



Chumir Ethics Forum

Sheldon Chumir Foundation for Ethics in Leadership



Phone: (403) 244-6666

www.chumirethicsfoundation.ca

Fax (403) 244-5596

Thinking About Ethical Leadership:

Canadian civic values—the touchstone for resolving conflicts over diversity

By Janet Keeping, President



Recent commentary in Canada and Europe claims that many people in both places are fearful of diversity because they are insecure about who they are. This insecurity makes them wary, it is said, of those who seem to have a code of behaviour which provides definitive answers to life's big questions.

The argument in some circles runs like this: the mainstream no longer subscribes to a set of core beliefs, and when confronted with people different from themselves who do, the fear which all too often leads to discrimination against “the other” sets in.

The latest example from Europe is the Swiss referendum on the minarets (basically, towers) which adorn many Muslim mosques. In December 2009, a solid majority (57.5 %) of the Swiss voted to ban minarets even though prior to the vote Switzerland had a total of four mosques with them. Although, as Ian Buruma—author of *Murder in Amsterdam*—writes, the outcome was “allegedly because of worries about ‘fundamentalism’ and the ‘creeping Islamization’ of Switzerland,” a better explanation is the insecurity of the Swiss and other Europeans. Buruma argues that if they were “self-assured about their identities, their Muslim fellow citizens probably would not strike such fear in their hearts.”

He elaborates:

It was not so long ago that the majority of citizens in the Western world had their own unquestioned symbols of collective faith and identity. The church spires that grace many European cities still meant something to most people. Few people married outside their faith. [But m]uch has changed.... Most of us live in a secular, liberal, disenchanted world ... [with] widespread bewilderment, fear and resent-

ment.... [T]he Muslims are envied for still having faith, for knowing who they are.

Some people see the same phenomenon at work in Canada. It is sometimes said that the majority of Canadians have no solid framework of values and thus panic when minorities confidently assert their beliefs: the confused mainstream fears being overtaken by “the other” which knows exactly what he or she wants and values.

But whatever you think of Buruma's analysis of Europe, it is a mistake, I think, to see Canada through the same lens. For one thing, many recent examples of backlash against Muslims and other groups not traditionally found in great numbers in western Europe, have not been repeated in Canada. Consider the Muslim woman who was denied citizenship because she wore a burka and thus, according to French officials, did not exhibit sufficient commitment to French values. The Canadians with whom I have discussed this case are uniformly either puzzled or aghast: if in other respects she was qualified, how could what she wears bar her from citizenship?

Canada is unlike the countries from which the original European settlers came in some very important ways. For one thing the vast majority of Canadians are not of original stock (Aboriginal). Instead, they are descended from earlier immigrants and accept that Canadians come in different colours, adhere to various beliefs and differ in myriad other ways. As recent immigrants bring an even greater diversity to Canada, this truth is reinforced:

TABLE OF CONTENTS

Thinking About Ethical Leadership	1
New Board Members/From the Media Room	3
Letter from Vancouver	4
Bill 44 Fallout	6
Announcements	8

unlike France, Britain, the Netherlands or other sources of European immigration, Canada is a land of peoples who never were and can never be united by ethnicity, religion or anything of the sort. The glue that keeps the country together is secular, cosmopolitan and constituted largely of democratic values.

Canadians may appear confused about what's bedrock in the public arena. I suggest this is more because we have not until relatively recently had to spell out what we stand for, than because we are actually all that muddled about such things. If we examine some of the more serious conflicts over our diversity of cultural and religious practices, genders and sexual orientations, we see, I think, that the touchstone for their resolution has been our civic values, such as our commitment to democratic government, including the rule of law, the equal benefit and protection of the law, and protection of human rights, including those of women and gays.

Consider the debate over gay marriage. Although it extended over some years and raged intensely much of that time, in the end most Canadians seem to have come to terms with the right of gays to civil marriage. Religions that oppose gay marriage are not required to consecrate them, but our shared commitment to democratic process, human rights, equality and just plain fairness prevailed. Not everyone is happy. But when is that ever the case? And surveys show that a significant majority of Canadians are content with the outcome.

Although our core set of civic values is for now fairly secure, two complexities should be noted. First, we can never take this state of affairs for granted. That just a few years ago the Government of Ontario could seriously have contemplated giving legal force in matters of family law to sharia, a Muslim legal system which on its face seriously discriminates against women, is sufficient to show that we need always be vigilant about preserving our way of thinking about and handling diversity, in this case, related to gender.

