1NC (relevant cards left with full text ☺)

**“Women are caught** like this, too, **by networks of forces and barriers** **that expose one to penalty, loss or contempt,** whether one works outside the home or not, is on welfare or not, bears children or not, raises children or not, marries or not, stays married or not, is heterosexual, lesbian, both, or neither. Economic necessity; confinement to racial and/or sexual job ghettos; sexual harassment; sex discrimination; pressures of competing expectations and judgments about women, wives and mothers (in the society at large, in racial and ethnic subcultures, and in one’s own mind); dependence (full or partial) on husbands, parents or the state; commitment to political ideas; loyalties to racial or ethnic or other “minority” groups; the demands of self-respect and responsibilities to others. Each of these factors exists in complex tension with every other, penalizing or prohibiting all of the apparently available options. And nipping at one’s heels, always, is the endless pack of little things. If one dresses one way, one is subject to the assumption that one is advertising one’s sexual availability; if one dresses another way, one appears to “not care about oneself” or to be “unfeminine.” If one uses “strong language,” one invites categorization as a whore or slut; if one does not, one invites categorization as a “lady” – one too delicately constituted to cope with robust speech or the realities to which is presumably refers. **”The experience of oppressed people is that the living of one’s life is confined and shaped by forces and barriers which are not accidental** or occasional **and** hence **avoidable, but are systematically related to each other** in such a way as to catch one betweenand among them **and restrict or penalize motion in any direction. It is the experience of being caged in:** all avenues, in every direction, are blocked or booby trapped. **Cages. Consider a birdcage. If you look very closely at just one wire in the cage**, **you cannot see the other wires**. If your conception of what is before you is determined by this myopic focus, **you could look at that one wire**, up and down the length of it, and **unable to see why a bird would not just fly around the wire** any time it wanted to go somewhere. Furthermore, **even if one day at a time, you myopically inspected every wire, you still could not see why a bird would have trouble** going past the wires to get anywhere. There is no physical property of any one wire, nothing that the closest scrutiny could discover, that will reveal how a bird could be inhibited or harmed by it except in the most accidental way. **It is only when you step back,** stop looking at the wires one by one, microscopically **and take a** macroscopic **view of the whole cage, that you can see why the bird does not go anywhere; and then you will see it in a moment**. It will require no great subtlety of mental powers. **It is** **perfectly obvious that the bird is surrounded by a network of** systematically related **barriers, no one of which would be the least hindrance to its flight, but which, by their relations to each other, are as confining as the solid walls of a dungeon.” (1.15)**

[Frye, Marilyn. *Former professor of philosophy at Michigan State University and feminist theoriest* “The Politics of Reality: essays in feminist theory”. *Crossing Press*. **1983**.]

The resolution asks us a question about the specifics of the criminal justice system, but this structural analysis is never genuine because it asks us to ignore the problems that exist within the system itself – the problems which result in complete failure within the system. Women are marginalized, and issues of race and class only intersect with other wires in the birdcage to exacerbate gender issues. Rights and justice in this joke of an institution have always been denied based on identity, and marginalization means that groups are never able to effectively influence policy for reform. The nature of the criminal justice system is a prior question to the debate they want to have.

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[Cahn, Naomi *visiting professor at Georgetown University Law Center*. “POLICING WOMEN: MORAL ARGUMENTS AND THE DILEMMAS OF CRIMINALIZATION”. *Cornell Law Review*. **1992**.]

