



Black Legal Action Centre

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**Submissions to the Standing Committee on Finance and Economic Affairs regarding
Bill 100: An Act to implement Budget measures and to enact, amend and repeal
various statutes**

Submitted by: The Black Legal Action Centre

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The Black Legal Action Centre (BLAC) is a not-for-profit corporation incorporated under the laws of Ontario. BLAC's vision is a society where anti-Black racism is named and meaningfully addressed; where the humanity and dignity of Black people are centred; where the laws and the legal system are reflective of the real experiences of Black people; and where racial equity and full participation of all Black people in society is achieved.

BLAC provides legal representation on matters related to housing and shelter, income maintenance, social assistance, human rights, health, employment, and education. BLAC engages in test case litigation, law reform, and community development. BLAC also provides summary legal advice, brief services and public legal education.

BLAC was born out of the needs of the Black community, specifically as it relates to the disproportionate and troubling ways in which Black people are mistreated, scrutinized and brutalized by legal institutions and systems of power. The experiences of Black Canadians today are rooted in our country's history of colonialism, slavery and segregation. BLAC hopes that it can meaningfully contribute to, and build upon, the work that so many fearless and diligent members of our community and others have done and are continuing to do.

This committee's mandate is to "consider and report to the House its observations, opinions and recommendations on the fiscal and economic policies of the Province". BLAC is asking you to consider the following submissions within the context of this broad mandate. Accordingly, BLAC's submissions will address not only particular issues within Bill 100, but also the Provincial Government's recent cuts and austerity measures across Ontario. We hope that our submissions, which set out the impact of these cuts and legislative changes on our community, will inform your reporting and recommendations to the House.

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It is BLAC's position that these cuts and changes – to legal aid funding, education, public health and police oversight – will have a devastating and disproportionate impact on our community, but will also negatively impact all people across the province. They will create additional political, economic, social and legal obstacles to our full participation in society.

Bill 100

Schedule 11 – Victim Services – The *Compensation for Victims of Crime Act*

The Province's proposed changes in Schedule 11 of Bill 100, *An Act to implement Budget measures and to enact, amend and repeal various statutes* is deeply troubling to BLAC. Specifically, the legislation proposes to repeal the *Compensation for Victims of Crime Act*, dissolve the Criminal Injuries and Compensation Board, and reduce compensation in respect of pain and suffering for victims of violent crime. Pain and suffering is the category of compensation where the Board has had the most discretion to consider the impact of crime, where intangible costs are considered, and where survivors of longstanding horrific violence can be compensated fairly with dignity. These proposed changes will disproportionately affect women, who file almost two-thirds of the applications to the Board. In addition, the reduction in previously committed funding to sexual assault centres combined with a growing wait-list for counselling services and supports, will have a devastating effect on survivors of sexual violence and their families.

Schedule 17 – Civil Suits – The *Crown Liability and Proceedings Act, 2019*

BLAC is also concerned with Schedule 17 of Bill 100 which proposes to replace the current *Proceedings Against the Crown Act* with the *Crown Liability and Proceedings Act, 2019*. If enacted, this new legislation would make it incredibly difficult to launch civil suits against the Government on the basis of its policies, decisions or actions of its agents. The new legislation would limit the right to sue in certain types of cases, including those related to regulatory decisions. The legislation restricts a civil action against the Crown, based on negligence alone, if the regulatory or policy decision was made in good faith. Further, the changes would place additional procedural barriers to filing a law suit, including leave from the court. The proposed legislation will discourage many under resourced and marginalized groups and individuals from filing a suit, further impacting access to justice. "With the cuts to LAO, and this proposed legislation, the hurdles will become virtually insurmountable." Says Avvy Go of the Chinese and Southeast Asian Legal Clinic.

Broader impact of cuts

Legal Aid Ontario

Without consulting stakeholders, the Provincial Government cut Legal Aid Ontario (LAO) funding by a third, with an anticipated \$31 million cut next year. This will have a severe impact on the LAO clinic system and consequently, communities most impacted by social and economic inequities. What is particularly concerning to BLAC and others is the Government's decision to single out legal services provided to immigrants and refugees, and effectively cut 100% of its funding to these services. Immigration is a major source of growth of the Black population, with 53% of all African Canadians in Ontario born outside the country.¹ The cuts to the immigration and refugee law services will put people's lives in danger, and is an attack on human rights.

Community and specialty clinics such as BLAC provide services on issues that are most critical to our communities. These service areas, which intersect, include housing, income security, education, health care, mental health, disability programs, workers' rights, domestic violence, and environmental issues. Clinics prioritize client and community needs and attempt to meet them strategically, making efficient use of scarce resources.

