

# Court urged not to pass prostitution law

## Decision delayed. Ruling could have 'profound consequences' in affected communities, lawyers argue

BY LINDA NGUYEN, POSTMEDIA NEWS NOVEMBER 23, 2010

- An appeal court will decide in the next few days if a stay should be granted on a recent ruling that struck down three prostitution laws as unconstitutional, essentially making it legal for Ontario sex-trade workers to operate in the open.

The ruling by Superior Court Justice Susan Himel was set to take effect Nov. 27, but was suspended yesterday until the Ontario Court of Appeal delivered its decision on the stay.

On Sept. 28, Himel knocked down the laws against operating or working in a brothel, communicating for the purpose of prostitution and living off the avails of prostitution, ruling they put the safety of prostitutes at risk and contravened the Charter of Rights and Freedoms. Her 131-page decision came after a year of reviewing more than 20,000 documents presented in court. Prostitution is not illegal in Canada, but many of the activities associated with the world's so-called oldest profession are.

Yesterday, lawyers representing the federal and provincial governments argued in front of Justice Marc Rosenberg that "irreparable harm" would be created if the decision went ahead as planned before an appeal can be made to the Supreme Court of Canada.

"This will create profound and immediate consequences upon communities, neighbourhoods and women engaged in prostitution in this province, while generating legal uncertainty across Canada," argued federal lawyer Michael Morris.

He claimed the grace period until an appeal can be heard will temporarily turn Ontario into a "social experiment unprecedented in this country," where pimps freely rule prostitutes, children are exploited in brothels and police are powerless to eradicate sex-trade workers. The government contends that it should not be up to one court justice from one single court to overturn Parliament's laws without a complete constitutional review.

The ruling would also damage troubled neighbourhoods such as Parkdale in Toronto and Hintonburg in Ottawa where police have made great strides in the past decade to eradicate street prostitution and drug addiction. Johns and pimps who currently attend diversion programs to get out of the trade will also be at risk of returning if the activities are now made legal, argued Morris.

The government said it has received anecdotal evidence from outreach workers in some jurisdictions that the number of street prostitutes are up, and that massage parlours were already making plans to expand into brothels when the ruling comes into effect.

"It's an alarming trend that signals a free-for-all," said Shelley Hallett, a lawyer for the Ontario

government.

She told Rosenberg that municipalities still have a "a lot of work to do" in terms of legislating zoning, regulating brothels and deterring vehicular traffic in response to this ruling.

The Ontario government also warned that the ruling is at risk of sparking vigilantism by residents who will begin to see an increase of street prostitution -and other illegal activities associated with it -move into their neighbourhoods.

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