



## Creating a Climate for Change Report from TAG Symposium, October 29, 2013

---

In January of 2013, Treasurer Thomas G. Conway established the Treasurer's Advisory Group on Access to Justice (TAG) to gather input and advice as the Law Society of Upper Canada considered how to enhance its role on these issues and better fulfill its statutory mandate to "act so as to facilitate access to justice for the people of Ontario."

On October 29, 2013, eighty individuals dedicated to improving access to justice gathered for a symposium that furthered the goals of TAG. The objectives were to:

- Facilitate dialogue with a cross-section of individuals committed to access to justice in Ontario
- Enhance awareness of current activities and recommendations
- Discuss ways to enhance collaboration, coordination and engagement on access to justice issues
- Solicit further ideas about the role of the Law Society in meeting its statutory mandate

In his opening remarks, Treasurer Conway encouraged participants to engage in concrete and practical discussions about structures and mechanisms for implementing change to make the justice system more accessible for the people of Ontario.

See [Appendix A: Agenda](#) and [Appendix B: Participant List](#).

### Setting the Stage

#### Dark Sky / Blue Sky

A multi-media presentation entitled *Dark Sky/Blue Sky* was shown to the symposium participants. The presentation contains video clips and quotes gathered from members of the public during the Canadian Bar Association's *Envisioning Equal Justice* initiative, in collaboration with Pro Bono Students Canada and the Canadian Forum on Civil Justice.

*In the video, "Dark Sky/Blue Sky", you heard voices explaining clearly and eloquently that today, justice is not accessible to them.  
--Chief Justice Bonkalo, Ontario Court of Justice*

#### Address by Chief Justice Annemarie Bonkalo, Ontario Court of Justice

Chief Justice Bonkalo thanked the Treasurer for establishing the Treasurer's Advisory Group on Access to Justice and for bringing everyone together for the symposium. She recommends defining our work ahead as achievable goals to achieve concrete access to justice objectives. She cautioned that we can no longer accept the status quo and continue doing things simply

because we have always done them that way. Chief Justice Bonkalo highlighted areas where her Court has led initiatives to meet the needs of communities, promote accessible and useful information about the workings of the Court, build a network of services for families in crisis, and harness technology to modernize operations.

### Overview of Symposium Background Papers

Karen Cohl provided an overview of the two background papers she had prepared for symposium participants. The papers were created to provide “food for thought” in discussions about potential solutions, gaps and opportunities for collaboration.

The first paper, *Legal Organizations and Access to Justice Activities in Ontario*, contains a brief description of legal organizations in Ontario and examples of their access to justice activities. The second paper, *Access to Justice Themes: “Quotable Quotes”*, proposes themes from recent Ontario and national access to justice reports, using quotations from the reports to illustrate each theme.

*Although one theme is that there is an urgent need for change, it is important to remember and to give credit for the many positive activities and developments taking place.*  
--Karen Cohl

<b>THEMES FROM ACCESS TO JUSTICE REPORTS</b>
<p><b>Importance of Access to Justice and the Need for Change</b></p> <ul style="list-style-type: none"> <li>• Access to justice is an issue of fundamental importance.</li> <li>• There is an urgent need for significant change.</li> <li>• There is no common definition but a common understanding is emerging.</li> </ul>
<p><b>New Directions – Cultural Shift</b></p> <ul style="list-style-type: none"> <li>• We need to put the public first.</li> <li>• We need to do more at the front end and on prevention.</li> <li>• We need more integrated and holistic responses.</li> </ul>
<p><b>Issues to Address</b></p> <ul style="list-style-type: none"> <li>• The family law system requires urgent attention.</li> <li>• Self-represented parties are not going away.</li> <li>• Creative solutions are required to make legal services more affordable.</li> </ul>
<p><b>Making it Happen</b></p> <ul style="list-style-type: none"> <li>• Non-legal organizations have a vital role to play.</li> <li>• Technology in the justice system has not kept pace.</li> <li>• Leadership and collaboration can help to bridge the “implementation gap”.</li> </ul>

The background paper, *Legal Organizations and Access to Justice Activities in Ontario*, is a draft that the Law Society hopes to update over time. Comments for future versions can be sent to [publicaffairs@lsuc.on.ca](mailto:publicaffairs@lsuc.on.ca).

