminist?’ pp 81-102; (5) Mary Keyes, ‘Women in private international law,’ pp 103-117; (6) Gabrielle Simm, ‘Gender, disasters and international law,’ pp 118-133; (7) Siobhán Airey, ‘Sexing’ consent in international law,’ pp 134-151; (8) Pamela Finckenberg-

(3) to find strategies for feminist scholarship to have meaningful impact in changing women's lives (Part III);⁸ and (4) that future feminist scholarship must (further) intersect with other critical theories in order to find creative ways to address and surpass past critiques and open new debates (Part IV).⁹

In her keynote address *Sima Samar* shares her lived experience as a medical doctor in Afghanistan, which led to her fight for equality and human rights in that country. Although progress has been made, we are still far from equal rights or equal opportunities for everyone, and in particular international laws have not done much for women in their localities.¹⁰ Accordingly, *Samar* calls to action in that “[i]t is time that international laws and instruments come out of the drawers and were used to create space for women and help people's effective participation and effective contributions in peace, reconciliation and reintegration processes.”¹¹

Opening **Part I**, *Susan Harris Rimmer* examines the notion of diplomatic actors within states as makers of law, and what embodies that process. Reviewing developments from the Cairo Programme of Action of the International Conference on Population and Development in 1994, to more recently adopted Women Peace and Security Agenda at the Security Council,¹² she argues that the increased participation of women, both as foreign policy elites and in wider transnational networks, represents the most important change to modern diplomacy.¹³ Although there have been changes, the representation of women in diplomacy demonstrates “a slow evolution, not a revolution.”¹⁴

Katie Woolaston notes that in today's time of crisis (mass extinction, climate change etc) “international wildlife law is an ideal place to start making international law more

Broman, 'Practitioner perspective: State aid prohibition as an instrument in gender war – promoting work for women in the European Union?' pp 152-173.

⁷ Ogg and Harris Rimmer (n3) 14. There are seven contributions in **Part II**: (1) Kate Ogg, 'The future of feminist engagement with refugee law: from the margins to the centre and out of the 'pink ghetto'?' pp 175-195; (2) Ekaterina Yahyaoui Krivenko, 'Women and the International Court of Justice,' pp 196-212; (3) Rosemary Grey and Louise Chappell, 'Gender-just judging' in international criminal courts: new directions for research,' pp 213-239; (4) Jaya Ramji-Nogales, 'Revisiting the category "women,"' pp 240-252; (5) Dorothy Estrada-Tanck, 'A feminist human security-human rights lens: expanding women's engagement with international law,' pp 253-268; (6) Ntina Tzouvala, 'The future of feminist international legal scholarship in a neoliberal university: doing law differently?' pp 269-285; (7) Jane Aeberhard-Hodges, 'Practitioner perspective: Women in international treaty making – the example of standard setting in the International Labour Organization,' pp 286-304.

⁸ Ogg and Harris Rimmer (n3) 14-15. There are six contributions in **Part III**: (1) Emma Larking, 'Challenging gendered economic and social inequalities: an analysis of the role of trade and financial liberalisation in deepening inequalities, and of the capacity of economic and social rights to redress them,' pp 306-322; (2) Belinda Bennett and Sara E Davies, 'Looking to the future: gender, health and international law,' pp 323-337; (3) Kim Rubenstein and Anne Isaac, 'Oral history as empirical corrective: including women's experiences in international law,' pp 338-358; (4) Beth Goldblatt, 'Violence against women and social and economic rights: deepening the connections,' pp 359-378; (5) Mary Hansel, 'Feminist time and an international law of the everyday,' pp 379-398; (6) Felicity Gerry QC, 'Practitioner perspective: Feminism in court – practical solutions for tackling the wicked problem of women's invisibility in criminal justice,' pp 399-409.

