

LOCAL, NATIONAL AND INTERNATIONAL THREATS TO OUR FUNDAMENTAL HUMAN RIGHT

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Last month, upon the inauguration of the Centre for Inquiry's Campaign for Free Expression, our main political ally, the Canadian Secular Alliance, released a position stating the following: "It has long been recognized by enlightened philosophers and thinking citizens of western liberal-democracies that society is best served by ensuring the maximum freedom consistent with good order. They may be self-evident, but it was a long and difficult journey to get them enshrined in our laws. Of all the fundamental freedoms we enjoy in our society, freedom of expression is the keystone. Indeed, several of the others: freedom of assembly, freedom of religion, etc., are really derivatives of freedom of expression. Unfortunately, through some progressive-thinking social engineering combined with a failure to grasp philosophical fundamentals throughout the last decade or so we find a rapidly diminishing scope for free expression in Canada."

Is free expression really under attack in our city, our country and our planet, or is this statement blowing things out of proportion?

The most direct threat to our freedom of expression in Canada seems to be coming, ironically, from a source that should be protecting free speech and all such human rights, namely, the Human Rights Commissions. In February 2006 The Western Standard was one of the only publications in North America courageous enough to re-print several of the notorious Danish Mohammed cartoons. For his courage, the editor, Ezra Levant, was brought before the Alberta Human Rights and citizenship commission for interrogation in after agreeing to investigate a complaint brought by Syed Soharwardy of the Islamic Supreme Council of Canada, and the Edmonton Muslim Council. "It is especially perverted," reported Levant, who reposted the Mohammed cartoons the day he appeared before the commission, "that a bureaucracy calling itself the Alberta human rights commission would be the government agency violating my human rights."

I want to read an excerpt from an editorial by Ezra Levant in the January 21, 2008 Globe and Mail entitled "What a strange place Canada is."

I have been accused of hurting people's feelings because, two years ago, I published the Danish cartoons of Mohammed in the Western Standard magazine. Ms. McGovern's business card said she was a "Human Rights Officer." What a perfectly Orwellian title. Early in her interrogation, she said "I always ask people ... what was your intent and purpose of your article?" It wasn't even a question about what we had published in the magazine. It was a question about my private thoughts. I asked her why my private feelings were of interest to the government. She said, very calmly, that they would be a factor taken into account by the government in determining whether or not I was guilty. When she's doing government interrogations, she always asks people about their thoughts... if I answered Officer McGovern's political questions unsatisfactorily, the government could fine me thousands of dollars and order me to publicly apologize for holding the wrong views. I told her that the complaint process itself was a punishment. Even if I was

eventually acquitted, I would still lose — hundreds of hours, and tens of thousands of dollars in legal bills. That's not an accident, that's one of the tools of these commissions. Every journalist in the country has been taught a lesson: Censor yourself now, or be put through a costly wringer. I said all this and then Officer McGovern replied, "You're entitled to your opinions, that's for sure." But that's not for sure, is it? We're only entitled to our opinions now if they don't offend some very easily offended people.

The commission finally dismissed the complained in August.

Around the same time a number of human rights commissions - those of the provinces of BC and Ontario, as well as the federal body - agreed to hear a complaint brought against MacLean's magazine by the Canadian Islamic Congress and its President Mohamed Elmasry. The December 2007 complaint accused MacLean's of being "flagrantly Islamophobic" and for subjecting Canadian muslims to hatred and contempt for publishing 18 Islamophobic articles over the preceding two years, with special focus on an excerpt from Mark Steyn's book *America Alone* entitled "The Future Belongs to Islam".

MacLean's magazine had the following response to the human rights commission:

"Maclean's continues to assert that no human rights commission, whether at the federal or provincial level, has the mandate or the expertise to monitor, inquire into, or assess the editorial decisions of the nation's media. We enthusiastically support those parliamentarians who are calling for legislative review of the commissions with regard to speech issues." [6]

The Canadian Human Rights Commission dismissed the complaint in June, while the Ontario Human Rights Commission decided in April on what amounts to a technicality that they could not hear the complaint because their governing legislation covered only signs and symbols, not printed material. They did, however, describe MacLean's as xenophobic and Islamophobic and called on public discussion of Islamophobia in the media. What the human rights commission failed to call on was more public discussion on censorship and free speech, the most fundamental of all human rights. And why not? Because the human rights commission has forgotten what their role was meant to be. They are now rudderless, over-powerful and frankly dangerous to freedom loving Canadians.

