

# Theo-Conservatism: A Threat to Human Rights

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I feel deeply privileged to be invited by the Atlantic Human Rights Centre to deliver this address as part of the Dr. Bernie Vigod Memorial Lectures on human rights.

Although I never met Dr. Vigod, from what I have learned from people who knew him, and from what I have read about him, he was an exceptional man, and one eminently deserving of the honour bestowed upon his memory by St. Thomas University.

It is both an honour and a challenge to follow in the footsteps of previous renowned speakers in the continuing memorial tribute to Dr. Vigod including Madame Justice Abella, Walter Tarnopolsky, Mark Sandler, and Irwin Cotler.

To me this evening has additional significance for a number of other reasons.

First, 1998 is the 50th anniversary of the Universal Declaration of Human Rights, and celebrations of that historic event are taking place throughout the world in honour of the anniversary of the world's commitment to overcome the tragedy engendered by discrimination.

Second, the Memorial Lecture this year is coordinated with the thought-provoking presentation of Viktor Ullmann's *The Emperor of Atlantis*, which will be presented over the next two days. I saw the opera in Ottawa last year, and I recommend it for your viewing.

The production illustrates once again that we must never forget the lessons of history, and that we must never again sit idle when inhumanity occurs.

We must expose the deceitfulness of the rhetoric of those who, for whatever perverted reason, would encourage us to deny or forget the holocaust.

*The Emperor of Atlantis* graphically accomplishes this objective.

Finally, to be asked to be here by my dear friend and colleague Senator Dr. Noël Kinsella, who has done so much for his country and for the cause of human rights, was an invitation that I would never refuse under any circumstances. He is a very special Canadian and it is a privilege to work with him and be here with him tonight. He is a Senator in the finest tradition of the institution.

Speaking of being a Senator, I must add that coming from Alberta and being a Senator is a challenge unto itself. Where else in Canada do we have Senators-in-waiting? Recent polling in my province suggests that the avocations garnering very low ratings in

the area of public trust are politicians, lawyers, and Senators. In that I fall into all three categories you will find my remarks to be of a somewhat humble nature, and I ask you to please treat me gingerly as I have a very frail ego...and after all, this IS an address dealing with human rights so I can at least claim the right to be judged as an individual and not be stereotyped into a particular category.

At least I have never sold used cars.

Today those of us committed to the advancement of human rights in Canada face somewhat different challenges than those faced by Dr. Vigod during his distinguished but all too brief career.

No matter what the year or era the fundamentals are constant. It is how to convert those fine sounding words -- fairness, justice, humanity, equality, generosity of spirit, tolerance and compassion -- into public acceptance and then turn them into action, so that every Canadian will feel fulfilled and worthy, rather than empty and mistreated because of their colour, race, place of origin, gender, sexual orientation, disability or religious affiliation.

As the late Mr. Chief Justice Dickson in the Supreme Court of Canada stated in *R v Oakes*, and it applies to all of us:

We must be guided by the values and principles essential to a free and democratic society which I believe to embody, to name but a few, respect for the inherent dignity of the human person, commitment to social justice and equality, accommodation of a wide variety of beliefs, respect for cultural and group identity, and faith in social and political institutions which enhance the participation of individuals and groups in society.

The term "human rights" means different things to different people. To some, as with Mr. Justice Dickson, it is the very essence of our democratic tradition, our way of life, our sense of fairness, compassion, and our desire to ensure that others are treated in the same manner that we wish to be treated, namely for what we are as individuals, not prejudged on the basis of a stereotype.

Yet to others human rights means an unacceptable watering down of traditional society, a transition of power, the creation of special rights for a particular group of people, a breeding ground for socialists, bleeding hearts, gay lovers or red Tories, the provision of protection for those who are lazy and not of acceptable backgrounds.

From my personal lifetime experiences I have concluded that those who express their opposition to a human rights agenda generally do so due to their own attitudes that harbour resentments for whatever reason against a particular class or an idea or for economic reasons.

I can vividly recall travelling the province of Alberta for 18 months as chairman of a government consultative committee charged with examining the school system following the Keegstra episode, and being struck by the inherent fairness and goodwill of the vast majority of Albertans, while on the other hand experiencing the narrow minded and often bigoted attitudes of those who cloaked their prejudices behind value systems they wished to impose upon others.

