Court File No. 250/14

ONTARIO
SUPERIOR COURT OF JUSTICE
(DIVISIONAL COURT)

BETWEEN:

TRINITY WESTERN UNIVERSITY and BRAYDEN VOLKENANT

Applicants

—and—

THE LAW SOCIETY OF UPPER CANADA

Respondent

—and—

ATTORNEY GENERAL OF CANADA, THE CHRISTIAN LEGAL FELLOWSHIP, THE JUSTICE CENTRE FOR CONSTITUTIONAL FREEDOMS, THE EVANGELICAL FELLOWSHIP OF CANADA AND CHRISTIAN HIGHER EDUCATION CANADA, OUT ON BAY STREET AND OUTLAWS, THE ADVOCATES' SOCIETY and THE CRIMINAL LAWYERS' ASSOCIATION (ONTARIO)

Interveners

FACTUM OF THE INTERVENERS THE CHRISTIAN LEGAL FELLOWSHIP

May 4, 2015

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Court File No. 250/14

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Interveners

FACTUM OF THE INTERVENER THE CHRISTIAN LEGAL FELLOWSHIP

PART I: OVERVIEW

1. Canadians, including the Christian law students and legal professionals who are members of the Christian Legal Fellowship ("CLF"),[1] have the right to religious freedom, to freely express their beliefs, and to associate with others who share those beliefs, free from state interference. This includes the right not to be deprived of the opportunity to obtain a professional licence, and the right not to suffer other state-imposed educational or professional impediments, because of one's religious beliefs. The Supreme Court in *British Columbia College of Teachers*[2] stated that the principles of pluralism and the constitutional framework include religious educational institutions, whose rights are guaranteed by s. 93 of the *Constitution Act, 1867.*[3]

2. The right to religious freedom includes a Christian student's right to attend an academically accredited religious law school[4] with members of her faith community, without consequential discrimination by the Law Society of Upper Canada ("LSUC") or other state actor.

3. LSUC's decision ("the Decision") not to accredit the proposed law school of Trinity Western University ("TWU") violates the *Charter*[5] rights of religious law students, including the s. 15 equality right to be free from discrimination on the basis of religion. LSUC has acted arbitrarily in refusing to accredit TWU's proposed law school, and its decision denies those Christian students the right to practice law in Ontario solely because of their choice to study law in an academically accredited institution characterized by their religious faith and values. It also has implications for the *Charter* rights of all in the legal profession, Christian or otherwise, who hold and express religious or conscientious beliefs that may be contrary to majority opinion.

4. The Decision is contrary to the principles laid out by the Supreme Court in *Big M*,[6] *BCCT*, *Amselem*,[7] *Loyola*[8] and section 15 jurisprudence.[9] It also violates the principles of

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[1] The CLF has more than 550 members, including law students, professors, lawyers, and retired judges: Factum of the CLF on Motion to Intervene, para. 2(a).

[2] *Trinity Western University v. British Columbia College of Teachers*, 2001 SCC 31 (Applicants' Book of Authorities ("BOA"), Tab 3 [*BCCT*].

[3] *The Constitution Act, 1867*, 30 & 31 Vict, c 3, s. 93 [*Constitution Act, 1867*].

[4] TWU's proposed law school has already been accredited by the Federation of Law Societies of Canada ("FLSC"): Application Record, Volume One, Convocation Transcript, Remarks of Robert Kuhn, pp. 250-254.

[5] *Canadian Charter of Rights and Freedoms*, Schedule B to the *Canada Act 1982*, 1982, c. 11 [*Charter*].

[6] *R. v. Big M Drug Mart Ltd*, [1985] 1 S.C.R. 295, Respondent's Book of Authorities ("BOA"), Tab 33 [*Big M*].

[7] *Syndicat Northcrest v. Amselem*, 2004 SCC 47, Applicants' BOA, Tab 15 [*Amselem*].

[8] *Loyola High School v. Québec (Attorney General)*, 2015 SCC 12, Respondent's BOA, Tab 39 [*Loyola*].

religious accommodation articulated by this Court in *Christian Horizons*.[10] The effect of the Decision, if it is not reversed, will be to allow state actors to deny benefits to members of religious communities solely on the basis of their faith, and their desire to associate with others of the same faith and ethics in order to pursue religious, secular or public objectives.

5. The basis of the Decision is misconceived. The grounds for the Statement of Faith[11] and Community Covenant[12] are the shared Christian faith of the TWU students and teaching staff. The intent is to provide for an academic community with shared religious and ethical values; it is not to discriminate against anyone. Just as those who do not share a certain faith are not required to attend certain places of worship, students who do not agree with the Statement of Faith and Community Covenant are not required to attend TWU. By contrast, TWU law students will not be free to practice law in Ontario as a direct consequence of the Decision.

6. The Decision is also beyond LSUC's jurisdiction and a violation of *Charter* guarantees. It constitutes direct discrimination against Christian law students and is an arbitrary denial of religious freedoms. The deliberations before Convocation, and the vote that ultimately took place, clearly demonstrates that the Benchers who voted against accreditation of TWU put their own personal views before constitutional guarantees and the rule of law. Such a decision is not in the public interest and cannot be justified in a free and democratic society.

7. Allowing the Decision to stand would undermine the role of religious communities and their members in Canadian public life, their inclusion in a diverse and pluralistic society, and their right to define themselves and their religious values. As the Supreme Court stated in *BCCT*:

> The freedom to hold beliefs is broader than the freedom to act on them. Absent concrete evidence that training [lawyers] at TWU fosters discrimination in [Ontario], the freedom of individuals to adhere to certain religious beliefs while at TWU should be respected. The [LSUC], rightfully, does not require public

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[9] See specifically *Law v. Canada (Minister of Employment and Immigration)*, [1999] 1 SCR 497 (Respondent's BOA, Tab 27) at 499-502, in which the Court laid out the following principles to be considered in a s. 15 claim: whether the law draws a formal distinction between the claimant and others on the basis of personal characteristics; whether the claimant is subject to differential treatment based on one or more enumerated and analogous grounds; and whether the differential treatment discriminates by imposing a burden upon or withholding a benefit from the claimant in manner which reflects the stereotypical application of presumed group or personal characteristics.

[10] *Ontario Human Rights Commission v. Christian Horizons*, 2010 ONSC 2105 [*Christian Horizons*].

[11] Applicant's Application Record, Volume 2, Tab 5, Affidavit of W. Robert Wood [Wood Affidavit], Exhibit "B".

