

Friends of Freedom

A private newsletter for the supporters of the Canadian Free Speech League, dealing in cases of the censorship and persecution of political, religious, and historical opinion.

"At any given moment there is an orthodoxy, a body of ideas which it is assumed all right-thinking people will accept without question. It is not exactly forbidden to state this or that or the other, but it is 'not done'... Anyone who challenges the prevailing orthodoxy finds himself silenced with surprising effectiveness. A genuinely unfashionable opinion is almost never given a fair hearing, either in the popular press or in the highbrow periodicals." -- George Orwell

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It has been said the road to hell is paved with good intentions. It was with the best of intentions that the Supreme Court of Canada took a wrong turn in the road in the Keegstra case in the year 1987. They intended to criminalize the discriminatory speech of a teacher who taught his world view of Jews in history and the struggle of Christ vs. Antichrist, as he saw it.

We argue that decision was wrong because of its broader implications for other people in other circumstances. You could at least however see what the good intentions of the Supreme Court might have been by their 4 to 3 split decision.

It was a desire to protect the vulnerable from indoctrination by persons in positions of trust, power, and authority. That is how the prosecutor, Bruce Fraser, framed his argument. But now after almost 30 years we see how these good intentions have been expanded to criminalize all opinions about race, religion, or ethnic origin, by anyone, at any time. In the case of Ahenakew we now see criminalization for speech in spontaneous, unpremeditated and argumentative circumstances.

Sometimes, if the Criminal Code won't work to limit freedom of speech, then applying the principles of John Ross Taylor, in the Human Rights Act will do. Now all we even see the civil law being used to silence dissent and control critics of the

establishment. Below, we see examples of both.

Ahenakew Case

On June 21st and 22nd in the Court of Appeal of Saskatchewan in Regina, consideration will be given to the Crown's appeal of this case. The trial resulted in a conviction before His Honour Judge Marty Irwin for David Ahenakew on the charge that he, in arguing over his views of the Second World War, was guilty of communicating other than in private conversation, statements likely to promote hatred against an identifiable group, i.e. the Jewish people.

You can see how far the case of Keegstra has been extended. No vulnerable recipient, no person of power speaking, and no requirement to accept the speech unchallenged were any longer necessary. An argument between two angry people became "other than in private conversation" by virtue of the fact one of them was a reporter, who held a tape recorder in his hand without the knowledge of David Ahenakew.

The Chief Justice of Saskatchewan then set aside the conviction and ordered a new trial on the grounds that the circumstances demonstrated a lack of intent. Then the Crown, not satisfied even with a new trial, appealed to ask the Saskatchewan Court of Appeal to simply restore the conviction. The case will be a major test of freedom. Once again, without the Canadian Free Speech League, it is unlikely David Ahenakew would have had a defence. Your dona-

tions made our assistance possible for this man.

Glen Bahr Case

Glen Bahr's case in Edmonton involves section 319(2) hate laws of the Criminal Code and an Edmonton City Police detective who posted messages to incite hate on Bahr's website located in the U.S.A.

Many new issues are brought to light by this case. Location of an act is one. Private communication is another. The significance of message boards to which anyone can post and responsibility for content is questionable, is another. What is the nature of "private communication" in this day and age? Who downloaded in Canada, if anyone? Similar matters will be considered for the first time.

Both Conservatives and Liberals see no trouble limiting "hate speech" but they have extended this in vastly different ways than was ever contemplated in the case of Keegstra.

The Bahr case will test these principles and offer a new road map for speech limitation in the future. In November and December this case will be tried in Edmonton.

Ken Wiebe Case

To summarize the past, Ken Wiebe created a website for the B.C. Fathers (a group aimed at defending the rights of fathers) in which he ridiculed "Feminazis" a term popularized by Rush Limbaugh on American radio talk shows. He used a swastika

with an "F" in it, as you can imagine, and a baby's picture giving the finger with the caption "Stop feminazis. We're tired of it, okay?"

A feminist professor from Quebec used the occasion of writing about school success by gender to create a list of what she called "masculinists" to whom she ascribed some very serious characteristics of a derogatory nature, for example pedophilia. Ken Wiebe was at the top of the list. He sued for defamation and the result was a lawsuit in British Columbia to which the Quebec professor was required to attend.

