

## Karen Knop's Foreword

This issue opens with a Foreword by the late Karen Knop. In 2020, the EJIL Editors-in-Chief invited Professor Knop to write an EJIL Foreword. EJIL Forewords, published once a year, are commissioned lead articles that are designed to give a distinguished author the space to explore the 'state of the field' in a specific area of international law. With its higher word limit, in the range of 40,000 words, Forewords allow the authors to write a more extensive analysis, synthesis, conceptualization or systemic theorization than is usually possible in an EJIL article.

Professor Karen Knop, holder of the Cecil A. Wright Chair at the University of Toronto, was such a distinguished author. She wrote ground-breaking books and articles on self-determination,<sup>1</sup> feminism and international law,<sup>2</sup> cities in international law<sup>3</sup> and foreign relations law.<sup>4</sup> In EJIL, she published 'Eunomia Is a Woman: Philip Allott and Feminism'<sup>5</sup> and 'Lorimer's Private Citizens of the World'.<sup>6</sup> She was a great teacher and enabler of others' work.

Karen enthusiastically accepted our invitation to write the 2024 Foreword, indicating that she would write on 'populism, empire and the rise of foreign relations law / implications for international law'.

In September 2022, Karen suddenly died.

We did not want to fill the pages of the 2024 Foreword with any words or thoughts other than hers. She did not have the chance to finish the Foreword that she had planned to write for EJIL, but she did write another Foreword: 'Looking at Portraits' is her Foreword to the collection edited by Immi Tallgren, *Portraits of Women in International Law: New Names and Forgotten Faces?* (2023). Acting fully in accordance with her theoretical commitments, Karen was a strong supporter of Tallgren's project, thoroughly and constructively engaging with the draft chapters. After consultation with Karen's husband, friends, Immi Tallgren and the publisher, Oxford University Press, we therefore thought it fitting to share that Foreword, her final Foreword, with EJIL readers.<sup>7</sup>

SMHN and JHHW

<sup>1</sup> K. Knop, *Diversity and Self-Determination in International Law* (2002).

<sup>2</sup> K. Knop (ed.), *Gender and Human Rights* (2004).

<sup>3</sup> Knop, 'The Hidden City in International Legal Thought', in H. P. Aust and J. Nijman (eds), *Research Handbook on International Law and Cities* (2021) 442.

<sup>4</sup> Knop, 'Foreign Relations Law: Comparison as Invention', in C. Bradley (ed.), *Oxford Handbook of Comparative Foreign Relations Law* (2019) 45.

<sup>5</sup> 16 *European Journal of International Law (EJIL)* (2005) 315.

<sup>6</sup> 27 *EJIL* (2016) 447.

<sup>7</sup> The Foreword text has been edited only in order to comply with the EJIL styleguide.

# Looking at Portraits

Karen Knop\*

Decades ago, feminist art historians could confidently write: ‘It is no longer necessary to assert that there have been women artists.’<sup>1</sup> In international law – where ‘the teachings of the most highly qualified publicists of the various nations’ are a means of determining the law itself<sup>2</sup> – the same cannot be said. Feminism arrived later and began with a different question. ‘Why has gender not been an issue in this discipline?’, Hilary Charlesworth, Christine Chinkin and Shelley Wright asked in a revolutionary article in 1991.<sup>3</sup> A wealth of feminist approaches to international law followed but left relatively untouched the ‘where are the women?’ question that had been a wedge in the door in the humanities. This volume changes that in compellingly rich and varied fashion.

However, *Portraits of Women in International Law: New Names and Forgotten Faces?* confronts the challenge of adding faces of women across the history of international law and recognizing their contributions at a time when even the most revelatory of portrait galleries, such as this one, is simultaneously desired and suspect.<sup>4</sup> On the one hand, universities, like other spaces, are increasingly recognized as ‘occupied’, in Sara Ahmed’s term: ‘This occupation leaves traces on walls; portraits of past leaders can surround you... [U]se leaves traces in places.’<sup>5</sup> *Portraits of Women in International Law* thus brings much-awaited change to the mental, and potentially physical, hallways of international law. Its 42 portraits begin as early as the 14th century and span the globe. In them, gender intersects with race, colonialism, class, sexuality and other forms of difference. The subjects are groups as well as individuals, material as well as ideational contributions to international law, forgotten names as well as familiar faces (in the title’s phrase). On the other hand, the idea of a canon as a collection of revered

\* This Foreword has benefitted from discussions in the contributors’ workshops for this volume and from comments by Sarah Riley Case, Christopher Gevers, Fleur Johns and Martti Koskenniemi. I also acknowledge with gratitude the support of the Helsinki Collegium for Advanced Studies, where I worked on the Foreword while in residence as the 2020–2021 Jane and Aatos Erkko Visiting Professor in Studies on Contemporary Society.