## Roadmap for Change: Where do we go from here?

### Presentation by Justice Thomas Cromwell, Supreme Court of Canada

Justice Cromwell presented *A Roadmap for Change*, the final report of the National Action Committee on Access to Justice in Civil and Family Matters. The report promotes a broad understanding of access to

justice; promotes a new way of thinking to guide reform; and provides a roadmap for change governed by six guiding principles. Justice Cromwell encouraged the group to think about why there are so many ideas and so little action. He noted that a major impediment is the lack of coherent leadership and institutional structures to design, implement and coordinate change. He also encouraged the group to find ways to connect people to lawyers and cautioned that we not just accept that there are so many self-represented litigants.

*There will be no change until the people who can make change believe it is necessary.  
--Justice Thomas Cromwell*

SIX GUIDING PRINCIPLES FOR CHANGE
<ul style="list-style-type: none"> <li>• Put the public first</li> <li>• Collaborate and coordinate</li> <li>• Prevent and educate</li> <li>• Simplify, make coherent, proportional and sustainable</li> <li>• Take action</li> <li>• Focus on outcomes</li> </ul>

NINE POINTS ON THE ROADMAP
<p><b>Innovation Goals</b></p> <ul style="list-style-type: none"> <li>• Refocus on everyday legal problems</li> <li>• Access to essential legal services</li> <li>• Multi-service centres</li> <li>• Family services</li> </ul>
<p><b>Institutional and Structural Goals</b></p> <ul style="list-style-type: none"> <li>• Local and national access to justice implementation mechanisms</li> <li>• Legal education</li> <li>• Innovation capacity</li> </ul>
<p><b>Research and Funding Goals</b></p> <ul style="list-style-type: none"> <li>• Research to support evidence-based policy making</li> <li>• Coherent, integrated and sustained funding strategies</li> </ul>

### Question and Answer Session

Following the presentation, Law Society benchers William McDowell facilitated a question and answer session with the symposium participants and Justice Cromwell and the Treasurer. The following list summarizes ideas and perspectives put forward during this session.

- Consult with business leaders and entrepreneurs for change management ideas.

- Ensure that “putting people first” encompasses an equity principle that includes racialized, low-income people.
- Include tribunal reform in access to justice.
- We must keep pace with technology to hear from youth and how they prefer to communicate with their lawyers.
- The Law Society needs to be less distant and exclusive in order to engage with civil society.
- Provide professional development on legal topics to settlement and social workers.
- Create a “529 LAW” number as a triage line that refers people to an organization that can help with a legal problem.
- Encourage local access to justice working groups – it is at the local level where we help people find paths to justice.
- The system should not regard self-represented litigants as aberrant or as second class citizens. Judicial training is an important component of addressing this issue.
- Some self-represented litigants who participated in the National SRL project are available to participate in justice system reform activities.
- Education about the justice system should begin in elementary school.
- Include paralegals in multi-disciplinary and team approaches to legal services.
- Courts and tribunals should think about self-represented litigants as an institutional responsibility. That will lead to greater consistency and confidence.

## Workshops

Symposium participants broke into groups for workshop sessions in the afternoon. Each of the five workshops had a different topic for discussion, with the primary objective of soliciting input into an appropriate role for the Law Society on these issues. Each workshop was chaired by a team of two Law Society benchers from the TAG Working Group and was held twice so that each participant could engage on two topics. Overall leadership for the workshops was provided by Howard Goldblatt, vice-chair of the TAG Working Group.

### Workshop #1: Engaging the Public

#### Questions for Discussion

- How do we ensure that the voice of the public/user is reflected as we change and innovate?
- What mechanisms exist or can be created to gather input from system users and to reflect back to them how their input or ideas have been used or considered?
- Can we influence Ontarians’ investment in justice issues, in turn generating the political will for change and innovation? How?

#### Discussion and Input:

- Create a role for the Law Society – not to deliver services but to build partnerships with others.
- Create a campaign about how important access to justice is for every citizen – whether they have a legal problem now or in the future.

