GENERAL INTRODUCTION

This four-volume collection on gender and international law traces feminist and gender-centred analyses of international law from the late-1980s till today. As part of Routledge’s Critical Concepts in Law Series, this collection seeks to show how feminist and gender-centred analyses of international law have evolved over the past three decades through internal and external criticism, ‘adding’ and ‘stirring’, ‘deconstructing’ and ‘reconstructing’ – and, on occasion, changing international law and practice.¹ Gender and international law scholarship has emerged as an important and dynamic area of critique in international law that continues to challenge the biases, failures and silences of the political, legal and institutional frameworks of international law.

From the lecture theatres and conferences of academia to the corridors of international institutions frequented by non-governmental organizations, diplomats and the bureaucrats of international institutions, it would seem that gender issues have been placed firmly on the international legal agenda, presenting alternatives to the patriarchal origins and male-dominated institutions of international law. However, as many of the articles in this collection show, this engagement has often been an uneasy one for scholars and practitioners committed to a feminist cause or women’s or gender issues: moving from the margins to the centre, as well as the shift from a focus on women to a focus on gender has forced a questioning about feminisms own biases and also about the cost of inclusion.²

As the research in gender and international law continues to flourish, this collection brings together some of the most influential scholarship to date, gathering foundational and canonical theoretical work to provide an overview of key moments in the development of the discourse. The collection also sketches the many different directions that critiques have headed as the discourse has continued to evolve, highlighting areas of thought-provoking research to stimulate future developments in the field. The articles thus provide an indication of the background to current feminist and gender analyses on international law as well as a snapshot of where we are today vis-à-vis women of the world and the mainstream of international legal scholarship and practice. The collection encourages critical reflections about gendered analyses of contemporary international law.
issues and highlights where increased attention is needed or where current approaches by feminist international legal scholars might need further scrutiny. This introduction to the four volumes will, first, provide a brief overview of feminist and/or gender perspectives on international law. Second, we provide an insight into the methods we used to decide what articles to include and exclude. Third, we provide an overview of the narrative told and the thematic areas covered in the four volumes. This was an excruciatingly difficult task, as we started off with around 400 academic journal articles and ten edited volumes.

**Feminist and gender perspectives on international law**

The late-1980s and early-1990s feminist scholarship on international law was largely inspired by feminist legal studies and cross-disciplinary women’s studies (later gender studies). This is also one of the reasons why we use ‘feminist’ and ‘gender’ perspectives largely interchangeably in our introduction: feminist perspectives have over the past decades morphed into gender perspectives. Until the 1990s, gender was an analytical category for feminist scholars working within traditional academic disciplines and in what was then called cross-disciplinary women’s studies. In part due to shifts within feminist discourses and women’s studies towards an increasing attention to gender relations and in part due to the emergence of and challenges posed by masculinity studies and more notably gay and lesbian and queer studies, there has been a shift towards an increasing focus on gender both as a label for the field and in the content of the research. However, as can be noted when quickly browsing through the titles of the articles chosen for these volumes, feminist and gender scholars do, when venturing into the field of international law, continue to focus largely on the exclusion and the experiences of women. Some of the early landmark articles in this field include Hilary Charlesworth et al.’s article ‘Feminist approaches to international law’ (1991) and Karen Engle’s ‘International human rights and feminism: where discourses meet’ (1992). These articles explored both the potential of feminist analysis of international law and international law’s emancipatory potential for women. This early work carefully approached questions about if and how feminist theories and methods could be adapted for an analysis of international law, and to what extent the political, legal and institutional frameworks of international law could be sensitized to women’s concerns and needs. The focus of feminist scholarship on international law and international law’s emancipatory potential is dominant in this early scholarship: feminist engagement in international law is worthwhile insofar as international law can be a useful tool for promoting women’s rights. Nevertheless, no clear answer to this question is articulated: it was argued that international law and its institutions were male biased and dominated by men and that women’s rights and women were marginalized within the overall system. At the same time, international law and the international institutional arena was a new arena for feminist scholars and the broader cadres of women’s
rights advocates, and consequently the ‘international’ had an allure of novelty and possibility for women.

The end of the Cold War and the relative success of women’s rights advocacy at the World Conference for Human Rights (1993), the International Conference on Population and Development (1994) and the World Conference for Women (1995) inspired increased feminist scholarship especially in the area of international human rights law. Edited collections such as Dorinda Dallmeyer’s *Reconceiving Reality: Women and International Law* (1993), Rebecca Cook’s edited collection *Human Rights of Women: National and International Perspectives* (1994) and Kelly Askin and Dorean Koenig’s trilogy *Women and International Human Rights Law* (1999–2001) challenged the political, legal and institutional frameworks of international law for their failure to acknowledge and address violations suffered by women such as sexual violence, and used, where possible, international human rights law as a tool to challenge discriminatory national laws and practices. The link between feminist scholarship and actual progress for women continued to be strong in the 1990s scholarship. The (arguably limited) political successes such as the adoption of the United Nations (UN) Declaration on the Elimination of Violence Against Women (1992), the establishment of the office of the UN Special Rapporteur on Violence against Women, its Causes and its Consequences (1993) and the recognition of select gender-based crimes as war crimes in the International Criminal Tribunals for the Former Yugoslavia and Rwanda did, however, make feminist scholars more prone to defend international law’s and the international arena’s emancipatory potential for women.

