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## Fighting with Angry Women: A Response to Lasson

John A. Siliciano

Reading "Feminism Awry: Excesses in the Pursuit of Rights and Trifles," I was struck by how enthusiastically Kenneth Lasson managed to miss the real issue raised by radical feminism.<sup>1</sup> The problem is not, as Lasson's article seems to suggest, that radical feminists are running amuck in the legal academy. Without debating the accuracy of Lasson's description of feminism and its negative manifestations, it is hard to believe that the *existence* of radical feminism is any sort of problem at all. In the sheltered hothouse of academia, all sorts of strange and wonderful notions spring to life. Indeed, one value of the ivory tower is that it can, for at least some period of time, incubate and strengthen new ideas and visions that might otherwise fail ever to take root in the harsher climate outside.

Viewed in this light, feminism is no different from any of the other emerging schools of thought, like critical legal studies or the law and economics movement, that compete for attention and adherents among legal academics. And like feminism, such schools typically have their less than pleasant aspects, including a propensity towards exclusionary jargon, a smugness of conviction, and a tolerance for some true fanatics among the rank and file. But these are not problems. They are merely part of the process by which new ideas take root, and as that process continues, the rough edges typically soften. Jargon translates to the vernacular, smugness gives way to humility and pragmatism, and the zealots lose their grip on the center and fly into space. With respect to feminism, it is exceedingly unlikely that most men and women will stop enjoying consensual sex simply because Andrea Dworkin thinks it is indistinguishable from rape.<sup>2</sup> Thanks to other feminists, however, men and women may begin to see how subtle but real forms of sexual violence permeate contemporary society.

The problem, then, is not that radical feminism exists. Indeed, by traditional standards, the feminists have been doing a great job in the legal academy. They are generating new ideas, debating among themselves, and boldly claiming as their own whole territories previously tilled by others. Instead, the real problem is that *other* legal scholars have, to a considerable

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1. 42 J. Legal Educ. 1 (1992).
2. See Intercourse 122-23 (New York, 1987).

extent, failed in *their* intellectual obligation to challenge the excesses of feminist thought, to test its assumptions and hypotheses, in short, to give it the kind of rigorous assessment that it deserves and that it needs if it is to successfully transplant some version of itself into popular culture and thought. The feminists have not failed us; it is we who have failed them.

In passing, Lasson notes this general failure of other scholars to challenge excesses in feminist theory and ideology.<sup>3</sup> But he is content to blame this problem on the feminists themselves—they scare others into a resentful silence.<sup>4</sup> This strikes me as a dodge, an effort to deflect responsibility. I have never met a feminist armed with sticks and stones. They seem to employ the same tools—words—that the rest of us use to advance our ideas. Why their words are perceived as more intimidating, and therefore less deserving of response, than the words of a Richard Posner or a Duncan Kennedy is the real question, but it is one that Lasson fails to address.

Part of the answer, I think, comes by reconfiguring the issue. The problem is not about feminism, it's about gender. Most feminists are women, while many of those who might challenge some aspects of feminist thinking are men. But men and women, by and large, do not know how to engage in constructive conflict with each other as colleagues and peers. Men are used to being in professional conflict with men. Thus movements like critical legal studies and law and economics, primarily male in their composition, have received their deserved share of intellectual challenge.

But women are relatively new to the workplace of legal academics. When it comes to contesting ideas with women, particularly women who bring any degree of passion to the debate, many men tend to lose their bearings. They retreat into silence (“there’s no point talking to her”) or they attack with high-altitude bombings (“hey, buddy, get a load of this nonsense!”). Lasson’s article is a prime example of the latter, but both responses are a diversion, and both objectify the opponent. The comments are not to them, they are only about them. They represent an effort to isolate feminism, not to engage in debate with it.

