

REGISTERED MAIL AND PROCESS SERVER

Tuesday April 22, 2008

Ezra Levant
28 Pumpmeadow Crescent South West
Calgary, Alberta
T2V 5C8

Dear Mr. Levant:

**Re : Giacomo Vigna
Notice pursuant to section 5(1) of the *Libel and Slander Act*, R.S.O. 1990.c.L.12**

The undersigned is writing to provide to you the appropriate notice pursuant to the *Libel and Slander Act* in relation to certain broadcasts by you as more particularly described below.

You have recently written and/or published postings containing malicious false allegations and defamatory statements, attacking the integrity, of and concerning the undersigned (Giacomo Vigna) on your websites: www.ezralewant.com and/or <http://ezralewant.com> (the "Sites").

The words written and/or published on the Sites, in their plain and ordinary meaning or by their innuendo, are false and defamatory of the undersigned.

More particularly, between March 20, 2008 and April 21, 2008, you have made a series of public broadcasts and postings on the Internet of the undersigned by making false allegations and misrepresenting facts in relation to the undersigned's work as a lawyer while he had carriage of section 13 complaints on behalf of his employer, the Canadian Human Rights Commission. In doing so, you attacked the integrity, reputation and defamed the honor of the undersigned via the use of your website. We provide below some examples of this, but not limited to, of three broadcasts/postings/articles and words complained of, by underlining and bolding the most relevant parts for your guidance:

(1) On March 20, 2008, in a posting entitled <*Even the human rights tribunal is sick of the human rights commission*> which we are reproducing, you make false allegations, attack the integrity and ridicule the undersigned. The article read as follows:

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"Even the human rights tribunal is sick of the human rights commission

By Ezra Levant on March 20, 2008 7:05 PM | [Permalink](#) | [Comments \(24\)](#) | [Trackback](#)

Today, a one-man Canadian Human Rights Tribunal ruled that his imminent hearing into the conduct of Canadian Human Rights Commission staff will be open to the public. This is a direct result of not only Maclean's magazine's legal application, but also of dozens of Canadians writing to the tribunal and, frankly, of the blogosphere's efforts to peel back the layers of the CHRC's secretive workings.

The CHRTribunal is no friend of freedom or fair play. As noted by many, it has a 100% conviction rate; it is not presided over by real judges; its procedures are arbitrary, not the reliable rules of procedure that exist in real courts; and the victims of these tribunals must pay their own way, whereas the investigators and prosecutors at these tribunals -- the CHRCCommission, where folks like Dean Steacy work and Richard Warman used to work -- have the unlimited resources of the state. But even the CHRTribunal was appalled by the CHRCCommission's latest tactics in its endless war against thought crimes.

Here is the ruling issued today by that tribunal member, Athanasios Hadjis. The effect of the ruling is very simple: the public will be allowed to attend the hearings next Tuesday (though cameras will not be permitted in the hearing room). But far more interesting is the additional commentary -- *obiter dicta*, as lawyers call it -- that Hadjis thought proper to add to his simple order.

Hadjis recalled the shenanigans that the CHRC pulled last year when commission staff were about to be cross-examined. He noted that the CHRC staff simply refused to testify -- despite being subpoenaed -- unless the public was excluded. The CHRC's lawyer buffaloed the tribunal into censoring the hearing, threatening to invoke section 37 of the Canada Evidence Act (a section reserved for matters like national security) and simply refusing to attend, subpoenas be damned. Hadjis wrote:

I issued my ruling regarding the exclusion of non-parties from the hearing room orally that morning. The ruling was premised in large part by this looming likelihood that the Commission would invoke s. 37 unless the "measures" that it was demanding were "put in place". The hearing proceeded but the Commission nonetheless invoked s. 37 numerous times to object to questions posed by Mr. Lemire's counsel to Ms. Rizk and Mr. Steacy. The Commission alleged public security concerns in making its objections.

In other words, the CHRC said that if Hadjis didn't make the trial secret, they'd invoke the section 37 national security exemption, and simply refuse to testify. So Hadjis appeased them, and banned the public from the hearing -- and the CHRC invoked section 37 anyways. Even an illiberal "judge" in a kangaroo court doesn't like being lied to. But it gets worse:

Mr. Lemire later challenged those objections before the Federal Court, which has the exclusive authority to rule when such matters arise before the Tribunal. Interestingly, however, it appears that a few weeks before the January 15, 2008, Federal Court hearing into these objections, the Commission disclosed to Mr. Lemire the information that was the subject of the s. 37 application. The Court therefore determined that since the information had been disclosed, it could no longer "properly" consider the s. 37 application, which the disclosure had effectively rendered moot. In effect, the Commission disclosed the very information that it had previously

claimed could not be disclosed pursuant to s. 37...

[9] The outcome of the s. 37 matter gives me pause to question the soundness of the

Commission's invocation of public security concerns with respect to the testimony of these witnesses.

Translation: it's obvious to Hadjis that the CHRC's section 37 objections were not real – they were just excuses to bully Hadjis into clearing the court and avoiding his subpoenas. The fact that the CHRC dropped their section 37 objections just before a real court was about to surely rule against them just proves what I've been arguing all along: human rights commissions and tribunals are kangaroo courts, where rule of law doesn't matter. Only the threat of adult supervision by the Federal Court made the CHRC drop their fake objections.

There has always been a quiet compact between the CHRC Commission (the kangaroo investigators and prosecutors) and the CHRTribunal (the kangaroo judges and court apparatus): each would pretend that they were operating as parts of a legitimate legal system, even if there was a nod and a wink between them as they ground out a 100% conviction rate by systematically violating norms of natural justice. But the CHRC broke that deal – when Marc Lemire started using the Tribunal's rules against the CHRC, the CHRC started treating Hadjis and the CHRTribunal with contempt, making absurd objections and doing whatever else it took to avoid Hadjis's authority.