[12] Wood Affidavit, *ibid.*, Exhibit "C".

> universities with [law] programs to screen out applicants who hold sexist, racist or homophobic beliefs. For better or for worse, tolerance of divergent beliefs is a hallmark of a democratic society.[13]

8. Members of religious communities have a constitutional right to denominational education.[14] They also have the right to attend post-secondary religious institutions established for students who share the same faith. The Decision directly interferes with those rights.

PART II: ISSUES TO BE ARGUED

9. The Christian Legal Fellowship ("CLF") will argue the following issues:

   i) The Decision violates the freedom of religion and religious association, as enshrined respectively in sections 2(a) and (d) of the *Charter*, of Christian students who wish to attend TWU's proposed law school;

   ii) The Decision violates the s. 15 equality rights of those students;

   iii) The Decision violates those students' freedom of expression under s. 2(b);

   iv) The infringement of Christian students' rights is disproportionate; and

   v) The Decision overstepped the bounds of LSUC's jurisdiction and is contrary to its mandate to protect the public interest.

PART III: ARGUMENT AND ANALYSIS

10. TWU is a private institution that is not subject to the *Charter*.[15] It is, however, protected by the *Charter*,[16] as are its students, staff, and faculty. Their freedoms of religion and association are not to be "hollowed out", until they are freedoms only in name. Such would be the route taken by LSUC, which incorrectly claims that a decision not to accredit TWU would not violate

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[13] *BCCT*, at para. 36.
[14] *Constitution Act, 1867*, s. 93. See also *BCCT, ibid.*, at para. 34.
[15] The fact that TWU's proposed law graduates would be, once licensed, performing an activity that may be described as "public" in nature, does not render that institution public. In order for the *Charter* to apply to a private entity, it must be found to be implementing a specific governmental policy or program, which TWU is not: *Eldridge v. British Columbia (Attorney General)*, [1997] 3 S.C.R. 624, at para. 43 (Respondent's BOA, Tab 29).
[16] *Irwin Toy Ltd. v. Québec (P.G.)*, [1989] 1 S.C.R. 927 at 979, Applicants' BOA, Tab 18 [*Irwin Toy*].

its students' *Charter* rights.[17] The right to attend a Christian law school, without the right to practice in Canada's most populous province, would be an impoverished right.[18] As Justice Campbell stated in overturning a similar decision in Nova Scotia, it would turn the *Charter* into "a tool in the hands of the state to enforce moral conformity with approved values".[19]

i) First Issue: The Decision Violates Christian Students' s. 2(a) and (d) Rights

11. The issues in this case engage s. 2(a) of the *Charter*. The principles in *Amselem* require accommodation of religious communities within the public sphere. TWU's principles, as embodied in the Statement of Faith and Community Covenant, involve a religious perspective which differs from current majoritarian views.[20] There is little doubt that those religious beliefs are sincerely held.[21] The *Charter* protection of s. 2(a) is therefore triggered.

12. It is irrelevant, according to *Amselem*, whether "a particular practice or belief is required by official religious dogma or is in conformity with the position of religious officials".[22] It is central to the religious beliefs of TWU's students and staff to study and work in a community with fellow Christians. It is not for LSUC to question whether particular beliefs and ethical values are actually required by the Christian faith,[23] as it does.[24] According to the *Amselem* test, the students' desire for an academic religious community based on the Statement of Faith and the Community Covenant is protected by s. 2(a) of the *Charter*.[25]

13. The Decision violates Christian students' freedom of religion in a manner that is not trivial.[26] There will be significant ramifications for TWU law graduates who cannot be licensed in Ontario. Ontario is Canada's most populous province and is home to the major firms as well

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[17] Respondent's Factum, at paras. 124-144.
[18] *BCCT*, at para. 35.
[19] *Trinity Western University v. Nova Scotia Barristers' Society*, 2015 NSSC 25, at para. 222, Applicants' BOA, Tab 2 [Nova Scotia Decision].
[20] *Amselem*, at para. 46.
[21] *Ibid.* at paras. 47-53.
[22] *Ibid.* at para. 46.
[23] Nova Scotia Decision, at paras. 230-234.
[24] Respondent's Factum, at paras. 61 and 125.
[25] See also *Loyola*, at paras. 44, 60.
[26] *Amselem*, at para. 58.

as the federal and provincial government. The Decision does not minimally impair the rights of TWU law students; it totally precludes their ability to practice law in Ontario.[27]

14. In Canada, the entitlement to denominational religious schools is enshrined in the *Constitution Act, 1867*, provincial human rights legislation and countless judicial decisions, even if the religious values of those schools differ from secular majoritarian values. Similarly, the right of graduates of a religious law school to be accredited should not be challenged solely on the faith values of that institution. The Decision violates the s. 2(a) freedoms of TWU students, which "safeguards religious minorities from the threat of 'the tyranny of the majority'".[28]

15. In the recent *MLQ* case, the Supreme Court articulated a concept of state neutrality according to which the state must not interfere in religion and beliefs.[29] Importantly for this case, the Court noted that a neutral public space "does not mean the homogenization of private players in that space. Neutrality is required of institutions and the state, not individuals."[30]

16. According to the case law, therefore, what appears good and true to the majority of LSUC benchers should not be imposed on students who take a contrary view based on their religious beliefs. Requiring TWU to change its admissions policy in order to be accredited would be such an imposition. TWU and its students are not subject to the *Charter*. LSUC is.

17. While LSUC argues that it could not accredit a law school with a discriminatory admissions policy,[31] this is to narrowly focus the argument on the moment of admission. When the focus is broadened to the moment of Bar admission for a TWU law graduate, equality rights and fundamental freedoms of that graduate must also be considered, calling for a careful delineation of rights that was not followed by LSUC. The Decision seriously harmed the rights of Christian candidates for licensing, without any appreciable benefit to LGBT licensees.

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[27] As Justice Abella stated in *Loyola* at para. 67: "[u]ltimately, measures which undermine the character of lawful religious institutions and disrupt the vitality of religious communities represent a profound interference with religious freedom."

[28] *Big M*, at paras. 94, 96.

[29] *Mouvement laïque québécois v. Saguenay (City)*, 2015 SCC 16 [*MLQ*].

