



TAB 8

Report to Convocation

October 25, 2012

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
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
(Josée Bouchard – 416-947-3984)**

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COMMITTEE PROCESS

1. The Equity and Aboriginal Issues Committee/Comité sur l'équité et les affaires autochtones (Equity Committee) met on October 11, 2012. Committee members Howard Goldblatt, Chair, Julian Falconer, Vice-Chair, Susan Hare, Vice-Chair, Raj Anand, Constance Backhouse, Mary Louise Dickson, Janet Minor and Judith Potter participated. Julie Lassonde, representative of the Association des juristes d'expression française de l'Ontario (AJEFO) and Sandra Yuko Nishikawa, Interim Chair of the Equity Advisory Group/Groupe consultatif en matière d'équité (EAG), also participated. Cynthia Petersen, Discrimination and Harassment Counsel, attended to present her semi-annual report. Staff members Josée Bouchard and Ekua Quansah attended.

TAB 8.1

FOR DECISION

**PROPOSED DISCRIMINATION AND HARASSMENT
COUNSEL RATE INCREASE**

MOTION

2. **That Convocation approve the request for an increase in the Discrimination and Harassment Counsel (“DHC”) hourly fee from \$250 to \$315 without an increase in the DHC annual budget.**

BACKGROUND

3. In June 2001, Convocation approved the establishment of a permanent DHC Program. Cynthia Petersen was appointed as DHC in November 2002 and has been in the position since that date. She was reappointed in September 2003, 2006, 2009 and 2012 for terms not to exceed three years pursuant to Law Society By-laws.
4. In January 2004, Convocation appointed its first Alternate DHC, Sylvia Davis. Ms. Davis resigned in 2005 because of a conflict. In May 2005, Convocation appointed two Alternate DHC, Lynn Bevan and David Bennett, for a period of 3 years. They were reappointed in May 2008 and 2011 pursuant to Law Society By-laws.
5. In October 2003, the DHC requested that the Equity Committee review the hourly rate paid to the DHC and the Alternate DHC, which was then set at \$175, on the basis that the rate should more accurately reflect the requirements of the position, noting that the qualifications required an individual of considerable expertise and experience to fulfill the duties and responsibilities of DHC.
6. Following more research on the subject, including review by the Finance Committee, the matter was not pursued until 2007. At that time, in a letter dated December 18, 2007, the DHC requested again that the Equity Committee consider recommending to Convocation

that the DHC hourly rate be increased, to more accurately reflect the expertise required to perform the duties of the DHC. She requested an increase to \$250 per hour and noted that this would demonstrate the Law Society's commitment to the program. In April 2008, Convocation approved an increase to the hourly rate to \$250 as a result of this request. The annual budget for the program was also increased from \$100,000 to \$150,000 to reflect the increase in fees.

7. In a letter dated March 6, 2012 to the Equity Advisor, the DHC requests a further increase in the hourly DHC fee to \$315.00. The letter is presented at [TAB 8.1.1](#) and provides reasons in favour of the increase. The DHC notes that the delivery of the services requires significant legal knowledge and expertise, as well as strong conflict resolution skills. The DHC indicates that the skills and expertise required to perform the DHC duties support an increase in the hourly rate.
8. The DHC notes that she believes that the increase in the hourly rate could be implemented without increasing the \$150,000 annual budget, as the budget of the DHC has never been exceeded.
9. The Equity Committee considered and approved this request in September 2012 and decided that the increase in fee would not require an increase in the DHC annual budget. The Equity Committee presented the request to the Audit and Finance Committee for information.
10. This report presents information about the DHC's agreement with the Law Society, how the DHC fees are set, the DHC budget and expenses, the functions of the DHC and fees for external counsel. The following are observations:
 - a. the rate of \$250 has not been increased since 2007 and the previous fee was set six years earlier;
 - b. historically, the hourly fee of the DHC has been approved by Convocation;
 - c. there have been no significant changes in the position of the DHC since the last DHC increase.

HOW THE FEES WERE SET

11. The budget of the DHC Program forms part of the Equity Initiatives Department budget. The budget for the first half of the year of the DHC Program's existence was \$60,000. The budget was increased to \$132,000 in 2000, the program's first full year of operation as a pilot project. The budget was reduced to \$100,000 in 2001.

12. In June 2001, Convocation recognized the DHC Program as a permanent program of the Law Society. Convocation approved the following recommendation:

That the DHC Program be established on a permanent basis with an evaluation to take place following three years of operation; and that the program be continued at current funding levels (\$100,000 per year) including fees-for-services at an hourly rate not to exceed \$175.

BUDGET AND EXPENSES

13. Since the appointment of Cynthia Petersen as DHC, the expenses and budget for the DHC Program are as follows:

	Expenses ¹	Budget	Under/(Over)
2011	84,366	150,000	65,634
2010	88,002	150,000	61,998
2009	95,045	150,000	54,955
2008	71,920	100,000	28,080
2007	42,555	100,000	57,445
2006	65,184	100,000	34,816
2005	74,714	100,000	25,286
2004	66,298	100,000	33,702
2003	79,401	100,000	20,599
2002	71,412	100,000	28,588

¹ The expenses of the DHC include expenses for the DHC and Alternate DHC combined. The expenses also include administrative support expenses for an assistant. The assistant fees are set at \$50 per hour.

14. The DHC Program functions comfortably within its budget, with an average annual surplus of \$41,110. Since the budget increase, which occurred in the 2009 financial year, the average surplus is \$60,862.
15. In 2007, the mandate of the DHC was expanded to include complaints about paralegals and it was anticipated that access to the Program would increase. However, the increase in services is not significant and the expenses for the program since the expansion have remained below budget. The lower surplus experienced in 2008 is largely due, not to the expansion of the program to include paralegals, but to the fact that the hourly fee was raised in April 2008 while the resulting budget increase occurred in 2009.
16. The Equity Committee considered detailed information about the hours spent per month to perform the DHC functions for the years 2003, 2007 and 2011.
17. In 2003, more than 72% of the DHC time was spent on intake of complaints and offering services to complainants, 12% on promotion and networking, 7% on the preparation of the semi-annual reports, 4% on meetings and communication with other DHC programs, 4% on educational activities and 1% on information requests from law firms.
18. In 2007, 81% of the DHC time was spent on intake of complaints and offering services to complainants, 12% on the preparation of the semi-annual reports, 3% on meetings and communication with other DHC programs, 3% on educational activities and a nominal amount of time was spent on promotional activities and clerical activities.
19. In 2011, 78% of the DHC time was spent on intake of complaints and offering services to complainants, 8% on educational activities, 7% on the preparation of the semi-annual reports, 4% on meetings and communication with other DHC programs, 2% on coordination with Alternate DHC and 1% on promotion and networking.

20. The operating expenses related to the DHC, such as copies, fax, telephone, transportation and accommodation, for 2003, 2007 and 2011 were \$3,172, \$421 and \$1,861 respectively.

FUNCTION OF THE DHC

21. During the last recruitment process, the Equity Committee established the following criteria for the position of DHC:

The ability to converse in French and English is an asset. The DHC will also have:

Knowledge of equality rights legislation (e.g. Ontario *Human Rights Code*), *Rules of Professional Conduct* and issues faced by Aboriginal, Francophone and equity-seeking communities in dealing with the legal profession;

Knowledge of alternative dispute resolution techniques including mediation, complaints investigations and legal actions through courts;

Ability to apply alternative dispute resolution techniques;

Knowledge of resources and options available to assist complainants who allege harassment or discrimination;

Experience in identifying trends and making recommendations about policies, programs and services to promote non-discrimination;

Ability to assist complainants to take action to resolve complaints;

Experience in providing services on a one-on-one basis.

22. The DHC is not required to be a lawyer or be a member in good standing of the Law Society and does not represent clients. The core function of the DHC is to assist individuals who believe that they have been discriminated against or harassed by a member or student member. However, the DHC function requires extensive knowledge of human rights law and processes. As a result, all individuals who have been in the DHC or Alternate DHC positions have been lawyers.

23. The Law Society has been very successful in recruiting qualified candidates for the position of DHC. Madam Justice Devlin, the first DHC, was admitted to the bar in 1990 and had more than 10 years experience when she was appointed DHC. Madam Justice Devlin was appointed to the bench in 2002. Cynthia Petersen has been in the DHC position since 2002. She was called to the bar in 1994, following a number of years as a professor of law at the University of Ottawa. The Alternate DHC are also well qualified. Sylvia Davis, the first Alternate DHC was called to the bar in 1996, Lynn Bevan was called to the bar in 1977 and David Bennett was called in 1985. They all have a wealth of experience in the area of human rights.

EXTERNAL COUNSEL

24. A comparison between the DHC position and external counsel is often made because the DHC has always been a lawyer.
25. The following are the Law Society counsel fees in place for 2012:

<u>Category Qualification</u>	Effective Feb 1, 2007
Senior counsel more than 20 years since call to the bar	\$350
Senior Counsel 12-20 years since call to the bar	\$325
Counsel 11-12 years since call to the bar	\$315
Counsel 10-11 years since call to the bar	\$300
Counsel 9-10 years since call to the bar	\$285
Counsel 8-9 years since call to the bar	\$270
Counsel 7-8 years since call to the bar	\$255
Counsel 6-7 years since call to the bar	\$240
Counsel 5-6 years since call to the bar	\$225
Counsel 4-5 years since call to the bar	\$215
Counsel 3-4 years since call to the bar	\$205
Counsel 2-3 years since call to the bar	\$195
Counsel 1-2 years since call to the bar	\$180

Counsel less than 1 year since call to the bar	\$165
Law Clerks/Students	\$90

26. The hourly fee for the DHC (at \$250) is equivalent to the fee paid to a counsel called to the bar between 6 and 7 years. The requested \$315 is equivalent to the fee paid to a counsel called to the bar between 11 and 12 years. It should be noted that the current DHC was called to the bar in 1994 (18 years ago) and the Alternate DHC were called to the bar in 1977 (35 years ago) and 1985 (27 years ago). If the DHC or Alternate DHC were to offer legal counsel services to the Law Society, they would be remunerated at between \$325 and \$350 per hour.

INCREASE BUDGET

27. If the expenses for 2009 to 2011 are recalculated using the \$315 per hour fee, it is clear that the DHC would have functioned well within budget without the need for a budget increase.

	2011	2010	2009
Expenses @ \$315/hour	106,301	110,883	119,757
Budget	150,000	150,000	150,000
Under/(Over)	43,699	39,117	30,243

28. The Equity Committee is of the view that an increase in hourly fee to \$315 would fall well within the budget of the DHC. The Equity Committee also notes that the DHC services have not increased significantly since the creation of the program, even with the expansion of the mandate to include paralegals. As a result, the Equity Committee recommends an increase in the hourly DHC fee to \$315 and no increase in the DHC budget.

Sack Goldblatt Mitchell LLP Lawyers

20 Dundas St. W., Suite 1100, P.O. Box 180 Toronto ON M5G 2G8
T 416.977.6070 F 416.591.7333 www.sgmlaw.com

Cynthia Petersen
Direct Line: 416-979-6440
cpetersen@sgmlaw.com

March 6, 2012

J. Bouchard
Law Society of Upper Canada
Osgoode Hall, 130 Queen Street West
Toronto ON M5H 2N6

Dear Ms. Bouchard:

I am writing to request that the Equity and Aboriginal Issues Committee consider recommending to convocation an increase in the hourly rate payable for my services as Discrimination and Harassment Counsel. As you know, I have held this position since November 2002. The hourly rate then was \$175. The rate was increased to \$250, pursuant to my request, in April 2008. The rate has not been changed since then.