The trial lasted two weeks in May and has been adjourned to January 28th, 2008.

The lesson here is the high cost of both litigation which makes defending one's reputations a preserve of the rich, if not super-rich. It also demonstrates how a study, funded by the Government of Canada (Status of Women) can vilify a person standing up for father's rights even with humour. The fact is that reputation, like freedom itself, is not free. Sometimes people have to go to court over it, and that is very costly.

What are the consequences of bringing suit for Ken Wiebe? He was vilified by the government-funded study, distributed to many libraries in Canada and around the world, via the government website. The Government of Canada and probably an insurance company will provide the defence. How do you match those resources? It is important to realize in defending dissent for one person against the state-sanctioned religion, we defend dissent for all.

The following is an article that appeared in the Victoria Times-Colonist on May 1, 2007, by Richard Watts, that gives you an idea of the issues in the case:

**Spokesman for custody group launches suit for defamation
--Placement on anti-woman list devastating, plaintiff claims**

A trial is underway for a Victoria spokesman of B.C. Fathers

who is suing the federal government and others for defamation over a paper he says put him on a list of anti-woman "masculinist" groups.

Ken Wiebe is a father and spokesman for B.C. Fathers, a support group for parents, but mostly men, regarding child custody. He contends he was defamed when his name appeared in a paper titled "School Success by Gender: A Catalyst for the Masculinist Discourse, Policy Research."

According to Wiebe's statement of claim the paper cites "a discourse of hate, often violent and unchecked, directed at women and feminists" found on the Internet. And it calls the Internet a medium that "enables extremists, racists, supremacists, heterosexists, misogynists and other individuals from the right and the extreme right."

"It is no accident that this medium (the Internet) is being used by those on the extreme right, pedophiles and pornographers," the paper also states.

Wiebe's name appeared in the paper's appendix in a list of people, men's groups, journalists and news organizations, including the Times Colonist, as members of "masculinist" groups or people or agents that have given them publicity. The list was also posted on a website but taken down after about three months.

The paper was printed in March 2003, originally in French, and funded by the federal Minister Responsible for the Status of Women. It was later translated into English.

Besides the federal government, Wiebe's lawsuit also names Pierrette Bouchard, Isabelle Boily and Marie-Claude Proulx of the University of Laval. The statement of claim contends they are all "university lecturers, employees or activists, militant feminists or researchers."

Wiebe is being represented by Doug Christie, a Victoria lawyer with extensive experience in defamation and freedom-of-speech cases, largely connected with his representa-

tion of Holocaust deniers like Ernst Zundel.

In an interview outside the courtroom, Wiebe said the experience was devastating for him, his health and his family life. It also made it very tough to work in government.

"I felt like I was on a McCarthyist blacklist," said Wiebe.

In a statement, the three named women from the University of Laval contend they neither wrote nor translated the paper, School Success by Gender.

But the statement of defence also maintains it's true Wiebe has developed a website that included hate messages toward women and feminists and promoted violence against them, all points contained in the English text. The trial is scheduled to continue this week.

[end of article]

Marc Lemire Case

The case of Marc Lemire and the Freedomsite is ongoing before the Human Rights Tribunal and has taken some very interesting twists. It has been adjourned to June 25th and 26th to allow cross-examination of Harvey Goldberg, a major leader of the Canadian Human Rights Commission.

This was scheduled to occur on May 11th, 2007. The Canadian Free Speech League, as an intervenor on the side of freedom of speech, sent Doug Christie to cross examine Harvey Goldberg to enquire how often and to what extent the Commission uses threats of litigation to intimidate internet service providers (ISPs) to remove websites and postings the Commission wants to stop. It is obviously possible to use the Act to censor before a hearing and without a hearing. What happened on May 11th is as incredible as it was strange. The Commission counsel, two in number, showed up and plead illness to obtain an adjournment. It also appeared to involve some kind of event. The following are quotes from the

submissions made that day to the Tribunal:

"Mr. Fine: ...Both of our counsel are ill. As I said to my friend, I understand that that is not exactly a wonderful happening. I can assure you that they are ill. I indicated to my friend that if she indicated she was ill, I might not be very happy about it because it would be an inconvenience, but I would also accept that she was ill. ...

