



Report to Convocation

February 27, 2014

Equity and Aboriginal Issues Committee/ Comité sur l'équité et les affaires autochtones

Committee Members
Howard Goldblatt, Chair
Julian Falconer, Vice-Chair
Susan Hare, Vice Chair
Raj Anand
Constance Backhouse
Mary Louise Dickson
Avvy Go
Michelle Haigh
Janet Minor
Judith Potter
Susan Richer
Paul Schabas
Baljit Sikand
Beth Symes

Purposes of Report: Decision and Information

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COMMITTEE PROCESS

1. The Equity and Aboriginal Issues Committee/Comité sur l'équité et les affaires autochtones (the "Equity Committee") met on February 13, 2014. Committee members Howard Goldblatt, Chair, Julian Falconer, Vice-Chair, Susan Hare, Vice-Chair, Raj Anand, Constance Backhouse, Mary Louise Dickson, Avvy Go, Judith Potter and Beth Symes participated. Julie Lassonde, representative of the Association des juristes d'expression française de l'Ontario, and Sandra Yuko Nishikawa and Paul Saguil, representatives of the Equity Advisory Group, also participated. Staff members Sally Ashton, Josée Bouchard, Marisha Roman, Grant Wedge and Sheena Weir also attended.

TAB 8.1

FOR DECISION

HUMAN RIGHTS MONITORING GROUP REQUEST FOR INTERVENTIONS

MOTION

2. **That Convocation approve the letters and public statements in the following cases:**
 - a. **lawyer Nimalka Fernando – Sri Lanka– letters and public statement presented at [TAB 8.1.1](#);**
 - b. **lawyer Le Quoc Quan – Vietnam - letter and public statement presented at [TAB 8.1.2](#);**
 - c. **lawyer Xu Zhiyong – China – letters and public statement presented at [TAB 8.1.3](#);**
 - d. **Chief Magistrate and Supreme Court Registrar Peter Law and Chief Justice Geoffrey Eames – Nauru – letters and public statement presented at [TAB 8.1.4](#);**
 - e. **lawyers in Uganda – letters and public statement presented at [TAB 8.1.5](#);**
 - f. **lawyers in Nigeria – letters and public statement presented at [TAB 8.1.6](#)**
 - g. **letter proposing collaboration between the Law Society of Zimbabwe and the Law Society of Upper Canada presented at [TAB 8.1.7](#).**

MANDATE OF THE HUMAN RIGHTS MONITORING GROUP

3. The mandate of the Human Rights Monitoring Group (the “Monitoring Group”) is,
 - a. 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;
 - b. to determine if the matter is one that requires a response from the Law Society; and
 - c. to prepare a response for review and approval by Convocation.
4. The mandate further states that where Convocation’s meeting schedule makes such a review and approval impractical, the Treasurer may review such responses in

Convocation's place and take such steps as he or she deems appropriate. In such instances, the Monitoring Group shall report on the matters at the next meeting of Convocation.

5. On September 20, 2007, Convocation approved the recommendation that the Monitoring Group explore the possibility of developing a network of organizations, and work collaboratively with them, to address human rights violations against judges and lawyers.

SRI LANKA – HARASSMENT OF HUMAN RIGHTS LAWYER NIMALKA FERNANDO

Sources of Information

6. The background information for this report was taken from the following sources.
 - a. Asian Human Rights Commission;¹
 - b. Front Line Defenders;²
 - c. Law Society of England and Wales;
 - d. Observatory for the Protection of Human Rights Defenders;³ and
 - e. Women Human Rights Defenders International Coalition.⁴

¹ The Asian Human Rights Commission (AHRC) is an independent, non-governmental body, which seeks to promote greater awareness and realisation of human rights in the Asian region, and to mobilise Asian and international public opinion to obtain relief and redress for the victims of human rights violations. It was founded in 1986 by a prominent group of jurists and human rights activists in Asia and serves to promote civil and political rights, as well as economic, social and cultural rights.

² Front Line Defenders or The International Foundation for the Protection of Human Rights Defenders is an Irish-based human rights organisation founded in Dublin, Ireland in 2001 to protect human rights defenders at risk, i.e. those who work non-violently to uphold the human rights of others as outlined in the Universal Declaration of Human Rights.

³ To protect defenders, The International Federation for Human Rights (FIDH) and the World Organisation Against Torture (OMCT) created the Observatory for the Protection of Human Rights Defenders.[5] Its role: establish the facts, alert the international community, hold discussions with national authorities and promote the strengthening of mechanisms to protect human rights defenders at national, regional and international levels.

⁴ The WHRD IC is a resource and advocacy network for the protection and support of women human rights defenders worldwide. An international initiative created out of the international campaign on women human rights defenders launched in 2005, the Coalition calls attention to the recognition of women human rights defenders. It asserts that those advocating for women's human rights - no matter what gender or sexual orientation they claim - are in fact human rights defenders. Their gender or the nature of their work has made them the subject of attacks,

Background

7. During a November 4, 2013, radio program titled “The Way the Country is Moving (*Rat Yana Atha*)”, death threats and derogatory comments were directed by callers toward human rights lawyer Dr. Nimalka Fernando. The radio program was broadcast on state-owned Sri Lanka Broadcasting Corporation (SLBC) and produced by the Chairman of the SLBC, Mr. Hudson Samarasinghe. The subtitle of the program was “Stoning the Sinner Woman”.
8. Statements that Dr. Fernando had made to a TV channel on the previous day were broadcast on the radio program. The TV interview was related to a public debate that was sparked by Dr. Fernando’s call for the abolition of abortion laws in Sri Lanka, the promotion of safer sex and a more protective reproductive health approach. She had also stated that she objected to the use of the word “prostitution”.
9. Listeners to the SLBC radio program had the opportunity to call in and give their opinion. Statements from callers included:
 - a. “We cannot allow persons like Nimalka Fernando to live in this society”
 - b. “If we do something to them the government will be blamed by the human rights people. We should use a lorry and cause an accident.”
 - c. “There is something called cleaning in the army...We should hand her over to the cleaning system.”
10. Dr. Fernando was described as a 59-year-old divorced woman who had served 30 different organizations and since 1989 had “carried tales”. She was also referred to as a “prostitute”. Most of the callers were men and some identified themselves as retired

requiring gender-sensitive mechanisms for their protection and support. The Coalition involves women activists as well as men who defend women's rights and lesbian, gay, bi-sexual, and transgender (LGBT) defenders and groups committed to the advancement of women's human rights and sexual rights.

members of the armed forces. According to reports, Mr. Samarasinghe did not stop callers from making these statements and in fact seemed to encourage them.

11. Dr. Fernando has lodged a complaint with the Human Rights Commission of Sri Lanka and the Inspector General of Police. Reports indicate that this is not the first time Dr. Fernando has faced harassment as a result of her human rights work. In March 2012, Dr. Fernando, along with three other human rights defenders, was accused of being a traitor and working against the interests of the country to obtain “dollars”. Additionally, the Minister of Public Relations threatened to “break the limbs” of Dr. Fernando and other three human rights defenders.
12. Dr. Fernando is the President of the International Movement against All Forms of Discrimination and Racism (IMADR) and is a prominent human rights activist. She is involved in a number of human rights organizations. She has also actively participated and contributed to UN Human Rights mechanisms, including participating in treaty body committee meetings (committees of independent experts to monitor the implementation of treaties) and session of the Human Rights Council for over three decades.

For Convocation’s Consideration

13. Convocation may wish to consider the following factors when making a decision about this case:
 - a. There are no concerns about the quality of sources used for this report. The Law Society of England and Wales has also intervened in this case.
 - b. The harassment of lawyers as a result of their human rights work falls within the mandate of the Monitoring Group.

VIETNAM – CONVICTION AND IMPRISONMENT OF HUMAN RIGHTS LAWYER LE QUOC QUAN

Sources of Information

14. The background information for this report was taken from the following sources:
- a. British Broadcasting Corporation (BBC);⁵
 - b. Front Line Defenders;
 - c. Human Rights Watch (HRW);⁶
 - d. Lawyers for Lawyers;⁷
 - e. Lawyers' Rights Watch Canada;⁸
 - f. PEN International;⁹
 - g. Reporters Without Borders¹⁰
 - h. The Guardian;¹¹
 - i. The Law Society of England and Wales;
 - j. The Observatory for the Protection of Human Rights Defenders;
 - k. UN News Centre;¹²

⁵ The British Broadcasting Corporation (BBC) The British Broadcasting Corporation (BBC) is a British [public service broadcaster](#) headquartered at [Broadcasting House](#) in the [City of Westminster](#), London. It is the largest broadcaster in the world, with about 23,000 staff. Its main responsibility is to provide impartial [public service broadcasting in the United Kingdom](#), [Channel Islands](#) and [Isle of Man](#).

⁶ Human Rights Watch is one of the world's leading independent organizations dedicated to defending and protecting human rights. By focusing international attention where human rights are violated, the organization gives a voice to the oppressed and holds oppressors accountable for their crimes. Its rigorous, objective investigations and strategic, targeted advocacy build intense pressure for action and raise the cost of human rights abuse. For 30 years, Human Rights Watch has worked to lay the legal and moral groundwork for deep-rooted change and has fought to bring greater justice and security to people around the world.

⁷ In conformity with international law and the *Universal Declaration of Human Rights*, the *Basic Principles on the Role of Lawyers* and the *Declaration on Human Rights Defenders* of the United Nations, L4L has committed itself to enable lawyers to practice law in freedom and independence, always and everywhere, even when that does not suit the local government, bar association or establishment.

⁸ Lawyers' Rights Watch Canada is a committee of Canadian lawyers who promote human rights and the rule of law by providing support internationally to human rights defenders in danger. It promotes the implementation and enforcement of international standards designed to protect the independence and security of human rights defenders around the world.

⁹ PEN International (known as International PEN until 2010) is a worldwide association of writers, founded in London in 1921[2] to promote friendship and intellectual co-operation among writers everywhere. PEN International now has autonomous Centres in over 100 countries.

¹⁰ Reporters Without Borders (RWB), or Reporters Sans Frontières (RSF), is a France-based international non-profit, non-governmental organization that promotes and defends freedom of information and freedom of the press. The organization has consultant status at the United Nations.

¹¹ The Guardian is a British national daily newspaper owned by the Guardian Media Group.

¹² The United Nations News Centre is located in New York.

- l. United Press International;¹³ and
- m. Washington Post.¹⁴

Background

15. Human rights lawyer and blogger Le Quoc Quan, from Vietnam, has long been persecuted by authorities for his human rights work. In 2007, Le Quoc Quan was detained for three months when he returned from an American government-funded fellowship in Washington. Following his release, he was arrested three more times. He was also disbarred and placed under constant surveillance. Despite this he continued to blog on issues of human rights, democracy and social justice and took part in demonstrations.
16. In August 2012, Le Quoc Quan was beaten by two unidentified men with iron bars outside his home in Hanoi. In October 2012, security police and plain-clothed militia forced entry into the office of a firm that belongs to Le Quoc Quan and his two brothers. Police allegedly seized files and documents belonging to the firm, assaulted the staff and detained the brothers for interrogation. They returned at a later date and arrested Le Quoc Quan's brother, Le Dinh Quan, who is currently detained in Hoa Lo Prison No. 3.
17. Recently, Prime Minister Nguyen Tan Dung ordered that authorities renew the fight against anyone using the Internet to "defame and spread propaganda against the State". Le Quoc Quan is the author of a popular blog exposing human rights abuses and other issues not covered by the state media. On December 18, 2012, he wrote an article entitled, "Constitution or a contract for electricity and water service?", which criticized the State. The piece was published by the BBC.

¹³ Since 1907, UPI has been providing information to media outlets, businesses, governments and researchers worldwide. UPI is a global operation with offices in Beirut, Hong Kong, London, Santiago, Seoul and Tokyo. The headquarters is located in downtown Washington, DC.

¹⁴ The Washington Post is a leading American daily newspaper. It is the most widely circulated [newspaper](#) published in [Washington, D.C.](#), and oldest extant in the area, founded in 1877. Located in the capital city of the [United States](#), The Post has a particular emphasis on national politics. Daily editions are printed for the [District of Columbia](#), [Maryland](#), and [Virginia](#).

18. On December 27, 2012, Le Quoc Quan was arrested by the police in Hanoi while dropping off his daughter at school. It has been reported that police also searched his office and home and confiscated documents. The police read out a warrant but did not give the warrant to Le Quoc Quan's family. The police advised the family that he would be charged under Article 161 of the *Criminal Code*, which relates to tax evasion. If he is convicted, he risks three years in prison and a heavy fine.
19. Le Quoc Quan was detained incommunicado in Hoa Lo Prison No. 1. He began a hunger strike on December 28, 2012. Neither his family nor his lawyer were able to visit him.
20. In February 2013, the Law Society intervened in the case of Le Quoc Quan. Le Quoc Quan remains in detention. On October 2, 2013, he was convicted of evading corporate income tax. The trial took only one day. He was sentenced to 30 months in prison and a fine of 1.2 billion dong (approximately \$59,000 USD) was levied against the company of which Le Quoc Quan is a director. Le Quoc Quan has appealed the decision and some reports note that the appeal is to be heard at the end of February 2014.
21. Following his conviction, Le Quoc Quan's wife and mother were able to speak to him briefly at the camp where he is being held. His wife reported that he is in poor health but that his morale remains high.
22. His conviction is believed to be politically motivated and intended to prevent him from continuing his legitimate human rights work.

For Convocation's Consideration

23. Convocation may wish to consider the following factors when making a decision about this case:

- a. There are no concerns about the quality of sources used for this report. Lawyers' Rights Watch and the Law Society of England and Wales have intervened in this case.
- b. The arrest, detention and conviction of lawyers as a result of their human rights work falls within the mandate of the Monitoring Group.

CHINA – ARREST, TRIAL AND SENTENCING OF HUMAN RIGHTS LAWYER XU ZHIYONG

Sources of Information

24. The background information for this report was taken from the following sources:
 - a. Lawyers for Lawyers;
 - b. The Law Society of England and Wales;
 - c. Amnesty International;¹⁵
 - d. The Guardian; and
 - e. South China Morning Post.¹⁶

Background

25. Xu Zhiyong is a forty year old human rights lawyer and university professor who was sentenced to four years in prison on January 27, 2014. Xu Zhiyong is a highly regarded legal scholar and anti-corruption campaigner.¹⁷ Xu Zhiyong has been detained in Beijing since July 2013.¹⁸ He was arrested and tried on criminal charges of “gathering crowds to disrupt public order”.¹⁹ The charges relate to a small scale peaceful street protest by

15 Amnesty International began in 1961. Its work focuses on uncovering the truth about human rights abuses and mobilizing individuals to take action. More than three million people worldwide take action and support Amnesty International. It has made appeals on behalf of thousands of individual victims of human rights abuses. It is an independent organization that is supported by its members and through fundraising initiatives. Amnesty International's reports on human rights abuses are recognized as accurate, unbiased and credible.

16 South China Morning Post is the first English language Hong Kong Newspaper. It was founded in 1903 and is owned by Kerry Media. Although there are suggestions that the Malaysian based owners are pro-Beijing, the newspaper has reported on commemorations of the Tiananmen Square Massacre and run editorials criticizing China's one child policy.

17 “Profession condemns trial of Xu Zhiyong”, *The Law Society Gazette*, The Law Society of England and Wales (January 22, 2014) online: <http://www.lawgazette.co.uk/law/profession-condemns-trial-of-xu-zhiyong/5039500.article>

18 “Xu Zhiyong sentenced to four years”, *The Law Society Gazette*, The Law Society of England and Wales (January 27, 2014) online: <http://www.lawgazette.co.uk/law/chinas-rule-of-law-called-into-question/law/xu-zhiyong-sentenced-to-four-years/5039598.article>

19 “Xu Zhiyong sentenced to 4 years in prison”, *Lawyers for Lawyers* (January 29, 2014) online:

<http://www.advocatenvooradvocaten.nl/8767/china-xu-zhiyong-sentenced-to-4-year-prison-sentence/>

members of the New Citizens' Movement who were calling for educational equality and for government officials to declare their assets.²⁰ Xu Zhiyong co-founded the New Citizens' Movement. In April 2013, he was placed under house arrest for signing a letter in support of other detained activists.²¹

26. Xu Zhiyong has described the New Citizens' Movement "as a peaceful cultural, social and political campaign."²² In May 2012, Xu Zhiyong wrote an article titled "China Needs a New Citizens' Movement".²³ According to Amnesty International, the article is "credited with spurring a loose network of activists who aim to promote government transparency and expose corruption."²⁴ Some of the suggested activities for the New Citizens' Movement include participating in a civic life by holding meetings to discuss the political situation, helping the weak, and doing good for society. In the beginning of 2013, the New Citizens' Movement started campaigning for increased government transparency and advocated against corruption and abuses of power.
27. During Xu Zhiyong's trial, the court denied his defence counsel the right to call witnesses. They barred his defence counsel from calling any of their 68 defence witnesses. The court also refused to summon prosecution witnesses so his defence counsel and the presiding judges could question them.²⁵ Additionally, Xu Zhiyong was tried separately from his colleagues who were being prosecuted for the same offence. This contravened the Criminal Procedure Law requirement that persons charged with the same offence be tried jointly. This also ensured that none of Xu Zhiyong's colleagues could support his case through their participation. Finally, the court cut off Xu Zhiyong during his closing statement when he called for democracy, the rule of law, freedom, justice and love and ended his hearing.

20 Tania Branigan "China jails activist Xu Zhiyong for four years for 'disturbing public order'" *The Guardian* (January 26, 2014) online: <http://www.theguardian.com/world/2014/jan/26/china-jails-activist-xu-zhiyong>

21 Associated Press "Chinese lawyer Xu Zhiyong arrested". *The Guardian* (July 17 2013) online: <http://www.theguardian.com/world/2013/jul/17/china-lawyer-xu-zhiyong-arrested>

22 "Xu Zhiyong four year jail sentenced 'shameful'" *Amnesty International* (January 26, 2014) online: <http://www.amnesty.org/en/news/china-xu-zhiyong-four-year-jail-sentence-shameful-2014-01-26>

23 *Ibid.*

24 *Ibid.*

25 Jerome A. Cohen. "Xu Zhiyong's trial makes a mockery of Beijing's pledge to enforce rule of law" *South China Morning Post* (January 29, 2014) online: <http://www.scmp.com/comment/insight-opinion/article/1416497/xu-zhiyongs-trial-makes-mockery-beijings-pledge-enforce-rule>

28. The court barred diplomats from attending the trial and police and plainclothes officers harassed the journalists outside of the courthouse. Xu Zhiyong's case was the highest profile case of its kind since a Beijing court convicted writer and dissident Liu Xiaobo. Human rights lawyers in China frequently report threats, physical violence and unfair trials. The Law Society of England and Wales has condemned Xu Zhiyong's trial and sentence. It has also stated that Xu Zhiyong's case as "a prime example of how lawyers are being tried on charges that have arisen out of their work on politically sensitive cases." The Law Society of England and Wales is calling for Xu Zhiyong's immediate release.²⁶

For Convocation's Consideration

29. Convocation may wish to consider the following factors when making a decision about this case:
- a. There are no concerns about the quality of sources used for this report.
 - b. The arrest, detention and conviction of lawyers as a result of their human rights work falls within the mandate of the Monitoring Group. The Law Society has intervened in the cases of lawyers in China in the past where lawyers were being persecuted for representing clients accused of crimes against the state, terrorism and members of minority groups. Additional past interventions also include cases where lawyers were targeted for their human rights work and protesting.