Second, our set of civic values will always be subject to challenge at the margins. A federal or provincial government probably could not get away with the defunding of abortions, because the impact of such a move on

women's liberty is widely understood. On the other hand, it's clear that public funding of transsexuals' unique medical issues remain controversial.

In early 2009 the Alberta government removed gender reassignment surgery from the list of funded medical procedures. Although it was pointed out that the same thing had been done ten years earlier in Ontario and eventually had to be reversed for human rights violations, Alberta persisted.

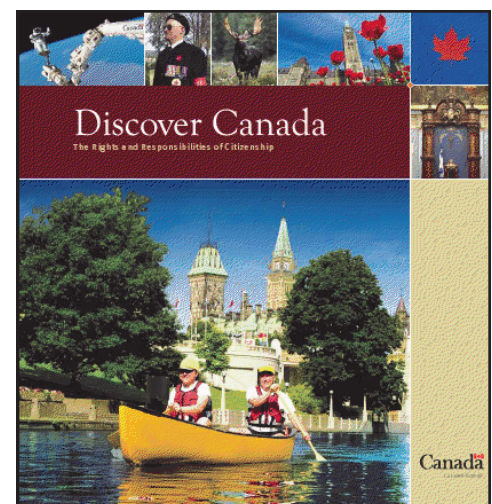
Decency will in the end prevail when the courts overturn this decision, but we can see that some equalities are more deeply respected than others.

Truth is, the content of our legally protected basket of human rights will always be contested, that is, always subject to both arguments for expansion and then pushback from those opposed to change. We take women's right to vote

for granted now, but the suffragette movement encountered great resistance, including violence against and imprisonment of activists. We see now the same opposition to entrenched environmental rights or use the Charter of Rights, for example, to raise excessively low welfare rates, which guarantee the humiliation and continued poverty of recipients.

It's in the nature of the beast: as Ghandi said, "First they ignore you, then they laugh at you, then they fight you, then you win."

"If we examine some of our more serious conflicts over our diversity of cultural and religious practices, genders and sexual orientations, we see...that the touchstone for their resolution has been our civic values."



Cover of the new Canadian Citizenship Study Guide released in November 2009, which outlines some specific Canadian values.

Welcome, New Board Members!

Controversy at the margins should not blind us to the fact that there is a pretty solid consensus on much of our core civic values. Randy Boyagoda, who teaches English at Ryerson University in Toronto, has written about the conviction of Desire Munyaneza by a Montreal court for his part of the Rwandan genocide. In 2005 Munyaneza applied for refugee status in Canada, but instead found himself charged under the *Crimes Against Humanity and War Crimes Act* which allows for the “prosecution of Canadian residents suspected of war crimes and genocidal acts” regardless of where they occurred.

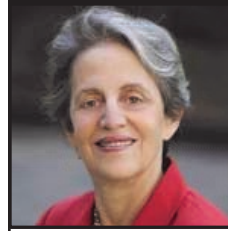
As Boyagoda puts it, “That Mr. Munyaneza attempted to seek refuge in Canada ... says something troubling and revealing about how our openness to newcomers from across the world can be perceived as soft, myopic, and exploitable.” But Munyaneza’s fate says something quite different: his attempt at gaining refugee status failed and his punishment “25 years with no chance of parole” shows in Boyagoda’s words “the correct ordering and playing out of our national principles:

Our commitments to immigration and multiculturalism are not, as can often seem the case ... unquestionable goods in and of themselves. Their true value and relevance comes only of their being treated as rightly secondary to our higher commitments – to justice, to human rights, and to the defence of innocent life at home and abroad....

Perhaps it is easier for those of us who have spent a lot of time in societies profoundly different from our own to see that this is so. After much time in Russia, it hit me with great force that we do indeed have a unifying culture in Canada, but one which has nothing to do with such things as ethnicity, race or religion. Our civic, democratic values bind us together and provide the foundation for our judgments about which changes constitute progress (for example, gay marriage), and thus should be embraced, and which do not (for example, adoption of sharia) and so should be rejected.

The “identity” question—Who are we as Canadians?—is unanswerable and pointless. The values question—What do we stand for?—is not. To make a democracy work, identity is irrelevant; the appropriate values are everything, and we’ve got them.

