

Lawyers' Rights Watch Canada

NGO in Special Consultative Status with the Economic and Social Council of the United Nations

126-1644 Hillside Avenue, PO Box 35115 Hillside, Victoria BC Canada V8T 5G2
www.lrwc.org; lrwc@lrwc.org

Statement on the British Columbia Legal Professions Regulatory Modernization General Intentions Paper, September 2022

Lawyers' Rights Watch Canada (LRWC)*
18 November 2022

*"Where there is no independent legal profession there can be no independent
judiciary, no rule of law, no justice, no democracy and no freedom."*

– The Hon Michael Kirby AC CMG, Australia

Contents

Introduction.....	2
Why the international law context is important in BC: Increasing global threats to lawyers	2
Canada's international obligations apply to BC	3
Analysing the BC AG's stated intentions for modernization the legal profession	3
Affordability, access to justice, and BC's regulatory framework for lawyers	3
BC government incursion on the independence of the legal profession	4
Majority control of the legal profession may shift from lawyers to government appointees, notaries, paralegals and others	4
The public interest.....	5
Inclusion of notaries and paralegals under the Legal Profession Act.....	7
Access to justice.....	7
Recommendations: Cooperation with government, not control by government	7
Appendix: BC's international human rights obligations	9
References	10

* Lawyers Rights Watch Canada (LRWC) is a committee of Canadian lawyers who promote human rights and the rule of law. LRWC promotes the implementation and enforcement of international standards designed to protect the independence and security of human rights defenders around the world. LRWC was granted UN Special Consultative Status by the UN Economic and Social Council in 2005. This statement was authored by Catherine Morris, BA, JD, LL.M, a member of Lawyers' Rights Watch Canada and a member of the Law Society of BC (non-practicing). She has more than two decades of experience teaching and advocating on international human rights in several countries. Until October 2022, she served as United Nations (UN) Representative for Ms. Morris has made numerous submissions and statements to the UN Human Rights Council since 2011.

Statement on the British Columbia Legal Professions Regulatory Modernization General Intentions Paper, September 2022

**Lawyers' Rights Watch Canada
18 November 2022**

“Where there is no independent legal profession there can be no independent judiciary, no rule of law, no justice, no democracy and no freedom.”
– The Hon Michael Kirby AC CMG, Australia¹

Introduction

The British Columbia (BC) Ministry of Attorney General (AG) has set out a General Intentions Paper for Legal Professions Regulatory Modernization (“Intentions Paper” or “Paper”).² While the Paper sets out as its purpose “to help make it easier for the public to access legal services and advice,” its main thrust is to significantly change the governance structure of the legal profession in BC.³ This statement is intended as both a submission to the Government of BC and a public statement to members of the BC legal profession and interested others.

The BC AG’s Intentions Paper raises serious concerns about access to justice and the independence and integrity of the legal profession, which are fundamental to the rule of law⁴ and Canada’s international law obligations. The government and legal profession of British Columbia (BC) are obligated to ensure that laws, regulations, and practices governing the legal profession are carefully developed and implemented so as to fully uphold international human rights and freedoms protected by treaties that are binding on Canada, including BC. The proposals in the Intentions Paper do not measure up to BC’s obligations to uphold international law and standards.

This statement provides analysis of the Intentions Paper in light of Canada’s international law obligations under the *International Covenant on Civil and Political Rights* (ICCPR)⁵ which guarantees rights to fair trials including adequate legal representation, and the right to remedies for human rights violations. The United Nations (UN) *Basic Principles on the Role of Lawyers*,⁶ which has been repeatedly endorsed by the UN Human Rights Council and the General Assembly, elaborate the ICCPR and other international law as it relates to the independence and integrity of the legal profession. This statement also draws on other international law and standards for access to justice.⁷ Other relevant treaties and instruments are listed in the Appendix.

Why the international law context is important in BC: Increasing global threats to lawyers

It is important that BC act as a bulwark and example of protection of independence of the legal profession in the context of increasing threats to the legal profession worldwide. Lawyers around the globe are regularly stigmatized, defamed, subjected to surveillance, disbarred, criminalized, arbitrarily detained, threatened, attacked, murdered, or disappeared.⁸ Those advocating for women’s equality, LGBTIQ2S⁹ persons, racialized or religious minorities, environmental or land rights protection, climate justice, or rights of Indigenous Peoples are most frequently persecuted or denied equality of access to competent and independent legal representation, courts and tribunals.

