and play leading roles in the formulation of policies within the Organization. They also show the unique capacity of the United States to provide leadership. Small and middle powers, such as Canada and the Netherlands, no matter how much good will or how many good ideas they may have, possess only limited influence and resources. France and the United Kingdom are deeply engaged in the creation of the European Union, which limits the effort they can devote to the United Nations. Japan is not yet a permanent member of the Security Council and has only recently voted itself the legal authority to participate in UN military operations.

The United States forced some United Nations budgetary reform in the 1980s by withholding funds, provoking a financial crisis. It dominated the UN enforcement activities in the Persian Gulf, promoted enhanced peacekeeping activities during the late 1980s and early 1990s, and played a leading role in the creation of the High Commissioner for Human Rights. It has long been resistant to any expansion of the UN role in economic activities.

All three books argue that there is a growing need for global governance—that is, something beyond intergovernmental cooperation. The North-South divide is but one of the reasons advanced for this; environmental concerns also receive prominent attention. The authors and editors provide many suggestions for steps in this direction. Clearly, before long, elements of greater democratic control will have to be introduced, and *Renewing the United Nations System* has an intriguing suggestion: the creation of a United Nations Parliamentary Assembly. In the meantime, the growing role of nongovernmental organizations, a phenomenon well covered by Weiss, Forsythe and Coate, provides a measure of popular participation.

These three books suggest that, even though some time in the future Japan and the European Union may be able to provide the needed leadership for UN reform, in the near term substantial progress will be made only if the United States can be engaged constructively. Unfortunately, they give few indications that the United States is likely to become more engaged, and few suggestions for ways in which it may be enticed to do so.

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Human Rights of Women: National and International Perspectives. Edited by Rebecca J. Cook. Philadelphia: University of Pennsylvania Press, 1994. Pp. xiv, 636. Index. $54.95, cloth; 22.95, paper.

It is a fact of nature that women are on the average physically weaker than men. Moreover, they pay the physical price for perpetuating the human species; during their child-bearing and child-nurturing years they are especially weak and vulnerable. It seems to me that an advanced civilization would compensate women for these physical differences and responsibilities. Not merely assigning women the same rights as men, it would grant them superior rights, including higher wages for equal work. "Civilization," as I see it, is a measure of the distance we have come from behaving like animals.

Some animal species engage in cooperative behavior, but on the whole animals decide questions of life, death and privilege on the basis of physical power and brute force—Simone Weil said in a different context that this is the very definition of "injustice."[1] This bullying behavior occurs across species (predators against prey) but also characterizes within-species behavior: if an animal is weak, lame or infirm, other animals of its own species may kill or abandon it. In looking at the animal kingdom from which we have descended, we might consider focusing our attention on brute physical force rather than on gender. For in some animal species, the female is stronger than the male. Bullying is characterized by picking on the weaker animal, irrespective of gender.

Consider the hypothetical "advanced civilization" at one end of a spectrum and the animal world at the other: where should we locate the human race of today? I think we are clearly closer to the animal end than to the advanced civilization end. Stronger people still act savagely toward their weaker fellows, enlisting the support of governments and institutions in their bullying. To be sure, we have come a noteworthy distance from the animal end of the spectrum. In highly industrialized countries in recent times, women have launched the most important social and cultural revolution in human history. Their goal of legal, social and economic

[1] "The supernatural virtue of justice consists in behaving exactly as though there were equality when one is stronger in an unequal relationship." SIMONE WEIL, WAITING FOR GOD 143 (Emma Craufurd trans., 1973).

equality with men in these countries, while not achieved, is closer. Yet the degree of achieved progress in these countries is less a cause for rejoicing than a bitter reminder of how severe and widespread is the subordination of women in many others. In Asia and Latin America, we still find overtly patriarchal societies, where government officials look the other way when husbands abuse wives; where men rape young women with impunity; where child prostitutes are manipulated and controlled by adults, including their parents; where girls are sold into marriage. Some African countries continue to tolerate the savage procedure of female genital mutilation. In much of the Islamic world, women are treated as "second-class citizens"—a term many observers in those countries regard as a euphemism for slavery.

The contributors to the book under review, who have poignantly described and analyzed the vastness of the inequality in present-day human society, include Cecilia Medina and Maria Isabel Plata (Latin America); Chaloka Beyani, Adetoun Ilumoka and Florence Butegwa (Africa); Kirti Singh (India); Asma Mohamed Abdel Halim (the Sudan); Akua Kuenyehia (Ghana); and Sara Hossain (South Asia). My heart goes out to the courageous advocates for women's rights who work in countries where patriarchy is so entrenched that they risk arrest by the government or physical injury by vigilantes of the status quo.