NAURU – REMOVAL AND DEPORTATION OF THE MAGISTRATE OF LAW AND REVOCATION OF THE CHIEF JUSTICE'S VISA

Sources of Information

30. The background information for this report was taken from the following sources:

²⁶ "Xu Zhiyong sentenced to four years", *The Law Society Gazette*, The Law Society of England and Wales (January 27, 2014) online: <http://www.lawgazette.co.uk/law/chinas-rule-of-law-called-into-question/law/xu-zhiyong-sentenced-to-four-years/5039598.article>

- a. Australian Broadcasting Corporation News (“ABC News”);²⁷
- b. The Sydney Morning Herald;²⁸
- c. Commonwealth Lawyers Association (“CLA”).²⁹
- d. Wall Street Journal;³⁰
- e. CCTV.com English;³¹
- f. The Australian;³²
- g. The Age,³³ and
- h. Island Business Magazine.³⁴

Background

31. Nauru is located in the South Pacific Ocean, south of the Marshall Islands. Post World War II, Nauru became a United Nations (“UN”) trust territory. In 1968, it became independent. Nauru joined the UN in 1999 as the world’s smallest republic. The total population of Nauru is approximately 9,434.³⁵ Nauru does not have an official capital and uses the Australian dollar as its currency. The total area of the island is 21 square kilometers.
32. In an effort to boost its economy and reduce its unemployment, Nauru agreed to host an Australian detention center. Australia sends individuals intercepted en route to Australia

27 ABC News is Australia’s national news service. While it is owned and funded by the Australian government, the broadcaster’s editorial independence is ensured through the 1983 Australian Broadcasting Corporation Act. ABC has reported extensively about the removal of Peter Law, the Chief Magistrate and revoking the visa of Chief Justice Eames.

28 The Sydney Morning Herald was founded in 1831 and is Australia’s oldest continuously published newspaper. The Sydney Morning Herald has attempted to spearhead political campaigns regarding the environment through Earth Hour as well as “Campaign for Sydney” regarding planning and transport.

29 The Commonwealth Lawyers Association (“CLA”) is a pan-Commonwealth body and “exists to maintain and promote the rule of law throughout the Commonwealth by ensuring that an independent and efficient legal profession serves the people of the Commonwealth.” The first conference was held in London in 1955.

30 The Wall Street Journal is an American international daily newspaper with a focus on business and economic news. It has a circulation of 2.4 million copies. It has been continuously in print since 1889.

31 CCTV.com English is a Chinese web-based TV broadcaster providing “users with a globalized, multilingual and multi-terminal public webcast service platform. It offers interactive audiovisual services, integrating features of internet-based operations with those of TV programming.”

32 The Australian is a national news paper launched in 1964. In addition to covering national and global news, it focuses on news business reporting.

33 The Age is a daily newspaper published in Melbourne since 1854. It serves primarily Victoria, Tasmania, the Australian Capital Territory and border regions of Southern Australia and Southern New South Wales.

34 Island Business Magazine is based in Fiji. It is 30 years old and is the premier publishing group in the Pacific Islands region.

35 Nauru The World Factbook, CIA, (January 28, 2014) online: <https://www.cia.gov/library/publications/the-world-factbook/geos/nr.html>

to detention centres in Nauru.³⁶ The issue of asylum seekers is a major political issue in Australia. The government's tough stance on asylum seekers is widely supported by Australians. However, Gillian Triggs, the Australian Human Rights Commissioner, has reiterated her call for all asylum seekers on Nauru and Manus Islands to be returned to Australia.³⁷ Nauru has become an Australian satellite described as "a quasi-dependency acting under the close control of Australia."³⁸

33. Nauru's legal system is a combination of English common law and customary law. Its Supreme Court consists of a Chief Justice and one judge. Nauru has two lower courts: the District Court and Family Court. Nauru's President appoints judges who serve until they are 65 years old. The Chief justice serves until he/she is 75 years old. Many of the lawyers, barristers and judges in the Nauruan legal system are Australian. Peter Law, the Chief Magistrate and Supreme Court Register of Nauru, and the Chief Justice Geoffrey Eames, are Australian citizens. Recently, Australian human rights lawyers have launched a constitutional challenge in Nauru to release 10 detained asylum seekers claiming their detention is unlawful.³⁹ The 10 detainees have been detained since September 2012 without access to lawyers or a fair hearing.
34. Nauru's President Baron Waqa fired Peter Law, the Chief Magistrate and Supreme Court Register of Nauru, on January 19, 2014. The government terminated his employment, took him into police custody and then transported him to the airport. Peter Law was not given time to pack. In an attempt to stop Peter Law's deportation, Nauru's Chief Justice Geoffrey Eames issued an injunction preventing his removal. The Nauru government

36 Nauru Dislodges Judicial Officials Ahead of Asylum-Seeker Case: Critics Say Move May Signal a Hardening of Australia's Offshore Refugee-Detention System". *The Wall Street Journal* (January 20, 2014).

online: <http://online.wsj.com/news/articles/SB10001424052702304027204579331813836739646>

37 "Australian High Commission expresses concerns to Nauru over magistrate's deportation". *The Sydney Morning Herald*. (January 20, 2014). online: <http://www.smh.com.au/federal-politics/political-news/australian-high-commission-expresses-concerns-to-nauru-over-magistrates-deportation-20140121-316hp.html>

38 Ben Saul "Constitutional crisis: Australia's dirty fingerprints are all over Nauru's system", *The Guardian* (January 21, 2014) online: <http://www.theguardian.com/commentisfree/2014/jan/21/constitutional-crisis-australias-dirty-fingerprints-are-all-over-naurus-system>

39 Sarah Whyte "Lawyers launch constitutional challenge in Nauru over detainees". *The Sydney Morning Herald*. (February 7, 2014). online: <http://www.smh.com.au/federal-politics/political-news/lawyers-launch-constitutional-challenge-in-nauru-over-detainees-20140206-324m3.html>

ignored that order and revoked Chief Justice Eames's visa.⁴⁰ The government accused Peter Law of a number of misdemeanours, including improper conduct with staff and being drunk and disorderly.⁴¹

35. In the past, Peter Law had issued two injunctions stopping the Nauru government from deporting two of its residents. The residents were not given reasons for their deportation or the right to challenge the action.⁴² Peter Law was scheduled to adjudicate in the direction hearings of about 40 to 60 asylum seekers who were charged with rioting and wilful damage at Nauru's detention centre.⁴³

36. Geoffrey Eames has been Chief Justice of Nauru for three years. During that time he has expressed concerns to the Nauru government about the conditions under which asylum seekers sent by the Australian authorities to the Nauru are held. Chief Justice Eames opposed the Nauru government's move to hear the cases at the detention center and close the proceedings to the media.⁴⁴ Chief Justice Eames also expressed concerns about Mr. Law's dismissal and an abuse of the rule of law.

37. Under the terms of his appointment, Chief Justice Eames will remain Nauru's Chief Justice until the age of 75. He is currently 68 years old. The Nauru government can remove him with a two-thirds vote of the parliament on the grounds of proven incapacity or misconduct. Chief Justice Eames has stated he will not resign. More than 100 asylum seeker cases are in limbo, including the controversial cases of those asylum seekers accused of rioting in 2013.⁴⁵

40 "Nauru sacks its sole magistrate, leaving detainees in limbo." *Theage.com*. (January 20, 2014). Online: <http://m.theage.com.au/federal-politics/political-news/nauru-sacks-its-sole-magistrate-leaving-detainees-in-limbo-20140119-312tn.html>.

41 "Nauru beak has colourful record". *The Australian* (January 27, 2014). Online:

<http://www.theaustralian.com.au/business/legal-affairs/nauru-beak-has-colourful-record/story-e6frg97x-1226810866954#>

42 "Courts in crisis as Nauru sacks its only magistrate an, bars Chief Justice". *Islandbusiness.com* (January 20, 2014). Online:

<http://www.islandbusiness.com/news/nauru/4314/courts-in-crisis-as-nauru-sacks-its-only-magistrat/>

43 Courts in crisis as Nauru sacks its only magistrate." *The Sydney Morning Herald*. (January 20, 2014). Online:

<http://www.smh.com.au/federal-politics/political-news/courts-in-crisis-as-nauru-sacks-its-only-magistrate-20140119-312u1.html>

44 "Nauru expels Australian magistrate, chief justice". *CCTV.com* (January 20, 2014). Online:

<http://asiapacific.cntv.cn/20140120/103177.shtml>

45 "Morrison denies boat link to Nauru sacking". *The Sydney Morning Herald*. (January 20, 2014),.

Online: <http://news.smh.com.au/breaking-news-national/morrison-denies-boat-link-to-nauru-sacking-20140120-313cc.html>

38. The Australian Bar Association has stated that the removal of Peter Law is an affront to the legal protections in Nauru and the independence of the country's judiciary. The South Pacific Lawyers Association also expressed concerns and noted the government's conduct was inconsistent with the rule of law.⁴⁶ The Commonwealth Lawyers Association has issued a statement condemning the removal and deportation of Peter Law as well as the revocation of the Chief Justice's visa.⁴⁷

For Convocation's Consideration

39. Convocation may wish to consider the following factors when making a decision about this case:
- a. There are no concerns about the quality of sources used for this report.
 - b. The expulsion of Peter Law, former Chief Magistrate, and the revocation of the visa of Chief Justice Eames fall within the mandate of the Monitoring Group. The Law Society has never intervened in cases of lawyers or members of the judiciary in Nauru.

LAWYERS IN UGANDA

Sources of Information

40. The background information for this report was taken from the following sources:
- a. BBC News;
 - b. Aljazeera.com;⁴⁸
 - c. Daily Monitor;⁴⁹

⁴⁶"Nauru's chief justice Geoffrey Eames says visa cancellation is politically motivated". *ABC New*, (January 20, 2014),: Online:<http://www.abc.net.au/news/2014-01-20/nauru-chief-justice-visa-cancelled-politically-motivated/5208540>

⁴⁷ Commonwealth of Lawyers Association. Public Statement, "Statement on the removal and deportation of Magistrate Law and the revocation of the Chief Justice's via by the Nauru authorities". (January 22, 2014).

⁴⁸ Al Jazeera is based in Qatari and owned by the Al Jazerra Media Network. Originally launched as an Arabic news and current affairs satellite TV channel, Al Jazeera has expanded into a network of media outlets. Al Jazeera English is an international 24 hour English language new and current affairs channel. The network's stated objective is "to give voice to untold stories, promote debate, and challenge established perceptions". Al Jazeera America is the sister channel to Al Jazerra English.

⁴⁹ The Daily Monitor is Uganda's leading independent newspaper. The paper is owned by the Nation Media Group based in Nairobi. In May 2013, Uganda's police raided and occupied the paper. The police have prohibited the printing of the paper, but the Daily Monitor website is online and updated. It is unclear if the police still occupy the Daily Monitor's offices.

- d. Innovating Justice Forum;⁵⁰
- e. Psychological Society of South Africa.⁵¹
- f. International Bar Association Human Rights Institute;⁵²
- g. Human Rights Awareness and Promotion Forum;⁵³
- h. The Civil Society Coalition on Human Rights and Constitutional Law;⁵⁴
- i. Wink FM Uganda;⁵⁵
- j. Associated Press;⁵⁶ and,
- k. TVC News.⁵⁷

Background

41. Uganda's lesbian, gay, bisexual, transgender and intersex (LGBTI) community is highly stigmatized and marginalized. Many in sub-Saharan Africa view homosexuality as “un-African”, “foreign” and a “white import”.⁵⁸ In some traditional African beliefs, LGBTI persons are considered cursed or bewitched. The demonization and view of homosexuality as “foreign” has created a hostile environment for LGBTI persons and organizations.

⁵⁰ Innovating Justice Forum is a body of legal professionals, policy makers, academics, entrepreneurs, NGOs and funders who are involved in improving the Rule of Law. They connect viable projects with expert knowledge, networks and funding. The Innovating Justice Forum was launched in 2009 as a collaborative effort by the Hague Institute for the Internationalization of Law (HiIL), the Microjustice Initiative (MJI), the European Academy for Law and Legislation (EALL) and the Center for International Legal Cooperation (CILC). It is subsidized by NL Agency, a division of the Dutch Ministry of Economic Affairs, Agriculture and Innovation and the city of The Hague.

⁵¹ The Psychological Society of South Africa (PsySSA) is the professional body representing psychologists in South Africa. It was formed in 1994. As the representative body of psychologists in South Africa it operates as a trade union for the discipline.

⁵² The International Bar Association's Human Rights Institute (IBAHRI) works “to promote and protect human rights under a just rule of law.” It was established in 1995 under the honorary presidency of Nelson Mandela.

⁵³ The Human Rights Awareness and Promotion Forum – Uganda (HRAPF) is a non-governmental organization founded in 2008 by a group of lawyers and other professionals. HRAPF's mission is “to promote respect and observance of human rights of marginalized groups through legal and legislative advocacy, research and documentation, legal and human rights awareness, capacity building and partnerships.”

⁵⁴ The Civil Society Coalition on Human Rights and Constitutional Law is a coalition established in October 2009 in response to the Anti-Homosexuality Bill. There are 51 Ugandan civil society organizations, including human rights, feminist, HIV focused, LGBTI, media and refugee organizations and groups.

⁵⁵ Wink FM Uganda is a radio station located in Kampala, Uganda. It provides listeners with music and information.

⁵⁶ The Associated Press (“AP”) is on the largest independent global news gathering organization in the world. Founded in 1846, AP has covered all the major news events of the past 165 years. It has received 51 Pulitzer prizes for journalism excellence.

⁵⁷ TVC News is a 24 hour news channel owned by Continental Broadcasting Service Nigeria Ltd and employs 350 people. It follows the same model of 24 hour news reporting as Al Jazeera, British Broadcasting Corp and Cable News Network.

⁵⁸ Psychological Society of South Africa, *An open statement from the Psychological Society of South Africa to the People and Leaders of Uganda Concerning the Anti-Homosexuality Bill 2009*, (undated).

42. Challenges faced by LGBTI persons include arbitrary arrests, threats, physical assaults, illegal detentions, blackmail, eviction by landlords and dismissal from employment.⁵⁹ In Uganda there are “consistently high rates of anti-homosexual harassment and violence, both state sanctioned and extrajudicial.” Socially sanctioned discrimination leads “service providers to discount, ignore and neglect the needs of lesbian, gay and bisexual people.” This increases the marginalization of LGBTI persons. The level of discrimination worsens for LGBTI persons with criminalization on the basis of sexual orientation.
43. Around the early 2000s, there was a debate regarding the legality of same sex relationships. The conclusion was that Uganda’s laws against homosexuality needed strengthening. Support and legislative action for the *Anti-Homosexuality Bill* (“AHB”) began in early 2009. Uganda’s Family Life Network led by Pastor Stephen Langa along with three American evangelists led by Scott Lively of Exodus International held a three day seminar in Kampala, Uganda’s capital.⁶⁰ The seminar spread anti-LGBTI propaganda. The American group then met with Ugandan legislators. Shortly after, the Honorable James Nsaba Buturo, former Minister of Ethics and Integrity, announced the creation of a new and stronger law against homosexuality. The AHB was tabled as a private member’s bill in 2010 by the Hon. David Bahati, MP for Ndoorwa East Constituency, Kabale District.⁶¹
44. The AHB was passed in December 2013, but it has yet to come into force. In December 2013, the President wrote a letter to Uganda’s parliamentary speaker criticizing her for allowing the *Bill* to pass.⁶² In January, President Museveni stated he will only sign the

⁵⁹ Innovating Justice Forum. *Legal aid for LGBTI community in Uganda*, (no post date provided), Online: <http://www.innovatingjustice.com/innovations/legal-aid-for-lgbt-community-in-uganda?view_content=intro>.

⁶⁰ Human Rights Awareness and Promotion Forum (HRAPF) and The Civil Society Coalition on Human Rights and Constitutional Law (CSCRCL), *Protecting ‘Morals’ by Dehuamning Suspected LGBTI Persons? A Critique of the Enforcement of the Laws Criminalising Same-Sex Conduct in Uganda*. (United Kingdom: Institute for Development Studies, October 2013) at page 22.

⁶¹ The AHB was first introduced in late 2008 but it was sent to the Legal and Parliamentary Affairs Committee. The Bill came back in 2009 with changes. The death penalty was removed as the punishment for many of the offences. Instead, it was replaced by life imprisonment. The 2009 draft of the AHB was passed by Uganda’s Parliament in 2013.

⁶² The AHB should have died on the order paper. It was not tabled before the end of the 8th Parliament. The Speaker for the 9th Parliament Hon. Rebecca Kadaga allowed a motion to “save” all bills from the 8th parliament. The Legal and Parliamentary Affairs Committee presented its report and the original bill. The AHB was reintroduced by a resolution to the Parliament on

AHB “after scientists prove to him that [homosexuality] is a normal behaviour.”⁶³ In February he announced that he would approve the *Bill* as he had received a report indicating that homosexuality may be learned. If the President does not sign the AHB, Uganda’s Parliament could possibly enact the AHB through a two thirds vote of the Parliament.⁶⁴

45. A global protest against Uganda’s *Anti-Homosexuality Bill* has been launched. On February 10, 2014, members of Kenya’s LGBTI community wore rainbow masks and wigs during their protest held in support of Uganda’s LGBTI community.⁶⁵ The U.S. based American Jewish World Service, which supports groups working to advance human rights of vulnerable and marginalized communities, also promoted the global protest. The Associate Press reports that LGBTI refugees are fleeing to a Kenyan refugee camp over the border.⁶⁶ On February 13, 2014, Ugandan Member of Parliament for West Budama, Fox Odoi, wrote President Yoweri and urged him to reject the *Bill*.⁶⁷ Fox Odoi along with the Civil Liberties Organisation-Chapter Four, commissioned an independent legal opinion on the constitutionality of the *Bill*. The legal opinion confirmed that the *Bill* is unconstitutional. The stigma and sensitive nature of the *Bill* prompted a law firm, offering the opinion, to decline being named.
46. Lawyers serving LGBTI clients and organizations face stigmatization, which is creating a chilling effect as fewer lawyers are willing to represent the LGBTI community. Adrian Jjuuko, a human rights lawyer in Uganda, founded the first legal aid clinic for LGBTI persons. The legal aid clinic offers walk in and outreach services along with advocacy, awareness sessions and paralegal training. The majority of LGBTI legal aid clients are

October 31, 2011. It was referred back to the parliamentary committee, and then passed by Uganda’s Parliament on December 20, 2013.

⁶³ “Museveni now takes gays Bill to scientists”. *The Daily Monitor* (January 29, 2014).

⁶⁴ BBC News “Uganda President Yoweri Museveni blocks anti-gay law” <http://www.bbc.co.uk/news/world-africa-25775002>.

⁶⁵ Jason Straziuso and Rodeny Muhumuza, “Wearing rainbow masks and wigs, gays in Kenya protest against homosexuality bill in Uganda” Associated Press (February 10, 2014) online: <http://www.usnews.com/news/world/articles/2014/02/10/gays-in-kenya-protest-against-ugandan-bill> ; TVC News “Kenya gay community protests Uganda homosexuality bill” online: <http://www.youtube.com/watch?v=UkloTTH4pdI&feature=youtu.be>

⁶⁶ *Ibid* at note 25.