And none of that is me talking. That's Alan Borovoy, general counsel of the Canadian Civil Liberties Association and one of the founders of these very same Human Rights Commissions back in the 60s and 70s. His motivation at the time was to stop discriminatory actions, not words or pictures, and explains "nobody ever foresaw this instrument being used to muzzle the expression of opinion." That is "hardly the role we had envisioned for human rights commissions. There should be no question of the right to publish the impugned cartoons. It would be best, therefore, to change the provisions of the Human Rights Act to remove any such ambiguities of interpretation."

There are additionally procedural problems with the commission. They tell you who and how many advisors you are allowed to bring in. The complainant doesn't pay for the prosecution - taxpayers do. The defendant, on the other hand, must cover his costs. The commissioners

themselves generally have no legal background, being instead activists themselves and do not bother applying common law, court rules of evidence, or our 800 year history of protected speech dating back to the magna Carta. Dean Steacy, for example, the chief investigators for the CHRC on offending speech, has gone on record stating that free speech is an American concept that has no value to him. Indeed. The Canadian human rights tribunals' notions of circumscribed speech makes no allowance for truth, for any proveable damage, or even for the standing of the complainant (i.e., he or she doesn't even have to prove they were offended -- they only have to say they were). What we now have are government bureaucrats, unelected and unaccountable, making critical decisions about what citizens can and cannot say. And the punishments? Well, that depends on whether you're found guilty or innocent. If you're found guilty, among retractions and fines, the commission can force you to apologize for your words and beliefs, like a parent telling their child to apologize for hitting his or her sibling. And even if found innocent the costs and time wasted - over \$100,000 for Ezra Levant - will send a message other editors, publishers and authors will surely not miss.

Many groups in Canada are beginning to see a problem here.

Canadian association of journalists (CAJ) president Mary Agnes released the following statement

“Human rights commissions were never intended to act as a form of thought police,” said CAJ President Mary Agnes Welch. “But now they're being used to chill freedom of expression on matters that are well beyond accepted Criminal Code restrictions on free speech. The CAJ believes that laws of libel and slander, hate speech and other provisions found within the Criminal Code provide sufficient restrictions on freedom of speech.”

The Canadian Civil Liberties Association stated “CCLA continues to oppose the human rights commissions on the issue of limiting free speech”

Both the Calgary Herald and the National Post published strong editorials in favour of curtailing the powers of the Human Rights Commissions. The Herald endorsed their approval of Borovoy's own call for the Alberta government to remove section 3(1) of the Human Rights Act allowing the Commission to censor statements and publications with symbols or representations that expose others to hatred or contempt, stating that speech that denies people equality is already well covered by the act and hate speech is covered by the Criminal Code. The only rationale for these additional bits of legislation is to extend the power of the government to policing speech that make be offensive, derogatory or blasphemous or hurtful, according to whomever is sensitive enough to be easily hurt. CFI Canada supports these amendments in each province and federally as necessary.

Why is it so important to support the broadest possible interpretation of free expression? We live in a society obsessed with the concepts of diversity, equality and tolerance. But what if, as we are so aggressively implementing programs to expand the diversity of demographic groups represented in every facet of society, we end up creating a monoculture of opinion and thought. There was a time when diversity meant diversity of opinion, tolerance meant a tolerance for such

diversity of thought. It was then imagined that since it was much harder to ascertain an individual's opinion than to determine that individual's race or gender, that we could use these latter traits as diversity proxies. But somewhere along the way we lost track of this equation, and diversity of demographics - of gender, race, ethnicity, sexual orientation, etc, etc, etc - became a goal in itself. And while there is nothing wrong with that, in an effort of ultratolerance and fear that any criticism of religion, race, or gender would undermine this demographic diversity, we have begun to create a society that fosters a single interpretation of equality, tolerance and freedom. And so we are undermining our own original insight. (Interestingly, a similar story could be told for equality as I have for tolerance and diversity. (Equality originally meant equality of opportunity. This was then perverted...))

I think that's a fair philosophical defense of opinion diversity, but there are some good practical reasons to oppose censorship too. First, it rarely works. When The Golden Compass books were banned in a couple of catholic public school boards in Ontario, they only increased the controversy surrounding the literature and prompted a much higher interest in the film. We had an event at CFI called Banned Book Day and one of our guests was a professor of children's literature. According to her, a number of very mediocre books were raised to superstar status because of efforts to impede their distribution.

Censorship of offensive speech also has a tendency to offend those censored, potentially leading to more angry and aggressive attempts to have the same views aired. It risks making martyrs and heroes of those with warped ideas. It risks bottling up views that need to be aired and forcing them underground where they can not be monitored or dealt with with more reasoned speech. And it never changes anyone's mind on the issue in question.