Laws, regulations, and policies that fall short of international law and standards are used by authoritarian governments in too many countries to control or take over courts, law societies, and bar associations. Such takeovers have resulted in discipline, suspensions or disbarments of human rights lawyers for performing their lawful professional duties. Assaults on the independence of the legal profession create a chilling effect by deterring lawyers from representing clients in politically sensitive cases or taking public stands to uphold human rights and the rule of law. This has the effect of suppressing access to justice and remedies for government critics, political dissenters or members of oppressed or marginalized groups.

The BC legal profession and government must guard against the development of any laws, regulations, or policies that have any potential to be abused by successor BC governments or that can be used by authoritarian governments as models to justify laws that would be applied to limit the independence of lawyers and the legal profession. Rather, this statement urges the BC government and the legal profession to cooperate to ensure the independence of lawyers at home and to provide a model that fulfills international law and standards and that can be held up for emulation by other Canadian Provinces and other countries.

Canada's international obligations apply to BC

Canada has ratified the majority of UN human rights treaties, all of which require access to remedies for violations of human rights, including access to competent and independent legal representation. The Intentions Paper's stated goal of improved access to justice in BC and modernization of BC's regulatory framework are laudable. However, the BC government and the legal profession must cooperate to ensure that all legislation, policies, and practices regarding access to justice and governance of the legal profession adhere to contemporary international human rights law and standards.¹⁰

Analysing the BC AG's stated intentions for modernization the legal profession

Affordability, access to justice, and BC's regulatory framework for lawyers

The Intentions Paper rightly notes that "too many people in B.C. cannot afford the cost of a lawyer" and that increased government funding of legal aid over the last several years plus pro bono legal services cannot be relied on as "the complete solution to the gap in access to legal services."¹¹ However, the paper does not otherwise address continuing concerns about adequacy of government funding of legal aid¹² and the administration of justice.¹³ Instead, the focus of the Intentions Paper is on the regulatory structure of the legal profession.¹⁴

The Intentions Paper argues that:

Access to legal services is at least in part a regulatory issue because rules around who is allowed to provide what services have an impact on the availability (and cost) of those services to the public. Access to legal services is also at least in part a governance issue because it requires a governance framework that prioritizes the public interest over the interests of the professionals it regulates.

It must be noted that the Intentions Paper uses the term “legal professions” (plural) so as to include notaries and paralegals as “professionals” alongside lawyers. However, this statement uses the term “legal profession” (singular) to refer to lawyers, in keeping with the *Legal Profession Act*¹⁵ currently in force in BC as well as the terminology of the UN *Basic Principles on the Role of Lawyers*¹⁶ which sets out international standards for regulation of the legal profession, including the necessity for the rule of law of upholding the independence not only of individual lawyers but also the governance of the legal profession.

BC government incursion on the independence of the legal profession

The Intentions Paper focuses on independence of the legal profession as it applies to individual lawyers:

The Ministry is not proposing, and has no intention of implementing, changes that would interfere with the ability of a lawyer (or other legal service provider) to fearlessly advocate for their client and provide independent legal advice to their client, even, and especially, when their client is at odds with government [emphasis added].

The Intentions Paper omits recognition of the principle that independence applies not only to individual lawyers but also to the governance of the legal profession.¹⁷ The Intentions Paper states:

Many other common law jurisdictions have moved away from self-regulation in favour of alternative regulatory models featuring enhanced government oversight (often referred to as “co-regulation”). For example, in 2007, England and Wales created a state-appointed Legal Services Board to oversee the regulators of the legal professions in that jurisdiction. Similar models are also in place in most Australian states. However, the Ministry is not proposing this kind of change. The reforms contemplated in this paper would ensure that legal professions in B.C. remain (or become, in the case of licensed paralegals) self-regulating.

The BC AG’s Intentions Paper mentions but does not discuss or evaluate the United Kingdom (UK) or Australian states’ legislation,¹⁸ but distances itself from “co-regulation” and states it will continue with “self-regulation.” Yet, the proposals in the Paper contradict this assurance, setting out clear intentions to significantly increase government control over lawyers by reducing, if not removing, lawyers’ majority control over the qualifications, discipline and governance of lawyers.

