March 18, 2013

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Federation of Canadian Law Societies
World Exchange Plaza
1810-45 O’Connor Street
Ottawa, ON K1P 1A4

Dear Mr. Tremblay, Mr. Herman, Ms. Wolfe, and Ms. Pawlitza:

Re: Trinity Western University School of Law Proposal

We are writing as current students and alumni from Osgoode Hall Law School at York University. We wish to express our concerns regarding the application of Trinity Western University (“TWU”) to establish a law school. We understand that the Federation of Canadian Law Societies is currently considering TWU’s proposal.

We are particularly concerned by TWU’s requirement that its students sign a community covenant agreement. The covenant requires that students abstain from “sexual intimacy that violates the sacredness of marriage between a man and a woman”. There are “formal accountability procedures to address actions by community members that represent a disregard for this covenant.” The TWU Student Handbook provides that “if a student, in the opinion of the University, is unable, refuses or fails to live up to their commitment, the University reserves the right to discipline, dismiss, or refuse a student’s readmission to the University.”

The covenant at TWU discriminates on the basis of sexual orientation, contrary to the Canadian Charter of Rights and Freedoms and provincial human rights legislation. While heterosexual students are permitted to practice sexual intimacy within marriage, the definition of marriage in the covenant excludes same-sex marriage. Non-heterosexual married couples are singled out by the covenant and barred from sexual intimacy, at the risk of expulsion. TWU’s definition of marriage deprives LGBTQ students of rights that others enjoy, and is therefore discriminatory.

1 Trinity Western University Community Covenant Agreement at page 3, available online: <http://twu.ca/studenthandbook/twu-community-covenant-agreement.pdf>
2 Ibid. at page 5.
3 Trinity Western University Student Handbook, Student Accountability Process, available online: <http://twu.ca/studenthandbook/university-policies/student-accountability-process.html>
In addition, we are concerned about the suitability of TWU as a forum for legal education. Law schools are to propagate the values of the Canadian legal system, including those set out in the Charter of Rights and Freedoms. While the Charter may not apply to private schools such as TWU, all law schools should seek to uphold it. TWU maintains a covenant that marginalizes individuals on the basis of sexual orientation, contrary to the Charter and provincial human rights legislation. It is evident that policies at TWU contradict the values of the Canadian legal system. We conclude that the school would fail to provide a balanced legal education.

The effect of the covenant on all non-heterosexual students is unacceptable. It sends a message that LGBTQ students are not welcome within the TWU community. As explained by Justice L’Heureux-Dube in 2001, you cannot “separate condemnation of the ‘sexual sin’ of ‘homosexual behaviour’ from intolerance of those with homosexual or bisexual orientations… [In] the words of the intervener EGALE, ‘[r]equiring someone not to act in accordance with their identity is harmful and cruel. It destroys the human spirit. Pressure to change their behaviour and deny their sexual identity has proved tremendously damaging to young persons seeking to come to terms with their sexual orientation’ (factum, at para. 34).”

TWU’s claims that the covenant does not prevent non-heterosexual students from attending the University wrongly suggest that it is “possible to condemn a practice so central to the identity of a protected and vulnerable minority without thereby discriminating against its members and affronting their human dignity and personhood.”

As current and future officers of the court, we are committed to promoting the values of the Charter within our own practices. We believe that our colleagues should be exposed to a learning environment that fosters the same dedication to equality. We ask that these concerns be weighted heavily in considering TWU’s proposed law school.

Sincerely,

Douglas W. Judson, JD/MBA Candidate (2015),
Co-Chair, Osgoode OUTlaws

Phi Nguyen, JD Candidate (2014),
Co-Chair, Osgoode OUTlaws

Clair Affleck-Jacques, JD Candidate (2015)

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Faye Alipour, JD Candidate (2015)

Catherine Allen, JD Candidate (2013)

Julie Alton, JD Candidate (2013)

Harjot Atwal, JD Candidate (2014),
Staff Writer, Obiter Dicta

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5 Ibid.
Jenn Aubrey, JD Candidate (2013)

Emelia Baack, JD Candidate (2013),
First Year Associate, Paul Weiss Rifkind Wharton & Garrison LLP

