

# Why "Law and Order" Cannot End Violence of Women's (Social, Economic and

BY LEE LAKEMAN

*Cet article dénonce le sexisme toujours présent dans les politiques gouvernementales. L'auteure affirme que si le gouvernement envisageait sérieusement un développement social basé sur l'égalité politique et économique alors, en légitimant et finançant les droits humains en vue du développement de chaque individu et du bien-être de la communauté, il verrait que tous ces objectifs se fondent. Elle pointe du doigt l'ignorance totale du public sur la nature systémique de la violence faite aux femmes et demande la protection de leurs droits et la révocation du modèle courant des droits des victimes.*

In this affluent and convivial fellowship, you might have convinced yourself that we had established equality between the sexes. Most people know that a few Neanderthal individuals still roam about making obnoxious comments and selling bits of sleazy pornography. Nevertheless, it's easy to believe that we have established equality in matters of social and in matters of government policy. Yet, sexism continues to be imbedded in government policy. Compare where we are to the plan that most progressive people had in the '70s.

The Canadian federal government refuses to accept pay equity even for its own workers. They have dragged out a court case for 20 years. The promised national child care program is nowhere to be seen. The promise of pension reforms to relieve old women has gone. According to Statistics Canada, Income Statistics Division, in 1998

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employers succeed in paying women less than 64.4 per cent of the wages paid to men. Politicians have altered welfare, the only guaranteed annual income we ever got, so that they do not guarantee it at all. Lesbians do not have full protection of the law. Birth control and abortions are still not safe and economically available. Prostitution is not only the full-time slavery of increasing numbers of women, but also is a part-time or supplementary degradation of too many young mothers. The age of prostitutes continues to descend so that now we see children of 12 and 10 on the streets of Canada.

Men use the innocence of young women rather than condoms as their protection from AIDS. The girls, of course, have no such option for self-care. Police have increasingly criminalized women for drug abuse. Pornography is ever more present, and ever more vicious in its recording, imagining, and teaching of the subjugation of women and children. The numbers of rapes, sexual assaults, sexual harassment on the job, and wife assaults continue to climb. Even Statistics Canada, in its 1993 Survey on Violence Against Women, found that one in five women had been criminally assaulted. Women's transition houses and anti-rape centres will tell you that the attackers are their fathers, husbands, boyfriends, sons and/or bosses. The same survey also confirms that women are terrorized daily by a fear of violence even greater than the likelihood of that sexist violence occurring. Just as feminists have said for 25 years, rape, and the fear of rape, continue to control the behaviour of all women.

Twenty-five years ago the whole body of the struggle against sexist violence was new. Nevertheless, we realized that "the enemy" had many related faces: the man who raped or battered or killed, those from whom he learned that sense of entitlement and the brutal techniques to enforce his wishes, the hierarchy that allows him the extra power and status to carry out the attack, and the same hierarchy that keeps her vulnerable to attack through less status and power. The social policy agenda that supported him by refusing to censure him or restrain him for those attacks was the social policy agenda that responded to her with psychiatry or social work. Those policies treat her as damaged goods or as a temporarily injured accident victim that with professional care could go back to "normal"—that normalcy consisting of permanently unequal access to safety, money, time, power, status, and resources of all kinds. In those early '70s, our communities conspired to avoid revealing the extent of the problem, to avoid indicting the men committing crimes against women and revealing the function of holding down women as a group.

## **Public support to end violence?**

Over 25 years of feminist anti-violence work means that Canadians have advanced. The public accepts that the violence being committed against women is unjust and epidemic in proportion. It believes that we as individuals and police and courts in our name should stop men. Twice

# Against Women; and Why the Development Political and Civil) Rights Might



*"Regardless of race or class background, women come together to protest the threat of rape."  
Take Back the Night Demonstration. Vancouver Rape Relief and Women's Shelter, 1995.*

now violence against women has been part of the national election discussions—when the Conservatives won and when the Liberals were returned. The first time we got the Panel, the second time we got the Red Book promise. Ministers responsible for the Status of Women produced a joint Banff statement committing themselves to solving the problem. One after another, five federal Justice Ministers have acknowledged the injustice of women's plight. Several Health Ministers promised relief. Both Conservative and Liberal parties implied commitments to stem this terrible tide. The Conservatives created the "Family Violence Initiative" through which they funnelled millions of dollars and the Liberals renewed it. They did so because the public demands some government intervention.

Unfortunately the public remains ignorant of the systemic nature of violence against women. As a community we don't seem to grasp that the vulnerability of women is

in part maintained by government. Nor do we grasp that while each rapist or batterer may think he is operating alone, his deeds too are supported by, and are part of, the social order keeping all of us in our places.