Majority control of the legal profession may shift from lawyers to government appointees, notaries, paralegals and others

It is important to note that the current governance model set out in the *BC Legal Profession Act* does not provide for full self-governance, in that the statute provides that the AG and five government-appointed benchers are among the governing Benchers. At the present time, there are 32 Benchers, including the AG plus six government appointees.¹⁹ While this is a minority, the BC government currently has significant influence over the Benchers through its control over the identity of its appointees.

This minority arrangement has been accepted or tolerated by the BC legal profession as providing sufficient independence from government. However, the Intentions Paper appears to propose a radical shift of control.

It proposes a “board of directors” (instead of “Benchers”) of which the AG would not be a member, and says the “directors appointed by government should constitute a minority on the board.” The Intentions Paper reports that the Canadian Bar Association, BC Branch (CBABC) has recommended that the number of benchers be reduced to 15.²⁰ The BC government reportedly may take up the CBABC recommendation for a board of 15 directors with seven government appointees plus representatives of notaries, paralegals and others.²¹ The number of elected lawyers could thus be reduced to a minority of five. In this suggested proposal, control of the legal profession by elected lawyers would be removed, and majority control over the legal profession would be placed in the hands of a combination of government appointees, notaries, paralegals and others.

Any such proposal would be dramatically at odds with the UN *Basic Principles on the Role of Lawyers* which specifies in Principles 24 and 25 that:

24. Lawyers shall be entitled to form and join self-governing professional associations to represent their interests, promote their continuing education and training and protect their professional integrity. The executive body of the professional associations shall be elected by its members and shall exercise its functions without external interference.

25. Professional associations of lawyers shall cooperate with Governments to ensure that everyone has effective and equal access to legal services and that lawyers are able, without improper interference, to counsel and assist their clients in accordance with the law and recognized professional standards and ethics [emphasis added].

These standards call for cooperation with governments, not control by governments. International standards are clear that independence of the legal profession call for a model by which lawyers elect the executive body of their professional association, without external interference from governments.

The public interest

The Intentions Paper indicates that the BC government wishes to ensure that the legal profession has a clear focus on public interest rather than members’ self-interest.²² This is in keeping with international standards.

The Intentions Paper does not define what it means by the term, “public interest.” However, the term is defined by the current *Legal Profession Act* in Section 3 as:

- (a) preserving and protecting the rights and freedoms of all persons,
- (b) ensuring the independence, integrity, honour and competence of lawyers,
- (c) establishing standards and programs for the education, professional responsibility and competence of lawyers and of applicants for call and admission,
- (d) regulating the practice of law, and
- (e) supporting and assisting lawyers, articled students and lawyers of other jurisdictions who are permitted to practise law in British Columbia in fulfilling their duties in the practice of law.

The Paper has a clear focus on reducing the rights of lawyers to govern themselves as members of the legal profession and the Law Society of BC by:

- referring to lawyers as “licensees,” not “members” of the Law Society of BC;
- establishing “public accountability mechanisms suitable to that of a regulator that regulates in the public interest and not that of a membership-driven organization,”
- remove the rights of members to bring forward resolutions that “purport to direct the actions of the regulator’s board,” and
- remove members’ authority to “approve or reject the regulator’s rules as determined by the board mandate to address the public interest.”

The specificity and tone of these recommendations suggest that the BC AG has concerns that the current governance model has allowed members of the Law Society of BC to inappropriately thwart the Law Society’s legislated mandate to uphold the public interest and has instead focussed on the self-interests of lawyers. However, the Intentions Paper provides no indication of what these concerns may be and how the public interest is alleged to be at risk under the present governance model.

The present definition of the public interest in the *Legal Profession Act* is in keeping with the UN *Basic Principles on the Role of Lawyers*, which in Principles 9, 14-16 provides that governments, professional associations, and educational institutions are to cooperate towards the goals of integrity, education, competence, and protection of rights and freedoms to perform their professional functions, both individual and corporate, in accordance with domestic and international law:

9. Governments, professional associations of lawyers and educational institutions shall ensure that lawyers have appropriate education and training and be made aware of the ideals and ethical duties of the lawyer and of human rights and fundamental freedoms recognized by national and international law.

[...]

14. Lawyers, in protecting the rights of their clients and in promoting the cause of justice, shall seek to uphold human rights and fundamental freedoms recognized by national and international law and shall at all times act freely and diligently in accordance with the law and recognized standards and ethics of the legal profession.

