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Queen's OUTlaw Queen's University Faculty of Law
uOttawa OUTlaw University of Ottawa Faculty of Law
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UNB OUTlaw University of New Brunswick Faculty of Law
OUTlaw Society Schulich School of Law, Dalhousie University

November 24, 2014

Thomas G. Conway
President
Federation of Law Societies of Canada
World Exchange Plaza
1810-45 O'Connor Street
Ottawa, ON K1P 1A4

Dear President Conway:

We are writing in our capacities as leaders of lesbian, gay, bisexual, trans*, and queer (“LGBTQ”) affinity groups and organizations at Canadian law schools regarding the proposed law school at Trinity Western University (“TWU”). Please accept this letter in follow-up to our correspondence of March 2013, when the Federation of Law Societies of Canada (“FLSC”) was considering whether to grant preliminary approval to the proposed law school program at Trinity Western University (“TWU”).¹ Given recent developments, and the conditions placed on TWU’s approval in December 2013 by the FLSC, we are writing to ask that the FLSC now reverse or reconsider its preliminary approval.²

As you know, TWU’s law program is currently seeking the accreditation of provincial and territorial regulators of the legal profession so that its graduates will be eligible to seek admission to the bar of each jurisdiction. Law societies in Nova Scotia³, Ontario⁴, British Columbia⁵, and the Northwest Territories⁶ have now refused to accredit TWU on account of its discriminatory policies towards LGBTQ students. We understand that the decision to accredit the school in New Brunswick may also soon be reversed.⁷ Central to the concerns of these law societies has been the fact that TWU forces its students to sign a ‘Community Covenant Agreement,’ which requires the student to abstain from “sexual intimacy that violates the sacredness of marriage between a man and a woman”.⁸ The policy plainly discriminates on the basis of sexual orientation. Its breach carries disciplinary sanctions, up to expulsion.⁹ We have attached our letter to the Law Society of British Columbia (“LSBC”), which outlines our position on this issue.

¹ Letters and Petitions from OUTlaws Canada to Federation of Law Societies of Canada, March 2013, available online: <<https://www.scribd.com/doc/247085673/Letters-and-Petitions-from-OUTlaws-to-FLSC>>.

² Federation of Law Societies of Canada, *FLSC Grants Preliminary Approval to TWU’s Proposed Law Program*, 16 December 2013, available online: <<http://www.flsc.ca/documents/FederationNewsReleaseFIN.pdf>>.

³ Nova Scotia Barristers’ Society, *Council votes for Option C in Trinity Western University law school decision*, 25 April 2014, available online: <<http://bit.ly/1tyindV>>.

⁴ Law Society of Upper Canada, *Trinity Western University (TWU) Accreditation*, available online: <<http://www.lsuc.on.ca/twu/>>.

⁵ Law Society of British Columbia, *Proposed TWU law school not approved for Law Society’s admission program*, 31 October 2014, available online: <<http://bit.ly/1Afs6f9>>.

⁶ Law Society of the Northwest Territories, *Trinity Western University*, available online: <<http://bit.ly/11CO383>>.

⁷ Law Society of New Brunswick, *Trinity Western University*, 3 September 2014, available online: <<http://lawsociety-barreau.nb.ca/en/public/trinity-western-university>>.

⁸ Trinity Western University Community Covenant Agreement at page 3, available online: <<http://twu.ca/studenthandbook/twu-community-covenant-agreement.pdf>>.

⁹ Trinity Western University Student Handbook, Student Accountability Process, available online: <<http://twu.ca/studenthandbook/university-policies/student-accountability-process.html>>.

