CANADIAN FEMINISM AND THE LAW: THE WOMEN'S LEGAL EDUCATION AND ACTION FUND AND THE PURSUIT OF EQUALITY by Sherene Razack (Toronto: Second Story Press, 1991)

In *Canadian Feminism and the Law*,[1] historian Sherene Razack[2] probes the perplexing question whether activists can effectively use the law to bring about progressive social change. She does so by reviewing the activities of the Women's Legal Education and Action Fund (LEAF), a feminist organization founded to influence the legal interpretation of the equality provisions of the *Canadian Charter of Rights and Freedoms*.[3] Razack considers LEAF's work in the context of the contemporary debate about liberal rights theory. By applying insights she derives from radical feminism and from postmodern and race theories, Razack reveals how perilous the legal strategy is for feminists.

In telling LEAF's story, Razack makes sense of the disparate fragments of the feminist experience of litigating women's issues. She finds patterns underlying what lawyers experience as isolated incidents. In interpreting these patterns, she identifies the systemic nature of the resistance that feminists face in the courts. Within this explanation, she discovers contradictions which render the legal strategy not just problematic but possibly counterproductive to the feminist cause. Rather than promoting solidarity between feminist communities, the law pits women against women. Of particular concern to Razack is the gulf which this discord has created between LEAF and women of colour. Still, Razack stops short of delivering the harsh message that LEAF's successes may be more illusory than real. Throughout the book, she remains ambivalent about LEAF's work.

Paradoxically, Razack's ambivalence contributes to the book's success in laying "the basis for a discussion of what can be gained and lost from pursuing equality in law."[4] By failing to resolve her doubts about the feminist project in law, Razack effectively draws readers into the debate. Indeed, it is not for her to say whether the project should be continued or abandoned. It would be premature to make definitive judgments on the basis of LEAF's first three years of practice. More importantly, those judgments are the proper domain of the feminist community itself. Razack serves that constituency appropriately by presenting clearly and fairly the predicament it faces.

Because Razack so ably integrates aspects of contemporary legal theory with current issues in legal practice, *Canadian Feminism and the Law* is an excellent resource for students, academics, and lawyers. Those who are not familiar with contemporary social theory and the techniques of deconstruction that are employed in it, may find Razack's presentation of her theoretical framework too sparse. They may need the support of

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1. Sherene Razack, *Canadian Feminism and the Law: The Women's Legal Education and Action Fund and the Pursuit of Equality* (Toronto: Second Story Press, 1991).
2. Assistant Professor, Department of Adult Education, The Ontario Institute for Studies in Education, University of Toronto.
3. *Canadian Charter of Rights and Freedoms*, Part I of the *Constitution Act, 1982*, being Schedule B of the *Canada Act 1982* (U.K.), 1982, c.11.
4. *Supra*, note 1 at 12.

supplementary reading and discussion to follow the book's argument. On the other hand, those who are familiar with radical and postmodern forms of criticism will likely find the book an easy read. For these readers, the book will provide evidence to support what they know at a theoretical level. Those who have rejected one or more of these arguments will find in Razack an opponent whose theoretical position is backed by substantial experience, research and reflection. She should not be dismissed.

Although it is Razack's doctoral dissertation and it proves her academic competency, *Canadian Feminism and the Law* is more than an exercise in intellectual prowess. The motivation for the study flows from Razack's work in the human rights field. Razack wants her book to be of practical value to activists. To succeed as applied theory, her assessment of LEAF must pass two tests. Her argument must be convincing and it must make a useful contribution to the community it purports to serve.

To assist me in assessing it in that context, I convened a meeting of several feminist lawyers, law teachers and law students to discuss the book. I also talked about it with other feminists, including some who are not part of the legal community.[5] In these conversations, women variously described Razack's book as "tedious" and as "the best thing in a long time." It was described as both accessible and impossible to read. However, in general, those I talked to praised Razack for making the activities of LEAF better known.[6] My discussions also confirmed that *Canadian Feminism and the Law* is a troubling book. I would suggest that it is this unsettling quality which makes the book particularly instructive.

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5. I particularly wish to thank Susan Jackel, Jean McBean, Lillian MacPherson, Patricia Paradis, Anna Pellett, Kerry Rittich, and Alayne Sinclair for participating so frankly in those discussions. I also wish to thank the numerous other women with whom I had less formal conversations. I make no claim for the representativeness of this group nor wish to suggest that their responses might be in any way typical. Rather, their comments have helped me to broaden my own perspective on Razack's book.

