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Homosexuality Trumps Free Speech And Religion In Canada

A Vanderbilt University Law Journal surveys the growing trend in Canada of judges suppressing free speech and religion in order to support homosexuality.

August 9, 2005 - Hans C. Clausen, Editor-in-Chief of the [Vanderbilt Journal of Transnational Law](#), has written a lengthy article on the suppression of free speech and religious belief in Canada over conflicts with homosexual activists in that nation.

The 66-page article, "The 'privilege of speech' in a 'pleasantly authoritarian country': how Canada's judiciary allowed laws proscribing discourse critical of homosexuality to trump free speech and religious liberty," was published in the March, 2005 edition of the law journal. The article is currently only available through fee-based database services.

Clausen's main premise is this: "The goal of these laws [proscribing criticism of homosexuality] is much grander than preventing discrimination against homosexuals; rather, the objective is seemingly to promote the social acceptance of gay and lesbian lifestyles ... achieving the social equality of homosexuals-conceived in sweeping terms-has, in many Western countries, outstripped legal protections for speech and religious freedoms."

Clausen introduces the case of Dr. Chris Kempling, a Christian high school counselor who has been persecuted for publishing his views on homosexuality in local newspapers. Kempling, a NARTH member, has chronicled his legal problems in "[Against the Current: The Cost Of Speaking Out For Orientation Change In Canada](#)" on NARTH's web site.

After describing Kempling's suspension from his teaching position for publicly expressing his views on homosexuality, Clausen then mentions several other countries that have criminalized critical remarks against homosexuality: New Zealand, South Africa, Netherlands, Denmark, and others.

However, according to Clausen, Canada has taken the strongest stand against public comments against homosexuality. Activists have used "hate speech" laws to ban negative comments about homosexual behavior from the television and radio as well as from mail delivery.

In 2004, the Canadian Parliament passed C-250, sponsored by gay legislator Svend Robinson. The legislation added "sexual orientation" to the list of protected minority categories in Canadian law.

Because of this new law, religious leaders are fearful of speaking out against homosexuality and, notes Clausen, "Academicians also seem to be feeling the effect: some university professors are scared that the law will threaten free inquiry in the classroom and in their own publications."

According to Clausen, moral criticisms of homosexuality will not be protected under C-250, which means that pastors can be prosecuted for speaking out against homosexuality or quoting from the Bible.

In one legal case, a Canadian court justified its suppression of free speech because it claimed that criticism of gays impacted an individual's sense of "self-worth and acceptance." The court also listed "self-fulfillment," "self-autonomy," and "self-development," as reasons to suppress free speech in favor of gays.

Clausen points out that this argument is seriously flawed because it favors the speech rights of one group over another group. The court also claimed that criticism of homosexuality damaged the "dignity" of gays.

Clausen counters: "... the argument that homosexuals are entitled to such a sweeping claim of 'dignity' is questionable. That argument relies on the notion that sexual orientation is 'an innate or unchangeable characteristic,' and inherent to one's identity. This claim has never been conclusively demonstrated, and studies that have attempted to prove the connection have consistently failed."

The author cites two researchers from Harvard and Stanford who have commented that "recent studies seeking a genetic basis for homosexuality suggest that ... we may be in for a new molecular phrenology, rather than true scientific progress and insight into behavior. ... [T]he data in fact provide strong evidence for the influence of the environment."

Clausen notes that not only is there growing evidence against a genetic basis for homosexuality, but there is also increased acceptance of the success of reparative or conversion therapy.

He ends his discussion by observing that hate speech laws that suppress criticism of homosexuality, if taken to their logical conclusion, would "require the abolition of democracy itself" and "It reflects a deep lack of faith in citizens' ability to distinguish truth from error, faults the 'marketplace of ideas' as inadequate and even dangerous, and claims that the coercive force of government-in the form of hate speech laws-is the solution."

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