

DRAFT

MINUTES OF CONVOCATION

Thursday, 24th September, 2020
9:00 a.m.
Via Videoconference

PRESENT:

The Treasurer (Teresa Donnelly), Adourian, Alford, Banack, Braithwaite, Brown, Burd, Charette, Chiumminto, Conway, Cooper, Corbiere, Corsetti, Desgranges, Epstein, Esquega, Fagan, Falconer, Ferrier, Goldstein, Graham, Groia, Horgan, Horvat, Klippenstein, Lalji, Lau, Lean, LeSage, Lewis, Lippa, Lockhart, Lomazzo, Lyon, Marshall, Mercer, Merali, Minor, Murchie, Painchaud, Parry, Pawlitza, Pineda, Poliacik, Pollock, Prill, Rosenthal, Sellers, Sheff, Shi, Shin Doi, Shortreed, Spurgeon, Strosberg, Troister, Walker, Wellman, Wilkes, Wilkinson, B. Wright and N. Wright.

.....

Secretary: James Varro

The Reporter was sworn.

IN PUBLIC

TREASURER'S REMARKS

The Treasurer welcomed those joining Convocation by videoconference.

The Treasurer recognized that Convocation would normally be meeting in Toronto which is a Mohawk word that means "where there are trees standing in the water".

When Convocation meets in Toronto, the Treasurer acknowledges that Convocation meets on the traditional territory of the Mississaugas of the Credit First Nation. She also acknowledges the Haudenosaunee. She advised that for this Convocation, benchers are participating across the province and perhaps elsewhere, and across many First Nations territories. She recognized the long history of all the First Nations in Ontario and the Métis and Inuit peoples and thanks the First Nations people who lived and live in these lands for sharing them with us in peace.

The Treasurer addressed the protocol for Convocation via Zoom videoconference.

The Treasurer noted that Daniel Pinnington, President and Chief Executive Officer of LawPRO and other LawPRO representatives will be joining the meeting for presentation of the LawPRO Report.

The Treasurer expressed condolences to the family of the Right Honourable John Napier Wyndham Turner, P.C., C.C., Q.C., a member of the Law Society, who passed away on September 19, 2020.

The Treasurer also noted the passing of Ruth Bader Ginsburg, the second woman appointed to the U.S. Supreme Court, who was a transformative force for advancing civil rights in the United States and globally.

The Treasurer noted her outreach initiatives since the last Convocation, including offering greetings on the launch of the Ryerson University and University of Ottawa LPP programs and welcoming first year students at the Bora Laskin Faculty of Law at Lakehead University.

The Treasurer congratulated Ryerson University Faculty of Law, on opening its doors to the first cohort of students.

The Treasurer advised that she was honoured to participate in the opening of the courts ceremony on September 22, 2020, and to offer remarks on behalf of the Law Society.

The Treasurer informed Convocation of her outreach initiatives with law firms and her meetings with the Attorney General and the Chief Justice, and with the Honourable David Lametti, Minister of Justice and Attorney General of Canada.

The Treasurer reminded benchers of the Family Legal Services Provider (FLSP) consultation that is open until November 30, 2020.

The Treasurer reminded benchers that the deadline for nominations for the Law Society's Human Rights Award has been extended to November 30, 2020.

The Treasurer noted upcoming events:
Francophone event "French and the Law" Symposium on September 25, 2020
Access to Justice Week – October 26 to 30, 2020

The Treasurer congratulated Robert Burd on his election as chair of the Paralegal Standing Committee for the 2020 – 2021 term by acclamation.

The Treasurer congratulated Atrisha Lewis who was named one of Canada's Top 25 Most Influential Lawyers in the "Young Influencers" category, and on the birth of her daughter on August 3, 2020.

The Treasurer drew benchers' attention to information reports in the Tribunal Committee Report on practice directions and Tribunal second quarter 2020 statistics at Tab 3 of the Convocation Materials.

The Treasurer acknowledged the numerous responses received from licensees on the fee exemption issues and the proposed motion to decrease the 2021 Law Society fees, and thanked licensees for their feedback and comments, which have been provided to all benchers.

