

## EDITORIAL COMMENT

### SEX, GENDER, AND SEPTEMBER 11

The October 2001 issue of the *American Journal of International Law* contained several editorials on the international law implications of the hijackings of September 11, 2001, and their aftermath.<sup>1</sup> In one respect these editorials resemble other writings on these events in academic and popular media: questions of sex and gender are largely overlooked.<sup>2</sup> In our view, however, concepts of sex and gender provide a valuable perspective on these devastating actions.<sup>3</sup> We use the term “sex” here to refer to issues about women as distinct biological beings from men, and the term “gender” to encompass social understandings of femininity and masculinity. Although the value of this distinction is much debated among feminist scholars, we find it helpful in this context.

#### I. SEX: WHERE ARE THE WOMEN?

As the events first unfolded, women were invisible, except as victims alongside men. Men made all of the crucial decisions involved in the hijackings and the responses to them. No women have been identified among the hijackers and their backers. In contrast, terrorists have been linked with a particular form of masculinity and been termed “deadly heroes.” The terrorist is “a fanatic of dedication, a mixture of impetuosity and discipline; he is desperate and therefore vulnerable; he is totally at risk and therefore brave; he an idealist yet a hardened realist. Most of all he is someone wholly given over to a passion. But his passion is death.”<sup>4</sup> This profile fits the hijackers, at least some of whom seemed to dislike and distrust women deeply. One of the suspected leaders of the mission, Mohammed Atta, left behind a will specifying that no women were to attend his funeral. The only role contemplated for women in the various documents attributed to the hijackers was as virgins to welcome them into paradise, offering an erotic reward for those who passed the test of manhood.<sup>5</sup> The portraits of heroism in the United States after the hijackings have also been largely of men: Mayor Rudolph Giuliani, the firemen, the police officers, the rescue workers who raised the United States flag in the wreckage. The role of women police and firefighters in the emergency work after the various crashes has been given strikingly little exposure.

The major White House players devising a response to the hijackings have also all been men. President George Bush, Secretary of State Colin Powell, Secretary of Defense Donald Rumsfeld, and Attorney General John Ashcroft have been presented publicly as the crucial decision makers and spokespersons. The one woman in a publicly prominent White House position, Condoleezza Rice, head of the National Security Council, has played a relatively limited overt role in responding to the hijackings and the war in Afghanistan. The intense effort by the United States to build an international coalition against terrorism was similarly a men-

<sup>1</sup> Editorial Comments, 95 AJIL 833–48 (2001).

<sup>2</sup> A notable exception is Catharine A. MacKinnon, *State of Emergency*, WOMEN'S REV. BOOKS, Mar. 2002, at 7.

<sup>3</sup> See generally Marysia Zalewski, *Well, What Is the Feminist Perspective on Bosnia?* 71 INT'L AFF. 339 (1995).

<sup>4</sup> ROBIN MORGAN, *THE DEMON LOVER: ON THE SEXUALITY OF TERRORISM* 57 (1989).

<sup>5</sup> Stephen Franklin, *Letter to Hijackers Gave Instructions*, CHI. TRIB., Sept. 29, 2001, at 1.

only event. The vacant post of U.S. representative to the United Nations was filled immediately after the terrorist attacks, on September 14, 2001, by Ambassador John Negroponte. All four of his deputies are men. The diplomatic initiative involved President Bush, Secretary Powell, and Secretary Rumsfeld speaking directly to the heads of state of many countries, who were almost all men, especially within the crucial Islamic states such as Pakistan, Saudi Arabia, and Sudan. One of the few women leaders courted in the coalition building, President Megawati Sukarnoputri of Indonesia, was presented as unreliable and erratic because of her doubts about participating in the coalition. Another significant player, United Kingdom Prime Minister Tony Blair, became a global ambassador for the U.S.-led coalition, elaborating the case against Osama bin Laden and Al Qaeda more fully than the White House.<sup>6</sup>