[30] *Ibid.* at para. 74. The Court continued: "On the contrary, a neutral public space free from coercion, pressure and judgment on the part of public authorities in matters of spirituality is intended to protect every person's freedom and dignity. ... The rights and freedoms set out in the *Quebec Charter* and the *Canadian Charter* reflect the pursuit of an ideal: a free and democratic society. <u>This pursuit requires the state to encourage everyone to participate freely in public life regardless of their beliefs.</u>" *Ibid.* at paras. 74-75 (emphasis added, references omitted).

[31] Respondent's Factum, at para. 49.

18. The jurisprudence has long recognized the protected role of religious communities in Canadian public life. In *Christian Horizons*, this Court held that such groups have a right to associate "so that they can join together to express their views and carry out their joint activities,"[32] with those activities being an exercise of their beliefs.[33] Similarly, in *Loyola*, the Supreme Court found that a secular state cannot prefer the practices of one group over another: "a secular state respects religious differences, it does not seek to extinguish them."[34] By contrast, LSUC imposed its majoritarian values and dictated the manner in which TWU and its students should conduct themselves as a community, thereby infringing upon their religious freedom.

ii) Second Issue: The Decision Violates Christian Law Students' s. 15 Equality Rights

19. The Decision discriminates against Christian law students who wish to attend TWU by creating differential access to a public benefit – access to a license to practice law in Ontario – based on the enumerated ground of religion. Christians who exercise their religious freedoms by attending law school at TWU will not be able to practice law in Ontario.[35] TWU does not exclude LGBT students. But, if the Decision is upheld, TWU law graduates, including LGBT students who wish to study law within a Christian community, would be excluded from practicing in Ontario solely because of their religious beliefs – sending a denigrating message that they are not equal members of society and offending their human dignity.[36]

20. The Decision differentiates future TWU law graduates on the basis of their faith. While the Respondent maintains that there is nothing wrong with the proposed TWU law program or its potential graduates, those graduates will be treated differently solely because of stereotypes about their religious beliefs. The personal religious views of those graduates are irrelevant to

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[32] *Christian Horizons*, at para. 64.
[33] *Ibid.* at para. 72.
[34] *Loyola*, at para. 43.
[35] While some Christians will choose to attend other law schools if the Decision not to accredit TWU is upheld, this does not defeat the claim of discrimination: *Nova Scotia (Workers' Compensation Board) v. Martin*, [2003] 2 S.C.R. 504 at para.76; *Quebec (Attorney-General) v. A.*, 2013 SCC 5 at para. 355 (Applicants' BOA, Tab 17).
[36] *Ibid.* at paras. 92-96.

their ability to practice law and abide by the Rules of Professional Conduct. They will be otherwise qualified to practice law in Ontario.[37] No evidence has been adduced to the contrary.

21. While LSUC was also required to consider human rights legislation,[38] it gave short shrift to the fact that TWU is exempt from the BC *Human Rights Code*.[39] In arguing that accrediting TWU would violate the Ontario *Human Rights Code*,[40] LSUC did not even consider that the Decision not to accredit would violate Christian students' rights under s. 6, which ensures equal treatment with respect to membership in self-governing professions on the ground of creed.

22. LSUC justified the violation of the Applicants' rights under the *Ontario Code* by alleging a danger of an indirect and future violation.[41] This does not speak to a careful delineation of rights as required by the administrative law jurisprudence. No such violation has occurred under the *BC Code*, and TWU would be exempt under the Ontario *Code* because it is a special interest organization defined in accordance with the religious principles in its Statement of Faith.[42]

23. LSUC did not point to any evidence that the equality rights of specific LGBT individuals would be violated by the accreditation of TWU's law school.[43] While the Community Covenant may cause offence, it is lawful and does not violate the *BC Code* or the *Charter* (which does not apply). In this sense, the only s. 15 rights that come into play are those of TWU students.

24. Even if a balancing of rights under s. 15 is required, LSUC has not articulated why its understanding of equality considerations should trump the *Charter* rights of all future TWU law graduates (including LGBT and heterosexual students) who wish to practice in Ontario. Where

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[37] *Andrews v. Law Society of British Columbia*, [1989] 1 S.C.R. 143 at 183 [*Andrews*]. See also 174, where the Court stated that "[d]istinctions based on personal characteristics attributed to an individual solely on the basis of association with a group will rarely escape the charge of discrimination."

[38] *Ibid.* at para. 85.

[39] R.S.B.C. 1996, c 210, s. 41 [*BC Code*].

[40] R.S.O. 1990, c H.19 [*Ontario Code*]. By contrast, TWU's actions would not violate the *Ontario Code*; it would be exempt under s. 18 as a faith community which has as its purpose the manifestation of that faith through post-secondary education with an underlying Christian philosophy: *Christian Horizons*, at paras. 5, 64-66, 70, 73.

[41] The cases cited by the Respondent for the proposition that LSUC cannot allow indirect discrimination all relate to cases where delegated decision-makers subject to the *Charter* had made discriminatory decisions. They do not speak to whether one actor can discriminate directly against one group, for fear of indirectly condoning alleged discrimination against another: Respondent's Factum, footnote 89. As noted, TWU is not subject to the *Charter*.

[42] *BC Code*, s. 41; *Ontario Code*, s. 18. These codes specifically exempt organizations which make distinctions for membership or employment. This court has expressly applied the Ontario provisions in *Christian Horizons*, where a Christian social service organization had a similar Statement of Faith and Code of Conduct to that of TWU.

[43] Nova Scotia Decision, at para. 239.

there are competing rights between members of two groups, the dignity of both groups is important, and their rights must be interpreted in harmony and in context.[44] There is no evidence of any competing rights here, and in any event, LSUC has not even attempted such a balancing.

25. Finally, LSUC cannot justify its direct discrimination under s. 15 by stating that it is preventing the indirect discrimination of TWU against LGBT individuals or those of other faiths. The State cannot take the shield of the *Charter* and turn it into a sword. There is no legal basis for LSUC's argument that it cannot accredit a program that LSUC itself would not be permitted to use. By this logic, no religious educational institution could ever be accredited by the state.[45] The *Charter* cannot be applied to individuals and private institutions, as LSUC has attempted to do, by the back door.[46] As Justice Campbell held in the Nova Scotia Decision:

> [T]he NSBS argues that in deciding to accept a law degree from TWU the NSBS … must comply with the *Charter* and that indirectly implicates TWU in *Charter* compliance considerations. That would have … very significant implications. Most directly it would apply the *Charter* to private religious institutions that sought any government recognition of their actions. It would transform it into a tool in the hands of the state to enforce moral conformity with approved values.[47]

iii) Third Issue: The Decision Violates Christian Students' Freedom of Expression

