*Christine Chinkin**

FEMINIST INTERVENTIONS INTO INTERNATIONAL LAW

Feminist interventions into international law have been relatively recent and have already provoked both practical gains and theoretical dissent. In this introduction I will first provide an overview of some of the gains made. I will then appraise where we have reached in light of what I see as the paramount objective, that is, developing a more inclusive international legal system that takes seriously the interests of all women, and by doing so also opens the way to reimagining possibilities for change that may permit the promise of international law for peaceful co-existence and respect for the dignity of all persons to become a reality. The article may present as a collection of unconnected thoughts. This is because of the deep uncertainty that I feel about whether we should be celebrating the achievements of the past few years, or whether we should despair at the lack of genuine transformation and continue to be sceptical about the viability of any real change for those made invisible by the current system of international law.

The first feminist intervention into international law within the academy of which I am aware took place in Canberra in 1990 at a conference widely attended by governmental and practising international lawyers, nongovernment organisation (NGO) representatives and academics.[1] My Dutch friends however have told me of an earlier seminar that took place in the Netherlands. These academic interventions followed decades of activity by international and national NGOs. When considering the impact of such interventions we cannot ignore the fact that they have taken place against the greatest changes in the international legal order since the period of decolonisation. In the space available I can only refer to some of the most dramatic of these developments.

In 1990 the Soviet Union and the Former Yugoslavia were still intact and the collective action, undertaken with the authority of the United Nations, to remove Iraq from Kuwait had not yet occurred. The latter event was envisaged as heralding a new international legal order in which an undivided United Nations could and would effectively guarantee collective security. The collapse of socialist regimes in Eastern Europe was proclaimed as a triumph of western values; notably a commitment to the rule of law, pluralist democracy and human rights as the basis for national and international legal ordering. Also in 1990 the Maastricht Treaty had not yet been agreed; the Uruguay round of GATT had not finalised the transformation of international trade through the formation of GATT/WTO;

---

* LLB, LLM (Yale), PhD (Sydney); Professor of International Law, London School of Economics. This introduction was presented as the opening address at the symposium.

1 The papers from this Conference are published in (1992) 12 *Aust YBIL.*

NAFTA had not come into effect; all subsequent developments that would impact upon international trade liberalisation and the globalisation of the economy.

The earlier convulsive event in the international legal system, the independence of the previous colonial possessions, has failed in many instances, most notably in Africa, to bestow the anticipated benefits. One reason for this was the failure to couple political self-determination with economic self-determination in an international economic order structured and dominated by western capitalist interests supported by the Bretton Woods arrangements. The transformative effect of a New International Economic Order that was claimed in the 1970s was strongly and successfully resisted by developed states. The two super-powers competed for influence in the newly independent states, too often embroiling them in proxy wars. Nor have the more recent events delivered on their promise. The UN itself is in crisis. The financial crisis is well known, but there is also a crisis of confidence as its actions in, inter alia, Iraq, Somalia, Rwanda and Haiti have been criticised from a variety of perspectives leaving uncertainty both as to the future direction of the Organisation and its capability to fulfil its mandate. The acclamation of events in Eastern Europe has obscured the actuality that the commitment to human rights continues the primacy accorded to civil and political rights. This is demonstrated by the scramble by former Eastern bloc states to join the Council of Europe and become parties to the European Convention for the Protection of Human Rights and Fundamental Freedoms, a civil and political rights convention. The rhetoric of the indivisibility of all human rights that was asserted at Vienna has not been followed through in practice, where claims for economic and social justice have been subjugated to the demands of capitalism and the free market, and form has been elevated over substance.

