

*For Immediate Release from the* **CHRISTIAN LEGAL FELLOWSHIP**

November 23, 2011

**DECISION RENDERED: "NO SUCH THING AS GOOD POLYGAMY"**

CLF Pleased Decision Will Uphold Laws Protecting Women, Children and Society From Harm

**VANCOUVER, B.C.** Today, Chief Justice Bauman of the British Columbia Supreme Court upheld the *Criminal Code* prohibition on polygamy in his decision on the *Constitutional Reference on Polygamy*.

In his 357 page opinion, Chief Justice Bauman performs a thorough and exhaustive review of the evidence and concludes that the purpose of s. 293 of the *Criminal Code* is the prevention of harm. In considering the positive objective of the law, "the protection and preservation of monogamous marriage," Justice Bauman states, "there can be no alternative to the outright prohibition of that which is fundamentally anathema to the institution. In the context of this objective, there is no such thing as so-called 'good polygamy'."

"This is a very positive outcome," states Ruth Ross, CLF Executive Director and General Legal Counsel. "We are pleased the court accepted the strong and convincing evidence demonstrating that polygamy harms women, children, and society and that outlawing it does not compromise religious freedom."

Chief Justice Bauman, in reviewing the evidence as a whole, concludes:

"... the Attorneys General have certainly demonstrated a reasoned apprehension of harm associated with polygyny. Indeed, they have cleared the higher bar: they have demonstrated 'concrete evidence' of harm. I have detailed that evidence at length. I have discussed the varied nature of the harms associated with polygyny and highlighted their coincidence across nations, cultures and socio-economic units."

"The evidence, in particular that of Drs. Heinrich and McDermott, supports the reasoned view that the harms associated with the practice are endemic; they are inherent. This conclusion is critical because it supports the view that the harms found in polygynous societies are not simply the product of individual misconduct; they arise inevitably out of the practice. And many of these harms could arise in polyandrous or same sex polygamous relationships, rare as those appear to be. Here I mention, without limitation, harm to children (for example, from divided parental investment or as a result of less genetic-relatedness of family members), to the psychological health of the spouses, and to the institution of monogamous marriage."

During the trial, CLF presented evidence including the testimony of Dr. Shoshana Grossbard and Timothy Dunfield, which evidence the court found contributed to "the overwhelming weight of the evidence that polygyny has harmful consequences for both the individuals involved and the societies of which they are a part." At paragraph 593 of the decision, in referring to the evidence of Dr. Grossbard, an economist and expert on polygamy, Chief Justice Bauman notes, "it is revealing that cross-culturally polygamy is associated with a large number of undesirable features."

The *Reference*, brought by the Attorney General of British Columbia, asked the Court to determine if Parliament may prohibit polygamy and at the same time uphold the *Charter of Rights and Freedoms*' guarantee of religious freedom. The hearing began on November 22 of last year and concluded mid-April, 2011 after extensive arguments by the Attorneys General of British Columbia and Canada, the Amicus, eleven intervenors and testimony from experts and individuals possessing first-hand information about polygamy.

The Christian Legal Fellowship intervened in the case to support the laws against polygamy because "polygamy in all of its forms is harmful or potentially harmful" to women, children, and society at large. In making its argument that the *Charter of Rights and Freedoms* is not violated by the law against polygamy, CLF relied upon, among other things, a Supreme Court of Canada decision that clearly articulates Parliament's authority to limit marriage to two people. CLF also argued that Parliament acted within its jurisdiction when it legislated against real and foreseeable harm.

The Christian Legal Fellowship was represented by Gerald Chipeur QC, of Miller Thomson LLP. As noted by Mr. Chipeur, "The British Columbia Supreme Court recognized that Parliament had the right to protect and preserve monogamous marriage through the prohibition of polygamy. The Chief Justice recognized that it is for Parliament and not the courts to deal with such complex social issues. I am pleased that the Chief Justice accepted our argument that polygamy is harmful to women, children and society and is properly prohibited by the *Criminal Code*."

Mr. Chipeur will be available for comment immediately upon release of the decision and throughout the remainder of the day.

To access CLF's closing arguments and reply, click [here](#) and [here](#).

To access a number of additional documents associated with the Reference, click [here](#) and [here](#).

- 30 -

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*The Christian Legal Fellowship is a national not-for-profit association of legal professionals in Canada. The association, among other functions, explores the complex interrelationships between the practice and theory of law and Christian faith. The Fellowship has some 500 active members from several dozen Christian denominations working together to integrate Christian faith with law.*