



REALity

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WHAT ABOUT LEGAL PERSONHOOD FOR THE UNBORN CHILD?

“The supposedly ‘progressive’ politicians and judges are not using today’s knowledge of science and medicine to break through the outdated laws that no longer stand the test of time. ... and declare the unborn child a legal person.”

Rivers and animals have made considerable strides toward recognition as legal persons (see following article). Isn’t it time, then, for the unborn human child to be recognized as such?

Ultrasounds show that the unborn child is undeniably a sentient being (having the ability to perceive or feel things) and has all the accoutrements of born human beings, such as fingers, toes, ears, eyes, etc. It definitely looks like a member of the human species. So what is blocking this critical recognition?

LEGAL IMPEDIMENTS

There are two legal impediments that may explain why the unborn child has not yet been recognized as a human person in Canada.

1. Canadian Criminal Code

Section 223 of the *Criminal Code* states that a child becomes a human being, “when it has completely proceeded, in a living state, from the body of its mother, whether or not it has breathed [or]...has an independent circulation, or the navel string is severed.”

This provision first became law in England in 1832, and when the Canadian *Criminal Code* became law in 1892, this specific provision was included in it.

It is notable that the purpose of this provision had nothing to do with abortion, but was written into the law for the sole purpose of defining when the charge of homicide could be laid for taking the life of a child. The provision, as noted above, required that the child must be wholly born into the world, that is, only after birth could a charge of homicide be brought for the killing of a child. Unfortunately, the provision in the *Code* on homicide (section 223) has been erroneously used by supporters of abortion to argue that the unborn are not human beings for all purposes, not just homicide.

The 1892 *Criminal Code* also specifically provided (sections 237 and 238) that all abortions were prohibited, i.e., a criminal offence.

2. Common Law (Judge-Made Law) Is Opposed to Abortion

Abortion was not only a criminal offence, but was also prohibited by English common law (judge-made law). The common law provision was later affirmed by an English statute in 1803. This statute became a part of Canadian law, since Canada, at that time, was a colony of Britain.

Abortion being prohibited in both criminal and common law continued uninterrupted until 1969, when Prime Minister Pierre Elliott Trudeau decriminalized abortions under certain specific circumstances—when the continuation of the pregnancy would endanger the life or health of the mother, as determined by a hospital abortion committee. Up until that time, Canadian common law had been slowly but steadily providing some recognition for the unborn child, which Trudeau’s amendment to the *Criminal Code* interrupted.

In 1979, the legal recognition of the unborn child was further undermined when Mr. Justice Sydney Robins of the Ontario High Court, in a legal challenge brought by an Ottawa lawyer, David Dehler (*Dehler v. Ottawa Civic Hospital*), held that “the law had stated birth as the point at which a fetus becomes a person with full and independent rights”. In his decision, Justice Robins also stated that the unborn child was not a “person” in the full legal sense, as a legal person must be an individual who is the subject of legal rights and duties, and, as the subject of the rights, has corresponding duties and obligations. He also stated, “a person is such, not because he is human, but because rights and duties are ascribed to him.” In short, Justice Rob-

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ins confirmed that the unborn child cannot be regarded as a legal person before birth because the courts have decided that child does not have rights before birth. It would appear that this was the end of the story. Yet, former Oxford Professor John Finnis, a lawyer and constitution expert on the federal system, stated (First Things, April 2021) that the unborn child shares our humanity because a human “embryo has, right then and there, *radical capacities* [emphasis ours] to think, talk, and laugh, which a frog embryo simply lacks. And these radical capacities are the rational foundation for human equality”. He further stated that the possession of these capacities by every member of our species, from conception until natural death, justifies communities undertaking the burdens of providing equal protection of the law.

If the court can be permitted to declare rivers and animals as legal persons, why not, then, the unborn child?