15. Lawyers shall always loyally respect the interests of their clients.

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

It is not clear how the proposals in the Intentions Paper would enhance the Law Society of BC's current requirement that it act in the public interest as set out in the *Legal Profession Act*. However, reduced representation of elected lawyers and majority control by government and others in the governance of BC's legal profession falls short of international standards of self-governance.

Inclusion of notaries and paralegals under the Legal Profession Act

This submission takes no position concerning inclusion of notaries and paralegals in the terms of the *Legal Profession Act* except to urge that their work be carefully delineated by the Law Society of BC and that the qualifications and work of paralegals always be overseen by qualified lawyers. Caution is needed in any proposal that paralegals and notaries have governance oversight of lawyers.

Access to justice

The Intentions Paper's stated purpose of enhancing access to justice omits consideration of international law and standards guaranteeing the right to adequate, properly qualified legal representation. This includes the right to legal aid when required for effective access to remedies and fair hearings not only for criminal matters but also for civil matters, including family law, administrative law, and poverty law.²³

It is noted that in 1992 the BC government imposed a special tax of seven percent on legal services to fund legal aid. This tax does not apply to any other professional services. In 2002 the BC government dramatically cut legal aid funding by 40 percent but kept the tax in place. Lack of sufficient legal aid funding has disproportionately affected women and Indigenous Peoples. Since then, the BC government has restored some funding to legal aid. By 2017 the special tax on legal services raised more than \$210 million per year, but only a fraction has been paid to legal aid. By 2022 \$108.6 million of the funds collected by the special tax was being provided to Legal Aid BC.²⁴

The BC government's provision of legal aid services is inadequate to fulfill its international legal obligations. This could be remedied by providing Legal Aid with adequate funding using the proceeds of the legal services tax.

Recommendations: Cooperation with government, not control by government

Lawyers' Rights Watch Canada urges the BC AG to ensure that it fully recognizes the legal profession as independent and not subject to control by government. This is a fundamental principle of the rule of law, grounded in international law, including the ICCPR, and elaborated in the UN *Basic Principles on the Role of Lawyers*. This means ensuring that the legal profession is to be controlled by elected members of the legal profession, not by a combination of government appointees, notaries, paralegals and others.

It is recommended that the BC government transparently allocate to Legal Aid all funds collected under the tax on legal services.

While the legal profession must not be controlled by government, it should cooperate with government in accordance with the realization of all persons' rights and freedoms, as spelled out in Section 3(a) of the *Legal Profession Act*. The Law Society of BC is urged to engage as full partners with the BC AG to ascertain what forms of modernization and cooperation regarding regulation may be appropriate in compliance with international law and standards for independence of the legal profession in keeping with the rule of law.

All stakeholders are urged to thoroughly study and comply with all relevant international human rights law and standards regarding the legal profession and access to justice, including ensuring adequate funding to courts and tribunals and for the provision of criminal and civil legal aid in accordance with international law and standards.

Appendix: BC's international human rights obligations

The government of BC is obligated to implement customary international law and all human rights treaties ratified by Canada, which are binding at international law on all levels and branches of governments in Canada, including federal, provincial and municipal governments.²⁵

Competent and independent legal representation is integral to the right to a fair trial which is a matter of customary international law binding on all States and entrenched in the *Universal Declaration of Human Rights* (UDHR).²⁶ Canadian governments at all levels are also obligated to implement the following treaties ratified by Canada, all of which contain provisions relevant to the independence and integrity of legal systems, of which competent and independent legal representation to seek remedies is integral:

- *International Covenant on Civil and Political Rights* (ICCPR),²⁷ which guarantees the rights to fair trial including adequate legal representation, and the right to remedies for human rights violations;
- *International Covenant on Economic, Cultural and Social Rights* (ICESRC),²⁸ by which States undertake to ensure equal rights related to such matters as labour rights, health care, housing, and education;
- *International Convention on the Elimination of All Forms of Racial Discrimination* (ICERD)²⁹ which guarantees equal protection of the law from racial, gender, language or religious discrimination;
- *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* (UNCAT),³⁰ which obligates States to ensure effective remedies for torture or ill-treatment;
- *Convention on the Elimination of All Forms of Discrimination Against Women* (CEDAW)³¹ by which States undertake “to ensure through competent national tribunals and other public institutions the effective protection of women against any act of discrimination...”;
- *Convention on the Rights of the Child* (CRC)³² which includes guarantees of “appropriate assistance to parents and legal guardians in the performance of their child-rearing responsibilities...”;
- *Convention on the Rights of Persons with Disabilities* (CRPD),³³ which includes guarantees of equal recognition before the law and effective access to justice.