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Margarita Malkina, JD Candidate (2015)
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Simon Marmur, JD Candidate (2013)
Louise Marriott, JD Candidate (2013)
Patrick Martin, JD Candidate (2013)
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Erin Rosenzveig, JD Candidate (2013)
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Kendall Yamagishi, JD Candidate (2013)
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Hon. Ralph Sultan, Minister of Advanced Education, Innovation, and Technology,
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Adrian Lomaga, Chair, Sexual Orientation and Gender Identity Section, Ontario Bar Association,
1106-5 Marine Terrace, Toronto, ON, M5V 3V6; adrian@suenow.ca
On March 5th, 2013, a Town Hall was held at the Schulich School of Law to discuss Trinity Western University’s proposal to create Canada’s next law school. At issue during the meeting were TWU’s discriminatory admissions and hiring policies, which include that no community member shall engage in sexual behaviour that violates the sacred bond of marriage between a man and a woman. The primary discussion point was whether an institution with such policies should educate students for the practice of law.

Those present at the meeting included gays and lesbians, who voiced concern not only about TWU’s policies, but also about the fact that another protected right – freedom of religion – could potentially be stifled by any action we might take. One Christian in the room shared with us his own faith-based educational background, and reminded us of the personal and voluntary choice an individual makes when agreeing to TWU’s community covenant, a choice that arguably should not be impeded. A number of straight people in attendance felt strongly that religion has no place in the teaching of law, and that TWU’s proposal should be opposed. Some felt that it would be best to live and let live.

In short, there was no obvious consensus at the Town Hall about whether or not we, as law students and future members of the legal profession, should take a stance on TWU’s proposed law school. What is obvious, though, is that the diversity of thought and opinion within the halls of the Schulich School of Law is great. What is also obvious, is that the respect we have for each other’s thoughts and opinions here, no matter how divergent, is also great.

But perhaps the most obvious (and most important) thing is this: a Town Hall like the one held on March 5th would never happen at a TWU law school. Gays and lesbians would never sit in a classroom with Christians and Jews and atheists, challenging each other to take on new perspectives while encouraging respect and tolerance for everyone else’s, at a TWU law school.

Whether or not those at TWU would want such a meeting to take place is irrelevant. Whether or not they themselves discriminate in their daily lives is also irrelevant. The fact of the matter is that TWU’s policies simply would not allow for free, open, challenging, critical, respectful dialogue. What is the practice of law, if not all of those things? Does the rule of law not require that it be available freely and openly to all? Does the complexity of law not challenge us to be innovative and resourceful for our clients? Does the study of law not require us to think critically about difficult issues? Does our very own Constitution not require us to respect all of our brothers and sisters, regardless of race, sex, religion, age, sexual orientation, or otherwise?

If TWU is to be granted the privilege of opening Canada’s next law school, it should first ask itself if it is up to the challenge of having an open, honest, meaningful discussion about its policies and practices. If it finds itself unable to do so, then, in the words of its own student handbook, it “should seek a living-learning situation more acceptable to them”.

The fact of the matter is that TWU’s proposal to create a law school, which includes their community covenant, would never happen at a Schulich School of Law, because such a school would never accept the kinds of people TWU would have to exclude in order to maintain their religious beliefs. Whether or not they themselves discriminate in their daily lives is also irrelevant. The fact of the matter is that TWU’s policies simply would not allow for free, open, challenging, critical, respectful dialogue. What is the practice of law, if not all of those things? Does the rule of law not require that it be available freely and openly to all? Does the complexity of law not challenge us to be innovative and resourceful for our clients? Does the study of law not require us to think critically about difficult issues? Does our very own Constitution not require us to respect all of our brothers and sisters, regardless of race, sex, religion, age, sexual orientation, or otherwise?

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But perhaps the most obvious (and most important) thing is this: a Town Hall like the one held on March 5th would never happen at a TWU law school. Gays and lesbians would never sit in a classroom with Christians and Jews and atheists, challenging each other to take on new perspectives while encouraging respect and tolerance for everyone else’s, at a TWU law school.