<sup>1</sup> R. Parker and G. Pollock, *Old Mistresses: Women, Art and Ideology* (rev edn, 2013) (1981) xxix.

<sup>2</sup> International Court of Justice Statute, Art 38(1)(d).

<sup>3</sup> Charlesworth, Chinkin and Wright, ‘Feminist Approaches to International Law’, 85 *American Journal of International Law* (1991) 613, 614.

<sup>4</sup> See G. Pollock, *Differencing the Canon: Feminist Desire and the Writing of Art’s Histories* (1999) 8.

<sup>5</sup> S. Ahmed, *What’s the Use?* (2019) 165. As I write, a statue of Egerton Ryerson has been toppled at the university named for him in Toronto, the city where I live. R. Saba, ‘Protesters Behead Toppled Statue of Edgerton Ryerson Following Rally Honouring Residential School Victims’, *Toronto Star* (6 June 2021) <https://www.thestar.com/news/gta/2021/06/06/statue-of-egerton-ryerson-toppled-at-university-after-rally-for-residential-school-victims.html> (accessed 17 July 2021).

masters or valued texts has become suspect. Whereas some feminists argue that the problem with the literary canon is that it is unrepresentative of female tradition, for others the problem is that a canon exists at all: a female canon would be no less oppressive because it would necessarily represent only a particular socio-demographic group of women. 'Canon building is empire building. Canon defense is national defense', wrote the novelist Toni Morrison bluntly.<sup>6</sup> And, in international law, Gerry Simpson wrote: 'Monuments, as we know, do not simply fail to remember: they actively "un-remember" that which is not commemorated.'<sup>7</sup> Can the canon be re-habilitated by recognizing the contributions of 'old mistresses' as well as masters (as feminist art historians archly put it) or is the idea itself unsalvageable?<sup>8</sup>

In international law, there has been little focus on the notion of a canon.<sup>9</sup> The category of 'woman' as a subject has been problematized extensively, as have approaches to the history of international law. There have also been important initiatives to expand the canon, particularly by recognizing thinkers from the global South. As an idea, however, the canon in international law has not been intensely debated as it has been in the humanities. Nonetheless, the lines of how the debate might run are visible in a recent exchange between Henri de Waele and Janne Nijman. In an article titled 'A New League of Extraordinary Gentlemen? The Professionalization of International Law Scholarship in the Netherlands, 1919–1940', de Waele sets out to remedy the absence of the Dutch international law tradition in histories of this period.<sup>10</sup> Although he refers to 'learned gentlemen'<sup>11</sup> and his title alludes to a 2003 film featuring well-known male fictional characters as Victorian-era superheroes, de Waele does not pursue the significance of the maleness or masculinity of the Dutch international lawyers he discusses.<sup>12</sup> In response, Nijman argues that expanding or correcting international law historiography should also correct the neglect of women and colonialism in these accounts.<sup>13</sup> Her piece models how to go about finding women's contributions to Dutch inter-war international law scholarship by employing a broader understanding of the process of professionalization and by bringing what she

<sup>6</sup> T. Morrison, 'Unspeakable Things Unspoken: The Afro-American Presence in American Literature', 11 *Tanner Lecture on Human Values* (1990) 123, 132.

<sup>7</sup> Simpson, 'Unprecedents', in I. Tallgren and T. Skouteris (eds), *The New Histories of International Criminal Law: Retrials* (2019) 12, 24.

<sup>8</sup> Parker and Pollock, *supra* note 1. See also e.g. J. Gorak, *The Making of the Modern Canon: Genesis and Crisis of a Literary Idea* (1991).

<sup>9</sup> P. Amorosa, *Rewriting the History of the Law of Nations: How James Brown Scott Made Francisco de Vitoria the Founder of International Law* (2019) 9. But see Amorosa and Vergerio, 'Historicizing the Canon in International Law and International Relations', 35 *Leiden Journal of International Law* (2022) 469.

<sup>10</sup> de Waele, 'A New League of Extraordinary Gentlemen? The Professionalization of International Law Scholarship in the Netherlands, 1919–1940', 31 *European Journal of International Law (EJIL)* (2020) 1005.

<sup>11</sup> *Ibid.*, 1015, 1022.

<sup>12</sup> Cf. B. A. Coates, *Legalist Empire: International Law and American Foreign Relations in the Early Twentieth Century* (2016) 60, 62–63, 74 (relevance of Victorian-era codes of masculinity in the history of United States international legal thought).

<sup>13</sup> Nijman, 'Marked Absences: Locating Gender and Race in International Legal Histories', 31 *EJIL* (2020) 1025.



