

“Gender Bias” and the Law

Is it enough?

By Pam Fleming

L'article donne un aperçu général de la corrélation entre les femmes, la pauvreté et la loi selon une femme à faible revenu et militante anti-pauvreté. L'article examine les liens entre les femmes pauvres et la loi en Colombie-Britannique et au Canada. L'auteure nous suggère plusieurs façons d'améliorer cette situation.

Women's poverty is symptomatic of sexism. We have less access than men to socio-economic power and decision-making. Looking at *The Law*, isolated from the larger question of whose interests are served by the law, gives us an uncontextualized and inaccurate picture. At the Gender Bias and the Law (committee of the Law Society) hearings in Vancouver in January 1992, it became evident that poverty was the principle barrier to the legal system for women.

Discrimination against women and children is systemic. Will employing more woman judges and lawyers in an oppressive structure change that structure? Perhaps a little. It may give us a little more representation. But it is hard for lawyers and judges to behave justly in an inherently unjust system. It is difficult, for example, for a lawyer to fight charges like shoplifting on the basis of economic necessity, when the law sees shoplifting as a criminal act, an assault against property.

In our society, laws and institutions protect and reflect patriarchy's values and interests. According to Statistics Canada, the people at the bottom 20 per cent of Canada's wealth scale have -.3 per cent of the wealth. In other words, we are in debt. The next 20 per cent have only 2.4 per cent of the wealth. That's a drop in the bucket compared to the top 20 per cent with 68.9 per cent of the wealth. With such great disparities, how can we call ourselves a

fair and just society?

Those at the top of the wealth scale depend on the systemic oppression of women, children, workers, and people of other cultures in order to sustain their "lifestyle." The rich have lifestyles; we have subsistence. Their lifestyles are sustained in very real ways: by giving women unequal wages, no pay for housework, no universal child care, low welfare rates, low minimum wages. Nationally, the wealthy benefit from Free Trade, privatization, and decreased taxes on the rich. These are some of the laws that keep women oppressed.

We really need to educate each other about the *unjust* system, and organize to change it. We need resources to do this. We need concrete change. I want to address some of the ways that sexism and classism "double whammy" poor women—in the law, and in society at large, and suggest what is needed to help change this.

Sexism is only one form of systemic oppression. Classism and other hierarchies of dominance are inherent to the legal system. For example, rich women don't go to jail very often compared to poor women. Is it because rich women are better human beings? Or is it because they are not forced to live on the streets, have never been forced to steal or prostitute in order to feed kids, because they don't get thrown in jails for having addictions, don't have to deal with an abusive welfare system that in turn steals their kids because of the mother's "lifestyle" of homelessness and uncertainty—meaning poverty?

In our society women are often a husband or paycheque away from poverty. Rich women still get raped, battered and abused, and professional women deal with sexism, but money can buy better therapy, lawyers, and protection. Poor women are

at the bottom of the heap when it comes to "gender bias." Economic power is political power in our society. Poor women are disposable and invisible.

The bottom line is death. Poor women are killed more often and poor women's children are more likely to die due to poverty-related health problems. Women in the Downtown Eastside area of Vancouver die an average of 17 years younger than other women in the city—22 years younger if they are Native.

Women who are poor have less control over their lives generally. We are often bounced around from welfare to low paying jobs, to unemployment insurance, back to welfare and/or prisons or other institutions, and back to welfare. For many, it is a cycle of dependence on the welfare system, not because women are not competent or good workers, but because wages are so low that many women are forced back onto welfare to raise their kids because it is cheaper in the long run.

Women are still the primary childrearsers. The Family Maintenance Enforcement Programme is grossly unfair. Women are often put at risk by having to deal with abusive ex-spouses. Women on welfare have no right to choose their own legal counsel. They only get to keep \$100 a month without deduction from their welfare cheques, regardless of how many children they have. These are just some of the examples of how poor women are systematically oppressed. Many women do not expect justice from the judges or the kangaroo courts that blame the victim. We find the belief in some justice or a little bit of justice in an unjust system inconceivable.

It is increasingly clear that positive social/structural change is only going to come from the bottom up—from the grass-roots. By ending poverty, we will be end-

ing the bulk of women's confrontation with the law: crimes of economic necessity and poverty due to separation from male partners. By ending poverty, we will take stress off the legal system in the long run.