*Janet Keeping
President*



Janice Gross Stein is the Belzberg Professor of Conflict Management and the Director of the Munk Centre for International Studies at the University of Toronto. Dr. Stein is an expert on conflict resolution and international relations, with an emphasis on the Middle East. Janice has a passionate interest in diversity issues, especially when gender equality is at stake, and was a speaker on the place of religion in politics at our 2008 Symposium. Selected to give the Massey Lecture in 2001, Janice is a Fellow of the Royal Society of Canada, a Member of the Order of Canada, and was awarded a Trudeau Fellowship in 2003 and the Order of Ontario in 2007. To learn more about Janice go to: <http://webapp.mcis.utoronto.ca/DirectoryDetail.aspx?id=10487>



Michael Wylie practices with the Calgary law firm Macleod Dixon and in 2007 was recognized as “Best Lawyer in Canada” in the banking area. Mr. Wylie graduated with a Bachelor in Civil Laws from Oxford University and first practised law in Lethbridge. For 15 years he taught in the Faculty of Law at the University of Calgary where he also served a term as Dean. Mike has strong interests in human rights, an important priority for the Chumir Foundation. He has been a director of the Alberta Civil Liberties Research Centre, an organization Sheldon Chumir helped found, for many years and in 2000 received the Suzanne Mah Human Rights Award, as did Sheldon, for work which “best exemplifies human rights principles and ideals.” To learn more about Mike go to: http://www.macleoddixon.com/ourlawyers/michael_wylie.htm

From the Media Room

You can now follow the Sheldon Chumir Foundation on **Facebook, Twitter and YouTube**. Click on the icons below, or visit: www.chumirethicsfoundation.ca



Letter from Vancouver: Ethics and the Olympics

By Micheal Vonn



As with all Olympic host cities, there was never any question that Vancouver would be under intense pressure to gussy-up and showcase itself to “the world” for the Games.

Many people believed that the Games could be leveraged to provide lasting human rights legacies for the city’s most vulnerable, in particular in

housing for the homeless, who well outnumber the city’s current shelter capacity.

It seemed incomprehensible to most Vancouverites that a Canadian host city would allow for the kinds of “street-sweeping” of the public poor that has marked so many of the past Games in other countries. But instead of housing, or even shelter for the homeless, we have seen a morally reprehensible assault on homeless people in the Province’s appeal of the *Adams v. Victoria* case, which decided that homeless people forced to sleep outdoors because shelters are full can set up a tent or other shelter to stay warm and dry. The B.C. government is trying to overturn the ruling, arguing that people who cannot get into a shelter have no “right” to protect themselves from the elements. At the same time, B.C. has introduced a bill that would allow police to “force” homeless people into shelters in “extreme weather.”¹

Since the shortage of shelter beds means that police can’t force all homeless people into shelters, the fair surmise is that these powers will be used selectively to arrest people in the most visible tourist and business districts, just in time for the Olympics. The bill has been resoundingly condemned by service providers and advocates for the poor, but we can understand how ordinary citizens might feel generally supportive of something called the *Assistance to Shelter Act*. It *sounds* good.

Freedom of speech and the Olympics are always on a collision course. The infamous Rule 51 of the International Olympic Committee demands of host cities that “No kind of demonstration or political, religious or racial propaganda is permitted in any Olympic sites, venues or other areas.” In a nutshell, the edict is antithetical to Canadian democracy and our *Charter* rights. Canada is not

supposed to be in the business of suppressing citizens’ constitutional rights to free expression in order to safeguard the financial investment of private sector Olympics sponsors.

Canadians would find it unthinkable that the government would authorize itself to enter people’s houses and other private property with only 24 hours notice in order to remove or cover up signs deemed offensive to the Olympics, let alone fine you or throw you into jail to boot. Perhaps it is the very “unthinkableness” that prevents people from understanding that this is what is happening. For anyone interested in verifying the unthinkable, see the recently passed amendments to the B.C. *Municipalities Enabling and Validating Act (No. 3)* and the *Vancouver Charter* which put people at risk of having their private property invaded, \$10,000 per day fines and 6 months in jail just for posting signs criticizing the Olympics. But people are not very apt to go hunting up a series of statutory amendments. They are much more apt to read the newspaper in which members of government are quoted almost daily making staunch assurances that the *Charter* will be fully respected during the Olympics. There, that *sounds* right.

