Agatha Verdebout. ***Rewriting Histories of the Use of Force: The Narrative of 'Indifference'.*** Cambridge: Cambridge University Press, 2021. Pp. 387. £95. ISBN: 9781108838184.

In *Rewriting Histories of the Use of Force: The Narrative of 'Indifference'*, Agatha Verdebout takes aim at the ostensible agreement among legal scholars that in the 19th century – the 'golden age of positivism' – international law neither prohibited nor authorized the use of armed force between states. Paradoxically, the consensus on this 'theory of indifference' stands in marked contrast with the endless contemporary debates on the interpretation of the rules on the use of force under the Charter of the United Nations (UN Charter). Even so, it appears to be so deeply entrenched in legal doctrine that questioning it is sometimes regarded as 'absurd' (at 2). Challenges to the 'theory of indifference' have indeed been few and far between – even if, more recently, a handful of authors have begun to question its historical accuracy, either by dissecting 19th-century scholarship (Emmanuelle Tourme-Jouannet)[1] or by reassessing 19th-century state practice (Olivier Corten,[2] Randall Lesaffer[3]). Building on this trend, Verdebout sets about to systematically unpack the theory of indifference and to expose it as a mere myth. What is more, she also seeks to explain what drove the birth of this theory. The result is a masterful work, which firmly takes the reader by the hand and holds a mirror up to international lawyers, raising existential questions about the profession's shared beliefs.

1 Questioning the 'Theory of Indifference'

The first two parts of the book test the veracity of the 'theory of indifference' – first, by taking a deep dive into 19th-century scholarship, and second, by engaging with State practice. As to the former, the author scrutinizes some 80 manuals of international law dating from 1815 to 1914, selected on the basis of impact, chronology and geography. To these works she applies the traditional taxonomy of 19th-century scholarship distinguishing between 'naturalists', 'eclectics' (or 'Grotians') and 'positivists' – a taxonomy that is admittedly reductive and simplistic but that nonetheless offers a useful frame for analysis (at 18). The author's aim is not to clarify the substantive rules of international law as they stood at the time (if at all feasible given divergences in scholarship). Instead, she confines herself to providing some conceptual clarifications on the supposed 'twilight zone' between peace and war in classical international law (at 19). The starting point here is that, contrary to conventional wisdom, 'armed reprisals' and 'war' did not depend on separate legal regimes. Rather, according to the author, they were placed on a continuum and subject to a single, identical set of

1 E. Jouannet, *The Liberal Welfarist Law of Nations: A History of International Law* (2012), at 129.

2 Corten, 'Droit, force et légitimité dans une société internationale en mutation', 37 *Revue interdisciplinaire d'études juridiques* (1996) 77.

3 Lesaffer, 'Too Much History: From War as Sanction to the Sanctioning of War', in Marc Weller (ed.), *The Oxford Handbook on the Use of Force in International Law* (2015) 46.

rules that applied to the broader category of (armed) intervention (at 34–35), which constitutes the proper object of her study.

Ultimately, the aim of the book's first part is to test the hypothesis that those asserting the existence of legal restrictions on the use of force belonged exclusively to the naturalist camp. On closer scrutiny, the author finds how, notwithstanding their greater emphasis on human-made rules and inductive methodologies, scholars of 'eclectic' inclination – probably the bulk of 19th-century scholarship – always seemed to be guided by the wish to make the 'real' rule match the 'ideal' or 'necessary' principles (at 77). In turn, the 'positivist' school, for all its critique of the 'unscientific' character of the 'naturalists' and 'eclectic' literature, its insistence on a strictly inductive methodology and its distinction between the '*lex lata*' and '*lex ferenda*', struggled to apply its method consistently (at 106). Fundamental principles continued to assume an ambiguous role in the determinations of the exceptions to non-intervention. Only a widely accepted practice could infringe upon the principle of independence; in the absence of such practice, the fundamental principles held the final word (at 105). In the end, Verdebout finds that, '[w]ith few exceptions, in fact, authors of *all* theoretical inclinations asserted that the use of force, whether it took the form of "measures short of war" or of war, was not an absolute right of States. The use of force was legitimate, but only in certain circumstances – that is to say as an exception, not as a rule' (at 107; emphasis added).