No man on his own, that is without the collusion of others, gets into a position to successfully attack women and get away with it. Men use their role in the family, their professional credentials, or the fact that society will believe them over a woman. Men certainly use the unlikelihood of their being charged or convicted.

We know that women's relative poverty as a result of discrimination, puts them at risk of assault by leaving them in darkened streets waiting for buses or cabs, makes them rent inadequate housing including ground floor and basement suites with inadequate locks. That same enforced poverty makes them unable to avoid dependency on abusive partners and bosses. And we know that self-

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女性, 請注意: 「還我黑夜!」 欲知詳情, 請於週六下午一時至五時致電 872-8212 洽。

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Marcha y Rally de la Mujeres Para más información llamar los martes entre 6:30-8:30 pm



<p><b>WOMEN'S REALITY</b></p> <p>A woman is raped every 17 minutes in Canada.</p> <p>CASAC 1991</p> <p>One in eight girls is sexually assaulted before the age of 18, most often by a male family member.</p> <p>Unifed Way 1994</p> <p>54% of women living with men will be struck at some time during their relationship.</p> <p>CIDA</p> <p>90% of women are sexually harassed on the job or sometime during their worklife.</p> <p>CUPE 1990</p> <p>80% of rapes reported to us, as well as battering and sexual assault, takes place at home - the place we are supposed to be most safe.</p> <p>Vancouver Rape Relief</p>	<p><b>WE INVITE ALL WOMEN TO JOIN TOGETHER WALKING SAFE ON THE CITY STREETS - AT NIGHT</b></p> <p><b>EXPRESSING OUR RAGE ABOUT MEN SEXUALLY ABUSING US</b></p> <p><b>GOING PUBLIC WITH OUR ANGER AGAINST MALE VIOLENCE</b></p> <p><b>WE ARE FIGHTING BACK AND ORGANIZING EVERYWHERE</b></p> <p><b>STATING OUR RIGHT TO SELF-DETERMINATION AND LIBERTY</b></p>
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Take Back the Night Poster, Vancouver Rape Relief and Women's Shelter, 1993.

esteem, the chronic problem for women, is only a reflection of social status as determined by one's whole community. When government legislation, policy, and procedures treat women as deserving of inequality or just fail to treat women as worthy of equality, the sexism of the whole society is reinforced. Certainly, without a comprehensive intention to reduce violence by increasing equality we are unlikely to find effective strategies.

### The road to peace and freedom

For a while it looked as though the problem of creating political will was a matter of addressing community ignorance. If we could prove the need for post-violence services, we could get them. Transition houses and rape crisis centres sprang into being. In the history books it looks like spontaneous combustion. Of course those of us involved remember long days of work and long nights of decision making. Still in a five-year-period, from about 1973-78, Canada and the world went from no such place as a women's shelter to the prominence of shelters and anti-rape organizations in every population centre of England, the U.S., Australia, New Zealand, Canada.

It is important to recognize that these initiatives were the work of the community; they were not the result of a government plan to deal with sexist violence. They were

the yielding of government to extraordinary pressure from below, from us. And they were a small concession. In the multi-million dollar world of government programs, these are a very small deal. Most transition houses have a budget of less than five hundred thousand a year and rape crisis centres are even less. To this day, governments refuse to make available the funds for houses and centres to meet nationally, or to coordinate and cooperate nationally.

We stepped onto the scene at the very end of a 30 to 40-year-period from the end of the Depression to end of the '70s. This was the period of real development of social policy in Canada— unemployment insurance, health care, CAP, public pensions, human rights legislation, changes to family law to improve conditions for women, removal of restrictions on women's employment, and LIP and LEAP projects that contributed to the development of community activism. In retrospect it appears that social development in Canada peaked in the '70s and that commitments have withered since then. Social housing policy, welfare rights, job-creation projects, community daycare projects delivered as much as they would for the following 20 years. We thought we were making incremental, if tiny, steps toward women's equality in our own country by facing down sexist violence. But every step we have made since then has been against the tide of government policy in the western industrialized world.

### Anti-dotes to ignorant propaganda

Within a few months of operating centres, transition houses, and anti-rape lines, we knew as much as anybody needed to know about violence against women. Frontline feminist workers knew that women were not masochistic or sadistic. They left violent situations in droves as soon as social policy allowed a route. Road blocks were revealed one after another. We discovered for instance that welfare officials refused to grant women welfare checks if they were leaving men, even abusive men, and needed money to rent a new apartment..

Women bravely traded the dangerous marriages in which they had been trapped for the poverty of welfare and public housing. We expected that. But in our naiveté we forgot that women had always resisted violence as best they could. And if there was no way out they would defend themselves physically. Women were not usually in a position to defend themselves in the style or timing of a man. Often the men were stronger, more trained to physical fighting not to speak of more willing to hurt, even kill. Beaten wives had to look for a moment when he fell into a drunken stupor or when he failed to hide a weapon in order to prevent the next predictable beating or rape. With the advent of women's shelters, these women could run instead of trying to find such a moment, bringing on a reduction in the numbers of murders of husbands by women. We learned that if women could leave, they would.