6. I had hoped to find that *Canadian Feminism and the Law* would serve lawyers as a primer in feminist legal theory. Unfortunately, I found that it was amongst this community that the book was most poorly received. Although Razack strove to produce a text that did not require a background in contemporary social theory, several lawyers I talked with had difficulty with this aspect of the book. Other lawyers found the "academic" nature of the book's prose and form off-putting. However, our discussions suggest that, with supportive discussion Razack's book can be used to introduce lawyers to feminist legal theory and to acquaint them with current developments in equality litigation.

Amongst the academic community, Razack's book was better received. I heard tempered praise for the work from law teachers and law students. What criticisms they had tended to be directed to the integration of the theory and case analysis. A harder analysis might have been preferred. Interestingly, it was amongst undergraduate Arts students that the book met with the most enthusiastic response. According to their professor, those Canadian Studies students found both the theoretical and the legal analyses highly accessible. Razack's treatment of the legal issues is engaging even for those who have no formal background in law.

These comments are not meant to suggest that *Canadian Feminism and the Law* should considered just an introductory text. The richness of Razack's treatment of her subject means that the book is laden with insights into contemporary legal theory and practice.

The book is unsettling, first, because it issues a personal challenge to us. The work constitutes Razack's own struggle to come to terms with the contradictions inherent in her work. After spending ten years or so researching, writing, designing curriculum and teaching about human rights issues ranging from militarism to anti-sexist and anti-racist strategies in employment and from critical pedagogy to community activism, Razack determined to confront the questions that

> ...came from the spaces of [her] personal experience as a woman of colour, spaces in which [she] filed away difference and powerlessness.[7]

In doing so, she had to face the possibility that her own experience and "that of other women and minorities, might never be fully accommodated within the construct of rights."[8]

Razack's search, then, threatened the legitimacy of her professional work. It also required her to confront feminist lawyers on their own ground. As a non-lawyer and as a woman of colour, she would be vulnerable to both the elitism and the racism she alleges. Undertaking this project was an act of courage which I suspect few of us would initiate. It was an act of deep personal and political conviction. *Canadian Feminism and the Law* is a book written by a self-reflective activist who is painfully aware of the treachery that haunts her practice. Against that backdrop we might be troubled by our own trepidation.

Razack's suggestion that the Charter is counterproductive to progressive causes is troubling but not new. Rights are supposed to be the source of freedom not of oppression. Yet early accounts of equality litigation show that a powerful minority of people are using the Charter to protect their position of social and economic privilege. Michael Mandel charges "the language of rights is much more suited to upholding the status quo than to attacking it."[9] He argues that the courts are so undemocratic and elitist that progressive social movements should not look to the Charter for help. Rather they should press governments for change.[10]

In their study of litigation involving the equality provisions of the Charter, Gwen Brodsky and Shelagh Day counter:

> Because women's disadvantage is so entrenched, women do not have the luxury of choosing one forum over the other. The full support of both governments and the courts is needed for women to take their rightful place in Canadian Society. Women must press for changes in both arenas.[11]

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7. *Supra*, note 1 at 11.
8. *Ibid.* at 11.
9. M. Mandel, *The Charter of Rights and the Legalization of Politics in Canada* (Toronto: Wall & Thompson, 1989) at 238.
10. Mandel concedes that it may be necessary to use the Charter *defensively* but that it should otherwise "be made to whither away." *Ibid.* at 308-311.
11. *Canadian Charter Equality Rights for Women: One Step forward or Two Steps Back?* (Ottawa: Canadian Advisory Council on the Status of Women, 1989) at 4.

American civil rights litigator, Elizabeth Schneider, agrees that feminists should not eschew rights discourse. She maintains that it forms an integral part of political struggle.[12] The courts serve "as a forum for politics, and as a stage within the development of political movements generally."[13] The question for her is not *whether* to assert rights but *how* to employ this strategy.

Razack joins her sisters in arguing that feminists can use the courts as a forum for telling women's stories. Her contribution to the debate lies in her portrayal of the realities of using that forum and her depiction of LEAF's partial success in transforming the rights vocabulary in women's favour. However, she warns that this success is so riddled with both theoretical and practical contradictions that the courts must not be the only forum in which to argue the feminist cause. Rather, she contends that the legal strategy must be integrated into the broader feminist struggle. According to Razack, this will require LEAF to revise both its theory and its practice.

