



Community Legal Clinics in Ontario:

Ensuring access to justice



Association of Community Legal Clinics of Ontario

A Clinic Story: Jason

Jason (not his real name) lives with schizophrenia. He graduated from community college but could not hold a series of jobs, due to the effects of his illness. At the age of 24, Jason applied for financial assistance from the Ontario government. His application was rejected.

A Community Legal Clinic lawyer worked with Jason and his family to secure the necessary supporting evidence of disability from doctors, teachers, and counsellors. She successfully guided Jason through the appeal process, and he was granted a modest level of financial assistance. With the help and support he needed, Jason's confidence was restored and he landed, and has kept, a part time job. Now that his most basic needs are being met, Jason's situation has stabilized and he is better able to manage his disability and manage in society.

Justice for All: Community Legal Clinics in Ontario



One measure of a society's civility is how well it cares for those who are most vulnerable. Community Legal Clinics across the province are helping to build a fair and equitable society by protecting and promoting the rights of low-income Ontarians. Whether supporting a client who has been unjustly evicted from her apartment, or arguing landmark cases in the Supreme Court of Canada on behalf of hundreds of thousands of affected citizens, Community Legal Clinics fight for justice for all Ontarians, and particularly for those who cannot afford counsel.

Ontario's former Attorney General and Chief Justice, The Honourable R. Roy McMurtry put Community Legal Clinics in perspective when he said:



“ Legal Aid, and, in particular, community law, is perhaps the single most important mechanism we have to make the equal rights dream a reality. ”

- Roy McMurtry

There are more than 75 Community Legal Clinics in Ontario, each with their own boards of directors. They serve the most vulnerable in society in those legal areas most critical to low-income Ontarians, like access to housing, education, health care, income protection, and pensions, to name just a few. Beyond representation, the clinic staff also educates low-income clients about their rights, engages in law reform and community development initiatives, and steps beyond the traditional lawyer-client model to achieve change that affects the entire low-income community.

What are Community Legal Clinics?

Community Legal Clinics are independent, non-profit agencies governed by boards of directors duly-elected from and by the community. Most clinics serve a particular geographic area. In fact, every community in Ontario is served by a clinic. There are also specialty clinics for specific groups including disabled Ontarians, injured workers, and seniors. In other words, these legal clinics fight to protect the rights of those least able to defend themselves. Each clinic identifies the most pressing legal needs of the community and then provides services to meet them. Simply put, the clinic system is all about people helping people in their own communities.



Who do Community Legal Clinics serve?

Community Legal Clinics serve the most vulnerable, who, usually through no fault of their own, have been pushed to society's margins — single mothers, recent immigrants, people of colour, victims of abuse and torture, elderly Ontarians, and those living with physical and mental disabilities, among many others.

What services do Community Legal Clinics provide?

The clinics offer a broad range of legal services reflecting the needs of the community and the social inequities confronting low-income Ontarians. Specifically, clinics offer legal representation in courts and tribunals, legal advice, referrals to other sources of assistance, and public legal education. In addition, the clinics participate in and often lead law reform initiatives, develop self-help kits and materials, and undertake community organizing and development. In short, the dedicated staff of Community Legal Clinics advocate on behalf of those living in difficult circumstances.

How do Community Legal Clinics work?

The clinics across the province receive most of their funding from Legal Aid Ontario and operate on small, fixed budgets. The funding is never enough to meet the demands of the community so the clinics devise creative and innovative approaches to stretch their budgets to serve the growing needs of clients. Community Legal Clinics employ a dedicated team of lawyers, community legal workers, paralegals, and administrative staff. Through public legal education, community development initiatives, test cases and law reform, clinics can change the lives of thousands of Ontarians. By working with other grass roots community and legal organizations, the clinics' modest resources yield significant benefits.

Test Case Litigation: Human Rights

In 1999, the Sudbury Community Legal Clinic represented two clients, Mr. Werbeski and Mr. Tranchemontagne, on separate applications for benefits under the Ontario Disability Support Program. Both clients had been denied benefits on the basis of their particular disabilities. The Sudbury Legal Clinic appealed these cases to the Social Benefits Tribunal (SBT), where clinic lawyers, with the assistance of the Clinic Resource Office, argued that the denials were a violation of the Ontario Human Rights Code. The SBT refused to accept this argument in either case, claiming it had no jurisdiction to even consider the Human Rights Code. The Clinic appealed the decisions to the Divisional Court of Ontario, where the SBT's position was upheld.

The Sudbury Legal Clinic then took the Tranchemontagne-Werbeski case to the Ontario Court of Appeal where interested intervenors joined, including other community clinics, and the Ontario Human Rights Commission. The Court of Appeal ruled that the SBT did have jurisdiction to hear human rights arguments but that it was within its rights to refuse as the issue was better-suited to the Human Rights Commission.



