

August 12, 2008

**Canadian Judicial Council
Ottawa, Ontario, K1A 0W8**

Regarding Chief Justice Beverley McLachlin

Letter of Complaint

Dear Judicial Conduct Committee,

On behalf of Forty-two Canadian organizations and their estimated one million plus members we collectively file a letter of complaint with the Canadian Judicial Council about federally appointed chief justice Beverley McLachlin for conduct that breaches the high standard of personal conduct required to be a member of the judiciary. Section 63 of the Judges Act gives CJC authority to investigate conduct of federally appointed judges.

It is critical for Canadians to have trust in the conduct of the chief justice of the Supreme Court of Canada. Justice must not only be served, it must be seen to be served. If Canadians believe they cannot receive unbiased, non-political decisions based on the law of the land from the highest court, our judicial branch of government is compromised.

The conduct of Advisory Council Chair, chief justice McLachlin, throughout the process of awarding Dr. Henry Morgentaler the Order of Canada demonstrates bias, political agenda and a wanton disregard for the Constitution of the Order of Canada and time honored regulations. In a 2008 inquiry report on Hon. Theodore Matlow the committee said "All judges have a duty to conduct themselves in such a manner as to preserve the dignity of their office and the impartiality and independence of the judiciary." It further explains that "Impartiality is, as the *Ethical Principles for Judges* recognizes, 'the fundamental qualification of a judge and the core attribute of the judiciary'. Certainly the preservation of the appearance of impartiality and integrity is a fundamental duty of a judge, and more so of the chief justice.

The seven following facts stand as evidence of judicial impropriety:

1. Under the Policy section of the Constitution of the Order of Canada, paragraph 3 (b) (ii) disallows a nominee if the person "has been subject to official sanction, such as a fine or a reprimand, by an adjudicating body, professional association or other organization." The Chair must have been or should have been fully aware that Dr. Henry Morgentaler was sanctioned by the Disciplinary Committee of the Professional Corporation of Physicians of Quebec. In 1976 his medical license was revoked for one year. In fact, he was found guilty

of “not holding a valid interview before an abortion, for failing almost completely to gather a case history of his client, for failing to perform the necessary pregnancy test or blood test, for not obtaining pathological examination of the 'tissues' removed and for failing to follow up the state of health of his patients afterward.”

2. The Chair was fully apprised that Dr. Morgentaler’s conduct violated the norms of society. The Policy section of the Constitution, paragraph 3 (b) (i) requires rejection if “the conduct of the person constitutes a significant departure from generally-recognized standards of public behaviour which is seen to undermine the credibility, integrity or relevance of the Order,” Dr. Morgentaler admittedly broke Canadian law for 19 years and his appointment has severely undermined the credibility of the Order and regard for law of the land.

3. Chief Justice McLachlin knows that the Constitution’s clause 7. (4) requires that “The Council shall invite the Deputy Minister of the Department of Foreign Affairs and International Trade to participate in the review of nominations for honorary Companions, Officers and Members.” The Chair intentionally did not obey this section of the Constitution.

4. Long standing Order of Canada regulations do not allow a new Advisory Council to overrule the decision of a previous Council. Two past Advisory Councils rejected Dr. Morgentaler as a nominee. Chief Justice McLachlin violated this and brought forward and approved Henry Morgentaler.

5. In the history of the Order of Canada, Advisory Council consensus has been required for approval of a nominee. At least two voices of dissent were present, however the Chair ignored the consensus norm and allowed the nominee by a vote process.

6. The votes of dissent represented democratic voices. The Clerk of the Privy Council and the Deputy Minister of the Department of Canadian Heritage act according to the elected Government and the people of Canada. By altering process in the face of democracy the unelected Chair overruled the votes of the elected representatives.

7. The Chief Justice compromised the Supreme Court of Canada's neutrality, impartiality and integrity by overriding regulations to approve of abortion and Henry Morgentaler's actions. The Chair's vote and actions are clear indicators of her position on abortion. The current New Brunswick case regarding funding of Morgentaler's private clinics before the court may have been impacted by her actions. There is real possibility that this case will come before the Supreme Court. If a case involving abortion or Henry Morgentaler comes to the High Court during Beverley McLachlin's tenure the Chief Justice's judgement is predetermined.

The behavior of Beverley McLachlin outside the courtroom on the Advisory Council clearly has reduced respect for both her and the Canadian judiciary. Her lack of response to the complaints from the public have deepened the public's mistrust of judges, courts and the system.

In order to preserve the integrity of Canada's judicial system we respectfully ask that you consider this complaint seriously, investigate Beverley McLachlin's inappropriate behavior and recommend to Parliament that Ms. McLachlin be removed from office.

We ask this pursuant to Section 63 of the Judges Act and bylaw 8(1) which requires a report to Council with findings and recommending as to the matter of removal from office of a judge whose conduct is in violation of ethical standards and code of conduct regarding impartiality, integrity and independence of the judiciary.

On behalf of the 41 organizations listed below,

**Brian Rushfeldt, Executive Director
Canada Family Action Coalition**

4 My Canada

A.J. Slinger Service

Alberta Pro-Life Alliance Association

Active Christians Engaging Society

Alliance for Life Ontario

ARPA Canada

Canada Christian College
Canadian Physicians for Life
Canadian Alliance for Social Justice and Family Values Association
Canadian Coalition Democracies
Canadian College of Christian Councilors
Can Am Fabricating and Welding
Can American Stone Spreader
Catholic Civil Rights League
Catholic Diocese of Calgary
Christian Action Federation of New Brunswick
Christian Social Concern Fellowship
Christians United for Israel
Colchester County Right to Life
David Murrell, Phd, UNB, Economics
Eternally Yours Radio and Telecast Ministry
Eternity Club
Evangelical Association
Institute for Canadian Values
Life Canada / Vie Canada
Life Site News
Live-In International
Lutherans for Life
Niagara Chapter - CFAC
North Shore Pro Life
Our Lady of Mercy Parish Pro-Life Burnaby
Pro-Vie Clare
Real Women BC
Real Women of Canada
Renfrew County Family Action Council
Right to Life Association of Newfoundland and Labrador
Saskatchewan Pro-Life Association
Takebackcanada.com
Together for Life Ministries

United Families Canada
Vancouver Jesus Agape Church