- Replicate this symposium in regions across the province, with CDLPA as a partner.
- Offer public education and outreach for the public where they are (e.g. libraries, community organizations) and before they are in crisis.
- As part of the regulator's role in entrance into the profession, find ways in which demand and supply issues can benefit the general population seeking justice.
- Discuss possible role for paralegals under supervision in family law
- Pro bono: institute a pay or play requirement for lawyers.
- Help members of the Law Society to understand that if the law Society is not seen to be taking a role in facilitating access to justice, it will not be fulfilling its mandate under the Act.

#### Workshop #2:

### The Regulator's Role in Changing the Culture and Fostering Innovation

#### Questions for Discussion

- How do our regulatory approaches currently promote or impede change and innovation?
- What regulatory innovations should be of priority in changing the culture?
- How do we protect the public interest while innovating to meet the demand and need for quicker, cheaper and less complicated services – what is necessary to regulate?
- What educational and regulatory trends and issues arising as a result of global, technological and other marketplace changes create opportunities to respond to access to justice needs?

#### Discussion and Input:

- Establish a mandatory duty to provide pro bono legal services.
- Develop law school curricula for an access to justice course.
- Encourage law schools to educate students about access to justice.
- Review the scope of paralegal practice, especially in family law.
- Enumerate competencies required by a person who works in family law.
- Find ways to provide legal services in remote communities.
- Regulate and leverage the use of technology.
- Pick an area in most crisis, e.g. family law, and set a 5-year goal.
- Communicate more about referral function; legal information websites; unbundling; alternative legal service models.

#### Workshop #3

### Breaking Silos- Ensuring a Collaborative Future – A Role for the Law Society in Ontario?

#### Questions for Discussion

- How do we become better coordinated and collectively more efficient and effective?
- What structures or mechanisms are needed to ensure ongoing collaboration?
- If the Law Society maintained a standing forum to facilitate collaboration, how should it operate?

#### Discussion and Input:

- Enhance the Law Society's role as a facilitator and coordinator.
- Be inclusive, but target groups per issue.

- Convene a roundtable to generate momentum. Include government and judiciary. Set the first agenda and let the process unfold organically. Create a new structure so the Law Society can fade into the background.
- Do something!

#### Workshop #4

#### Access to “Legal Services” – Early and Ongoing

##### Questions for Discussion

- What are “legal services” and how might they best be redefined, refocused or reorganized to allow more people to access the assistance they need, when they need it?
- Where is the line between legal advice and legal information and assistance appropriately drawn?
- Can we develop more precise parameters for the tasks that require the attention of a lawyer and those that could be completed by others?
- How do current regulations help or hinder in this area?

#### Discussion and Input:

##### *Categories of legal providers*

There are six categories of legal providers: (1) information providers; (2) navigators, tour guides and referrers; (3) triagers and issue identifiers; (4) form assisters; (5) front line community workers and social workers; (6) paralegals and lawyers.

- Reach out to the first five categories and to their regulators and educators.
- Provide information and clarity about the roles of all six categories.
- Enable all six categories to work together.
- Consider credentialing so that the public can be confident of unregulated providers.

##### *Other*

- Simplify forms and make them interactive.
- Educate “trusted intermediaries” (e.g., social workers, librarians, settlement workers) to provide legal information. Clarify the boundaries of information vs. advice.
- Provide on-site legal personnel at community sites (St. Mike’s model).
- Establish a mandatory pro bono requirement, with capacity to do it online.
- Lower fees by greater use of paralegals under a lawyer’s supervision.
- Designate which online legal information is reliable through a stamp of approval (“reviewed by law Society licensee”).

#### Workshop #5

#### How do we Measure Success?

##### Questions for Discussion

- Do we have a common vision of where we want to be or what success would look like in Ontario?
- How should success be measured and by whom?
- What approaches have others taken to measurement?
- What is missing that would better enable us to measure success or progress?

## Discussion and Input:

- Pick one or two things the Law Society can do well – a few urgent projects – and measure their success. Define metrics after defining what the Law Society is trying to accomplish.
- Focus on the users, ordinary people.
- Reach out to marginalized communities and conduct research on their needs and perspectives.
- Establish quantitative and qualitative measures – we need both.
- There is no universal measure of access to justice. Measures should be context driven (e.g. very different in criminal and civil law). Engage the public and legal sectors in the dialogue.
- Convene more events like this and measure what comes out of them.
- Measure success at the local level.
- Measure confidence in the justice system, taking into account that people who lose their cases will be unsatisfied.
- Measure changes to the gap between people who need legal services and legal professionals who can provide service.

