



Tab 4

Report to Convocation September 24, 2014

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

Committee Members
Julian Falconer, Chair
Janet Leiper, Chair
Susan Hare, Vice-Chair and Special Liaison with the Access to Justice Committee
Beth Symes, Vice-Chair
Constance Backhouse
Peter Festeryga
Avvy Go
Howard Goldblatt
Jeffrey Lem
Marian Lippa
Dow Marmur
Barbara Murchie
Judith Potter
Susan Richer

Purposes of Report: Decision and Information

**Prepared by the Equity Initiatives Department
(Josée Bouchard – 416-947-3984)**

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Public Education Equality and Rule of Law Series Calendar 2014

COMMITTEE PROCESS

1. The Equity and Aboriginal Issues Committee/Comité sur l'équité et les affaires autochtones (the "Committee") met on September 11, 2014. Committee members Julian Falconer, Chair, Janet Leiper, Chair, Susan Hare, Vice-Chair and Special Liaison with the Access to Justice Committee, Beth Symes, Vice-Chair, Constance Backhouse, Peter Festeryga, Avvy Go, Howard Goldblatt, Jeffrey Lem, Marian Lippa, Dow Marmur, Barbara Murchie, Judith Potter and Susan Richer attended. Sandra Yuko Nishikawa, Chair of the Equity Advisory Group, also participated. Professor Fiona Kay, Queen's University, attended to make a presentation. Staff members Josée Bouchard, Ross Gower, Lisa Hall, Marisha Roman, Ekua Quansah, Roy Thomas and Grant Wedge also attended.

FOR DECISION

HUMAN RIGHTS MONITORING GROUP REQUEST FOR INTERVENTIONS

Request to Convocation

2. That Convocation approve the letters and public statements in the following cases:
 - a. Lawyer Intigam Aliyev – Azerbaijan – letters of intervention and public statement presented at [TAB 4.1.1](#).
 - b. Lawyer Waleed Abu al-Khair – Saudi Arabia – letters of intervention and public statement presented at [TAB 4.1.2](#).

SUMMARY

Rationale

3. The request for interventions falls within the mandate of the Human Rights Monitoring Group (the “Monitoring Group”) to,
 - a. review information that comes to its attention about human rights violations that target members of the profession and the judiciary, here and abroad, as a result of the discharge of their legitimate professional duties;
 - b. determine if the matter is one that requires a response from the Law Society; and,
 - c. prepare a response for review and approval by Convocation.

Key Issues and Considerations

4. The Monitoring Group considered the following factors when making a decision about the case of the arrest and detention of human rights lawyer Intigam Aliyev:
 - a. there are no concerns about the quality of sources used for this report;
 - b. the Law Society of Upper Canada has not intervened in respect of human rights issues in Azerbaijan in the past;
 - c. the arrest and continued detention of Intigam Aliyev falls within the mandate of the Monitoring Group.
5. The Monitoring Group considered the following factors when making a decision about the case of the arrest, continued detention and severe sentencing of human rights lawyers Waleed Abu al-Khair:

- a. there are no concerns about the quality of sources used for this report;
- b. in the past, the Law Society of Upper Canada has condemned the persecution and ill-treatment of lawyers in Saudi Arabia, including Abdul Rahman al-Lahem, Sulaiman al-Rashudi, and Essam al-Basrawi;
- c. the arrest and continued detention of Waleed Abu al-Khair falls within the mandate of the Monitoring Group.

DISCUSSION

Azerbaijan – The Arrest And Detention of Human Rights Lawyer Intigam Aliyev

Sources of Information

6. The background information for this report was taken from the following sources:
 - a. Council of Bars and Law Societies of Europe (“CCBE”);¹
 - b. Front Line Defenders;²
 - c. Lawyers for Lawyers (“L4L”);³ and,
 - d. Radio Free Europe / Radio Liberty (“RFE/RL”).⁴

Background

7. The following information has been reported about Intigam Aliyev.

1 The CCBE, founded in 1960, represents the bars and law societies of 32 European member States and 13 additional associate and observer countries. It acts as the liaison between the European Union and Europe’s national bars, and law societies, representing more than 1 million European lawyers. The CCBE has been at the forefront of advancing the views of European lawyers and defending the legal principles upon which democracy and the rule of law are based.

2 Front Line Defenders is an international charitable organization, founded in Dublin in 2001, with the aim of protecting human rights defenders. The group promotes respect for the UN Declaration on Human Rights Defenders and maintains a special consultative status with the Economic and Social Council of the United Nations. Front Line Defenders also maintains partnership status with the Council of Europe and observer status with the African Commission on Human and Peoples’ Rights.

3 L4L is an independent and non-political Dutch foundation seeking to promote the proper functioning of the rule of law. L4L provides financial, moral and/or legal support to oppressed lawyers and lawyers’ organizations. The organization maintains contact and co-operates with the United Nations, the European Union, governments, embassies, universities, human rights organizations, as well as individual lawyers worldwide. L4L was granted Special Consultative status with the UN Economic and Social Council in July 2013.

4 RFE/RL is one of the most comprehensive media organizations in the world, producing radio, Internet and television programs in countries where a free press is either banned by the government or not fully established. RFE/RL broadcasts in 28 languages in 21 countries. RFE and RL were originally separate organizations, which were established at the beginning of the Cold War to transmit uncensored news and information to audiences behind the Iron Curtain. Initially, both RFE and RL were funded principally by the U.S. Congress through the Central Intelligence Agency. All CIA involvement ceased in 1971 and the two organizations were funded by Congressional appropriation through the Board for International Broadcasting. In 1976 the two corporations merged. In 1991, former Estonian President Lennart Meri nominated RFE/RL for the Nobel Peace Prize.

8. Intigam Aliyev is a prominent human rights lawyer in Azerbaijan and the head of the Legal Education Society, a human rights organization that provides legal support to low-income groups and non-governmental organizations.⁵ Intigam Aliyev was awarded the Homo Homini human rights award in the Czech Republic in 2013.⁶
9. Reports indicate that Intigam Aliyev was summoned for interrogation in the Serious Crimes Investigation Prosecutor's Office in Baku on 8 August 2014, where he was subsequently charged with tax evasion, illegal enterprise, and abuse of official power.⁷
10. During his interrogation, Intigam Aliyev was allegedly asked to present evidence, as a witness, pertaining to a criminal case initiated by Azerbaijani authorities against a group of NGOs.⁸ There is concern that the authorities were attempting to obtain confidential and/or privileged information relating to the case against the group of NGOs during the interrogation.
11. Later on 8 August 2014, the Nasimi District Court in Baku allegedly ordered Intigam Aliyev's pre-trial detention for three months. According to reports, he was then transferred to Baku Pre-Trial Detention Facility. His lawyer has appealed the ruling for pre-trial detention. Intigam Aliyev may face up to seven years in prison if convicted of the charges.⁹
12. On 9 August 2014, Intigam Aliyev circulated a statement through his lawyer denying the charges and criticizing the motives of his arrest as political rather than legal.¹⁰ There are concerns that his arrest could be related to a recent speech he made at the Parliamentary Assembly of the Council of Europe, in which he criticized Azerbaijani authorities for human rights abuses, increasing numbers of political prisoners, and making less room for independent NGOs.¹¹ The European Court of Human Rights has also begun addressing complaints submitted with Intigam Aliyev's assistance.
13. The CCBE published a letter, sent from its President to President Ilham Aliyev of Azerbaijan, intervening in this matter. The letter properly draws attention to Article 16 and

5 "Azerbaijan – Human rights defender Mr Intigam Aliyev in pre-trial detention while a group of NGOs' bank accounts are frozen", *Front Line Defenders* (12 August 2014), online:

<<http://www.frontlinedefenders.org/node/26850>> [FLD].

6 "Azerbaijani Rights Activist Jailed For Three Months", *RFE/RL* (8 August 2014), online:

<<http://www.rferl.org/content/azerbaijan-rights-activist-detain-intigam-aliyev/26520249.html>> [RFE/RL].

7 *Ibid.*

8 "Re: Concerns regarding human rights lawyer Mr Intigam Aliyev", *President of the CCBE* (Letter) (14 August 2014), online:

<http://www.ccbe.eu/fileadmin/user_upload/NTCdocument/HR_letter_Azerbaijan1_1408349466.pdf>

[CCBE]. The CCBE letter indicates that "on 5 August 2014 the court in Baku upheld the petition of the General Prosecutor's office and ruled to freeze the bank accounts of nine national NGOs and one international NGO, including bank accounts of the Legal Education Society and the Association of Lawyers in Azerbaijan."

9 *Ibid.*

10 *Ibid.*

11 "Intigam Aliyev: Azerbaijan", *Lawyers for Lawyers*, online:

<<http://www.advocatenvooradvocaten.nl/actions/intigam-aliyev/>>.