**Figure 1** Oil painting ‘Vitoria’ detail in stairway of Great Hall, Department of Justice, Washington, DC, United States, 2007. October. Photograph. <https://www.loc.gov/item/2010720245/>. Source: Photograph in the Carol M. Highsmith Archive, Library of Congress, Prints and Photographs Division.

terms ‘imagination’ to research and use of sources. She also explores the obstacles, legal and other, that point to why there were no women among Dutch international law professors between the wars.<sup>14</sup>

Nijman uses an analogy with art history to focus her disagreement with de Waele on the canon, and his reply can be read as typical of canon debates.<sup>15</sup> Transposed to women in international law, the sequence of attitudes that Morrison identifies as defending the canon against incursions would be: (1) there were no women international lawyers, following which the arguments would be (2) there were, but they were inferior, (3) there were and they were superior when they measured up according to the existing ‘universal’ standards of professional excellence or (4) their contribution was not so much ‘international law’ as raw material to be processed by international lawyers.<sup>16</sup> Whereas work on women in the history of international law to date has not been organized around these debates, *Portraits of Women in International Law* equips international lawyers for an assault on the canon. That said, it does not prescribe it. Indeed, some might even oppose such a deployment. Musing on the aptness of the pun ‘canon fodder’, Morrison is reminded of ‘a kind of trained muscular response that appears to be on display in some areas of the recent canon debate’ and the feeding of ‘readily available people/texts of little value’ into the argument machine.<sup>17</sup>

My plan in this Foreword is to take up not a set of questions about candidates for inclusion, but the problem of active ‘un-remembering’, in Simpson’s phrase. Specifically, I will show how the volume’s organizing imagery, perhaps despite first appearances, can be understood as addressing this problem of exclusion. The impression that I pursue is as follows. At first glance, its tropes of the portrait and the portrait gallery might appear old-fashioned – think ‘portrait of a lady’ – or worse than quaint, oblivious. The portrait gallery metaphor seems to play into canon building as nation building, the imperial pleasure in collecting, European high culture with postcards. What makes these two tropes daringly, rather than simply, old-fashioned, I will suggest, is that *Portraits of Women in International Law* takes them literally. Literalization can turn both into critical tools. In addition, although I only gesture to them here, literalization enables connections to be drawn with a number of approaches to history that have recently made an appearance in international law, including an interest in the visual, new materialist thinking, life-writing and theories of the archive.

By literalization, I mean first that ‘portrait’ in *Portraits of Women in International Law* refers not only to the biographical nature of the texts. Actual portraits matter. Contributors were asked to choose a painting or photograph representing their subject and invited to think beyond the sort of professional headshots found in the frontispieces of the Hague Academy of International Law’s series of collected courses, for example (although that format here could be a considered choice). Some contributors

<sup>14</sup> *Ibid.*, at 1033–1034. On the role of imagination in researching the forgotten in history, see e.g. Farmer, ‘In Search of the Black Women’s History Archive’, 1 *Modern American History* (2018) 289.

<sup>15</sup> Nijman, *supra* note 13, at 1026; H. de Waele, ‘Betwixt and Between: What We Write About When We Write About International Legal History’, EJIL: Talk!, 12 February 2021.

<sup>16</sup> Morrison, *supra* note 6, at 129–130. See also Pollock, *supra* note 4, at 23–29.

<sup>17</sup> Morrison, *supra* note 6, at 123.

even discuss the image they selected, using it as an object of contemplation, a keyhole onto their subject or a clue. In Part 1, I extend this method. Starting with an actual portrait of a famous male international lawyer without any women at all, I show how this portrait can generate a series of critical perspectives on the making of the international law canon and illuminate the role of women, including in that very portrait.

Literalization also refers to the metaphor of the portrait gallery. Editor Immi Tallgren uses ‘portrait gallery’ as more than a synonym for a collection of biographical essays. She conceives of the book as if an actual building were being renovated: for example, she names its parts as if they were new wings of an existing institution such as the National Portrait Gallery in London.<sup>18</sup> As with the portrait, this metaphor may seem dated if not Eurocentric. There is almost an air of the Grand Tour: the 18th- and 19th-century coming-of-age trip undertaken typically by upper-class young Western men and women to acquire cultural polish by viewing antiquities and art at Europe’s great galleries. To the contrary, I suggest in Part 2 how the literalization of the portrait gallery metaphor can be interpreted as parodic, a critical commentary on the canon and its vulgarization in institutional spaces, and also as pointing to the inevitable absences of women and ways to engage them.

## 1 Finding Doris Stevens

A concern with adding ‘new names and forgotten faces’ to the international law canon is that the diversification of the canon alone will leave its ‘already sacred texts’ uninterrogated. In literary studies, therefore, another focus has been to find the ghost in the machine: the ways in which the presence of the forgotten ‘has shaped the choices, the language, the structure – the meaning’ of so much canonical work.<sup>19</sup> Toni Morrison makes this argument as regards the African-American presence in American literature, and it also finds some reflection in *Portraits of Women in International Law*. In this part, I illustrate how the volume’s integration of actual portraits can become a way of finding the ghost in the machine.

