BILL C-53 LAW REFLECTS VALUES

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Son manque de maturité en ce qui concerne ses droits, rend la femme vulnérable aux attaques sexuelles dans le travail. Il faut qu'elle sache qu'elle peut se protéger grâce à la législation. L'auteure pèse le pour et le contre du projet de loi C-53 sur le viol et incite la lectrice à faire pression sur le gouvernement fédéral pour qu'on l'amende.

THROUGHOUT this issue of CWS/cf we have seen the consequences for women of inferior status in the Canadian economy: poverty in old age, wages generally about 40 per cent lower than men's, lower pay for similar work and so on. One of the more subtle consequences, perhaps, is the general lack of power, personal *and* collective, that accompanies this inferior status.

Economic dependence on men makes women vulnerable to power games, particularly to those which are expressed sexually. That is why we, *women*, must examine very carefully any proposed legislation having to do with sexual offences. Following is a consideration of Bill C-53:

What is good about Bill C-53?

1. Husbands are no longer immune from prosecution for raping their wives.

2. The law 'theoretically' applies equally to both sexes.

3. 'Rape' will include anal and oral rape, as well as vaginal rape.

4. C-53 acknowledges that lack of resistance (based on the exercise of authority) is not consent (for example, doctor/patient, teacher/student, employer/employee).

5. C-53 allows for an expanded meaning of 'fraud' in relation to consent (for example, a man says he is a movie director. . . 'if you sleep with me, I'll. . .').

What is not good about Bill C-53?

1. Assault is defined as *unconsented*-to touching, but sec. 244(4)(b) allows consent to be inferred from lack of resistance. Some women do not resist as they are terrified of being cut, shot or killed. This clause is potentially dangerous. Eliminate it.

2. A man may have an 'honest though unreasonable belief' that his victim consented to rape. The woman may have kicked, screamed, cried and so on, but if the man believed that she 'wanted it that way,' 'honest though unreasonable belief' can be sufficient defense for the man's acquittal. This defence did not exist in Canadian criminal law until 1980. 1982 is the year to abolish it!

3. 'Sexual assault' is not defined in C-53 and this may lead to confusion in law enforcement with no protection against minor sexual assaults like a 'grab' at the office. A three-tiered system of sexual assaults with differing penalties is recommended.

4. 'Corroboration': Judges have the discretion to warn the jury that it is dangerous to convict without 'supporting' (corroborating) evidence. This warning leads a jury to *infer* that there 'should' be supportive evidence. Abolish this.

5. 'Recent complaint' means a women can use as evidence only the first story she told of the rape, the first chance she had. . . even if the first person she saw was a friend of the rapist! No further evidence can be introduced. This could be changed to: *all* first complaints must be allowed.

6. 'Prior sexual history' is admissable if the trial judge decides it is relevant. The law should be changed so that prior sexual history is *never* admissable. Agreeing to sexual relations in the past does not mean a woman agreed this time.

Bill C-53, an Act to amend the Criminal Code in relation to sexual offences, is better than what we have now, but not good enough. Write/lobby your MP, the Minister of Justice Svend Robinson (NDP), Ray Hnatyshyn (PC) and the three house leaders to push for changes. Remind them that the final judge of C-53 is the nine-member Supreme Court of Canada (with only one woman member, recently appointed Bertha Wilson) which has not shown itself to be more sympathetic to the rights of the accused than the victim.

For more information contact the National Association of Women and the Law, P.O. Box 197, Station B, Ottawa, Ontario K1C 6C4.