

TAB 2



Report to Convocation

May 22, 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

Prepared by the Equity Initiatives Department
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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 May 8, 2014. Committee members Howard Goldblatt, Chair, Julian Falconer, Vice-Chair, Susan Hare, Vice-Chair, Raj Anand, Constance Backhouse, Mary Louise Dickson, Julian Falconer, Janet Minor, Judith Potter, Susan Richer and Beth Symes participated. Benchers Jack Braithwaite and Marian Lippa also participated. Julie Lassonde, representative of the Association des juristes d'expression française de l'Ontario, and Sandra Yuko Nishikawa, representative of the Equity Advisory Group, also attended. Staff members Josée Bouchard, Marisha Roman, Ekua Quansah, Susan Tonkin and Grant Wedge also attended.

TAB 2.1

FOR DECISION
PROPOSED BY-LAW ON LAW SOCIETY SERVICES IN
FRENCH AND ENGLISH

MOTION

2. **That Convocation,**
 - a. **Amend By-Law 2 [Corporate Provisions], as set out in the motion at [TAB 2.1.1](#), to establish the right of a person to receive services from the Law Society of Upper Canada in French and English; and**
 - b. **revoke the French Language Services Policy, set out at [TAB 2.1.2](#), approved by Convocation in June 1989.**

BACKGROUND

3. The *French Language Services Act* (FLSA), adopted in 1986, guarantees individuals the right to receive services in French from Government of Ontario ministries and agencies in designated areas of the province and from designated organizations.
4. The Office of the French Language Services Commissioner was created in 2007 to conduct independent investigations under the FLSA and to monitor the progress made by government agencies in the delivery of French language services in Ontario. M^c Francois Boileau has been the French Language Services Commissioner since 2007. In 2013, the *Language Services Amendment Act (French Language Services Commissioner), 2013* was adopted to ensure the independence of the Commissioner and the Office. The Commissioner is now appointed by the Lieutenant Governor on the address of the Legislative Assembly and reports to the Assembly. He is an independent officer of the Assembly.
5. It is the Law Society's position that the FLSA does not apply to the Law Society, the Commissioner does not have jurisdiction over the Law Society and the Commissioner

does not have the mandate to investigate complaints about the Law Society. However, the Law Society has established a good relationship with the Office of the Commissioners and works collaboratively with that Office.

6. At the request of the French Language Services Commissioner, Robert Lapper, CEO, and Josée Bouchard, Director - Equity, met with him on July 10, 2013 to discuss the implementation progress of the Bench and Bar Advisory Committee to the Attorney General of Ontario report titled *Access to Justice in French*.
7. At the meeting and in a follow-up letter, M^c Boileau suggested that the Law Society consider expanding its obligations under statute to offer services in French.
8. The Equity and Aboriginal Issues Committee (the Committee) received reports on meetings between M^c Boileau and key Law Society staff. Following consideration of the matter, the Committee agreed that a by-law should be drafted to establish the right of a person to receive French language services from the Law Society.
9. In support of this proposal, this report provides information on,
 - a. the Law Society's commitment to promote access to justice in French;
 - b. the meeting with the French Language Services Commissioner;
 - c. expanding French language obligations through regulation and the related considerations;
 - d. revocation of the 1989 French Language Services Policy; and
 - e. budgetary implications.

THE LAW SOCIETY'S COMMITMENT TO PROMOTE ACCESS TO JUSTICE IN FRENCH

10. Over time, the Law Society 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 example, the Law Society participated in the Bench and Bar Committee with judges of the Court of Appeal

for Ontario, the Superior Court of Justice and the Ontario Court of Justice, and representatives of the Ontario government, the National Judicial Institute, the Ontario Bar Association and the AJEFO among others. The work of the Bench and Bar Committee led to the *Access to Justice in French* report, which made the following recommendations that relate to the Law Society:

- a. That the Attorney General, in cooperation with the Law Society and law faculties, explore measures to support language rights education, and French language training, as well as take steps to increase the number of lawyers able to provide legal services in French.
 - b. That the Attorney General propose to the Law Society that it,
 - i. consider assessing language rights knowledge in the licensing process.
 - ii. 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.
 - iii. collaborate with associations of lawyers and paralegals, courts administration, Legal Aid Ontario, and other relevant stakeholders, to ensure that: (1) new clients are advised of relevant language rights; (2) the cadre of French-speaking lawyers and paralegals in the province is known; and (3) access to these lawyers and paralegals by French speakers who require their services, is facilitated.
11. The Law Society has made good progress in its implementation of the recommendations. For example, the Law Society assesses language rights knowledge in the Licensing Process and its Directory of Lawyers and Paralegals is now bilingual and allows access to information about whether lawyers and paralegals are capable of offering services in French. The Law Society has also recently developed guides and brochures for lawyers and paralegals on their responsibility to advise clients of their French language rights, and brochures to inform the public of the right to legal services in French. The guides and brochures are made readily available in French and English.

12. 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.
13. For an overview of Law Society initiatives in the French language, please see **TAB 2.1.3.**

MEETING WITH FRENCH LANGUAGE SERVICES COMMISSIONER

14. As already mentioned, Robert Lapper and Josée Bouchard met with the Commissioner on July 10, 2013 to discuss the implementation progress of the *Access to Justice in French* report.
15. At the meeting and in a follow-up letter, M^c Boileau suggested that the Law Society consider expanding its obligations under statute to offer services in French. He noted that this approach would be consistent with the College of Teachers' obligations under the *Ontario College of Teachers Act* and the Regulated Health Professions' obligations under the *Regulated Health Professions Act*.

EXPANDING FRENCH LANGUAGE OBLIGATIONS THROUGH REGULATION AND THE RELATED CONSIDERATIONS

16. For ease of reference, the relevant sections of the *Ontario College of Teachers Act* and the *Regulated Health Professions Act* are reproduced below.

The Ontario College of Teachers Act

17. The College of Teachers' obligations under the *Ontario College of Teachers Act* are as follows:

Right to use French

44. (1) A person has the right to use French in all dealings with the College.

Council to ensure

(2) The Council shall take all reasonable measures and make all reasonable plans to ensure that persons may use French in all dealings with the College.

Limitation

(3) The right to use French given by this section is subject to the limits that are reasonable in the circumstances.

Definition

(4) In this section,

“dealings” means any service or procedure available to the public or to members of the College and includes giving or receiving communications, information or notices, making applications, taking examinations or tests and participating in programs or in hearings or reviews.

The Regulated Health Professions Act

18. The Regulated Health Professions’ obligations under the *Regulated Health Professions Act* are as follows:

Right to use French

86. (1) A person has the right to use French in all dealings with the College.

Language preferences

(1.1) The College shall identify and record the language preference of each College member and identify the language preference of each member of the public who has dealings with the College.

Council to ensure right

(2) The Council shall take all reasonable measures and make all reasonable plans to ensure that persons may use French in all dealings with the College.

Definition

(3) In this section,

“dealings” means any service or procedure available to the public or to members and includes giving or receiving communications, information or notices, making applications, taking examinations or tests and participating in programs or in hearings or reviews.

Law Society’s Current Legal Obligations under the Law Society Act

19. At this point in time, under the *Law Society Act*, the Law Society’s only obligation to offer services in French exists in the context of hearings. The Act reads as follows:

French-speaking panelists

49.24 (1) *A person who speaks French who is a party to a proceeding before the Hearing Panel may require that any hearing in the proceeding be heard by panelists who speak French.*

20. In part because the Law Society is an organization that is an integral part of the justice system, the profession and members of the public have an expectation that the Law Society has broader obligations to offer services in French than those already listed in the *Law Society Act*. As a result, expanding the Law Society’s obligations to offer services in French through legislative or regulatory amendments would be consistent with the expectation of the profession and the public. It would also enhance transparency, increase the credibility of the Law Society with members of the public, and enhance access to justice and the independence of the Law Society to address language rights matters.
21. The *Law Society Act* provides broad powers to Convocation to make by-laws relating to the affairs of the Society,¹ and the Law Society increasingly regulates its affairs through by-laws. Among other things, Convocation has adopted by-laws to regulate affairs related to benchers, Convocation, committees, licensing, the annual fee, operational obligations and responsibilities, the compensation fund and unclaimed trust funds.