In the second part of the book, Verdebout turns to state practice. As a starting point, she observes that modern scholarship often takes the view that legal considerations pertaining to the use of force played no, or no meaningful, role in 19th-century practice but that such claims are rarely backed up with a genuine engagement with relevant practice. To fill this gap, Verdebout scans a broad set of case studies, ranging from the early to the late 19th century and stemming from various geographic regions – Verdebout indeed adopts the (problematic) Eurocentrist typology characteristic of classical international law, distinguishing between the 'centre', the 'semi-peripheries' and the 'peripheries'. For each of these cases, she scrutinizes diplomatic archives, war declarations and so on for indications of *opinio juris*. With respect to, first, armed confrontations between the 'Christian nations' in the perceived 'centre', practice confirms that states saw the use of force as a sanction of law – that is, to respond to a violation, or threat of violation, of the intervening state's rights (at 149). The Spanish-American War of 1898 is emphasized as a particularly rich illustration, where both belligerents made use of precedents and referred to past arbitrations and to legal doctrine in order to establish or deny the USA's right to interfere in Cuba. The message is clear: '[S]uch debates would not have taken place if these States did not somehow believe to be bound by some rules ring-fencing the use of force' (at 148). The appeal to legal arguments – or legal window-dressing? – was not limited to confrontations between European powers but was equally present where the powers of the day intervened in the 'semi-peripheries' – for example, in the Ottoman Empire or in China.

Here too, intervening states usually sought to develop legal arguments to justify their actions – in particular, by demonstrating how a situation affected their rights and by presenting their actions as a vindication of an alleged previous violation. Justifications pertaining to the protection of commerce or of nationals abroad were often combined with broader considerations of national security to justify forcible action in the 'semi-periphery'. Lastly, building on the work of Inge Van Hulle,[4] Verdebout asserts that, 'even' in their dealings with the 'periphery', Western powers made use of legal arguments, suggesting that they felt bound by rules of *jus ad bellum*. A fascinating illustration is how in 1893, US President Grover Cleveland resisted the USA's annexation of Hawaii as 'wholly without justification' and contrary to considerations of international law (at 200), against the intensive lobbying of pro-annexation movements (Hawaii would officially become US 'territory' under President William McKinley in 1898). Again, the bottom line is that 'no State claimed a general unrestricted right to resort to force. … The language of international law … was also spoken in the nations of Africa, Asia and Oceania' (at 203). In all, the second part of Verdebout's book suggests that, regardless of where the use of force took place, states systematically appealed to international law – whether directly or less so – to justify or explain their actions and sought to present their actions as an exercise of the overarching right of self-preservation (at 204).

2 The Origins of the 'Myth' in the Interwar Period

Having demonstrated that the theory of indifference does not hold water, Verdebout continues her quest by exploring, in the third part of her book, how and why that theory emerged in the course of the interwar period. The answer, she suggests, cannot be found in a sudden transformation of the discipline from naturalism to positivism. Rather, it finds its roots outside the purely legal sphere, in the very beliefs that underlie the identity of international law as an academic discipline and profession (at 213). Borrowing from the mnemo-history framework of Jan Assmann[5] as well as Claude Lévi-Strauss's[6] structural and linguistic analysis of myths, the book's penultimate chapter explains how the narrative of indifference mirrors international law's subconscious foundational beliefs about itself. Three master narratives – '*mythomoteurs*' of the discipline – are a constant feature in international law textbooks from the interwar period onwards. First, there is the belief that international law is an indispensable system to inject order in an otherwise chaotic international society ('order' being understood narrowly in terms of interstate peace). Second, there is the 'effectivity complex' felt by international lawyers – that is, the constant need to defend and uphold the discipline's legitimacy and the profession's utility against the Austinian challenge that international law lacks binding force (reiterating the same arguments for the better of two centuries). The third and last element is the narrative of progress

4 I. Van Hulle, *Britain and International Law in West Africa: Empire and Legal Experimentation* (2020).
5 J. Assmann, *Moses and the Egyptian. The Memory of Egypt in Western Monotheism* (1997).
6 C. Lévi-Strauss, *Structural Anthropology* (1958).