Anti-poverty groups fight to change regulations and statutes in order to create a strong body of law to protect poor people and end poverty. End Legislated Poverty, for example, is fighting for higher welfare rates and wages. Poor people can organize for social change and win. End Legislated Poverty, with women and children on welfare, recently stopped the forced employment of single parents on welfare. In British Columbia, the past government had introduced a regulation that made single parents look for work when their youngest child turned six months old. Single parents now have a choice about seeking outside employment until their kids are 19 years old. This is a big victory. Until we have universal child care and decent wages, full time work outside the home is economically impossible for many mothers. Over 90 per cent of jobs in the Lower Mainland of British Columbia are service sector jobs. Most pay between five and eight bucks an hour and are part-time. How are poor people expected to meet child care costs on such wages?

End Legislated Poverty staged an action-packed "stop forced employment" campaign around this issue—with demonstrations, delegations to City Hall and the legislature. On the legal front, two single parents and their kids, with the help of Community Legal Assistance Society, launched a Charter challenge case against the provincial government, saying that the regulation discriminated against mothers and kids on welfare. The case was dropped because the new government changed the regulation. This wouldn't have happened without the hard work of End Legislated Poverty and single parents on welfare. Seeking legal resolutions can be part of larger strategies. These small changes help us work toward bigger changes.

Minimum wage at \$5.50 an hour is still about \$3,000 below the poverty line for a single person. We need a minimum wage of \$8.26 an hour, which is 22 per cent over the poverty line. We need welfare rates to the poverty line. Welfare rates are now 40

to 60 per cent below the poverty line.

At the federal level, governments legislate poverty. The Free Trade Agreement means that corporations can export jobs to the US where labour is cheaper. Now they are going for free trade with Mexico. I call this the globalization of poverty. We will all be expected to work for the lowest wages. The International Monetary Fund and World Bank financial policies demand structural adjustments from the developing world in exchange for loan appeasement. They demand less social programmes, deregulation, and privatization. Canada is being structurally adjusted too.

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Structural adjustment policies rearrange the decision-making apparatus to make more room for corporations and less room for people. Bill C-69 will end universal medicare in Canada. Bill C-21 cuts back Unemployment Insurance which means more people need to rely on underfunded welfare systems. Caps on federal transfer payments, decreasing the taxes of the rich and increasing the taxes of the average person also make people poorer. A woman earning \$1,000 a month pays over \$100 in taxes, while the rich pay nothing on inheritances and pay virtually no corporate taxes. In 1988, over 86,000 profitable corporations paid no taxes at all in Canada. Is this fair? Is this just?

When added up, these laws mean not only that the rich get richer, but that increasingly, the law is protecting their wealth while others are getting poorer in order to accommodate them. The federal Tories propose entrenching the rights of the rich and corporations in the constitution through property rights and economic union clauses. If these things get entrenched, it will be virtually impossible for any provincial government to counteract their devastating effects.

We need a peoples' conference on the Constitution so that we can unpack these issues. The constitutional process is completely inaccessible to poor people. Maybe we need a social charter. Since poor people are the ones who lose the most in the face of the law, we need to be the ones to direct and advise the legal experts on what it is we want. We need a change to formulate policy and propose further changes to create a body of peoples' law, rather than corporate law.

Charity and community kitchens are not going to re-distribute the balance of economic power. Charity benefits the power elite: corporations and the rich get tax deductions, and it is wonderful public relations for them. Poor people will always fill in the gaps left by charity, and will continue to have to beg or steal to have enough to live.

According to Clare Culhane, anti-prison activist, over 90 per cent of people in prisons are poor. How many white rich guys get put behind bars? Even though such people have very sophisticated tax evasion schemes, it's people on welfare and unemployment insurance who get threatened with fraud for making money under the table by babysitting and the like.

Shifting the economic balance of power will inevitably change the system. If we had social justice, a society where people had what they needed, who would the law be able to lock up, with less shoplifters, prostitutes, petty frauds, boosters, and other economic criminals? Family courts would not be jammed with women trying to get money from abusive ex-spouses. If we had social justice, we would not have corporations influencing policy making to make more of us poor, unemployed, desperate, and unhealthy.

Pam Fleming has been an organizer and a staff member with End Legislated Poverty, a coalition of 28 groups in British Columbia, since 1988. She has worked and lived for years in the low income women's community—including BOA collective, a magazine for and by low income women, Carnegie Centre and the Downtown Eastside Women's Centre, both in the heart of Vancouver's poorest area. She is a poet/cultural worker with a Bachelor's degree from Simon Fraser University.