

5 Reasons You Need to Care About This Little-Known Canadian Court Case

Trinity Western University, a Canadian liberal arts university, planned to open a law school as part of its vision to prepare Christians to serve in public and civic life. It wasn't long before their plan triggered the ire of provincial law societies. In the end, this case ended up before the Supreme Court of Canada which ruled that provincial law societies could refuse to admit TWU law grads from practicing law. Their ruling was based on their objection to the university's community covenant: It requires students to agree to abstain from "sexual intimacy that violates the sacredness of marriage between a man and woman."

Why does this matter to Christians inside and outside of Canada?

First, it shows how a country's top court can render a verdict in favor of human rights, biased against religious freedom. When the two ideas butt heads, religious freedom is the loser.

Second, it makes short shrift of the model that within a diverse society a plurality of ideas and beliefs can exist together. This is a huge loss. And when Canada, known for its democracy and public fairness takes this road, we lose an important example of how pluralism functions. In today's cultural, religious and ethnic stew, to respect and get along with each other is as basic a formula as I can imagine. Justices opposing the majority noted, "The state and state actors [and in this case, provincial law societies]—not private institutions like TWU—are constitutionally bound to accommodate difference in order to foster pluralism in public life ... Canadians are permitted to hold different sets of

values.”

Third, it keeps faith from being public. I hear the justices saying, “Live out your faith within your churches, institutions and private communities; but if you try to bring it into civic life, if we don’t see your beliefs as being inclusive with our values, we will prevent your faith from influencing our public spheres.”

Fourth, it assumes that Christian standards and beliefs for an institution are not essential to its identity, self-definition nor existence, but a preference.

Fifth, the decision is based on what the justices determined are “values,” neither defined nor included in the Charter: here they become what the court deems is implied. Two judges, in a rather scathing analysis of the majority opinion, noted that such values are “... entirely the product of the idiosyncrasies of the judicial mind that pronounces them to be so.” What is unsettling is that by appealing to “Charter values,” the justices dip into their collective views and draw on what are unmeasurable, indefinable and elastic, reflecting their own cultural values rather than protecting minorities.

Canadian universities that provide training for other kinds of professional vocations may now be under scrutiny if they don’t also adhere to what the court considers “values.” For those outside of Canada, Paul Marshall, professor of Religious Freedom at Baylor University in Texas, notes, this ruling may present a challenge for Americans who want to practice law in Canada. Grads from socially conservative universities such as Baylor and Brigham Young may run into a headwind if provincial law societies disallow them from practicing law if they too have similar community standards such as TWU’s.

The Arc of History

I was raised in a Christian community inclined to see spiritual service as that lived out in the confines of the

church community. This sectarian notion broke down in the 1970s as we realized it excluded God's creation from our service. The private world mindset opened to a heart of engagement, a will to serve in all of life.

This legal decision inverts that choice. It sounds like, "You can serve the public if you disavow your minority values and affirm our majoritarian values."

The Way Ahead

TWU and other institutions serving the public face this choice: to water-down their community covenant or drop the idea of a school of law. But a larger question remains: How do we continue to serve a society when our beliefs aren't in sync with the majority?

As much as this ruling is a disappointment, it's no time to curl and moan. Our great need to articulate and put forward arguments affirming religious pluralism and freedom: let us keep filling public space with strong, logical and compelling arguments. This issue won't go away. The public needs to continue to hear our counter proposals.

As well, collaborate with other like-minded including other religions who too seek opportunities a functioning pluralism affords.

As much as we believe this is an unfair and improper legal rendering, what matters is that young people are shaped by a Christian mind, prepared in faith, as a counter balance to what secular models offer. So, what can be done to help law school students as they prepare to serve in this vital public sphere?

Putting money and organization into nurturing and counseling law students may offer influence beyond what a single law school might provide. The Christian Legal Fellowship of Canada has a student initiative for law students, giving them

opportunities to associate with and learn from others in law, providing intellectual undergirding and spiritual affirming as they go through their training. As an up-ramp to a law degree, a university might offer a pre-law course, drawing from a Christian perspective, preparing students for their LSAT tests. In this way they earn their undergraduate with a concentration in law which also would be useful in other careers of law enforcement, social work, charities and politics. This initiative enables students to understand the development of law and prepares them to serve society as a Christian in law, shaping the very law schools they enter.

We've Been Here Before

I was reminded by mission specialist Murray Cornelius of Rodney Stark's outline of why early Christianity grew so quickly from 1,000 in 40 A.D. to over 25 million by the fourth century. He notes four primary reasons.

First, social networks linked people, and it was through friendships they came to faith. Second, they cared for the poor and sick, widows and orphans, actions that set them apart, especially during times of disaster, plagues and riots. Third was their unabashed care for women and children. Christians saved babies left on the roadside to die. Fourth was a profound and surrounding ethos of a theology of love. North America lives with memory of the church at the center of life and social experience. Love as the defining mantra of our faith is too often lost in our resentment against those who deny Christian faith a legitimate role and its historical status. Instead view this post-Christian society not as enemy but those whom God loves.

Christians have faced exclusion before and will again. An Orthodox priest in eastern Europe told me of a dilemma they faced during the bitter conflict between Hitler and Stalin. Who were they to believe? Both were powerful and persuasive. Both promised freedom, a good life and an illustrious national

heritage. Trapped between confusing forces, a senior bishop was heard to say, "When we don't know who to believe, care for children." He understood that when stymied by one's world, live out the gospel.

Rethink

This legal decision forces us to rethink strategy and re-evaluate plans. We return to the heart of our faith: The apostle Paul reminds us, don't live assuming our weapons are the same as the world employs (2 Cor 10:4).

Now is the time to be creative, exploratory, Spirit-trusting and bold in finding new initiatives of witness and faith in our ever-changing societies. {eo}

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