⁶⁷ “Fox Odoi to M7: Trash Anti-gay Bill”, *Wink FM* (February 13, 2014) online: <http://winkfm.net/fox-odoi-to-m7-trash-anti-gay-bill.html>

poor and cannot afford a lawyer. Even if a LGBTI person could afford a lawyer, the level of stigmatization makes it difficult to obtain legal counsel. There is a high turnover in lawyers at the legal aid clinic due to the stigma and personal risk. Before Adrian Jjuuko's legal aid clinic was established, only the legal aid clinic dealing with refugees would provide services to LGBTI persons. Adrian Jjuuko's legal aid clinic handles over 250 cases a year.

47. Adrian Jjuuko is lead counsel for a group that is spearheading a constitutional challenge to Uganda's *Anti-Homosexuality Bill*. By working on behalf of LGBTI persons and community organizations, it is believed that Adrian Jjuuko risks harassment, possible detention and arrest. Although there are no documented reports indicating this, the chilling effect as a result of well founded fears of harassment, detention and persecution has left Uganda's LGBTI community with barriers to accessing the justice system

For Convocation's Consideration

48. Convocation may wish to consider the following factors when making a decision about this case:
 - a. There are no concerns about the quality of sources used for this report.
 - b. While there is no documented reported arrest, detention and conviction of lawyers as a result of their human rights work with Uganda's LGBTI community, the *Anti-Homosexuality Bill* has had a chilling effect on lawyers. Human rights lawyers are justifiably frightened to represent LGBTI clients. This is a case where government legislation is intimidating lawyers to turn away from promoting the rule of law. The Law Society has never intervened in cases of lawyers or members of the judiciary in Uganda.

NIGERIA – POTENTIAL THREAT TO SECURITY OF LAWYERS WORKING WITH NIGERIA’S LGBTI CLIENTS AND COMMUNITY

Sources of Information

49. The background information for this report was taken from the following sources:
- a. BBC News;
 - b. Time;⁶⁸
 - c. The Guardian;⁶⁹
 - d. International Bar Association Human Rights Institute;
 - e. Pew Research Center;⁷⁰
 - f. Associated Press;
 - g. Huffington Post;⁷¹
 - h. The Telegraph;⁷² and,
 - i. International Business Times.⁷³

Background

50. Nigeria enacted the *Same Sex Marriage (Prohibition) Act* (“SSMPA”) on January 7, 2014.⁷⁴ The SSMPA prohibits not only same sex marriage, but also the witnessing, abetting and aiding in the solemnization of a same sex marriage and public displays of affection. It prohibits any person or group from providing services to anyone perceived to be homosexual as well as supporting the registration, operation and support of gay

⁶⁸ Time (Time.com) is a weekly American news magazine published online and in print. It was founded in 1923 and has the world’s largest circulation for a weekly news magazine. The readership is estimated at 25 million with 20 million readers within the United States.

⁶⁹The Guardian is a national daily newspaper in Britain. It was founded in 1821. It is an international media company with a reputation for breaking international stories such as revealing the existence of the PRISM surveillance program which was leaked by Edward Snowden.

⁷⁰ The Pew Research Center is an American think tank based in Washington D.C. and issues reports and information on social issues, public opinion and demographic trends shaping both the United States and the world.

⁷¹ The Huffington Post is an online news aggregator and blog that offers news, blogs and original content. It was launched in 2005 and in 2012 was the first digital media enterprise to win a Pulitzer Prize.

⁷² The Telegraph is an internationally published newspaper based in London, England. It was established in 1855. It has a daily circulation of 552, 065.

⁷³ International Business News provides global business journalism in 10 languages in 16 country editions. Launched in 2005, the International Business News reaches over 10,000 0000 monthly readers. Headquartered in New York City, the company’s mission is to foster global economic growth by empowering people everywhere with excellent news, analysis and information.

⁷⁴ “Nigeria’s anti-gay laws: fears over new legislation”, *BBC News Africa* (January 14, 2014) online: <http://www.bbc.co.uk/news/world-africa-25728845>.

clubs, societies, organizations, processions or meetings in Nigeria.⁷⁵ Individuals providing services to the lesbian, gay, bisexual, transgender and intersex (LGBTI) community upon conviction may receive 10 years in prison. The *Act* does not define what is meant by “providing services”. This ambiguity has a chilling effect on Nigerian lawyers and increases the likelihood that Nigeria’s LGBTI community will not receive legal services.

51. Nigeria’s *Criminal Code*, which dates back to British colonial rule, makes it illegal for LGBTI persons to engage in same sex sexual relations.⁷⁶ However, Nigeria’s homophobia is attributed to a mixture of cultural and religious traditions which range from fundamental Christian and Islamic teachings to old tribal norms.⁷⁷ These traditions shape Nigeria’s court system through the operation of multiple legal systems in one geographic region.⁷⁸ In parts of Nigeria, Sharia law operates alongside Nigerian law. In other areas, unwritten customary law, enforced by customary courts, augment Nigerian law. LGBTI persons are first charged and tried under the Nigerian law, but they may also be subject to Sharia or customary law. While entitled to legal representation throughout the process, the issue is whether a person charged under the *SSMPA* will find a lawyer willing to represent him or her given Nigeria’s homophobic climate.
52. In Nigeria’s rural areas, suspected LGBTI persons are often subject to violent persecution. Last month, the Associated Press reported that thousands of protestors gathered outside the Sharia Court in Bauchi and began throwing stones. They demanded speedier convictions for seven men who belong to LGBTI organizations.⁷⁹ Previously, the same court convicted a young man of sodomy. He was to be publically whipped and

⁷⁵ *Same Sex Marriage (Prohibition) Bill*, 2013. (SB.05) online: http://www.gaylawnet.com/laws/legislation/SB.05_NG_2011.pdf

⁷⁶ Nate Rawlings, “Anti-Gay Law Takes Effect in Africa’s Most Populous Country”, *Time.com* (January 15, 2014) online: <http://world.time.com/2014/01/15/nigeria-anti-gay-law/>

⁷⁷ “The Global Divide on Homosexuality: Greater Acceptance in More secular and Affluent Countries”. *Pew Research Center*, (June 4, 2013) online: <http://www.pewglobal.org/files/2013/06/Pew-Global-Attitudes-Homosexuality-Report-FINAL-JUNE-4-2013.pdf>

⁷⁸ Owen Bowcott, “Nigeria arrests dozens as anti-gay law comes into force”, *The Guardian* (January 14, 2014) online: <http://www.theguardian.com/world/2014/jan/14/nigeria-arrests-dozens-anti-gay-law>.

⁷⁹ Associated Press, “Nigeria Gay Trial Disrupted by Thousands of Protesters”, *Huffingtonpost.com*, (January 22, 2014) online: http://www.huffingtonpost.com/2014/01/22/nigeria-gay-trial-protest_n_4645942.html; Conor Adams Sheets “Gay in Nigeria: LGBT Life In One of the World’s Most Homophobic Nations”, *International Business Times* (September 12, 2013) online: <http://www.ibtimes.com/gay-nigeria-lgbt-life-one-worlds-most-homophobic-nations-1405130>

given 20 lashes. While the young man was also tried under Islamic law, he was first convicted under Nigerian law, which criminalises homosexuality.⁸⁰ Nigeria's Bauchi state includes Nigerian penal law and sharia law. Under sharia law, the act of sodomy carries the death sentence and punishable by stoning.⁸¹ It is reported that people from the community help round up suspected gay men.⁸² Police in the Northern Nigerian city of Bauchi have a list of 168 allegedly gay men. They have taken 38 to 40 men into custody.⁸³ It is unclear if any of these men will receive their constitutionally mandated right to legal representation or a fair trial.

53. Even though Nigeria's constitution guarantees its citizens basic freedoms held under international human rights law, Nigeria criminalized same sex unions and associations.⁸⁴ The International Bar Association's Human Rights Institute released a statement condemning Nigeria's actions and arrests under the new law. The level of discrimination worsens for LGBTI persons with the criminalization on the basis of sexual orientation.⁸⁵ As a member of the United Nations, the Commonwealth of Nations and the African Union, Nigeria has signed a number of international treaties and declarations supporting international human rights. Nigeria's persecution of the LGBTI community violates these treaties.
54. According to the Pew Research Center's report entitled "The Global Divide on Homosexuality: Greater Acceptance in More Secular and Affluent Countries", 98 percent of Nigerians think homosexuality is socially unacceptable.⁸⁶ There are

⁸⁰ *Ibid* at note 17.

⁸¹ *Ibid*.

⁸² Nigeria's anti-gay laws: fears over new legislation", *BBC News Africa* (January 14, 2014) online: <http://www.bbc.co.uk/news/world-africa-25728845>; Monica Mark, "The Nigerians who dare to speak of love as a tide of anti-gay hatred rises", *The Guardian* (January 18, 2014) online: <http://www.theguardian.com/world/2014/jan/18/nigerians-gay-hatred-sexual-freedom>

⁸³ Bernd Debusmann "Dozens arrested after anti-gay law passed in Nigeria", *The Telegraph* (January 14, 2014) online: <http://www.telegraph.co.uk/news/worldnews/africaandindianocean/nigeria/10571660/Dozens-arrested-after-anti-gay-law-passed-in-Nigeria.html>; Owen Bowcott, "Nigeria arrests dozens as anti-gay law comes into force", *The Guardian* (January 14, 2014) online: <http://www.theguardian.com/world/2014/jan/14/nigeria-arrests-dozens-anti-gay-law>

⁸⁴ "Nigeria's criminalization of same-sex unions and associations condemned by IBAHRI", International Bar Association's Human Rights Institute. January 30, 2014.

⁸⁵ *Ibid*.

⁸⁶ "The Global Divide on Homosexuality: Greater Acceptance in More secular and Affluent Countries". *Pew Research Center*, (June 4, 2013) online: <http://www.pewglobal.org/files/2013/06/Pew-Global-Attitudes-Homosexuality-Report-FINAL-JUNE-4->

suggestions that the government may be using the *SSMPA* to distract Nigerians from the economic under-development, corruption, religious tensions and armed conflicts.⁸⁷ Also, the *SSMPA* and President Jonathan's support of the *Act* is overwhelmingly supported by Nigerians and he is running for re-election in 2015. This government sanctioned homophobia has created a hazardous environment for lawyers working with LGBTI persons and the community.

55. Lawyers serving LGBTI clients and organizations face stigmatization which is creating a chilling effect as fewer lawyers are willing to represent LGBTI persons, who are often marginalized and impoverished. The *SSMPA* limits the LGBTI community's access to justice as increasingly lawyers are frightened that they will be charged under the *SSMPA* or found guilty by association.

For Convocation's Consideration

56. The following are issues that Convocation may wish to consider when making a decision about this case.
 - a. There are no concerns about the quality of sources used for this report.
 - b. While there is no documented reports of the arrest, detention and conviction of lawyers as a result of their human rights work with Nigeria's LGBTI community, the *Same Sex Marriage (Protection) Act* has had a chilling effect on lawyers. Human rights lawyers are justifiably frightened to represent LGBTI clients. This is a case where government legislation is intimidating lawyers to turn away from providing access to justice and promoting the rule of law. The Law Society has not intervened in Nigeria in the past where lawyers were being persecuted for representing clients accused of crimes against the state, terrorism and members of minority groups.

[2013.pdf](#)

⁸⁷ Monica Mark, "The Nigerians who dare to speak of love as a tide of anti-gay hatred rises", *The Guardian* (January 18, 2014) online: <http://www.theguardian.com/world/2014/jan/18/nigerians-gay-hatred-sexual-freedom>

LETTER OFFERING COLLABORATION WITH LAW SOCIETY OF ZIMBABWE

57. On September 20, 2007, Convocation approved the following recommendation: “That the Monitoring Group be authorized to collaborate with the Law Society of Zimbabwe (the “LSZ”) to assist it in strengthening its self-regulation capabilities and the independence of the profession.”
58. The recommendation to collaborate with the LSZ was approved in part as a result of a request made by Arnold Tsunga, then Acting Executive Secretary of the Law Society of Zimbabwe, for assistance for lawyers in Zimbabwe. The Law Society of Upper Canada made numerous attempts to contact Mr. Tsunga and his colleagues following the adoption of the recommendation, but all attempts failed. Mr. Tsunga no longer works for the LSZ. He is now the Dangamvura-Chikanga Member of Parliament and responsible for the Parliamentary Portfolio Committee on Education, Sport, Arts and Culture.
59. Because time has passed and the legal, political and social situation in Zimbabwe has evolved since the adoption of the 2007 recommendation, no further action has been taken to implement this recommendation. However, the Law Society has continued to monitor the situation in Zimbabwe. In June 2008, the Law Society of Upper Canada issued a public statement expressing grave concerns about escalating human rights violations against lawyers in Zimbabwe and the threats to the rule of law. In April 2013, the Law Society issued a public statement and wrote a letter to Zimbabwean authorities opposing the harassment of human rights lawyer Beatrice Mtetwa. In July 2013, the Law Society issued a public statement and wrote a letter to Zimbabwean authorities condemning the arrest of Arnold Tsunga.
60. It is the Monitoring Group’s view that renewed attempts to offer to collaborate with the LSZ should be made.

FOR INFORMATION – LAWYER RAZAN ZAITOUNEH IN SYRIA

61. In light of the urgency of the situation, Treasurer Conway approved the release of a public statement indicating the Law Society of Upper Canada's grave concern about the abduction of human rights lawyer Razan Zaitouneh in Syria. The public statement is available online at <http://www.lsuc.on.ca/with.aspx?id=622>
62. Reliable reports indicate that on December 9, 2013, award-winning human rights lawyer and writer, Razan Zaitouneh, along with her husband, Wa'el Hamada, and two colleagues, Nazem Hamadi and Samira Khalil, was abducted by unknown individuals from a joint office of the Violations Documentation Centre (VDC) and the Local Development and Small Projects Support (LDSPS) in the Damascus suburb of Douma.⁸⁸ The VDS is an independent non-governmental organization that documents human rights abuses committed by the Syrian government. The LDSPS provides humanitarian assistance.
63. Ms. Zaitouneh has won several awards for her human rights work, including the 2013 International Women of Courage Award and the 2011 Sakhorov Prize for Freedom of Thought. She largely defends political prisoners. Ms. Zaitouneh is a co-founder of both the VDC and the LDSPS.
64. According to reports, in 2011, Ms. Zaitouneh was forced into hiding after receiving threats from the Syrian authorities. In recent months, she has received threats from at least one armed opposition group in Eastern Ghouta. Reports indicate that the abduction of Ms. Zaitouneh and her colleagues is linked to their human rights work.
65. The Law Society of Upper Canada called on the Syrian authorities to,
 - a. investigate the disappearance of Razan Zaitouneh and her colleagues and secure their immediate release;

⁸⁸ Douma is located in Eastern Ghouta, an area under the control of a number of armed opposition groups that is being besieged by government forces.

- b. guarantee in all circumstances the physical and psychological integrity of Razan Zaitouneh and her colleagues;
- c. put an end to all acts of harassment Razan Zaitouneh and other human rights defenders in Syria;
- d. ensure that all lawyers can carry out their peaceful and legitimate activities without fear of physical violence or other human rights violations; and
- e. ensure in all circumstances respect for human rights and fundamental freedoms in accordance with international human rights standards and international instruments

TAB 8.1.1

**Proposed Letters of Intervention and Public Statement
Human Rights Lawyer Dr. Nimalka Fernando – Sri Lanka**

His Excellency President Mahinda Rajapakse
President of Sri Lanka
Presidential Secretariat
C/ - Office of the President
Temple Trees 150
Galle Road
Colombo 3, SRI LANKA

Your Excellency:

Re: Harassment of Human Rights Lawyer Dr. Nimalka Fernando

I write on behalf of the Law Society of Upper Canada* to voice our grave concern over the case of human rights lawyer Dr. Nimalka Fernando. When serious issues of apparent injustice to lawyers and the judiciary come to our attention, we speak out.

Reliable reports indicate that during a November 4, 2013, radio program titled “The Way the Country is Moving (Rat Yana Atha)”, death threats and derogatory comments were directed by callers toward Dr. Nimalka Fernando. The radio program was broadcast on state-owned Sri Lanka Broadcasting Corporation (SLBC) and was produced by the Chairman of the SLBC, Mr. Hudson Samarasinghe. The subtitle of the program was “Stoning the Sinner Woman”.

Statements that Dr. Nimalka Fernando had made to a television channel on the previous day were broadcast on the radio program. The television interview was related to a public debate that was prompted by her call for the abolition of abortion laws in Sri Lanka, the promotion of safer sex and a more protective reproductive health approach. She had also stated that she objected to the use of the word “prostitution”.

Listeners to the SLBC radio program had the opportunity to call in and give their opinion. Statements from callers included the following:

- “We cannot allow persons like Nimalka Fernando to live in this society.”
- “If we do something to them the government will be blamed by the human rights people. We should use a lorry and cause an accident.”
- “There is something called cleaning in the army...We should hand her over to the cleaning system.”

Dr. Nimalka Fernando was described as a 59-year-old divorced woman who had served 30 different organizations and since 1989 had “carried tales”. She was also referred to as a “prostitute”. Most of the callers were men and some identified themselves as retired members of

the armed forces. According to reports, Mr. Samarasinghe did not stop callers from making these statements and, in fact, seemed to encourage them.

Dr. Nimalka Fernando has lodged a complaint with the Human Rights Commission of Sri Lanka and the Inspector General of Police. Reports indicate that this is not the first time she has faced harassment as a result of her human rights work. In March 2012, Dr. Nimalka Fernando, along with three other human rights defenders, was accused of being a traitor and working against the interests of the country to obtain “dollars”. Additionally, the Minister of Public Relations threatened to “break the limbs” of Dr. Nimalka Fernando and three other human rights defenders.

Dr. Nimalka Fernando is the president of the International Movement Against All Forms of Discrimination and Racism (IMADR) and is a prominent human rights activist. She is involved in a number of human rights organizations. She has also actively participated in and contributed to the human rights work of the United Nations, including participating in treaty body committee meetings (committees of independent experts to monitor the implementation of treaties) and sessions of the Human Rights Council for over three decades.

The Law Society is deeply concerned about situations where lawyers who work for the protection and respect of human rights are themselves targeted for exercising their freedoms and rights under international law. Article 16 of the *United Nations Basic Principles on the Role of Lawyers* states that “governments shall ensure that lawyers are able to perform all of their professional functions without intimidation, hindrance, harassment or improper interference; are able to travel and to consult with their clients freely; and 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.”

The Law Society of Upper Canada calls on the Sri Lankan authorities to,

- a. order a thorough and transparent investigation of the complaint lodged by Dr. Nimalka Fernando;
- b. guarantee in all circumstances the physical and psychological integrity of Dr. Nimalka Fernando;
- c. put an end to all acts of harassment and intimidation against Dr. Nimalka Fernando and other human rights defenders in Sri Lanka;
- d. ensure that all lawyers can carry out their peaceful and legitimate activities without fear of physical violence or other human rights violations; and
- e. ensure in all circumstances respect for human rights and fundamental freedoms in accordance with international human rights standards and international instruments.

Yours very truly,

Thomas G. Conway
Treasurer

**The Law Society of Upper Canada is the governing body for some 46,200 lawyers and 6,000 paralegals in the Province of Ontario, Canada, and 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 by upholding the independence, integrity and honour of the legal profession for the purpose of advancing the cause of justice and the rule of law.*

Proposed Public Statement

The Law Society of Upper Canada Expresses Grave Concerns about the Harassment of Human Rights Lawyer Dr. Nimalka Fernando

The Law Society of Upper Canada is gravely concerned about the harassment of human rights lawyer Dr. Nimalka Fernando in Sri Lanka.

