

# New Rape Laws: Will They Help?

by M.L. Hendry

Bill C-53, proposed to replace present Canadian sexual offense laws, includes "some strong features but doesn't go as far as it could," said Lorenne Clark, lawyer and criminology professor, at Dalhousie last week.

The fundamental intention of the new legislation is to "take a fresh look at a particular sort of behaviour and try to see it in a new way," Clark said.

Women's groups and the federal government have been examining Canada's rape laws since the late '60's, trying to design legislation which will establish the basic inviolability of all persons, regardless of age, sex or marital status.

Bill C-53, given second reading by the House of Commons on December 17 and soon to be considered by the federal justice and legal affairs committee, takes great strides in extending protection against sexual offences to

married women and children under the age of 16.

Under current laws, a woman cannot charge her husband with rape. This situation, reflecting the attitude that a woman is the sexual property of her husband, will no longer exist if Bill C-53 becomes law.

Protection for children against sexual exploitation is also included, making adults involved in child pornography liable for prosecution under the Criminal Code.

The biggest improvement in the laws concerning rape is a move away from viewing rape as deviant sexual behaviour and treating it as a species of assault, Clark said.

The word "rape" will be dropped from the Criminal Code and replaced with "sexual assault" and "aggravated sexual assault". This takes the focus away from the sexual nature of the crime, and emphasis on prov-

ing vaginal penetration, and concentrates on sexual assault as an act of violence committed against both men and women. The stigma attached to the word "rape" and the ordeal of having to describe the attack in minute detail make many victims reluctant to report assaults. Proponents of Bill C-53 hope the changes will encourage more victims of sexual assault to come forward.

Under Bill C-53 corroborative evidence supporting the claim of the victim will no longer be essential as proof an assault actually took place.

The bill also attempts to restrict cross-examination concerning past sexual conduct of the complainant. Such evidence should be "irrelevant and inadmissible", said Clark, and allowing it at all is a weakness in the bill.

Critics of Bill C-53 agree. Halifax defense lawyer Michael

Cook says changes to the law in 1976 requiring the defense to give prior notice of intent to raise such evidence did not lessen the use of the tactic in court, he said. And loopholes in Bill C-53 still permit this. "Embarrassing and degrading" the complainant will still be an important part of a defense, he said, stating that "however distasteful this may be, it is part of the occupation of defense lawyer."

Under current legislation indecent assault against a male carries a maximum sentence of ten years, whereas the maximum sentence for indecent assault against a woman is five years. Men and women will receive equal treatment under the proposed legislation.

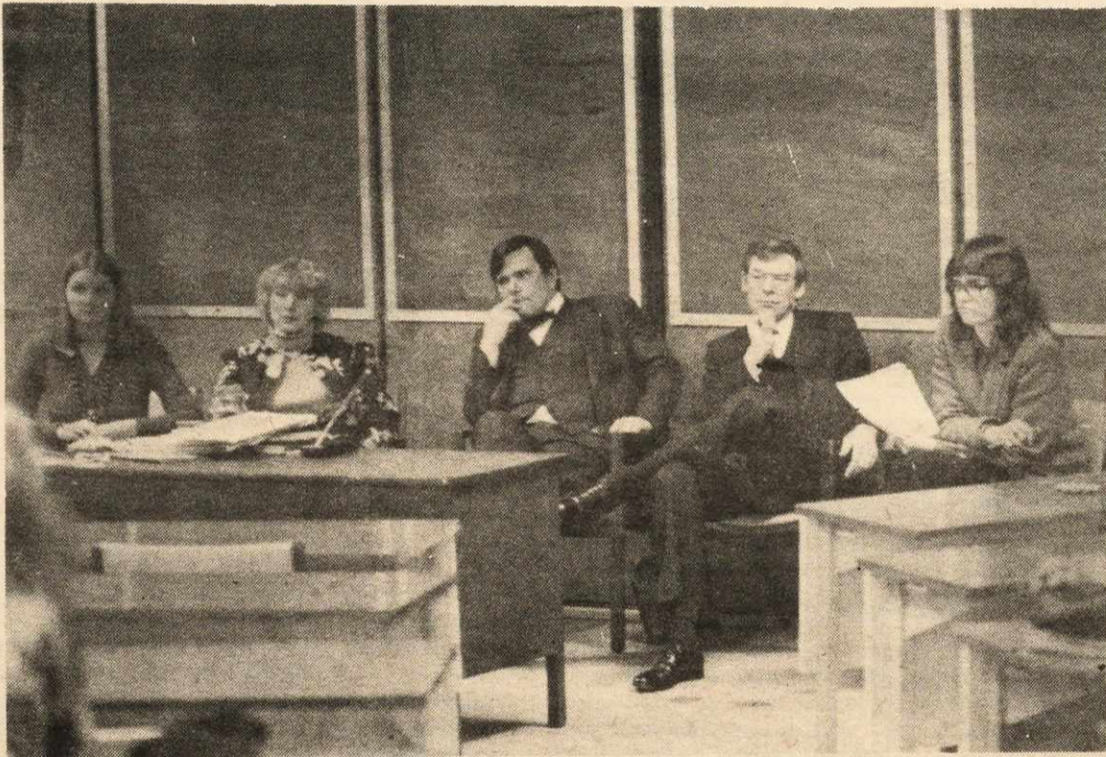
Sexual assault will carry a maximum sentence of ten years. Aggravated sexual assault, involving threatened or actual use of a

weapon, or serious bodily harm, will carry a maximum life sentence.

