



Law Society
of Ontario

Barreau
de l'Ontario

Tab 7

Human Rights Monitoring Group

For Information:

Report to Convocation

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Purpose

1. The purpose of this Report to Convocation is to provide an updated overview of the work of the Human Rights Monitoring Group (the Monitoring Group) since the last Report to Convocation in 2018.

Discussion

A. The History and Mandate of the Monitoring Group

2. In March 2006, Convocation approved “a policy to systematically respond to the human rights violations that target members of the legal profession and judiciary in retribution for the discharge of their legitimate professional duties.”¹ In response, the Human Rights Monitoring Group at the Law Society was created. The first Monitoring Group was chaired by bencher Paul Copeland and included bencher members Anne Marie Doyle, Heather Ross, Joanne St. Lewis, and Mark Sandler.

3. The Monitoring Group’s mandate is to:

- 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,
- review information that comes to its attention about human rights violations that target human rights defenders in the same event or circumstances as a member of the legal profession or the judiciary as described above,
- determine if the matter is one that requires a response from the Law Society, and
- prepare a response for review and approval by Convocation.

4. Through its work, the Monitoring Group advances the cause of justice and the rule of law. In doing so, it advances access to justice. In a seminal report, the Monitoring Group noted that “[o]nly through an independent legal profession where lawyers and

¹ Emerging Issues Committee, Law Society of Upper Canada, *Report to Convocation* (Toronto: Law Society of Upper Canada, 23 March 2006) at p. 4.

judges perform their legitimate professional duties without undue or illegal interference can human rights and the rule of law prevail.”²

5. The Monitoring Group’s activities are grounded in the Law Society’s statutory duty “to maintain and advance the cause of justice and the rule of law” in carrying out its functions, duties, and powers under the *Law Society Act*.³ Central to advancing both the cause of justice and the rule of law is ensuring access to justice for all. Many of the lawyers targeted represent vulnerable clients without alternative means of accessing legal services. Persecuted judges often promote access to justice by advocating for an independent judiciary and promoting the rule of law in their jurisdictions.⁴

6. Basic human rights, which are often violated when there is interference with the independence of the legal profession, cannot be guaranteed by law in the absence of the rule of law. Safeguarding these rights requires vigilant advocates.

7. Lawyers, paralegals and judges around the world working to uphold the rule of law and defend human rights are under threat. They risk professional sanctions and even their personal safety, but they continue their work to ensure that their communities can access justice and advance their legal rights.

8. The Law Society’s commitment to access to justice involves the local, provincial, national, and international community.

9. The Monitoring Group’s activities were also born out of the principles set out in the Universal Declaration of Human Rights (UDHR). The history of the rule-of-law provisions of the UDHR informs action in support of human rights:

The rule-of-law is woven into the structure of the UDHR from the very beginning, starting with the third clause of the preamble:

Whereas it is essential, if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law.⁵

² Human Rights Monitoring Group, “Facilitating International Access to Justice Through Intervention” (Updated February 2017; Originally Released June 2014) at 11, online: [https://lawsocietyontario.azureedge.net/media/iso/media/legacy/pdf/h/human_rights_access_to_justice_-_2017_update_final\(2\).pdf](https://lawsocietyontario.azureedge.net/media/iso/media/legacy/pdf/h/human_rights_access_to_justice_-_2017_update_final(2).pdf) (HRMG 2017 Report).

³ *Law Society Act*, RSO 1990, c L8 at s. 4.2.

⁴ HRMG 2017 Report, *supra* note 2 at 11-12.

⁵ *Universal Declaration of Human Rights*, G.A. Res. 217A (III), U.N. Doc. A/810 at prmb. (3).

10. This clause emphasizes the fragility as well as the importance of the rule of law. It reminds the powerful that they ignore human rights at their peril. If human beings are not “to be compelled” to resort to violence against oppression, “human rights should be protected by the rule of law.”⁶

11. Articles 3 – 12 of the UDHR subject the exercise of power to legal rules. They protect individuals from aggression and assure fair procedures. They are the best-known human rights:

- right to life, liberty and personal security,
- bans on slavery and torture,
- rights to legal recognition,
- freedom from arbitrary arrest and detention, and
- guarantees of fair criminal procedures, the presumption of innocence, and the principle of non-retroactivity in criminal law.