## Wrap Up and Discussion of Next Steps

### Remarks from Chief Justice Heather Smith, Superior Court of Justice

Chief Justice Smith indicated that this is an issue whose time has come. She referred to the National Action Committee report as a wonderful roadmap which serves as a clarion call for meaningful change by all justice sector components. She indicated that the Superior Court of Justice will try to implement the NAC recommendations that apply to it and to make each court event meaningful. She noted the importance of making a business case to government for pilot projects.

### Treasurer's Concluding Remarks

The Treasurer thanked all presenters, facilitators, participants and staff. He noted that while there are no easy answers, inaction is not an answer. He is committed to doing more to better fulfill the Law Society's access to justice mandate. The Law Society is uniquely positioned to provide leadership – facilitative leadership – by establishing a standing forum for dialogue to help identify priorities, commit to specific actions, and facilitate collaboration. As a regulator, the Law Society also needs to examine its rules and regulations to ensure that they do not themselves constitute access to justice barriers. The next steps for the Law Society are to:

- Summarize the input from the Symposium and create a report.
- Formulate a detailed proposal for the Law Society's role within a couple of months.
- Present the proposal to Convocation - a bold proposal that will help to move us from talk to action.

*When we see things that work, we should support them and implement them.*  
--Chief Justice Smith, Superior Court of Justice

## Appendix A: Agenda

### Symposium Agenda - *Creating a Climate for Change*

Tuesday, October 29, 2013

Donald Lamont Learning Centre, The Law Society of Upper Canada, Toronto, Ontario

9:30–10:00 a.m.	REGISTRATION
10:00–10:15 a.m.	Welcome and Opening Remarks Thomas G. Conway, Treasurer, The Law Society of Upper Canada
10:15-11:15 a.m.	Setting the Stage: <ul style="list-style-type: none"> <li>• <i>Dark Sky / Blue Sky</i> (Video courtesy Canadian Bar Association)</li> <li>• Address by Chief Justice Bonkalo, Ontario Court of Justice</li> <li>• Overview of Symposium background papers by Karen Cohl: <ul style="list-style-type: none"> <li>○ <i>Legal Organizations and Access to Justice Activities in Ontario</i></li> <li>○ <i>Access to Justice Themes: “Quotable Quotes”</i></li> </ul> </li> </ul>
11:15 a.m. –12:00 p.m.	Action Committee on Access to Justice in Civil and Family Matters: <i>A Roadmap for Change</i>  Justice Thomas Cromwell – <i>Where do we go from here?</i>
12:00–1:00 p.m.	NETWORKING LUNCH
1:00 – 3:30 p.m.	Workshops Five themes – participants assigned to workshop two different themes: <ul style="list-style-type: none"> <li>• Engaging the Public</li> <li>• The Regulator’s Role in Changing the Culture and Fostering Innovation</li> <li>• Breaking Silos – Ensuring a Collaborative Future – A Role for the Law Society in Ontario?</li> <li>• Access to “Legal Services” – Early and Ongoing</li> <li>• How do we Measure Success?</li> </ul>
3:30 – 3:45 p.m.	NETWORKING BREAK
3:45 – 4:30 p.m.	Wrap Up and Discussion of Next Steps
4:30 - 5:30 p.m.	Reception – Upper and Lower Barristers’ Lounges

\*Photographs and video taken at this event may be used in Law Society of Upper Canada publications

## Appendix B: Participant List

Thomas G. Conway, Treasurer, The Law Society of Upper Canada

Marion Boyd, Benchler, The Law Society of Upper Canada, TAG Working Group

Christopher Bredt, Benchler, The Law Society of Upper Canada, TAG Working Group

Cathy Corsetti, Benchler, The Law Society of Upper Canada, TAG Working Group

Howard Goldblatt, Benchler, The Law Society of Upper Canada, TAG Working Group

Michelle Haigh, Benchler, The Law Society of Upper Canada, TAG Working Group

Michael Lerner, Benchler, The Law Society of Upper Canada, TAG Working Group

Susan McGrath, Benchler, The Law Society of Upper Canada

Malcolm Mercer, Benchler, The Law Society of Upper Canada

Janet Minor, Benchler, The Law Society of Upper Canada, TAG Working Group

William C. McDowell, Benchler, The Law Society of Upper Canada, TAG Working Group

