

Close the human rights commissions

The Cranky Professor

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Ezra Levant, the publisher of the now-defunct *Western Standard*, was recently interviewed by an investigator from the Alberta Human Rights Commission. Levant was interviewed in connection with a complaint that by reprinting in the *Western Standard* the *Jyllands-Posten* cartoons, Levant exposed Muslims in Canada to hate and discrimination.

In a few months, the publishers of *Maclean's* magazine will be interviewed by an investigator from the Canadian Human Rights Commission. The people who lodged the complaint contend that an article *Maclean's* published in 2006 exposed Muslims in Canada to hate, and that generally, *Maclean's* is biased against Muslims. The British Columbia and Ontario Human Rights Commissions have agreed independently also to investigate these complaints.

The very best thing for Canadian society that could happen in these cases is that the commissions find that the *Western Standard* and *Maclean's* did indeed expose Muslims to hate and then punish them for doing so. Findings against these magazines might, finally, mobilize Canadian opinion against our human rights commissions and, with luck, move our politicians to close them down. I'm not optimistic that findings against these magazines would in fact eventually bring down the commissions. Nothing less, though, I fear, stands any chance of setting those events in motion.

Human rights commissions in Canada stand strongly against freedom of expression. They have shut people up and closed down papers, magazines, and websites. (*Peace, Earth & Justice News*, an on-line journal, recently removed dozens of articles sympathetic to the Palestinians and critical of Israel just in response to the BC Human Rights Commission's receiving a complaint.) Beyond harming their victims, that human rights commissions are willing and eager to shut people up has created a chilly climate for expression in Canada. Our human rights commissions are a national disgrace.

Should the commissions dismiss the complaints against Levant and *Maclean's*, they and their supporters will claim vindication. They will point to these judgements as evidence that the commissions are fair and reasonable and not out to suppress expression or to stifle debate, but only to protect people from hate and malice. Human rights commissioners and their investigators will draw confidence and prosecute their evil work with renewed vigour. A victory for Levant or *Maclean's* will be a victory for the commissions.

The complaints against Levant and *Maclean's* will, most likely, be dismissed, as nothing Levant or *Maclean's* has done is even close to objectionable or hateful. Perhaps, in the aftermath of these dismissals, the commissions will change one or another of their ways. Right now the process

followed by the commissions is blatantly unfair to the accused and tailor-made to serve those who like nothing better than to vex others. Perhaps the process will be improved. The commissions might even enact a policy against some of the dirty tricks they currently use, entrapment, for instance. However the commissions change, though, they will be stronger for it and nowhere will the root problem be addressed. The root problem is that the commissions suppress expression, censor expression, and punish expression.

There are two broad reasons why expression should be left free. The first is just that we like for ourselves and others to be able to say what we want without fear of state interference. The second is that leaving expression free brings us many benefits—and, perhaps more saliently, that restricting expression brings us many woes. The first reason, sadly, appeals only to a few of us; the second, though, appeals to almost all of us. Almost all of us think complete information, diversity of opinion and value, and candour in discussion are terrific instruments for creating and implementing sound social policy. (Fear, pandering, lack of imagination, and lies, we think, do not lead to sound social policy.) Human rights commissions, though, have evolved into agents of the closed society, a society in which information and opinion is controlled and authorities decide behind closed doors. Merely to reform the commissions would be to put makeup on authoritarianism.

—But doesn't spreading hate hurt us?, one might ask. —Perhaps, despite their costs, restrictions on hateful expression carefully applied will make us all better off.

If it were true that restrictions on hateful expression have good effects, then maybe wisdom would counsel trading a bit of freedom for these good effects (but why think these good effects can come only from restrictions on expression?). If it were true—but there's no reason to believe it is true. There's no good evidence that restrictions on expression promote social justice or protect the disenfranchised. (See 5.5 of *The Hateful and the Obscene*, by L.W. Sumner, 2004.)

So why have Canadians tolerated human rights commissions? There's the name, of course—who could be against human rights? (I mean other than the human rights commissioners themselves.) As well, the commissions have done some good work in cases of discrimination in employment and housing. The main reason, though, is that most Canadians (wrongly) think they would never have anything to say that a commission would consider hateful, and, moreover, they don't mind not having to hear from bigots, homophobes, and racists. That the commissions protect nothing other than people's ears doesn't matter—at least they protect people's ears. Were these people to learn that the government thinks their pleasant weekly news magazine is an organ of hate, I conjecture, the free expression constituency in Canada might well gain a host of new members and begin to stir.

The free expression constituency is small, but it hasn't been entirely immobile the past couple decades. Unfortunately, few at the CBC or the *Globe and Mail* or the *Chronicle Herald* are members of this constituency; that's why few Canadians heard the little noises it made in the cases of Ernst Zundel, Jim Keegstra, and others, or in the cases of Marc Lemire or *Peace, Earth & Justice News* right now. We should all have stood with the bigots, homophobes, and racists then and defended freedom of expression. Now our best hope is that *Maclean's* loses just as they did.

I don't actually want the complaints against Levant and *Maclean's* to succeed. Nothing is worse than that the innocent are punished. Good luck to both of them, and to Lemire and his ilk as well. Should the complaints be dismissed, though, the struggle will be that much harder. In fact, I suspect, closing down the human rights commissions will then be next to hopeless.