(of the law and through the law), which, *inter alia*, translates into a simplistic periodization of the history of international law – a periodization that emphasizes formal settlements and the creation of institutions (1648, 1815, 1919, 1945) – whereby each new period heralds an evolution for the better in comparison to the former one. In the end, Verdebout notes how the narrative of indifference mimics the first and third of the abovementioned elements of the discipline's more general discourse about international law – that is, the idea that law is a remedy against chaos and that time brings progress (at 269). At the same time, the function of this narrative is said to find its roots mostly in the second of these elements – namely, the effectivity or credibility complex of international law.

The book's final chapter puts the spotlight on the discipline's 'effectivity complex' as the main *raison d'être* of the narrative of indifference. First, this narrative is presented as a remedy to cope with the cognitive dissonance caused by the Great War, a generalized war that undermined the belief that law could operate as a shield against brutal force and disorder and that further threatened the already precarious image of the discipline. In this context, the indifference narrative emerged through group dynamics between the members of the legal profession as a means to restore the coherence in representation that international law had of itself and to remedy its loss of credibility. It also found fertile ground outside the profession's strict confines, for instance with governments seeking to reassure the public that the League of Nations would prevent another war or with the many pacifist and pro-League societies active at the time integrating the rhetorics of indifference in post-war school textbooks. Second, seen in a more positive light, Verdebout argues that the narrative of indifference equally constituted an expression of relief and pride triggered by the adoption of the League of Nations' Covenant, a long process that consecrated the work of international lawyers towards systems of judicial dispute settlement.[7] Interestingly, while several interwar authors acknowledged that they were overselling the transformational nature of the Covenant, the hyperbolic character of the narrative of indifference was gradually lost on subsequent generations of international lawyers.

3 'Plus ça change, plus ça reste la même chose?'

Verdebout's monograph is an elegantly written and erudite analysis that provides a fascinating insight into 19th-century scholarship and state practice on the use of force – one worthy of a spot next to Stephen Neff's *War and the Law of Nations*[8] – while also drawing from critical legal theory and the social sciences. It is an eye-opener for those of us (all of us?) who have been repeating the mantra that, throughout the long 19th century, states could go to war 'for a good reason, a bad reason, or no reason

[7] Covenant of the League of Nations 1919, 13 AJIL Supp. 128 (1919).
[8] S. Neff, *War and the Law of Nations* (2005).

at all'.[9] Indeed, as Verdebout convincingly argues, this simplistic and hyperbolic narrative of indifference is not in sync with 19th-century reality, where, much as in contemporary practice, states did appeal to legal justifications and objections in connection with interstate armed confrontations. This is a message bound to resonate in future scholarship.

The work's relevance carries beyond the sphere of the *jus ad bellum* and extends to a broader audience of international lawyers and beyond. Indeed, *Rewriting Histories of the Use of Force* is an important reminder of how the supposed transformation from naturalism to positivism in the 19th century has been neither linear nor straightforward. It recalls how naturalist tendencies continue to permeate – if often unconsciously – contemporary scholarship and state practice and how international legal argumentation famously continues to oscillate between apology and utopia.[10] Apart from raising doubts about the profession's methodological consistency and positivism's claim to 'scientificity', Verdebout's monograph elicits a much deeper and existential unease with international lawyers, especially those of a positivist 'plumage'. One underlying message is indeed that 'we've been here before' and that the idea of peace/progress through law is little more than an exercise in self-delusion. Faced with such a lesson in humility, Verdebout's assurance that critical legal scholars' scepticism must not be taken for enmity towards the discipline offers scant solace (at 324).