Lenny Abramowicz, Association of Community Legal Clinics of Ontario

Sally Ashton, Public Affairs, The Law Society of Upper Canada

The Honourable Chief Justice Annemarie Bonkalo, Ontario Court of Justice

Meredith Brown, Ministry of the Attorney General

Camille Cameron, Dean, Faculty of Law, University of Windsor

Margaret Capes, Community Law School

Amanda Carling, The Association In Defence of the Wrongly Convicted

Susan Charendoff, Civil Policy and Programs Branch, Ministry of the Attorney General

Chris Cheung, Ontario Bar Association

Karen Cohl, Consultant for the Law Society of Upper Canada

The Honourable Justice Thomas Cromwell, National Action Committee

Pascale Daigneault, Ontario Bar Association

Peter Doody, The Advocates' Society

Bruce Elman, Law Commission of Ontario

Trevor Farrow, National Action Committee

Wanda Forsythe, School of Legal and Public Administration, Seneca College

Jonathan Freedman, The Association In Defence of the Wrongly Convicted

Dada Gasirabo, Oasis Centre des Femmes

Nikki Gershain, Pro Bono Students

Irwin Glasberg, Ministry of the Attorney General, Policy and Adjudicative Tribunals Division

Avvy Go, Metro Toronto Chinese & Southeast Asian Legal Clinic

Elizabeth Goldberg, The Law Foundation of Ontario

Michael Gottheil, Social Justice Tribunals Ontario

Jeff Hirsch, National Action Committee

Alia Hogben, Canadian Council of Muslim Women

Patricia Hughes, Law Commission of Ontario

Wendy Komiotis, METRAC

Robert Lapper, Chief Executive Officer, The Law Society of Upper Canada

Paul Le Vay, Association des juristes d'expression française de l'Ontario

Michele Leering, Workers Action Centre

The Honourable Regional Senior Justice Timothy Lipson, Ontario Court of Justice

Danielle Manton, Association des juristes d'expression française de l'Ontario

Julie Mathews, Community Legal Education Ontario

Deepa Mattoo, South Asian Legal Clinic of Ontario  
John McCamus, Legal Aid Ontario  
Trudy McCormick, Association of Community Legal Clinics of Ontario  
Sarah McCoubrey, Ontario Justice Education Network  
Lucy McSweeney, Office of the Children's Lawyer  
Kirsten Mercer, Senior Policy Advisor, Justice - Policy & Research, Office of the Premier  
David Mollica, The Advocates' Society  
Mayo Moran, Dean, Faculty of Law, University of Toronto  
Tami Moscoe, Family Initiatives, Ministry of the Attorney General  
Virginia Nelder, African Canadian Legal Clinic  
Lori Newton, Office of the Chief Justice, Ontario Court of Justice  
Sandra Nishikawa, Federation of Asian Canadian Lawyers  
Debbie Oakley, The Association In Defence of the Wrongly Convicted  
Dennis O'Connor, Pro Bono Canada  
Zeynep Onen, Director, Professional Regulation, The Law Society of Upper Canada  
Sue Rice, National Self-Represented Litigants Project  
Francisco Rico-Martinez, FCJ Refugee Centre  
Paul Saguil, Federation of Asian Canadian Lawyers  
Mark Sandler, The Law Foundation of Ontario  
Rami Shoucri, St. Michael's Hospital  
John Sims, National Action Committee  
The Honourable Chief Justice Heather Smith, Superior Court of Justice  
Lorne Sossin, Dean, Osgoode Hall Law School, York University,  
Lee Stuesser, Dean, Faculty of Law, Lakehead University  
John Tzanis, Paralegal Society of Ontario  
Frank Walwyn, Community Legal Education Ontario  
Bob Ward, Legal Aid Ontario  
Sheena Weir, Director, Public Affairs, The Law Society of Upper Canada  
Janet M. Whitehead, The County & District Law Presidents' Association  
Miriam Young, Toronto Lawyers' Association