Although I do not provide legal advice or representation in my role as DHC, delivery of the Program's services requires significant legal knowledge and expertise, as well as strong conflict resolution skills. As DHC, I am contacted regarding many different issues, including sexual harassment complaints, allegations of systemic race discrimination, disability accommodation and accessibility issues, and pregnancy-related discrimination concerns. The complaints arise in myriad different contexts (eg. client complaints, employment related complaints by articling students, lawyers, law clerks and legal administrative assistants, complaints between opposing counsel, etc.) Each case presents its own challenges. I provide confidential counsel and advice to complainants who are usually unrepresented and are commonly in distress. I also have extensive dealings with respondents (both lawyers and paralegals), in attempts to facilitate prompt resolution of complaints. Although I do not provide legal advice to either party, I could not perform my functions as DHC without a thorough understanding of human rights jurisprudence and the available avenues of recourse for human rights complainants. In addition to an appreciation of the legal issues involved in every case, I must be sensitive to cultural and religious sensibilities, and cognizant of inter-personal dynamics affected by gender, ethnicity, ancestry, race, disability, etc. Exceptional mediation skills are imperative to perform the role of DHC.



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As you know, I provide the DHC services in both French and English. Bilingualism is essential to the proper delivery of the Program's services.

I deal with a wide variety of complaints from members of the Law Society, as well as from members of the public. The mandate of the DHC program was expanded in 2008 to include complaints against paralegals, as well as complaints against lawyers and students-at-law, so the volume of the work and the diversity of complaints are expanding.

In addition to serving the Program's clients, I regularly perform educational and promotional work to maintain the Program's profile. In that regard, public speaking is a crucial part of the job.

Finally, maintaining accurate and useful statistics is another key element of my responsibilities as DHC. I maintain detailed records and provide the Law Society with biannual reports, and cumulative multi-year summaries of the Program's activities (anonymized to protect client confidentiality). These reports enable the Equity Committee to oversee and monitor the use of the Program's resources. They also allow the Committee to develop policy recommendations, as appropriate, based on trends identified from my data.

I believe that the skills and expertise required to perform the DHC duties justify an increase in the hourly rate. In my view, the current DHC hourly rate of \$250 does not adequately reflect the value of the work performed by the DHC. I therefore request that the Law Society consider raising the DHC rate to \$315/hour.

I should note that, although the volume of complaints is high and the DHC work is busy, I have never exceeded my annual budget as DHC. Indeed, I believe that the increase in the hourly rate could be implemented without increasing the \$150,000 annual budget.

Thank you for your consideration. I looking forward to receiving news of convocation's decision regarding this request.

Yours truly,



Cynthia Petersen
CP:jh/cope 343



TAB 8.2

FOR DECISION

HUMAN RIGHTS MONITORING GROUP INTERVENTION REQUESTS

MOTION

29. **That Convocation approve the following Human Rights Monitoring Group's (the Monitoring Group) requests for intervention:**
- a. **Syria – arrest and disappearance of human rights lawyer Khalil Maatouk (proposed public statement at TAB 8.2.1); and**
 - b. **Haiti – threats and intimidation against lawyers Mario Joseph, Newton St-Juste and André Michel (proposed letter of intervention at TAB 8.2.2).**

MANDATE OF THE HUMAN RIGHTS MONITORING GROUP

30. The mandate of the Monitoring Group is,
- a. to review information that comes to its attention about human rights violations that target members of the profession and the judiciary, here and abroad, as a result of the discharge of their legitimate professional duties;
 - b. to determine if the matter is one that requires a response from the Law Society; and,
 - c. to prepare a response for review and approval by Convocation.
31. The mandate further states that where Convocation's meeting schedule makes such a review and approval impractical, the Treasurer may review such responses in Convocation's place and take such steps, as he or she deems appropriate. In such instances, the Monitoring Group shall report on the matters at the next meeting of Convocation.

32. On September 20, 2007, Convocation approved the following recommendations, which expand the Monitoring Group's mandate:
- a. 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.
 - b. That the Monitoring Group be authorized to collaborate with the Law Society of Zimbabwe (the "LSZ") to assist it in strengthening its self-regulation capabilities and the independence of the profession.

MONITORING GROUP AND EQUITY COMMITTEE PROCESS

33. The Monitoring Group approved the requests to Convocation on October 13, 2012 and presented the requests to the Equity Committee for information.

SYRIA – ARREST AND DISAPPEARANCE OF HUMAN RIGHTS LAWYER KHALIL MAATOUK

Sources of Information

34. The background information in this case is from the following sources:

- a. Cairo Institute for Human Right Studies;¹
- b. European Union @ United Nations;²

1 The Cairo Institute for Human Rights Studies (CIHRS) is an independent regional non-governmental organization founded in 1993. It aims at promoting respect for the principles of human rights and democracy, analyzing the difficulties facing the application of International Human Rights Law and disseminating Human Rights Culture in the Arab Region as well as engaging in dialogue between cultures in respect to the various International Human Rights treaties and Declarations. CIHRS seeks to attain this objective through the developing, proposing and promoting policies, legislations and Constitutional amendments. CIHRS works on human rights advocacy in national, regional and international human rights mechanisms, research and human rights education -both for youth and ongoing professional development for Human Rights Defenders. CIHRS is a major publisher of information, a magazine, an academic quarterly, and scores of books concerning human rights.

2 The European Union's commitment to effective multilateralism, with the United Nations at its core, is a central element of its external action. This commitment is rooted in the conviction that to respond successfully to global crises, challenges and threats, the international community needs an efficient multilateral system, founded on universal rights and values.

- c. Human Rights Watch (HRW);³ and
- d. The Observatory for the Protection of Human Rights Defenders (the Observatory).⁴

Background

- 35. On October 2, 2012, human rights lawyer Khalil Maatouk was arrested at a checkpoint in Sahnaya, located in the countryside outside of Damascus, on his way to work. According to a close relative, Maatouk was being driven to work by Mohamed Zaza because Maatouk had health problems that made it difficult for him drive. Zaza is also missing. The pair never arrived at their destination and the car has not been located. Their whereabouts are unknown.
- 36. Maatouk is the Executive Director of the Syrian Centre for Legal Research and Studies and the head of the Syria Center for the Defense of Detainees. He has defended a number of prisoners of conscience. Before he disappeared, he was working on the case of Mazen Darwish, the detained head of the Syrian Center for Media and Freedom of Expression.
- 37. There are a number of government checkpoints on the road that Zaza and Maatouk took to work and a heavy military and security presence near Maatouk's workplace. It is believed that state actors arrested Maatouk. Maatouk had been summoned for interrogation a number of times in the past months because of his work defending activists and due to his frequent travel, which was required to undergo medical treatment.

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

4 The Observatory for the Protection of Human Rights Defenders is a joint program of the International Federation for Human Rights (FIDH) and the World Organization Against Torture (OMCT). It is an action program based on the absolute necessity to establish a systematic response from NGOs and the international community to the repression against defenders.

38. Maatouk has a serious medical condition that requires specific and constant medical care. Maatouk had just returned home from a trip where he required urgent medical care.
39. Organizations that defend human rights advocates believe Maatouk is being targeted as a result of his human rights work.

Factors Considered

40. The Monitoring Group considered the following factors when making a decision on this case.

Sources

41. There are no concerns about the quality of sources used for this report. Catherine Ashton, the High Representative of the European Union for Foreign Affairs and Security Policy and the Vice-President of the European Commission, has called for Maatouk's immediate release.

Mandate

42. The arrest and disappearance of lawyers as a result of their human rights work falls within the mandate of the Monitoring Group.

HAITI – THREATS AND INTIMIDATION AGAINST LAWYERS MARIO JOSEPH, NEWTON ST-JUSTE & ANDRÉ MICHEL

Sources of Information

43. The background information for this case is from the following sources:
 - a. Amnesty International (AI);⁵
 - b. Calgary Herald;⁶
 - c. Canadian Haiti Action Network;⁷

⁵ 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.

⁶ The Calgary Herald is a Canadian daily newspaper published in Calgary, Alberta, Canada. The paper was first published in 1883 as The Calgary Herald, Mining and Ranche Advocate and General Advertiser. The newspaper is currently owned by the Postmedia Network.

- d. Centre for Constitutional Rights;⁸
- e. National Lawyers Guild;⁹
- f. National Union of Peoples' Lawyers;¹⁰ and
- g. The Global Legal Post.¹¹

Background

44. On September 28, 2012, the former Chief Prosecutor of Port-au-Prince, Jean Renel Séna^tus, claimed that he had been dismissed by the Ministry of Justice because he refused to implement an order to arrest 36 people. Included on the list were lawyers, Newton St-Juste and André Michel, who had recently filed claims against the wife and son of the President of the Republic of Haiti for corruption and embezzlement of public funds, and Mario Joseph, a prominent human rights lawyer and head of the International Lawyers Office (Bureau des Avocats Internationaux). Joseph is involved in a number of political cases such as proceedings against former dictator Jean-Claude Duvalier, complaints against the UN for their alleged involvement in spreading the cholera epidemic in Haiti and cases of forced evictions of people made homeless after the earthquake.

⁷ The Canada Haiti Action Network (CHAN) is an information and action network with member committees in cities across Canada. The network was formed in 2004 out of concern over the violent overthrow of elected government in Haiti on February 29, 2004 and the forced exile of the elected president, Jean Bertrand Aristide.

⁸ The Center for Constitutional Rights is dedicated to advancing and protecting the rights guaranteed by the United States Constitution and the Universal Declaration of Human Rights. Founded in 1966 by attorneys who represented civil rights movements in the South, CCR is a non-profit legal and educational organization committed to the creative use of law as a positive force for social change.

⁹ The National Lawyers Guild (NLG) is a public interest association of lawyers, law students, paralegals, jailhouse lawyers, law collective members, and other activist legal workers, in the United States. The group was founded in 1937 as an alternative to the American Bar Association (ABA) in protest of that organization's exclusionary membership practices and conservative political orientation.

¹⁰ The National Union of Peoples' Lawyers was founded on September 15, 2007 as a nationwide voluntary association of human rights lawyers in the Philippines, committed to the defense, protection, and promotion of human rights, especially of the poor and the oppressed.

¹¹ In March 2012 award winning magazine The European Lawyer and The Global Legal Post joined forces to form The Global Legal Post. The Global Legal Post gives busy lawyers the answers by taking the very best of the international legal media and law firm output and digesting it down into easy to swallow editorial pieces of what is important in one easy hit - all in one place. The Global Legal Post is the world's first legal digest.

45. The three lawyers have reported receiving anonymous telephone death threats in recent months. In addition, they have reported other acts of intimidations, including hostile graffiti painted on walls and police vigilance in proximity of their offices and homes.
46. It is believed that the three lawyers are being targeted for their activism and criticisms against the Haitian government

Factors Considered

47. The Monitoring Group considered the following factors when making a decision in this case.

Sources

48. There are no concerns about the quality of sources used for this report.

Mandate

49. The threats and intimidation of lawyers who work on sensitive cases falls within the mandate of the Monitoring Group.

FOR INFORMATION

TURKEY – ARREST, DETENTION & PROSECUTION OF LAWYERS IN TURKEY

50. The Monitoring Group considered the case of the arrest, detention and prosecution of lawyers in Turkey, as described below, and in light of the urgency in the matter, requested that the Treasurer intervene through a letter of intervention. The letter is presented at [TAB 8.2.4](#).

