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## Don't tread on Trinity Western

John Carpay, president of the Justice Centre for Constitutional Freedoms and a frequent contributor to this newspaper, wrote recently that the fundamental point of a free society is that it “tolerates an authentic diversity of groups and organizations, including unpopular ones.”

“Freedom depends on citizens accepting that other people can and do have radically different conceptions of reality, including unpopular ideas about sexuality,” he wrote. “I cannot enjoy freedom of expression myself unless I grant my neighbour — whose opinions I may abhor — the same freedom. A legal right to be free from hurt feelings, if it existed, would destroy freedom of expression as well as freedom of association.”

This point may be obvious to some, but it appears to have eluded the tall foreheads at the Ontario Law Society, which persists in its attempt to block accreditation to graduates of the law school at Trinity Western University, a Christian institution in British Columbia. The society voted against recognizing TWU graduates last year, citing alleged discrimination against the LGBT community.

At issue is the school’s covenant, which requires students to refrain from a host of activities, including gossip, obscene language, prejudice, harassment, lying, cheating, stealing, and sexual intimacy “that violates the sacredness of marriage between a man and a woman.”

The society’s argument has already been tested in court and thoroughly refuted. In January Nova Scotia Supreme Court Justice Jamie S. Campbell overturned a similar ban by

that province’s law society, noting that “the NSBS has no authority whatsoever to dictate directly what a university does or does not do.”

The holes in the law society’s position were numerous, Judge Campbell noted. It would do nothing to keep out lawyers who held identical beliefs, but went to a different school, he said. It wouldn’t even keep out Trinity Western grads who started practise elsewhere, then moved to Nova Scotia. It assumed Trinity Western graduates held specific views, though there was no evidence of that. It treated TWU grads different than grads of other religious schools, and seemed based more on “what will people think” rather than any substantive motivation. In other words, it was rank discrimination, by a body that prides itself in defending against discrimination.

One would think such compelling arguments might give pause to Ontario’s legal establishment, but it appears willing to shrug them off. Its members appear similarly unimpressed by a Supreme Court of Canada ruling upholding TWU’s teachers’ college against similar complaints. “The proper place to draw the line in cases like the one at bar is generally between belief and conduct,” the Court ruled. One can believe same-sex marriage is wrong, so long as one does not teach or practice law as if it were not the law of the land.

TWU does not ban gays, or anyone else. It simply asks that students not married as the university defines it, i.e. between a man and a woman, refrain from sex. One may disagree with this, but then no one is

compelled to enrol. The Federation of Law Societies of Canada has determined that its graduates would meet national requirements to practice law. So why is the Ontario law society persisting with its crusade in the face of such obvious flaws? It appears that Judge Campbell was right: it is largely concerned with what people might think.

“For the law society to accredit a law school knowing it had a discriminatory admissions policy, it would jeopardize the public’s confidence in the legal profession,” it maintains in court documents. It argues that TWU’s admissions policy would discriminate “against those who wish to apply to law school but are not able to conduct themselves as required by the community covenant.”

It’s a peculiar argument to make. Can it really be the law society’s position that it is discrimination to ban from law school those students who “are unable to conduct themselves as required,” but not discrimination to exclude from admission to the bar those who can?

Trinity Western is requesting a judicial review of the society’s decision. We greatly hope and trust it will be granted. Ontarians have nothing to fear from TWU law graduates. But they might want to wonder about the people who make up the provincial law society.