Article 23 of the United Nations *Basic Principles on the Role of Lawyers*.¹² Article 16 states that:

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

Article 23 states:

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

14. RFE/RL reported that human rights defenders Rasul Jafarov, and Leyla and Arif Unus, were also arrested on similar charges.¹³ The CCBE, Front Line Defenders, and Lawyers for Lawyers believe Intigam Aliyev's claim that his arrest was politically motivated. These groups are calling for his immediate release.

Saudi Arabia – The Arrest, Continued Detention and Severe Sentence of Human Rights Lawyer Waleed Abu Al-Khair

Sources of Information

15. The background information for this report was taken from the following sources:
 - a. Amnesty International;¹⁴
 - b. British Broadcasting Corporation ("BBC");¹⁵
 - c. Front Line Defenders;

¹² United Nations, *Basic Principles on the Role of Lawyers*, 7 September 1990, online: <<http://www.refworld.org/docid/3ddb9f034.html>>.

¹³ RFE/RL.

¹⁴ Amnesty International is an independent and democratically-run organization. The movement's mission and policies, and its long-term directions, are all set by Amnesty members. Amnesty representatives from around the world gather every two years to set policy at the International Council Meeting (ICM). The Council also elects an International Executive Committee which ensures that the ICM's decisions are carried out. Where Amnesty International is formally organized in a particular country, such as in Canada, Amnesty members set policy and key priorities within the framework of the worldwide movement. Amnesty International's work is always being assessed by its members and staff in the light of changing world circumstances. When major changes in policy and approach are needed, Amnesty members make the final decision.

¹⁵ The BBC, founded in 1922, is one of the world's most respected sources for news. It has been a global service since 1932.

- d. Gulf Centre for Human Rights (“GCHR”),¹⁶
- e. Human Rights Watch,¹⁷ and,
- e. U.S. Department of State.¹⁸

Background

16. The following information has been reported about Waleed Abu al-Khair.
17. Waleed Abu al-Khair is a prominent human rights lawyer, activist, and the founder and director of Monitor for Human Rights in Saudi Arabia.¹⁹ Waleed Abu al-Khair was awarded the Olof Palme Memorial Fund Prize in 2012 for his work.²⁰
18. On 4 October 2013, Saudi authorities arrested Waleed Abu al-Khair for hosting a weekly discussion group for reformists.²¹ Reports indicate that he was brought before the Specialized Criminal Court in Riyadh on 6 October 2013, facing a number of charges, including “breaking allegiance to and disobeying the ruler”, “disrespecting the authorities”, “offending the judiciary”, “inciting international organizations against the Kingdom” and “founding an unlicensed organization.”²²
19. On 29 October 2013, a different criminal court in Jeddah sentenced him to three months in prison on similar charges.²³ On 6 February 2014, the Court of Appeal upheld that sentence and conviction.²⁴

16 The GCHR was founded in 2011. It is an independent, non-profit NGO, with offices in Beirut and Copenhagen. The GCHR provides support and protection to human rights defenders working in the six Gulf Cooperation Council member states (Bahrain, Kuwait, Oman, Qatar, Saudi Arabia and the United Arab Emirates), and to those working in Iran, Iraq, Yemen and Syria. It receives guidance from an Advisory Board composed of regional and international human rights defenders, including academics and lawyers.

17 Human Rights Watch is a charitable organization that first began in 1978 with the creation of Helsinki Watch, which was designed to support citizens groups within the Soviet bloc to monitor government compliance with the 1975 Helsinki Accords. Related “Watch Committees” arose to address human rights abuses in the Americas, Asia, Africa, and the Middle East. In 1988, the organization formally adopted the all-inclusive “Human Rights Watch” name. In 1997, Human Rights Watch shared the Nobel Peace Prize for its efforts that contributed to banning landmines internationally. Human Rights Watch investigates abuses by using traditional on-the-ground fact-finding, supplemented by new technologies in fact-finding research, to defend the rights of people worldwide.

18 The U.S. Department of State, created in 1789, is the federal executive department responsible for the United States’ international relations. The Department of State was the first executive department established.

19 “Saudi Arabia – Human rights lawyer Waleed Abu Al-Khair subjected to ill-treatment and imprisoned with criminals”, Gulf Centre for Human Rights (21 July 2014), online: <<http://gc4hr.org/news/view/702>> [GCHR].

20 “Update – Saudi Arabia: Mr Waleed Abu Al-Khair receives lengthy prison sentence and travel ban”, *Front Line Defenders* (7 July 2014), online: <<http://www.frontlinedefenders.org/node/26509>> [FLD].

21 “Saudi Arabia: Jailed for Hosting Discussion Group”, *Human Rights Watch* (4 October 2013), online: <<http://www.hrw.org/news/2013/10/04/saudi-arabia-jailed-hosting-discussion-group>> [HRW].

22 “Saudi Arabia jails lawyer and human rights activist in ongoing crackdown on dissent”, *Amnesty International* (16 April 2014), online: <<http://www.amnesty.org/en/news/saudi-arabia-waleed-abu-al-khair-2014-04-16>> [Amnesty].

23 *Amnesty*.

24 *Ibid*.

20. Reports indicate that after he served his sentence, Waleed Abu al-Khair was then detained on 15 April 2014 for “criticising and insulting the judiciary”; “assembling international organisations against the Kingdom”; “creating and supervising an unlicensed organisation, and contributing to the establishment of another”; and, “preparing and storing information that will affect public security.”²⁵ On 6 July 2014, the first instance Specialized Criminal Court in Jeddah sentenced Waleed Abu al-Khair to 15 years in prison, a 15 year ban on travel, and a fine of 200,000 Saudi riyal (almost CDN \$60,000).²⁶
21. The U.S. Department of State has expressed its concern over the duration of the sentence, travel ban, and steep fine.²⁷ The organizations listed in this report believe that these charges are ‘trumped up’, and appear to be punishing peaceful activism.²⁸ A spokesperson for Human Rights Watch noted that the crackdown in Saudi Arabia “on peaceful human rights activists “makes a mockery of its membership in the UN Human Rights Council in Geneva, whose members are expected to promote and protect the very rights that Saudi authorities are trampling underfoot.”²⁹
22. Furthermore, the GCHR brings forward additional concerns, noting that Waleed Abu al-Khair “is the only human rights defender in Buraiman prison and his ill-treatment and detention are in violation of the UN Convention of Civil and Political Rights as well as the UN Standard Minimum Rules for the Treatment of Prisoners in [...] section 8 (c) which states that ‘Persons imprisoned for debt and other civil prisoners shall be kept separate from persons imprisoned by reason of a criminal offence.’”³⁰
23. The arrest, continued detention, and severe punishment of Waleed Abu al-Khair stands in contrast to Saudi Arabia’s responsibilities under international law, and as a current member of the United Nations Human Rights Council. Organizations are calling for his release and an end to the crackdown on human rights activists in Saudi Arabia.

25 *FLD*.

26 *Ibid*.

27 U.S. Department of State, *Sentencing of Saudi Human Rights Lawyer Waleed Abu al-Khai* (Press Statement) (7 July 2014), online: <<http://www.state.gov/r/pa/prs/ps/2014/07/228840.htm>>.

28 “Saudi activist Waleed Abu al-Khair sentenced to prison”, *BBC* (7 July 2014), online: <<http://www.bbc.com/news/world-middle-east-28200195>> [*BBC*].

29 *Ibid*.

30 *GCHR*.

TAB 4.1.1

PROPOSED LETTER OF INTERVENTION

INTIGAM ALIYEV

His Excellency the President of Azerbaijan
Ilham Aliyev
Presidential Palace
19 Istiqlaliyyat St,
Baku AZ1066,
Azerbaijan Republic

Your Excellency:

Re: The arrest and continued detention of human rights lawyer Intigam Aliyev

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

Intigam Aliyev is a prominent human rights lawyer in Azerbaijan and the head of the Legal Education Society, a human rights organization that provides legal support to low-income groups and non-governmental organizations. Mr. Aliyev was awarded the Homo Homini human rights award in the Czech Republic in 2013.

Reports indicate that Mr. Aliyev was summoned for interrogation in the Serious Crimes Investigation Prosecutor's Office in Baku on 8 August 2014, where he was subsequently charged with tax evasion, illegal enterprise, and abuse of official power.

During his interrogation, Mr. Aliyev was allegedly asked to present evidence, as a witness, pertaining to a criminal case initiated by Azerbaijani authorities against a group of non-governmental organizations. There is concern that the authorities were attempting to obtain confidential and/or privileged information relating to the case against the group of non-governmental organizations during the interrogation.