### A Portrait as Image and Object

In the Department of Justice Building in Washington, DC, built in 1934, the famous 16th-century Spanish international lawyer Francisco de Vitoria is depicted as one of the ‘Great Codifiers of the Law’ in a mural of 18 larger-than-life panels in the Ceremonial Entrance. The other panels show Sir Edward Coke, the Magna Carta, Sir William Blackstone, John Marshall, the Constitution, James Kent, Aemilius Papinianus, Solon, Justinian I, Thomas Aquinas, Oliver Wendell Holmes, Hugo Grotius, Jesus, Socrates, Menes, Moses, Hammurabi – and the even more famous

<sup>18</sup> Cf. Knop and Marks, ‘The War Against Cliché: Dispatches from the International Legal Front’ in C. Chinkin and F. Baetens (eds), *Sovereignty, Statehood and State Responsibility: Essays in Honour of James Crawford* (2015) 3, at 13–17 (on literalization in international law scholarship).

<sup>19</sup> Morrison, *supra* note 6, at 135–136.



international lawyer, 17th-century Dutch Protestant Hugo Grotius, often dubbed the ‘father of international law’.<sup>20</sup>

Similar to the portrait-lined hallways that have come under scrutiny in university faculties or the hallway’s virtual counterpart – the ‘about’ or ‘history’ tab on a professional organization’s home page that links to pictures of important figures in its past<sup>21</sup> – the Great Codifiers mural reminds us that the history of the profession is also visual. Indeed, international legal scholars are becoming interested in the representation of their discipline in art and architecture and, conversely, in their discipline’s own recruitment of imagery for purposes such as book covers.<sup>22</sup> These developments chime with a turn in international law towards how knowledge is materially produced, focusing, for example, on the role of an ‘archive’ and, recently, international law’s ‘objects’.<sup>23</sup> How do we know what, or whom, we know? In the case of the Great Codifiers of the Law, a first answer is that the painter Boardman Robinson was advised by the United States Supreme Court Justice Harlan Fiske Stone and Harvard Law School Dean Roscoe Pound.<sup>24</sup>

## B *Portrait and the Canon as Project*

We can take the story of the Vitoria portrait further. Robinson slyly modelled a farm servant in the Magna Carta panel on himself, while for the likeness of Vitoria, he used a sketch of James Brown Scott, a United States international lawyer, translator of Vitoria’s works and Secretary of the Carnegie Endowment for International Peace.<sup>25</sup>

The story as told by Scott’s protégé George Finch is that Scott was unable to find a likeness of Vitoria for the artist and therefore became a substitute. For Finch, this tribute was ‘Poetic Justice’.<sup>26</sup> Scott, a widely influential figure in his day, campaigned

<sup>20</sup> ‘The Robert F. Kennedy Building: Celebrating Art and Architecture on the 75th Anniversary’, US Department of Justice, undated, <https://www.justice.gov/file/1431931/download> (accessed 4 July 2021), 71.

<sup>21</sup> See e.g. ‘History’ tab, *Institute of International Law*, <https://www.idi-iiil.org/en/> (accessed 4 July 2021); ‘Galerie des Internationalistes Francophones’, *Société française pour le droit international*, [https://www.sfdi.org/galerie\\_internationalistes/](https://www.sfdi.org/galerie_internationalistes/) (accessed 4 July 2021).

<sup>22</sup> See e.g. Symposium on Art, Aesthetics and International Justice, 114 *AJIL Unbound* (2020) 103; d’Aspremont and De Brabandere, ‘Paintings of International Law’, in J. Hohmann and D. Joyce (eds), *International Law’s Objects* (2019) 330; H. Charlesworth, ‘The Travels of Human Rights: The UNESCO Human Rights Exhibition 1950–53’, Essex Public International Law Lecture, 15 March 2021. <https://www.youtube.com/watch?v=EppodE7akCU> (accessed 4 July 2021); Litwin, ‘Stained Glass Windows, the Great Hall of Justice of the Peace Palace’, in Hohmann and Joyce, *supra* note 22, 463; Miles, ‘Painting International Law as Universal: Imperialism and the Co-opting of Art and Image’, 8 *London Review of International Law* (2020) 367.

<sup>23</sup> See e.g. Chiam *et al.*, ‘History, Anthropology and the Archive of International Law’, 5(1) *London Review of International Law* (symposium) (2017); Hohmann and Joyce, *supra* note 22; Quiroga-Villamarin, ‘Domains of Objects, Rituals of Truth: Mapping Intersections between International Legal History and the New Materialisms’, 8 *International Politics Reviews* (2020) 129.

<sup>24</sup> ‘The Robert F. Kennedy Building’, *supra* note 20, at 71.