This essay concerns the peculiar dilemmas of criminalization for women. Women, and I am deliberately essentializing 1 here, are constantly policed, in ways ranging from the monitoring of motherhood to the criminalization of prostitution. This policing may be through the criminal law, civil law, or it may be done more subtly through cultural attitudes that devalue women's work 2 yet simultaneously encourage women to do that work. 3 While criminalization may serve an important cultural and societal function, it may also obscure[s] the underlying problems that lead to the need for criminalization. Yet, a failure to [\*818] criminalize may also represent tacit (or explicit) approval of the underlying behavior. The dilemma of criminalization appears in a variety of contexts related to issues that disproportionately impact women. The most obvious issue, perhaps, is domestic violence. But there are a series of other contexts in which criminalization poses complicated problems. A pregnant woman's body is subject to a multitude of prohibitions, ranging from very public warnings about the effects of alcohol and tobacco on the developing fetus, to prosecution for drug use during pregnancy. 4 Mothers are prosecuted for child abuse and child neglect, including a failure to prevent further abuse or neglect by another person, including their batterers. 5 Because women are so closely identified with their children, they are treated particularly harshly for alleged crimes against their children. Within heterosexual relationships, women are still presumed to be sexually available: marital rape consistently carries a lower legal penalty than does stranger rape, and date rape is often treated less seriously than stranger rape. 6 On the other hand, statutory rape is punished based simply on the girl's age. 7 Women are unable to sell their bodies for sex. While this prohibition may be a good thing, the ability to do so is a sign of control over [\*819] women's bodies. 8 Women are criminally precluded from many forms of sexual relationships with other women. 9 These are varied contexts, but they are unified because they illustrate the special impact of the criminal law on women. Moreover, although they may affect and reflect gendered behavior, their impact is felt by women themselves. 10 The criminalization of some of these activities leads to women's subordination; a failure to criminalize other activities has also contributed to women's subordination. Additional failures of the criminal justice system, while not explicitly focused on women, have a disproportionate impact on women. The failure to enforce child support obligations affects women far more than men; women are almost six times more likely than men to be custodial parents. 11 Parental kidnapping laws, which provide for lesser penalties than do stranger kidnapping laws, again disproportionately affect women because they are more likely to serve as the custodial parent. Not considering a defendant's parenting responsibilities disproportionately affects women; one study reports that children of men in prison are "overwhelmingly cared for by the children's mothers; when women go to prison, their children are cared for by the fathers in only about one third of the cases." 12 The question of criminalization/ [and] decriminalization is particularly complex for marginalized communities. The criminalization of domestic violence has resulted in more Black men going to jail. As a result, many African American women have expressed their reluctance [\*820] to use the police lest they betray the community. 13 As my co-panelist Jenny Rivera has pointed out, "Latinas face the precarious, often untenable situation of the 'double bind'-empowerment through the disempowerment of a male member of the community." 14 Moreover, the racist nature of the criminal justice system leads, more generally, to the disproportionate prosecution of Black men. 15 While the civil justice system adjudicates claims between parties, the criminal justice system involves state power against the defendant. As such, it is supposed to express general judgments about the wrongfulness of the defendant's conduct. 16 Criminal law makes behavior into a crime against the state - it converts family abuse into a misdemeanor or a felony. It is truly fascinating to read articles by non-critical theorists who seem to accept, uncritically, the norm-setting nature of criminal law. 17 Because not all criminal laws are equally enforced, the mere legal conclusion of criminality does not mean that society's power is brought to bear on the crime. Thus people quite frequently engage in various forms of criminal behavior. 18 Indeed, it is the failure of the criminal justice system to address domestic violence crimes that lead, in large part, to the development of civil protection orders. 19 While the criminal justice system continues to establish certain baseline [\*821] moral judgments, it is a crude means for recognizing women's needs. To the extent that the law is based on community and public norms developed through public consensus, it does not and cannot reflect the needs of outsider groups. 20 Where social groups are unequal, regardless of the existence of legal discrimination, it is difficult for those groups to influence policy. 21 The criminal route also serves to give control to the state. Where sensitivity to women is not a real priority, women can sacrifice control, getting little support in return. 22 Finally, many of the assumptions underlying criminal law are "nonneutral." 23 Thus, instead of the criminal justice system alone, we need to use more affirmative and civil supports for women. Consequently, there are problems with making arguments to criminalize or decriminalize these various aspects of women's lives. At one level, for the reasons I have just discussed, we need to question the use of the criminal justice system itself. 24 Assuming we have decided to use the criminal justice system, then it is tempting to use various morally-based claims with respect to women's issues as a way of emphasizing how the criminal justice system has failed to respond to women. Such claims might include: (1) women's rights to control their own bodies as a basis for decriminalizing prostitution; 25 (2) women's connection and responsibility for children as a basis for decriminalizing abuse and neglect; and (3) women's rights to live safely as a basis for further criminalization of violence against women. Many of these arguments are absolutely critical in ending women's subordination. [\*822] But each of them must be used carefully and contextually, with full recognition of the counter-arguments. Women's moral self has a strong historical resonance. Throughout the nineteenth century, women claimed a special set of virtues lacking in men to explain their limited activism outside the domestic sphere, 26 activism that encompassed "women's issues." The Cult of True Womanhood urged them to perform domestic activities both within and outside of their homes. 27 The gendered appeal to morality serves both to empower and confine. Indeed, reliance on women's special morality is, of course, potentially both beneficial and dangerous and is a vibrant topic in feminist jurisprudence. 28