Reliable reports indicate that during a November 4, 2013, radio program titled "The Way the Country is Moving (Rat Yana Atha)", death threats and derogatory comments were directed by callers toward Dr. Nimalka Fernando. The radio program was broadcast on state-owned Sri Lanka Broadcasting Corporation (SLBC) and was produced by the Chairman of the SLBC, Mr. Hudson Samarasinghe. The subtitle of the program was "Stoning the Sinner Woman".

Statements that Dr. Nimalka Fernando had made to a television channel on the previous day were broadcast on the radio program. The television interview was related to a public debate that was prompted by her call for the abolition of abortion laws in Sri Lanka, the promotion of safer sex and a more protective reproductive health approach. She had also stated that she objected to the use of the word "prostitution".

Listeners to the SLBC radio program had the opportunity to call in and give their opinion. Statements from callers included:

- "We cannot allow persons like Nimalka Fernando to live in this society."
- "If we do something to them the government will be blamed by the human rights people. We should use a lorry and cause an accident."
- "There is something called cleaning in the army...We should hand her over to the cleaning system."

Dr. Nimalka Fernando was described as a 59-year-old divorced woman who had served 30 different organizations and since 1989 had "carried tales". She was also referred to as a "prostitute". Most of the callers were men and some identified themselves as retired members of the armed forces. According to reports, Mr. Samarasinghe did not stop callers from making these statements and, in fact, seemed to encourage them.

Dr. Nimalka Fernando has lodged a complaint with the Human Rights Commission of Sri Lanka and the Inspector General of Police. Reports indicate that this is not the first time she has faced harassment as a result of her human rights work. In March 2012, Dr. Nimalka Fernando, along with three other human rights defenders, was accused of being a traitor and working against the interests of the country to obtain "dollars". Additionally, the Minister of Public Relations threatened to "break the limbs" of Dr. Nimalka Fernando and three other human rights defenders.

Dr. Nimalka Fernando is the president of the International Movement Against All Forms of Discrimination and Racism (IMADR) and is a prominent human rights activist. She is involved in a number of human rights organizations. She has also actively participated in and contributed to the human rights work of the United Nations, including participating in treaty body committee

meetings (committees of independent experts to monitor the implementation of treaties) and sessions of the Human Rights Council for over three decades.

The Law Society is deeply concerned about situations where lawyers who work for the protection and respect of human rights are themselves targeted for exercising their freedoms and rights under international law. Article 16 of the *United Nations Basic Principles on the Role of Lawyers* states that “governments shall ensure that lawyers are able to perform all of their professional functions without intimidation, hindrance, harassment or improper interference; are able to travel and to consult with their clients freely; and 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.”

Therefore, the Law Society of Upper Canada calls on the Sri Lankan authorities to,

- a. order a thorough and transparent investigation of the complaint lodged by Dr. Nimalka Fernando;
- b. guarantee in all circumstances the physical and psychological integrity of Dr. Nimalka Fernando;
- c. put an end to all acts of harassment and intimidation Dr. Nimalka Fernando and other human rights defenders in Sri Lanka;
- d. ensure that all lawyers can carry out their peaceful and legitimate activities without fear of physical violence or other human rights violations; and
- e. ensure in all circumstances respect for human rights and fundamental freedoms in accordance with international human rights standards and international instruments.

The Law Society of Upper Canada is the governing body for some 46,200 lawyers and 6,000 paralegals in the Province of Ontario, Canada, and 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 by upholding the independence, integrity and honour of the legal profession for the purpose of advancing the cause of justice and the rule of law.

The Law Society urges the legal community to intervene in support of members of the legal profession in their effort to advance the respect of human rights and to promote the rule of law.

Commonwealth Lawyers Association
President Mark Stephens
Institute of Commonwealth Studies
17 Russell Square
London
WC1B 5DR, UK

Dear President Stephens,

Re: Harassment of Human Rights Lawyer Dr. Nimalka Fernando

The Law Society of Upper Canada* Human Rights Monitoring Group has a mandate to review information of human rights violations targeting, as a result of the discharge of their legitimate professional duties, members of the legal profession and the judiciary, in Canada and abroad. The Human Rights Monitoring Group reviews such information and determines if a response is required.

I write to inform you that on the advice of the Human Rights Monitoring Group, the Law Society of Upper Canada sent the attached letter to the government of Sri Lanka expressing our deep concern about the harassment of human rights lawyer Dr. Nimalka Fernando.

In view of the fact that your organization represents the interests of Commonwealth lawyers, we would value the opportunity to communicate with you in regard to what problems, if any, lawyers may be experiencing in Sri Lanka.

We would also value the opportunity to collaborate with you to address issues and problems that lawyers in Sri Lanka may be experiencing in relation to their work. We would appreciate speaking with you to hear your views and your assessment of the situation in order to determine how our two organizations can work together.

If you are willing and able to do so, we would be very interested in hearing from you concerning the situation noted in the attached letter. In particular, if we have any of the facts in the case wrong, it would assist us in our work to know that.

Please forward any further correspondence to the attention of Josée Bouchard, Equity Advisor, Law Society of Upper Canada, 130 Queen St. West, Toronto, Ontario, Canada, M5H 2N6 or to jbouchar@lsuc.on.ca.

I thank you for your time and consideration.

Sincerely,

Paul Schabas
Chair, Human Rights Monitoring Group

**The Law Society of Upper Canada is the governing body for more than 46,200 lawyers and 6,000 paralegals in the province of Ontario, Canada. The Law Society is committed to preserving the rule of law and to the maintenance of an independent Bar.*

TAB 8.1.2

**Proposed Letter of Intervention and Public Statement
Human Rights Lawyer Le Quoc Quan - Vietnam**

H.E. Mr. Ha Hung Cuong, Minister of Justice
56-60 Tran Phu St., Ba Dinh District
Hanoi, Vietnam

Dear Minister:

Re: Arrest and Detention of Human Rights Lawyer Le Quoc Quan

I write on behalf of the Law Society of Upper Canada* further to our letter to you dated February 7, 2013, expressing our deep concern about the case of human rights lawyer Le Quoc Quan.

It is our understanding that Le Quoc Quan remains in detention. According to reliable reports, on October 2, 2013, he was convicted of evading corporate income tax. The trial took only one day. Le Quoc Quan was sentenced to 30 months in prison and a fine of 1.2 billion dong (approximately \$59,000 USD) was levied against the company of which he is a director. Le Quoc Quan appealed the decision and is waiting for his trial. Our sources also note that Le Quoc Quan's wife has reported that he is in poor health. Le Quoc Quan's conviction is believed to be politically motivated and intended to prevent him from continuing his legitimate human rights work.

The Law Society is deeply concerned about situations where lawyers who work for the protection and respect of human rights are themselves targeted for exercising their freedoms and rights under international law. International human rights instruments, including the *Universal Declaration of Human Rights* and the *International Covenant on Civil and Political Rights* state that respect for human rights is essential to advancing the rule of law. Article 16 of the *United Nations Basic Principles on the Role of Lawyers* states "governments shall ensure that lawyers are able to perform all of their professional functions without intimidation, hindrance, harassment or improper interference; are able to travel and to consult with their clients freely; and 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."

Therefore, the Law Society of Upper Canada calls on the Vietnamese authorities to,

- a. quash the conviction of Le Quoc Quan, release him immediately and guarantee in all circumstances his physical and psychological integrity;

- b. ensure that Le Quoc Quan receives immediate medical attention;
- c. put an end to all acts of harassment and intimidation against Le Quoc Quan and other human rights defenders in Vietnam;
- d. ensure that all lawyers can carry out their peaceful and legitimate activities without fear of physical violence or other human rights violations; and
- e. ensure in all circumstances respect for human rights and fundamental freedoms in accordance with international human rights standards and international instruments.

Yours very truly,

Thomas G. Conway
Treasurer

** The Law Society of Upper Canada is the governing body for 46,200 lawyers and 6,000 paralegals in the Province of Ontario, Canada, and 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 by upholding the independence, integrity and honour of the legal profession for the purpose of advancing the cause of justice and the rule of law.*

Proposed Public Statement

The Law Society of Upper Canada Expresses Grave Concerns about the Recent Conviction and Continued Imprisonment of Human Rights Lawyer Le Quoc Quan

The Law Society of Upper Canada is concerned about the recent conviction and continued imprisonment of human rights lawyer Le Quoc Quan of Vietnam.

The Law Society first intervened in this case in February 2013. Reliable reports indicated that on December 27, 2012, Le Quoc Quan, human rights lawyer and blogger, was arrested by the police while dropping off his daughter at school and charged under Article 161 of the Vietnamese Criminal Code, which relates to tax evasion. Le Quoc Quan writes a popular blog about human rights abuses. The Law Society's understanding is that he has been subject to arbitrary arrests and ongoing surveillance and harassment as a result of his human rights work. Le Quoc Quan was disbarred following his return to Vietnam from the United States in 2007.

The Law Society understands that Le Quoc Quan remains in detention. On October 2, 2013, he was convicted of evading corporate income tax. The trial took only one day. Le Quoc Quan was sentenced to 30 months in prison and a fine of 1.2 billion dong (approximately \$59,000 USD) was levied against the company of which he is a director. Le Quoc Quan appealed the decision and is awaiting his trial. Our sources also note that Le Quoc Quan's wife has reported that he is in poor health. Le Quoc Quan's conviction is believed to be politically motivated and intended to prevent him from continuing his legitimate human rights work.

The Law Society is deeply concerned about situations where lawyers who work for the protection and respect of human rights are themselves targeted for exercising their freedoms and rights under international law. International human rights instruments, including the *Universal Declaration of Human Rights* and the *International Covenant on Civil and Political Rights* state that respect for human rights is essential to advancing the rule of law. Article 16 of the *United Nations Basic Principles on the Role of Lawyers* states "governments shall ensure that lawyers are able to perform all of their professional functions without intimidation, hindrance, harassment or improper interference; are able to travel and to consult with their clients freely; and 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."

Therefore, the Law Society of Upper Canada calls on the Vietnamese authorities to,

- a. quash the conviction of Le Quoc Quan, release him immediately and guarantee in all circumstances his physical and psychological integrity;
- b. ensure that Le Quoc Quan receives immediate medical attention;
- c. put an end to all acts of harassment Le Quoc Quan and other human rights defenders in Vietnam;

- d. ensure that all lawyers can carry out their peaceful and legitimate activities without fear of physical violence or other human rights violations; and
- e. ensure in all circumstances respect for human rights and fundamental freedoms in accordance with international human rights standards and international instruments.

The Law Society of Upper Canada is the governing body for 46,200 lawyers and 6,000 paralegals in the Province of Ontario, Canada, and 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 by upholding the independence, integrity and honour of the legal profession for the purpose of advancing the cause of justice and the rule of law.

The Law Society urges the legal community to intervene in support of members of the legal profession in their effort to advance the respect of human rights and to promote the rule of law.

TAB 8.1.3

**Proposed Letters of Intervention and Public Statement
People's Republic of China**

[Date]

His Excellency President Xi Jinping
President of the People's Republic of China
People's Republic of China
Zhongnanhai, Xichengqu, Beijing

Your Excellency:

Re: The Arrest, Trial and Sentencing of Xu Zhiyong

I write on behalf of the Law Society of Upper Canada* to voice our grave concern over the arrest, trial and sentencing of Xu Zhiyong. When serious issues of apparent injustice to lawyers and the judiciary come to our attention, we speak out.

According to reliable reports, Xu Zhiyong, a prominent legal scholar and human rights lawyer, was arrested, tried on criminal charges of “gathering crowds to disrupt public order” and sentenced to four years in prison. The charges relate to a small scale peaceful street protest by members of the New Citizens' Movement who were calling for educational equality and for government officials to declare their assets.

During Xu Zhiyong's trial, the court denied his defence counsel the right to call witnesses. The court also refused to summon prosecution witnesses to prevent Xu Zhiyong's defence counsel and the presiding judges from questioning them. Additionally, Xu Zhiyong was tried separately from his colleagues who were being prosecuted for the same offence. This contravened the Chinese *Criminal Procedure Law* requirement that persons charged with the same offence be tried jointly. These irregularities during Xu Zhiyong's trial raise questions regarding the fairness and due process of his trial.

The Law Society is deeply concerned about situations where lawyers are targeted in the legitimate exercise of their duties. International human rights instruments, including the *Universal Declaration of Human Rights* and the *International Covenant on Civil and Political Rights* state that respect for human rights is essential to advancing the rule of law. Article 16 of the *United Nations Basic Principles on the Role of Lawyers* states “governments shall ensure that lawyers are able to perform all of their professional functions without intimidation, hindrance, harassment or improper interference; are able to travel and to consult with their clients freely; and 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 18 states “lawyers shall not be identified with their clients or their clients' causes as a result of discharging their functions”.

The Law Society urges the government of China to,

- a. guarantee all the procedural rights that should be accorded to Xu Zhiyong and other human rights defenders in China;
- b. guarantee in all circumstances the physical and psychological integrity of Xu Zhiyong;
- c. put an end to all acts of harassment and intimidation against Xu Zhiyong and other human rights defenders in China;
- d. ensure that all lawyers can carry out their peaceful and legitimate activities without fear of physical violence or other human rights violations; and
- e. ensure in all circumstances respect for human rights and fundamental freedoms in accordance with international human rights standards and international instruments.

Yours very truly,

Thomas G. Conway
Treasurer

**The Law Society of Upper Canada is the governing body for 46,200 lawyers and 6,000 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 by upholding the independence, integrity and honour of the legal profession for the purpose of advancing the cause of justice and the rule of law.

Proposed Public Statement

The Law Society of Upper Canada Expresses Grave Concerns about the Arrest, Trial and Sentencing of Chinese Human Rights Lawyer Xu Zhiyong

The Law Society of Upper Canada is gravely concerned about the arrest, trial and sentencing of Xu Zhiyong to four years in prison.

Xu Zhiyong is a prominent legal scholar and human rights lawyer who has spoken out on issues concerning justice, the rule of law and government corruption. He was arrested and tried on criminal charges of “gathering crowds to disrupt public order”. The charges related to a small scale peaceful street protest by members of the New Citizens’ Movement who were calling for educational equality and for government officials to declare their assets.

During Xu Zhiyong’s trial, the court denied his defence counsel the right to call 68 defence witnesses and barred them from appearing on his behalf. The court also refused to summon prosecution witnesses in order to prevent Xu Zhiyong’s defence counsel and the presiding judges from questioning them. Additionally, Xu Zhiyong was tried separately from his colleagues who were being prosecuted for the same offence. This contravened the Chinese *Criminal Procedure Law* requirement that persons charged with the same offence be tried jointly. This also ensured that none of Xu Zhiyong’s colleagues could support his case through their participation. The court also cut off Xu Zhiyong during his closing statement when he called for democracy, the rule of law, freedom, justice and love and ended his hearing.

Diplomats were barred from attending the trial and police and plainclothes officers harassed the journalists outside of the courthouse. Xu Zhiyong’s case was the highest profile case of its kind since a Beijing court convicted the writer and dissident Liu Xiaobo. Human rights lawyers in China frequently report threats, physical violence and unfair trials. These irregularities during Xu Zhiyong’s trial raise questions regarding the fairness and due process of his trial

The Law Society is deeply concerned about situations where lawyers who work for the protection and respect of human rights are themselves targeted for exercising their freedoms and rights under international law. International human rights instruments, including the *Universal Declaration of Human Rights* and the *International Covenant on Civil and Political Rights* state that respect for human rights is essential to advancing the rule of law. Article 16 of the *United Nations Basic Principles on the Role of Lawyers* states “governments shall ensure that lawyers are able to perform all of their professional functions without intimidation, hindrance, harassment or improper interference; are able to travel and to consult with their clients freely; and 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 18 states “lawyers shall not be identified with their clients or their clients’ causes as a result of discharging their functions”.

The Law Society urges the government of China to,

- a. Guarantee all the procedural rights that should be accorded to Xu Zhiyong and other human rights defenders in China;

- b. guarantee in all circumstances the physical and psychological integrity of Xu Zhiyong;
- c. put an end to all acts of harassment and intimidation against Xu Zhiyong and other human rights defenders in China;
- d. ensure that all lawyers can carry out their peaceful and legitimate activities without fear of physical violence or other human rights violations; and
- e. ensure in all circumstances respect for human rights and fundamental freedoms in accordance with international human rights standards and international instruments.

The Law Society of Upper Canada is the governing body for 46,200 lawyers and 6,000 paralegals in the Province of Ontario, Canada and 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 by upholding the independence, integrity and honour of the legal profession for the purpose of advancing the cause of justice and the rule of law.

The Law Society urges the legal community to intervene in support of members of the legal profession in their effort to advance the respect of human rights and to promote the rule of law.

President Wang Junfeng
All China Lawyers Association
5th Floor Qinglan Mansion
No 24 Dongi Shitiao
Dongsheng District
Beijing 100007, People's Republic of China

Dear President Wang Junfeng,

Re: The Arrest, Trial and Sentencing of Human Rights Lawyer Xu Zhiyong

The Law Society of Upper Canada* created the Human Rights Monitoring Group in 2006. The mandate of the Human Rights Monitoring Group is to review information on human rights violations targeting, as a result of the discharge of their legitimate professional duties, members of the legal profession and the judiciary, in Canada and abroad. The Human Rights Monitoring Group reviews such information and determines if a response is required of the Law Society.

I write to inform you that, on the advice of the Human Rights Monitoring Group, the Law Society of Upper Canada sent the attached letter to the Chinese government expressing our deep concerns over the arrest and conduct of Xu Zhiyong's trial and his sentence of four years imprisonment.

In view of the fact that your organization represents the interests of lawyers in China, we would value the opportunity to communicate with you in regard to what problems, if any, lawyers may be experiencing in China.

If you are willing and able to do so, we would be very interested in hearing from you concerning the situation noted in the attached letter. In particular, if we have any of the facts in the case wrong, it would assist us in our work to know that.

Please forward any further correspondence by regular mail to the attention of Josée Bouchard, Equity Advisor, Law Society of Upper Canada, 130 Queen St. West, Toronto, Ontario, Canada, M5H 2N6
or by email to jbouchar@lsuc.on.ca.

I thank you for your time and consideration.

Sincerely,

Paul Schabas
Chair, Human Rights Monitoring Group

* The Law Society of Upper Canada is the governing body for more than 46,200 lawyers and 6,000 paralegals in the province of Ontario, Canada. The Law Society is committed to preserving the rule of law and to the maintenance of an independent Bar.

Albert Ho Chun-yan
Chairman, China Human Rights Lawyers Concern Group
3/F, 6 Portland Street, Yaumatei,
Kowloon, Hong Kong
People's Republic of China

Email: info@chrlcg-hk.org

Dear Chairman,

Re: The Arrest, Trial and Sentencing of Human Rights Lawyer Xu Zhiyong

The Law Society of Upper Canada* created the Human Rights Monitoring Group in 2006. The mandate of the Human Rights Monitoring Group is to review information on human rights violations targeting, as a result of the discharge of their legitimate professional duties, members of the legal profession and the judiciary, in Canada and abroad. The Human Rights Monitoring Group reviews such information and determines if a response is required of the Law Society.

