

The Brunswickan

Canada's oldest official student publication

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The Brunswickan, in its 124th year of publication, is Canada's oldest official student publication. The Brunswickan's offices are located in Rm 35 of the University of New Brunswick's Student Union Building, P.O. Box 4400, College Hill, Fredericton N.B., E3B 5A3. Tel. 453-4983.

The Brunswickan is published by Brunswickan Publishing Inc. and printed with flair by Global Printing & Binding Inc., Fredericton, N.B.

Subscription is \$25 per year. Second class mail is in effect - #8120.

Local Advertising rates are available from The Brunswickan, (506) 453-4983. National advertising rates are available from Youthstream Canada Ltd., 1541 Avenue Road, Suite 203, Toronto, Ont. M5M 3X4, Tel: (416) 787-4911.

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OPINION...

The University is a community of inquiry, of searchers after knowledge and enlightenment. This is fittingly reflected in the UNB motto: Sapere Aude - Dare to be Wise. To further this noble mission we cling ferociously to the privilege of academic freedom.

Thus, I find it exceedingly painful to witness the abuse of that privilege by a colleague whose sophism-peppered with invective, half truth and innuendo - betrays our calling. I am speaking of Matin Yaqzan's recently published Opinion on Human Rights. There he decries the recent judgement of our Court of Appeal which clears the way for a Board of Inquiry established under the New Brunswick Human Rights Act to consider a complaint filed by David Attis against the Moncton School Board. Attis is a Jew. He alleges:

"By its own statements and its inaction over Malcolm Ross' statements in class and in public the School Board has condoned his views, has thus provided a racist and anti-Jewish role model for its students, has fostered a climate where students feel more at ease expressing anti-Jewish views, and has reduced the credibility of the content of its official history curriculum, thus depriving Jewish and other minority students of equal opportunity within the educational system that the School Board provides as a service to the public.

I believe that the School Board has thus furthered the aims of the Ross' of our society . . .

I have reasonable cause to believe that the Board of School Trustees of District #15 has violated section 5 of the Human Rights Act."

In his opinion piece, Yaqzan displays a profound ignorance of Canadian human rights legislation and the considerable jurisprudence of our Courts and Tribunals, which has nurtured its aims and objectives. In his view the Attis allegation of discrimination is "of a very different variety than that envisaged by the Human Rights Act of New Brunswick". Happily, it is not for him to make that decision, but rather for others sensitive to the underlying values which animate the legislation. Yaqzan posits a standard of "crude or violent expression" as the threshold test of prohibited discriminatory conduct. But our Human Rights Act proclaims as a fundamental principle:

"... that all persons are equal in dignity and human rights without regard to race, colour, religion, national origin, ancestry, place of origin..."

And further that:

"... ignorance, forgetfulness or contempt of the rights of others are often the causes of public miseries and social disadvantage; and

... people and institutions remain free only when freedom is founded upon respect for moral and spiritual values and the rule of law

It is a Code based on such values that the Human Rights Commission is mandated to administer. Thankfully, in doing so, it receives guidance from an enlightened Judiciary which has recognized that the principles underlying, and guarantees found within human rights legislation are "almost constitutional" in nature. Our Highest Court has stated "that every individual should have an equal opportunity with other individuals to live his or her own life without being hindered by discriminatory practices based on certain prohibited grounds of discrimination . . .".

The American legal theorist, Ronald Dworkin, has posited as a governing principle in a pluralist democracy such as ours that of equal concern and respect, one for the other. It is that principle which informs the human rights jurisprudence of the Supreme Court of Canada. In the Robichaud case (1987) the Court held that the central purpose of human rights legislation is remedial - "to eradicate antisocial conditions without regard to the motives or intention of those who caused them." There, responsibility was placed on an employer - the Department of National Defence - due to its control over the defense enterprise, to take effective remedial action to remove undesirable conditions at the workplace. In that case, sexual harassment of a female employee by her male supervisor had created a "poisoned work environment" which the employer was obliged to remedy because of an underlying obligation to provide a healthy work environment for its employees.

David Attis desires for his children only one thing: equal dignity in the classroom. He believes that the Moncton School Board owes it to his children, and indeed to all Moncton school children, to provide a classroom environment which is a healthy rather than a poisoned one. The poison to be flushed out in this case is anti-semitism. David Attis has turned to the New Brunswick Human Rights Commission for succor in that quest. Let us hope that he has done so not in vain.