



UNIVERSITY OF
TORONTO
FACULTY OF LAW

The David Asper Centre
FOR CONSTITUTIONAL RIGHTS

STRATEGIC PLAN

2009 - 2014

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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, with an Opening Colloquium with leading scholars and practitioners in constitutional law: *Litigating the Charter in the 21st Century*. 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 come up in public statements and consultations with the donor and prominent members of the constitutional bar. 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.

This strategic plan has been created with input from numerous consultations conducted over the Centre's first year of operation. The Executive Director has met individually with members of the constitutional bar and the NGO community. A working dinner was held in early September 2008 with members of the constitutional bar and the constitutional faculty to elicit ideas for the operation of the Centre. Over 60 students were consulted through a questionnaire on their preferred method of participation in the Centre and all of the students who were part of the initial clinical legal education course were interviewed. On April 23, 2008, a strategic planning session was conducted with the Advisory Group and the Executive Director with student participation and input from another program director within the faculty. The goals set out herein are the culmination of this participatory process and will establish the Centre's priorities for the next 5 years.

The realization of the goals of the Centre will ensure that it makes a profound contribution to the knowledge and acceptance of constitutional rights in Canada on a practical level. Within the Faculty of Law, the Centre will be facilitative of the research taking place by providing a forum for its public dissemination through the website, print publications, workshops, conferences and symposia. As a Centre it brings together the three avenues for realizing constitutional rights, so that students and faculty members can participate in the Centre's advocacy and educational efforts, and combine theory and practice. Thus, it will also serve as a way to bring the private bar, and to some extent the public, together with the Faculty of Law in collaborative projects and public education.

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 also provides an important educational role in respect of constitutional rights for the general public, as demonstrated by the recent workshops on constitutional democracy. The exercise of democratic rights can help to serve such social and access to justice aims within the framework of the rule of law. Whereas the aim of research in the area of constitutional law need not necessarily relate directly to the more specific advocacy projects of the Centre, it could fulfill the broader goal to increase understanding and awareness of constitutional rights.

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 aims to build upon the scholarly excellence of the Faculty of Law to be at the forefront of legal thinking and through its advocacy work to use the law innovatively to enhance access to constitutional rights. One long term advocacy goal of the Centre is to be able to play a central role in significant constitutional litigation through partnerships with the private bar (at earlier stages), to representation of intervener groups, to intervening in its own name (once its expertise and reputation is established) and finally to developing cases from the ground up (once sufficient resources are developed). The advocacy work of the Centre will be grounded in the scholarship of the Faculty and seek to make innovative contributions to the constitutional rights discourse. The cases chosen will be consistent with the guiding values of the Centre and start from the perspective of access to constitutional justice in order to build a reputation and identity, given the breadth of the Centre's overall approach to constitutional rights. The challenge is to manage expectations, especially for those outside groups who need support, given resource limitations. We will engage in advocacy and litigation projects in a cost-effective manner, including interventions and non-litigation-type projects (such as research, fact-finding, submissions to government, etc.), along with providing research and strategic support to larger litigation projects.

Policy work can begin now and requires collaboration between the clinic and faculty members who have expertise. Policy work will facilitate the growth of the Centre's reputation in respect of constitutional rights in its broadest sense, without it appearing to lack direction in its advocacy work. The work also involves consultation with community groups and the private bar to identify particular issues that need attention. Collaboration with organizations such as the Law Commission of Ontario, Canadian Bar Association, and public interest organizations with particular points of view or expertise will assist to generate projects appropriate for the Centre.

Short Term Operational Goals (within next 12-24 months):

- 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.
- Involvement in appropriate intervention at appellate level court (initially in partnership with other interveners, moving toward independent recognition).

- Develop diversity of advocacy projects to include policy, legal reform and public education (e.g. policy briefs presented to standing legislative committees, written submissions and reports on constitutional issues, public education projects which engage law students in their deliverance).