It was reported that, on 8 August 2014, the Nasimi District Court in Baku ordered Mr. Aliyev's pre-trial detention for three months. We understand that his lawyer has appealed the ruling for pre-trial detention. Reports indicate that Mr. Aliyev may face up to seven years in prison if convicted of the charges.

On 9 August 2014, Intigam Aliyev circulated a statement through his lawyer denying the charges and criticizing the motives of his arrest as political rather than legal. The Law Society of Upper Canada is concerned that his arrest could be related to a recent speech he made at the

Parliamentary Assembly of the Council of Europe, in which he criticized Azerbaijani authorities for human rights abuses, increasing numbers of political prisoners, and making less room for independent non-governmental organizations. The European Court of Human Rights has also begun addressing complaints submitted with Intigam Aliyev's assistance.

In concern over these reports, the Law Society of Upper Canada would like urges your Excellency to consider Articles 16 and 23 of the United Nations *Basic Principles on the Role of Lawyers*.

Article 16 states:

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

Moreover, Article 23 states:

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

The Law Society of Upper Canada is concerned that Intigam Aliyev's arrest and continued detention is evidence of mounting government pressure against human rights lawyers and defenders in Azerbaijan. There are reports that human rights defenders Rasul Jafarov, and Leyla and Arif Unus, were also arrested on similar charges.

The Law Society urges the government of the Republic of Azerbaijan to,

- a. release Intigam Aliyev immediately, as he is a prisoner of conscience;
- b. guarantee in all circumstances the physical and psychological integrity of Intigam Aliyev;
- c. provide Intigam Aliyev with regular access to his lawyer and family;
- d. guarantee all the procedural rights that should be accorded to Intigam Aliyev and other human rights lawyers and defenders in Azerbaijan;
- e. conduct a fair, impartial and independent investigation into any allegations of misconduct in the arrest and trial of Intigam Aliyev in order to identify all those responsible, bring them to trial and apply to them civil, penal and/or administrative sanctions provided by law;
- f. guarantee that adequate reparation would be provided to Intigam Aliyev if found to be a victim of abuses;

- g. put an end to all acts of harassment against Intigam Aliyev as well as other human rights lawyer and defenders in Azerbaijan;
- h. ensure in all circumstances respect for human rights and fundamental freedoms in accordance with international human rights standards and international instruments.

Yours very truly,

Janet E. Minor

Treasurer

**The Law Society of Upper Canada is the governing body for more than 47,000 lawyers and 6,000 paralegals in the province of Ontario, Canada. The Treasurer is the head of the Law Society.*

The mandate of the Law Society is to govern the legal profession in the public interest by upholding the independence, integrity and honour of the legal profession for the purpose of advancing the cause of justice and the rule of law.

cc:

Mr. Fikrat F. Mammadov
Minister of Justice of the Republic of Azerbaijan
AZ 1073, İnshaatchılar ave., 1
Azerbaijan

Mr. Elmar Maharram oglu Mammadyarov
Minister of Foreign Affairs of the Republic of Azerbaijan
AZ 1009, Baku, Shikhali Qurbanov str. 4
Azerbaijan

Mr. Ramil Huseynli, Chargé d'Affaires
Embassy of the Republic of Azerbaijan to Canada
275 Slater Street, Suite 1203
Ottawa, ON, Canada
K1P 5H9

Alex Neve, Secretary General, Amnesty International Canada

Mary Lawlor, Executive Director, Front Line Defenders

Vincent Forest, Head of European Union Office, Front Line Defenders

Kenneth Roth, Executive Director, Human Rights Watch

Adrie van de Streek, Executive Director, Lawyers for Lawyers

David F. Sutherland, Chair, Lawyers Rights Watch Canada

Yves Berthelot, President, Observatory for the Protection of Human Rights

Mr. Azer Tagiyev, President of the Azerbaijan Bar Association

Mr. Ali Mohammed Huseynli, Chairman, Azerbaijan Lawyers Confederation

Michael Frost, Special Rapporteur on the situation of human rights defenders, Office of the High Commissioner for Human Rights

Gabriella Knaul, Special Rapporteur of the Human Council on the independence of judges and lawyers, Office of the United Nations High Commissioner for Human Rights

Nicholas Fluck, President, The Law Society of England and Wales

Proposed Public Statement

The Law Society of Upper Canada Expresses Grave Concerns about the Arrest and Ongoing Detention of Intigam Aliyev in Azerbaijan

The Law Society of Upper Canada is gravely concerned about the arrest and ongoing detention of lawyer Intigam Aliyev in Azerbaijan.

Intigam Aliyev is a prominent human rights lawyer in Azerbaijan and the head of the Legal Education Society, a human rights organization that provides legal support to low-income groups and non-governmental organizations. Mr. Aliyev was awarded the Homo Homini human rights award in the Czech Republic in 2013.

Reports indicate that Mr. Aliyev was summoned for interrogation in the Serious Crimes Investigation Prosecutor's Office in Baku on 8 August 2014, where he was subsequently charged with tax evasion, illegal enterprise, and abuse of official power.

During his interrogation, Mr. Aliyev was allegedly asked to present evidence, as a witness, pertaining to a criminal case initiated by Azerbaijani authorities against a group of non-governmental organizations. There is concern that the authorities were attempting to obtain confidential and/or privileged information relating to the case against the group of non-governmental organizations during the interrogation.

It was reported that, on 8 August 2014, the Nasimi District Court in Baku ordered Mr. Aliyev's pre-trial detention for three months. His lawyer has appealed the ruling for pre-trial detention. Reports indicate that Mr. Aliyev may face up to seven years in prison if convicted of the charges.

On 9 August 2014, Intigam Aliyev circulated a statement through his lawyer denying the charges and criticizing the motives of his arrest as political rather than legal. The Law Society of Upper Canada is concerned that his arrest could be related to a recent speech he made at the Parliamentary Assembly of the Council of Europe, in which he criticized Azerbaijani authorities for human rights abuses, increasing numbers of political prisoners, and making less room for independent non-governmental organizations. The European Court of Human Rights has also begun addressing complaints submitted with Mr. Aliyev's assistance.

In concern over these reports, the Law Society of Upper Canada would like to remind the Government of the Republic of Azerbaijan of Articles 16 and 23 of the United Nations *Basic Principles on the Role of Lawyers*.

Article 16 states:

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

Moreover, Article 23 states:

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

The Law Society of Upper Canada is concerned that Intigam Aliyev's arrest and continued detention is evidence of mounting government pressure against human rights lawyers and defenders in Azerbaijan. There are reports that human rights defenders Rasul Jafarov, and Leyla and Arif Unus, were also arrested on similar charges.

The Law Society urges the government of the Republic Azerbaijan to,

- a. release Intigam Aliyev immediately, as he is a prisoner of conscience;
- b. guarantee in all circumstances the physical and psychological integrity of Intigam Aliyev;
- c. provide Intigam Aliyev with regular access to his lawyer and family;
- d. guarantee all the procedural rights that should be accorded to Intigam Aliyev and other human rights lawyers and defenders in Azerbaijan;
- e. conduct a fair, impartial and independent investigation into any allegations of misconduct in the arrest and trial of Intigam Aliyev in order to identify all those responsible, bring them to trial and apply to them civil, penal and/or administrative sanctions provided by law;
- f. guarantee that adequate reparation would be provided to Intigam Aliyev if found to be a victim of abuses;
- g. put an end to all acts of harassment against Intigam Aliyev as well as other human rights lawyer and defenders in Azerbaijan;
- h. 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 more than 47,000 lawyers and 6,000 paralegals in the province of Ontario, Canada. The Treasurer is the head of the Law Society.*

The mandate of the Law Society is to govern the legal profession in the public interest by upholding the independence, integrity and honour of the legal profession for the purpose of advancing the cause of justice and the rule of law.

Proposed Letter to Lawyers' Associations

Dear [Name],

Re: The arrest and continued detention of human rights lawyer Intigam Aliyev

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 His Excellency Ilham Aliyev, President of Azerbaijan, expressing our deep concerns over reports of the arrest and continued detention of human rights lawyer Intigam Aliyev.

We would be very interested in hearing from you concerning the situation noted in the attached letter, whether your organization has intervened in this matter and whether we have any of the facts in the case wrong. Any further information you may have about the case would also be welcome.

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

I thank you for your time and consideration.

Sincerely,

Paul Schabas
Chair, Human Rights Monitoring Group

* The Law Society of Upper Canada is the governing body for more than 47,000 lawyers and 6,000 paralegals in the province of Ontario, Canada. The Law Society is committed to preserving the rule of law and to the maintenance of an independent Bar. Due to this commitment, the Law Society established a Human Rights Monitoring Group ("Monitoring Group"). The Monitoring Group has a mandate to review information of human rights violations targeting, as a result of the discharge of their legitimate professional duties, members of the legal profession and the judiciary, in Canada and abroad. The Human Rights Monitoring Group reviews such information and determines if a response is required of the Law Society.