But the fear of the Federal Court has caused the CHRC to drop its absurd national security objections; and so now they're back before Hadjis. Fool me once, the saying goes, shame on you; fool me twice, shame on me. Hadjis read the embarrassing whine that that CHRC filed as a legal "argument" for keeping out the press again, and smacked it down hard – essentially calling the CHRC liars. Tuesday's going to be interesting.

Or will it?

The CHRC's section 37 national security objection is gone. And the Tribunal's secret trial provision is gone. Does this mean that we really will get to hear about the inner workings of the CHRC? Maybe. But the CHRC still has a few tricks up its sleeve yet.

Do you think a rogue, secretive, abusive organization that regularly defies the rule of law – hell, forget those abstract principles; how about the embarrassing political optics of an "anti-hate" agency that admits to posting hateful messages on the Internet itself – would really go willingly into Tuesday's hearing, with the national press assembled there to record their every misdeed and malfeasance?

The CHRC already tried the "but they're angry at us" argument. I think it's just as likely that we'll get the "I'm not serene" objection next.

What's that? The CHRC tried it last year, and it worked. Look at this bizarre exchange last May (at page 4867 of this transcript). It literally goes on for 20 exasperating pages of stenography. Giacomo Vigna was the CHRC's lawyer, and the way he ground the hearing to a halt reminds me of a student pulling the fire alarm to get out of writing an exam. Here are just a few excerpts. You really must read the whole thing. Do it for the laughs alone – it's really better than reading fiction. If this were a TV courtroom show, audiences just wouldn't buy it – it's a farce, not a drama:

MR. VIGNA: Sorry, Mr. Chair, I don't have the flu but I don't feel in a serene state of mind to proceed with the file today. I don't feel very well. I feel dizzy, I feel anxiety, and I am not in a serene state of mind to proceed with this file today.

I have a lot of things worrying me right now and I don't want to elaborate, but my colleague said, Mr. Fine, there are some certain incidents that have occurred which I don't feel at liberty to elaborate right now, which have had an impact on my ability to proceed in a professional way on this file, at least for today, because I wouldn't be rendering the Commission a just service by proceeding in this condition.

I am not dying, Mr. Chair, I don't have the flu, but I am not mentally capable of proceeding under these circumstances.

THE CHAIRPERSON: But the witness is here?

MR. VIGNA: The witness is here. It's not the question of the witness. The witness is here. I thought until this morning that I would proceed, but I really don't feel primarily mentally able to proceed, and physically too.

MS. KULASZKA: I am very concerned about this very hush hush allegation that some sort of breach of security has happened. The only people who have been here for the last two days are us, either counsel or a representative of the party. No one else has been here in this room. I know of no incident outside that's happened....

MR. CHRISTIE: I have heard two explanations which are as frivolous as any I have ever heard in justifying an adjournment of a whole proceeding... To say I am not feeling well, but sit here and talk about it, is inconsistent. There is no medical certificate, and I heard very faintly Mr. Vigna say I'm not physically sick, I don't have a serene state of mind. Very few of us in the difficulties we face always have a serene state of mind. I don't know what that means.

This is not a case of a nervous breakdown or a mental state justifying a psychiatric examination. I am certain of that. To say I don't feel like doing it today is insulting...

MR. VIGNA: Mr. Chair, I will provide a medical certificate.

THE CHAIRPERSON: Please sit down, Mr. Vigna.

MR. VIGNA: I feel insulted by that comment.

THE CHAIRPERSON: Please sit down.

Now that kind of acting, that plain old brazening it out, that looking someone right in the eye and fibbing, that fantasism, takes a lot ofchutzpah. But Vigna did it without blushing. Vigna's gone — perhaps like Ms. Rizk he went on stress leave.

Do you think the CHRC's new lawyers have the gall to try a gambit like that on Tuesday with the press there? It's a tough call, face national execration and ridicule for pulling a transparent stunt like that; or face national execration and ridicule for the abusive way the CHRC conducts its thought crimes investigations. That's called a lose-lose proposition.

I'd say there's a 50/50 chance the CHRC's lawyers or staff will pull a Vigna vignette and claim they've lost their "serenity" and scupper the hearing — or pull the fire alarm, or do some other childish stunt of the same calibre as their childish Internet costume parties where they dress up as bloots, but then later say they didn't mean it.

A Vigna vignette would be humiliating and cowardly — but a humiliated coward survives. I don't think the CHRC can politically survive the full disclosure of their dirty tactics.

Read the transcript, and tell me what you think is going to happen on Tuesday”

(2) The following day, on March 21, 2008, in a posting entitled <Serenity now!> which we are reproducing, you further attack the integrity of the undersigned by the use of sarcasm and ridicule. The posting read as follows:

“Serenity now!

By Ezra Levant on March 21, 2008 6:38 AM | [Permalink](#) | [Comments \(8\)](#) | [Trackback](#)

In response to the "I'm not serene" gambit tried last year by the Canadian Human Rights Commission lawyers, commenter Warren reminds us of the mantra shouted by George Costanza's dad on Seinfeld: "Serenity now!"

Here's a beautiful montage from that show. I regret I can't be in Ottawa on Tuesday for the hearing, but if I could be, and if I was feeling particularly cheeky, I'd quietly chant "Serenity now" whenever I was within earshot of the CHRC's lawyers. Just to help them keep it together."