We knew that some women were more likely to be abused than others. Being raised in poverty, being in any way disabled physically, having small children, being isolated from family and friends all increased the odds of a woman being attacked by the men close to her.

We knew that women who faced the danger of family violence also faced the danger of child prostitution. Among the first two years residents in the Woodstock Women's Emergency Centre, I remember counting with the public health nurse that some 30 per cent had volunteered stories of their being attacked as children in their families. And as many told of temporary stints as prostitutes.

We knew that many women regretted trusting men with the information that other men had attacked them. Somehow men took this as permission to themselves attack. We knew that the most dangerous men were her friends, family neighbours, and intimates. We learned horrible humiliating realities like that men who had married child brides, often hated the women they grew to be and simply moved to incest. They molested or even raped their daughters.

We learned that men planned their attacks, the rapes of their employees and patients, and even the assaults of their daughters. There was no way to believe any longer that men had been swept away by uncontrollable passion. The truth was more that society as a whole, especially men, believed men had a right. And society including women didn't believe women had a right to refuse.

For a while we stumbled over why the numbers of deaths of women were so slow to go down after we created women's shelters. We had falsely equated the behaviour of men and women. The battered women, when given a chance, left the situation. But even when given the chance, men did not take another way out. Men were not trapped in the same way. They had pay checks in their name and worth 30 per cent more than ours. They were safe wandering the street while they tried to decide where to go. There were shelters for single men. No one blamed men for leaving home in the way that women were blamed for failed families. But men didn't leave or take women to shelters rather than murder them. Women had to outwit men and overpower men to get to our shelters. Even then they would be stalked.

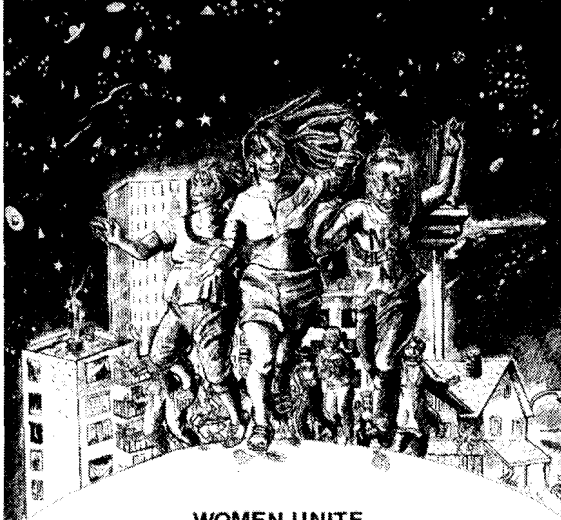
After several years we realized that women had to be capable of great stealth. If a woman announced that her marriage was over or announced that she wanted to go to a shelter, the danger from her husband increased often to life threatening levels. And it remains so for 18 months. And it remains so for whoever stands with her. Maria Crawford, after living through a horrible murder case, documented just how many friends, family, and advocates men are prepared to kill with an escaping wife. JHer work was published by the Ontario Women's Directorate in what are called *The Femicide Reports*.

From very early in this work, women hoping to end the violence came to see the necessity of advancing the whole

feminist agenda at once. We needed equal pay in order to have the influence over tax and budget decisions which would get us child care and transition houses. We needed welfare to be available across the country in order to leave abusive men and in order to prepare ourselves for jobs and to sustain ourselves between jobs. Obviously we needed government dollars not to be wasted on the war machine. We needed health care policies that would care for the sick and the old and the newborn so that we were not individually burdened with each need as a family emergency. Men were and are still refusing to share that work. And while we keep being presented with these human needs as emergencies they are predictable stages of family and community life. Human need that could be accommodated without enslaving women if we could plan together.

### **If governments meant to free women**

If government were serious about social development toward social, political, and economic equality, then legitimizing and financing of human rights, of each individual's development and of the overall community well-being would all be seen as interlocking goals—the only legitimate business of government. Instead, the public discourse changed over the last decades on almost every basic value. Quite quickly we were talking about "global economic realities" and "government over spend-



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*Take Back the Night Poster, Vancouver Rape Relief and Women's Shelter, 1991.*

ing” and the need to do without “social service luxuries.”

