

Levin on Feminism and Freedom

by Walter Block*

Michael Levin's *Feminism and Freedom*¹ is the work of a supremely courageous individual. Women's liberation has so permeated the universities that any attack on this philosophy is bound to create personal difficulties for a male author.

Professor Levin denies the feminist thesis that men and women are exactly alike except for reproduction. On the face of it, this might not sound like much; indeed, it can only be considered the merest of common sense. However, an entire public policy agenda has been erected on either the denial, or neglect, of this elementary insight. Levin shows that the feminist program is entirely incompatible with freedom. Equal pay, affirmative action, non-discrimination statutes, women's studies departments, set asides, quotas, equal opportunity laws, anti-harassment enactments—indeed, a whole panoply of modern public policy—are all intolerable attacks on human liberty. Consider just the charge of sexism, the veritable tip of the iceberg: Levin gives the example of a male faculty member who asks a female graduate student for a date, or a foreman who invites one of his employees for coffee, and is refused. The professor or foreman takes the rejection with good grace, and does not in any way retaliate. Nevertheless, his mere invitation can subject him to charges of harassment. This has a chilling effect, to say the least, on our rights of free speech—to say nothing of normal social interaction.

I like this book, and very much so. I recommend it highly to all those who are concerned with human liberty and with the feminist attack on these principles.² As in the nature of such things, however, I have found numerous details with which I can object. None of them invalidates his main thesis,

* Department of Economics, Holy Cross College, Worcester, MA 01610.

but these small points will certainly be of interest to libertarians. Most of my disagreement stems from the fact that Levin is a conservative, not a libertarian, and while he is innovative and brilliant in coming to grips with the feminist attack on freedom, his refutations open him up to violations of liberty on numerous other grounds. So without any further ado, I consider those parts of the Levin volume with which I disagree.

1. The author states that “[p]rivate discrimination against women has been illegal since 1964,” in a context which implies he favors such legislation.³ Certainly, he does not criticize this state of affairs, while castigating almost everything else favored by feminists. From this we can deduce that he is not opposed. If so, however, this is clearly counter to the dictates of morality, to say nothing of common sense. For surely the basic right of free association allows us the privilege of not only interacting with those we choose to, but also refusing to associate with those we wish to avoid. Yet if private discrimination against women were legally prohibited, then organizations such as the Boy Scouts, Rotary, Lions, Moose, and Elks Clubs, and the Chamber of Commerce, to say nothing of the dozens of other men’s only luncheon, supper, and athletic clubs, would be outlawed. And what of male homosexuals? Their discrimination against women would have to be brought to an abrupt halt, to the utter denigration of their liberties. Strictly speaking, disallowing private discrimination against women would also rule out the possibility of separate men’s washrooms.

In addition, if private discrimination against men were by the same token also disallowed, then this would mean the end of women’s only groups, such as the Y.W.C.A., feminist consciousness-raising groups, lesbian organizations, and large parts of the women’s liberation movement itself. (I’m tempted to say: Hey, maybe this isn’t such a bad idea after all; except for the fact that women, and men too, have a *right* to assemble together with those of their choice, and to exclude all others.)

Similarly, our author lists segregation, along with slavery and the lynch mob as examples of wrongs perpetrated upon blacks.⁴ According to libertarian principles, however, people have a right to live in segregated housing (i.e., to refuse to sell to members of certain racial or ethnic groups), but certainly not to invade others as in the case of enslavement or lynching. Suppose we were to list the three “crimes” of enslavement, segregation, and lynching, and then to ask the man in the street “Which one does not belong with the others?” Is there any doubt he would pick segregation?