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We, the Undersigned, support this statement:

Dal OUTlaw
- Annie McFarlane - Dal Law 2013
- Chelsey Roy - Dal Law 2013
- Cordelle Ellison - Dal Law 2013
- Greg Englehutt - Dal Law 2013

Dal Social Activist Law Student Association
- Georgia Lloyd-Smith - Dal Law 2014
- Yasemin Diamente - Dal Law 2014
- Emily Coyle - Dal Law 2014
- Bruce Muir - Dal Law 2015
- Lara Green - Dal Law 2014
- Zoe Marler - Dal Law 2014
- Aaron Dewitt - Dal Law 2014
- Conor Mullin - Dal Law 2013
- Mary Elizabeth - Dal Law 2015
- Martin Sanderson - Dal Law 2014
- Shawnee Gregory - Dal Law 2014

Stefan Currie-Roberts - Dal Law 2013
Emma Baasch - Dal Law 2014
Ora Morison - Dal Law 2015
Cheri Caplan - Dal Law 2013
Jennifer Asquin - Dal Law 2013
Katherine Ruta - Dal Law 2014
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Shannon Paine - Dal Law 2013
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Ashley Wilson - Dal Law 2014
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Barbara Grochalova - Dal Law 2014
David Abrams - Dal Law 2015
Christa Korens - Dal Law 2014
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Caitlin Regan-Cottreau - Dal Law 2014
Celeste Woods - Dal MSc, SLP 2013
Cameron Foster - Dal Law 2013
Will Horne - Dal Law 2014
Aileen Fury - Dal Law 2015
Deanna Bru - Dal Law 2015
Andrea Van der Heyden - Dal Law 2014
Michael Oland - Dal Law 2014
Alandra Harlington - Dal Law 2013
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Alec Young – Dal Law 2013
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Dear Mr. Tremblay, Mr. Herman, Ms. Wolfe, and Ms. Pawlitza:

Re: Trinity Western University School of Law Proposal

We are current students of the University of Alberta Faculty of Law and we are writing today to express our concern over the proposed establishment of a law school at Trinity Western University. Our concern centers on the fact that students are required to sign and abide by the community covenant agreement that requires the student to abstain from “sexual intimacy that violates the sacredness of marriage between a man and a woman.” Failure to abide by the covenant gives the University the right to discipline, dismiss, or refuse to readmit the student.

This covenant actively discriminates against persons on the basis of sexual orientation. Where married heterosexual couples are free to engage in sexual intimacy without fear of discipline or expulsion from the University, same-sex married couples are not afforded this same security, despite having legally recognized marriages. This exclusion of same-sex marriage from the covenant is contrary to the Canadian Charter of Rights and Freedoms and Canadian Human Rights legislation.

We recognize the fact that the Charter does not apply to private schools such as TWU. All law schools, however, should strive to provide a legal education that is balanced and equality focused. Students should be taught to uphold the values of the Canadian legal system, including those found in the Charter. We are concerned that students would be unable to learn such values in an environment where such discrimination occurs against individuals in the LGBTQ community, an already marginalized community. Even though TWU is a private institution, the
students graduating from the program would still need to be recognized by provincial Law Societies, which are public bodies who have a duty to promote justice equality and respect for the law, including Charter values.

Furthermore, the effect of the covenant on all non-heterosexual students is unacceptable. It sends a message that LGBTQ students are not welcome within the TWU community. As explained by Justice L’Heureux-Dube in 2001, you cannot “separate condemnation of the ‘sexual sin’ of ‘homosexual behaviour’ from intolerance of those with homosexual or bisexual orientations… [In] the words of the intervener EGALE, ‘[r]equire someone not to act in accordance with their identity is harmful and cruel. It destroys the human spirit. Pressure to change their behaviour and deny their sexual identity has proved tremendously damaging to young persons seeking to come to terms with their sexual orientation’ (factum, at para. 34).”¹ TWU’s claims that the covenant does not prevent non-heterosexual students from attending the University wrongly suggest that it is “possible to condemn a practice so central to the identity of a protected and vulnerable minority without thereby discriminating against its members and affronting their human dignity and personhood.”²

We, as future lawyers and officers of the court, are committed to equality and promoting the values of the Charter within our own practices. We believe that our colleagues should be exposed to a learning environment that fosters the same.