In the context of the resolution, these harms are perpetuated through a standard to judge a woman’s conduct as good or bad, based on stereotypes, informing social spaces and recreating violent knowledge. The idea that the sad excuse for “justice” that has existed as a governmental institution from now and in the past could achieve justice via a minor shift in criminal law is insane.

Cahn 92

[Cahn, Naomi *visiting professor at Georgetown University Law Center*. “SYMPOSIUM: THE LOOSENESS OF LEGAL LANGUAGE: THE RESONABLE WOMAN STANDARD IN THEORY AND PRACTICE”. *Cornell Law Review*. **1992**.]

MORE STORIES ABOUT REASONABLE WOMEN: FEMINIST THEORY, STEREOTYPES, CATEGORIES, AND CLIENTS A. Double-Edged Nature: Stereotypes and Categories Notwithstanding its many benefits, the reasonable woman standard is problematic. Not only does it remind[s] us of earlier stereotypes of women as more pure and moral than men, **[96](http://www.lexis.com/research/retrieve?_m=2630c4dab8831c6ee666752b534eb2ba&csvc=le&cform=byCitation&_fmtstr=FULL&docnum=1&_startdoc=1&wchp=dGLbVzt-zSkAz&_md5=db5e64c9909d4be24560dc2399ec1fc8" \l "n96" \t "_self)** but it also reduces women's experiences by attempting to capture the essential, relegating "other" experiences to the margins of acceptance. While the standard nonetheless has enabled women to win some cases, and it may also depict some valuable attributes that can contribute to new possibilities of lawyering on behalf of women, its problems ultimately overwhelm its utility. First, the reasonable woman standard is reminisent of earlier dominant images of white middle class women. The prevailing discourse of the nineteenth and twentieth centuries depicted women as pure, chaste, virtuous, and altruistic. **[97](http://www.lexis.com/research/retrieve?_m=2630c4dab8831c6ee666752b534eb2ba&csvc=le&cform=byCitation&_fmtstr=FULL&docnum=1&_startdoc=1&wchp=dGLbVzt-zSkAz&_md5=db5e64c9909d4be24560dc2399ec1fc8" \l "n97" \t "_self)** Today, women are still encouraged **[\*1416]** to reject self-interest. **[98](http://www.lexis.com/research/retrieve?_m=2630c4dab8831c6ee666752b534eb2ba&csvc=le&cform=byCitation&_fmtstr=FULL&docnum=1&_startdoc=1&wchp=dGLbVzt-zSkAz&_md5=db5e64c9909d4be24560dc2399ec1fc8" \l "n98" \t "_self)** Similarly, the reasonable woman standard today denies the needs and realities of women in order to create them as passive, delicate creatures. **[99](http://www.lexis.com/research/retrieve?_m=2630c4dab8831c6ee666752b534eb2ba&csvc=le&cform=byCitation&_fmtstr=FULL&docnum=1&_startdoc=1&wchp=dGLbVzt-zSkAz&_md5=db5e64c9909d4be24560dc2399ec1fc8" \l "n99" \t "_self)** By definition, the reasonable woman standard establishes certain expectations for women that are different than those for men. A reasonable woman is offended by workplace decorations that depict nude women; a reasonable woman will not go to a man's house at three a.m. (nor allow a man into her house at that time) unless she expects sex, and will report promptly to the authorities if her virture is violated; a reasonable woman will not tolerate repeated battering or, if she does, she will certainly not respond aggressively or resort to violence herself. The reasonable woman thus becomes a victim who needs protection; when her actions can be portrayed as those of a victim, she is protected by the courts. Other women do not, unfortunately, fit the reasonable woman stereotype/. A second problem with the reasonable woman standard is that it does not accommodate the experiences of all women. Women define harassing behavior differently. **[100](http://www.lexis.com/research/retrieve?_m=2630c4dab8831c6ee666752b534eb2ba&csvc=le&cform=byCitation&_fmtstr=FULL&docnum=1&_startdoc=1&wchp=dGLbVzt-zSkAz&_md5=db5e64c9909d4be24560dc2399ec1fc8" \l "n100" \t "_self)** Some women accept as normal operating behavior actions that other women would equate with harassment; indeed, various forms of sexual harassment are so pervasive that many women have learned to "take it and smile," lest they be labelled an "uptight bitch." **[101](http://www.lexis.com/research/retrieve?