



**LCC | CDC**

Living Law | Pursuing Justice | Renewing Hope

# WHAT WE HEARD

*The Law Commission of Canada in Listen & Learn Mode*

***June to December 2024***



## Background

The Law Commission of Canada (“LCC”) is an independent and non-partisan federal agency which offers leadership and guidance on the responsible and responsive evolution of law in the lives of people across Canada. It does so through original and high-quality research exploring pressing and emerging legal issues, and through engagement initiatives bringing together a network of actors working toward law reform.

## Introduction

When the LCC officially resumed its operations in June 2023, it immediately began its formal engagement with individuals and organizations who, each in their own ways, embodied aspects of the agency’s *raison d’être*: living law, pursuing justice, renewing hope.

Through roundtables, multilateral discussions, individual meetings, larger conferences, and informal conversations, the LCC sought to develop an understanding of the law reform and justice landscape in Canada and beyond. These engagements bore many fruits: they helped to uncover issues which interlocutors considered pressing or likely to emerge on the horizon; they presented an opportunity to understand interesting initiatives already underway, so as to avoid unintended duplication and to identify potential partnerships; and the roundtables and multilateral discussions served as a site for mutually beneficial exchange, allowing participants to learn about the work and perspectives of others, and to form connections across their endeavours. *What We Heard* reports presenting an overview of key takeaways from engagements are available on the LCC website: a first for the period between [June to December 2023](#) and a second for the period between [January to May 2024](#).

This is the LCC’s third *What We Heard* report, covering the period from June to December 2024. It sets out the preoccupations, projects, and possibilities that emerged from the LCC’s engagements during that period, including: Listen & Learn roundtables with faculties of law; meetings with Parliamentarians; participation in numerous conferences; discussions with scholars interested in questions of law and justice; focus circles with subject-matter experts; and rich exchanges with members of the judiciary, public policy makers, and community organizations.

The LCC will continue to release *What We Heard* reports on an ongoing basis to keep highlighting the challenges, complexities, considerations, and creative possibilities that exist with respect to the ongoing evolution of law in Canada.

## What We Heard



## Preoccupations

Partners shared their concerns and preoccupations, as well as their hopes and aspirations:

- Indigenous legal orders and traditions are essential to Canada's wellbeing, confidence, and future. An important space exists for creative and innovative ways to share Indigenous teachings, knowledge, and law.
- While Canada has made progress on the recognition of Indigenous legal traditions, it remains confronted with a significant implementation problem, illustrated by the different responses to the Truth and Reconciliation Commission's Calls to Action and the Calls for Justice from the National Inquiry into Missing and Murdered Indigenous Women and Girls.
- A need exists to simultaneously engage in complicated and difficult conversations while building relationships.
- There is value in looking beyond formal areas of Canadian law and formal Canadian state orders, and in disrupting the notions that law only takes the form of legislation or that it is found primarily in courts.
- Public confidence in the judiciary relies on bold judicial independence and broader meaningful engagement.

- Increasing uncertainty in our world will require concrete preparation by legal professionals.
- A harmonized multijurisdictional protocol is needed for class action proceedings in Canada (e.g. mass torts).
- There is room to expand the effective education of lawyers and judges regarding youth criminal justice and procedure.
- There is a need for accessible and reliable data regarding delivery of “justice”, and for the access to justice community specifically to be thinking about who their public is.
- Individuals need services put into place in different ways in order to meaningfully access them, and service provision must be agile to meet the needs of clients and users.
- Through legislation and continuous amendments, both the *Criminal Code* and the *Civil Code of Quebec* have become increasingly de-codified or distanced from the notion of a true code of law.
- As in the criminal legal system, there is an overrepresentation of Black persons in the family law system, and an attendant need for appropriate therapeutic services and early intervention.
- New lawyers are showing particular struggles. If the law is to change for the better, there will need to be changes in the tools that are given to jurists.
- Corporations and businesses are progressively neglected by legislation, while courts increasingly service corporate entities at the expense of individual citizens.