"....Number two, it has come to my attention that there was an issue involving the security of people who are employed by the Commission last night, and I don't feel able to say more than that at this time, but suffice it to say it's a very serious issue and one that we feel we need to look into before this hearing proceeds.

"I don't know at this stage how that will unfold; I don't know what will be determined, and I am asking the Tribunal to accept that I can't say more at this time about it other than to say that it is a serious issue in our view, and it does involve people who are now employed by the Commission and involving this case.

"THE CHAIRPERSON: Did it take place in my hearing room?

"MR. FINE: Yes.

"THE CHAIRPERSON: The security issue?

"MR. FINE: I'm sorry, it involves people that come to this hearing room, yes....

"MR. VIGNA [one of the Commission's counsel]: 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 am not dying, Mr. Chair, I don't have the flu, but I am not mentally capable of proceeding under these circumstances....

"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 [Mr. Lemire's counsel]: 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. The security guards have said nothing.

(A long discussion follows, in which the Commission's counsel refuse to say what incident happened.)

"MR. CHRISTIE: It seems, with respect Mr. Chair, that this explanation seems to hinge sort of obliquely on the allegation of something sinister happening. The anxiety Mr. Vigna expresses, he says I'm asking in view of the allegation that's causing me anxiety.

"So we are left with this sort of innuendo that something terrible has happened. We don't know what it is and we're supposed to be concerned because it is sort of pointed, hinted at us, and then Mr. Vigna uses it as an explanation for his anxiety. We think it's appropriate for Mr. Fine or somebody to put it on the table, tell us what it is. You're here to protect anyone and there is ample security, so let us hear about it."[end of excerpts]

The Commission refused to say what the trouble was. The medical certificates were never produced to counsel and the Tribunal refused to receive them, unless they were -- a Catch 22.

We hope to be able to cross-examine on June 25th, 26th, or 27th in Oakville, Ontario, and Doug Christie will once again have to spend a large amount of money and his time, travelling there. From all this, it appears that there is a great reluctance for the Commission to answer questions about their activities which they feel are authorized under the Statute. The constitutional validity of section 13(1) of the Canadian Human Rights Act is for the first time,

being vigorously challenged. The Canadian Free Speech League is lending our support to this challenge. A copy of the full transcript, 44 pages in length, is available to interested supporters of the CFSL, and is both entertaining and informative, and will be sent if you request it.

Kyburz Case

Fred Kyburz had some harsh criticism for certain police who were involved in the arrest of his friend Eldon Warman some years ago. His door-knockers gave people his opinion on those facts in a sarcastic and demeaning manner.

Even before he could bring his defence of fair comment in a trial, a judge of the Alberta Court of Queen's Bench prohibited him from communicating again and found him liable for damages and costs on a summary motion. The Alberta Court of Appeal has just upheld the motion judge. What this case demonstrates is how dangerous it is in the post 9/11 age to criticise the government, its agents or instruments of power.

Smith & Klundert -- Tax Protesters

Both Nigel Smith and Jack Klundert were tax protesters; both were charged with errors in filling out a government form, a T-1 tax return. The fact is the Dr. Klundert has been acquitted of income tax evasion by two juries, and the Crown is appealing yet a second time.

Nigel Smith, who has long since left the country, is appealing to the Court of Appeal because he filed a return saying zero income was taxable. Both are ongoing.

Doug Christie Law Society Hearing

The complaint against Doug Christie involving three subpoenas that he didn't even make out, and which has been investigated since 2003, will be heard further on June

18th and 19th, in Vancouver. It will be four years since this matter arose, and causes great stress. Doug is resolute in denying any wrong doing, and will probably testify on the matter. Your prayers are appreciated. The fact is that the defence of liberty often creates enemies and is a dangerous business.

Free Speech Around the World

EU agrees to new racial hatred law

European interior ministers have agreed to make incitement to racism an EU-wide crime, but have stopped short of a blanket ban on Holocaust denial.

The agreement makes it an offence to condone or grossly trivialise crimes of genocide - but only if the effect is incitement to violence or hatred.

The deal follows six years of talks, and will disappoint Germany, which pushed hard for a Holocaust-denial law.

