

Boston University School of Law

Scholarly Commons at Boston University School of Law

Faculty Scholarship

2013

Feminism and the Future of African International Legal Scholarship

Erika George

Follow this and additional works at: https://scholarship.law.bu.edu/faculty_scholarship



Part of the [Law Commons](#)





DATE DOWNLOADED: Tue Aug 13 14:51:31 2024

SOURCE: Content Downloaded from [HeinOnline](#)

Citations:

Please note: citations are provided as a general guideline. Users should consult their preferred citation format's style manual for proper citation formatting.

Bluebook 21st ed.

Erika George, *Feminism and the Future of African International Legal Scholarship*, 107 AM. SOC'Y INT'L L. PROC. 192 (2013).

ALWD 7th ed.

Erika George, *Feminism and the Future of African International Legal Scholarship*, 107 Am. Soc'y Int'l L. Proc. 192 (2013).

APA 7th ed.

George, Erika. (2013). *Feminism and the Future of African International Legal Scholarship*. American Society of International Law Proceedings, 107, 192-194.

Chicago 17th ed.

Erika George, "Feminism and the Future of African International Legal Scholarship," American Society of International Law Proceedings 107 (2013): 192-194

McGill Guide 9th ed.

Erika George, "Feminism and the Future of African International Legal Scholarship" [2013] 107 Am Soc'y Int'l L Proc 192.

AGLC 4th ed.

Erika George, 'Feminism and the Future of African International Legal Scholarship' (2013) 107 American Society of International Law Proceedings 192

MLA 9th ed.

George, Erika. "Feminism and the Future of African International Legal Scholarship." American Society of International Law Proceedings, 107, 2013, pp. 192-194. HeinOnline.

OSCOLA 4th ed.

Erika George, 'Feminism and the Future of African International Legal Scholarship' (2013) 107 Am Soc'y Int'l L Proc 192 Please note: citations are provided as a general guideline. Users should consult their preferred citation format's style manual for proper citation formatting.

Provided by:

Fineman & Pappas Law Libraries

-- Your use of this HeinOnline PDF indicates your acceptance of HeinOnline's Terms and Conditions of the license agreement available at

<https://heinonline.org/HOL/License>

-- The search text of this PDF is generated from uncorrected OCR text.

-- To obtain permission to use this article beyond the scope of your license, please use:

[Copyright Information](#)

regional bodies (ECOWAS, AU, EAC, SADCC, COMESA, the African regional human rights system) to recover the African state. The idea was to reconstitute the fabric of the state by deploying home-grown liberal norms and through African institutions. These scholars now focus on questions of regional economic integration, technology innovation, gender equality, international criminal law (ICC, Rwanda, Sierra Leone), and local entrepreneurship.

THE FUTURE

In the midst of these changes and contestations, younger African scholars have latched on to TWAIL, which is both rejectionist and reconstructionist (it rejects the racist roots of international law and its exploitative normative assumptions) and seeks to reconstruct a more equitable international legal regime. The African university is again on the ascendant—as evidenced by the works of Professor Peter of Tanzania, Professors Sylvia Tamale and Joe Oloka Onyango of Uganda, and so many others in West Africa. Many of them look inward and often collaborate with post-colonial scholars in the West. Their project remains one of an uneasy relationship with international law.

FEMINISM AND THE FUTURE OF AFRICAN INTERNATIONAL LEGAL SCHOLARSHIP

*By Erika George**

Since the American Journal of International Law published the ground-breaking article, “Feminist Approaches to International Law” by Professors Hillary Charlesworth, Christine Chinkin, and Shelley Wright in 1991, there has been significant increase in the material written about the ways in which international law has failed to take account of the challenges faced by women or to appreciate women as relevant. The aim of the article was to urge a rethinking and revising of the structures and principles that exclude most women’s experiences. It highlighted the fact that feminism in the Third World was doubly at odds with the dominant male discourse in society. As feminist approaches gained appreciation in the academy and women gained power in the policy arena, divisions appeared over difference. While there was great interest on the part of Western feminists to intervening to halt harmful cultural practices that injured women, there was less appreciation for the work of African women activists and writings published by women from Africa and the African Diaspora. A new literature acknowledging the insights of earlier scholars seeks to address the differences that have divided feminists over questions of difference and invites the women’s human rights movement to reconsider the myriad ways in which women on the continent and in other developing countries could secure the equal dignity promised in international human rights instruments not by demanding autonomy but by strategically deploying social connections.

In her book, *From Cape Town to Kabul: Rethinking Strategies for Pursuing Women’s Human Rights*, Dean Penelope Andrews proposes the concept of “conditional interdependence” as a way of dealing with the difficulty of gender inequality across cultural differences. She presents conditional interdependence as a new frame for fashioning strategies to provide a pragmatic and possibly successful way out of a central challenge that confronts so many women’s rights activists around the world—claims that culture, tradition, or religion require

* Professor of Law and Co-Director, Center for Global Justice, S.J. Quinney College of Law, University of Utah.

women and girls to occupy a status subordinate to men. Far too frequently, claims of competing rights to enjoy culture or to engage in religious practices are used to obstruct the equality aspirations of women and girls and ensure continued subordination. Andrews argues that the progress of the global women's rights movement has been "incomplete and erratic," yielding uneven benefits despite decades of feminist legal advocacy because the movement failed to take account of the diverse range of women's experiences and the differences in women's status and roles. Women around the world must deal with varying degrees of domination on the basis of gender difference justified by culture, custom, religion, or tradition. Conditional interdependence calls for women's differences and the different cultural contexts in which they live their lives to be taken into account in rights advocacy.

