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Action Committee Meeting of Provincial and Territorial Access to Justice Groups

Action Committee on Access to Justice in Civil and Family Matters

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ACTION COMMITTEE MEETING
of Provincial and Territorial Access to Justice Groups
March 2015
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On March 13, 2015 the Action Committee on Access to Justice in Civil and Family Matters (the Action Committee) convened a meeting for existing provincial and territorial access to justice groups (P/T A2J groups), many of which were formed in response to recommendation 5.1 of the Action Committee’s *Roadmap Report*. The purpose of the meeting was to reflect on the progress made by these groups over the past year, discuss the access to justice initiatives underway in different jurisdictions, highlight promising developments, learn from common challenges, and consider collaborations and cooperation among justice stakeholders that could be further supported by the Action Committee.

The meeting, which was chaired by the Honourable Justice Thomas A. Cromwell and hosted by the Law Society of Upper Canada, with support from the Canadian Forum on Civil Justice, included representatives from every province and territory. As Justice Cromwell noted in his welcoming remarks, “having every province and territory actively engaged in the access to justice conversation is indicative not only of the serious and pressing challenges we face in the field of access to justice, but also of the growing desire within the field to take concrete action to meet those challenges.” Noting that “there has never been a higher degree of engagement with [access to justice] issues than what the justice community is experiencing now,” the meeting highlighted key issues of relationship building between local and national access to justice groups, public education and engagement, innovation with the justice system and the need to develop an inclusive national online communication platform that could connect A2J stakeholders from across the country.

1.1 OUTLINE
This report provides an overview of the meeting and a summary of the key discussion points. It attempts to capture the comments, suggestions and major points of dialogue. The structure of the report closely follows the meeting agenda. It begins with a summary of the opening plenary session where the progress, successes, and the challenges faced by P/T A2J groups were discussed. It then moves to provide an overview of a roundtable discussion that focused on the development of a national online access to justice network, and the question of how to increase networking, knowledge-sharing, and collaboration between P/T A2J groups and among a broad range of justice stakeholders working on access to justice issues. It then proceeds to summarize the key points of an afternoon plenary session on increasing public engagement. Finally, the report concludes by offering a synopsis of the closing plenary where the representatives were asked to articulate the measurable progress they would like to see their own P/T group make in the coming year, as well as what goals they would like the national Action Committee to achieve in the next year.
In advance of the meeting, each jurisdiction was asked to respond to a questionnaire that asked for details on the structure and governance of its P/T A2J group, its current activities, initiatives, and any challenges and successes that the group had experienced. Using the questionnaire responses, John Sims, Chair of the Canadian Bar Association’s Access to Justice Committee, facilitated a group discussion on the progress made by the P/T A2J groups in the last year. The goal of the session was to highlight promising developments and to provide a platform for knowledge sharing between jurisdictions.

John Sims began the discussion by acknowledging one of the key problems in tackling access to justice - namely that the administration of justice in Canada is fragmented; it is a “system of systems.” As a result, it has been difficult to coordinate and collaborate on A2J initiatives due to the tendency to work in silos. Nonetheless, the emergence of A2J groups in every province and territory and the willingness of the P/T A2J groups to come together with support from the national Action Committee indicates that significant progress is being made.

2.1 P/T A2J GROUPS: SIMILARITIES AND DIFFERENCES
In summarizing the questionnaire responses, John Sims noted that the current P/T A2J groups share many similarities in regards to their structure, organization, priorities, and goals. However, they are also marked by some key differences.

The following similarities between groups were identified.

- **Terms of Reference.** While the design and structure of the groups may vary (see below), most groups have adopted similar Terms of Reference; terms that emphasize systemized collaboration and coordination, knowledge sharing and information exchange, breaking down silos, engaging with the public, and promoting innovation.

- **Levels of Activity.** All of the groups have been busy and most have several initiatives underway. That said, all of the groups are in different stages of development (see below, this section).

- **Focus on Family Law.** Family law was identified as an area of high need and priority by all of the groups. Several groups, including Manitoba, Nova Scotia, New Brunswick, Ontario and Prince Edward Island, have formed dedicated family law working groups or have already launched targeted family law initiatives. The A2J group in Alberta has made family justice reform its sole focus. Given this emphasis on family law, John Sims noted that there might be some important opportunities for collaboration as groups move forward with their family law projects and that groups should avoid “reinventing the wheel.”
Several differences between the groups were also identified.

