

BOOK REVIEWS

CATHERINE A. MACKINNON,
*ARE WOMEN HUMAN? AND OTHER
INTERNATIONAL DIALOGUES*
(CAMBRIDGE: HARVARD UNIVERSITY
PRESS, 2006, 419 PP., HBK.).

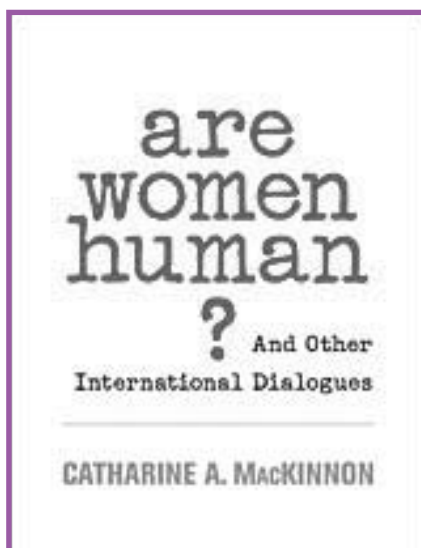
In this provocative collection of speeches and articles, a “transnational companion” to the 2004 publication of *Women’s Lives, Men’s Laws*, Catharine MacKinnon’s gifts as a writer, scholar, and (let us not forget) lawyer are on abundant display. If there were any doubt as to MacKinnon’s now near iconic status in the fight for global sex equality, this book is a sparkling reminder of why she so eminently deserves such acclaim. While her thesis — that inequality on the basis of sex is a pervasive reality of women’s lives all over the world — may not be new, the analysis here is remarkably fresh as MacKinnon explores what she calls a “double-edged denial”: women’s abuse is considered either too extraordinary to be believed or too ordinary to rise to the level of violations under international human rights law. In her words, “If it’s happening, it’s not so bad, and if it’s really bad, it isn’t happening.”

Indeed, as the book’s title suggests, MacKinnon recognizes that law, in both its international and domestic manifestations, has been men’s historic domain. What women’s lack of recognition as legal subjects has meant is that they are not yet fully human in the legal and political sense, i.e., bearers of equal rights under law. “Human rights,” MacKinnon writes, “have not been women’s rights — not in theory or in reality, not legally or socially, not domestically or internationally.” The question the book asks is whether and to what degree the prevalence of crimes committed against women — rape by strangers and intimates, domestic violence, trafficking, coerced sex work — can be remedied by an often hypocritical international system, which condemns crimes against humanity but fails to confront similar harms when they happen to women on a daily basis. As MacKinnon rightly notes, “Legally, one is less than human when one’s violations do not violate the human rights that are recognized.”

MacKinnon’s point is repeatedly and forcefully mined in the course of the book’s twenty five essays. In some, she points to

important victories that have undoubtedly pushed the international legal landscape further towards equality; these include, notably, international agreements such as the 1979 Convention on the Elimination of All Forms of Discrimination Against Women that have given salience to sex-specific abuses such as domestic violence and sexual harassment, the recognition of rape as a form of torture and/or genocide, and the successful use of civil remedies in national courts as a form of legal relief for victims of sexual atrocities. In the landmark case *Kadic v. Karadzic*, MacKinnon herself represented a group of women who had been raped during the Bosnian conflict. Employing the Alien Tort Claims Act, she successfully

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brought suit against the Bosnian Serb leader Radovan Karadzic, seeking damages for “genocidal sexual atrocities perpetrated as a result of Karadzic’s policy of ethnic cleansing.” In August 2000, a jury in New York awarded the plaintiffs \$745 million in compensatory and punitive damages and a permanent injunction.

Yet despite MacKinnon’s interest in international legal mechanisms, she harbors no illusions as to their inherent shortcomings. In two particularly trenchant essays, she interrogates the internationally accepted definition of genocide and the (less accepted) definition of terrorism, arguing that while much of the violence done to women would meet these standards, such acts nevertheless go unrecognized by an international

system deaf to the “systematic slaughter built into everyday life in quiet, ignored crises of normality.” MacKinnon asks, “What will it take for violence against women, this daily war, this terrorism against women as women that goes on every day worldwide, this everyday, group-based, systematic threat to and crime against the peace, to receive a response in the structure and practice of international law anything approximate to the level of focus and determination inspired by the September 11th attacks?”

Unfortunately, it is this crucial question that MacKinnon fails to adequately grapple with. Indeed, if international law is a product of the very states that condone violence against women, why is it surprising that the law of nations is often as unsatisfying as the nation’s laws? Reading this book, one has the sense that the international realm is undoubtedly MacKinnon’s preferred forum for achieving “[g]lobal consciousness of women’s right to human status,” yet we are simultaneously and repeatedly reminded of its manifest deficiencies for doing so. And what if one was to accept the argument that the abuse inflicted on women is tantamount or equivalent to the international definitions of torture, genocide, or terrorism? Should the definitions themselves be recast and, if so, what would be the practical effect of doing so? At a rhetorical level, MacKinnon’s comparisons are well-taken; as a legal matter, however, the point is less than clear.

But these minor quibbles should not detract from the strength of MacKinnon’s argument or the value of this important collection. The point is that the violence done to women, their continued exclusion from the world’s public sphere, and their continued, pervasive objectification have rendered such abuse either too exceptional to be common, or too common to be exceptional. This is the challenge that international human rights law, and its constituent States Parties, must confront. We are fortunate to have MacKinnon’s fine mind on hand, compelling us to do so. **HRB**

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