

Quebec's #MeToo movement denounces the presumption of innocence

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On December 15 and 18, the Quebec Court handed down its judgment in two separate high-profile sexual assault cases involving, respectively, producer Gilbert Rozon and media host Éric Salvail. Both were acquitted and the Crown has since indicated that it will not appeal the rulings.

Gilbert Rozon, founder and president of the Just for Laughs Festival until his forced resignation in 2017, was accused of raping a woman in 1979 or 1980 in a private residence after an evening at a nightclub. As for Éric Salvail, until now a prominent figure in the Quebec entertainment industry, he was accused of criminal harassment, forcible confinement and sexual assault of a Radio-Canada colleague in 1993. In both cases, the only evidence produced by the Crown in support of the charges was the testimony of the complainant.

The allegations against Rozon and Salvail had given rise in 2018 and 2019 to an intense media campaign orchestrated by the *#MoiAussi* (*#MeToo*) movement in Quebec, whose objective was to portray the two men as dangerous sexual predators whose guilt was established before they even went to trial.

In such an atmosphere, the two judgments handed down in December were honest efforts to uphold certain essential democratic principles of criminal law: the presumption of innocence (as a protection against police arbitrariness and state abuse) and the fact that the burden of proof rests with the Crown.

In the presence of conflicting versions of events from the plaintiff and the defendant, the judge cannot simply decide on the basis of the testimony he or she finds most compelling. Even if the court rejects the testimony of the defendant, this does not overturn the presumption of innocence. The onus still falls on the Crown to prove the charge beyond a reasonable doubt, and thus the complainant's lack of credibility may create a reasonable doubt even when the defendant's testimony has failed to do so.

In the Salvail case, Judge Dalmau did not give credence to the defendant's testimony. However, he also found that the

plaintiff lacked credibility because of significant contradictions between his testimony and the documentary evidence, a tendency to exaggerate, and significant contradictions with his earlier statements on essential elements of his testimony. This was such that the judge could not rule out the possibility that the complainant had fabricated portions of his testimony. In the absence of evidence beyond a reasonable doubt that Salvail committed the crimes he was accused of, Judge Dalmau acquitted him.

In the Rozon case, Judge Hébert found the plaintiff generally credible while identifying several weaknesses in her testimony, including contradictions and memory lapses that were "difficult to understand." The judge did not believe the defendant's version but was unable to reject it entirely. His testimony, although less convincing than that of the plaintiff was plausible, and therefore raised a reasonable doubt in favor of the defendant.

The contents of the two judgments in no way conform with, let alone substantiate, the claims of the *#MeToo* movement that the justice system is "biased" in favor of sexual abusers, making it necessary to "reform" the criminal law of sexual assault to reverse the burden of proof and introduce a legal obligation to "believe the victims."

In reality, both judges were empathetic to the plaintiffs. They overlooked small contradictions in their testimony or the omission of certain details, which contradicts the stereotype of sexual assault victims being persecuted by the justice system, mistreated on cross-examination, and scorned by judges who demand bullet-proof testimony on every detail. At the same time, the judges maintained the presumption of innocence in opposition to its detractors. As Judge Hébert wrote, "the watchword 'believe the victim' that is associated with the *#MeToo* movement has no place in criminal law."

Predictably, the reaction of the mainstream media and *#MeToo* proponents was hysterical. They demanded changes to legislation on sexual assault in order to end once and for all the presumption of innocence that is hindering their anti-democratic campaign!

This type of demand has the active support of Canada's ruling elite, which is leading a frontal assault on democratic rights through the criminalization of strikes, the suppression of civil liberties under the pretext of "fighting terrorism," and the growth of militarism.

In the most explicit example, the Montreal daily *Le Devoir*, which is close to Quebec *indépendantiste* circles, published a December 18 editorial by its editor-in-chief Marie-Andrée Chouinard, entitled "À armes inégales" (On an unequal footing).

The title is taken from an expression by Judge Hébert, who stated that "in a criminal trial, the parties are not on an equal footing; the rules of the game favor the defendant." But *Le Devoir* completely distorts the meaning of this sentence by omitting the judge's explanation that "this inequality results from the application of the principle of the presumption of innocence ... and not from any rule that discriminates against the victims of sexual assault." In a criminal trial, the defendant faces the Crown, i.e., the state, with its vast means and all its repressive powers. It is the Crown that is obviously favored and therefore must be held to a higher standard of proof—"the obligation ... to prove guilt beyond a reasonable doubt."

Chouinard, after sarcastically acknowledging that the "guiding principle," the "foundation," the "dogma" of the presumption of innocence was the basis of the Rozon judgment, makes a direct attack on this principle in the name of "society's hopes" that the "victims" will be treated better than the defendants. She presents the presumption of innocence as an archaic principle that is no longer sufficiently "refined" or adapted to the "pulse of society." The affluence and status of the two defendants are used to give this reactionary attack a progressive veneer: "This kingly principle will always tip the balance in favor of the wealthy and the unrepentant."

This hostility to democratic rights characterizes the #MeToo campaign in Quebec and Canada, which, like its American counterpart, represents the efforts of privileged, feminist layers of the upper middle-class to promote their own social advancement under the guise of a fight against sexual violence.

These efforts are encouraged by the ruling class and its political representatives as a means of diverting attention from the growing inequalities and deep class divisions that permeate society, in favor of identity politics based on race and gender.

In response to the December 15, 2020 arrest of Quebec National Assembly member Harold Lebel on charges of sexual assault, Manon Massé, the co-leader of the pseudo-left Québec Solidaire (QS), tweeted: "We must always believe those who have the courage to denounce." The fact

that Lebel denies these accusations and is presumed innocent until proven guilty is of no importance to Massé.

Also on December 15, a committee of the National Assembly, which includes a member from each of the four parties represented in the Quebec legislature (the Coalition Avenir Québec, the Liberal Party, the Parti Québécois and QS), tabled a report that advocates the creation of a "special court" for sexual assault cases.

This had already been discussed in December 2018, when charges were laid against Rozon. Montreal Police Chief Sylvain Caron said at the time that the "burden of proof" in sexual assault cases may need to be "reviewed."

In an interview in which he said he was ready to consider the creation of such a special court with separate judges, Quebec Premier François Legault remarked, "Do we want to change that? There is a good discussion to be had, but we must be careful." As for federal Prime Minister Justin Trudeau, he refused to rule out the possibility of "reversing the burden of proof," saying he was ready to listen to "the opinions of people who know what they are talking about."

The comments made by the Montreal police chief and legitimized by the governments of Quebec and Canada, together with the hysterical media reactions to the Rozon and Salvail judgments, shed light on the real danger that the ruling class poses to democratic rights.

One need not feel any particular sympathy for Rozon or Salvail to understand that an attack on the presumption of innocence, even if its immediate targets are privileged figures from show business, serves to prepare the ideological ground for a generalized assault by the ruling elite on all democratic rights. This is why class-conscious workers must firmly reject the reactionary campaign of the #MeToo movement.



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