In both cases, decolonisation and events post 1990, impetus for societal transformation stemmed from populist movements within the territories in question, and women played significant roles in seeking change that would accord distributive justice. In both cases, women's separate voices have been subsumed within internationally defined national imperatives and the interests of the sovereign state have dominated. The adequacy and relevance of traditional international legal doctrine have been strongly challenged as states have embraced greater integration on the one hand and, on the other, have fought rearguard actions against the demands of nationalism, the effects of terrorism and environmental degradation and decreasing economic autonomy. In the words of Harold Koh:

> In this brave new world, transnational actors, sources of law, allocation of decisional functions, and modes of regulation have all mutated into fascinating hybrid forms. International law now comprises a complex blend of customary, positive, declarative and "soft" law.[2]

2 Koh, "A World Transformed" (1995) 20 *Yale JIL* ix at xi.

Koh provides a realistic assessment of the current international legal order, but traditional international legal doctrine lags behind and clings like a security blanket to the symbols of state sovereignty. There seems to be an apprehension that if innovation and change are admitted, then the entire edifice of international legal authority will crumble and vanish.

Against this backdrop I will now turn to some of the positive consequences of feminist interventions into international law. The gains that have been achieved are primarily in the area of human rights. The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) has now over 155 states parties drawn from all regions of the world. This makes CEDAW one of the most widely ratified human rights conventions in the United Nations system, the most widely ratified being the Children's Convention with over 190 parties. Attention has been given to CEDAW's weaker enforcement measures and shorter meeting time. A draft optional protocol allowing for individual and group complaints to be made to the CEDAW Committee for investigation and report is on the agenda of the Commission on the Status of Women. The General Assembly has approved by resolution an amendment to Article 20, which previously restricted meeting times to two weeks a year. CEDAW now meets for two three week periods in a year. At the Vienna World Conference on Human Rights the proposition that the "human rights of women and of the girl-child are an inalienable, integral and indivisible part of universal human rights" was accepted.[3] It was accompanied by the requirement that women's rights be mainstreamed into all parts of the United Nations system in an attempt to redress the previous institutional isolation of women. There are indications that at least the United Nations human rights bodies have taken on board this task, and specific programmes on women are underway within various specialist agencies, including FAO and UNESCO, as well as within UNHCR.

Perhaps the most dramatic development has been in the context of recognition of the debilitating effects of gender-specific violence in denying women enjoyment of human rights. At Vienna,[4] in the General Assembly,[5] in the Organization of American States in treaty form,[6] and again at Beijing,[7] it has been asserted that the elimination of violence against women, whether committed by public officials or private actors, is a human rights obligation upon states. The General Assembly has declared that violence against women "is a manifestation of historical unequal power relations between men and women" and "a social mechanism whereby women are forced into a subordinate position compared with

---

3 World Conference on Human Rights, Vienna Declaration and Programme of Action, adopted 25 June 1993, UN doc A/Conf 157/24, rep (1993) 32 *ILM* 1661, Part I para 9.

4 At Part II, para 38.

5 United Nations Declaration on the Elimination of Violence Against Women, GA res 48/104, 20 December 1993.

6 Inter-American Convention on the Prevention, Punishment and Eradication of Violence Against Women, Belém do Pará, rep (1994) 33 *ILM* 1534.

7 Fourth United Nations World Conference on Women, Beijing Declaration and Platform for Action, September 1995, Ch IV Section D, especially paras 113, 114, 119 and 125.

men" in public and private arenas.[8] This recognition of the significance of societal power imbalances moves the analysis of violence out of the confines of anti-discrimination/equality discourse and locates it structurally. The formal acknowledgment of the root causes of violence against women offers some potential for transformative action. The appointment in 1994 by the Human Rights Commission of the United Nations Special Rapporteur on Violence against Women brings women's rights into the network of investigatory and reporting powers of the system of special rapporteurs. While one might regret that violence against women was not also brought directly into the mandates of other special rapporteurs, for example those on torture, or enforced or involuntary disappearances, it is a step forward that the Human Rights Commission has requested all such bodies "regularly and systematically to include in their reports available information on human rights violations affecting women".[9] Indeed the collection and collation of gender-aggregated data within the UN has been of extreme practical importance in mapping the position of the world's women and in providing a factual basis for urging change.