The Treasurer referred benchers to the information reports in the Audit & Finance Committee Report at Tab 8 of the Convocation Materials.

MOTION – CONSENT AGENDA – Tab 1

It was moved by Mr. Spurgeon, seconded by Ms. Shin Doi, that Convocation approve the consent agenda set out at Tab 1 of the Convocation Materials.

Carried

Tab 1.1 – DRAFT MINUTES OF CONVOCATION

The draft minutes of Convocation of August 6, 2020 were confirmed.

Tab 1.2 - MOTIONS

Re: Tab 1.2.1 – Tribunal Appointment

THAT Jonathan Rosenthal be removed from the Hearing Division of the Law Society Tribunal at his own request, as a result of his appointment to the Proceedings Authorization Committee on August 6, 2020.

Carried

Re: Tab 1.2.2 – Committee Appointments

THAT Michael LeSage be appointed to the Access to Justice Committee and be removed from the Professional Regulation Committee, given his appointment to the Tribunal Committee.

THAT Nicholas Wright be removed from the Mental Health Working Group at his own request.

Carried

PRIORITY PLANNING COMMITTEE REPORT

Ms. Horvat presented the Report.

Re: Amendments to By-Law 3 Respecting an Online Treasurer Election Process

It was moved by Ms. Horvat, seconded by Ms. Corsetti, that on the recommendation of the Priority Planning Committee, Convocation make amendments to By-Law 3 as set out in the motion at Tab 2.1 to implement an online election process for the Treasurer's Election.

Carried

Dr. Alford, Mr. Chiumminto, Mr. Desgranges, Mr. Klippenstein, Ms. Lean, Mr. Parry, Mr. Prill and Ms. Shi abstained.

TRIBUNAL COMMITTEE REPORT

Ms. Shin Doi presented the Report.

Re: Amendments to the Rules of Practice and Procedure

It was moved by Ms. Shin Doi, seconded by Dr. Alford, that Convocation approve the proposed English and French amendments to the Law Society Tribunal Rules of Practice and Procedure, effective October 1, 2020, set out at Tab 3.1.1 (English) and Tab 3.1.2 (French).

Carried

Mr. Horgan abstained.

For Information:

- Practice Directions
- Law Society Tribunal Quarterly Statistics April 1 to June 30, 2020

FINANCIAL UPDATE

Mr. Groia provided a financial update with reference to the Audit & Finance Committee Report at Tab 8 of the Convocation Materials.

NOTICE OF MOTION

It was moved by Mr. Pollock, seconded by Ms. Lippa, that:

WHEREAS with the onset of COVID-19, the Ontario court system was necessarily forced to pause many of its operations;

AND WHEREAS with much of the Court system effectively closed, it became impossible for many members to provide legal services;

AND WHEREAS the pandemic has had a devastating financial impact upon the revenues of virtually all members in private practice;

AND WHEREAS it is of critical importance to the access to justice and the public interest of all Ontarians that members of the Law Society are able to remain financially viable through this pandemic;

THAT for 2021, Convocation shall reduce the annual licensing fees for all members of the Law Society by no less than 25% of the amounts at which their annual licensing fees were set for 2020.

Not Put

Mr. Groia moved, seconded by Ms. Lomazzo, that the Pollock/Lippa motion be tabled.

Carried

ROLL-CALL VOTE

Adourian	Against	Lippa	Against
Alford	Against	Lockhart	For
Braithwaite	For	Lomazzo	For
Brown	Against	Lyon	Against
Burd	For	Marshall	Against
Charette	Against	Merali	For
Chiummiento	Against	Murchie	For
Cooper	For	Painchaud	For
Corbiere	For	Parry	Against
Corsetti	For	Pineda	Against
Desgranges	Against	Poliacik	Against
Epstein	For	Pollock	Against
Esquega	For	Prill	Against
Fagan	Against	Rosenthal	For
Falconer	For	Sellers	For
Goldstein	Against	Sheff	For
Graham	Against	Shi	Against
Groia	For	Shin Doi	For
Horgan	Against	Shortreed	For
Horvat	For	Spurgeon	For
Klippenstein	Against	Troister	For
Lalji	For	Walker	For
Lau	Against	Wellman	For
Lean	Against	Wilkes	Against
LeSage	Against	Wilkinson	For
Lewis	For	Wright	Against

Vote: 27 For; 25 Against

LawPRO REPORT

Mr. Spurgeon presented the Report.

