

highly discretionary and judges are subject to a range of influences; the interpretive process involved in judicial decision-making does not occur in a vacuum. Rather, legal reasoning is informed by the values, experiences, attitudes and assumptions of the decision-maker. Accordingly, the Committee was told, some judges hold assumptions about the proper behaviour of women and their social roles that are based on sexual stereotypes and myths and result in unequal and unfair treatment for women in the judicial process.

This issue was taken up by Bertha Wilson, then a member of the Supreme Court of Canada, in a paper she presented at Osgoode Hall Law school in February 1990. Madam Justice Wilson cited U.S. research studies which "confirm that male judges tend to adhere to traditional values and beliefs about the natures of men and women and their proper roles in society." She went on to say: "The studies show overwhelming evidence that gender-based myths, biases, and stereotypes are deeply embedded in the attitudes of many male judges, as well as the law itself" (B. Wilson, *Gazette*, Law Society of Upper Canada, Vol. XXIV, No. 4, December 1990, p. 265).

Witnesses before this Committee recounted a number of court cases involving the sexual and physical abuse of women. In each example, the sitting judge revealed, in his comments and in the sentence given the convicted offender, insensitivity toward the victim and a lack of understanding of the effects of the harm caused by the violence against her. The Committee was struck by the many examples it heard of judges' comments that tended to excuse violence against women and to blame the victim. While acknowledging that there are a number of judges whose judgments reflect an awareness of gender-equality issues, the Committee also recognizes that many judges require education both to overcome certain prejudices that are demeaning to women, and to be made aware of changes in gender roles in Canadian society.

The Committee believes that the following cases highlighted by witnesses reveal a lack of fairness in the existing system of justice and underscore the need for immediate action.

Dr. Rhona Steinberg, from the Canadian Psychological Association, Committee on the Status of Woman, recounted the following comments made by members of the judiciary (12:46-47).

A Quebec judge stated in an assault case: "As they say, any rule is made like a woman, to be violated."

A Nova Scotia judge told a battered wife in court: "Women should respect their husbands." According to the witness, this same judge was subsequently convicted for assaulting his wife.