By our reading, the FLSC's preliminary approval is no longer effective, for three reasons. First, TWU was not accredited by the LSBC, which means that the TWU law degrees can no longer be issued. In a letter dated July 11, 2014, the B.C. Minister of Advanced Education cautioned TWU President Bob Kuhn that his approval of the TWU law degrees was conditional on the LSBC recognizing the credential. We asked Minister Virk to enforce this condition on November 6, 2014, which it now appears he may do.¹⁰ Both the July 11 and November 6 letters are enclosed for your reference.¹¹ As stated by the FLSC on December 16, 2013:

Approval of the academic program is only one phase in the development of a new law school in Canada. Provincial government authorities decide whether universities can offer specific degree programs. In this case, the British Columbia Ministry of Advanced Education would have to consent to TWU offering a new law degree program.¹²

This is reiterated at paragraph 3 of the report of the FLSC's Canadian Common Law Program Approval:

The Approval Committee's decision is only one step in the process. Pursuant to the British Columbia *Degree Authorization Act* the proposed program also must be approved by the British Columbia Minister of Advanced Education.¹³

Consequently, the failure to secure approval of the B.C. government or the LSBC means that implied conditions of the FLSC's approval have not been met.

Second, the FLSC's December 2013 approval had its own explicit conditions. The FLSC documented concerns about the compatibility of TWU's teaching of legal ethics, professionalism, and public law with the National Requirement for new law school programs.¹⁴ As elaborated in the FLSC report:

...the members of the Approval Committee see a tension between the proposed teaching of these required competencies and elements of the Community Covenant. In particular, the Approval Committee is concerned that some of the underlying beliefs reflected in the Community Covenant, which members of faculty are required to embrace as a condition of employment, may constrain the appropriate teaching and thus the required understanding of equality rights and the ethical obligation not to discriminate against any person. This tension appears to be reflected in the description of the mandatory Ethics and Professionalism course (LAW 602), which states that the course "challenges students to reconcile their personal and professional beliefs within a framework of service to clients and community while respecting and performing professional obligations and responsibilities."¹⁵

The report indicates that TWU was required to provide additional materials in future reports to the FLSC, including more detailed course outlines demonstrating *exactly* how the required educational competencies will be met.¹⁶ We are curious as to whether these updates have been provided to the Approval Committee in fulfillment of these conditions - particularly in light of a B.C. government expert panel's "serious reservations" about the proposed law school's academic freedom, the breadth of its world view, its ability to teach legal skills, and its course quality.¹⁷

Finally, we feel that a more thorough consultation is required by all law societies on whether to accredit TWU's school. The TWU issue has ignited a national discussion about the equality obligations of the legal profession

¹⁰ Andrea Woo, "B.C. government may revoke consent for Christian law school," *The Globe and Mail*, 19 November 2014, available online: <<http://bit.ly/1uv4my5>>.

¹¹ Letter from OUTlaws Canada to B.C. Minister of Advanced Education (with enclosures), 6 November 2014, available online: <<https://www.scribd.com/doc/245761937/OUTlaws-Letter-to-Minister-Virk-6-November-2014>>.

¹² *Supra* note 2.

¹³ Federation of Law Societies of Canada, *Common Law Program Approval Committee Report on TWU's Proposed School of Law Program*, para 3, available online: <<http://www.flsc.ca/documents/ApprovalCommitteeFINAL.pdf>>.

¹⁴ *Supra* note 2.

¹⁵ *Supra* note 13 at para 50 and pp 21-26.

¹⁶ *Supra* note 13 at para 52 and pp 21, 26.

¹⁷ Stanley Tromp, "Experts warned of 'serious reservations' about Trinity Western University's law school plan," *The Province*, 17 August 2014, available online: <<http://bit.ly/1xbDCmi>>.

and other statutory decision-makers. This was reflected in the public consultations and debates that took place at the Nova Scotia, Ontario, New Brunswick, and British Columbia law societies on this issue.