_m=2630c4dab8831c6ee666752b534eb2ba&csvc=le&cform=byCitation&_fmtstr=FULL&docnum=1&_startdoc=1&wchp=dGLbVzt-zSkAz&_md5=db5e64c9909d4be24560dc2399ec1fc8" \l "n101" \t "_self)** The reasonable woman standardizes harassing behavior, making it conform to a certain standard before it is legally actionable. Women who have suffered the **[\*1417]** requisite type of conduct have been harassed or raped; others who suffer different types of behavior, or react differently to "accepted" behaviors, have no claim. Finally, the reasonable woman standard is victim-focused. It is used in evaluating the behavior of sexual harassment, rape, or domestic violence victims. Rather than the harasser/rapist/abuser being held to certain standards of behavior, it is the recipent of male actions who is judged according to whether she reacted appropriately. Yet I find myself reluctant to dismiss entirely the reasonable woman standard. Yes, the reasonable woman standard builds on earlier stereotypes of women, emphasizing women's virtuous and sensitive nature in sexual harassment cases, and her passivity in self-defense cases. Sometimes, however, these images are accurate: more women than men are apparently offended by certain types of sexually explicit behavior. **[102](http://www.lexis.com/research/retrieve?_m=2630c4dab8831c6ee666752b534eb2ba&csvc=le&cform=byCitation&_fmtstr=FULL&docnum=1&_startdoc=1&wchp=dGLbVzt-zSkAz&_md5=db5e64c9909d4be24560dc2399ec1fc8" \l "n102" \t "_self)** Some of these images are inaccurate: especially, of course, in rape cases. Many women are reluctant to report that they have been raped, not because the rape never occurred, but because they do not want the publicity, or do not want to acknowledge their vulnerability, or they fear being debased by the legal process. The question then becomes whether and how to balance some of the truths behind stereotypes with the damage caused by the stereotypes in legal theory and practice in these areas. Stereotypes about women, when "viewed differently, reflect real injuries of subordination and subtle strategies through which people cope with a relative lack of social power." [103](http://www.lexis.com/research/retrieve?_m=2630c4dab8831c6ee666752b534eb2ba&csvc=le&cform=byCitation&_fmtstr=FULL&docnum=1&_startdoc=1&wchp=dGLbVzt-zSkAz&_md5=db5e64c9909d4be24560dc2399ec1fc8" \l "n103" \t "_self) We need not embrace the stereotypes as accurate in order to acknowledge that they may contain positive attributes. **[104](http://www.lexis.com/research/retrieve?_m=2630c4dab8831c6ee666752b534eb2ba&csvc=le&cform=byCitation&_fmtstr=FULL&docnum=1&_startdoc=1&wchp=dGLbVzt-zSkAz&_md5=db5e64c9909d4be24560dc2399ec1fc8" \l "n104" \t "_self)** These "outsider" experiences **[\*1418]** contain potential sources of strength and positive imagery, **[105](http://www.lexis.com/research/retrieve?_m=2630c4dab8831c6ee666752b534eb2ba&csvc=le&cform=byCitation&_fmtstr=FULL&docnum=1&_startdoc=1&wchp=dGLbVzt-zSkAz&_md5=db5e64c9909d4be24560dc2399ec1fc8" \l "n105" \t "_self)** although they are not necessarily "more" valid than insider's experiences. Thus, stereotypes that show the effects of disempowerment can also illustrate strategies of resistance. [106](http://www.lexis.com/research/retrieve?_m=2630c4dab8831c6ee666752b534eb2ba&csvc=le&cform=byCitation&_fmtstr=FULL&docnum=1&_startdoc=1&wchp=dGLbVzt-zSkAz&_md5=db5e64c9909d4be24560dc2399ec1fc8" \l "n106" \t "_self) For example, women used the value of their supposed virtuousness as a reason to get suffrage in the early twentieth century. That women had to manipulate male legislators by using the stereotyped attribute of "virtue" in this manner does illustrate their comparative powerlessness, but also shows that they could use this "positive" stereotype to their advantage. Or take "deference," an attribute that Kathryn Abrams labels "unproductive" for women. **[107](http://www.lexis.com/research/retrieve?