26. The religious community defined by the Statement of Faith and the Community Covenant exists to ensure an environment in which Christian ideals are modelled, and in which students can seek individual self-fulfilment by immersing themselves in that religious environment.[48] Because this environment conveys a meaning, it is expressive and protected by s. 2(b).[49]

27. Section 2(b) protects not only "good" expression, but also unpopular or even offensive expression.[50] While the Statement of Faith and the Community Covenant may be offensive to some, they do not expose anyone, including LGBT peoples or those of other faiths, to harm or hate. Rather, they define a religious academic community. In fact, it was the evidence of Iain

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[44] Respondent's Factum, at para. 123; *Harvey v. New Brunswick (Attorney General)*, [1996] 2 SCR 876, at para. 69.
[45] The Respondent argues that the Community Covenant is discriminatory on other grounds, including reproductive rights and religion; however, this argument would prohibit accreditation by the state for many religious institutions.
[46] *Andrews* at 163-164. See also *BCCT* at para. 25.
[47] Nova Scotia Decision, at para. 222; *contra* Respondent's Factum, at para. 149.
[48] Report of Gerald Longjohn, Exhibit "C" to the Longjohn Affidavit, page 3, Application Record, Tab 9C, p. 565.
[49] *R v. Sharpe*, 2001 SCC 2 at paras. 23, 141, Applicants' BOA, Tab 10 [*Sharpe*].
[50] *Ibid.* at para. 21.

Cook and Arend Strikwerda, both TWU students who are not heterosexual, that the environment at TWU made them feel accepted for who they are (in contrast to some non-Christian universities where derogatory language was deemed acceptable by some students).[51]

28. The protection afforded by s. 2(b) is very broad and, in the absence of any evidence that the Community Covenant exposes LGBT peoples to harm, attempts to proscribe that expression violate s. 2(b).[52] The Decision places a burden on the Applicants and, "in effect, is preventing them from expressing freely their religious beliefs and associating to put them into practice."[53]

iv) Fourth Issue: The Infringement of Christian Students' Rights is Disproportionate

29. The Decision does not represent a proportionate balancing of the *Charter* rights and freedoms of Christian law students and the s. 15 rights of LGBT individuals, in the context of LSUC's statutory objectives, as required by relevant administrative law jurisprudence.[54] The Respondent's assertion that it "reaffirms its commitment to recognize and promote the equality of persons regardless of religion"[55] is flatly contradicted by its own Decision.

30. LSUC has minimized Christian students' freedom of religion and association and their s. 15 *Charter* rights, and "trumped" them with the s. 15 rights of others that are not directly engaged by the Decision. The Supreme Court of Canada has rejected such a rank-ordering or hierarchical approach to rights,[56] whereby some are considered more important than others.

31. LSUC justified its Decision by stating that TWU cannot force LSUC to breach *Charter* equality guarantees.[57] In *Loyola*, the Minister was criticized for taking a similar approach, treating any teaching of religion from a Catholic perspective as presumptively impairing respect for others, and giving no weight to the values of freedom of religion engaged in that context. The Supreme Court concluded that there was "no balancing of freedom of religion in relation to the

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[51] Applicant's Application Record, Volume 2, Tab 8, Affidavit of Arend Strikwerda, at paras. 12-25, 35-37, 42-43; Tab 14, Affidavit of Iain Cook, at paras. 23-45.
[52] *Whatcott v Saskatchewan Human Rights Tribunal*, 2013 SCC 11, at para. 97, Applicants' BOA, Tab 19 [*Whatcott*]; *R. v. Keegstra*, [1990] 3 S.C.R. 697 at 729-730 [*Keegstra*].
[53] *BCCT*, at para. 32.
[54] *Doré v. Barreau du Québec*, 2012 SCC 12, at para. 57, Applicants' BOA, Tab 4 [*Doré*]; *Loyola*, paras. 3-6, 35-41.
[55] Respondent's Factum, at para. 147.
[56] *Dagenais v. Canadian Broadcasting Corp.*, 1994 CanLII 39 (SCC) at 877; *BCCT*, at para. 31.
[57] Respondent's Factum, at para. 120.

statutory objectives. The result is a disproportionate outcome that does not protect *Charter* values as fully as possible". The Minister's decision was found to be unreasonable.[58]

32. The balancing of competing *Charter* rights, if engaged, is inherently contextual. It is clear from the jurisprudence that such a balancing must be determined by the context and the direct impact of the Decision on different groups.[59] There is clearly no authority for LSUC's Decision that direct infringement of *Charter* rights by state actors can be justified by vague considerations of indirect impact on the rights of others.

33. The Decision represents a disproportionate infringement of the Applicants' rights.[60] There is no evidence that LSUC's decision will have any benefit to the LGBT community, or the public at large.[61] By contrast, the direct and arbitrary infringement of Christian law students' *Charter* rights is direct, immediate and professionally devastating.

v) Fifth Issue: The Decision Overstepped the Bounds of LSUC's Jurisdiction

34. The Respondent states in its factum that it is empowered to accredit law schools pursuant to Law Society By-Law 4, sections 7 and 9.1, and that this power enables it to refuse accreditation in the public interest.[62] There are two primary responses to this argument. First, TWU's proposed law school has already been accredited by the FLSC after an arduous process of consultation which included consideration of the Community Covenant at issue as well as of the public interest.[63] LSUC's subsequent Decision to refuse to accredit TWU therefore appears arbitrary. There is no evidence whatsoever that the TWU program is not academically sound.

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[58] *Loyola*, at paras. 68-69.

[59] Nova Scotia Decision, at paras. 216-217; *Whatcott*, at para. 66; *Chamberlain v. School District No. 36*, [2002] 4 S.C.R. 710 at para. 135, *per* Gonthier J. (dissenting) (Respondent's BOA, Tab 16). See also A. Fielding, "When Rights Collide: Liberalism, Pluralism and Freedom of Religion in Canada" (2008) 13 Appeal 28; and T.P. Pound and I. Benson, "Court Overturns Key Aspect of Human Rights Board of Inquiry Decision: Religious Freedom Respected, but Narrowly" (2002) Lexview 51, online: <http://www.cardus.ca/lexview/article/2318/>.

[60] The CLF adopts the Applicants' arguments on this point: Applicants' Factum, at paras. 139-146, 148-153.

[61] Applicants' Factum, at para. 149; Nova Scotia Decision, at para. 269.

[62] Respondent's Factum, at paras. 38-42.