The Olympics security budget was originally estimated to be \$175 million, but has since ballooned to close to \$1 billion. The security costs of mega-events have been increasingly reaching mega-proportions. While there are specific challenges in providing security for the Games, such mega-events go far beyond all proportionality and are now *de facto* trade-shows for the security and military industries. Militarized weapons and surveillance architecture are no longer merely a by-product of such events; they are deliver-



Photo Credit: Jay Black

¹In a December 9th ruling by the B.C. Court of Appeal, the provincial government lost this case.

ables. Host cities are inevitably militarized with surveillance systems that extend far beyond an inevitable influx of CCTV cameras to include wiretapping, data mining, iris scans, facial scans, RFID (radio frequency identification) chips, satellite imaging and a range of other technologies. The 2010 Games will see more Canadian military personnel in Vancouver than are currently posted in Afghanistan. And the policing and security of the Olympics will put military weapons for “crowd control” into the hands of the domestic police forces.

Recently the Vancouver Police Department (VPD) was found to have purchased a Long Range Acoustic Device (LRAD) which is a sonic weapon used against protesters at the G20 meetings in Pittsburg. The LRAD emits a painful sound that can cause potentially permanent hearing damage. The VPD claimed that they were only going to use the device for making announcements to large groups of people. Initially unwilling to provide assurances that they would not use the device as a weapon against Olympic protestors, or justify the purchase of an LRAD for megaphone use when long-range megaphones are available for much less cost, the VPD capitulated to public concern and agreed to disable the weapons feature of the device. If, as there may well be, there are any more newly acquired crowd control weapons, we can be sure the police won't be volunteering that information before the Olympics.

Besides surveillance systems and military weapons, another Olympic legacy is a secretive and authoritarian turn in police culture. We see this most starkly in Vancouver with the Olympic ISU's (Integrated Security Unit) spying on and harassment of Olympics critics. The monitoring and interrogation of Olympics critics has been by turns frightening and comedic. On the funnier side was the investigation of Cowichan sweater-knitters who were furious about an alleged Olympic rip-off of their sweater design. On the infinitely less funny side are the many ordinary citizens who have been approached by the ISU and entered into databases as potential security threats based on their political and cultural views opposing the Olympics.

It's possible that we have now reached a turning point in Vancouver on the question of the Olympics. There is a sufficient accumulation of things that do not sound right and do not square with assurances, that many people are growing concerned. And more and more citizens are interested in looking beyond the omnipresent Olympics

messaging about “spirit,” “patriotism,” “vision” and many other abstractions, to see what's actually going on with our city, our priorities, our rights and our values. Our first and overarching ethical obligation is to try to understand what is truly happening in the face of the public relations monolith that is attempting to quash, or at least drown out, any genuine public discourse about the Olympics. We must ask ourselves why the media story is almost invariably about whether or not the protesters are “peaceful” or “violent” and never about what the protesters are saying.



Photo Credit: Jay Black

We need to be better at getting behind the public relations camouflage about the Olympics and about all the ways that we are currently threatened with increasing militarization and authoritarianism. And in that spirit, we might wonder why the Canadian military is working on new “urban camouflage” patterns to blend in with the urban settings of Vancouver, Montreal and Toronto. This is not a metaphor, it is a contract awarded to HyperStealth Biotechnology Corporation. Granted, the new Canadian Urban Environment Pattern is only in the early stages of development (*National Post*, November 16, 2009), but it is a rather chilling development. As the UK civil liberties organization Statewatch says, there is a new kind of arms race, and all the weapons and surveillance are pointing inwards.

*Michael Vonn is
Policy Director of the
B.C. Civil Liberties Association*

The fallout from Alberta's radioactive Bill 44 just keeps getting worse

By Dan Shapiro



Much ink was spilled last spring about what Bill 44 did do—force teachers and schools to give advance notice to parents about lessons dealing with “religion, human sexuality and sexual orientation” or face the threat of a human rights complaint—but less attention was paid to amendments that should have been introduced but were not.

Two key reforms of Alberta's *Human Rights Act* are still needed to make the Human Rights Commission independent of government and improve the process surrounding the adjudication of discrimination complaints. Other changes also are needed, for example, to amend or repeal the “hate speech” provision to better protect freedom of expression, but let's concentrate on independence and due process issues.¹

One of the Chumir Foundation's most important recommendations for reforming Alberta's human rights legislation was that the Human Rights Commission should report directly to the Legislature rather than to a Cabinet Minister. A recent incident shows how ignoring this crucial issue threatens the independence of the Commission and unnecessarily politicizes its activities.

The current Chief Commissioner, Hon. Blair Mason, had earlier agreed to speak at a recent public forum on the Bill 44 parental opt-out clause, which is scheduled to come into force on September 1, 2010. Unfortunately, officials in the Ministry of Culture and Community Spirit, which is responsible for Alberta's HRC and headed by the Hon. Lindsay Blackett, forbade Mr. Mason to speak at the event on behalf of the Commission.