Specifically with regard to the use of force, the work's red thread seems to be that 'plus ça change, plus ça reste la même chose'. Indeed, having established that 19th-century states also sought to couch the use of armed force in legal terms, Verdebout openly wonders to what extent modern state practice is truly different: 'States' pleas probably are just as stereotyped today as they were then' (at 206). And further: '[I]f the nineteenth century practice and the principle of self-preservation must be considered to have been legally irrelevant, then the current practice should maybe not be given too much credit either' (at 206). In a similar vein, when it comes to scholarship, Verdebout sees little difference. After all, *ad bellum* scholarship remains plagued by controversies and ambiguities, and international legal argumentation remains stuck in a loop from induction to deduction and back (at 108): 'The only difference … is the fact that, today, the main principles governing the relations between States have been codified and set in legal texts, whereas in the nineteenth century they were customary law' (at 112). Nor does the world around us have much to show in terms of progress: 'If the twentieth century has shown one thing, … it probably is that the formalisation and the codification of the rules on the use of force have not prevented conflict from taking place. The twentieth century is in fact frequently considered as one of the deadliest in recorded history, and the first two decades of the twenty-first century have so far not indicated a change of trend' (at 326).

At a moment in time when we are witnessing – among other deadly conflicts in Syria, Yemen and elsewhere – the largest conventional war in Europe since 1945, it

[9] Quoting H. Briggs, *The Law of Nations* (1952), at 976.

[10] After M. Koskenniemi, *From Apology to Utopia: The Structure of International Legal Argument* (2006).

is clear that one's faith in the ideal of progress through law is severely put to the test. At the same time, it is worth recalling that scholars from different backgrounds have in recent years demonstrated on empirical grounds that the world has witnessed a remarkable decline in interstate wars and concomitant war deaths since 1945.[11] Some, such as Steven Pinker, have expressly tied this decline to, among other things, the formal 'outlawry of war' as the 'biggest single change in the international order' of the 20th century.[12] Clearly, claims over the decline of war, and the causes thereof, are not without contestation, and this short review is hardly the place to engage with this debate. But what of Verdebout's underlying suggestion that changes in state practice and scholarship relating to the use of force have been mostly cosmetic? Here, the impression arises that, in developing an important counter-narrative to the deeply entrenched theory of indifference, the author downplays, and perhaps even disregards, certain distinctions between 19th-century and contemporary scholarship and practice.

In particular, it is somewhat striking that the author glosses over the many bilateral and multilateral treaties adopted in the decades preceding the Great War, which sought to impose limited, and often procedural, restrictions on recourse to war. Most well known, of course, are the 1899 Hague Convention (I) for the Pacific Settlement of International Disputes and the 1907 Hague Convention (II) Respecting the Limitation of the Employment of Force for the Recovery of Contract Debts.[13] Article 1 of Hague Convention I asserts that '[w]ith a view to obviating, as far as possible, recourse to force in the relations between States, the Signatory States agree to use their best efforts to insure the pacific settlement of international differences'. Article 2 adds that, in case of serious disagreement, 'before an appeal to arms, the Signatory Powers agree to have recourse, as far as circumstances allow, to the good offices or mediation of one or more friendly Powers'. Hague Convention II prohibits the recourse to armed force for the recovery of contract debts claimed from the government of one country by the government of another country as being due to its nationals (Article 1), while clarifying that this obligation is 'not applicable when the debtor State refuses or neglects to reply to an offer of arbitration, or, after accepting the offer, prevents any compromise from being agreed on, or, after the arbitration, fails to submit to the award'. The language of these instruments (and their very adoption) could indeed be read as implying that the default position was that the recourse to force remained permitted as an option of last resort to settle a broad variety of international disputes (including disputes over the recovery of debts). The same observation can be made *mutatis mutandis* in respect of the many bilateral treaties, such as the 1870 FCN Treaty between Colombia and Peru, decreeing that states parties should 'not appeal to arms *until negotiation shall*

[11] See, e.g., the forum on 'The Decline of War' in 5 *International Studies Review* (2013) 396–419, with contributions by Nils Petter Gleditsch, Steven Pinker, Bradley A. Thayer, Jack S. Levy and William R. Thompson.