This strategy of isolation, of course, only makes matters worse. Greeting any new set of ideas with the polar responses of silence or ridicule naturally tends to radicalize the proponents of those ideas, thereby accentuating the least palatable aspects of the movement. This radicalization, in turn, makes future efforts at connection all the more difficult; silence and ridicule increasingly *become* the only options as more constructive modes of discourse wither and die. In short, a strategy of isolation succeeds only in creating isolation. This is fine if we are dealing with an infectious disease, but when we are dealing with a new set of ideas, such a strategy fundamentally contradicts a central purpose of academic life.

One might reply that the work of some radical feminists is simply too toxic, too extreme, or too obtuse to be constructively challenged. This undoubtedly

3. Lasson, *supra* note 1, at 5.

4. *Id.* & n.16.

is true, as Lasson successfully demonstrates. But, as noted above, such jagged edges are a natural but peripheral feature of any emerging intellectual movement. It is a serious mistake to equate the fringe with the center. As Lasson's own topology of feminism makes clear, there are many strains of feminist thinking and most of them would clearly not endorse Dworkin's idea that a good feminist is one who slips into the night to smash men's faces. Instead, most women writing in a feminist mode today deal with concrete legal issues, in a wide variety of areas, in language that is plainly accessible. These are the ones who deserve attention, and it makes no more sense to hold them responsible for their sisters' ideas than it does to argue that all Critics or all legal economists or all doctrinal scholars are the same.

To be sure, even mainstream feminism may bring a degree of emotion to the debate that male audiences may find uncomfortable. This is hardly surprising, for one central goal of feminism has been to loosen the dichotomies between emotion and intellect, intuition and logic, experience and objectivity. Much of feminist thinking also emphasizes that women differ from men, at least to some degree, in the way they frame problems and conduct discourse. So it is completely predictable that a male scholar tempted to contest a feminist claim might feel considerable anxiety over what, precisely, are the rules of debate. This uncertainty, however, is hardly a reason to quit the field. It is simply an obstacle to be overcome in the process of challenging and embracing new ideas.

So how, then, does one argue with an angry feminist? A full answer is not yet possible, for the social process of learning how to fight constructively across gender lines in an academic context is in its early phases, as it is in many other settings as well.<sup>5</sup> Eventually we will learn, and until then both sides may have to give a bit on the ground rules if true debate is to occur. But even at this early juncture, some guidelines seem clear. Show respect. Listen. Look for value. Focus on the specific and the tangible. Talk straight. Avoid polemics and ridicule. These are universals—they represent time-tested ways of successfully negotiating human conflict. Their efficacy is unlikely to vanish simply because the topic is some aspect of feminist thought or the debate is across gender lines.

In sum, the time has come for men (and women) who disagree with feminist thinking to enter the fray.<sup>6</sup> I am aware that this call to arms is cast in the traditional "male" metaphor of conflict. It would, however, be a mistake to reject its applicability even in the context of responding to feminism. Some-

5. Catherine Buntaine, *Caution! Women and Men Working Together: A New Paradigm*, 16 *J. Women's Ministry* 2 (1990); Rosabeth Moss Kanter, *Men and Women of the Corporation* (New York, 1977); George R. Bach & Peter Wyden, *The Intimate Enemy: How to Fight Fair in Love and Marriage* (New York, 1969).
6. Women have already begun challenging some aspects of feminist thinking, and by all reports, seem to have survived. For a particularly constructive example of such criticism, see Holly Maguigan, *Battered Women and Self-Defense: Myths and Misconceptions in Current Reform Proposals*, 140 *U. Pa. L. Rev.* 379 (1991), in which the author, through careful empirical work and doctrinal analysis, contests the feminist claim that traditional doctrines of self-defense are wholly incapable of accounting for the special context of the battered spouse.

where along the road, conflict got a bad rap. A widespread fear, both within and outside academic life, is that conflict simply breeds more conflict. This surely can occur, as our various academic Beirut demonstrate, but when it does, it is a sign not that fighting is bad, but that people are fighting badly. When well motivated and properly conducted, conflict leads not to more conflict. It leads to connection. And that is something the feminists have much to say about.