_m=2630c4dab8831c6ee666752b534eb2ba&csvc=le&cform=byCitation&_fmtstr=FULL&docnum=1&_startdoc=1&wchp=dGLbVzt-zSkAz&_md5=db5e64c9909d4be24560dc2399ec1fc8" \l "n107" \t "_self)** This powerless quality may be an important component of a reconstructed attorney-client relationship where the attorney defers to her client's goals, encouraging some clients to assume control over the terms of the representation. The stereotype here may empower the clients and help the lawyer to resist the tendency toward lawyer domination. The reasonable woman standard can be seen as a comparable strategy of resistance. It was developed by reclaiming stereotypes about women, using the positive aspects of those stereotypes but not challenging the utility of the stereotypes themselves. **[108](http://www.lexis.com/research/retrieve?_m=2630c4dab8831c6ee666752b534eb2ba&csvc=le&cform=byCitation&_fmtstr=FULL&docnum=1&_startdoc=1&wchp=dGLbVzt-zSkAz&_md5=db5e64c9909d4be24560dc2399ec1fc8" \l "n108" \t "_self)** While it **[\*1419]** establishes a new standard, however, this standard is one that accepts that there is a reasonable man, and that the reasonable woman acts differently from him in ways that the legal system can understand, and that courts can apply. **[109](http://www.lexis.com/research/retrieve?_m=2630c4dab8831c6ee666752b534eb2ba&csvc=le&cform=byCitation&_fmtstr=FULL&docnum=1&_startdoc=1&wchp=dGLbVzt-zSkAz&_md5=db5e64c9909d4be24560dc2399ec1fc8" \l "n109" \t "_self)** It does not change the underlying standard, which still applies male notions of reasonableness to women. The reasonable woman thus remains an image drawn in reaction to male images of women, which in turn draw upon women's biological nature. [110](http://www.lexis.com/research/retrieve?_m=2630c4dab8831c6ee666752b534eb2ba&csvc=le&cform=byCitation&_fmtstr=FULL&docnum=1&_startdoc=1&wchp=dGLbVzt-zSkAz&_md5=db5e64c9909d4be24560dc2399ec1fc8" \l "n110" \t "_self) Even in the areas of sexual harassment and battered woman self defense law, where women have assumed some of the power to define legal images, the resulting standard still can be destructive to women because it embodies and perpetuates stereotypes and requires women to conform to them. In the rape context, the reasonable woman standard certainly is destructive because it establishes myths for juries about women's behavior. While some interpretations of the reasonable woman do help women, the standard accepts commonly held images of women and as such, is "conservative." **[111](http://www.lexis.com/research/retrieve?_m=2630c4dab8831c6ee666752b534eb2ba&csvc=le&cform=byCitation&_fmtstr=FULL&docnum=1&_startdoc=1&wchp=dGLbVzt-zSkAz&_md5=db5e64c9909d4be24560dc2399ec1fc8" \l "n111" \t "_self)** It constructs rhetoric based on moral or passive women, regardless of who controls the imaging powers. It is not a standard that facilitates the slow and careful exploration of individual client realities. **[112](http://www.lexis.com/research/retrieve?_m=2630c4dab8831c6ee666752b534eb2ba&csvc=le&cform=byCitation&_fmtstr=FULL&docnum=1&_startdoc=1&wchp=dGLbVzt-zSkAz&_md5=db5e64c9909d4be24560dc2399ec1fc8" \l "n112" \t "_self)** The multiplicity of voices which emerges from the experiences of individual clients is the undoing of thereasonable woman. As is clear, the experiences of women in different groups (and the experiences of individual women within these groups) varies. Not all women who were sexually harassed never indicated welcomeness; not all battered women are helpless; and some raped women flirted and acted seductively with their rapist. The variety, depth, and complexity of conduct that can be reasonable within given circumstances needs to be recognized within legal theory and practice.