It is easy to see now that by the time of the Montreal Massacre, even though thousands of women took to the streets to demand policy changes from all levels of government, it was too late. Canadian politicians had already turned away from a social development and egalitarian phase of the post-war into the new swing to the right. In part we were overwhelmed by the new corporate internationalism, the “global economy” that made corporations more powerful and richer than national states (in an alarming number of cases), and the conspiracy of corporations internationally to overpower national governments. The pressure to prevent new social programs, new social spending, and to dismantle the existing social programs has been enormous and all-encompassing. The effects of dividing us further by class, race, and gender are measurable and shameful.

### **Politicians and bureaucrats know the impact of these decisions**

But in the matter of violence against women federal officials had never accepted social development as a solution. It is as though inequality was to be accepted as inevitable as global economics and violence, we were told, would be kept under control another way.

I remember very clearly the moment when the federal Conservative government announced its attitude to violence against women. They convened a major “Family Violence Conference” in Ottawa—the very name denegates and obfuscates the reality of men attacking women and children. This was “mainstreaming.” They made sure feminist activists were in the minority and not on the podium. Feminists needed to realize that we “don’t own the issues.”

The temporary head of the YWCA of Canada was there to accept a million dollars for a project to “reeducate the public” about sexist violence. The YWCA speaker was to

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introduce us to the new federal funding plan—“corporate partners”—and its partner: the Avon Corporation. Together, both Executive Directors explained how their new partnership would advance women’s equality. The Avon corporation would lend not just money but expertise on various (unimaginable) things to the YWCA, and the YWCA would lend a “feminist influence” to the boardroom of the Avon Corporation. This ridiculous notion of a company that exploited female labour at every level of operations from factory to commission sales women in order to sell make-up to women as a

solution to inequality was unspeakable. From the back of the room you could hear the few feminists in attendance shouting, “just pay the Avon lady and give us the tax dollars we deserve!”

### **A price for inequality**

The new Conservative forces were not moved. They had offers in hand to quiet the women without interfering with the new policy dictates of globalism and multinationals. They gave us the ten million-dollar “Blue Ribbon” Canadian Panel on Violence Against Women. After traipsing all over the country and offending every women’s group for miles, the Panel produced hundreds of pages of analysis and data of maps and studies. The obvious could not be avoided. The members of the Panel did recommend several hundred both small and large social policy steps that could be taken to reduce violence and its role in oppressing women.

The Conservative government and the Liberal government that followed simply ignored them. The Panel had done its more important job of distracting the media and the public from the outcries of the independent women’s movement. It mainstreamed the issue by repeating over and over again that “the women’s movement doesn’t own the problem and won’t own the solutions.” “We need a cross-discipline approach” with “all stakeholders at the table,” meaning equal voice for those who have fought the violence with those who have not.

Feminists had done a great job in the previous decade, convincing the public that we needed women’s political service centres like transition houses and rape crisis centres. Later the Liberals would claim that since these centres are a “social service delivery system” they are, according to the constitutional division of powers, the exclusive domain of the provinces.

Not only did they not want to fund the developing number of centres and houses, but both national parties planned to sell us “Law and Order.” The Conservatives sell it as “Victims Rights” and too much soft treatment of people accused of crime. The Liberal waffle back and forth between promoting traditional “Law and Order” or, its new offspring, “Crime Prevention,” “Restorative Justice,” or “Alternate Dispute Resolution.”

### **“Law and Order”**

The main thing wrong with a “Law and Order” as a social policy agenda is that it allows government to use the full force of the Law and law enforcement agencies to perpetuate the same old patriarchal order. In Canada, at this turn of the century, it’s the patriarchal order in which rich dominates poor and white dominates non-white and men dominate women.

Now there are certain appeals that can be made to feminists about real law and order and violence against

women. Even the prison abolitionists among us, struggle with the question of what to do with Clifford Olsen, Paul Bernardo, child predators, and other monsters once the system has created them. Close examination of Olsen and Bernardo gives us alternatives. Both men were revealed and witnessed against by women many times. The women were dismissed by the criminal justice system with the usual sexist techniques: they were “hysterical ex-girl-friends” for telling police about the promotion of strangulation during sex, they were silly self-important hookers for reporting a dangerous “john.” Even simple efficiency would have locked up these men earlier. Both used police inefficiency to continue their crimes. For instance, they moved across jurisdictional boundaries knowing police would not talk to each other. We don’t need to give more power or money to police forces to correct these deficiencies. We only need level-headed cooperation between police departments.

Anti-rape organizers and transition house workers howl at the criminal justice system’s careful refusal to convict men of sexual assault. And even if we can beat the odds now and then and convict a very tiny few like Bishop O’Connor of British Columbia or Gerard Rozon of Quebec, then the system refuses to censure or restrain them in any way. O’Connor who had raped impregnated and humiliated Aboriginal women was offered a sentencing circle as though by raping he had himself become Aboriginal and entitled to alternate Justice programs. Actually, he was white, middle-aged and the highest ranking Catholic clergy ever charged with sex crimes in Canada. He had been principal of the residential school in which Aboriginal women were held as hostage students or as lowly-paid employees. Rozon pled guilty to sexually assaulting a young woman fan while he was head of Quebec’s comedy festival and then the system gave him an unconditional discharge. They were unable to prove the other woman’s story of being illegally confined. Justice Believeau said, “it would be unfair to burden Mr. Rozon with being unable to travel to the U.S. border to do business.”