Canadian governments are also expected to abide by the following international instruments:

- *UN Declaration on the Rights of Indigenous Peoples* (UNDRIP),³⁴ with which all BC legislation must be made consistent (*Declaration on the Rights of Indigenous Peoples Act*);
- *UN Basic Principles on the Role of Lawyers*;³⁵
- *UN Declaration on Human Rights Defenders*;³⁶
- *UN Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems*,³⁷ which is applicable “mutatis mutandis, in civil and administrative law cases where free legal assistance is indispensable for effective access to the courts and a fair hearing, as well as for access to legal information and counsel and to mechanisms of alternative dispute resolution.”³⁸

References

¹ Hon. Michael Kirby AC CMG, Australia, "The Independence of the Legal Profession: Threats to the bastion of a free and democratic society." A report by the IBA's Presidential Task Force on the Independence of the Legal Profession, International Bar Association, 2018, online IBA: <<https://www.ibanet.org/MediaHandler?id=6E688709-2CC3-4F2B-8C8B-3F341705E438&.pdf>>.

² British Columbia Ministry of Attorney General, Legal Professions Regulatory Modernization, Ministry of Attorney General Intentions Paper [Intentions Paper], September 2022, online BC: <<https://engage.gov.bc.ca/app/uploads/sites/121/2022/09/MAG-Intentions-Paper-September-2022-1.pdf>>.

³ Intentions Paper, *ibid*, page 4.

⁴ LRWC defines the rule of law as: "a principle of governance in which all persons, institutions and entities, public and private, including the State itself, are accountable to laws that are publicly promulgated, equally enforced and independently adjudicated, and which are consistent with international human rights norms and standards. It requires, as well, measures to ensure adherence to the principles of supremacy of law, equality before the law, accountability to the law, fairness in the application of the law, separation of powers, participation in decision-making, legal certainty, avoidance of arbitrariness and procedural and legal transparency" [emphasis added]. UN Security Council, Report of the Secretary-General: The rule of law and transitional justice in conflict and post-conflict societies (S/2004/616), 2004, online UN: <<https://www.un.org/ruleoflaw/what-is-the-rule-of-law-archived/>>.

⁵ *International Covenant on Civil and Political Rights*, 1966, UN General Assembly, GA Res. 2200 (XXI), UN GAOR, 21st Sess., Supp. No. 16, 52 UN Doc. A/6316 (1966), online: OHCHR <<https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights>>.

⁶ United Nations, *Basic Principles on the Role of Lawyers*, 7 September 1990, online: OHCHR <<https://www.ohchr.org/en/instruments-mechanisms/instruments/basic-principles-role-lawyers>>. The *Basic Principles* were unanimously welcomed by the UN General Assembly in 1990, see UN General Assembly, Human rights in the administration of justice: resolution / adopted by the General Assembly, 18 December 1990, A/RES/45/166, online Refworld: <<https://www.refworld.org/docid/3b00f20f18.html>>.

⁷ For elaboration of the relevant treaty law and standards, see UN Human Rights Council, *Report of the Special Rapporteur on the independence of judges and lawyers, Gabriela Knaul*, 15 March 2013, A/HRC/23/43, online OHCHR:

<https://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/23/43>; LRWC, *The Right to Legal Aid: A Guide to International Law Rights to Legal Aid* (Vancouver: Lawyers' Rights Watch Canada, 2014), online LRWC:

<<https://www.lrwc.org/the-right-to-legal-aid-a-guide-to-international-law-rights-to-legal-aid/>>; LRWC, *The Right to Legal Aid: How British Columbia's Legal Aid System Fails to Meet International Obligations* (Vancouver: Lawyers' Rights Watch Canada, 2014), online LRWC: <<https://www.lrwc.org/the-right-to-legal-aid-how-british-columbias-legal-aid-system-fails-to-meet-international-obligations/>>.

⁸ See the reports and statements of Lawyers' Rights Watch Canada, online LRWC: <<http://www.lrwc.org>>.

⁹ The acronym "LGBTIQ2S" refers to Lesbian, Gay, Bisexual, Transgender, Transsexual, Intersex, Queer, Questioning, or Two Spirit persons.

