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## Trinity Western ruling protects the freedoms of all Canadians

Hurt feelings and even outrage are not sufficient grounds for government to violate the fundamental freedoms of Canadians.

Thus ruled the Supreme Court of Nova Scotia on Wednesday, striking down the Barristers' Society policy against the new law school at Trinity Western University (TWU).

TWU describes itself as "an arm of the church," with a mission to "develop godly Christian leaders." This wholly private university offers many graduate and undergraduate programs, including professional schools of nursing and education, with a law school set to open in September, 2016.

Like every Canadian university, TWU has a code of conduct that students choose to comply with when attending that university. Based on Christian principles, TWU's Community Covenant prohibits vulgar or obscene language, drunkenness, pornography, gossip, sex outside of the marriage of a man and a woman, and other legal activities. The Barristers' Society argued that TWU "discriminates" against gays and lesbians, ignoring the fact that TWU's expectations also "discriminate" against countless others, for myriad reasons, all of which boil down to an unwillingness to practice a Christian lifestyle. Moreover, the Barristers' Society ignored the practical reality that prospective law students who do not wish to commit to these religious beliefs can attend any of the other 19 law schools in Canada. The Barristers' Society was also oblivious to the fact that no

Canadian law society bans the law graduates of American universities with codes of conduct similar to TWU's.

In 2001, the Supreme Court of Canada ruled that TWU has the Charter right to include traditional sexual morality as part of its community standards, in a nearly identical case where the B.C. College of Teachers refused to accredit TWU education graduates. In the absence of evidence that TWU graduates were mistreating gays and lesbians, the Court decisively rejected the "discrimination" argument.

Despite this clear court ruling in 2001, the law societies of Nova Scotia, B.C. and Ontario have refused to approve TWU law degrees, forcing TWU to commence court actions in three provinces to secure its Charter freedoms of religion, conscience, expression and association.

Justice Jamie Campbell noted that, although some LGBT students would feel unwelcome to attend TWU, "[p]eople have the right to attend a private religious university that imposes a religiously based code of conduct ... even if the effect of that code is to exclude others or offend others who will not or cannot comply with the code of conduct."

The Charter does not apply to private institutions like TWU, but to government bodies like the Barristers' Society. The Barristers' Society cannot coerce TWU students, professors, and staff to change their beliefs to conform to majority opinion about sexuality and marriage. Further, "[i]f the state seeks to coerce them to change their actions that give effect to those beliefs, it had better have a compelling reason."

Justice Campbell acknowledged that some may experience "outrage, emotional pain, minority stress, or hurt feelings" from knowing that a graduate of a private Christian university in B.C. can become a lawyer in Nova Scotia. But this does not provide the Barristers' Society with any grounds to violate the Charter-protected fundamental freedoms of Canadians. Further, Justice Campbell found that the Barristers' Society's action against TWU "was not designed to minimally impair the freedom of religion and freedom of conscience." The Charter cannot be transformed into "a tool in the hands of the state to enforce moral conformity with approved values."

Justice Campbell rejected the argument that "those who hold religious views should be educated by the state in more appropriate secular values to create a moral melting pot." Rather, lawyers "are entitled to believe what they want ... [and] to form associations of like-minded lawyers."

This is a great precedent for the fundamental freedoms of all Canadians. A free society does not allow hurt feelings or majority opinion to deny individuals their right to create, maintain, and belong to the voluntary associations of their own choosing. The freedom to express offensive opinions, practice minority religious beliefs, and create unpopular organizations form the cornerstone of Canada's free and democratic society. These fundamental freedoms benefit all Canadians, including gays, lesbians, and evangelical Christians.

*Calgary lawyer John Carpay is President of the Justice Centre for Constitutional Freedoms (JCCF.ca), which intervened in support of freedom of association in Trinity Western University v. Nova Scotia Barristers' Society.*