The Attorney General of British Columbia, under pressure from the population, demanded that the police arrest those suspected of assault in “domestic violence” situations. The police responded in two ways: they arrested someone in never more than 50 per cent of the cases. And they arrested battered women in higher numbers than ever before. More wives who defend themselves from abuse now find themselves arrested when the police finally do arrive. This is referred to as the “mutual arrest policy” although it can sometimes mean that only the woman will have charges threatened. In a recent Canadian case, a Canadian woman named Gitake married to a police psychologist lived in terror for herself and family. Her abusive husband had wired the house with explosives. She killed him in his sleep. The system was unable to perceive her self-defence and so charged and convicted her.

In the Canadian swing to “Law and Order”, we were first offered improved rape law. Feminist cooperated with other leaders in shaping and fighting for the “No Means No Law.” It helped to take some of the discriminatory obligations off the backs of women complainants of sexual assault. Next we improved the so-called Drunk Defence, and so on. We fought for changes to protect the personal history of complainants and amassed huge public support.

But almost immediately we were also being thrown “talk show law” like the anti-stalking law for instance; a law that changed nothing and was rammed through against the objections of all feminists consultants. Stalking was new jargon which was first used to describe those who hounded Hollywood “properties” and politicians. Starting in California we watched a flash flood of TV stories about stalkers and their famous prey and then just as quickly another flood but of new laws called anti-stalking laws. METRAC documented that within a year most states discovered this problem, invented the same colloquialisms to deal with it and wrote and passed the 1993 anti-stalking law 264 (1). If only legislatures were this quick to do useful reform.

When the Canadian government asked representatives of national women’s groups and officials of provincial women’s departments, they were told the law’s inadequacies. But they proceeded anyway obviously on political motives. A government could claim it had done something about sexist violence.

The most likely stalker is a husband or boyfriend whose woman got away. What women needed was quick police response, to be able to rent adequate housing, to have cases of wife assault taken seriously. Inventing a new category—“stalking”—to put events into, didn’t change the reality of violence against women.

Before the law, police claimed they didn’t have enough power to arrest and convict. After the law they still claim they don’t have enough power to arrest and convict. Sometimes one can suspect that the only interest the police have in violence against women is the power of the issue to be used as a budget demanding item. In a recent meeting with all the representatives of all the police chiefs in British Columbia, I asked “what does it mean that you say violence against women is your top priority? We are so dissatisfied with your service and yet it is your top priority.” “Yes,” the officers agreed, “there is a terrible problem.” Violence against women is epidemic and they do not have enough power or money to deal with it. And, they promised, until they get more it will remain so.

Then came the hate crime law, which offered longer sentences and

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nothing more, then the gun control legislation that couldn't distinguish between an Inuit hunter and deadly urban husband.

In the same years' legislative agendas, the Canadian government cut unemployment insurance, increasingly the reliance of unemployed people on provincial welfare schemes. The federal government also, at the encouragement of the provinces, abandoned conditions on the transfer of federal funds to the provinces for health, social assistance and post-secondary education, thus allowing the provinces to cut welfare rates, institute workfare, reduce access to civil legal aid, cut funds to transition houses and second stage housing, and in fact to spend transfer funds not on social programs at all but on roads or any other provincial priority. It came in handy to have instant costless "legal solutions" to inequality and violence to convince the public that government had not abandoned these questions.

Led by spokespersons hired by the national police association, new victims groups formed. CAVEAT, Victims of Crime, and the like started to go straight to the heart of right-wing demands—zero tolerance for children who commit violence at school, changes to *The Young Offenders Act* so children can be held as accountable as the men, and dangerous offender legislation to allow governments to extend penalties without trials while a prisoner is already serving a term.

They call for changes to undermine the rights of the accused to be protected from the state. They call for increased power and authority to police, increased powers of search and seizure, of observation of the citizens. They argue for longer sentences and for sentences to be served consecutively. When Canada abandoned the death penalty, ten years in prison was considered a draconian and barbaric sentence. It became normalized when the right-wing demanded longer sentences in exchange for the abolishment of capital punishment. Now the right encourages people to mock ten years as too lenient for rape or murder. They demanded the end to the "faint hope clause" so the system would be excused from the simple democratic burden of answering why people like Olsen cannot be released on parole, even though democracy requires such burdens.

