



David Asper Centre for Constitutional Rights
UNIVERSITY OF TORONTO

STRATEGIC PLAN

2014 – 2019

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INTRODUCTION

The David Asper Centre for Constitutional Rights is a centre within the University of Toronto, Faculty of Law devoted to advocacy, research and education in the area of constitutional rights in Canada. The Centre was established in 2008 by the generous donation of David Asper and was officially launched in early September 2008. It houses a unique legal clinic that brings together students, faculty, members of the bar and other advocates to work on significant constitutional cases and advocacy projects. It is the only Canadian centre in existence that attempts to bring constitutional law research, policy, advocacy and teaching together under one roof.

David Asper's stated motivation in making his donation to the Faculty of Law was to enhance access to justice for people whose constitutional rights have been violated. Access to justice and social justice are clear themes that have motivated the advocacy work of the Centre over the last 6 years. The Centre defines these themes more specifically as access to constitutional rights. These values are reflected in the Mission and Strategic Goals of the Centre.

In 2008, the Centre prepared an inaugural Strategic Plan that aimed to establish the foundation goals of the Centre. In our review, conducted 5 years later, we note that the goals expressed in the original plan remain relevant to the work that we are doing. We also are quite proud of the fact that we have made great strides in relation to each of those goals to the extent that we have accomplished much of our initial vision. This strategic plan review thus reinforces those original goals and sets a somewhat modest tack of staying the course. Our original goals were and remain quite ambitious. There is still much work that can be done to further each of those goals and continue to strive for excellence in respect of constitutional advocacy, research and education.

In the review past students were consulted through an online questionnaire about why they enrolled in the clinic and what they got out of it in terms of school and subsequent legal career, while current students participated in an in-person consultation with the Executive Director. On November 5, 2013, we celebrated our 5th Anniversary through a symposium for which Nathalie Des Rosiers gave a keynote address that provided useful commentary on our work to date and on our role in an academic institution, as well as thoughts on our unique perspective for the advocacy work to be done in the next 5 years. On April 21, 2014, a strategic planning review session was conducted with the Advisory Group, our Constitutional Litigator in Residence and the Executive Director. This session considered this background information and ultimately reaffirmed our original goals. The specific recommendations from this session helped to develop some key operational goals that will establish the Centre's priorities for the next 5 years.

A guiding principle for the Centre's advocacy work is access to constitutional justice, in particular in relation to vulnerable individuals and groups. The Centre will continue to target advocacy work that is consistent with that principle. We are also keenly aware that as a Centre that does not represent a particular group or constituency, we must be sensitive to the implications of the positions that we take on those marginalized in our justice system. Playing to our strengths means that we continue to ground our advocacy in the scholarship of our Faculty. Through partnerships with other organizations and collaborations with coalitions of advocacy groups, we can ensure that we are involved in the most appropriate cases in the most appropriate way.

CENTRE MISSION, VISION AND VALUES

Vision Statement

Sophisticated awareness, understanding and acceptance of constitutional rights in Canada.

Mission

Realizing Constitutional Rights through Advocacy, Education and Academic Research.

Values

The Centre's ideals are those of the *Canadian Charter of Rights and Freedoms*. It will be guided by the following values in its work:

- **Excellence:** the Centre is committed to high quality academic research, intellectual engagement, and intellectual rigour as the foundations for all of its work.
- **Independence:** the Centre's location within an academic institution provides the basis for trust, integrity, and intellectual freedom and diversity.
- **Diversity:** the Centre is committed to diversity in its interaction with community organizations and groups and to intellectual diversity in its work and approach to legal analysis.
- **Innovation:** the Centre seeks to shape the direction of constitutional advocacy, to be flexible in order to respond to emerging constitutional issues, and to use the *Charter* to transform Canada's legal and policy landscape.
- **Access to constitutional rights:** the Centre seeks to promote access to constitutional justice and human rights for vulnerable individuals & groups.

STRATEGIC GOALS AND DIRECTIONS

ADVOCACY GOAL

To make a significant and scholarly contribution to the quality of constitutional rights advocacy in Canada.

Objectives:

- To play a central role in significant constitutional litigation.
- To play a key role in other forms of advocacy that may involve policy work and public education activities.

Commentary:

The Centre has clearly had an impact on constitutional litigation over the last 5 years. It is now recognized as an intervener on its own at all levels of court and in particular, in 13 cases before the Supreme Court of Canada. One clear example of its impact is the adoption of the Centre's arguments on the issue of *stare decisis* in the *Bedford* case by the Supreme Court. While the Centre no longer needs to partner with other organizations to gain recognition by the courts, its stature may now be of assistance to other groups in such partnerships. For example, the Centre has partnered with LEAF in a recent case that allowed that organization to participate in an important s.15 case that it might otherwise not have the resources to do. Partnership may also be advantageous to assist groups bringing cases from the ground up. Supreme Court of Canada interventions are an elite enterprise – the ground level cases are more fundamental and are essential to further constitutional rights in Canada. We should seek to play a role in supporting this type of work.

