

**SUBMISSIONS TO THE STANDING COMMITTEE ON JUSTICE POLICY:
Bill 161: The Smarter Stronger Services Act, with a focus Schedules 15 and 16:
*Legal Aid Services Act, 2019 ("LASA")***

June 10, 2020

A. Introduction

The South Asian Legal Clinic of Ontario ("SALCO") is a not-for-profit legal clinic funded by Legal Aid Ontario. Our broad mandate is to enhance access to justice for low-income South Asian communities in Ontario. SALCO provides direct legal services and participates in community development, public legal education and systemic reform in multiple areas of law including: income security (social assistance, Canada Pension Plan, Old Age Security, Canada Child Benefit, and Employment Insurance), immigration, employment, human rights, housing, and family law. SALCO also works with a large population of clients facing gender-based violence, including forced marriage, human trafficking, intimate partner violence, and elder abuse. We provide services in the multiple South Asian languages spoken by our clients, including Tamil, Bengali, Hindi, Urdu, Kannada, and Punjabi.

South Asians make up the largest racialized community in Ontario, totaling approximately 8.7% of Ontario's population / 1,150,415 people (Statistics Canada, Census 2016). We also know that racialized communities, like the South Asian community face disproportionately high levels of poverty. Based on the 2016 Census data, it is estimated that approximately 18% (over 200,000) South Asians live under the Low-Income Cut-off (in poverty) in Ontario. We also know that racialized communities are brought into the justice system at disproportionate levels for a variety of reasons including systemic racism.

SALCO re-affirms and supports the submissions of the Association of Legal Clinics of Ontario. I am here today to provide more specific submissions on the impact of legal aid modernization on the South Asian communities that we serve. SALCO submits the following:

1. Recommendation: Mandate Diversity on Legal Aid Ontario's Board of Directors, the collection of race-based data, and apply an equity lens to the modernization of legal aid services.

A critical component of achieving equality in access to justice is to make sure that all levels of legal aid in Ontario are reflective of large populations of racialized and Indigenous people that it serves.

As we speak, people around the world and in Ontario are reflecting on issues of systemic racism and diversity and inclusion.

Bill 161 represents an opportunity to legislate a commitment to diversity for the Legal Aid Board of Directors. Section 5 of Schedule 15 deals with the composition of the Legal Aid Board.

SALCO recommends that s. 5 be amended to ensure that the composition of the board be reflective of the diverse communities that are served by Legal Aid Ontario including the large populations of racialized and Indigenous communities who access legal aid support and to collection race-based data. SALCO recommends that the government apply an equity lens to the modernization of legal aid services.

2. Recommendation: Ensure that legal clinics are legislated to provide clinic law services (what was mandatory should not become optional / discretionary).

The *Legal Aid Services Act, 2019* removes the previously mandatory funding for clinic law. This drastic change in language effectively grants Legal Aid Ontario the power to eliminate funding for clinics and clinic law if it sees fit to do so.

SALCO's history and SALCO's work is one example of why legal clinics are a fundamental part of Ontario's legal aid system.

SALCO was funded by Legal Aid Ontario in 2007. As part of the process an extensive needs assessment was done that outlined the many barriers to access to justice being faced in within South Asian communities. The review also looked at the best options to address those barriers. In the end Legal Aid Ontario and the Ministry of the Attorney General decided that the most effective and responsive model to deal with the specific needs of South Asian communities was to create a specialty legal clinic. The clinic model has been critical and fundamental to the provision of services for racialized communities and must be preserved.

- SALCO has provided direct legal services to thousands of clients over the years in a linguistically and culturally supportive manner. SALCO serves its clients in many areas of law that are not readily accessible through the private bar. Our work on forced marriage is an example. There continues to be a massive gap in legal support for victims of forced marriage. The vast majority of forced marriage cases in Ontario are handled by legal clinics. Expertise on the forced marriage rests within the clinic system.

