

Lawyers' Rights Watch Canada

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

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The Honourable Niki Sharma
Attorney General of British Columbia
Province of British Columbia
Email: AG.Minister@gov.bc.ca; attention Tanera.Nanninga@gov.bc.ca

Dear Attorney General,

British Columbia, Canada: Proposed legislation on the legal profession

We thank you for meeting with us on 26 March 2024 to discuss the British Columbia (BC) government's proposed legislative changes to the governance and structure of the legal profession in the Province of BC. Lawyers' Rights Watch Canada (LRWC) remains seriously concerned about the fundamental premise of the proposed legislation on the legal profession that we understand is based on Ministry of Attorney General (AG) Public Update 18 March 2024 (Update).¹

This letter and the attached brief² supplement LRWC's submission of November 2022³ regarding the AG's September 2022 Intentions Paper,⁴ and further elaborate LRWC's continuing concerns, all of which are grounded in BC's obligations under international law and standards, including the *International Covenant on Civil and Political Rights* (ICCPR)⁵ and the United Nations (UN) *Basic Principles on the Role of Lawyers* (Basic Principles).⁶

International standards acknowledge the important role of governments in upholding the rule of law, including the independence and integrity of the legal profession. However, the information LRWC has received about the BC government's proposed law indicates an attempt to interfere with the independence of the legal profession by unilaterally planning to legislate fundamental changes to the governance structure of the Law Society of BC (LSBC) in violation of international standards.

¹ Legal Professions Regulatory Modernization: Ministry of Attorney General Public Update, 18 March 2024, <https://engage.gov.bc.ca/app/uploads/sites/121/2024/03/LPA-Reform-Public-Update.pdf>.

² The brief may be found at <https://www.lrwc.org/canada-bc-proposed-legislation-on-lawyers-violates-international-standards/>.

³ LRWC, Statement on the British Columbia Legal Professions Regulatory Modernization General Intentions Paper, September 2022, 18 November 2022, <https://www.lrwc.org/wp-content/uploads/2022/11/LRWC.Statement.BC.LegalProfessions.Intentions.18Nov2022.pdf>.

⁴ Legal Professions Regulatory Modernization, Ministry of Attorney General Intentions Paper, September 2022, <https://engage.gov.bc.ca/app/uploads/sites/121/2022/09/MAG-Intentions-Paper-September-2022-1.pdf>.

⁵ *International Covenant on Civil and Political Rights* [ICCPR], 16 December 1966, Articles 2, 14, 22, and 25, <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights>.

⁶ UN *Basic Principles on the Role of Lawyers*, 7 September 1990, <https://www.ohchr.org/en/instruments-mechanisms/instruments/basic-principles-role-lawyers>.

LRWC regrets the BC government's continued pattern of inadequate consultation on the contents of the proposed legislation. Very few people have been granted an opportunity to see or study the draft law. Those who have seen it have been required to sign non-disclosure agreements (NDAs). This lack of transparency persists despite concern expressed by the Law Society of BC, the Federation of Law Societies in Canada, and a number of other lawyers' organizations.⁷ LRWC is not privy to information about the scope of consultation with Indigenous Peoples. LRWC is of the view that the BC government's practices on public consultation fail to measure up to international standards, best practices, and emerging norms regarding the right to participation in public affairs.

These concerns are further explained in the attached brief. LRWC respectfully recommends that the BC government:

- Withdraw its plans for legislation regarding the government-proposed changes to the BC legal profession in the 2022 Intentions Paper and March 2024 Update.
- Fully consult and cooperate with the legal profession, relevant civil society organizations, the general public, and Indigenous Peoples on all draft intentions and provisions of any proposed law related to the governance of the legal profession or governance of other practitioners engaged in the provision of legal services, such as paralegals, notaries public, or others.
- Create, in cooperation with the legal profession, a comprehensive plan on access to justice, including utilization of the Provincial Sales Tax (PST) on legal services to fully fund Legal Aid BC so as to ensure the right of all persons to representation by a lawyer in all cases where they require legal representation by a lawyer to secure their rights.

Additional recommendations to the legal profession are found in the attached brief. We respectfully request the favour of a reply to this letter and brief by 26 April 2024.

Yours sincerely,

[signed]
Joey Doyle
Co-Chair, Lawyers' Rights Watch Canada

[signed]
Catherine Morris
(Past) Executive Director and UN Main Representative, Lawyers' Rights Watch Canada

⁷ LSBC, <https://www.lawsociety.bc.ca/about-us/news-and-publications/news/2024/updates-and-timeline-proposed-single-legal-regula/> and <https://www.lawsociety.bc.ca/about-us/news-and-publications/news/2024/proposed-single-legal-regulator-legislation-raises/>; The Federation of Law Societies in Canada wrote to the AGBC requesting that the draft legislation be made public for in-depth feedback; Twelve legal organizations expressed concern to the BC AG about the Single Legal Regulator reform process, signed by the Canadian Bar Association, BC Branch, Trial Lawyers Association of BC, Federation of Asian-Canadian Lawyers (BC), South-Asian Bar Association (BC), Alberta Civil Trial Lawyers Association, Saskatchewan Trial Lawyers Association, Abbotsford & District Bar Association, Cowichan Valley Bar Association, Kamloops Bar Association, South Cariboo Bar Association, Surrey Bar Association, Vancouver Bar Association, https://www.cbabc.org/CBAMediaLibrary/cba_bc/pdf/Advocacy/Submissions/Letter_to_Attorney_General_Concern_Single_Legal_Regulator_Reform_Process.pdf;

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