

**EXCERPT FROM AN ADDRESS BY MARTIN FRIEDLAND AT THE
CALL TO THE BAR CEREMONY JUNE 2014**

One important project that I undertook remains incomplete. That was a project on access to the law, an essential component of access to justice.

One hears much about access to justice. The present Treasurer, Tom Conway, has stated that, while he has been Treasurer, expanding the law society's role in improving access to justice has been his primary focus and all the current candidates for Treasurer have said that improving access to justice is one of their top priorities.

Access to justice includes, of course, greater access to legal services and a better funded legal aid system. In criminal cases in Ontario today, for example, legal aid is not provided for persons who are not likely to be sentenced to imprisonment. As a result, few alleged first offenders receive legal aid in court proceedings and if convicted will end up with a criminal record.

There will continue to be an increasing number of cases of self-represented litigants in many fields of law. These persons need better access to the law.

In the mid 1970s, I prepared a report for the Law Reform Commission of Canada entitled *Access to the Law*. The study found – and this will be no surprise to persons in this hall, whether legally trained or not – that the law is not in an accessible form, such that it can be readily found and understood by

non-lawyers or, I should add, by many lawyers. Few laypersons know where to start. Most don't know what law is federal and what is provincial.

I am not talking about difficult legal points. but of laws and regulations that are supposed to guide the citizens' conduct in such areas as criminal, family, immigration, and employment law.

The State has an obligation to ensure that its laws are available to laypersons. Governments have unfortunately left the task of explaining the law largely to commercial enterprises, which are not in the habit of offering services for nothing.

The solution, my report argued, was to provide specially prepared sets of legal materials in public libraries and legal clinics and other places "so citizens can determine their rights and obligations without necessarily first going to lawyers."

Of equal or greater importance, the materials could be used by intermediaries who regularly provide legal information, such as paralegals, accountants, civil servants, police officers, librarians, and teachers.

Very little of lasting consequence, however, was done in the following decades by governments or others to achieve the objective of making the law accessible. I went on to other things, but I recently returned to the subject.

I found that surprisingly little had been accomplished, in spite of the fact that the internet, which was basically unknown when I did my study, was now the perfect vehicle to make the law more accessible.

It is true that primary legal materials, such as statutes and case law, are now freely available on the internet. But there has been no concerted effort by any level of government or other institution to integrate and make understandable primary legal materials, without cost to users.

The production of these materials could come under the wing of a provincial law society, perhaps working with law schools, or a provincial legal-aid agency. Legal Aid Ontario, for example, has a large administrative structure, with an arm's length relationship with the government, and itself needs this type of information for its eighty or so clinics and its other programs. It could take on this important endeavor.

The task has to be undertaken province by province because to be effective it has to include both federal and provincial laws, with the latter differing from province to province.

Whoever undertakes the task will, of course, require substantial funding, government and perhaps private. I believe that improving access to the law would make a significant contribution to the administration of justice in this country and, by example, internationally.

Surely it is time for the law to be available to those it is meant to govern.