⁹ Ogg and Harris Rimmer (n3) 15. There are seven contributions in **Part IV**: (1) Jing Geng, 'The Maputo Protocol and the reconciliation of gender and culture in Africa,' pp 411-429; (2) Kathryn McNeilly, 'Sex/gender is fluid, what now for feminism and international human rights law? A call to queer the foundations,' pp 430-444; (3) Josephine Jarpa Dawuni, 'Matri-legal feminism: an African feminist response to international law,' pp 445-462; (4) Mariana Prandini Assis, 'Frames of violence and the violence of frames: setting a feminist critical agenda for transnational rituals of speaking,' pp 463-478; (5) Giovanna Maria Frisso, 'Third World Approaches to International Law: feminists' engagement with international law and decolonial theory,' pp 479-498; (6) Veronica P Flynn Bruy, 'Indigenous women and international law,' pp 499-524; (7) Kamala Chandrakirana, 'Keynote address: Reimagining feminist engagements with international law (Brisbane, June 2016),' pp 525-532.

¹⁰ Samar (n3) 17-19.

¹¹ Samar (n3) 24.

¹² Harris Rimmer (n6) 39 (referring to a cluster of UN Security Council Resolutions (UNSCR), which include the Women Peace and Security (WPS) thematic agenda; those resolutions are: UNSCR 1325 (2000), UNSCR 1820 (2008), UNSCR 1888 (2009), UNSCR 1889 (2009), UNSCR 1960 (2010), UNSCR 2106 (2013), UNSCR 2122 (2013) and UNSCR 2242 (2015)).

¹³ Harris Rimmer (n6) 29.

¹⁴ Harris Rimmer (n6) 43.

'feminine,'"¹⁵ whereas the use of eco-feminist principles could be transformative in this area of the law, with the potential of restoring the balance between humans and nature and stem biodiversity loss.¹⁶ In a related area, *Rowena Maguire* explores the international climate law (United Nations Framework Convention on Climate Change (UNFCCC), Kyoto Protocol and the Paris Agreement) through a plurality of feminist theories and argues that the UNFCCC in its approach does not challenge the existing neoliberal system. According to *Maguire* there are three reasons preventing greater action on gender and climate change law and policy: firstly, the vulnerability of groups (such as women) is ignored, due to the focus on vulnerability of nations (North/South politics); second, the only solution that is seen as credible, is a scientific one; and third, mixed with other issues of global scale and seriousness, feminist and climate change are being side-lined.¹⁷

In their chapter, *Aoife O'Donoghue* and *Ruth Houghton* offer a clear example of feminist theories interacting with other critical studies: here, global constitutionalism. They examine whether this theory has embraced the critiques that feminist scholars have made about constitutionalism and further, how feminist global constitutionalism would work in practice. Offering a clear definition of all threshold concepts, reads will also find useful the proposed practical "seven-point manifesto that would inculcate a feminist ethic into a global constitutionalism, thus avoiding the patriarchal dividends that its domestic counterparts established."¹⁸ Examining a contrasting field, in which there is complete silence about women, *Mary Keyes* argues that the present absence of any analysis "obscures the scope, and the need, for analyses of gender in private international law."¹⁹ Finding that gender does matter in private international law, *Keyes* focuses particularly on international family law, international child abduction, family property agreements and international commercial surrogacy.

Gabrielle Simm analyses international law and disasters through a gender lens and argues that "[s]hifting international law's focus from crisis to the everyday would better address the social factors, such as gender, that make certain groups 'particularly vulnerable' predisaster."²⁰ *Siobhán Airey* tackles a new area of law, which has previously been resistant to feminist analysis: international (regional) trade agreements. In her contribution *Airey* adopts a novel feminist legal method of "sexing" to examine traditional concepts of international law. This analysis produced two effects; firstly "it reveals the partiality and historical contingency of international law," thereby undermining its claims to neutrality and universality; and secondly "it reveals more clearly the problematic politics by which particular projects are pursued through international law – in this case, the liberalisation of international trade – the complicity of international law with these, and its legitimisation of both the process and dubious outcomes of these projects."²¹

To conclude **Part I**, *Pamela Finckenberg-Broman* offers a practitioner's perspective on state aid rules in the European Union (Art. 107 TFEU²²). She observes that after 2008, "[t]here has been a negative impact on the EU's overall commitment to gender equality due to government's implementation of austerity measures"²³ and posits that "an effective gender

¹⁵ Woolaston (n6) 44.