¹ *Law Society Act*, R.S.O. 1990, chapter L.8, section 62(01)

Convocation's by-law making function is an exercise of its responsibility that promotes greater accountability in its governance of the profession.

22. As a result, it is recommended that the Law Society proceed through the adoption of a by-law. The proposed by-law is presented at **TAB 2.1.1**. The proposed by-law presents an exhaustive list of areas for which Law Society services would be offered in English or French.
23. In May 2014, the Committee received a report regarding an April 22, 2014 meeting between M^c Boileau and François-Michel Pellecuer, Senior Analyst, French Language Services Commissioner, and Robert Lapper, Grant Wedge, Executive Director, Policy, Equity and Public Affairs, Josée Bouchard and Sheena Weir, Director, Public Affairs. The purpose of the meeting was to discuss the approach of adopting a by-law. The Commissioner was receptive to this approach.
24. The Committee was also advised that Robert Lapper, Grant Wedge and Josée Bouchard met with Paul Le Vay, President of AJEFO, and Danielle Manton, Executive Director of AJEFO, to discuss the proposal for a by-law. They both viewed this as a positive development but advised that AJEFO's views on the matter would be those of its board.

REVOCAION OF THE 1989 FRENCH LANGUAGE SERVICES POLICY

25. In June 1989, Convocation approved a French Language Services Policy, presented at **TAB 2.1.2**. In light of the proposed approach to adopt a by-law to reinforce the Law Society's obligation to offer French language services and the fact that the 1989 Policy is now obsolete, it is recommended that Convocation revoke the 1989 Policy. It is anticipated that under the direction of the Chief Executive Officer, the Law Society will adopt an operational policy to guide its implementation of the by-law requirements.

BUDGETARY IMPLICATIONS

26. It is not expected that the proposed by-law would not have significant fiscal implications. Staff capable of offering services in French are assessed and listed on the

Law Society's intranet. The Law Society has also adopted guidelines for the provision of services in the French language.

THE LAW SOCIETY OF UPPER CANADA

**BY-LAWS MADE UNDER
SUBSECTIONS 62 (0.1) AND (1) OF THE *LAW SOCIETY ACT***

**BY-LAW 2
[CORPORATE PROVISIONS]**

MOTION TO BE MOVED AT THE MEETING OF CONVOCATION ON MAY, 22 2014

MOVED BY

SECONDED BY

THAT By-Law 2 [Corporate Provisions], made by Convocation on May 1, 2007, and amended by Convocation on June 28, 2007, September 20, 2007 and September 27, 2012, be further amended as follows:

1. **The English version of the by-law is amended by adding the following:**

PART V

FRENCH LANGUAGE SERVICES

Right to services in English and French

51. (1) Subject to subsections (2), (3) and (4), a person has the right to communicate in English or French with, and to receive in English or French available services from, the Society in the following areas:

1. The licensing of persons to practise law in Ontario as barristers and solicitors or to provide legal services in Ontario.
2. The regulation of licensees.
3. The administration of freezing and trusteeship orders.
4. The administration of the Compensation Fund.
5. The administration of unclaimed trust funds.

Limitation of Society's obligations

(2) A person's right, as set out in subsection (1), in any particular situation, is subject to limits that are reasonable and necessary in the circumstances of that particular situation.

Proceedings before the Law Society Tribunal

(3) Where a person is a party to a proceeding before the Law Society Tribunal, the person's right to communicate in English or French with, and to receive in English or French available services from, the Society or the Law Society Tribunal is governed, not by subsection (1), but by sections 49.24 and 49.37 of the Act and the applicable rules of practice and procedure.

Exemptions

(4) Subsection (1) does not apply with respect to the following:

1. Continuing professional development programs delivered by the Society.
2. Public education programs delivered by the Society.

2. The French version of the by-law is amended by adding the following:

PARTIE V

SERVICES EN FRANÇAIS

Droit à des services en anglais et en français

51. (1) Sous réserve des paragraphes (2), (3) et (4), chacun a droit à l'emploi du français et de l'anglais pour communiquer avec le Barreau, et pour en recevoir les services disponibles dans les secteurs suivants :

1. La délivrance de permis d'exercice du droit comme avocat et procureur ou de prestation de services juridiques en Ontario.
2. La réglementation des titulaires de permis.
3. L'administration des ordonnances de blocage et de tutelles.
4. L'administration du Fonds d'indemnisation.
5. L'administration des fonds en fiducie non réclamés.

Limitation des obligations du Barreau

(2) Le droit d'une personne, tel que décrit au paragraphe (1), dans toute situation particulière, est assujéti à des limites raisonnables et nécessaires dans les circonstances de cette situation.

Instances devant le Tribunal du Barreau

(3) Lorsqu'une personne est partie à une instance devant le Tribunal du Barreau, le droit de la personne à l'emploi du français ou de l'anglais pour communiquer avec le Barreau ou le Tribunal du Barreau, et pour en recevoir les services disponibles, est régi par les articles 49.24 et 49.37 de la Loi et les règles applicables de pratique et de procédure, et non par le paragraphe (1).

Exemptions

- (4) Le paragraphe (1) ne s'applique pas à ce qui suit :
1. Les programmes de formation professionnelle continue fournis par le Barreau.
 2. Les programmes de formation publique fournis par le Barreau.

TAB 2.1.2

**LAW SOCIETY OF UPPER CANADA
FRENCH LANGUAGE SERVICES POLICY
ADOPTED BY CONVOCATION JUNE 23, 1989**

1. The Law Society is committed to providing services in the French language to its own members and to the public from Osgoode Hall and other Society offices in Toronto and from our facilities in the city of Ottawa.
2. The Law Society is committed to providing instruction and materials in the French language to students pursuing the Bar Admission Course in the city of Ottawa.
3. The Law Society is committed to providing Continuing Legal Education programs in the French language.
4. The Law Society is committed to reviewing its existing programs and future programs with the goal of bringing these programs into conformity with its policy on the provision of French language services.
5. The above commitments are subject to such limits as circumstances make reasonable and necessary with the goal of having the policy substantially implemented within three years.
6. The French Language Services Policy shall be reviewed annually to determine the progress of its implementation and to consider how particular programs might be improved.
7. For the purposes of implementing and monitoring its policy, the French Language Services Committee should be made a Standing Committee of the Law Society of Upper Canada.

TAB 2.1.3

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. The Law Society also works collaboratively with the University of Ottawa, French Common Law program, in the development of a Law Practice Program in French.

- 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. **Working with stakeholders:** The Law Society works collaboratively with stakeholders such as the Ontario Bar Association, the Toronto Lawyers Association, the Criminal Lawyers Association, the Family Lawyers Association, the Advocates' Society and the Paralegal Society of Ontario to promote the resources. In addition, 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.

- e. **Lawyer and Paralegal Annual Report:** The Lawyer and Paralegal Annual Reports were modified to include the following voluntary 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?
- f. **Bilingualism in the Tribunal:** In addition to the right to proceed in French before the Law Society Tribunal, the Tribunal is now chaired by a bilingual lawyer and has the internal capacity to offer services in French. The Tribunal has also increased the number of lawyers, paralegals and lay adjudicators who can hear cases in French.
- g. **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, 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.

- h. **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, Tribunal (bilingual clerks and a number of adjudicators), Equity and Communications Departments. The Senior Management Team also has bilingual capacity.
- i. **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. It has adopted internal guidelines to enhance employees' awareness of this service and posts on the intranet a list of bilingual employees.
- j. **Consultation Reports with the Profession:** The Law Society decided that consultation reports with the profession as a whole would be produced in French and English.
- k. **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.
- l. **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.