Description of Sources

51. The Monitoring Group relied on the following sources to make its decision about the case:
 - a. Lawyers' Rights Watch Canada;¹² and

¹² 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.

b. The Observatory.

Background¹³

52. Turkish lawyers who defend their client's civil and political rights in politically sensitive cases have been subjected to judicial harassment because the state wrongly identified them with their clients or their clients' causes. "Sensitive" issues include, "in particular expressing alternative identities (ethnic and religious minorities' rights, particularly the Kurdish issue, and sexual minorities), and criticising the State and its institutions (the functioning of the institutions, including the independence of the judiciary and the impunity of the State and the army for human rights violations)."
53. Defence lawyers representing imprisoned Kurdistan Workers Party (PKK) leader, Mr. Abdullah Öcalan, have been particularly at risk. At least 68 of them have been the subject of more than one hundred criminal cases since 2005 that accuse them of violating Article 314 of the Turkish Penal Code (TPC) and Articles 6 and 7 of the Anti-Terrorism Law (ATL), and of "complicity with a terrorist organisation."
54. Recently, and most seriously, in November and December 2011, a police operation aiming to dismantle an alleged terrorist network known as the Kurdish Communities Union (KCK) – an organization said to be the "urban branch" of the PKK – was commenced. The operation targeted lawyers involved or believed to be involved in providing legal services to Abdullah Öcalan. A total of 41 lawyers were arrested and subsequently charged as part of this police operation. Three persons employed by the accused lawyers were also arrested. The law offices and houses of the lawyers were searched. Confidential files were consulted by the police and some were sealed.
55. A total of 46 lawyers (inclusive of the detained lawyers), 3 legal workers and 1 journalist have been collectively charged and are being tried together. All the parties charged are either of Kurdish origin or represent clients in cases related to the Kurdish issue, and the accusations and charges are all founded on the legal representation of Abdullah Öcalan.

¹³ The following background information is excerpted from a joint Briefing to the Human Rights Committee, 106th Session (15 Oct – 2 Nov) by Lawyers' Rights Watch Canada & The Observatory for the Protection of Human Rights Defenders (FIDH-OMCT).

A list of the names, detention status, places of detention, charges against, and Bar Association affiliations of all defendants is attached as [TAB 8.2.3](#).

56. On 26 November 2011, the detained lawyers were brought before the court. For 33 of the detained lawyers provisional release was refused and the others were released. However, the public prosecutor objected to the provisional release of Mr. Mehmet Ayata and Mr. Mahmut Alinak, the Court issued detention orders and these lawyers were rearrested on 8 December 2011. Mr. Mehmet Sabir Tas, who was abroad when the arrests occurred, was arrested and detained when he went to the public prosecutor to give his statement on 30 November 2011, leaving 36 lawyers and one journalist in custody as of December 8, 2011.
57. There has apparently been a failure to give adequate notice to the people accused in the Prosecution of Kurdish Lawyers case throughout. Following their arrest, copies of warrants for their arrest and the search of their homes and offices were not provided to the detained lawyers or to their legal representatives. Defense lawyers were denied disclosure of documents that were necessary to know the charges against their clients and prepare their defense. In a decision banning defense counsel from access to the case file, the Court concluded that “representatives could hand over the documents to the illegal organisation and share information with them...” Apparently Article 10(b) (d) of the Law on Fight Against Terrorism, a 2006 amendment allowing waiver of defence rights in terrorism related offenses, had been relied upon. However, some documents that were not released to defense counsel were, according to defense lawyers, apparently released to the press.
58. An indictment collectively charging all the accused in the Prosecution of Kurdish Lawyers case was presented to the Court on 6 April 2012 and approved by the Court on 18 April 2012. The indictment has been criticized as failing to identify the constitute elements of each offence and to specify the allegations against each of the accused. In addition, though the indictment is 891 pages long and 220 annexes were appended to it, 12 days was deemed enough by the court to approve it. All parties are apparently charged collectively with,

- a. membership in an illegal organization (KCK and PKK);
 - b. directing an illegal organization (KCK); and
 - c. passing orders of Abdullah Öcalan.
59. The trial of the Prosecution of Kurdish Lawyers case commenced on July 16th at Istanbul's Çaglayan courthouse. There were approximately 100 lawyers representing the accused in addition to dozens of lawyers from 27 countries present to observe the proceedings. Crowding prevented proper representation, with lawyers having to take turns entering the courtroom and often having to shout above the noise.
60. On 18 July 2011, after 3 days of preliminary applications, another 9 of the accused were released on conditions that they were not to leave Turkey and report weekly to a police station. Defense lawyers had asked for unconditional release on the grounds that the prosecution was politically motivated, and the investigation violated solicitor-client privilege and contravened the right and duty of lawyers to perform their profession. They further submitted that there was no basis for imposing conditions on release. Twenty-seven lawyers and one journalist remain in detention.
61. The trial of the Prosecution of Kurdish Lawyers case was adjourned to 6 November 2012 over objections from defense counsel and will recommence at the larger Silivri courthouse.
62. Separate warrants were issued authorizing arrest, search, and seizure of each of the people arrested in the lawyers' case. All the warrants cited the same grounds, namely 'conducting activities in PKK/KCK terrorist organization.' There was no known evidence before the judge authorizing the warrants that any of the lawyers were likely to abscond, commit a serious offence, or interfere with the administration of justice. Some of the lawyers targeted for arrest had been previously charged with similar offences arising from their legal representation of Abdullah Öcalan with no such occurrences.
63. Most of these warrants were authorized by Judge Mehmet Ekinci, as a member of the 11th Specialised Heavy Penal Court. Judge Ekinci is now the President of the 16th

Specialized Heavy Penal Court and is presiding over the trial of the lawyers and other defendants. Defense lawyers have requested Judge Mehmet to recuse himself from the case on the basis of actual or perceived bias.

64. Representatives for the detained lawyers and the journalist have continued to make applications for release. For example, on 5 December 2011, representatives of 20 detained lawyers submitted separate letters to the Court for the release of their clients.
65. Throughout the proceedings, during questioning in police custody, and during court proceedings the parties have been refused the opportunity to speak in the Kurdish language. During the July 16-18 proceedings, when the defendants replied in Kurdish, they were advised that they 'could not be understood.'

Background information on the Kurdistan Workers Party (PKK)

66. The Immigration and Refugee Board of Canada has provided the following background information on the PKK:

The Kurdistan Workers' Party (Partiya Karkerê Kurdistan, PKK) was established in 1978 aiming to create an independent Kurdish state (Canada 22 Dec. 2010; US 2 Feb. 2012, 11, 40). It began an armed struggle in 1984 (AA 4 May 2012; MRG [2011]; US 2 Feb. 2012, 11). According to a US Congressional Research Service (CRS) report, demands of the separatist group have evolved from complete separationism for Kurds to "greater cultural and political autonomy" (*ibid.*). Sources note that PKK leader Abdullah Ocalan began negotiations with the Turkish government in 2012 (*ibid.*, 40; Milan 22 Mar. 2012), with separationism being discounted as a resolution (US 2 Feb. 2012, 40). International Crisis Group similarly states that the PKK is looking for a "future of Turkish Kurds within Turkey" (20 Sept. 2011, 2). GlobalSecurity.org, an online information source on defence, space, intelligence, and homeland security (n.d.a), also notes that in 2009, one PKK leader indicated that the PKK is "seeking local autonomy (3 June 2009).

The PKK has been designated a terrorist organization by some states and organizations, including Turkey (Milan 22 Mar. 2012), the European Union (EU) (AA 4 May 2012; Milan 22 Mar. 2012), the US (*ibid.*; US 2 Feb. 2012, 1; AA 4 May 2012), and Canada (Canada 22 Dec. 2010; Milan 22 Mar. 2012). The PKK is also known as Kongra-Gel and Kurdistan Freedom and Democracy Congress (KADEK) (GlobalSecurity.org n.d.b; Canada 22 Dec. 2010), among other names (*ibid.*).

According to International Crisis Group, the PKK consists of 3,000 to 5,000 insurgents from northern Iraq and Turkey (20 Sept. 2011, 2). An article published by the Umut Foundation, an Istanbul-based organization promoting peace, conciliation and individual disarmament (n.d.), mentions information provided by a terror expert briefing parliamentary deputies on the PKK, which indicates that in the 2000s, PKK membership approximated 6,000 (14 Feb. 2012). The expert also noted that, in decreasing order, the following provinces are the largest providers of PKK members: Diyarbakir, Mardin, Van and Hakkâri (Umut Foundation 14 Feb. 2012).

The dominant PKK leader is Abdullah Öcalan (International Crisis Group 20 Sept. 2011, 1; US 2 Feb. 2012, 40) who is in a Turkish prison serving a life sentence; the acting PKK leader is Murat Karayilan (*ibid.*). According to International Crisis Group, Öcalan's capture has led to a "multiplication of power centres" for the PKK, including among insurgents in the field, in northern Iraq headquarters, Turkish jails, and among Kurds in Europe (International Crisis Group 20 Sept. 2011, 2).

Since the start of the fighting between the PKK and the Turkish government, there have been reportedly at least 30,000 deaths (International Crisis Group 20 Sept. 2011, 1; MRG [2011]; US n.d.), with GlobalSecurity.org placing the number of deaths at 40,000 (3 June 2009). Anadolu Agency (AA), a national government news agency, reports that some of the casualties include soldiers, policemen, village guards, teachers, and engineers (AA 4 May 2012).¹⁴

14 Immigration and Refugee Board of Canada, Turkey: The Kurdistan Workers' Party (PKK), including areas of operation and targets, methods of recruitment and activities; state response, 15 June 2012, TUR104075.E, available at: <http://www.unhcr.org/refworld/docid/50729d962.html> [accessed 10 October 2012]

TAB 8.2.1

Proposed Public Statement - Syria

The Law Society of Upper Canada Expresses Grave Concerns about the Arrest and Disappearance of Human Rights Lawyer Khalil Maatouk

The Law Society of Upper Canada is gravely concerned about the arrest and detention of human rights lawyer Khalil Maatouk in Syria.

Maatouk is the Executive Director of the Syrian Centre for Legal Research and Studies and the head of the Syria Center for the Defense of Detainees. He has defended a number of prisoners of conscience. Before he disappeared, he was working on the case of Mazen Darwish, the detained head of the Syrian Center for Media and Freedom of Expression.

Reliable reports indicate that on October 2, 2012, Maatouk was arrested at a checkpoint in Sahnaya, located in the countryside outside of Damascus, on his way to work. According to a close relative, Maatouk was being driven to work by Mohamed Zaza because Maatouk had health problems that made it difficult for him drive. Zaza is also missing. The pair never arrived at their destination and the car has not been located. Their whereabouts are unknown. Prior to Maatouk's disappearance, he had been summoned for interrogation a number of times in the past months because of his work defending activists and due to his frequent travel, which was required to undergo medical treatment. Maatouk has a serious medical condition that requires specific and constant medical care.

The Law Society is deeply concerned about situations where lawyers who work for the protection and respect of human rights are themselves targeted for exercising their freedoms and rights under international law. Article 16 of the *United Nations Basic Principles on the Role of Lawyers* states that 'governments shall ensure that lawyers are able to perform all of their professional functions without intimidation, hindrance, harassment or improper interference; are able to travel and to consult with their clients freely; and shall not suffer, or be threatened with, prosecution or administrative, economic or other sanctions for any action taken in accordance with recognized professional duties, standards and ethics.'

