

# THE RIGHTS OF WOMEN IN INTERNATIONAL HUMAN RIGHTS LAW TEXTBOOKS: SEGREGATION, INTEGRATION, OR OMISSION?

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Our panel was asked to address the question: whom do feminist law journals serve, and how does that affect the answers to questions of autonomy versus integration? One important role of any student-edited law journal is the pedagogical role, with students as one constituency whom law journals serve. Authors who place articles may end up supplementing the teaching of students who edit the journal. This was the case with the publication of my article on the international law on trafficking in women for prostitution.<sup>1</sup> One section of the article dealt with the “due diligence” standard for assessing when the state may be held responsible for the human rights abuses by non-state actors. This is the standard used, for example, in the United Nations (UN) Declaration on Violence against Women,<sup>2</sup> and in the sections on violence against women in the Declaration and Platform for Action adopted at the UN Fourth World Conference on Women in Beijing in 1995.<sup>3</sup> When I got my edited draft back from the journal with which I had placed it, every reference to the term “due diligence” had been stripped from the article and replaced with such phrases as “diligently” and “with diligence.” It was apparent that if the student editor had taken a human rights or international law course, the student had not been exposed to one of the most important principles in the protection of the human rights of women. Although the journal involved was an international human rights journal, not a feminist law journal, colleagues have had similar experiences with their articles in women and the law journals. It is apparent that such

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<sup>1</sup> Stephanie Farrior, The International Law on Trafficking in Women and Children for Prostitution: Making It Live Up to Its Potential, 10 Harv. Hum. Rts. J. 213 (1997).

<sup>2</sup> Declaration on the Elimination of Violence Against Women, G.A. Res. 104, U.N. GAOR, 48th Sess., Agenda Item 111, at art. 4(c), U.N. Doc. A/Res/48/104 (1993).

<sup>3</sup> Report on the Fourth World Conference on Women, Beijing Declaration and Platform for Action, at para. 124, U.N. Doc. A/CONF.177/20/Rev.1, U.N. Sales No. E.96.IV.13 (1995).

journals provide a forum and opportunity for students to become familiar with aspects of human rights law that they may not learn about elsewhere.

What exposure do students have to women's human rights and to global feminist thinking in textbooks on international human rights? What are the messages being sent by textbooks in international human rights law? Do these books just move United States assumptions into the international sphere? Or is a range of perspectives presented? It is hoped that this presentation will make a useful addition to the existing literature of feminist analyses of law school textbooks, such as those on contracts,<sup>4</sup> criminal law,<sup>5</sup> constitutional law,<sup>6</sup> and evidence.<sup>7</sup>

For many years international human rights law advocates have touted the utility to domestic women's rights activists of international human rights norms. This has often taken the form of advocates inside the United States urging women outside the United States to use international norms and mechanisms, without acknowledging the utility or relevance of those norms to women and men in the United States. Similar thinking is reflected in the "stealth" approach of some lobbyists for ratification by the United States of the Convention on the Elimination of All Forms of Discrimination Against Women (Women's Convention); these advocates want the focus to be on "helping" women outside the United States, without publicly acknowledging that United States law can be woefully inadequate, and that we in the United States could well benefit from the principles in that treaty.

This notion of purely external applicability of international law on women's human rights is carried even further in some United States textbooks on international human rights law and international law in which, if they have a section on the human rights of women, the problem outlined for student discussion is often either female genital mutilation (FGM) or "the situation of Muslim women." The picture presented is either the exotic "other" or an otherwise essentialized Third World woman who is a victim to be rescued by Western international human rights lawyers. In addition, some advocates from the United States have tended to generalize from their particular United States-based experience in providing advice at the international level, and to base policy proposals on an assumption that their experience is the experience of all women.

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<sup>4</sup> Mary Joe Frug, Re-reading Contracts: A Feminist Analysis of a Contracts Casebook, 34 Am. U. L. Rev. 1065 (1985).

<sup>5</sup> Mary Irene Coombs, Crime in the Stacks, or A Tale of a Text: A Feminist Response to a Criminal Law Textbook, 38 J. Legal Educ. 117 (1988).

<sup>6</sup> Mary E. Becker, Obscuring the Struggle: Sex Discrimination, Social Security, and Stone, Seidman, Sunstein, and Tushnet's Constitutional Law, 89 Colum. L. Rev. 264 (1989).