This year as we celebrate the 50th anniversary of the declaration of universal human rights it is appropriate to ask ourselves the questions: Have we made progress in the advancement of human rights? Are we any better off today than we were 50 years ago?

Internationally over the past few years we have seen more human rights abuses than at any time since the Second World War. Sadly and tragically, names such as Somalia, Bosnia, Kosovo, Tiananmen Square and Rwanda have become household names.

Genocide in some countries is government policy and the world is seemingly incapable of effectively responding.

We trade with countries whose record of human rights abuses is deplorable and then justify our actions with the advancement of questionable arguments that "we must not jeopardise our economic position as a trading nation," followed by the usual public relations rejoinder that "discussions were held with the foreign leaders at which time we advised them of our concerns over their human rights abuses and were told that they do things differently and their internal matters are their business, not ours."

So we welcome Indonesia, China, Mexico, Myanmar and many others into our house without condition, as they falsely imprison those who disagree with their policies, treat women and children as slaves, or worse, and utilize torture and imprisonment as acceptable norms.

I ask you: has 50 years of international commitment to human rights really accomplished anything? I'm certain that in many ways we have advanced, but we have so very far to go. I might add that it was discouraging to view the events surrounding the APEC meetings in Vancouver, but I was heartened by our Malaysia response this weekend.

In Canada today, we have federal and provincial bills of rights, we have provincial legislation that creates human rights commissions that are empowered to endeavour to identify and correct human rights abuses in our provinces, we have a Charter of Rights and Freedoms which is designed to ensure that our basic freedoms are available to all Canadians.

All these are important statements by our various governments setting out their commitments in varying degrees to the principles of human rights.

Although we can point proudly to our legislative enactments, there continue to be ominous clouds hanging over our nation that speak to the rise of discrimination and prejudice, and a lagging commitment from some governments to an effective human rights agenda.

In Canada there are all too many examples of Aryan Nation activity, skinhead and ethnic gangs, anti-francophone symbols during election campaigns, inflammatory public statements by politicians and others directed towards our gay, lesbian, aboriginal and immigrant communities, desecration of synagogues and gender discrimination to name but a few.

There is also growing evidence that some of our governments are squeezing the life out of our human rights agencies and commissions by watering down the enabling legislation and not providing the funding that is urgently required to allow for the important educational and reconciliation work that must be done.

Thankfully it is our courts who have been thrust into the forefront, to respond to the challenges to our basic freedoms, and our judges are rising to the occasion in the development of an important body of law arising from the interpretation of the Charter of Rights and Freedoms. All too often it is our courts and our judges, not our legislatures and parliaments, who are providing the counterbalance to many of the misdirections that seem to be coming into vogue in our nation today.

But let me suggest that the real threat to the advancement of human rights in Canada today does not come from the skinheads, the Aryan Nation and white supremacists. They are small in number and very visible. The dangers they pose are well recognized.

No, the imminent threat to human rights in my respectful opinion is that which comes from what are known as the theo-conservatives, sometimes called the moral majority.

I will come at the subject with a somewhat Alberta and political perspective, because it has become an issue with largely political overtones, and Alberta has become the battleground, albeit that the symptoms can be readily ascertained elsewhere in Canada.

To explain, I must deal with the semantics of the issue and clarify the terms.

Definitions always make me a little nervous because they are often manipulated to prove a point, but in order to explain my position I must define what I mean by theo-conservatism.

Today we seem to be bombarded by the acceptability and shades of conservatism, with all its nuances and extremes. We have small c-conservatives, progressive conservatives, neo-conservatives and theo-conservatives -- and others I'm sure. We even have liberals who sound and act like conservatives. Labels are often misleading and confusing, categories often overlap, but they are a starting point.

I am a Progressive Conservative who, simply stated, advocates fiscal responsibility, rights with responsibility, less government wherever possible, and a social undertaking to assist those who are unable to assist themselves.

Individuals like Conrad Black, many other business leaders, the CD Howe Institute, the Fraser Institute, social commentators such as David Frum, and Diane Francis, I would classify as neo-conservatives.