- **Stage of Development.** Each group is at a different stage of development. For example, while some of the groups have already approved and adopted formal Terms of Reference (e.g. Nova Scotia, Manitoba, Northwest Territories, Newfoundland & Labrador), others have held extensive discussions and consultations and are moving towards finalizing their framework documents (e.g. British Columbia, Nunavut), and some are still in earlier stages of planning and formation.

- **Size of core-membership.** Core-membership ranges in size from 7 to 26 members, with the average core-membership falling between 15-18 representatives. Several groups felt that a large core-membership was a benefit insofar as it allows for widespread information sharing and provides an excellent opportunity to identify potential areas of collaboration. Additionally, it was noted that inclusivity, in some cases, is more important than size. However, some – not all – noted that a large core-membership can also be “unwieldy,” making planning and implementation of initiatives more difficult. There was a general consensus, however, that each group needs to identify a “sweet-spot” where the core-membership is large enough to be inclusive and collaborative, yet small enough to be practical and efficient. Some groups, such as Quebéc, have opted for a duel approach, forming a small core group of active steering committee members (7 in total) that includes judges, courts and ministers, and a larger group of 24 members that includes a wider-range of justice stakeholders, or “people that we cannot have this conversation without.” Working alongside one another, both the smaller steering committee and the larger 24-member group make up the A2J group.

- **Structure and make-up of core-membership.** Many groups have adopted a “classic structure,” with a core-membership consisting of a mix of traditional justice stakeholders including, representatives of the court, law societies, government, legal aid, national and/or regional bar associations, law foundations, etc. However, several groups such as British Columbia, Nunavut, Ontario and Saskatchewan, have adopted more “non-traditional” models of governance and/or expanded the range of stakeholders involved in the group’s core activities. For example, in Saskatchewan, University of Saskatchewan faculty and students have played a key role in the group. Both the Law Students’ Association and the Aboriginal Law Students’ Association have representatives in the group, as do faculty members. According to Saskatchewan, “the enthusiasm and fresh perspective of law students in actively researching, collaborating, and presenting on access to justice topics has been vital to the success of this initiative, and its ongoing success.” Other examples of innovative governance and group structures include Ontario, who characterizes their group (TAG) as a “learning platform” with over 220 groups on their contact list, and Nunavut, which has adopted a community engagement framework that responds to the culturally unique needs of the jurisdiction.

There was general agreement amongst the groups that the core-membership bodies should be multi-disciplinary and broadly inclusive. However, each group had different experiences and thoughts on which stakeholder groups to include. For example, some raised concerns about having ministers as part of the core-
membership as ministers often change and each new minister brings with him/her different priorities. Alternatively, others found it important to have the Minister of Justice at the table and did not think it could be done without such high-level government engagement. Some expressed concern over including the judiciary due to concerns around judicial independence, while most others took the opposite view.

- **Level of public involvement.** The extent to which the public is involved with the work of the P/T A2J groups, and how the public is involved, varies quite widely. While some groups have reserved spots in their core-membership for a representative of the public, others have no public or “non-legal” representatives. It was generally recognized that engaging the public is an ongoing challenge that all groups struggle with and seek to improve (see s. 2.2).

### 2.2 A2J GROUPS: CHALLENGES & LESSONS LEARNED

Nearly all of the P/T A2J groups have encountered challenges as they have undertaken their work. The two most common challenges faced by the groups thus far include “public involvement” and “access fatigue.”

- **Public Involvement.** Many – not all – groups have struggled with how to best involve the public in the work of their group. For some, it has been difficult to identify who should “represent the public” and to determine when and in what ways to engage the public. Others reported that in some cases there was a certain level of discomfort around including members of the public in the core-membership. This could be for several reasons including, fear of creating expectations that can’t yet be met, uncertainty about how to engage the public or anxiety over how to make the discussion accessible and relevant to people. Despite these challenges, all groups are committed to engaging the public in meaningful ways (see s. 4 for a more detailed discussion of public engagement).

