

To the Editor: Editorial, from the National Council of Women of Canada, re Polygamy (submitted August 17, 2007)

The Globe and Mail, in an editorial "**No to polygamy**" on August 3, 2007 addressed this issue in the wake of remarks made by Richard Peck, B.C.'s special prosecutor. Peck apparently has stated that the chances of convicting anyone are weak and has recommended to B.C.'s Attorney General that they ask the B.C. Appeal Court "for an advisory opinion on whether the Criminal Code offence of polygamy can withstand a constitutional challenge." (Globe, Aug. 3rd)

The Globe seems to think that Special Prosecutor Richard Peck's request for an advisory opinion from the B.C. Court of Appeal is "a good step, because it allows the constitutional issues to be dealt with up front and the people of Bountiful eventually to be put on notice that they are on borrowed time."

The Globe editorial also quotes Peck as saying that the polygamy law "may well be upheld by the courts" because "there is a substantial body of scholarship supporting the position that polygamy is socially harmful ..."

Polygamy is a crime and it is abuse. NCWC has policy against polygamy, against the immigration and emigration of women and female children for sexual and breeding purposes, and against the abuse of women and children in polygamous communities.

For years we have been strongly urging the federal government to improve policies and practices so as to prevent the immigration and emigration of female children for sexual and breeding purposes under the pretext of "celestial marriages." We have also urged all provinces to **enforce** the relevant sections of the Criminal Code so as to end polygamy in Canada and to prevent the abuse of female children in what are presently polygamous communities, the most notorious being Bountiful in British Columbia.

Polygamy is a violation of section 293 of the Criminal Code of Canada; sexual assault, having regard to section 273.1, is a violation of section 273 of the Criminal Code. Procuring or knowingly aiding in procuring a feigned marriage is a violation of section 292 of the Criminal Code, and sexual exploitation of a young person by a person in a position of authority is a violation of section 153 of the Criminal Code of Canada.

Sections 15 and 28 of the *Canadian Charter of Rights and Freedoms* guarantees females equal protection, and benefit "before and under the law" and that "notwithstanding anything in this Charter, the rights and freedoms referred to in it are guaranteed equally to both male and female persons."

The fundamental freedom of conscience and religion as set out in section 2 (a) of the *Canadian Charter of Rights and Freedoms*, often cited as a defence or reason not to intervene to help these female children, is subject to section 1 of the said *Canadian Charter of Rights and Freedoms* which states: " The Canadian Charter of Rights and Freedoms guarantees the rights and freedoms set out in it subject only to such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society."

Furthermore, polygamy has already been condemned as a contravention of women's equality rights by the United Nations Office of the High Commissioner for Human Rights. The UN Declaration and Convention on the Elimination of all forms of Discrimination against Women (CEDAW), is the women's Human Rights convention and came into force in 1979. Canada signed on December 10, 1981. Prime Minister Harper signed the CEDAW pledge circulated during the last election, as did all the other leaders. Canada is bound to honour its signature on the CEDAW Convention. Articles 3 and 5 state that actions including legislation are to be used to protect women (and the girl-child) from being discriminated against in cultural and social fields. Article 16 addresses the issues of inequalities embedded in many marriage customs like polygamy, and includes the obligation to ensure proper registration of marriages and to set a minimum age. Above all, women's (and the girl-child's) rights should not be allowed to be curtailed due to the lack of political will, or clear thinking. To refuse to act is to endorse these abuses.

Could we strongly recommend that B.C. retain a new special prosecutor, someone who can describe polygamy as a crime first and foremost and who will prosecute to the fullest extent of the law those who abuse women and female children – someone who can describe polygamy in terms other than "socially harmful."

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