

Trial by Tweet

By Brian Giesbrecht

If anyone doubted that the #MeToo movement has ushered in a revolution, the political execution of Patrick Brown should put those doubts to rest. As in all revolutions, not all the heads that fall into the basket deserve to be there, the Madame Defarge's of this world will gleefully stand by and watch.

If one listens to a true believer, it doesn't matter how many innocent heads roll, it is all justified if the revolution has a noble purpose. A former NDP staffer voiced his support for the #MeToo movement on the January 26 airing of CBC's *The Current*, in these words. "I want to see less picking, less scepticism about individual claims. What's important is the overall movement to put an end to the abuse of power of men over women."

According to this fellow, the end justifies the means. If Patrick Brown replied that the behaviour didn't happen as alleged, or point to the probability that even if it did, it did not constitute a crime, it would not matter a whit to the true believers. This warped thinking seemed to make sense to Brown's own staff and party. They abandoned him like those fabled rats deserting that proverbial ship.

The fact that this is happening in Canada should truly scare us. Our hard-won concepts like the presumption of innocence, due process, and the very law of law itself are being discarded in a heartbeat. Those concepts took a thousand years, and much blood, sweat and tears to acquire. The true believers want to give them up because some cases didn't go the way they wanted. They hang their hats on the Jian Ghomeshi case.

Sexual assault cases are difficult for everyone concerned. They usually involve two people, and no other direct witnesses. Also, they typically involve two very different interpretations of an event that left scars. Most judges and lawyers will tell you that they are extremely challenging, and often heart breaking. But, they will also tell you that the conviction of an innocent person is their worst nightmare. The accused, as well as the accuser must be treated fairly, and with respect.

Are we really prepared to abandon our justice process, and let people's fate be decided by a tweet? Will we let media organization I replace the Supreme Court of Canada? Or let a person's fate be decided by the vagaries of public opinion? Perhaps in the near future, the number of "likes" one gets on social media will determine whether one survives, or is sacrificed for the

greater good? (The thumbs-up “like” symbol was used in Roman days to decide whether a hapless gladiator should live or die.)

We need to think this through. Yes, we are happy to see the Harvey Weinstein’s of this world get their comeuppance. But, aren’t we a bit uneasy when we see someone like Patrick Brown be brought to his knees by unnamed accusers in a case that may never go to court?

Now that the revolution is underway, we will see more Patrick Brown’s as well as Harvey Weinstein’s. The Madame Defarge’s will be waiting to hear the sound of those heads dropping into the basket. The innocent as well as the guilty.

About the Author



Brian Dale Giesbrecht received his education at United College and The University of Manitoba, where he obtained his LLB in 1972. He worked with Walsh, Micay and Co., and then joined Legal Aid Manitoba in 1975 to become Senior Attorney and the first Area Director for western Manitoba in Brandon. Appointed to The Provincial Court (Family Division) in 1976, he heard child welfare cases and general family matters until he transferred to the Criminal Division in 1989. During his career he served on the National Family Court Committee, and various provincial court committees. He was an Associate Chief Judge from 1991 to 2005, and he became Acting Chief Judge in 1993. Among the notable cases he heard was the Lester Desjarlais Inquiry. His report strongly criticized the government’s decision to devolve child welfare responsibilities to racially based child-care agencies. Following his retirement from the Bench in 2007, Mr. Giesbrecht has written extensively for various publications. His main theme has been the need to abolish The Indian Act and the separate systems of government that exist in Canada.