Advocacy means empowerment, and discourse can affirm “rights”, but must focus on entitlement rather than permission from some patriarchal figure standing above the group that rises up. The demand for rights in any social or political space is synonymous to a demand to be taken seriously.

Schneider 86

[Schneider, Elizabeth M *Associate Professor of Law, Brooklyn Law School. B.A., 1968, Bryn Mawr College; M.S., 1969, The London School of Economics and Political Science; J.D., 1973, New York University School of Law; Formerly Staff Attorney, Center for Constitutional Rights, and Staff Attorney and Administrative Director, Constitutional Litigation Clinic, Rutgers University School of Law-Newark.* “THE DIALECTIC OF RIGHTS AND POLITICS: PERSPECTIVES FROM THE WOMEN’S MOVEMENT”. *New York University Law Review*. **1986**.] \*edited for anthro tho

Over the last twenty years, claims for women's rights have increasingly been used to articulate political demand for equality and for change in gender roles. A claim of right can make a political statement and transmit a powerful message concerning "the kind of society we want to [\*625] live in, the kind of relations among people we wish to foster, and the kind of behavior that is to be praised or blamed. [It] is a moral claim about how [we] human beings should act toward one another." 182 As we have already seen, on an individual level, a claim of right can be an assertion of one's self-worth and an affirmation of one's moral value and entitlement. Claims of women's rights are "a way for a woman to make a claim about herself and her role in the world." 183 The women's rights movement has had an important affirming and individuating effect on women's consciousness. The articulation of women's rights provides a sense of self and distinction for individual women, while at the same time giving women an important sense of collective identity. Through this articulation, women's voices and concerns are heard in a public forum and afforded a legal vehicle for expression. But rights claims do not only define women's individual and collective experience, they also actively shape public discourse. Claims of equal rights and reproductive choice, for example, empowered women. Women as a class had not previously been included within the reach of the fourteenth amendment. 184 Women's concerns now rose to the level of constitutional (serious, grown-up) concerns. By claiming rights, women asserted their intention to be taken seriously in society. This "liberal" assertion of rights gave women the "audacity to compare" themselves with men. 185 Women could now claim that they were entitled to the equal protection of the law, not just permitted to seek it. 186 [\*626] Women's interests, previously relegated to the private sphere, and therefore outside the public protection of the law, 187 now received the protection of the Constitution. 188 The claims reinforced on a[n] powerful ideological level that the "personal is political" 189 and changed previously private concerns into public ones that needed to be dealt with by the society at large. The public nature of rights assertion is especially significant because of the private nature of discrimination against women. The locus of women's subordination is frequently the private and individual sphere -- the home and family -- and is thus perceived as isolated and experienced in isolation. Women also tend to see individual fault rather than to identify a systemic pattern of social discrimination. Thus, public claims of legal rights do more than simply put women's sense of self into the personal moral equation. 190 The assertion of rights claims and use of rights discourse help women to overcome this sense of privatization and of personal blame which has perpetuated women's subordination. Rights claims and rights discourse have thus had a self-defining aspect as well as a collective dimension because the inner experience of the right ties the [\*627] individual and her particular experiences to the larger experiences of women as a class. Rights claims assert women's selfhood collectively, thereby giving women a sense of group identity and pride; they make manifest the fact that women can act and claim their place in history. 191 Formulations of women's rights emerged from the women's movement itself, from the experiences of women, and from feminist theory. This integration of experience and theory reflected in rights claims was heightened by the fact that at the same time notions of women's rights were articulated, the number of women in the legal profession was increasing dramatically. 192 Many of the women lawyers who have focused on women's rights work entered law school because of the women's movement or were drawn into the women's movement during law school. These women, then, articulated rights claims in a dual capacity as lawyers and as activists. Lawyering was not "other" to these women but rather a deepening process of identification, self-reflection, and connection with others (both women clients and lawyers), which mirrored the experience of the movement itself. 193 This made the experience of [\*628] lawyering in these cases particularly intense and powerful. It undoubtedly shaped the way in which women lawyers perceived legal problems, the insights that women litigators brought to sex-discrimination cases, and the strategies that women litigators developed to handle these cases. Perhaps for this reason, women's rights litigation has involved several important aspects of Karst's reconstructed constitutional litigation: the use of experience and intuition as starting point and guide, the creative use of both political and social contexts, and the exploration of the human impact and context of the case in concrete terms. Much women's rights litigation has implemented a strategy which uses amicus curiae briefs to present these broader perspectives to ensure that women's voices are heard in court. 