So, a further appeal was undertaken to the Supreme Court of Canada where still more intervenors received standing, including the Canadian Human Rights Commission. The Supreme Court finally ruled in 2006 that not only the Social Benefits Tribunal, but any Tribunal that has the power to determine questions of law has the duty to apply the appropriate human rights legislation unless specifically forbidden by their governing legislation. As a result of the Supreme Court's decision, other Tribunals like the Workplace Safety and Insurance Appeals Tribunal and the Landlord and Tenant Board decided to develop policies and guidelines for dealing with human rights issues.



After ten years, the tireless efforts of the Sudbury Community Legal Clinic, working collaboratively with other community clinics and the Clinic Resource Office, led to a Supreme Court decision that has expanded the scope of Human Rights protections for all Canadians.



Here's a quick look back at some of the work of Community Legal Clinics.

Rent Control and Tenants' Rights

In the mid-1970's, community clinics worked closely with tenant groups across the province of Ontario to push for improved rights for tenants. These coordinated efforts, which included casework, community development and lobbying, finally led to legislation that restricted evictions and created rent controls on most apartment units in the province. These legislative changes significantly improved the rights of tenants in Ontario. However, in 1979, a new law (the Residential Tenancies Act, 1979) was enacted which significantly watered down these hard-won rights, and moved the protection of tenants' rights out of the courts. Ontario's clinics reviewed this new law and decided that it was unconstitutional. Clinic staff worked with private bar lawyers and academics to make this argument at the Ontario Court of Appeal and the Supreme Court of Canada. Both Courts agreed and struck down major sections of the new law, preserving significant tenants' rights for many years.

Looking back...

In the late 1960s and early 1970s, there was a growing recognition that the legal needs of disadvantaged groups and low-income Ontarians demanded a collective and collaborative response, rather than the traditional case-by-case representation. Led by social activists and anti-poverty advocates, the first Community Legal Clinics were established. The legal needs of the working poor and the disadvantaged are often complex, interconnected, and sustained. As well, the stakes tend to be high. If a government cheque doesn't arrive, or a dispute with an employer arises, interrupting payroll, often the rent cannot be paid. The need for an independent, community-based advocate was clear, and still is.

Social Assistance Reform

In 1988, George Thomson, chair of the Social Assistance Review Committee (SARC) concluded three years of consultations, research, and deliberations with the landmark report, *Transitions*. It changed the face of social assistance in Ontario. Community Legal Clinics across Ontario made submissions, mobilized low-income advocacy groups to participate in the historic process, and helped to shape the positive outcome. The systemic changes achieved through *Transitions* included more reasonable eligibility restrictions, a fairer appeal process, and allowing social assistance recipients to retain a portion of their employment earnings when they found jobs.

Refugee and Immigration

In the mid 1990s, three Ottawa Community Legal Clinics commenced an action in Federal Court to help thousands of Somali refugees secure permanent resident status in Canada. The Immigration Act required that applicants hold a valid passport. Without a functioning government in Somalia at the time, there was no state authority to issue passports. This left the Somali refugees stuck between two countries in a state of limbo. They were unable to work, attend university or be reunited with their families. The legal action brought by the Community Legal Clinics asked the Federal Court to declare the passport provision unconstitutional, as it violated the rights of Somali refugees to equality under the Charter. After several years of litigation, the Federal Court agreed that refugees could present alternative means of proving their identity. Because of this landmark decision, similar provisions were incorporated into the Immigration and Refugee Protection Act when it was adopted in 2002.

Workers Compensation

In the mid 1990s, the Ontario Network of Injured Workers Groups (ONIWG) and several Community Legal Clinics challenged overly restrictive criteria for determining loss-of-earnings supplements owed by law to injured workers as part of their permanent partial disability pensions. A campaign was organized that included a large public meeting of injured workers, formal submissions to, and meetings with, senior workers compensation officials and the Minister of Labour, and a presentation to the Royal Commission reviewing workers compensation in Ontario. The Workers Compensation Board (as it was then known) responded by announcing a special review that resulted in supplements for an additional 20,000 permanent disability pensioners. ONIWG calculated that the campaign resulted in more than \$100 million in additional annual workers compensation benefits for the most disadvantaged injured workers, many of whom would otherwise have been shifted onto social assistance.

Poverty Reduction in Ontario

The Income Security Advocacy Centre (ISAC) is a Community Legal Clinic and a founding member of the 25 in 5 Network for Poverty Reduction, a multi-sectoral coalition working to reduce poverty. ISAC and other like-minded organizations decided in 2007 to pursue a comprehensive poverty reduction strategy as part of the broader fight for social and economic justice in Ontario. In September of that year, the 25 in 5 Network held its first news conference. More than a year later, after months of lobbying, organizing, and media relations, the Ontario government unveiled its Poverty Reduction Strategy in December, 2008. Two months later, in February, the government introduced Bill 152: The Poverty Reduction Act. ISAC appeared before the legislative standing committee reviewing the legislation and delivered written submissions. Ultimately, the government adopted many of the amendments ISAC and the other organizations in the 25 in 5 Network had proposed. In May, 2009, the Poverty Reduction Act was passed unanimously by the Ontario Legislature. This was a significant victory for all of the groups involved as it changed the face of the poverty debate in Ontario. Poverty began to be considered a systemic challenge requiring a concerted response from government.