<sup>25</sup> *Ibid.*

<sup>26</sup> Finch, ‘James Brown Scott, 1866–1943’, 38 *AJIL* (1944) 183, at 199. The discussion of this portrait draws on Knop, ‘Review of Paolo Amorosa, *The American Project and the Politics of History: James Brown Scott and the Origins of International Law*’, 25 *Finnish Yearbook of International Law* (2015) 257.

to change the conventional story of the origins of international law so that it began not with Grotius but earlier, with Vitoria.<sup>27</sup> As Antony Anghie has powerfully demonstrated, the identity of the first international law figure matters greatly to the discipline's historical self-understanding. Beginning with Grotius locates its origins in Europe, whereas starting with Vitoria makes its origins in colonization inescapable.<sup>28</sup>

Scott's project to make Vitoria and the later Spanish scholastic Francisco Suárez part of the canon of international law was so successfully absorbed into the discipline that most international lawyers have no idea that it was ever anyone's project – even as Vitoria is hotly debated as a critic of the Spanish conquests in America or an apologist for them.<sup>29</sup> Yet any international lawyer who has taken a volume of the *Carnegie Classics of International Law* off a library shelf has unknowingly laid hands on Scott's canon, which he popularized through this series of English translations funded by the Carnegie Endowment for International Peace.

Building on Anghie, Anne Orford reinterprets Finch's vignette of the Scott-as-Vitoria portrait to emphasize the material production of historical knowledge. Scott's position as the Endowment's Secretary and Director of its Division of International Law from its establishment by United States industrialist Andrew Carnegie in 1910 until Scott's retirement in 1940 made him 'arguably the best-funded international lawyer the world had ever seen'.<sup>30</sup> In addition to the *Classics of International Law*, the professionalization (and ready record) of international law that we inherit from this period is largely of Scott's making, including the founding of the American Society of International Law and its *American Journal of International Law*, the American Institute of International Law and the Hague Academy of International Law. For Orford,

Vitoria who was reclaimed for twentieth century international law arrived between the covers of a book emblazoned with the name of one of the richest industrialists of the nineteenth century, in a series edited by one of the most influential American international lawyers and moralists of the early twentieth.<sup>31</sup>

## C Portrait as Style of Argument

To what present uses can an addition to the canon be put? Here the story of the Scott-as-Vitoria portrait takes another turn and arrives at the 'where are the women?' question. The explanation for what might seem like the artist's wink to Scott or Scott's own act of vanity actually lies in one of the purposes to which Scott put Vitoria, namely, women's equality. The official account is that it was Justice Stone and Dean Pound

<sup>27</sup> Amorosa, *supra* note 9.

<sup>28</sup> A. Anghie, *Imperialism, Sovereignty and the Making of International Law* (2005).

<sup>29</sup> See e.g. Fitzmaurice, 'The Problem of Eurocentrism in the Thought of Francisco de Vitoria', in J. M. Beneyto and J. Corti Varela (eds), *At the Origins of Modernity: Francisco de Vitoria and the Discovery of International Law* (2017) 77.

<sup>30</sup> P. Amorosa, *The American Project and the Politics of History: James Brown Scott and the Origins of International Law* (doctoral dissertation, University of Helsinki 2018) <http://urn.fi/URN:ISBN:978-951-51-4133-0> (accessed 17 July 2021), 40.

<sup>31</sup> Orford, 'The Past as Law or History? The Relevance of Imperialism for Modern International Law', *IIJ Working Paper* 2012/2 (June 2012) <http://ssrn.com/abstract=2090434> (accessed 4 July 2021), 17.



who advised Boardman on the list of Great Codifiers of the Law. However, recent research on Scott by Paolo Amorosa uncovers that it was Doris Stevens, a mutual friend, who proposed the addition of Vitoria to the mural in the first place (as well as Scott as a fitting stand-in).<sup>32</sup> Stevens and another prominent United States feminist activist Alice Paul sought to achieve two inter-American treaties on women's equality. As encapsulated in this rather improbable 1932 telegram from Scott to Spain's permanent delegate to the League of Nations, the place that Scott had carved out for Vitoria in the history of international law was central to Scott's strategy in support: 'I URGE YOUR SUPPORT... ALICE PAUL'S RESOLUTION... WE HOPE SPANISH LEADERSHIP HUMAN RELATIONSHIPS IN ACCORDANCE VITORIA'S PROGRESSIVE LAW NATIONS.'<sup>33</sup>

*Portraits of Women in International Law* is self-conscious about the idea that portraying a figure in the past can also be a style of argument in the present or a way of writing about oneself. The latter is reminiscent of the relational thinking that openly characterizes some feminist biography and history,<sup>34</sup> while the former recalls the notion of 'life-writing' that Susan Marks and Andrew Lang have used to interpret historical scholarship in international law. Adopting a literary explanation of life-writing as including a 'deliberate blurring of the distinction between biography and autobiography', Marks and Lang characterize Martti Koskenniemi's work in intellectual history as life-writing because, they argue, it performs as well as advances his critique of international law.<sup>35</sup>

Accordingly, we might ask what adding Vitoria to the Great Codifiers of Law mural meant for Doris Stevens. A glimpse can be seen in the first United States meeting of the all-male *Institut de droit international* in 1929, in which Scott included Stevens as the Secretary of Sessions. During the meeting, Stevens used a Columbus Day banquet to toast a woman, Isabella of Castile, as the ruler who had sent Christopher Columbus west and therefore without whom Vitoria would not have founded the modern law of nations.<sup>36</sup> Stevens thus tried to leverage Vitoria to argue for women's political leadership in keeping with the equal-rights feminism of her time.

