

of his unforgiving and, at times, muddy criticisms of post-colonial legal histories. Nevertheless, students of the historiographic turn in international law will find that the book provides a detailed survey of discussions of the theory of historical practice across the disciplines of international law, history and international relations. So too will readers find a useful introduction to Elihu Root, an influential figure in the history of both the United States and international law. The book will certainly provoke further conversation about methodological practice across history and international law.

Sarah C. Dunstan

Leverhulme Early Career Fellow
Queen Mary University London,
United Kingdom
Email: s.dunstan@qmul.ac.uk

doi:10.1093/ejil/cha088

Gina Heathcote. ***Feminist Dialogues on International Law: Successes, Tensions, Futures***. Oxford: Oxford University Press, 2019. Pp. 256. £60. ISBN: 9780199685103

1 Introduction

Gina Heathcote's brilliant new text offers a timely and essential feminist analysis of key pillars of international law, namely sovereignty, authority, institutions and fragmentation. The author correctly identifies these pillars as surprisingly under-analysed in what is now an extensive field of feminist literature in international law; a field more typically addressed to specific regimes, such as human rights or the Security Council, or specific issues, in particular conflict and sexual violence in conflict. In *Feminist Dialogues on International Law*, the author looks behind and beneath regime- and issue-specific critiques to reveal enduring foundational obstacles to feminist methods in international law.

2 Successes?

Heathcote firmly situates *Feminist Dialogues on International Law* as an inheritor of the Charlesworth and Chinkin mantle, who first brought structural bias feminism to the study of international law and its precepts.¹ Structural bias feminism analyses the structures and foundations of international law: 'international law is both built on and operates to reinforce gendered and sexed assumptions'; 'in reality sex and gender are an integral part of international law in the sense that men and maleness

¹ H. Charlesworth and C. Chinkin, *The Boundaries of International Law: A Feminist Analysis* (2000).

² *Ibid.*, at 18–19.

are built into its structure'.² The structural bias feminist approach views the marginalization of women from the processes and substance of international law not as incidental, but as fundamental to the canon. The purpose of structural bias feminist analysis is to reveal the manifold ways in which sexed and gendered assumptions are built into the foundations, processes and institutions of international law. For example, Charlesworth and Chinkin helpfully contrast how 'highly migratory species of sea life are regulated by treaty, while the use of breast milk substitutes remains subject to voluntary codes'.³ Likewise, the right to self-determination is afforded to all peoples, irrespective of the possible disenfranchisement or voicelessness of women within such collectives. Structural bias feminism contrasts with more reformist feminist engagements with international law, which pursue, inter alia, the increased participation of women in particular international law fora or doctrinal improvements in the recognition and prohibition of gender harm, such as the criminalization of wartime rape.

One might have expected several subsequent texts continuing and deepening the initial work by Charlesworth and Chinkin in further exposing the gendered foundations of the canon. Instead, however, as Heathcote correctly notes, abundant feminist scholarship in international law has tended to address specific regimes or challenges under international law, most notably conflict and sexual violence.⁴ Thus, interestingly, *Feminist Dialogues on International Law* is one of few monographs addressing the foundations of international law from a critical feminist perspective. Efforts to address and synthesize feminist perspectives on international law have instead found greater expression in edited volumes that encompass a range of reformist and critical engagements with specialist regimes and more critical approaches. Sari Kouvo and Zoe Pearson's *Feminist Perspectives on International Law: Between Resistance and Compliance*;⁵ Ambreena Manji and Doris Buss's *International Law: Modern Feminist Perspectives*;⁶ and Cecilia Bailliet's *Non-State Actors, Soft Law and Protective Regimes: From the Margins* stand out as the best-known examples.⁷ At least implicit – and sometimes explicit – to each of these volumes is the sort of structural bias feminist critique of international law's foundations that Heathcote adopts. However, fragmented across different authors and chapters, the edited volume approach has lacked the coherence and comprehensiveness of *Feminist Dialogues on International Law*.

³ *Ibid.*, at 19.

⁴ This literature is too extensive to document comprehensively, but influential texts include K. Askin, *War Crimes Against Women: Prosecution in International War Crimes Tribunals* (1997); S. Brammertz and M. Jarvis (eds), *Prosecuting Conflict-Related Sexual Violence at the ICTY* (2016).

⁵ S. Kouvo and Z. Pearson (eds), *Feminist Perspectives on International Law: Between Resistance and Compliance* (2011).