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

- a. immediately and unconditionally release Khalil Maatouk and guarantee in all circumstances his physical and psychological integrity;
- b. put an end to all acts of harassment against Khalil Maatouk and other human rights defenders in Syria;
- c. ensure in all circumstances respect for human rights and fundamental freedoms in accordance with international human rights standards and international instruments ratified by Syria.

The Law Society of Upper Canada is the governing body for some 44,000 lawyers and 4,700 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 Syria in their effort to advance the respect of human rights and to promote the rule of law.

TAB 8.2.2

Proposed Letter of Intervention - Haiti

Ministre de la Justice et de la Sécurité Publique
Jean Renel Sanon
18 avenue Charles Summer
Port-au-Prince, Haïti
Email: secretariat.mjsp@yahoo.com

Commissaire du Gouvernement de Port-au-Prince
Me Gerald Norguaisse
Parquet du Tribunal de Première Instance de Port-au-Prince
Palais de Justice
Blvd Harry Truman
Port-au-Prince, Haïti
Email: parquetpap@yahoo.fr

cc:

His Excellence O. Andre Frantz Liautaud
Ambassador for Haiti
85 Albert Street, Suite 1110
Ottawa, Ontario K1P 6A4
Fax: (613) 238-2986
Email: nathaliegisselmenos@yahoo.fr

Institute for Justice and Democracy in Haiti
Email: info@ijdh.org

Right Honourable Michaëlle Jean
Chancellor,
University of Ottawa
Tabaret Hall
75 Laurier Ave. E.
Ottawa, Ontario, K1N 6N5

Dear Minister/Dear Mr. Norguaisse,

Re: Lawyers Mario Joseph, Newton St-Juste and André Michel

The Law Society of Upper Canada is the governing body for more than 44,000 lawyers and 4,700 paralegals in the province of Ontario, Canada. Our mandate is to govern the legal profession in the public interest. Fundamental to our system of democracy in Canada is the maintenance of an independent bar. When serious issues of apparent injustice to lawyers and the judiciary come to our attention, we speak out.

In this regard the governing board of the Law Society of Upper Canada, on the recommendation of its Human Rights Monitoring Group, has requested that I write to express our deep concern over threats and intimidation of lawyers Mario Joseph, Newton St-Juste and André Michel

According to reliable reports we have received, the personal security of these lawyers is at risk. On September 28, 2012, the former Chief Prosecutor of Port-au-Prince, Jean Renel Sénatus, claimed that he had been dismissed by the Ministry of Justice because he refused to implement an order to arrest 36 people. Included on the list were St-Juste and Michel, who had recently filed claims against the wife and son of the President of the Republic of Haiti for corruption and embezzlement of public funds, and Joseph, prominent human rights lawyer and head of the International Lawyers Office (Bureau des Avocats Internationaux). Joseph is involved in a number of political cases such as proceedings against former dictator Jean-Claude Duvalier, complaints against the UN for their alleged involvement in spreading the cholera epidemic in Haiti and cases of forced evictions of people made homeless after the earthquake.

We are concerned about situations where lawyers who work to defend rights are themselves targeted for exercising their freedoms and rights under the 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”.

The Law Society of Upper Canada urges the government of Haïti to,

- a. take measures to guarantee the physical, psychological and professional integrity of Mario Joseph, Newton St-Juste and André Michel;
- b. immediately and independently investigate the accusations of threats and intimidation towards the lawyers;
- c. clarify why the arrest of the 36 individuals is being sought;
- d. conform in all circumstances with the provisions of the *United Nations Basic Principles on the Role of Lawyers* and
- e. ensure in all circumstances respect for human rights and fundamental freedoms in accordance with international human rights standards

Yours very truly,

Thomas G. Conway
Treasurer

TAB 8.2.3

1

APPENDIX I**1. List of lawyers detained**

	Names	Bar Association	Place of Detention	Charge
01	Şaziye ÖNDER	Ağrı	Bakırköy Kapalı Kadın Cezaevi / İstanbul	"member of a criminal organisation" under Article 314(2) of the Turkish Penal Code
02	Muhdi ÖZTUZÜN	Batman	Kandıra 2 Nolu	"member of a criminal organisation" under Article 314(2) of the Turkish Penal Code
03	Mehmet Deniz BÜYÜK	Bursa	Kandıra 2 Nolu	"member of a criminal organisation" under Article 314(2) of the Turkish Penal Code
04	Faik Özgür EROL	Diyarbakır	Kandıra 2 Nolu	"executive of a criminal organisation" under Article 314(1) of the Turkish Penal Code"
05	Muharem ŞAHİN	"	Kandıra 1 Nolu F Tipi Kapalı Cezaevi / KOCAEVİ	"member of a criminal organisation" under Article 314(2) of the Turkish Penal Code
06	Serkan AKBAŞ	"	Kandıra 2 Nolu	"member of a criminal organisation" under Article 314(2) of the Turkish Penal Code
07	Fuat COŞACAK	"	Kandıra 1 Nolu	"member of a criminal organisation" under Article 314(2) of the Turkish Penal Code
08	Mehmet AYATA	"	Silivri 2 Nolu L Tipi Kapalı Cezaevi / İstanbul	"member of a criminal organisation" under Article 314(2) of the Turkish Penal Code
09	Davut UZUNKÖPRÜ	Hakkari	Kandıra 2 Nolu	"member of a criminal organisation" under Article 314(2) of the Turkish Penal Code
10	Ibrahim BİLMEZ	İstanbul	Kandıra 2 Nolu	"executive of a criminal organisation" under Article 314(1) of the Turkish Penal Code"
11	Emran EMEKÇİ	"	Kandıra 2 Nolu	"executive of a criminal organisation" under Article 314(1) of the Turkish Penal Code"
12	Cengiz ÇİÇEK	"	Kandıra 2 Nolu	"executive of a criminal organisation" under Article 314(1) of the Turkish Penal Code"
13	Asya ÜLKER	"	Bakırköy Kapalı Kadın Cezaevi	"member of a criminal organisation" under Article 314(2) of the Turkish Penal Code
14	Doğan ERBAŞ	"	Kandıra 2 Nolu	"member of a criminal organisation" under Article 314(2) of the Turkish Penal Code
15	Hatice KORKUT	"	Bakırköy Kapalı Kadın Cezaevi	"executive of a criminal organisation" under Article 314(1) of the Turkish Penal Code"
16	Ömer GÜNEŞ	"	Kandıra 2 Nolu	"executive of a criminal organisation" under Article 314(1) of the Turkish Penal Code"
17	Mehmet Sani KIZILKAYA	"	Kandıra 2 Nolu	"member of a criminal organisation" under Article 314(2) of the Turkish Penal Code
18	Mehmet BAYRAKTAR	Izmir	Kandıra 2 Nolu	"member of a criminal organisation" under Article 314(2) of the Turkish Penal Code
19	Servet DEMİR	"	Kandıra 2 Nolu	"member of a criminal organisation" under Article 314(2) of the Turkish Penal Code

10

1 The following list is taken from a joint Briefing to the Human Rights Committee, 106th Session (15 Oct – 2 Nov) by Lawyers' Rights Watch Canada & The Observatory for the Protection of Human Rights Defenders (FIDH-

20	Mirgin IRGAT	"	Bakırköy Kapalı Kadın Cezaevi	"member of a criminal organisation" under Article 314(2) of the Turkish Penal Code
21	Bedri KURAN	Mersin	Kandıra 2 nolu	"member of a criminal organisation" under Article 314(2) of the Turkish Penal Code
22	Mensur İŞIK	Muş	Kandıra 2 Nolu	"member of a criminal organisation" under Article 314(2) of the Turkish Penal Code
23	Şakir DEMİR	Siirt	Kandıra 2 Nolu	"member of a criminal organisation" under Article 314(2) of the Turkish Penal Code
24	Mehmet Sabır TAŞ	"	Kandıra 1 Nolu	"member of a criminal organisation" under Article 314(2) of the Turkish Penal Code
25	Mustafa ERARSLAN	"	Kandıra 2 Nolu	"member of a criminal organisation" under Article 314(2) of the Turkish Penal Code
26	Sabahattin KAYA	Van	Kandıra 2 Nolu	"member of a criminal organisation" under Article 314(2) of the Turkish Penal Code
27	Cemal DEMİR	"	Kandıra 1 Nolu	"member of a criminal organisation" under Article 314(2) of the Turkish Penal Code

2. Lawyers released after the hearing of 16- 18 July 2012:

	Names	Bar Association	Status	Charge
01	Mahmut ALINAK	Kars	On provisional release	"member of a criminal organisation" under Article 314(2) of the Turkish Penal Code
02	Mehmet Nuri DENİZ	Diyarbakır	On provisional release	"member of a criminal organisation" under Article 314(2) of the Turkish Penal Code
03	Veysel VESEK	Şırnak	On provisional release	"member of a criminal organisation" under Article 314(2) of the Turkish Penal Code
04	Cemal TÜYSÜZ	Urfa	On provisional release	"member of a criminal organisation" under Article 314(2) of the Turkish Penal Code
05	Yaşar KAYA	Ardahan	On provisional release	"member of a criminal organisation" under Article 314(2) of the Turkish Penal Code
06	Aydın ORUÇ	Denizli	On provisional release	"member of a criminal organisation" under Article 314(2) of the Turkish Penal Code
07	Osman ÇELİK	Diyarbakır	On provisional release	"member of a criminal organisation" under Article 314(2) of the Turkish Penal Code
08	Hüseyin ÇALIŞÇI	Istanbul	On provisional release	"member of a criminal organisation" under Article 314(2) of the Turkish Penal Code
09	Hakzan SADAK	"	On provisional release	"member of a criminal organisation" under Article 314(2) of the Turkish Penal Code

3. Other lawyers prosecuted:

	Names	Bar Association	Status	Charge
01	Umit SİSLİĞÜN	Istanbul	On provisional release	"member of a criminal organisation" under Article 314(2) of the Turkish Penal Code
02	Erdal SAHALLI	Hakkari	On provisional release	"member of a criminal organisation" under Article 314(2) of the Turkish Penal Code
03	Ayşe BATUMLU KAYA	Bursa	On provisional release	"member of a criminal organisation" under Article 314(2) of the Turkish Penal Code
04	Nevzat ANUK	Hakkari	On provisional release	"member of a criminal organisation" under Article 314(2) of the Turkish Penal Code
05	Baran PAMUK	Diyarbakır	On provisional release	"member of a criminal organisation" under Article 314(2) of the Turkish Penal Code

06	Ergün CANAN	Hakkari	On provisional release	"member of a criminal organisation" under Article 314(2) of the Turkish Penal Code
07	Nazahat PAŞA BAYRAKTAR	Izmir	On provisional release	"member of a criminal organisation" under Article 314(2) of the Turkish Penal Code
08	Meral ATASOY ATAN	Diyarbakir	On provisional release	"member of a criminal organisation" under Article 314(2) of the Turkish Penal Code
09	Fırat AYDINKAYA	Istanbul	On provisional release	"member of a criminal organisation" under Article 314(2) of the Turkish Penal Code
10	Yalçın SARITAŞ	Van Bar	On provisional release	"member of a criminal organisation" under Article 314(2) of the Turkish Penal Code

4. Non-lawyers prosecuted in the same case:

	Names	Occupation	Status	Charge
1	Cengiz KAPMAZ	Journalist	Detained in Kandıra F Type Prison.	"executive of a criminal organisation" under Article 314(1) of the Turkish Penal Code"
2	Sabahat Zeynep ARAT	Legal secretary of Asrin Law Firm	Last arrest of warrant not executed yet.	"member of a criminal organisation" under Article 314(2) of the Turkish Penal Code
3	Hüseyin KARASU	Driver in Asrin Law Firm	On provisional release	"member of a criminal organisation" under Article 314(2) of the Turkish Penal Code
4	Sıdık BAL	Driver in Asrin Law Firm	On provisional release	"member of a criminal organisation" under Article 314(2) of the Turkish Penal Code

TAB 8.2.4

Letter of Intervention - Turkey

President of Turkey
Mr. Abdullah Gül
Cumhuraskanligi
Ankara, Turkey
06100

Recep Tayyip Erdoğan
Prime Minister of Turkey
Vekaletler Caddesi Başbakanlık Merkez Bina
P.K. 06573
Bakanlıklar / Ankara
Turkey

cc:

Ms. Gabriela Carina Knaul de Albuquerque e 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

Ms. Margaret Sekagya
UN Special Rapporteur on the situation of human rights defenders
c/o Office of the High Commissioner for Human Rights – Palais Wilson
United Nations Office at Geneva
CH 1211 Geneva 10
Switzerland

Your Excellency/ Dear Prime Minister Erdogan:

Re: Arrest, Detention & Prosecution of Lawyers in Turkey

The Law Society of Upper Canada is the governing body for more than 44,000 lawyers and 4,700 paralegals in the province of Ontario, Canada. Our mandate is to govern the legal profession in the public interest. Fundamental to our system of democracy in Canada is the maintenance of an independent bar. When serious issues of apparent injustice to lawyers and the judiciary come to our attention, we speak out.

