

Moving beyond
licensing, discipline
and unauthorized
practice-
professional
regulation and
access to justice

*"Is the public
better off with
inexpensive low
quality legal
advice or high
quality advice it
cannot afford?"*



When legal problems are left unresolved they cascade into more problems that in turn increase demand on health care and social services

Access to justice is the machinery that drives the Rule of Law

...not merely access on paper but actual, meaningful and substantive access to justice

We need to change our primary focus





"To be blunt, a regulatory approach that unnecessarily impedes or fails to promote access to justice for a broad segment of our population is not in the public interest"



People with legal problems want:

- To be saved; and, they want problem-solving processes that are:
 - Easy to use, Cheap, Quick (within reason)
 - Authoritative, Transparent, Fair
- To get on with their lives!

**Awareness of
rights,
entitlements,
obligations and
responsibilities**

**Awareness of
ways to avoid
or resolve legal
problems**

**Ability to
effectively
access
resolution
systems &
procedures**

**Ability to
effectively
participate in
resolution
process in order
to achieve just
outcomes**

Four A2J Fundamentals

Benton October 2016

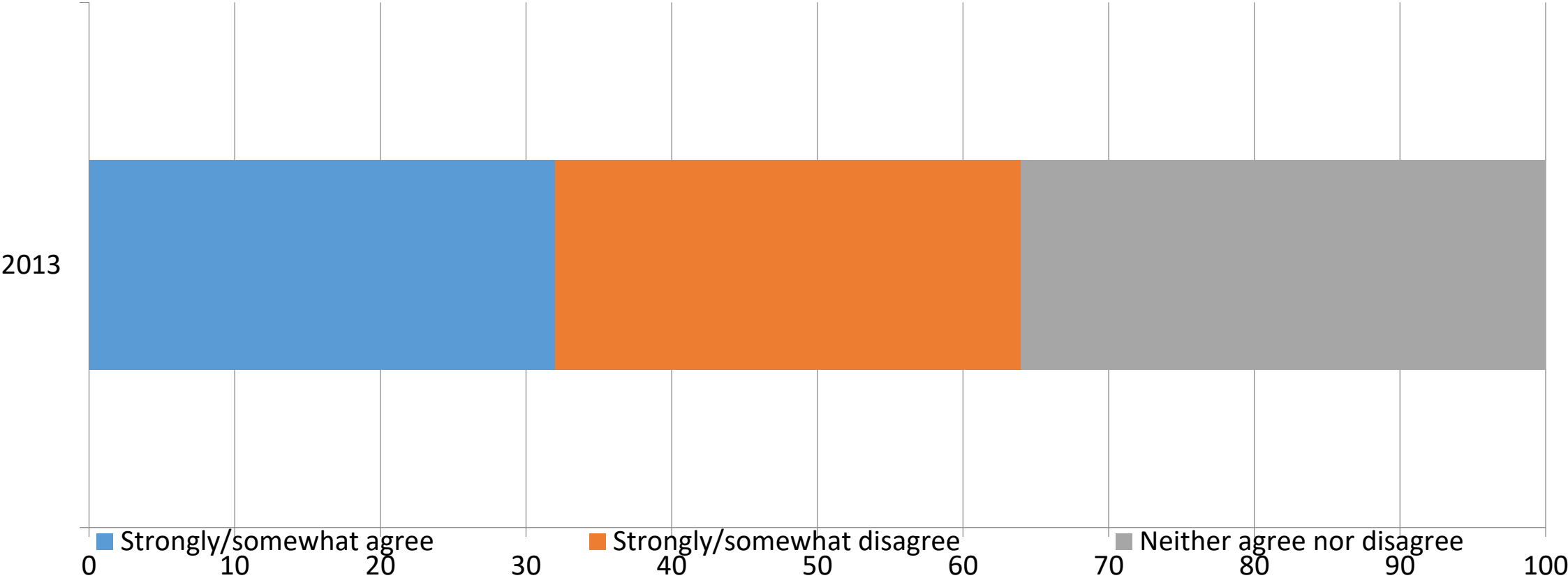
70% of people seek no assistance with what they describe as a serious and difficult to resolve legal problem because

- legal assistance was not required or necessary
- Legal assistance was too costly
- Legal assistance was too difficult to access

Impediments to Meaningful Access to Justice

- Cost
- Complexity
- Geographic distance
- Cultural, linguistic, and other barriers

How effective is the justice system at resolving legal problems?



Full survey available at:

http://www.legalaid.bc.ca/assets/aboutUs/reports/legalAid/lssPublicOpinionPoll04_13.pdf



"..the problem of access is primarily a problem of cost- ...the form in which legal services are produced and delivered...has to change."

Moving beyond licensing , discipline, and unauthorized practice - Legal Professional Regulation and Access to Justice

- Law Societies have begun to build on the traditional focus of licensing, discipline, and the unauthorized practice of law.
- We generally limit the delivery of services to licensed professionals – this is designed to protect the public but limits competition and increases cost.
- It is unclear how far the changes will go or how quickly they will occur.
- Options include:
 - multiple levels of service providers as in health care,
 - Incremental deregulation as in the UK
 - Significant deregulation

What are the Access to Justice outcomes we ought to expect from regulation?

- Accessibility?
- Affordability?
- Timely resolutions?
- Effective services?
- Competently delivered



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Justice
system
change is
messy and
hard



Stage 1: "What you're saying is worthless nonsense."

Stage 2: "What you're saying is an interesting but perverted point of view."

Stage 3: "What you're saying is true but quite unimportant."

Stage 4:

"I have always said so."