## D Equality and Inequality

This brings us to the end of the story of the Scott-as-Vitoria portrait as already told. While approaching the portrait as an image uncovered, Scott, treating it as an object being produced, revealed Stevens as its *sine qua non*. Indeed, Stevens is a striking example of women being invested in the male canon for their own purposes. Adding more women to the gallery of men in the Justice Building was a way to further women's

<sup>32</sup> Amorosa, *supra* note 9, at 306–308.

<sup>33</sup> *Ibid.*, at 297 (emphasis in original).

<sup>34</sup> See e.g. Wiesen Cook, 'Biographer and Subject: A Critical Connection', in C. Ascher, L. DeSalvo and S. Ruddick (eds), *Between Women: Biographers, Novelists, Critics, Teachers and Artists Write About Their Work* (1984) 397.

<sup>35</sup> Lang and Marks, 'People with Projects: Writing the Lives of International Lawyers', 27 *Temple International & Comparative Law Journal* (2013) 437, at 439.

<sup>36</sup> Amorosa, *supra* note 9, at 288–290.

equality – one, however, that also participated in un-remembering the inequality to which Vitoria contributed by justifying Spain's colonization of the Americas.

We can read Stevens's Columbus Day toast to Isabella similarly. Much as Scott was busy naturalizing a canon of international lawyers, a succession of different groups in different places for different reasons had transformed 12 October 1492 – the date for which Columbus did not even make a separate log entry – into the day that he discovered the New World. In the United States, groups appropriating Columbus ranged from the Tammany Society (Columbian Order) of the late 18th century through Italian and Irish-American organizations (such as the Knights of Columbus) in the first half of the 19th century to the United States business interests behind the 1893 World Fair known as the World's Columbian Exposition of Chicago.<sup>37</sup> In the process, Michel-Rolph Trouillot argues, 'Columbus had to become whiter' and '[a]s Columbus became whiter he also contributed to the whitening of the people who claimed him as part of their past'.<sup>38</sup> Thus, in crediting Isabella for Vitoria through Columbus, Stevens again made use of portrayals of great men being actively promoted and again highlighted women's equality at the expense of the equality of peoples.

In *Portraits of Women in International Law*, we find Doris Stevens, in effect, called out on this sort of approach in the portrait of Uruguayan feminist activist Paulina Luisi.<sup>39</sup> In the early years of the Inter-American Commission of Women, when she was its leader, Stevens had even praised Cuban dictator Rafael Trujillo Machado as a 'feminist president'.<sup>40</sup> Citing the 1933 Montevideo Equal Rights Treaty as an example – one of the two treaties that Scott dubbed the 'Stevens treaties'<sup>41</sup> – Luisi argued that authoritarian states used Pan-American conferences to publicize ostentatiously their support for women's rights without ever implementing those treaties they had ratified and without ever incurring opprobrium for their hypocrisy. The Inter-American Commission of Women was 'especially unconcerned' about this situation and had even 'helped to legitimate many of the most reactionary and undemocratic states in the Americas', Luisi underscored in a public speech contrasting the state-led Pan-American conferences with her own grassroots conference.

The trail from Vitoria to Scott to Stevens to Luisi illustrates the potential of the portrait's literalization to cast a critical light on the making of the canon as well as to help answer the question 'where are the women?'. It is not Vitoria who encountered Luisi, which would of course have been historically impossible. Rather, it is his portrait, traced as different projects in different male and female hands, that is confronted aggressively by her portrait. At the same time, Doris Stevens has no portrait of her own in this volume and appears only through the portraits of others, Luisi, as well as Vitoria. Shifting from portrait to portrait gallery, the next part of the Foreword takes

<sup>37</sup> M.-R. Trouillot, *Silencing the Past: Power and the Production of History* (1995) 119–136, 140. I thank Christopher Gevers for this connection.

<sup>38</sup> *Ibid.*, at 133–134.

<sup>39</sup> Mamolea, 'The Role of International Law in Paulina Luisi's Activism', in I. Tallgren (ed.) *Portraits of Women in International Law: New Names and Forgotten Faces?* (2023).

<sup>40</sup> *Ibid.*

<sup>41</sup> Amorosa, *supra* note 9, at 303.

up these themes of the relationship between portraits and their relationship with the un-portrayed.