[63] Application Record, Volume One, Convocation Transcript, Remarks of Robert Kuhn, pp. 250-254.

35. Second, LSUC's power to act in the public interest is not unfettered.[64] Where administrative decision-makers have the power to make decisions in the public interest, their concept of the "public interest" must be consistent with the purposes of the enabling statute.[65]

36. The "public interest" is an inherently vague term that can never be defined broadly. In *R. v. Morales*,[66] in the context of pre-trial detention, the Supreme Court expressed concern that the concept, if improperly or arbitrarily applied, could lead to untrammelled judicial discretion:

> As currently defined by the courts, the term "public interest" is incapable of framing the legal debate in any meaningful manner or structuring discretion in any way. Nor would it be possible in my view to give the term "public interest" a constant or settled meaning. The term gives the courts unrestricted latitude to define any circumstances as sufficient to justify pre-trial detention.[67]

37. Similarly, LSUC relied on its "public interest" mandate[68] in coming to the Decision, without a proper and contextual consideration of that term, and thereby exceeded its statutory jurisdiction. LSUC should have considered the relevance of the public interest within the bounds of its enabling statute and the purpose of that legislation, as required by the case law.[69]

38. An examination of the *Law Society Act*[70] and its regulations and by-laws[71] indicates that the "public interest" relates largely to whether licensees meet an appropriate standard of "learning, professional competence and professional conduct", as noted in the Applicants' factum.[72] There is no evidence that TWU graduates would not meet appropriate standards of professional competence and conduct, as the Respondent itself concedes.[73] If in future a TWU graduate fails to meet those standards, LSUC can preclude licensing or discipline the lawyer based on any proper concerns about their qualifications to practice law.

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[64] *Committee for the Equal Treatment of Asbestos Minority Shareholders v. Ontario (Securities Commission)*, 2001 SCC 37, at para. 45 (Applicants' BOA, Tab 9).
[65] *Congrégation des témoins de Jéhovah de St-Jerôme-Lafontaine v. Lafontaine (Village)*, [2004] 2 S.C.R. 650, at paras. 6-7; *Roncarelli v. Duplessis*, [1959] S.C.R. 121 at 140.
[66] [1992] 3 S.C.R. 711.
[67] *Ibid.* at 726, 732 (emphasis added).
[68] S. 4.2 of the *LSA*. LSUC has not pointed to any other provisions in its enabling statute that justify the Decision.
[69] *Ontario (Public Safety and Security) v. Criminal Lawyers' Association*, 2010 SCC 23, at paras. 50, 53 (Applicants' BOA, Tab 8).
[70] R.S.O. 1990, c L.8 [*LSA*].
[71] Specifically, By-Law 4, which pertains to the requirements for obtaining a license.
[72] Applicants' Factum, at para. 79.
[73] Respondent's Factum, at para. 3.

39. The Supreme Court in *BCCT* held that the *Charter* and human rights legislation also properly form part of the decision-maker's consideration of the public interest. However, the Court stated that the decision-maker was required to consider <u>all</u> human rights, not just certain individuals' right to be free from discrimination based on sexual orientation:

> This is not to say that the BCCT erred in considering equality concerns pursuant to its public interest jurisdiction. ... At the same time, however, the BCCT is also required to consider issues of religious freedom. ... Consideration of human rights values in these circumstances encompasses consideration of the place of private institutions in our society and the reconciling of competing rights and values. Freedom of religion, conscience and association coexist with the right to be free of discrimination based on sexual orientation.[74]

40. Contrary to the Supreme Court's consideration of the public interest in *BCCT*, LSUC's understanding of the "public interest" was informed primarily by a vague notion of "promoting equality" for only one group, while ignoring the equality rights of other minority groups. The courts have held that decision-making in the public interest must consider the broader interests of other groups and of society generally, and not just one segment of the population.[75]

41. Further, LSUC fails to recognize the fundamental difference between discrimination and non-discriminatory distinctions permitted by law. The existence of the TWU Statement of Faith and Community Covenant provide a distinction between those who make a choice to join a religious community and those who do not want to make that choice. Human rights legislation specifically protects such distinctions. TWU's actions are permitted by law, in contrast to LSUC's decision to deny benefits based on an enumerated ground of distinction.

42. The "public interest" is informed not only by equality rights of one group, but also the equality rights and freedom of religion, expression and association of other groups. Indeed, LSUC's own Statement of Policy (1991) and Statement of Values (1995), as well as the Rules of Professional Conduct,[76] affirm the right to equal treatment on the basis of creed and/or religion.

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[74] *BCCT*, at paras. 26, 28, 34.

[75] *Waycobah First Nation v. Canada (Attorney General)*, [2010] F.C.J. No. 1486, at para. 31, aff'd [2011] F.C.J. No. 847 (F.C.A.).

[76] See eg. Rule 6.3.1-1 which states that a lawyer cannot discriminate on the grounds enumerated in the Ontario *Human Rights Code*, including on the grounds of creed and sexual orientation.

The 1991 Statement of Policy affirms that every member of the Law Society has a right to equal treatment with respect to conditions of employment without discrimination because of, *inter alia*, creed.[77] The 1995 Statement of Values contains a similar affirmation.[78]

43. In addition, LSUC's 2005 Statement of Principles, *Respect for Religious and Spiritual Beliefs*,[79] specifically condemned "in the strongest terms all manifestations and forms of hatred and discrimination based upon religious and spiritual beliefs",[80] as well as "all forms of religious intolerance directed at any group or community."[81] LSUC further undertook to "promote and support religious understanding and respect both inside and outside the legal profession."[82] LSUC should have complied with its own articulations of the public interest and considered the disproportionate effect a refusal to accredit would have on the Applicants' *Charter* rights.

44. The freedom to hold and publicly express a traditional view of marriage, without censure or sanction, is enshrined in the same statute that recognized same sex marriage. The *Civil Marriage Act*[83] explicitly states in its preamble that "it is not against the public interest to hold and publicly express diverse views on marriage." Further, in s. 3.1, the *CMA* states as follows:

> [N]o person or organization shall be deprived of any benefit, or be subject to any obligation or sanction, under any law … solely by reason of their exercise, in respect of marriage between persons of the same sex, of the freedom of conscience and religion guaranteed under the *Canadian Charter of Rights and Freedoms* or the expression of their beliefs in respect of marriage as the union of a man and woman to the exclusion of all others based on that guaranteed freedom.