The FLSC's process did not reflect the importance of this debate. In December 2013, it was with profound disbelief that we learned of the FLSC's preliminary approval. The FLSC arrived at its recommendation after a protracted and closed-door process, which is contrary to the public interest mandate of provincial law societies. There was no opportunity for anyone to present evidence of discrimination by TWU, or the effect of its Community Covenant on LGBTQ faculty or students. Despite this, the absence of such evidence was a finding relied upon by the FLSC committee to recommend that the proposed law school be recognized by the FLSC's members. Perpetuating the flawed process, Minister Virk granted his original approval of the degree program the day after the FLSC preliminary approval was announced.¹⁸

If there was ever a question, it is now clear that a more robust process was appropriate. At present, a number of provincial law societies have relied on the FLSC's recommendation to accredit TWU outright. We feel that the important issues at stake are deserving of a more comprehensive consultation in these jurisdictions, and we call on the FLSC to facilitate this process by reconsidering its preliminary approval. One year since granting preliminary approval, the FLSC can now rely on the numerous regulators, academics, and legal authorities that have consistently rejected TWU's position on this issue.

Our message today is underscored by the fact that, at a basic level, it was unjust for the FLSC to authorize a pathway to the legal profession that openly discriminates against a vulnerable segment of the Canadian public. For all of these reasons, we look forward to a revision of your earlier decision.

Should you wish to correspond with us as a group, please email outlawscanada@gmail.com. We look forward to hearing from you.

Sincerely,

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¹⁸ British Columbia Ministry of Advanced Education, *Minister's Statement on Trinity Western University's Proposed Law Degree*, 18 December 2013, available online: <<http://bit.ly/KlOdZA>>.

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Encl. November 6, 2014 Letter from OUTlaws Canada to the B.C. Minister of Advanced Education
July 11, 2014 Letter from the B.C. Minister of Advanced Education to the President of Trinity Western University
February 24, 2014 Letter from OUTlaws Canada to the Law Society of British Columbia

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Enclosures

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November 6, 2014

The Honourable Amrik Virk
Minister of Advanced Education
Room 133, Parliament Buildings
Victoria, BC V8V 1X4

Dear Minister Virk:

We are writing in our capacities as leaders of lesbian, gay, bisexual, trans*, and queer (“LGBTQ”) affinity groups and organizations at Canadian law schools regarding the proposed new law school at Trinity Western University (“TWU”). As you know, TWU’s law program is currently seeking the accreditation of provincial and territorial regulators of the legal profession so that its graduates will be eligible to seek admission to the bar of each jurisdiction. Following the recent decision of the Law Society of British Columbia (“LSBC”) to rescind TWU’s accreditation for the purpose of bar admissions requirements, we would ask that you similarly reverse the approval of TWU’s law degrees by the B.C. Ministry of Advanced Education.

Since the TWU issue first came to light in early 2013, we have had serious concerns about TWU’s discriminatory policies towards LGBTQ students. Central to these concerns is the fact that TWU forces its students to sign a ‘Community Covenant Agreement’ requiring the student to abstain from “sexual intimacy that violates the sacredness of marriage between a man and a woman”.¹ The policy plainly discriminates on the basis of sexual orientation. Its breach carries disciplinary sanctions, up to expulsion.² We have attached our letter to the LSBC, dated February 24, 2014, which outlines our view that accrediting TWU is inconsistent with Canadian law and public policy, the equality rights of LGBTQ individuals under the *Charter of Rights and Freedoms*, and the obligation of the legal profession to advance the cause of justice and protect the public interest.

Last December, we were disappointed to learn that the Federation of Law Societies of Canada (“FLSC”) recommended that its member law societies accredit TWU’s law school.³ While some law societies adopted the FLSC recommendation outright, a number of provincial law societies engaged in consultative processes to decide whether to accredit the school. Fortunately, the law societies in Nova Scotia⁴ and Ontario⁵ concluded that TWU could not be accredited, and on October 31, 2014, the LSBC rescinded its earlier approval, after a decisive and binding vote of British Columbia’s lawyers.⁶ The decision to accredit the school in New Brunswick

¹ Trinity Western University Community Covenant Agreement at page 3, available online: <http://twu.ca/studenthandbook/twu-community-covenant-agreement.pdf>

² Trinity Western University Student Handbook, Student Accountability Process, available online: <http://twu.ca/studenthandbook/university-policies/student-accountability-process.html>

³ Federation of Law Societies of Canada, *Federation Provides Preliminary Approval of Trinity Western University’s Proposed Law Program*, 16 December 2013, available online: <http://bit.ly/1oiZtsk>

