

Sex ruling: Women split on its impact

Burnaby woman says judgment will help keep sex workers safer - but critic says it will put more women, particularly aboriginals, at risk

BY JENNIFER MOREAU, BURNABY NOW OCTOBER 2, 2010

A Burnaby resident and SFU doctoral student is applauding an Ontario Superior Court's decision to strike down parts of Canada's prostitution laws.

"I think it was pretty incredible and completely unprecedented and a major victory," said Mary Shearman, a PhD student in the department of gender, sexuality and women's studies who also works with street-level sex trade workers.

On Tuesday, Justice Susan Himel ruled that prostitution laws - communicating for the purpose of prostitution, living off the avails of prostitution and running a common bawdy house - put lives of sex trade workers at risk. While the Criminal Code laws apply across Canada, the ruling only affects Ontario, but, if it survives the appeal process, it could have implications for the rest of the country. The federal Conservatives appealed the ruling Wednesday, and Shearman said it could be two to five years before a final decision comes through.

Prostitution is actually legal in Canada, but the acts surrounding it are not. The communication law, for example, criminalizes the negotiation. According to Shearman, it's a law that has put sex workers in danger because they have no time to assess a potentially dangerous situation for fear of being arrested under the communication law.

"They have to jump in cars or make decisions about dates before they've actually sussed out the situation," she said.

As for the living off the avails of prostitution law, which typically criminalizes pimping, Shearman said any person a sex trade worker is supporting financially, including family members, can be charged.

"If I'm a sex worker, and I'm supporting my elderly mother, my elderly mother can be charged with living off the avails of prostitution," Shearman said. "So it puts their families at risk."

The bawdy house law is used to prohibit brothels, but Shearman said that any group of three sex workers that goes to the same place repeatedly for the purposes of prostitution can get charged under the bawdy house law, and, if that place is their home, they could lose their housing.

Laura Holland works with the Aboriginal Women's Action Network, a Vancouver-based non-profit organization that offers emotional support to aboriginal women who have survived prostitution.

Holland disagreed with Shearman and Justice Himel's decision

"We think striking down the laws will really only benefit pimps and johns and traffickers," Holland said. "The ruling leaves an impression that prostitution is OK as a profession to enter into, and the women we're most concerned about, aboriginal women, are the most marginalized."

Holland said aboriginal women are "absolutely overrepresented" in street prostitution, and the women who come to the group for help often struggle with addiction or have mental illnesses.

Holland said women spent days crying when they heard the news that the laws were struck down.

"Our first thoughts were, 'How could they do this to us? How could they throw us to the wolves,'" she said. "One of the things that has really sickened us is the pro decriminalization advocates have used the suffering of our sisters in the Downtown Eastside as a tactic to fight for decriminalization. Quite often we say the suffering of our sisters has been appropriated by the pro-decriminalization camp."

Holland said prostitution for aboriginal women is a consequence of reserve systems, residential schools, foster homes, racism and sexism.