¹⁶ Woolaston (n6) 44.

¹⁷ Maguire (n6) 65.

¹⁸ O'Donoghue and Houghton (n6) 81.

¹⁹ Keyes (n6) 104.

²⁰ Simm (n6) 133.

²¹ Airey (n6) 136.

²² Treaty on the Functioning of the European Union.

²³ Finckenberg-Broman (n6) 161.

equality policy in the labour market needs state aid incentives to be able to function fully.”²⁴ Brexit will leave women in a more vulnerable position, as they will no longer be protected by EU law. According to the United Nations, the UK’s austerity measures and policies so far have been in breach of UK’s human rights obligations (a number of them being gender related).²⁵

Beginning **Part II**, *Kate Ogg* explores the premise of “the success story” in feminist legal scholarship, *i.e.* refugee law. With a clear and useful explanation of the developments so far, *Ogg* focuses on the benefits of applying feminist methods and theory to seemingly gender-neutral issues. *Ogg* focuses on two case studies: firstly, the exclusion from the Refugee Convention (Article 1F) and second, the concept of surrogate state, which is still under-theorised.²⁶ In general *Ogg* finds that feminist engagement with refugee law has never moved from the margins, and argues that the future rests with more feminist engagement, in particular with seemingly gender-neutral issues.²⁷ Entering previously uncharted territory, *Ekaterina Yahyaoui Krivenko* examines the relationship between women and the International Court of Justice (ICJ). Disappointingly, the ICJ remains mostly non-receptive of the feminist literature,²⁸ and therefore the author sees the future of the feminist engagement in reversing this disengagement with feminist theory and women issues. Exploring cases at the International Criminal Court (ICC), *Rosemary Grey* and *Louise Chappell* find that there persists an under-representation of women on the bench, but there are some signs of “gender-just judging.” Importantly, the authors explore ways in which all judges can act as agents of “gender justice.”²⁹

Arguing for the category of “women” as the strategy for political mobilization, while acknowledging the troubled past of the term, *Jaya Ramji-Nogales* notes that “[w]omen in international lawmaking and reform should be able to form a thin political alliance based on their shared experience, and if they are successful at including diverse voices, international law will change in ways that cannot be predicted.”³⁰ Filling a research gap on human security and international law, *Dorothy Estrada-Tanck* argues that “human security can complement the existing feminist and human rights/human-centred approaches regarding [undocumented migrant women and girls] situation [] and thus connect feminism to relevant issues in international legal scholarship and practice.”³¹

Ntina Tzouvala explores the institutional and material conditions in universities that affect the production of feminist international legal scholarship and finds that “even though marketisation of higher education has begun dissolving former status-based hierarchies and has opened up the space for heterodox approaches to the discipline [of international law], increased emphasis on competition and an emerging consumerist culture are directly antithetical to a meaningfully feminist ethos in academic international law.”³² Concluding **Part II**, *Jane Aeberhard-Hodges* offers a practitioner’s perspective on the invisibility of women in treaty making, specifically through the case study of International Labour Organization.

²⁴ Emphasis deleted from original. Finckenberg-Broman (n6) 157.

²⁵ Finckenberg-Broman (n6) 173.

²⁶ Ogg (n7) 185.

²⁷ Ogg (n7) 195.

²⁸ Yahyaoui Krivenko (n7) 196.

²⁹ Grey and Chappell (n7) 213.

³⁰ Ramji-Nogales (n7) 252.

³¹ Estrada-Tanck (n7) 254.

³² Tzouvala (n7) 269.