(3) On March 26, 2008 you repeat your earlier statements in the form of an innuendo in the following posting, which we are reproducing below by underlining the relevant part for your guidance:

A day in the life of Canada's kangaroo court

By Ezra Levant on March 26, 2008 5:33 PM | [Permalink](#) | [Comments \(57\)](#) | [Trackback](#)

I've read the blogosphere's several accounts of Tuesday's Canadian Human Rights Tribunal hearing in Ottawa in the Warman v. Lemire case, and it's on that basis that I've formed my first impressions. You can read some of those reports [here](#), [here](#), [here](#), [here](#), [here](#), [here](#), [here](#) and from the defendant himself [here](#). I've also seen two newspaper stories, [this one](#) from the National Post's Joseph Brean, and [this one](#) by the Ottawa Citizen's Don Butler.

I'd prefer to review the actual transcripts of the hearing, but from what I've read, there will be no transcripts made, only an audio recording.

No transcripts

Let's start there in our analysis. This matter has been proceeding for four years; to investigate and prosecute this case, the CHRC has not only deployed the full weight of their own government staff, but they've retained a series of expensive private sector lawyers as well, such as the comical Giacomo "Serenity Now!" Vigna. I'd conservatively estimate that \$2-million in taxpayers' money has been spent to date, but this being a government enterprise, the true number might be closer to \$5 million. A half-dozen interveners, including the federal government, have sent lawyers, too, even if they merely sit in the hearing all day, not saying a word. And, of course, the Tribunal itself has been seized with this matter for well over a year, with about 20 days of hearings to date, in at least two cities.

Why was Tuesday's hearing the one day that won't be transcribed and published? Why was a trifling savings of a court stenographer — who costs, what, a third of what a lawyer bills? — chosen as the one area of economy to find? Is the Tribunal, with the unlimited resources of the government, out of cash?

The Tribunal's decision to nix transcripts is transparently biased: the one day that the hunters became the hunted — where the CHRC itself was being grilled — was the one day that accurate, typed, searchable transcripts were omitted. Try to "search" an eight-hour audio recording for a key word, as opposed to searching a written transcript. Try to hear words that are spoken quietly; try to learn the spelling of unusual names of words; try to skip to important matters and avoid others. It's yet another irregularity in a system where arbitrariness and capriciousness have replaced the rule of law.

That's offensive to anyone, like me, who cares about the openness of our legal system. But it's more than just offensive — it's unfair to any defendant who will now not be able to rely on such transcripts for his appeal when he's convicted.

One day only

So the one day in which there will be no transcripts is the one day the CHRC is on the defensive. But why was Tuesday's hearing limited to just one day?

Again, this matter has been grinding on for four years, more than a year of which was in the Tribunal. Richard Warman, the nominal complainant, was given four days for his examination in chief — that is, four days to make self-serving comments, with Vigna leading him along. Why the sudden impatience? Is it because, with the CHRC's own conduct on trial, it's just not as much fun as shooting white supremacist fish in a barrel?

According to several blog reports, the Tribunal chair, Athanasios Hadjis, was visibly impatient, repeatedly saying "this case is closed". In real courts, it's up to the two sides to announce "we rest our case," not for a bored judge to merely declare it. But don't bother Hadjis with such trifles. He's not a judge, so why should he pretend to act like one?

The CHRC knew that they only had to brazen it out for one day, and then they'd be free. They didn't pull a Vigna this time — no one announced that they weren't serene, and couldn't go on. But they did what lawyers do when they need to run out the clock: they made incessant objections of any sort, with merit or without, simply to interrupt the other side and talk out the clock. Scroll down [this web page](#) to hear an audio recording of the CHRC's lawyer objecting to Doug Christie's cross examination, before Christie even asked the question. I'd sound angry, too, if I had flown from Victoria to Ottawa, to be left with merely 45 minutes to ask my questions, and to have half that time eaten up with clearly dilatory objections. But with a weak and impatient chairman like Hadjis, and a corrupt system without clear rules of procedure, why the hell not? No need to pull the fire alarm: Just interrupt until the day is done.

Dean Steacy and Hanna Rizk weren't the only CHRC staffers who were supposed to be cross-examined yesterday; Harvey Goldberg was, too. He's the master strategist behind the CHRC's "anti-hate" team. He didn't have to say a word, because Hadjis had arbitrarily ruled that the hearing would be a single day, Goldberg can hide behind the improper objections that his lawyers made last June. You'll recall that's why yesterday's hearing was called in the first place: the CHRC had claimed that its rogue investigative techniques were a state secret, and couldn't be examined. Lemire appealed that arrogant objection to the Federal Court; thus yesterday's hearing to re-ask

those same questions. Goldberg never took the stand -- so the illegal objections made last year by his lawyers were allowed to stand, despite their illegality.

No disclosure

It gets worse. After Goldberg's examination last year, he disclosed a further 300 pages of documents. That might mean nothing to non-lawyers, but it's very important, and it goes to the unlawful, unprofessional, abusive manner in which the CHRC conducts itself. Goldberg was subpoenaed, as were his documents. Subpoenas are not invitations; they carry the weight of the law with them. They can be appealed, of course, if the recipient of a subpoena thinks they're improper. At least that's what a law-abiding agency would do. But not the CHRC. They waited until after Goldberg's examination to disclose the 300 pages. And, wouldn't you know it, Goldberg was exempted from answering questions about those pages, too. Bogus objections and defiance of disclosure obligations: if that happened in a real court, the judge would blow his stack, order the offending party to comply, assess costs against the offending party, and censure the lawyers, too. But of course, this isn't a real court.

No integrity of evidence or other aspects of investigations

Still, a number of questions were put to Steacy. You'll remember him -- he was the CHRC investigator who told the Tribunal that "freedom of speech is an American concept so I don't give it any value". He's also the one who refused to accept a human rights complaint from someone he didn't like, based on gossip about that complainant's siblings. It didn't surprise me at all to learn that Steacy is a former public sector union boss.