As you heard from the Association of Community Legal Clinics of Ontario on January 29, 2019, clinics operate on capped budgets, which provide cost certainty to governments. As well, we are accountable to our funder, LAO and we submit annual funding applications, quarterly statistical and financial reports, and undergo periodic quality assurance audits². Clinics use lawyers, non-lawyers, public education initiatives and other delivery systems in order to deliver services cost-effectively to those who cannot otherwise afford lawyers and other legal services.

The Law Society of Ontario³, citing various studies from other western jurisdictions, stated:

A lack of early legal intervention, from the provision of legal information to summary advice to representation, allows issues to escalate and compound. As issues compound, the lack of access to justice is perpetuated and reinforced, all of which leads to increased costs across a

¹ Statistics Canada, Census of Canada, 2016.

² Ontario, Legislative Assembly, Standing Committee on Finance and Economic Affairs in *Transcript* No F-14 (29 January 2019) in Room 1 (Chair: Stephen Crawford).

³ Ontario, Legislative Assembly, Standing Committee on Finance and Economic Affairs in *Transcript* No F-7 (15 January 2019) in Room 151 (Chair: Stephen Crawford).

range of services. Ontario's Auditor General noted that legal aid, if treated as an essential service like health care, education and social services, could in fact significantly contribute to cost reduction efforts across government.

These LAO cuts have the effect of creating further barriers to access to justice for the most marginalized members of our community. These LAO cuts will impact all low to no income Ontarians and will likely increase costs across government.

Education

The Ontario Government's decision to cut funding to the education sector will have devastating impacts on the Black community. First, the changes to education funding will reduce teacher-to-student ratios. This means larger class sizes and less one-on-one interaction between students and teachers. The cuts will also impact the number of education workers more broadly. Given the expulsion and suspension rates for Black students in many school boards across the province are above average, and Black students leave high school at higher rates than other students, these cuts will disproportionately affect the available programs and supports for Black youth.⁴

Employment

The Province's decision to freeze the minimum wage is particularly troubling given Black people's intimate and painful history of labor exploitation and the ongoing racialization of Ontario's labour market. While both Black men and women had higher labour force participation rates than their non-racialized counterparts, they also had higher unemployment rates and bigger wage gaps than the average for all racialized workers.⁵ Further, Black youth are unemployed at nearly two times the provincial rate.⁶

Policing

The Province made significant changes to police oversight in the *Comprehensive Ontario Police Services Act, 2019*. Effectively, the changes will remove the independence (which ensures proper accountability) of the Law Enforcement Complaints Agency. This is particularly disappointing given the recommendations made by The Honourable Justice Michael H. Tulloch in the *Report of the Independent Police Oversight Review* to improve

⁴ Colour of Poverty – Colour of Change (COP-COC), March 21, 2019 Statement; Poverty Reduction Strategy (Annual Report 2017); James, C.E., & Turner, T. (2017). Towards race equity in education: The schooling of Black students in the Greater Toronto Area. Toronto, ON: York University.

⁵ Persistent Inequality: Ontario's Colour-coded Labour Market, Sheila Block & Grace-Edward Galabuzi (December 2018).

⁶ Poverty Reduction Strategy (Annual Report 2017).

the complaints agency's independence, its transparency and accountability, combined with the over-representation of Black Ontarians in use of force cases, carding rates, racial profiling, and mass criminalization generally.⁷

Social and Community Services

The Province's decision to cut a proposed \$1 billion in funding to social and community services will negatively impact the Black community. According to Colour of Poverty – Colour of Change, 24.1% of Black Ontarians are low-income compared to 11.5% of non-racialized people.⁸ These cuts **will** disproportionately impact all people relying on these services, particularly low to no income Indigenous and racialized people.

BLAC is deeply concerned with the Province's decision to cut funding for integral services for low to no income people in the province. It is BLAC's position that without a deep investment in creating systems of support for Indigenous, Black and other racialized communities, and without an investment in safer, non-precarious jobs, affordable and supportive housing and homelessness prevention, there will be more pressure on social and community services to fill these gaps, with fewer resources to do so.

Conclusion

The Provincial Government's overall plan has the effect of curbing opposition and denying access to justice, which will be felt by all Ontarians. BLAC urges you to consider our submissions prior to the passage of Bill 100.

Thank you for the opportunity to appear before you today.

THE BLACK LEGAL ACTION CENTRE

⁷ REPORT OF THE Independent Police Oversight Review, The Honourable Michael H. Tulloch (2017); A Collective Impact: Interim report on the inquiry into racial profiling and racial discrimination of Black persons by the Toronto Police Service, Ontario Human Rights Commission (November 2018).

⁸ Colour of Poverty – Colour of Change (COP-COC), Fact sheet #6: Racialized poverty in income & social assistance (March 2019).