Yours sincerely,

Christopher Ghesquiere, JD Candidate (U of A 2013)
Ruoxi Wang, JD Candidate (U of A 2014)
Carmen Lee, JD Candidate (U of A 2014)
Mark Zamrij, JD Candidate (U of A 2014)
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Angie Riano, JD Candidate (U of A 2013)
Jacob Marchel, JD Candidate (U of A 2015)
Cristina Baer, JD Candidate (U of A 2014)
Mark Wells, JD Candidate (U of A 2015)
Graham Sanson, JD Candidate (U of A 2015)
Hyok Kim, JD Candidate (U of A 2014)
Stacey Purser, JD Candidate (U of A 2015)

² Ibid.
Michelle Paul, JD Candidate (U of A 2013)
Michael Corbett, JD Candidate (U of A 2014)
Katelynn Denny, JD Candidate (U of A 2015)
Bethan Franklyn, JD Candidate (U of A 2015)
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Dear Sirs and Mesdames,

Re: Trinity Western University School of Law Proposal

We represent a broad coalition of law students and alumni from the University of British Columbia Faculty of Law united in support of Dean Flanagan and the Canadian Council of Law Deans (“CCLD”). We agree with the CCLD position that Trinity Western University’s (“TWU’s”) Community Covenant, which bars its students from “sexual intimacy that violates the sacredness of marriage between a man and a woman,” amounts to discrimination on the basis of sexual orientation, which is unlawful in Canada and fundamentally at odds with the core values of all Canadian law schools.

Most of the criticism to date has focused on the legality of TWU’s Community Covenant. We support that criticism, yet feel we have an additional perspective to add to the discussion. Little has been said about the effect strict adherence to the Covenant would have on the law school experience. This is the focus of our critique.

We are particularly concerned about two damaging effects the Covenant could have: (1) It would exclude sexual minorities, which would diminish diversity of opinion in the legal profession and
impair the development of critical thought and legal analytical skill; (2) It would provide opportunities to access legal education in a discriminatory manner. Such an education confers significant social privileges and queer students should have no less access to it than any other.

The law does not exist in isolation. Learning the law requires some analysis of its social context. As part of our legal education, we are regularly encouraged to bring our own perspectives into our legal analyses, whether based on religion, gender, sexual orientation, or other beliefs, identities, and experiences. This diversity encourages us to challenge, debate, and discuss the law in its broader context. This discourse deepens our understanding of both the law and our role as future members of the legal profession.

It is our concern that the Covenant exemplifies a limited tolerance of diversity. While we are respectful of Christian values, a law school should promote an inclusive environment that is fertile ground for debate. All law schools, and the legal profession as a whole, should strive to promote such an environment.

There is tremendous competition for law school admission. Any additional opportunities to a legal education should not be denied to persons based on their sexual orientation. Sexual minorities still face significant social discrimination. Approving a law school that binds students to the TWU Covenant does nothing to alleviate this disadvantage; indeed it has the potential to exacerbate it.

While TWU is a private university, it is not absolved from its public obligations. Legal education is a public good. The practice of the law is publicly regulated and lawyers are officers of the court - they are compelled to act in the public interest. Law schools are safeguarded by provincial law societies because lawyers have duties to the court and their communities, regardless of where they are trained.

Religious freedom is an important right that will continue to be protected in Canada. However, our concern is that TWU’s Community Covenant veils homophobia in Christian values. TWU’s policy does not allow for balance between religious freedom and the rights of others to their sexual identity.

We hope TWU reconsiders its position regarding the Community Covenant. It is also our desire to see the province of British Columbia, the Law Society of British Columbia, and the Federation of Law Societies of Canada consider the concerns articulated in our letter throughout all approval processes.

Sincerely,

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129. Claire Hildebrand - JD Candidate (UBC 2015)
130. Jennifer Flood - JD Candidate (UBC 2013)
131. Laura Kasion - JD Candidate (UBC 2013)
132. Negar Jalali - JD Candidate (UBC 2015)
133. Grace Andrea Jackson - JD (UBC 2012)
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Dear Sirs and Mesdames,

Re: Trinity Western University School of Law Proposal

We are current students and alumni from the University of Saskatchewan, College of Law. We write to express our concern respecting the application by Trinity Western University (“TWU”) to establish a law school. We are particularly concerned by the school’s requirement that students at TWU sign a “community covenant agreement”. Our concern is that the covenant requires abstinence from “sexual intimacy that violates the sacredness of marriage between a man and a woman”.¹ As you are aware, the covenant further provides that “[if] a student, in the opinion of the University, is unable, refuses or fails to live up to their commitment, the University reserves the right to discipline, dismiss, or refuse a student’s readmission to the University.”²

The covenant at TWU discriminates on the basis of sexual orientation, contrary to Canadian Charter of Rights and Freedoms and provincial human rights legislation. While heterosexual students are permitted to practice sexual intimacy within marriage, the definition of marriage in the covenant excludes same-sex marriage. Non-heterosexual couples are singled out by the covenant, and are barred from sexual intimacy while attending TWU at the risk of expulsion.

