

July 26, 2013

Special Committee
Federation of Law Societies of Canada

Dear Special Committee members:



Re: TWU's discriminatory law school

As a member in good standing of the Law Society of Upper Canada, and on behalf of the Canadian HIV/AIDS Legal Network, one of the world's leading organizations tackling HIV-related human rights issues, I write to you to express our deep concern at the prospect that the Federation of Law Societies of Canada may accredit Trinity Western University's law school, whose fundamental tenets are anathema to well-established and internationally-respected provisions in Canadian law against discrimination on the basis of sexual orientation.

As you know well, TWU requires all students who wish to be accepted to adhere to a covenant in which they promise not to engage in "sexual intimacy that violates the sacredness of marriage between a man and a woman." TWU has a policy of expelling any student identified as engaging in such intimacy – in other words, gay and lesbian students. This is discrimination by an educational institution against gay and lesbian students, pure and simple. No intellectually honest appraisal of this situation can escape that conclusion.

Imagine, if you will, that a university sought accreditation while maintaining an explicit policy that it requires all students to affirm that they are Caucasian and would refuse enrolment to a student if he or she were of some other ethnicity, and furthermore, would expel a student already enrolled if it were subsequently discovered that he or she in fact belonged to a racial or ethnic group not deemed acceptable by the university administration. I have little doubt that the FLSC's position would be clear and there would be no question of accrediting such an institution.

As has also recently been pointed out to you, accrediting a law school with such a restriction also means a disadvantage in that heterosexual students in Canada have access to a greater number of law school spots than gay and lesbian ones, because the FLSC has allowed an institution to deny its positions to applicants based on sexual orientation.

In our free and democratic society, which values freedom of opinion (including religious opinion), administrators of TWU are entitled to hold their beliefs about sexuality and sin, based on whatever religious texts they might choose, regardless of how bigoted and ill-informed they may be. They are even entitled to voice those opinions, short of inciting hateful violence. But in a secular, democratic society, in which the country's constitution clearly protects against discrimination based on sexual orientation, their personal beliefs cannot be given legitimacy in the form of denying access to legal education to students based on sexual orientation. If their religious beliefs led them to the view that women should not be enabled to become lawyers, or should only be allowed to enrol in certain courses because certain spheres are not appropriate for women's study or practice, would you accredit such a law school? Of course not. Never mind

the pedagogy of such an institution that teaches discrimination to future legal practitioners, in direct contradiction of the Charter, which ought itself to be of great concern to the FLSC – the mere fact of imposing such a restriction on admission or on academic pursuits would be rejected outright.

There is simply no justification for any decision approving the TWU's request as long as they seek the stamp of approval of Canada's regulators of the legal profession, whose job is to act in the public interest in the governance of the legal profession, for a university that seeks to impose religiously-based discrimination on gays and lesbians in Canada.

We look forward to your reply.

Sincerely,

A handwritten signature in black ink, appearing to read 'Richard Elliott', with a long horizontal flourish extending to the right.

Richard Elliott
Executive Director