12. These provisions are at the heart of the most widely publicized human rights disputes in the world today and at the heart of the work of the Monitoring Group.

B. The Work of the Monitoring Group

i) The Interventions

13. The Monitoring Group pursues its mandate by reviewing credible information brought to its attention, often by other highly respected organizations. Based on that information and the Monitoring Group’s assessment of it, the Monitoring Group proposes to Convocation letters of intervention and public statements regarding members of the legal profession and judges who have been targeted in the discharge of their legitimate professional duties. The letters – which are usually addressed to heads of state, political leaders, human rights organizations, and leaders of the legal profession in the country affected – and the statements, once approved by Convocation, are sent by the Treasurer on the Law Society’s behalf.

14. The United Nations Human Rights Office of the High Commissioner describes the independence of lawyers and the independence of the judiciary as “two of the

⁶ Mary Ann Glendon, Learned Hand Professor of Law, Harvard University, *The Rule of Law in The Universal Declaration of Human Rights*, Northwestern University Journal of International Human Rights, Volume 2, April 2004. as cited in the Equity and Indigenous Affairs Committee, Report to Convocation (Toronto: Law Society of Ontario, April 18, 2018) at para. 17 (the HRMG 2018 Report to Convocation).

fundamental pillars of a democratic society respectful of the rule of law and the effective protection of human rights...”.⁷

15. Contained in the letters of intervention and in the public statements are requests that heads of states consider applicable human rights conventions, including the *United Nations Basic Principles on the Role of Lawyers* and the *Basic Principles on the Independence of the Judiciary*.

16. In the last Report to Convocation in 2018, the Monitoring Group reported that it had recommended, and Convocation had approved, interventions in 219 cases.⁸ Since 2018, Convocation has approved another 37 interventions recommended by the Monitoring Group, bringing the total to 256.⁹

17. The Law Society’s interventions between 2018 and April 2022 are outlined below:¹⁰

Year	Country	Legal Professional – Subject of the Intervention
2018	Algeria	Ahmine Noureddine
2018	Egypt	Haytham Mohamadeen
2018	Egypt	Ezzat Ghoniem and Azzoz Mahgoub
2018	Egypt	Azza Soliman
2018	Indonesia	Alldo Fellix Januarydy
2018	Iran	Nasrin Sotoudeh
2018	Niger	Lirwana Abdourahmane
2018	Philippines	Benjamin Ramos and 33 other lawyers
2018	Poland	Chief Justice and 26 other judges
2018	Russia	Mikhail Benyash
2018	Sudan	Adil Mohamed Al-Imam
2018	Turkey	Mustafa Aydin
2018	Turkey	Akın Atalay, Mustafa Kemal Gungor, and Bulent Utku
2018	Vietnam	Nguyen Van Da
2019	China	Wang Quanzhang
2019	China	Jiang Tianyong
2019	Colombia	Daniel Ernesto Prado Albarracín
2019	Iran	Amir Salar Davoudi (February)

⁷ Independence and Impartiality of Judges, Prosecutors and Lawyers, OHCHR, online: <http://www.ohchr.org/Documents/Publications/training9chapter4en.pdf>.

⁸ For a list of all interventions, please see the Law Society website [here](#). Links to letters that are not AODA compliant have been removed.

⁹ Since February 2018, the number of interventions has been calculated using the number of intervention letters sent by the Law Society and does not include each individual named in the letter.

¹⁰ As a result of the impact of COVID-19 on the work of the Monitoring Group, no interventions were recommended in 2020.