International law derives from actions taken in the international arena and the reaction to them. The identity of the participants in these processes is significant. Women's voices and experiences are regarded as unimportant when issues of "homeland security," war, and retribution are at stake. The absence of women's voices in the formation of international law in this context skews its development and undermines its legitimacy. It may also portend some deep linkages and connections between the various protagonists in the events of September 11, however at odds they may appear to be. The absence of women from all sides in decision making about this conflict reflects the global underrepresentation of women in public life.<sup>7</sup> The strategic objective of the Fourth World Conference on Women in Beijing in 1995 to "ensure women's equal access to and full participation in power structures and decision-making"<sup>8</sup> has been paid little attention.

Nonstate actors also shape expectations about appropriate laws and policies. The media wield significant influence in this context. For example, Michael Reisman has noted that "the media appear able to play a preponderant role in invoking international decision by presentation of graphic images of human rights violations and insistence that a remedy be provided."<sup>9</sup> It is noteworthy, then, that men have dominated media commentary and analysis in the United States.<sup>10</sup> For example, of the almost fifty opinion pieces featured in the *New York Times* in the first six weeks after the attacks, only two were by women. The only consistent coverage of women in the first two months after the attacks concerned victims of the disaster, particularly the widows of men killed, and those women themselves killed by the hijackers. Hollywood executives have announced a campaign to contribute to the "war against terrorism" by presenting patriotic, male images in connection with September 11.<sup>11</sup> The other side of the war, such as the great human suffering and destruction of shelter and services in Afghanistan caused by the bombing, and the floods of refugees that have resulted, has received little notice. Indeed, executives of national and local news services in the United States issued instructions that no prominence be given to reports of civilian injuries or deaths in Afghanistan because it would be perceived as unpatriotic.<sup>12</sup>

<sup>6</sup> *Full Text of Tony Blair's Speech to Parliament*, GUARDIAN UNLIMITED (Oct. 4, 2001), at <<http://www.guardian.co.uk/Archive/Article/0,4273,4270304,00.html>>.

<sup>7</sup> HILARY CHARLESWORTH & CHRISTINE CHINKIN, *THE BOUNDARIES OF INTERNATIONAL LAW: A FEMINIST ANALYSIS* 174-76 (2000).

<sup>8</sup> United Nations Fourth World Conference on Women, Declaration and Platform for Action, UN Doc. A/CONF.177/20, ch. IV, Strategic Objective G.1. (1995), reprinted in 35 ILM 401, 446 (1996).

<sup>9</sup> Michael Reisman, *Unilateral Action and the Transformations of the World Constitutive Process*, 11 EUR. J. INT'L L. 3, 13 (2000).

<sup>10</sup> The same was true in the United Kingdom. One journalist wrote that "[d]espite significant advances in the number of women in the media, the crisis has exposed how many of them are in the 'softer' areas of news such as features and domestic stories. In a major crisis such as this, virtually all the reporters have been men." Madeleine Bunting, *Women and War*, GUARDIAN, Sept. 20, 2001, at 19, available in LEXIS, NEWS Library, Major World Newspapers File.

<sup>11</sup> *First September 11 Films Planned*, GUARDIAN UNLIMITED (Feb. 12, 2002), at <<http://www.guardian.co.uk/Archive/Article/0,4273,4354575,00.html>>.

<sup>12</sup> Howard Kurtz, *CNN Chief Orders 'Balance' in War News*, WASH. POST, Oct. 31, 2001, at C1.

September 11 and its repercussions have appeared, then, to be all about men attacking, saving lives, and responding through further attack. This scenario does not strike us immediately as strange or remarkable or in any way connected with ideas of manhood. But imagine if the picture were entirely the opposite—if all the hijackers were women, and all the intelligence gatherers and analysts and White House decision makers and world leaders were women. Such a scenario would inevitably lead to an analysis of the events explicitly based on sex. It would be assumed first that the hijackings and the response to them were connected to femaleness in some defining way. A phenomenon of nineteen women hijackers willing to kill themselves for a cause would very likely be read as a product of women's instability, excitability, and unreliability. It would confirm the inappropriateness of allowing women into public life. So, too, if the failure of intelligence gathering manifested in the hijackings or in the failure to discover the originator of the anthrax attacks could be attributed to government agencies mainly staffed by women, the failure would somehow be connected with sex. But sex remains unexceptional and unremarked if it is the male sex.