There is a private members bill before the house which demands consecutive sentencing. It claims it will only apply for those who have killed or raped more than once. No party has had the political integrity to fight the bill openly even though it offers no sure way to capture only the violent. The media has been full of speculation that judges will now be able to order men to 50-year sentences. No national women's group endorsed this bill in spite of the manipulative statements of the author. At the NAC Lobby in June 1999 women accused the Liberal party members of spending extra time with the women in order to avoid the vote in the house. Too many parliamentarians did not want to be seen to be refusing this "Law and

Order" initiative. The public has now been sufficiently misled that they sometimes demand "Law and Order" between elections.

### **Nothing in it for women**

None of these moves will better the lot of women. None are endorsed by the national women's groups. All the equality-seeking national women's groups have denounced these proposals. We recognize that women are being offered the heads of a few men rather than offered the appropriate demotion of most men. We are offered the sacrifice of a few "disposable men," not the reorganization of power between men and women. We are offered vengeance, not equality.

Our call was for the public trial and public accountability of adult men who infringe the human rights of women and children. We cry out for the resources to cope with attending to, and organizing, victimized women to speak in their own interest. Our cry is for leadership from men to divest themselves of illegitimate privilege over women by demanding and securing the social changes that equality seeking women say will put women on an equal basis. Our call was for social development as one part of the establishment of women's rights—social development as the intentional progress toward equality.

Our current federal Justice Minister, Liberal is the most powerful woman in the cabinet. One expects she would concede that women are mistreated by men and that the system does not adequately address the situation. She rarely speaks about it and certainly does not have a reputation of listening to women's organizations. She came in with a personal political agenda to fund Crime Prevention and Victim's Rights. Since Crime Prevention is a category that says nothing about equality, we can rightly predict it will do nothing about equality.

She appeased the right wing by further punishing children with young offender legislation. While refusing the worst of their demands, still she helped confirm the ridiculous notion that society needs to live in fear of its young. And she fed the notion that her home riding in Alberta must be appeased with right-wing anti-humanitarian, anti-feminist law reform. As though the West were not the cradle of some of Canada's finest progressive movements.

Her new Victims' Bill is before the House of Parliament now. A funny thing happens when you settle for Victims' Rights instead of Women's Rights. It sounds like it would be more inclusive. As though you mean women's rights with the addition of the rights of whoever else has been victimized. But that is not the case.

So far the role Victim does not really exist in Canadian law. A woman raped will be a complainant and or a witness in the case. The crime is seen to be a crime against the community against the state. That is why the state has the responsibility to prosecute the crime. Legally it is not up

to women to hold each man to account. It is the work of the community or the state, and they must legally do that fairly. They must protect the accused from unfair practices that might land the wrong person in jail or a person in jail wrongly.

The Liberal Justice Minister in 1999 is offering us a few dignities in the process of criminal justice proceedings: to be notified if for instance a man against whom we have witnessed is to be released, an opportunity to speak to the presiding judge in a case as to how we were hurt in a victim impact statement. These she is calling Victims Rights. Feminists are certainly not satisfied with this. But neither is the right wing especially the Reform Party and the Victim's Rights groups. They are after something altogether different.

They speak of locking up these "animals." They hold up the *Charter* as an impediment to justice, a negative restraint on police. As though we could trust police to always know who is the victim and who are the guilty and to use all power against those evil doers. But if that were true we would not have a situation in which the only false convictions of violence against women in Canada have been incidents of police misconduct rather than false campaigns by malicious victims. CAVEAT and the other Victim of Crime groups act on their belief that the victims of violence against women are the biological families of women attacked. Of course it is true that the loved ones of anybody who is hurt suffers too. We don't dispute that. And there are certainly implications for people in the same family as victims of crime. For instance we should be protecting them from the exposure of the victims' DNA which will be dangerous to them. But you won't find that in the victims' rights' initiatives before the legislatures.

### **We don't want Victim's Rights**

At the preparatory meeting for a United Nations Conference in Cairo, the then executive director of the John Howard Society arranged an informal debate between Priscilla Devilliers, founder of CAVEAT, and myself. Jim asked each of us to sit with him for lunch and then sat between us and asked questions until our exchange of views took over. In front of a gathering crowd of representatives of groups associated with the criminal justice system, he had us compare the demands for victim's rights with those of women's rights. Very early in that conversation Priscilla made it clear that while she understood her daughter's death as "violence against women," she saw no need for a women's movement or for women's rights to be addressed as part of the solution.

CAVEAT's focus when it comes to criminal matters is on the rights of families rather than the rights of women. And the rights they seek are at least in part a reduction in the *Charter* rights of the accused and convicted.

