

Religious freedom and conscience rights to remain hot issues

Religious freedom and conscience rights will continue to be top agenda items for Catholic and other faith groups as challenges play out in the courts and in the public arena.

Government bodies are continuing to exert pressure encroaching on these freedoms: the Trudeau government will require applicants to its 2018 Summer Jobs program to attest to core principles that support abortion and transgenderism in order to qualify; the Law Society of Upper Canada is demanding lawyers sign a document affirming support for a set of beliefs in addition to committing to uphold the rule of law; and the College of Physicians and Surgeons of Ontario (CPSO) and other health care colleges are forcing effective referral on conscience issues such as abortion and euthanasia and even performance of morally repugnant acts in emergency circumstances.

The Ontario Superior Court may release its decision as early as late January in the lawsuit against the CPSO filed by five Ontario doctors, the Christian Medical and Dental Society of Canada, Canadian Physicians for Life and the Canadian Federation of Catholic Physicians' Societies. The case was heard last June.

"This case is a critical precedent setting case for doctors and all Canadian provincial regulators of doctors," said Dr. Donato Gugliotta, one of the five doctors. Gugliotta predicted the case "will be appealed regardless of outcome."

"The courts will rule on the balance of patients' access rights and physicians' conscience rights," he said. "It will determine whether maintaining the integrity of health care practitioners is vital to the preservation and protection of the therapeutic relationship."

If the CPSO wins, Gugliotta warns of serious consequences for medicine.

"Some doctors will be forced to leave their medical calling or restrict their practice, especially palliative care," he said.

"Some students will avoid the profession. In fact, this outcome would select out and exclude the most conscientious people within medicine and change the face of the profession."

Also in 2018, the Supreme Court of Canada will release a decision on Trinity Western University's proposed law school and whether the B.C. and Ontario law societies were right in refusing to accredit future graduates because the private evangelical Christian school has a mandatory community covenant that insists all sexual behavior be confined to traditional marriage.

It will also release a decision on the Wall case, involving the associational and communal religious freedom rights of Jehovah's Witnesses to determine their membership without state interference. Both cases were heard in Nov. 2017.

"It was like religious freedom month in Ottawa," said Ray Pennings, co-founder and executive vice president of Cardus, a think tank that looks at public policy through the lens of 2,000 years of Christian social teaching. He noted the "intensity" around religious freedom "is picking up."

"Historically we've taken religious freedom almost for granted, and have reacted to the exceptions, or the violations," he said, noting the same applies to other foundational freedoms such as freedom of speech and of conscience.

"I think challenges are coming at the time in which these foundational freedoms are no longer fully understood," he said.

"It's not the exceptions that have to be defended in the public square, it's the very existence of these core freedoms themselves."

Cardus and Angus Reid conducted a number of surveys over 2017 on religion and the public square to mark Canada's 150th birthday.

Pennings said a poll they did in early November showed about 20 per cent of the Canadian population are "hostile to religion" and any kind of religious expression in the public square. The most religious Canadians were the most accepting of other groups, such as Islam, he said.

But Pennings said he believes leadership in many institutions is "disproportionately held by those who are not active in religion."

He also sees a confusion of defending rights with a defense of "amorphous Canadian values that we're nice to each other and we're tolerant."

"There is a distinction between role of the state its role of protecting freedoms and allowing diversity and pluralism and amorphous Canadian values in which anything that causes anyone to be slightly uncomfortable is somehow automatically beyond the pale," Pennings said.

On conscientious objection, one of the "more alarming things," he said in the polling had to do with how little individual and institutional religious freedom and pluralism based on conscience is respected.

Forcing doctors to act against their conscience, or forcing lawyers to "say things they may not believe," used to be "the definition of totalitarianism," he said.

Pennings also noted how free speech is now being diminished on university campuses that were once bastions.

"Now somehow it's celebrated in terms of the silencing of speech instead of the

engagement of ideas," he said. "People are now stepping into role of forcing speech and behavior that is contrary to conscience."

"Walls that as recently as a couple of years ago that were thought next to impossible to breach are being knocked down," Pennings said. "It is a very concerning trend."

On the positive side, faith groups won a victory of sorts when they pushed back against proposed changes to the Criminal Code in Bill C-51 that would have removed Section 176 protecting religious officials from obstruction and services from disruption.

The reaction by faith communities was so strong, including an intervention by the Canadian Conference of Catholic Bishops (CCCCB), that the Justice Committee amended the bill to put back Section 176 with some minor updating of language. The bill has since passed the House and is now before the Senate.

Religious groups are reacting now to the changes to the Summer Jobs Program and it is expected there will be a similar widespread interfaith reaction to the changes, as the CCCC has said it is "examining its options" and looking at what it might do with "other likeminded groups."