Mr. Mason, by all accounts a man of deep integrity who takes seriously his mandate to promote and protect the

¹For the full list of our 21 recommendations for the improvement of Alberta's human rights legislation and commission, see: www.chumirethicsfoundation.ca/files/pdf/Toward-Equal-Opportunity_SCF.pdf

human rights of all Albertans, was slated only to bring greetings from the Commission—not to act as a panelist—at an event billed as a celebration of International Human Rights Day and the 20th Anniversary of the UN *Convention on the Rights of the Child*.

Obviously, it would be inappropriate for the Chief Commissioner—who has the legislative authority to adjudicate human rights cases—to give his personal views on the wisdom of the law he must administer. As a former judge, Mr. Mason would surely do no such thing.

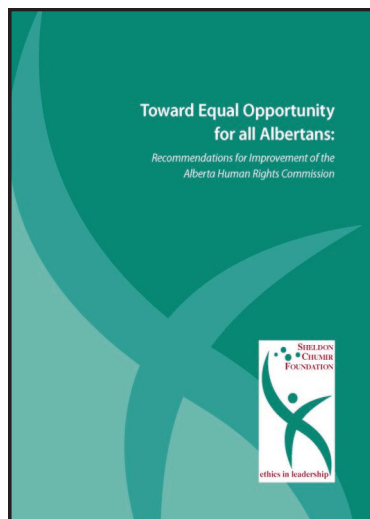
Yet, he was prohibited by his political masters to attend an educational event about the operation of the Human Rights Commission. This is political interference of the worst kind, and all Albertans should be concerned about this regardless of their views on the proper mandate of the HRC.

Accordingly, we repeat our recommendation that the Human Rights Commission report directly to the Legislature as do already, for example, the Auditor General, Ethics Commissioner, and Chief Electoral Officer.

That we need independent officers of the legislature cannot be overstated. Those noted above serve as watchdogs of the public purse, monitor potential conflicts of interest of our MLAs and ensure free and fair elections, respectively.

The protection of human rights is also susceptible to undermining by politicians, so the Alberta Human Rights Commission should be free to act without fear of political interference or reprisal.

We have in the not-so-distant past seen unacceptable political interference with the Human Rights Commission when the Minister then responsible for it sent a letter ordering the then Acting Chief Commissioner not to accept Delwin Vriend's complaint that he was dismissed from his job on the basis of his sexual orientation. The ensuing lengthy legal battle was resolved when the Supreme Court of Canada ordered the Alberta government to “read-in” sexual orientation as a protected ground in our human rights act.



Eleven years after that ruling, in Bill 44 the government finally added the words “sexual orientation” to the list of protected grounds in Alberta’s human rights act, but unfortunately the problem concerning the independence of the Commission went unaddressed.

The concern about political interference in the Commission’s business is obvious: if there can be political interference in the Chief Commissioner’s event schedule, what about in his rulings, especially where the government itself is a respondent, which happens often enough?

We do not need evidence of actual cabinet interference with the operation of the HRC to see the force of this concern. Even the appearance of bias in such matters is unacceptable. It is important in a democracy not just that there be no political interference in the application and adjudication of the law, but also that there be no *appearance* of such political interference.

This brings us to our second area of Alberta’s human rights legislation in need of reform: concerns about due process. We made several recommendations on this front, most importantly that the Commission’s adjudicative function be separated from its educational mandate. The appointment of well-qualified individuals as human rights commissioners would also help to ensure due process.

The Commission has faced fierce criticism in recent years concerning the fair handling of complaints, evidence and the application of the law, and the fact that the Commission has the authority both to investigate and rule on discrimination cases.

The recent Alberta Court of Queen’s Bench ruling in the *Boissoin v. Lund* case makes it eminently clear that the current system for the adjudication of human rights complaints in Alberta is not sufficiently rigorous to ensure the fair application of the law.²

In his ruling, Justice Wilson was extremely critical of the Panel decision in the original case, citing numerous “errors of law,” “mystifying” conclusions, and “illegal” and “unconstitutional” remedies. These are complicated

matters, but two straightforward points can be made.

First, only commissioners with appropriate legal training and experience should be appointed to sit on human rights Panels—or, as they are now called “Tribunals.” These appointments must be de-politicized and made solely on the basis of merit.