<sup>7</sup> Kit Kinports, Evidence Engendered, 1991 U. Ill. L. Rev. 413 (1991).

Recent years have seen some movement away from these scenarios, though not enough. Some change may be due in part to changes in the texts assigned to students in international human rights law courses. Exposure to the critiques by such scholars as Chandra Mohanty in Under Western Eyes: Feminist Scholarship and Colonial Discourses<sup>8</sup> and Uma Narayan, in such works as Dislocating Cultures: Identities, Traditions and Third World Feminism,<sup>9</sup> would help broaden a student's perspectives.

In examining how the main textbooks used in international human rights law courses treat the human rights of women and feminist legal theories, I asked a series of questions. First, does the book address the human rights of women, and if so, does it do so in a segregated section, or is the material integrated throughout, or both? Second, are global feminist perspectives presented?

Finally, I examined whether the difference between "sex" and "gender" is explained or even addressed. Does the book follow the tendency to use the term "gender" as referring just to women? It is striking how often material is presented as though there are no gendered roles assigned to men, and as though those roles have no impact on the experiences of women. It would be useful for books to explain the difference, and to point out how hotly contested the very use of the term "gender" has been in UN fora in recent years, such as at the Beijing Plus Five Special Session of the UN General Assembly in 2000, and in the drafting of the Rome Statute of the International Criminal Court. Debates in Rome resulted in the latter document adopting a limiting definition to ensure that persecution on the basis of sexual orientation would not be covered.<sup>10</sup>

Since this symposium took place at Columbia Law School, I will start with Louis Henkin, Gerald Neuman, Diane Orentlicher, and David Leebron's textbook, Human Rights.<sup>11</sup> This book takes mostly a segregated approach. The index in the book lists three sections dealing with "[h]uman

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<sup>8</sup> Chandra Talpade Mohanty, Under Western Eyes: Feminist Scholarship and Colonial Discourses, in Third World Women and the Politics of Feminism 51 (Chandra Talpade Mohanty et al. eds., 1991).

<sup>9</sup> Uma Narayan, Dislocating Cultures: Identities, Traditions, and Third World Feminism (1997).

<sup>10</sup> The definition of "crimes against humanity" in Article 7(1)(h) of the Rome Statute includes, "Persecution against any identifiable group or collectivity on . . . gender as defined in paragraph 3, . . . grounds." Paragraph 3 reads: "For the purpose of this Statute, it is understood that the term 'gender' refers to the two sexes, male and female, within the context of society. The term 'gender' does not indicate any meaning different from the above." Rome Statute of the International Criminal Courts, adopted July 17, 1998, U.N. Doc. A/CONF.183/9 (entered into force July 1, 2002). At least inclusion of the phrase "within the context of society" recognizes that gender is socially constructed.

<sup>11</sup> Louis Henkin et al., Human Rights (1999).

rights, discrimination against women”<sup>12</sup> and one section, appearing toward the end of the book, on “gender discrimination.”<sup>13</sup> It also includes sections devoted to particular subjects related to sex and gender, such as sexual activity.

The opening sentence of the section on gender discrimination seems to conflate “sex” and “gender” when it introduces the subject by stating: “Like race and color, a person’s sex or gender is an impermissible basis in international human rights law for adverse distinctions in the enjoyment of fundamental rights and the protection of law.”<sup>14</sup> This section then sets out the clauses of various instruments that prohibit discrimination on the basis of sex. The introductory section then explains: “To implement these guarantees more fully, a separate convention was drafted dealing exclusively with gender discrimination—The Convention on the Elimination of All Forms of Discrimination Against Women.”<sup>15</sup>

Students often ask why there are separate treaties on discrimination on race<sup>16</sup> and on women<sup>17</sup> when the two covenants explicitly prohibit discrimination on these grounds.<sup>18</sup> Unlike many other texts on human rights, this textbook explains that the specialized treaties were drafted to “enhance obligations and increase remedies beyond those provided in the two covenants.”<sup>19</sup>

I was interested in seeing whether the section of the book on “Group Rights”<sup>20</sup> raises the issue of who speaks for the group, whose voices are heard, and whose are silenced. To some extent it does. For example, it presents an excerpt from Adeno Addis’s article Individualism,

<sup>12</sup> These are a short description of the Women’s Convention in a list of international conventions, *id.* at 332; a section entitled “The Human Rights of Women,” *id.* at 388; and a discussion of women in the section “United States Adherence to Human Rights Treaties,” *id.* at 783.