Currently the maximum penalty for rape is life imprisonment, but the average sentence is for two to three years.

Lawyer Cook disagrees with the removal of the word "rape" from the Criminal Code, saying the change takes away from the "grossness of the crime", which in his mind is second only to murder. Cook rejected the idea of a stigma attached to rape victims, saying "I don't think they are looked upon as anything but victims of a vicious crime."

Inspector Keith Cole, a 20-year member of the Dartmouth police force, said implementation of Bill C-53 would not in any way change the procedure used by police to investigate sexual assault and rape charges.



Panelists discuss the implications of the proposed changes in Canadian rape law.

## Sexual harassment in B.C.

PRINCE GEORGE (CUP) A recent questionnaire by the British Columbia Students Federation reveals that the problem of sexual harassment is rampant in provincial universities and colleges.

"I'm shocked and worried and angry," said Sophia Hanafi, BCSF Women's Steering Committee representative, of the survey results.

In an interview at the Canadian Federation of Students-Pacific region conference, Hanafi said the questionnaire found that 25 per cent of women at Douglas College and 21 per cent of women at Capilano College had been sexually assaulted while attending college.

"It is obviously something which has not been addressed properly if it's been allowed to reach these proportions. It must be far, far more widespread than any of us realized," said Hanafi.

The questionnaire was sent to 20 post-secondary institutions in B.C. and five have responded to date, although Hanafi said she expects more results before March.

But while the number of women who have been sexually assaulted on campus was high, the number of women who identified sexual harassment as a problem was relatively low, she added.

"It is really odd," she said. "You'd think that at least at Capilano College, where 21 per cent of the women were sexually harassed, there would be more than 24 per cent of the women who felt it was a problem."

She added that many college and university administrators are unwilling to deal with the problem.

"It's a difficult thing to correct. Again it comes down to the society that we deal with every day. In addition, the voice of stu-

dents right now may not be strong enough to counter administrations like Simon Fraser's where they hush things up," she added.

Although women at some colleges did not identify sexual harassment as a problem on their campus, Hanafi said their attitudes reflect a society where violence against women is so prevalent that sexual harassment on campuses may seem relatively insignificant.

At Capilano College, 59 per cent of the respondents said they had been verbally harassed, 46 per cent physically harassed and 36 per cent propositioned.

At Vancouver Community College's King Edward campus, 51 per cent of the respondents had been verbally harassed, 36 per cent physically harassed, 18 per cent propositioned and three per cent sexually assaulted.

## Laurier gay group denied club status

WATERLOO (CUP) In a secret ballot vote January 18, the student council at Wilfrid Laurier University (WLU) refused a campus gay group club status.

Reasons for denying recognition for campus gays included a wish to continue the Lutheran tradition of the university, and the fear of persecution of club members by non-gays.

"I am not prepared within myself to support this club at WLU right now," said student union president Joe Veit.

"I have great difficulty in accepting a club on this basis," said Veit. Vice-president Kate Harley said, "We (the council) have a paternal responsibility to decide the issues in the interests of the students."

A representative of the gay group disagreed. "It's too bad (the council) wants to continue wasting their time and ours with more rankling over our basic human rights because they won't just crawl away. We aren't asking for much and to have to keep fighting just to survive when we could both be doing something more useful is unfortunate."

Campus gays have been lobbying for club status for some time. Earlier this year, members of an informal gay group on campus applied for club status to the campus operations management board, which usually deals with such matters. Unable to reach a consensus, the board referred the issue to council.

Three members of the gay group (who wish to remain anonymous for personal reasons) presented their case, and distributed a five-page presentation entitled, "Everything you never wanted to ask about homosexuality though were interested to know." They projected a potential club membership of 30 to 50 and said, based on statistics on the proportion of gays in society included in the Kinsey study on

human sexuality, "There may be 150 to 175 homosexuals on campus."

One representative said the group would function mainly as a support group. "Gay people have different problems that other people can't relate to and they need a support group."

The representatives said the small size of the WLU student population would make it easy to control any harassment, and told the council they had all taken self-defense courses. They also said the club would help other students overcome homophobia, the irrational fear of homosexuality.

But councillors were not convinced. Elwood McKenna asked, "What's the function of the club, renting hotel rooms or what?" A gay representative replied, "It's not a pick-up service, but a support group."

Councillors asked whether the gays really needed club status, and representatives replied they were unable to use campus facilities without such recognition.

Results of the secret ballot showed councillors voted 11-3 to reject the group's application for club status.

"I don't think by not recognizing the club we were anti-homosexual. It's what I believe is right at this time. I don't believe a club should be based on sexual orientation. The harassment issue is also a major concern of mine because I'm not sure our campus is ready for a gay club," said Veit.

The gay representatives told council members they would lobby the new council when they take office mid-February. One said he expected the resistance. "It came as no great surprise but I was pleased that it received the support that it did," he said.

Since this is a conservative campus, there seems to be a need for a group like this to bring about more awareness that all people are human."