

We need not fear words

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Mark Mercer
Department of Philosophy
Saint Mary's University
Halifax, NS B3H 3C3
(902) 420-5825
mark.mercer@smu.ca

The Canadian Human Rights Commission (CHRC) has engaged Richard Moon, an expert in constitutional law and a professor at the University of Windsor, to review its policies with regard to suppressing and punishing expression.

Although the primary task of the CHRC is to combat discrimination in housing and the workplace, the commission seeks also to protect marginalized and vulnerable Canadians from hateful or contemptuous expression. It derives its authority to do so from section 13 of the Canadian Human Rights Act, the section according to which "it is a discriminatory practice ... to communicate ... any matter that is likely to expose a person or persons to hatred or contempt" on the basis race, religion, or other specified characteristic.

More than a few critics charged right from the beginning that section 13 denies Canadians freedom of expression. These critics have long demanded that the CHRC get out of the censorship business entirely. But the matter didn't make it onto the general public's radar screen until late last year, when the CHRC, as well as two provincial commissions, accepted to hear a complaint that *Macleans*'s magazine had exposed Muslims to hatred and contempt.

In announcing the review, the CHRC states that it wants to know "how to balance freedom of expression with the need to protect Canadians from hate messages."

How will Prof. Moon go about finding that correct balance?

It is important that we be free to express ourselves, both our opinions and our emotions, for many reasons. Some have to do with the pursuit of knowledge, others with our interests in knowing what people really think. But the two best reasons are these: 1) A person's opinions and emotions are constitutive of who that person is, and expressing who she is is central to her living a life worth living; 2) No political system is fair that does not grant to each citizen the opportunity to try to influence policy through saying whatever she wants to say however she wants to say it.

Now on the other side, to balance against all this, is harm, the harm that expressions of hate cause vulnerable people. Restrictions on expressions, most of us can agree, though some of us will agree with regret, are justified when they are needed to protect people from harm.

For a restriction on expression to be legitimate, though, there must be good reason to think that its presence will indeed prevent harm, harm, moreover, that cannot be as efficiently prevented any other way. In addition, there must be good reason to think the restriction will not create more or

worse harm than it prevents.

It's hard to see how people can be harmed—actually harmed—by words. People can be harmed by actions, actions caused by words, but the task then is to protect people from actions. Words can offend or belittle, of course, but adults should be resilient enough not to allow offence or ridicule to mutate into harm. What the poor and the powerless need is education, jobs, housing, and safety. Protecting them from words brings them none of these things.

Restrictions on expression, then, fail to meet the first two requirements, the requirements that they actually prevent harm and prevent it more effectively than anything else would.

But that's too quick, a defender of the CHRC would protest. Words harm by hurting, by excluding, by making people feel small. It would be wonderful were everyone resilient enough that insult and calumny not stick to their souls, but not everyone is, and so for now, at least, some people can be harmed by words and, thus, need protection.

Yet so far from being an argument for restrictions on expression, we find in these considerations strong reason for fearing that having an agency charged with suppressing expression will just make things worse. If this is right, restrictions on expression fail to meet the third criterion for legitimacy, just as they fail to meet the first and the second.

What we want is that each of us is a self-respecting individual secure in herself. But a commission that seeks to protect us from hurtful words and from slights to what we hold dear would stand between us and our self respect and security. It would transform us into victims, cowering before the mere words of another. It would interfere with our finding our voice.

Someone ridicules your religion or maligns your race? Let's hope nothing gets in the way of your growing up so that you can respond how a grownup would respond—by answering him, or by ignoring him.

Prof. Moon, if he appreciates its nature and importance, will have an easy time balancing freedom of expression against our need to be protected from hate messages, for we have no such need. And pretending that we do lands us in the toxic muck of identity politics and the cult of victimization.

The first and only recommendation Prof. Moon should offer, then, is to delete section 13.