194 In this way, women's rights litigation has frequently expanded the possibilities of creative political envisioning through the use of rights discourse. 195 It is sometimes difficult to remember how visionary the notion of equality from a woman's perspective is -- how much it really challenges. 196 Recent critiques of rights have suggested that rights rhetoric inevitably abstracts and distances, but women's rights litigation has concretized women's experience and emphasized women's specificity and particularity. 197 Women's rights litigation began the process of shaping [\*629] the law of equality to reflect a women's perspective. 198 Women's rights discourse linked the specific experience of women with the universal claim of rights. 199 This is, in and of itself, a radical and transforming notion. In addition, the advocacy process itself has had a significant effect in mobilizing women for political action. 200 For women who have historically been excluded from public life and political action, activity in the public sphere helps to transcend[s] the public and private dichotomy. It also helps women learn skills that are necessary to organize and mobilize political support. In this sense, the struggle for rights has enabled women to become politically active and to gain power. 201 At the same time, the women's movement's experience with rights suffers from some of the problems discussed by rights critics. First, in some sense the idea of equal rights, although radical in conception, has not captured the scope and depth of the feminist program. Women's rights have been, in a sense, "too little" for the women's movement, although perhaps "too much" for society. 202 Feminists understand that genuine equality for women will not be achieved simply by winning rights in court. Rather, equality requires social reconstruction of gender roles within the workplace and the family. Rights claims, however, do not effectively challenge existing social structures. Reflecting on the reproductive rights experience, Rosalind Petchesky wrote: [T]he concept of "rights," [is,] in general, a concept that is inherently static and abstracted from social conditions. Rights are by definition claims staked within a given order of things. They are demands for access for oneself, or for "no admittance" to others; but they do not challenge the social structure, the social relations of production and [\*630] reproduction. The claim for "abortion rights" seeks access to a necessary service, but by itself it fails to address the social relations and sexual divisions around which responsibility for pregnancy and children is assigned. In real-life struggles, this limitation exacts a price, for it lets men and society neatly off the hook. 203 Second, the articulation of a right can, despite a movement's best efforts, put the focus of immediate political struggle on winning the right in court. Thus, even if one is concerned with and understands the need for social reconstruction, it is hard to sustain an understanding of short term goals at the same time. The concreteness and immediacy of legal struggle tends to subsume the more diffuse role of political organizing and education. Thus, while there has been a positive attitude toward the use of legal rights in court as an aspect of law reform work, the problems with rights have caused the women's movement to view the use of rights with some ambivalence. Third, since women's rights formulations oblige the state to act, serious questions about the appropriate role of the state in the context of women's rights have emerged. 204 Women's rights litigators argue that by fighting for women's rights in the courts they do not exclusively rely on the state. However, feminist skepticism over the ability of the state to help women understandably heightens concern over feminist law reform efforts both in the courts and the legislatures. 205 Finally, despite some substantive gains in the legal treatment of women, 206 [\*631] rights claims generally have had only limited success in the [\*632] courts. 207 Although rights critics argue that even looking to results makes it easier to rely on what courts do as the primary measure of the movement's success, it remains necessary to consider results. For example, even though women's rights to reproductive choice have improved, 208 access to those rights for poor women and especially poor women of color has not been adequately protected. 209 More generally, [\*633] even with concrete legal gains, it is not clear how the lives of most women, particularly poor women and women of color, have changed. Certainly women's economic realities have not improved. 210 [\*634] Yet in some areas of women's rights, there have been important victories for individual women, for women as a class, and for the development of substantive legal doctrine. Public consciousness of sex discrimination in the law, for example, has increased. 211 Looking at the gains and losses together, I believe that the struggles around legal rights have moved the women's movement forward and reinforced a sense of collective experience for the movement. In sum, I share Mary Dunlap's view that I think we have to look, if only to maintain momentum, at the parts of what we have done with feminism in law that have moved us forward. . . . Just the fact that we have prioritized and gotten as far as we have, just the fact that there is so much vital activity in each of these [areas], just the fact that women are in court and are being heard -- sometimes, at least -- in a different voice makes a difference. 212

Rather than follow the resolution’s unquestioning acceptance of the status quo conception of the criminal justice system and the masculine trends it protects, I advocate that as a prerequisite to evaluating any specific of the criminal justice system, the judge and all in the room must first “take a metaphorical step back” to see all the wires of the bird cage and recognize the demand of the female body to claim the discourse of rights, shattering the wires which keep her locked inside.