⁴ Nova Scotia Barristers’ Society, *Council votes for Option C in Trinity Western University law school decision*, 25 April 2014, available online: <http://bit.ly/1tyindV>

⁵ Law Society of Upper Canada, *Trinity Western University (TWU) Accreditation*, available online: <http://www.lsuc.on.ca/twu/>

⁶ Law Society of British Columbia, *Proposed TWU law school not approved for Law Society’s admission program*, 31 October 2014, available online: <http://bit.ly/1Afs6f9>

may also soon be reversed.⁷ Following these events, 4 of our organizations are currently intervening alongside Out On Bay Street in TWU's application for judicial review of the Ontario law society's decision.⁸

We understand that your Ministry's role in this process is to decide whether to approve the new degree program at TWU. In reaching its conclusion in December, the Ministry appeared to rely heavily on the FLSC's recommendation. The announcement of your approval came the day after the FLSC released its report,⁹ and in the wake of an expert panel's "serious reservations" about the proposed law school's academic freedom, the breadth of its world view, its ability to teach legal skills, and its course quality.¹⁰

We have since learned that your approval was also conditional. In a letter dated July 11, 2014, you cautioned TWU President Bob Kuhn that:

"The institution must provide a report to the Board on the status of faculty recruitment and regulatory body approval prior to launching the program. ... This term is consistent with the published criteria for quality assessment under the *Degree Authorization Act* in the Degree Program Review Criteria and Guidelines. The criteria to be considered by the Board include evidence that relevant regulatory bodies will recognize the credential... The Federation of Law Societies and the Law Society of BC are the relevant professional and regulatory bodies for the practice of law in BC. ... I request that TWU ensure it fulfills its reporting requirement under the terms and conditions of consent in the event that the Benchers' initial decision to approve the law faculty is ultimately reversed." [emphasis added]

This plainly implies that without regulatory approval by the LSBC, the consent given by the Minister is not effective and the TWU law degrees cannot be issued. Today, it is clear that the LSBC will not accredit the law school. Seventy-four percent of the 8,039 ballots in the LSBC's October 30 referendum were voted in favour of a resolution directing that:

"...the Benchers implement the resolution of the members passed at the special general meeting of the Law Society held on June 10, 2014, and declare that the proposed law school at Trinity Western University is not an approved faculty of law for the purpose of the Law Society's admissions program."¹¹

The June 10 resolution (which passed with 77% of 4,178 votes) similarly called on the law society benchers to declare that TWU is not an approved law faculty for the purpose of the bar admissions requirements in British Columbia.¹²

In effect, the October 30 referendum results were binding on the LSBC benchers, who rescinded TWU's accreditation on October 31. This was a procedural outcome anticipated in your July 11 letter to President Kuhn. As such, we would like to request that you enforce the terms of TWU's degree approval by the Ministry of Advanced Education. As stated in your letter:

"If TWU law school graduates are not eligible to practice law in British Columbia, that would constitute a substantive change to the program that may require further consideration of the consent granted under the *Degree Authorization Act*."

Our request is underscored by the fact that, at a basic level, it was unjust for the B.C. government to authorize a pathway to the legal profession that openly discriminates against a vulnerable segment of the Canadian

⁷ Law Society of New Brunswick, *Trinity Western University*, 3 September 2014, available online: <<http://lawsociety-barreau.nb.ca/en/public/trinity-western-university>>

⁸ Out On Bay Street, *Leave granted to intervene in Trinity Western University legal dispute*, 25 September 2014, available online: <<http://outonbayst.org/leave-granted-to-intervene-in-trinity-western-university-legal-dispute/>>

⁹ British Columbia Ministry of Advanced Education, *Minister's Statement on Trinity Western University's Proposed Law Degree*, 18 December 2013, available online: <<http://bit.ly/KlOdZA>>

¹⁰ Stanley Tromp, "Experts warned of 'serious reservations' about Trinity Western University's law school plan," *The Province*, 17 August 2014, available online: <<http://bit.ly/1xbDCmi>>

¹¹ Law Society of British Columbia, *Notices to the Profession*, 26 September 2014, available online: <<http://bit.ly/1utZLPh>>

¹² Law Society of British Columbia, *Special General Meeting - June 10, 2014*, 10 June 2014, available online: <<https://www.lawsociety.bc.ca/page.cfm?cid=3946&t=Special-General-Meeting,-June-10>>

public. Although it should never have been necessary to do so, your Ministry can now rely on the numerous regulators, academics, and legal authorities that have consistently rejected TWU's position on this issue.