If humankind is slouching fitfully toward advanced civilization, it is not because people have suddenly become more moral than they were in the past; we have only to recall that history's worst genocides have occurred in this century. Rather, progress on the women's rights front has come primarily from the spread of information—women's education, books and television—with a boost, I will argue later, from law. The contributors to the present volume are manifestly aware of the informative power of the media, and they advocate many information-action programs. Within this area, "rights talk" is a rhetorical tool of special interest to lawyers. Celina Romany and Rahika Coomaraswamy contend that, with appropriate qualifications, rights talk can be empowering in the struggle to achieve equal rights for women. The rights talk can focus on specific rights for dramatic effect in certain contexts, as nicely demonstrated by Rhonda Copelon's plea for using the discourse of torture in domestic violence cases and by Ms. Coomaraswamy's counterintuitive observation that the discourse of motherhood can usefully be enlisted in the cause of women's rights in South Asia.

There is no question that this book, and Dorinda G. Dallmeyer's collection entitled *Reconceiving Reality: Women and International Law* (1993), are at the present time the two key volumes for any library wishing to be represented in the area of the international rights of women. On the issue of women's rights in Islamic countries, these two books can usefully be supplemented by Ann E. Mayer's *Islam and Human Rights* (2d ed. 1995).

Without taking anything away from Professor Cook's impressive job in assembling the 1992 symposium at the University of Toronto that resulted in this book, I think that international law discourse on women's rights could be sharpened and improved by the inclusion of critics, dissenters or devil's advocates. The impressive contributors to the present volume—twenty-three altogether, including four men—all stand on the same side of the fence. If we rightfully criticize a sole author who fails to take adequate account of her opponents, then in reviewing a multiauthored book we should not lose sight of the overarching goal of the search for truth that ought to animate the academic enterprise. It is hard to feel confident that we are getting closer to the truth when there is a one-sided presentation of views on a highly charged topic, whether it occurs in a single-authored or a multiauthored volume.

In principle, each author in a book like the one under review could make sure that his or her individual contribution contains a fair and adequate accounting of opposition views. In fact, none of the contributors to the present volume do this, although some essays certainly reflect their author's familiarity with opposing positions. I have in mind the excellent contributions by Joan Fitzpatrick on international norms and violence against women and by Asma Abdel Halim on challenges to the application of women's rights in the Sudan. But on the whole this book may illustrate the tendency, when a vital issue like women's rights is being discussed, toward radicalization and simplification of one's advocacy (in order not to be upstaged by the next speaker), coupled with a reluctance to assign valuable, limited space to the views of opponents. Although most of the essays in fact strike me as remarkably restrained, sometimes radicalization is apparent in the omission or glossing over of important issues. Thus, although consid-

erable attention is paid to women's rights in Africa, there is little mention, and no analysis to speak of, regarding genital mutilation. Many pages are devoted to domestic violence, but the problem of domestic violence among lesbians is simply mentioned and dropped. Both these issues raise the question of violence of women against women. The fear of being labeled not "politically correct" may inhibit many outside writers from dealing with such issues, but surely a symposium on women's rights is the ideal place to raise and analyze them.

In such a symposium, the contributors might question, for example, whether violence against women might not be so much gender-based as "bully"-based—the animalistic tendency to pick on weaker individuals. The case of genital mutilation arguably fits into this scheme, because typically, older women pressure a twelve-year-old child to undergo a clitoridectomy. Lesbian violence fits it as well, because the physically weaker woman typically is the victim. It would have been interesting to see the talented contributors to this book check such matters as genital mutilation and lesbian violence against their unstated paradigm that women's rights depend solely on the fact that the beneficiaries are female. For that paradigm itself may turn out to be disempowering in some respects. To say, "Give us more rights because we are women" could be less persuasive to a general audience than to say, "Give women more rights in order to correct the historic injustice of deciding questions on the basis of force and allocating rights on the basis of physical strength." At least, it seems to me, that is one of several subjects that a symposium on women's rights could usefully explore. It could be triggered by closer attention to cases that on the surface may appear marginal or anomalous—cases such as genital mutilation and lesbian violence.

Sometimes the radicalization that results from a one-sided collection of participants occurs at the expense of international law. Both Hilary Charlesworth and Rebecca Cook seem able to criticize international law for its doctrinal failure regarding the rights of women and then, without missing a beat, criticize states and governments for their failure to apply and implement international law doctrine. It would have been interesting to see the response of Charlesworth and Cook to Barbara Stark's claim, made previously in Dallmeyer's book, that the language of rights in the 1966 Covenant on Economic, Social, and Cultural Rights actually privileges women over men. Or take the symposiasts' general approval of "rights talk" as an important legal-rhetorical tool in the development of human rights. This position might have been greatly improved and refined had the conference included a leading rights-talk skeptic like Mary Ann Glendon. Although Charlesworth questions rights discourse as a whole and believes it should be reformed, she approves of it as a strategy.