Berlin has also had to drop a proposal for an EU-wide ban on Nazi symbols. The European Network Against Racism said most European countries already had laws against incitement to racism, and the "weak text" would leave many national legal codes unchanged.

Films and plays

Under the agreement, incitement to hatred or violence against a group or a person based on colour, race, national or ethnic origin must be punishable by at least a year in jail.

However, member states can choose to limit prosecutions to cases likely to disturb public order.

Punishing incitement to hatred against religion will only be compulsory in cases where it amounts to inciting hatred against a national or ethnic group, race or colour.

Some countries will have to put the agreement to parliamentary vote, before it is finally adopted. Each member state will then have two years to bring its laws into compliance.

Officials said the wording was carefully designed to avoid criminalising films or plays about genocide, or discouraging academic research.

But dissemination of "tracts, pictures or other material" is punishable if it is designed to incite violence or hatred.

Freedom of speech

The chief difficulty holding up an agreement, since the proposal was first put forward in 2001, was the concern of some states that it would impinge on freedom of speech.

The text of the decision says the new rules will not modify the obligation to respect fundamental legal principles, including freedom of expression and association.

Countries where it is already a crime to deny the Holocaust will stick to their existing rules, but other countries will not be obliged to help them with judicial investigations. [Source: BBC]

A sidebar to the article lists the states that have "Holocaust Denial" laws: Austria, Belgium, Czech Republic, France, Germany, Lithuania, Poland, Romania, Slovakia

Seifert Appeal

The Seifert case, involving accusations stemming from World War Two, as you know, has two parts. The citizenship part, prosecuted by the Government of Canada to take away Michael Seifert's citizenship allegedly for lying about his birth place and wartime affiliation and actions is under "reserve" with Justice O'Reilly of the Federal Court of Canada. Then, there is the extradition case brought by the Association of Deportees (among others) in Italy also prosecuted by the Government of Canada. The latter was heard by Romilly J. of the Supreme Court of British Columbia in 2003. An appeal was taken in the Court of Appeal in February before Justices Donald, Huddart and Smith. This decision is also reserved.

Either one could come out at any time and then a huge scramble to appeal will be undertaken by one side or the other. Litigation by exhaustion is also practiced here by the Government of Canada. You can see how valuable the Canadian Free Speech League is. Without your help and the help we can offer to Michael Seifert and others, he would not be able to maintain this struggle.

Conclusion

The struggle to retain freedom of speech indeed even to maintain justice, will not usually be fostered by the rich or the powerful for they have all of both that money can buy. It appears that when the "out-group" seeks to tell the truth about the "in-group" law is used as a weapon to silence them. It is then that free speech is most important.

We have to gather our far-flung forces of money, information, and reason to try to preserve the right of people to tell the truth as they struggle to see it and tell it, even against the popular, the rich, the entrenched, the powerful. Your support makes that possible. Your commitment makes justice a reality, at least some of the time. What better can we do?

As governments get more pervasive and greedy for money they want to take away all freedom and will bend the rules to do it. Our job remains to point out what is happening and we do this here, as best we can. Thank you for your support, and your encouragement in doing so.

Keltie Zubko

Late News:

David Lucio, the defendant in the Raphael Bergmann case, has been found dead in an apparent murder-suicide with a London Ontario police woman. Lucio was the police superintendant who was sued by Bergmann for comments made about him for his efforts to start a "straight pride" parade in London Ontario.

League that an intelligent defense in this case will prevent the criminal prosecution of people in Canada for the expression of opinions on a foreign website. This case is the first instance where an attempt has been made to use the Criminal Code against an internet website where the individual was actually represented by a lawyer. In two or three other cases where prosecutions for an internet website have been instituted, either the accused had no legal representation or alternatively, and probably additionally, the website was located in Canada. This should constitute a significant difference.

Little Case

Another interesting case is that of David Little. Douglas Christie is representing Mr. Little in the Provincial Court of New Brunswick on a charge that he failed to file income tax returns under section 238 of the Income Tax Act. This section requires an individual to file a T1 tax return.