Women have figured in discussion about September 11 and its aftermath mainly as victims of the Taliban. The issue of the role of women assumed some prominence in discussions about the form of a post-Taliban government in Afghanistan. Various women's groups lobbied the White House to encourage the involvement of women in a new framework for governance. The response was cautious. The White House seemed to consider the position of Afghan women as essentially a matter of domestic jurisdiction and too controversial to raise at the international level. The embrace of the Northern Alliance as the U.S. partner against the Taliban ignored the Northern Alliance's record of disregarding women's rights.

The violations of Afghan women's rights began to take on an increasingly prominent role in the justification of the U.S. bombing campaign in Afghanistan. In November 2001, the Department of State published a report, *The Taliban's War Against Women*.<sup>13</sup> This report, a mere four pages long and short on historical and political analysis, formed the basis for a radio address delivered by Laura Bush, wife of the President.<sup>14</sup> Her address was the first full statement of the United States' interest in the women of Afghanistan and was designed "to kick off a world-wide effort to focus on the brutality against women and children by the al-Qaida terrorist network and the regime it supports in Afghanistan, the Taliban."<sup>15</sup> It is striking that this effort was launched by a woman with no official position rather than by government officials. The message appears to be that concern for the position of women in Afghanistan is women's business and not a serious international concern.

For the most part, these pronouncements portray women in Afghanistan primarily as victims of a repressive regime. For example, the State Department document emphasizes their need for assistance from the international community. But only in its final paragraph does the document mention women's potential as future actors in a new government, and as full and active participants in a post-Taliban Afghanistan. It makes passing reference to the educated middle class women who before 1979 were teachers, doctors, lawyers, and legislators in Afghanistan, but no reference to the actions of Afghan women throughout the Taliban regime against the repression imposed upon them. No explanation is offered for this late interest in the situation of Afghan women, nor of why the concern with repression would not equally apply to women living in Western allies such as Saudi Arabia and Kuwait. Both these latter countries

<sup>13</sup> BUREAU OF DEMOCRACY, HUM. RTS. & LABOR, U.S. DEP'T. OF STATE, REPORT ON THE TALIBAN'S WAR AGAINST WOMEN (2001), available at <<http://www.state.gov/g/drl/rls/c4804.htm>>.

<sup>14</sup> Laura Bush, Radio Address to the Nation (Nov. 17, 2001), at <<http://www.whitehouse.gov/news/releases/2001/11/20011117.html>>.

<sup>15</sup> *Id.* At the same time it was announced that Cherie Blair, wife of UK Prime Minister Blair, would also front the campaign on behalf of Afghan women. Agence France-Presse, *US First Lady Laura Bush Highlights Plight of Afghan Women* (Nov. 17, 2001), available in LEXIS, NEWS Library, Wires File.

have formally excluded women from most areas of public life, but their plight has not been seen as a matter of international concern.

The United Nations has also seemed more concerned with images of women as victims than with their agency and empowerment. A groundbreaking Security Council resolution adopted in 2000 on the importance of involving women in peace negotiations and peace settlements was not referred to in any of the resolutions on Afghanistan.<sup>16</sup> In its Resolution 1378 of November 14, 2001, the Council expressed the view that the transitional administration and future government of Afghanistan “should be broad-based, multi-ethnic and fully representative of all the Afghan people.”<sup>17</sup> This provision did not specify the inclusion of women, although the next clause states that both administrations “should respect the human rights of all Afghan people, regardless of gender.”<sup>18</sup> Lakhdar Brahimi, the UN Secretary-General’s special representative to Afghanistan, made no public statement about women’s involvement in any new government. Initially, he referred to the possibility of a government based on tribal structures, which would exclude women. His list of relevant players in the new government included “moderate” members of the Taliban, but no representative of 54 percent of Afghanistan’s population.