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. **Guides for the public:** In 2014, the Law Society released two guides for the public entitled *You Have a Legal Issue – You Speak French*, and *Handling Everyday Legal Problems – Information to Make you Make Good Choices*.
- f. **Public Legal Education:** The Law Society offers at least two public legal education programs in French annually. On March 25, 2014, the Law

Society, in collaboration with AJEFO and the Official Languages Committee of the Ontario Bar Association, organized a celebration of the Journée internationale de la francophonie with keynote speaker Me Roger Bilodeau, Registrar of the Supreme Court of Canada. 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 2.2

FOR DECISION

HUMAN RIGHTS MONITORING GROUP REQUESTS FOR INTERVENTION

MOTION

27. That Convocation approve the letters and public statements in the following cases:
- a. Dr. Iris Yassmin Barrios Aguila – Guatemala – letters of intervention and public statement presented at [TAB 2.2.1](#).
 - b. lawyer Muharrem Erbey – Turkey - letters of intervention and public statement presented at [TAB 2.2.2](#).
 - c. Lawyer Hadi Esmailzadeh – Iran - letters of intervention and public statement presented at [TAB 2.2.3](#).
 - d. Lawyer Maria Catherine Dannug-Salucon – Philippines – letters of intervention and public statement presented at [TAB 2.2.4](#).

MANDATE OF THE HUMAN RIGHTS MONITORING GROUP

28. The mandate of the Human Rights 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.
29. 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 Human Rights Monitoring Group shall report on the matters at the next meeting of Convocation.

30. On September 20, 2007, Convocation expanded the mandate by adopting the following 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.

GUATEMALA – DR. IRIS YASSMIN BARRIOS AGUILA

SOURCES OF INFORMATION

31. The background information for this report was taken from the following sources:
 - a. Protection International;¹
 - b. Aljazeera;²
 - c. The Center for Justice and Accountability;³
 - d. The United States Department of State;⁴ and,
 - e. Peace & Collaborative Development Network.⁵

BACKGROUND

32. Historically, Guatemala's judicial, police, and military institutions have been infiltrated by organized crime. This aspect coupled with Guatemala's limited financial and technical resources factor into the country's ranking as one of the most corrupt in the

1 Protection International is an international non-profit organization that provides protection strategies and tools for security management to human rights defenders who are at risk. Since 2004, Protection International has been working with local partners in over thirty countries across the globe.

2 Al Jazeera is based in Qatar and owned by the Al Jazeera Media Network. Al Jazeera an international 24 hour English language news and current affairs channel.

3 The Center for Justice and Accountability ("CJA") was founded in 1998 with support from Amnesty International and the UN Voluntary Fund for Victims of Torture to represent torture survivors in their pursuit of justice..

4 The U.S. Department of State is the United States of America's diplomatic arm. The mission of the Department of State is to "Shape and sustain a peaceful, prosperous, just, and democratic world and foster conditions for stability and progress for the benefit of the American people and people everywhere".

5 Peace & Collaborative Development Network was established in 2007 by Dr. Craig Zeliozer and is a free professional networking site that fosters dialogue and sharing of resources in international development, conflict resolution, gender mainstreaming, human rights, social entrepreneurship and related fields.

world. At one point, judges who presided over cases involving powerful individuals wore masks to hide their identity.⁶

33. In 2006, Guatemala's government was heavily infiltrated by organized crime. The police were "outmanned, out gunned, and all too corrupt. Individual prosecutors and judges could not, or would not, do their jobs because they were corrupt, threatened or simply overwhelmed by the challenges."⁷ In response, the Guatemalan government and the United Nations agreed to create the International Commission against Impunity in Guatemala ("CICIG").⁸ The Commission began working in 2007. The CICIG provided a way for international prosecutors to help Guatemala's Attorney General's office prosecute sensitive cases that may have otherwise been avoided or suppressed. The CICIG helped pave the way for Guatemala's Courts for High Risk Crimes.
34. In 2009, in response to international pressure, Guatemala's Supreme Court created the *Tribunales de Mayor Riesgo* (Courts for High Risk Crimes) to deal with the most problematic cases. These Courts are mandated to investigate cases that implicate people in positions of state power and cases involving corruption, gang related killings, drug trafficking, genocide, and gender violence. Judges working for the Courts for High Risk Crimes are given extra security and resources. These judges are also considered "the most competent and most able to move these delicate cases forward".⁹
35. Dr. Iris Yassmin Barrios Aguliar is the Tribunal President of Guatemala's Courts for High Risk Crimes. She has ruled on cases regarding organized crime, corruption by high-level government officials, and human rights abuses by the military. She was granted precautionary measures by the Inter-American Commission on Human Rights

6 "Guatemalan Court for High Risk Crimes Tribunals de Mayor Riesgo" *The Center For Justice and Accountability* online: <http://www.cja.org/section.php?id=536>

7 Mike Allison, "How to reduce crime in the world's most violent" *Aljazeera* (11 August 2013) online: <http://www.aljazeera.com/indepth/opinion/2013/08/2013810135741207607.html>

8 "Guatemalan Court for High Risk Crimes Tribunals de Mayor Riesgo" *The Center For Justice and Accountability* online: <http://www.cja.org/section.php?id=536> ; Mike Allison, "How to reduce crime in the world's most violent" *Aljazeera* (11 August 2013) online: <http://www.aljazeera.com/indepth/opinion/2013/08/2013810135741207607.html>.

9 Guatemalan Court for High Risk Crimes Tribunals de Mayor Riesgo" *The Center For Justice and Accountability* online: <http://www.cja.org/section.php?id=536>

("IACHR") in 2013 because of the risks related to hearing politically sensitive cases.¹⁰ One of the cases she presided over involved former Guatemalan dictator Efraín Ríos Montt who was being tried for genocide.¹¹ She found Efraín Ríos Montt responsible for the death of 1,771 indigenous Ixil-Mayans.¹² This trial gave voice to thousands of Ixil-Mayans victims, demonstrated the importance of an independent judiciary and provided a legal precedent for genocide cases. However, her decision was annulled by Guatemala's Constitutional Court on procedural grounds and a new trial is expected in 2015.

36. Recently, The Honor Tribunal of the Guatemalan Bar Association (el Colegio de Abogados y Notrios de Guatemala) publicly admonished and suspended Dr. Iris Yassmin Barrios Aguliar for one year. This unprecedented ruling from the Guatemalan Bar Association stems from her adjudication and finding of guilt against former dictator Efraín Ríos Montt. The complaint against Dr. Iris Yassmin Barrios Aguliar was brought before the Guatemalan Bar Association by Moisés Galindo, a member of Efraín Ríos Montt's defence team. He asserted that "he was 'humiliated' by the manner in which Judge Barrios ordered him to participate in trial proceedings". Moisés Galindo has brought complaints against judges to the Guatemalan Bar Association in the past, including deceased Supreme Court Justice César Barrientos.
37. Judges in Guatemala are subject to their own disciplinary process. The complaint that the Guatemalan Bar Association ruled on was previously brought before the judicial competency authority, who ruled to be without merit.
38. Dr. Iris Yassmin Barrios Aguliar has received international acclaim for her integrity and independence. In March 2014, Dr. Iris Yassmin Barrios Aguliar was one of the

10 Robert F. Kennedy Center for Justice and Human Rights, News Release, "Vanishing Rule of Law in Guatemala" (11 April 2014) online: <http://protectionline.org/2014/04/11/vanishing-rule-of-law-in-guatemala/>

11 U.S. Department of State, News Release "2014 International Women of Courage Award Winners" (March 3, 2014) online: Office of Global Women's Issues < <http://www.state.gov/s/gwi/programs/iwoc/2014/bio/> >

12 Viola Gienger, "'Women of Courage' Awardees Challenge Social Norms Head On" *Peace & Collaborative Development Network* (24 March 2013) online: <<http://www.internationalpeaceandconflict.org/profiles/blogs/women-of-courage-awardees-challenge-social-norms-head-on>>.

recipients of 2014 International Women of Courage Award bestowed by First Lady of the United States, Michelle Obama.