[12] See, e.g., S. Pinker, *Enlightenment now: the Case for Reason, Science, Humanism and Progress* (2018), at 163–164; see also O.A. Hathaway and S.J. Shapiro, *The Internationalists: How a Radical Plan to Outlaw War Remade the World* (2017).

[13] Hague Convention (I) for the Pacific Settlement of International Disputes 1899, 1 AJIL 103 (1907); Hague Convention (II) Respecting the Limitation of the Employment of Force for the Recovery of Contract Debts 1907, 1 AJIL Supp. (1907).

have been exhausted' (emphasis added).[14] A closer look at the preparatory works of the Hague Conventions I and II might have further nuanced the picture of states' understanding of the existing legal restrictions on the use of force in the years and decades preceding the Great War.

Admittedly, contemporary practice and academic debate provide significant support for the author's view that things have not changed all that much since the interwar period and the UN Charter era. As far as state practice is concerned, it is correct that states do not in all instances bother to articulate a legal justification for their actions – consider, for example, the air strikes against Syria by the USA (2017 and 2018) and France (2018) in response to the use of chemical weapons.[15] On other occasions, legal justifications are put forward merely as a form of window dressing that is manifestly removed from reality – President Vladimir Putin's speech of 24 February 2022 announcing Russia's 'special military operation' against Ukraine comes to mind as a particularly striking illustration. Turning to doctrine, it is no exception to see a scholar adopt an inductive, positivist approach to understand the scope for lawful self-defence, while subsequently flipping to a more naturalist approach to defend the legality of humanitarian intervention. In a similar vein, with regard to the doctrine of 'intervention by invitation' or 'military assistance on request', confronted with the manifold third-state interventions in civil wars, scholars may be tempted to ignore state practice and to lean instead on the overarching principles of non-intervention and self-determination to maintain that such interventions are *a priori* prohibited. Alternatively, scholars may seek to refine the existing framework and develop novel exceptions and conditions, incessantly re-shaping the normative mould to fit the practice. In a recent volume entitled *Armed Intervention and Consent* – the latest in the Max Planck Trialogues on the Law of Peace and War – Gregory Fox notes how 'one finds authors citing practice to support completely opposite views'.[16] In the same volume, Olivier Corten, following a (discursive) analysis of recent state practice, finds that custom normally prohibits third states from intervening in a civil war but that various exceptions exist to this rule, such as counter-intervention, counter-terrorism and so on. Ultimately, Corten concedes that these alternative justifications 'largely deprive the doctrine of non-intervention of all normative constraining effect'.[17] One might add that the way in which 19th-century states in the proverbial 'centre' justified military operations in the '(semi-)peripheries' by reference to the need to protect their nationals abroad resonates in multiple post-Charter invocations of this doctrine.[18]

[14] Treaty of friendship, commerce, and navigation between the United States of Colombia and Peru, Signed at Lima, 10 February 1870 (Tratado de amistad, comercio y navegación entre los Estados Unidos de Colombia y el Perú, de 10 de Febrero de 1870), reproduced in W.R. Manning (ed.), *Arbitration Treaties among the American Nations to the Close of the Year 1910* (1924), at 84.

[15] See, e.g., Lagerwall, 'Threats of and Actual Military Strikes against Syria – 2013 and 2017', in T. Ruys and O. Corten (eds), *The Use of Force in International Law: A Case-based Approach* (2018) 828.

[16] O. Corten, G. Fox and D. Kritsiotis, *Armed Intervention and Consent* (forthcoming), at 191.

[17] *Ibid.*, at 186.

[18] See, for example, where the author cites a Russian letter from 1900 warning China of 'more effective measures to assure the safety … of the Russian subjects residing in the country' (in addition to similar statements from Germany and others) (at 169).

