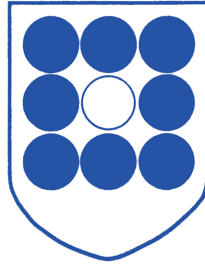


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The Honourable Jody Wilson-Raybould
Minister of Justice and Attorney General of Canada
284 Wellington Street
Ottawa, Ontario K1A 0H8

November 16, 2015

Re: *Charter* review as part of the legislative process

Dear Minister Wilson-Raybould,

We write to you on behalf of the Canadian Civil Liberties Association (CCLA) to congratulate you on your appointment as Minister of Justice and Attorney General of Canada. As you may know, CCLA is a national, non-partisan, non-profit, non-governmental organization that has been protecting and promoting the fundamental rights and freedoms of Canadians for over fifty years.

Over the last several years, CCLA has become increasingly concerned about critical accountability and transparency gaps in our legislative process. These gaps allow bills likely to be in violation of the *Charter of Rights and Freedoms* to be passed into law without open, adequate, and meaningful consideration of their constitutional vulnerabilities. As a result, there have been many significant *Charter* challenges in recent years, at enormous cost to the applicants and to taxpayers. But, of even greater concern, as these losing battles play out in the courts, the rights and freedoms of Canadians are left at risk.

Under current practice, the government has typically refused to waive solicitor-client privilege over the legal opinions it is given from the Department of Justice on the constitutionality or legal vulnerabilities of proposed legislation. Consequently, Parliamentarians — and Canadians — have routinely been left without vital information about the laws they are asked to enact.

In addition, the Department of Justice has suggested that the Minister need only report *Charter* inconsistencies to Parliament when there is *no credible argument* that can be made in support of a bill's constitutional viability. This standard is simply too low and, in effect, leaves the difficult work of reconciling policy goals and protected rights to the courts when the executive and legislative branches also have an important role to play in that regard.

We appreciate that the Liberal Party's platform recognized the need to vest Parliament with more responsibility and to improve accountability mechanisms for both the government and Parliament as a whole. This is reflected in the plan to create a Prime Minister's Question Period, to end the use of omnibus bills, to strengthen Parliamentary committees, to appoint government watchdogs accountable to Parliament, and to create a new all-party committee to oversee the operations of Canada's national security agencies. We share the desire to see a more engaged and accountable Parliament, and believe we are faced with an opportune moment to consider innovative ways to reform the legislative process in order to better protect *Charter* rights. Further, we believe that Canadians share the desire for rights-respecting governing institutions and would welcome reform in this area.

We would be pleased to meet with you to discuss our ideas for reform in more detail and would likewise welcome any proposals from your department.

Sincerely,



Sukanya Pillay
Executive Director and General Counsel
Canadian Civil Liberties Association



Cara Zwibel
Director, Fundamental Freedoms
Canadian Civil Liberties Association