In this case, David Little alleges that he is a true and conscientious Roman Catholic who believes that abortion constitutes murder. He therefore believes that it is contrary to his conscience to file an income tax return where the monies derived from this filing will enable the government to subsidize and pay for abortions. This, in his reasoning, causes him to aid and abet the commission of a number of murders. This he cannot in good conscience do.

At his trial, David Little brought out evidence of his close personal relationship with both Mother Teresa and Pope John Paul II. To support this claim he introduced photographs of himself with both these persons on a number of different occasions and in addition, he filed correspondence which he had in the handwriting of Mother Teresa, addressed to him personally.

This was to demonstrate that he is both sincere and reasonable in his interpretation of the Roman Catholic faith. He could not possibly found his beliefs on a higher sanction above the holy Father himself. This case has been adjourned for further argument until June 23,

2007, when Mr. Christie will have to file his final written argument.

There are numerous cases in the Supreme Court of Canada which demonstrate that Sikh individuals have a right to carry the Kirpan, even though it would be otherwise illegal and dangerous to do so, into a school, because it is their religious belief. These cases will be argued, and the crown will have a right of reply until August 30, with Mr. Justice Jackson giving his decision on November 9, 2007.

This important case will help to define the meaning of freedom of religion. It should be kept in mind that the tax department has other means of acquiring its money against the will of Mr. Little, as an alternative, and in addition, that the tax department has a means of generating an assessment without his filing a return. For this reason, it will be argued that his refusal to file a return does not constitute a breach of the law which creates a greater burden on the state than it does contradict his religious freedom. Once again the Canadian Free Speech League is helping with some of the expenses of the Little case since Mr. Little also is without significant funds.

Wiebe Case

There is as well, coming to trial very soon, the case of Kenneth Wiebe against one of the more powerful lobby groups in the country, the feminist lobby group known as the Status of Women Canada.

This group published reports authored by a Ms. Bouchard, a professor from the province of Québec. The Government of Canada authorized and published the report on the Government of Canada website. This report approaches the issue of men's groups with a number of statements which attribute to men's groups the capacity and quality of hate-mongering, violence against women, pornography, pedophilia, and other defamatory comments. In the appendix to the report, the name of the plaintiff, Kenneth Wiebe, is first on the list of such men's groups.

This came up for discussion in the House of Commons when the present government was in opposition with questions as to why a

government-funded study showed the lists of men's groups, defined as they were, by the report.

This defamation action constitutes one of the first attempts by men's groups to come to the defense of their reputations. The powerful feminist lobby is represented by both a prominent Vancouver defamation lawyer on behalf of Bouchard and her assistants, and the Government of Canada, who represents Status of Women Canada through the Department of Justice. This case will be going to trial in the city of Victoria in the Supreme Court of British Columbia in the month of April. If you are able to, you should come and sit in during the trial for a very interesting case, testing the significance and value of the laws of defamation.

Marc Lemire Case

The case of Marc Lemire was brought before the Canadian Human Rights Tribunal in Toronto in the early months of this year, with Doug Christie appearing on behalf of the Canadian Free Speech League. Barbara Kulaszka acts for Mr. Lemire and Paul Fromm is acting for the intervenor, CAFE. With this team, a number of major points have been made in this important case, not least of which is the refusal to cower before the accusations made by Mr. Warman before this Tribunal.

During recent hearings Marc Lemire was able to lead evidence and also to cross-examine witnesses claiming expertise on behalf the Canadian Human Rights Commission. One of the witnesses called on their behalf was former executive director of the B'nai Brith, Dr. Karen Mock. At this occasion Douglas Christie representing the CFSL conducted much of the cross-examination.

Dr. Persinger, a professor of psychology from Laurentian University, testified that there is no significant correlation of a causal nature between the communication of literature and the acquisition of deleterious social effects. The very foundation of the report filed at the time of the Cohen Commission from a professor Kaufman was challenged.

This originally, in the case of John Ross Taylor, was held by the Supreme Court of Canada to have been the reason that justified the imposition of section 13 [1] of the Canadian Human Rights Act under section 1 of the Charter. The Chief Justice of the Supreme Court Canada at the time, Mr. Justice Dickson held that section 13 [1] of the Canadian Human Rights Act was a demonstrably justifiable limit in a free and democratic society of the right to freedom of expression under section 2 [a] of the Canadian Charter of Rights.