Second, a full separation between the “Tribunals” and the Commission should be made in the human rights act so that the commissioners who adjudicate complaints are not connected to the operation of the Commission and its educational mandate. Bill 44 renamed “Tribunals” what were previously called “Panels,” but change of nomenclature has no legal significance whatsoever.

Real separation of functions would go a long way to remedying the perception that the Commission is staffed by ideologically-motivated “human rights advocates” who are more likely to side with complainants than respondents.

The independence of the Commission and the impartiality of the Tribunals are very serious matters. Bill 44 failed to address these issues, and reforms are still needed to ensure fairness, due process and the impartial application of Alberta’s human rights law.

Protection of human rights is too important to ignore the pressing need for reform of Alberta’s human rights legislation and Commission. Ethical leadership demands that the government go back to the drawing-board and get it right this time around.

Dan Shapiro
Research Associate



²<http://www.albertacourts.ab.ca/jdb%5C2003-%5Cqb%5Ccivil%5C2009%5C2009abqb0592.pdf>



So Long, Farewell but not Goodbye, Justice C.D. O'Brien

Mr. Justice C.D. O'Brien who was a founding Director of the Sheldon Chumir Foundation will be resigning from the Board, effective January 31, 2010. Prior to his 2005 appointment to the Alberta Court of Appeal, Mr. O'Brien had a distinguished legal career. He practiced law with Bennett Jones in Calgary, where he and Sheldon Chumir were both partners in the 1970s. Their friendship started during their student years at the University of Alberta, developed during their time together in practice and continued until Sheldon's death in 1992. Cliff's deep loyalty to Sheldon's legacy has shone through his many years' dedicated service to the Foundation. In recognition of his integrity and commitment, Justice O'Brien has been named the first Honorary Director of the Foundation.

ANNOUNCEMENTS

“FREEDOM OF RELIGION IN CANADA TODAY”

Thursday, January 28, 2010

5:00pm—9:30pm

2nd floor, Kahanoff Centre, Room 201, 1202 Centre St. S

CALGARY

FREE EVENT REGISTRATION REQUIRED

info@chumirethicsfoundation.ca (403) 244-6666 www.chumirethicsfoundation.ca

Co-sponsors: *Sheldon Chumir Foundation for Ethics in Leadership*
Rocky Mountain Civil Liberties Association

ALBERTA DEBATE & SPEECH ASSOCIATION

Junior High Regional Debate Tournament

February 27, 2010

Queen Elizabeth Junior/

Senior High School

512—18th St. NW, **CALGARY**

www.albertadebate.com

“OFFENSE, RESPECT, ETHICS AND THE LAW: How Should we Talk to one Another about Sensitive Subjects?”

Saturday, April 17, 2010

Munk Centre, 1 Devonshire Place

University of TORONTO

FREE EVENT REGISTRATION REQUIRED

info@chumirethicsfoundation.ca (403) 244-6666 www.chumirethicsfoundation.ca

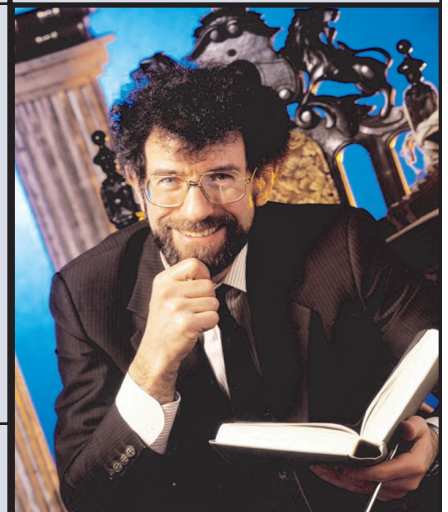
Co-sponsors: *Sheldon Chumir Foundation for Ethics in Leadership*
Canadian Civil Liberties Association

INTER-COLLEGIATE BUSINESS COMPETITION 10th ANNUAL ETHICS EVENT, QUEEN'S UNIVERSITY

Sponsor: *Sheldon Chumir Foundation for Ethics in Leadership*

January 7-9, 2010, Queen's University, KINGSTON

For details visit: www.icbconline.ca



**Sheldon Chumir
(1940-1992)**

Sheldon Chumir Foundation for Ethics in Leadership

Suite 970, Kahanoff Centre, 1202 Centre Street S. Calgary, AB T2G 5A5

tel: (403) 244-6666 fax: (403) 244-5596 www.chumirethicsfoundation.ca info@chumirethicsfoundation.ca