Another post 1990s event has been the devastating armed conflict in the Former Yugoslavia, most recently in Bosnia-Herzegovina. From 1992 the international community was shamed by reports of atrocities, including the "massive, organised and systematic" rape that has been used as an instrument of war and a method of ethnic cleansing "intended to humiliate, shame, degrade and terrify the entire ethnic group" into taking a unique response.[10] The tribunal that was established by Security Council Resolution is the first international tribunal explicitly granted jurisdiction over rape as a crime against humanity. This precedent was followed in the subsequently created tribunal with respect to crimes against humanity in Rwanda. In its Rules of Procedure,[11] substantive rulings so far, and prosecutorial process,[12] the Yugoslav tribunal has made clear that it intends to break the centuries-old silence about sexual assault in armed conflict. In particular it has addressed directly the question of conflicting human rights in its consideration of requests for anonymity for victims and witnesses. The tribunal has held that the right of the accused to know the identity of witnesses against him (and all indicted so far have been male, although this may not be the case in Rwanda) must be

8 As above, fn5.

9 Human Rights Commission res 1993/46. See Connors, "Mainstreaming Gender Within the International Framework", paper delivered at British Council Conference, Law and the Social Inclusion of Women, February 1996, University of Warwick, United Kingdom, p8 (in possession of author).

10 Mazowieki, Special Rapporteur of the Commission on Human Rights, *Report Pursuant to Commission Resolution 1992/S-1/1, 14 August 1992* E/CN.4/1993/5, 10 February 1993. Cf SC Res 827, 25 May 1993.

11 Statute of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of Former Yugoslavia since 1991, SC Res 808/1993 articles 20-22; Rules of Evidence and Procedure of the Tribunal rules 69, 75 and 96.

12 See especially Indictment Gagovic & Others ("Foca"), 26 June 1996.

balanced against both the victim's right to security and that of the international community in an effective exercise of criminal jurisdiction.[13] The Tribunal did not limit its ruling to sexual assault cases but did refer to the emphasis given by the Secretary-General to crimes committed against women and the particular safeguards in the Rules of Procedure and Evidence.

Another significant action by the Tribunal is the indictment in the "Foca" case issued on 26 June 1996. The prosecution alleged 62 counts of crimes committed against women. These included crimes against humanity, grave breaches of the Geneva Conventions and violations of the laws and customs of war relating especially to rape, torture, outrages upon personal dignity, persecution, wilfully causing great suffering, enslavement and inhuman treatment. The accompanying press release noted that the indictment is of major legal significance in that it is the first time sexual assaults have been diligently investigated for the purpose of prosecution under the rubric of torture and enslavement as a crime against humanity.[14]

Finally, another positive feature has been the pattern of global summits held throughout the 1990s. In regional and national preparatory meetings and at the conferences themselves, women's NGOs have worked to ensure their input into agendas, draft texts and final statements. There has been much success, with women-specific provisions incorporated into the documents of the earlier conferences and the full focus upon women at Beijing. This will not be discussed in detail here, but Cairo has been seen by some as a watershed in that there appeared a new global consensus on two fundamental issues:

> (1) that empowering women and improving their status are essential to realising the full potential of economic, political and social development; and
>
> (2) that empowering women is an important end in itself, for as women acquire the same status, opportunities, social, economic and legal rights as men, as they acquire the right to reproductive health and the right to protection against gender-based violence, human well-being will be enhanced.

At Beijing the diversity of women was at last addressed to some extent in the recognition that women face barriers to full equality and advancement "because of such factors as their race, age, language, ethnicity, culture, religion or disability, or because they are indigenous women" or because of other status.[15] The discrimination faced by women migrant workers and refugees was also mentioned. Perhaps it was at Beijing that Isabelle Gunning's world

13 *Prosecutor v Dusko Tadic*, case IT-94-1-T, 10 August 1995, where the Chamber of the Tribunal provided guidelines for the granting of anonymity to victims and witnesses.

14 International Tribunal, Press Release 26 June 1996.

15 Beijing Declaration para 32. Cf Platform for Action para 225.

traveller was most completely present,[16] although not entirely vindicated in that the cumulative intersections of multiple discriminations were not explored in the official documents, and strategies to incorporate them not fully examined. In particular, the abuses of rights suffered by old women, indigenous women and lesbians remain largely invisible in the Beijing Platform for Action.