45. As noted above, the Community Covenant represents an exercise of freedom of religion, and the expression of a sincerely held religious belief that marriage is the union of one man and one woman. Yet the Decision deprived TWU of the benefit of accreditation and its future graduates the benefit of licensing in Ontario, solely by reason of the exercise of their *Charter*

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[77] Affidavit of Josee Bouchard, sworn October 23, 2014, para. 9, Respondent's Application Record, Vol. 1, Tab 3.
[78] *Ibid.* at para. 10.
[79] Law Society of Upper Canada (LSUC), *Respect for Religious and Spiritual Beliefs: A Statement of Principles of the Law Society of Upper Canada* (Toronto: LSUC, 2005).
[80] *Ibid.* at para. 51.
[81] *Ibid.*
[82] *Ibid.* at para. 52. See also the U.N. *Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief*, G.A. 63/181, Articles 1-3 and 9, which protect "the right of all persons to manifest their religion or belief, alone or in community with others and in public or private".
[83] S.C. 2005, c 33 [*CMA*].

rights. The Decision violates both the *Charter* and federal law. It is also contrary to the *Fair Access to Regulated Professions Act, 2006*,[84] which imposes upon LSUC a duty "to provide registration practices that are transparent, objective, impartial and fair."[85]

46. Further, the Decision fails to respect binding precedent from the Supreme Court. As the Applicants note, the key issue in this application was already decided in the *BCCT* case. The Respondent argued that the central issue is different in the case at bar.[86] However, the facts are almost exactly the same, as are many of the arguments raised.[87] It is disingenuous for the Respondent to distinguish *BCCT* simply because different issues are emphasized in this case. The principles remain the same.[88] Should the Supreme Court wish to come to a different decision today with regards to TWU's proposed law school, that is for the Supreme Court to decide.

PART IV: CONCLUSION

47. LSUC's concerns involve general perceptions of the asserted discriminatory nature of the Community Covenant in particular, not any real or apparent risk that any TWU law graduates will not be qualified to practise law or will discriminate in the practise of law. There is no evidence of this risk.[89] In fact, the evidence is to the contrary.[90] As the Supreme Court stated in *BCCT*, "[f]or the BCCT to have properly denied accreditation to TWU, it should have based its concerns on specific evidence … Any concerns should go to risk, not general perceptions."[91] For LSUC to breach the Applicants' *Charter* rights and exceed its jurisdiction based solely on the question of "what will people think?"[92] is, in itself, to bring the legal profession into disrepute.

48. The legal profession has always promoted independence from the state and diversity of opinion. In order to maintain that independence and diversity LSUC must accommodate

[84] S.O. 2006, c. 31 ("FARPA").
[85] *Ibid.*, s. 6. While FARPA refers to internationally-trained professionals, s.6 and FARPA as a whole is not restricted to such professionals, and applies equally to those trained in Canada.
[86] Respondent's Factum, at para. 77.
[87] Eg. the argument that TWU's Covenant is akin to racism: Respondent's Factum, paras. 136-138; *BCCT*, para. 6.
[88] Nova Scotia Decision, at para. 208.
[89] Respondent's Factum, at para. 3.
[90] Applicant's Application Record, Volume 2, Tab 12, Affidavit of Richard M. Green, at paras. 25-36; Tab 13, Affidavit of Kelly P. Hart, at paras. 11-16.
[91] *BCCT*, at para. 38.
[92] Nova Scotia Decision, at paras. 253-262.

religious minorities, even if their religious beliefs differ from the "state-approved consensus".[93] LSUC's blanket prohibition on future TWU law students, simply because the faith-based Community Covenant is contrary to majority beliefs, constitutes a violation of the *Charter* rights of those students. It violates the very principles of natural justice, diversity and the rule of law which the legal profession exists to protect.

49. The Decision imperils the ability of all legal professionals, Christian or otherwise, to hold religious and conscientious views on many issues including marriage. If LSUC holds it to be contrary to the public interest for a law faculty to support a religiously-informed view of marriage, then LSUC could penalize any lawyer who rejects the state view on various religious or ethical issues. The message of the Decision is that it is not enough to serve LGBT colleagues and clients impartially and according to law. The message is that lawyers must also refrain from publicly expressing or endorsing religious beliefs which conflict with the political norms of the day. This has implications for all legal professionals who are subject to regulation.

50. For example, would LSUC deny a license to someone who had studied as an undergraduate at TWU, Notre Dame, St. Michael's College, Brandeis College or the Hebrew University of Jerusalem? Would LSUC revoke accreditation of a law school that granted tenure to a law professor who expressed a faith-based view on marriage? The Decision would imply that the answer to these questions should be "yes". If the Decision is upheld, it will create a climate in which many legal professionals with such views will be afraid to speak out or be professionally penalized for doing so. The Respondent may say this is a good thing. But fear of holding and expressing religious views is not a good thing in a free and democratic society.

ALL OF WHICH IS RESPECTFULLY SUBMITTED,

Peter R. Jervis /SC

Peter R. Jervis

Derek B.M. Ross /SC

Derek B.M. Ross

[93] Nova Scotia Decision, at para. 15.

SCHEDULE "A"

1. A. Fielding, "When Rights Collide: Liberalism, Pluralism and Freedom of Religion in Canada" (2008) 13 Appeal 28

2. *Andrews v. Law Society of British Columbia*, [1989] 1 S.C.R. 143

3. *Congrégation des témoins de Jéhovah de St-Jerôme-Lafontaine v. Lafontaine (Village)*, [2004] 2 S.C.R. 650

4. *Dagenais v. Canadian Broadcasting Corp.*, 1994 CanLII 39 (SCC)

5. *Harvey v. New Brunswick (Attorney General)*, [1996] 2 SCR 876

6. Law Society of Upper Canada (LSUC), *Respect for Religious and Spiritual Beliefs: A Statement of Principles of the Law Society of Upper Canada* (Toronto: LSUC, 2005)

7. *Mouvement laïque québécois v. Saguenay (City)*, 2015 SCC 16

8. *Nova Scotia (Workers' Compensation Board) v. Martin*, [2003] 2 S.C.R. 504

9. *Ontario Human Rights Commission v. Christian Horizons*, 2010 ONSC 2105

10. *R. v. Keegstra*, [1990] 3 S.C.R. 697

11. *R. v. Morales*, [1992] 3 S.C.R. 711

12. *Roncarelli v. Duplessis*, [1959] S.C.R. 121

13. T.P. Pound and I. Benson, "Court Overturns Key Aspect of Human Rights Board of Inquiry Decision: Religious Freedom Respected, but Narrowly" (2002) Lexview 51

14. *Waycobah First Nation v. Canada (Attorney General)*, [2010] F.C.J. No. 1486, aff'd [2011] F.C.J. No. 847 (F.C.A.)