Steacy did make a few embarrassing admissions. But the bulk of his answers -- just like the bulk of Warman's answers on cross examination last year -- were "I don't remember" or variants thereof. Some of the things he didn't remember were investigative actions he did mere weeks ago; some of them related to standing policies of the CHRC. No matter; he just brazened it out with forgetfulness.

Stop to think about how important the integrity of investigations is in real courts -- how the chain of custody of evidence is maintained under lock and key; how every test and inspection is documented; the extreme lengths police go to, to avoid giving the accused grounds for objecting to any evidence, including oral evidence like confessions. None of that integrity is present in the CHRC; Steacy, Warman and the others don't even bother keeping notes -- or, if they do, they simply "forgot" to disclose them; like Goldberg forgot to disclose 300 pages until after his court appearance.

It is not reasonable to expect investigators to remember every detail of every conversation -- or, in this case, of every occasion they pretended to be neo-Nazis, and went cruising the Internet. That's why real investigators take copious notes, and that's why courts permit police to refresh their memory with notes taken contemporaneously with the events in question -- and that's why those notes are disclosed to the accused, too. Either the CHRC is lying, and not disclosing their notes, or their investigative integrity is abominable, because it really doesn't matter how shabby a job they do -- they have a 100% conviction rate, and that isn't about to change any time soon.

Which brings us to the matter of Steacy himself. He's blind, and he has an assistant help him function -- no doubt a double-expense that the CHRC regards as a source of pride and a symbol of how the rest of society ought to work. I think it's great that Steacy is still working despite his handicap. But being an investigator, especially where the matters investigated are words and symbols and intricate websites, requires eyesight. Keeping a lead investigator who is blind isn't just an act of supreme political correctness, it's an act that so obviously risks the integrity of the commission's work. Again, if it helps, imagine if an investigator hunting real crimes, not thought crimes, were blind. It's inconceivable that any defence lawyer wouldn't immediately object to any of the evidence that such an investigator collected, on the grounds that it was flawed; I can't imagine any criminal judge accepting such evidence -- if it related to anything important, it would simply provide "reasonable doubt" to any charge, and yield an acquittal. It's so ridiculous, it wouldn't even fly in a fictional TV show; even the most politically correct of the Law and Order series just wouldn't be able to have a blind investigator without fans jeering "yeah, right".

It also raises the interesting question, posed by Jay Currie, about Steacy's office helper. Why wasn't she examined, too? She was clearly involved with every step; it would be fascinating to compare her testimony to that of her boss, to find discrepancies. In a real court, that would be done, and Steacy's assistant would be excluded from court as he was answering his questions, so as not to skew her answers. But this isn't a real court.

Look, I think it's great that Steacy's still working after going blind -- the fact that he was the CHRC's union boss probably ensured that his lower productivity and need for another assistant wouldn't even be considered. I'm sure that, if the CHRC could, it would require all Canadian businesses to go to such lengths and costs. But even the nuttiest anti-discrimination advocate would acknowledge that there are some jobs where vision is necessary. Being a pilot is one of them; being an investigator is another. Unless, of course, accuracy, comprehensiveness and fairness are optional -- which is why the CHRC permits it.

CHRC's open defiance of the rule of law

Despite the unfairness of the procedure, there were a few moments when lawyer Barbara Kulaszka had Steacy pinned down. Again, I don't have the transcripts, but from the reports, Steacy simply refused to answer several questions put to him. His lawyer had no legal

objection to them; he was there under subpoena. Steacy simply didn't like the questions, so he didn't answer them -- and Hadjis sat there, blinking, a deer in headlights. In a real court, a real judge would have ordered Steacy to answer, or be held in contempt. That's because, to a real court, Steacy wasn't just thumbing his nose at the accused, he was thumbing his nose at the legal process itself -- at the judge himself. Steacy might even have faced jail, in a real court; his employer, the CHRC, might have faced other sanctions; the case against Lemire itself might have turned on that conduct. But not in the kangaroo court of the human rights commissions and their tribunals.

There was no sanction attached to that bald-faced contempt. One wonders why Vigna went to such a song and dance last year; one wonders why Steacy and Rizk even showed up at all yesterday. The Tribunal obviously won't do a thing to them -- Hadjis will save his punishments for Lemire. Why not? With a 100% conviction rate, the hearing itself is a game. You'd think the CHRC would put on a bit of a show for the gathered media but really, why bother?

The perfidy of the intervenors

The CHRC's conduct, as disclosed yesterday, showed evidence of abuse of process, violation of natural justice, substitution of personal vendettas for the rule of law, corruption of investigations, corrupt evidence, bias, arbitrariness and plain old sloppiness. It's hard to think of a tenet of our Canadian legal tradition that the CHRC did not violate. The Tribunal hearing itself piled on with more unfairness of its own, as outlined above. Which brings me to the intervenors in the hearing.

Stephen Harper's Conservative government was represented at the hearing by a lawyer, intervening on behalf of the CHRC. That decision was made long ago, perhaps even before the Conservatives took office. But they did indeed take office, more than two years ago, and they could have quit the case. And, even if they were unaware of the activities of a single government lawyer at first, the public scrutiny of the last few months has removed that excuse from them. More on this below.

As well, the Canadian Jewish Congress and the B'nai Brith intervened on behalf of the CHRC, too (and so did the Simon Wiesenthal Center). The CJC has been embarrassed lately, especially in the pages of the National Post, by its participation in these witch hunts. The CJC's reply -- and it seems to be the B'nai Brith's answer, too -- is that while they stand by the concept of HRCs, they oppose some of the excesses of the system. When Rex Murphy did a whole edition of Cross Country Checkup on the subject, the CJC's Bernie Farber admitted that the system needed to be "tweaked". The CJC's figurhead presidents even wrote that the CHRC needed to more carefully weed out abusive complaints, though they did so, as usual, in a very mealy-mouthed way.