In 1997, the issue of the protection of unborn children was raised in Canada at the Supreme Court of Canada in *Winnipeg Child and Family Services v. GDF*. In that case, a woman who was addicted to glue sniffing, and as a result of this addiction, had given birth to two children with abnormalities, was detained for treatment during the course of another pregnancy. The legal arm of the feminist movement, Women’s Legal Education and Action Fund (LEAF) argued that the child was a part of the woman’s body and had no legal status until it was born alive. As a consequence, the mother could not be detained in the treatment centre without her consent. It is significant that, when her child was born, it had no abnormalities because the mother’s temporary detainment in the treatment centre had prevented her from continuing her addiction.

In that case, two of the Supreme Court judges, Mr. Justices Jack Major and John Sopinka, gave a powerful dissent to LEAF’s argument stating,

...modern medical technology has rendered the Common Law’s old “born alive” standard...obsolete. The notion that a child has to be born alive in order to obtain legal rights derives from an era when many children failed to survive birth. But modern medical technology has vastly increased the likelihood of live birth, even if the fetus is extremely premature or crippled by change or maternal abuse. Under these new circumstances, if our society is to protect the health and well-being of children, there must exist the jurisdiction to order a pre-birth remedy, preventing a mother from causing serious harm to her fetus. Someone must speak for those who cannot speak for themselves”.

In November 2020, a Victoria, B.C. lawyer, Dr. Charles Lugosi, brought an application before the Supreme Court of Canada in *Mary Wagner v. Her Majesty the Queen*, in which he raised, among other issues, “who should fit within the legal definition of human being?” The Supreme Court refused to hear his appeal and it is its practice not to provide reasons for its decisions on applications to appeal.

THE BLOCKING OF THE LEGAL RECOGNITION OF THE UNBORN CHILD

The outdated law on the unborn child has been firmly held in place by the feminist lobby and its supporters, including the mainstream media, liberal judges and politicians, such as Prime Minister Justin Trudeau. The latter regards abortion as a “right” and an integral part of feminism. As a result, rejecting abortion, according to Trudeau, is equivalent to “hating” women.

The feminist perspective on abortion is based on the argument that a woman must have an absolute “right” to decide whether the child in her womb should live or die. This is due to the notion that abortion is essential in order to allow women to be equal to men, i.e., they must be allowed to copy men’s lives in a wombless society.

Women, instead, should insist that society adapt to women and the needs of women in all their manifestations, including pregnancy and birth. In truth, abortion is a great convenience for men, since it rids them of any responsibility or obligation should their partner become pregnant. A pregnant woman can quickly rid herself of the inconvenience of the child, in a procedure that is paid for in Canada by Health Canada, and is, therefore, at no cost, either personal or financial, to the man.

Despite the pervasiveness of abortion today, it still carries with it a social stigma. In the last few years, however, some feminists have attempted to remove this stigma by loudly shouting that they are grateful and relieved that they had an abortion, which allowed them to succeed in their careers. Recognition and achievement in their chosen field is the priority for such women. However, public recognition in society is only temporary and provides no lasting satisfaction, as all glory is fleeting. As English poet Thomas Gray wrote, “The paths of glory lead but to the grave”. Glory and recognition are meaningless in the grave.

Also, by obtaining an abortion, a woman destroys one of the most important contributions she can make to society—a new human being—a person to love and to be loved by in return. Future generations will barely remember, if at all, a woman’s “success” in society. Only a child is able to carry the memory of her essence and genetic inheritance into the future. Without a child, both are lost forever.

ARCHAIC JUDGES AND POLITICIANS

The supposedly “progressive” politicians and judges are not using today’s knowledge of science and medicine to break through the outdated laws that no longer stand the test of time. The abortion situation today is incompatible with humanity and justice. The feminist lobby, opposing the removal of the barriers that would protect the unborn child, is also supported by our present culture. The latter demands instantaneous satisfaction, convenience, materialism, and a lack of confidence in the future. These factors contribute to the present status quo.