Long Term Operational Goals (within 3 to 5 years):

- 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 recognized as a valued intervener in test case constitutional litigation.
- Centre to be able to work on a constitutional case from the ground up and be principle counsel 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. Publishing on the website or presenting as part of a Centre-sponsored forum will provide profile for the work of the faculty members. Plans for the website include a blog, an update of lower court constitutional decisions from across the country, Supreme Court facta data bank, publication of the Centre's working paper series 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 is committed to producing a working paper series with a focus on practice issues in constitutional law beginning with the role of interveners in constitutional litigation. To further the aim of integrating the three pillars of our mission, the Centre will facilitate collaboration between constitutional experts in private practice

and faculty members in respect of papers to be published on the website or presented at its conferences or workshops.

Short Term Operational Goals (within 12-24 months):

- Support and promote research conducted re. interveners through website and symposium.
- Develop working papers as part of the intervener symposium and other workshops.
- Encourage students to integrate clinic work with research for complementary courses.
- Utilize website to disseminate papers by students, faculty and private bar.
- Deliver own papers for constitutional related conferences or publications (e.g. Osgoode *Charter* conference).

Long Term Operational Goals (within 3-5 years):

- *Charter* litigation or similarly themed book.
- Working paper series continues and thrives; includes collaboration between private bar and faculty.
- Once yearly symposium on in-depth constitutional law topics (e.g. Social Science Evidence in *Charter* Litigation, Access to Constitutional Justice, the Role of International Law in *Charter* & Human Rights Advocacy in Canada (possible partnership with IHRP)).
- Faculty research utilized in the advocacy work of the Centre.

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. The aim of the clinic is to offer students the opportunity to engage in constitutionally based rights advocacy, including but not limited to litigation. As the constitutional rights advocacy centre for the Faculty, the clinic will provide the students with high quality opportunities to work with faculty and members of the private bar on significant and innovative advocacy projects that meet the goals of the Centre. The clinical program offers a graduated selection of increasingly sophisticated opportunities including workshops and working groups with high quality projects to accommodate meaningful participation.

Thus far the Centre's workshops and conferences have been very well attended by the law school community and to an even greater extent by practitioners, alumni and the greater university community. To maintain this interest and to uphold the values of innovation and diversity, the Centre will seek to differentiate itself from existing conferences that provide a general survey of the current law, by providing a more in-depth focus on particular issues in constitutional advocacy. The Centre will utilize its unique ability to pull together high level discussions in a very timely manner – responding to developments in a proactive and immediate way.

Public education will initially involve partnerships with an organization outside the law school such as OJEN or LAWS within the school. Current professional legal education includes participation in outside conferences such as the Ontario Bar Association and the Osgoode Hall *Charter* conferences. In addition, the Centre executive director is participating in Law Day activities that promote the *Charter* to high school students. In the long term, the Centre will seek to become a leading force in public education and public engagement in respect of constitutional rights in Canada.

Short Term Operational Goals (within 12-24 months):

- Establish working groups of student volunteers to enhance student participation in the Centre, commencing in the fall 2009.
- Explore additional opportunities for student learning & engagement through student events (e.g. paper presentations), web site contributions, newsletters and public legal education.
- Interventions Symposium in Fall 2009; to be followed by similar event in 2010.
- Additional workshops to be scheduled in consultation with Advisory Group and Faculty members that focus on constitutional litigation and linkages between that and the research conducted at the Faculty (possible topics include commentary on *Grant* and *Harrison* cases when they are released, use of class actions in constitutional advocacy, advance costs in *Charter* litigation, “post-mortems” on significant constitutional cases such as *R. v. Kapp*, *Gosselin*).
- Web site to be launched and to engage students, faculty and private bar in developing content.
- Collaboration with other program directors on education of law students on professionalism and ethics in their volunteer and credit work for clinics and programs related to the Faculty.
- Supervise Wilson Moot and integrate this task with the work of the Centre.
- Plan to collaborate on public education with appropriate groups such as OJEN and LAWS to provide legal education about constitutional rights to a broader public.

Long Term Operational Goals (within 3- 5 years):

- Student internships established during the summer months on a regular basis.
- One fellowship for graduate work with the Centre.
- Fellowship/secondment on rotating basis with the private bar for 4 month placement with the Centre to work with students and assist with litigation.
- 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.