

Depp v. Heard: A Feminist Mea Culpa

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The week I sat down to write this reflection, the big news story was that the actor Johnny Depp had won his defamation case against his former wife Amber Heard, sparked by a 2018 opinion piece written by Heard and published by the *Washington Post* in which she described herself as a ‘public figure representing domestic abuse’.¹ Depp’s name was not mentioned, but he sued for libel and sought damages to compensate for lost earnings, prompting Heard to countersue on the basis that she had endured domestic violence during their 15-month marriage. After a six-week televised trial, a deluge of media coverage and a massive viral pro-Depp campaign, a seven-person jury unanimously found that Heard could not substantiate her claims and awarded Depp US\$15 million in damages.

The larger cultural impact of the Depp-Heard court case—together with the preceding November 2020 United Kingdom libel case in which Depp lost against the tabloid the *Sun*, who described him as a ‘wife-beater’ after the judge ruled the claim was ‘substantially true’—will no doubt be assessed for months and years to come, including by feminist historians.² In the immediate wake of the verdict, feminist legal historian Jessica Lake very usefully placed the case in a larger history of the gendered dimensions of defamation law in the United States:

1 Amber Heard, ‘I spoke up against sexual violence – and faced our culture’s wrath. That has to change’, *Washington Post*, 18 December 2018, [washingtonpost.com/opinions/ive-seen-how-institutions-protect-men-accused-of-abuse-heres-what-we-can-do/2018/12/18/71fd876a-02ed-11e9-b5df-5d3874flac36_story.html](https://www.washingtonpost.com/opinions/ive-seen-how-institutions-protect-men-accused-of-abuse-heres-what-we-can-do/2018/12/18/71fd876a-02ed-11e9-b5df-5d3874flac36_story.html).

2 ‘Johnny Depp loses libel case over *Sun* “wife beater” claim’, *BBC News*, 2 November 2020, [bbc.com/news/uk-54779430](https://www.bbc.com/news/uk-54779430).

Historically the common law of defamation was built to protect public men in their professions and trades. It worked to both defend their reputations and shut down speech about them as a group.³

Other feminist commentators shared Lake's concern that the verdict would deter other women from coming forward with their own claims of sexual and domestic abuse. Most, however, tended to provide a more discrete historical narrative; the verdict, the widespread support for Depp and the misogynist vilification of Heard together constituted a backlash to, or even the end of, the #Me Too movement. 'We are in a moment of virulent antifeminist backlash', wrote Moira Donegan in the *Guardian*, 'and the modest gains that were made in that era are being retracted with a gleeful display of victim-blaming at a massive scale'.⁴

On the day of the verdict, I was contacted by a number of Australian media outlets to provide commentary. One journalist sought a #Me Too angle, citing my reviews of many books about #Me Too. Another asked me to comment on the case in relation to its implication for survivors of domestic violence, presumably because, along with Ann Curthoys and Catherine Kevin, I am part of a team of historians currently researching an Australian Research Council funded history of domestic violence in Australia. A third requested gender studies expertise, including in relation to celebrity and social media. I politely and guiltily declined them all, taking care in each instance to make suggestions for other scholars to approach.

Sometimes saying 'no' is necessary in my job (or jobs) as a feminist scholar and sort-of-public feminist, including because more often than not I say 'yes'. (I could have written my whole reflection about the yes/no conundrum, an abbreviated version of which would read: if you have secure employment, you should feel obliged to peer-review articles and examine theses about feminist topics, within reason, but no more committees.) Despite this propensity, media requests do not usually elicit guilt, particularly given some are so niche or sweeping as to defy any sense of expertise (e.g. 'can you tell me the history of the sex tape?' or 'where does sexism come from?').

3 Jessica Lake, 'Could the Depp v. Heard case make other abuse survivors too scared to speak up?', *Conversation*, 2 June 2022, theconversation.com/could-the-depp-v-heard-case-make-other-abuse-survivors-too-scared-to-speak-up-184324.

4 Moira Donegan, 'The Amber Heard-Johnny Depp trial was an orgy of misogyny', 2 June 2022, theguardian.com/commentisfree/2022/jun/01/amber-heard-johnny-depp-trial-metoo-backlash.

With the Depp–Heard case, however, I saw the value in making some sort of informed contribution, including to counter the mountains of misinformation, and to draw attention to some of the important interventions that had already been made, such as those from US sociologist Dr Nicole Bedera, who resourcefully used Twitter to draw out the consequences of the trial for survivors of gender-based violence.

I was also prepared to myth-bust, counter-argue and contextualise given I'd already spent weeks answering questions from family, friends, students and colleagues about the trial. My 12-year-old niece told me that TikTok coverage left her confused as Amber Heard was made to seem like a truly horrible person, but surely, she continued, there was more to it (yes, smart Stella!). My sister, who doesn't have a Twitter or Facebook account, was surprised to discover that it was a defamation trial, and not a domestic violence case, at least not officially. At an election night party, I was cornered at least three times by old acquaintances eager to test their assessments before a proper feminist authority—all of them pretty much identical (mutual abuse, terrible people, especially her). A male colleague I've always gotten on well with, meanwhile, ambushed me with a stream of vitriol about how 'crazy' women could so easily ruin the careers of successful men.

A missed opportunity to educate, however, was not the primary reason I felt guilty about saying no to media requests on this occasion. During the earlier UK defamation trial in 2020, I'd temporarily been sucked into the pro-Depp vortex when I couldn't sleep and went down a Twitter rabbit hole where all clicks led to more 'evidence' that Depp had been set up and that Heard had past form. And before I knew it, and before the sun had even come up, I posted my half-formed thoughts on Facebook. If memory serves, I added some qualifications that the trial was still underway and somewhat 'exceptional', but if Winona Ryder and Kate Moss said he had never abused them, then ... I deleted the whole thread by breakfast, but not before I'd empowered some others to share their own ill-informed reservations or before one of my PhD students warned me, gently, not to join the public pillorying of an alleged victim of domestic violence.

What was I thinking?? I still wince thinking about feminist friends who may have seen my thread (or even worse, anti-feminist 'friends'—I'm sure I've got some on Facebook, even if I don't know who they are). Some feminists even joined in, sharing their own mixed feelings. As a future

case study in the history of emotions, the Depp and Heard defamation trial offers a bulging archive, as well as a shadow one of deleted threads, comments and animated conversations nowhere recorded.

Given how bleak 2022 has been in terms of attacks on the rights of women and gender and sexual minorities globally, there are plenty of more important issues I could have written about for *Lilith*. Undoubtedly, the defeat of *Roe v. Wade* in the United States will eclipse *Depp v. Heard* as a defining episode with far more at stake (and, of course, the US is hardly the only country in which reproductive freedom has to be fought for). Yet it has been the Depp-initiated defamation case, with its toxic mix of celebrity worship, latent and unabashed misogyny, trial-by-media and victim-blaming, that—for a few weeks at least—tested my feminism the most, for better and for worse.

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