

PEN CANADA

for FREEDOM of EXPRESSION

PEN Canada's position on federal and provincial human rights commission legislation

On February 4, 2008, PEN Canada called on the federal and provincial governments to change human rights commission legislation to ensure commissions can no longer be used to attempt to restrict freedom of expression in Canada.

Recent complaints in Alberta against journalist Ezra Levant and in Ontario and British Columbia against *Maclean's* magazine for a piece by writer Mark Steyn raise disturbing questions about the degree to which human rights commissions have taken it upon themselves to become arbiters of what constitutes free speech.

PEN Canada believes this is not the role of human rights commissions and that governments across the country need to make that clear both to their commissions and to Canadians.

Neither Mr. Levant nor *Maclean's* magazine and Mr. Steyn published anything that incited violence against the Muslim community although both have been subject of complaints to commissions. Nor did their comments violate anyone's human rights.

As the Canadian Civil Liberties Association has suggested, human rights legislation was designed to prevent discrimination in workplaces, in accommodation and in providing goods and services to individuals. Commissions were created to adjudicate complaints about such issues when they arose. They were never designed to restrict the free expression of opinions.

"Whether you agree with Mr. Levant's decision that the Western Standard should publish the Danish cartoons about the prophet Mohammed or not, no one in a free and democratic country such as Canada can seriously argue the magazine should not have the right to publish them," said PEN Canada's national affairs chair Christopher Waddell.

"That is equally true for *Maclean's* magazine and the excerpt it published from Mark Steyn's book that led to the complaint against that publication."

Neither complaints should ever have been accepted by a human rights commission and such complaints should be immediately dismissed.

To ensure there is no repetition of such attempts to constrain freedom of expression through the guise of human rights legislation, PEN supports calls for removal of subsection 13(1) of the Canadian Human Rights Act which states that it is discriminatory when individuals or groups say or write anything that is "likely to expose a person or persons to hatred or contempt."

Similar wording in provincial human rights statutes should likewise be removed.

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