Policy work was identified as an area that the Centre could develop a greater presence. While some of this work has been done, there is an opportunity to engage faculty members more in this type of advocacy based upon their areas of expertise. This will complement the other goals through showcasing the work of faculty members and educating both students and the broader public about the application of the Charter in broader public policy.

Operational Goals:

- Continue to develop appropriate advocacy projects, in accordance with selection criteria, for students in clinical legal education course and working groups through consultations with the private bar and non-governmental organizations.
- Continued involvement in appropriate interventions at appellate level court (independently or in partnership to support other organizations).
- Develop diversity of advocacy projects to include policy, legal reform and support to trial level constitutional challenges.
- Representatives of the Centre, including students, faculty and the executive director to make representations before government committees in respect of proposed legislation or policies affecting constitutional rights.
- Centre to be able to work on constitutional cases from the ground up through support of groups putting together such cases with faculty expertise and support of the students.

RESEARCH GOAL

To be the expert resource on constitutional rights in Canada.

Objectives:

- To showcase the innovative research of faculty members.
- To facilitate the research of the faculty and others through the provision of materials, commentary and analysis.
- To serve as a critical resource for information on and in-depth analysis of constitutional rights advocacy in Canada.

Commentary:

A fundamental objective of the Centre is to bring together the research conducted by faculty members and the other activities of the Centre where appropriate. For example, it is a requirement of our case selection criteria that there be internal expertise within the Faculty to assist the students and the clients or partners in the work of the case. It is also the Centre's aim to encourage and support research to the extent possible. The Centre needs to build the capacity to enhance its research and reputation. The task of linking the Centre with the research of faculty members requires collaboration and encouragement within the Faculty community with the aid of the Executive Director and the Advisory Group.

The communication strategies of the Centre also serve to highlight research taking place at the Faculty. The website will be enhanced to include topic specific pages on constitutional law that will highlight the work of faculty and be hub for information about the leading constitutional issues in the country. Students will be engaged to research and upload the relevant resources. Topics will include the prostitution legislation (with links to our work on the Bedford case) as well as privacy rights, physician assisted death (to link with the Carter appeal) and mandatory minimum sentencing laws and appeal. We will continue to provide updates of lower court constitutional decisions from across the country, Supreme Court facta data bank (to focus more on past cases now that the Supreme Court posts all facta) and promotion for workshops and conferences hosted by the Centre. Student participation in the site, through creation of content or publication of their papers, will assist in the capacity of the site

The Centre has had great success in publishing papers from its past two yearly symposia in the National Journal of Constitutional Law. We hope to continue this relationship with each yearly event. The papers have come from both academics and practitioners and contribute to our goal of integrating practice and scholarship. We will also explore the possibility of creating an online peer reviewed journal over the coming year to see if there is a market for it.

Operational Goals:

- Continue to hold yearly constitutional symposia on focused topics, such as the interplay between s.7 and s.15 of the Charter (the theme for 2015).
- Enhance the website to provide a more prominent forum to showcase the work of the Faculty.
- Explore the feasibility of an online peer reviewed journal.
- Encourage students to integrate clinic work with research for complementary courses.
- Successful SSHRC or other research funding application respecting constitutional rights (e.g. privacy rights and surveillance with Professor Lisa Austin).
- Increase capacity for research through fellowship or research director.

EDUCATION GOAL

To increase awareness, knowledge and acceptance of constitutional rights in Canada.

Objectives:

- To be a model of excellence for constitutional advocacy teaching and for the training of the next generation of constitutional lawyers.
- To provide a range of educational opportunities in respect of constitutional rights for law students, the profession and the public.

Commentary:

The clinical course is a major vehicle for providing practical education in respect of constitutional rights within the law school, particularly to law students. Graduates of the clinic have indicated in an online survey that one of the key reasons for taking the clinical course was to increase their substantive knowledge of constitutional law. The clinic offers students the opportunity to engage in constitutionally based rights advocacy, including but not limited to litigation, but enhances substantive knowledge of constitutional law through the specialized work that the Centre does in its interventions. The clinical program offers a graduated selection of increasingly sophisticated opportunities including workshops and working groups with high quality projects to accommodate meaningful participation. The program has for 3 years successfully implemented the Constitutional Litigator in Residence program to increase opportunities for students to interact with leading constitutional lawyers.

The Centre is now the organizer of the Constitutional Roundtable for the Faculty, successfully pulling together a mix of academics and practitioners for a diverse selection of workshop topics. The aim will be to further integrate the faculty's own research in constitutional law into the Constitutional Roundtable to showcase this work in addition to that of visiting scholars and practitioners. In addition, the annual symposium has become a forum for presentation and publication of sophisticated analysis of constitutional law.

Operational Goals:

- Continue to support working groups of student volunteers to enhance student participation in the Centre.
- Explore additional opportunities for student learning & engagement through student events (e.g. paper presentations), web site contributions, newsletters and public legal education.
- Constitutional Roundtables to continue with 5-6 session each year, papers to be made available online.
- Continue to supervise Wilson Moot and integrate this task with the work of the Centre.
- Student internships established during the summer months on a regular basis.
- Be involved as a leading force in public legal education about constitutional rights, through engagement of students and faculty in public education projects and use of media such as the Centre's website.