The way we view the world and its connection to both the masculine and the feminine is directly dependent upon how we speak about these issues. Metaphor has the power to undermine hegemonic structures and restructure the social through the act of experience taking.

**Kaufman 12**

[Kaufman, Geoff F *Postdoctoral researcher in psychology; PhD and MA in psychology from Ohio State University and BA in psychology from Carnegie Mellon University* Libby, Lisa K *Associate professor of psychology at Ohio State University*. “ChangingBeliefs and Behavior Through Experience-Taking.” *Journal of Personality and Social Psychology. PsycArticles.* **2012**.]

The present findings define **experience-taking [is defined] as a mechanism by which narratives can**

AND

**and the lives we lead in the worlds of narratives.**

This is the only way to prevent violence as a product of the ideology of the resolution. The idea of the model woman in the criminal justice system is exactly what led to the marginalization of women and the minority Other in the first place. Failure to question the language and intent of the resolution results in xenophjobic violence and domination

Young Professor of Political Science at The University of Chicago 2001 Iris Marion Activist Challenges to Deliberative Democracy Political Theory 29.5 Sage Publishing

The deliberative democrat finds such refusal and protest action uncooper- ative and counterproductive. Surely it is better

AND

as likely to reinforce injustice as to undermine it.

To win their fairness or education impacts they must weigh them against the marginalization of the feminine; the only way to reflect on and reduce the causes and consequences of structural violence is to engage in conversation about such problems. Abstract debate about the resolution or a plan for some government policy does nothing. Further, having a values debate before recognizing the importance of structural violence is moot because structural violence causes us to divide others into categories that are worthy and unworthy of our values, making them meaningless.

**Winter and Leighton**

Deborah DuNann Winter and Dana C. Leighton. Winter: Psychologist that specializes in Social Psych, Counseling Psych, Historical and Contemporary Issues, Peace Psychology. Leighton: PhD graduate student in the Psychology Department at the University of Arkansas. Knowledgable in the fields of social psychology, peace psychology, and ustice and intergroup responses to transgressions of justice) (Peace, conflict, and violence: Peace psychology in the 21st century. Pg 4-5)  
  
Finally, **to recognize the operation of structural violence forces us to ask questions AND**

**and normal social cognition) which feed structural violence, can also be used to empower citizens to reduce it.**

This is specifically true in the context of patricharchy. The masculine fantasy is self-justifying and it is our compliance that allows it to live on. It’s the 21st century – issues of structural violence against female bodies still exist for a reason, and that is because they are hidden. To have any effect we must shake up the system, refuse to participate, and dismantle it.

Lazar 07

[Lazar, Michelle M. *Associate professor of English language & literature at National University ofSingapore.* “Feminist Critical Discourse Analysis: Articulating a Feminist Discourse Praxis”. *Critical Discourse Studies Vol 4 Issue 2. Taylor & Francis.* **2007**.]

To claim that **patriarchal gender ideology** is structural is to say that it **is enacted** and renewed **in** a **society's** ANDgovernment (Lazar, [1993](http://www.tandfonline.com.ezp2.lib.umn.edu/doi/full/10.1080/17405900701464816#CIT0052), [2000](http://www.tandfonline.com.ezp2.lib.umn.edu/doi/full/10.1080/17405900701464816#CIT0054)), and various professional and organizational settings (Ehrlich,[2001](http://www.tandfonline.com.ezp2.lib.umn.edu/doi/full/10.1080/17405900701464816#CIT0018); Walsh, [2001](http://www.tandfonline.com.ezp2.lib.umn.edu/doi/full/10.1080/17405900701464816#CIT0081); West, [1990](http://www.tandfonline.com.ezp2.lib.umn.edu/doi/full/10.1080/17405900701464816#CIT0084); Wodak, [2005](http://www.tandfonline.com.ezp2.lib.umn.edu/doi/full/10.1080/17405900701464816#CIT0093)).