In this regard the governing board of the Law Society of Upper Canada, on the recommendation of its Human Rights Monitoring Group, has requested that I write to express our deep concern over the arrest, detention and prosecution of lawyers in Turkey.

Reports we have received indicate that a number of lawyers were arrested in November and December 2011. Thirty-six (36) of the lawyers have been subjected to excessive pre-trial detention, in violation of the *International Covenant on Civil and Political Rights*. On July 18, 2012, nine of the lawyers were released on conditions; however 27 lawyers remain in custody. The trial has been adjourned to November 6, 2012. According to the reports, the lawyers, who have acted on behalf of several members of the Kurdish political movement, were detained and charged as a result of their legal representation of their clients.

The Law Society is deeply concerned about situations where lawyers are targeted in the legitimate exercise of their duties. Article 16 of the *United Nations Basic Principles on the Role of Lawyers* states that 'governments shall ensure that lawyers are able to perform all of their professional functions without intimidation, hindrance, harassment or improper interference; are able to travel and to consult with their clients freely; and shall not suffer, or be threatened with, prosecution or administrative, economic or other sanctions for any action taken in accordance with recognized professional duties, standards and ethics.'

The Law Society urges the government of Turkey to,

1. Ensure the presence of qualified interpreters for all of its proceedings related to these defendants;
2. Ensure that all parties detained in this case be promptly released in accordance with their rights protected by the *International Covenant on Civil and Political Rights* to liberty and the presumption of innocence;
3. Ensure the release of all parties detained in the case, pending the completion of the trial;
4. ensure that all lawyers and judges can carry out their peaceful and legitimate activities without fear of arbitrary detention, ill treatment or other human rights violations; and
5. to ensure in all circumstances respect for human rights and fundamental freedoms in accordance with international human rights standards

Yours very truly,

Thomas G. Conway
Treasurer

TAB 8.3

FOR INFORMATION

CHALLENGES FACED BY RACIALIZED LICENSEES PROJECT

67. In August 2012, Convocation created the Challenges Faced by Racialized Licensees Working Group. The following benchers are members of the Working Group: Raj Anand, Chair, Marion Boyd, Robert Burd, Julian Falconer, Howard Goldblatt, Susan Hare, Janet Leiper, William McDowell, Malcolm Mercer, Janet Minor, Susan Richer and Baljit Sikand. The Working Group met on October 10, 2012. This report provides information about the discussion of the Working Group. The Working Group intends on providing regular updates for information and discussion, as appropriate, to the Access to Justice Committee, the Equity and Aboriginal Committee/Comité sur l'équité et les affaires autochtones, the Paralegal Standing Committee, Professional Development and Competence Committee and the Professional Regulation Committee.
68. The Working Group reviewed background information that led to the creation of the Challenges Faced by Racialized Licensees Working Group, approved its Terms of Reference and began to develop a work plan. The following Terms of Reference were approved and are presented to Convocation for information:
- a. The Working Group on Challenges Faced by Racialized Licensees is mandated to,
 - i. identify challenges faced by racialized candidates and licensees in different practice environments, including entry into practice and advancement;
 - ii. identify factors and practice challenges faced by racialized licensees that could increase the risk of regulatory complaints and discipline;
 - iii. identify best practices for preventive, remedial and/or support strategies;
 - iv. design and develop appropriate preventive, remedial, enforcement, regulatory and/or support strategies, for consideration by the Equity Committee and other Committees as appropriate, to address the

challenges described above.

69. The Working Group considered key research findings and agreed that the information gathered to date is helpful but is not sufficient to allow the Working Group to develop recommendations in accordance with its Terms of Reference. More particularly, there is very little research about the following:
 - a. racialized licensees in sole practice or small firms – the factors that influence racialized licensees in going into sole practice or small firms, their client base and viability of practices, environmental, attitudinal and cultural factors that impact on their careers, availability of resources and supports.
 - b. racialized licensees in medium and large firms – the impact of recruitment and hiring practices, environmental, attitudinal and systemic factors that impact their career advancement, trends in career advancement, barriers to partnership admission, best-practices in place to assist lawyers.
 - c. challenges faced by racialized paralegals - but for the 2009 and 2010 Statistical Snapshot of Paralegals, there is no research about this topic.
70. As a result, the Working Group will undertake a consultation to further inform itself of the challenges faced by racialized candidates and licensees and to gather information about how best to address these challenges. In addition to the consultation, it is anticipated that the Working Group will consider findings from available research, data and best-practices from other organizations. The Working Group will also consider the history of careers of licensees in the regulatory process to identify trends, if any, and address any issues that may arise from that study.
71. The methodology for the consultation has not been finalized. However, it is anticipated that a request for proposals will be conducted and a consultant retained to undertake quantitative and qualitative research with the profession.

72. In addition to retaining a consultant, the Working Group hopes to work with advisory groups and external stakeholders to identify best-practices. Groups such as the Equity Advisory Group/Groupe consultatif en matière d'équité (EAG), the Criminal Lawyers Association, the Ministry of the Attorney General (MAG), the Department of Justice and the equality committees of the Canadian Bar Association and the Ontario Bar Association may be consulted.
73. The Working Group hopes to conduct a request for proposals in the fall 2012 and retain a consultant to conduct the qualitative and quantitative research in 2013. The Working Group will also consider other research findings and work with stakeholders throughout 2013 to bring preliminary recommendations to Consultation at the beginning of 2014.

TAB 8.4

FOR INFORMATION

**REPORT OF THE ACTIVITIES OF THE
DISCRIMINATION AND HARASSMENT COUNSEL
JANUARY 1 – JUNE 30, 2012**

BACKGROUND

74. Subsection 20 (1)(b) of By-Law 11, *Regulation of Conduct, Capacity and Professional Competence* provides that, unless the Equity and Aboriginal Issues Committee/Comité sur l'équité et les affaires autochtones (the Equity Committee) directs otherwise, the Discrimination and Harassment Counsel (the DHC) shall make a report to the Committee no later than September 1 in each year, upon the affairs of the Counsel during the period January 1 to June 30 of the immediately preceding year.
75. 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”.
76. The Equity Committee presents to Convocation, pursuant to Subsection 20 (2) 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, 2012 (**TAB 8.4.1**).

TAB 8.4.1

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

For the period from January 1, 2012 to June 30, 2012

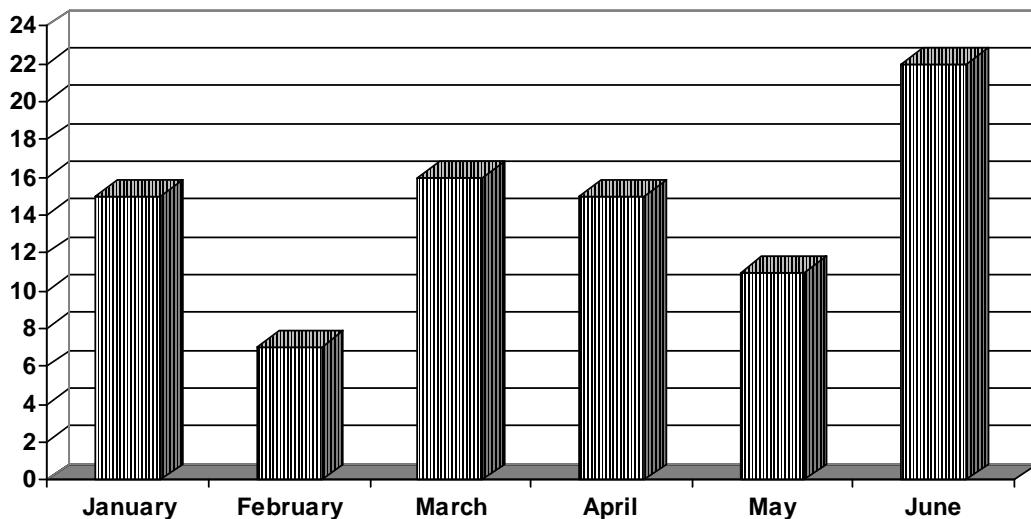
**Prepared By Cynthia Petersen
Discrimination and Harassment Counsel**

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A. OVERVIEW OF NEW CONTACTS WITH THE DHC PROGRAM

1. During this six month reporting period, 86 individuals contacted the DHC Program with a new matter.¹ This represents an average of 14.3 new contacts per month, which is consistent with the average (14.8) over the past nine years.
2. The volume of new contacts with the Program was distributed as follows:



3. Of the 86 individuals who contacted the DHC, 45 (52%) used the telephone to make their initial contact and 41 (48%) used email.
4. All of the individuals who contacted the DHC Program during this six month period were provided services in English. The DHC services are also available in French.

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

- 2 -

B. SUMMARY OF DISCRIMINATION AND HARASSMENT COMPLAINTS

5. Of the 86 new contacts with the Program, 34 individuals reported specific complaints of discrimination or harassment by a lawyer or paralegal in Ontario. This volume of complaints is consistent with previous reporting periods. The total number of complaints per reporting period has varied considerably over the past nine years and has averaged 28 complaints for every 6 month period since January 2003.
6. Of the 34 complaints received by the DHC, one was made against a paralegal and the remaining 33 complaints were against lawyers.
7. The complaint against a paralegal was made by a paralegal candidate/student.
8. Of the 33 complaints against lawyers, 13 (39%) were made by members of the public and 20 (61%) were made by members of the Law Society. Over the past nine years, public complaints have constituted an average of 55% of all complaints received by the DHC program. There are typically more public complaints than complaints from within the legal profession in any given reporting period, except in 2009 and 2010, when the complaints from within the profession exceeded the public complaints. Thus there appears to be, in recent years, a proportionate increase in complaints from members of the bar.

C. COMPLAINTS AGAINST LAWYERS BY LAWYERS AND ARTICLING STUDENTS

9. In this reporting period, there were 20 complaints against lawyers by members of the Law Society. Thirteen (13) of these complaints were made by lawyers, 6 were made by articling students, and one was made by a paralegal.