In **Part III**, *Emma Larking* fills a gap in the literature, when she reviews (from a feminist standpoint) evidence on the operation of international trade and investment regimes, which “internalise gendered norms” and are crucial to exacerbating gender inequity.³³ *Larking* concludes that contrary to initial promises, the liberalisation agenda has “contributed to widening global wealth and income inequalities and has had the effect of entrenching gendered domination.”³⁴ *Belinda Bennett* and *Sara E Davies* investigate the relationship between health, gender and international law with a different focus to more prevalent literature, which focuses on sexual and reproductive rights. In their contribution they explore the impact of gender inequalities in two contexts: (1) public health emergencies resulting from infectious disease outbreaks; and related, but alternative (2) broader health strengthening agenda as envisaged with Sustainable Development Goals.³⁵ The authors conclude that outside the expert community on the intersection of gender and health, the discussion on universal health care and health care rights during public health emergencies continues to “risk being gender blind”³⁶ due to the siloed research and methodologies in the fields of gender, global health and human rights (identifying both, knowledge and institutional silos).³⁷

Kim Rubenstein and *Anne Isaac* use an “individual biographical approach” to explore added value of oral history in understanding international law. In an interesting and interdisciplinary contribution the authors build on the interview with Rosemary Kayess,³⁸ who contributed to the drafting of the UN Convention on the Rights of Persons with Disabilities and offers an intersectional perspective due to her personal experience.³⁹ *Beth Goldblatt* explores the persistent issue of violence against women through a “closer understanding of how violence acts as a barrier to women’s exercise of and access to their social and economic rights and how these rights might support efforts to address violence against women.”⁴⁰ Concludingly, the author argues that economic and social rights should be better understood and developed in responding to violence against women.⁴¹

Mary Hansel proposes the use of feminist temporal approaches as a new way to view international law, which moves away from the current crisis model and turns to “‘Time as Repetition’ model,⁴² which would yield a reconfigured, more inclusive international law [where] international law would concern itself more with enduring, structural, pervasive issues relevant to people’s lives (particularly women’s lives) on an everyday basis.”⁴³ Concluding **Part III**, *Felicity Gerry QC* offers a practitioner’s perspective on the invisibility of women in criminal justice, focusing particularly on the victims of human trafficking who commit crimes (discussing principles of non-prosecution and non-punishment). *Gerry* offers three immediate solutions to address the issue: (1) model laws; (2) transnational cooperation; and (3) professional diversity.⁴⁴

³³ Larking (n8) 306.

³⁴ Larking (n8) 322.

³⁵ Bennett and Davies (n8) 323.

³⁶ Bennett and Davies (n8) 324.

³⁷ Bennett and Davies (n8) 336-337.

³⁸ Full interview available: <http://catalogue.nla.gov.au/Record/6774757> (accessed 20 November 2019).

³⁹ Rubenstein and Isaac (n8) 340.

⁴⁰ Goldblatt (n8) 362.

⁴¹ Goldblatt (n8) 377.

⁴² 4Rs (regression, redemption, rupture and repetition) as first proposed by Rita Felski, Hansel (n8) 388.

⁴³ Hansel (n8) 380.

⁴⁴ Gerry (n8) 406.

In its concluding **Part IV**, authors highlight ways in which feminist theories interact with other critical theories. *Jing Geng* demonstrates that culture and gender are not “irreconcilable extremes,”⁴⁵ using the example of the Maputo Protocol,⁴⁶ which is a “highly progressive and comprehensive”⁴⁷ instrument of protection that showcases “mediation between local values and global norms.”⁴⁸ *Kathryn McNeilly* engages with queer critique of feminist engagements with international human rights law and calls for a shift, under which “human rights themselves must be approached as fluid, non-binarised and multitudinous, and feminists must reflect on what this might mean for alternative engagements with rights within international human rights law.”⁴⁹ *Josephine Jarpa Dawuni* introduces a new conceptual framework to be used in study of women in international law, from the location and position of the African context. In this, *Dawuni* coins the concept of “matri-legal” which refers to “the connection between the role matriarchy plays in the legal dissonance of African feminist thought, expression, and activism.”⁵⁰ *Dawuni* points to the invisibility of “women judges from the continent of Africa who have transcended domestic and international boundaries to occupy positions on international benches.”⁵¹

