

WHY USE THE LAW AS FEMINISTS?

When we talk about “the law”, we mean the use of legal mechanisms and frameworks. In the Canadian context, these include the court system, the legislative process, the tribunal system, public inquiries or inquests, truth and reconciliation commissions, and international treaty bodies and courts. While those using the law can base their arguments in different legal traditions – including Indigenous law, common law, civil law, and international law – the established legal mechanisms themselves largely embody and reflect colonial, primarily Western or Anglo-European, understandings of law.



Concerns about using the law

- Law can be oppressive: it carries and reproduces sexism, racism, colonialism, heterosexism, ableism, Anglo-dominance, transphobia, and other oppressive structures
- Using law risks gender essentialism - this means focusing on sex and ignoring race, class, gender identity, sexual orientation, (dis)ability, and other realities
- Law can weaken social movements, taking resources and energy away from other strategies
- Law may provide only narrow change, or symbolic wins with no benefits for people’s daily lives
- Using law can prioritize the needs and wants of those with privilege – typically white, middle class, heterosexual, able-bodied, cisgender, English-speaking women



Arguments for using the law

- Law exists and has impacts on people’s lives, and feminists can use law to shape those impacts
- Law is not perfect, and feminists can use those imperfections to change the legal system for the better
- Other groups will use the law, and sitting out means important principles will be created without feminists at the table
- Law, and litigation in particular, may be the only space where feminists can fight for social change or defend positive advancements
- Law can energize and strengthen social movements
- Law may result in positive – albeit imperfect and incomplete – change in the lives of women



So, what do we do?

- Remember that law has two roles: it oppresses, but it also is a tool for fighting back against oppression
- Remember that law is only one tool in the struggle against injustice, and that feminists need to also look to education, awareness-raising, alliance-building, discourse-shifting, mobilization, and other strategies for social change