⁶ D. Buss and A. Manji (eds), *International Law: Modern Feminist Perspectives* (2005).

⁷ C. M. Bailliet (ed.), *Non-State Actors, Soft Law and Protective Regimes: From the Margins* (2012).

3 Feminist Messages or Feminist Methods?

In contrast to Charlesworth and Chinkin's volume published in 2000, *Feminist Dialogues on International Law* is published at a time of proliferating legal, normative and institutional activity expressly addressed to the lives of women and the issue of gender. Thus, the book identifies what Heathcote calls 'feminist *messages*' of, inter alia, the need to criminalize specific gendered harms or the desirability of women's participation in decision-making, which have ostensibly achieved traction through more frequent reference to and consideration of women and gender in international law texts and institutions. The reception of feminist messages has led to a growing body of what Heathcote calls 'gender law reform' that nevertheless evidences little by way of feminist methodologies. Thus, the book distinguishes feminist *messages* from feminist *methods* in international law; the adoption of the latter the author views to be very limited. Much of the book is dedicated to elaborating and advocating these feminist methods of 'responsible listening' (at 66), ceding space to peripheral subjectivities (at 90), tools theorizing gender and diversity (at 126), the 'politics of interruption' (at 157) and feminist dialogues explaining the conditions of privilege in feminist spaces (at 175).

4 Tensions

Unlike the other chapters, which are more clearly addressed to foundational issues of international law (namely fragmentation, sovereignty, institutions, authority), the book's chapter 2 is addressed to 'Expertise', which Heathcote argues has become a central technique of global governance. Gender law reform has therefore created openings for 'gender experts' across several subject areas and institutions of international law. The establishment of 'gender advisers' and 'women protection advisers' by the Women, Peace and Security Agenda at the United Nations Security Council is paradigmatic of this turn to gender expertise. Heathcote identifies two key problems with this apparent 'success' in securing international resources and acceptance for gender expertise. First, the successes of gender law reform have remained very selective, and the boundaries within which 'gender expertise' is deemed to be needed are themselves heavily gendered. Thus, the Security Council has adopted the Women, Peace and Security Agenda, but the Paris Climate Accords make no provision for gender expertise. More fundamentally, however, Heathcote identifies how gender expertise has been conceived as something applied to a local context by a politically neutral international gender expert. Thus 'gender expertise' in international law disregards local knowledge of gender dynamics, as well as setting up local gender norms to be found deficient when compared to international gender norms. In this way, Heathcote reveals how the institutionalization of gender expertise is deeply implicated in racist and imperialist histories of international law. Instead, she argues, there is a need to turn the lens onto the gender expert and the gendered expectations and assumptions of the international institution for whom the expert works.

Chapter 5, ‘Institutions’, likewise starts from another ostensible feminist success in international law, namely the turn by/within institutions of international law to the pursuit of gender law reform. For example, the UN Human Rights Council issued a resolution in 2008 expressing a commitment to apply a gender perspective to all of its work, including in collecting information and in formulating recommendations. For its theoretical framework, the ‘Institutions’ chapter initially engages with feminist political science and international relations scholarship on feminist institutionalism. Engagement with feminist institutionalism by feminist international lawyers is not necessarily novel, because some of the most prominent work in this area has involved empirical analysis of international institutions. For example, Louise Chappell’s work on the International Criminal Court is exemplary in revealing how ostensibly ‘new’ institutions or new rules within institutions are always ‘nested’ within long-established gender norms that circumscribe any transformative feminist potential.⁸ Thus, Chappell’s work reveals how the criminalization of a wide range of sexual and gender-based harms by the Rome Statute is operationalized through institutions that continue to carry gendered assumptions about the perceived added difficulties of successfully prosecuting such crimes.⁹ Whilst finding such analyses useful, ultimately Heathcote deems feminist institutionalism to be insufficient to the task of applying feminist methods to international law. Heathcote attributes this inadequacy to the over-reliance of feminist institutionalism theory on gender as the key explanatory variable for the deficiencies of international legal institutions and the failure to deal with broader dynamics and axes of power and inequality to understand the Court’s deficiencies. Instead, according to Heathcote, there is a need for a dialogue with other peripheries (such as crip theory and post-colonialism) in order to understand the power dynamics that structure the institutions of international law.