## 2 In the Portrait Gallery

Different from literalizing the portrait, *Portraits of Women in International Law* also literalizes the metaphor of the book as a portrait gallery. Chapters are organized into such architectural wings as the Vestibule of the Legendary Ancients; the Hall of Woman for Social and Economic Development; the Winter Garden of Abolition and Resistance: Women Against Slavery, Racism and Imperialism; and the Roof-Top Garden of Diplomacy and International Relations. In this part, I suggest that rather than being an unconscious exercise in European high culture, this literalization can be read in several ways as critical, constructive or both.

In the first place, it can be read as a parody of a parody. As well as a reminder of the visual in the telling of the law's history, the 'Great Codifiers of the Law' mural (including Moses, the Magna Carta and Oliver Wendall Holmes) is a reminder of the jumble that often represents tradition in institutional settings.<sup>42</sup> For example, Annelise Riles as a young professor at Northwestern School of Law in Chicago describes the unavoidable and baffling aesthetic legacy of its early 20th-century dean, noted legal scholar John Wigmore, which she seeks to decipher methodologically:

Cartoon-like coats of arms in the moldings display the names of the great legal scholars of Wigmore's day ... Like an idiosyncratic treasure box, the building is cluttered with a parade of oddities: lithographs from English periodicals that lampoon the courtroom, the barrister, or the judge; portraits of famous legal figures; facsimiles of the American Declaration of Independence and other assorted documents; even an eight-foot-tall copy of the stone bearing the Hammurabi Code.<sup>43</sup>

*Portraits of Women in International Law* does not pretend to add, in one go, all of the female figures missing from the history of international law. Parody is a way of implicitly acknowledging that impossibility while at the same time pointing out the ridiculous self-assurance of efforts such as the 'Great Codifiers' or Wigmore's treasure box.

A second way in which the architectural blueprint in *Portraits of Women in International Law* can be read as a critical device is via the resonance of building metaphors in feminist, postcolonial and critical race studies. A feminist classic on the history of women writers, for instance, takes its title from the 'madwoman in the attic' in Charlotte Brontë's novel *Jane Eyre*, a tormented character whose Creole background Jean Rhys later imagines in her prequel *Wide Sargasso Sea*.<sup>44</sup> More to the point, Audre Lorde famously used a building metaphor to warn against merely adding differences between women to an existing frame of knowledge: 'the master's tools will

<sup>42</sup> I am grateful to Fleur Johns for pressing me further on this point.

<sup>43</sup> Riles, 'Wigmore's Treasure Box: Comparative Law in the Era of Information', 40 *Harvard International Law Journal* (1999) 221, at 258.

<sup>44</sup> S. M. Gilbert and S. Gubar, *The Madwoman in the Attic: Women Writers and the Nineteenth-Century Literary Imagination* (2nd edn, 2000).

never dismantle the master's house'.<sup>45</sup> It is perhaps a play on the master's house that *Portraits of Women in International Law* adds women's portraits to the gallery's liminal spaces: lobby, indoor garden, roof and so on. That is, the blueprint might work to remind us that the canon, like the portrait gallery, permits only so much renovation. Then again, Hortense Spillers uses the architectural image of the vestibule more transformatively.<sup>46</sup> For Spillers, 'vestibularity' refers to the shaping of 'black culture' in the United States by its enforced distance from, yet relation to, the dominant culture that profited from slavery and its afterlives. She argues that because of this vestibularity, black culture 'could, by virtue of the very act of discrimination, *become* culture, insofar as, historically speaking, it was forced to turn its resources of spirit toward negation and critique',<sup>47</sup> that is, towards alternatives that might bear both on its own 'projects of liberation' and on reimagining modernity and futurity.<sup>48</sup> This potential for a dynamic relationship between parts of a building brings me to my final reading of the literalized portrait gallery metaphor.

The preceding part of this Foreword engaged Toni Morrison's anti-empire-building search for ways 'to enhance canon readings without enshrining them'.<sup>49</sup> In closing, I want to come back to Gerry Simpson's observation in international law that monuments 'do not simply fail to remember: they actively "un-remember" that which is not commemorated'.<sup>50</sup> In contrast to monuments, exhibitions imply the un-exhibited. They signal their selectiveness and therefore also a residue: what is not selected. Starting in the mid-1990s, the word 'curate' began to be used beyond museums and galleries, becoming 'a fashionable code word among the aesthetically minded, who seem to paste it onto any activity that involves culling and selecting'.<sup>51</sup> Hotel libraries, parties, menus, news, even the future began to be described as 'curated'. 'Curated content' is now everywhere in digital media.