Well, that's what they write publicly -- but the CJC and B'nai Brith participated in yesterday's abominable hearing, without a word of protest. They don't want to weak the system -- that's just something Farber says when he's sitting on the hotseat on national radio. The CJC is a major part of the CHRC's thought crime system, a system that's rigged against the CJC's political enemies. They'll make occasional noises about reform and "tweaking" the system, but then they'll be right there in the Tribunal hearing, participating in an utterly compromised and abusive process. Shame on them.

Specific revelations

There were a few specific revelations that did emerge yesterday, despite the corrupt Tribunal process. It was amazing to read about how Richard Warman -- the complainant in this matter -- simply traipsed back into the CHRC offices and used CHRC computers, pseudonyms and passwords of the very people who were investigating his complaint. Just look at that again: he was a party to the complaint, but he had full access to the CHRC's own investigation into that complaint. That's staggering. If this were a real investigation of a real crime with real police, and the alleged "victim" were to walk right into the crime lab, hop on the officers' computers, and poke around the evidence, a judge wouldn't have to throw the case out -- prosecutors would be too embarrassed to even bring the case to trial. Not so at the commission, which was in collusion with Warman, as I've documented before.

Another stunning revelation is the improper collusion between the CHRC and police, and even CSIS, Canada's spy agency. Steacy admitted that police would use their extraordinary powers to search and seize computers from people, not lay any charges against them, and then turn that evidence over to the CHRC, which would then use that evidence for their own thought crimes investigations. That sounds like, at the very least, a lawsuit against the police for breach of privacy, breach of confidentiality, abuse of office and abuse of process. The tactics of the thought police are corrupting the real police -- which is terrifying. Parliament gave many powers to the CHRC in law, but they specifically didn't give them all the powers of real police. The fact that the CHRC is undertaking secret arrangements with police departments and CSIS to use their powers is deeply disturbing.

There were a half-dozen other factoids that were troubling, but for now I'll leave those to the bloggers I linked to at the beginning of this post.

Was the hearing a success?

It was a success for Harvey Goldberg, who got out of testifying. It was a success for Dean Steacy, who stared down Athanasios Hadjis, the Tribunal chair, and simply refused to answer questions, or had selective amnesia. He got away with that behaviour, that would have put him in jail overnight in a real court. It was a success for Richard Warman, the nominal complainant, who didn't bother showing up. Why would he? He doesn't have any skin in the game -- he didn't have to hire any lawyers or take any risks.

He's managed to commandeer the entire process, and he doesn't have to be there – until the end, when he wins, and picks up his cheque, tax-free.

(That's another post for another day – the bizarre section 14 of the Canadian Human Rights Act that states that anyone who "retaliates" against a complainant like Warman is liable to pay tens of thousands of dollars more in fines. I can see the bona fide rationale for such a rule in other circumstances, to protect whistleblowers who complain about their bosses' illegal conduct, for example. But Warman is not an employee complaining against an employer; he has nothing to do with the websites he's complained about other than joining those websites as a member. That he is somehow immune to his victims' mere criticism – again, not just immune to real harm from them, but immune to their political protests – is deeply illiberal, is an unconstitutional "prior restraint" on speech, and is deeply one-sided.)

So the CHRC and its allies won, in the narrow sense that, as usual, the Tribunal steamrolled the respondent, and Marc Lemire will surely be convicted, and will surely be fined, and will surely have his website shut down.

But that was never in any doubt.

What's new – the reason why I believe that Tuesday's hearing was successful for critics of the CHRC – is that the moment the Canadian media started to scrutinize the HRCs was the moment that their illiberal conduct was most clearly on display. I'm not just talking about the conduct of the CHRC as investigators. I'm talking about the conduct of the Tribunal itself. The discreditable substance was the CHRC – the thought crimes "police" and "prosecutors". The discreditable legal process was Hadjis's kangaroo court.

In that sense, the more appalling things went on Tuesday, the more unreasonably objections the CHRC's lawyers made, the more outrageous answers Steacy gave, the more times Hadjis sighed and said "this case is closed", when it wasn't, the more procedural aberrations – the better. Not better for Lemire – who was guilty before he was even investigated, guilty before he was charged, guilty before he was tried. But better for the political campaign to reform these commissions.

Denormalize the commissions, then press legislators to act.

Read again my plan for fighting these commissions. It never said "try to win in the Tribunal's kangaroo court". I never said "count on the shame – or the honour – of the CHRC staff, or its enablers". I said: 1. Denormalize the commissions; and 2. Press legislators to act. The plan only works in that order.

The flaws of the CHRC and the Tribunal were on full display. I think that some of them were nuances that wouldn't be apparent to lay observers – people who don't know what a real trial looks like, or how real investigators and police are supposed to act. I think that lay observers would just have a general gut feeling that something was amiss; that it doesn't seem right that the investigator claims he can't remember dozens of important details; that an interested party in the case has access to the files, etc. Without the vocabulary of the law, it's hard to articulate just how abominable Tuesday was.