Chapter 3 on ‘Sovereignty’ – surprisingly one of this reader’s favourites in the book – opens with some reflections on the persisting Syrian conflict, Security Council inaction and Russia’s defence of Syrian ‘sovereignty’ through the repeated exercise of its veto. According to Heathcote, the Syrian example – whereby Syria’s sovereignty is only respected by virtue of the intervention of other states, in this case Russia – exposes the inherently relational nature of state sovereignty. The approach is thought-provoking, but also much more satisfying – and intuitively accurate – than traditional international law stories of sovereignty, borders and sovereign equality of states, which project the notion of borders as both timeless and immutable. Further, Heathcote’s characterization of abundant feminist scholarship on gender and conflict under international law, concerned with issues such as the prohibition and prevention of sexual and gender-based violence, as saying little about Syrian sovereignty and arguments made in defence of it, is both trenchant and accurate.

Thus, in order to animate a novel (feminist) approach to sovereignty, the chapter seeks to re-imagine sovereignty through the motif of the split-subject, drawing on

⁸ L. Chappell, *The Politics of Gender Justice at the International Criminal Court: Legacies and Legitimacy* (2016) 13–15.

⁹ *Ibid.*, at 104–10.

Kristeva's writings on pregnancy as the 'radical ordeal of the splitting of the subject'.¹⁰ The metaphor of the split subject – the pregnant woman – is provocative by illuminating state sovereignty not as unitary and uniform, but instead as relational and dynamic, for example in postcolonial states or in states subject to annexation or occupation. For Kristeva, the split subject is linked to an understanding of the 'subject in process/in question/on trial'.¹¹ According to Heathcote:

To bring this knowledge to international legal understandings of state sovereignty allows the conceptualisation of state sovereignty to commence with difference, fluidity, and the capacity for multiple subjectivities as the starting point rather than the deviation (at 115).

This characterization of sovereignty reflects much more accurately the contingent and dependent nature of Syrian sovereignty in the context of contemporary Security Council politics. Further, Heathcote's approach to sovereignty is an example of her highly original application of feminist theoretical constructs from outside law to the foundational concepts of international law.

The notion of relational sovereignty between two states with artificial and highly porous borders resonates all the more strongly at a time when UK and EU public discourse grapples with the potential return of a 'hard border' to the island of Ireland, separating Northern Ireland from the Republic of Ireland. The discussion of sovereignty and secession was, to this reader, one of the most convincing and insightful among the author's applications of diverse theoretical frames to foundational concepts of international law. There is continuity here from Heathcote's previous work, in particular her first book, which applies the analogy of domestic law and self-defence to the use of force and collective security under international law.¹² In *Feminist Dialogues on International Law*, the author executes this approach even more effectively.

5 The Method Is the Message

A central animating feminist methodology of the book is the 'politics of listening' inspired by Dianne Otto's work on the political responsibility of listening.¹³ Reflecting on her involvement with the Asia-Pacific Regional Women's Hearing on Gender-based Violence in Conflict, in Phnom Penh in 2012, Otto argues for the 'setting aside of sympathies' so that listening is required for 'reflecting . . . on the ways that we may be implicated in the violence and benefit from the underlying structural conditions of inequality'.¹⁴ In this vein, Heathcote endorses transnational feminisms and listening to how local feminist actors utilise international law as a tool of resistance, i.e. 'the horizontal knowledge processes, the acts of translation and communication,

¹⁰ Kristeva, 'Women's Time', *7 Signs: Journal of Women in Culture and Society* (Alice Jardine and Harry Blake trans.) (1981) 13, at 31.

¹¹ *Ibid.*, at 31.

¹² G. Heathcote, *The Law on the Use of Force: A Feminist Analysis* (2012).

¹³ Otto, 'Beyond Legal Justice: Some Personal Reflections on People's Tribunals, Listening and Responsibility', *5 London Review of International Law* (2017) 225.

¹⁴ *Ibid.*, at 248.

the movements between local, regional, and international spaces of organising, and the diverse feminist forms that constitute transnational feminist spaces' (at 10). Thus, the book distinguishes between 'gender law reform' (pursued by feminist technocrats, 'gender experts' and feminist legal academics in the global north) and transnational feminist spaces in which local actors utilize, subvert and strategically 'misread' international legal texts. Likewise, in the discussion of expertise, the book endorses 'alternative mechanisms', such as feminist law-making and judging, and people's tribunals, as strategies for engaging international and transnational spaces for action (at 69).