¹⁰ *Vienna Convention on the Law of Treaties*, U.N.T.S. Vol. 1155. Article 26 states: “Every treaty in force is binding upon the parties to it and must be performed by them in good faith.” Article 27 states, “A party may not invoke the provisions of its internal law as justification for its failure to perform a treaty.” Online UN:

<https://legal.un.org/ilc/texts/instruments/english/conventions/1_1_1969.pdf>.

¹¹ Intentions Paper, *supra* note 3, at 4.

¹² Michael Mulligan, “Paralegals rather than legal aid,” *Legally Speaking with Michael Mulligan*, <<https://mtplaw.com/legal-news/paralegals-rather-than-legal-aid-sentences-longer-that-requested-and-a-municipal-recount/>>; Dennis Ball, “Single mothers' lawsuit against province's legal aid system heads to B.C. Supreme Court,” *CBC*, 23 August 2022, online CBC

<<https://www.cbc.ca/news/canada/british-columbia/single-mothers-alliance-case-against-bc-legal-aid-system-hearings-1.6556695/>>; Brianna Charlebois, *The Canadian Press*, “‘Desire to overlook violence’: B.C. advocates say family court mediation inadequate for victims,” *CTV*, 29 March 2022, online CTV: <<https://bc.ctvnews.ca/desire-to-overlook-violence-b-c-advocates-say-family-court-mediation-inadequate-for-victims-1.5837416>>; West Coast LEAF Submissions of West Coast LEAF, “British Columbia Budget 2022 Consultation, Select Standing Committee on Finance and Government Services,” 29 September 2021, online West Coast Leaf:

<<https://www.westcoastleaf.org/wp-content/uploads/2021/10/West-Coast-LEAF-2022-Budget-Consultation-Submissions-Sept-2021-Final.pdf>>.

¹³ Eric Rankin, “Top judge takes rare shot at B.C. government over COVID-19 court closures: Chief Justice Christopher Hinkson blames province for 'unanswered' funding requests to modernize courts,” *CBC*, 30 April 2020, online CBC: <<https://www.cbc.ca/news/canada/british-columbia/top-judge-takes-rare-shot-at-b-c-government-over-covid-19-court-closures-1.5551487>>.

¹⁴ *UN Basic Principles on the Role of Lawyers*, *supra* note 6.

¹⁵ *Legal Profession Act*, RSBC 1996, c 255, online BC:

<https://www.bclaws.gov.bc.ca/civix/document/id/complete/statreg/98009_01>.

¹⁶ *UN Basic Principles on the Role of Lawyers*, *supra* note 6. The Basic Principles were unanimously welcomed by the UN General Assembly in 1990, see UN General Assembly, Human rights in the administration of justice: resolution / adopted by the General Assembly, 18 December 1990, A/RES/45/166, online Refworld:

<<https://www.refworld.org/docid/3b00f20f18.html>>.

¹⁷ *UN Basic Principles on the Role of Lawyers*, *supra* note 6, Principles 24 and 25.

¹⁸ For more information see Stephen Mayson, “Independent Review of Legal Services Regulation.” Working Paper, Centre for Ethics & Law, Faculty of Laws, University College London, 2018, online UCL: <https://www.ucl.ac.uk/ethics-law/sites/ethics-law/files/0_irlsr_wp_lsr-0_assessment_1810_004.pdf>; See also Kirby, *supra* note 1.

¹⁹ *Legal Profession Act*, *supra* note 15, sections 4 and 5.

²⁰ Intentions Paper, *supra* note 3, at 12, citing Canadian Bar Association, BC Branch, “CBABC Submission on Self-Regulation and LSBC” (2021), online CBABC:

<https://www.cbabc.org/CBAMediaLibrary/cba_bc/pdf/Elections/Bencher/2021/CBABC_Submission_to_LSBC_Governance_Review.pdf>.

²¹ Victoria Bar Association, “Benchers Bulletin, in *The Praecept: Victoria's Legal Newsletter*, November 2022, online VBA:

<https://mcusercontent.com/6a76305ab11bdc86be02a62ab/files/9508ee41-607d-a03a-7448-cd51630cd9cb/Praecept_November_2022.pdf>.