Fortunately, the reporters who were in the gallery on Tuesday have all sat in on real trials before. Even if they're not lawyers, they know enough of the rules and values of our justice system, from experience and study – I'm sure they all know better than Dean Steacy, for example, that freedom of speech is a Canadian idea, not just an American one, and it happens to be one of the "fundamental freedoms" in our Charter of Rights, a law that governs the CHRC. Mark Steyn, Charlie Gillis, Joseph Breen, Don Butler and Kady O'Malley (and perhaps others who haven't published yet) know what trials are supposed to look like, and how police, prosecutors and judges are supposed to act. The CHRC and Hadjis didn't live up to those Canadian norms. Gillis et al. are used to hearing politicians fib, evade, object or say "I forget" – and they're hard-nosed reporters, not afraid to be scathing when they see government officials lying or abusing power. The CHRC just isn't used to being criticized – for heaven's sakes, they even outlawed criticism from their victims, under section 14 of the Act. That criticism has already started, not because reporters like Breen and Butler are political. That's the whole point here – unlike the pundits that have weighed in, Breen and Butler are straight-shooting news gatherers, who present both sides of the story. The fact that they are so clearly shocked by what they see is a sign that the CHRC isn't just offensive to partisans; it's offensive to anyone who understands our Canadian values. The CHRC has much more to fear from news reporters than from the likes of Steyn and me, who are discounted because we have an opinion we're pushing.

What happens now legally?

Legally, final submissions are scheduled for June 11th (which begs the question, why was yesterday's hearing cut off so abruptly after just one day?) I don't doubt that Hadjis will wait until Friday afternoon of some long weekend in the summer to release his ruling. And I don't doubt that the ruling will continue the 100% conviction rate. How could it not, with the statute written the way it is, and with the hearings rigged the way they are? Why would Lemire be any different than the rest of them? And why should Maclean's think it in turn is any different? That's my point – fighting these commissions from within is pointless; it's rigged, and it's meant to be. The fight has to be in the court of public opinion.

What happens now in the court of public opinion?

I have no inside information, but I predict that Maclean's will run a large package on the Lemire case. They deployed a lot of resources towards the story — first, sending a lawyer to end the secrecy of the hearing, and then in the form of three different writers in the room. Maclean's comes out in two days — if I had to guess, this might even be their cover story.

That's 2.8 million readers, according to the PMB readership survey — and, along with CanWest's Brean and Butler, it's building a momentum that other news organizations, like the Globe and Mail and Sun chain, can't ignore for long. For a month, this story was isolated to the blogosphere; then it was limited to opinion writers; this week, it breaks out into "real" reporters, big-time. That means reporters will build up expertise in the subject; it will become their "beat".

And there are a lot of other "new pegs" coming up this spring and summer for those new specialist reporters: Maclean's B.C. human rights hearing is schedule for late spring; I don't know when my next round will be. But I can safely say, it won't just be bloggers covering those now.

But what about Parliament?

I ask my friends in Ottawa to take the temperature for me on this issue once in a while. Last night, one minister's aide reported that his office alone had received, in the last month, 40 letters about human rights commissions, and 0 letters about the Chuck Cadman matter and 0 letters about the Obama/NAFTA leak, for comparison. I'll have to ask him how that compares to other issues, such as the Tibet rebellion. But the point is, they're tracking the matter, and the public response is encouraging. I expect those numbers to go up after the Maclean's story, and as Maclean's own trial in B.C. looms.

In other words, now is the time to switch our scrutiny from the HRCs to the Conservative government itself. Of course, we should continue to expose the outrageous conduct of the HRCs as they go along. But, other than sheer absurdities, like this case, it's unlikely that in the next year we'll have another window on the inner workings of commissions like we had on Tuesday. But we already have dozens of awful examples; we don't need any more. The commissions are being denormalized, and by people with much more influence and audience than we bloggers have.

Pressure points: Martin, Nicholson and Kenney

Now is the time to work on translating public momentum into legislative change. Keith Martin is clearly the leader in making this change, with his private member's motion. It's important that we continue to encourage him — not just to keep his spirits up, but to advance his plan. Right now, it's unlikely that his motion will actually make it to a vote in Parliament. We need to encourage Martin to build a coalition within the Liberal Party, such as with "Blue Liberals" who are upset with how HRCs are being used to persecute Christian clergy. More important, we need to encourage Martin to meet with his Conservative counterparts, too — which could be difficult, since Martin burned some bridges when he defected from them some years ago. I believe that Martin's obvious good faith on this motion, however, should be enough to trump any lingering hurt feelings. If anything, conservative ideologues should welcome Martin as bipartisan political cover for an amendment that might otherwise be labelled as a "right wing" change.

Rob Nicholson, the Justice Minister, is the obvious second pressure point. Not only is he the boss of the federal government's lawyer who was dispatched to the CHRC hearing yesterday, but he is also responsible for the CHRC and its Tribunal. Nicholson is a very amiable man, a happy warrior in his own right. He's just risk averse, as most politicians are, and he's not the crusading type. His attitude, if I read him right, is simply risk avoidance: he believes in putting out fires, not starting them.

I could understand that, even if I didn't agree with it, on the eve of an imminent election. But it became clear after the budget that Stephane Dion won't go to the polls this spring, and this week's open rebellion in Quebec makes me think even a fall election isn't likely. In other words, the Conservatives could pass just about any bill these days without falling as a government. If Dion wasn't going to bring down the election over Afghanistan, Kyoto, the budget, the crime bill or the Senate, he's not going to bring it down over an amendment to the Canadian Human Rights Act, one proposed by his own MP, no less.

So the risk to Nicholson is gone. While that might stop him from digging in his heels, though, it doesn't yet provide him with the positive motivation to actually do something. That's where the denormalization of the HRCs comes in. Tuesday's conduct by the CHRC was abominable by any normal standard of Canadian justice. I think the CHRC has survived politically the same way they've survived publicly — by staying below the radar. That's gone now. And it's our job to bring the worst of the CHRC's corruption and lawlessness to Nicholson's attention — and demand that he stop it, or insist that he wear it.

