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New prostitution laws unlikely to be challenged soon, legal experts say

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Criticism Deserved

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Full text: It is important to support comments by lawyer James Scott and retired Judge Cunliff Barnett regarding the Gladue decision and its use in Saskatchewan. People from Saskatchewan, especially those of us trained in law, know this province has regularly contributed to how indigenous-non-indigenous relations across Canada have evolved. Whether in academic efforts by scholars such as Jim Miller, political movements such as Idle No More, or innovations that come out of Treaty Land Entitlement, Saskatchewan has a history of triggering important change. In criminal matters involving aboriginal people, debating what the Gladue decision means and can mean is another way to contribute.

Yet on the Gladue front, Saskatchewan has not taken the lead, let alone been part of the national judicial crowd. Research by others, not just Scott and Barnett, reveals how Saskatchewan courts’ use of Gladue has simply not contributed as much to the interpretation of the high court ruling as decisions from other jurisdictions. Nor have lawyers in Saskatchewan been a noticeable part of litigation and debate about how the application of Gladue should develop.

All of us trained in law - practitioners, professors or judges - have a responsibility to see critiques of our efforts as a tool that helps us refine our efforts. Rather than see Barnett's comments as an unfair shot across the judiciary's bow, they can be taken as intended to ensure the highest court's jurisprudence is applied as fully as required.

Barnett isn't just criticizing judges. He is critiquing all of us trained in law, and with good reason.

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