

Introduction

The 2001 CIAJ Annual Conference addressed the theme of “Citizenship and Citizen Participation in the Administration of Justice.” The justice system aims at—and indeed only really deserves the name of a justice system if it succeeds in—reflecting the attitudes and concerns of the public which it serves. This is true whether we are dealing with civil, criminal, administrative, or any other area of law, and whether the work is being done by government, courts, tribunals, or non-governmental agencies. People need to have a say in how things work.

The central theme of this conference was to ask how, as a feature of citizenship, we can foster true public participation in the administration of justice. What steps can be taken to respond to demands from certain quarters for greater involvement in the justice system? And how can this be done so as to foster a sense of responsibility for the justice system rather than just a right to be involved? At a deeper level, what is the relationship between the rights and responsibilities of citizenship? And what role can be played by law and legal institutions in educating the public about the meaning of citizenship, justice and democracy? Further, with regard to the growing awareness of global citizenship, the conference tried to address issues such as immigration and mobility, identity and cultural diversity, and citizenship and democratic rights at an international level.

There are some obvious ways in which individuals are always involved with the administration of justice. Some trials have juries. Groups or individuals can take matters to a court or tribunal. People can lobby for legislative change. But these are limited potential roles, and there is scope for more involvement. There are also more subtle ways in which citizens, alone or collectively, have an impact on the course charted by the justice system. Our goal in arranging a program around the topic of citizen participation was to pursue the various ways in which the justice system facilitates, or fails to facilitate, the use of that system, and the ways in which individual citizens can become more aware of its workings, and influence its activities.

Over the three days of the Conference, judges, tribunal members, lawyers, journalists, political scientists, philosophers and others explored these topics in a number of specific contexts. Our first day was devoted to “Setting the Agenda of the Courts.” In principle, courts and tribunals can deal with virtually any area of dispute or of significance in society. As a practical matter, very few matters actually end up using the resources of the

justice system. What factors determine that selection? Why is it possible for some types of disputes to get the benefit of attention from the justice system while others cannot? To what extent do issues such as standing, availability of funding, rules of court, and other considerations, have an impact on the agenda of courts and tribunals, and therefore on the types of social change that are even capable of being brought about? Different groups in society can have legitimate goals which are not always consistent with one another. Some groups work for conservation measures, while others feel that society benefits from the efficient use of resources, and still others assert special access to particular resources for Aboriginal peoples or other groups. Balancing these interests—or even seeing what all the interests are—is not always an easy job. Further, to what extent do individuals really understand what the justice system does and how can they learn more about its workings? The various presentations pursued different aspects of these questions.

The second day considered the question of “Conflicts Between the Goals of the Individual Citizen and Society.” Some forms of conflict are obvious—it is largely because the thief does not respect the societal notion of private ownership that a criminal justice system is needed. What we hoped to pursue, however, were more subtle forms of conflict. Are all citizen’s interests adequately protected through the traditional justice system? When are the concerns of citizens better addressed by means of a public inquiry? Are Inquiries an adequate and appropriate means of protecting individual interests? To what extent are Courts and Tribunals able to react to public opinion—and should they do so at all? On the one hand it is important that the system not be out of touch with the society it serves. On the other hand it is equally important that the system be guided by principle and fairness, and not simply react to possibly ill-informed public opinion. This leads to questions about the role the media plays as a bridge between the justice system and the public. Courts and tribunals should not be oversensitive to uninformed criticism—but perhaps they have a responsibility to help inform the public. In what ways, and within what limits, can courts and tribunals work with the media to improve the public’s understanding of the role and value of the justice system in our society?

The final day considered “Canadian Citizens as Citizens of the International Community.” Too frequently, we look only to Canadian sources in considering the rights of individuals and the obligations of governments. In fact, Canada is part of an international community with obligations arising from our commitments through customary international law, treaties, and conventions. These other sources of law affect the relationship of Canada to other states, of Canada to Canadians, and of

Canada to non-Canadians. International law is potentially applicable in both courts and tribunals in Canada, and our sessions considered its use in those forums.

Finally, the conference was bracketed by fine presentations from two of Canada's leading thinkers. Judy Rebick, journalist, broadcaster and the author of *Imagine Democracy*, delivered the Keynote Address to open the conference. Her talk dealt directly with citizen involvement in the judicial system, drawing on some of her personal experiences as a lay member on the Ontario Judicial Council. She noted some of the challenges for the system in incorporating more individual involvement without simultaneously creating or ignoring other problems. Professor Mark Kingwell, philosophy professor at the University of Toronto and author of *The World We Want: Virtue, Vice, and the Good Citizen*, gave the closing address. His talk tied together themes that had arisen throughout the three days of the conference, expanding them beyond issues of what is implicit in being a citizen, successfully relating them to the more all-encompassing question of what it means to be conscious, and to be human.

We would like to thank our co-chair, Justice William Kelly, for all of his work in helping organize the conference. We also appreciate the advice and assistance we received from Justice Thomas A. Cromwell, President of the CIAJ before and during the time of the conference. Christine Robertson's handling of most of the administrative aspects of the conference was also invaluable, as was the support we received from Mary Plagakis in preparing this volume.

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