Richard Warman, Dean Steacy, Harvey Goldberg and others are all in on it together. It's unreasonable to think that any of them would discipline the system that they've created. In a real police force, Internal Affairs or the "police commission" would step in, but there's no such oversight here, and even the Tribunal is powerless to discipline them, as Steacy's contempt for Hadjis shows. The CHRC is Nicholson's baby. Steacy is Nicholson's employee. Their violation of norms of justice is Nicholson's shame — or it ought to be. The CHRC's confessed, anonymous, online bigotry was done out of Nicholson's budget. He ought to answer for that. It would be nice if he dealt with it pro-actively, but that doesn't seem to be happening. So he should be made to wear the growing CHRC scandal, until he fixes it under pressure.

I really am surprised that no opposition MP has tried to hang the Tories with the taxpayer funded bigotry spread by Nicholson's staffers, on government time. You'd think that the Liberals or the NDP would love to tag the Conservatives with some of Steacy's or Warman's online posts – the anti-Semitism, the anti-gay comments, and the outrageous anti-Black, anti-women comments directed at Sen. Anne Cools. You'd think it would fit their caricature of bigoted Conservatives: But if the leftist opposition doesn't care about such bigotry – and some of them don't, because it's being done in the name of political correctness – that's no reason for the right to countenance it.

One MP who gets this is Jason Kenney, the secretary of state for multiculturalism. Kenney has been on the right side of this issue for months, from his sermon on the subject, to his gutsy letters, to his question period answers. In a way, the CHRC is his file, too, as he has jurisdiction over human rights matters. Perhaps Kenney can be a bridge between Keith Martin and other reform-minded Liberals like Dan McTeague, and Nicholson. More to the point, perhaps Kenney can marshal the more ideological elements of the Conservative caucus – including the Prime Minister himself – to show Nicholson that reforming the CHRC isn't just the right thing to do, it's the politically smart thing to do, to keep the party's base happy.

Good luck to all of us

I truly believe we're winning. The HRCs are being denormalized; now we have to turn our attention to the politicians who can do something about it. Let's write to Martin, Nicholson and Kenney, and encourage them to do the right thing. Better yet, let's phone them – and the Prime Minister, too. If we keep at them, the way we have been these past months, I believe we will see the beginnings of true reform before the year is out."

(4) In a most recent posting dated April 21, 2008, entitled < Richard Warman misleads the Canadian Human Rights Tribunal about "Jadewarr", under oath> which we are reproducing, you continue the defamatory conduct towards the undersigned. The relevant part referring to the undersigned as unethical is underlined for your guidance:

Richard Warman misleads the Canadian Human Rights Tribunal about "Jadewarr", under oath

By Ezra Levant on April 21, 2008 12:00 PM | [Permalink](#) | [Comments \(37\)](#) | [Trackback](#)

John Pacheco attended last month's Canadian Human Rights Tribunal hearing in the Warman v. Lemire case. That was where Canadian Human Rights Commission staff were grilled about their practice of going onto the Internet under fake identities, and posting bigoted comments:

Pacheco recorded that hearing himself (the tribunal bizarrely dismissed its court reporter for that one day) and compared his recording with testimony from the December, 2006, hearing in another one of Richard Warman's complaints, against Jessica Beaumont. Besides having the same complainant (Warman) and the same tribunal chairman (Athanasios Hadjis), the two cases had something else in common: both involved the CHRC's secret online identity "Jadewarr". That's the alias CHRC investigator Dean Steacy used to sign up as a member to the white supremacist group, Stormfront, a scandal in itself.

Pacheco's comparison found a lot of ugly things about how the CHRC does business. But the most striking fact he discovered was that Warman hid his knowledge of Jadewarr from the tribunal, despite being asked about it several times under oath.

Pacheco's site has all the details. But here's a summary:

One of the pieces of evidence against Jessica Beaumont was this print-out from the Stormfront website that the CHRC submitted to the tribunal. But after the CHRC disclosed that print-out, they realized that it said "Welcome, Jadewarr" on the corner of it – giving away the fact that the CHRC had logged in as a member of Stormfront. That blew Steacy's secret cover. To hide his tracks, the CHRC switched the "Welcome, Jadewarr" print-out with a generic print-out of the same page from the Stormfront website, without the words "Welcome, Jadewarr" on it.

On December 12, 2006, the tribunal chairman, Hadjis, was trying to figure out the difference between the two versions of the Stormfront document, to understand why the CHRC wanted to switch the original evidence with a new version. Here's what Warman, and the CHRC lawyer, Giacomo Vigna, said when asked about the documents:

THE CHAIRPERSON: I'm sorry, I'm a little confused here...

MR. VIGNA: The layout, when you look at it, it might seem different, but if you look at the contents it's pretty much the same.

THE CHAIRPERSON: Right.

That's a scandal in itself -- Vigna knew the difference between the two documents, and he knew why he wanted to switch them, but instead of revealing what he knew, he glossed over the difference between the two documents, calling them "pretty much the same". That's unethical. But what about Warman?

MR. VIGNA: Perhaps, Mr. Warman, you can explain it.

THE CHAIRPERSON: Yes, perhaps you can explain it.

MR. WARMAN: Sure.

THE CHAIRPERSON: I do see that the content is similar. It's got the poem in it, but how come the layout is different, as Mr. Vigna has indicated?

MR. WARMAN: Sure. I will happily explain. The first one is a Commission document. The second one is a document that was printed off in my presence on Friday.

THE CHAIRPERSON: So, the second document was available on the Internet and printed off?

MR. WARMAN: Yes, on Friday.

THE CHAIRPERSON: On Friday.

MR. WARMAN: So, if it's more appropriate, we can withdraw the first one and simply tender the second one.

Warman does the same as Vigna -- he doesn't disclose the difference between the documents, other than when they were each printed. But that's not the real difference, was it? That's not why they switched it -- a switch that Warman himself suggests.