Re: 2021 Insurance Program

It was moved by Mr. Spurgeon, seconded by Ms. Sellers, that Convocation approve the program of insurance offered by LawPRO for 2021 as set out in the report at Tab 5 of the Convocation Materials.

Carried

REPORT OF THE CHIEF EXECUTIVE OFFICER

Ms. Miles presented the Report.

Re: Law Society of Ontario Pandemic Update

Ms. Miles presented the Report for information.

IN PUBLIC

REPORT FOR INFORMATION ONLY

AUDIT AND FINANCE COMMITTEE REPORT

- Law Society of Ontario Financial Statements for the Six Months ended June 30, 2020
- LIRN Inc. Financial Statements for the Six Months ended June 30, 2020
- Investment Compliance Reports

CONVOCATION ROSE AT 12:49 P.M

Tab 1.3

HUMAN RIGHTS MONITORING GROUP

Letter of Intervention on Behalf of Nasrin Sotoudeh

October 22, 2020

Committee Members:

Julian Falconer (Co-Chair)

Tanya Walker (Co-Chair)

Paul Cooper

Atrisha Lewis

Marian Lippa

Isfahan Merali

Lubomir Poliacik

Doug Wellman

Authored By:

Jason Pichelli

JPichell@LSO.ca

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Motion

That Convocation approve the letter of intervention, set out at Tab 1.3.1, and public statement, set out at Tab 1.3.2, calling for the immediate release of Nasrin Sotoudeh from Iran's Evin Prison.

Context

A. Rationale

The request for interventions falls within the mandate of the Human Rights Monitoring Group (the "Monitoring Group") to:

- a. Review information that comes to its attention about human rights violations that target members of the profession and the judiciary, here and abroad, as a result of the discharge of their legitimate professional duties;
- b. Determine if the matter is one that requires a response from the Law Society; and
- c. Prepare a response for review and approval by Convocation.

B. Considerations

The Monitoring Group considered the following factors when making a decision about the conviction, sentencing and ongoing treatment of lawyer Nasrin Sotoudeh in Iran:

- a. Nasrin Sotoudeh is currently detained in Iran's Evin Prison, where her health has deteriorated rapidly, possibly to the point where her life is in danger, and the detention of Nasrin Sotoudeh falls within the mandate of the Monitoring Group;
- b. There are no concerns about the quality of sources used for this report; and
- c. The letters and public statements regarding the conviction of lawyer Nasrin Sotoudeh fall within the mandate of the Monitoring Group.

The background information for this report was retrieved from the following sources:

- a. Parliament of Canada;¹
- b. The Canadian Press;²
- c. Front Line Defenders;³
- d. Amnesty International;⁴ and
- e. International Federation for Human Rights.⁵

C. Background

Nasrin Sotoudeh is a prominent human rights lawyer known for her work in defending women and children. The Law Society initially intervened on her behalf in September 2010 and has intervened on several occasions subsequently, as shown by previous letters of intervention.⁶ Since 2010, she has been arrested and imprisoned four times for exercising her legitimate professional duties. Her most recent arrest took place on June 13, 2018.

Ms. Sotoudeh's arrest stems from her defence of women peacefully protesting Iran's hijab laws.⁷ Following her arrest, she was transferred to Evin Prison, where she was later shown a warrant and told that she would be serving a five-year sentence that had been handed down against her in absentia. She had not been informed of the conviction prior to her arrest. Moreover, there was no written decision available, no disclosure of the procedure behind the ruling, and no right of appeal granted.

¹ Parliament of Canada, "Open Letter calling for the release of Nasrin Sotoudeh" (April 29, 2019), online: <<https://static1.squarespace.com/static/5ab13c5c620b859944157bc7/t/5cf6cc9890da720001842f55/1559678105658/UPDATED+Final+Letter+Nasrin+Sotoudeh%2C+April+29+2019-EN.pdf>>.