- 3 -

10. Of the 20 complaints against lawyers by members of the legal profession, 14 (70%) were made by women and 6 (30%) were made by men. Nine (9) of the 13 lawyers who made complaints were female, 4 of the 6 articling student complainants were female, and the one paralegal who made a complaint was female.
11. Of the 13 complaints made by lawyers, 9 (69%) arose in the context of the complainant's employment, 3 (23%) were made against lawyers with whom the complainants were professionally acquainted, and 1 arose in the context of the delivery of a service to the complainant by the respondent lawyer. These figures are consistent with the trend in complaints by lawyers over the past nine years; employment-related complaints have constituted the overwhelming majority (78%) of all complaints from within the legal profession.
12. Of the 6 law student complaints, 5 (83%) arose in the context of the complainants' employment and one related to the provision of a service to the complainant. This is also typical of the trend in student complaints over the past nine years, which have overwhelmingly arisen in the context of the student's employment or a job interview.
13. During this reporting period, the one complaint made by a paralegal against a lawyer arose in the context of the complainant's employment.
14. Of the 20 complaints against lawyers by members of the Law Society, there were 13 complaints based, in whole or in part,² on sex. Of these,
 - seven (7) involved allegations of sexual harassment;

² Some complaints were based on two or more intersecting grounds of discrimination, including sex. See also paragraph 3 below.

- four (4) involved allegations of discrimination based on pregnancy in the context of the complainant's employment; and
 - two (2) involved allegations of systemic gender discrimination in employment.
15. With respect to the 7 sexual harassment complaints, there were 3 male complainants and 4 female complainants. All of the respondents (alleged harassers) were male lawyers:
- A male lawyer contacted the DHC in respect of a female associate in his office who he believed, based on interactions that he had witnessed, was the victim of sexual harassment by a senior male partner in their firm;
 - A male lawyer complained about inappropriate sexual innuendo and remarks that were being made to him by another male lawyer in his firm (eg. oral sex jokes);
 - A male lawyer complained about persistent expressions of affection and unwelcome romantic solicitations from a female lawyer with whom he was professionally acquainted;
 - Three female lawyers and one female paralegal each complained about sexual harassment by male lawyers within their respective workplaces. The particulars of their complaints included allegations of unwelcome flattering comments on their appearance, inappropriate sexual remarks (eg. "do these pants make my penis look big?"), unwanted sexual advances, a refusal to provide an employment reference as a reprisal for rejecting sexual advances, and pressure to reconcile after the break-down of a consensual sexual/romantic relationship with threats to undermine the

complainant's relationship with clients if she did not accede to the male lawyer's wishes.

16. There were four (4) complaints based, in whole or in part,³ on race:

- Two articling students complained about systemic racial discrimination with respect to their employment; one of the students also complained about racial harassment (eg. inappropriate questions about his ethnic and racial heritage, insulting derisive remarks about his name);
- An associate lawyer complained about systemic racial discrimination in her employment; and
- A lawyer complained about race discrimination by another lawyer in the context of the delivery of a service to her.

17. There were 2 complaints based, in whole or in part, on sexual orientation. One of these complaints was made by a female associate who reported experiencing systemic discrimination in her employment based on her sexual orientation and race. The other complaint involved an allegation that a lawyer who presented at a Continuing Professional Development seminar made an inappropriate joke about lesbians.

18. There were two complaints based, in whole or in part, on disability. An articling student complained about harassment and discrimination in employment based on disability and an associate lawyer also complained about discrimination based

³ Some complaints were based on multiple intersecting grounds. For example, one of the student complainants mentioned in this paragraph complained about both racist and homophobic discrimination in employment. The associate lawyer mentioned in this paragraph complained about systemic discrimination based on both race and sex in her employment (eg. inadequate mentoring for minority female lawyers in her firm, poor hire-back rates for minority female articling students, poor retention of minority female lawyers due to lack of professional supports, etc.).

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on disability (and sex/pregnancy) in the context of her employment. The latter complaint included allegations that her employment was wrongfully terminated because of a disability that she disclosed to her employer.

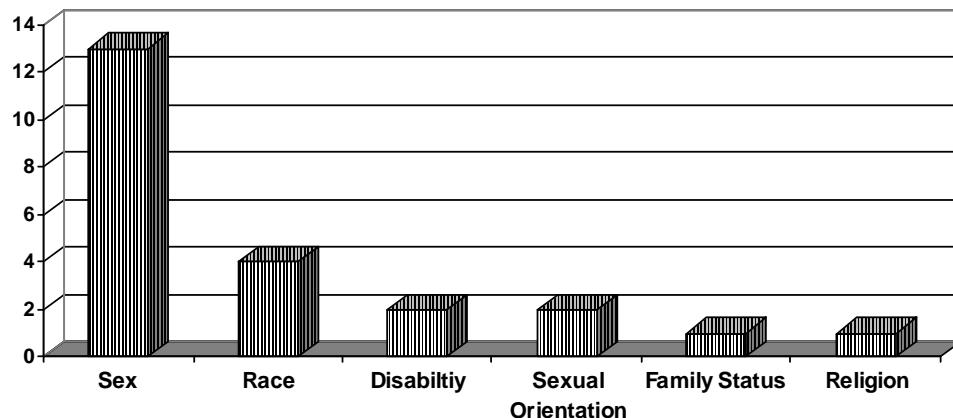
19. There was also one complaint based on religion and one complaint based on family status. These complaints involved allegations that the complainants' employers failed to accommodate the complainants' religious observance and parental obligations.
20. In summary, the number of complaints⁴ by lawyers and articling students in which each of the following prohibited grounds of discrimination was raised is:

sex	13	(7 sexual harassment; 4 pregnancy)
race	4	
disability	2	
sexual orientation	2	
religion	1	
family status	1	

21. This distribution of grounds is consistent with the types of complaints typically received by the DHC. Over the past nine years, approximately 50% of all complaints against lawyers have been based (in whole or in part) on sex, with disability and race being the next two most frequently cited grounds of discrimination. Of the sex-based complaints, sexual harassment is the most common allegation and pregnancy-related complaints are also very common.

⁴ The total number exceeds 20 because some complaints involved multiple grounds of discrimination.

Grounds of Discrimination Raised in Complaints by Members of the Law Society



D. COMPLAINTS AGAINST LAWYERS BY MEMBERS OF THE PUBLIC

22. During this reporting period, there were 13 complaints against lawyers made by members of the public.
23. Ten (10) of the public complaints (77%) were made by women and 3 (23%) were made by men.
24. Of the 13 public complaints:
 - six (6) involved clients complaining about their own lawyer or a lawyer that they attempted to retain;
 - six (6) involved litigants complaining about the conduct of opposing counsel in their cases; and
 - one involved an employee complaining about the conduct of a lawyer in her workplace.

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25. There were four (4) public complaints based, in whole or in part, on sex. Of these,
 - three (3) involved allegations of sexual harassment; and
 - one (1) involved a female client who complained about sexist remarks made by her own male lawyer.
26. Two of the sexual harassment complaints were client complaints made by women who reported that their respective lawyers had harassed them; one of complainants alleged that her lawyer sexually assaulted her. The third sexual harassment complaint was made by a female law clerk against a male lawyer in her workplace.
27. There were two (2) public complaints based, in whole or in part, on race:
 - one complaint was raised by a prospective client who reported that she was denied legal services and representation based (in part) on her race; and
 - one complaint was made by a litigant who reported that the opposing counsel in her case used a derogatory racial insult to describe her (Black female) lawyer.

28. There were six (6) public complaints based, in whole or in part, on disability:

- five complaints involved litigants who reported that the opposing counsel in their respective cases made derogatory or disparaging remarks about their disability and/or mocked their disability; and
- one complaint was made by a law clerk who reported harassment in her employment based on disability.

29. There were two public complaints based on family status:

- a prospective client reported that a lawyer refused to act for her (in part) because of her family status; and
- a client complained about discrimination based (in part) on her family status by her own lawyer.

30. There were also complaints based on each of the following grounds:

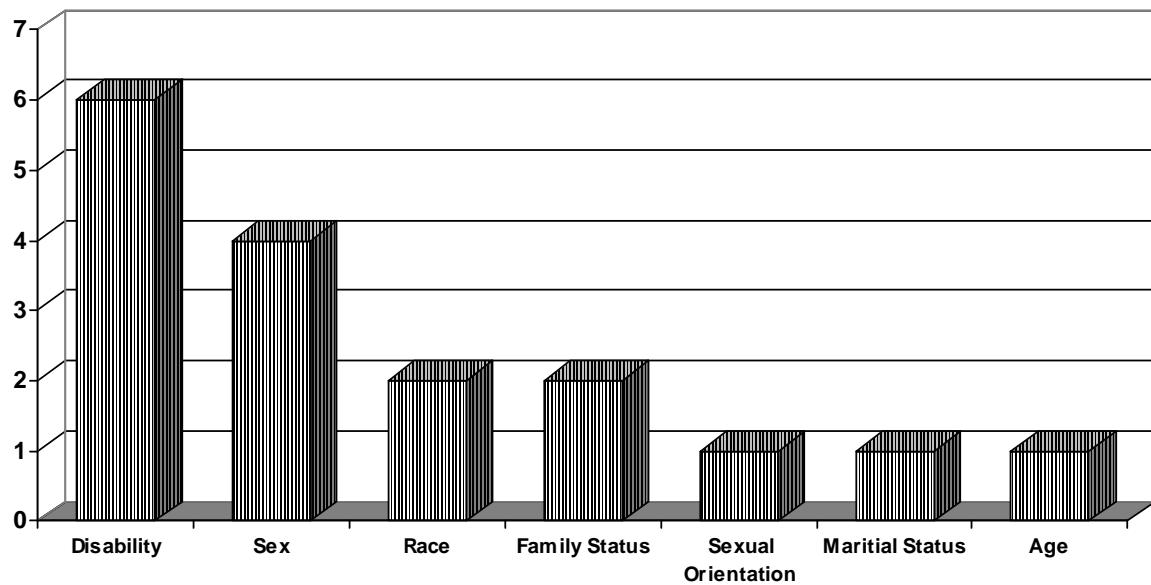
- a lesbian law clerk complained about harassment in her employment based on her sexual orientation;
- a client complained about discrimination based (in part) on her marital status by her own lawyer; and
- a man complained on behalf of his elderly mother that her lawyer was failing to represent her properly and was discriminating against her based on her age.

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31. In summary, the number of public complaints⁵ in which each of the following grounds of discrimination was raised is as follows:

disability	6
sex	4 (3 sexual harassment)
race	2
family status	2
age	1
sexual orientation	1
marital status	1

Grounds Raised in Public Complaints



⁵ The total exceeds 13 because some complaints were based on multiple grounds of discrimination.

E. COMPLAINTS AGAINST LAWYERS BY PARALEGALS

32. During this reporting period, there was only one complaint against a lawyer by a paralegal. The complainant was female. Her arose in the context of her employment and involved allegations of sexual harassment by a male lawyer in her workplace.

F. COMPLAINTS AGAINST PARALEGALS

33. During this reporting period, the DHC received only one complaint against a paralegal. The complainant was a paralegal student who reported that one of his instructors, who is a paralegal, made disparaging remarks about his disability in front of other students.

