

Rape: The price of coercive sexuality

by Dan Schwartz
reprinted from the Varsity
by Canadian University Press

Rape: The Price of Coercive Sexuality by Lorenne M.G. Clark and Debra J. Lewis. The Women's Press, 222 pp., \$5.95 paper, \$12.95 cloth.

A number of books on rape have appeared during the last several years, largely as a result of the attention given to rape by the women's movement. *Against Our Will* by Susan Brownmiller and *The Politics of Rape* by Diana Russell are probably the best known of these books. Now Lorenne Clark and Debra Lewis have written the first Canadian published study of rape. *Rape: The Price of Coercive Sexuality* is projected as part of a large study of rape in Canada. Both authors are involved with the Toronto Rape Crisis Centre and they are employed by the Centre of Criminology at University of Toronto.

This book consists of two parts: the findings of a research project and a theoretical analysis of rape from a feminist perspective. Although the finds generally support the theory they are two quite separate parts; it is only the binding that holds them together.

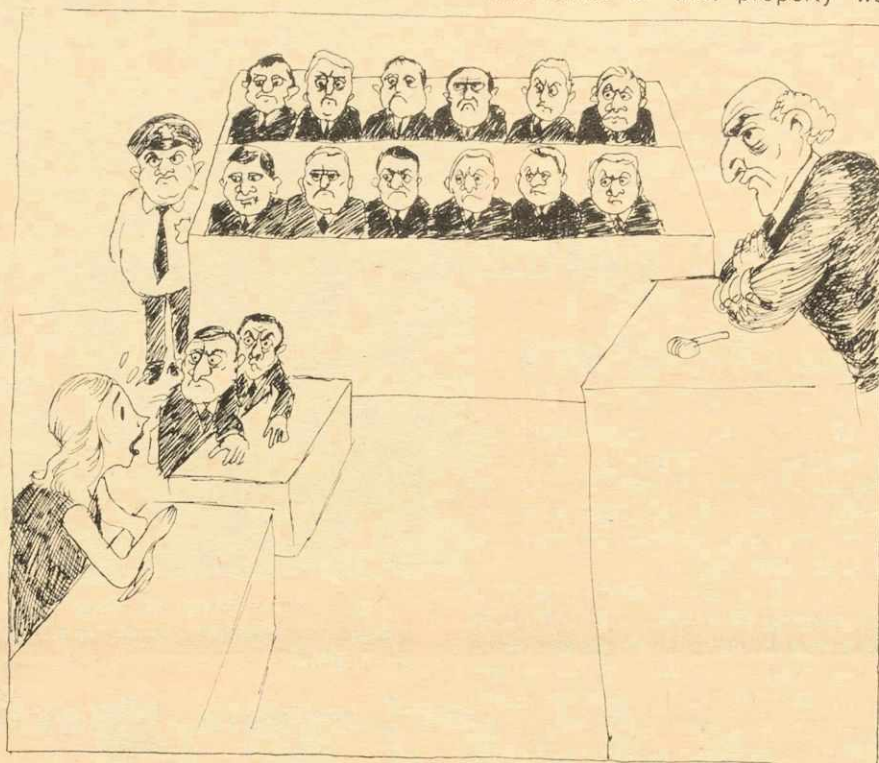
The research project, originally Lewis' M.A. thesis, looked at rapes reported to the Metropolitan Toronto Police Department in 1970. The project uses the Criminal Code definition of rape (which the authors quote as Section 143 although in 1970 it was still Section 135) but excludes cases in which the victim is under 14 years of age. Of a total 116 reported rapes, the police classified only 42 as founded, meaning they proceed with an investigation of the case. The other 74 reports, classified as unfounded and therefore not investigated further by the police, include 62 cases in which Clarke and Lewis believe a rape occurred.

What emerges from their analysis of these 104 rapes is a bias in police classification of reported rapes. The prior behaviour of the victim (not the accused), her background and her character play a decisive role in how the case is classified. First of all the location of a rape is important. If the rape occurs in the offender's residence or if the victim had been hitch-hiking, the police would be more likely to classify the offence as unfounded. If the accused was drunk, used violence, made verbal threats, committed other crimes or if other sexual acts occurred, the police were more likely to classify the case as founded. If the victim had consumed alcohol prior to the offence an 'unfounded' classification was more likely to result.

The victim-offender relationship will also influence police classification. In only 20 per cent of the cases where the offender is well-known to the victim did the police classify her report as founded. The authors criticize (with good reason) other researchers because they do not distinguish between offenders the victim met in the situation out of which the rape developed and acquaintances of the victim, yet they themselves do not distinguish between the former and complete strangers. There are three distinct categories here and they need to be analysed separately in all research.

In terms of age there is an apparent bias against the very young rape victims (14-19 years) and victims 30-34 years old. As we go from single women, to married

women, to separated and divorced women and finally to women living common-law, the likelihood of the report being founded decreases. However, except for common-law the differences are not very significant. In general the lower the socio-economic status of the victim, the less likely are the police to classify the report as founded. The authors believe that age, marital status and class are important to police classification in terms of their interrelationship but curiously they do not tabulate the results. They do write that what emerges is "a clear bias against women who do not conform to a picture of



respectability."