But, as has so often been pointed out, the final documents of these summits represent at best political consensus and forward-looking programmes. What they do not represent is legal obligation, or national or institutional financial commitment. Their language is deliberately imprecise and indeterminate, giving ample discretion to states with respect to implementation. They fail to specify targets against which performance can be measured and their language is too often that of concession. Perhaps the most notorious example was the trade-off in the Beijing Platform for Action in which all mention of sexual orientation was omitted in return for the deletion of a footnote compromising the universal application of women's health rights.

Now we are looking back twelve months after Beijing and after about six years of focused academic attention on feminist interventions into international law. Why do I not feel whole-heartedly enthusiastic about all the signs of progress that I have mentioned? What are the downsides? I think that they can be summed up in the expression I used earlier: they retain the importance of form over substance. There has been some broader use of women-inclusive language in international instruments, but little changed practice. This language has neither demanded nor facilitated transformation. All this activity has not really challenged gendered assumptions about the structures of global political and economic power, nor of the construction of knowledge in the rapidly changing environment of international law.

Thus the steps taken to bring women's human rights into mainstream UN activities have in most, although not all, instances been limited to placing women on the agenda, a traditional "add women and stir" approach that does not demand any radical rethinking of programmes or gender-awareness. In the words of Jane Connors, mainstreaming has been "ad hoc, uncoordinated and dependant upon the particular mandate of the body [in question]. ... Where human rights are not within the mandate, unless the body is dedicated solely to the concerns of women, it is uncommon for the human rights of women to inform the approach of the body."[17] While the campaigns with respect to violence against women, and to a lesser extent reproductive rights, have led to some acceptance of these issues within human rights discourse, they have also been confining and have detracted attention from the need to examine the continued dominance of equality discourse and the

16 Gunning, "Arrogant Perception, World-Travelling and Multicultural Feminism: The Case of Female Genital Surgeries" (1992) 23 *Colum Hum Rts L Rev* 189.

17 Connors, "Mainstreaming Gender Within the International Framework", paper delivered at British Council Conference, Law and the Social Inclusion of Women, February 1996, University of Warwick, United Kingdom, p16.

denial of women's rights in other areas, especially those of economic and social rights including the impact of structural adjustment, globalisation of the economy, cultural and other difference. Similarly, with the war crimes tribunal, focus on the systematic and massive commission of rape in just two contexts, the Former Yugoslavia and Rwanda, deflects attention from the ongoing regular incidence of rape in all armed conflict, which is still barely noticed let alone addressed as violative of the laws of war. It also undermines the many other ways in which women experience war and conflict differently from men, and gives the impression that international law now takes "women and war" seriously.

Advocacy for the advancement of women has moved in these years onto the international human rights agenda, away from its 1980s location in development. This has brought "women" into international law, but human rights is only one branch of international law and an often marginalised one. Its demands, especially those for economic and social justice, are frequently subjugated to other demands of the international order, as was seen for example at Dayton.[18] Another example is the resistance of GATT Panels to promoting the linkage between international trade law and human rights, for example in situations of exploitative, unregulated labour practices. But even within human rights discourse women's issues have been fudged. The Beijing Declaration and Platform for Action is not a human rights document, nor is the Declaration on the Elimination of Violence. At Beijing, human rights was only one of the twelve critical areas of concern, and it is still open to argument whether other sections carry even the moral authority of human rights language. The binding legal instrument, CEDAW, remains subject to destructive reservations. The paradigm of equality still prevails and restricts the vision of women's rights to the attainment of the same rights as similarly situated men, as defined through male experiences. It is still a mistake to underestimate the hostility of traditional, often well-intentioned, human rights lawyers to what they perceive as a weakening of the traditional parameters of human rights law, and this is occurring at a time when human rights lawyers themselves feel under siege. For example, the American Bar Association (ABA) vigorously attacked the ruling of the Tribunal on anonymity of victims and witnesses on the basis of its undermining of the accused's right to a fair trial. The Australian Judge in the Chamber, Sir Ninian Stephen, dissented on similar grounds. A synopsis of the ABA position is seen in the April 1996 *AJIL* in an editorial by Monroe Leigh. Leigh argues that the Tribunal must "establish itself as the preeminent defender of human rights and particularly of the right of every accused to a fair trial according to the