Mr. Lemire called further witnesses from the University of Wisconsin and the case was put over for argument until May 9th when the final constitutional arguments will be made. Attempts are being made to reveal the machinations behind these complaints.

Douglas Christie, as general counsel of the Canadian Free Speech League, is advocating the proposition that it is contrary to freedom of speech in a free and democratic society for the Human Rights Tribunal to censor and control all aspects of communication on the Internet.

It is after all obvious that the Internet contains the widest range of ideas, freely available, with a diversity of opinions at the request of any subscriber to an online service. The operative words which distinguish the Internet from the antiquated idea of a telephone answering machine is a wide diversity of options available on the Internet. There is no difficulty providing ample contrary opinion if it is necessary.

Kulbashian Case

The Kulbashian case which has followed somewhat behind the Lemire case has been stayed until the foundation for the constitutional argument is developed in the Lemire case. Madame Justice Henehan of the Federal Court Trial Division has ordered a stay on the grounds that the foundational basis for constitutional challenge needs to be developed before Kulbashian can proceed. Therefore Douglas Christie's argument in this case will have to wait the outcome of the Canadian Human Rights Tribunal's decision in the case of Lemire.

Kyburz Case

Another case testing the boundaries of freedom of expression is the case of Fred Kyburz. This individual in Calgary began distributing a number of posters, which he placed on doorknobs around the community in which he accuses various police individuals of various forms of misconduct. He had a foundation for his belief in the arrest of his friend Mr. Eldon Warman. There were other factual basis for some of his opinions however police obtained an injunction against the distribution of his opinions even **before** trial. This constituted a priority prohibition against his communication.

Against this decision Douglas Christie has appealed and it is set to be heard in June 2007. This again constitutes an important case where defamation in the form of a slap suit is being used to silence a critic of the powerful. Once again without the Canadian Free Speech League's support, these cases would begin to establish the precedent that the state is always right and individuals are always wrong and freedom of speech is meaningless. In this regard we hope you realize that the Canadian Free Speech League is fulfilling an important role that no one else is willing to undertake.

Irving Speaks

On March 15, 2007 in Hungary, David Irving, now freed from his Austrian jail, exercised his freedom of speech in the annual Petofi Day demonstration. Some quotes:

"These are bad times for freedom. Perhaps one day Englishmen like me will be seeking freedom in Hungary! Because the lights of freedom — the right to think what we like, to say what we think, and to print and publish what we say — are slowly dimming as the ugly light of enforced socialism is dawning again. I know what I am saying. Governments do not like historians, and they like those of us who write real history even less."

"For all the 400 days that Austria held me in solitary confinement in prison in Vienna, since you last saw me here — punished for an opinion on history that I had ex-

pressed sixteen years before — the British government made no protest."

"We are now all part of Europe, and one European country can mistreat any other European country's citizens as it pleases. Petöfi Sandor must be turning in his grave!

"Several of my good friends, writers like me, are in prison in Germany right now, and have been for years, because of what they wrote and believed to be true: I mention today the names only of Ernst Zündel and Germar Rudolf, the scientist. What hypocrisy! In today's world, the system of international law that was so painstakingly and carefully created for the Nuremberg Trials, is now in ruins."

He called upon the Hungarian people to protect their freedom and independence.

Conclusion

The foregoing are just a few of the cases ongoing in which the Canadian Free Speech League is endeavoring to hold side against the oppressive regime that power has always maintained.

Verbal communication of criticism is the essence of democratic freedoms. Without a free as possible means of communication, those in power will gradually eliminate the possibility of criticism. That is the nature of power and the desire of those in power to keep it.

Without your support in this regard these battles are not possible. Through the generous support of some individuals who have donated to the Canadian Free Speech League in a significant way, we have been able to carry on this fight. We have become like the Scarlet Pimpernel, we fight them everywhere! And everywhere there are people in jail for their opinions.

Even with our limited resources we have managed to achieve some significant defenses, for example in the Klundert case. Without the efforts of individuals none of our freedoms will ever be protected. We would therefore like to express our gratitude to our friends around the world who help us maintain this struggle. You make it possible!

Keltie Zubko