

# Legal rights undermined

## Battered women

*"It makes no difference if the assaulter or batterer is your husband, a man you live with or a total stranger. If someone hits you, he (or she) commits a crime. You are not a punching bag or a convenient body to 'let off steam' on. You are a person with rights under the law. Battering is illegal." Excerpt from the Status of Women's recent publication of "Wife Battering: A Criminal Offense."*

by Elizabeth Donovan

Despite the introduction of Bill C-127, the amendment to the Criminal Code which puts responsibility for prosecution of assault cases in the hands of the state, evidence suggests that societal as well as professional attitudes are still reluctant to advocate court action. Formerly assault cases could only be initiated by the victim.

Ideally, when Parliament passed this bill last year, assaults or sexual assaults committed by either one's mate or a stranger were both indictable as criminal offenses.

Under this amended law assaults are divided into three categories.

The first is common assault (simple assault) which is defined by the bill as pinching and slapping. These offenses are processed by family court. It is rare the assaultant is persecuted for these "trivial" or "trivial" injuries.

"In family court, the domestic violence is often viewed in the context of many other issues. A total case in front of a judge usually includes custody, access and

support," said Mrs. Laughin, Intake worker for Halifax Family Court.

One family court lawyer said for men who have been charged with assault and have a full time job the peacebond would be favored over conviction. If her mate were sent to jail, the woman may have to collect public assistance.

"Unfortunately many women who have been slapped or punched by their husbands feel the charges they laid appear trivial in court after the intensity of the crisis passes," said Inspector Storm, Halifax police.

A family court worker agrees, estimating that between 60 to 80 per cent of women who lay charges drop them before they get to court.

The other two levels of assault are defined as (sexual) assault causing bodily harm or (sexual) aggravated assault, where the abuser maims, disfigures or endangers the life of the woman.

Because the judicial system views these assaults as a more serious offense they are brought before the magistrate court. According to the recent Advisory Council on the Status of Women's report, the abuser can receive a maximum penalty of up to 10 to 14 years if convicted.

Despite traditional logic the harsher penalties have not resulted in a decrease in the number of assaults.

Bryony House, a Halifax shelter for battered women, has received over 940 calls requiring counselling for the 1983-84 year alone.

Because of the lack of information, women are losing the opportunities granted to victims by law because they are not being supplied with a basic understanding of their legal

rights or given knowledge of how to obtain them.

"In just this past year, our agency has experienced a growing number of women and men individually and couples approaching us for counselling, specifically for family violence," said Joyce Halpern, Director of Family Association. "Before we wouldn't have thought to ask questions about possible violence within the home but this is a result of public education, not Bill C-127."

Halpern cited critical flaws in the lack of unity in the services being offered for the special needs of battered women.

"Nova Scotia services are still choppy, we still do not have a solid network, especially at the most crucial time when the assault has just been committed" said Halpern.

Although the new legislation now mandates police officers to lay charges against a mate where evidence of bodily harm exists, there are several problems undermining it. Fran Potts, Crown Prosecutor at Halifax magistrate court says the low number of cases and convictions in magistrate court stems from the ambiguity with the way in which assault is defined in the bill C-127.

"Many cases would come down (to magistrate court) but never, never do. I've had policemen show me reports that qualify as serious assaults, but the police officers had decided they were only common assaults," said Potts.

Often the disputed lined between common assault and



© 1983 Katschis/Dal Photo

more serious assaults are further muddled with differences in values. Laying charges may mean challenging the traditional family unit. Differing perceptions and circumstances with each assault seem to appear as inconsistencies in the treatment of male offenders.

Bryony House noted that 22 per cent of battered wives who were habitually beaten returned to their mates. Out of 189 women and 249 children, 136 women were admitted once and 42 people were returning.

"Bryony House can offer temporary and safe accommodation up to three weeks. However a woman waiting for the results of the legal process, can have a two to eight week wait before any settlement is reached. These time

gaps just add to the insecure position of battered women," said Laughin.

Those who are baffled as to why women who are beaten by their mates would return to that situation often lack the complete understanding of the obstacles confronting these women.

Francene Cosman, president of the Advisory Council on the Status of Women describes one typical scenario. "If you have no money, no job, no skills, no alternative housing and you have 3 or 4 kids to worry about, many battered women see no way out of this situation. We see our recent publication 'Battered Women: A Criminal Offense' as supplying vital information that could allow these women to see a way out of their predicament."

### EMPLOYMENT WORKSHOPS for '84 GRADS

Learn about:

- The Hidden Job Market
- Preparing for Interviews



Register NOW at:  
Canada Employment Center  
on Campus 4th Floor SUB



# DON'T WAIT UNTIL SPRING TO PLAN FOR SUMMER



## SUMMER JOBS ARE BEING ADVERTISED NOW!

### HELPING CANADA WORK

### CANADA EMPLOYMENT CENTRE

### ON CAMPUS

### 4th Floor, SUB

### Monday - Friday, 8:00 - 4:30