<sup>13</sup> *Id.* at 1046.

<sup>14</sup> *Id.*

<sup>15</sup> *Id.* at 1048.

<sup>16</sup> Convention on the Elimination of All Forms of Racial Discrimination, *opened for signature* Mar. 7, 1966, 660 U.N.T.S. 195 (entered into force Jan. 4, 1969).

<sup>17</sup> International Convention on the Elimination of All Forms of Discrimination against Women, *opened for signature* Dec. 18, 1979, 1249 U.N.T.S. 13 (entered into force Sept. 3, 1981).

<sup>18</sup> International Covenant on Civil and Political Rights, *opened for signature* Dec. 16, 1966, 999 U.N.T.S. 175, at art. 2 (entered into force Mar. 23, 1976); International Covenant on Economic, Social and Cultural Rights, *opened for signature* Dec. 16, 1966, 993 U.N.T.S. 3, at art. 2 (entered into force Jan. 3, 1976).

<sup>19</sup> Henkin et al., *supra* note 11, at 331.

<sup>20</sup> *Id.* at 428-75.

Communitarianism, and the Rights of Ethnic Minorities<sup>21</sup> explaining that among three common responses of dominant groups to ethnic minorities is that of “paternalistic pluralism,” which “‘protects’ the culture of minorities as the Other. . . . Under this model, the minority group cannot engage, and is not regarded as capable of engaging, the majority in a creative and constant dialogue.”<sup>22</sup> But this section of the book does not raise the questions of who speaks for the group, an issue of great importance for women, whose voices are rarely those presented when assertions are made of what the views are of a given group.

The United States case the authors chose to examine in light of international human rights standards is the Virginia Military Institute case decided by the United States Supreme Court in 1996.<sup>23</sup> Although the excerpts given from the Court’s judgment use the term “sex” throughout, the term “gender discrimination” is used by the editors in their notes following this excerpt. No definition is given of “gender,” which could lead some to infer that sex discrimination and gender discrimination are one and the same. One note states that “the consequences of the gender equality principle have also been given more specific form in a series of [European Union] Directives,”<sup>24</sup> one of which is then described as prohibiting discrimination on grounds of sex.

In an epilogue looking ahead to the new century (the book was published in 1999), the section “The Rights of Women” opens with the sentence: “The international human rights movement succeeded in obtaining general recognition of a right to gender equality and wide agreement on eliminating discrimination against women,”<sup>25</sup> though, as the book notes, implementation is “not impressive.... But human rights means rights for all human beings of both sexes, and gender equality is a cardinal principle of human rights ideology.”<sup>26</sup> Once again, sex and gender are treated as interchangeable.

In a separate section, “Sexual Autonomy,”<sup>27</sup> the book addresses a single aspect of that issue—sexual activity between persons of the same

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<sup>21</sup> Adeno Addis, Individualism, Communitarianism, and the Rights of Ethnic Minorities, 66 Notre Dame L. Rev. 1219 (1991), *reprinted in* Henkin et al., *supra* note 11, at 429.

<sup>22</sup> Addis, *supra* note 21, at 1224, *quoted in* Henkin et al., *supra* note 11, at 431.

<sup>23</sup> U.S. v. Virginia, 518 U.S. 515 (1996), *reprinted in* Henkin et al., *supra* note 11, at 1048.

<sup>24</sup> Henkin et al., *supra* note 11, at 1051 n.3.

<sup>25</sup> *Id.* at 1216.

<sup>26</sup> *Id.*

<sup>27</sup> *Id.* at 955-82.

sex, and only sodomy at that. The well-known Dudgeon case<sup>28</sup> is excerpted, then the Bowers case.<sup>29</sup> More recent European Court of Human Rights cases are summarized in the notes following these excerpts, as are the UN Human Rights Committee's views in the Toonen case,<sup>30</sup> in which the sodomy laws of the state of Tasmania in Australia were deemed in violation of the International Covenant on Civil and Political Rights. The Human Rights Committee's criticisms of sodomy laws when reviewing states parties' reports are also presented.<sup>31</sup>

It is an important development that issues of sexual autonomy are now being addressed in international human rights law textbooks. Nowhere, however, is the sexual autonomy of lesbians mentioned; neither are the human rights abuses that lesbians experience because they are lesbians. This is a significant omission that appeared in the other textbooks on international human rights law as well.