Thus, a third way to understand the literalness of the new exhibition wings in *Portraits of Women in International Law* critically is as implying the portrait gallery's storage areas – its backrooms or basement housing the permanent collection not on display – and, beyond the building, the altogether un-portrayed. In addition to the deliberateness of absence, this mental image can mark the constructive potential, in Aleida Assman's words, 'for mutual influx and reshuffling'. Assman argues that the selecting and collecting reflected in the gallery's exhibitions or 'canon' (active memory) exist against the accumulating associated with, and retrievable from,

<sup>45</sup> Lorde, 'The Master's Tools Will Never Dismantle the Master's House', in R. Lewis and S. Mills (eds), *Feminist Postcolonial Theory: A Reader* (2003), at 25, 26–27.

<sup>46</sup> See Spillers, 'Mama's Baby, Papa's Maybe: An American Grammar Book', 17 *Diacritics* (1987) 64, at 67, 74; Spillers, 'The Idea of Black Culture', 6(3) *New Centennial Review* (2006) 7, at 25; Odysseos, 'Stolen Life's Poetic Revolt', 47 *Millennium: Journal of International Studies* (2019) 341, at 366–371.

<sup>47</sup> Spillers, 'The Idea of Black Culture', *supra* note 46, at 26.

<sup>48</sup> Odysseos, *supra* note 46, at 368.

<sup>49</sup> Morrison, *supra* note 6, at 128.

<sup>50</sup> Simpson, *supra* note 7, at 24.

<sup>51</sup> A. Williams, 'On the Tip of Creative Tongues' *New York Times*, 2 October 2009, <https://www.nytimes.com/2009/10/04/fashion/04curate.html> (accessed 17 July 2021); *Curating the Curators*, <https://www.tumblr.com/curatingthecurators> (accessed 17 July 2021).

the storehouse or 'archive' (passive memory).<sup>52</sup> Metaphorically, *Portraits of Women in International Law* anticipates re-curation.

Most radically, the image of the portrait gallery is generative because it can even open the door to what has been conceived of as an imaginary archive. The accumulation that fills the archive is also selective. Its gaps are not merely random or accidental, as is conspicuous from the case of colonial archives. The archive has therefore been described as a 'full-fledged historical actor'.<sup>53</sup> Many portraits in this collection, including that of Paulina Luisi, register the lives that were the object of their subjects' activism. The chapter on Luisi, for instance, describes her attraction to eugenics, which originated partly in her experience delivering children who were 'irretrievably condemned to a slow agonizing death' but which she strongly distanced from its use by Nazi Germany.<sup>54</sup> But it is often impossible to trace the lives affected by those portrayed in this volume. In the case of those engaged in social work, for example, records may be confidential or simply non-existent.<sup>55</sup>

Among historians of the forgotten, a search for missing sources is increasingly complemented by approaches to reading the gaps and faint traces of evidence speculatively<sup>56</sup> or, further still, creatively. To the subjective archive of the figure's own writings, the critical archive of writings about her and the author's archive of theoretical presumptions and practices can be added an 'imaginative archive', an archive that 'seeks to tell the unsayable and imagine what cannot be retrieved'.<sup>57</sup> 'Speculative' histories have emerged particularly in postcolonial theory and fiction and feminism.<sup>58</sup> Known for her method of 'critical fabulation',<sup>59</sup> Saidiya Hartman, for example, 'elaborates, augments, transposes, and breaks open archival documents'.<sup>60</sup> The power of *Portraits of Women in International Law* is thus both in the brilliance of the volume's portraits and in the openings created by its use of the portrait and portrait gallery as organizing ideas.

<sup>52</sup> Assman, 'Canon and Archive', in A. Erll and A. Nünning (eds) with S. B. Young, *Cultural Memory Studies: An International and Interdisciplinary Handbook* (2008) 97, at 99, 106.

<sup>53</sup> Burton, 'Introduction: Archive Fever, Archive Stories', in A. Burton (ed.), *Archive Stories: Facts, Fictions and the Writing of History* (2005) 1, at 7.

<sup>54</sup> Mamolea, *supra* note 39.

<sup>55</sup> The classic reference is G. C. Spivak, *Can the Subaltern Speak?: Reflections on the History of an Idea* (2010).

<sup>56</sup> In legal history, see e.g. C. Tomlins, *In the Matter of Nat Turner: A Speculative History* (2020) xvi–xvii (equating 'speculative' with the need for 'conjecture and the imaginative use of the historian's tools').

<sup>57</sup> C. Hemmings, *Considering Emma Goldman: Feminist Political Ambivalence and the Imaginative Archive* (2018), at 6–8, 33.

<sup>58</sup> *Ibid.*, at 33–35.

<sup>59</sup> Hartman, 'Venus in Two Acts', 12(2) *Small Axe: A Caribbean Journal of Criticism* (2008) 1, at 11–12.

<sup>60</sup> S. Hartman, *Wayward Lives, Beautiful Experiments: Intimate Histories of Riotous Black Girls, Troublesome Women, and Queer Radicals* (2019), at xiv.