I write to inform you that, on the advice of the Human Rights Monitoring Group, the Law Society of Upper Canada sent the attached letter to the Chinese government expressing our deep concerns over the arrest and conduct of Xu Zhiyong's trial and his sentence of four years imprisonment.

In view of the fact that your organization advocates for the protection of the human rights lawyers and legal rights defenders in China, we would value the opportunity to communicate with you in regard to what problems, if any, lawyers may be experiencing in China.

If you are willing and able to do so, we would be very interested in hearing from you concerning the situation noted in the attached letter. In particular, if we have any of the facts in the case wrong, it would assist us in our work to know that.

Please forward any further correspondence by regular mail to the attention of Josée Bouchard, Equity Advisor, Law Society of Upper Canada, 130 Queen St. West, Toronto, Ontario, Canada, M5H 2N6
or by email to jbouchar@lsuc.on.ca.

I thank you for your time and consideration.

Sincerely,

Paul Schabas
Chair, Human Rights Monitoring Group

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TAB 8.1.4

**Proposed Letters of Intervention and Public Statement
The Republic of Nauru**

His Excellency President Baron Waga
President of Nauru
Government Offices
Yaren District
The Republic of Nauru, Central Pacific

Your Excellency:

Re: Removal and Deportation of the Magistrate of Law and Revocation of the visa of the Chief Justice

I write on behalf of the Law Society of Upper Canada* to voice our grave concern over the removal and deportation of Peter Law, the Chief Magistrate and Supreme Court Register of Nauru, and the revocation of the visa of the Chief Justice Geoffrey Eames. When serious issues of apparent injustice to lawyers and the judiciary come to our attention, we speak out.

On January 19, 2014, Peter Law's employment was terminated. The police then took him into custody and to the airport where he was deported. The Chief Justice of Nauru, Geoffrey Eames, issued an injunction preventing the removal of Mr. Law from his position as Chief Magistrate and Supreme Court Register of Nauru. In response, the visa of the Chief Justice was revoked and he was barred from entering Nauru.

The Law Society of Upper Canada understands that both the removal and deportation of Peter Law and the revocation of the visa of the Chief Justice are linked to their administration and adjudication of asylum seeker cases. Prior to his removal and deportation Peter Law was scheduled to hear the direction hearings of about 40 to 60 asylum seekers charged with rioting in 2013. As well, the revocation of the visa of Chief Justice Eames follows his issuance of an injunction stopping the Nauru government from removing and deporting Peter Law.

The Law Society is deeply concerned about situations where members of the judiciary are themselves targeted in the legitimate exercise of their duties. The Law Society believes strongly in the importance of protecting judicial independence. Judges frequently have to rule on controversial matters and interpret the law in areas where there is legal uncertainty. Judges must be able to make controversial, and even unpopular, rulings without fear of politically motivated sanctions.

The Law Society urges the government of Nauru to,

- a. take steps to ensure that judges are not subject to politically-motivated sanctions as a result of issuing decisions;

- b. publicly recognize the importance and legitimacy of the work of judges and their contributions to the strengthening of democracy and the rule of law;
- c. ensure that all judges can carry out their peaceful and legitimate duties and activities without fear of removal from office; and
- d. ensure in all circumstances respect for human rights and fundamental freedoms in accordance with international human rights standards and international instruments

Yours very truly,

Thomas G. Conway
Treasurer

**The Law Society of Upper Canada is the governing body for 46,200 lawyers and 6,000 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 by upholding the independence, integrity and honour of the legal profession for the purpose of advancing the cause of justice and the rule of law.*

cc:

Minister for Justice
Hon. David Adeang
Government Offices
Yaren District
The Republic of Nauru, Central Pacific

cc:

Hon. Julie Bishop
Minister for Foreign Affairs Pacific Islands Branch
R.G Casey Building
John McEwen Crescent
BARTON ACT 0221
Australia

Ms. Gabriela Carina Knaul de Albuquerque Silva
UN Special Rapporteur on the Independence of Judges and Lawyers
United Nations Office at Geneva
8-14 Avenue de la Paix
1211 Geneva 10
Switzerland

Proposed Public Statement

The Law Society of Upper Canada Expresses Concerns about Removal and Deportation of Nauru's Magistrate of Law and Revocation of the Visa of the Chief Justice

The Law Society of Upper Canada is gravely concerned over the removal and deportation of Peter Law, Chief Magistrate and Supreme Court Register of Nauru, and the revocation of the visa of the Chief Justice Geoffrey Eames.

On January 19, 2014, Peter Law's employment was terminated. The police then took him into custody and to the airport where he was deported. Chief Justice Geoffrey Eames issued an injunction preventing the removal of Peter Law from his position as Chief Magistrate and Supreme Court Register of Nauru. In response, the visa of the Chief Justice was revoked and he was barred from entering Nauru.

Both the removal and deportation of Peter Law and the revocation of the visa of the Chief Justice are linked to their administration and adjudication of asylum seeker cases. Prior to Peter Law's removal and deportation, he was scheduled to hear the direction hearings of about 40 to 60 asylum seekers charged with rioting in 2013. As well, the revocation of the visa of Chief Justice Eames follows immediately after he issued an injunction stopping the Nauru government from removing and deporting Peter Law.

The Law Society is deeply concerned about situations where members of the judiciary are themselves targeted in the legitimate exercise of their duties. The Law Society believes strongly in the importance of protecting judicial independence. Judges frequently have to rule on controversial matters and interpret the law in areas where there is legal uncertainty. Judges must be able to make controversial, and even unpopular, rulings without fear of politically motivated sanctions.

The Law Society urges the government of Nauru to,

- a. take steps to ensure that judges are not subject to politically-motivated sanctions as a result of issuing decisions;
- b. publicly recognize the importance and legitimacy of the work of judges and their contributions to the strengthening of democracy and the rule of law;
- c. ensure that all judges can carry out their peaceful and legitimate duties and activities without fear of removal from office; and
- d. ensure in all circumstances respect for human rights and fundamental freedoms in accordance with international human rights standards and international instruments

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The Law Society urges the legal community to intervene in support of members of the legal profession in their effort to advance the respect of human rights and to promote the rule of law.

[Date]

Commonwealth Lawyers Association
President Mark Stephens
Institute of Commonwealth Studies
17 Russell Square
London
WC1B 5DR, UK

Dear President Stephens,

Re: Removal and Deportation of the Magistrate of Law and Revocation of the visa of the Chief Justice

The Law Society of Upper Canada* created the Human Rights Monitoring Group in 2006. The mandate of the Human Rights Monitoring Group is to review information on human rights violations targeting, as a result of the discharge of their legitimate professional duties, members of the legal profession and the judiciary, in Canada and abroad. The Human Rights Monitoring Group reviews such information and determines if a response is required of the Law Society.

I write to inform you that on the advice of the Human Rights Monitoring Group, the Law Society of Upper Canada sent the attached letter to the government of Nauru expressing our deep concerns about the removal and deportation of Peter Law the Chief Magistrate and Supreme Court Register of Nauru and the revocation of the visa of the Chief Justice Geoffrey Eames.

In view of the fact that your organization represents the interests of lawyers throughout the Commonwealth, we would value the opportunity to communicate with you in regard to what problems, if any, lawyers or members of the judiciary may be experiencing in Nauru.

If you are willing and able to do so, we would be very interested in hearing from you concerning the situation noted in the attached letter. In particular, if we have any of the facts in the case wrong, it would assist us in our work to know that.

Please forward any further correspondence to the attention of Josée Bouchard, Equity Advisor, Law Society of Upper Canada, 130 Queen St. West, Toronto, Ontario, Canada, M5H 2N6 or to jbouchar@lsuc.on.ca.

I thank you for your time and consideration.

Sincerely,

Paul Schabas
Chair, Human Rights Monitoring Group

* The Law Society of Upper Canada is the governing body for more than 46,200 lawyers and 6,000 paralegals in the province of Ontario, Canada. The Law Society is committed to preserving the rule of law and to the maintenance of an independent Bar.

[Date]

President Mark Livesey
Australian Bar Association
Level 5
205 William Street
Melbourne Victoria
Australia

Dear President Livesey,

Re: Removal and Deportation of the Magistrate of Law and Revocation of the visa of the Chief Justice

The Law Society of Upper Canada* created the Human Rights Monitoring Group in 2006. The mandate of the Human Rights Monitoring Group is to review information on human rights violations targeting, as a result of the discharge of their legitimate professional duties, members of the legal profession and the judiciary, in Canada and abroad. The Human Rights Monitoring Group reviews such information and determines if a response is required of the Law Society.

I write to inform you that on the advice of the Human Rights Monitoring Group, the Law Society of Upper Canada sent the attached letter to the government of Nauru expressing our deep concerns about the removal and deportation of Peter Law the Chief Magistrate and Supreme Court Register of Nauru and the revocation of the visa of the Chief Justice Geoffrey Eames.

In view of the fact that your organization represents the interests of lawyers in Australia, we would value the opportunity to communicate with you in regard to what problems, if any, lawyers or members of the judiciary may be experiencing in Nauru.

If you are willing and able to do so, we would be very interested in hearing from you concerning the situation noted in the attached letter. In particular, if we have any of the facts in the case wrong, it would assist us in our work to know that.

Please forward any further correspondence to the attention of Josée Bouchard, Equity Advisor, Law Society of Upper Canada, 130 Queen St. West, Toronto, Ontario, Canada, M5H 2N6 or to jbouchar@lsuc.on.ca.

I thank you for your time and consideration.

Sincerely,

Paul Schabas
Chair, Human Rights Monitoring Group

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[Date]

Mr. Ross Ray QC
Chair
South Pacific Lawyers Association
GPO Box 1989
Canberra ACT 2601
Australia

Dear Chair Ray,

Re: Removal and Deportation of the Magistrate of Law and Revocation of the visa of the Chief Justice

The Law Society of Upper Canada* created the Human Rights Monitoring Group in 2006. The mandate of the Human Rights Monitoring Group is to review information on human rights violations targeting, as a result of the discharge of their legitimate professional duties, members of the legal profession and the judiciary, in Canada and abroad. The Human Rights Monitoring Group reviews such information and determines if a response is required of the Law Society.

I write to inform you that on the advice of the Human Rights Monitoring Group, the Law Society of Upper Canada sent the attached letter to the government of Nauru expressing our deep concerns about the removal and deportation of Peter Law the Chief Magistrate and Supreme Court Register of Nauru and the revocation of the visa of the Chief Justice Geoffrey Eames.

In view of the fact that your organization represents the interests of lawyers in the South Pacific, we would value the opportunity to communicate with you in regard to what problems, if any, lawyers or members of the judiciary may be experiencing in Nauru.

If you are willing and able to do so, we would be very interested in hearing from you concerning the situation noted in the attached letter. In particular, if we have any of the facts in the case wrong, it would assist us in our work to know that.

Please forward any further correspondence to the attention of Josée Bouchard, Equity Advisor, Law Society of Upper Canada, 130 Queen St. West, Toronto, Ontario, Canada, M5H 2N6 or to jbouchar@lsuc.on.ca.

I thank you for your time and consideration.

Sincerely,

Paul Schabas
Chair, Human Rights Monitoring Group

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TAB 8.1.5

Proposed Letters of Intervention and Public Statement

Uganda

His Excellency President Kaguta Yoweri Museveni
President of the Republic of Uganda
Office of the President
P.O. Box 7168
Kampala, Uganda

Your Excellency:

Re: Republic of Uganda's *Anti-Homosexuality Bill* and the Security of Lawyers

I write on behalf of the Law Society of Upper Canada* to voice our grave concern over the threat to the security of lawyers seeking to challenge Uganda's *Anti-Homosexuality Bill*, passed by the Parliament in 2013. When serious issues such as the security of lawyers come to our attention, we speak out.

Ugandan and international human rights lawyers working with Uganda's lesbian, gay, bisexual, transgender and intersex (LGBTI) community and non-governmental organizations are looking to challenge the constitutionality of the *Anti-Homosexuality Bill*. While the *Bill's* provisions criminalize homosexuality, it also prohibits Uganda's Parliament from ratifying any international treaties, conventions, protocols, agreements and declarations that are contrary or inconsistent with the provisions of the *Bill*. This means that the international safeguards currently protecting lawyers may not shield those working on this issue from prosecution and harassment.

The Law Society understands that lawyers and paralegals working with Uganda's LGBTI community are stigmatized. As a result of the government's *Bill* there is a chilling effect as lawyers are refusing to represent LGBTI clients because of the fear of persecution. Recently, a law firm retained by Fox Odoi, West Budama North Member of Parliament, and the Civil Liberties Organisation-Chapter Four, to provide a legal opinion on the constitutionality of the *Bill*, declined to be named.

The Law Society is deeply concerned that lawyers who work for the protection and respect of human rights in Uganda will themselves be targeted for exercising their freedoms and rights under international law.

International human rights instruments, including the *Universal Declaration of Human Rights* and the *International Covenant on Civil and Political Rights* state that respect for human rights is essential to advancing the rule of law. Article 16 of the *United Nations Basic Principles on the Role of Lawyers* states "governments shall ensure that lawyers are able to perform all of their professional functions without intimidation, hindrance, harassment or improper interference; are able to travel and to consult with their clients freely; and 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 18 states "lawyers shall not be identified with their clients or their clients' causes as a result of discharging their functions".

The Law Society urges the government of Uganda to,

- a. guarantee all the procedural rights that should be accorded to any lawyers that are arrested and to release them immediately if it appears that no charges should be laid against them;
- b. guarantee in all circumstances the physical and psychological integrity of the lawyers;
- c. put an end to all acts of harassment and intimidation against lawyers and other human rights defenders in Uganda;
- d. ensure that all lawyers can carry out their peaceful and legitimate activities without fear of physical violence or other human rights violations; and
- e. ensure in all circumstances respect for human rights and fundamental freedoms in accordance with international human rights standards and international instruments.

Yours very truly,

Thomas G. Conway
Treasurer

**The Law Society of Upper Canada is the governing body for 46,200 lawyers and 6,000 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 by upholding the independence, integrity and honour of the legal profession for the purpose of advancing the cause of justice and the rule of law.*

cc:

Prime Minister Amama Mbabazi
Office of the Prime Minister
Plot 9-11 Apollo Kaggawa Road
P.O. Box 341
Kampala, Uganda

Ms. Margaret Lucy Kyogire
Acting High Commissioner for the Republic of Uganda
231 Cobourg Street
Ottawa, Ontario K1N 8J2

The Law Society of Upper Canada Expresses Concern that Human Rights Lawyers Challenging Uganda's *Anti-Homosexuality Bill* Face Possible Harassment

The Law Society of Upper Canada is concerned that human rights lawyers seeking to challenge Uganda's *Anti-Homosexuality Bill* will face harassment. Some of the *Bill's* provisions raise serious questions regarding the ability of lawyers working in Uganda to advocate safely and effectively for their clients.

Lawyers and paralegals working with Uganda's lesbian, gay, bisexual, transgender and intersex (LGBTI) community are stigmatized. As a result of the government's *Bill* there is a chilling effect as lawyers are refusing to represent LGBTI clients because of the fear of persecution. Recently, a law firm retained by Fox Odoi, West Budama North Member of Parliament, and the Civil Liberties Organisation-Chapter Four, to provide a legal opinion on the constitutionality of the *Bill*, declined to be named.

While the *Bill's* provisions criminalize homosexuality, it also prohibits Uganda's Parliament from ratifying any international treaties, conventions, protocols, agreements and declarations that are contrary or inconsistent with the provisions of the *Bill*. This means that the international safeguards currently protecting lawyers may not shield those working on this issue from prosecution and harassment.

The Law Society is deeply concerned that lawyers who work for the protection and respect of human rights in Uganda will themselves be targeted for exercising their freedoms and rights under international law as they prepare to challenge the constitutionality of the *Bill*.

International human rights instruments, including the *Universal Declaration of Human Rights* and the *International Covenant on Civil and Political Rights* state that respect for human rights is essential to advancing the rule of law. Article 16 of the *United Nations Basic Principles on the Role of Lawyers* states "governments shall ensure that lawyers are able to perform all of their professional functions without intimidation, hindrance, harassment or improper interference; are able to travel and to consult with their clients freely; and 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 18 states "lawyers shall not be identified with their clients or their clients' causes as a result of discharging their functions".

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

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The Law Society urges the legal community to intervene in support of members of the legal profession in Uganda in their effort to advance the respect of human rights and to promote the rule of law.

Innovating Justice Forum
Maurits Barendrecht
Chairman, Executive Board
Hague Institute for the Internationalization of Law
Bezuidenhoutseweg 16A
P.O. Box 93033
2594 AV The Hague, The Netherlands

Dear Chairman Barendrecht,

Re: Republic of Uganda's *Anti-Homosexuality Bill* and the Security of Lawyers

The Law Society of Upper Canada is the governing body for more than 46,200 lawyers and 6,000 paralegals in the province of Ontario, Canada. The Law Society is committed to preserving the rule of law and to the maintenance of an independent Bar. Due to this commitment, the Law Society established a Human Rights Monitoring Group ("Monitoring Group"). The Monitoring Group has a mandate to review information of human rights violations targeting, as a result of the discharge of their legitimate professional duties, members of the legal profession and the judiciary, in Canada and abroad. The Human Rights Monitoring Group reviews such information and determines if a response is required of the Law Society.

I write to inform you that, on the advice of the Human Rights Monitoring Group, the Law Society of Upper Canada sent the attached letter to the government of Uganda expressing our deep concerns for the circumstances faced by lawyers serving the LGBTI community.

In view of the fact that your organization represents the interests of lawyers working with Uganda's lesbian, gay, bisexual, transgender and intersex (LGBTI) community, we would value the opportunity to communicate with you in regard to what problems, if any, lawyers or members of the judiciary may be experiencing in Uganda as a result of their work with LGBTI clients and organizations.

If you are willing and able to do so, we would be very interested in hearing from you concerning the situation noted in the attached letter. In particular, if we have any of the facts in the case wrong, it would assist us in our work to know that.

Please forward any further correspondence to the attention of Josée Bouchard, Equity Advisor, Law Society of Upper Canada, 130 Queen St. West, Toronto, Ontario, Canada, M5H 2N6 or to jbouchar@lsuc.on.ca.

I thank you for your time and consideration.

Sincerely,

Paul Schabas
Chair, Human Rights Monitoring Group

[Date]

Commonwealth Lawyers Association
President Mark Stephens
Institute of Commonwealth Studies
17 Russell Square
London
WC1B 5DR, UK

Dear President Stephens,

Re: Republic of Uganda's *Anti-Homosexuality Bill* and the Security of Lawyers

The Law Society of Upper Canada* Human Rights Monitoring Group has a mandate to review information of human rights violations targeting, as a result of the discharge of their legitimate professional duties, members of the legal profession and the judiciary, in Canada and abroad. The Human Rights Monitoring Group reviews such information and determines if a response is required.

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In view of the fact that your organization represents the interests of Commonwealth lawyers working with Uganda's LGBTI community, we would value the opportunity to communicate with you in regard to what problems, if any, lawyers or members of the judiciary may be experiencing in Uganda as a result of their work with LGBTI clients and organizations.

If you are willing and able to do so, we would be very interested in hearing from you concerning the situation noted in the attached letter. In particular, if we have any of the facts in the case wrong, it would assist us in our work to know that.