2. Levin accepts without demur the claim that “getting everyone to drive on the same side of the road [is] a paradigm coordination problem solved by state action.”⁵ But surely private road owners were able to get everyone to drive on the same side of the road when property rights in highways were allowed, and would be able to do so again should we ever move toward road privatization again. And not only could private enterprise get everyone to drive on the same side of the road, the government cannot—at least to judge by our stupendous traffic fatality rate.⁶

3. While Levin is sound on the question of forced equality for women, he leaves something to be desired in regard to what I would consider the identical issue of forced equality for racial minorities. He states that “unlike the case for racial quotas, which is merely unsound, the case for gender quotas is an intellectual scandal.” In his view, there are relevant differences between the two. At one juncture he points to the innate differences between the sexes. But are there no innate differences between the races? And even if it could be shown that there are innate differences between the sexes, but not the races, it would still not follow that this is a relevant *moral* distinction. The libertarian non-aggression principle, for example, would still apply in both cases.⁷

Elsewhere he claims it as a relevant difference that blacks have been more heavily victimized by violence (slavery, segregation, lynching) than have women.⁸ We have already dealt with the segregation issue; but what of the feminist rejoinder that women have been victimized by rape? To this Levin cavalierly notes that “there is no evidence that rape adversely affects female acquisition of job skills.” One might think the reason there is no evidence is that the causal chain is so obvious it never occurred to anyone to go out and *find* evidence on this matter. Rape is so savage and bestial an attack that it cannot help but have a negative impact on all aspects of life. For that matter, is there any evidence on the fact that lynching or slavery “adversely affects black acquisition of job skills?” Furthermore, there are no blacks being lynched or enslaved *today*, while women, unfortunately, are still being raped.⁹

In any case, what is the *relevance* of past victimization to present rights? Surely, we all have an equal right not to be aggressed against at present, and no other rights than that, regardless of the amount of victimization suffered by our forebears in the past.

4. Although Levin does not go so far as to advocate preventive incarceration for all eighteen-year-old males in order to reduce the crime rate (indeed, he repudiates this), he does claim the legitimacy of preventative coercion on the part of the state "only in emergencies."¹⁰ The forces of law and order, he claims, need not wait until an actual crime is committed; the threat thereof, or the opening stages (like the pointing of a gun), will suffice.¹¹ But the libertarian moral code legitimizes force only as a reaction to prior force—one may not assault another who has engaged in no coercive activities simply on the assumption that he may do so later. Preventive coercion is thus never justified, emergency or not.

5. Levin objects to governmentally enforced quotas on the ground that "rights originally promised on the basis of seniority are subordinated to the need to 'preserve the gains' of affirmative action."¹² But these seniority "rights" were gained through an illegitimate process of their own; that is, through coercive unionism.¹³ It is an interesting speculative venture to choose between two such illegitimate rights, but it is ultimately meaningless. Suppose you had to judge which of two persons was the rightful owner of a wallet. One gave as his reason that he is 5'8" tall and wears a red coat, while the other justified his claim on the ground that he weighs 160 lbs. and wears a blue coat. All you could do is throw up your hands in dismay.

6. States Levin: "The common law will not dispossess the current holders of land that has been transferred in good faith for a number of generations, despite proof from a claimant that the land was stolen from his ancestors; too much honest labor is now part of the land."¹⁴ This is a particularly infuriating argument, because the author does not even openly agree with the assessment; instead, he hides behind a declarative sentence concerning the common law. We are forced to deduce from the fact that he does not object to it—that he indeed cites it to buttress his own argument—that he actually favors it.

But there is no statute of limitations on justice.¹⁵ If my grandfather stole your grandfather's watch, it is unjust if I am allowed to keep it, no matter how many times my father may have polished it and otherwise cared for it. It is stolen property which never should have passed from my grandfather to my father, or from him to me. And the same analysis applies to land, or any other good.