This group values freedom as its core value, far more than our responsibility to each other or to the common good. They are bottom line advocates: less taxes, less welfare, less government, and much more self-reliance; "leave it to private enterprise" to solve our ills.

Among the theo-conservatives are Newt Gingrich, Pat Buchanan, and Jerry Falwell in the United States and Preston Manning, Ted Byfield, the Christian Heritage Party, R.E.A.L. Women and many others who find their sanctuary in the Reform Party of Canada.

This movement was referred to in the recent New York Times feature article of Sunday, October 11 as a "Scolding, moralizing conservatism. A different kind of conservatism. Much less liberal. Far less economic and only nominally sceptical of government power. It is inherently pessimistic. A return to older, conservative themes of cultural decline, moralism and the need for greater social control. A strained version of a neo-religious revival."

The issues that drive this ideology have less and less to do with economics, national unity, or health care. Their agenda relates to morals, infidelity, honesty, abortion, family cohesion and homosexual legitimacy, and their remedies strike at the very foundations of human rights in Canada. In the extremes they can be found quietly nodding their heads in agreement when abortion clinics are bombed, or gays are assaulted and killed as evidenced in the Sheppard tragedy in Wyoming.

It is to this scolding, moralizing brand of conservatism that I wish to direct the remainder of my address this evening, for the proponents of this ideology, more than any other grouping in Canada, pose the greatest threat to the maintenance and advancement of human rights in our nation.

They clearly do not speak for the majority of Canadians, and are relatively small in numbers, but they have become influential on the national landscape, particularly in BC and Alberta, and within certain sectors in Ontario. They have abundant funding, passionately dedicated followers, and surprising media support both editorially and through the modern day phenomenon of what I call shout radio, the "phone in and complain" brand of broadcasting.

They are deceptive because they package themselves up in the pure wrappings of the unassailable semantics of free speech, the family, and their specially crafted interpretations of the Bible.

They mould a story based on negatives, on fear, the unknown and ignorance, as they couch their rhetoric in digestible homespun terms in order to gain public acceptance. Within their rigid absolutism can be found the traditional cultivating grounds for intolerance and prejudice.

"But how can that be?" they argue, "For we are moral people. We believe in the family. We are religious people. We are moral individuals dedicated to creating a better, more wholesome world."

I don't question their sincerity.

But a better world for whom? Does their world include everyone? Or only those who agree to abide by their moral strictures?

Above all one must ask: is it appropriate that moral agendas should be accepted as the governing basis for political action in a pluralistic society?

Let me examine the activism of the theo-conservatives from a human rights perspective in four broad areas of their involvement, using my province of Alberta as a case study: the role of the Human Rights Commission, the Vriend case, the attack on public education, and the status of the family.

In 1972 the Government of Alberta distinguished itself by passing the first primacy human rights legislation in Canada: the Bill of Rights and the Individual Rights Protection Act. Primacy means that the legislation stood in priority to any other Act on the record in the province.

These enactments were the actions of a progressive conservative government.

Since 1972 the government of Alberta has continued to call itself conservative but it is a very different brand of conservatism. The ideology of the government has been usurped by a number of evangelical proponents who have dramatically changed the political

landscape to the point where Alberta is now recognized throughout the nation as having the weakest and most underfunded human rights agenda in Canada.

The stated justification for the relegation of Alberta's Human Rights Commission to a has-been status is the rhetoric that human rights mean special rights for certain individuals. It is an argument that seemingly proposes that any legislation that endeavours to overcome decades of discrimination and prejudice against a group of Canadians is creating special rights. It is an argument that defies logic and is merely a smoke screen behind which lies the very prejudices we are attempting to erase.

Yet in the province of Alberta these arguments have gained some currency. Cabinet ministers have called for the abolition of the Human Rights Commission because they suggest that the costs are hard to justify and that the founding legislation creates special rights.

In 1996 the government set up a special public review panel to provide them with advice relating to the Human Rights Commission. The report made sweeping recommendations to strengthen and properly finance the Commission. The government ignored the advice of their own panel and refused to implement the major recommendations.

Today the Alberta Human Rights Commission is seldom heard. They are mired in the backwater of some government department, much to the joy and satisfaction of the theo-conservatives who were instrumental in putting them there.