Year	Country	Legal Professional – Subject of the Intervention
2019	Iran	Amir Salar Davoudi (May)
2019	Iran	Nasrin Sotoudeh
2019	Nigeria	Adeola Adebayo
2019	Nigeria	Promise Frank Igwe
2019	Pakistan	Saif ul-Malook
2019	Philippines	Escalating attacks against lawyers ¹¹
2019	Philippines	Rex Jasper Lopez
2019	Russia	Emil Kurbedinov
2019	Russia	Lyudmila Aleksandrova
2021	Afghanistan	Women judges
2021	China	Zhang Zhan
2021	China (Hong Kong)	Jonathan Ross, Selma Masood, Hong Kong Law Society
2021	Egypt	Mohamed El-Baqer
2021	Myanmar	Arrest and detention of lawyers and law students
2021	Myanmar	Thein Hlaing Tun and Ayeyar Lin Htut
2021	Sri Lanka	Hejaaz Hizbullah
2022	Colombia	Corporación Colectivo de Abogados José Alvear Restrepo
2022	Iran	Mohammad Najafi
2022	Saudi Arabia	Waleed Abu al-Khair

18. These interventions relate to cases of human rights violations against both judges and members of the legal professions as a result of the discharge of their professional duties. Reports of the incidents indicate that the members of the legal professions and judges have been subjected to various forms of persecution, including:

- harassment and intimidation,
- unlawful detentions and incommunicado detentions,
- unlawful house arrests,
- disappearances,
- violence, abuse, and torture, and
- assassinations.

ii) Impact of Interventions

19. While it is difficult to assess the impact of these interventions, recognizing that the root cause of impunity lies in the failures of national authorities to act, the Law

¹¹ Joint Public Statement with Lawyers for Lawyers, *et al.*

Society has, however, received responses from foreign authorities and foreign bar associations that speak to the effectiveness of the Law Society's interventions.

20. Furthermore, numerous lawyers from foreign countries have noted that public interventions from organizations such as the Law Society are helpful in informing the community that human rights violations of lawyers and judges do not go unnoticed.

21. During the Law Society's Day of the Endangered Lawyer event on January 24, 2022, several guest speakers acknowledged the importance of the Law Society's interventions on behalf of legal professionals at risk and encouraged the Monitoring Group to continue its work:

- **Yessica Hoyos Morales**, Colombian human rights lawyer, member of Corporación Colectivo de Abogados José Alvear Restrepo (subject of a 2022 Law Society intervention):

“Every time you send a letter of support it is showing that you are watching. When you respond to our threats, you send clear message to the government that you are watching, and you are with us. It is because of this that we are able to continue to carry out our work.”

“It is important that you keep speaking up, so we can continue to help these victims of human rights violations.”

- **Dennis Kwok**, lawyer and former legislator in Hong Kong:

“The International community must not buy into the belief that if we speak out more to help out human rights defenders on the ground ...we will actually hurt them more.” He asked the international legal community to continue to speak out when there are clear violations of human rights. He stated authoritarian regimes care – that is why they act out when the international community speaks up.

“We have to condemn and call them out whenever we see our colleagues around the world are being mistreated.”

- **Professor Payam Akhavan**, human rights lawyer and scholar and recipient of the Law Society's 2021 Human Rights Award:

“Never underestimate the power of speaking truth to power.”

He asked us not to be cynical, thinking our voice does not matter: “It makes a very big difference. Not just in terms of giving encouragement and hope to that person sitting in solitary confinement in a prison cell ... but also to expose the injustices of a regime...”

Relying on his decades of experience as a human rights lawyer, he argued, “it makes a difference that the Human Rights Monitoring Group of the Law Society [sends an intervention letter] ... we should not underestimate the importance of speaking truth to power. I could give many examples of people whose lives have been spared because someone across the world cared enough to learn about their story ... and to speak in their defence and stand in solidarity with them.”¹²

22. On October 18, 2021, Treasurer Donnelly received a response to the Law Society’s letter of intervention on behalf of Hong Kong lawyers Jonathan Ross and Selma Masood about threats to their candidacies for election to the Hong Kong Law Society. In a sign that the Chief Executive of Hong Kong took the Law Society’s letter seriously, her Private Secretary responded to it on her behalf, denying the allegations.

