

Canadian Supreme Court: Christian law school can be denied accreditation due to view on marriage

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The Canadian Supreme Court ruled that a proposed law school could be denied accreditation based on its student code of conduct. (2015 file photo/Vaughn Ridley/Getty Images)

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In two separate rulings, Canada's Supreme Court voted 7-2 that law societies could refuse to accredit (<https://ijr.com/2018/06/1104283-canada-law-school-marriage-views/>) a proposed law school based its view of sex as being limited to the context of a traditional marriage.

What's the background?

Trinity Western University (<https://www.twu.ca/about/campus-locations>) has locations in British Columbia and Ontario, as well as Washington state. TWU, which was founded in 1962, is an evangelical liberal arts institution. The university's website (<https://www.twu.ca/>) lists its mission as developing "Godly Christian leaders."

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TWU has a "community covenant" for students, which requires students to abstain from sex outside the bonds of traditional marriage between a man and a woman. TWU planned to add a law school to its offering.

In April 2014 (<http://thechronicleherald.ca/novascotia/1265976-court-sides-with-trinity-western-law-school>), the Nova Scotia Barrister's Society Council voted to keep potential TWU law students from joining the bar. The society ruled that in order for their students to qualify for the bar, the university needed to either change its community covenant altogether or exempt law students from the covenant.

The next month, TWU filed a lawsuit against the Barrister Society on behalf of its potential law students. In January 2015 (<https://www.christianpost.com/news/banning-christian-university-grads-from-practicing-law-over-opposition-to-homosexuality-isnt-legal-rules-canadian-court-133354/>), the Nova Scotia Supreme Court ruled that TWU students could not be banned from the bar over the community covenant. The case then went to the Canadian Supreme Court.

What did the ruling say?

The Canadian Supreme Court (<https://www.theglobeandmail.com/canada/article-supreme-court-upholds-provincial-law-societies-right-to-reject/>) ruled that the Barrister Society's had a right to keep TWU law students from joining the bar on those grounds. One of the justices, Malcolm Rowe, argued that the college in this instance was not protected by freedom of religion, since the covenant would be impossible for non-believers to sign.

Five other justices argued that the covenant was not necessary to the religious beliefs of the students, and thus not protected by the law.

“Prospective TWU law students effectively admit that they have much less at stake than claimants in many other cases that have come before this Court,” the justices wrote, adding that “[d]enying someone an option they would merely appreciate certainly falls short of ‘forced apostasy.’”

Only two of the nine justices disagreed. In their dissent, Justices Russell Brown and Suzanne Côté wrote: “The unequal access resulting from the Covenant is a function of accommodating religious freedom, which itself advances the public interest by promoting diversity in a liberal, pluralist society.”