Why, one might ask, should these theo-cons, all highly moral individuals, seek to undermine the basic tenets of fairness and compassion inherent in the advancement of human rights?

The answer is simple. They don't accept the concept that human rights are for everyone. Human rights are only for those who are acceptable to them. Gays, lesbians, aboriginals, the poor and, to some, the Jews, and visible minorities need not apply.

The lightning rod in Alberta is sexual orientation. This is the issue which brings out the theo-cons in remarkable force and visibility. When the Human Rights Commission timidly proposed that gays and lesbians should be treated the same as everyone else, and should be included in the Individual Rights Protection Act, the moral majority screamed foul and acted to stop such heresy. In Alberta they won, but thanks to the Supreme Court of Canada their victory was short lived.

In 1992, Stockwell Day, former evangelical pastor, then a Tory MLA, now finance minister, and heavily favoured to replace Ralph Klein was quoted as saying: "Homosexuality is a mental disorder that can be cured by counselling." Minister Day

made his distaste for this element in our community very well known. He was not alone in his political caucus.

During the same period that Mr. Day was making his statement, an intriguing legal case was wending its arduous way through the legal system.

Delwin Vriend was employed as a laboratory co-ordinator by a college in Alberta. Throughout his employment he received positive evaluations, salary increases and promotions for his work performance. In 1990 in response to an enquiry by the President of the College, Vriend disclosed that he was homosexual. In early 1991 the Board of the College adopted a position statement on homosexuality, and shortly thereafter the president of the college asked Vriend to resign. Vriend declined, and was fired. The sole reason for his dismissal was his homosexuality.

Vriend went to the courts for relief. It was his only recourse because Alberta was one of the few provinces in Canada that did not include sexual orientation as a protected ground in its human rights legislation.

As a sidebar, I must recognize the successful efforts of Senator Kinsella in bringing legislation forward in Parliament that caused the Government of Canada to include sexual orientation in federal human rights legislation.

The trial judge found in favour of Vriend on the basis that the omission of protection was an unjustified violation of s.15 of the Charter of Rights and Freedoms.

The Government of Alberta appealed and won in the Alberta Court of Appeal, and Vriend in turn appealed to the Supreme Court of Canada. I should add that, in the finest traditions of the legal profession, Vriend's lawyers acted on a "friends of the court" basis for no fee.

I vividly recall sitting in the Supreme Court of Canada in November 1997 listening to the lawyers for the Government of Alberta arguing that it is acceptable for the government to discriminate against an identifiable class in my province and thinking how far we had gone backwards in the past 20 years from the days when we proudly introduced our first human rights legislation.

As we all know, in April 1998, the Supreme Court in a lengthy written judgement held for Vriend. The court stated:

The rights enshrined in s.15 of the Charter are fundamental to Canada. They reflect the fondest dreams, the highest hopes and finest aspirations of Canadian society. When universal suffrage was granted it recognized to some extent the importance of the individual. Canada by its broad scope and fundamental fairness of s.15 has taken a further step in the recognition of the fundamental



importance of the innate dignity of the individual. That it has done so is not only praiseworthy but essential to achieving the magnificent goal of equal dignity for all. It is the means of giving Canadians a sense of pride. In order to achieve equality the intrinsic worthiness and importance of every individual must be recognized regardless of the age, sex, colour, origins, or other characteristics of the person.

These noble words of our highest court were not so well received by the theo-cons in Alberta.

The Alberta Civil Society Association, founded I might add by a US born University of Calgary professor by the name of Ted Morton -- recently engraved as one of Alberta's senators in waiting -- went on air with paid ads with a plea to Albertans to stand up to Ottawa's judges and invited them to call Premier Klein to stand up for democracy and tell him to use the notwithstanding clause to overturn the effect of the Vriend decision.

Klein himself was shocked by the vile messages he received in an orchestrated campaign by those who promoted their views of intolerance by excusing their actions under the rubric of "hate the sin, love the sinner."

Members within Klein's caucus publicly urged him to invoke the notwithstanding clause, and shout radio had a field day catering to the theo-conservatives who filled the airwaves with their anti-court, anti-gay, anti-human rights crusades.