Letter to be sent to:

- Alex Neve, Secretary General, Amnesty International Canada
- Mary Lawlor, Executive Director, Front Line Defenders
- Vincent Forest, Head of European Union Office, Front Line Defenders
- Kenneth Roth, Executive Director, Human Rights Watch

- Adrie van de Streek, Executive Director, Lawyers for Lawyers
- David F. Sutherland, Chair, Lawyers Rights Watch Canada
- Yves Berthelot, President, Observatory for the Protection of Human Rights
- Mr. Azer Tagiyev, President of the Azerbaijan Bar Association
- Mr. Ali Mohammed Huseynli, Chairman, Azerbaijan Lawyers Confederation
- Michael Frost, Special Rapporteur on the situation of human rights defenders, Office of the High Commissioner for Human Rights
- Gabriella Knaul, Special Rapporteur of the Human Council on the independence of judges and lawyers, Office of the United Nations High Commissioner for Human Rights
- Nicholas Fluck, President, The Law Society of England and Wales

TAB 4.1.2

PROPOSED LETTER OF INTERVENTION

WALEED ABU AL-KHAIR

King Abdullah Bin Abdul Aziz Al-Saud
The Custodian of the two Holy Mosques
Office of His Majesty the King
Royal Court
Riyadh, Kingdom of Saudi Arabia

Your Majesty,

**Re: The arrest, continued detention, and severe punishment of human rights lawyer
Waleed Abu al-Khair**

I write on behalf of the Law Society of Upper Canada* to voice our grave concern over the case of Waleed Abu al-Khair. When serious issues of apparent injustice to lawyers and the judiciary come to our attention, we speak out.

Waleed Abu al-Khair is a prominent human rights lawyer, activist, and the founder and director of Monitor for Human Rights in Saudi Arabia. Mr. al-Khair was awarded the Olof Palme Memorial Fund Prize in 2012 for his work.

On 4 October 2013, Saudi authorities arrested Mr. al-Khair for hosting a weekly discussion group for reformists. Reports indicate that he was brought before the Specialized Criminal Court in Riyadh on 6 October 2013, facing a number of charges, including “breaking allegiance to and disobeying the ruler”, “disrespecting the authorities”, “offending the judiciary”, “inciting international organizations against the Kingdom” and “founding an unlicensed organization.”

Reports indicated that, on 29 October 2013, a different criminal court in Jeddah sentenced him to three months in prison on similar charges. On 6 February 2014, the Court of Appeal upheld that sentence and conviction.

Mr. al-Khair was then reportedly detained on 15 April 2014 for “criticising and insulting the judiciary”; “assembling international organisations against the Kingdom”; “creating and supervising an unlicensed organisation, and contributing to the establishment of another”; and, “preparing and storing information that will affect public security.” On 6 July 2014, the first instance Specialized Criminal Court in Jeddah sentenced Mr. al-Khair to 15 years in prison, a 15 year ban on travel, and a fine of 200,000 Saudi riyal.

The Law Society is aware that the U.S. Department of State has expressed its concern over the duration of the sentence, travel ban, and steep fine. There are also several well-known international organizations which maintain that the charges are 'trumped up', and are punishing peaceful activism. There are additional concerns, that Mr. al-Khair is the only human rights defender in Buraiman prison. There are reports that the nature of his detention amounts to ill-treatment and is in violation of the UN *Convention of Civil and Political Rights* as well as the UN *Standard Minimum Rules for the Treatment of Prisoners* in section 8 (c) which states that 'Persons imprisoned for debt and other civil prisoners shall be kept separate from persons imprisoned by reason of a criminal offence.'

The Law Society is deeply concerned about situations where lawyers are targeted in the legitimate exercise of their duties. As a current member of the UN Human Rights Council, Saudi Arabia should be aware of International human rights instruments, including the *Universal Declaration of Human Rights*, state that respect for humans rights are 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".

Moreover, Article 23 states:

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

The Law Society urges the government of Saudi Arabia to,

- a. release Waleed Abu al-Khair immediately, as he is a prisoner of conscience;
- b. guarantee in all circumstances the physical and psychological integrity of Waleed Abu al-Khair;
- c. provide Waleed Abu al-Khair with regular access to his lawyer and families;
- d. guarantee all the procedural rights that should be accorded to Waleed Abu al-Khair, and other human rights defenders in Saudi Arabia;
- e. conduct a fair, impartial and independent investigation into any allegations of misconduct or ill-treatment in the arrest, detention, and sentencing of Waleed Abu al-Khair, in order to identify all those responsible, bring them to trial and apply to them civil, penal and/or administrative sanctions provided by law;
- f. guarantee that adequate reparation would be provided to Waleed Abu a-Khair if found to be a victim of abuses;

- g. put an end to all acts of harassment against Waleed Abu al-Khair, as well as other human rights defenders in Saudi Arabia;
- h. ensure in all circumstances respect for human rights and fundamental freedoms in accordance with international human rights standards and international instruments.

Yours very truly,

Janet E. Minor

Treasurer

**The Law Society of Upper Canada is the governing body for more than 47,000 lawyers and 6,000 paralegals in the province of Ontario, Canada. The Treasurer is the head of the Law Society.*

The mandate of the Law Society is to govern the legal profession in the public interest by upholding the independence, integrity and honour of the legal profession for the purpose of advancing the cause of justice and the rule of law.

cc:

Dr. Mohammed bin Abdulkareem Al-Issa
Minister of Justice of the Kingdom of Saudi Arabia
University Street, Riyadh 11137
Saudi Arabia

HRH Prince Saud Al-Faisal bin Abdulaziz Al-Saud
Minister of Foreign Affairs of the Kingdom of Saudi Arabia
Nasseriya Street, Riyadh 11124
Saudi Arabia

Ambassador Luo Zhaohui
The Royal Embassy of Saudi Arabia
201 Sussex Drive
Ottawa, ON, Canada

Alex Neve, Secretary General, Amnesty International Canada

Mary Lawlor, Executive Director, Front Line Defenders

Vincent Forest, Head of European Union Office, Front Line Defenders

Kenneth Roth, Executive Director, Human Rights Watch

Adrie van de Streek, Executive Director, Lawyers for Lawyers

David F. Sutherland, Chair, Lawyers Rights Watch Canada

Yves Berthelot, President, Observatory for the Protection of Human Rights

Michael Frost, Special Rapporteur on the situation of human rights defenders, Office of the High Commissioner for Human Rights

Gabriella Knaul, Special Rapporteur of the Human Council on the independence of judges and lawyers, Office of the United Nations High Commissioner for Human Rights

Nicholas Fluck, President, The Law Society of England and Wales

Proposed Public Statement

The Law Society of Upper Canada Expresses Grave Concerns about the Arrest, Ongoing Detention, and Severe Sentence of Waleed Abu al-Khair in Saudi Arabia

The Law Society of Upper Canada is gravely concerned about the arrest, ongoing detention, and severe sentence of lawyer Waleed Abu al-Khair in Saudi Arabia.

Waleed Abu al-Khair is a prominent human rights lawyer, activist, and the founder and director of Monitor for Human Rights in Saudi Arabia. Mr. al-Khair was awarded the Olof Palme Memorial Fund Prize in 2012 for his work.

On 4 October 2013, Saudi authorities arrested Mr. al-Khair for hosting a weekly discussion group for reformists. Reports indicate that he was brought before the Specialized Criminal Court in Riyadh on 6 October 2013, facing a number of charges, including “breaking allegiance to and disobeying the ruler”, “disrespecting the authorities”, “offending the judiciary”, “inciting international organizations against the Kingdom” and “founding an unlicensed organization.”

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The Law Society is aware that the U.S. Department of State has expressed its concern over the duration of the sentence, travel ban, and steep fine. There are also several well-known international organizations which maintain that the charges are ‘trumped up’, and are punishing peaceful activism. There are additional concerns, that Mr. al-Khair is the only human rights defender in Buraiman prison. There are reports that the nature of his detention amounts to ill-treatment and is in violation of the UN *Convention of Civil and Political Rights* as well as the UN *Standard Minimum Rules for the Treatment of Prisoners* in section 8 (c) which states that ‘Persons imprisoned for debt and other civil prisoners shall be kept separate from persons imprisoned by reason of a criminal offence.’

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“governments shall ensure that lawyers are able to perform all of their professional functions without intimidation, hindrance, harassment or improper interference; are able to travel and to consult with their clients freely; and shall not suffer, or be threatened with, prosecution or administrative, economic or other sanctions for any action taken in accordance with recognized professional duties, standards and ethics”. Article 18 states “lawyers shall not be identified with their clients or their clients’ causes as a result of discharging their functions”.