18 The General Framework Agreement for Peace in Bosnia and Herzegovina (the Dayton Peace Accords), initialled Dayton, Ohio, 21 November 1995, signed Paris, 14 December 1995, rep (1996) 35 *ILM* 75. Although the Peace Accords include extensive requirements and mechanisms for human rights protection, constitutional recognition of the two Entities, the Federation of Bosnia and Herzegovina and the Republika Srpska, as well as the Republic of Bosnia and Herzegovina, gives effect to war aims, especially of the Bosnian Serbs; see Sloan, "The Dayton Peace Agreement: Human Rights Guarantees and their Implementation" (1996) 7 *EJIL* 207.

most exacting standards of due process required by contemporary international law".[19] His argument conspicuously fails to engage with the reality that women typically feature in a criminal trial as victims and witnesses, while many more men than women feature as accused. Rape remains widely unreported and convictions are hard to secure in national criminal courts, let alone in international tribunals. It is unsurprising that the guarantee of a fair trial is seen by many as an absolute right that must not be balanced against other rights such as those of the victim and potential victims. The decision is not a blanket assertion of anonymity and incorporates safeguards and criteria to be satisfied before according anonymity, but these were not sufficient to assuage the concerns. This reaction is a salutary reminder that where there are conflicting human rights the balance will not often come down in favour of women, and where it does (as in the Tribunal's decision) it provokes strong dissent.

There is another concern about the Tribunal that is also raised by the campaign for an optional protocol to CEDAW: that is whether adjudicative (or quasi-adjudicative) strategies that highlight individual behaviour (either as complainant or accused) can be effective where there is a systemic power imbalance and disadvantage to women. The complexity of the multilayered concept of rights and its utility for achieving the advancement of women have long concerned feminists. Taken alone rights strategies cannot be sufficient, but nevertheless I believe there remains a symbolism to the legal assertion of rights that underlines both their legitimacy and moral value. Acceptance of an optional protocol to CEDAW would also promote the development of a women-centred jurisprudence that is especially important in a decentralised legal system with no formal legislative power. It would also put CEDAW on a par with the other human rights treaty bodies and enhance its authority. This might then facilitate further educative and reporting functions.

Another continued point of hostility to feminist incursions has been the assertion of state responsibility for private abuse of rights where the state has failed to exercise due diligence to protect against such violence. This was an especially important aspect of the campaign against gender-specific violence. Such an inroad has apparently been accepted for political disappearances and arbitrary executions, as articulated in the *Velasquez case*.[20] But as explained by the Special Rapporteur on Disappearances, these are traumas that occur most frequently to men as a consequence of their greater involvement in political, public life.[21] There appears to be greater resistance to the same extension of liability for acts of violence committed in private against women. These are still too often dismissed as culturally based, trivial or justifiable. The attitude within mainstream human rights discourse is one of great reluctance towards extending human rights doctrines to embrace women's experiences. This attitude also serves to exclude new human rights abuses. Such

19 Leigh, "The Yugoslav Tribunal: Use of Unnamed Witnesses Against Accused" (1996) 90 *AJIL* 235 at 237; Chinkin, "Due Process and Witness Anonymity" (1997) 91 *AJIL* 75.

20 *Velasquez Rodriguez v Honduras* rep (1989) 28 *ILM* 294.

21 UN doc E/CN.4/1994/7 paras 715-716.

unwillingness to extend the parameters of human rights law does that law a disservice by failing to acknowledge its dynamism and tenacity. It also rejects the transformative potential of reconceiving state responsibility for the greater guarantee of rights of all persons in a wide range of very different private relations. For example, police connivance at gay bashing, or abuse of indigenous persons by private individuals would be more easily recognised and labelled as human rights concerns.