Please forward any further correspondence to the attention of Josée Bouchard, Equity Advisor, Law Society of Upper Canada, 130 Queen St. West, Toronto, Ontario, Canada, M5H 2N6 or to jbouchar@lsuc.on.ca.

I thank you for your time and consideration.

We look forward to our future work together.

Sincerely,

Paul Schabas

Chair, Human Rights Monitoring Group

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[Date]

Law Society of England and Wales
President Nick Fluck
The Law Society's Hall
113 Chancery Lane
London WC2A 1PL

Dear President Fluck,

Re: Republic of Uganda's Proposed *Anti-Homosexuality Bill* and the Security of Lawyers

The Law Society of Upper Canada* Human Rights Monitoring Group has a mandate to review information of human rights violations targeting, as a result of the discharge of their legitimate professional duties, members of the legal profession and the judiciary, in Canada and abroad. The Human Rights Monitoring Group reviews such information and determines if a response is required.

I write to inform you that on the advice of the Human Rights Monitoring Group, the Law Society of Upper Canada sent the attached letter to the government of Uganda expressing our deep concerns for the circumstances faced by lawyers serving the lesbian, gay, bisexual, transgender and intersex (LGBTI) community.

We would value the opportunity to collaborate with you to address issues and problems that lawyers in Uganda may be experiencing in relation to their work with the LGBTI community. We would appreciate speaking with you to hear your views and your assessment of the situation in order to determine how our two Law Societies can work together.

Please forward any further correspondence to the attention of Josée Bouchard, Equity Advisor, Law Society of Upper Canada, 130 Queen St. West, Toronto, Ontario, Canada, M5H 2N6 or to jbouchar@lsuc.on.ca.

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Sincerely,

Paul Schabas
Chair, Human Rights Monitoring Group

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TAB 8.1.6

**Proposed Letters of Intervention and Public Statement
Federal Republic of Nigeria**

His Excellency President Goodluck Ebele Jonathan
President, Federal Republic of Nigeria
Radio House
Herbert Macaulay Way (South)
Area 10
PMB 247 Garki – Abuja
Nigeria

Your Excellency:

Re: The *Same Sex Marriage (Prohibition) Act* and the Security of Lawyers in Nigeria

I write on behalf of the Law Society of Upper Canada* to voice our grave concern over the threat to the security of lawyers seeking to represent persons charged under the *Same Sex Marriage (Prohibition) Act* enacted in January 2014. When serious issues such as the security of lawyers come to our attention, we speak out.

The *Act's* provisions prohibit any person or group from providing services to anyone perceived to be homosexual as well as supporting the registration, operation and support of gay clubs, societies, organizations, processions or meetings in Nigeria. From the wording of the *Act* it appears that Nigerian and international human rights lawyers working with Nigeria's lesbian, gay, bisexual, transgender and intersex (LGBTI) community, non-governmental organizations and persons charged under the *Same Sex Marriage (Prohibition) Act* may also be charged and convicted for providing legal services.

The Law Society understands that lawyers working with Nigeria's LGBTI community or representing persons charged under the *Act* are stigmatized and may face harassment and arrest. As a result of the *Same Sex Marriage (Prohibition) Act* there is a chilling effect as lawyers are refusing to represent LGBTI clients because of the fear of persecution. This impacts the ability of Nigeria's LGBTI community to access justice and the functioning of the rule of law. The vague wording of the *Act* regarding what constitutes "providing services" raises serious questions regarding the ability of lawyers working in Nigeria to advocate safely and effectively for their clients.

The Law Society is deeply concerned that lawyers who work for the protection and respect of human rights in Nigeria will themselves be targeted for exercising their freedoms and rights under international law.

International human rights instruments, including the *Universal Declaration of Human Rights* and the *International Covenant on Civil and Political Rights* state that respect for human rights is

essential to advancing the rule of law. Article 16 of the *United Nations Basic Principles on the Role of Lawyers* states “governments shall ensure that lawyers are able to perform all of their professional functions without intimidation, hindrance, harassment or improper interference; are able to travel and to consult with their clients freely; and 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 18 states “lawyers shall not be identified with their clients or their clients’ causes as a result of discharging their functions”.

The Law Society urges the government of Nigeria to,

- a. guarantee all the procedural rights that should be accorded to any lawyers that are arrested and to release them immediately if it appears that no charges should be laid against them;
- b. guarantee in all circumstances the physical and psychological integrity of the lawyers;
- c. put an end to all acts of harassment and intimidation against lawyers and other human rights defenders in Nigeria;
- d. ensure that all lawyers can carry out their peaceful and legitimate activities without fear of physical violence or other human rights violations; and
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Treasurer

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The Law Society of Upper Canada Expresses Concern that Human Rights Lawyers Representing LGBTI Clients in Nigeria Face Possible Harassment

The Law Society of Upper Canada is concerned that human rights lawyers seeking to represent lesbian, gay, bisexual, transgender and intersex (LGBTI) clients in Nigeria will face harassment.

Nigeria enacted the *Same Sex Marriage (Prohibition) Act* (“SSMPA”) on January 7, 2014. The *SSMPA* prohibits not only same sex marriage, but also the witnessing, abetting and aiding in the solemnization of a same sex marriage and public displays of affection. It also prohibits any person or group from providing services to anyone perceived to be homosexual as well as supporting the registration, operation and support of gay clubs, societies, organizations, processions or meetings in Nigeria. Individuals providing services to the LGBTI community upon conviction may receive 10 years in prison. The *Act* does not define what is meant by “providing services”. This ambiguity has a chilling effect on Nigerian lawyers and increases the likelihood that Nigeria’s LGBTI community will find it difficult to receive legal services.

Lawyers serving LGBTI clients and organizations face stigmatization which is creating a chilling effect as fewer lawyers are willing to represent the LGBTI community. The LGBTI community is often marginalized and impoverished. The *SSMPA* limits the LGBTI community’s access to justice as increasingly lawyers are frightened that they will be charged under the *SSMPA* or found guilty by association. The Law Society is deeply concerned that lawyers who work for the protection and respect of human rights in Nigeria will themselves be targeted for exercising their freedoms and rights under international law.

International human rights instruments, including the *Universal Declaration of Human Rights* and the *International Covenant on Civil and Political Rights* state that respect for human rights is essential to advancing the rule of law. Article 16 of the *United Nations Basic Principles on the Role of Lawyers* states “governments shall ensure that lawyers are able to perform all of their professional functions without intimidation, hindrance, harassment or improper interference; are able to travel and to consult with their clients freely; and 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 18 states “lawyers shall not be identified with their clients or their clients’ causes as a result of discharging their functions”.

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The Law Society urges the legal community to intervene in support of members of the legal profession in their effort to advance the respect of human rights and to promote the rule of law.

[Date]

Law Society of England and Wales
President Nick Fluck
The Law Society's Hall
113 Chancery Lane
London WC2A 1PL

Dear President Fluck,

Re: Enactment of the *Same Sex Marriage (Prohibition) Act* and the Security of Nigerian Lawyers

The Law Society of Upper Canada* Human Rights Monitoring Group has a mandate to review information of human rights violations targeting, as a result of the discharge of their legitimate professional duties, members of the legal profession and the judiciary, in Canada and abroad. The Human Rights Monitoring Group reviews such information and determines if a response is required.

I write to inform you that on the advice of the Human Rights Monitoring Group, the Law Society of Upper Canada sent the attached letter to the government of Nigeria expressing our deep concerns for the circumstances faced by lawyers serving the lesbian, gay, bisexual, transgender and intersex (LGBTI) community.

We would value the opportunity to collaborate with you to address issues and problems that lawyers in Nigeria may be experiencing in relation to their work with the LGBTI community. We would appreciate speaking with you to hear your views and your assessment of the situation in order to determine how our two Law Societies can work together.

If you are willing and able to do so, we would be very interested in hearing from you concerning the situation noted in the attached letter. In particular, if we have any of the facts in the case wrong, it would assist us in our work to know that.

Please forward any further correspondence to the attention of Josée Bouchard, Equity Advisor, Law Society of Upper Canada, 130 Queen St. West, Toronto, Ontario, Canada, M5H 2N6 or to jbouchar@lsuc.on.ca.

We look forward to our future work together.

Sincerely,

Paul Schabas
Chair, Human Rights Monitoring Group

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[Date]

Commonwealth Lawyers Association
President Mark Stephens
Institute of Commonwealth Studies
17 Russell Square
London
WC1B 5DR, UK

Dear President Stephens,

Re: The Enactment of the *Same Sex Marriage (Prohibition) Act* in Nigeria and the Security of Lawyers

The Law Society of Upper Canada* Human Rights Monitoring Group has a mandate to review information of human rights violations targeting, as a result of the discharge of their legitimate professional duties, members of the legal profession and the judiciary, in Canada and abroad. The Human Rights Monitoring Group reviews such information and determines if a response is required.

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In view of the fact that your organization represents the interests of Commonwealth lawyers working with Nigeria's LGBTI community, we would value the opportunity to communicate with you in regard to what problems, if any, lawyers may be experiencing in Nigeria.

We would also value the opportunity to collaborate with you to address issues and problems that lawyers in Nigeria may be experiencing in relation to their work with the LGBTI community. We would appreciate speaking with you to hear your views and your assessment of the situation in order to determine how our two organizations can work together.

If you are willing and able to do so, we would be very interested in hearing from you concerning the situation noted in the attached letter. In particular, if we have any of the facts in the case wrong, it would assist us in our work to know that.

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We look forward to our future work together.

Sincerely,

Paul Schabas
Chair, Human Rights Monitoring Group

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TAB 8.1.7

President Lloyd Mhishi
The Law Society of Zimbabwe
5th Floor, Lintas House
46 Kwame Nkrumah Avenue
PO Box 2595
Harare, Zimbabwe

Dear President Mhishi,

Re: *Collaboration between the Law Society of Zimbabwe and the Law Society of Upper Canada*

I am writing to you in the hopes of renewing collaboration between your organization and ours.

The Law Society of Upper Canada* created the Human Rights Monitoring Group in 2006. The mandate of the Human Rights Monitoring Group is to review information on human rights violations targeting, as a result of the discharge of their legitimate professional duties, members of the legal profession and the judiciary, in Canada and abroad. The Human Rights Monitoring Group reviews such information and determines if a response is required of the Law Society.

In 2007, the Board of Directors of the Law Society of Upper Canada approved a recommendation made by the Human Rights Monitoring Group to collaborate with the Law Society of Zimbabwe. Based in part on a request made by Arnold Tsunga during a visit he made to the Law Society of Upper Canada, the proposed collaboration was to focus on strengthening the self-regulation and the independence of the legal profession in Zimbabwe.

Unfortunately, in the intervening years contact with your organization was lost. Despite that, the Human Rights Monitoring Group has been following the situation in Zimbabwe very closely. In June 2008, the Law Society of Upper Canada issued a public statement expressing grave concerns about escalating human rights violations against lawyers in Zimbabwe and the threats to the rule of law. In April 2013, the Law Society issued a public statement and wrote a letter to Zimbabwean authorities opposing the harassment of human rights lawyer Beatrice Mtetwa. We have learned that Beatrice Mtetwa was recently acquitted of all charges. In July 2013, the Law Society issued a public statement and wrote a letter to Zimbabwean authorities condemning the arrest of Arnold Tsunga. We understand that Arnold Tsunga is now the Dangamvura-Chikanga Member of Parliament and is responsible for the Parliamentary Portfolio Committee on Education, Sport, Arts and Culture.

We would value the opportunity to collaborate with you to address issues and problems lawyers and judges may be experiencing in your country. We would appreciate speaking with you to hear your views and your assessment of the situation in order to determine how our two Law Societies can work together.

In the meantime, Josée Bouchard, Equity Advisor to the Law Society of Upper Canada, will contact you in the very near future to follow up and to provide you with further information about our work.

Please feel free to contact her or me at the contacts provided below.

We very much look forward to our future work together.

Yours very truly,

Paul Schabas
Chair, Human Rights Monitoring Group

** The Law Society of Upper Canada is the governing body for more than 46,200 lawyers and 6,000 paralegals in the province of Ontario, Canada. The Law Society is committed to preserving the rule of law and to the maintenance of an independent Bar.*

[insert contact information for Josée and Paul]

TAB 8.2

FOR INFORMATION

PARENTAL LEAVE ASSISTANCE PROGRAM UPDATE

66. In May 2008, Convocation approved nine recommendations to enhance the retention of women in the private practice of law, including a recommendation to create a three-year pilot Parental Leave Assistance Program (PLAP). PLAP provides benefits to partners in firms of five lawyers or less, including sole practitioners, who have no access to other maternity/parental/adoption financial benefit programs under public or private plans. PLAP provides a fixed sum of \$750 a week for twelve weeks (maximum \$9,000 per leave per family unit) to cover, among other things, expenses associated with maintaining a practice during a maternity, parental or adoption leave.
67. The Law Society launched PLAP on March 12, 2009 to enable more lawyers to stay in practice after the birth or adoption of a child. When PLAP was launched, self-employed lawyers had no access to public funding for maternity or parental leaves. Benefits under the *Employment Insurance Act* were only available to wage-earners and salaried workers. PLAP was adopted to reduce the financial hardship faced by partners in small firms and lawyers in sole practices during maternity or parental leaves. PLAP was also meant to assist them in maintaining their practice, including practices in the non-urban areas, which would contribute to alleviating the shortage of legal services in some regions of the province. In addition, it was believed that the program would encourage practitioners to join small firms or to set up sole practices where they might otherwise be discouraged from doing so because of the financial implications of taking parental leaves.
68. In January 2010, the federal *Employment Insurance Act* was amended to provide self-employed persons special benefits. The benefits are available to sole practitioners and

partners in law firms but they are broader in scope than PLAP benefits. They include not only maternity, parental and adoption leave benefits but also sickness and compassionate care benefits and benefits for parents to care for their critically ill or injured children.

69. The original amendments to the EI Act to provide special benefits to self-employed came into effect on January 1, 2010, and benefits became payable beginning in January 2011. Notwithstanding the federal EI Special Benefits program, the Law Society decided that it would continue to offer PLAP to those who do not take advantage of the EI Special Benefits, until the end of the pilot project on March 12, 2012.
70. On October 27, 2011, Convocation considered a preliminary assessment of PLAP and approved an extension of the program until December 31, 2012 to allow a full assessment of PLAP. Convocation wished to consider whether PLAP should be maintained notwithstanding the availability of EI Special Benefits for most lawyers who are eligible for PLAP. Convocation also decided that it would provide a notice of one year to the profession if it decides to terminate PLAP. The notice would provide an opportunity for lawyers to opt into the EI Special Benefits program and pay the one year mandatory premium for eligibility.
71. In February 2012, Karen Cohl, Crystal Resolution Inc., an experienced consultant was retained to provide advice and expertise on the PLAP assessment process. More specifically, Ms. Cohl helped articulate specific questions to assess how well the PLAP had met its objectives and the impact of the EI Special Benefits program on the continuation of PLAP. Ms. Cohl also provided advice on the nature, content and structure of the assessment report presented to Convocation in November 2012.
72. In November 2012, Convocation considered the assessment of PLAP and a number of models. Convocation approved the following motion:
 - a. That the PLAP pilot project be extended to permit consultation with the profession and to further study and evaluate with the stakeholders.

- b. That the PLAP eligibility criteria be modified by adopting a means test where the applicant must have a net annual practice income of less than \$50,000 to be eligible to receive benefits.
 - c. That PLAP as currently structured be extended as necessary to permit the Law Society to confirm tax implications of the proposed modification to PLAP for the means test.
 - d. During the extension of the pilot project, the Equity and Aboriginal Issues Committee will,
 - i. continue to explore options to meet the objectives of PLAP, to assist in keeping women in practise by reducing the financial hardship faced by lawyers in sole practice and small firms during parental leave;
 - ii. review the implementation of the means test, make evidence based determinations about the merits of the means test, which ensure that those in need benefit most from this program;
 - iii. report to Convocation on the matters described in (i) and (ii) above.
73. The Law Society provided a one year notice to the profession as follows: “The new means test will be effective as of January 1, 2014, subject to confirmation of any tax implications of the new model.” The Law Society also requested an amended tax ruling from the Canada Revenue Agency (CRA). In December 2013, the Law Society received a positive CRA Ruling and on January 1, 2014, the PLAP means test model was launched.
74. At the October 24, 2013 Convocation, bencher Silverstein made the following comment and brought the following motion, seconded by bencher Evans:
- “I would also like to comment about PLAP. Last November, as you said, Convocation agreed to extend PLAP for a further study, but there was more to the motion than that. During the extension period the work was to be done to explore options to meet the objectives of PLAP, to review the implementation of a means test, and more importantly, most importantly, to report to Convocation. Almost a year has gone by and we have heard nothing, absolutely nothing. I don't know of any other committee, any other working group that is allowed to operate for a year and not provide some sort of report, interim or otherwise, to Convocation. This is a financial drain on this organization. As we heard last year, its usefulness

has become very, very limited, if it still exists. For that reason, I would like to move that PLAP be discontinued at the earliest possible opportunity.”

75. Bencher Goldblatt’s response to the motion was as follows:

“I believe that, from our perspective [the Equity and Aboriginal Issues Committee’s perspective], we are prepared to report back to Convocation in February, 2014, to the extent that we are able to do so with respect to issues such as the participation, the terms of practice and to the extent, again, we're prepared to do so and able to do so -- not prepared, able to do so, on other options which may be available. We in Equity are prepared to work together with the Retention of Women Committee in order to prepare a report that we hope will be made jointly to Convocation in February.”

76. This report presents the following:

- a. Statistical information about PLAP;
- b. Proposed assessment of the PLAP means test model and timeline;
- c. Some options considered by the Retention of Women Working Group and the Equity Committee.

STATISTICAL INFORMATION ABOUT PLAP

77. The following are the overall numbers of PLAP recipients as of December 2013.

Approved and Completed Applications in 2013

| | |
|-------------------------------|-----------|
| All completed applications | 54 |
| Male completed applications | 6 or 11% |
| Female completed applications | 48 or 89% |

Approved and Completed Applications since Program Launch

| | |
|-------------------------------|------------|
| All completed applications | 271 |
| Male completed applications | 57 or 21% |
| Female completed applications | 214 or 79% |

Approved and Completed Applications since Program Launch per Year

| | |
|------|----|
| 2009 | 50 |
| 2010 | 68 |
| 2011 | 60 |
| 2012 | 39 |
| 2013 | 54 |

78. PLAP costs approximately \$450,000 per year (the amount per year has ranged between \$342,750 and \$538,500). The following is the annual cost of PLAP since the inception of the program.

Annual Cost of PLAP since the Inception of the Program

| | |
|------|-----------|
| 2009 | \$377,250 |
| 2010 | \$538,500 |
| 2011 | \$495,000 |
| 2012 | \$342,750 |
| 2013 | \$417,750 |

PROPOSED ASSESSMENT OF THE PLAP MEANS TEST MODEL AND TIMELINE

79. The Retention of Women Working Group and the Equity Committee discussed how it will assess the new PLAP means test model. It was decided that beneficiaries would be surveyed or interviewed immediately following the receipt of PLAP benefits. The survey/interviews would be conducted beginning in March 2014 when it is expected that the first PLAP recipients under the means test will have completed the program.
80. In addition, a consultation document will be prepared, based on the findings of the survey/interviews, and posted online inviting submissions from the profession. It is anticipated that the consultation and survey/interviews process will be completed in March 2015 for a report to Convocation in April of that year.

