
THE 2006 ANNUAL CHURCH & CHARITY LAW™ SEMINAR

Toronto – November 8, 2006

Update on Current Issues in Religious Freedom

By Ruth A.M. Ross, B.A., LL.B.
Executive Director, Christian Legal Fellowship

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Update on Current Religious Freedom Issues

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Church and Charity Law Seminar
Greater Toronto Area - Nov 8.06

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Law Watch

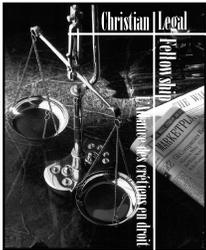


Law Watch
An initiative of CHRISTIAN LEGAL FELLOWSHIP

- Goal: inform churches & charities – Religious Freedom Cases
- Existing printed format, *Christian Legal Journal*, email & website Featuring Christian legal experts
- Expansion: Web Vision 4-5 minute audio-visual

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First Ever
Pre-Law
Conference
Redeemer University
College - Nov 18.06
Attempt to remove
barriers & obstacles
Encourage Christians to
view Law as Ministry
Theme:
For Such A Time As This



Integrating Christian Faith and Law since 1978
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Next Meeting - January 19, 2006

12:30 - 1:30 pm - Most Court (Room 2370) - Murray Fraser Hall
The Importance of Character in an Age of Image
Speaker: Roland (Rollie) Laing, O.C.

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ADVOCACY & INTERVENTION

CLF's Intervention Advisory Group

- **Purpose** - To review cases/issues to determine which are appropriate for intervention
- **Recommendations** - Which cases should be pursued
- **Proactive** - Efforts to be proactive
- **Focus** - Religious freedom, family values & sanctity of life
- **Tribunals** - Expect tribunals to take higher profile
- **Partnerships** - Expand alignment/partnership with other Canadian Christian groups
- **Legal Intervention Fund** - established for interventions
- **Advisory Group** consists of CLF Lawyer Members:
 - Kevin Boonstra - Vancouver
 - Gerry Chipeur - Calgary
 - Scott Kennedy - Winnipeg
 - Merv White - Orangeville



Legal Background: What Is Freedom of Religion?

- Section 2a & 2b of the *Charter of Rights and Freedoms*
 2. Everyone has the following fundamental freedoms
 - (a) Freedom of conscience and religion;
 - (b) Freedom of thought, belief, opinion & expression
- S. 15 Equality Rights: equal benefit & protection w/o discrimination - includes sexual orientation (read in), religion, etc.
- Applies to government & indirectly to others through

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Religious Freedom cont'd.

- Provincial human rights codes protect against discrimination in:
 - > Provision of services
 - > Employment
 - > Housingon certain grounds including creed (religion) & also sexual orientation

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Amselem Case (SCC 2004)

- A condo corporation refused to allow Jewish owners to have a souccah hut on the balcony
- Court ruled in favour of Jewish owners; Strong protection for religious practice
- Religious practice defined as sincerely held by an individual & having “nexus with religion”
- All religious practices protected (no obligatory/discretionary distinction)
- *“requiring proof of the established practices of a religion ... diminishes the very freedom which is sought to be protected.”*

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What Legal Cases Say

■ **Big M Drug Mart case**

The essence of the concept of freedom of religion is:

- The right to entertain such religious beliefs as a person chooses,
- The right to declare religious beliefs openly and without fear of hindrance or reprisal, and
- The right to manifest belief by worship and practice or by teaching and dissemination.

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Trinity Western University v. B.C. College of Teachers (2001)

- SCC ruled that a Christian university can have a code of conduct requiring students refrain from certain activities
- allowed an education program to apply to be accredited even with such code
- But court held: “the freedom to believe is broader than the freedom to act on those beliefs.”

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Chamberlain v. Surrey School Board (2002)

- Dispute over storybooks featuring same-sex parents for classroom use in kindergarten/ grade 1
- SCC ruled that school boards can consider concerns of religious parents but concerns cannot exclude other protected groups from inclusion in public schools
- Precedent used for Correns' agreement with BC Gov't – consultation regarding curriculum review

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Camp Arnes (MB)

- Christian camp refused to rent to a gay choir group. Choir made a complaint to the Manitoba Human Rights Commission.
- Because the camp regularly rents out to non-religious groups, the Commission treated the camp as a commercial, rather than religious, enterprise.
- Recently settled (summer 2006) between parties out of court.

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Sanctity of Life Issues

Cases deny the Biblical principle that all life is sacred

- No law against abortion in Canada
- Current cases include:
 - > **Morgentaler v. New Brunswick**
 - > **R. v. Spratt (Bubble Zone) – now on appeal**
 - > **Medical Student at University of Manitoba refuses abortion option** / marginalizes doctors
 - > **Euthanasia - Private Members Bill**
 - > **Bill C-291 - Private Members Bill** – injuring/causing death of a child (fetus) while committing offence
 - > **Suzy Ryan** – NB woman recently charged with obscenity for showing aborted fetuses in handouts

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Don Spratt (Bubble Zone) Case (Current)

- On December 17, 1998 Mr. Spratt given a 30-day sentence
- convicted under the B.C. Access to Abortion Services Act for making a "protest" and "sidewalk interference"
- Mr. Spratt carrying a cross & silently praying
- On April 23, 2004 BCCA granted leave to appeal Free expression of one's religious beliefs directly in issue
- CLF is intervening in this case - BCCA