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The Law Society urges the government of Saudi Arabia to,

- a. release Waleed Abu al-Khair immediately, as he is a prisoner of conscience;
- b. guarantee in all circumstances the physical and psychological integrity of Waleed Abu al-Khair;
- c. provide Waleed Abu al-Khair with regular access to his lawyer and families;
- d. guarantee all the procedural rights that should be accorded to Waleed Abu al-Khair, and other human rights defenders in Saudi Arabia;
- e. conduct a fair, impartial and independent investigation into any allegations of misconduct or ill-treatment in the arrest, detention, and sentencing of Waleed Abu al-Khair, in order to identify all those responsible, bring them to trial and apply to them civil, penal and/or administrative sanctions provided by law;
- f. guarantee that adequate reparation would be provided to Waleed Abu a-Khair if found to be a victim of abuses;
- g. put an end to all acts of harassment against Waleed Abu al-Khair, as well as other human rights defenders in Saudi Arabia;
- h. 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 mandate of the Law Society is to govern the legal profession in the public interest by upholding the independence, integrity and honour of the legal profession for the purpose of advancing the cause of justice and the rule of law.

Proposed Letter to Associations

Dear [Name],

Re: The arrest, continued detention, and severe punishment of human rights lawyer Waleed Abu al-Khair

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 His Majesty King Abdullah Bin Abdul Aziz Al-Saud, King of Saudi Arabia, expressing our deep concerns about Waleed Abu al-Khair's arrest, continued detention, and severe punishment.

We would be very interested in hearing from you concerning the situation noted in the attached letter, whether your organization has intervened in this matter and whether we have any of the facts in the case wrong. Any further information you may have about the case would also be welcome.

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

I thank you for your time and consideration.

Sincerely,

Paul Schabas
Chair, Human Rights Monitoring Group

* The Law Society of Upper Canada is the governing body for more than 47,000 lawyers and 6,000 paralegals in the province of Ontario, Canada. The Law Society is committed to preserving the rule of law and to the maintenance of an independent Bar. Due to this commitment, the Law Society established a Human Rights Monitoring Group ("Monitoring Group"). The Monitoring Group has a mandate to review information of human rights violations targeting, as a result of the discharge of their legitimate professional duties, members of the legal profession and the judiciary, in Canada and abroad. The Human Rights Monitoring Group reviews such information and determines if a response is required of the Law Society.

Letter to be sent to:

- Alex Neve, Secretary General, Amnesty International Canada
- Mary Lawlor, Executive Director, Front Line Defenders
- Vincent Forest, Head of European Union Office, Front Line Defenders

- Kenneth Roth, Executive Director, Human Rights Watch
- Adrie van de Streek, Executive Director, Lawyers for Lawyers
- David F. Sutherland, Chair, Lawyers Rights Watch Canada
- Yves Berthelot, President, Observatory for the Protection of Human Rights
- Michael Frost, Special Rapporteur on the situation of human rights defenders, Office of the High Commissioner for Human Rights
- Gabriella Knaul, Special Rapporteur of the Human Council on the independence of judges and lawyers, Office of the United Nations High Commissioner for Human Rights
- Nicholas Fluck, President, The Law Society of England and Wales

TAB 4.2

REPORTS FOR INFORMATION

Tab 4.2.1

**REPORT OF THE ACTIVITIES OF THE
DISCRIMINATION AND HARASSMENT COUNSEL
JANUARY 1 – JUNE 30, 2014**

24. Subsection 20 (1) (b) of By-Law 11, *Regulation of Conduct, Capacity and Professional Competence* provides that, unless the [Equity and Aboriginal Issues] Committee directs otherwise, the Discrimination and Harassment Counsel (the “DHC”) shall make a report to the Committee no later than September 1 in each year, upon the affairs of the Counsel during the period January 1 to June 30 of the immediately preceding year.
25. Subsection 20(2) of By-Law 11 provides “The Committee shall submit each report received from the Counsel to Convocation on the day following the deadline for the receipt of the report by the Committee on which Convocation holds a regular meeting”.
26. On September 11, 2014, the DHC Program presented to the Committee, pursuant to Subsection 20(1) (b) of By-Law 11, the *Report of the Activities of the Discrimination and Harassment Counsel for the Law Society of Upper Canada* for the period of January 1 to June 30, 2014 (**TAB 4.2.1.1**). The Committee submits the report to Convocation pursuant to Subsection 20(2) of By-Law 11.

Tab 4.2.1.1

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

For the period from January 1, 2014 to June 30, 2014

Prepared By Cynthia Petersen

**Discrimination and Harassment Counsel
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A. INTRODUCTION

1. The Discrimination and Harassment Counsel (DHC) provides a range of services to individuals who have complaints or concerns about alleged discrimination or harassment by lawyers, articling students or paralegals.¹
2. The complaints/concerns arise in a variety of contexts, such as clients who report that they have been subjected to sexual harassment by their lawyer or paralegal, lawyers who are experiencing workplace difficulties relating to a maternity leave, law firm employees with disabilities who confront discriminatory barriers to employment or challenges in obtaining appropriate workplace accommodation, and paralegals, articling students and lawyers who are experiencing discriminatory (eg. racist, sexist, homophobic) treatment by opposing counsel in their cases.
3. The DHC provides these individuals with confidential coaching, information, referrals to other agencies and resources,² informal mentoring, and general (nonlegal)³ advice – some on an ongoing basis. The DHC also provides mediation services, described below.

B. SERVICES PROVIDED TO COMPLAINANTS

4. Complainants who contact the DHC are advised of various avenues of recourse open to them, including (where applicable):
 - speaking to their union representative (if they are unionized and their complaint relates to their employment);
 - filing an internal complaint within their workplace;
 - making a complaint to the respondent licensee's employer (eg. the managing partner of a law firm);
 - filing an Application with the Human Rights Tribunal of Ontario;
 - filing a formal complaint of professional misconduct with the Law Society;
 - contacting the police (where criminal conduct is alleged); and
 - contacting a lawyer for legal advice regarding possible legal claims.
5. Complainants are provided with information about each of these options, including:
 - what (if any) costs might be involved in pursuing an option;
 - whether legal representation is required in order to pursue an option;

¹ In order to fall within the mandate of the DHC Program, allegations of misconduct must be based on one or more of the prohibited grounds of discrimination listed in the Ontario *Human Rights Code* and/or the Law Society's codes of conduct for licensees. Personal harassment that is not based on any human rights grounds (eg. intimidation and bullying) does not fall within the mandate of the DHC Program.

² The DHC does not, however, provide a lawyer referral service.

³ The DHC does not provide any legal advice or representation to complainants.

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- referral to resources on how to obtain legal representation (actual referrals to lawyers or paralegals are not made by the DHC);
 - how to file a complaint, Application or report (eg. whether it can be done electronically, whether particular forms are required, etc.);
 - the processes involved in each option (eg. investigation, conciliation, mediation, hearing, etc.);
 - the general types of remedies that might be available in different *fora* (eg. compensatory remedies in contrast to disciplinary penalties, reinstatement to employment versus monetary damages, public interest remedies); and
 - the existence of time limits for each avenue of redress (complainants are advised to seek legal advice with respect to precise limitation periods).
6. Complainants are advised that the options available to them are not mutually exclusive.
7. In some cases, upon request, strategic tips and/or coaching are provided to complainants about how to handle a situation without resort to a formal complaints process (eg. confronting the offender, documenting incidents, speaking to a mentor).
8. Some complainants are referred to other agencies/organizations (such as the ARCH or the Human Rights Legal Support Centre) or are directed to relevant resource materials available from the Law Society, the Ontario Human Rights Commission, or other organizations.
- (a) Mediation / Conciliation**
9. In addition to being advised about the above-noted options, where appropriate, complainants are offered the mediation or conciliation/intervention services of the DHC Program.
10. Whenever formal mediation is offered, the nature and purpose of mediation is explained, including that it is a confidential and voluntary process, that it does not involve any investigation or fact finding, and that the DHC acts as a neutral facilitator to attempt to assist the parties in negotiating the terms of a mutually satisfactory resolution of the complaint.
11. When a complainant opts for mediation, s/he is given the choice of contacting the respondent to propose the mediation or having the DHC contact the respondent to canvass his/her willingness to participate (written consent to contact the respondent licensee must be provided). If both parties are willing to participate, they are required to sign a mediation agreement (setting out the parameters of the mediation and ground rules) prior to entering into discussions with the DHC.

