



Women's advocates decry Supreme Court decision striking down prostitution laws

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OTTAWA, December 20, 2013 (LifeSiteNews.com) - In a landmark decision drawing comparisons to the sweeping R. v. Morgentaler ruling that left a legal vacuum on abortion, Canada's Supreme Court unanimously threw out the country's prostitution laws Friday morning.

The high court has given federal government one year to pass a new law before the ruling takes effect.

In a statement Friday morning, Justice Minister Peter MacKay said he was "concerned" with the ruling. The government is reviewing the decision, he said, and "exploring all possible options to ensure the criminal law continues to address the significant harms that flow from prostitution to communities, those engaged in prostitution, and vulnerable persons."

The Supreme Court is drawing strong condemnation from women's advocates, who warn that if the ruling is allowed to stand it will lead to an increase in brothels and create an oasis for human traffickers.

At the same time, critics acknowledge that the current laws on prostitution were in need of significant reform. The sale or purchase of sex itself has never been illegal in Canada. Instead, the provisions outlawed keeping a brothel, living on the avails of prostitution, and communicating for the purpose of prostitution.

Writing for the court Friday morning in Bedford v. Canada, Chief Justice Beverley McLachlin said the current laws impose dangerous conditions on a profession that is legal, and thus infringe prostitutes' Charter right to security of the person. McLachlin notes that the case did not deal with whether or not prostitution should be legal.

By banning brothels, the court argued, the law forces women into dangerous situations on the street. The provision against living on the avails of prostitution, while intended to target pimps, also deprives women of the security of managers, drivers, and bodyguards, it said.

Further, the solicitation ban, while meant to prevent a nuisance on public streets, endangers women by forcing them into alleys.



"The prohibitions all heighten the risks. . . . They do not merely impose conditions on how prostitutes operate," McLachlin wrote. "They go a critical step further, by imposing dangerous conditions on prostitution; they prevent people engaged in a risky – but legal – activity from taking steps to protect themselves from the risks."

Tania Fiolleau, a former madam who now tries to help women leave the industry, told LifeSiteNews.com that the Supreme Court is wrong to think the ruling will increase women's safety.

She says there's been an influx of women into prostitution since she left years ago, which has seen prices plummet and spurred women to offer riskier services. That process will only accelerate if the ruling stands.

According to Fiolleau, when she was a madam, prostitutes operated like Julia Roberts' character in *Pretty Woman*, who refused to kiss her clients. But now, she says, men can pay for all kinds of risky sexual behaviors, including sex without a condom.

"They say, 'There's so many girls getting into it, it's the only way we can get an appointment, is if we get nastier and dirtier and we go cheaper,'" she explained. "So, now there's all these diseases that are being spread around like wildfire."

"Now with the prostitution laws being changed, there's all these other brothels that will be opening, there's going to be so many more girls getting into it," she said. "It's going to be like a normal job. It's going to be technically socially acceptable. The prices are even going to go lower, and we're going to end up in a pandemic like in Thailand, where AIDS and stuff is going to be very widespread everywhere."

The Evangelical Fellowship of Canada, which intervened in the case, says it is "deeply concerned" by the ruling, noting that it creates a "legal vacuum," and urged Parliament to enact a new law that targets johns and pimps.

"The EFC calls on Parliament to take the necessary action to criminalize the purchase, rental and marketing of human beings for the purpose of sexual exploitation," said Don Hutchinson, the EFC's vice-president and general legal counsel, in a press release.

"We support the need to amend the current laws to a Canadian version of the legal and social framework used in Sweden, which makes the buying of sex illegal, targeting the 'pimps' and 'johns' – the purveyors and purchasers – while decriminalizing those who are being prostituted and offering them opportunities and supports to exit prostitution," he said.

The EFC released a report this month, called *Out of Business: Prostitution in Canada – Putting an End to Demand*, which laid out their plan.

Conservative MP Joy Smith said the ruling "leaves police without important legal tools to tackle sex trafficking and organized crime."

She agreed with the EFC, urging Parliament to adopt the Nordic model where the purchase of sex is banned and women are given a pathway out of the industry.

The prostitution industry is “inherently harmful” and so does not need to be regulated but eliminated, she said.

“Prostitution must be eliminated because it dehumanizes and degrades humans and reduces them to a commodity to be bought and sold,” she said. “Legalizing prostitution is a direct attack on the fundamental rights and freedoms of women, girls and vulnerable people.”

The “most effective route” to eliminating prostitution, she said, “is to address the demand for commercial sex by targeting the buyers of sex...Countries that have legalized and regulated have seen sexual exploitation, human trafficking and violence towards women and girls increase drastically.” Nordic countries like Sweden and Norway, she noted, have instead been able to decrease prostitution and trafficking.

Andrea Mrozek, executive director of the Institute for Marriage and Family Canada, told LifeSiteNews that the federal government “absolutely must use this opportunity to craft new laws on prostitution, laws that will undo the damage that legalized prostitution would bring for Canadian families.”

Canada’s prostitution laws were originally struck down in the Bedford case in September 2010 by the Ontario Superior Court. The decision was largely upheld by the Ontario Court of Appeals in March 2012. The Supreme Court heard arguments in June.

According to Gwen Landolt, a lawyer and national vice president of REAL Women, the Supreme Court “seems to be in a tizzy” because it has disregarded the basic legal principle that the court stand by its previous rulings. She noted that the Supreme Court had upheld the ban on solicitation in 1990.

“It’s no longer the court of last resort. It’s now the court of interim resort,” she said. “Everything is up for grabs now. They’ll just change their minds according to the current trend.”

“The only positive thing coming out of this is that we know the prostitution law was not strong enough to protect women and the community,” she said. “Now we hope the Conservative government will go back and create a law that will provide proper protection for women and for the communities.”

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