Andrews compares efforts to ensure women's equality in two very different countries to test her conditional interdependence concept. She contrasts the struggle of women in South Africa, a country emerging from the atrocities of apartheid, with that of women in Afghanistan, a country emerging from the gender apartheid of Taliban rule after years of war. Initially, the countries Andrews elects to examine in the book, *South Africa and Afghanistan*, appear quite disparate. Her articulation of the interdependence between poverty and the rights abuses women encounter, however, makes clear the challenges common to women in both countries and the limits of the prevailing paradigm for pursuing women's rights in transitional societies.

For Andrews, the Western paradigm of women's equality predicated on the concept of an autonomous agent enjoying independence is an impoverished way of understanding equality in that it fails to appreciate context and cannot account for the full range of women's experiences. For example, independence and autonomy are much more difficult for a woman to obtain if she is impoverished. Indeed, she may rely on others in the community for resources and forms of support that are enriching. The central insight Andrews offers is that it is *interdependence* in the form of relying on a web of community connections, rather than independence, which may be more likely to advance the cause of women's rights in developing societies during transitional periods.

Andrews offers a theoretical approach premised on a web of connections—an approach that perhaps bring us closer to answering the provocative questions she poses concerning progress towards ensuring equality for women. For example, she asks: (1) How does a society emerge from a long and brutal history of conflict, dispossession, and discrimination, and begin to envision the project of gender equality? (2) How does a society lay the foundation for advancing equality? (3) How does law interact with other societal processes such as culture and education? (4) How does a society strike a balance between religious or customary practices that are seen as sacred and the secular nature of rights enforcement? (5) How does a society advance women's equality when enormous economic inequalities, social upheaval, and cultural contestations hold back progress in general?

Conditional interdependence is rooted in communitarian traditions and reinforces the observation that the community has a role to play in protecting women. From this Andrews follows the possibility that a truth commission process could play a role in redressing violations of women's rights in transitional societies to promote transformation.

Andrews acknowledges a debt to earlier feminist work. She writes that her "book draws on theoretical approaches of feminist and other critical legal schools." While she "[c]elebrates the ways in which the feminist legal project has substantially improved the lives of women," Andrews also "laments failure to capture truly transformative potential." Andrews is no stranger to transformative efforts to ensure equality. She is uniquely qualified to offer the expansive examination of the role of global strategies to protect women's rights delivered

in *From Cape Town to Kabul*. Preceding her distinguished career in the academy, Andrews lived under and opposed apartheid rule. Her participation in a transformative paradigm informs her effort to share the hard lessons learned from the South African experience.

Accordingly, Andrews is not of the view that the insights and strategies of feminist advocates should be discarded or modified. Rather, she argues that given the cultural uncertainties and entrenched economic, political, and legal inequalities confronting women from Cape Town to Kabul, it is appropriate to rethink what is regarded as universal. Accepting Andrews' account thus requires a reconsideration of not only how to synthesize universal strategies with local needs but also how to realize that local strategies and approaches influence conception of what is universal.

Andrews reviews the transitions in South Africa and Afghanistan as enshrined in the respective country constitutions. From the hard work of the South African women, who crafted the Women's Charter incorporating the aspirations of women in a new democracy, came constitutional provisions on equality that are a testament to their efforts. The true test has been dislodging a patriarchal power structure in both public and private spheres in post-apartheid South Africa. The Afghan constitutional effort also yielded equality protections for women. The efforts of Afghan women and their allies to realize equality have often been met with violent resistance. Notwithstanding rights rhetoric, Andrews observes that women's rights risk being relegated to a minor concern when post-conflict societies undergo major political and economic transformation. To counter this tendency, Andrews argues that more effort must be devoted to enlisting more men as agents of transformation in transitional societies, an often overlooked ally in women's rights movements.

There are lessons to be gleaned for both academics and activists far beyond Cape Town and Kabul in Andrews' work. When *Feminist Approaches* appeared, it called for a study of international law and set out the dual aims of challenging existing norms and devising a new agenda for theory. Andrews' *From Cape Town to Kabul* is an effort that not only takes up the challenge of charting a new course for theory, but also invites a new agenda—to move beyond study to a theory around which to organize strategies to transform women's experience in countries emerging from conflict, massive human rights atrocities, and dire poverty. As an example of new literature on Africa and International Law, Andrews' efforts represent an important development in African international law scholarship that moves beyond the immediate post-liberation period to the future. The new African scholarship signals a shift to the growing appreciation for the "interconnectedness of political, economic and social rights and the centrality of women's rights as human rights." Aid to transitional societies should take into account the web of relationships—and the places where women reside within these webs—in order to take advantage of the transformative power of equality.

THE PAST AND FUTURE OF AFRICAN INTERNATIONAL LAW SCHOLARSHIP: INTERNATIONAL TRADE AND INVESTMENT LAW

*By Uche Ewelukwa Ofodile**

There is no better time than the present to discuss the past and future of African international law scholarship in the field of international trade and investment law. On the economic front, most countries in Africa have recorded very strong and impressive growth in the past decade. Today there is wide acknowledgement that the African continent is becoming a force in the

* Professor of Law, University of Arkansas School of Law.