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12. Where informal conciliation/intervention services are offered, the complainant is advised that the DHC could contact the respondent confidentially and discuss the complainant's concerns, in the hope of achieving a resolution to the complaint. Where such an intervention occurs, both the complainant and respondent are advised that the DHC is not acting as the complainant's counsel or representative, but rather as a go-between to facilitate constructive dialogue between the parties. When a complainant requests such an intervention, written consent must be provided before the DHC contacts the respondent.
13. Some complainants decline the offer of the DHC's mediation and conciliation services, notwithstanding that the services are free, confidential, and in the case of formal mediation, subject to a mutual "without prejudice" undertaking by both parties. The reasons why complainants decline mediation are varied and include: complainants desiring to have a fact-finding investigation, complainants believing that the respondent will not participate in good faith, and complainants wanting to create a formal record of the respondent's misconduct through an adjudicative process.
14. During this reporting period, there were no formal in-person mediation sessions conducted by the DHC. One complainant requested mediation but the respondent was unwilling to participate. There were, however, a number of cases in which the DHC intervened informally as a conciliator, communicated with the parties involved and was able to assist them in reaching a mutually satisfactory resolution to the complainant's concerns.

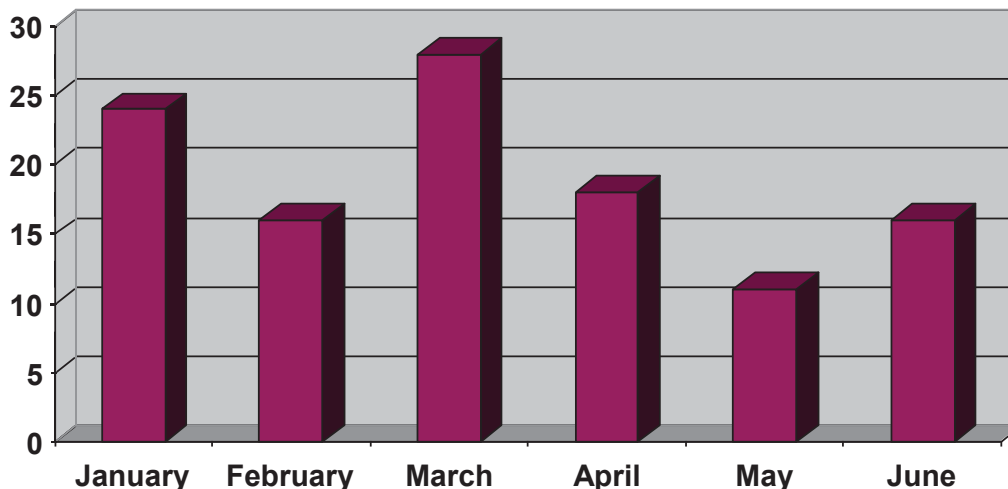
C. OVERVIEW OF NEW CONTACTS WITH THE DHC PROGRAM

15. During this reporting period, 113 individuals contacted the DHC Program with a new matter.⁴ This represents an average of 18.8 new contacts per month.

⁴ Individuals who had previously contacted the Program and who communicated with the DHC during this reporting period with respect to the same ongoing matter are not counted in this number. Individuals who had multiple communications with the DHC about the same matter are only counted once.

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



17. Of the 113 individuals who contacted the DHC, 62 (55%) used the telephone to make their initial contact and 48 (45%) used email. Three (3) individuals approached the DHC in person at events at which she (Cynthia Petersen) was speaking.

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

D. SUMMARY OF DISCRIMINATION AND HARASSMENT COMPLAINTS

19. Of the 113 new contacts with the Program, 40 individuals made specific complaints of alleged discrimination or harassment by a lawyer or paralegal in Ontario. A total of 3 complaints were made against paralegals. The remaining 37 complaints were made against lawyers.

20. Two of the 3 complaints against paralegals were made by members of the public; the third complaint was made by another paralegal.

21. Of the 37 complaints against lawyers, 17 (46%) were made by members of the public and 20 (54%) were made by members of the legal profession (i.e., other lawyers, articling students and paralegals).

⁵ Both of these francophone individuals made general inquiries. Neither of them was complaining about the conduct of a specific licensee.

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(a) Complaints against Lawyers by Members of the Legal Profession

22. In this reporting period, there were 20 complaints against lawyers by members of the legal profession. Thirteen (13) of these complaints were made by lawyers, 3 were made by articling students, 3 were made by paralegals and one was made by a paralegal candidate. All of the complainants were anglophone.⁶
23. Of the 20 complaints by members of the legal profession, 16 (80%) were made by women and 4 (20%) were made by men. The sole paralegal candidate complainant was female, 2 of the 3 paralegal complainants were female, and 2 of the 3 articling student complainants were female. Eleven of the 13 lawyer complainants were female.
24. Nine of the 20 complaints from members of the legal profession arose in the context of the complainants' employment. All three articling student complaints arose in the context of the complainants' employment, though one of the respondents was neither the complainant's employer nor her co-worker, but rather a lawyer who shared office space with her employer.
25. Four of the complaints by lawyers arose in the context of complainants who were receiving non-legal services from another licensed lawyer (i.e., the respondent lawyer worked for a public service provider).
26. Three of the complaints from members of the legal profession, including two complaints by paralegals, arose in the context of litigation and involved allegations of misconduct against opposing counsel.
27. Three of the complaints from members of the legal profession, including one complaint by a paralegal, involved allegations of misconduct against a lawyer with whom the complainant was professionally acquainted.
28. The sole complaint by a paralegal candidate arose in the context of the complainant's education (she was being instructed by the respondent lawyer).
29. There were 9 complaints based (in whole or in part) on disability:
 - A male lawyer whose employment was terminated alleged that the termination was discriminatory based on his disability.

⁶ By describing these individuals as "anglophone", I mean to convey that the complainants spoke English and sought services from the DHC in English, rather than French. For some of them, English was not their first language.

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- Two lawyers (one male and one female) each complained about harassment and discriminatory treatment from other lawyers who were providing them with a public service.
 - Two female lawyers and one female articling student complained that their respective employers were failing or refusing to accommodate their disabilities.
 - A female lawyer complained about employment discrimination based (in part) on her disability.
 - A male articling student complained about workplace harassment by his principal based (in part) on his disability.
 - A female paralegal candidate reported that one of her instructors (a licensed lawyer) was discriminating against her based on her disability.
30. There were 8 complaints based (in whole or in part) on sex:
- Five of these complaints included allegations of sexual harassment:
 - (i) A female articling student reported sexual harassment and sexual assault by a male lawyer with whom she was professionally acquainted.
 - (ii) A female paralegal complained about sexual harassment (offers of professional reward for sexual favours) by a male lawyer with whom she was professionally acquainted.
 - (iii) A female lawyer reported unwelcome sexual solicitation by a senior male partner in her law firm.
 - (iv) A female lawyer complained about inappropriate and unwelcome sexual remarks by a male opposing counsel.
 - (v) A male law student complained about unwelcome sexual remarks made by his male principal about one of his female colleagues (another articling student).
 - A female lawyer complained about a sexist remark made by an opposing male counsel.
 - Two female lawyers complained about employment discrimination based (in part) on gender.
31. There were 4 complaints based (in whole or in part) on race:
- A Black male paralegal complained about racial harassment by lawyers with whom he was professionally acquainted.
 - A female lawyer complained about employment discrimination based (in part) on her race. (She did not identify her race.)
 - A Black female paralegal complained about racial discrimination by opposing counsel in her case.

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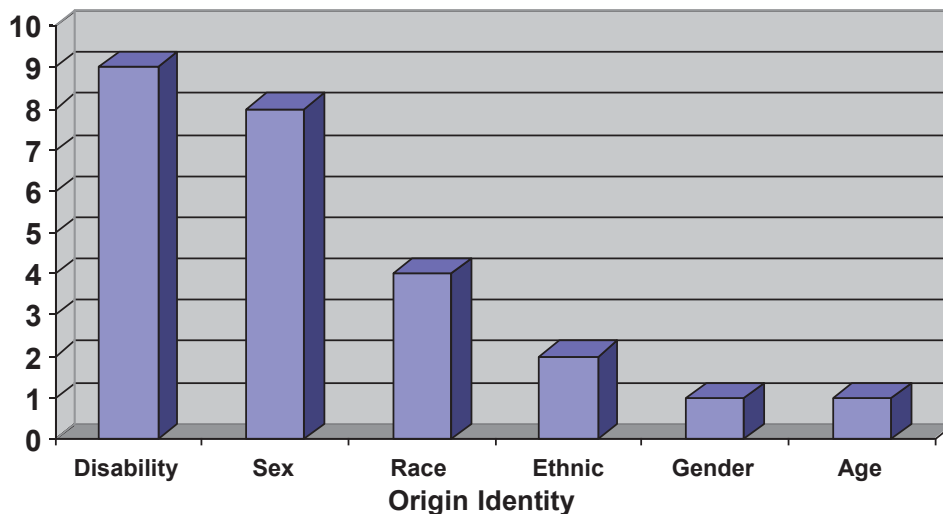
- A female lawyer complained about racially derogatory remarks made by the opposing counsel in one of her cases.
32. There were two complaints based (in whole or in part) on ethnic origin:
 A female lawyer (a new Canadian with foreign credentials) complained about discrimination based (in part) on her ethnic origin by a lawyer who was providing her with a public service.
- A female lawyer complained about systemic employment discrimination based on (in part) her ethnic origin.
 - There was one complaint based on gender identity.⁷ A transsexual lawyer complained about discriminatory conduct from another lawyer who was providing her with a public service.
33. There was one complaint based (in part) on age. One female lawyer complained about discriminatory treatment based on age by a licensee who was providing her with a public service.
34. In summary, the number of complaints⁸ by lawyers and articling students in which each of the following prohibited grounds of discrimination was raised are:
- | | | |
|-------------------|---|-----------------------|
| • disability | 9 | |
| • sex | 8 | (5 sexual harassment) |
| • race | 4 | |
| • ethnic origin | 2 | |
| • gender identity | 1 | |
| • age | 1 | |