- **Access Fatigue.** Many groups were concerned about “access fatigue”. Access fatigue refers to a general fatigue experienced by members of the A2J community who, in many cases, have been working on access issues for years but have seen only minor changes and improvements. Access fatigue can include “report fatigue” (“people are tired of reading reports on access issues, they want to see action”); “volunteer fatigue” (“most access work is being done off the side of a desk and people are burning out”); and, “committee fatigue” (“stakeholders don’t see the point of one more committee”). The various dimensions of access fatigue need to be addressed in different ways. For example, to combat “volunteer fatigue” we need to find ways to fund paid positions. Not only will this help combat the fatigue, but having staff dedicated to advancing the A2J agenda will significantly improve outcomes and help ensure that projects are moving forward. “Report fatigue” and “committee fatigue” on the other hand can be addressed by taking action (see below, this section).
Although most P/T A2J groups were still in the early stages of development, most had learned a number of important lessons.

- **Be flexible and responsive.** Learning how to be effective in large multi-disciplinary groups can take time. It can also be difficult to find room to experiment and take risks within a profession that is accustomed to operating often within a top-down hierarchical structure. However, to be successful, a group must be prepared to experiment with their own structure and the type of initiatives they pursue. Groups must also be willing to fail – not all experiments are successful. Learning from each experience and adapting is imperative. Doing so is part of the innovation process.

- **Building relationships takes time.** While engaging the public is a challenge (see above, this section), it can also be difficult to create “buy in” from others within the legal profession and from professionals from other sectors. Fostering “buy-in” can be particularly challenging when these groups may not have worked closely or easily together in the past. Most P/T A2J groups reported that it takes time and resources to build the capacity for working effectively in multi-disciplinary groups. It also takes time to foster trusting relationships between members. Groups must be willing to “stick with” the process and the importance of building relationships should never be underestimated.

- **Be the “connector of things.”** One of the most effective ways to be successful is to become the “connector of things.” Instead of trying to exercise control over every aspect of a project, focus on connecting ideas with people and people with resources. Find the balance between comfort and control.

- **Have a long-term vision and be persistent.** Making decisions in a large and diverse group can be like “herding cats.” However, having a long-term vision and being persistent in the effort to achieve this vision lead to successful decision making in large groups. Moreover, just because a group has put a structure in place (i.e. a governance model), it does not mean that solutions to longstanding problems will immediately present themselves. Avoiding early disappointment when things do not immediately improve is a challenge, although it is also critical to long-term success.

- **Evaluate from the outset.** Deciding from the outset how the group will measure “success” can have many benefits. It can assist in ensuring that the group concentrates on choosing projects that will help meet specific goals, but it can also provide stakeholders with tangible evidence that progress is being made. Further, consider non-traditional evaluation methods such as developmental evaluation or impact measurement, which have not traditionally been used in the legal sector.
3. BUILDING AN

Online National Access to Justice Network

The need to improve knowledge sharing between a wide-range of justice stakeholders was widely acknowledged by all of the P/T A2J groups. In the second session of the day, Trevor Farrow and Nicole Aylwin from the Canadian Forum on Civil Justice introduced a prototype version of the Access to Justice Research Network (AJRN), a national online platform that allows network members to easily trade resources and engage in conversations about access to justice issues. The AJRN was developed in response to a growing need to nationally coordinate and centralize access to justice related research, news, data, etc. After an introduction to the AJRN, Trevor Farrow and Nicole Aylwin facilitated a discussion on the networking and communication needs of the P/T A2J groups and how the AJRN may be further developed to meet those needs.

3.1 THE ACCESS TO JUSTICE RESEARCH NETWORK

The AJRN is an interactive and participatory online network of access to justice stakeholders in Canada. It provides a medium for the timely transfer of access to justice research and findings to legal scholars, lawyers, policy makers and other A2J stakeholders, while also serving as an organized database for content and publications on access to justice issues. Its goal is to create an accessible forum for conversations and knowledge exchange on access to justice matters. Currently, the AJRN has two parts:

1. A listserv that allows members of the network to easily connect and/or collaborate with other subscribers, and engage in dialogue around critical A2J issues via email.

2. A website that acts as a “clearinghouse” for research and resources related to A2J. While the website is curated by the Canadian Forum on Civil Justice, the site’s content will be largely user-generated. That is, the content that is sent through the network via the listserv will be shared publically on the AJRN website.