THE MONITORING GROUP'S CONSIDERATION

39. The Monitoring Group considered the following when making a decision about the case:
- a. There are no concerns about the quality of sources used for this report.
 - b. The one year suspension and public admonishment of Dr. Iris Yassmin Barrios Aguliar, Tribunal President of Guatemala's High Risk Court, falls within the mandate of the Monitoring Group. The Law Society has not intervened in Guatemala in the past.

TURKEY – THE ARREST AND TRIAL OF HUMAN RIGHTS LAWYER MUHARREM ERBEY

SOURCES OF INFORMATION

40. The background information for this report was taken from the following sources:
- a. Lawyers for Lawyers (“L4L”);¹³
 - b. The Observatory for the Protection of Human Rights Defenders;¹⁴
 - c. International Federation for Human Rights (“FIDH”);¹⁵ and
 - d. PEN International.¹⁶

BACKGROUND

41. Muharrem Erbey is a human rights lawyer who spent 1,570 days in pre-trial detention after being arrested on December 24, 2009 by the Anti-Terror Unit of the Diyarbakir Security Directorate, which took part in a country wide security sweep.¹⁷ His arrest is

13 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.

14 The Observatory for the Protection of Human Rights Defenders is a joint International Federation of Human Rights (FIDH) and World Organization Against Torture (OMCT) program created in 1997. One of the main objectives is to focus the international community's attention on cases of harassment and repression of human rights defenders

15 International Federation of Human Rights (FIDH) is an international non-governmental organization defending all civil, political, economic, social and cultural rights, set out in the Universal Declaration of Human Rights. Based in France, the FIDH is a non-partisan, non-religious, apolitical and non-profit organization.

16 PEN International was founded in 1921 and connects an international community of writers. PEN International promotes literature and freedom of expression and is governed by the PEN Charter and principles it embodies: unhampered transmission of thought within each nation and between all nations. PEN operates on five continents and is a non-political organization which holds Special Consultative Status at the UN and Associate Status at UNESCO.

17 FIDH, News release, “TURKEY: Four years on, Muharrem Erbey still in pre-trial detention” (10 January 2014) online:

related to the Koma Civakên Kurdistan (KCK) counter terrorism arrests. Since 2008, over 8,000 people have been arrested in the context of the KCK investigations. In 2012, 44 journalists were arrested on terrorist charges and accused of backing the illegal pan-Kurdish umbrella group KCK. These arrests are seen as a way for the Turkish government to criminalize peaceful dissent as well as Kurdish political and cultural expression. The investigations often target human rights defenders. Upon his arrest, Muharrem Erbey was charged with membership in an illegal organization, but there are indications that the charge stems from his work as a human rights lawyer and defender.¹⁸

42. Minutes from Muharrem Erbey's interrogation on December 25, 2009, show his arrest was linked to his human rights work. He has represented clients before the European Court of Human Rights and is the Vice President of the Human Rights Association of Turkey ("IHD") and President of the local IDH in Diyarbakir, Turkey. He is also known for standing by victims of human rights violations, extrajudicial killings and enforced disappearances. He has also spoken out in support of Kurdish rights. Additionally, Muharrem Erbey is a writer and co-edited a collection of Turkish and Kurdish language stories.¹⁹
43. The trial against Muharrem Erbey for "being a member of an illegal organisation", pursuant to Article 314 of the Turkish Criminal Code began in October 2010 and resumed on January 13, 2014. He is being prosecuted along with 174 Kurdish persons.²⁰ If convicted, Muharrem Erbey faces up to 15 years in prison.

THE MONITORING GROUP'S CONSIDERATION

44. The Monitoring Group considered the following when making a decision about the case:
- a. There are no concerns about the quality of sources used for this report.

<http://www.fidh.org/en/europe/turkey/14455-turkey-four-years-on-muharrem-erbey-still-in-pre-trial-detention>.

18 L4L, " Turkey: Lawyer already in 4 years in pre-trial detention" (11 January 2014) online:

<http://www.advocatenvooradvocaten.nl/8680/turkey-lawyer-already-4-years-in-pre-trial/>

19 PEN International, "Muharrem Erby, Turkey, Human Rights Lawyer and Writer" online: <http://www.pen-international.org/muharrem-erbey-turkey-human-rights-lawyer-and-writer/>

20 The Observatory for the Protection of Human Rights Defenders, News Release "TURKEY: Muharrem Erbey released after 1'570 days in pre-trial detention" (14 April 2014).

- 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 Turkey 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.

***IRAN – TRIAL AND ONGOING JUDICIAL HARASSMENT OF HUMAN RIGHTS
LAWYER HADI ESMAEILZADEH***

SOURCES OF INFORMATION

45. The background information for this report was taken from the following sources:
 - a. International Federation for Human Rights (“FIDH”);
 - b. The Observatory for the Protection of Human Rights Defenders;
 - c. World News Network (“Wn.com”),²¹
 - d. Defenders of Human Rights Center (“DHRC”),²² and
 - e. World Organization Against Torture (“OMCT”).²³

BACKGROUND

46. Hadi Esmaeilzadeh is a human rights lawyer in Iran and a member of the Defenders of Human Rights Centre (“DHRC”). Although the DHRC’s offices were closed in 2008, the organization still functions. Since the office’s closure, Hadi Esmaeilzadeh has been interrogated by Iranian intelligence and security organizations and pressured to resign from the DHRC.²⁴ The DHRC was founded in 2001 by five lawyers. Two of the founding lawyers, Abdolfatah Soltani and Mohammad Ali Dakhah, have been

21 World News Network (“Wn.com”) was founded in 1995 and launched online in 1998, it is now the most comprehensive, one-stop news resource on the Internet.

22 Defenders of Human Rights Center (“DHRC”) was established in 2001 by five Iranian lawyers. The goal of the DHRC is to provide pro-bono defence services, facilitate a dialogue between intellectuals and activists, and report on human rights in Iran and support families of political prisoners and prisoners of conscience.

23 World Organization Against Torture (OMCT) was created in 1985 to fight torture, summary executions, enforced disappearances and all other cruel, inhuman or degrading treatment.

24 OMCT, News Release, IRN 002/0414/OBS027, “Iran: Judicial Harassment of Mr Hadi Esmaeilzadeh” (4 March 2014) online:

<http://www.noodls.com/view/F100FB60935F0D1F091F2CCD9DAFE5B7C592595A?7707xxx1397218876>

imprisoned.²⁵ The DHRC was approved by Iran's Minister of the Interior in 2005, but they have been refused an operating permit.²⁶ The DHRC provides pro bono defence for persons accused of political crimes, or those who are prisoners of conscience. Many of those accused are lawyers and law students. They facilitate free training workshops on human rights, women's rights and the rights of the accused. The DHRC also supports the families of political prisoners and prisoners of conscience. They publish reports on human rights in Iran, disseminate information on Iran's human rights issues to the media and also work to bring activists and intellectuals together.

47. In 2009, Hadi Esmailzadeh was expelled from the Higher Institute of Banking of Iran and in 2012 he was also expelled from the Islamic Azad University-Bam Unit because he refused to resign from the DHRC.²⁷ During a preliminary interrogation on July 12, 2011, Hadi Esmailzadeh was notified he was being charged with "assembly and collusion with intent to commit anti-security crimes" based on his membership of DHRC, and "spreading propaganda against the State". He was also banned from leaving Iran.
48. Hadi Esmailzadeh's trial was scheduled for April 15, 2014 before Branch 15 of the Islamic Revolutionary Court. As of April 11, 2014, his lawyers had not been given access to his file in preparation for his trial.