All this seems to confirm the author's view that, just like its 19th-century equivalent, the contemporary *jus ad bellum* can be bypassed and that there is much room for 'window dressing'. Even so, while the author is right to draw our attention to these similarities, qualitative differences do appear to exist between the 19th-century *jus ad bellum* and today's equivalent. In particular, one cannot ignore the wide variety of rights and interests that could be brought within the purview of the notion of 'self-preservation' in *illo tempore*. In connection with the 1870–1871 Franco-Prussian War, for instance, Verdebout observes that France justified its declaration of war by reference to the fact that the king of Prussia had failed to offer satisfactory guarantees that he would forbid his cousin's accession to the Spanish throne (at 130–135). An examination of the wide range of justifications for intervention identified by various 19th-century scholars is equally illuminating. Consider, for instance, Lassa Oppenheim's assertion that intervention 'in the interest of the balance of power' must 'obviously' be excused since 'an equilibrium between the members of the Family of Nations is an indispensable condition of the very existence of International Law'.[19]

Such considerations – even if they may still carry political weight and impact decision-making from that perspective – sound alien to modern ears, at least *qua* legal arguments. One would indeed be hard-pressed to find a state explicitly claiming that the preservation of the balance of power sanctions the recourse to force. The condemnation by the UN General Assembly of Russia's large-scale invasion of Ukraine in February 2022 – with 141 votes in favour and only five states voting against[20] – rather confirms that there is no place for such discourse in today's international legal order and that any cross-border military action must fit within one of the narrow categories for permissible use of force provided for in the Charter framework. One could also refer to the wholesale rejection of preventive self-defence against 'non-imminent' threats as an indication that the *ad bellum* rules have grown more 'determinate' and far less 'self-judging' compared to the 19th century. By way of illustration, explaining why the USA had not invoked the right of self-defence at the time of the 1962 Cuban missile crisis, then US Legal Adviser Abram Chayes noted that such a claim would have made the recourse to force essentially a question for unilateral national determination and would have excluded any possibility of meaningful review.[21] The International Court of Justice, for its part, has similarly emphasized that Article 51 of the UN Charter 'does

[19] L. Oppenheim, *International Law: A Treatise*, vol. 1: *Peace* (1912), para. 136.

[20] UN Doc. A/RES/ES-11/1, 2 March 2022.

[21] A. Chayes, *The Cuban Missile Crisis* (1974), at 65–66 ('[n]o doubt the phrase "armed attack" must be construed broadly enough to permit some anticipatory response. But it is a very different matter to expand it to include threatening deployments or demonstrations that do not have imminent attack as their purpose or probable outcome. To accept that reading is to make the occasion for forceful response essentially a question for unilateral national decision that would not only be formally unreviewable, but not subject to intelligent criticism either. … In this sense, I believe an Article 51 defence would have signalled that the United States did not take the legal issues very seriously, that in its view the situation was to be governed by national discretion, not international law').

not allow the use of force by a State to protect perceived security interests beyond' its strict confines.[22]

The point here is that the rules governing the recourse to force have become more determinate and restrictive over time – even if that evolution has not happened overnight – with the result that the bandwidth for plausible legal argumentation – the gap between apology and utopia, so to speak – has considerably diminished. This evolution has gone hand in hand with, and is intrinsically related to, the gradual formalization, institutionalization and internalization of the *ad bellum* regime. Long gone are the days when princes sought some 'just cause' to avoid misfortune on judgement day. Instead, we live in a world where the fundamental rules of the law on the use of force have been codified in writing in the UN Charter and have been further elaborated, for example, in the resolutions of the UN General Assembly and where these rules, *inter alia*, have been applied by international courts and tribunals, confirming that the use of armed force between states raises legal questions capable of objective determination by a judicial tribunal. The resulting written rules and case law provide important points of convergence around which legal arguments continue to orbit (notwithstanding an occasional solar eclipse). These arguments continue to be tested and re-tested pursuant to evolutions in state practice, both in legal doctrine and, more importantly, in the UN corridors, also catalysed by the reporting requirement of Article 51 of the UN Charter. As the Russian invasion of Ukraine illustrates, breaches of the legal regime may further result in various sanctions, if not at the multilateral level than at least in the form of diplomatic and economic measures undertaken by states acting individually or collectively. All of this is different from the 19th century, which (as the author demonstrates) discussed restrictions to the *jus ad bellum* but did so at an enormous level of generality and outside the institutional frameworks that shape the contemporary discourse on lawful uses of force.