⁷ Historically, complaints based on gender identity have been counted as complaints based on sex. However, the Law Society's rules of conduct for licensees were recently amended to reflect amendments to the Ontario *Human Rights Code*, such that "gender identity" and "gender expression" are now separate enumerated grounds of discrimination, so complaints based on gender identity will be tracked separately.

⁸ The total number exceeds 20 because some complaints involved multiple grounds of discrimination.

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Grounds Raised in Complaints against Lawyers by Members of the Legal Profession



(b) Complaints against Lawyers by Members of the Public

35. During this reporting period, there were 17 complaints against lawyers made by members of the public. All of the complainants were anglophone.⁹
36. Thirteen (13) of the public complaints (76%) were made by women and 4 (24%) were made by men.
37. Of the 17 public complaints:
 - eleven (65%) involved clients complaining about their own lawyer, former lawyer, or a lawyer who they attempted to retain;
 - four (23%) involved litigants complaining about the conduct of opposing counsel in their cases;
 - one involved an employee complaining about lawyers in his workplace;
 - one involved a complaint about a lawyer with whom the complainant was personally acquainted.
38. There were 8 public complaints based (in whole or in part) on disability:
 - Six of these were client complaints:

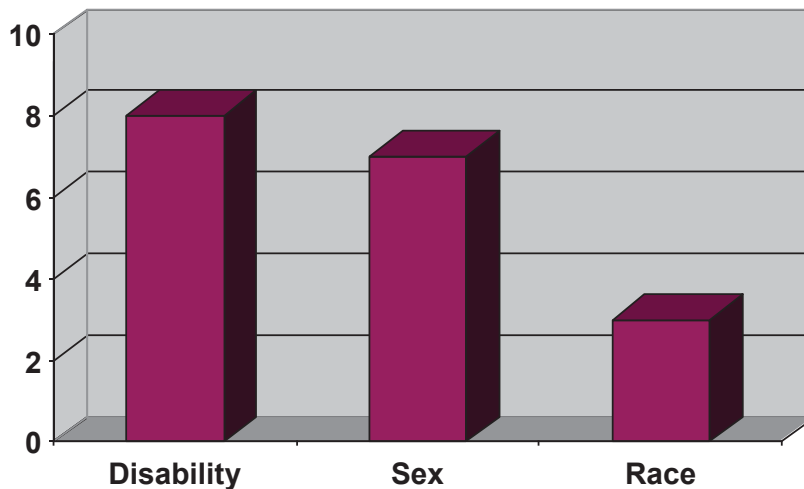
⁹ See footnote 6 above.

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- (i) Five women complained about their respective lawyer's refusal or failure to accommodate their disabilities; in one case, the lawyer allegedly threatened to withdraw his services when the client insisted on accommodation;
 - (ii) A woman complained that her lawyer was discriminating against her and taking advantage of her based on her disability;
 - Two litigants (one male and one female) complained about harassment by opposing counsel in their respective cases based on their disabilities.
39. There were 7 public complaints based (in whole or in part) on sex:
- Five of these complaints involved allegations of sexual harassment:
 - (i) Three women complained about sexual harassment by their own respective (male) lawyers, including one complaint that included allegations of lewd comments and requests for sexual favours;
 - (ii) One woman complained about sexual harassment by a male lawyer who she was seeking to retain;
 - (iii) One woman complained about sexual harassment and stalking by her ex-husband (who is a licensee);
 - A female litigant complained about harassment by opposing counsel based (in part) on gender.
 - A male administrative assistant complained about gender-based employment discrimination by lawyers in his workplace (i.e., preferential treatment of female administrative assistants).
40. There were 3 public complaints based (in whole or in part) on race:
- A female client reported rude racially motivated comments made by her own counsel.
 - Two self-represented litigants (one male and one female) complained about racial discrimination by the opposing counsel in their respective cases.

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Grounds Raised in Public Complaints against Lawyers



(c) Complaints against Paralegals

41. During this reporting period, there were 3 complaints against paralegals.
42. Two of these complaints were made by members of the public, both of whom were litigants who alleged misconduct by the opposing paralegal in their respective cases. One woman alleged that the opposing paralegal made derogatory racist remarks about her. A self-represented male litigant alleged that the opposing paralegal in his case mocked his disability, as well as his wife's disability, and made disparaging ableist remarks about them.
43. One of the complaints against a paralegal was made by a female paralegal who alleged employment discrimination based on her age.

E. GENERAL INQUIRIES

44. Of the 113 new contacts with the DHC during this reporting period, 25 involved general inquiries. These contacts included:
 - inquiries by lawyers about how best to respond to unwelcome and/or offensive comments by co-workers and/or opposing counsel;
 - inquiries by law firms about how best to handle internal harassment complaints made by their employees;

- 11 -

- inquiries by lawyers about their professional responsibilities relating to equity issues;
- inquiries by articling students and lawyers about their disclosure obligations (relating to such issues as a non-visible disability or pregnancy);
- questions about the scope of the DHC Program's mandate, the services offered by the DHC, and/or confidentiality; and
- inquiries about the Law Society's complaints process.

F. MATTERS OUTSIDE THE DHC MANDATE

45. During this reporting period, the DHC received 48 calls and/or emails relating to matters outside the Program's mandate.
46. These contacts included complaints about the conduct of judges and of lawyers licensed in other provinces. They also included numerous complaints about workplace harassment in which the respondent was not a licensee.
47. There were some complaints about Ontario licensees that did not fall within the program's mandate. These included allegations of incivility, some billing disputes (i.e., clients alleging that their lawyers were overcharging), and a few of alleged workplace harassment (eg. bullying and intimidation) in which there were no allegations based on prohibited grounds of discrimination.
48. An explanation of the DHC's mandate, role and duties was provided to each person who called with a matter outside the Program's mandate. Many of these individuals were referred to other agencies for assistance.
49. Although there are a significant number of these "outside mandate" contacts (about 8 per month or 2 per week on average during this reporting period), they typically do not consume much of the DHC's time or resources, since we do not assist these individuals beyond their first contact with the Program.

G. PROMOTIONAL ACTIVITIES

50. The LSUC maintains a bilingual website for the DHC Program.
51. Throughout this reporting period, periodic advertisements were placed (in English and French) in the *Ontario Reports* to promote the DHC Program.

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52. The DHC brochure was recently revised and update. French and English copies of the brochure will be circulated to legal clinics, community centres, law firms, government legal departments, and faculties of law.
53. The DHC continues to work closely with the Law Society's Director, Equity (Josée Bouchard) to design and deliver *Discrimination and Harassment Prevention* and *Violence Prevention* workshops to law firms across the province.

Two such workshops were presented during this reporting period. In addition to delivering important educational content, these workshops also serve as a useful opportunity to promote awareness of the Program's services.

54. During this reporting period, the DHC made a presentation about the DHC program and resources to the annual Law Union conference in Toronto (in March 2014). Ms. Petersen spoke on a panel entitled, "Looking Inward at the Lawyer and Paralegal Professions: Bullying, Discrimination, and Mental Health". Ms. Petersen also delivered the annual Thomas Feeney lecture at the Faculty of Law at the University of Ottawa (in March 2014), speaking on the topic of "Preventing and Responding to Discrimination and Harassment in the Legal Profession - Progress and Challenges." Both of these public presentations were well attended by large audiences and both resulted in subsequent new contacts with the DHC program from audience participants.

Tab 4.2.2

EQUITY DIRECTOR'S REPORT

27. The Director, Equity, presented her operational report to the Committee in September. The report is available online at <http://www.lsuc.on.ca/with.aspx?id=2147487014>.