SCHEDULE "B"

The Constitution Act, 1867, 30 & 31 Vict, c. 3, s. 93

Education

93. In and for each Province the Legislature may exclusively make Laws in relation to Education, subject and according to the following Provisions:

(1) Nothing in any such Law shall prejudicially affect any Right or Privilege with respect to Denominational Schools which any Class of Persons have by Law in the Province at the Union:

(2) All the Powers, Privileges, and Duties at the Union by Law conferred and imposed in Upper Canada on the Separate Schools and School Trustees of the Queen's Roman Catholic Subjects shall be and the same are hereby extended to the Dissentient Schools of the Queen's Protestant and Roman Catholic Subjects in Quebec:

(3) Where in any Province a System of Separate or Dissentient Schools exists by Law at the Union or is thereafter established by the Legislature of the Province, an Appeal shall lie to the Governor General in Council from any Act or Decision of any Provincial Authority affecting any Right or Privilege of the Protestant or Roman Catholic Minority of the Queen's Subjects in relation to Education:

(4) In case any such Provincial Law as from Time to Time seems to the Governor General in Council requisite for the due Execution of the Provisions of this Section is not made, or in case any Decision of the Governor General in Council on any Appeal under this Section is not duly executed by the proper Provincial Authority in that Behalf, then and in every such Case, and as far only as the Circumstances of each Case require, the Parliament of Canada may make remedial Laws for the due Execution of the Provisions of this Section and of any Decision of the Governor General in Council under this Section.

Canadian Charter of Rights and Freedoms, Schedule B to the *Canada Act 1982*, 1982, c. 11, sections 2(a), 2(b), (d) and 15

Fundamental Freedoms

2. Everyone has the following fundamental freedoms:

(a) freedom of conscience and religion;
(b) freedom of thought, belief, opinion and expression, including freedom of the press and other media of communication; …
(d) freedom of association.

Equality Rights

15. (1) Every individual is equal before and under the law and has the right to the equal protection and equal benefit of the law without discrimination and, in particular, without discrimination based on race, national or ethnic origin, colour, religion, sex, age or mental or physical disability.

(2) Subsection (1) does not preclude any law, program or activity that has as its object the amelioration of conditions of disadvantaged individuals or groups including those that are disadvantaged because of race, national or ethnic origin, colour, religion, sex, age or mental or physical disability.

Human Rights Code, R.S.B.C. 1996, c 210, s. 41

41. (1) If a charitable, philanthropic, educational, fraternal, religious or social organization or corporation that is not operated for profit has as a primary purpose the promotion of the interests and welfare of an identifiable group or class of persons characterized by a physical or mental disability or by a common race, religion, age, sex, marital status, political belief, colour, ancestry or place of origin, that organization or corporation must not be considered to be contravening this Code because it is granting a preference to members of the identifiable group or class of persons.

(2) Nothing in this Code prohibits a distinction on the basis of age if that distinction is permitted or required by any Act or regulation.

Human Rights Code, R.S.O. 1990, c H.19, s. 6, s. 18

Vocational associations

6. Every person has a right to equal treatment with respect to membership in any trade union, trade or occupational association or self-governing profession without discrimination because of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, gender identity, gender expression, age, marital status, family status or disability. R.S.O. 1990, c. H.19, s. 6; 1999, c. 6, s. 28 (7); 2001, c. 32, s. 27 (1); 2005, c. 5, s. 32 (7); 2012, c. 7, s. 5.

Special interest organizations

18. The rights under Part I to equal treatment with respect to services and facilities, with or without accommodation, are not infringed where membership or participation in a religious, philanthropic, educational, fraternal or social institution or organization that is primarily engaged in serving the interests of persons identified by a prohibited ground of discrimination is restricted to persons who are similarly identified. R.S.O. 1990, c. H.19, s. 18; 2006, c. 19, Sched. B, s. 10.

Law Society By-Law 4, sections 7 and 9.1

Interpretation

7. In this Part,

"accredited law school" means a law school in Canada that is accredited by the Society;

"accredited program" means a legal services program in Ontario approved by the Minister of Training, Colleges and Universities that is accredited by the Society;

"integrated law degree" means a bachelor of laws or juris doctor degree the conferral of which requires the successful completion of instruction and training in the practical skills and task competencies that the Society has determined are necessary for a Class L1 licence which instruction and training have been approved by the Society in advance of their delivery;

"law practice program" means a program approved by the Society in advance of its delivery that consists of a course component and a work placement component that provide instruction and training in the practical skills and task competencies that the Society has determined are necessary for a Class L1 licence;

"licensing cycle" means,

(a) for a person registering with the Society to be eligible to take a licensing examination or to enter into experiential training that is a requirement for a Class L1 licence, a period running from May 1 in a year to April 30 in the following year; and

(b) for a person registering with the Society to be eligible to take a licensing examination that is a requirement for a Class P1 licence, a period running from June 1 in a year to May 31 in the following year.

Requirements for issuance of Class L1 licence

9. (1) The following are the requirements for the issuance of a Class L1 licence:

1. The applicant must have one of the following:

i. A bachelor of laws or juris doctor degree from a law school in Canada that was, at the time the applicant graduated from the law school, an accredited law school.

ii. A certificate of qualification issued by the National Committee on Accreditation appointed by the Federation of Law Societies of Canada and the Council of Law Deans.

2. The applicant must have successfully completed the applicable licensing examination or examinations set by the Society by not later than two years after the end of the licensing cycle into which the applicant was registered.

3. The applicant other than the applicant described in paragraph 4 must have,

i. experiential training by successfully completing,

A. service under articles of clerkship for a period of time, not to exceed ten months, as determined by the Society and all other requirements, as determined by the Society, that must be completed during the time of service under articles of clerkship, or

B. the law practice program, and

ii. if the experiential training mentioned in subparagraph i was completed more than three years prior to the application for licensing, successfully completed the additional education and obtained the additional experience that the Society determines is necessary to ensure that the applicant is familiar with current law and practice.

4. An applicant who is exempt from the requirements mentioned in paragraph 3 because of clause (3)(e) must have successfully completed a professional conduct course conducted by the Society.