² The Canadian Press, "Canadian Lawyers demand freedom for ailing, hunger-striking 'Mandela of Iran'" (September 8, 2020). Online: <<https://www.msn.com/en-ca/news/canada/canadian-lawyers-demand-freedom-for-ailing-hunger-striking-mandela-of-iran/ar-BB18Pkah>>.

³ Front Line Defenders, "Nasrin Sotoudeh Sentenced", online: <<https://www.frontlinedefenders.org/en/case/nasrin-sotoudeh-arrested>>.

⁴ Amnesty International, "Iran: Free Nasrin Sotoudeh," online: <<https://www.amnesty.org/en/get-involved/take-action/iran-free-nasrin-satoudeh-now/>>.

⁵ International Federation for Human Rights (fidh), "Iran: Nasrin Sotoudeh's health is deteriorating alarmingly, she must be released immediately" (October 16, 2020), online: <https://www.fidh.org/en/region/asia/iran/iran-nasrin-sotoudeh-s-health-is-deteriorating-alarmingly-she-must-be>

⁶ The five letters with respect to Ms. Sotoudeh are available in the Resource Centre on Diligent Boards in the 2020 folder referenced under the Equity and Indigenous Affairs Committee.

⁷ Parliament of Canada, "Open Letter calling for the release of Nasrin Sotoudeh" (April 29, 2019), online: <https://www.raoulwallenbergcentre.org/newsfeed/the-canadian-raoul-wallenberg-all-party-parliamentary-caucus-for-human-rights-spearheads-landmark-initiative-for-nasrin-sotoudeh->

On December 30, 2018, the Islamic Revolutionary Court held a one-day hearing in absentia. Reports indicate that Ms. Sotoudeh refused to attend the trial because she was denied the right to choose her own counsel. On February 19, 2019, the Islamic Revolutionary Court sentenced Ms. Sotoudeh to an additional 33 years in prison and 148 lashes, under several national security and morality-based articles of the Islamic penal code. The charges are also believed to have stemmed from her opposition to Iran's death penalty.

Ms. Sotoudeh went on a hunger strike from August 11 to September 25, 2020 in order to bring attention to the plight of political prisoners in Iran during the COVID-19 pandemic.⁸ During this time, her health greatly deteriorated. Ms. Sotoudeh, who suffers from a heart condition, was reported to be suffering from shortness of breath and extreme weakness. She spent four days receiving treatment at the intensive care unit of Tehran's Taleghani Hospital from September 19 to 23, but was transferred back to prison before she could make a full recovery.

On October 13, Nasrin Sotoudeh's husband, Reza Khandan, posted a statement on Facebook strongly denouncing the care that Ms. Sotoudeh had received in prison. He believes that the rapid deterioration in her health is a result of delayed medical treatment and poor supervision. Furthermore, six guards at Evin Prison, who have contact with Ms. Sotoudeh, have tested positive for COVID-19. She is in a high-risk category due to pre-existing medical conditions. No additional precautions have been taken by the prison to ensure her safety. Mr. Khandan also shared that doctors outside the prison have reviewed her medical file and denounced her treatment as a "deliberate attempt to put her life in danger".⁹

⁸ Iran International, "Canada's Trudeau Urges Iran To Release Hunger-Striking Rights Advocate In Intensive Care" (September 20, 2020), online: <https://iranintl.com/en/iran-in-brief/canadas-trudeau-urges-iran-release-hunger-striking-rights-advocate-intensive-care>

⁹ International Federation for Human Rights (fidh), "Iran: Nasrin Sotoudeh's health is deteriorating alarmingly, she must be released immediately" (October 16, 2020), online: <https://www.fidh.org/en/region/asia/iran/iran-nasrin-sotoudeh-s-health-is-deteriorating-alarmingly-she-must-be>

Proposed Letter of Intervention on behalf of Nasrin Sotoudeh

President Hassan Rouhani
Office of the President
Palestine Avenue
Azerbaijan Intersection
Tehran, 131668-43311
Islamic Republic of Iran

Your Excellency President Rouhani:

Re: Immediate release of human rights lawyer Nasrin Sotoudeh

I write on behalf of the Law Society of Ontario to voice our grave concern regarding the detention of lawyer Nasrin Sotoudeh.