The leadership figures in the groups and in the media

about the groups are the surviving family members. Sometimes family members insist on referring to the victims as "innocent, good girls," implying that they are "virginal." This was particularly evident in a B.C. case in the *Vancouver Sun* and *Province* accounts of the 1992 victim of Fernand Auger. She was an adult woman working in a tanning salon late at night. She had been living in an apartment with her boyfriend. Like other abduction and rape-murder victims, Melanie Carpenter was chosen because she was alone at her job.

It is the position of feminists that no woman should be assumed less than innocent. No woman needs to be proved a virgin to make sexual assault or rape a horrifying event. No woman *deserves* it. And participating in a good girl/bad girl divide is very dangerous, as some woman somewhere is effectively being described as not as serious a victim.

All of a sudden the discrimination against women which set up the attack and which is reinforced by the attack has been clouded over. That it is women, all women, who are the victims of male violence is lost. Sometimes it sounds as though it is the fathers of dead daughters who are the victims. The impact on the other women of the community is hidden. The natural authority of women's advocates to speak in the situation is undermined. The media start to seek out the surviving relatives to ask what should be done to end violence against women instead of asking women as they are organized to fight for equality and peace. The Victims Rights groups are asking for a special role in the system as victims. We are asking the system to change to prevent victims. We ask for Women's Rights not Victim's Rights.

### **The danger in fighting violence with a "Law and Order" agenda**

The public outrage about violence against women can be shaped into a force for progressive change but if kept ignorant it can be shaped into the kind of patriarchal force it once was in the United States toward race supremacy and fascism. American lynchings were often excused as retaliation for rape. Lynchings increased in severity and numbers immediately after the legal end to slavery. Feminists have no interest in being used to reduce anyone's civil or political rights but only to secure our own. Neither do we want women to have economic compensation for being victimized so much as we want the economic and social rights that would allow us to escape *before* being sexually victimized.

There are "Law and Order" proponents who want us to "balance" the rights of the accused and the rights of the complainant. Those people debate whether men accused of committing violence should lose rights to privacy and rights to protection from police misconduct and rights to legal aid and humane conditions pre- and post-trial.

Feminists are having no such debates. We want fair



trials and have no interest in brutalizing men. We don't think trials fair if the women involved are subject to sexist discrimination in the application of the law. We don't think it fair if men are blackmailed into guilty pleas in order to achieve diversion from court as they are now in wife assault and prostitution cases.

We want higher conviction rates on crimes of violence against women since they are now so low as to flaunt the systemic bias of the system. Women's rights refer to what we see as the *Charter* promised rights not to be discriminated against by the Canadian government—not in law, not in policy, and not in procedure. And not by any level of government.

The very idea of balance seems ridiculous in the situation. The concept should be both rights of the accused and women's rights and not "either or." The matter of women's records was treated in the courts an issue of balance. They debated how to balance those interests by taking something away from the accused. We said the accused has a right to full answer and defence. We said the accused never had a right to bigotry. They certainly never had a right to cloud a case with biased notions and stereotypes. The accused had a right to see what evidence the state has gathered against him and the women have a right to not be sacrificed for the sake of either side of the case. Women have the right to be treated as full human beings all the way through the trial with right to security and privacy and equality.

### **Compounding the problems**

It is not news to feminists that more than women suffer systemic discrimination. Obviously the poor and people of colour suffer a hierarchy as deeply destructive and deeply imbedded in our social policies. We knew that of the men who commit rape, those who are poor or Aboriginal are more likely to be investigated, arrested, tried, convicted, and jailed. We knew that of the women in the court room, while all would suffer discrimination, even the judge, that most ill treated would be the woman of colour or Aboriginal women who dared to be a complainant.

There are plenty of reasons to think that the harsh application of "Law and Order" techniques of social control has the effect of intensifying the class, race, and sex divisions and of being most harsh on the most dispossessed.

So when the Justice Department started to examine sentencing to reduce the numbers in jail we too celebrated. Little did we know that effectively decriminalizing violence against women was one of the main results. And they could go from jailing huge numbers to excusing most violent attackers without abandoning their attachment to "Law and Order", without giving in an inch on their refusal to invest in community development. The equality deficit would not bother them a bit.

### **Restorative justice isn't**

The original concept of restorative justice was that as a community we should abandon punishment as an ineffective and inhumane method of dealing with anti-social or criminal activity. Instead we should focus on how to restore to our community those who are broken and hopeless. On the whole feminists agree with this.

But we also want immediate protection from men convicted of sexist violence. That could take a community development or social development approach. We need men to be censored and supervised. Programs could be devised outside of prisons that could adequately fill our expectations. What we are being is a sorry substitute for restorative justice. In fact, we are asked to accept the exact opposite—"Law and Order" by a new name.