Case in point. Recently the Canadian Federation of Students passed a motion that student unions across Canada would begin withdrawing recognition, funding and other resources to student groups advocating a pro-life position on abortion. York University was the first school to formally de-ratify the Students for Bioethical Awareness, several months after banning a debate on abortion which was set to take place between this group and the CFI affiliate on campus, the Freethinkers, Skeptics and Atheists at York. One of the arguments put forward by the student union was that since abortion was legal the issue had been settled. Period. How effective do we imagine that argument is? Well not very considering the human rights allegation the churches are planning to launch shortly.

We must defend free speech even and especially for those things we do not want to hear. One courageous group that I admire greatly for their appreciation of this point is Eagle Canada. When Rev. Stephen Boissoin was brought before the Alberta Human Rights commissions for writing in the Red Deer newspaper that homosexuals were "just as immoral" as pedophiles, drug dealers and pimps, Eagle Canada, a same sex marriage activist organization, released the following statement

"If Boissoin was no longer able to share his views, then who might be next in also having their freedom of expression limited. Traditionally, the LGBT community's freedom has been repressed by society and its laws. Plus, it is far better that Boissoin expose his views than have them pushed underground. Under the glaring light of public scrutiny, his ideas will most likely

wither and die. In fact, his words may serve to increase public education. By more clearly seeing the ugly face of bigotry and prejudice, the need for teaching tolerance in schools becomes obvious.”

And similarly, CFI has defended the abortion debate and the right of both sides to be heard equally, and I personally have spoken out in various places for allowing religious beliefs and values to enter into public and even election discourse, so long as secular values are equally well supported, the infrastructure in which such discussions take place is neutral, and both secular and religious values are equally open to the harshest criticism. I have also had to re-examine my position on France’s banning of religious paraphernalia in schools. These are both interesting topics we might discuss later.

If the situation in Canada concerns you, consider the international debacle at the United Nations. The following portion of my talk owes everything to a report called “Islam and Human Rights: Defending Universality at the United Nations” authored by Austin Dacey, author of *The Secular Conscience* which I very much recommended for a fuller defense of increased dialogue of secular and religious beliefs in the public space. CFI has special consultative status with the UN Economic and Social Council and Austin Dacey is our representative on this body.

On March 28th, the UN Human Rights Council actually undermined its own ability to protect free speech. An amendment to a resolution on freedom of expression now requires the UN Special Rapporteur on Freedom of Expression to “report on instances in which the abuse of the right of freedom of expression constitutes an act of racial or religious discrimination”. As the UN report stated “Instead of traveling the world in search of instances in which free speech is unjustly limited, the Rapporteur will now do just the opposite, in an effort to police “abusive” speech. The protector has become the oppressor.”

Leading to this point, the General Assembly has passed yearly resolutions combating “the defamation of religions” and “Islamophobia.” And over the last 25 years, together under the Organization of the Islamic Conference (OIC), an umbrella organization with 57 member states, have challenged the Universal Declaration of Human Rights (UDHR) drafted in the 1940s, for decades, and have penned “Islamic human rights” documents in its place.

The OIC’s most significant entrance into the field of human rights came in 1990, with the adoption of the Cairo Declaration on Human Rights in Islam. This document states “All the rights and freedoms stipulated in this Declaration are subject to the Islamic shari’ah”, and “The Islamic shari’ah is the only source of reference for the explanation or clarification of any of the articles of this Declaration”. It goes on to state “Islam is the religion of unspoiled nature. It is prohibited to exercise any form of compulsion on man or to exploit his poverty or ignorance in order to convert him to another religion or to atheism.” The Cairo Declaration’s “free speech” provision, clearly suggests that it is Islam, not the individual, that deserves protection: “Information is a vital necessity to society. It may not be exploited or misused in such a way as may violate sanctities and the dignity of Prophets, undermine moral and ethical values or disintegrate, corrupt or harm society or weaken its faith.”

Procedurally, the human rights council has also had its abilities to openly criticize islam curtailed. In June when criticism of women's rights under sharia law was introduced into the human rights council, the presiding President closed the discussion and announced that "The Council is not prepared to discuss religious questions and we don't have to do so. Declarations must avoid judgments or evaluation about religion".

There is a crucial point to be made here and on it hinges the entire definition or re-definition of free speech. That is that only individual people deserve protection from discrimination, not ideas, religions, beliefs or values.

