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Canada's Chief Justice Says Courts Must Ignore Written Laws in Favour of Judge-Decided Unwritten "Norms"

By Hilary White

WELLINGTON (LifeSiteNews.com) – The Supreme Court of Canada's Chief Justice, Beverley McLachlin, believes the rule of law "requires" Justices to ignore the actual written law, as passed by democratic legislatures, in favour of unwritten ideological principles. McLachlin told an audience at New Zealand's Victoria University that laws must be interpreted according to the individual preferences of Justices for "norms that are essential to a nation's history, identity, values and legal system."

That these norms are known only to the justices on the Supreme Court seems not to have deterred McLachlin or the Supreme Court. McLachlin laid out her plan for the re-engineering of Canadian – or any like-minded liberal society – away from democratic principles saying, "The rule of law requires judges to uphold unwritten constitutional norms, even in the face of clearly enacted laws or hostile public opinion."

Vice President of REAL Women of Canada, Gwen Landoldt, told LifeSiteNews.com that McLachlin's open call for Justices to enshrine their personal political opinions to supercede the written law shows a "total lack of understanding of the principles of democracy."

Landoldt said the problem will continue until the appointment process is made in keeping with democratic principles of transparency. "The appointment process must be reworked to allow for public hearings. Canadians must be able to protect their country from a woman like this."

McLachlin told the law students that Justices must be "emboldened" to supercede even the letter of such foundational documents as a nation's constitution and that their role ought to supercede that of elected representatives. "I believe that judges have the duty to insist that legislative and executive branches of government conform to certain established and fundamental norms, even in times of trouble," she said.

Opposition justice critic, Vic Toews, spoke to LifeSiteNews.com saying, "It concerns me very much to hear our Chief Justice say that judges don't have to follow what is set out in the law for them. If judges don't have to follow the constitution, what will guide them?"

"I'm hoping that she was taken out of context, that she was not suggesting that she can ignore the very clear requirements of the constitution," said Toews. "Only Parliament is qualified to change the constitution."

Toews said that prior to the end of the last Parliament, Justice Committee witnesses overwhelmingly felt that the appointment system needed reform. "There is a clear perception by the Canadian public that judicial appointments are politically motivated. That status quo is no longer accepted."

Gwen Landoldt said that the current appointment system in Canada, in which the Prime Minister and his appointed Justice Minister appoint all Supreme Court Justices without public oversight amounts to the abolition of a separation of powers, a foundational principle of any democracy. "In Canada right now, the Justice system is a tool of the Liberal Party and its agenda. They're hand in glove," Landoldt said.

Read National Post coverage of McLachlin's speech:
<http://www.canada.com/nationalpost/story.html?id=273c95d2-06...>

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