

## GETTING TOUGH ON RAPE?

The just-released 1985 crime figures, showing a dramatic increase in reported rape, combined with the massive publicity over the Ealing vicarage rape and the multiple-rapist, Patrick Reilly, sent to prison for life, are pushing the government and the judiciary into even tougher measures against rape.

The government will almost certainly announce changes extending greater anonymity to raped women, although there is likely to be some resistance to the proposal that anonymity for men accused of rape be removed altogether. These moves to restrict the rights of rapists (alleged or convicted) follow other recent changes: the increase in the penalty for attempted rape from seven years to life, and directions issued by Lord Lane, Lord Chief Justice, to judges last February on tougher rape sentencing.

Lord Lane was responding to direct pressure from the government. David Mellor, junior minister at the Home Office, had pointedly sent him a transcript of a House of Commons debate last November in which he himself called for the introduction of 'banded' sentences for rape, along similar lines to those recently introduced for drug offences.

Three months later, Lord Lane issued his new directions which, while not binding, are influential on individual judges. He directed that, in general, rape should carry a minimum five year sentence and that there be other minimums for specific variations of the



London. It could mean more women are reporting the crime: the Metropolitan police, in particular, has made some highly publicised changes in rape procedure.

The question of the relativity of penalties lies at the heart of the sentencing dilemma for feminists and the Left in general. In so far as sentencing has a symbolic or denunciatory function (determining the gravity of certain crimes in society's eyes) calls for heavier rape sentences are understandable. Rape should stand second only to murder. But, in practice, does this mean that feminists or the Left should, for this one offence alone, be actively advocating long periods of imprisonment, in a prison system that in any other context most would campaign against as barbaric and violent?

Moreover, it is clear that in practice, sentencing is not neutral. Like police procedure, it is determined as much by the state's perception of the defendant as it is by its view of the crime committed. Thus, in one recently reported case, a dozen paratroopers had their sentences cut for raping and indecently assaulting a woman soldier. According to the appeal judge these were 'fine men and good soldiers' who had 'thrown away their careers'.

And is it mere co-incidence that in the most recent round of public 'outrage' about rape, one of the most publicised cases, on which the House of Commons debate and thus Lord Lane's tough initiative was hinged, was the conviction of five black rapists? Clearly, in both the courts and in police procedure the fact of the accused's race, class, status, professional standing and so on weigh heavily.

Judicial attitudes towards women are also a crucial question. Lord Lane would have done as well to condemn judges who continue to make remarks on the complicity and culpability of the woman in rape cases, and who, under the 1976 Sexual Offences (Amendment) Act, give leave too easily for a woman's past sexual history to be brought up in court and used against her.

Dilemmas over sentencing make it particularly disturbing that some, like Gwyneth Dunwoody, have called for heavier sentences as a kind of substitute protection for women in the face of government failure to protect women by other means. What is needed is massive capital injection into the improvement of women's safety on the streets, on public transport and housing estates, and into seriously tackling the attitudes that condone rape - including those found in the judiciary.

crime: for example, eight years where two or more rapists were working together or where the rape involved abduction; 15 years for men conducting 'campaigns of rape'; and life for 'perverted or psychopathic' offenders who were an indefinite danger to women.

Taking these proposals with the recent increase from seven years to life for attempted rape, and the just-announced white paper proposal that anonymity for rape defendants be removed, it looks on the surface like an effective assault on crimes against women.

But is it? This is not the first time that Lord Lane has got tough on rape. He did so in 1982, after public anxiety at lenient rape sentencing, and in particular the decision of Judge Bertram Richards to fine a convicted rapist on the basis that his victim was guilty of 'a great deal of contributory negligence' to the crime. However, sentencing patterns have not changed significantly in the last few years: despite some increase in those given five year or more sentences, the average sentence for rape is still between two to five years. This compares to 10 to 15 years for those convicted of armed robbery from banks, building societies and security vans in which firearms are carried, but not necessarily used.

And whatever sentencing patterns, the reported incidence of rape continues to increase. In the last decade, the figure has increased by 50%, with a particularly sharp rise in the early 1980s. This upward trend was most marked in 1985 with a 29% national increase and a 50% increase in