Yet, I am unsure that this distinction – between 'gender experts' pursuing 'gender law reform' and transnational activists adopting 'alternative mechanisms' – is as clear as the book appears to suggest. The 'alternative mechanisms' described in the book are often used strategically in transnational feminist spaces in order to model the institutional practices and outcomes sought from international law. Further, feminist law-making and judging in these spaces are often done with the intention – at least in part – to fill normative voids or to sharpen existing international legal norms. To separate these transnational engagements from their strategic intentions, in order to elevate the former and denigrate the latter, was an unresolved tension in the book.

6 Conclusion

In situating *Feminist Dialogues on International Law* as the inheritor of Charlesworth and Chinkin's foundational feminist interventions into international law, Heathcote has set herself a high bar. The most significant endorsement I can offer of the book is to say that the bar is cleared. The ambition is achieved. In this way, the book evidences a sort of inter-generational shift in feminist work on international law.¹⁵ Whereas *The Boundaries of International Law* was written from a position of women's silence, absence and marginality in international law, *Feminist Dialogues* engages from the sober recognition of what 'success' looks like.

I anticipated that, at the end of the book, I would be left with the question of what *to do* with all of this new knowledge, theory and analysis. I would characterize my work as a feminist international lawyer as having more of a pragmatic bent. My own work (with Swaine) on fragmentation and pursuing synergies between regimes in order to enhance the protection of women's rights in conflict¹⁶ features quite prominently in the discussion of fragmentation in the book. The work is treated in a (very gently) critical manner. I expected to arrive, at the end of the book, at a familiar conclusion that there is space in the academy for all of this feminist work, both applied and theoretical in nature. Yet, unexpectedly, the book yields tools (methodologies) to inform feminist futures, including my own. Ultimately, the book challenges, provokes and requires

¹⁵ Charlesworth, Heathcote, and Jones, 'Feminist Scholarship on International Law in the 1990s and Today: An Inter-Generational Conversation', 27 *Feminist Legal Studies* (2019) 7.

¹⁶ O'Rourke and Swaine, 'CEDAW and the UN Security Council Women, Peace and Security Resolutions: Advancing Accountability for Women's Rights in Conflict', 67 *International and Comparative Law Quarterly* (2018) 167.

the reader to give further thought to the modalities of applying feminist methods to one's own work in international law. Thanks to this brilliant, timely and incisive book, I am interrupted and silent, but actively contemplating the challenges both of responsible listening and of withdrawing from the legitimization of systems of violence and dispossession.

Catherine O'Rourke

Director, Transitional Justice Institute, and

Senior Lecturer in Human Rights and International Law, Ulster University, UK

Email: Cf.ourourke@ulster.ac.uk

doi:10.1093/ejil/chaa096

Anna Chadwick. **Law and the Political Economy of Hunger**. Oxford: Oxford University Press, 2019. Pp. 256. £70. ISBN: 9780198823940

The book under review examines the international law and political economy aspects of the persistence of hunger in the world. It has emerged out of a doctoral thesis written by Anna Chadwick under the supervision of Susan Marks and Andrew Lang at the London School of Economics. It was published in the fine series 'The History and Theory of International Law', co-founded and run by Nehal Bhuta at the University of Edinburgh. The author is currently a lecturer at the University of Glasgow.

With this book, Chadwick tackles one of the biggest and most shocking issues of global justice, namely the fact that millions of people on the globe still go hungry even though it would be possible to feed them all. The most extreme manifestation of this scandal was the global food price crisis of 2006–2008 which seems to have inspired the research. In 2009, the UN Food and Agriculture Organization (FAO) looked at the reasons for the soaring food prices and identified the following: shortage in supply due to droughts and unfavourable weather in major exporter countries and resulting low cereal stock levels, changing consumption habits in high population countries such as China and India (e.g. resulting in steeply rising demand for meat whose production uses high amounts of cereal feed), speculation on agricultural stock markets, the depreciation of the US dollar and, finally – as probably the most import factor – the demand for biofuel which was in turn influenced by oil prices.¹

This list of factors gives a glimpse of the complexity of the issue of food prices and – concomitantly – illustrates how ambitious a doctoral thesis has to be to tackle it. Embedded in the introduction and concluding chapter, Anna Chadwick's argument

¹ Food and Agriculture Organization (FAO), 'What Happened to Food Prices and Why?', in FAO, *The State of Agricultural Commodity Markets: High Food Prices and the Food Crisis – Experiences and Lessons Learned* (2009) 8, esp. at 25, available at www.fao.org/3/i0854e/i0854e00.htm.