THE MONITORING GROUP'S CONSIDERATION

49. The Monitoring Group considered the following when making a decision about the 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 Iran in the past where lawyers were being persecuted for

²⁵ The Law Society intervened on behalf of Abdolfatah Soltani in February 2007 and April 2012.

²⁶ Defenders of Human Rights Centre, "About Defenders of Human Rights Center" online:

http://www.humanrights-ir.org/php/view_en.php?objnr=233

²⁷ FIDH, "Iran: Judicial Harassment of Mr Hadi Esmailzadeh" (11 April 2014) online

<http://www.fidh.org/en/asia/iran/15118-iran-judicial-harassment-of-mr-hadi-esmailzadeh>

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.

PHILIPPINES – THE ONGOING HARASSMENT, SURVEILLANCE AND INTIMIDATION OF HUMAN RIGHTS LAWYER MARIA CATHERINE DANNUG-SALUCON

SOURCES OF INFORMATION

50. The background information for this report was taken from the following sources:
- a. Lawyers' Rights Watch Canada ("LRWC");²⁸
 - b. Front Line Defenders;²⁹
 - c. Lawyers for Lawyers ("L4L");
 - d. National Union of Peoples' Lawyers ("NUPL");
 - e. Sun Star Baguio;³⁰
 - f. Bulatlat.com;³¹ and,
 - g. International Coalition for Human Rights in the Philippines ("ICHRP").³²

BACKGROUND

51. Maria Catherine Dannug-Salucon is a human rights lawyer in the Philippines. She is a founding member of the National Union of Peoples' Lawyers ("NUPL"), which provides legal services to victims of human rights violations. In particular, the NUPL provides legal services to marginalized and vulnerable clients who include: farmers, workers,

²⁸ Lawyers' Rights Watch Canada ("LRWC") 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. LRWC promotes the implementation and enforcement of international standards designed to protect the independence and security of human rights defenders around the world. It began in 2000 and is run by volunteers and funded by sole membership fees and donations from individuals.

²⁹ Front Line Defenders is the International Foundation for the Protection of Human Rights Defenders. Founded in Dublin in 2001, the goal of the organization is to protect human rights defenders at risk, people who work, non-violently, for any and all rights enshrined in the Universal Declaration of Human Rights.

³⁰ The Sun Star began posting news online in October 1996. It was the first community newspaper to go online in the Philippines. In May 2000, the website was converted into the Sun Start Network Online. It pulls news and information from the Sun Star newspapers and provides aggregated content.

³¹ Bulatlat.com is an alternative online news publication in the Philippines. It is supported by citizen journalists and its mandate is "journalism for the people".

³² The ICHRP is a global network of organizations outside of the Philippines concerned about human rights in the Philippines. Its focus is to inform the international community about the human rights situation in the Philippines.

women, youth, students, children, migrant workers, indigenous peoples, minority groups, activists, the Moro people³³ and impoverished peoples.³⁴ Additionally, Maria Catherine Dannug-Salucon is known for taking on high profile cases. These cases include defending political detainees.

52. On March 25, 2014, Maria Catherine Dannug-Salucon was working with William Bugatti a paralegal and leader of the Ifugao Peasants Movement. They were both in a hearing. Maria Catherine Dannug-Salucon was representing a political prisoner accused of “murder and frustrated murder at the Regional Trial Court (RTC)”. During the hearing, the prosecution introduced a witness, who on cross-examination admitted that he did not see Maria Catherine Dannug-Salucon’s client at the scene of the reported ambush, but was shown pictures of her client before the hearing. Maria Catherine Dannug-Salucon asked William Bugatti to track down the information for the person designated to handle the prosecution’s witness.³⁵
53. Later, he met with Maria Catherine Dannug-Salucon and advised her to change her travel route when attending hearings at the RTC. That evening, William Bugatti was shot and killed while on his way home.³⁶ Afterwards, Maria Catherine Dannug-Salucon learned that the Regional Intelligence Division of the Philippine National Police (“PNP”) issued a directive to conduct a background investigation to determine if she was a “Red Lawyer”. She has been placed on the military’s Watch List of “Communist Terrorist”

33 The Moro refers to the Muslim peoples in the Mindanao, Palawan, the Sulu Archipelago and other southern islands of the Philippines. They are a minority and have been subjected to neglect and prejudice because of their faith. Encyclopaedia Britannica, “Moro”, online: Encyclopaedia Britannica <<http://www.britannica.com/EBchecked/topic/392579/Moro>>.

34 L4L, News Release, “Philippines: Maria Catherine L. Dannug-Salucon” online: <<http://www.advocatenvooradvocaten.nl/actions/maria-catherine-l-dannug-salucon/>>; NUPL Philippines, “About Us”, online: NUPL Philippines <<http://www.nupl.net/>>.

35 ICHRP, “Rights lawyer harassed, under intense surveillance by police and military agents” (4 April 2014) online: <<http://www.humanrightsphilippines.net/2014/04/rights-lawyer-harassed-under-intense-surveillance-by-police-and-military-agents/>>.

36 Maria Elena Catajan, “Task force Bugatti faces blank wall” Sun Star (28 March 2014) online: <http://www.sunstar.com.ph/baguioc-local-news/2014/03/28/task-force-bugatti-faces-blank-wall-335489>; L4L, News Release, “Philippines: Maria Catherine L. Dannug-Salucon” online: L4L <<http://www.advocatenvooradvocaten.nl/actions/maria-catherine-l-dannug-salucon/>> .

supporters who provide legal services. She also learned that the Intelligence Service of the Armed Forces of the Philippines is following her.³⁷

54. Between March 31, 2014 and April 10, 2014, individuals believed to belong to the Military Intelligence Group (“MIG”) made repeated visits to her law office. She was asked to meet the head of the MIG so they could explain their surveillance of her activities. Men on motorcycles, who are believed to be members of the military, patrolled the neighbourhood around her home and her office for a number of days. On April 3, 2014 and again on April 12, 2014, these men were watching her home. Previously, on March 12, 19 and 21, 2014, these same men were watching, stopping and questioning local community members about her whereabouts in the area surrounding her office.³⁸
55. On April 11, 2014, Maria Catherine Dannug-Salucon sought protection in the courts by filing a petition for a *writ of amparo* and a *writ of habeas data* before the Court of Appeals.³⁹ She is seeking temporary protection for both herself and her family. In her petition she is asking the court to “direct the respondents and any persons acting on their behalf to destroy any information, statements, records, photographs, dossier and all other evidences pertaining to her in their files or record”.⁴⁰ The named respondents include President Benigno Simeon Aquino III, AFP Chief-of-Staff Gen. Emmanuel Bautista, Philippine Army Commanding General Gen. Hernando Irriberri, and Commanding General of the 5th Infantry Division of the AFP Gen. Joel Ibanez.⁴¹

37 ICHRP, “Rights lawyer harassed, under intense surveillance by police and military agents” (4 April 2014) online: ICHRP <<http://www.humanrightsphilippines.net/2014/04/rights-lawyer-harassed-under-intense-surveillance-by-police-and-military-agents/>>; LRWC, Letters “Philippines: The personal and professional safety of Atty. Catherine Dannug-Salucon threatened by unwarranted surveillance and labeling” (22 April 2014) online: LRWC <<http://www.lrwc.org/philippines-the-personal-and-professional-safety-of-atty-catherine-dannug-salucon-threatened-by-unwarranted-surveillance-and-labeling-letter/>>.

38 Front Line Defenders, “Philippines – Harassment and surveillance of human rights lawyer Ms Catherine Dannug-Salucon” (16 April 2014) online: <<http://www.frontlinedefenders.org/node/25707>>.

39 The “writ of amparo is a remedy available to relatives of victims of extralegal killings, enforced disappearance or victims of threats. The writ of habeas data is a remedy available to any person whose right to privacy, life, liberty or security is violated or threatened.” Ronalyn V. Olea, “threatened rights lawyer seeks protection” *Bulatlat.com* (12 April 2014) online: <<http://bulatlat.com/main/2014/04/12/threatened-rights-lawyer-seeks-protection/>>.