23. In his speech accepting the Law Society’s 2021 Human Rights Award, Professor Payam Akhavan acknowledged the importance of the work of the Monitoring Group, in particular the Law Society’s intervention on behalf of Iran’s Nasrin Sotoudeh, noting, “If she is alive today it is because the regime knows the world is watching. Please, do not underestimate the voice of the 50,000 members of the Ontario bar.” He asked the Law Society to keep sending letters of intervention, concluding, “it makes a difference.”¹³

24. Speaking at a 2018 Law Society event addressing Cameroon, human rights lawyer Felix Agbor Nkongo, who was the subject of a Law Society intervention earlier that year, noted the importance of drawing attention to human rights offences against lawyers and recounted how much it meant to him when he read the Law Society’s letter on his behalf while he was imprisoned.¹⁴

25. Other examples of the impact of the Law Society’s interventions addressed in the HRMG 2018 Report to Convocation are summarized as follows:

- The Law Society’s 2016 Human Rights Award recipient, Waleed Abu al-Khair, a human rights lawyer in Saudi Arabia and founding Director of Monitor for Human Rights in Saudi Arabia, on whose behalf the Law Society has intervened on multiple occasions, most recently in February 2022, in relation

¹² Law Society’s 2022 Day of the Endangered Lawyer program, January 24, 2022, viewable at: <https://lso.freestonelms.com/viewer/ESxXnKESs9TUtFPiBpPsQT2M74wKPC1YMxR14SBTng6wVu1vdK8VeQ59Z8E8jde>.

¹³ Law Society’s 2021 Human Rights Award Celebration, held on June 15, 2021, and viewable at: <https://lso.freestonelms.com/viewer/8aAKri2bW8ZLqfvUp1BSPWpr82CoE>.

¹⁴ Crisis in Cameroon: A conversation with Barrister Felix Agbor Nkongo, October 25, 2018, viewable at: <https://lso.freestonelms.com/viewer/ESxXnKESs9TUtFPiBpPHV2fE5X6KvYGM94gkUurVV9iqqUeNVWh27kcC7n6NzbE>.

to his arrest, detention and sentencing to 15 years as a result of his legitimate human rights work. Mr. Abu al-Khair thanked the Monitoring Group for the Award and for distributing letters of intervention in support of his work, his case, and his community. He explained that it was important that human rights defenders know that the international community is watching and that they not be forgotten.

- The Law Society received a response from the Law Society of England and Wales regarding its intervention in 2014 in the cases of lawyers who represent the LGBT community in Uganda and Nigeria, indicating its concern over the matter and stating that it will monitor the situation. The Law Society has also been thanked by lawyers for its intervention in the case.
- The Law Society's interventions in support of Madam Justice Bandaranayake in Sri Lanka received considerable media attention and were positively received.
- The Law Society has intervened numerous times in the cases of human rights lawyers in Iran who are facing harassment, arrest and imprisonment as a result of their work. When Dr. Shirin Ebadi was at the Law Society, she indicated to then-Treasurer Pawlitzka the importance of the Law Society intervening in support of lawyers in Iran.
- In 2012, the Law Society intervened in the case of lawyers in Myanmar who were disbarred due to their legitimate political and professional activities. These lawyers, who were reinstated to the practice of law, thanked the international community and the Law Society for their effort to assist them.
- The Law Society intervened in May 2010 in the case of Judge Maria Lourdes Afiuni, who was arrested and committed to house arrest in Venezuela after ordering the conditional release pending trial of Eligion Cedeño. When her house arrest was extended another two years, the Law Society intervened again. There was a strong response to the Law Society's intervention, as the public statement was released in newspapers in Venezuela and read on television. Justice Afiuni was informed of the public statement and expressed her gratitude for the Law Society's intervention.¹⁵

¹⁵ *Supra* note 3 at paras. 34-41.

C. The Law Society of Ontario’s Human Rights Award

26. First awarded in 2014, the Human Rights Award recognizes outstanding contributions to the advancement of human rights and/or the promotion of the rule of law provincially, nationally, or internationally. It is granted biennially to individuals for their devotion to these principles over a long term or for a single outstanding act of service. It will next be awarded in 2023.¹⁶

i) Past Winners of the Human Rights Award

2014 – Hon. Irwin Cotler, PC, OC

27. Mr. Cotler was presented with the award due to his long and illustrious career as an outspoken advocate for human rights — both at home and abroad. He was described as “being at the forefront of the struggle for justice, peace and human rights.” He has served as an esteemed law professor, legal scholar and mentor, international human rights lawyer, and Member of Parliament for Mount Royal (1999 – 2015).