In its current form, the AJRN aims to stimulate dialogue and knowledge exchange in ways that build ties among access to justice researchers across the country and boosts the impact of access to justice resources and initiatives underway in Canada and increasingly, internationally.

3.2 NETWORKING, COMMUNICATION NEEDS AND FEEDBACK ON THE AJRN

As part of improving the effectiveness of the network, Trevor Farrow and Nicole Aylwin asked the group to provide feedback on the prototype version of the AJRN and to brainstorm about how the platform could support the networking and
communication goals of the P/T A2J groups. To structure the discussion, each group was asked to identify key features that the online forum should have. The following suggestions were made.

- **A focus on reporting results.** The network should endeavor to create an online culture where members feel comfortable regularly and actively reporting project results – whether the results are good or bad.

- **Provide a single national entry point.** The network should act as a portal that provides a single point of entry to A2J stakeholders who are looking to access a wide range of materials. While it is likely that the P/T A2J groups may need and/or want to have jurisdictionally specific platforms, the national network should be the gateway to these sites. In short, the network should be a “one stop shop” for those looking to access materials related to A2J work in Canada. Moreover, P/T A2J groups should collaborate and connect jurisdictionally specific online networks with the national platform. This will help avoid fragmentation and duplication.

- **Allow ample opportunity for interaction.** Effective knowledge sharing does not happen simply by pushing information out, it happens through interaction. To be successful, the national network must provide opportunities for those on the network to engage with each other in meaningful ways. It should allow people to collaborate and come together online.

- **Be well organized and curated.** In order to avoid overwhelming users, the resources on the website need to be well organized and curated. People need to be able to find what they need quickly and easily. A robust search function is a must. It would also be useful if users could choose to follow only those topics, projects, or threads that they are interested in.
As mentioned previously, engaging the public is a challenge that nearly all of the P/T A2J groups have encountered. In the afternoon plenary session, the group was asked to consider what it means to engage the public and how it might be done more effectively. The following ideas were offered.

- **We need to reflect on what we mean by public engagement.** The public can be “engaged” in many ways: through consultation, participation, education, ownership, etc. We need to reflect on what we mean when we use the phrase “public engagement.” A useful model may be to think about these different forms of participation as “layers of public engagement;” different layers may be more or less useful at different times and in different circumstances. It may also be beneficial to consider the fact that public engagement could simply be a lens through which we try to view all of our activities. Put another way, when we set out to take action, before doing so we should attempt to look at our plan from the view of the public. This may help identify, in advance how, and when, we should engage the public.

- **We need to let the public speak first.** Too often, when we engage the public, we come to people with already formed plans and ideas and simply ask for feedback on our plans. Or similarly, there is an urge to build credibility with the public by having a “public voice” at the committee level. The group was of the view that we should resist this urge by trying to change these more typical models of “engagement.” Instead, we should let the public speak first. A2J groups need to talk to people about the legal system. We need to learn not just about the public’s legal needs, but their expectations, their behavior, and their understanding of the justice system (broadly defined). We should not assume that members of the public want to think and engage with the issues in the same way that the legal community does. We need to find out how members of the public think and ask them how they want to tackle the problems that we face together and collectively.

- **We need to better communicate with the public about how A2J (or lack of it) impacts them.** We have not done a great job of helping the public understand why access to justice is a topic they should care about. We also have not done a good job of letting them know about all of the work we are doing to improve the system. Too often we only share information internally (among the “usual suspects”), we do not share our work – in accessible ways – with the public. If we want the public to become engaged in our work, we first need to help educate them about what that work is and then involve them in what we do.

- **We need to be prepared to hear negative feedback.** We know that many people have had negative experiences with the justice system. We need to avoid becoming defensive when we hear negative feedback and instead use this...
feedback as an opportunity to learn and to rebuild trust with those who have been disappointed or excluded.