40 *Ibid.*

41 *Supra* note 14.

THE MONITORING GROUP'S CONSIDERATION

56. The Monitoring Group considered the following when making a decision about the 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 Philippines 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.

TAB 2.2.1

Proposed Letters of Intervention and Public Statement

[DATE]

His Excellency Otto Pérez Molina
President of Guatemala
Office of the President
6 calle, Zona 1
Guatemala City, Guatemala

Your Excellency:

Re: Admonishment and Suspension of Dr. Iris Yassmin Barrios Aguilar Tribunal President, Courts for High Risk Crimes.

I write on behalf of the Law Society of Upper Canada* to voice our grave concern over the public admonishment and one year suspension of Judge Iris Yassmin Barrios Aguliar. When serious issues of apparent injustice to lawyers and the judiciary come to our attention, we speak out.

Recently, the Honor Tribunal of the Guatemala's bar association (el Colegio de Abogados y Notrios de Guatemala) publicly admonished and suspended Dr. Iris Yassmin Barrios Aguliar for one year based on a complaint by lawyer Moises Galindos. This is notwithstanding the fact that Guatemala's judicial competency authority ruled that his complaint was without merit.

The Law Society of Upper Canada understands that both the admonishment and the suspension are linked to Judge Iris Yassmin Barrios Aguliar's work as the Tribunal President of the Courts for High Risk Crimes. This unprecedented ruling from the Guatemala's bar association stems from her adjudication over Efrain Rios Montt's trial for genocide. Dr. Iris Yassmin Barrios Aguliar has received international recognition for her integrity and independence. In March 2014, she was among one of the recipients of the 2014 International Women of Courage Awards.

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 protection of 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 Guatemala to,

- a. reinstate Judge Iris Yassmin Barrios Aguliar to her position as Tribunal President, Court of High Risk Crimes;
- b. take steps to ensure that judges are not subject to politically-motivated sanctions as a result of issuing decisions;
- c. publicly recognize the importance and legitimacy of the work of judges and their contributions to the strengthening of democracy and the rule of law;

- d. ensure that all judges can carry out their peaceful and legitimate duties and activities without fear of removal from office; 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 46,000 lawyers and 6,300 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:

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 Grave Concern about the Suspension and Admonishment of Dr. Iris Yassmin Barrios Aguilar, Tribunal President of Guatemala's High Risk Court

The Law Society of Upper Canada is gravely concerned about the public admonishment and one year suspension of Judge Iris Yassmin Barrios Aguilar by the Guatemala's bar association.

Recently, the Honor Tribunal of the Guatemala's bar association (el Colegio de Abogados y Notrios de Guatemala) publicly admonished and suspended Dr. Iris Yassmin Barrios Aguilar for one year even though Guatemala's judicial competency authority ruled that the complaint from former dictator Efraim Rios Montt's counsel was without merit.

The Guatemala's bar association's unprecedented ruling stems from Dr. Iris Yassmin Barrios Aguilar's adjudication over former dictator Efraim Rios Montt's trial for genocide. He was found responsible for the death of 1,771 indigenous Ixil-Mayans. This trial gave voice to thousands of Ixil-Mayans victims, demonstrated the importance of an independent judiciary and provided a legal precedent for genocide cases.

Dr. Iris Yassmin Barrios Aguilar has received international acclaim for her integrity and independence. In March 2014, Dr. Iris Yassmin Barrios Aguilar was one of the recipients of 2014 International Women of Courage Award bestowed by First Lady of the United States, Michelle Obama.

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 Guatemala to,

- a. reinstate Judge Iris Yassmin Barrios Aguilar to her position as Tribunal President, Court of High Risk Crimes;
- b. take steps to ensure that judges are not subject to politically-motivated sanctions as a result of issuing decisions;
- c. publicly recognize the importance and legitimacy of the work of judges and their contributions to the strengthening of democracy and the rule of law;
- d. ensure that all judges can carry out their peaceful and legitimate duties and activities without fear of removal from office; 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 46,000 lawyers and 6,300 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 and judiciary in their effort to advance the respect of human rights and to promote the rule of law.

President Hon. Esebuia Munuo
International Association of Women Judges
Suite 350
1850 M Street NW
Washington, DC
20036 USA

Dear President Hon. Esebuia Munuo,

Re: The Public Admonishment and One Year Suspension of Judge Iris Yassmin Barrios Aguliar, Tribunal President, Court of High Risk Crimes, Guatemala

The Law Society of Upper Canada is the governing body for more than 46,000 lawyers and 6,300 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 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 Monitoring Group, the Law Society of Upper Canada sent the attached letter to the Guatemalan government expressing our deep concerns over the public admonishment and one year suspension of Dr. Iris Yassmin Barrios Aguliar by the Honor Tribunal of the Guatemala’s bar association.

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

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]

Luis Alfredo Enrique Reyes García
Presidente Junta Directiva
Colegio de Abogados y Notarios de Guatemala
calle 15-46 zona 15, colonia El Maestro
Edificio de los Colegios Profesionales
nivel 7 y 8, Guatemala

Dear Presidente Garcia,

Re: The Admonishment and Suspension of Dr. Iris Yassim Barrios Aguliar, Tribunal President for Guatemala's Courts of High Risk Crimes

The Law Society of Upper Canada is the governing body for more than 46,000 lawyers and 6,300 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 Guatemalan government expressing our deep concerns over the Honor Tribunal of the Colegio de Abogados y Notarios de Guatemala's public admonishment and suspension of Dr. Iris Yassim Barrios Aguliar for one year based on a complaint by lawyer Moises Galindos. This is notwithstanding the fact that Guatemala's judicial competency authority ruled that Moises Galindos' complaint was without merit.

The Law Society of Upper Canada understands that both the admonishment and the suspension are linked to Judge Iris Yassmin Barrios Aguliar's work as the Tribunal President of the Courts for High Risk Crimes. This unprecedented ruling from Colegio de Abogados y Notarios de Guatemala's Tribunal de Honor stems from her adjudication over Efrain Rios Montt's trial for genocide. Dr. Iris Yassmin Barrios Aguliar has received international recognition for her integrity and independence. In March 2014, she was among one of the recipients of the 2014 International Women of Courage Awards.

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 protection of 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.

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

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

TAB 2.2.2

Proposed Letters of Intervention and Public Statement

[DATE]

Prime Minister Recep Tayyip Erdoğan
Office of the Prime Minister
Bakanlıklar, P.K. 06573
Ankara, Turkey

Dear Prime Minister Erdoğan:

Re: The Judicial Harassment of Muharrem Erbey

I write on behalf of the Law Society of Upper Canada* to voice our grave concern over the arrest, lengthy pre-trial detention and trial of Maharrem Erbey. When serious issues of apparent injustice to lawyers and the judiciary come to our attention, we speak out.

Muharrem Erbey was arrested on December 24, 2009 by the Anti-Terror Unit of the Diyarbakir Security Directorate, which took part in a country wide security sweep. He was charged with “being a member of an illegal organisation”, pursuant to Article 314 of the *Turkish Criminal Code*.

However, the minutes from Muharrem Erbey’s interrogation on December 25, 2009 show that his arrest was linked to his human rights work. As a human rights defender, Muharrem Erbey has represented clients before the European Court of Human Rights and is the Vice President of the Human Rights Association of Turkey (“IHD”) and President of the local IDH in Diyarbakir, Turkey.

Additionally, Muharrem Erbey spent 1,570 days in pre-trial detention and was only recently released from detention. His release comes well after his trial began in October 2010 and after it resumed on January 12, 2014. While we welcome the court’s decision to release Muharrem Erbey, we are concerned about the persistence of charges against him and the ongoing judicial harassment of him for his human rights work.

