"Sexual assault is a crime which often goes unpunished because victims are unwilling to risk humiliation in the courtroom."

course most do not take it."

The report also recommends the federal and provincial governments "take all possible steps to eradicate from the judicial appointments process discrimination against women and minority women and have as their respective long-term goals...a judiciary which reflects the Canadian diversity."

Female lawyers have been calling for such reforms to the judicial system for years, says Lisa Addario, a spokesperson for the National Association of Women and the Law (NAWL).

"We think the report is compelling and exciting. Justice Wilson is saying 'you are breaking the law and you have to stop'," Addario says. "There is a notion that women have come a long way in the past few decades--the CBA report contradicts that belief.

"Women make up a large proportion of law school students but once they graduate, they tend to drop out or be pushed out of the legal profession," she adds. "They rarely get partnerships in major firms."

But some judges and lawyers, including Kim Campbell when she was minister of justice, have opposed compulsory courses, arguing that they interfere with judicial independence.

However, in the report, Wilson counters, "It seems passing strange that this doctrine (judicial independence) should be invoked to preserve gender or racially biased behaviour that not only works an unfairness and hardship on the targeted group but militates against the delivery of quality justice."

Wilson proposes in her report that judges could even run the mandatory courses themselves to avoid outside interference.

Law societies in Canada are self-governing like other professional groups. This means lawyers who behave improperly are disciplined by their peers. The justification for this practice is that the general public doesn't have a proper understanding of the responsibilities and functions of a profession and so should not sit in judgement of doctors or engineers or lawyers.

But the result of professional self-government is secretive, defensive societies often more interested in protecting careers and images than serving the public.

"Some provincial law societies have already begun writing discrimination policies. the sixty-four thousand dollar question is whether or not they'll act on their own recommendations," says Addario. "The Ontario Law Society, for example, recently asked us for help in formulating gender equity policies and yet told one of our members that her pregnancy was bad planning because it interfered with part of the bar exams.

"They've got a long way to go."

The argument against in camera testimony is that it interferes with the public's right to know. But in sexual assault cases, judges are sometimes willing to compromise this right because some victims would not testify otherwise.

Recently, courts have begun using television and video cameras so testimony can be given in private and then seen in public.

A judge in Barrie, Ontario allowed a sexual assault victim to testify behind a screen so she didn't have to see her attacker (people in the courtroom could see the woman). The defence argued that the screen violated the rights of the accused but the judge disagreed.

In 1992, a federal law which allowed children to testify on videotape and then confirm in court that they were telling the truth was ruled unconstitutional because it violated the rights of the accused.

The Alberta Criminal Lawyers' Association said the law "bent fundamental rights so far it threatened the right to a fair trial."

Closed-circuit TV systems are being installed in courtrooms across Canada but prosecutors are reluctant to use them because children still have to be cross-examined in court.

Early this year, Toronto prosecutors and the Ontario Court began implementing changes to make testifying easier for children. The changes include a special waiting room so children won't have to sit with accused criminals while they wait to testify, and a guarantee that the same prosecutor will handle the case from start to finish. Trials are held in one small courtroom so children don't have to face a crowd of strangers when they testify.

Sexual assault is a crime which often goes unpunished because victims are unwilling to risk humilation in the courtroom.

As difficult as it is, victims must testify about the crimes committed against them and defence lawyers will attempt to discredit that testimony. However, when the justice system treats victims as though they are liars, they asked for it, or they deserved it, facing the court room can be too much of an ordeal.

Addario of NAWL says rulings like Trudel's last month "probably create a chill for women deciding whether or not to testify against a rapist--they certainly don't help."

Martine, a counsellor at the Montreal Rape Crisis Centre, says the decision to go to court is "a very personal decision. Every woman makes her decision for her own reasons. There are some women who would never go to court--there are others who would go no matter what happened before."

The centre's policy is to help women carry out the course of action they have chosen.

We don't encourage them to go or not to go. We find them the support to do whatever they decide," Martine says.

The Supreme Court of Canada overturned the Rape Shield Law in August 1991. that law forbade any evidence on the victim's sexual history except when the accused was a former lover, group sex was involved, or to refute the claim that the victim was a virgin.

The Court's majority opinion said of the law that "in achieving its purpose--the abolition of the outmoded, sexist-based use of sexual conduct evidence--it overshoots the mark and renders inadmissible evidence which may be essential to the presentation of legitimate defense and hence to a fair trial."

In short, "it exacts as a price the real risk that an innocent person may be convicted."

Unfortunately, in their efforts to protect the presumption of innocence of the accused, judges sometimes forget to extend the same presumption to the victims.

In her dissent, Justice Claire l'Heureux-Dube suggested that judges cannot be trusted to understand the difference between relevant and irrelevant testimony about sexual history. She pointed to some of the outrageous rulings made by judges while the rape shield law was in effect.

Judges and juries have often sat in judgement of victims--convinced by the defense that somehow women deserve to be raped because of how they are dressed or because they've enjoyed sex before or because they send the "wrong signals."

There are undoubtedly judges and potential jurors who still think that way. But after the Supreme Court ruled the Rape Shield Law went too far, then federal Justice Minister and Attorney General Kim Campbell came up with Bill C-49.

The law gave a clearer definition of consent but left the burden of proof with the Crown. Campbell argued that C-49 gave judges a framework for determining the "difference between consensual sexual acts and assaultive ones."

In defence of the law in the Globe and Mail, Campbell wrote: "There will still be, must always be in our Canadian system of justice, real human judges to bring real human judgement to the concrete particulars of each case."

Unfortunately, until Canadian judges admit that they need educating and begin to discipline themselves, women will have good reason to be wary of getting fair treatment from the justice system. Rewriting laws can help address the biases of the courts against women. So can reports like the Canadian bar Association's, which highlights the problems endemic in the system. But the problems within the legal system will only be eradicated when women hold real power--as judges, lawyers, and lawmakers.