A more critical strand of feminist scholarship on international law also developed in the 1990s, and has continued to flourish in the first decade of the new millennium. Inspired by post-colonial and post-structural scholarship, this later scholarship, including that of Dianne Otto and Anne Orford, takes a more sceptical standpoint, asking if and how feminism has really had an effect on international law and how international law has affected feminism. This exploration is continued in Hilary Charlesworth and Christine Chinkin’s *The Boundaries of International Law* (2000) and Doris Buss and Ambreena Manji’s edited collection *International Law: Modern Feminist Approaches* (2005). Hence, at the turn of the millennium and during the first years of the new millennium, international law and the international institutional arena have lost their allure or novelty and possibility for women. At the same time, engaging in international law and with international institutions has exposed Western feminist scholarship especially to its own blind spots and biases: well-meaning Western feminisms ‘speaking for’ others results in misrepresentations and criticisms. However, for feminist scholarship, realizing the shortcomings of the international sphere and being exposed to criticism is not a negative, rather it is what fuels continued feminist debate. This theme is explored in an earlier volume we’ve edited, *Feminist Perspectives on Contemporary International Law: Between Resistance and Compliance?* (2011).
A tension between ‘resistance and compliance’ is, in fact, built into the heart of the feminist project within international law. Charlesworth and Chinkin, in their landmark work on feminist perspectives on international law, have defined this as a two-stage project: first, feminists need to deconstruct the explicit and implicit values of the international legal system, challenging their claims to objectivity and revealing the blind spots of international law and its exclusions as concerns women and women’s experiences. Second, feminists need to reconstruct an international law that does not support men’s oppression of women. They note that the dual commitments of feminist scholarship coexist uneasily. In her early article, Karen Engle noted feminist international legal scholars sense that ‘their work at the periphery can only succeed if they can save the core’ and so, for the most part, they defend this core. Engle stresses ‘No matter how hard we push on the core, though, we never attack its essence. We are afraid that if we push too hard, it might dissolve and become useless to us’. The uneasiness of feminist scholarship with questioning the foundations of international law in order to ensure that international law remains (potentially) useful for women has led to criticism. As a result, minority and post-colonial feminists have argued that feminist scholarship on international law runs the risk of reproducing old themes of ‘white women saving black women from black men’, as noted above. Others have noted that feminism, by focusing primarily on the category of gender, misses opportunities to challenge, and runs the risk of facilitating, other global-scale inequalities and injustices. The tension between resistance and compliance remains a core area for reflection for feminist international scholarship and it contributes to the dynamism of the field.

Methodology

Sifting through feminist and gender-centred scholarship on international law has been a massive task, even if we have focused on mainly English language legal scholarship. We started off with a list of more than 400 academic articles, ten edited collections and a handful of monographs. We had to make some tough calls when choosing what articles to include and what to exclude; many darlings have been killed. In order to facilitate our decision-making we were guided, first, by our ideas and impressions about how the story of feminist and gender perspectives on international law could most usefully be told through these four volumes and, second, by principles that we developed to decide what articles should be included and excluded.

We had lengthy deliberations about whether these four volumes should ‘reconstruct’ or ‘deconstruct’ the story of feminist and gender-sensitive approaches to international law, i.e., whether we should narrate the story based on its known chronology and with its known thematic landmarks or whether we should try to narrate the story with a focus on its concepts, cross-cutting themes and internal tensions. Eventually, we decided for the more chronological approach and also an approach that focuses specifically on those areas of law
that feminists and gender scholars have mostly engaged with. We chose this focus because this is the way the story was told to us through the work of Hilary Charlesworth and her colleagues¹³ as we became engaged in this field in the early 2000s.¹⁴ We also chose this focus because these four edited volumes are intended to be a resource for current – and future – researchers, and, we hope, will provide a new generation of researchers with the foundations to progress the story of deconstruction, taking feminist and gender-sensitive approaches to international law to new arenas and heights.

A more difficult task than deciding the overall approach was to decide what articles should be included and excluded. Here our approach was one of developing principles, and then, making exceptions. First, we have only included articles by authors who write in English or whose articles have been published in English language journals or edited volumes. While a focus on English language sources is motivated by how feminist perspectives on international law have developed (it has been a largely English language phenomenon and those who have wanted to engage in the discussions from outside (including one of the editors) have done so in English), we do suspect that there are articles in particular in Dutch, French, Spanish and some of the Nordic languages that could provide challenging perspectives to the dominant English language discourse. Second, the edited collection only includes articles by legal scholars or by scholars whose research is particularly close to the legal field. Feminist and gender-sensitive scholarship on international law has been inspired by and often relates to landmark articles written by political theorists, international relations and development scholars, and anthropologists, such as Gayatri Spivak’s ‘Can the subaltern speak?’ (1988). However, such foundational articles are not reproduced here as they can be found in many other edited collections and because we have found it purposeful to focus only on legal scholarship and how it has evolved over the years. Third, we have opted for mainly including articles from academic journals and only a limited number of articles from edited volumes. We opted for focusing on articles in academic journals largely because it is easier to refer readers to the few dozen edited volumes that have been written than to refer readers to the hundreds of articles that have been published in academic journals. Each edited volume also tells its own story, and picking one or a few articles from an edited volume is complicated as we could not in these volumes do justice to cross-referencing in other edited volumes.¹⁵ Fourth, a handful of scholars, including Hilary Charlesworth, Christine Chinkin, Dianne Otto and Anne Orford have been at the core of developing and debating feminist and gender-centred perspectives on international law. While it would be possible to fill at least a few volumes with their scholarship alone, we have chosen not to do so in order to demonstrate the diversity and breadth of the discipline’s scholarship overall. Consequently, we have included what in our view are the most important articles of the key scholars, but when a similar argument has been made by alternative and/or less known scholars we have often opted for the alternative.
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Notes


8 Charlesworth and Chinkin, above n 1; Buss and Manji, above n 1.

9 Charlesworth and Chinkin, above n 1.

10 Engle, above n 4, 605.


13 See note 1, above.