The book does address other issues crucial to women's rights. For example, the book mentions that the obligation in Article 2 of the International Covenant on Civil and Political Rights to "ensure" the rights in the Covenant has been interpreted as requiring the state to take steps to protect against private infringements.<sup>32</sup> However, because the book gives no examples, students not attuned to the particular human rights violations for which this is relevant may not be aware of just how singularly important that obligation is, for example, with respect to protection against violence against women in the family and in the community. Similarly, although the section of the book on the International Covenant on Economic, Social and Cultural Rights mentions rights such as the right to work, to the highest attainable standard of health, and to education, it does not mention the non-discrimination requirement in the Covenant.<sup>33</sup> Yet when it comes to the protection of rights in this treaty, the non-discrimination principle is of vital importance. Some in the United States still maintain that the rights in this covenant are not true "rights" because, it is claimed, they are not justiciable. However, they are in fact justiciable if denied due to discrimination on a prohibited ground such as sex.

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<sup>28</sup> Dudgeon v. United Kingdom, 45 Eur. Ct. H.R. (1981), *reprinted in* Henkin et al., *supra* note 11, at 955.

<sup>29</sup> Bowers v. Hardwick, 478 U.S. 186 (1986), *reprinted in* Henkin et al., *supra* note 11, at 966.

<sup>30</sup> Toonen v. Australia, U.N. Doc. CCPR/C/50/D/488/1992 (Human Rights Comm. 1994), *reprinted in* Henkin et al., *supra* note 11, at 975.

<sup>31</sup> Henkin et al., *supra* note 11, at 977.

<sup>32</sup> *Id.* at 324.

<sup>33</sup> *Id.* at 329-30. Under this Covenant, states "undertake that the rights" in this treaty "will be exercised without discrimination of any kind as to . . . sex." International Covenant on Economic, Social and Cultural Rights, *supra* note 18, at art. 2(2).

The next international human rights law textbook I examined was David Weissbrodt and Joan Fitzpatrick's book International Human Rights: Law, Policy, and Process.<sup>34</sup> This book takes a modified segregated approach, with occasional notes in some chapters on the particular human rights concerns of women. Mention of human rights issues for women are interspersed in readings or notes in a number of chapters. The section on UN peacekeepers,<sup>35</sup> for example, includes material on rape and trafficking for prostitution some peacekeepers have committed. Chapter 11 uses discrimination against women together with the issues of indigenous rights, minority rights, and self-determination to teach the inter-American system of human rights protection. It is only in Chapter 15 on refugee and asylum law, however, that a reading in feminist legal theory appears, with an excerpt of Hilary Charlesworth, Christine Chinkin, and Shelley Wright's celebrated 1991 article Feminist Approaches to International Law.<sup>36</sup> It is the final reading in a chapter that uses a hypothetical case of a Ghanaian woman in the United States whose daughter would be subjected to FGM if returned to Ghana.

I think it would be more useful to integrate the concerns of women into each chapter so that, for example, the section on economic, social, and cultural rights would address not only the right to housing, as the chapter does now, but would also make the point that the promotion and protection of women's right to housing is essential to the well-being of women. Similarly, given the problems of gender-based violence during armed conflict, it would be very important in training future lawyers and policy-makers—not to mention students who edit articles related to this area—to include material on gender crimes in the chapter on armed conflict.

The final chapter of the textbook, which addresses the causes of human rights violations, never mentions patriarchy as a cause of such violations. Interestingly, this chapter does not address a person's identity as a triggering factor of human rights violations except in a short section on the scapegoating of Jews in Germany after World War I.

Chapter 12 uses the issue of discrimination on the basis of sexual orientation as the basis for teaching about the European human rights system.<sup>37</sup> Its focus is on sodomy laws and on gays in the military, both of which have been the subject of important litigation before the European Court of Human Rights and therefore provide good material for teaching about the European system. The chapter is also used to expose students to

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<sup>34</sup> David Weissbrodt & Joan Fitzpatrick, International Human Rights: Law, Policy, and Process (3d ed. 2001).

<sup>35</sup> See *id.* at 291.

<sup>36</sup> Hilary Charlesworth et al., Feminist Approaches to International Law, 85 Am. J. Int'l L. 613 (1991), reprinted in Weissbrodt & Fitzpatrick, *supra* note 34, at 900.