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 Turkey to,

- a. guarantee all the procedural rights that should be accorded to Muharrem Erbey and other human rights defenders in Turkey;
- b. guarantee in all circumstances the physical and psychological integrity of Muharrem Erbey;
- c. put an end to all acts of harassment against Muharrem Erbey and other human rights defenders in Turkey;
- d. ensure that all Turkish 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 46,000 lawyers and 6,300 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:

Mr. Başbakan Yardımcıları, Deputy Prime Minister
Responsible for Human Rights and Counter Terrorism
Bakanlıklar
Ankara, Turkey

Mr. Sadullah Ergin, Minister of Justice
Ministry of Justice
Adalet Bakanligi, 06659
Ankara, Turkey

Proposed Public Statement

The Law Society of Upper Canada Expresses Grave Concerns about the Ongoing Judicial Harassment of Muharrem Erbey

The Law Society of Upper Canada is gravely concerned about the arrest, the 1,570 days of pre-trial detention and trial of Muharrem Erbey.

Muharrem Erbey is a human rights lawyer and writer. He is well known for standing by victims of human rights violations, extrajudicial killings and enforced disappearances as well as his support of Kurdish rights. He was arrested on December 24, 2009 by the Anti-Terror Unit of the Diyarbakir Security and charged with “being a member of an illegal organisation”, pursuant to Article 314 of the *Turkish Criminal Code*.

Muharrem Erbey’s arrest is related to the Koma Civakên Kurdistan (KCK) counter terrorism arrests. Since 2008, over 8,000 people have been arrested in the context of the KCK investigations. In 2012, 44 journalists were arrested on terrorist charges and accused of backing the illegal pan-Kurdish umbrella group KCK. These arrests are seen as a way for the Turkish government to criminalize peaceful dissent as well as Kurdish political and cultural expression. These investigations often target human rights defenders.

The minutes from Muharrem Erbey’s interrogation on December 25, 2009 show that his arrest was linked to his human rights work. He has represented clients before the European Court of Human Rights and is the Vice President of the Human Rights Association of Turkey (“IHD”) and President of the local IDH in Diyarbakir, Turkey.

Additionally, Muharrem Erbey spent 1,570 days in pre-trial detention and was only recently released from that detention. His release comes well after his trial began in October 2010 and after it resumed on January 12, 2014. If convicted, Muharrem Erbey faces up to 15 years in prison.

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 Turkey to,

- a. guarantee all the procedural rights that should be accorded to Muharrem Erbey and other human rights defenders in Turkey;
- b. guarantee in all circumstances the physical and psychological integrity of Muharrem Erbey;
- c. put an end to all acts of harassment against Muharrem Erbey and other human rights defenders in Turkey;
- d. ensure that all Turkish 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 46,000 lawyers and 6,300 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 Ümit Kocksakal
Istanbul Bar Association
Orhan Adli Apaydın Sokak
Baro Han K:2 34430
Beyoglu/Istanbul
Turkey

Dear President Kocasakal,

Re: The Ongoing Judicial Harassment of Muharrem Erbey

The Law Society of Upper Canada is the governing body for more than 46,000 lawyers and 6,300 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 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 Monitoring Group, the Law Society of Upper Canada sent the attached letter to the Turkish government expressing our deep concerns over the arrest, lengthy pre-trial detention and trial of Muharrem Erbey.

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

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

TAB 2.2.3

Proposed Letters of Intervention and Public Statement

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

Your Excellency President Rouhani:

Re: The Trial and Ongoing Harassment of Hadi Esmailzadeh

I write on behalf of the Law Society of Upper Canada* to voice our grave concern over the trial and ongoing harassment of human rights lawyer Hadi Esmailzadeh. When serious issues of apparent injustice to lawyers and the judiciary come to our attention, we speak out.

Hadi Esmailzadeh is an Iranian human rights lawyer and a member of the Defenders of Human Rights Centre (“DHRC”). Since the DHRC’s office’s closure in 2008, he has been interrogated by Iranian intelligence and security organizations and pressured to resign from the DHRC.

During a preliminary interrogation on July 12, 2011, Hadi Esmailzadeh was notified that he was being charged with “assembly and collusion with intent to commit anti-security crimes” based on his membership of DHRC, and “spreading propaganda against the State”. He was also banned from traveling outside of Iran.

We are particularly concerned that lawyers for Hadi Esmailzadeh have not been given access to his file in preparation for his trial. His trial was scheduled for April 15, 2014 before Branch 15 of the Islamic Revolutionary Court.

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 Iran to,

- a. guarantee all the procedural rights that should be accorded to Hadi Esmailzadeh and other human rights defenders in Iran;

- b. guarantee in all circumstances the physical and psychological integrity of Hadi Esmaeilzadeh;
- c. put an end to all acts of harassment against Hadi Esmaeilzadeh and other human rights defenders in Iran;
- d. ensure that all Iranian 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

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Cc:

Mr. Mostafa Pourmohammadi
Minister of Justice
Department of Justice
Tehran, Islamic Republic of Iran

Proposed Public Statement

The Law Society of Upper Canada Expresses Grave Concerns about the Trial and Ongoing Harassment of Hadi Esmailzadeh

The Law Society of Upper Canada is gravely concerned about the trial and judicial harassment of Hadi Esmailzadeh.

Hadi Esmailzadeh is a human rights lawyer in Iran and a member of the Defenders of Human Rights Centre (“DHRC”). Although the DHRC’s offices were closed in 2008, the organization still functions. Since the office’s closure, Hadi Esmailzadeh has been interrogated by Iranian intelligence and security organizations and pressured to resign from the DHRC.

During a preliminary interrogation on July 12, 2011, Hadi Esmailzadeh was notified he was being charged with “assembly and collusion with intent to commit anti-security crimes” based on his membership of DHRC, and “spreading propaganda against the State” He was also banned from traveling outside of Iran.

Hadi Esmailzadeh’s trial was scheduled for April 15, 2014 before Branch 15 of the Islamic Revolutionary Court. As of April 22, 2014, lawyers for Hadi Esmailzadeh had not been given access to his file in preparation for his trial.

The DHRC was founded in 2001 by five lawyers. Two of the founding lawyers, Abdolfatah Soltani and Mohammad Ali Dakhah, have been imprisoned. The DHRC provides pro bono defence for persons accused of political crimes or prisoners of conscience. Many of those accused are lawyers and law students. They facilitate free training workshops on human rights, women’s rights and the rights of the accused. In 2009, Hadi Esmailzadeh was expelled from the Higher Institute of Banking of Iran and in 2012 he was also expelled from the Islamic Azad University-Bam Unit because he refused to resign from the DHRC.

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 Iran to,

- a. guarantee all the procedural rights that should be accorded to Hadi Esmailzadeh and other human rights defenders in Iran;

- b. guarantee in all circumstances the physical and psychological integrity of Hadi Esmaeilzadeh;
- c. put an end to all acts of harassment against Hadi Esmaeilzadeh and other human rights defenders in Iran;
- d. ensure that all Iranian 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.

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

Mr. Bahman Keshavarz
Iranian Bar Associations Union
No. 3, Zagros Street
Argentina Square
Tehran, Iran
15149

Dear Chairman Keshavarz,

Re: The Trial and Ongoing Judicial Harassment of Hadi Esmaelzadeh

The Law Society of Upper Canada is the governing body for more than 46,000 lawyers and 6,300 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 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 Monitoring Group, the Law Society of Upper Canada has sent the attached letter to the Iranian government expressing our deep concerns over the trial and ongoing judicial harassment of human rights lawyer Hadi Esmaeilzadeh.

