

A2J Election Platform – Priority Issues for the Law Society of Upper Canada

1. To advocate for enhanced LAO coverage in areas of civil concern, (including human rights and equality law), while maintaining and enhancing LAO coverage in existing areas.

Why focus on human rights?

Justice and access to it is not the exclusive purview of lawyers, but rather, we are the privileged gatekeepers of the system. It is incumbent upon us to advocate not just the idea of human rights, but rather, a system of human rights that works in practice. Access to justice means defending principles in an attempt to create both a more accessible legal system and a more just society. This means vigorously defending legal aid funding in vital areas such as criminal defense and advocating adequate legal aid funding in other areas of daily human rights concern including landlord tenant rights, family law, child and family services, Human Rights Tribunal complaints and employment related matters.

And the Law Society's role in this is - what?

The political decisions that animate where provincial and federal money is spent create ceilings based on perceived social priorities. The Law Society has an important voice in that discussion and should endorse greater public funding of cases relating to basic human rights in Ontario.

2. To lobby for increased provincial and federal test case litigation funding.

What is the issue?

Part of the challenge for marginalized communities accessing the justice system in Ontario is that of putting square blocks into round holes. A system that is responsive to social injustice should not aim to make everyone the same. Diverse communities have diverse needs and often fall through cracks or get stuck in the quagmires of the law. Consider the chronic problem of having poverty or socio-economic status as a protected ground of discrimination under the *Charter*. People can be discriminated against on the basis of economic wealth, so the protection of their dignity and the complex intersection of many problems that are caused by or create poverty require novel legal arguments to reach the Courts. Significantly, in Canada there is no right to housing and no *Charter* protected right to health care access. If there is a hope of using the Courts as a mechanism for protecting the dignity and equality of marginalized groups, we need the ability to mount test cases that can advance the law rather than reverse it. With the demise of the Court Challenges Program in 2006, and a simultaneous onslaught of targeted repression against charities, whistle blowers or critics of government policy, the space for dissent and the tools to fight back against repression are vanishing.

What can the Law Society do about this?

If the Law Society intends to seriously engage with the problem of access to justice, it must acknowledge the decreasing space for marginal voices to speak out in the face of increasing austerity, laws and governmental action that are stigmatizing dissent. Environmental activists, First Nations, Inuit and Metis communities, sex workers, Muslim organizations, dual citizens, people with mental health problems and criminalized persons are emerging as targets of unfair and differential treatment by the state. Our profession's commitment to the public interest requires that we actively take a stand by defending targeted groups through public statements and by advocating for the allocation of increased test case funding from both provincial and federal levels so that we can shape the system to the needs of communities rather than the other way around. That is what access to justice is about.

3. To partner with law schools to create new shared models of education that offer practicums during 3 year JD program at legal clinics/ community-based organizations that will count towards articling and will replace need for the current pilot LPP program.

Why are legal practicums important?

Legal practicums benefit both students and practitioners. This is where the theory of law school rubber meets the road of practice. Whether students love it or hate it, it is a crash course into the life of a practising lawyer. Under the Law Society rules, a supervised student can perform many of the functions of an articling student – in substance the experience is very much a slice of articling and should be considered as such from a certification perspective allowing students to chalk up valuable experience while valuably contributing towards their articling requirements.

Should the practicums be paid?

Free student labour is great for the recipient of the free work. Many practitioners (myself included on many occasions) have benefited from course for credit work from students. But would it be so hard to pay students for their time? Paying students while they learn would not diminish the quality of their experience or education, while it would be of tremendous assistance to many who are being weighed down by tremendous debt. While during law school practicums may not eliminate a requirement for a set period of post-graduation articling, they would effectively provide a co-op system much more fair and curriculum integrated than the nightmare known as On Campus Interviews (OCIs).

What about the LPP?

Currently in its pilot phase, there is much opacity around the LPP initiative and there has been serious concern about both the way in which it is being disproportionately subsidized by currently articling students through increased licensing fees coupled with unpaid practicums. Imagine if instead of offloading this burden onto the newly entering lawyers, the framework for practical training could be shared and spread out through the course of law students' three years. This would be more equitable for the students, still beneficial to practitioners, while creating the breathing space for students to seriously contemplate a (paying) career working towards access to justice in areas of the law that focus on social justice and work with vulnerable communities. That is moving beyond the rhetoric of access to social justice to social justice in action.