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Hugh Owens "Bible as Hate Speech"



- Hugh Owens produced an Ad (above) - References to four Bible passages
- Owens charged SASK H R Code - exposing homosexuals to hatred - CLF Intervened & decision overturned Apr 06
- Lower court most concerning: "When the use of circle & slash is combined with the passages of the Bible, it exposes homosexuals to detestation, vilification and disgrace. In other words, *the Biblical passage* which suggest that if a man lies with a man they must be put to death *exposes homosexuals to hatred.*"

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Chris Kempling v. BCCT

- BC teacher suspended for letters to editor on homosexuality - conduct unbecoming member of BCCT
- his views "tainted" all teachers
- CLF argued in favour of the constitutional protection of his right to express deeply held religious beliefs.
- June 13.05 - BCCA denied Kempling's appeal
- editorials articulating religious beliefs on the homosexual lifestyle "not deserving of Charter protection"
- considered discriminatory & damaging to the integrity of the public school system as a whole
- SCC denied leave

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Ake Green Swedish Pastor Preaching Against Homosexuality

- Pastor Green sentenced to month in jail for offending homosexuals in a sermon
- Canada's Bill C-250 (Hate Propaganda - amendments to Criminal Code of Canada) passed into law in April 2004
- Canada has a similar clause to Sweden's - sexual protected against "unfavourable speech"
- Concern among many pastors and other religious groups in Canada that Bill C-250 would cause a similar result here.
- CLF entered a legal brief as part of an international coalition in favour of Pastor Green
- Overturned in Jan, 2006 Church & Charity Law Seminar - Nov 8,06

Three Parent Family Case (current)

- Court asked to confer parental status on more than 2 people - lesbian couple / biological father
- Changes status of *family and parentage*
- Appeal heard Sept 06; CLF Intervening
- Lower Court Judge, *"I can't imagine a stronger case for seeking the order you are seeking....The only concern is that I'm governed by legislation and that's the only hurdle you've got to get over"*.

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Marriage Commissioners

- Many marriage commissioners have resigned: Saskatchewan, Manitoba & Newfoundland
- Must perform same-sex marriage ceremonies to keep their licenses
- Have filed complaints to Human Rights Commissions
- Some provinces have enacted legislation which explicitly allows those who would normally be required to perform same-sex marriages:
 - Alberta, New Brunswick, B.C. and Quebec
 - Alberta – proposed legislation
 - Ontario: exemption for religious officials
- In British Columbia, marriage commissioners can opt out as long as they refer the couple to another MC

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Complaints Against Bishop Fred Henry & Rev. Boision (AB)

- Bishop Fred Henry - facing human rights charges in Alberta for writing a letter urging Catholics to express their opposition to Bill C-38, legislation changing the definition of marriage
- Originally two complainants alleged that Bishop Henry's letter (also published in the Calgary Sun newspaper) discriminates against homosexuals. One has since been withdrawn.
- Rev. Boision - works with at-risk youth is facing Human Rights Tribunal because of a letter to the editor (Red Deer Advocate) calling homosexuality immoral & dangerous
- The complaint was filed by Prof. Lund at the University of Calgary. Full hearing expected in 2007.

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Marginalization of the Christian Voice

- **NEW: Quebec Government Forcing Evangelical Private Schools to Teach Sex Ed, Darwinism**
- the province's Ministry of Education has ordered, or they will be shut down
- parents' right to educate their children in accordance with their religious beliefs is protected under Charter
- the provincial government has a duty to provide reasonable accommodation for religious belief
- This matter is presently being negotiated & we await the outcome
- We must be purposeful about protecting our rights

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Christian Legal Intervention Academy

- Training lawyers & promising law students to win religious freedom battles
- Expenses paid in exchange for a pro bono commitment over 3 years to the religious freedom cause
- 3 completed - recently held in Calgary, Sept 30.06



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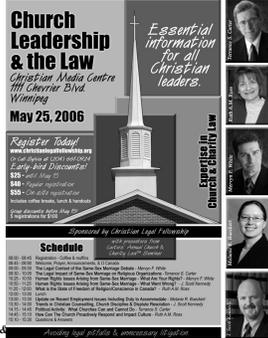
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Church Leadership & the Law

- 4th annual event held Winnipeg - 2006
- in cooperation with local members
- Protect churches against unnecessary litigation
- Updates on legal issues affecting churches & charities
- Well received in Moncton & Vancouver in 2004
- London, ON – 2005

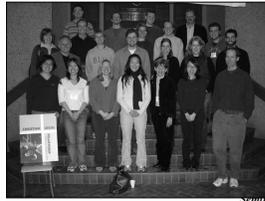


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Law Student Ministries & Conferences



Col Breen, CLP Director of Student Ministries; David Johnson, CLP; Barry Bennett, Legal Counsel - 7th Day Adventist Church; Rob Culp, Director of Church Care; Philip Vines, Popular Author; David Brown, President - Canadian Law; Janet Kehler, U of Alberta Law Student



- 60+ students registered
- Cooperation with CMDA for ALPHA
- Tremendous support from local lawyers
- National Student Conf at UWO in 2006 & UBC in 07

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More Questions or Comments?

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