<sup>37</sup> See, e.g., Weissbrodt & Fitzpatrick, *supra* note 34, at 628.

international law on the right to be free from discrimination on the basis of sexual orientation. However, there is no mention of the human rights abuses experienced by lesbians. As women, lesbians experience some human rights abuses that are not experienced by gay men, and they experience other abuses differently from men, just as their experience of human rights violations is sometimes different from that of straight women.<sup>38</sup>

The chapter on international human rights fact-finding<sup>39</sup> does not address the gendered aspects of human rights visits, but then I do not recall having seen an article on this topic in any publication. Some of the blame rests with me, for I still have not written, despite being urged to do so, of my experience as a woman on a human rights mission for an international non-governmental organization (NGO) in Yemen which involved both fact-finding and high-level meetings. I have observations and stories to share about why it can be important to have a woman or women on both types of visits, and about a range of experiences I faced and observations I had that were so different from those of my male colleagues on the visit. But in writing this, I realize I have not carried out what I would press others to do, in order to better prepare law students for future human rights work.

The third textbook I examined, Henry Steiner and Philip Alston's International Human Rights in Context: Law, Politics, Morals,<sup>40</sup> had the most coverage of women's human rights, feminist theories, and various global perspectives.<sup>41</sup> It takes a combination approach, both integrating women's human rights concerns into a range of chapters,<sup>42</sup> as well as having a section on women's rights and the Women's Convention.<sup>43</sup>

A section on civil and political rights, after explaining the International Covenant on Civil and Political Rights, then addresses the protection of the human rights of women before the existence of the Women's Convention. In contrast to the previous books examined, this demonstrates well the importance of Article 2 of the Covenant, with its non-

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<sup>38</sup> See, e.g., Alice M. Miller et al., Health, Human Rights and Lesbian Existence, 1 Health & Hum. Rts. 428 (1995).

<sup>39</sup> Weissbrodt & Fitzpatrick, *supra* note 34, at 456.

<sup>40</sup> Henry J. Steiner & Philip Alston, International Human Rights in Context: Law, Politics, Morals (2d ed. 2000).

<sup>41</sup> Some of the material in the book reflected work underway at that time at Harvard Law School. Steiner included gender issues in his human rights course; Steiner also participated in a reading group with Elizabeth Schneider, Martha Minow, Karen Engle, Visuki Nesiah, and others to examine CEDAW and develop approaches to gender in the international human rights context. In the second edition, the authors eliminated the separate chapter on gender issues and integrated the material into other chapters as relevant.

<sup>42</sup> This integrated approach is noted by the editors in the Preface. Steiner & Alston, *supra* note 40, at viii.

<sup>43</sup> *Id.* at 158.



discrimination clause, and the equal protection provision of its Article 26. This section also explores the economic and social context in which civil and political rights must be assessed.

As for readings on women's human rights issues, this book has the widest range of authors excerpted, covering a wide range of subjects. It has a piece on sex discrimination in Mexico's *maquiladoras*, Amartya Sen's More Than 100 Million Women are Missing,<sup>44</sup> Hilary Charlesworth and Christine Chinkin's Human Rights Quarterly piece The Gender of *Jus Cogens*,<sup>45</sup> Tracy Higgins's Harvard Women's Law Journal article Anti-Essentialism, Relativism, and Human Rights,<sup>46</sup> and much more. An example of the wider range of women's human rights issues addressed in this book appears in the subsection on "Custom and Culture" of the section entitled "Gender."<sup>47</sup> This subsection goes not only into FGM, which is a standard in many books, but also into problems of land ownership under internal customary law.<sup>48</sup> However, as with the previous two books, the meaning of the term "gender" is not explained. Given the common tendency to conflate the terms sex and gender, it would be good if the book explained the meaning of both terms.

Sexual orientation is addressed in a few places. It appears in illustrating the use of the First Optional Protocol to the International Covenant on Civil and Political Rights in the Toonen case,<sup>49</sup> as well as later in the book, in illustrating use of the regional human rights mechanisms, where the sodomy cases and gays in the military cases of the European Court of Human Rights are excerpted.<sup>50</sup> An excerpt is then given from Van Dijk's work<sup>51</sup> addressing family law and sexuality under Article 12 of the European Convention on Human Rights, and discussing in that context the case of a transsexual. The excerpt is presented to illustrate a broader aspect of European Court of Human Rights decision making. It would be useful to have material on gender that goes beyond the issues of sodomy and gays in

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<sup>44</sup> N.Y. Rev. Books, Dec. 20, 1990, at 61, *reprinted in* Steiner & Alston, *supra* note 40, at 165.