For these reasons, we look forward to a reversal of your earlier decision that will align with both your statutory mandate and obligation to support the equality rights of LGBTQ students.

We would be pleased to meet with you to discuss our concerns in person. Should you wish to correspond with us as a group, please email outlawscanada@gmail.com. We look forward to hearing from you.

Sincerely,

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Encl. February 24, 2014 Letter from OUTlaws Canada to the Law Society of British Columbia
July 11, 2014 Letter from the Minister of Advanced Education to the President of Trinity Western University

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Our Ref: 97560

July 11, 2014

Mr. Robert Kuhn, President (Interim)
Trinity Western University
7600 Glover Rd
Langley BC V2Y 1Y1

Dear Mr. Kuhn:

I write further to my letters of December 17, 2013 and February 12, 2014 advising of my consent under the *Degree Authorization Act* to a Juris Doctor program at Trinity Western University ("TWU").

The consent included a number of terms and conditions. Included in both the original and revised Special Terms and Conditions of Ministerial Consent was the following requirement:

5) **Reporting:** The institution must provide a report to the Board on the status of faculty recruitment and regulatory body approval prior to launching the program.

This term is consistent with the published criteria for quality assessment under the *Degree Authorization Act* in the Degree Program Review Criteria and Guidelines. The criteria to be considered by the Board include evidence that relevant regulatory bodies will recognize the credential (see page 24). The Federation of Law Societies and the Law Society of BC are the relevant professional and regulatory bodies for the practice of law in BC.

I am aware that on June 10, 2014, a special resolution of the members of the Law Society of BC was passed directing the Benchers to declare that TWU is not an approved law faculty for the purpose of the bar admissions requirements in British Columbia. I understand that the special resolution is not binding on the Benchers, however it may nonetheless be adopted and implemented by the Benchers voluntarily. In addition, the *Legal Profession Act* also provides for a further process by which the resolution may become binding following a referendum.

I request that TWU ensure it fulfills its reporting requirement under the terms and conditions of consent in the event that the Benchers' initial decision to approve the law faculty is ultimately reversed.

.../2

If TWU law school graduates are not eligible to practice law in British Columbia, that would constitute a substantive change to the program that may require further consideration of the consent granted under the *Degree Authorization Act*.

Sincerely,

A handwritten signature in black ink, appearing to read "Amrik Virk". The signature is fluid and cursive, with a large initial "A" and "V".

Amrik Virk
Minister

pc: Degree Quality Assessment Board

UVic OUTlaws University of Victoria Faculty of Law
UBC OUTlaws University of British Columbia Faculty of Law
TRU OUTlaws Thompson Rivers University Faculty of Law
OUTlaw Alberta University of Alberta Faculty of Law
USask OUTlaws University of Saskatchewan College of Law
Manitoba OUTlaws University of Manitoba Faculty of Law
Windsor OUTlaws University of Windsor Faculty of Law
Western OUTlaws Western University Faculty of Law



Out In Law University of Toronto Faculty of Law
Osgoode OUTlaws Osgoode Hall Law School, York University
Queen's OUTlaw Queen's University Faculty of Law
uOttawa OUTlaw University of Ottawa Faculty of Law
OUTlaw at McGill McGill University Faculty of Law
UNB OUTlaw University of New Brunswick Faculty of Law
OUTlaw Society Schulich School of Law, Dalhousie University