Razack sets up her argument by viewing LEAF through a set of theoretical lenses which she provides in the Introduction to her book. Drawing from the best of progressive social and legal theory, she equips herself with a panoply of contemporary criticisms of law. Quickly getting to the key issue, she cautions that when we use a rights approach we find that the rights of individuals come in conflict with the rights of groups, and that the rights of disadvantaged groups come into conflict with each other. We are put in the untenable position of having to decide whether the rights of the individual should be sacrificed in the interest of the group. When the rights of groups conflict, we must decide which oppressed group to support over another. Creating hierarchies of oppression does nothing to eliminate the causes of oppression.

Razack suggests that feminists have tried to avoid this trap by ignoring the differences between women, preferring to treat all women as equally oppressed. But, she argues, doing so hides the oppression of some women by other women. It obscures the nature of oppression and inhibits our ability to envision new ways of living together.

Razack then invokes the postmodern response to this dilemma:

> ...let us not speak of rights at all because to do so is to stay locked into a framework which limits what we can know and say.[14]

She adopts the postmodern insight that meaning is not objectively determinable but something we produce through discourse. Drawing from Michel Foucault, Razack explains:

> Once we begin to focus on the deepest levels of where meaning is produced (i.e., in language), we come upon the rules that operate to suppress certain aspects of experience and highlight others. We discover

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12. E. Schneider, "Dialectic of Rights and Politics: Perspectives from the Women's Movement" (1986) 61 N.Y.U.L.R. 589 at 599.
13. *Ibid.* at 611.
14. *Supra*, note 1 at 19.

> that what we know is *produced* through these rules; that knowledge is simply one side of the coin while power, the power to regulate what is known, is the other. Discourse is the twin operation of power and knowledge and when we deconstruct scientific knowledge, for instance, we see that specific rules influence how we order our knowledge (experience) of the world."[15]

If so, legal truths are determined by those who control legal discourse. Razack argues that feminists must, therefore, expose how the language of law determines what men believe to be true. Feminists must expose the male context that law presumes and replace that context with one that reflects the realities of women's lives.

In denying the objectivity of truth, however, the postmodern approach creates a moral vacuum. Razack turns to feminism to fill that gap with an "ethic that responds to needs, honours difference, and rejects the abstractions of scientific discourse."[16] As she sees it, the feminist project in law is to transform law in accordance with that ethic.

In the body of her book, Razack draws on this mix of theoretical perspectives to expose and explain the practical problems that LEAF has in making rights claims. If her project succeeds, it will reveal lessons about the law of benefit to all social activists.

In Chapter One, Razack discusses the founding of LEAF. She tells of the courage and tenacity of the women who fought for the constitutional entrenchment of women's right to equality. She captures the bitterness and sense of betrayal these women felt when they tested the commitment of Canadian legislators and male constitutional experts to principles of equality. The fight to entrench equality rights proved the need for them. As Razack relates this story, she documents the evolution of LEAF's results-based theory of equality and tells of LEAF's initial hopes for taking the offensive in advancing it.

In Chapter Two, Razack presents the basic paradox in which LEAF seeks to advance its theory of equality. "[I]t is in essence the telling of women's stories in a language and a setting structured to deny the relevance of women's experiences."[17] Razack describes litigation as a highly technical enterprise governed by complex rules of evidence and procedure. She suggests that these rules preclude the presentation of the evidence required to tell women's stories and to support feminist arguments. Yet to use the courts at all, feminists must follow these rules. Feminist litigation, therefore, requires finding ways to break legal rules while still working within them. Clearly, this will not be easy nor without risk.

Razack goes further and claims that arguing women's rights means arguing gender hierarchy.

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15. *Ibid.*
16. *Ibid.* at 21.
17. *Ibid.* at 51.

> Where there is hierarchy there is power, and the legal system is not equipped to deal with the active exercise of power by one group over another. Thus, when women bring their lives into the courtroom, they issue a fundamental challenge that reaches into the very core of liberal legalism.[18]

Nothing could be more revolutionary!

