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Review of *Confronting Sexual Assault: A Decade of Legal and Social Change* by Julian V Roberts and Renate M. Mohr

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Confronting Sexual Assault: A Decade of Legal and Social Change.

Julian V. Roberts and Renate M. Mohr, eds. Toronto, Canada: University of Toronto Press, 1994. 355 pp. Appendices and references. \$C50.00 cloth.

In *Confronting Sexual Assault* Julian V. Roberts and Renate M. Mohr have edited a collection of chapters written by various scholars and professionals on issues central to Canadian social change concerning legal conceptions of rape, as well as the legal ramifications of such change for Canada. The book also contains a reprint of 1992 legislation, Bill C-49, that provides tests for when judges may allow a complainant's sexual history to be admitted as evidence and provides a definition of "consent" for determining sexual assault. Moreover, the bill "... restricted the defense of mistaken belief in consent ..." (p. 11).

Although not the purpose of nor highlighted in the book, there are differences between the United States and Canada on issues involving rape. The United States has the highest rate of forcible rape of any industrialized country, but Canada has a significant rape rate as well—about half that of the United States. Moreover, changes in legal reform were initiated earlier in the United States than in Canada, with Michigan adopting statute reform in 1974 and most of the other states soon following the example. United States' federal rules of evidence were amended in 1978 to restrict the use of a rape victim's sexual history. Soon after, in 1983 Canada reformed its legislation to include such a provision, but a final bill to more firmly entrench the provision was not passed until 1992.

The first nine chapters of the book provide an extensive review of factual information about the Canadian legal system's notions of rape and processing of rape cases. For example, the first chapter provides an introduction to the areas of change in the Canadian legal system's rape laws and gives an overview of the scope of the book and content of the chapters. The second chapter examines the role of the Canadian women's movement in facilitating change in Canadian legal definitions of rape and reviews how the Canadian culture's notions of sexuality influenced the conceptions of rape. Several of the chapters analyze the legal system's response to rape with statistics on the reporting of rape by victims, reasons for not reporting rape, processing of rape and child abuse cases, judicial notions of what constitutes a sexual assault, sentencing by kind and level of seriousness of sexual assault, and compensation for sexual assault victims which is similar to the restitution movement for victims of criminal assault in the United States.

For this reviewer, one of the more interesting chapters concerns the biases of the judiciary against both rape victims and defendants who are Inuit. As in the United States, where racial biases and stereotypes are influential factors in the processing of rape cases and perceptions of rape victims and defendants, the Canadian system appears to provide differential treatment to Inuit rape victims and defendants, as compared to non-Inuits. Inuit men are not sentenced as severely as non-Inuit men, and a "cultural defense" (i.e., Inuit females are less likely to suffer from rape than non-Inuit females) has been used to dismiss the rape claims of Inuit women and girls. Thus, as in the United States, Canada must grapple with issues of bias in its conceptions of rape in general and racial bias in particular when processing rape cases.

The next three chapters concentrate on the history of law and legal reform for rape and sexual assault in Canada, as well as providing a review of the social climate that initiated legal reform. For example, a 1991 Canadian Supreme Court decision in *Seaboyer and Gayme* undermined the restrictions imposed on the defense to have potentially unlimited inquiry into a rape victim's prior sexual history. In other words, the decision diminished the limitations imposed by "rape shield" laws to discredit a victim based on prior sexual history. Women's groups were instrumental in the framing, introduction, and adoption of Bill C-49, which reinstated restrictions on the introduction of a rape victim's sexual history at trial, modified the use by the defense of a mistaken belief in a victim's consent, and confirmed that the Parliament of Canada is concerned about sexual assault against woman and children.

The final chapter outlines areas for further research in order to determine the impact of legal and social change in Canada's rape laws. Experiential information from victims on their treatment within the legal system, police responses to sexual assault, processing of sexual assault cases, sentencing determinations, and responses from the judiciary are issues that must be examined in order to determine if Canada's legal and social climate with regard to sexual assault has translated into substantive change.

One omission in the book concerns the lack of a review of the voluminous research that has been conducted in recent years on perceptions of rape victims that influence credibility decisions. Although most of this research has been conducted in the United States, it would appear that there are common notions about who is a "real" rape victim, and the image of who is a rape victim is a central issue in educational programs to enlighten the general public as well as the legal community about realities of rape. There

are stereotypic images of who is considered a "real" rape victim. Personal characteristics of the victim (i.e., race, age, relationship with defendant, lifestyle, demeanor, physical injuries, attractiveness) can be influential in shaping beliefs about who is a rape victim. In addition, situational factors (i.e., use of a weapon, time of day, presence of alcohol, location of assault) can contribute to decisions about whether rape has occurred.

Another omission of the book concerns a lack of review of the changing images about rapists that have been generated from recent research. For example, one myth about rapists is that they are strangers to the victim. In reality, the majority of rapes occur between acquaintances. Another common myth is that rapists are deviants, but in reality research findings indicate that a sizeable proportion of males report some likelihood that they would rape if they could be assured of not being caught. Furthermore, prior sexual aggression, belief in rape myths, and negative attitudes about women have also been found to be factors related to propensity to rape.

Although the book has limited its coverage to legal changes, the history of the impetus for change, ramifications for other types of sexual assault cases and treatment of victims, it has a fine analysis of the intricacies involved in the movement to bring change to Canadian law and society when confronting the crime of rape and sexual assault in general. The book does not contain a subject index; thus, quick reference to topics of interest are difficult. However, it does have a bibliography of publications on sexual assault in Canada.

Confronting Sexual Assault would be a solid resource book for anyone interested in how a national legal system evolves new legislative amendments to deal with a significant social problem. **Cynthia E. Willis**, *Department of Psychology, Native American Studies, University of Nebraska-Lincoln*.