Later on, Warman was asked about the "Welcome, Jadewarr" print-out again:

MR. FROMM: ... what's the origin of it?

MR. WARMAN: I don't know.

THE CHAIRPERSON: You don't know now but you mentioned earlier that it was from the Commission. That's what I heard you say.

MR. WARMAN: It originates in the broadest sense with the Commission.

THE CHAIRPERSON: So the Commission had produced this photocopy?

MR. WARMAN: Yes, but in terms of its specific origins, I have no idea.

That must have sounded a little bit strange: how could Warman have "no idea" about its specific origins, even though he said the generic replica of it was printed off in his presence the previous Friday? Hadjis, impatient as usual, let it pass.

Warman was asked again about the "Welcome, Jadewarr" version:

MR. FROMM: Can you explain what that is, "Welcome, Jadewarr"?

MR. WARMAN: It appears to be a name that was logged in under.

MR. FROMM: By whom?

MR. WARMAN: I'm sorry, I don't know.

Warman's testimony is pretty clear: he swore he didn't know who logged in as Jadewarr on the original print-out, and he didn't know its "specific origins".

The Beaumont hearing slouched onwards, and the strange matter of the switched evidence was forgotten. But Warman's next case was against Marc Lemire, the webmaster of Stormfront. Lemire suspected something, and made a much bigger fuss about Jadewarr. In December, 2007, a year after Warman's testimony in the Beaumont case, Steacy finally admitted he was Jadewarr in the Lemire case.

But it wasn't until the March, 2008 hearing, when Steacy was cross-examined, that the whole truth came out – and that Warman's testimony was exposed as misleading.

Steacy testified that Warman knew exactly who Jadewarr was, and he knew it well before the Beaumont hearing. Here's Pacheco's audio clip of Steacy testifying to that effect:

Since Steacy admitted he was Jadewarr, it's not surprising to learn that Warman knew about it. Warman and Steacy had worked together, not just as colleagues at the CHRC where they were both "hate" investigators, but as "client" and "service provider", when Warman filed a complaint and Steacy investigated it (a conflict of interest and another scandal). The two men were pretty cosy. In fact, Steacy told the March, 2008 hearing that everyone who knew who Jadewarr was knew the password, too – presumably, that included Warman.

But compare Steacy's testimony in 2008 to what Pacheco dug up from Warman's testimony in December, 2006:

MR. FROMM: Can you explain what that is. "Welcome, Jadewarr?"

MR. WARMAN: It appears to be a name that was logged in under.

MR. FROMM: By whom?

MR. WARMAN: I'm sorry, I don't know.

Warman swore he didn't know who logged in as Jadewarr. But Steacy testified that Warman indeed knew who Jadewarr was.

Details about the group print-out of second, generic version of the document were discussed in the March, 2008, hearing too.

Steacy told the tribunal that he, Warman and CHRC lawyer Giacomo Vigna all got together. They logged in under Steacy's Stormfront membership, Jadewarr, because, as Steacy testified, they had trouble finding the page otherwise. Here's a record of that log-in by Steacy. Note the date: December 8, 2006, the date Warman said the document was printed out in his presence.

We don't even need Steacy's corroboration – Warman himself admitted that it was a group print-out. But from Steacy we learn who the group was, why the group was assembled and what they were trying to do.

Back in December, 2006, Warman's vague answers were confusing. But in the light of the March, 2008 hearing, we see it was more than confusing, it was misleading. They were trying to keep Jadewarr's identity a secret – even though they had an obligation to disclose that information to both Lemire and the tribunal, and another obligation to answer questions about it honestly.

"I have no idea" said Warman. "I don't know." But he did know.

The truth – as revealed 15 months later – was that Warman did "have an idea". He "did know". But instead of answering honestly under oath, he misled the tribunal.

I just can't get that Johnny Cash song out of my mind – "as sure as God made black and white, what's done in the dark will be brought to the light."

Richard Warman is now suing me and other bloggers for defamation. In his lawsuit, he denies going online under an alias and posting bigoted comments. Sounds familiar. I wonder what he'll say "under oath" at our trial.

You can see Warman's suit [here](#). We'll be filing our statements of defence in a few weeks. If you want to help us fight back against Warman, you can, by contributing to our legal defence funds via PayPal – my button is below this post, and my fellow defendants are [here](#), [here](#) and [here](#).”

The undersigned complains about the words that are underlined, bolded in black as well as identified in the margin. However, we will rely on the entire posting in the statement of claim and trial to provide the entire context and full meaning of what is being said. The words complained of are defamatory of the undersigned in their plain and ordinary meaning, in the alternative; they are defamatory of the undersigned in their innuendo.

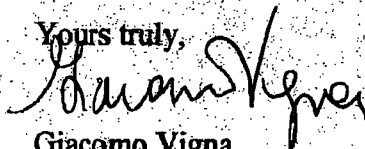
Also, the defamation and damage to the reputation by you of the undersigned is further compounded by the comments you encourage on your website in response to your postings as well as other comments found on other websites resulting from your instigating postings.

The undersigned demands an immediate and full retraction of each posting referred to above. Those retractions are to be published on the Sites forthwith to mitigate the damage you have caused to the undersigned.

Please be put on notice that the undersigned intends to commence an action for libel against you for these defamatory postings and all damages flowing from this conduct. It is recommended that you secure legal counsel to provide advice and direction to you as soon as possible, including early settlement of this legal claim to avoid costs.

Finally, the undersigned has sent this libel notice to you in the English language in the event you are not fluent in the French language, thus to allow you to promptly seek advice and proceeding to a satisfactory retraction to mitigate the damages. However, the undersigned fully reserves his right to draft his statement of claim and request that the proceedings be in the French language and/or bilingual.

Yours truly,



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