

between international law and international relations, and for this reason should be required reading for all students of international law.

*Sophie Rigney**

Legal Feminism: Activism, Lawyering and Legal Theory

Ann Scales

New York: NYU Press, 2006, pp 231, \$59.95

To go against the status quo is undoubtedly controversial. But it is more important to ask such questions as ‘what is the status quo?’, ‘who created it?’ and ‘is the status quo an absolute?’ In *Legal Feminism*, Ann Scales suggests answers to these questions through a feminist-oriented discussion of legal jurisprudence and the concept of law. Its discussion brings into sharp focus issues of taking the law for granted, why we believe so implicitly in the law, how we practice the law, and the danger of conservatism and complacency in the legal context. This text approaches these issues on both a theoretical and practical level.

Legal Feminism outlines both the history and hypothetical futures of legal jurisprudence, looking critically at the way we think about the law. Under examination are the conundrums of the duality of subject and object, certainty and doubt, practicality and scepticism. These are discussed with a clarity often lacking in philosophical texts. Questions are posed in a way that provokes analysis and in-depth consideration and refuses to take the premise of the law for granted.

On a practical level the book is well structured and accessible. Scales explains lesser known concepts such as epistemology, legal positivism and epidemiology, without being patronising. She gives useful, concrete illustrations and practical applications of her ideas throughout the text; her examples and illustrations range from the historical to the modern day. One criticism of the book’s structure, particularly for the legal reader, is the use of endnotes instead of footnotes (the referencing is quite extensive). This is quite frustrating and detracts from the flow of the discussion. However the introduction does give readers an effective road map of what to expect and each chapter builds on the arguments of previous chapters in an effective way.

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In reviewing a book on feminism it is tempting to get locked into a defensive mode, following 'I'm not a feminist but...' type arguments. As Scales herself comments, '[t]he charge of contentiousness flows from daring to name gender hierarchy as something other than natural and neutral'.¹ A reader should approach the subject as if it were a *tabula rasa* for legal theorists, setting aside preconceived notions of what 'feminism' might imply. Scales points out that the ideas her book explores are meant to be inclusive and relevant to all interested in jurisprudence. As such they are not confined to narrow areas of the law, and are applicable to readers of any gender.

Following this idea of inclusiveness, *Legal Feminism* examines liberalism at work and how it is often passed off as neutrality, subjective ideas being cloaked in objectivity. 'The rule of law' is examined in its role in legal discourse. Scales urges a serious consideration of what this concept really means, and whether for some it has become largely empty rhetoric.² Scales says, 'I've subsequently realized how often the phrase "rule of law" substitutes for serious discussion of the most basic question of jurisprudence. What does it mean for an utterance to be called "law"? Is it just any old thing that a legislature or king says?'³

When the conceptual bases of why a law is considered a 'law' are examined, the consequence is that the process of re-evaluation of existing laws and the theoretical bases of legal decisions is also opened. In this vein, Scales discusses the concept of equality to see how it works in practical terms. It should be noted that the feminist perspective espoused is not operating under a pretence that all people should be treated as if gender did not exist. Rather, that it should not be a reason for justifying subordination of any group of people. To quote from the text, '[i]njustice does not flow directly from recognizing differences; injustice results when those differences are transformed into social deprivation'.⁴

The book has an Anglo-American focus, which makes some commentary not as relevant for an Australian audience. Scales herself laments the growing insular nature of United States law, however she engages in a comparative consideration of Canadian laws, which is insightful and astute. The work is globally applicable in many respects. Scales includes

¹ A Scales, *Legal Feminism: Activism, Lawyering and Legal Theory*, New York University Press (2006) 8.

² For example Scales queries whether the 'rule of law' applies to the liberators, citing George W Bush's memorandum that the Geneva Conventions did not apply to US invasions of Afghanistan and Iraq.

³ Note 1 at 18.

⁴ Note 1 at 94.

examples such as military conscription, the war in Iraq and ‘toxic tort’⁵ cases, which transcend national borders. In this reviewer’s opinion *Legal Feminism* is a must-read for anyone seeking to challenge and test their underlying views of the law in the contemporary world.

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⁵ Examples are Bendectin, an anti-morning sickness medicine associated with severe birth defects, anti-lactation medication Parlodel associated with strokes; DES: an anti-miscarriage drug linked to cancer in children, and Thalidomide, the anti-morning sickness drug which caused serious birth defects.

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