



Social Planning Council  
*of Winnipeg*

## **Presentation to Legal Aid Board**

**by Kate Kehler, executive Director of Social Planning Council of Winnipeg**

Good Afternoon and thank you for the opportunity to speak with you today.

I am Kate Kehler, executive director of the Social Planning Council of Winnipeg. I had been with the John Howard Society of Manitoba and prior to that the executive director of the Law Society of Nunavut.

Last year was SPCW's 100<sup>th</sup> anniversary. Our original purpose was to try and coordinate the sector to better meet the conditions that led to the 1919 General Strike. We began with a charitable lens but that shifted to an understanding that without real systemic change, charities would only ever be playing catch up to systemic injustice.

Meaghan, Michael and I are representing a broad and growing coalition who are very concerned with the decision you have been asked to make. And I do want to emphasize that we understand that this process was not of your doing. This was forced on you by the current government. However, we know that previous boards and executive directors must have faced similar pressures because of PILC's non-partisan approach to fighting for human rights for the past 40 years.

We are here today to ask you to not provide cover for this government or any successive government who may seek to weaken our ability to access our third branch of government, the Courts. We are asking you to not be complicit in destabilizing PILC.

The broader concerns we outlined in our May 25<sup>th</sup> letter continue to exist and have only been exacerbated and amplified by the pandemic. Covid has demonstrated that too many were subject to too much hardship already and so far all the indicators are that they will be the ones who will suffer the longest in the recovery and beyond. We are the province with 3 of the 5 federal ridings with the highest rates of child poverty. Clearly we are failing to meet the needs of our most vulnerable. Clearly we are failing in our human and Charter rights responsibilities.

Our May 25<sup>th</sup> letter outlined our concerns should PILC be relegated to charitable status. However, I would like to relate our experience as an organization that has gone through multiple charitable audits. The previous federal government sought to 'crackdown' on the sector's ability to advocate for systemic change. That their legislation was eventually overturned is a prime example of how important PILC is or what its absence would mean. It was a small charity, Canada Without Poverty, that took on the federal court case. They could only do so because they had a law firm willing to do much pro bono and some funders willing to back the case. The then federal government had already killed the Court Challenge Program so that was not an option.



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So in 2015, we were subjected to a much more 'vigorous' charitable audit than past experiences.

It began with an 8 page document asking us to dig up a full history, all governing documents and all amendments, information about current and past projects, list of events past, current and planned, fundraising activities, a full breakdown on how we administered charitable receipts, background on our directors, payroll, bookkeeping and a full accounting of activities that could be deemed political. Since we are an organization that advocates for progressive, evidenced based policies, that was a lot of work. We had to pay our auditor extra and involve outside legal expertise.

At the time we were a staff of 6. With only 2.5, including me, as admin. Without my predecessor volunteering, we would have undoubtedly faltered for a time and would have had to pull back from our real work, the work we are funded to do. This could easily have impacted our future funding.

What was most concerning though was that we did not know what had triggered the audit since anyone can complain to the CRA and remain anonymous.

While Canada Without Poverty was successful in its challenge, harm was done. Organizations who were afraid of losing their status or just of having to pull back on their service delivery in order to deal with an audit were in effect silenced.

Charities still cannot engage in partisan activities and the appearance of such can still lead to a CRA complaint and audit. The complainants remain anonymous so charities still do not get to face their accusers openly.

This is what this board will be exposing PILC to should you agree that PILC must move out from Legal Aid and seek charitable status.

We understand that as a board you support the wonderful work that PILC does. However, we are asking you to help us force this government and all successive governments to do better.

Our May 25<sup>th</sup> letter congratulated this board on the Stadler matter. Without PILC's support, we do not know if Mr. Stadler would have been successful given that the judgement mentioned the broader public interest arguments from PILC. However, our current government has decided to seek leave to appeal the decision to the Supreme Court.

Our provincial government is seeking leave to keep roughly under 4000 people living on the whim of the provincial government of the day for the rest of their lives. Our government is willing to incur the cost of a Supreme Court challenge rather than allowing persons on disability the equal right to maximize their CCP contributions by waiting until age 65 to access them.

Under 4000 people? Should we care? I am guessing that we all do.



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We understand that there are those both within governments and without that believe we should not be paying people to challenge our elected officials. To them, we say: Why are we paying our elected officials to work against people they were elected to represent?

I mentioned that I used to work for the John Howard Society of Manitoba. It will probably come as no surprise to you that I am rather fond of Dostoevsky's

"The degree of civilization in a society can be judged by entering its prisons."

Here again is where PILC demonstrates its worth because it takes on the less popular causes such as voting rights for prisoners and supporting judicial inquests into in custody suicides.

Given the over-representation of Indigenous and other people of colour in our jails and prisons can be linked directly to systemic racism, PILC's work to support those we incarcerate becomes all that much more important.

Meaghan and Michael will go into further detail on why PILC matters so I will just end by saying that we agree with Patrick Falconer's submitted critic of the Fineblit review of Legal Aid. It was simply not fulsome enough to be the basis of such a crucial decision.

We need a PILC that is fully funded, fully independent of government interference, fully sustainable and fully mandated in legislation. We are hoping that your decision will join us in our call to have the language changed in 4(3) of the Legal Aid Legislation so it reads:

Legal Aid Manitoba SHALL (and not may) furnish legal aid to a group under subsection (1)

(a) without charge; or

(b) with a partial charge;

Etc...