Another aspect of responsibility for private action comes from the increasing privatisation of state activity and economic deregulation in pursuit of free markets. The traditional objective of human rights law in protecting individuals against wrongful state intervention becomes less relevant where governments are promoting non-interventionist policies and abdicating public responsibilities by transferring essential services to the private sector, for example prisons, health care, numerous areas of employment, and even benefits systems. In Eastern Europe transition to the free market has been accompanied by impoverishment, corruption and crime, including a staggering growth in trafficking in women and children. Dismantling government regulatory frameworks has left a vacuum that is destructive of economic and social justice. The feminist debate as to the impact of the liberal public/private divide on the protection of women's rights is made more complex by this shifting boundary of the private sector with its potential for physical and economic exploitation and abuse, especially of the most vulnerable. In developing strategies to deal with this growing encroachment on human rights protection, people such as ourselves who have learned to take many rights for granted (for example paid workplace rights) should listen to and learn from those who have long been subject to many diverse forms of economic exploitation, including forced prostitution and trafficking. We have been complicitous in our role as consumers seeking out lower prices, but exploitative work practices make claims for equality in the paid work force seem farcical. The dichotomy between paid and unpaid work which was last recognised at Beijing is also too stark in these contexts that blur such distinctions. All these areas require further feminist explorations.

Yet while states are transforming their obligations internally this has not been mirrored externally where legal principles of sovereignty and statehood have been maintained, despite the pressures on them that I mentioned at the outset. The feminist project has not been seen by international lawyers and decision-makers as part of the mutating international legal order but as essentially appertaining to women's rights (which can be sidelined along with other human rights). Despite important feminist writings there has not been any radical change in international legal structures, sources, methodologies or substance that takes account of them. Feminist interventions in such areas as sovereignty, the powers of the Security Council and the UN in general, the laws of war, international economic law, democracy, disarmament, the use of force and the attainment of peace, the meaning of national and collective security, self-determination, the impact of economic sanctions, and the construction of citizenship (much of it by people at this conference) have had too little impact and are still largely ignored in mainstream and new approaches

writing, apart from the occasional footnote. I will give one example from the academic arena: Thomas Franck's work on fairness in international law.[22] This is a subject that one might have thought demanded inclusion of such interests but it is nevertheless silent on feminist interventions. It is perhaps unfair to single out one work, but this book is by a leading, authoritative figure who is attempting to appraise ways in which the formal legal system provides for fair and equitable outcomes. He has also been personally supportive of the feminist project and appears open to such critiques, but they are apparently not even for scrutiny in his own work.

The same attitude prevails within institutional structures. The General Assembly Declaration on the Elimination of Violence against Women is not perceived in its broader context of inter-state violence. Women were advised at Beijing that this was not the appropriate forum to make proposals with respect to macro-economic issues, resources for development, or peace and disarmament issues. These "important" issues would be advanced elsewhere, that is in male dominated or exclusive arenas. In the words of Janet Hunt, "while women could negotiate on health, education, and other 'social' issues, it seems it is still not internationally legitimate for us to negotiate in these 'tougher' areas".[23] Yet these are areas where many women have personal experience, have developed expertise and can make valuable contributions.

Perhaps a few comments on the sources of international law might extend this point further, as well as drawing the connection with the participants for change. Much of the progress that I outlined earlier has been NGO driven, often with either an academic base or with collaboration between NGOs and the academy. The maximising of resources through determination of the most effective ways to bridge the gap between the two for the development of further strategies is another topic for ongoing discussion. Despite statements of support for the benefits of international civil society, for example by the Secretary-General who has described its emergence as a means of engaging in dialogue with the governance to which the community belongs,[24] there is little opportunity for such dialogue in the international legal system. Opportunities for intervention that lead to changes in the formal, undisputed sources of law remain strongly under state control. NGOs are excluded from the processes of international law-making unless admitted by states, and from any form of dialogue in international proceedings before the International Court of Justice by the terms of its Statute. Although the drive, energy and innovative thinking on the optional protocol to CEDAW came from NGOs and independent academics, any decision on its final text and institutional acceptance will be taken by intergovernmental bodies, namely the Commission on the Status of Women and ECOSOC.