7. Not content with attacking the feminists, Levin also launches into a critique of right-wing opponents of women's liberation—for being insufficiently radical. This is all well and good; anyone who publishes anything, on whatever side, must bear the scrutiny of all subsequent writers. Furthermore, most of his shots hit their mark. But there are several places where he is off target. First, Levin upbraids Thomas Sowell (without directly quoting him), for what he calls Sowell's implicit acceptance of the view "that quotas 'work' if they increase the number of blacks and women in high-level positions." But all Sowell says, according to Levin, is that "affirmative action does not work because it rewards well-credentialed blacks and women whom firms are eager to hire without helping poorly-credentialed blacks."¹⁶ By this quote, though, Sowell does not necessarily indicate that he has accepted the feminist premise. All he is doing is claiming that even given the viability of this feminist premise, affirmative action is still not an effective means toward that end.¹⁷ In other words, Sowell finds that the women's liberation movement is acting inconsistently with its own goal in championing affirmative action. I find nothing wrong with that.

Second, Levin reprimands Carl Hoffman (again, without directly quoting him) for accepting "wholly environmental explanations of sex differences in economic behavior." Specifically, Levin complains that Hoffman "objects to comparable worth because it penalizes employers who 'had nothing to do with producing . . . female inhibition.'"¹⁸ But why is this equivalent to accepting a wholly environmental explanation of sex differences? All Hoffman¹⁹ is saying is that employers are punished, even though they are entirely innocent of *whatever it is* that is causing female inhibition. As I read this, it is entirely consistent with the denial of a wholly environmental explanation.

Third, Levin admonishes Ma Block's favorite and only son. Once again his usual scholarly scrupulousness deserts him, and he fails to quote me directly. What is his complaint? "Walter Block explains sex differences in economic characteristics in terms of a 'fear of success' which besets girls in high school."²⁰ In fact, however, I was not offering this as an explanation of my own, but rather citing a whole host of feminist writers to this effect.²¹ In any case, why is this necessarily equivalent to a wholly environmental explanation? Couldn't it be that this fear of success stems from biological antecedents?

8. The author of *Feminism and Freedom* accepts without criticism the myth that government can be productive, in the ordinary economic sense.²² This is unremarkable in a conservative; no better can be expected. However, he does take the view that “people should not be forced to finance what they abhor”;²³ from this one might expect him to reason that if people are forced to do so, the result cannot be productive from their point of view (otherwise they would have financed the projects voluntarily), and that since government revenues are derived through force, the state cannot be productive. Alas, the very opposite of this conclusion was drawn by him.

9. Levin opines that as long as all large firms are forced to engage in affirmative action, none need fear loss of profits. General Motors need not worry about transmitting costs to the consumer in the form of higher prices as long as Ford and Chrysler must do the same. But what about small firms, not covered by this pernicious legislation? Can they not take market share away from all the large but encumbered firms?

10. Libertarians hold that discrimination should be allowed, on any basis, in the private sector, but not at all, on any basis, in the public sector. The reasoning is that if people are forced to pay taxes without discrimination, then they should be allowed to seize whatever benefits they see in government operation, also without discrimination. But the types of discrimination envisaged in this principle include far more than what is usually supposed. In addition to the usual race, sex, ethnicity, etc., it also includes everything else conceivable: strength, agility, intelligence, endurance, speed, and so on. The point is that if both the weak and the strong are forced to support the state, on a non-discriminatory basis, then the state must deal with each in the same manner.

Consider the case of the fireman with which Levin begins his book. By establishing physical requirements for fire fighters the government is discriminating on behalf of the strong and agile—those, in other words, who are best suited to fighting fires and rescuing fire victims. This is entirely illegitimate, however, in that the state is discriminating against the elderly, those in wheelchairs, the weak, the blind, etc.; in a word, against all those unable to function adequately as firemen. Naturally, of course, without such discrimination public-sector fire protection would be fatally compromised. But that is of no concern at all to the libertarian. Indeed, this

state of affairs would be positively welcomed! For it would undermine the present nationalization of this vital service, and tend to place it back in private hands, where it belongs.