Law Society Act, R.S.O. 1990, c L.8

Function of the Society

4.1 It is a function of the Society to ensure that,

(a) all persons who practise law in Ontario or provide legal services in Ontario meet standards of learning, professional competence and professional conduct that are appropriate for the legal services they provide; and

(b) the standards of learning, professional competence and professional conduct for the provision of a particular legal service in a particular area of law apply equally to persons who practise law in Ontario and persons who provide legal services in Ontario. 2006, c. 21, Sched. C, s. 7.

Principles to be applied by the Society

4.2 In carrying out its functions, duties and powers under this Act, the Society shall have regard to the following principles:

1. The Society has a duty to maintain and advance the cause of justice and the rule of law.
2. The Society has a duty to act so as to facilitate access to justice for the people of Ontario.
3. The Society has a duty to protect the public interest.
4. The Society has a duty to act in a timely, open and efficient manner.
5. Standards of learning, professional competence and professional conduct for licensees and restrictions on who may provide particular legal services should be proportionate

to the significance of the regulatory objectives sought to be realized. 2006, c. 21, Sched. C, s. 7.

U.N. *Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief*, G.A. 63/181, Articles 1-3 and 9

1. *Condemns* all forms of intolerance and of discrimination based on religion or belief, as well as violations of freedom of thought, conscience and religion or belief;

2. *Stresses* that the right to freedom of thought, conscience and religion applies equally to all people, regardless of their religions or beliefs, and without any discrimination as to their equal protection by the law;

3. *Emphasizes* that, as underlined by the Human Rights Committee, restrictions on the freedom to manifest one's religion or belief are permitted only if limitations are prescribed by law, are necessary to protect public safety, order, health or morals, or the fundamental rights and freedoms of others, are non-discriminatory and are applied in a manner that does not vitiate the right to freedom of thought, conscience and religion;

9. *Urges* States to step up their efforts to protect and promote freedom of thought, conscience and religion or belief, and to this end:

(*a*) To ensure that their constitutional and legislative systems provide adequate and effective guarantees of freedom of thought, conscience, religion and belief to all without distinction, inter alia, by the provision of effective remedies in cases where the right to freedom of thought, conscience, religion or belief, or the right to practise freely one's religion, including the right to change one's religion or belief, is violated;

(*b*) To ensure that no one within their jurisdiction is deprived of the right to life, liberty or security of person because of religion or belief and that no one is subjected to torture or other cruel, inhuman or degrading treatment or punishment, or arbitrary arrest or detention on that account and to bring to justice all perpetrators of violations of these rights;

(*c*) To ensure that no one is discriminated against on the basis of his or her religion or belief when accessing, inter alia, education, medical care, employment, humanitarian assistance or social benefits;

(*d*) To review, whenever relevant, existing registration practices in order to ensure that such practices do not limit the right of all persons to manifest their religion or belief, alone or in community with others and in public or private;

(*e*) To ensure that no official documents are withheld from the individual on the grounds of religion or belief and that everyone has the right to refrain from disclosing information concerning one's religious affiliation on such documents

against one's will;

(*f*) To ensure that everyone has the right and the opportunity to have access, on general terms of equality, to public service in one's country, without any discrimination on the basis of religion or belief;

(*g*) To ensure, in particular, the right of all persons to worship or assemble in connection with a religion or belief and their right to establish and maintain places for these purposes and the right of all persons to write, issue and disseminate relevant publications in these areas;

(*h*) To ensure that, in accordance with appropriate national legislation and in conformity with international human rights law, the freedom of all persons and members of groups to establish and maintain religious, charitable or humanitarian institutions is fully respected and protected;

(*i*) To exert the utmost efforts, in accordance with their national legislation and in conformity with international human rights law, to ensure that religious places, sites, shrines and symbols are fully respected and protected and to take additional measures in cases where they are vulnerable to desecration and destruction;

(*j*) To ensure that all public officials and civil servants, including members of law enforcement bodies, the military and educators, in the course of fulfilling their official duties, respect all religions or beliefs and do not discriminate for reasons based on religion or belief, and that all necessary and appropriate education or training is provided;

Civil Marriage Act, S.C. 2005, c 33, Preamble and s. 3.1

Preamble

WHEREAS the Parliament of Canada is committed to upholding the Constitution of Canada, and section 15 of the *Canadian Charter of Rights and Freedoms* guarantees that every individual is equal before and under the law and has the right to equal protection and equal benefit of the law without discrimination;

(...)

WHEREAS everyone has the freedom of conscience and religion under section 2 of the *Canadian Charter of Rights and Freedoms*;

WHEREAS nothing in this Act affects the guarantee of freedom of conscience and religion and, in particular, the freedom of members of religious groups to hold and declare their religious beliefs and the freedom of officials of religious groups to refuse to perform marriages that are not in accordance with their religious beliefs;

WHEREAS it is not against the public interest to hold and publicly express diverse views on marriage;

(...)

Freedom of conscience and religion and expression of beliefs

3.1 For greater certainty, no person or organization shall be deprived of any benefit, or be subject to any obligation or sanction, under any law of the Parliament of Canada solely by reason of their exercise, in respect of marriage between persons of the same sex, of the freedom of conscience and religion guaranteed under the *Canadian Charter of Rights and Freedoms* or the expression of their beliefs in respect of marriage as the union of a man and woman to the exclusion of all others based on that guaranteed freedom.

Fair Access to Regulated Professions Act, 2006, S.O. 2006, c. 31, s. 6

General duty

6. A regulated profession has a duty to provide registration practices that are transparent, objective, impartial and fair. 2006, c. 31, s. 6.

LSUC, *Rules of Professional Conduct* (Toronto: Law Society of Upper Canada, 2014), Rule 6.3.1

Discrimination
6.3.1-1
Special Responsibility
A lawyer has a special responsibility to respect the requirements of human rights laws in force in Ontario and, specifically, to honour the obligation not to discriminate on the grounds of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, gender identity, gender expression, age, record of offences (as defined in the Ontario *Human Rights Code*), marital status, family status, or disability with respect to professional employment of other lawyers, articled students, or any other person or in professional dealings with other licensees or any other person.

Court File No.: 250/14

TRINITY WESTERN UNIVERSITY et al.
Applicants

v.

THE LAW SOCIETY OF UPPER CANADA
Respondent

ONTARIO
SUPERIOR COURT OF JUSTICE
DIVISIONAL COURT

FACTUM OF THE INTERVENER,
THE CHRISTIAN LEGAL FELLOWSHIP
(Application for Judicial Review
Returnable June 1, 2015)

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