¹Trinity Western University Community Covenant Agreement at page 3, available online: <http://twu.ca/studenthandbook/twu-community-covenant-agreement.pdf>
²Trinity Western University Student Handbook, Student Accountability Process, online: <http://twu.ca/studenthandbook/university-policies/student-accountability-process.html>
TWU’s definition of marriage deprives LGBT students of rights that others enjoy, and is therefore discriminatory.

We are concerned about the suitability of TWU as forum for legal education. Law schools are to propagate the values of the Canadian legal system, including the values set out in the *Canadian Charter of Rights and Freedoms*. While the *Charter* may not apply to private schools such as TWU, all law schools should seek to uphold it. TWU maintains a discriminatory covenant that marginalizes individuals on the basis of sexual orientation, contrary to the *Charter* and provincial human rights legislation. It is evident that policies at TWU contradict the values of the Canadian legal system. We conclude that the school would fail to provide a balanced legal education.

Furthermore, the effect of the covenant on all non-heterosexual students is unacceptable. It sends a message that LGBT students are not welcome within the TWU community. As explained by Justice L’Heureux-Dube in 2001, you cannot “separate condemnation of the ‘sexual sin’ of ‘homosexual behaviour’ from intolerance of those with homosexual or bisexual orientations… [In] the words of the intervener EGALE, ‘[r]equiring someone not to act in accordance with their identity is harmful and cruel. It destroys the human spirit. Pressure to change their behaviour and deny their sexual identity has proved tremendously damaging to young persons seeking to come to terms with their sexual orientation’ (factum, at para. 34).”³ TWU’s claims that the covenant does not prevent non-heterosexual students from attending the University wrongly suggest that it is “possible to condemn a practice so central to the identity of a protected and vulnerable minority without thereby discriminating against its members and affronting their human dignity and personhood.”⁴

We, as current and future lawyers and officers of the court, are committed promoting the values of the *Charter* within our own practices. We believe that our colleagues should be exposed to a learning environment that fosters the same dedication to equality

Sincerely,

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⁴ Ibid.
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Dear Sirs and Mesdames,

Re: Trinity Western University School of Law Proposal

We are current students from the University of Victoria, Faculty of Law. We are writing to express our apprehension with respect to the application by Trinity Western University (TWU) to establish a law school. In particular, we are concerned with the requirement for students to sign and abide by a “community covenant agreement” as part of the application process for all students attending TWU. As you are aware, the covenant requires abstinence from “sexual intimacy that violates the sacredness of marriage between a man and a woman.” It further provides that “[i]f a student, in the opinion of the University, is unable, refuses or fails to live up to their commitment, the University reserves the right to discipline, dismiss, or refuse a student’s readmission to the University.”
The covenant explicitly discriminates on the basis of sexual orientation. Heterosexual couples have the option of marrying and thus are no longer required to abstain from sexual intimacy in order to comply with the covenant. Non-heterosexual couples, however, are treated differently. Intimacy within their legally-recognized marriages will still violate the covenant and put them at risk of expulsion.

We have serious concerns about the ability of TWU to provide a balanced and equality-focused legal education. We are wary of students’ ability to remain independent and appropriately value-oriented in such an environment. Law schools are meant to propagate the values of the Canadian legal system, which includes the Canadian Charter of Rights and Freedoms. By definition, such a covenant contradicts these very values. They exclude and marginalize already frequently oppressed peoples. While the Charter may not apply to Trinity Western University because it is a private university, all law schools should nonetheless attempt to uphold it.

Furthermore, the effect of the covenant on non-heterosexual students, not just those who are married, is unacceptable as it sends the message that LGBT students are not welcome within the TWU community. As explained by Justice L'Heureux-Dube in 2001, you cannot “separate condemnation of the ‘sexual sin’ of ‘homosexual behaviour’ from intolerance of those with homosexual or bisexual orientations… [In] the words of the intervener EGALE, ‘[r]equiring someone not to act in accordance with their identity is harmful and cruel. It destroys the human spirit. Pressure to change their behaviour and deny their sexual identity has proved tremendously damaging to young persons seeking to come to terms with their sexual orientation’ (factum, at para. 34).” TWU’s claims that the covenant does not prevent non-heterosexual students from attending the University wrongly suggest that it is “possible to condemn a practice so central to the identity of a protected and vulnerable minority without thereby discriminating against its members and affronting their human dignity and personhood.”