11. The same goes for education, despite Levin's chapters 7 through 9, where he deals with such matters. How is it warranted for the state to hold entrance exams for public universities, when these discriminate in favor of the most intellectually able? Ignorant and stupid people also pay the taxes used for these institutions of learning. They deserve representation at the finest public universities, and on a proportional basis; or at least on one that does not discriminate on any basis whatsoever. Of course, all entrance exams have to discriminate on *some* basis, so the argument in effect calls for the cessation of all entrance exams for public universities. Remember, we are searching for a moral way for goods and services that have been taken from people against their will to be ethically returned to them. And surely it cannot be on any basis irrelevant to the manner in which such things were taken.

Levin, in sharp contrast, avers that government is justified in supplying public education, provided that it teaches children good citizenship and steers clear of controversy. He does so despite his recognition that "public education forces parents to send their children to . . . school," that people obviously abhor being forced to do things against their will, and that "people should not be forced to finance what they abhor."²⁴ Even his restriction upon the state not to engage in controversy is logically flawed. He holds that "the state can legitimately press literacy, numeracy, and basic factual information on children" and that "the public schools could teach industriousness and honesty, but they could not take sides in controversies."²⁵ But not all taxpayers favor honesty; some are thieves. Not all favor industriousness; some are lazy. Not all favor literacy; some are illiterate.²⁶

12. Our author favors wage control legislation. He says that "the question . . . [of] whether women . . . receive the same pay as men for the same work . . . was settled in 1963 when the Equal Pay Act made it illegal to pay a woman less than a man for the same job."²⁷ Well, this may well be settled in the minds of some advocates of government intervention, but there are still those of us who yearn for a world of economic freedom,

one of contract, not status. If an employer wishes to pay a man twice as much for doing the same exact work as a woman, that is his natural right. We could interpret the extra pay as a gift; or we could determine that the jobs are not really exactly equal, if only because the employer is more comfortable with the man in his employ than with the woman. But these scenarios are beside the point. The bottom line is that in a free society there should be no restrictions whatsoever on the free contractual rights of consenting adults. If an employer can find a woman willing to accept half the salary of a man for the same job, it is their right to agree to a wage contract which stipulates this.²⁸

13. Perhaps Levin's most serious breach of the libertarian legal code involves his defense of conscription. In his view "if the all-volunteer force is unable to attract enough men, an obvious solution is [a] return to all-male conscription."²⁹ But an obvious moral alternative is to raise pay scales until enough men are willing to supply their labor for this enterprise, assuming in the first place it is a legitimate one.

14. He also opposes a woman's right to abortion on the "fundamental Kantian rule against initiating aggression."³⁰ He rejects the familiar Judith Jarvin Thomson analogy of someone who wakes up to find another person attached to himself, dependent upon the use of his kidneys. Levin rejects this on the grounds that "the person who withdraws his assistance is not completely responsible for the dependency on him of the person who is about to die, while the mother *is* completely responsible for the dependency of her fetus on her."³¹ But this will not do. Surely the victim of rape is in no way responsible for her fetus's dependency on her. And just as surely all fetuses, whether the result of rape or not, have equal rights with one another.³²

To sum up: I have praised the book to the skies, and then, that being my nature, have registered quite a few disagreements with it. But it should be obvious that I recommend reading this book: It is the only exhaustive, in-depth, utter refutation of the feminist argument presently in existence. Its positive contributions are great, and its flaws do not detract from its central thesis. On the contrary, they are peripheral, although interesting, issues.