Though it soon lost its bid to occupy the field of equality litigation, LEAF found ways of exploiting the ripple effect of arguing the few cases it could take on. Powerful as it might be, patriarchy has a soft underbelly. One strategic victory for feminists could block patriarchal claims on several fronts. But Razack suggests that in its haste to dominate the field of equality litigation, LEAF became ensnared in yet another contradiction. She argues that LEAF became so preoccupied with winning cases that it became disconnected from the constituency it was meant to serve. As she demonstrates, preparing for litigation is so onerous that it virtually precludes the kind of community consultation that is necessary to ensure LEAF's accountability to the broader women's movement. Razack finds that the homogeneity of LEAF's membership and its "overwhelming focus on the legal aspects of issues hamper existing relations between it and different feminist communities."[19]

Opening up its processes, however, would threaten not only LEAF's success in the courts, but its survival as an organization. LEAF's "corporatist-feminist" image is an essential feature of its successful fund development strategy. Litigation is expensive and the grassroots of the women's movement cannot provide the money that is required to fight in the courts. LEAF must appeal to wealthy women if it is to be in court at all.[20]

In the next two chapters of her book, Razack describes what happens when feminists take gender issues to court. In order to get a clear picture, Razack searched out Statements of Claim, Statements of Defence, affidavits, transcripts, trial notes, factums and court decisions. To fill in the gaps between these documents, she interviewed key LEAF strategists. By examining LEAF's legal work in such detail, she sheds light on aspects of the legal process that are underexposed. Razack shows how the simple evidence of a woman's experience does not suffice in the courts. To be heard, women's stories must be recast as scientific, medical, psychological, sociological, and intellectual problems. The intimate must become impersonal. What happens to one woman must be a phenomenon experienced by all women. All that LEAF can do is confront the male-based stereotype with a feminist-based one. LEAF can do nothing about law's compulsion for abstraction. Razack is particularly concerned that generalizing women's experience hides women's ethnicity. In the result, she argues legal discourse is not only sexist but implicitly racist.

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18. *Ibid.* at 70.

19. *Ibid.* at 57.

20. The federal government withdrew funding for the Charter Challenge program in its February 27, 1992 budget (Department of Finance, *1992-93 Estimates Part I, Government Expenditure Plan*). This was one source of funding for many "progressive" cases including some of LEAF's.

As if the picture she paints of LEAF's struggles in the court room is not bleak enough, Razack looks at what happens after courts decide cases. There she finds that even when LEAF succeeds inside the courtroom, its success may backfire outside. A victory in court may be undone later by the extra-legal acts of individuals, bureaucracies and legislators. More paradoxically, a victory for one woman, may result in increasing the oppression of others.

Yet despite these setbacks, Razack believes that LEAF has made considerable gains for women. LEAF has brought the real experiences of women to public attention and in the result has changed the law. Even when it fails to win cases, LEAF still exposes the vulnerability of women before the law. But LEAF's success is bitter sweet. It has been achieved at the expense of alienating LEAF from the most disadvantaged of women — native women and women of colour.

Through her discussion of LEAF's practice, then, Razack exposes a multitude of contradictions inherent in using the law to advance women's interests. She finds contradictions within the theory of equality that LEAF is championing and within the challenge of exposing the patriarchal foundations of law. She finds contradictions within the methods the organization uses to develop its litigation strategy and within the realities of courtroom practices and politics. In some instances, these contradictions provide openings which LEAF can use to advance feminist arguments. But, as she tragically predicts in her discussion of rights theory, other contradictions set group interests against individual interests and put the interests of different classes of women into sharp conflict. The theoretical proposition that rights language produces hierarchies of oppression seems borne out in LEAF's practice. The question remains whether LEAF has invaded the discourse sufficiently to affect the meaning of legal words. Razack takes up this issue in her last chapter, "What Counts as Winning?," and concludes:

> LEAF has successfully conveyed its position on the importance of the equality guarantees of the Charter, and Canadian courts appear to have accepted its arguments about the adverse impact of certain practices on women.[21]

LEAF seems to be succeeding in exposing the importance of context in determining truth. However, Razack thinks that the brand of feminism that LEAF is advancing in the courts is inadequate. As she sees it:

> One assumption about women's reality that has formed the bedrock on which the feminist project in law has rested is the notion that all women share a core of oppression. It has been the task of LEAF to