A Clinic Story: Laura

Laura (not her real name) came to her local Community Legal Clinic after she had been denied Ontario Disability Benefits. She had been diagnosed with bipolar disorder, post-traumatic stress arising from a bad marriage, migraines, and chronic pain from fibromyalgia and arthritis. Facing a shoplifting charge, and struggling with drug abuse, her psychiatrist would not start treatment for bipolar disorder until Laura was off drugs. The clinic was concerned that Laura's substance abuse might wrongly be considered in determining whether she was in fact disabled, even though a regulation specifically precludes this. A Human Rights challenge was filed.

“ Having the clinic believe in my case and support me through it all helped me take charge of my own life. ” - Laura

The hearing was held in December 2008. While awaiting the decision, Laura entered a drug treatment program and began psychiatric treatment. The Tribunal found that she was entitled to Ontario Disability Benefits based on her medical conditions. The benefits allowed her to rent an apartment, attend support groups and turn her life around.

Test Case Litigation: Chronic Pain

Injured workers groups have always believed that chronic pain should be treated by workers' compensation boards like other workplace injuries or illnesses. However, in Nova Scotia chronic pain was not recognized as a permanent disability like other workplace injuries. Therefore, affected workers were only eligible for treatment and compensation for eight weeks. This regulation was challenged, but was upheld by the Nova Scotia Court of Appeal. It was then appealed to the Supreme Court of Canada.

Ontario Community Legal clinic lawyers represented the Ontario Network of Injured Workers and were granted standing in the Supreme Court case. In December 2002, clinic lawyers argued before the Supreme Court that treating chronic pain differently from other medical conditions was discrimination and contravened the Charter of Rights. So many injured workers from across Ontario converged on Ottawa to support the appeal that some had to watch the proceedings via close circuit television in an adjoining room.

The Supreme Court agreed with the clinic lawyers and struck down the Nova Scotia regulation. This landmark decision confirmed the right to equality before the law of people living with chronic pain across Canada.



Protecting and Promoting the Community Legal System



Throughout its history, the community legal system has served the legal needs, not just of individual low-income and disadvantaged clients, but of entire groups of similarly affected Ontarians, be they injured workers, single mothers, tenants, or migrant workers. The clinics identify, assess, and confront the specific legal challenges in each community they serve. They are flexible, collaborative, efficient, and dedicated in their pursuit of justice and equality.

An ounce of prevention is worth a pound of cure. This axiom holds true in law as well. Community Legal Clinics have always understood that supporting enlightened social policy and progressive legislation is a better way to ensure justice than seeking to redress injustice after the fact. This has been achieved by addressing the root causes of poverty through law reform, community development, and test case litigation, among other measures. These approaches must be sustained if clinics are to ensure not only access to justice, but justice itself.

Legal Aid Ontario has funded Community Legal Clinics in recognition of the value the clinics bring to those they serve. Successive governments have supported this funding and the independence of the clinic system even though provincial ministries and agencies are often parties to clinic litigation. Protecting the integrity and independence of the justice system, a mainstay of democracy, is crucial.

However, Ontario has changed dramatically since the early years of the clinic system. The volume, diversity and complexity of cases have grown as Ontario society has evolved. Clients today often arrive at clinics with not just one, but a cluster of legal problems that could be related to housing, social assistance, the workplace, or immigration. Compounding this reality is the ever-widening gap between the well-off and the poor, and persistent inequality.

In short, the demands placed on Community Legal Clinics are greater than ever before. The clinic system helps to ensure that those Ontarians in need are not relegated to the margins of society. Today, more than ever, there is an urgent need for the work community clinics undertake.





A Clinic Story Full Circle: From client, to board member, to staff

I was born and grew up in Guyana where I obtained both my formal and higher education. I worked in private practice as an Income Tax Consultant and Accountant. I came to Canada in January of 1996. It took me almost ten years before I became a Permanent Resident. The struggles with Citizenship and Immigration Canada were daunting, but it was the Community Legal Clinic System that came to my rescue. The clinic represented me in my application to remain in Canada on humanitarian and compassionate grounds. The persistence and hard work of the entire legal fraternity of the East Toronto Community Legal Services (ETCLS) eventually got me landed.

During that ten year period I did continuous volunteer work for the ETCLS, which enabled me to make a significant contribution to the operation of that clinic. Eventually, I accepted a part-time Support Staff contract position at the ETCLS where I worked from January 2006 until August 2007. In August 2007, I applied for the vacant Office Manager position at West Scarborough Community Legal Services and have been working there since.

- Dhaniram Rampersaud

“ I have advocated your community clinic model as the best in the world for the delivery of poverty law for very nearly 20 years since I first came here. Nothing that I have seen since causes me to change my mind. ”

Roger Smith, OBE
Director, Justice UK