We, as future lawyers and officers of the court, are committed to equality and promoting the values of the Charter within our own practices. We believe that our colleagues should be exposed to a learning environment that fosters the same.

Yours sincerely,

Julie DeWolf, LSS Vice President Internal, J.D. Candidate (UVic 2013)
Nicholas McDonald, LSS Indigenous Law Students Association Representative, J.D. Candidate (UVic 2015)
John Bullock, J.D. Candidate (UVic 2015)
Kristen Withers, J.D. Candidate (UVic 2015)

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1 Trinity Western University v. College of Teachers, [2001] 1 SCR 772, 2001 SCC 31 (at para 69).
2 Ibid.
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<thead>
<tr>
<th>Name</th>
<th>Position</th>
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<tr>
<td>Kaley Dodds</td>
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<td>Alixandra Stoicheff</td>
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<td>Nicole (Niki) Bresser-Freeborn</td>
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<td>Emily Rathbone</td>
<td>LSS Treasurer, J.D. Candidate</td>
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<td>Yianni Pappas-Acreman</td>
<td>LSS Co-op Representative, J.D. Candidate</td>
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<td>Teio Senda</td>
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<td>Amanda Macdonald</td>
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<td>Michelle Zakrison</td>
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<td>Alyssa Holland</td>
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<td>Kate Feeney</td>
<td>President of the Environmental Law Club</td>
<td>UVic 2013</td>
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<td>Siddharth Akali</td>
<td>LSS Equity Rep, J.D. Candidate</td>
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<td>Brittney LaPietra</td>
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<td>Mika Banerd</td>
<td>LSS 3rd Year Representative, J.D. Candidate</td>
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<td>Anna Bara</td>
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<tr>
<td>Meghan Forhan</td>
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<tr>
<td>Ashley Jacobs</td>
<td>J.D. Candidate</td>
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Dear Sirs and Mesdames,

Re: Trinity Western University School of Law Proposal

Recently, several articles have been published in The National Post debating the appropriateness of creating a law school at the private Christian university, Trinity Western. The Canadian Council of Law Deans (CCLD), many law professors, legal practitioners, and student organizations have already spoken out against establishing such a law school. There has also been a great deal of support for Trinity-Western’s proposal. A decision on the issue will be made soon.

As members of uOttawa OUTLaw, the LGBTQ student society at the University of Ottawa Faculty of Law, we would like to offer our thoughts on this contentious issue.

There are many things to commend about Trinity Western University. While much of the debate has focused on negative aspects of their Community Covenant Agreement, it is worth noting that this Covenant promotes positive values as well, and specifically asks that signatories refrain from any form of harassment or discrimination. This Covenant has evolved over the years since Trinity Western was founded, to better reflect the changing norms and attitudes of Canadian society. Ultimately, the Covenant still retains several provisions that inherently discriminate against LGBTQ students, faculty, and staff.

As law students, and particularly as LGTBQ law students, many of us feel that we would not be welcomed in an environment such as the one fostered at TWU through this Covenant. Law school is
already an intensely competitive, stressful experience, and no student needs the added stress of being explicitly discriminated against by the codes of their institution. At the University of Ottawa, we have felt nothing but support and acceptance from our faculty and staff. We believe that this has had a direct impact on our success at law school. Our colleagues across the country should be afforded the same opportunity. We are concerned that this would not be the case at TWU, where all faculty and staff are required to sign the Covenant.

While the Supreme Court clarified in *Trinity Western University v British Columbia College of Teachers*, [2001] 1 S.C.R. 772, 2001 SCC 31 that a discriminatory environment will not necessarily produce discriminatory teachers, we are still concerned that the Covenant institutionalizes discrimination against the LGBTQ community, and that a discriminatory university environment would be detrimental to LGBTQ law students, the general student population, and the public at large.

We recognize that the Covenant as a whole promotes many positive values. There remain several problematic provisions. Section 3, “Community Life at TWU” requires students to abstain from “sexual intimacy that violates the sacredness of marriage between a man and a woman.”1 Section 4, “Areas for Careful Discernment and Sensitivity” states that “sexual intimacy is reserved for marriage between one man and one woman, and within that marriage bond it is God’s intention that it be enjoyed as a means for marital intimacy and procreation.”2 The references to the marital union of one man and one woman exclude trans* identified people, polyamorous relationships, other forms of nonmonogamy, unmarried same-sex couples, married same-sex couples, any other form of sexual expression—effectively rendering LGBTQ families and marginalized sexualities invisible.