81. Because the assessment process will largely be conducted in-house with the advice of an expert consultant, it is expected that the cost of the assessment will be under \$5,000.

SOME OPTIONS CONSIDERED BY THE RETENTION OF WOMEN WORKING GROUP AND THE EQUITY COMMITTEE

82. There are two PLAP models that have been fully developed and implemented. The original PLAP model has also been fully assessed. The means test model will be assessed over the 2014 year. There are three additional options plus a variation on the original PLAP that are currently being reviewed by the Retention of Women Working Group and Equity and Aboriginal Issues Committee. All five models are described below, in no specific order, with observations.

2009 – 2013 Model

83. This model, launched in March 2009 following a favourable CRA Ruling, provides payments of \$750/week for 12 weeks to cover, among other things, expenses associated with maintaining a practice during a maternity, parental or adoption leave. There are no maximum qualifying income and no adjustment for those whose income from practice is less than \$750/week.
84. The following are facts and observations that the Retention of Women Working Group and the Equity and Aboriginal Issues Committee discussed:
- a. The assessment of this PLAP model, as presented to Convocation in November 2012, indicated that the program benefits sole and small practitioners. It was shown that recipients use the PLAP benefits for the purposes intended by the program, which is to defray some of the overhead costs associated with maintaining a lawyer's practice during the parental leave.
 - b. As mentioned above, PLAP costs approximately \$450,000 per year. Based on the number of completed applications to date, there has been an average of 58 PLAP recipients per year. This is approximately the number of participants that had been estimated when the program was introduced.

- c. This model was created largely because there was no EI Program for self-employed individuals. Since the introduction of PLAP, the federal government has launched the EI Program, making benefits available to self-employed lawyers who contribute to the EI Program. Under the 2009-2013 model, the recipients of PLAP do not contribute beyond their annual membership fees. PLAP is paid for by the entire membership, many of whom are already paying EI premiums or funding maternity leaves in other ways.
- d. The eligibility criteria did not include a means test or consideration of family income.

2009 – 2013 Model – Applied to Women Only

- 85. Based on statistics since launch, 21% of those who apply for PLAP are men (11% in 2013). If we take into account the fact that men tend to take shorter leaves while receiving PLAP benefits, it is estimated that men use approximately 17% of the PLAP funds. One of the options would be to limit PLAP benefits to women only.

- 86. The following are observations that the Retention of Women Working Group and the Equity and Aboriginal Issues Committee discussed:
 - a. The goal of the Retention of Women project was to assist women in maintaining their practice. Applying PLAP only to women would be consistent with that goal. On the other hand, providing PLAP benefits to men assists them in taking parental leaves and assuming more family responsibilities. Also, this model is more inclusive as it is accessible to single male parents and men in same sex relationships.
 - b. Most men who were interviewed for the November 2012 assessment report indicated that their spouse or partner received maternity or parental leave benefits.
 - c. Based on the current average uptake by men of 21%, the cost of PLAP applied to women only would be reduced from approximately \$450,000 to approximately \$355,000 per year. If we take into account the shorter leave periods taken by men, the cost of PLAP for women only could be closer to \$375,000.

- d. It is not discriminatory to apply PLAP only to women, as this is a special program to assist a historically disadvantaged group.

Means Test \$50,000 Net Annual Practice Income

87. This model is the same as the 2009-2013 model except that it is only available to those with net practice income at and below \$50,000. The model was approved by Convocation and received a favourable CRA Ruling. As a result, it was launched on January 1, 2014 and will need to be in place for a period of time in order to be assessed.
88. The following are observations that the Retention of Women Working Group and the Equity and Aboriginal Issues Committee discussed:
 - a. Based on PLAP statistics, it is expected that approximately 65% of those eligible for the current PLAP model will also be eligible under the \$50,000 net annual practice income means test model.¹ Assuming that the current PLAP model costs approximately \$450,000 per year, this would mean that the annual cost of the program would be approximately \$292,500, for a difference of \$157,500.
 - b. The means test benefits women with smaller or part-time practices. A higher means test would increase those eligible but would reduce the saving.
 - c. Applying for PLAP benefits under the means test is more onerous as applicants need to provide financial information related to their practice. As a result, the program will likely be somewhat more administratively onerous to manage.

Top- up for 3 months

89. This model assumes that the Law Society would provide \$750 per week for the first two week waiting period of the EI Special Benefits Program for Self-Employed (the "EI Program") and a top-up of \$250 per week for the 10 remaining weeks for a total of 12 weeks or 3 months. This model was identified as a potential viable option by the Retention of Women Working Group, but it was not retained as a viable option by the Equity and Aboriginal Issues Committee. Concerns were raised about the obligation, under this model, to opt into the EI Special Benefits program, an obligation that would be

¹ Please note that the 65% is based on a sample of only 6 months of applicants, or 20 applicants, when they had to provide income tax returns with their applications.

difficult to fulfill for those in sole practice and small firms. In exploring this option, it will be important to consider the take-up rate of the EI Program to ensure that the Law Society is not relying on a program that is inaccessible as a prerequisite for eligibility for PLAP benefits.

90. The following are observations that the Retention of Women Working Group and the Equity and Aboriginal Issues Committee discussed:
- a. Since the creation of the original PLAP, the federal government has adopted the EI Program which provides an amount that is 55% of the average weekly earnings up to \$47,400 in 2013. There is a two week waiting period.
 - b. The top-up model recognizes that sole practitioners and those in small firms cannot, for the most part, avail themselves of the full year maternity leave available to others that pay into the EI program. Under this model, the Law Society would provide a top-up to assist them to maintain their practices for the 12 week period we understand they can take.
 - c. Under this model, a parent who takes two maternity leaves and receives the top-up will have benefits that approximate or exceed 20 years of premiums. (\$18,000 in EI and top-up vs. \$17,820 in premiums for highest wage earner) In addition that parent is entitled to benefits for medical and compassionate care leaves and for leaves as parents of critically ill children.
 - d. Those receiving PLAP would make a contribution to their own leaves by paying EI premiums. The top-up model recognizes that all employees in Ontario have to pay EI premiums. There is no reason why self-employed individuals should not also pay EI premiums. In Quebec, self-employed individuals must pay the Quebec Parental Insurance Plan premiums.
 - e. Those who are currently eligible for PLAP may find it unattractive on a cost-benefit basis because most indicate they can only take reduced leaves. The top-up model could address those concerns.
 - f. If offered for 3 months, the cost of the top-up PLAP model to the Law Society would be \$4,000 per applicant compared to \$9,000 for the current PLAP model. Assuming there are 58 recipients per year, the cost to the profession, if fully

subscribed, would be approximately \$232,000 for the top-up compared to \$450,000 for the current PLAP model.

- g. This model would require a new CRA Ruling.

Eliminate PLAP

- 91. This proposal would see the elimination of PLAP in its entirety. Practitioners would be responsible for covering the cost of their maternity leaves, through the EI plan or otherwise. The Law Society would continue to offer supports for women taking maternity leave through the other programs it funds (contract registry, coaching) but would not contribute directly.
- 92. The following are observations that the Retention of Women Working Group and the Equity and Aboriginal Issues Committee discussed:
 - a. Eliminating PLAP would represent an annual \$450,000 saving² (under the 2009 – 2013 model) and the elimination of resources to manage the program.
 - b. The EI Program is in place and available to sole practitioners and partners in law firms.
 - c. Although PLAP has assisted small numbers of lawyers per year, the November 2012 survey indicates that most women recipients say PLAP has been important in maintaining their practices.
 - d. Sole practitioners and partners in small firms argue that PLAP is preferable to EI on a cost-benefit basis.

CONCLUSION

- 93. The original PLAP model and the means test model have been fully developed and implemented. The original PLAP has been assessed; the current means test model is in the process of being assessed. The Retention of Women Working Group and the Equity

² Because the Law Society had a fund balance (money left over) from prior years, the amount budgeted in 2014 is \$400,000. From a budget perspective, the savings would be \$400,000.

and Aboriginal Issues Committee welcome further suggestions as to additional options that the groups might consider and/or considerations to be taken into account for the two developed plans and/or the three potential options that have been identified. Benchers should contact Josée Bouchard, Equity Advisor at jbouchar@lsuc.on.ca should they wish to propose further options or considerations.

TAB 8.3

**REPORT OF THE ACTIVITIES OF THE
DISCRIMINATION AND HARASSMENT COUNSEL
JULY 1, 2013 – DECEMBER 31, 2013**

BACKGROUND

94. Subsection 20 (1) (a) of By-Law 11, *Regulation of Conduct, Capacity and Professional Competence* provides that, unless the Equity and Aboriginal Issues Committee/Comité sur l'équité et les affaires autochtones (the Equity Committee) directs otherwise, the Discrimination and Harassment Counsel (the DHC) shall make a report to the Committee no later than January 31 in each year, upon the affairs of the Counsel during the period July 1 to December 31 of the immediately preceding year.
95. Subsection 20(2) of By-Law 11 provides “The Committee shall submit each report received from the Counsel to Convocation on the day following the deadline for the receipt of the report by the Committee on which Convocation holds a regular meeting”.
96. On February 13, 2014, the Equity Committee considered the *Report of the Activities of the Discrimination and Harassment Counsel for the Law Society of Upper Canada* for the period of July 1 to December 31, 2013, and it presents the report to Convocation pursuant to Subsection 20(2) of By-Law 11 (**TAB 8.3.1**).

TAB 8.3.1

**REPORT OF THE ACTIVITIES OF
THE DISCRIMINATION AND HARASSMENT COUNSEL
FOR THE LAW SOCIETY OF UPPER CANADA**

For the period from July 1, 2013 to December 31, 2013

**Prepared By Cynthia Petersen
Discrimination and Harassment Counsel**

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A. INTRODUCTION

1. The DHC provides a wide range of services to individuals who make discrimination or harassment complaints about lawyers, articling students or paralegals. Complaints are received from both members of the public and members of the legal profession.
2. The complaints arise in a variety of contexts, such as clients who report that they have been subjected to sexual harassment and/or sexual assault by their lawyer or paralegal, lawyers who are experiencing workplace discrimination relating to a maternity leave, law firm employees with disabilities who confront discriminatory barriers to employment or challenges in obtaining appropriate workplace accommodation, and paralegals, articling students and lawyers who are experiencing discriminatory (eg. racist, sexist, homophobic) treatment by opposing counsel in their cases.
3. The DHC provides complainants with safe counsel, coaching, information, referrals to other agencies and resources, informal mentoring, and general (non-legal) advice – some on an ongoing basis. The DHC also provides mediation services, described below.

B. SERVICES PROVIDED TO COMPLAINANTS

4. Complainants who contact the DHC are advised of various avenues of recourse open to them, including (where applicable):
 - confronting the respondent lawyer or paralegal directly with their concerns;
 - speaking to their union representative (if they are unionized and their complaint relates to their employment by a lawyer or paralegal);

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- filing an internal discrimination or harassment complaint within their workplace;
 - making a complaint to the law firm that employs the respondent lawyer;
 - filing an Application with the Human Rights Tribunal of Ontario;
 - filing a complaint about professional misconduct with the Law Society;
 - reporting to the police (where criminal conduct is alleged); and
 - consulting a lawyer for legal advice regarding possible claims and causes of action.
5. Complainants are provided with information about each of these options, including:
- what (if any) costs might be involved in pursuing an option;
 - whether legal representation is required in order to pursue an option;
 - referral to resources on how to obtain legal representation (actual referrals to lawyers are not made by the DHC);
 - how to file a complaint, Application or report (eg. whether it can be done electronically, whether particular forms are required, etc.)
 - the processes involved in each option (eg. investigation, conciliation, mediation, hearing, etc.)
 - the general types of remedies that may be available in different *fora* (eg. compensatory remedies in contrast to disciplinary penalties, reinstatement to employment versus monetary damages, public interest remedies); and
 - the existence of time limits for each avenue of redress (complainants are advised to seek legal advice with respect to precise limitation periods).

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6. Complainants are told that the options available to them are not mutually exclusive.
7. In some cases, upon request, strategic tips and/or coaching are provided to complainants about how to handle a situation without resort to a formal complaints process (eg. confronting the offender, documenting incidents, speaking to a mentor).
8. Student complainants whose articles are terminated or who decide to withdraw from their articles before completion also receive counselling and advice from the DHC about transferring their articles, as well as support in their job search for a new articling position. They are also referred to appropriate resources within the Law Society.
9. Some complainants are referred to other agencies/organizations (such as the Law Society's Member Assistance Program and the Human Rights Legal Support Centre) or are directed to relevant resource materials available from the Law Society, the Ontario Human Rights Commission, or other organizations.

C. MEDIATION / CONCILIATION

10. In addition to being advised about the above-noted options, where appropriate, complainants are offered the mediation or conciliation/intervention services of the DHC Program.
11. Whenever formal mediation is offered, the nature and purpose of mediation is explained, including that it is a confidential and voluntary process, that it does not involve any investigation or fact finding, and that the DHC acts as a neutral facilitator to attempt to assist the parties in negotiating the terms of a mutually satisfactory resolution of the complaint.

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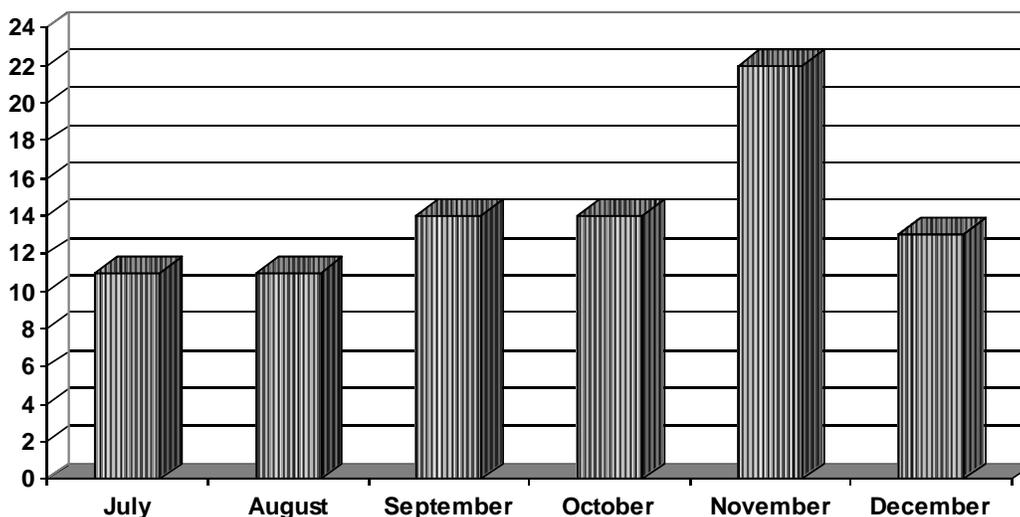
12. When a complainant opts for mediation, s/he is given the choice of contacting the respondent to propose the mediation or having the DHC contact the respondent to canvass his/her willingness to participate. If the complainant elects to have the DHC contact the respondent, written instructions must be provided. If both parties are willing to participate, they are required to sign a mediation agreement prior to entering into mediated discussions with the DHC.
13. Where informal conciliation/intervention services are offered, the complainant is advised that the DHC could contact the respondent confidentially and discuss the complainant's concerns, in the hope of achieving a resolution to the complaint. Where such an intervention occurs, both the complainant and respondent are advised that the DHC is not acting as the complainant's counsel or representative, but rather as a go-between to facilitate constructive dialogue between the parties. When a complainant requests such an intervention, written consent must be provided before the DHC contacts the respondent.
14. Some complainants decline the offer of the DHC's mediation and conciliation services, notwithstanding that the services are free, confidential, and in the case of formal mediation, subject to a mutual "without prejudice" undertaking by both parties. The reasons why complainants decline mediation are varied and include: complainants desiring to have a fact-finding investigation, complainants believing that the respondent will not participate in good faith, and complainants wanting to create a formal record of the respondent's misconduct through an adjudicative process.
15. During this reporting period, there were no formal in-person mediation sessions conducted by the DHC. Formal mediation was not requested by any complainants.

16. There were, however, a number of informal interventions made at complainants' request. The DHC spoke with the respondent lawyers in several cases and was thereby able to achieve resolutions to complaints.

D. OVERVIEW OF NEW CONTACTS WITH THE DHC PROGRAM

17. During this six month reporting period, 85 individuals contacted the DHC Program with a new matter.¹ This represents average of 14 new contacts per month.

18. The volume of new contacts with the Program was distributed as follows:



19. Of the 85 individuals who contacted the DHC, 48 (56%) used the telephone to make their initial contact and 37 (44%) used email.

¹ Individuals who had previously contacted the Program and who communicated with the DHC during this reporting period with respect to the same ongoing matter are not counted in this number.

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20. During this reporting period, 5 individuals were provided services in French. The remaining clients of the Program were provided services in English.

E. SUMMARY OF DISCRIMINATION AND HARASSMENT COMPLAINTS

21. Of the 85 new contacts with the Program, 27 individuals reported specific complaints of discrimination or harassment by a lawyer or paralegal in Ontario.²
22. In this reporting period, 3 complaints were made against paralegals. The remaining 24 complaints were made against lawyers. There were no complaints about articling students.
23. The 3 complaints against paralegals were made by members of the public. Of the 24 complaints against lawyers, 10 (42%) were made by members of the public and 14 (58%) were made by members (including student members) of the Law Society.
24. During this reporting period, all complainants were provided services in English.³

F. COMPLAINTS AGAINST LAWYERS BY MEMBERS OF THE BAR

25. In this reporting period, there were 14 complaints against lawyers by members of the Law Society. Seven (7) of these complaints were made by lawyers and 7 (50%) were made by articling students or law students. There were no complaints about lawyers made by paralegals.

² The other new contacts with the program either involved general inquiries or complaints about licensees that did not include allegations of discrimination or harassment and were therefore outside the mandate of the DHC program. These contacts are summarized below.

³ A number of francophones contacted the DHC during this reporting period and were provided services in French, but they did not raise specific complaints about discrimination or harassment by a lawyer, articling student or paralegal.

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26. Of the 14 complaints by members of the legal profession, 8 (57%) were made by women and 6 (43%) were made by men. Four (4) of the 7 student complainants (57%) were female and 4 of the 7 lawyer complainants (57%) were female.
27. Of the 7 complaints made by lawyers, 4 (57%) arose in the context of the complainant's employment. Of the remaining 3 complaints, one complaint was made against a lawyer who was providing a public service to the complainant, one was made about opposing counsel involved in litigation, and one was made about a former colleague with whom the complainant no longer worked.
28. Four (4) of the 7 student complaints (57%) arose in the context of the complainants' employment or a job interview for an articling position. The remaining 3 student complaints arose in the context of the complainants' education and involved complaints about the conduct of law professors who are licensees.
29. There were 7 complaints against lawyers based (in whole or in part) on sex. Of these,
- Three (3) involved allegations of sexual harassment. One involved a law student complaining about her professor, one involved a government lawyer complaining about her supervisor, and one involved a lawyer complaining about her former colleague with whom she no longer worked.
 - Two (2) involved complaints by articling students about sexist remarks made by a senior partner in their firm (one of the student complainants was female and the other was male).
 - One involved allegations by a lawyer of discrimination based on pregnancy in the context of her employment; and

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- One law student complained about sexist remarks made by her professor.
30. All but one⁴ of the complainants who reported sex-based discrimination or harassment were female and all of the respondent lawyers were male.
31. There were 4 complaints against lawyers based (in whole or in part) on religion. All of these complaints arose in the context of the complainants' employment:
- A Jewish student complained about inappropriate questions regarding his religion during a job interview for an articling position at a law firm.
 - Two articling students (one male and one female) complained about anti-Muslim remarks made by a senior partner in their firm.
 - A Muslim lawyer complained about hostile anti-Muslim comments made to him by a senior partner in his firm.
32. There were 3 complaints based on disability. Two of these complaints (one by a male lawyer and one by a female articling student) arose in the context of the complainants' employment and involved allegations of a failure to provide appropriate workplace accommodation. The third complaint was made by a male law student who reported harassment by a law professor, including derogatory comments about his disability.
33. There were 2 complaints based on sexual orientation. Two articling students (one male and one female) complained about homophobic remarks made by a senior male partner in their firm.