G. SERVICES PROVIDED TO COMPLAINANTS

34. The DHC provides a wide range of services to individuals who make discrimination or harassment complaints about lawyers, articling students or paralegals. The complaints arise in a variety of contexts, such as clients who report that they have been subjected to sexual harassment and/or sexual assault by their lawyer or paralegal, lawyers who are experiencing workplace 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. The DHC provides these individuals with safe counsel, coaching, information, referrals to other agencies and resources, informal mentoring, and general (non-legal) advice – some on an ongoing basis. The DHC also provides mediation services, described below.

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35. Complainants who contact the DHC with are advised of various avenues of recourse open to them, including (where applicable):
 - speaking to their union representative;
 - filing an internal complaint within their workplace;
 - making a complaint to the law firm, agency or government department that employs the respondent lawyer;
 - filing an Application with the Human Rights Tribunal of Ontario;
 - filing a professional misconduct complaint with the Law Society;
 - making a criminal injuries victim compensation claim;
 - contacting the police; and
 - contacting a lawyer for advice regarding possible legal claims.
36. Complainants are also provided with information about each of these options, including:
 - what (if any) costs might be involved in pursuing an option;
 - whether legal representation is required in order to pursue an option;
 - referral to resources on how to obtain legal representation (actual referrals to lawyers are not made by the DHC);

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- the mechanics of 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.)
 - what types of remedies 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).
37. Complainants are told that the options available to them are not mutually exclusive.
38. In some cases, upon request, strategic tips and 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).
39. Some complainants are referred to other agencies/organizations (such as the Lawyer's Assistance Plan and the Human Rights Legal Support Centre) or are directed to relevant resource materials available from the Law Society, the Ontario Human Rights Commission, ARCH, or other organizations.

H. MEDIATION / CONCILIATION

40. 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.
41. Whenever formal mediation is offered, the nature and purpose of mediation is explained to the complainant, 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. 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 must be provided before the DHC contacts the respondent. If both parties are willing to participate in mediation, they are required to sign a mediation agreement prior to entering into discussions with the DHC.
42. 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.
43. Many 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:

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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.

44. During this reporting period, there was only one formal mediation session conducted by the DHC,⁶ but there were a number of informal interventions made at complainants' request. The DHC spoke with the respondents in several of the sexual harassment cases and was thereby able to achieve a resolution of those complaints.⁷ In one particularly serious and complicated sexual harassment case, involving allegations by one partner against another partner in the same firm, the DHC assisted the parties in reaching an agreement through mediation that achieved a resolution to the issues raised in the complaint.

G. GENERAL INQUIRIES

45. Of the 86 new contacts with the DHC during this reporting period, 18 involved general inquiries. These contacts included:
 - an inquiry by the partner at a law firm about how best to handle an internal harassment complaint;
 - a request by a law firm for sensitivity training for a lawyer who was found to have engaged in sexual harassment;
 - questions about the scope of the DHC Program's mandate;

⁶ An Alternate DHC may have conducted other mediation sessions during a period of vacation coverage for the DHC.

⁷ The Alternate DHC also conducted some informal interventions at complainants' request during periods of vacation coverage for the DHC.

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- questions about the services offered by the DHC and confidentiality;
- inquiries about the data collected by the DHC; and
- inquiries about the Law Society's complaint process.

H. MATTERS OUTSIDE THE DHC MANDATE

46. During this reporting period, the DHC received 34 calls or emails relating to matters outside the Program's mandate. These contacts included complaints about workplace harassment that did not involve any lawyers or paralegals and complaints about judges.
47. There were several harassment complaints against lawyers that did not involve any human rights issues or prohibited grounds of discrimination (eg. bullying, demeaning and intimidating behaviour by co-workers, employers, opposing counsel, etc.). There were also complaints of unprofessional conduct by lawyers that did not involve allegations of discrimination or harassment (eg. lack of civility, undisclosed conflict of interest, etc.). A few complaints involved billing disputes and clients who thought that their lawyer was overcharging.
48. In addition, a few individuals called the DHC to seek legal representation and/or a referral to a lawyer for a human rights case.
49. 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, including (but not limited to) the LSUC's Lawyer Referral Service.

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50. Although there are a number of these “outside mandate” contacts, 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.

I. PROMOTIONAL AND EDUCATIONAL ACTIVITIES

51. The LSUC maintains a bilingual website for the DHC Program.
52. Throughout this reporting period, periodic advertisements were placed (in English and French) in the Ontario Reports to promote the Program.
53. French, English, Chinese and braille brochures for the Program continue to be circulated to legal clinics, community centres, libraries, law firms, government legal departments, and faculties of law.
54. During this reporting period, the DHC continued to work closely with the Law Society’s Equity Advisor (Josée Bouchard) to design and deliver Discrimination and Harassment Prevention workshops and Violence Prevention workshops to law firms. In addition to delivering important educational content, these workshops also serve as a useful opportunity to promote awareness of the Program’s services.

TAB 8.5
FOR INFORMATION

**EQUITY ADVISORY GROUP/GROUPE CONSULTATIF EN MATIÈRE D'ÉQUITÉ
APPOINTMENTS**

BACKGROUND

77. In May 2012, the Equity Advisory Group (“EAG”) undertook a recruitment process for new members in accordance with its Terms of Reference (**Appendix 1**) and recruitment process (**Appendix 2**). The advertisement for applications appeared in the Ontario Reports (**Appendix 3**) in April and May of 2012. A total of 47 applications were received.
78. The 47 applications received can be subdivided as follows:
 - 39 applications from individual lawyers;
 - 3 applications from individual paralegals;
 - 1 application from a law student;
 - 3 applications from legal organizations; and
 - 1 application from an individual not in the legal professions
79. As of July 2012, there were 11 vacancies on the EAG. Eight members, whose terms expired at the end of June 2012, were eligible to apply for re-appointment. Six of these members applied for re-appointment.
80. A Selection Committee was formed to review the applications, shortlist candidates and to recommend the shortlisted candidates to the Interview Committee. The Selection Committee is comprised of four members of the EAG and one non-EAG member. The Interview Committee was composed of two EAG members and one non-EAG member.
81. During the selection process, the Selection Committee was cognizant of the need to reflect diversity (including, but not limited to race, gender, disability, linguistic, sexual

orientation, gender identity and regional representation and experience) and the need to enhance and broaden the expertise of EAG in certain area (e.g. access to justice).

82. In the process of short listing candidates, the Selection Committee used the criteria outlined in the EAG recruitment advertisement to rank each individual applicant using a scorecard.
83. The EAG recommended seven individuals and three organizations for appointment as described below. On October 11, 2012, the Equity Committee approved the appointments.

EAG Membership Recommendations

84. The following individual applicants were approved for individual membership on EAG: **Sharan K. Basran, Julie Jai, Isfahan Merali** (reappointment), **Tariq Remtulla** (reappointment), **Paul Saguil, Paul Scotland, and Renée Maria Tremblay** (reappointment).
85. The following organizational applicants were approved for organizational membership on EAG: **Arab Canadian Lawyers Association** (reappointment), **Federation of Asian Canadian Lawyers** (reappointment), and the **Hispanic Ontario Lawyers Association** (reappointment).

(Background information of the recommended individuals and organizations are in Appendix 4)

Appendix 1

EQUITY ADVISORY GROUP/GROUPE CONSULTATIF EN MATIÈRE D'ÉQUITÉ

Terms of Reference

Mandate

1. To assist the Equity and Aboriginal Issues Committee/Comité sur l'équité et les affaires autochtones (EAIC), in the development of policy options for the promotion of equity and diversity in the legal profession by,
 - a. identifying and advising the Committee on issues affecting equity communities, both within the legal profession and relevant to those seeking access to the profession;
 - b. providing input to the Committee on the planning and development of policies and practices related to equity, both within the Law Society and the profession; and
 - c. commenting to the Committee on Law Society reports and studies relating to equity issues within the profession.

Appointment Process of Member of the Equity Advisory Group (EAG)

2. The terms “member” or “members” shall mean members of the legal professions of lawyers and paralegals (including law and paralegal students) and organizations committed to legal or justice issues.
3. The EAG has no fewer than 16 members and no more than 24 members.
4. The EAG has no more than 12 individual members of the legal professions and no more than 12 organizational members.¹
5. One position shall be held by a paralegal member and one position shall be held by a paralegal organization or association.
6. In the event of a vacancy, EAG shall fill the vacancy within a reasonable time.
7. Each organizational member shall designate one person and an alternate to act as representative for the organization.

¹ This part of the Terms of Reference is effective once the full EAG membership has been renewed.

8. The EAG shall make recommendations for appointment as follows:
 - a. between 8 and 12 members shall be recommended for appointment at its first meeting; and
 - b. between 8 and 12 members shall be recommended for appointment every 18 months thereafter.
9. The EAG may recommend new members for appointment when required to do so to maintain its membership between 16 and 24.
10. A current individual member who wishes to become a member representing an organization, or a current member from an organization who wishes to become an individual member of EAG, may apply to EAG for a change of status and EAG may consider the request. The request should include, in the case of a member seeking individual status, a curriculum vitae and in the case of a member seeking organisational status an outline of the mandate and activities of the organization. The EAG will consider the selection committee's recommendations and approve the recommendation of candidates by consensus. In the event that EAG cannot arrive at a consensus, EAG will approve the recommendation based on a two-third majority vote of EAG's membership.
11. The EAG will appoint, at the beginning of a selection process, a selection committee of no less than two members of EAG and one member of the legal profession who is not a member of the EAG. A staff member of the Equity Initiatives Department of the Law Society of Upper Canada will provide secretarial support to the selection committee.
12. The selection committee will adopt selection criteria, approved by the EAG, consistent with the Terms of Reference.
13. The EAG will invite applications for appointment to the EAG by announcing vacancies using various forms, including announcing in the Ontario Reports, emailing and/or targeted mailings to particular communities. The announcement will invite members of the profession and organizations to forward a curriculum vita or an outline of the mandate and activities of the organization, and a letter of interest to the Equity Advisor of the Law Society of Upper Canada. The Equity Advisor will forward copies of the documents provided to the Chair of the selection committee of the EAG.

14. The selection committee, guided by the selection criteria, will review each application and recommend candidates for appointment to EAG. The selection committee will support each recommendation by a rationale indicating how the candidate meets the criteria.
15. The applications that do not comply with the application process will not be reviewed.
16. EAG will consider the selection committee's recommendations and approve the recommendation of candidates by consensus. In the event that EAG cannot arrive at a consensus, EAG will approve the recommendation based on a two-third majority vote of EAG's membership.
17. EAG will recommend the candidates to EAIC for approval.
18. EAIC will forward approved names of new EAG members to Convocation along with brief biographical information.

Criteria for Membership

19. Members have direct experience or commitment to access and equity for Aboriginal, Francophone and/or equity seeking communities, including but not limited to communities of ethno-racial people, people of colour, immigrants and refugees, people with disabilities, gays, lesbians, bisexuals, transgenders, Francophones, Aboriginal people and women. Such experience is in areas of employment equity, access to the legal system and to justice, human rights, anti-racism and anti-oppression, equity and diversity training or social justice issues.
20. The membership reflects gender parity and balance among the various equity seeking communities. The membership reflects the desirability for periodic membership change.
21. The EAG has a chair and a vice-chair appointed by the EAG members.

Meetings

22. The EAG meets once a month, [except in the months of July, August and December], with schedules and agendas being established by the Chair and Vice-Chair in consultation with staff of the Equity Initiatives Department and the members of the EAG.

23. Special meetings may be convened by the Chair or Vice-Chair.
24. Members must attend meetings regularly either in person or by electronic means such as teleconference.
25. Failure to attend more than three consecutive meetings without explanation constitutes resignation from the EAG.

