

## Can Radical Feminism Be Constrained by the Rule of Law?

### Initial Theses

I. “Radical feminism...holds (1) patriarchy still exists in Western societies, (2) government may legitimately interfere with the so-called private sphere of individual liberty, and (3) in order to help eliminate patriarchy, government may treat women according to different rules.” (Altman, p. 202)

II: Many feminist thinkers who agree with (1) and (3) also claim that a role of government is to help eliminate systemic social vestiges of patriarchy, although those two aforementioned claims do not entail this principle. (Cf. Altman, p. 205: “Radical feminism claims that we must not look simply at the formal legal rules and policies of society in order to determine whether it is still systematically oppressing women: we must look at all of its informal norms, rules, and practices as well.”)

### Rule of Law refresher:

“The general and authoritative rules [which a government installs to help regulate society] should give individuals fair warning: the rules should be...(b) reasonably clear in meaning and specific in what they prohibit.” (Altman, p. 7)

“Doing what the law requires is doing ‘legal justice.’ Doing ‘substantive justice’ to persons is treating them in the ways that they deserve: giving them the benefits to which they may morally lay claim or inflicting on them the punishments which morality calls to be imposed on them.” (Altman, p. 18)

“A political trial is one in which political considerations, not simply the law and the facts, affect the proceedings and verdict...Considerations of the general good of society: These considerations operate when the verdict is based on the belief that it is good for society as a whole and thus promotes social utility.” (Altman, p. 27)

### Chapter 7 Examples: How Do You Go After a Mindset?

Wife-battering, p. 206: Both a legal and a psychological phenomenon.

“Women who do not stay home to raise their kids are typically viewed [by society] with disapproval, while men who stay home to raise their kids are typically viewed as inadequate.” (p. 207)

“According to this radical feminist analysis, men benefit at the expense of women from social expectations and norms. The mother tends to become economically dependent on the father, to the extent that he sticks around. This gives the father much more say in the way the family operates: the fact that he is bringing home a paycheck (or the larger of two paychecks) gives him leverage over the mother and the ability to enforce his wishes over hers. If the mother tries to insist on an equal voice, he can explicitly or tacitly threaten to leave, leaving her and the children destitute. In the meantime, the father gets someone to raise his kids, do his laundry, cook his meals, clean his home—all for free and all the while developing his workplace skills and increasing his value in the labor market.”

### Conclusions

III. Where sex discrimination can be pursued legally, pursue it. Otherwise, it is a matter of social psychology or substantive justice.

IV: Open question: Would radical feminist thinkers be better off if they revoked thesis II, at least from a legal perspective?