In the twelve years since *TWU v BCCT* (2001), much has changed in the law surrounding same-sex relationships. Same-sex marriage has been legalized in Canada. Same-sex couples are able to adopt children in many parts of the country, and three-parent families have been recognized in certain court decisions. We believe that a law school cannot provide a complete legal education of these concepts while simultaneously requiring its students, faculty and staff to sign an agreement that denigrates them.

Regardless of whether it is enforced, the Covenant is a significant symbolic document for the university. The Covenant makes it known to everyone who wishes to enter the TWU community that LGBTQ students and families will not be deemed equals. The Covenant not only effectively permits institutionalized discrimination against those members of the TWU community, it promotes such discrimination.

Our principle concern is that a law school at TWU would create a discriminatory academic environment for potential LGBTQ students, and send a negative message about the legal status of the LGBTQ community more broadly. As currently written, the Covenant creates a distinction between LGBTQ students, faculty and staff, and their straight counterparts. We believe that an environment free from such discrimination and inequality is fundamental to the well-being of an academic community, and the legal profession.

Sincerely,

University of Ottawa OUTLAW Executive

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

2 *Ibid* at page 4
Sujet: Demande quant à la mise en œuvre d’une faculté de droit à l’Université Trinity Western

Chères Mesdames, Chers Messieurs,

Plusieurs articles ont récemment été publiés dans le National Post qui portent sur débat quant à la pertinence de la mise en œuvre d'une nouvelle faculté de droit à l'université privée chrétienne, Trinity Western. Le Conseil canadien des doyens en droit, de nombreux professeurs et professeurs de droit, des juristes et des organisations estudiantines se sont déjà prononcés contre l’établissement d’une telle école de droit. En revanche, il y a également un certain soutien important appuyant la proposition de Trinity Western. Cela étant, une décision sur la question sera bientôt faite.

En tant que membres de OUTlaw de l'Université d'Ottawa, l'association des étudiantes et étudiants LGBT de la Faculté de droit de l'Université d'Ottawa, nous tenons à partager nos réflexions sur cette question controversée.

Il ne fait pas doute qu’il y a certaines qualités très remarquables et appréciables à l’Université Trinity Western. Bien qu’une partie importante du débat porte sur les aspects néfastes de l’entente sur la convention collective communautaire, il convient à noter que la présente convention promeut également des valeurs admirables, et sollicite expressément que les signataires s'abstiennent de toute forme
d’harcèlement ou de discrimination. Cette convention a évolué au fil des ans depuis la fondation de Trinity Western afin de mieux refléter le progrès des normes et des attitudes de la société canadienne. Cependant, il reste que la convention dispose toujours de certaines dispositions intrinsèquement discriminatoires à l'égard des étudiantes et étudiants, des professeures et professeurs, ainsi que des membres du personnel appartenant à la communauté LGBT.

En tant qu'étudiantes et étudiants en droit s'identifiant à la communauté LGBT, une grande part d'entre nous opine que nous ne serions pas accueillis dans un environnement tel que celui à UTW de par la convention qui lui est rattachée. Les études en droit engendrent déjà plusieurs stressés, et aucun étudiante ou étudiant ne devrait être assujetti à un stress supplémentaire occasionné par des règlements scolaires qui promeuvent de la discrimination au sein de son institution académique. À l'Université d'Ottawa, l’esprit d’ouverture, d’inclusion et d’acceptation du corps professoral et du personnel de soutien fait en sorte que nous nous sentions bienvenus et appréciés à la Faculté de droit. Nous estimons avec raison que cela a indéniablement un impact profond sur notre succès à la Faculté de droit. De par ce fait, nous croyons que tous nos collègues au Canada devraient jouir de cette même occasion, soit de connaître des véritables succès dans un environnement respectueux, propice à l’épanouissement de toutes et de tous. Malheureusement, nous craignons que ce ne serait pas le cas à UTW, où tous les professeurs et professeurs, ainsi que personnel de soutien sont tenus à signer la convention.