Regardless, it is only logical and reasonable that Canada moves into the modern world and declares the unborn child a legal person. †

WHAT IS A LEGAL PERSON IN CANADA?

It has recently been disclosed that any entity could possibly be declared a legal person if the courts want to do so. Consider the following:

RIVERS

In March 2015, an internationally-renowned white water river in Quebec called the Magpie River was granted legal personhood, a first for Canada. This was done mostly to protect the river from further development by Quebec Hydro and for other environmental concerns.

This was done by way of a two-parallel resolution by a local Indigenous community and municipality, setting the stage for a similar effort for the St. Lawrence River. The resolutions were drafted by a Montreal-based organization called the International Observatory on the Rights of Nature (IORN), a group founded by Indigenous groups and the Quebec chapter of the Canadian Parks and Wilderness Society. The Magpie River is recognized worldwide for its rapids and is a prime location for white-water expeditions, most notably by the prestigious National Geographic magazine, which ranks it among the top ten rivers in the world for this sport.

According to environmental lawyers in Montreal, under Quebec civil law, this new legal person classification means that the river can hold rights and obligations. It is up in the air, however, how Canadian courts will view this development, and what happens if there is a violation or potential violation of the rights of the Magpie River. According to legal experts, nobody knows.

At the time the resolution passed, guardians were appointed to protect the river's rights and it will be up to these guardians to initiate any legal actions. Also, should litigation occur, anyone having a meaningful relationship to the natural features of the river, whether it is a fisherman, canoeist, zoologist, or logger may be able to act as a court intervener in order to speak to the values which the river represents.

According to IORN, the recognition of the rights of nature is a growing global movement. For example, New Zealand granted legal recognition to the Whanganui River. Countries, such as India and Ecuador, have also recognized rights and protections for nature in their constitutions. Granting legal personhood to the Magpie River by the Indigenous municipality may be the first step in revolutionizing the protection of nature in Canada.

ANIMALS

In common law jurisdictions, such as Canada, the law considers pets or companion animals to be property only. However, other jurisdictions are beginning to grant the status of a legal person or entity to animals. For example, in 2018, the High Court in the state of Uttarakhand, India, accorded the status of legal person to animals on the basis that "they have a distinct persona with [the] corresponding rights, duties and liabilities of a living person". It declared that all residents of the state were, henceforth, guardians of animals and endowed with the duty to ensure their welfare and protection.

Also, in 2018, the Illinois State House passed a law that forced divorce courts to regard the couple as "parents" of a pet. Alaska passed a law that assigns joint custody of a pet in a divorce action. In 2009, the Treaty of Lisbon, the European Union recognized animals as "sentient beings". The French National Assembly adopted the same recognition for animals in 2015. In the same year, both New Zealand and the province of Quebec officially recognized animals as "sentient beings".

If the law were changed, however, so that pets would no longer be classified as property, but rather, as persons, this would have serious ramifications for veterinarians, who would become vulnerable to lawsuits demanding damages, for example, for loss of companionship, pain, or suffering. In fact, the personhood of animals would also cause ripple effects in agriculture, cosmetics, zoos, parks, and the use of animals for experimentation, etc. The implications are enormous.

It can be expected that pressure to give animals or pets personhood will continue. According to Statistics Canada, there are around 8.1 million cats and 7.7 million dogs living in Canadian households. Pets are now a big business, as Statistics Canada reports. In 2019, Canadians spent \$5.686 billion on pets and pet food, with an additional \$3.919 billion spent on veterinary and other services for pets.

WHAT DOES ALL THIS MEAN?