By the time of the Bonn Agreement accepted at the UN talks on Afghanistan on December 5, 2001, women’s roles were accorded more attention. The preamble to the Bonn Agreement notes that the interim arrangements are intended to be an initial step “toward the establishment of a broad-based gender-sensitive, multi-ethnic, and fully representative government.”<sup>19</sup> Two women (Sima Samar as minister for women’s affairs and one of five vice chairs, and Suhaila Seddiqi as minister for public health) were given positions of the thirty available in the interim administration, with a commitment to representation in the Emergency Loya Jirga “of a significant number of women.”<sup>20</sup> The Agreement also specifies that the Interim Authority and the Special Independent Commission for the Convening of the Emergency Loya Jirga will “ensure the participation of women as well as the equitable representation of all ethnic and religious communities in the Interim Administration and the Emergency Loya Jirga.”<sup>21</sup> A difference in language can be noted here: there is a reference to “the participation of women” but the “equitable representation” of ethnic and religious groups. However, no reference is made in the Bonn Agreement either to the inclusion of women in the judiciary or to the prosecution of crimes against women.

The Bonn Agreement is a far cry from the demands made by a meeting of Afghan women at the simultaneous Summit for Democracy held in Brussels on December 4–5, 2001.<sup>22</sup> The Brussels Proclamation prescribes a vision of women’s future with recommendations across a broad range of issues, including health, education, human rights, participation in government, drafting of the constitution, serving as lawyers, and “making all support, including monetary, from the international community conditional on the rights and treatment of women.”<sup>23</sup> This meeting was followed by a roundtable in Brussels, Building Women’s Leadership in Afghanistan, which was convened by UNIFEM and the Belgian government. The conclusions of the roundtable went still further by making recommendations on such matters as women’s

<sup>16</sup> SC Res. 1325 (Oct. 31, 2000), 40 ILM 500 (2001).

<sup>17</sup> SC Res. 1378, para. 1 (Nov. 14, 2001), 41 ILM 505 (2002).

<sup>18</sup> *Id.*

<sup>19</sup> Agreement on Provisional Arrangements in Afghanistan Pending the Re-Establishment of Permanent Government Institutions, Dec. 5, 2001, pmbi., at <<http://www.uno.de/frieden/afghanistan/talks/agreement.htm>>.

<sup>20</sup> *Id.*, sec. IV, para. 2.

<sup>21</sup> *Id.*, sec. V, para. 4.

<sup>22</sup> Afghan Women’s Summit for Democracy, The Brussels Proclamation (Dec. 4–5, 2001), at <[http://www.equalitynow.org/afghan\\_womens\\_summit/brussels\\_proclamation.html](http://www.equalitynow.org/afghan_womens_summit/brussels_proclamation.html)>.

<sup>23</sup> *Id.*, Human Rights and the Constitution, Recommendations.

security, including with respect to criminal trials; leadership and governance; and the provision of resources for these initiatives.<sup>24</sup> These documents present Afghan women throughout not as victims but as potential leaders with the expertise, knowledge, and experience required for the processes of reconstruction.

In sum, our argument is that sex has been a crucial aspect of the events of September 11 and the response to them. Men have been the major players in all contexts and women have been cast as victims without real agency to affect the future. The public and political debate has largely ignored the considerable initiatives and activity of Afghan women aimed at contributing to the design of their future. The exclusion of over half the world's population from the formal decisions of great international significance is more than a question of justice and human rights; it is also a great strategic mistake.