Notes

1. Michael Levin, *Feminist and Freedom* (New Brunswick, N.J.: Transaction Books, 1987).
2. For a review of Levin's book that focuses entirely on its positive elements, see my review in *Nomos* 7, no. 1 (Spring 1989): 25–26
3. Levin, p. 4. See also *ibid.*, p. 282, for another failure to object to the legal prohibition of private discrimination.
4. *Ibid.*, p. 113.
5. *Ibid.*, p. 82.
6. For a demonstration that the market would be able to reduce the accident, fatality, and injury rates on the highways, see Walter Block, "Free Market Transportation: Denationalizing the Roads," *Journal of Libertarian Studies* 3, no. 2 (Summer 1979): 208–32; *idem*, "Theories of Highway Safety," *Transportation Research Record*, no. 912 (1983); Murray N. Rothbard, *For a New Liberty* (New York: Macmillan, 1983), pp. 202–18.
7. Levin, pp. 104; *ibid.*, pp. 41–42.
8. *Ibid.*, p. 113.
9. This, of course, is largely a matter of there being altogether too much public property and not enough private property (it is no accident that more women are raped in Central Park than in Disney World). It is also traceable to the fact that the institutions ostensibly set up to eradicate rape (the police, the courts) are unfortunately in the intrinsically inefficient public sector.
10. Levin, p. 106.
11. See Murry N. Rothbard, *Ethics of Liberty* (Atlantic Highlands, N.J.: Humanities Press, 1982).
12. Levin, p. 112.
13. See W. H. Hutt, *The Strike-Threat System* (New York: Arlington House, 1973); Emerson P. Schmidt, *Union Power and the Public Interest* (Los Angeles: Nash, 1973).
14. Levin, p. 115.
15. See Rothbard, *Ethics of Liberty*, pp. 63–68. For a debate on this issue between the present author on the one hand, and Milton Friedman, David Friedman, and Paul Heyne on the other, see Walter Block, Geoffrey Brennan and Kenneth Elzinga, eds, *Morality of the Market: Religious and Economic Perspectives* (Vancouver: Fraser Institute, 1985), pp. 490–510.
16. Levin, p. 118.
17. See Thomas Sowell, "Weber, Bakke and the Presuppositions of Affirmative Action," in Walter Block and Michael Walker, eds., *Discrimination, Affirmative Action and Equal Opportunity* (Vancouver: Fraser Institute, 1982), pp. 37–63.
18. Levin, p. 143.
19. Actually, reference is presumably being made to Carl Hoffman and John Reed, "When is Imbalance Not Discrimination," in Block and Walker, *op. cit.*, pp. 187–216.
20. Levin, p. 144.

21. Since Levin does not quote me I cannot be sure of the exact context, but I assume his reference is to footnote 21 of "Economic Intervention, Discrimination, and Unforeseen Consequences," in Block and Walker, *op. cit.*, pp. 246-48. This footnote stretches on for three pages, wherein I cite numerous feminist writers who give dramatic testimonial to the fear of success of many, many accomplished women. My motivation for reviewing this literature was similar to that of Sowell: I wanted to catch the women's liberationists in a contradiction. On the one hand, they explain the female-male wage gap in terms of employer sexism; on the other hand, they testify to the fear of success of many women. They utterly fail even to consider that the latter could be at least part of the cause of the wage gap.
22. Levin, p. 120.
23. *Ibid.*, p. 111.
24. *Ibid.*, pp. 194-95 and 111.
25. *Ibid.*, pp. 194-95.
26. Levin also champions academic freedom, and does not even restrict this "right" to private institutions. For a critique of his views concerning academic freedom, see Walter Block, *Defending the Undefendable* (New York: Fleet Press, 1976), pp. 54-57. He also favors the legal prohibition of blackmail (Levin, p. 261). For an alternative view, see Block, *Defending the Undefendable*, pp. 44-49, as well as Block, "Trading Money for Silence," *University of Hawaii Law Review* 8, no. 1 (Spring 1986): 57-73; and Block and David Gordon, "Extortion and the Exercise of Free Speech Rights: A Reply to Professors Posner, Epstein, Nozick and Lindgren," *Loyola of Los Angeles Law Review* 19, no. 1 (November 1985): 37-54.
27. Levin, p. 131.
28. An employer who engages in this practice on a large scale is of course risking bankruptcy, but that is an entirely different matter.
29. Levin, p. 229.
30. Too bad he does not take this fundamental Kantian or libertarian axiom more seriously, especially in the cases of taxation, public enterprise, and conscription.
31. Levin, p. 288.
32. For a defense of fetus eviction, not abortion, see Walter Block, "Abortion, Woman and Fetus: Rights in Conflict?" *Reason*, April 1978, pp. 18-25.