

The B.C. Law Society is the one breaching the Charter

BY JOHN CARPAY JUNE 19, 2015

If the Law Society of B.C. had its way, freedom in Canada would be enjoyed only by people who agree with government-approved beliefs and behaviours, as dictated by majority vote. The law society makes this case in its legal brief, filed in response to a court action brought by Trinity Western University in which this private, evangelical Christian university asserts its Charter freedoms of expression, religion and association.

TWU receives no government funding. Despite very high tuition fees, TWU is a top-ranked university by students who made the costly choice to study there. It welcomes atheists and LGTBQ+ students along with members of all faiths who, as part of choosing TWU, choose to abide by its Community Covenant while studying at TWU.

The Federation of Law Societies of Canada has approved TWU's law program as meeting academic and professional standards. The law society admits that there is nothing wrong with TWU's law program, but claims that the covenant discriminates against LGTBQ+ students, as well as unmarried couples, non-believers and women. The covenant prohibits numerous legal activities such as vulgar or obscene language, drunkenness, viewing pornography and gossip. In fact, TWU's expectations "discriminate" against the majority of Canadians for a myriad of reasons, all of which boil down to an unwillingness to practice an evangelical Christian lifestyle.

No one is required to study at TWU, so there is no coercion or compulsion. TWU is simply an option for students who want to live in a Christian community while pursuing their studies. Students can get the professional degrees TWU offers from many other universities and at less cost.

In its filed court document, the law society argues that TWU is not an institution where "all can feel comfortable." True, but most Canadians would not "feel comfortable" supporting or joining every organization. That is normal and healthy in a country where citizens can join — or not join — literally tens of thousands of different ethnic, political, social, charitable, educational, religious, cultural and recreational groups. If every voluntary association has to change its beliefs and rules to make everyone feel comfortable joining it, Canadians would not be free to create and join the groups of their own choosing. A free society like Canada's does not

require voluntary associations like Out for Kicks (Vancouver's gay soccer league) or Trinity Western University to change its own rules, beliefs and practices in order to please everyone.

The law society admits that a graduate of TWU would be competent to practice law and would not mistreat a client based on sexual orientation or other personal characteristics. Yet the law society demands that TWU, in order to confer law degrees, must create an "open, accepting and inclusive education environment in which all can feel comfortable."

Students and staff at TWU would tell you they already have that education environment. But the law society insists that "open, accepting and inclusive" means requiring TWU to reject its own beliefs, and to embrace the idea that sex outside of traditional marriage is a good thing.

The Charter protects Canada's free society by upholding the rights of individuals and groups to adhere to minority religious beliefs, express unpopular opinions and form private associations of their own choosing. In a free society, government does not require lawyers, nurses or teachers to agree with majority opinion in order to practice their professions. The law society would ditch Charter freedoms in favour of a new right to "feel comfortable".

The B.C. Law Society actually argues that TWU — an organization no person is required to join or fund — somehow violates the rights of people who disagree with its code of conduct. As a government body, it is the law society, not TWU, that is required to uphold and respect freedom of expression, religion, and association. The Charter also requires the law society to refrain from discriminating against potential lawyers on the basis of religion.

Citing "the public interest in the administration of justice", the law society claims that the personal views and preferences of an "overwhelming majority" of lawyers must be imposed on a private Christian school. This is majority coercion directed against a minority. The law society violates the rule of law and the Charter and attacks the foundations of Canadian freedom.

John Carpay is a Calgary lawyer and president of the Justice Centre for Constitutional Freedoms (JCCF.ca), which is an intervener in Trinity Western University v. Law Society of B.C.