28. From 2003 to 2006, he held the country's most esteemed justice portfolios as Minister of Justice and Attorney General of Canada. During that time, he issued the first National Justice Initiative Against Racism and Hate and initiated the first prosecution under Canada's *Crimes Against Humanity and War Crimes Act* for incitement to genocide in Rwanda.

2016 – Dr. Cindy Blackstock and Waleed Abu al-Khair

29. Dr. Blackstock is a highly respected and outstanding advocate for First Nations children and youth in Canada working to address systemic discrimination in the child welfare system. For more than 25 years, she has engaged in and promoted public education and research on the issue. She is most well-known for her leadership in bringing a human rights complaint against the federal government, resulting in a Canadian Human Rights Tribunal's landmark ruling in which the Government of Canada was found “guilty of systemic discrimination by underfunding child welfare for First Nations children on reserve.”

30. Dr. Blackstock is a member of the Gitksan First Nation of British Columbia. She is the Executive Director of First Nations Child & Family Caring Society of Canada, and Associate Professor and Director of FNCARES (First Nations Children's Action Research and Education Service) at the University of Alberta and has been appointed a

¹⁶ Due to the impact of COVID-19, the Law Society’s Human Rights Award was not awarded in 2020 and was presented in a virtual ceremony in 2021.

Professor with the School of Social Work at McGill University. Among her many awards, she was recognized by the Nobel Women's Initiative in 2013.

31. Waleed Abu al-Khair is a prominent human rights lawyer and activist in Saudi Arabia and the founder of the Monitor of Human Rights in Saudi Arabia. He has worked tirelessly to defend human rights and the rule of law for all - in the face of extreme adversity and at the cost of his own freedom.

32. In 2014, Mr. Abu al-Khair was sentenced to 15 years in prison, given a 15-year travel ban and fine of 200,000 Saudi Arabian riyals as punishment for his human rights activities. The activities included holding discussions about human rights in his home, defending those who have been punished for speaking out, and signing a letter that criticized authorities for imprisoning a group of activists who had peacefully advocated for democratic reform.

2018 – Dr. Fiona Sampson

33. Dr. Sampson is a highly respected and outstanding advocate for the rights of survivors of sexual violence in Canada and abroad. A human rights lawyer with a PhD in women's equality law, she has dedicated her career to seeking justice for First Nations' communities, refugees, persons with disabilities and victims of sexual violence.

34. She is the founder and CEO of the equality effect, a non-profit charity that uses international human rights law and creative legal advocacy projects to achieve systemic change. She has appeared numerous times before the Supreme Court of Canada representing various women's NGOs in equality rights cases. As CEO of the equality effect, Dr. Sampson led her team to the landmark victory in Kenya, in which the country's High Court found the state's failure to protect girls from sexual assault was unconstitutional and violated their human rights.

35. In recognition of her work, Dr. Sampson was appointed an Ashoka Fellow in 2013 and was named one of the 25 most influential lawyers in Canada by Canadian Lawyer Magazine, as well as, top five on the World Stage in 2014. She was also named one of 50 "Global Heroes" working to end violence against children. She was appointed as a Member of the Order of Canada in 2015 and received an honorary doctorate from Trent University in 2017, in recognition of her contribution to human rights law.

2021 – Professor Payam Akhavan

36. Professor Akhavan is a prominent international human rights lawyer and a Member of the Permanent Court of Arbitration at The Hague. He is recognized by his peers as an outstanding academic and exceptional advocate. Professor Akhavan

currently serves as a Senior Fellow of Massey College and Distinguished Visitor at the University of Toronto Faculty of Law. He was previously a Law Professor at McGill University, with other appointments at prestigious institutions including Université de Paris X (Nanterre), Oxford University and Yale Law School. In 2017, he was selected to deliver the CBC Massey Lectures.

37. Professor Akhavan is also engaged in the practice of international law at the highest levels on behalf of victims of crimes against humanity. He served as a UN prosecutor and human rights officer in Bosnia-Herzegovina and Croatia during the Yugoslav war in the 1990s. He has also served as counsel in notable cases before the International Court of Justice, including the landmark 2019 Rohingya genocide case against Myanmar, as well as the International Criminal Court, the European Court of Human Rights and the Supreme Courts of Canada and the United States.