- **We need to go to the public and we need to partner with community organizations.** Too often the public is asked to come to us; we need to engage the public in public spaces (e.g. community centers, places of worship, libraries, coffee shops, etc.). Community organizations, such as local not-for-profits and advocacy groups, already have longstanding and trusting relationships with various communities. They also have long-standing track records of working “on the ground” and successfully engaging the public. Many of the issues we care about are already being discussed in these organizations. By working with these organizations, we can build on their knowledge, expertise and networks, while creating new alliances.
5. MOVING FORWARD

Goals and Next Steps

The final session of the day was dedicated to looking forward. The group was asked to reflect on the jurisdictional goals of their own group and what they hoped to accomplish in the next year. They were also asked to offer thoughts on how the Action Committee — whose original mandate has been met — could move forward in a way that continues to create momentum and support for a national conversation on A2J while providing support to the local P/T A2J Groups.

5.1 HOW DO WE GET TO WHERE WE WANT TO GO?

Given the unique jurisdictional needs of each group and their various organizational models, when asked to consider what specific steps would be needed to ensure that the P/T A2J groups continue to develop and thrive, a wide range of suggestions was provided. While some were jurisdictionally specific, others were more general and widely applicable. Set out below is a summary of the suggestions around which there was consensus and that could be broadly applied to all P/T A2J groups regardless of jurisdictional particularities.

- **Take Action.** In order to maintain momentum and avoid “access fatigue” (see s. 2.2), we need to “do something, anything...take a small step, celebrate that and move forward.” Taking action will demonstrate that the P/T A2J groups can “make stuff happen.” Without action, interest in the groups may wane, thereby jeopardizing their capacity to be effective.

- **Acknowledge the positive.** While it is easy to focus on what still needs to be done, there are positive developments and successful projects underway in many jurisdictions. Celebrating these and sharing the results with each other and the public will help maintain momentum and encourage others to act.

- **Commit to sharing information.** Continuing to build a culture of knowledge sharing and information exchange will be integral to accomplishing both the individual goals of the P/T A2J groups as well as the larger national goals. However, this requires a commitment from each group to be proactive. That is, groups should not wait to be contacted to provide information. Rather, they should look for ways to regularly connect with others and share knowledge, resources, and ideas. The development of a national access to justice communications network (see s. 3) will help with this goal, as could smaller “check in” calls that could take place more regularly. These could be held over Skype or using GoToMeeting.

- **Build on strengths and current initiatives – don’t wait for “perfect”**. We need to capitalize on initiatives that are currently underway. While fully formed plans and initiatives may not be in place, building on existing platforms and systems — and collaborating with each other as we build new ones — will allow us to move forward more quickly and to leverage more resources. In other words,
we should not reinvent the wheel; rather, we should adopt an iterative approach to development that recognizes that a successful initiative can emerge through trial, error, and continual improvement. At the same time, innovations with respect to new initiatives and approaches to justice should also be encouraged for the long-term improvements. One thing is sure: doing nothing is not an option.

5.2 ACTION COMMITTEE FUTURE PLANS

Although the Action Committee’s initial mandate has been completed, the impact of the Action Committee’s work and its role in galvanizing a national conversation on A2J has been widely recognized. Without it, we would be years behind where we are now in terms of recognizing the current level of A2J problems, pushing for a shared culture shift in the area of legal and justice services, developing specific ideas for moving forward, and bringing together individuals and groups for action. In order to ensure that the Action Committee moves forward in a way that continues to invite collaboration and discussion on A2J issues, Justice Cromwell invited the group to discuss what the future of the Action Committee should look like in terms of its structure, mandate and goals. Among the many suggestions, the following recommendations were strongly supported.

- **Continue to support capacity building at the local and national level.** As a result of the work of the Action Committee, essentially all jurisdictions now have active P/T A2J groups. The Action Committee should continue to work collaboratively with these groups, while building capacity for action on A2J issues at a national level (to assist with the important goal of “not reinventing the wheels” across the country).

- **Continued leadership from the Supreme Court of Canada.** The involvement of the Supreme Court – and in particular, Justice Cromwell’s extraordinary leadership and participation - has provided the Action Committee with added legitimacy, and has also worked to publically reinforce the fact that we are at a critical stage of A2J in Canada. It was strongly recommend that the Supreme Court continue to provide leadership through its involvement with the Action Committee.