A legal person has been defined by law as an entity that has rights and obligations. Obviously, a river or an animal cannot defend its "rights", should it be declared a legal person. Declaring non-humans legal persons would permit others, such as environmental or animal rights groups, the opportunity to bring legal challenges to protect such entities. The outcome of this expansion of human rights to non-humans is unfathomable. †

MAKING A GIFT UNDER YOUR WILL TO REAL WOMEN OF CANADA

Making a gift under your Will to **REAL Women of Canada** is a lasting gift, not just to REAL Women itself, but also to Canada as a whole. Canada needs strong families, especially now, when the fabric of society is being torn apart by materialism, selfish individualism, and disrespect for human life.

REAL Women's efforts on behalf of the traditional family have never waived. Through turmoil and adversity, we have put forward our voice on behalf of the family in a clear and uncompromising manner. We can only continue this vital work for many generations to come with your help.

When preparing your Will, please consider assisting **REAL Women** by making a bequest to our organization so that we can continue with our crucial work. †

TODAY'S YOUTH ARE DIFFERENT

In the midst of the gloomy stories about our spaced-out culture, a little gem has emerged, which may indicate that a new dawn is slowly emerging.

The data are showing that our younger generation's attitude toward sexuality and abortion has dramatically changed over the last few years.

The data come from a surprising source—the pro-abortion Guttmacher Institute in New York, which was founded as the research arm of Planned Parenthood. Its data have revealed jaw-dropping information for U.S. youth.

- Between 1988 and 2015, many youth have avoided sexual activity, 22% more boys and 9% more girls have abstained from sexual activity.
- The pregnancy rate of girls between 15 and 19 years has dropped by 73%.
- The abortion rate for females between 15 to 19 years of age declined by 82%. In contrast, the abortion rate of females from 35 to 39 years dropped by only 8.5%.
- Over 10% of pregnant females between 15 and 19 years chose life for their unborn child, rather than the alternative of abortion.

THE CANADIAN SITUATION

Canada is not among the countries with complete statistics on adolescent sexuality and abortion. Although scarce Canadian studies are not exactly comparable to the U.S., in terms of age range and dates' records, a decline is apparent. Some data, however, are available from Statistics Canada, as follows:

- In 1996–1997, 53% of Canadian teens between 15 and 19 avoided sexual activity, increasing to 57% in 2005.

The active group in this study included youth who had sexual intercourse once. Before 15 years, abstinence increased from 88% in 1996–1997 to 92% in 2005.

- Between 1974 and 2019, the pregnancy rate of girls in Canada between 15 and 19 years dropped by 87.2%.
- The abortion rate for females between 15 to 19 years declined 35.7% between 1996 and 2006.
- Studies vary but the number of pregnant females between 15 and 19, who chose life for their unborn child rather than abortion, range from 30% to 50% in Canada.

WHY THIS DECLINE?

Teens and young adults are more pro-life than the generation before them. This is reflected in the March for Life held each January in Washington, D.C. (except during the pandemic), when over two-thirds of the marchers are 25 years of age and younger. This has unnerved pro-abortion observers. Further, in the November U.S. 2020 election, 16 young, strongly pro-life women were elected to the U.S. House of Representatives, defeating in every case, pro-abortion candidates. This was unnerving for the Democratic speaker, Nancy Pelosi, and her party.

Much of this change can be attributed to the consistent, dedicated efforts of the pro-life movement, by way of education, political pressure and strategy, and the wonderful efforts of pregnancy centres, which reach out to help pregnant women in distress.

The needle has moved slowly over the years, mostly unnoticed, but steadily. It is the result of tireless, dedicated effort that these facts have begun to emerge. †

CANADA, AN INTERNATIONAL FOOL

On the international circuit, no one takes Canada seriously anymore. Instead, our country is regarded as a nation of simplistic fools which has little to contribute to serious discussions. This is because Canada regularly shows up at international settings beating its little drum, and blowing its trumpet, playing the same monotonous tune, insisting that abortion, homosexuality and feminism be included in international agreements. This is due to Trudeau, who apparently fancies himself the progressive leader of the world who must lead the world to a politically correct understanding of how to conduct itself. He is an embarrassment to Canada. This offensive behaviour by Canada occurs regularly at the Organization of American States (OAS), UN meetings, meetings of the G7, as well as at the annual World Economic Forum held in Davos, Switzerland.

