

K. CONSULTATION WITH WOMEN'S GROUPS

Although the history of legislation dealing with violence against women is as old as the criminal law, recent history has seen changes reflecting the impact of women acting as advocates for change. The Committee heard witnesses express their concerns about women as victims of domestic violence, women as victims of sexual assault, and women as participants in the justice system. In none of these spheres were witnesses able to report that existing legislation deals adequately with the overwhelming and terrifying problem of violence against women. The federal government's part in ending violence against women was addressed by some witnesses in terms of its legislative role.

The Committee was told that violence against women is a problem of sexual inequality. Laws currently in place are ineffective in stopping violence against women, and they can perpetuate inequality. When laws designed to deal with this problem are based on a model of gender neutrality, they fail to attack a very gender-specific set of problems. Sexual assault and wife assault cannot be treated as gender-neutral crimes: women are the victims of these crimes, and men are the perpetrators. The fact of the unequal position of women in Canadian society places women in relationships of unequal power, sometimes facilitating the commission of violent crimes. Women are limited by their political, economic and social inequality in Canadian society; when they attempt to gain access to the legal system in seeking solutions to violent situations, women often find themselves additionally disadvantaged.

Indeed, this position was argued by Madam Justice Beverly McLachlin in April 1991. In a speech in Calgary, she said that certain aspects of the criminal law in Canada are based on outdated sexual stereotypes that result in unfair and unequal treatment of women. "In the past, and to some extent the present, our criminal law has failed to accord equality to women". (*Ottawa Citizen*, 19 April 1991) Last year, Madam Justice Bertha Wilson, then of the Supreme Court of Canada, assailed gender bias in the criminal law when she stated: "Some aspects of the criminal law in particular cry out for change since they are based on presuppositions about the nature of women and women's sexuality that in this day and age are little short of ludicrous." (*Canadian Forum*, 68, March 1990, p. 8.)

Any legal response to violence against women which fails to take into account the reality of societal patterns of inequality and the resulting patterns of violence will not protect women's equality. Witnesses before the Committee described equality as including personal security, autonomy and sexual integrity, as well as access to justice. The Committee acknowledges Parliament's obligation under the *Canadian Charter of Rights and Freedoms* to guarantee equality for women, and therefore it recognizes that