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Proliferation

Katharine B. Silbaugh

Boston University School of Law

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PROLIFERATION

*KATHARINE B. SILBAUGH**

In the spirit of intellectual inquiry, the editors have chosen to hold a symposium asking how the unique mission of the journal is to be justified. Self-assessment is a courageous undertaking. Here we see exemplified one of the great benefits of journals with a well-defined perspective: student editors take the mission of the journal seriously. They are not self-satisfied. They have chosen this perspective, not fallen into it, and they are willing to investigate whether it is worth their commitment. From this comes the simple answer—as long as there are students dedicated to the mission of feminist law journals, authors who seek to publish their work in feminist law journals, and individuals who are interested in reading that work, feminist law journals have a rightful place in the range of institutions that deepen learning.

Let me consider two of the objections to women's law journals, one from feminists, and one more broadly suggested. The first, and most common amongst feminists,¹ is a concern about drawing scholarly work away from the mainstream. By separating scholarship from the mainstream we lose the chance to influence and reform it; we do not reach the people who need our perspective the most.

I believe this common concern over women's law journals is, in practical terms, overstated. Because of the professional pressures within academics (to get a tenure track job, then to get tenure, possibly to move from one institution to another), most feminists either attempt to publish in high-ranked mainstream journals, or would if they thought their articles had a real chance of being published there. There are probably exceptions, such as those who always choose only feminist or other non-mainstream journals in order to put into practice their intellectual and political commitments. Probably most feminists choose feminist law journals sometimes for a version of that purpose. But over the course of a career, most feminists will seek publication in mainstream journals at times, and many will do so most of the time.

* Professor of Law, Boston University School of Law.

¹ Other objections from within include concerns about essentialism and postmodern criticisms of identity politics generally. I take those to have diminishing salience as they pertain to feminist law journals in particular, as those journals have galloped so thoroughly into debate on such a range of identity claims and issues—if not without heat, certainly with a willingness to hear and be transformed.

The truth is, the women's law journals are not a zero sum game with the mainstream journals, drawing scholarship away from them. More often, they are a reservoir to catch the great number of feminist works that will not be published in a high-ranking mainstream journal. In addition, many authors who publish in feminist law journals would have little chance to publish in a high-ranking mainstream journal no matter what the topic, for example, practitioners, activists, or students. The feminist law journals are more an edgy complement to the gray mainstream journals than a direct competitor for feminist works both would like to grab up.

But feminist law journals do even more than that—they stimulate more work on a remarkable range of feminist topics, so that they do not merely catch what would happen anyway, but instead serve as real agents in the productive aspects of the discourse.

A straightforward example of this is the great number of symposia held by feminist law journals. Symposia often generate work on a subject. A symposium invites a group of scholars to focus together on the same subject, one that might not have brought some within the group to write without that forum. If it is a symposium in the physical world, it brings scholars together physically, where they can get a break from the isolation they often feel on their own faculties and re-energize their scholarship after discussion with others.

Another example is the common phenomenon of dialogue in the form of responses to articles. Even if a feminist article is first published in a mainstream journal, that journal will usually exhaust its interest in the nuances of discourse that the article could generate among other scholars long before potential responders are tired of the topic.

This role as nourishment for the generation of new works, in turn, expands the feminist voice in the mainstream. Serious scholars publishing in feminist law journals raised many topics for the first time a decade or more ago, and those topics now inch their way into the mainstream journals as the ideas floated become more familiar, less radical and edgy-seeming, and more palatable to a better-educated mainstream.

This brings me to the second objection to feminist law journals that I want to discuss. It is one that I believe we discuss less amongst ourselves than segregation concerns. That is a common mainstream belief that it is, in fact, easy to place feminist articles in mainstream journals—*easier* than it is to place articles on less “sexy” subjects. Given what is thought to be the bias of mainstream journals *towards* our work, some undoubtedly ask what quality work could be left for feminist law journals to publish after the mainstream journals lower their standards to pick up feminist works. In some form, we are all familiar with this complaint, whether in its general form (everyone feels their topic is undervalued by journals), or the specific form: conservatives think that journals favor feminists and other lefties, feminists think journals favor conservatives (you know, we are all victims now). The common response to this concern is to label it backlash, or proof

of how difficult it is to be a feminist (not only do journals not want our work, but when they do take it, people think it was undeserved).

I wonder if there is any way to understand that criticism—that we actually have an easy road with mainstream journals—in light of what we feel we know on that subject, which is that most of what we want to say would never interest them. What if we grant that the mainstream journals *do* publish feminist work—what would we want to hypothesize about the great volume of work in feminist law journals? Personally, I would want to hypothesize that the mainstream really has no idea how much we have to say. At least a critic who held the view that we are getting plenty of exposure in the mainstream journals would also be a person with an implicit perspective on proportionality—on when “enough is enough.” But the feminist law journals are living proof that the “enough” in the mainstream journals just is not enough.

Here is where I want to seriously credit the feminist law journals. Without the feminist law journals, we might be able to publish an article about rape. But I think there would be no place to publish an article about the difficulties immigrants who have been raped have in getting help from authorities without jeopardizing their residency in the United States. We might be able to publish an article about the role adequate childcare might play in creating real workplace equality for women, but we are less likely to find a reception for an article about the impact of the price of childcare on immigrant women and women of color who are the childcare workers. We might be able to publish an article on the rights of gay and lesbian workers under anti-discrimination laws, but we are less likely to be able to investigate the implications of anti-discrimination law for transgendered people. In mainstream journals, we can write about the contours of sexual harassment law under Title VII, a major federal civil rights statute. We can write about almost any case the Supreme Court hears that raises gender questions. But without feminist law journals, there would be no forum for articles about the impact of welfare reform on drug- or alcohol-dependent mothers, the challenging lives of low-income girls, the many questions about the depth or shallowness of women’s commonality, the impact of international treaties and trade practices on women living in poorer nations with whom we do trade—the list goes on.

The mainstream journals *are* interested in some things we have to say. I would guess they are far more interested today than they were twenty years ago. Still, as far as they have come, they just cannot, or have not, kept pace with the demand. The mainstream journals cannot keep pace with the amount we have to say. But, as importantly, they cannot keep pace with the nuances, if that is not too trivializing a word for the lives of marginalized people, that we would like to investigate if we were not so busy in the mainstream journals painstakingly documenting to a skeptical audience what seems to us obvious, and just a starting point. That is not to say that we should not have to verify our arguments—we do, or we cannot get our

work published. It is only to say that doing so to a specialized audience, familiar with the same literature and schooled in data on the same subject, is a different task. It leaves more room for investigating really hard questions, not answering, with documentation, much easier ones.