

Freedom of Speech, R.I.P.

Karen Selick

Remember back, say, 25 years ago when folklore had it that the Soviet Union's constitution was the most democratic in the world? The problem was that no matter what the document actually said, the country was still a dictatorship.

I think we've reached about the same stage with the freedom of expression guarantee in Canada's Charter of Rights and Freedoms. It's there in writing, but it's almost meaningless in practice.

Over the 17 years that I have been writing for publication, it has become increasingly difficult for a writer to say what he thinks needs to be said without provoking some nasty repercussions for himself or his publication. I now find myself constantly racking my brain to think of inoffensive circumlocutions that will allow me to make a point without triggering outrage on the part of someone who happens to disagree with me.

It's not just that the laws have changed to encroach ever more broadly on the Charter guarantee. It's not just that the Supreme Court has upheld these laws as reasonable limits in a free and democratic society. It's more than that.

There's a mindset that has become entrenched in Canadian society. People have genuinely started to believe that they should never see anything in print or hear anything over the airwaves that makes them feel the least bit uncomfortable. If someone says something they disagree with, their response is not to engage the ignoramus in debate and trump him with facts and logic, but rather to call out the censors to make the miscreant shut the hell up.

This often backfires, as with Holocaust denier Ernst Zundel and aboriginal anti-Semite David Ahenakew, both of whom got far more mileage for their warped views out of their criminal prosecutions than they ever would have achieved if they had simply been ignored.

There once was a time when people took pride in being able to rise above slurs and insults. "Sticks and stones will break my bones but names will never hurt me," I was taught by my parents back in the 1950's.

Parents don't seem to teach that any more. Instead, the belief has triumphed that names *do* hurt—that they damage a person's self-esteem. This position was reinforced by Canada's highest court in *Ross v. New Brunswick School District No. 15 [1996] 1 S.C.R. 825*, where the court held that Jewish children at a school with an anti-Semitic teacher “are likely to...suffer a loss of self-esteem...”

Being Jewish by birth myself, I've always been puzzled by this logic. If someone insults me and I know I've done absolutely nothing to warrant the insult, I simply conclude that the person insulting me is an idiot--not that he is right and I am worthless. If my self-esteem were so fragile that it could be damaged by the irrational ravings of some bigot who knows nothing about me except my ethnic origins, perhaps I have a deeper self-esteem problem—a deficiency that is entirely independent of the existence of bigotry.

In fact, those who think speech should be restricted demonstrate a low level of regard not only for themselves but also for others.

They show disdain for others in that they consider themselves smart enough to find the flaws in, for instance, anti-Semitic propaganda, but they don't think other people are smart enough to see it--even when they themselves have abundant access to newspaper space and the airwaves to point out the errors.

They show a lack of confidence in themselves by apparently not believing that they are capable of answering evil in a convincing fashion. They seem to think only the evil-speakers will be able to persuade people of their case.

But the problem I find most disturbing of all among those who think freedom of speech must be restricted is that while they point to history as their teacher, it's the *wrong lesson* that they derive from the historical facts.

Here, for instance, is Manuel Prutschi, national executive vice-president of the Canadian Jewish Congress, writing in the *Toronto Star*:

“History has shown that decent people speaking out, important as this is, cannot guarantee the preservation of a multicultural democracy because *good, unassisted by law, does not necessarily triumph over evil* [emphasis added].”

Mr. Prutschi continues: “The Holocaust and the genocides and crimes against humanity that have followed - Rwanda and the Balkans, for example - began with hatred, which fostered intolerance, inflamed the passions of the masses and created the atmosphere making mass murder acceptable and desirable.”

But it was not the existence of anti-Semitism alone that created the Holocaust. It was the combination of anti-Semitism and a despotic state—a state with the power to determine who could speak, and who could not, and what they could say, and what they could do—that resulted in the deaths of millions.

In Germany, anti-Semitism came first and state power came later. But it was only the latter that made the former dangerous. It was *evil assisted by law* that triumphed over good.

Those who think the Canadian state should have the power to censor and criminalize obnoxious speech are simply positioning the cart before the horse for a trip to hell. They are sanctioning the second step of a two-step process of evil. Who do they imagine will rescue them, I wonder, when the state that they have entrusted with the power to throw someone in jail for mere speech decides it's *their* speech it would now like to silence?