

## NEWS

# Defining the meaning of consent

BY MIRIAM KORN

Mike Tyson doesn't know why he is in prison.

A talk by Anne Derrick last Friday addressed the urgent need for a law which clearly shows that sexual assault is unacceptable. She said many men still do not understand what rape is, and the judicial system has inadequately communicated that rape is wrong.

Derrick began by pointing out that, according to statistics, over 90 per cent of sexual assault cases involve a man, or group of men, raping a woman.

Thus, the main barrier to justice lies in the fact that it is men who have traditionally established the law. It was developed when women were seen as property, explained Derrick.

The view still continues that the woman's prior sexual conduct is relevant. Of all major crimes, only in rape is the victim's history considered pertinent.

In the 70's, attempts were made to reform this perception. However, judges, the majority of which are still male, tended not to see this as a narrowing of the scope of admissible questioning, but rather interpreted it widened the possibilities.

The Rape Shield Law passed in 1985 addressed this problem. It restricted the conditions under which a woman could be asked about her past sexual conduct.

Later, it was challenged under the constitution by claiming that it violates an accused man's right to a fair trial. In the Seaboyer case of August 1991, the Supreme Court struck the law down, leaving the decision as to what was admissible completely up to judicial discretion.

Now, there is a new bill being introduced. The Department of Justice consulted women across Canada in drafting this proposed legislation. It says that the state must prove the woman did not consent. If there is a reasonable doubt, the accused is ac-

quitted.

For the first time, "consent" is given a meaning. It is defined as "voluntary agreement of the complainant".

"Mistaken belief of consent", a common defence by the accused, is not allowable under the new bill. If a husband tells a group of his buddies to go have sex with his wife sleeping upstairs and not to worry if she objects because she "likes it rough", the men are not excused for their behavior.

The proposed law would require the man to take all reasonable steps to determine consent.

Also, it establishes that a woman's intoxication is not allowed as a sign of consent, nor is the man's intoxication.

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tion an acceptable defence.

Derrick pointed out that there are still some deficiencies to be ameliorated.

## Scary campus

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"Some people assume if we can't count it, it doesn't exist." Hardy assigned the onus for action to both faculty and students but added, "it has to come from the president [of the university]... as a reflection of the whole community."

The first keynote speaker was Anne Derrick, a Metro area lawyer, who appeared Friday afternoon to speak on "Sexual Assault and the Law." She addressed the current situation of sexual assault in the legal system and the proposed revisions. She also advocated clear university policies, adding that a university's liability can be called into question if it fails to provide a safe environment on campus.

The other keynote speaker was Bernice Sandler, a recognized expert in the field from the U.S. She described the negative atmosphere for women on campuses with graphic examples.

Barb Harris, the President's Advisor on Women, also addressed the conference. She called for policies which served the interests of the victim. "They should be entitled to the right of having support with them at all times."

Other lectures covered topics such as early medical intervention for victims, prevention programs, date violence and cross-cultural issues. There was a peer education panel early Saturday morning, with two representatives from Dal.

A panel discussion entitled "Determining our Role", attempting to define a university's place in dealing with complaints of sexual assault wrapped up the conference. It included the chief Crown attorney of Halifax and a representative from the University College of Cape Breton.

Over the past year universities across the Maritimes have been faced with the problem of on-campus sexual assault. Dalhousie is not an exception.

The Housing Department felt the conference went well, citing attendance and exceptional interest. Bonnie London, Residence Coordinator for Shirreff Hall, said it was good to see what others were doing. The conference "gives victims a voice too," she said.

Terry Gallivan, Associate Director of Residence Life agreed. "We're struggling with the same problem and need to work towards a solution together."



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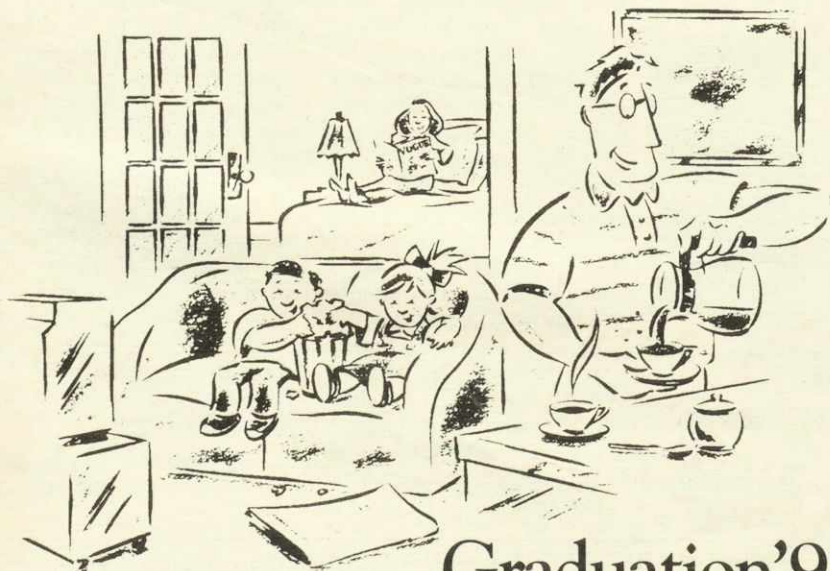
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