Federal and provincial governments have invented a new-speak called "conditional sentences." According to the law, men convicted who get ordered jail sentences serve those sentences in the community; a kind of house arrest in which he keeps his job and residence. How did anyone think this would work for wife assault? incest? sexual harassment on the job? breach of trust?

Violence against women was exempt they said if the community is at risk or if he presents a particular danger. But a father who committed incest was ordered home because he was no threat to the community ... his family you see isn't the community. Apparently we are back to private and public domains of behaviour.

Conditional sentences as part of a policy that put equality first might have been a great thing. But without Charter obligations and without extra not less money, conditional sentences amount to decriminalizing violence against women. Not only are the conditions ridiculous and out of sync with what we know about violence against women, but there is no one hired to monitor whether the conditions are met and no processes by which to report one way or the other throughout the sentence. Never mind that there are no programs to increase the likelihood of compliance with the ordered conditions.

Most men who are caught having committed criminal acts of violence against women are diverted before they ever get before a judge. Men caught buying and sexually assaulting young women are sent to John's school instead of jail. Men who bully and beat their wives and children are sent to anger management courses, as though their actions were uncontrollable. Surely very few people would recommend anger management to an anti-Semitic as a solution to his crime of attacking Jews. Men who rape are now recommended to victim offender reconciliation programs, as though they were teenagers who had broken a window and needed to be taught the consequences of their actions.

It is true that some of these are "add on's," that is they are "added" to a jail sentence, not instead of one, but it is still silly and dangerous to act as though the only woman

affected was the woman raped.

None of these programs deal positively with the systemic nature or impact of sexist violence. They all undermine the rights of the accused since normally how they function is that a man is bullied into pleading guilty with the promise of a diversion from court or baited into an add on in hopes of being seen as a good prisoner. He accepts it rather than face the possibility of a record or of jail time. Of course these risks are greater for the man of colour or the poor man so this refusal to deal with the inequality between men and women also compounds racism and class differentials.

Alternate Dispute Resolution, circle sentencing (the invention of a white judge who has been passing it off as an ancient Aboriginal method), family group counselling in which the RCMP gets to be community convenor, judge defence lawyer and jury, and victim offender reconciliations all suffer from a new element: privatization of law. In each of these cases the government propaganda tells us we will be moving to a new "victim-centred" model in which the harm to the victim will be undone as much as possible. But, in fact, they are models in which the government drops responsibility for the crime. It says this is a matter between the one accused and the one victim. No one has legal aid or legal defence, no one has an advocate protecting their equality rights. The whole body of rights legislation that has been accumulated is unavailable. No *Charter* reading judge or prosecutor or defence bar will be present. You can always appeal it to a higher court, but that will only be true if you bear the cost of your own legal team and have the where-with-all to fight it in the courts. Usually one woman or child is left to negotiate for what they can get from each attacking man. The imbalance would be corrupt even if there was no violence involved.

We know that unless our social policies are shaped clearly and unequivocally toward establishing equality and peace, that we continue to head toward more and more hierarchy and destruction. I am afraid we have every reason to believe that unless the provinces put resources to the supervision of conditional sentences and unless the federal government protects the equality interests at stake, that conditional sentencing will bring longer and harsher sentences for the poor and men of colour and make more and more dangerous men loose to attack women with impunity.

We must join forces as peoples of conscience to demand change. Governments at the provincial and federal level must invest in equality-seeking women's groups. They must investigate arrest and prosecute to conviction those men who use sexist violence against women. They must do so in such numbers that a critical mass of men interested in change forms. They can experiment with sentencing as long as both the safety and the freedom of the women is assured.

It is entirely possible to do that. It simply means guarding less property. They must settle the pay equity

struggle and back pay the thousands of women that have been cheated. They must reinvent some social welfare net that improves on what welfare used to be. There must be no bullying women into workfare. Women deserve assurance that no-one in Canada will go without the basics.

We must get on with the humanitarian project of eliminating the classed, raced and gendered futures we are facing. Our governments must hear and feel an informed demand for the development of citizens as equals. They must hear that we know our well being depends on it and we will not be fooled by crass offerings in which we are expected to believe that we are all right when others are not.

*This article was excerpted from an address made by the author to those celebrating 25 years of transition house work at Women's Emergency Shelter, June 22, 1999.*

*Lee Lakeman opened one of the first transition houses: The Woodstock Women's Emergency Shelter. After some five years there she moved west to join the collective at Vancouver Rape Relief and Women's Shelter where she has worked since 1978.*

## RUTH LATTA

Two aloe plants at the window  
are insufficient.  
Their fleshy smooth touch,  
their sticky tears  
can't kiss the spot  
and make it well.

This disenfranchised grief  
only God sees.

*Ruth Latta is an Ottawa writer. Her four books are available in Ottawa libraries.*