Verdebout takes note of the above objections *en passant*, although she is ultimately not convinced that a meaningful transformation has taken place. Presumably then, she may perceive these objections as yet another manifestation of the incapacity of most in the college of international lawyers – including the humble positivist penning this review – to abandon the deeply held beliefs that, in her assessment, are responsible for the emergence of the theory of indifference in the first place. Readers will determine for themselves if the glass is half full or half empty and whether separating *lex lata* from *lex ferenda* is an illusion, a necessity or an aspiration. Yet, whatever their verdict, one thing is not in doubt: Verdebout has written an important and thought-provoking work, which impresses both in its theoretical underpinning and in its methodological richness. The book convincingly exposes the 'theory of indifference' as a gross simplification, if not misrepresentation, of 19th-century practice and doctrine and provides welcome historical perspective to the periodic *post mortem* declarations of Article 2(4). It is recommended reading, not only for those within the

[22] *Case Concerning Armed Activities on the Territory of the Congo (DRC v. Uganda)*, Judgment of 19 December 2005, ICJ Reports (2005) 168, para. 148.

domaines réservés of legal historians or *jus ad bellum aficionados* but also for a much broader audience of international lawyers.

Tom Ruys
Ghent University, Ghent Rolin-Jaequemyns International Law Institute (GRILI), Netherlands
Email: tom.ruys@ugent.be

https://doi.org/10.1093/ejil/chad043

Ruth Rubio-Marín. ***Global Gender Constitutionalism and Women's Citizenship***. Cambridge: Cambridge University Press, 2022. Pp. 406. £21.99. ISBN: 9781316819241.

Since at least the turn of the century, a group of constitutional law scholars have sought to tell the success stories of constitutional struggles for equality.[1] These scholars have challenged the marginalization of gendered concerns in constitutional discourse in an effort to bring gender to the centre stage. This is a goal shared by many scholars who have been preoccupied with the place of women's rights in the international legal order. Ruth Rubio-Marín's ambitious 'global analysis of constitutionalism through a gendered lens' furthers her already significant contributions to these debates – singularly[2] and with others[3] – and offers readers compelling proof that there have indeed been 'key milestones and landmarks' (at 6) in terms of what constitutions have achieved for gender justice.

Reading this book with the eyes of an international legal scholar, we can see the importance of engaging with constitutions as a tool for the domestication of women's rights norms. Yet we can be forgiven for concluding that constitutions may lag behind emerging international women's rights standards. Acknowledging the significant work of constitutional advocates and the progress made over several decades, women's rights nonetheless appear too often marginalized in yet another legal domain.

Rubio-Marín's book pays homage to the belief that constitutions can be turned into a 'tool of transformation' for women's justice (at 6). Yet, like the author, readers grapple with the challenge of establishing how much there is to celebrate in the

[1] See, e.g., H. Irving, *Gender and the Constitution: Equity and Agency in Comparative Constitutional Design* (2008), available at www.cambridge.org/core/books/gender-and-the-constitution/0B9B0B1C87A8E3015B729D0338FA26C9; K. Rubenstein and K.G. Young (eds), *The Public Law of Gender: From the Local to the Global* (2016); Sullivan, 'Constitutionalizing Women's Equality', 90 *California Law Review* (2002) 735.

[2] Rubio-Marín, 'The (Dis)Establishment of Gender: Care and Gender Roles in the Family as a Constitutional Matter', 13 *International Journal of Constitutional Law* (2015) 787.

[3] B. Baines and R. Rubio-Marin, *The Gender of Constitutional Jurisprudence* (2005); R. Rubio-Marín and H. Irving, 'Women as Constitution-Makers: Case Studies from the New Democratic Era', *Cambridge Core*, March 2019, available at www.cambridge.org/core/books/women-as-constitutionmakers/71ACBDAF42D8FF3D5C9F360E28C97B7B.