Tab 4.2.3

HUMAN RIGHTS MONITORING GROUP INFORMATION ABOUT INTERVENTIONS

28. Over the summer, the Human Rights Monitoring Group and the Treasurer approved the following cases. The letters of intervention and public statements are available online at <http://www.lsuc.on.ca/with.aspx?id=622>:
- a. Lawyer Salwa Bugaighis in Libya;
 - b. Lawyer Pu Zhiqiang in China;
 - c. Lawyer Tang Jingling and colleagues in China.
29. 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.
30. 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.
31. The above-mentioned cases were urgent and Convocation's meeting schedule made the review and approval impractical.
32. On September 3, 2014, the Law Society received the following message from Mr. Zumalacarregui, Coordinator of the Observatory for the Protection of Human Rights Defenders about the Law Society intervention regarding the assassination of lawyers Salwa Bugaighis. The Observatory Press Release is included at TAB 4.2.3.1.

Dear Ms. Bouchard,

I hope this message finds you well.

I am writing to you in reply to the letter from The Law Society of Upper Canada which was sent in August the 12th.

First of all, the Observatory for the Protection of Human Rights defenders would like to thank you for your letter and for your involvement in this matter.

Regarding our involvement in the case of Salwa Bugaighis, I wanted to inform you that the Observatory issued a Press Release on the 27th of June. Please, find it attached to this e-mail.

I am afraid we do not have any further information about the case at this stage. However, I would like to use this opportunity to share with you the contact details of my colleague Mr. Currun Singh, OMCT's Human Rights Adviser for the MENA region, based in our Tripoli Office, who would be pleased to assist you if you had any further requests for information.

Mr. Currun Singh
currun@gmail.com
+218 91 155 7482

I thank you for your time and consideration.

Sincerely,

Miguel Martin Zumalacarregui

Miguel Martín Zumalacárregui
Coordinator
Observatory for the Protection of Human Rights Defenders
World Organisation Against Torture (OMCT)
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The Observatory
for the Protection
of Human Rights Defenders

PRESS RELEASE - THE OBSERVATORY

LIBYA: Outrage following the assassination of prominent lawyer and women activist Salwa Bouguiguis

Geneva-Tripoli-Paris, June 27, 2014. *The World Organisation Against Torture (OMCT) and the International Federation for Human Rights (FIDH), within the framework of the Observatory for the Protection of Human Rights Defenders, strongly condemn the assassination of Ms. Salwa Bouguiguis, prominent Libyan human rights lawyer and women activist, in a context where human rights defenders, including lawyers, journalists, judges and public prosecutors, are continuously victims of reprisals in the country.*

On June 25, 2014, the day of the country's general election, Ms. **Salwa Bouguiguis**, a prominent Libyan lawyer and women human rights defender, was stabbed and shot through the head by five unknown hooded gunmen who broke into her home in Benghazi and injured a security guard with a live bullet. She was taken to hospital in critical condition, where she died shortly afterwards. Her husband, who was in the family home at the time of the attack, has remained missing since then. It is therefore feared that he was abducted by the same men who killed his wife.

Ms. Bouguiguis was a strong advocate for gender equality and women's political participation. She had also actively participated in Libya's 2011 revolution that overthrew the regime of Muammar Gaddafi. A former member of the National Transitional Council, she was since the Vice-President of the Preparatory Committee for National Dialogue in Libya.

Ms. Salwa Bouguiguis was killed hours after she had returned from voting in Wednesday's parliamentary election in Libya and called upon citizens to participate in the voting process. She published photos of herself at a polling station on her Facebook page. She also gave an interview to Libya's *Al-Nabaa* TV channel, in which she discussed the recent deterioration of security situation in Benghazi where civilians are affected by fighting between army units and militias.

"We condemn in the strongest term the murder of Ms. Salwa Bouguiguis, which seeks to silence critical voices in the country", said today OMCT Secretary General Gerald Staberock. ***"At this critical juncture in Libya the independent voice of human rights defenders is ever more needed. We urge the authorities of Libya to open urgent, effective and transparent investigations into the shameful assassination of Ms. Bouguiguis. It is absolutely fundamental now to set an example in order to discourage further acts of violence against human rights defenders",*** he added.

Since the 2011 revolution, the city of Benghazi has been a stronghold for militias, including jihadist groups, and the scene of attacks and assassinations targeting notably the military, police and judges.

The Observatory further recalls that this is not the first time that human rights defenders have been targeted in Libya, where they are increasingly victims of reprisals for denouncing human rights violations, including serious acts of violence, systematic harassment, intimidation, arbitrary detention, torture and defamation. To date all these crimes remain unpunished.

"The judicial system in any country is essential in providing for the protection of human rights and civil liberties, and must be allowed to operate independently and free from the forceful coercion of outside actors", said FIDH President Karim Lahidji. ***"It should now ensure that the assassination of Ms. Salwa Bouguiguis does not remain unpunished",*** he added.

The Observatory offers sincere condolences to the bereaved family and to Ms. Salwa Bouguiguis' friends and colleagues and urges the authorities in Libya to adopt urgent measures to protect human rights defenders and ensure that they are able to carry out their work without unjustified hindrances and fear of reprisals.

For more information, please contact:

- OMCT: Delphine Reculeau: +41 22 809 49 39
- FIDH: Audrey Couprie: +33 1 43 55 25 18



**PUBLIC EDUCATION EQUALITY AND RULE OF LAW SERIES CALENDAR
2014 - 2015**

JOUR DES FRANCO-ONTARIENS ET DES FRANCO-ONTARIENNES –

Date: September 24, 2014

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

Conférencière : L'honorable Madeleine Meilleur, ministre déléguée aux Affaires
francophones et procureure générale

In partnership with AJEFO & OBA

AIDWYC WRONGFUL CONVICTION DAY

Date: October 2, 2014

Time and location: CPD, Upper Barristers Lounge, 2:00 p.m. – 4:00 p.m.

Reception, Convocation Hall, 6:00 – 8:00 p.m.

In partnership with AIDWYC

**ASSOCIATION DES JURISTES D'EXPRESSION FRANÇAISE DE L'ONTARIO - 34TH
ANNUAL CONFERENCE – DESTINATION DROIT!**

Dates : October 3 and 4, 2014

Location : Hôtel Radisson, Sudbury, Ontario

This is AJEFO's annual conference.

**CANADIAN ASSOCIATION OF BLACK LAWYERS (CABL) ANNUAL FALL
CONFERENCE & AGM**

Date: October 31, 2014

Location: Donald Lamont Learning Centre

This is an event organized by CABL. The Law Society is a partner.

LOUIS RIEL DAY

Date: November 14 **or** 17, 2014 – TBC

Location: **TBC** – Donald Lamont Learning Centre, Convocation Hall & Barristers Lounges on
hold

In partnership with the Métis Nation of Ontario

RULE OF LAW EVENT

Date: December 10, 2014

Location: Convocation Hall

Details: **TBC**

BLACK HISTORY MONTH

Date: February 17, 2015

Time and location: Panel – Donald Lamont Learning Centre, 4:00 p.m. – 6:00 p.m.

Reception – Convocation Hall, 6:00 p.m. – 8:00 p.m.

HUMAN RIGHTS AWARD PRESENTATION & RECEPTION

Date: February 12, 2015

Location: Donald Lamont Learning Centre & Convocation Hall

INTERNATIONAL WOMEN'S DAY

Date : March 5, 2015

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

Convocation Hall (6:00 p.m. – 7:00 p.m.)

In partnership with WLAO, OBA, Barbara Schlifer Clinic and LEAF

LA JOURNÉE INTERNATIONALE DE LA FRANCOPHONIE

Date : March 19, 2015

Location **(TBC)**: Upper Barristers' Lounge & Convocation Hall on hold from 6:00 p.m. – 8:00 p.m.

Details: not yet available

In partnership with AJEFO and the OBA

HOLOCAUST REMEMBRANCE DAY

Date **(TBC)**: April 14, 15 & 16, 2015 (on hold until confirmation received)

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

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

In partnership with B'nai Brith Canada

DIVERSE CAREERS FOR WOMEN IN LAW

Date: May 7, 2015

Time & location: Convocation Hall, **time to be confirmed**

In partnership with WLAO

ASIAN AND SOUTH ASIAN HERITAGE MONTH

Date: May 12, 14 or 19, 2015 – **to be confirmed**

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

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

In partnership with SABA, CASAL & FACL

ACCESS AWARENESS FORUM

Date : June 4, 2015

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

In partnership with ARCH

NATIONAL ABORIGINAL HISTORY MONTH

Date: June 19, 2015

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

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

In partnership with Truth & Reconciliation Commission

PRIDE WEEK

Date: June 23, 2015

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

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

In partnership with OBA, SOGIC