Mariana Prandini Assis relies on the testimony of a victim of violence in her argument that “the always contentious process of establishing the norms that define violence and its victim constitutes an act of violence itself, due to the exclusions it entails.”⁵² Accordingly, the incorporation of the victim’s testimony into the transnational legal procedure has the important role of resisting the violence of (reductive) frames embedded in the said procedure (a type of corrective procedure).⁵³ *Giovanna Maria Frisso* adds to the discussion when she argues that “TWAIL⁵⁴ and feminism can be combined as theoretical approaches to enrich the analysis of the partiality and limits of international law, despite its claim to universality.”⁵⁵ *Veronica P Flynn Bruey* points to gender inequalities, which have often gone unaddressed “by illustrating Indigenous women’s historical and persistent struggle against legal disempowerments such as settlers’ refusal to constitutionally recognise Indigenous Peoples as the original custodian of precolonial Australia.”⁵⁶ Building on the recognition that a paradigm shift has already occurred, what is needed for future engagement of Indigenous women in the Global South is “both dominant Western males’ efforts to create, support and retain [Indigenous Women] and [secondly] Indigenous women in the Global North’s ability to avoid and prevent similar patterns of oppression existing between the Global North-South divide.”⁵⁷

The research handbook closes with the second keynote address, where *Kamala Chandrakirana* through a series of four questions, finds that “women, and the issue of

⁴⁵ Geng (n9) 413.

⁴⁶ Protocol to the African Charter on Human and People’s Rights on the Rights of Women in Africa, opened for signature 11 July 2003 (entered into force 25 November 2005), available: <https://au.int/en/treaties/protocol-african-charter-human-and-peoples-rights-rights-women-africa> (accessed 20 November 2019).

⁴⁷ Geng (n9) 412.

⁴⁸ Geng (n9) 413.

⁴⁹ McNeilly (n9) 430.

⁵⁰ Jarpa Dawuni (n9) 445.

⁵¹ Jarpa Dawuni (n9) 446.

⁵² Prandini Assis (n9) 463.

⁵³ Prandini Assis (n9) 464, 477.

⁵⁴ Reference added: TWAIL stands for Third World Approaches to International Law.

⁵⁵ Frisso (n9) 480.

⁵⁶ Flynn Bruey (n9) 499.

⁵⁷ Flynn Bruey (n9) 524.

women's rights, are at the frontlines in opening dialogues across different legal traditions"⁵⁸ and these efforts are particularly timely now, when we are witnessing "a global crisis of legitimacy in most of our global institutions."⁵⁹ Overall, it is crucial for initiatives that successfully localise international law to be recognised.⁶⁰

In summary, this is a highly recommended research handbook, which will be useful to both experts and readers who are new to feminist studies. Importantly, this is not an international law textbook, and readers who are unfamiliar with it, will need to consult other resources as on the topic. That notwithstanding, this specialised expert text is a "must have" for anyone, wishing to better appreciate the opportunity feminist engagement with international law offers. It is plain that feminist engagement with any area of the law offers an exploration beyond "women as actors." It is a distinct feature of this handbook, and a particular success of its editors, the diversity of theoretical approaches and different methodologies outlined for the reader. A feminist approach is not singular and is instead best viewed as a rich web of different approaches and methodologies, which lend themselves particularly nicely to interdisciplinary research, embedded in the broader context. Readers are invited to explore this research handbook, as it is almost a guarantee that any reader, interested in international law, will find at least one contribution relevant to their own research, if not more.

⁵⁸ Chandrakirana (n9) 531.

⁵⁹ Chandrakirana (n9) 526.

⁶⁰ Chandrakirana (n9) 532.