

reaching equal justice: an invitation to envision and act

Report by the CBA Access to Justice Committee



THE CANADIAN
BAR ASSOCIATION

L'ASSOCIATION DU
BARREAU CANADIEN

INFLUENCE. LEADERSHIP. PROTECTION.

The state of access to justice in Canada is abysmal – and getting worse. Inaccessible justice hurts us all, as the growing number of middle-class Canadians who suffer from it can attest, but its harshest consequences are visited upon the poorest and most vulnerable people in our communities. Over the next three years, 45 per cent of Canadians will encounter a legal problem and many will not get the help they need because of perceived or actual barriers. Unresolved problems tend to escalate, and to exacerbate problems in other areas – health, social welfare and economic well-being, social exclusion and poverty. No wonder Canadians’ confidence in their justice system is declining. A strong message heard throughout the consultations that led to this report is that the system is broken. This should be of concern to us all.

This report provides a strategic framework for action and calls on all members of the justice community to engage with and act upon it. It offers a bridge from unequal justice today to equal justice tomorrow, providing 31 targets, complete with milestones and immediate actions, to drive systemic change.

Three key strategies

The report identifies three key strategies:

1. *Facilitating everyday justice emphasizes looking upstream from the court system for ways to prevent and alleviate problems. For example:*
 - Improving legal capability by teaching law as a life skill in public education, for people in transitional phases, in workplaces and through other avenues.
 - Using legal health checks to build resilience and pre-empt legal problems.
 - Integrating technological solutions to increase efficiency and accessibility of current processes.

2. *Transforming formal justice aims to reform and re-centre courts as the central service responsible for adjudicating people’s problems. For example:*
 - Cultivating dispute resolution and effective triage and referral — making it easier for people to navigate the system and get the help they need at the earliest opportunity.
 - Re-centring courts to be open to user feedback and dedicated to innovation, learning, and integration of evidence-based best practices.

3. *Reinventing the delivery of legal services aims for the elimination of assistance gaps and to ensure seamless and meaningful access to justice in every case. For example:*
 - Increased collaboration between legal service providers and public legal education and information providers.
 - More support for people-centred law practices.
 - More people-centred law practices working with integrated teams of service providers (legal, paralegal and social) to facilitate affordable and holistic delivery of services.
 - More middle-income Canadians to be covered by legal expense insurance.

- Federal commitment to increase funding for legal aid services.
- That all lawyers provide pro bono services at some point in their careers, understanding that people do not rely on volunteer services to meet their essential legal needs.
- Greater emphasis on access to justice in law schools, including student legal clinics offering representation to low-income persons.

Three foundational supports

Realizing these three strategies will require strong foundational supports. *The report defines the primary pillars of support as building public engagement and participation, building collaboration and effective leadership, and building capacity for justice innovation.*

1. *Building public engagement and participation requires a convincing answer to the question, “why should I care about equal justice?” The issue will not become a political priority if it is not a strong priority for the Canadian public.*
2. *Building collaboration and leadership means establishing effective collaborative structures across national, provincial, territorial, and local levels, including the appointment of access to justice commissioners.*
3. *Building capacity for justice innovation involves four main targets:*
 - Improved collection and transparency of access to justice metrics.
 - Development of a national research strategy to advance access to justice research and scholarship.
 - Increased federal government engagement in ensuring an equal and inclusive justice system, including increased funding for legal aid.
 - Deeper commitments by the CBA to taking a leadership role in access to justice reform.

Imagine the year is 2030, and the justice system is equally accessible to all, regardless of means, capacity or social situation. Imagine a system where Canadians can protect their interests and are empowered to manage their own legal matters, with a strong emphasis on prevention and where people see the justice system as *their* system.

This vision is ambitious, but with pressure from the public and collaboration in the legal community, it is possible. Although the road to achieving the 31 concrete, measurable targets contained in this report appears long and difficult to navigate, it is imperative we work towards them one step at a time, each of us doing our part, thinking systemically and acting locally.

Are you prepared to stand up for equal justice? If so, make the commitment and join our national effort by writing us at equaljustice@cba.org.