- SALCO averages approximately 90-100 public legal education sessions in community annually, most often in a specific South Asian language, to educate communities about their legal rights and how to navigate the justice system effectively. Public legal education work is an important aspect of access to justice in the communities that we serve.
- SALCO has also worked on systemic issues that have impacted South Asian communities including forced marriage, Islamophobia, racism and discrimination in employment and access to services, and access to income supports predicated on immigration status. This type of systemic work enhances access to justice in ways that direct level services cannot; and
- SALCO has provided input to the government on issues that impact racialized communities. Currently, SALCO sits on the province's Community and Social Services Engagement Table panel to provide input into the implementation of the province's new policing legislation and policing standards. This past year, we also participated in government consultations on domestic and family violence, and on support and issues for victims of homicide and family violence. Clinics provide expert advice on issues that impact the most vulnerable people in Ontario and are routinely consulted by the government of the day.

Research also shows that investing in clinics reduces costs to the legal system and across multiple government programs by keeping people housed and able to live independently and participate in their communities. From a cost perspective, clinics play a key role in lowering the cost of the administration of justice.

SALCO recommends that the new *LASA* legislate that legal clinics continue to provide clinic law services (which includes but is not limited to income maintenance, housing, immigration, human rights law, health law, education law, and family violence law services).

3. Recommendation: Re-word the Purpose of the updated *LASA* to Include "Access to Justice", "Disadvantaged Communities", and "Low-Income"

The current wording of the Purpose in s. 1 of Schedule 16 removes the terms "access to justice", "low-income", and "disadvantaged communities" which were included in its predecessor legislation. Those three terms are, in our view, the foundation of what legal aid services should be in Ontario.

Legal clinics, and more specifically SALCO play a significant role in supporting access to justice for South Asians in Ontario who are intersectionally disadvantaged communities by virtue of a number of identities including race, immigration status, disability, gender, and socio-economic status.

From our perspective, access to justice for low-income disadvantaged communities is foundational to the provision of legal aid services in Ontario. The Purpose section of the legislation is the framework that guides the interpretation and implementation of that legislation. This is a signal to Ontarians about the fundamental intent of the legislation. The current proposed purpose (focusing on accountability, value for money, and high-quality client-focused services) is a marked departure from the foundational purpose of legal aid services.

SALCO recommends that s. 1 of Schedule 16 be expanded to make clear that the purpose of legal aid is fundamentally to enhance access to justice for low-income people from disadvantaged communities.

4. Allow Clinics and Clinic Boards to Determine the Needs of their Communities Broadly

Bill 161 shifts authority to LAO to determine the legal needs of individuals and communities, while having regard to the input of legal clinics. This is a shift from the predecessor legislation that mandated that clinic boards of directors determined the needs of the communities that they served.

SALCO's board of directors has been instrumental in the ongoing review of shifting community needs and updating SALCO's focus. Our board is made up of a diverse group of lawyers and community members and represents the multiple South Asian communities that SALCO works with. They are expressly constituted because of their understanding of our communities and their ability to oversee and direct the determination of SALCO's priorities for legal services.

SALCO, and other legal clinics, are best served by continuing to allow those of us who are embedded in community to determine our needs and priorities within the parameters of providing clinic law services. Shifting to a model that allows a centralized bureaucracy to make those decisions simply does not make sense. One size does not fit all. The legislative mandate for clinics to determine how to serve their clients should rest with clinics and not with Legal Aid Ontario. The legislation should provide the parameters for service but should allow clinics to determine the best way in which to implement those parameters based on community need.

SALCO recommends that Bill 161 be amended to ensure that it is the mandate of clinic boards of directors to determine the legal needs of the individuals and communities to be served by the clinic and to ensure that the clinic provides legal aid services in accordance with those needs.

Conclusion

Clinics play a seminal role in reducing barriers to access to justice and ensuring that the basic needs are met of low-income Ontarians, including racialized communities. SALCO and other ethno-specific clinics highlight the importance of legal clinic work to the disadvantaged communities that we serve. Often, we are the only resource for our clients, who face marginalization, unique vulnerabilities, and many barriers in getting legal help. Updates to the *Legal Aid Services Act* ensure that:

- The purpose of legal aid is to provide access to justice for low-income people from disadvantaged communities;
- That clinic law and legal clinics must be funded as a foundational component of how legal aid services are provided in Ontario;
- That legal clinics must be able to make determinations of their own communities' needs and how to best serve them; and
- That the diversity of clients served must be reflected within the operation and governing structure of Legal Aid Ontario.

We thank the committee for the opportunity to provide these submissions.

Respectfully,

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Executive Director / Lawyer