February 24, 2014

Law Society of British Columbia
845 Cambie Street
Vancouver, BC V6B 4Z9

Dear President Lindsay and Benchers:

We are writing in our capacities as leaders of LGBTQ affinity groups and organizations at Canadian law schools regarding Trinity Western University's (TWU's) proposed law school. TWU's program is currently seeking the approval of the provincial law societies for admission to the bar of each jurisdiction. In B.C., this accreditation process falls within the authority of the Law Society of British Columbia (LSBC). We have serious reservations about TWU's discriminatory policies towards LGBTQ students and the suitability of TWU as a forum to train future lawyers. We urge you to refuse or qualify TWU's accreditation. We also encourage you to advance an accreditation requirement in your province that prevents any accredited law school from discriminating on a constitutionally protected ground, such as sexual orientation.

Central to our concerns is the fact that TWU forces its students to sign a 'Community Covenant Agreement' requiring the student to abstain from "sexual intimacy that violates the sacredness of marriage between a man and a woman".¹ Students who do not comply with the agreement may be removed from the university without readmission.² The Community Covenant Agreement is inconsistent with the *Charter of Rights and Freedoms* and provincial human rights legislation. Accrediting a legal studies program that operates under this policy fetters the profession's obligation to serve the public interest.

Over the past year, a number of prominent stakeholders have echoed this sentiment. These include the Canadian Council of Law Deans,³ the Canadian Bar Association,⁴ the Canadian Federation of Students,⁵ numerous prominent lawyers and academics, law school faculty councils,⁶ editorial boards,⁷ and over one thousand law students.⁸ They have rightly pointed out that TWU's policies place a de facto quota on the number of law school places available to LGBTQ students. More broadly, they assert that given these discriminatory operating policies, TWU is not an appropriate venue for teaching constitutional law, nurturing

¹ Trinity Western University Community Covenant Agreement at page 3, available online: <<http://twu.ca/studenthandbook/twu-community-covenant-agreement.pdf>>

² Trinity Western University Student Handbook, Student Accountability Process, available online: <<http://twu.ca/studenthandbook/university-policies/student-accountability-process.html>>

³ Canadian Council of Law Deans Letter to the Federation of Law Societies of Canada, November 20, 2012, available online: <<http://www.scribd.com/doc/156263670/CCLD-Letter-to-FLSC>>

⁴ Canadian Bar Association Letter to the Federation of Law Societies of Canada, March 18, 2013, available online: <<http://www.scribd.com/doc/156265274/CBA-Letter-to-FLSC>>

⁵ Canadian Federation of Students Letter to the Federation of Law Societies of Canada, December 19, 2013, available online: <<http://cfs-fee.ca/open-letter-reconsider-approval-of-law-school-at-trinity-western-university/>>

⁶ Four law school faculty councils have passed motions condemning the Community Covenant Agreement: Osgoode (<http://bit.ly/1ICEL16>), Queen's (<http://bit.ly/1e7xLrj>), UBC (<http://bit.ly/1laMBSW>), and Dalhousie (<http://bit.ly/1fiQgX2>). Faculty from Alberta's 2 law schools have also expressed their concerns in an open letter (<http://bit.ly/1fYkL6>).

⁷ The Globe and Mail, *Trinity Western should emulate its U.S. equivalents*, July 25, 2013, available online: <<http://www.theglobeandmail.com/globe-debate/editorials/trinity-western-should-emulate-its-us-equivalents/article13441598/>>

⁸ Osgoode Hall Law School Students' Letter to the Federation of Law Societies of Canada, March 18, 2013, available online: <<http://www.scribd.com/doc/156265623/Letter-from-Osgoode-Law-Students-to-the-FLSC>>; Media Release from Canadian Law Students, March 18, 2013, available online: <<http://www.scribd.com/doc/156265623/Letter-from-Osgoode-Law-Students-to-the-FLSC>>

legal ethics, or promoting academic freedom. Our agreement with these views is underscored by the fact that many of our LGBTQ peers have been subjected to systemic discrimination, exclusion, and hatred related to their sexual orientation. It would be tremendously disheartening to see the profession's leadership support policies which perpetuate these unfortunate experiences and constrain access to legal education for LGBTQ individuals. Institutionalizing the targeted humiliation of LGBTQ individuals is unacceptable.