The most recent incident occurred at a meeting of the UN Commission on Population and Development (UNCPD)

held in April, this year. The issues under discussion were population, food security, nutrition and sustainable development—serious matters for countries in the developing world. There was no reference to Canada's obsessions on the agenda—but that was of no consequence to Canada. The latter, together with other like-minded Western countries such as the U.S., New Zealand and Mexico, insisted that abortion, homosexual rights, and feminism be included in the agenda. It is significant that there had been no final outcome document at meetings of the UNPCD for the past five years because the delegates failed to reach an agreement owing to the Western countries', especially that of Canada, insistence that these controversial issues be included.

Yet, once again, these divisive issues were defeated at the UNCPD meeting because of the 54 African countries and Mid Eastern countries, such as Egypt and Qatar, pushing back. Some South American countries such as Nicaragua

and Brazil also refused to accept these nonsensical interjections. In fact, nobody paid much attention to Canada and the other equally fanatical Western countries trying to impose a whole new world order, disrupting the genuine and meaningful paths to resolving problems.

As a result of completely ignoring Canada's interjections, the UNCPD, this year finally reached a consensus to deal with real problems, not the farcical demands of extremist-controlled countries.

Not surprisingly, the UN agency, the UNFPA (UN Population Fund) which promotes abortion, homosexuality and population control, expressed grave disappointment that the meeting failed to accept its "progressive" social policies.

Why should the whole world bend to the will of some wealthy countries whose credibility is questionable? The push back is occurring because many countries are aware of the disaster that is currently engulfing the West due to "progressive" policies. †

GRANTS PAID TO GAY PRIDE ORGANIZATIONS DURING THE PANDEMIC

"The government is using taxpayer money to make certain that homosexual organizations continue to thrive and flourish during the pandemic so that they will be able to continue unabated in the promotion LGBTQ issues, regardless of the suffering experienced by others."

It is unbelievable that Trudeau's government is enthusiastically funding gay pride parades during the pandemic of 2020 and 2021. This is occurring despite the fact that parades and other similar activities have been banned.

However, grants have continued to be given to pride parade planning groups in major cities across Canada. For example, grants have been made to homosexual Gay Pride organizations including those in Victoria, Vancouver, Calgary, Winnipeg, Toronto, Regina, Saskatoon, and PEI. In its generous splurge, the Trudeau government hasn't overlooked the homosexual groups in smaller towns either. These include such towns as Fernie and Nanaimo, BC, Jasper and Taber, AB, Kemptville, Peterborough, Thunder Bay and York Region, Ontario, and Truro, NS.

The total of these grants, given to 34 individual gay pride parade groups, comes to just under \$1.5 million. In addition, even though theatres (both stage and film) have been closed during the pandemic, homosexual art groups are still getting grants for these activities. Examples of this include, Buddies in Bad Times Theatre, in Toronto (\$11,800), Pride in Art Society, in Vancouver (\$63,300) and Winnipeg Gay and Lesbian Film (\$20,200).

There is no logic or consistency to this funding at a time when there are prohibitions on gatherings outside the family "safety" bubble.

Businesses are closed, many forced into bankruptcy, livelihoods are wrecked, and churches are closed—but the government still has money to give to LGBTQ organizations.

The obvious question is why is the government doing this? Perhaps the answer is that the Liberal government wants to ensure that these homosexual groups remain together and not flounder during the pandemic (like the rest of us). The government is using taxpayer money to make certain that homosexual organizations continue to thrive and flourish during the pandemic so that they will be able to continue unabated in the promotion LGBTQ issues, regardless of the suffering experienced by others. †

AGM 2021 *postponed*

Due to the uncertainty caused by the Ontario government's pandemic restrictions, regretfully, we have to postpone our 2021 annual meeting from June 19 to October 2021.