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21. *Supra*, note 1 at 128. Catharine MacKinnon has called the recent decision of the Supreme Court of Canada in *R.* v. *Butler*, ([1991] S.C.J. no 15, a "stunning legal victory for women. This is of world historic importance." *The Globe and Mail*, (29, February, 1992). However, LEAF's argument and the resulting decision are sufficiently complex that it will be interesting to see how the lower courts will use this case.

describe and empirically validate this core of sex oppression for the court's benefit; therefore, the focus has been on sexism in its most "uncontaminated"[22] form.[23]

Drawing from race analysis, Razack charges: "This analytical approach leads to a fundamental misunderstanding of the realities of women who experience their multiple oppressions simultaneously."[24]

Razack argues that racism does not just make sexism worse, it makes it different — different in ways that privileged white women do not understand. LEAF must "examine its own brand of feminism self-consciously, with an eye to its own white middle-class character and, thus, to the assumptions it makes about the daily realities of communities unlike itself."[25]

Razack also finds that LEAF's isolation from the broader feminist community frustrates the organization's efforts in cases involving bureaucratic processes. In these situations, legal action must be complemented by sustained political or social action. Razack acknowledges that the capacity for this kind of action is underdeveloped in the feminist community, but alleges that LEAF is inadequately connected even to that which does exist.

Razack believes that it is, therefore, timely for LEAF to face the question of its place in the larger effort to build a feminist movement. As Elizabeth Schneider has cautioned:

...there is always a risk that a political struggle will be so fixed on rights discourse or winning rights in courts that it will not move beyond rights and will freeze political debate and growth. Rights discourse can be an alienated and artificial language that constricts political debate. But it can also be a means to articulate new values and political vision. The way in which a social movement group uses the rights claim and places it in a broader context affects the ability of rights discourse to aid political struggle. Rights discourse and rights claims, when emerging from and organically linked to political struggle, can help to develop political consciousness which can play a useful role in the development of a social movement.[26]

Razack chides LEAF for failing to make this vital linkage — for failing to link law to politics.

Failing to link law and politics will threaten LEAF's legitimacy:

LEAF will be unable to present various women's realities in all their complexities if gender remains the prism through which all other oppression is viewed.[27]

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22. Professor Razack credits Elizabeth Spelman with using this term in *Inessential Woman. Problems of Exclusion in Feminist Thought* (Boston: Beacon Press, 1988) at 75. *Ibid.* at 133.
23. *Ibid.* at 132.
24. *Ibid.* at 133.
25. *Ibid.* at 132.
26. *Supra*, note 12 at 611.
27. *Supra*, note 1 at 133.

To remedy this, Razack urges LEAF to work in coalition with associations of women of differing conditions to bring about changes in their circumstances. Failing to take such measures to remain accountable to the feminist community will impair LEAF's ability to fill the postmodern moral vacuum with the feminist ethic.

Reflecting on the larger theme of the feminist project in law, Razack sees that project as continuing to expose the world as "man-made."[28] However, her scepticism is again clear.

> Among many things left unanswered, however, is the question of whether men's and women's biological and social differences, characterized by feminists as the differences between the powerful and the powerless, are in the end too deeply entrenched and too expressive of the dominant discourse to be shattered in a court of law. One thing *is* clear, however, the courtroom cannot be the only arena for confrontation.[29]

She leaves us wondering whether the feminist project in law may, after all, be hopeless.

These ideas are disconcerting. Razack threatens the sacredness of our belief in rights and our reliance on the rule of law. She warns that we must not believe naively in the law's ability to be self-correcting. Change will not come from simply pointing out the inadequacies of the legal process. Even feminists do not know what they all are. Razack concedes,

> [r]ights thinking permeates our everyday lives and shapes many feminist activities so deeply that it is often difficult to remain self-conscious of the limits it places on our seeing and knowing.[30]

But overcoming these limitations will not end the matter either. Feminists may resist what they come to see. They may refuse to accept the proposition that the very idea of law inhibits the realization of feminist aspirations.

Razack also questions the moral adequacy of mainstream feminism. In identifying the race bias in LEAF's operations, she identifies the race bias in feminist assumptions about the "universal" woman. Though privileged white women may feel the pressure of men's feet on their throats, we in turn have our feet on the throats of women of colour (or of different class, sexual preference, etc.). Razack cautions that unless privileged women pay more heed to where we tread, we will continue to produce screams from our sisters. Unless we listen more carefully, we will not hear those screams.

