



JULY 10, 2016

Court wrong to reject Trinity Western program accreditation

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The Ontario Court of Appeal has launched an aggressive assault on the Charter freedoms of conscience, religion, expression and association of all Canadians.

On June 29, in *Trinity Western University v. Law Society of Upper Canada*, the court rejected accreditation of the law program of Trinity Western University (TWU).

The court readily admitted that TWU's law program meets all academic and professional standards, and that lawyers who graduate from TWU will be competent and caring professionals. Ignoring the evidence before it, the court accused TWU of discriminating against gays and lesbians.

TWU, a private Christian university in Langley, B.C., has been graduating teachers, nurses and other professionals for several decades. The university's code of conduct prohibits foul language, viewing pornography, drunkenness, sex outside of the marriage of one man and one woman, and other legal activities.

The court reached its decision by completely disregarding the evidence of gay people who have spoken publicly about their positive experience while attending TWU.

In a sworn affidavit filed with the court, one TWU alumnus stated that he has felt "strongly attracted to other men" for most of his life. He stated that he felt "celebrated, loved and cherished" at TWU.

"I never experienced intimidation, hostility, discrimination, exclusion, shunning, harassment, or threats at TWU for any reason, including expressing my same-sex attractions."

Another gay TWU graduate stated: "I never felt that the Community Covenant harmed me ... Nothing I saw or experienced would make me feel that other sexual minorities would be harmed by TWU in these ways. In fact, such things would be contrary to the text and spirit of the Community Covenant itself ... I attribute my attending TWU to giving me the tools and self-esteem to come out of the closet."

From his personal experience, TWU "is an inherently welcoming place for all types of students, including gay people like myself."

But the court ignored these facts, claiming that gay people at TWU must suffer "the stigma of not belonging."

The court relied instead on bald assertions from "Out on Bay" lawyers. These Toronto lawyers, who have not attended TWU, claimed that TWU "forces gays to renounce their dignity and self-respect in order to obtain an education."

To justify its ruling, the court seems to create new legal doctrines out of nowhere. The court claims that when a voluntary association like TWU maintains its own beliefs, goals, rules and practices, this somehow "interferes with the rights and freedoms of others." Even though no person is compelled to join TWU, and even though people can study nursing, teaching, law and other disciplines at countless other institutions, the court finds TWU guilty of wanting to "control the conduct of others."

This is akin to accusing a church of "controlling the conduct of others" when in fact the only people who might take the church's teachings to heart are those who voluntarily attend there.

A free society depends on citizens being free to create, join and maintain the charities, sports clubs, cultural societies, political groups, and religious institutions of their own choosing. By inventing a new legal "right" for individuals to force changes on voluntary associations that they disagree with, the Ontario Court of Appeal has struck a blow against Canada's diversity and tolerance.

Calgary lawyer John Carpay is president of the Justice Centre for Constitutional Freedoms (jccf.ca), which intervened in support of TWU's court actions in B.C., Ontario and Nova Scotia.