²² Intentions Paper, *supra* note 3, at 17

²³ For elaboration of the treaty law and standards, see UN General Assembly, Report of the Special Rapporteur on the independence of judges and lawyers, Gabriela Knaul, 4 April 2013, A/HRC/23/43, online: OHCHR <https://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/23/43/>; Lois Leslie, Connor Bildfell & Catherine Morris, *The Right to Legal Aid: A Guide to International Law Rights to Legal Aid* (Vancouver: Lawyers' Rights Watch Canada, 2014), online LRWC: <<https://www.lrwc.org/the-right-to-legal-aid-a-guide-to-international-law-rights-to-legal-aid/>>; LRWC, *The Right to Legal Aid: How British Columbia's Legal Aid System Fails to Meet International Obligations* (Vancouver: Lawyers' Rights Watch Canada, 2014), online LRWC: <<https://www.lrwc.org/the-right-to-legal-aid-how-british-columbias-legal-aid-system-fails-to-meet-international-obligations/>>.

²⁴ Michael Mulligan, *supra* note 12.

²⁵ *Vienna Convention on the Law of Treaties*, U.N.T.S. Vol. 1155. Article 26 states: "Every treaty in force is binding upon the parties to it and must be performed by them in good faith." Article 27 states, "A party may not invoke the provisions of its internal law as justification for its failure to perform a treaty." Online UN: <https://legal.un.org/ilc/texts/instruments/english/conventions/1_1_1969.pdf>.

²⁶ *Universal Declaration of Human Rights*, UN General Assembly, G.A. res. 217A (III), U.N. Doc A/810 at 71 (1948), online: UN <<https://www.un.org/en/about-us/universal-declaration-of-human-rights>>.

²⁷ *International Covenant on Civil and Political Rights*, 1966, UN General Assembly, GA Res. 2200 (XXI), UN GAOR, 21st Sess., Supp. No. 16, 52 UN Doc. A/6316 (1966), online: OHCHR <<https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights>>.

²⁸ *International Covenant on Economic, Cultural and Social Rights*, 1966, UN General Assembly, GA Res. 2200A (XXI), UN GAOR, 21st Sess., Supp. No. 16, 49 UN Doc. A/6316 (1966) online: OHCHR <<https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-economic-social-and-cultural-rights>>.

²⁹ *International Convention on the Elimination of All Forms of Racial Discrimination*, 21 December 1965, United Nations Treaty Series, vol. 660, p. 195, online: OHCHR <<https://www.ohchr.org/en/instruments-mechanisms/instruments/international-convention-elimination-all-forms-racial>>.

³⁰ *Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, 10 December 1984, UN General Assembly, United Nations Treaty Series, vol. 1465, p. 85, online: OHCHR <<https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-against-torture-and-other-cruel-inhuman-or-degrading>>.

³¹ *Convention on the Elimination of All Forms of Discrimination Against Women*, 18 December 1979, United Nations Treaty Series, vol. 1249, p. 13, online: OHCHR <<https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-elimination-all-forms-discrimination-against-women>>.

³² *Convention on the Rights of the Child* 20, November 1989, United Nations, Treaty Series, vol. 1577, p. 3, online: UNHCR <<https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-child>>.

³³ *Convention on the Rights of Persons with Disabilities*, 24 January 2007, UN General Assembly, A/RES/61/106, online: OHCHR <<https://www.un.org/development/desa/disabilities/convention-on-the-rights-of-persons-with-disabilities/convention-on-the-rights-of-persons-with-disabilities-2.html>>.

³⁴ UN General Assembly, *United Nations Declaration on the Rights of Indigenous Peoples: resolution / adopted by the General Assembly*, 2 October 2007, A/RES/61/295, online: OHCHR <https://www.un.org/development/desa/indigenouspeoples/wp-content/uploads/sites/19/2018/11/UNDRIP_E_web.pdf>.

³⁵ UN *Basic Principles on the Role of Lawyers*, *supra* note 6.

³⁶ UN *Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms (Declaration on Human Rights Defenders)*, 8 March 1999, UN General Assembly, A/RES/53/144, 8 March 1999, online: OHCHR <<https://www.ohchr.org/en/civic-space/declaration-human-rights-defenders>>.

³⁷ UN General Assembly, *United Nations Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems: resolution / adopted by the General Assembly*, 28 March 2013, A/RES/67/187, online Refworld: <<https://www.refworld.org/docid/51e6526b4.html>>.

³⁸ Report of the Special Rapporteur on the independence of judges and lawyers, Gabriela Knaul, *supra* note 7 at para. 48.