
Legal Feminism and the UN's Gender Mainstreaming Policy: Still Searching for the Blind Spot?

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This article primarily assesses feminism's achievements and challenges, particularly within the framework of the UN gender mainstreaming policy. The first part of the article explored different feminist inquiries into general law to question whether such inquiries have been successfully or properly reflected in the UN gender mainstream process. The second part focused on the progress made by the UN Security Council through its series of resolutions on Women, Peace and Security to examine the ways in which international institutions and international legal categories tend to exclude women and the issues of most concern to women. This analysis, owing much to the extensive literatures on female analyses on international law in the last two decades, led to the conclusion that despite the significant progress that has been made by feminist international lawyers, there remain many ongoing challenges before international law may fully embrace and reflect 'true' feminist values.

Keywords

Liberal Feminism, Gender Mainstreaming, SC Resolution 1325, SC Resolution 1820, Beijing Declaration

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I. Introduction

As a result of enthusiastic studies and practices of legal feminism for the past centuries,¹ all the major human rights treaties since 1945 have recognized gender equality before the law. However, it was not until the 1990s that the issues concerning violence against women featured seriously on the agenda of the international community.² Although belated, such enlightenment is partially due to the atrocities committed against women in former Yugoslavia and Rwanda in the early 1990s. It is scarcely an exaggeration to say that the article on “Feminist Approaches to International Law”³ by three eminent international law scholars marked the beginning of vigorous feminist analyses in international law. Thereafter, it paved the way for active ‘feminist’ engagement, particularly within the context of international law for the past two decades.

This article contends that “international law is a gendered system,” which marginalizes women’s interests in a privileged, virtually men’s world.⁴ Since then, different feminist inquiries into international law have generated notable achievements, especially in the protection of international human rights. However, feminist discussion seems to occupy a niche area, as Charlesworth acknowledged, so that the feminist debate may have yet attracted little engagement from the international community.⁵ She persuasively points out that masculinity has been firmly integrated in the mainstream of international law. It is indeed difficult to find any “masculinist perspective on international law.”⁶ Moreover, it is fairly regrettable to note that “when women appear in the international sphere they are either playing the male role like Margaret Thatcher or are the quintessential victim in need of male protection.”⁷ In other words, the key to feminist debate lies in the fact that women

¹ In 1792, Mary Wollstonecraft had already advocated for the women’s right to be educated in her classic book, *A VINDICATION OF THE RIGHTS OF WOMAN*. Women’s suffrage movement prevailed throughout the nineteenth and early twentieth centuries. N. Lacey, *Feminist Legal Theory and the Rights of Women*, in *GENDER AND HUMAN RIGHTS* 13-14 (K. Knop ed., 2004).

² A. EDWARDS, *VIOLENCE AGAINST WOMEN: UNDER INTERNATIONAL HUMAN RIGHTS LAW* 7 (2011).

³ H. Charlesworth, *Christine Chinkin and Shelly Wright, Feminist Approaches to International Law*, 85 *AM. J. INT’L L.* 618-645 (1991).

⁴ *Id.* at 614-615.

⁵ H. Charlesworth, *Talking to Ourselves: Should International Lawyers Take a break from Feminist? in FEMINIST PERSPECTIVES ON CONTEMPORARY INTERNATIONAL LAW* 17 (S. Kouyo & Z. Pearson eds., 2011).

⁶ H. Charlesworth, *Feminist Ambivalence about International Law*, 11 *INT’L LEGAL THEORY* 1 (2005).

⁷ R. Saloom, *A Feminist Inquiry into International Law and International Relations*, 12 *ROGER WILLIAMS U. L. REV.* 169 (2006). *E.g.*, women are portrayed more or less as victims in number of international instrument including the