*LCC Advisory Council member Hadley Friedland and members of the Wahkohtowin Law and Governance Lodge present at a conference held on the land of the Tsuut'ina Nation*

## Projects

Partners shared reflections based on activities, undertakings, and ventures that illustrated their commitments, responsibilities, and priorities:

- Sipekne'katik First Nation and Legal Aid Nova Scotia collaborated to open a legal aid office in October within the Nation and staffed by Mi'kmaw lawyers, the first of its kind in Atlantic Canada, representing a new model for providing direct legal services to First Nations communities while preserving their culture and traditions.
- The history of treaty relations in the Great Lakes region continues to have an important impact on today's understanding of Indigenous-non-Indigenous relations in Canada.
- Careful consideration is being given to the "who" and "where" regarding the trusted custodianship of Indigenous heritage.
- Initiatives focused on legal orders in local places and sustained through local relationships.
- Youth-centred initiatives, including opportunities for writing for youth and an institutionalized federation of youth service actors with a pan-Canadian youth advisory body, as well as a separate but related pan-Canadian Indigenous youth advisory body.
- Access to evidence is crucial to access to justice, and there is therefore a need for more effective and responsive practice vis-à-vis the establishment of proof.
- Interesting projects exist across the country (and beyond) focused on "multi-juridical legal orders". The next step is working through how and why we move forward.
- In ongoing projects involving rights and freedoms, some identifying areas have been either under-examined or subject to overly detailed and in-depth attention.
- Significant numbers of scholarly research projects are framed with conclusions that include "The Court should" or "We must define" or "In my view". This leaves obvious room for taking seriously and developing the responsibility of considering and speaking to Canadians in other ways about the functions and paths of law and law reform.
- Technological developments have led to shifting notions of self-ownership with respect to image, voice, and personal information.
- Consideration is being given to different forms and the extent of trade and human rights obligations in the context of patents and copyright legal frameworks.

- Legal education and consultation for public health officials is a constructive mechanism for strengthening the governance of public health emergencies.
- People-centred legal literacy fosters a greater responsiveness to legal needs.
- Significant efforts are being made to create integrated youth services from young people. Ontario currently counts 35 youth wellness hubs and all provinces and territories have made important commitments in this area.
- Small local organizations are frequently leading important national work, such as the African Nova Scotian Justice Institute's work to train writers of Impact of Race and Culture Assessments (a.k.a. "IRCAs") from the Yukon to Newfoundland & Labrador.
- Efforts to foster citizens' participation in democratic institutions are essential to maintain the public's confidence and trust in these institutions, and to ensure institutions continue to evolve with the members of the society which they serve.



*Listen & Learn roundtable at l'Université de Montréal's Faculty of Law*

## **Possibilities**

Potential intersections and implications relevant to the LCC's work, in the form of reminders, advice, and potential directions to explore, emerged:

- The LCC can be a connector, especially to support the challenging processes of implementation of Indigenous law.
- Work must be done within Canadian legal institutions to understand and work with Indigenous legal orders.

- There is a need to take on the hard question of the relationship between Canadian treaty obligations and provincial law, including clear and supportive guidance.
- Whether on an international or local level, navigating legal orders and their multiple layers is the most important – if challenging – work to do.
- Jurists across the land should look beyond Canada to understand other ways of thinking about law.
- The LCC could take on a curatorial role in stewarding public conversations about difficult and emerging questions or issues, nimbly orchestrating or choreographing connections between people and organizations.
- Education and outreach to the Canadian public is core to law reform. Research work and papers should be anchored in concrete contexts.
- The LCC should explore in a creative and expansive way what law could or should mean for people in their everyday lives.
- The LCC could create a meaningful youth space within its programs, potentially by contributing to understanding and knowledge among Canadian youth regarding law, ways in which youth can exercise power and agency within legal systems, and the intersections of law and legal literacy with health, education, and social services.
- The LCC should consider how to connect its work to support for increased and innovative public and democratic participation, including by demonstrating and encouraging interest in the nature of the Canadian state and its constitutional architecture.
- In focusing on prisons in Canada, the LCC might explore if and how prisons deliver on the promises they make to the public.
- Law reformers should adopt a curious, open approach to a broad spectrum of modes of talking about, illustrating and playing a role in changing law.
- The legal community's present preoccupation with law and technology may create a particular need to remain attentive to access to civil and family justice.



To share any feedback with the LCC, please contact [feedback-retroaction@lcc-cdc.gc.ca](mailto:feedback-retroaction@lcc-cdc.gc.ca)



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