Limitations on speech, such as libel and slander, exist to protect individuals from harm. For example, a libelous or slanderous statement that results in the loss of a person's job a person causes material harm, such that the speaker ought to be held responsible. By contrast, the discourse of Islamophobia and defamation of religion fails to distinguish between speech that constitutes real risk of harm to individuals, and speech that merely subjects ideas to "discussion, criticism, or expression of antipathy, dislike, ridicule, insult or abuse."

The foundational assumption of international human rights is identical: Rights belong to individuals, not ideas. Freedom of religion protects the person who believes (or disbelieves), not the contents of the belief. As the Special Rapporteur on freedom of opinion and expression, Mr. Ambeyi Ligabo, has noted, the legal concept of defamation of persons cannot be extended to belief systems: "the provisions on protection of reputation contained in international human rights law are designed to protect individuals, not abstract values or institutions"

For precisely this reason, the European Union has stated that the "defamation of religions" is not a valid concept in human rights law. As the CFI report explains, "feelings of offense do not generate a human right not to be offended. From a moral point of view, we owe respect to other persons. Respect for persons does not require that we never hurt their feelings, but rather that we treat them as possessing dignity equal to our own, and therefore hold them to the same fundamental intellectual, ethical, and legal standards to which we hold ourselves. Therefore, respect for a person is not only consistent with criticism of a person's beliefs; respect for a person sometimes requires criticism of his or her beliefs."

Here's a taste of what's to come. In April 2009, the UN will host a world conference on racism, the Durban II meeting. A draft declaration written in Abuja, Nigeria in preparation for the 2009 conference calls upon states to avoid "inflexibly clinging to free speech in defiance of the sensitivities existing in a society and with absolute disregard for religious feelings."

If you're thinking these UN developments have no effect, consider the new constitutions that have been developed with western counsel in Afghanistan and Iraq. The former states "In Afghanistan, no law can be contrary to the beliefs and provisions of the sacred religion of Islam." while the latter includes the statement "No law that contradicts the established provisions of Islam may be established."

In many Islamic nations, especially Iran and Egypt, countercultural pro-secular movements within those countries are not well served by those amendments which enable theocracies to

further stifle dissent, resist criticism, and violate the rights of their citizens. Reza Afshari, human rights defender in Iran, states, “Many Iranians rely on the Universal Declaration of Human Rights for moral and legal support . . . international human rights law serves as a prestigious platform for dissident views that demand changes in all cultural practices that sustain and legitimize human rights violations”. In fact, it is this fear which has pushed 21 NGOs from Islamic states to condemn the resolution amending the duties of the Special Rapporteur on Freedom of Expression.

We must work to reject the concept of “the defamation of religion” at all levels from the local to the international.

In fact, the entire concept of hate speech should be reviewed at all levels of government. In the late 1960s, the Canadian Civil Liberties Association testified against the bill that ultimately became the anti-hate section of the Criminal Code. How do you define what is hateful? Can’t any offensive, derogatory or hurtful criticism qualify? Well, not exactly, because society typically only bothers spending resources defending the rights of the flavours of the day. So anti-muslim words written on a professor’s door at McMaster university are investigated as a hate crime, while an actual physical attack against me while poster for an atheist event is not, despite the obvious difference in severity, nor was the defamation of an atheist poster in Edmonton recently.

So in summary, whether we’re talking local like the book banning of the Golden Compass by school boards, provincial and national like human rights commission perversion of free speech, or even international at the level of the UN, the human right of free expression is indeed under attack on a variety of fronts. There is a real uncoordinated effort from a combination of sources that really should be at each other’s throats - Islamists, cultural relativists and right wing christian fundamentalists - to redefine the definition of free expression. Humanists, skeptics and freethinkers, are not immune. Many applauded the banning of pro-life campus groups while supporting censorship of anti-gay speech. This is wrong and hypocritical.

There is no such thing as a human right to not be offended. Unless we are equally free to be offensive as we are to be offended, we really do not have freedom of expression. So please, next time you hear something you don’t like, think of how you would feel if a new secular humanist campus club was banned, as was attempted at one of our campuses in Ontario. The student union used eerily similar language to that employed to justify the ban on pro-life groups, with reference to discrimination, tolerance and the creation of a hostile atmosphere.

And please support the CFI Campaign for Free Expression by becoming a CFI member or donor, or by purchasing a t-shirt. The Campaign, launched recently with Banned Book Day, will be an ongoing series of events and political activities, including our upcoming talk by PZ Myers on Halloween on The War between religion and science, a town hall meeting on free speech at York University and an art of the sacrilege festival, among other events, as part of Darwin Day in early 2009.