Others argued that the courts and the Charter were usurping the powers of the provincial legislators who should have the sole right to determine what is appropriate human rights legislation for Albertans. This is a tenuous argument at best, which would result in our inalienable human rights being at the mercy of the varying political inclinations in each province, an unacceptable situation.

Sadly, through all of this raging debate, the Alberta Human Rights Commission was silent, other than to issue a press release to suggest that the court's ruling had very limited application.

Premier Klein to his credit and to the utter dismay of the theo-cons refused to invoke the notwithstanding clause but he was under immense pressure and the issue is far from finished.

It is not only in the sexual orientation issue that the attack on human rights by the theo-conservatives can be discovered.

They have become energetic critics of the public school system. We are told that public education is a failure, that our schools are teaching left-wing values, that they are

secular, without discipline or standards. The suggested solution is private and charter schools -- oddly not to strengthen public education, but to weaken it.

These arguments find favour with the theo-conservatives who seek reimbursement from the public purse for their schools. The truth of the matter is that any objective study that has been undertaken in the US or Canada does not illustrate a significant decline in the quality of most public schools.

Is this a human rights issue, one might ask. In my view it certainly is. For if we allow and encourage the fragmentation of our educational system on ethnic and religious lines, the ultimate result will be a less tolerant and understanding community. How can we bring our children to understand the beauty and depth of other cultures and religions if we shelter and isolate them from the mainstream of Canadian life in our pluralistic society?

To achieve the goals as so eloquently stated by the Supreme Court of Canada, we must strengthen our public school systems so that all our children are welcome. A two-tiered educational system of segregation will only enhance the aspirations of the theo-conservatives who do not wish to pollute their young with secular, pluralistic, and critical thinking.

The inevitable result is that the public school system will become the depository for the poor, the disadvantaged and the vulnerable, while the publicly- and parent-financed private system graduates an elite, cocooned young mind with little understanding or tolerance of those from other backgrounds and cultures.

Is this a human rights issue? You bet it is.

All of this leads me to the umbrella under which the theo-cons embrace their moral guidance for us all, the family.

We are told that we need to return to family values. The beautiful picture of the fireplace, the dog, mom and dad together, with the kids, the grandparents and the grand children having just returned for brunch following Sunday prayer.

There is not a place in that picture for all Canadians. Mom and dad may not be together; mom may be working on Sunday. Maybe they don't believe in going to church, and maybe the kids are visiting their other parent on that day.

Today, as set out in the oft quoted phrase, 'it takes a village to raise a child.'

The family will always be one of the cornerstones of our way of life. It fulfills our most basic of human needs, but families have changed. They are in many cases not what the theo-cons fashion them to be. The reality is that:

- single parent families are common
- brothers and sisters are often separated
- joint custody following separation or divorce is the norm
- homosexual couples are seeking recognition, and aspire to adopt children, or to be foster parents
- women are away from home, and are becoming a major force in the workplace.
- abortions are paid for in many jurisdictions by public funding.

These are all very difficult issues and challenge everyone in this room, who I know have deeply held views from many perspectives.

The views of the theo-conservatives are well known in this area.

There is one overriding fundamental that must always be in the forefront and that is that all Canadians must be equal participants in the benefits and responsibilities that flow in our democratic life. I underline the word "all", for my "all" includes women who seek abortions, gays, lesbians, atheists, agnostics, aboriginals, the poor, the disabled, the visible minorities, the Hindus and the Jews. Too often, they are excluded in the ideology of the theo-con.

Conservatism must not become a puritanism that excludes others, and removes them from the mainstream of Canadian life. I am confident that the theo-conservative ideology has not and will not find favour with the large majority of Canadians.

In fact the elections a few weeks ago in the United States stand as a repudiation of the moral majority's grip on the Republican Party, and a movement back to the appropriate separation of church and state.

In Canada, notwithstanding the scolding conservatism we experience in sections of this great nation, Canadians are fair and compassionate people, and will continue to reject the extremes in political movements be they to the right or to the left, but we must always be vigilant. We must always speak out when prejudice and discrimination rear their ugly heads. We must identify and challenge those who exclude others because of their differences, and we must cherish the freedoms we enjoy and ensure that they exist for all Canadians, not merely a privileged few.