The professional community turns to the law society for leadership and governance on these important issues. To date, it has been disappointing to see some law societies remain silent on this issue - deferring to Federation of Law Societies of Canada (FLSC). In December, it was with profound disbelief that we learned of the FLSC's recommendation that their provincial members approve TWU's law school. This was, in effect, a rubber stamp for discrimination: TWU's discriminatory covenant stands in direct opposition to the significant progress that has been made in the recognition of the rights of LGBTQ individuals over the past decade.

Further, the FLSC's protracted and closed-door process was patently not in the public interest – contrary to the mandate of the LSBC. Notably, there was no opportunity for anyone to present evidence of discrimination by TWU, or the effect of its covenant on LGBTQ faculty or students, even though the absence of such evidence was a key finding on which the committee relied to recommend that the proposed law school be recognized by the FLSC's members. Perpetuating the flawed process, B.C.'s Minister of Advanced Education relied heavily on the FLSC's decision to justify his own, approving the degree-granting program the day after the FLSC report was released.

In 2014, the FLSC's decision offends more than contemporary Canadian sensibilities. Our understanding is that it is also legally incorrect:

- First, the FLSC relies heavily on a 2001 Supreme Court of Canada (SCC) judgment in a case involving TWU and the B.C. College of Teachers.⁹ Although this precedent cannot be ignored, over the last 12 years the law has transformed. The 2013 case of *Whatcott*¹⁰ departs from the 2001 *Trinity Western* decision in important ways, notably by wholly rejecting the “hate the sin, love the sinner” excuse adopted by TWU to continue its discrimination in 2001. An institution cannot ban “sexual intimacy that violates the sacredness of marriage between a man and a woman” (i.e., sex between LGBTQ individuals) without effectively banning LGBTQ individuals. The effect of the covenant is to exclude anyone who lives in a committed same-sex relationship, which is an issue that was completely overlooked in the 2001 SCC decision.
- Second, the 2012 SCC decision in *Doré*¹¹ now imposes an obligation on law societies to apply the *Charter* and provincial and territorial human rights codes every time they make a decision. The B.C. College of Teachers was under no such obligation in 2001. In practice, this means that private religious organizations can adopt membership rules that reflect their beliefs, but the government and other organizations operating in the public interest are not bound to approve such rules if they discriminate against individuals.

Such significant inconsistencies should prompt LSBC to heavily scrutinize the FLSC recommendation.

The law schools we attend have made a priority of making legal education more accessible, practical, and representative of Canadian society. The leadership of the B.C. profession should demonstrate the same interests in rendering their decision on TWU's accreditation. As future lawyers, we are committed to equality and promoting the values of the *Charter* within our practices. Our experiences have taught us that such professional standards can only be fostered in a learning environment that enshrines these values in policy and practice.

At the most basic level, it is unjust to open a law school that openly discriminates against a vulnerable segment of the Canadian public. We strongly recommend that you oppose or place conditions on TWU's

⁹ *Trinity Western University v British Columbia College of Teachers*, 2001 SCC 31, available online: <<http://scc-csc.lexum.com/decisia-scc-csc/scc-csc/scc-csc/en/item/1867/index.do>>

¹⁰ *Saskatchewan (Human Rights Commission) v Whatcott*, 2013 SCC 11, available online: <<http://scc-csc.lexum.com/decisia-scc-csc/scc-csc/scc-csc/en/12876/1/document.do>>

¹¹ *Doré v Barreau du Québec*, 2012 SCC 12, available online: <<http://www.canlii.org/en/ca/scc/doc/2012/2012scc12/2012scc12.pdf>>

LSBC accreditation. We look forward to a properly balanced and progressive decision from the law society on this important issue, and appreciate this opportunity to provide input to the process. Should you wish to correspond with us as a group, please email outlawscanada@gmail.com.

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