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

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

TAB 2.2.4

Proposed Letters of Intervention and Public Statement

[DATE]

Hon. Mr. Benigno S. Aquino III
President of the Republic of the Philippines Malacañang Palace
J.P. Laurel Street, San Miguel
NRC 1005, MANILA, THE PHILIPPINES

Your Excellency:

Re: The Ongoing Harassment of Maria Catherine Dannug-Salucon

I write on behalf of the Law Society of Upper Canada* to voice our grave concern over the ongoing surveillance and intimidation of Maria Catherine Dannug-Salucon, human rights lawyer and a founding member of the National Union of Peoples' Lawyers. When serious issues of apparent injustice to lawyers and the judiciary come to our attention, we speak out.

According to reliable reports, Maria Catherine Dannug-Salucon, a human rights lawyer, has been the subject of different forms of harassment, including surveillance, labelling and verbal intimidation by members of the military over the last few months.

The ongoing harassment of Maria Catherine Dannug-Salucon appears to be related to her legal work. She is a founding member of the National Union of Peoples' Lawyers ("NUPL") and has taken on high profile legal cases, including the defense of several political detainees. As a result of her work, Maria Catherine Dannug-Salucon has been placed on the Filipino military's Watch List of "Communist Terrorist" supporters who provide legal services and is now labelled as a "Red Lawyer".

Additionally, the Regional Intelligence Division of the Philippine National Police ("PNP") has allegedly ordered the PNP office in Maria Catherine Dannug-Salucon's home town to conduct a background investigation into whether she is a "Red Lawyer".

Since March, Maria Catherine Dannug-Salucon has been under the surveillance of the Intelligence Services of the Armed Forces of the Philippines. On 12, 19 and 21 of March 2014, men on motorcycles, who appeared to be members of the military, were monitoring the area around her office and questioned members of the local community as to her whereabouts. A few weeks later, on 3 and 12 April 2014, her home was also placed under surveillance by two men on a motorcycle. Between 31 March and 10 April 2014, Maria Catherine Dannug-Salucon's office was visited several times by individuals who are presumably members of the Military Intelligence Group ("MIG"). This surveillance is particularly concerning in view of the death on March 25, 2014 of William Bugatti, a paralegal who was working with Maria Catherine Dannug-Salucon.

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 the Philippines to,

- a. guarantee all the procedural rights that should be accorded to Maria Catherine Dannug-Salucon and other human rights defenders in the Philippines;
- b. guarantee in all circumstances the physical and psychological integrity of Maria Catherine Dannug-Salucon ;
- c. put an end to all acts of harassment against Maria Catherine Dannug-Salucon and other human rights defenders in the Philippines;
- 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

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Proposed Public Statement

The Law Society of Upper Canada Expresses Grave Concerns about the Ongoing Surveillance and Intimidation of Human Rights Lawyer Maria Catherine Dannug-Salucon

The Law Society of Upper Canada is gravely concerned about the ongoing surveillance and intimidation of Filipino human rights lawyer Maria Catherine Dannug-Salucon.

Maria Catherine Dannug-Salucon has been the subject of different forms of harassment, including surveillance, labelling and verbal intimidation by members of the military over the last few months.

The ongoing harassment of Maria Catherine Dannug-Salucon appears to be related to her legal work. She is a founding member of the National Union of Peoples' Lawyers ("NUPL") which provides legal services to victims of human rights violations. In particular, the NUPL provides legal services to marginalized and vulnerable clients who include: farmers, workers, women, youth, students, children, migrant workers, indigenous peoples, minority groups, the Moro people and impoverished peoples.

Maria Catherine Dannug-Salucon has also taken on high profile legal cases, including the defense of several political detainees. As a result of her work, she has been placed on the Filipino military's Watch List of "Communist Terrorist" supporters who provide legal services and she is now labelled as a "Red Lawyer".

Additionally, the Regional Intelligence Division of the Philippine National Police ("PNP") has allegedly ordered the PNP office in Maria Catherine Dannug-Salucon's home town to conduct a background investigation into whether she is a "Red Lawyer".

Since March, Maria Catherine Dannug-Salucon has been under the surveillance of the Intelligence Services of the Armed Forces of the Philippines. On 12, 19 and 21 of March 2014, men on motorcycles, who appeared to be members of the military, were monitoring the area around her office and questioned members of the local community as to her whereabouts.

A few weeks later, on 3 and 12 April 2014, her home was also placed under surveillance by two men on a motorcycle. Between 31 March and 10 April 2014, Maria Catherine Dannug-Salucon's office was visited several times by individuals presumably being members of the Military Intelligence Group ("MIG"). This surveillance is particularly concerning in view of the violent death on March 25, 2014 of William Bugatti, a paralegal who was working with Maria Catherine Dannug-Salucon.

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 the Philippines to,

- a. guarantee all the procedural rights that should be accorded to Maria Catherine Dannug-Salucon and other human rights defenders in the Philippines;
- b. guarantee in all circumstances the physical and psychological integrity of Maria Catherine Dannug-Salucon;
- c. put an end to all acts of harassment against Maria Catherine Dannug-Salucon and other human rights defenders in the Philippines;
- 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.

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

[DATE]

President Beda G. Fajaro
The Philippine Bar Association
Suite 347 Valero Plaza,
124 Valero St., Salcedo Village
Makati 1200 Philippines

Dear President Fajaro,

Re: The Ongoing Surveillance and Intimidation of Maria Catherine Dannug-Salucon

The Law Society of Upper Canada is the governing body for more than 46,000 lawyers and 6,300 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 Philippine government expressing our deep concerns over the ongoing surveillance and intimidation of human rights lawyer Maria Catherine Dannug-Salucon.

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

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

TAB 2.3

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

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

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.)

Keynote

David H. Tsubouchi — registrar and CEO, Ontario College of Trades

Speakers

Melissa Kennedy — senior vice president, General Counsel & Corporate Affairs, Ontario Teachers' Pension Plan; outgoing chair, Legal Leaders for Diversity

Sonia Mak — partner, Bordner Ladner Gervais LLP, chair, BLG's Diversity and Inclusion Committee

Ratna Omidvar — president, Maytree

Lisa Wong — senior counsel, Legal, Corporate & Compliance Group, BMO Financial Group

JUSTICIA SYMPOSIUM 2014

Date: May 28, 2014

Donald Lamont Learning Centre (11:30 a.m. – 4:45 p.m.)

Convocation Hall (5:00 p.m. – 7:00 p.m.)

"Train the Trainers" session (lunch provided): 11:30 a.m. – 12:50 p.m.

Introduction: 1:00 p.m. – 1:15 p.m.

Workshops: 1:25 p.m. – 4:05 p.m.

Panel Discussion: 4:15 p.m. – 4:45 p.m.

Reception and Keynote: 5:00 p.m. – 7:00 p.m.

ACCESS AWARENESS FORUM

Date: June 4, 2014

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

Keynote: **Shuaib Chalklen**, special rapporteur on disability for the United Nations Commission for Social Development

Panel discussion: Theories and models of disability in law and practice

Panelists:

Vera Chouinard, professor, McMaster University

Steve Estey, second vice chairperson, Council of Canadians with Disabilities
Rachel Gorman, assistant professor, Critical Disability Studies at York University
Roberto Lattanzio, staff lawyer, ARCH Disability Law Centre

PRIDE WEEK - June 17, 2013

Donald Lamont Learning Centre (5:30 p.m. – 7:30 p.m.)

Convocation Hall (7:30 p.m. – 9:30 p.m.)

Keynote: **Ann-Marie MacDonald** – Host CBC's Doc Zone, author and actress

Screening: Documentary – How We Got Gay

Moderator: **Zahara Dhanani**, Part-time commission member/adjudicator, Ontario
Civilian Police Commission, Duty Counsel (Per-diem)

Panelists:

Ann-Marie MacDonald

Marc de Guerre (director of the documentary)

Bob Gallagher (featured in documentary) co-founder of both the Campaign for Equal
Families and Canadians for Equal Marriage

Angela Swan (transgender) member of Women Lawyers Forum

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.)

Panel discussion: The Intersection of Treaties and Resource Development with First
Nations (working title)

Event in partnership with the Chiefs of Ontario