4. To strategize on building more sustainable faculty supervised legal clinics housed within law schools that provide legal training advocacy and public interest intervention;

What is the role of law faculty supported legal clinics?

Legal clinics supervised and resourced by law schools provide an excellent marriage of practical legal training and education for law students. According to their mandate and focus, they also engage in important areas of public interest concern that have individual and systemic benefit for communities, which lack representation or ability to access the system. While such clinics do not necessarily have the scope to deal with expansive community outreach, their ability to provide teaching opportunities and to intervene in court cases or to pursue systemic legal remedies offer an invaluable mechanism for prioritizing the practical side of access to justice within legal education. There are several examples of successful clinics across the province including: Parkdale legal clinic, CIPPIC, the David Asper Centre, Legal Assistance of Windsor, the Ticket Defense Program and many others.

What does this have to do with LSUC members?

Before 1957, LSUC really called all the shots with respect to legal education in the province, which it offered through periodic training and night classes, while recognizing the purview of law schools to provide legal education classes. This power was wrested away from the Society in a dramatic rift, which marked the “new deal” in law school education with the Society recognizing three year degree programs autonomously administered by law schools. The evolution of the “LSUC – formalized law school relationship” is relatively recent in the almost 220 year old history of the Law Society. The relationship has been historically a mutual one of shared interests; however, in the present moment it is vital that we reassess how the theoretical mettle of law schools and the practical/ regulatory bent of the Law Society fit together. A collaborative model must be adopted so that we can work together under the banner of creating practical and creative ways of addressing the access to justice crisis through which we are jointly living.

5. To review findings of the 2014 LSSO study and conduct a further province-wide law student consultation/ survey to design a concrete action plan for making law school tuition proportionate to ability to pay.

What is the 2014 LSSO Study?

Law Students Society of Ontario (LSSO) is an organization comprised of law student representatives from the student societies of Ontario law schools from across the province. The report [“Just or Bust: Results of the 2014 Survey of Ontario Law Students’ Tuition, Debt & Student Financial Aid Experiences”](#) provides very much needed and [long over due statistics](#) documenting what students have felt across the province for many years in terms of the financial pressure caused by rising law tuition in Ontario.

The LSSO Report was a student led and implemented initiative. It is based on results from 941 Respondents across five participating law schools in Ontario: University of Ottawa, Osgoode Hall, University of Toronto, Western University and Windsor. It breaks down indebtedness of law students, looking at pre-law school debt burdens of students and projections of post law school debt across Ontario law schools. The report also specifically looks at student reliance upon private loans including securing lines of credit with a financial institution.

The Report makes two very important findings: (1) 30% of law students expect to graduate from law school debt free; and (2) for the 70% of law students who graduate with a debt burden, the estimated average debt is \$71,444. While average debts in 2014 range at \$70k, many debt figures break \$100k and the numbers are climbing. This is a problem.

What does this report have to do with LSUC members?

Access to Justice means bringing services to those who cannot afford them and making the legal system responsive to community needs, but it is also about minimizing barriers for lawyers to enter into areas of social justice by removing the overwhelming obstacle of debt burden.

For the last two decades as law school tuition in this province has been steadily climbing, the public discussion of the debilitating effects of debt burden has remained a stigmatized topic of discussion. The answer is and has been to get a job that will allow the debt burden to be paid down. As we are recognizing a steady downturn in the number of available jobs for articling and starting lawyers, we have also seen a simultaneous rise in the number of graduating law students. Effectively, we are watching the devastating effects of a system that hopes to sort itself out through the invisible “equalizing” effects of the market. Not surprisingly, however, it is not working.

If we are serious about addressing to access to justice as members of the profession, we must commit ourselves to fighting the paralyzing effects of the debt burden by actively lobbying for decreased tuition levels and supporting programs that offer social justice career options for students in law school and graduating students. Whereas it is laudable to encourage pro bono work – this is not a solution. We must foster solutions that will encourage and sustain lawyers who are able and willing to work in areas to enhance access to justice for vulnerable, poor and marginalized communities.

So what can we do about this problem?

A2J supports the creation of a working group within the Law Society that will work with students and law schools to strategize on how law school tuition increases can be stopped and reversed. This intervention will require a careful look at class sizes, provincial and federal funding to and operating budgets of law schools. The burden is not one for law schools to bear alone as both the profession and the schools share a common interest in addressing the challenges of creating effective and accessible legal education and training that is designed to reflect the needs of communities based on a sustainable model legal representation.