<sup>45</sup> 15 Hum. Rts. Q. 63 (1993), *reprinted in* Steiner & Alston, *supra* note 40, at 173.

<sup>46</sup> 19 Harv. Women's L.J. 89 (1996), *reprinted in* Steiner & Alston, *supra* note 40, at 405.

<sup>47</sup> Steiner & Alston, *supra* note 40, at 404.

<sup>48</sup> *Id.* at 429-35.

<sup>49</sup> U.N.Doc. CCPR/C/50/D/488/1992, *reprinted in* Steiner & Alston, *supra* note 40, at 745.

<sup>50</sup> Steiner & Alston, *supra* note 40, at 810.

<sup>51</sup> P. Van Dijk, The Treatment of Homosexuals under The European Convention on Human Rights, in Homosexuality: A European Community Issue 179 (C. Waaldijk & Andrew Clapham eds., 1993), *quoted in* Steiner & Alston, *supra* note 40, at 857.

the military. Again, as with the other books examined, the human rights experience of lesbians is not mentioned.

Although I chose to focus my presentation on international human rights law textbooks, I feel compelled to mention a textbook on international law: Jeffrey Dunoff, Steven Ratner, and David Wippman's International Law: Norms, Actors, Process: A Problem-Oriented Approach.<sup>52</sup> This international law textbook is the first of which I am aware that jettisons the very doctrinal and state-centered approach that dominates so many other international law textbooks, and replaces it with a process-oriented approach that brings home very effectively to students the many actors who play a role in shaping and bringing about the enforcement of international law. An early chapter on the role of various non-state actors presents materials on NGOs, organized religions, and business entities.<sup>53</sup>

This textbook uses a United Nations conference that addressed issues of vital importance to women as the focal point for its examination of the role of NGOs in international law: the International Conference on Population and Development (Cairo Conference). This chapter's introductory material makes the point that whereas the population experts had long focused on family planning programs to try to limit population growth in order to reduce poverty, a new model emerged that

such programs should be replaced with others that "empower" women by increasing their educational levels, providing them with satisfying jobs, lightening their domestic responsibilities, and otherwise raising their status in the family and community. . . . Feminists advocating this agenda assert that once women become more empowered and development advances, women will opt to have fewer children and population growth will slow.

<sup>54</sup>

This section goes on to describe the role played by the International Women's Health Coalition and Women's Environment and Development Organization (WEDO) before and during the Cairo Conference. The materials are very good in showing how very effective the strategies of these NGOs were in shaping the document ultimately adopted by the states. This section of the book is not only a very good lesson for international law students of how effectively NGOs can shape soft law, but by choosing this

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<sup>52</sup> Jeffrey L. Dunoff et al., International Law: Norms, Actors, Process: A Problem-Oriented Approach (2002).

<sup>53</sup> *Id.*, at 191 (Chapter 4).

<sup>54</sup> C. Alison McIntosh & Jason L. Finkle, The Cairo Conference on Population and Development: A New Paradigm?, 21 *Population & Dev. Rev.* 223, 226-27 (1995), *quoted in* Dunoff et al., *supra* note 52, at 193.

particular example, it also educates the students on the Cairo Conference and the fact that empowering women can reduce poverty.

However, the book creates a misimpression that global women's perspectives were not represented by the NGOs it singles out for attention. In one of the notes after the readings the following question is posed: "Does the influence of American (and other Western) NGOs at the ICPD [International Conference on Population and Development] due to their funding, political connections, and expertise suggest that increased NGO participation can exacerbate North-South tensions? Does their involvement further tilt the playing field away from developing world perspectives?"<sup>55</sup> While it is indeed important to make students aware of the overpowering role that Western NGOs sometimes do play in international fora, it is unclear why the authors think that WEDO, for example, is a United States or even a Western NGO, or why they seem to think that the International Women's Health Coalition delegation was made up just of United States or other Western individuals rather than being the broad-based group it was. Moreover, there is nothing in the readings that indicate what the perspectives of the developing world were. The authors seem to have accepted the propaganda of the Holy See<sup>56</sup> and those states that sought to create a divide between women from the North and South and thereby weaken arguments being made by many women at the conference.