We very much want to have a live meeting with our members, rather than a digital one, so we hope you will be able to attend the AGM in October 2021. We will let you know the exact date in October once we have confirmed that our guest speaker, M.P. Derek Sloan, will still be available.

It will be wonderful to see you at the AGM in person! †

MESSAGE BOARD

- **Annual General Meeting:** This meeting, originally scheduled for June 19, 2021, has been postponed due to the uncertainty of the COVID restrictions for indoor gatherings in Ontario. It has been rescheduled for October 2021. The exact date is to be determined pending the availability of our guest speaker.
- **Two excellent books still available:** With a donation of \$100 or more to REAL Women, and if requested, you can receive one of the two excellent books that our co-founder, Vice-President and Legal Counsel, Gwen Landolt, has co-authored. One details the history of the abortion issue in Canada and the other is about the Canadian Charter of Rights. If you don't have a copy yet, now is the time! <http://www.realwomenofcanada.ca/> for more information. †

PRESIDENT'S MESSAGE



Dear supporter of REAL Women of Canada:

Welcome to summer and welcome to the June 2021 edition of e-REALity and the May/June edition of the print copy of REALity.

The 2021 Annual General Meeting of REAL Women of Canada has been postponed from the original date of June 19 to a Saturday in October (with the exact date yet to be determined, based on the availability of our guest speaker). The reason for the postponement is the continued uncertainty related to the restrictions for indoor gatherings in Ontario. Our bylaws do not permit us to conduct the meeting entirely by electronic means. We want to have our AGM open to as many members as possible. We will notify you as soon the date has been finalized.

Bill C-233, An Act to Amend the Criminal Code (sex-selection abortion), a private member's bill tabled by MP Cathay Wagantall (Yorkton-Melville) was recently defeated at the Second Reading in the House of Commons. This defeat of this important pro-life bill was certainly very disappointing but it provided an opportunity to debate abortion in Parliament and raise the profile of the pro-life cause. 81 Conservative Party MPs and one Independent MP voted in favor of the Bill. These MPs need to be congratulated and encouraged for speaking up to protect unborn baby girls. You can find their contact information at <https://www.ourcommons.ca/members/en/votes/43/2/125>.

We are also following the deliberations at the Standing Senate Committee on Legal and Constitutional Affairs, related to Bill S-203, An Act to restrict young persons' online access to sexually explicit material. The bill's short title is "Protecting Young Persons from Exposure to Pornography Act". **This is a bill sponsored by Senator Julie Miville-Dechêne** and has now gone through Second Reading. Please contact as many Senators as you can to ask them to vote in favour of Bill S-203: <https://sencanada.ca/en/senators-list/>.

REAL Women of Canada is part of the Equal Shared Parenting Working Group. We believe that it is important for children's development, that they have equal access to both parents, barring any extenuating circumstances such as abuse. The working group is favourable to shared parenting following marriage dissolution, and the group promotes and reports on legislation and case law in many jurisdictions.

After a lengthy application process, REAL Women has recently been accepted as a Civil Society Organization (CSO) of the OAS, Organization of American States (<http://www.oas.org/en/>). We are affiliated with Human Life International (HLI), CSO Coalition for Human Development. The OAS consists of 35 member states in North and South America. Most of these countries have pro-life/pro-family policies. The feminist extremists are trying to turn the OAS into a pro-abortion/homosexual organization. However, they are being met with a solid wall of resistance from pro-life/family representatives and countries—the same resistance that they experienced at the UN. REAL Women is proud to be able to add to that pro-life/pro-family voice.

We are ever so appreciative of the many wonderful ways that you are supporting our work and are pleased to be able to continue presenting your views in the courts, in the media and in the government.

Warm regards,

Pauline Guzik

Pauline Guzik, National President ♣



Cartoon: Gary Varvel, Toronto Sun, March 11, 2021

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