The only contributor to the present volume who is mildly skeptical of rights talk is Ilumoka. She argues that rights talk in authoritarian societies may result in simply replacing the prevailing definition of morality (which an authoritarian group in power has harnessed to its own use) with an alternative version promoted by a new group that seeks to supplant the establishment and seize power for itself. Thus, rights talk may fail to address the prior and more critical fact of monopolistic governmental power. I would have liked to see some concrete examples of how Adetoun Ilumoka's argument actually worked in the practice of one or more countries. As the argument stands, it is perhaps couched in such abstract terms that it cannot be tested against possible falsification. And it ought to be compared to Patricia Williams's observation, quoted by Charlesworth, about African-Americans who say that rights talk "feels so new in the mouths of most black people. It is still so deliciously empowering to say. It is a sign for and a gift of selfhood."[2] Perhaps those of us who are overly familiar with rights talk and its limitations do not sufficiently appreciate its power for so many women throughout the world who are just on the brink of questioning the subservient status that their societies have assigned them.

The most influential participant at the symposium appears to have been Charlesworth. Although her influence on the other symposiasts is surely due to the fact that she is a gifted, persuasive and invariably interesting international scholar, it is also a consequence of her radical view of international law. She has set up her radicalism as a sort of standard of aspiration. Not only does she believe that the content of present international law, including international human rights law, does not go far enough to advance genuine feminist concerns, but she goes beyond this traditional critique in accusing

[2] Patricia J. Williams, *Alchemical Notes: Restructuring Ideals from the Deconstructed Rights*, 22 HARV. C.R.-C.L. L. REV. 401, 431 (1987).

international law itself for having an androcentric nature that privileges a male view of world society. The analogy that came to my mind as I read Charlesworth's contribution to this symposium and reflected on other of her recent essays is that of blaming the poor construction of a house on the tools used in its construction. But even that trite metaphor does not quite capture Charlesworth's approach. Rather, it seems to me, her position is like criticizing a house for having oppressively straight walls that meet each other at 90-degree angles and unnaturally level floors that do not tilt, and then blaming the end product on the fact that the T square was set at 90 degrees instead of 80, the saw was *not* warped, and the nails were excessively straight! Charlesworth writes:

> [L]aw is part of the structure of male domination. Its hierarchial organization, its adversarial format, and its aim of the abstract resolution of competing rights make the law an intensely patriarchal institution. Law represents a very limited aspect of human experience. The language and imagery of the law underscore its maleness: it lays claim to rationality, objectivity, and abstraction, characteristics traditionally associated with men, and is defined in contrast to emotion, subjectivity, and contextualized thinking, the province of women. (p. 65)

I think that a number of things go quite wrong with Charlesworth's approach. First, if she wants to use law to transform an oppressive society, she might be better off taking law as it is, with all its rationality, objectivity and abstraction. If you want an unusual house and are dissatisfied with existing models, you are better off using traditional tools rather than eccentric ones, because the latter are less likely to produce the house that you want—the resulting house may well be skewed, but in a quite different way from what you had in mind. My second point has to do with the commonality of discourse. If you want to sell products in Japan, there is little point in writing essays criticizing the cumbersome nature of the Japanese language and suggesting transformations; you would be better off simply learning it. Analogously, public international law is a language, remarkable in its universality. As a matter of strategy, a legal scholar interested in women's rights (and as far as I am concerned, that means every legal scholar) can better reach out to the unconverted by using their language than by trying to change it.

Third, the absence of law (even androcentric law) can be catastrophic for women: consider the brutalization and slaughter of women in lawless Bosnia and in the Japanese invasion of China in the 1930s. Fourth, the very origin of law, as Guido Calabresi and Douglas Melamed said in a famous essay, was to get rid of "might makes right" as a dispute settlement mechanism.[3] Law is a *substitute* for force. The legal system and its enforcement authorities are sometimes the only recourse that domestic violence victims have. These considerations lead to a fifth point that law itself, considered even in formal terms, can be a civilizing force. At the semantic level, "law" is a concept that works toward the limits of its logic. As Lon Fuller put it, law has an "inner morality" that makes it strive toward generality.[4] Once stated, any rule of law seems to have an internal impetus to become increasingly general in its application. This is fueled in part by ease of application: a rule of law is easiest to interpret when it applies to all persons equally. To be sure, legal language is capable of differentiation. Rules can be couched in terms that confer benefits on one group and not another; a statute may be applicable expressly to "men." Yet, when the term "men" is used in legal documents, such as the United States Constitution, the tendency of courts is, rather easily and often without even mentioning the point, to construe it as applying to men and women. "Law" evokes the image of a level playing field; we think of trials as giving plaintiff and defendant an equal and fair chance to convince an impartial judge.[5] To the extent that scholars persuaded by Charlesworth might wish to transform law into something more particularized, contextualized and emotional, they may find the resulting product employed to their detriment by the forces of incivility.