Bien que la Cour suprême du Canada a précisé dans Université Trinity Western c British Columbia College of Teachers, [2001] 1 RCS 772, 2001 CSC 31, qu’un environnement discriminatoire ne formerait pas forcément des enseignants discriminatoires, nous sommes néanmoins préoccupés par le fait que la convention sert à institutionnaliser la discrimination contre de la communauté LGBT, et qu’un tel milieu universitaire serait préjudiciable aux étudiantes et étudiants LGBT en droit, à la population étudiante en général et au grand public.

Nous reconnaissons que la convention dans son ensemble favorise de nombreuses valeurs admirables. Toutefois, certaines dispositions problématiques s’y trouvent toujours. Selon la section 3: «La vie communautaire à l’UTW», les étudiantes et étudiants doivent s'abstenir de « l'intimité sexuelle qui viole le caractère sacré du mariage entre un homme et une femme.» La section 4, «Domaines de discernement attentif et de sensibilité» stipule que «l'intimité sexuelle est réservée pour le mariage entre un homme et une femme, et que dans le cadre de cette relation se trouve l'intention de Dieu que le mariage soit apprécié en tant que moyen propice à l'intimité conjugale et à la procréation. » On ne peut faire fi que ces définitions portées à l'union conjugale entre un homme et une femme excluent à la fois les personnes qui s’identifient en tant que trans*, les relations polyamoureuses, d'autres formes de non monogamie, des couples homosexuels non mariés, des couples homosexuels mariés, ainsi toute autre forme d'expression sexuelle, chose qui rend invisibles les couples LGBT et autres minorités sexuelles marginalisées.

Au cours des douze années écoulées depuis Université Trinity Western c British Columbia College of Teachers (2001), plusieurs changements importants quant aux relations homosexuelles ont été adoptés par le droit canadien. D’abord, le mariage homosexuel a été légalisé au Canada. Ensuite, les couples homosexuels peuvent maintenant adopter des enfants dans de nombreuses régions au pays, et des familles « triparentales » ont été reconnues par certaines juridictions. Certes, nous croyons qu’une institution académique de droit ne serait pas en mesure d’offrir à la fois une véritable éducation juridique

4 [TRADUCTION] Ibid à la page 4.
complète quant à ces derniers concepts, tout en exigeant que ses étudiantes et étudiants, professeures et professeurs, et employées et employés signent une convention qui dénigre ceux-là.

Peu importe si elle est appliquée en pratique, la convention est un document important, voire de valeur symbolique, pour l'Université. Elle fait valoir l'idée que les étudiantes et étudiantes et les familles LGBT qui souhaitent fréquenter l'Université *Trinity Western* ne sont pas sur le même pied d'égalité par rapport aux autres. Qui plus est, la convention permet non seulement la discrimination institutionnalisée contre les membres de la communauté LGBT de l'UTW, elle favorise une telle discrimination.

Notre principale préoccupation est qu’une faculté de droit à l'UTW créerait un environnement académique discriminatoire pour les étudiantes et étudiants potentiels appartenant à la communauté LGBT, et envoyerait un message néfaste au sujet du statut légal et juridique de la communauté LGBT en général. Comme il est actuellement stipulé, la convention distingue expressément entre les étudiantes et étudiants, professeures et professeurs, employées et employés LGBT, et leurs homologues hétérosexuels. C'est pourquoi nous tenons à souligner fermement notre position qu'un esprit qui vise un environnement sans discrimination et sans inégalités est fondamental au bien-être d'une communauté universitaire et à l’exercice de la profession juridique.

Veuillez recevoir, Mesdames, Messieurs, l’expression de nos sentiments les plus sincères.

Le comité exécutif de OUTLAW de l’Université d’Ottawa

Endorsed By/Appuyé par:

*University of Ottawa Association of Women and the Law*
*Canadian Lawyers for International Human Rights (University of Ottawa Chapter)*
*University of Ottawa Black Law Students Association*
*University of Ottawa Law Union Steering Committee*
*University of Ottawa South Asian Law Students’ Association*

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62. Chen Che, JD Candidate, 2014 (University of Ottawa, Common Law)
<table>
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<tr>
<th>Number</th>
<th>Name</th>
<th>Degree/Candidate, Year</th>
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<tr>
<td>63</td>
<td>Jennifer Sweitzer, JD Candidate, 2014</td>
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<td>Angel Paniagua Perez, RN</td>
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