Quorum

26. Four members of the EAG constitute a quorum for the purposes of the transaction of business.

Term of Membership

27. The term of membership is three years. Individual members shall serve for a maximum of two consecutive terms.
28. Members who have changed their membership from an individual membership to an organization membership or have changed from an organization membership to an individual membership shall continue being a member of EAG for the remainder of their term.

Staff

29. Research and administrative support is provided by the Law Society's Equity Initiatives Department.

Appendix 2

Equity Advisory Group Appointment Process

1. The membership of the EAG is comprised of members of the legal professions of lawyers and paralegals (including law and paralegal students) and organizations committed to legal or justice issues.
2. The EAG will appoint, at the beginning of a selection process, a selection committee of no less than two members of the EAG and one member of the legal profession who is not a member of the EAG. A staff member of the Equity Initiatives Department of the Law Society of Upper Canada will provide secretarial support to the selection committee.
3. The selection committee will adopt selection criteria, approved by the EAG, consistent with the Terms of Reference.
4. The EAG will invite applications for appointment to the EAG by announcing vacancies using various forms, including announcing in the Ontario Reports, e-mailing and/or targeted mailings to particular communities. The announcement will invite members of the profession and organizations to forward a curriculum vitae or an outline of the mandate and activities of the organization, and a letter of interest to the Equity Advisor of the Law Society of Upper Canada. The Equity Advisor will forward copies of the documents provided to the Chair of the selection committee of the EAG.
5. The applications that do not comply with the application process will not be reviewed.
6. The selection committee, guided by the selection criteria, will review each application and recommend candidates for appointment to the EAG. The

selection committee will support each recommendation by a rationale indicating how the candidate meets the criteria.

Criteria for Membership

7. Members have direct experience or commitment to access and equity for Aboriginal, Francophone and/or equity seeking communities, including but not limited to communities of ethno-racial people, people of colour, immigrants and refugees, people with disabilities, gays, lesbians, bisexuals, transgenders, Francophones, Aboriginal people and women. Such experience is in areas of employment equity, access to the legal system and to justice, human rights, anti-racism and anti-oppression, equity and diversity training or social justice issues.
8. The membership reflects gender parity and balance among the various equity seeking communities. The membership reflects the desirability for periodic membership change.
9. The EAG will consider the selection committee's recommendations and approve the recommendation of candidates by consensus. In the event that the EAG cannot arrive at a consensus, the EAG will approve the recommendations based on a two-third majority vote of EAG's membership.
10. The EAG will recommend the candidates to the Equity and Aboriginal Issues Committee (EAIC) for approval.
11. The EAIC will forward approved names of new EAG members to Convocation along with brief biographical information.

Appendix 3



Invitation to Apply for Membership Equity Advisory Group

The Law Society of Upper Canada is inviting applications from lawyers, paralegals, law students, students-at-law, and representatives of legal organizations and associations for membership in the Equity Advisory Group (EAG).

The Equity Advisory Group provides advice to the Law Society on equity and diversity issues, and is responsible for identifying, reviewing and reporting on issues affecting diverse communities in the legal profession. Members are committed to equality and diversity principles, and have experience in working with (but not limited to) issues affecting Aboriginal, Francophone and racialized communities, persons with disabilities, gay, lesbian, bisexual, and transgender persons, and women.

EAG meets monthly in person or by teleconference and on an ongoing basis on special projects. Members serve three-year terms. All positions are served on a voluntary basis. For more information on roles, responsibilities and time commitments, please contact the Equity Initiatives Department at 416-947-3315 or 1-800-668-7380 ext. 3315.

If you are interested in applying for an appointment as an individual member, please send a letter of interest and *curriculum vitae*. If you are applying as a legal organization or association, please send information about your organization or association's mandate, activities and other relevant information.

All applications must be submitted by May 7, 2012 to:
Josée Bouchard, Equity Advisor,
The Law Society of Upper Canada
130 Queen Street West
Toronto, ON M5H 2N6
Fax: (416) 947-3983
E-mail: eag@lsuc.on.ca

Appendix 4

Background of New Members

Individual Members:

Sharan K. Basran

Sharan K. Basran is legal counsel at the Human Rights Legal Support Centre (HRLSC), representing clients in all aspects of litigation before the Human Rights Tribunal of Ontario. She is part of a team which provides free legal services to individuals who have experienced discrimination in Ontario. She is also the supervisor of internship and articling principle at the HRLSC as part of the Internationally Trained Lawyer's Program held by the University of Toronto. Sharan K. Basran is an Executive Member of the Ontario Bar Association, Labour and Employment Law Section and is a frequent speaker and lecturer on equity, diversity and human rights issues.

Julie Jai

Julie Jai is General Counsel, Policy and Litigation, at the Ontario Regional Office of the Department of Justice. She provides policy and litigation leadership for the Ontario region and litigates major cases involving significant policy issues and evolving areas of law, such as *Charter* challenges and Aboriginal rights cases. She developed guidelines for cases involving survivors of Aboriginal residential schools, which were adopted by the Yukon Law Society in 2001 – the first law society to develop such guidelines. Julie Jai is an active member of the Federation of Asian Canadian Lawyers. She was also Chair of the OBA Public Sector Lawyer Section, Executive member of the Constitutional, Human Rights and Civil Liberties Association and past member of the CBA Aboriginal Law Section Executive.

Isfahan Merali (former member)

Isfahan Merali is senior counsel with the Ontario Human Rights Commission. She has extensive experience with the *Ontario Human Rights Code* and related legislation, human rights and equity policy development, education and training as well as mediation and negotiation practices. Since 2007, Isfahan has been the Equity Advisor for the Ontario Human Rights Commission. Isfahan was called to the bar in Ontario in 1997.

Tariq Remtulla (former member)

Tariq Remtulla currently practices intellectual property law and civil litigation at Blake Cassels and Graydon LLP (Blakes). Tariq serves on the firm's Equity and Diversity Committee, and is a coordinator for the Law in Action Within Schools (LAWS) program, where Blakes lawyers provide academic support and mentorship to a group of urban high school students facing barriers in achieving academic, career and life goals. Tariq's other volunteer commitments include the Alliance for South Asian AIDS Prevention, a support organization for South Asians infected and affected by HIV. Tariq was called to the bar in Ontario in 2006.

Paul Saguil

Paul Saguil is a lawyer at the law firm of Stockwoods LLP in Toronto. His practice focuses in the areas of administrative law, professional discipline and regulation, defamation and media law, class actions, and civil and commercial litigation. He acts as duty counsel and provides pro bono legal services to unrepresented litigants before all levels of court in Ontario, the Federal Court, the Ontario Securities Commission, and the Human Rights Tribunal of Ontario. He has also taught in the Internationally Trained Lawyers Program at the University of Toronto Faculty of Law. Paul Saguil is a board member and former executive member of the Federation of Asian Canadian Lawyers, and was its representative on the EAG in 2009 to 2012. He is also a member of the Sexual Orientation and Gender Identity Conference of the Canadian Bar Association and the Equality Committee of the Ontario Bar Association.

Paul Scotland

Paul Scotland is a sole practitioner managing a criminal law practice with a diverse client base. He first practiced as Criminal Law Duty Counsel in 1999 to 2002. Most of his legal training and work has involved working in a legal aid clinic setting and representing diverse clients facing social and economic disadvantages. As staff lawyer for the Jane Finch Community Legal Services, he drafted pleadings and submissions for matters before the Immigration and Refugee Board, Social Assistance Review Board, Social Benefits Tribunal, Ontario Rental Housing Tribunal, and the Employment Insurance Board of Referees. Paul Scotland has been a member of the board of Jane Finch Community Legal Services, Delta Family Resource Centre, and was co-chair of the Ethno-Racial Persons with Disabilities Coalition of Ontario.

Renée Maria Tremblay (former member)

Renée Maria Tremblay is acting Legal Officer to the Chief Justice of Canada. Her work at the Supreme Court of Canada enables her to participate in the development of human rights law and contemporary issues of equality. Renée Maria also serves as legal counsel to the Court's Official Languages Advisory Committee. In this capacity, Renée Maria contributes to the bilingual functioning of the Court. Renée Maria was called to the Ontario bar in 2002.

Organizations:

Arab Canadian Lawyers Association (ACLA)

The Arab Canadian Lawyers Association (ACLA) was established in 2005. ACLA's mandate is to promote and facilitate the social and professional interaction among its members; to advocate and increase public awareness of legal issues on behalf of the Arab Canadian community; to advance legal education and resources to the Arab Canadian community; to provide mentorship to lawyers and law students; and to assist all lawyers addressing matters related to Arab Canadians.

Hispanic Ontario Lawyers Association (HOLA)

The Hispanic Ontario Lawyers Association (HOLA) is a nonprofit association founded in 2005, to raise awareness about the Hispanic Legal Community in Canada. The objectives of the Association are:

- To give back to the Hispanic Community and to the legal profession;
- To increase the number of Hispanic lawyers;
- To advance the standing of Hispanic lawyers in the community;
- To promote the cooperation and development of Hispanic lawyers; and
- To be involved in significant issues affecting the Hispanic community.

Federation of Asian Canadian Lawyers (FACL)

Founded in 2007, FACL is a pan-Asian law association that seeks to bridge the barriers between its various member communities. The founding members of FACL were united by a common interest in promoting equity, justice and opportunity for Asian Canadians in both the legal profession and the wider community. FACL recognizes the need to cultivate and advance

advocacy, community involvement, and professional development by Asian Canadian legal professionals.

TAB 8.6

**PUBLIC EDUCATION EQUALITY AND RULE OF LAW SERIES
CALENDAR
2012 - 2013**

CANADIAN ASSOCIATION OF BLACK LAWYERS ANNUAL CONFERENCE –

October 26, 2012

Donald Lamont Learning Centre (9:00 a.m. – 5:00 p.m.)

Seminar Topics:

- In-House/Private Practice Roundtable – Alternative Fee Arrangements
- The Sole/Small Firm Practitioner Survival Series (2 parts)
- Demystifying the Judicial and Public Appointments Process
- Professionalism and Practice Management
- A Client in Crisis: Handling that First Call

LOUIS RIEL DAY – November 16, 2012

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

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

INTERNATIONAL HUMAN RIGHTS DAY – December 10, 2012

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

Reception, Upper Barristers' Lounge (6:00 p.m. – 7:30 p.m.)

BLACK HISTORY MONTH – February 7, 2013

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

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

INTERNATIONAL WOMEN'S DAY – March 6, 2013

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

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

INTERNATIONAL FRANCOPHONE DAY/LA JOURNÉE DE LA FRANCOPHONIE –

March 21, 2013

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

HOLOCAUST REMEMBRANCE DAY - April 8, 2013

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

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

LAW WEEK CELEBRATION – THE GREAT DEBATE – April 16, 2013

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

Reception, Upper Barrister's Lounge (7:00 p.m. – 8:00 p.m.)

Organized in partnership with the Ontario Justice Education Network

ALTERNATIVE CAREERS FOR WOMEN IN LAW – May 2013

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

Upper Barrister's Lounge (6:00 p.m. – 7:30 p.m.)

ASIAN AND SOUTH ASIAN HERITAGE MONTH - May 16, 2013

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

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

ACCESS AWARENESS FORUM – LEGAL PANEL ON DISABILITY ISSUES - June 6, 2013

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

NATIONAL ABORIGINAL HISTORY MONTH - June 18 or 20, 2013

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

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

PRIDE WEEK - June 25, 2013

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

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