In the view of the police (and society) there are women who "quite literally cannot be raped, because 'rape' is a social and legal definition, and these are not the sort of women that society believes can be raped. . . . The concept that some women are 'fair game' . . . is one which is shared by police, the courts, and society at large."

The authors absolve the police of being at fault for the bias that exists in their classification of rape reports, since the police base their classification on whether there is a fair chance of conviction in the case. The problem, the authors argue, is that the police must operate without "fundamentally challenging the myths and prejudices which undermine the victim and benefit the accused." The status quo is at fault. However, the authors ignore the fact that it is the role of the police to uphold and defend the status quo, a status quo which arguably makes rape not an accidental but a deliberate instrument of oppression not only of the individual woman but of all women.

Within the judicial system it is the victim of rape who is treated as a criminal. "Rape is the only criminal offence in which the testimony of one witness, the victim, is considered to be inherently less trustworthy than that of others, notably the accused." And then there is that extraordinary rule of evidence in rape cases which permits defence questioning of the victim's respectability and sexual history. Clark and Lewis argue these points apply despite the 1976 revisions to the Criminal Code.

Arguing that the issue of a woman's consent is irrelevant to a rape case (given the use or threat of physical coercion), the authors compare this situation to making

victims of theft prove that they did not consent to the forcible taking of their money.

The chapter on the rapist is not worth reading. The authors proceed despite having data on only 32 arrested rapists and employ the statistical trick of the 'typical rapist', when what they really are talking about is, for example, the average height of arrested rapists.

In the second part of their book, Clark and Lewis provide the theoretical framework with which they explain the reality of rape. They argue that with the development of private property, a system of inheritance of that property was

socialized to behave. "Rape is one of the products of a sexist society; it is the price we must pay for a society based on coercive sexuality."

The authors add the strange notion that men of low socio-economic status are more likely to commit rape and, Clark and Lewis state, "Nor is it surprising that rapists from low socio-economic backgrounds should frequently choose middle-class women as their victims." No reference or evidence at all is produced for this latter statement. The authors motivate their belief arguing that "some women will be too expensive for some men." This first of all confuses ability to pay with desire to pay.

Secondly, when Lewis and Clark and other researchers find that rapists are from lower socio-economic backgrounds this only applies to arrested or convicted rapists. Clark and Lewis realize this and that there is a bias against these lower-class men in the judicial system. Adding to this the experience of the Toronto Rape Crisis Centre "that many unreported rapes involve men who are from higher socio-economic groups than the men who turn up on arrest warrants" and that "usually the women involved are not as well placed as the men," makes their previous statement seem ridiculous. It is not the rapist's socio-economic status that motivates him to rape a particular woman but the vulnerability of that woman to rape. Her socio-economic status is only important to the rapist (not the judicial system—confusing the two is understandable) insofar as it reflects her vulnerability. This reactionary notion that there is a higher potential for lower-class men to become rapists contradicts the rest of the authors' own theoretical framework.

In the last chapter Clark and Lewis make recommendations concerning rape. Their major recommendation is the deletion of rape from the "Sexual Offences" section of the Criminal Code and its reclassification as an assault. This goes against the present assumptions behind rape laws: since a woman's value is based on her sexual and reproductive capabilities, rape is the worst thing that can happen to her; rape is an offence against property; women do not have the right to sexual autonomy; and "rape is not an assaultive crime but a sexual act done with the wrong woman." The issue of consent, the character of the victim and the legal relationship between victim and offender would then be irrelevant.

The authors do not claim that the implementation of any (or all) their recommendations will eliminate rape. They also reject the view that rape is inevitable in human society, that it is a natural fact. They see rape as a social fact and the product of a certain kind of society. Rape is not a result of biological differences between women and men but results from the inequality between them and the roles both sexes are socialized to perform. "All unequal power relationships must, in the end, rely on the threat or reality of violence to maintain themselves." Thus Clark and Lewis come to the logical conclusion (and this is their main conclusion) that the elimination of rape requires the transformation of the present social structure, which is itself responsible for rape.

required and thereby women were transformed into the property of their fathers or husbands. As property, a woman's value was based on her sexual and reproductive capacity. Clark and Lewis see the development of rape laws as a response to bride capture—rape laws were designed to prevent the transfer of property (e.g., a dowry) to the man who established his marriage by this method. Until then bride capture was an acceptable means of consummating a marriage—that is what changed in the Middle Ages. As a law to protect men's property (not women), rape laws originated not then but several thousands years earlier.

What then emerges in their analysis is that even today the application of rape laws reflect their origins as laws to protect property. In this way the authors explain the legal and social concept that some women cannot be raped—their property value is minimal. Thus virgins are considered 'credible' rape victims since their potential value depends on the exclusive use of their sexuality and rape eliminates this value.

This concept is not only a legal one; both females and males are socialized to believe that women's sexual and reproductive functions are not their own property. The authors conclude that "since the status of women as private, sexual and reproductive property has created the problems of rape as we know it . . . the problem cannot be resolved until women are no longer accorded that status but are regarded as having the right to sexual and reproductive autonomy."

As long as men and women in our society are unequal, sexual contact between them "will necessarily be coercive in nature." It is along these lines that men and women are