Last, I think international law is to some extent the victim of a "bad rap" in Charlesworth's hands. Although I have no doubt that international law in content and in form can be improved in the direction of moving toward the

[3] Guido Calabresi & A. Douglas Melamed, *Property Rules, Liability Rules, and Inalienability: One View of the Cathedral*, 85 HARV. L. REV. 1089 (1972).

[4] LON L. FULLER, THE MORALITY OF LAW 46–49 (2d ed. 1969).

[5] With a U.S. judiciary increasingly less dominated by men than it was in the past, it is interesting to note that in child custody cases the courts have moved *away from* their prior tendency almost invariably to award the child to the mother.

more advanced civilization that I mentioned at the outset of this review, it is also true that with respect to women's rights international law scores well in comparison to the national law of any of the 190 nations in the world today. International law, especially with its human rights treaties, seems more progressive than the constitutional law of the most advanced states, not to mention the patriarchal states. In order to raise the standards of the latter, it may be more effective to criticize them for failure to apply and implement existing (neutral, rational and objective) international norms[6] than to degrade the standard by branding the norms as insufficiently irrational and overly androcentric.

Although Charlesworth is surely aware of criticisms of this type, it seems to me that her views may have influenced some of the symposiasts into taking international law less seriously than they might have. With notable exceptions, the contributors to the book under review seem to view international law as little more than bits and pieces of rhetoric that can be selected to suit one's purpose. This results in a partial diminution in the degree of scholarly persuasiveness that an exemplary volume such as this one rightfully deserves.

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Human Rights in the Private Sphere. By Andrew Clapham. Oxford: Clarendon Press/New York: Oxford University Press, 1993. Pp. xxxvii, 373. Index. $68.

When the system of international human rights started to take form a half-century ago, most observers would have agreed with one cardinal observation: individuals hold the rights while states bear the duties. The human rights movement was intended to curb state abuses and protect individuals.

As that movement developed, this description of its character came to appear too dogmatic. Qualifications grew until it became apparent that history had wrought a change in the human rights project itself. Of course, states remained the primary concern; it continued to be the vital purpose of human rights norms to control such dangerous abusers. But treaties and decisions constructed a sturdy body of doctrine that also imposed on the state the duty to influence and regulate the conduct of nonstate actors. The once crisp line between the reach of international law to state and to nonstate actors—or, more broadly, between the realms of the so-called public and private—blurred. A related reconceptualization of the public/private distinction had potent consequences for the human rights movement as a whole.

Such is the terrain that Andrew Clapham explores in this adventuresome and timely book. Clapham dispatches the tenacious older beliefs, at least in their absolute and dogmatic form, to the dustbin of history. He does so principally through analysis of the regional human rights system on which the book concentrates: the norms and institutions of the European Convention on Human Rights, and the effect of that Convention on the United Kingdom's internal legal order.[1] But his book's lesson surely transcends its regional boundaries. With respect to the public/private divide, the Convention here expresses trends that characterize the broader human rights movement, even if its institutions and the courts of member states have carried them further.

This is no dry account by an unconcerned observer. Clapham builds his argument as an assiduous researcher and careful analyst, but also as an advocate of social justice. He portrays the trends in thought and doctrine undermining the older beliefs, while advising the reader of their beneficial consequences for humanity. Drawing on several schools of jurisprudence, not least legal realism and critical legal studies, Clapham underscores the inadequacy, as a matter of logic and as a way of understanding the world, of attempting to cabin the public and the private, each in its appropriate sphere. He comments on the ideological motivations for any such attempt, and he points out the conservative implications for both political analysis and social reform of viewing the private realm as radically distinct from the public. Systemic social injustice and abuse stem from nonstate

[6] For an example of the kind of constructive critique that I think is precisely on target, see Anna Jenefsky's analysis of Egypt's reservations to the Convention on the Elimination of Discrimination against Women, in INTERNATIONAL LAW ANTHOLOGY 130 (Anthony D'Amato ed., 1994).

[1] Clapham also discusses from similar perspectives the European Union and its Court of Justice. This book review considers only the bulk of his argument involving analysis of the Convention system and its implications for national legal orders.