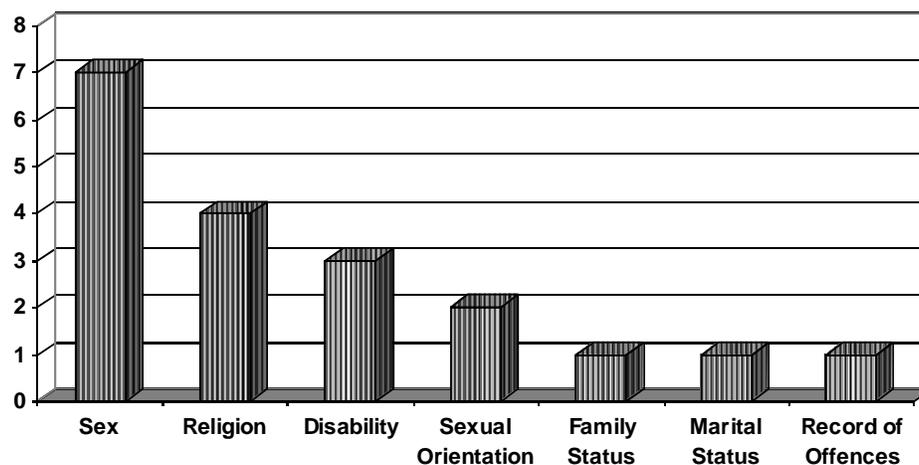
⁴ A male articling student complained about sexist comments made by a senior male partner in his firm. That student also reported that the same partner made homophobic and anti-Muslim remarks. A female articling student in the same firm made similar complaints about the same partner.

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34. There was one complaint based on family status. A female lawyer reported that opposing counsel made offensive remarks about her family status.
35. There was one complaint based on marital status. A male law student complained about inappropriate questions raised during a job interview for an articling position with a law firm.
36. There was one complaint based on record of offences. A lawyer reported that he was denied a service by another lawyer based on a conviction for which he had received a pardon.
37. In summary, the number of complaints⁵ by lawyers and articling students in which each of the following prohibited grounds of discrimination was raised are:
- sex 7 (3 sexual harassment; 1 pregnancy)
 - religion 4
 - disability 3
 - sexual orientation 2
 - family status 1
 - marital status 1
 - record of offences 1

⁵ The total number exceeds 14 because a number of complaints involved multiple grounds of discrimination.

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Grounds Raised in Complaints against Lawyers by Members of the Bar**G. COMPLAINTS AGAINST LAWYERS BY THE PUBLIC**

38. During this reporting period, there were 10 complaints against lawyers made by members of the public.

39. Half (50%) of the public complaints were made by women and half were made by men.

40. Of the 10 public complaints:

- Five (5) involved litigants complaining about the conduct of opposing counsel in their cases;
- Three (3) involved clients complaining about their own lawyers; and
- Two (2) involved employment-related complaints by individuals working in law firms.

41. There were 5 public complaints based (in whole or in part) on disability:

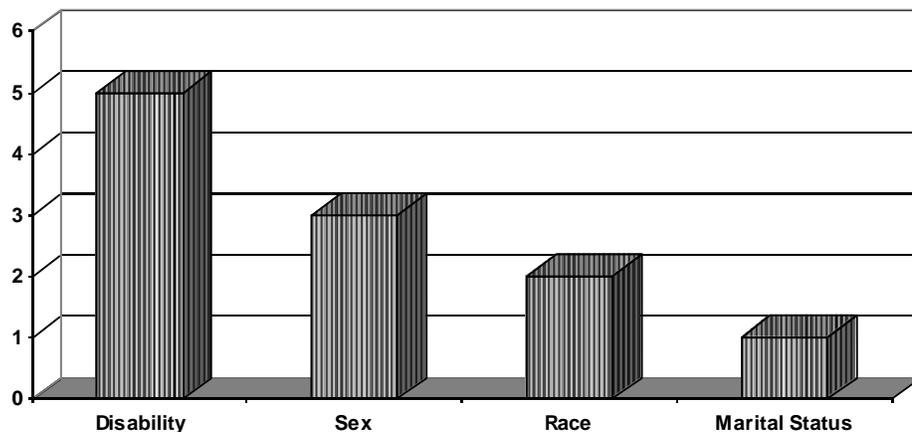
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- Three (3) litigants with disabilities complained about the discriminatory conduct and/or derogatory comments of opposing counsel in their cases.
 - Two (2) clients complained about discriminatory remarks made by their own lawyers, their lawyers' failure to accommodate their medical needs, and (in one case) their lawyer's breach of confidentiality regarding their medical information.
42. There were 3 public complaints based (in whole or in part) on sex.
43. Two (2) of the sex-based complaints were made by men. Both were litigants who complained about remarks made by opposing counsel (one alleged anti-male sexist comments and the other alleged misogynist comments). In both cases, the respondent lawyer was male. The third sex-based complaint was made by a woman who reported employment discrimination by a lawyer based on both her sex and marital status.
44. There were 2 public complaints based on race. A Black female litigant complained about a racially derogatory comment made to her by opposing counsel. An Asian man complained about racial discrimination by a lawyer who was representing him.
45. In summary, the number of public complaints⁶ in which each of the following grounds of discrimination was raised are as follows:
- disability 5
 - sex 3
 - race 2
 - marital status 1

⁶ The total of these numbers exceeds 10 because some of the complaints involved multiple intersecting grounds of discrimination.

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Grounds Raised in Public Complaints



H. COMPLAINTS AGAINST LAWYERS BY PARALEGALS

46. During this reporting period, there were no complaints about lawyers by paralegals.

I. COMPLAINTS AGAINST PARALEGALS

47. During this reporting period, there were 3 complaints against paralegals.⁷ All were made by members of the public and all involved allegations of sexual harassment:

- A male student complained that his male paralegal instructor made unwelcome sexually suggestive remarks to him;

⁷ There were two additional complaints about the conduct of paralegals, but neither raised issues of discrimination or harassment based on human rights grounds. The data regarding these complaints are therefore captured later in this report, in the section about contacts "outside the mandate" of the DHC program.

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- A woman complained about the conduct of a male paralegal who was her ex-boyfriend and who was stalking her and harassing her after the breakdown of their relationship, including harassment in her workplace; and
- A man called on behalf of his fiancée, who was experiencing sexual harassment by a male paralegal whom she had retained to represent her.

G. GENERAL INQUIRIES

48. Of the 85 new contacts with the DHC during this reporting period, 18 involved general inquiries about matters within the mandate of the DHC program and did not involve reports of misconduct by licensees.

H. MATTERS OUTSIDE THE DHC MANDATE

49. During this reporting period, the DHC received 40 calls and emails relating to matters outside the Program's mandate.
50. These contacts included complaints about paralegals and lawyers that did not involve allegations of discrimination or harassment based on human rights grounds (such as allegations of unethical behaviour, confidentiality breaches, or bullying and incivility). They also included complaints about the conduct of judges, landlords and employers, none of whom were licensees.
51. Several individuals contacted the DHC to obtain a referral to a lawyer to deal with a harassment or discrimination case. They were referred to the Law Society's Lawyer Referral Service.

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52. An explanation of the DHC's mandate, role and duties was provided to each person who called with a matter outside the Program's mandate. Some of these individuals were referred to other agencies.
53. Although there are a number of these "outside mandate" contacts during every reporting period, they typically do not consume much of the DHC's time or resources, since we do not assist these individuals beyond their first contact with the Program.

J. PROMOTIONAL ACTIVITIES

54. The LSUC maintains a bilingual website for the DHC Program.
55. Throughout this reporting period, periodic advertisements were placed (in English and French) in the *Ontario Reports* to promote the DHC Program.
56. The Program's French and English brochures were updated, revised and reprinted in December 2013. The new brochures should be in circulation early in 2014 (to legal clinics, law firms, community centres, libraries, government agencies, faculties of law, etc.).
57. The DHC continues to work closely with the Law Society's Equity Advisor (Josée Bouchard) to design and deliver *Discrimination and Harassment Prevention* and *Violence Prevention* workshops to law firms in Ontario. In addition to delivering important educational content, these workshops also serve as a useful opportunity to promote awareness of the DHC Program's services.

TAB 8.4

FOR INFORMATION

TRANSLATION OF CONSULTATION DOCUMENTS

BACKGROUND

97. The Law Society of Upper Canada has committed itself to providing services in French to its members and the public. To pursue its commitment, the Law Society works closely with the Association des juristes d'expression française de l'Ontario ("AJEFO") and other organizations dedicated to promoting access to justice in French. For an overview of other Law Society initiatives, please see **TAB 8.4.1**.
98. The Equity and Aboriginal Issues Committee approved a new initiative that consultation reports on policy initiatives on which the Law Society wishes to consult with the profession as a whole would be produced in French and English.
99. Some consultation reports have been produced in French and English (e.g. the Pathways Report), and were extremely well received by members of the profession. It is anticipated that this new initiative will be positively received and may lead to more engagement from the Francophone legal community.
100. The translation of consultation reports responds to requests received from members about the availability of those reports in French. It is also consistent with the *Access to Justice in French* report in that it provides enhanced opportunities for members of the profession who speak French to influence policy development that could have a positive impact on the public.
101. Based on the number and length of consultation reports produced between 2008 and 2014, the estimated annual cost of producing the reports without the appendices is \$3,500 and with the appendices is \$6,400. The cost of translation will be covered by using already existing budget money from Policy, Equity, Communications and Public Affairs.

A fund of \$12,000 will be created for the translation of such documents in 2014. The Equity Initiatives Department and Policy will monitor the ongoing costs.

TAB 8.4.1

LAW SOCIETY FRENCH LANGUAGE SERVICES

BACKGROUND

1. The percentage of lawyers who can provide legal services to their clients in French is higher than the Francophone community in Ontario. Four point eight percent (4.8%) of the Ontario population self-identifies as Francophone while 12% of lawyers indicate that they can provide legal services in French and three percent (3%) of paralegals indicate that they can provide legal services in French.
2. As the province's regulatory body for the profession, the Law Society has committed itself to providing services in French to its members and the public. This report provides an update of the Law Society's services in the French language.

ACCESS TO JUSTICE IN FRENCH – BENCH AND BAR COMMITTEE

3. In June 2012, the Bench and Bar Committee released its Access to Justice in French report. Justice Paul Rouleau, Court of Appeal for Ontario, and Paul LeVay, Stockwoods LLP, co-chaired the Bench and Bar Committee. The Law Society was a member of the Bench and Bar Committee. Other members of the Committee included judges of the Superior Court of Justice and the Ontario Court of Justice, representatives of the Ontario government, the National Judicial Institute and the Association des juristes d'expression française de l'Ontario ("AJEFO").

4. Two recommendations focus on the Law Society and indicate that the Attorney General, in cooperation with the Law Society and law faculties, should explore measures to support language rights education. In addition, it is recommended that the Law Society consider assessing language rights knowledge in the Licensing Process, develop strategies to enhance the knowledge of French language rights and services before the court system and promote language rights and access to legal services in French with the public. As described below, the Law Society is in the process of implementing those recommendations.

5. In November 2012, the Ministry of the Attorney General announced the creation of a steering committee with representatives from the justice sector and other organizations to review and develop an implementation plan that responds to the recommendations outlined in Access to Justice in French report. The Law Society accepted the Ministry's invitation to participate on the steering committee.

RECENT DEVELOPMENTS

6. The Law Society makes ongoing efforts to enhance access to justice in French, including a bilingual Licensing Process, core regulatory information, forms, website information, numerous publications and various other communications materials in French. The Law Society also collaborates with many partners in the legal system to strengthen French language services within the justice system.

For the Profession

7. The following is a snapshot of services and activities for the profession:
 - a. Licensing Process: Lawyer and paralegal licensing examinations, along with associated reference materials and other resources, are offered in

French. The Law Society also assesses language rights knowledge in the Licensing Process, as recommended by the Access to Justice in French report.

- b. Rules of Conduct: In 2001, the Rules of Professional Conduct were amended to include a commentary to Rule 1.03 (Interpretation – Standards of the Legal Profession) that discusses the obligation of lawyers to inform their clients of their linguistic rights when applicable. The Paralegal Rules of Conduct also include a Rule to that effect.
- c. Advising the Profession about the Rules: The guides Advising Clients of their French Language Rights – Lawyers' Responsibilities and Advising Clients of their French Language Rights – Paralegals' Responsibilities have recently been updated and are available online. This is the first step in the implementation of the Access to Justice in French recommendation to collaborate with associations of lawyers and paralegals where possible to develop strategies to enhance the knowledge of lawyers and paralegals of French language rights and services before the court system.
- d. Lawyer and Paralegal Annual Report: The Lawyer Annual Report was modified to include the following voluntary questions (the Paralegal Annual Report also includes similar questions):
 - i. Can you communicate with your clients and provide legal advice to them in the French language?
 - ii. Can you communicate with your clients, provide legal advice to them and represent them in the French language?
- e. Continuing Professional Development: In November 2012, the Law Society, in partnership with AJEFO, the Advocates' Society and the Official Languages Committee of the Ontario Bar Association ("OBA"), organized a very successful CPD Program accredited for professionalism

hours– Plaider une action civile en français. Approximately 60 lawyers and paralegals attended the program in person while 210 participated by webcast. A second accredited CPD was held on June 21, 2013 entitled Droit au but- parlons grammaire. The session was a success with about 165 members registered. The Law Society, in partnership with AJEFO and the Advocates' Society, has held another very successful CPD program accredited for professionalism hours on January 20, 2014 entitled Plaider une cause pénale en français. Approximately 20 lawyers and paralegals attended in person and 70 online. In addition, the Law Society participates in the organizing committee of the annual AJEFO conference.

- f. Internal Capacity: The Law Society offers services in French, including through the Call Centre, the Practice Management Helpline, the Law Society Referral service, the Registrar's Office and the Policy, Tribunals (bilingual clerks and a number of adjudicators), Equity and Communications Departments. The Senior Management Team also has bilingual capacity.
- g. Communications in French: The Law Society Portal enables all licensees to choose whether they would prefer to receive Law Society communications in French or English.
- h. Law Society Programs: Numerous programs offer services in French. For example, the Discrimination and Harassment Counsel Program, the Member Assistance Program and the Career Coaching Program have offered services in French and English since their inception.
- i. Regulatory Forms: The Law Society has translated most forms mandated under the Rules of Professional Conduct and the Paralegal Rules of Conduct, laws, regulations and by-laws, into French. The website has been updated to significantly increase the number of forms in French.

- j. Collaboration with Associations: The Equity and Aboriginal Issues Committee is the committee responsible for French language services. AJEFO participates in committee meetings and provides input in policy development. AJEFO is also a member of the Law Society's Equity Advisory Group. The Law Society also participates in meetings of the AJEFO board and the Official Languages Committee of the Ontario Bar Association.

For the Public

8. The following is a snapshot of services and activities for members of the public:
- a. Law Society Referral Service: The Law Society Referral Service operates bilingually and provides the public with access to bilingual lawyers and paralegals.
 - b. Call Centre: Call Centre staff field public calls in both English and French, with equal response times. From January to June 2013, the average time in minutes to respond to call was as follows:

| | <u>French</u> | <u>English</u> |
|-------------------------------|---------------|----------------|
| Practice Management Helpline* | n/a | 0.08 |
| Resource Centre | 0.20 | 0.20 |
| Complaints Reception | 0.19 | 0.12 |
| Reception | 0.24 | 0.21 |

- c. Directory of Lawyers and Paralegals: The online directory of lawyers and paralegals is bilingual and indicates whether a lawyer or paralegal is able to offer services in French.
- d. Commenting about the Law Society Services: Contact information is available on the Law Society website for anyone who wishes to comment about Law Society services in French.
- e. Public Legal Education: The Law Society offers at least two public legal education programs in French annually. On September 25, 2013 the Law Society, in partnership with AJEFO and the OBA, celebrated the Jour des Franco-Ontariens et des Franco-Ontariennes by hosting an event with Pascale Daigneault, President of the OBA. The event was attended by at least 85 lawyers, paralegals and members of the public. On March 28, 2013, the Law Society, with the AJEFO and the OBA, celebrated the Journée internationale de la francophonie by hosting an event with Françoise Boivin, the Deputy for Gatineau for the New Democratic Party. On June 19, 2013, the Law Society offered a public education program entitled Legal Information for Everyone in French. The program was organized in partnership with Community Legal Education Ontario, the Ontario Justice Education Network and AJEFO and was a success.

TAB 8.5

**PUBLIC EDUCATION EQUALITY AND RULE OF LAW SERIES
CALENDAR
2014**

For a list of upcoming events, please consult <http://www.lawsocietygazette.ca/events/>

INTERNATIONAL WOMEN'S DAY

Date : March 6, 2014

Time and location: Donald Lamont Learning Centre (4:00 p.m. – 6:00 p.m.)
Convocation Hall (6:00 p.m. – 7:00 p.m.)

The impact of new immigration law on gender rights

Panel Discussion:

Moderator: Deepa Matoo - South Asian Legal Clinic of Ontario (SALCO)

Sayran Sulevani - Barbara Schlifer Clinic

Gloria Nafziger - Amnesty International

Mary Jo Leddy - Romero House

Idil Atak - Assistant Prof. Ryerson

Loly Ricco – President of the Canadian Council of Refugees

LA JOURNÉE DE LA FRANCOPHONIE

Date : March 25, 2014

Upper Barristers' Lounge (6:00 p.m. – 8:00 p.m.)

Conférencier: Maître Roger Billodeau, Registraire, Cour Suprême du Canada

HOLOCAUST REMEMBRANCE DAY

Date : April 28, 2014

Donald Lamont Learning Centre (4:00 p.m. – 6:00 p.m.)

Convocation Hall (6:00 p.m. – 8:00 p.m.)

Keynote: The Honourable Justice Rosalie Abella – Supreme Court Justice

ASIAN AND SOUTH ASIAN HERITAGE MONTH

Date : May 22, 2014

Donald Lamont Learning Centre (4:00 p.m. – 6:00 p.m.)

Convocation Hall (6:00 p.m. – 8:00 p.m.)

ACCESS AWARENESS FORUM

Date: June 4, 2014

Donald Lamont Learning Centre (4:00 p.m. – 8:00 p.m.)

PRIDE WEEK - June 17, 2013

Donald Lamont Learning Centre (4:00 p.m. – 6:00 p.m.)

Convocation Hall (6:00 p.m. – 8:00 p.m.)

NATIONAL ABORIGINAL HISTORY MONTH - June 19, 2014

Donald Lamont Learning Centre (4:00 p.m. – 6:00 p.m.)

Convocation Hall (6:00 p.m. – 8:00 p.m.)