## II. GENDER: FEMININE AND MASCULINE IMAGERY

The public debate over the events of September 11 has not only largely overlooked the experience of women, but also been deeply gendered. Gender as “the socially and culturally constructed categories of masculinity and femininity”<sup>25</sup> does not refer to the characteristics of particular men and women. Indeed, it is possible to be sexed as a woman, but to adopt a masculine gender and vice versa. Feminist scholars have pointed out that the content of the categories of masculinity and femininity changes across time and cultures, but these concepts are typically defined as opposite to one another.<sup>26</sup> Thus, the essence of being masculine is to be *not feminine*. Another feature of gender is that what is deemed masculine is typically assigned a greater value than what is defined as feminine.<sup>27</sup>

The dominant view of the appropriate style of leadership in the United States since September 11 is a good example of gendered images. To be a leader, it seems, requires displaying masculine qualities, such as decisive military action as opposed to negotiation and compromise, which are coded as feminine. As a result, President Bush's conduct of the war was praised even by former Democrat adversaries because he was seen as displaying resolute strength, in contrast to his opponent in the presidential election, Al Gore, who was seen as too much of a “talker.” Defenders of Gore sought to shore up his leadership credentials by noting that he was a “hawk” compared to President Clinton, implying that Gore would in fact have been masculine enough for the job.

The use of simple dichotomies in political rhetoric—“Either you are with us, or you are with the terrorists” (George Bush);<sup>28</sup> “We must do something or do nothing” (Tony Blair)<sup>29</sup>—also gains force from images of gender. Bin Laden similarly appealed to gendered contrasts to bolster his cause: virtue is associated with physical, violent action, and negotiation or discussion is seen as weak and passive. Former British Prime Minister Margaret Thatcher provided a good example of gendered reasoning by distinguishing military (i.e., bombing) from “social work” (i.e., nation-building) strategies against terrorism. She recommended that the United States confine itself to the former, associating toleration and compromise with weakness and indulgence.<sup>30</sup>

<sup>24</sup> Roundtable on Building Women's Leadership in Afghanistan, Brussels Action Plan (Dec. 10–11, 2001), at <[http://www.undp.org/unifem/afghanistan/call\\_for\\_action.html](http://www.undp.org/unifem/afghanistan/call_for_action.html)>.

<sup>25</sup> Zalewski, *supra* note 3, at 341.

<sup>26</sup> *Id.*

<sup>27</sup> *Id.*

<sup>28</sup> Address Before a Joint Session of the Congress on the United States Response to the Terrorist Attacks of September 11 (Sept. 20, 2001), 37 WEEKLY COMP. PRES. DOC. 1347, 1349 (Sept. 24, 2001).

<sup>29</sup> Tony Blair, Address to Welsh Assembly (Oct. 30, 2001), available at <<http://www.pm.gov.uk/output/page3724.asp>>.

<sup>30</sup> Margaret Thatcher, *Advice to a Superpower*, N.Y. TIMES, Feb. 11, 2002, at A27.

We do not want to suggest that appeal to ideals of masculinity should be countered simply by giving priority to values associated with femininity. The problem with all types of gendered discourse is that it makes some courses of action impossible to contemplate. Thinking in dichotomous terms limits the ways we can analyze the situation; it confines our perspective to simple either-or propositions; it makes certain actions seem inevitable or nonnegotiable. Thus, in this conflict the use of force is seen as inevitable by both sides, although it is clear that hijacking planes and killing thousands of people will not destroy or lessen the influence of the United States or Western civilization (Al Qaeda's stated aims), and that bombing Afghanistan (or Iraq), or killing Mullah Omar or bin Laden, will not put an end to terrorism.

Gendered ways of thinking do not allow us to understand the complexity of the situation, or to devise long-term solutions to the current morass. They make some options seem unthinkable—for example, the possibility that the United States could abandon the bombing campaign and instead work with multinational arms manufacturers to cut off all arms supplies to the Taliban, or fund sophisticated long-term education programs in the Middle East.

Crises can have the effect of reaffirming the traditional distribution of power between women and men. Taking sex and gender seriously in the analysis of major tragedies allows us to see the limited way we read and react to them. If we try to identify and destabilize the unspoken gendered assumptions of international law and politics, we will begin to be able to imagine broader and more durable solutions to our most pressing problems.

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