- **Produce an annual “state of the union” report on A2J issues and host annual A2J stakeholder meetings.** It was recognized that the Action Committee would be well placed to produce an annual “state of the union” report on A2J issues and developments from across the country. This report would contribute to knowledge sharing but also help to maintain the momentum of a national conversation on A2J issues. This release of this report could coincide with an annual (or biannual) meeting — similar to the Colloquium held in January 2014 — which would draw together national A2J stakeholders to share resources and information. Scheduling regular (annual) events also acts as an incentive for action.

Overall, the Action Committee was strongly encouraged to continue its important leadership role and to develop its future structure and mandate in a way that strengthens its national presence, while also maintaining its collaborative and supportive relationship with the P/T A2J groups. There is no doubt that the work and very existence of the Action Committee has made a major difference in developing and shaping the national and local A2J landscape in Canada. This work, and this influence, is far from complete.
In closing the meeting, Justice Cromwell noted that simply convening a meeting of the Action Committee and the P/T A2J groups had triggered action. For some, it pushed the formation of a local A2J group. The meeting provided the opportunity for all jurisdictions to share and highlight important aspects of their A2J work. Further, the meeting provided an opportunity for the P/T A2J groups to discuss challenges and lessons learned as they have formed their A2J groups and begun their work. The meeting also provided the opportunity to engage in a rich discussion on a topic of great importance to all organizations working on A2J issues; namely: which A2J initiatives are working, which are not, what areas are of greatest concern, how we can better collaborate (with legal and non-legal organizations), how we can innovate, how we move “from talk to action,” and how to better engage the public. Finally, the group was able to provide valuable feedback on the development of a national online communications network that will work to strengthen collaboration among justice stakeholders. Overall, the meeting also served as a reminder that there is a “shared commitment to A2J” across all provinces and territories and that with the right nurturing, our efforts will continue to grow and bear fruit.

2 This report endeavours to provide an accurate and fair representation of a lively and wide ranging day of discussion. As far as possible, this report ‘reports’ rather than ‘editorializes’ the conversations that took place.

3 While we have chosen for simplicity to use the term “A2J group” to refer to all of the P/T A2J groups at the meeting, the structure, form, organization, and official name of each group varies from one jurisdiction to another. For example, British Columbia has adopted an organization-based governance structure, which includes broad based representation and membership, while TAG, Ontario’s local group, describes itself as a “learning platform” that facilitates collaboration and discussion amongst Ontario organizations – both legal and non-legal – working in areas of access to justice. And, while some groups have chosen to identify as a “committee” (e.g. Nova Scotia, Northwest Territories, British Columbia, Manitoba, Saskatchewan, Nunavut), others have opted to self describe as a cluster (e.g. Ontario), while others are still in the early planning stages and have not yet determined a final name (e.g. Yukon, New Brunswick).

4 See AC Roadmap Report supra note 1 at 7.

5 Since the March 2015 meeting, most of the P/T A2J groups have made additional progress in regards to formalizing or amending their structures and/or moving forward with the implementation of access to justice initiatives. The observations made here are based on the questionnaire responses received by the Action Committee in March 2015; they do not consider all recent developments.

6 Not all P/T A2J groups have defined their organizing committee as “Steering Committee.” For this reason the term “core-membership” is used in the place of Steering Committee to refer to the core group of individuals responsible for governing the group, determining areas of priority and generally overseeing the activities of the group.

7 Ontario’s A2J group (TAG) is the exception to this. TAG reports having 220 groups on their contact list and identifies their role as facilitating collaboration between these groups.

8 Questionnaire response, Saskatchewan, on file with the Action Committee.

9 Questionnaire response, Ontario, on file with the Action Committee.

10 Questionnaire response, Nunavut, on file with the Action Committee.

11 A prototype version of the AJRN was publicly launched in April 2015 and to date over 100 individuals and organizations from across the country have joined the network. Over the next year, the Canadian Forum on Civil Justice will be working with partners from across the country to improve the network and increase the ability of users to share resources and coordinate with one another. The Canadian Forum on Civil Justice will also be working with the Action Committee to develop ways to use the platform to encourage collaboration among the P/T A2J groups, and other justice stakeholders.

12 Online: www.ajrn.org.

13 As a first step, each P/T A2J group agreed to designate and provide contact information for a “communication liaison” who will be responsible for sharing information from their local group and connecting with the Canadian Forum on Civil Justice, who will be working to develop the national access to justice research network.