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Ban on Trinity Western law grads attacks freedom of association

Trinity Western University (TWU) is taking the Nova Scotia Barristers' Society to court over its decision to bar TWU law school graduates from practicing law in Nova Scotia.

The Barristers' Society disagrees with TWU's "Community Covenant," which sets out the standards of behaviour expected of students, staff and faculty at the private evangelical Protestant university in British Columbia. Students who choose to attend TWU pledge to "cultivate Christian virtues, such as love, joy, peace, patience, kindness, goodness, faithfulness, gentleness, self-control, compassion, humility, forgiveness, peacemaking, mercy and justice" and to "live exemplary lives characterized by honesty, civility, truthfulness, generosity and integrity." The Barristers' Society disagrees with the Community Covenant's prohibition on sexual intimacy outside of the marriage of one man and one woman, claiming that this discriminates against gays and lesbians. Ironically, while excluding TWU law school graduates from practicing law in Nova Scotia, the Barristers' Society has no objection to lawyers holding the "wrong" beliefs about marriage and sexuality if they are already called to the bar.

The Barristers' Society will admit Christians who, as individuals, have practiced their beliefs about sexuality and marriage while attending any Canadian law school other than TWU's. It is only when these same individuals, adhering to the same beliefs and committed to the same lifestyle, associate with each other in a community to study law, that the Barristers' Society considers them

unfit to practice law in Nova Scotia. Essentially, the Barristers' Society is punishing the choice to share beliefs and pursue common goals in community. This attacks *Charter*-protected freedom of association.

In *Reference Re Public Service Employee Relations Act (Alta.)*, the Supreme Court of Canada noted that "historically, the conqueror, seeking to control foreign peoples, invariably strikes first at freedom of association in order to eliminate effective opposition. Meetings are forbidden, curfews are enforced, trade and commerce is suppressed, and rigid controls are imposed to isolate and thus debilitate the individual. Conversely, with the restoration of national sovereignty the democratic state moves at once to remove restrictions on freedom of association." The Court has held that "the attainment of individual goals, through the exercise of individual rights, is generally impossible without the aid and co-operation of others."

Freedom of association allows myriad private institutions to form on the basis of culture, ethnicity, religion, gender, political belief, and many other factors which recognize and affirm individual and group identity. The result is authentic diversity, expressed through thousands of voluntary associations across Canada.

TWU's court action raises the fundamental question of whether, in Canada's free society, private institutions and other voluntary associations have the right to establish their own codes of conduct, and to develop and practice their own beliefs, without their members being

denied admission to a profession for which they are otherwise qualified. Regarding professional qualifications, the Federation of Law Societies of Canada has approved TWU's law program, based on its academic credentials and professional standards. With the exceptions of the law societies in Ontario and Nova Scotia, law societies in other Canadian provinces recognize TWU's law program, and will allow TWU graduates to practice law.

Freedom of association is a two-way street: a private institution enjoys the freedom to determine and live out its beliefs, and individuals have the freedom not to join it. Rejecting this two-way street, the Barristers' Society would deny TWU its freedom to create and operate a law school, only because the Barristers' Society disagrees with TWU's beliefs about marriage and sexuality. This is a demand for conformity, and a rejection of the authentic diversity that characterizes our free society.

Freedom of association ceases to exist when government bodies try to coerce an association to alter its mission, purpose, or belief system in order to suit the ideological preferences of individuals who disagree with that association. This is exactly what the Barristers' Society demands of TWU: change your Community Covenant, or else your law school graduates, even though they are fully qualified to practice law, will not be welcome in Nova Scotia.

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