Nasrin Sotoudeh is a prominent human rights lawyer who has advocated for the rights of women and girls in Iran for many years. She has been arrested and imprisoned four times for exercising her legitimate professional duties on behalf of her clients. On several occasions, the Law Society has expressed grave concern regarding the treatment of Ms. Sotoudeh, as shown by our previous correspondence, copies of which are attached for your convenience.

Currently, Ms. Sotoudeh is in custody in Evin Prison, serving a sentence of 38 years imprisonment for her work in defending women's rights. Ms. Sotoudeh commenced a hunger strike from August 11 to September 25, 2020 to bring attention to the plight of political prisoners in Iran during the COVID-19 pandemic. During this time, her health greatly deteriorated. Ms. Sotoudeh, who suffers from a heart condition, was reported to be suffering from shortness of breath and extreme weakness. She spent four days in the intensive care unit of Tehran's Taleghani Hospital from September 19 to 23, but was transferred back to prison before she could make a full recovery.

Ms. Sotoudeh's health has greatly deteriorated in recent days, to the point that her life is in jeopardy. Credible reports point to a shocking lack of care. Ms. Sotoudeh is known to have a heart condition, and has been reported to be suffering from shortness of breath and extreme weakness. Rather than ensure that she receives the proper medical care, your government has continued to hold Ms. Sotoudeh in Evin Prison, where six guards in charge of her care have tested positive for COVID-19. Considering her present and pre-existing conditions, these actions are putting Ms. Sotoudeh's life at risk.

We are calling for Nasrin Sotoudeh's immediate release so that she may receive appropriate medical care and pursue a path to recovery.

In light of these circumstances, the Law Society urges Your Excellency to comply with Iran's obligations under international human rights laws, including the United Nations' *Basic Principles on the Role of Lawyers*.

Article 16 of the *Basic Principles on the Role of Lawyers* states:

Governments shall ensure that lawyers (a) are able to perform all of their professional functions without intimidation, hindrance, harassment or improper interference; (b) are able to travel and to consult with their clients freely both within their own country and abroad; and (c) shall not suffer, or be threatened with, prosecution or administrative, economic or other sanctions for any action taken in accordance with recognized professional duties, standards and ethics.

Article 17 states:

Where the security of lawyers is threatened as a result of discharging their functions, they shall be adequately safeguarded by the authorities.

Furthermore, Article 23 provides:

Lawyers like other citizens are entitled to freedom of expression, belief, association and assembly. In particular, they shall have the right to take part in public discussion of matters concerning the law, the administration of justice and the promotion and protection of human rights and to join or form local, national or international organizations and attend their meetings, without suffering professional restrictions by reason of their lawful action or their membership in a lawful organization.

The Law Society urges the Government of the Islamic Republic of Iran to immediately and unconditionally release Nasrin Sotoudeh, ensure she has access to her family and provide her with adequate medical care. Further, the Law Society urges the government to:

- a. put an end to all acts of harassment against Nasrin Sotoudeh and all other lawyers in Iran;
- b. ensure that all lawyers in Iran can carry out their professional duties and activities without fear of reprisals, physical violence or other human rights violations; and

- c. ensure in all circumstances respect for human rights and fundamental freedoms in accordance with international human rights standards and international instruments.

Yours truly,

Teresa Donnelly
Treasurer

**The Law Society of Ontario is the governing body for more than 55,000 lawyers and 9,000 paralegals in the province of Ontario, Canada. The Treasurer is the head of the Law Society.*

The mandate of the Law Society is to govern the legal profession in the public interest, and the Law Society has a duty to advance the cause of justice and the rule of law.

cc:

H.E. Seyyed Alireza Avaei, Minister of Justice of the Islamic Republic of Iran

The Honourable François-Philippe Champagne, Minister of Foreign Affairs

Alex Neve, Secretary General, Amnesty International Canada

Andrew Anderson, Executive Director, Front Line Defenders

Emma Achili, Head of European Union Office, Front Line Defenders

Kenneth Roth, Executive Director, Human Rights Watch

Sophie de Graaf, Executive Director, Lawyers for Lawyers

David F. Sutherland, Chair, Lawyers' Rights Watch Canada

Mary Lawlor, Special Rapporteur on the situation of human rights defenders,
Office of the United Nations High Commissioner for Human Rights

Diego García-Sayán, Special Rapporteur of the Human Council on the
independence of judges and lawyers, Office of the United Nations High
Commissioner for Human Rights

Marina Brillman, International Human Rights Policy Adviser, The Law Society of
England and Wales

Proposed Public Statement on behalf of Nasrin Sotoudeh

Law Society of Ontario calls for the immediate release of lawyer Nasrin Sotoudeh

Toronto, ON — The Law Society of Ontario is calling for the immediate release of lawyer Nasrin Sotoudeh from Iran's Evin Prison. When serious issues of injustice to lawyers and the judiciary come to our attention, we speak out.

Nasrin Sotoudeh is a prominent human rights lawyer in Iran, who has been convicted on multiple charges for defending clients peacefully protesting Iran's hijab laws. She is currently serving a sentence of 38 years in Iran's Evin Prison. Ms. Sotoudeh commenced a hunger strike from August 11 to September 25, 2020 to bring attention to the plight of political prisoners in Iran during the COVID-19 pandemic. She spent four days receiving treatment at the intensive care unit of Tehran's Taleghani Hospital, from September 19 to 23, but was transferred back to prison before she could make a full recovery.

According to credible reports, Ms. Sotoudeh's health has greatly deteriorated in recent days, to the point that her life is in jeopardy. Ms. Sotoudeh, who suffers from a heart condition, was reported to be suffering from shortness of breath and extreme weakness. Rather than ensuring she receives the proper medical care, Iranian officials continue to hold Ms. Sotoudeh in Evin Prison, where six guards in charge of her care have tested positive for COVID-19, putting her at even greater risk.

Since 2010, the Law Society has intervened on several occasions on behalf of Nasrin Sotoudeh, after she was arrested and detained for exercising her legitimate professional duties.

Governments and human rights organizations around the world have collectively expressed shock at the Iranian government's treatment of Nasrin Sotoudeh. The Law Society strongly condemns Iran's treatment of Nasrin Sotoudeh, and demands her immediate release so that she may seek the medical attention she so urgently needs. We are seriously concerned by the reports of her current situation and urge Iran to comply with its obligations under international human rights laws, including the United Nations' *Basic Principles on the Role of Lawyers*.

Article 16 of the *Basic Principles on the Role of Lawyers* states:

Governments shall ensure that lawyers (a) are able to perform all of their professional functions without intimidation, hindrance, harassment or improper interference; (b) are able to travel and to consult with their clients freely both within their own country and abroad; and (c) shall not suffer, or be threatened with, prosecution or administrative, economic or other sanctions for any action taken in

accordance with recognized professional duties, standards and ethics.

Article 17 states:

Where the security of lawyers is threatened as a result of discharging their functions, they shall be adequately safeguarded by the authorities.

Article 18 states:

Lawyers shall not be identified with their clients or their clients' causes as a result of discharging their functions.

Furthermore, Article 23 provides:

Lawyers like other citizens are entitled to freedom of expression, belief, association and assembly. In particular, they shall have the right to take part in public discussion of matters concerning the law, the administration of justice and the promotion and protection of human rights and to join or form local, national or international organizations and attend their meetings, without suffering professional restrictions by reason of their lawful action or their membership in a lawful organization.

The Law Society urges the Government of the Islamic Republic of Iran to immediately and unconditionally release Nasrin Sotoudeh, ensure she has access to her family and provide her with adequate medical care. Further, the Law Society urges the government to:

- a. put an end to all acts of harassment against Nasrin Sotoudeh and all other lawyers in Iran;
- b. ensure that all lawyers in Iran can carry out their professional duties and activities without fear of reprisals, physical violence or other human rights violations; and
- c. ensure in all circumstances respect for human rights and fundamental freedoms in accordance with international human rights standards and international instruments.