Instead of facing these problems, we may resist Razack's allegations. We may variously deny their validity, resent them, rationalize them, become paralysed by the guilt they produce, or plead for easy solutions. But as Razack well knows, none of these are effective responses. Certainly we must pay attention to the necks on which we step as we move through our daily lives. But we must not use our guilt as a reason for

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28. *Ibid.* at 137.
29. *Ibid.* at 126.
30. *Ibid.* at 12.

withdrawing from all contact. Similarly, we must recognize the systemic nature of the oppression we are causing but must not demand theoretical purity before we can act. Rather, as Razack argues, in acting, we must be aware of the contradictions contained in those actions. We must continue to look for the opportunities that those contradictions afford us to move forward. This is a tortuous prospect practically, morally and politically.

My discussions with women demonstrated that these are real issues. Some lawyers had difficulty in accepting Razack's challenge to the elitism of LEAF's decision-making processes. Even lawyers who have rejected law's claim to gender neutrality, still held to the positivist view that law is a highly technical enterprise. They defended LEAF's approach in relying on seasoned lawyers to determine litigation strategy. This view held even for the participation of lawyers of colour where those lawyers were juniors. The participation of non-lawyers was clearly inconceivable. Even progressive lawyers still accede to the supremacy of the technical demands of equality litigation. They do not see how this blocks the democratization of law.

Some lawyers also resented Razack's insinuations about LEAF's racism. Their reaction was visceral. For them the allegation implied a lack of appreciation of the sometimes heroic efforts of LEAF volunteers — privileged white women though they might be. Women, such as Catharine MacKinnon, who have shaped the contemporary feminist legal strategy risk their lives to advance women's interests. To see their accomplishments attacked was for some lawyers perhaps the ultimate betrayal. The merits of the allegation of racism, its political implications and its theoretical dimension were not of much interest to most of my group. I found the reactions to Razack's book as troubling as the ideas she advances.[31]

In all these ways, *Canadian Feminism and the Law* is destabilizing. Razack has written a book which has the power to shake a reader's faith in old ideas. One can hardly read this book seriously without reconsidering one's ideas about rights, about using the law as a strategy for change, and especially about what it means to be a feminist. Once we face Razack's doubts, we may wonder if she is telling us anything we did not already know. Or is she instead forcing us to face some unpleasant truths we have suspected all along? Peter Elbow has suggested that learning is more a process of letting go of old ideas than of gaining new ones. It is a process of making way for better ideas that we may already have but have not fully assimilated.[32] If so, we will learn much from *Canadian Feminism and the Law*.

In summary, *Canadian Women and the Law* addresses the limitations inherent in using rights arguments, the specific obstacles related to using Charter guarantees on the behalf of women, and the contradictions imbedded in LEAF's organizational operations. Razack suggests that the problems associated with using the Charter apply to using law generally. She argues that the nature of legal discourse itself is hostile to the aspirations of women.

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31. Not all the lawyers I spoke with were so resistant to the book. For example, one embraced it with enthusiasm and intends to use it as a reference in preparing equality cases. Another, found it useful for integrating a feminist understanding into her socialist perspective of the law.

32. *Writing Without Teachers* (Oxford: Oxford University Press, Inc. 1973) at 45-46.

The law requires women to speak of their experiences in ways that deny their real meaning. Thus, she challenges us to confront basic notions about law and its role in society. Yet imperfect though the legal strategy may be, Razack tentatively concludes that it is one way for women to communicate to men "the nature of their lived oppression."[33]

Canadian Feminism and the Law is important for its documentation of the history of an organization which is changing the landscape of jurisprudence in Canada. It aptly captures the key role that LEAF has played in the women's movement and in advancing the feminist project in law. It does so without romanticizing LEAF's accomplishments nor sensationalizing the criticisms of LEAF. It is an accessible account of the experiences of LEAF. The discussion of the cases litigated by LEAF is neither so technical as to be tedious, nor so superficial as to leave the reader uninformed of their real significance. Razack criticizes LEAF sensitively but firmly. She has directed LEAF's attention to matters it must address if it is to survive. Will LEAF get the message? If it does, can it better exploit the contradictions which surrounded it or is the organization destined to be overwhelmed by them?