In the part of the book on international human rights, the section on civil and political rights is followed by a section on economic, social, and cultural rights, then a section on women's human rights, the focus of which is the often-mentioned subject of FGM. The section "Background on Women's Rights" mentions the creation of the UN Commission on the Status of Women shortly after the creation of the United Nations, and then addresses the Women's Convention.<sup>57</sup> It presents a section, "Violence Against Women and the Public Private Distinction,"<sup>58</sup> and then moves into yet more material on FGM. Karen Engle's piece Female Subjects of Public International Law: Human Rights and the Exotic Other Female<sup>59</sup> is excerpted and ends the section. Although this section is useful in many respects, one does wish for a focus on some issues other than FGM, which is found in so many international law textbooks, so that a broader understanding of the human rights of women is presented.

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<sup>55</sup> Dunoff et al., *supra* note 52, at 198.

<sup>56</sup> The Holy See, also known as Vatican City, is headed by the Pope. It has been granted permission by the United Nations General Assembly to participate in United Nations world conferences.

<sup>57</sup> Dunoff et al., *supra* note 52, at 457.

<sup>58</sup> *Id.* at 460.

<sup>59</sup> 26 New Eng. L. Rev. 1509 (1992), *reprinted in* Dunoff et al., *supra* note 52, at 477.

In writing this paper, the question occurred to me whether there are any course requirements for student editors of feminist law journals. Is there a perspectives course requirement? Do the course offerings on women and the law, gender and the law, and feminist legal theory at that school include global feminist perspectives?

Some of the textbooks on these subjects do indeed incorporate such perspectives.<sup>60</sup> Notable examples include Katharine Bartlett, Angela Harris, and Deborah Rhode's Gender and Law: Theory, Doctrine, Commentary,<sup>61</sup> and Mary Becker, Cynthia Grant Bowman, and Morrison Torrey's Feminist Jurisprudence: Taking Women Seriously: Cases and Materials.<sup>62</sup> Also of

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<sup>60</sup> Certain books on specialized areas within this field also include discussion of international approaches and global feminist perspectives. See, e.g., Clare Dalton & Elizabeth M. Schneider, Battered Women and the Law (2001) (particularly its Chapter 14 "Domestic Violence as a Violation of International Human Rights," *id.* at 992); see also Elizabeth M. Schneider, Battered Women and Feminist Lawmaking (2000) (particularly the section on international human rights and gender violence, *id.* at 53-56).

<sup>61</sup> Katharine T. Bartlett et al., Gender and Law: Theory, Doctrine, Commentary (3d ed. 2002). See in particular the sections on anti-essentialism, *id.* at 1222-35 and 1278-83 (containing excerpts from such works as Leti Volpp, Feminism Versus Multiculturalism, 101 Colum. L. Rev. 1181 (2001) and L. Amede Obiora, Feminism, Globalization, and Culture: After Beijing, 4 Ind. J. Global Legal Stud. 355 (1997)).

<sup>62</sup> Mary Becker et al., Feminist Jurisprudence: Taking Women Seriously: Cases and Materials (2d ed. 2001). In addition to references to international standards and mechanisms interspersed in various chapters, see in particular its section, "Global Feminism

note is Martha Chamallas's Introduction to Feminist Legal Theory,<sup>63</sup> with its section on "Global Feminism: Women's Rights as Human Rights,"<sup>64</sup> and its discussion in "Critiques of Gender Essentialism" of "the form of essentialism that tends to set Western feminism as the standard for judging women's condition throughout the world."<sup>65</sup>

So, why a feminist law journal? In part to provide the studies and analyses that should be presented in textbooks on international human rights law, so as to enhance the understanding of students who will be editing any of the journals published by a given law school, as well as to better train future lawyers, whatever field of law they chose to pursue. And if the author-editors of international human rights law textbooks do not see fit to include these readings, at least those of us who put together our own materials for specialized seminars have a growing library of articles that are published in these journals from which we may choose.

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and Equality Perspectives from Global Feminism," *id.* at 1054, as well as the discussion of the UN Working Group on Contemporary Forms of Slavery, international treaties on trafficking, and international action on sexual exploitation in the section on prostitution, *id.* at 432-41.

<sup>63</sup> Martha Chamallas, Introduction to Feminist Legal Theory (2d ed. 2003).

<sup>64</sup> *Id.* at 110.

<sup>65</sup> *Id.* at 84 (discussion *id.* at 84-88).

# **GENDER, SEXUALITY, AND POWER**

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**Is Feminist Theory Enough?**