---

22 Franck, *Fairness in International Law and Institutions* (Oxford University Press, New York 1995).

23 Hunt, "Reflections on Beijing" (1996) 6 *Aust Feminist LJ* 39 at 40.

24 Report of the Secretary-General on the General Review of Arrangements for Consultation with Non-Government Organisations, UN doc E/AC.70/1994/5, 15 June 1994, prepared in accordance with ECOSOC decision 1993/214.

It will ultimately rest with states whether they choose to become parties or not. NGO representation on official delegations for treaty and other negotiations has increased. Their treaty monitoring and implementing role has also been acknowledged, for example in the Beijing Platform for Action. Nevertheless, states remain the agents for the conclusion of international commitments, including most so-called soft law instruments. Similarly, despite feminist analyses of the internal multiple agencies of the state, externally it is still perceived as a monolithic entity acting with a single purpose and speaking with a single voice for the purpose of assessing state practice as a constituent element of customary international law, and it is not a feminist defined purpose or a female voice. The traditional sources of international law are conservative forces of retention of the status quo, but they retain a tight grip on international law-making.

Throughout the summits the consistent recommendation has been that of empowering women through equalising (or at least improving) women's participation in national and international policy-making bodies. This too is indicative of an "add women and stir" approach, providing the form but not the substance of inclusive democratic decision-making. While broader participation would give the appearance of greater equity, there is no guarantee that it would lead to changed decisions and more genuine gender-awareness, or enhanced transparency and accountability. It does not challenge the structural role of the bodies themselves. Women appointed (or elected) to such positions would also have to learn the language and processes of the bureaucracies, no easy task in the case of the United Nations and its various agencies. Feminists would also have to face the probably inevitable conflict between "selling out" or remaining marginalised in a replay of the debates about femocrats within the national state bureaucracy.

There is also the danger that a more formal role for international civil society, for example through NGO participation in international decision-making bodies, might entrench the bias in favour of western NGOs with their greater financial and other resources. This could favour their agendas and priorities and lead to still further alienation and marginalisation of those that operate at grass roots levels in the various societies. This concern about "Whose feminist agenda?" that was widely expressed at Vienna was to some extend ameliorated at Beijing where for example poverty was made the first critical area of concern. However, the provisions on poverty and the related issues of multilateral debt and structural adjustment are inadequate. They do not challenge the assumption that structural adjustment, trade liberalisation and global capitalism are in the long term beneficial for all. They only tentatively suggest aid measures from developed countries and international agencies, and thus do little to address issues of redistributive justice. Women must work for greater inclusivity within their own networking and policy-making processes to ensure that cultural and other differences are treated with respect and openness in determining their own priorities so that these values are transported to national and international arenas. In the context of the so-called post-feminist era of Australian society, it was argued that "[t]o become responsive to difference, and supportive of

feminist campaigns around issues which affect either all or some women is essential".[25] The same is true for international feminists in this post Cold War international order. Perhaps we as women need to talk more about our responsibilities as well as our rights.

Finally, feminist interventions into international law can only have lasting impact if they are brought into domestic law and policy-making. Here collaboration between academics, activists and those in national positions of authority is essential. We need to study the language of international documents, draw upon analogies and strategies in other areas of international law that can be crafted to our benefit and bring these to the attention of all branches of government and the courts. We need to work to hold our governments to their public statements and to remind foreign governments of their promises. As academics we must hope that someone might grasp our messages. In the words of Hilary Charlesworth: "If women can achieve both inclusion in the mainstream of the international governmental arena to challenge male-defined understandings of global problems and achieve the national translation of international commitments concerning women, business can never be the same again."[26] What we have done so far is take the first steps. Understanding their limitations is not to discount them, but to seek to build upon them. Our work today must be both retrospective and forward-looking in determining continuing transformation approaches to international law for the benefit of all disadvantaged persons within the international arena.

25 Hughes, "Introduction" in Hughes (ed), *Contemporary Australian Feminism* (Longman Cheshire, Melbourne 1994) p10.

26 Charlesworth, Keynote Speech, Sixth International Interdisciplinary Congress on Women, Adelaide 23 April 1996.