But the book is much more than a history. It is an exemplary piece of applied theory which tests the claims of rights theory against the real life problems of those who are litigating rights cases. Razack demonstrates that the rights strategy is a double edged sword. She shows how it has expanding opportunities for effecting social change. Feminist lawyers have used the Charter to change both the substance and the processes of the law. But those opportunities have been seized at great cost. Not only have others used the Charter against women to further entrench the privileges of the dominant minority, Razack shows that feminists have succeeded only by entrenching a distorted representation of what it means to be a woman. She puts women on guard as to the problems encountered in litigation. Razack substantiates Michael Mandel's caution that we must handle the Charter like nitroglycerine.[34]

The book's strengths may also be its weaknesses. Although she appropriately extracts and sequences a commanding array of theoretical insights, Razack fails to synthesize them into a coherent statement of LEAF's problem. Without such a formulation, she fails to bring home the final message. Gaining control of the language of the law entails a fierce power struggle. It is not the rational exercise that litigation presumes. We must not underestimate the importance to patriarchy of this ancient tool of oppression.

This weakness at the theoretical level is exacerbated by Razack's sensitivity in criticising LEAF's practice. In respecting the difficulties that LEAF faces and the demands made on the individuals involved, Razack may have been reluctant to face the inevitability of LEAF's defeat. With the resignations of Chief Justice Dixon and Madame Justice Bertha Wilson, the judicial climate in Canada has changed significantly. Moreover, the recent Supreme Court decision in *Seaboyer*[35] confirms Razack's

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33. *Supra*, note 1 at 50.
34. *Supra*, note 9 at 309.
35. *R.* v. *Seaboyer and Gayme* (1991), 128 N. R. 81 (S.C.C.).

suggestion that the courts will not go as far as LEAF might want.[36] LEAF's winning streak may be ending.

Rather than being a major player in the transformation of the law in Canada, LEAF may have enjoyed but a brief opportunity to influence the outcome of a few cases. The courts may now embark on a campaign to distinguish those cases. LEAF may yet prove to be only an anomaly in Canadian jurisprudence. Razack does not explore this possibility. Nor does she consider the likelihood of a backlash. Will the gains of LEAF be allowed to stand or will contrary forces not only undo those success, but exact concessions from the law that are harmful to women? Though she speaks repeatedly of the power of the law and of those it supports; though she documents the grim details of women's struggle to use the law; in the end, she leaves it to the reader to conclude that women will only be allowed to use the law in ways that privileged men will permit. Feminists may not have tipped the balance of power at all. They may scarcely have made it wobble. Michael Mandel's argument may be stronger than Razack credits.[37]

Razack might also have been too gentle in her treatment of the race bias inherent in LEAF's work. The criticisms of feminist theory and practice that women of colour increasingly voice are occupying a central place on the feminist agenda. If LEAF fails to address these criticisms effectively, it may lose its credibility in speaking for women. Its credibility in the courts will diminish exponentially.

In down playing these aspects of LEAF's prospects, Razack leaves the reader with something less than a hard edged critique of the state of feminist legal practice. However, Professor Razack has recently received funding from the Social Sciences and Humanities Research Council to examine the use of the law by groups of marginalized women. I expect the results of that work will be stronger and even more unsettling as she continues to grapple with the limits of the law and the possible futility of the feminist project to use it.

Those interested in critically examining contemporary social issues will find in *Canadian Feminism and the Law* a detailed examination of the progressive practices of an organization facing difficult theoretical, legal, practical, moral and political challenges. They are problems which are exemplary of those encountered on the front lines of the struggle to eliminate oppression in Canada. More particularly, the book details the difficulty of using the latest strategy available to activists: the equality provisions of the *Canadian Charter of Rights and Freedoms*. As a work of applied theory, Razack's book scores well. She has tested both the theories she has invoked and LEAF's practice. She has found the theory helpful in identifying and understanding the problems LEAF is facing yet inadequate to explain LEAF's apparent success. On the other hand, LEAF's success is too fragile to refute the theory. LEAF has managed to penetrate the discourse but not possess it. It is too soon to say whether LEAF can hold the ground it has gained,

36. *Supra*, note 1 at 114.
37. *Supra*, note 9.

let alone advance further. In the best of feminist tradition Razack makes theory and practice accountable to each other.[38] Both theorists and activists are the richer for it.

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38. For a discussion of the interplay between theory and practice in feminist work see Elizabeth Schneider, *supra*, note 12 at 598-604.

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