

Is Canada's justice system an added abuse for sexual assault victims?

Women face discrimination in the courts

by Mark Brooker (CUP)

In August, Quebec Court Judge Luc Trudel dismissed sexual assault charges against Hussain Daher because the teenaged plaintiff refused to testify in open court. She had been gang-raped in April 1992 and four other men had already been convicted for participating in the assault.

Trudel gave the woman several chances to change her mind about not testifying against Daher in public. At one point, he told her she was only hurting herself by not testifying.

The other four men in the case were convicted on the basis of the victim's in camera (closed and private) testimony. Daher's lawyer had also agreed to a closed testimony.

However, in Daher's case, Trudel exercised his right to disallow in camera testimony.

Open trials are based on two principles. One guarantees the public's right to know the justice

system is fair; while the other is the accused's right to know who his or her accusers are and hear their evidence.

But on occasion the prosecution requests that testimony be made in private. The judge has the right to allow or disallow a closed court and to limit information released to the public.

The dismissal of the sexual assault charges against Daher was met with public outrage. In late August, the provincial government renewed the charges against him. This summer wasn't the first time Judge Trudel's handling of a sexual assault case has been controversial. In 1991, Montreal university students protested Trudel's acquittal of a man charged with sexual assault at a fraternity party.

But Trudel's decisions are not unique in the Canadian justice system. Nor are lenient rulings in sexual assault cases mere isolated incidents.

Sometimes, the rulings and statements defy belief: a three-year-old girl in B.C. recently caused her own sexual assault by acting in a "sexually aggressive manner" manner. In 1988, a Sault Ste-Marie man was sentenced to 90 days for sexual abuse, to be served on weekends, because he was a "family man", while another Ontario offender got a reduced sentence because he was from a "good family."

Such decisions create a chill and deter women from placing trust in the Canadian justice system. This summer, the Canadian Bar Association (CBA) released an inquiry report which found that Canada's legal system is rife with biases against women as victims, offenders, lawyers, and judges.

Currently, judges have the option to attend a seminar on gender bias but as the CBA report states, "The irony is...that those who need the

