

COMPASSION IN THE TIME OF COVID-19

By Elisabeth A. Sadowski*

The COVID-19 pandemic has impacted the entire world, affecting everyone from the most vulnerable populations to members of the most established professions.

Lawyers in B.C. are transitioning to a new normal even as some return to their familiar, physical offices. Their families (especially if they are working parents or caregivers for elderly family members), friends, neighbours and colleagues are at the forefront of their thoughts, as they adapt to new technologies, deal with high stress in servicing clients and keep up with any billable hour targets.

The broad impact of this pandemic will not be fully understood for decades. Nevertheless, the strains placed on lawyers and the marginalized individuals who often rely on our support are evident. Central to the social upheaval of the pandemic is exacerbation of limitations on access to justice and the compromising of countless organizations and volunteers and the financial backing on which they rely.

As lawyers, even as we face new challenges and an ever-changing professional landscape in the upcoming months, we must not lose sight of the importance of contributing. We need to support each other, our legal community and our community at large (including our justice system) with compassion. This approach will benefit those around us and, in turn, ourselves.

In writing this article, I interviewed a number of leading legal professionals who have found new ways to adapt and continue to contribute to our communities through the pandemic, including Beverley McLachlin, former Chief Justice of the Supreme Court of Canada. McLachlin believes that “the judicial system was operating on the margins, being underfunded and understaffed, specifically with respect to legal aid and backlogs in our court system. The justice system should be able to withstand unexpected stressors or else it collapses. We need a system, after this pandemic, which has more resilience.”

* The author thanks all contributors, especially Beverley McLachlin, former Chief Justice of the Supreme Court of Canada, who graciously agreed to be interviewed for this article.

OUR ROLE AS LAWYERS

McLachlin adds that “lawyers are officers of the court, and when they’re admitted to the bar, they have a fundamental responsibility to uphold our justice system.”

Last year, I wrote an article for the *Advocate* entitled “It’s Never Too Early to Start Giving Back”,¹ which summarized the reasons why young lawyers should contribute to legal and local communities and how they can do so. A year and a half later, we are living in a much different world with a much greater need, but as lawyers, our message and responsibilities remain the same. I argued that “given the relative privilege that our profession confers on us, there are both an ethical imperative and a host of practical reasons to contribute to the legal community and the community at large.”²

Understandably, lawyers today face growing personal and professional pressure, but we must consider our wider role as lawyers in society. Derek LaCroix, Q.C., the executive director of the Lawyers Assistance Program of BC, reminds us that “as lawyers, we owe it to our community to contribute, and we are a vital part of the community.”

Jeevyn Dhaliwal, Q.C., an elected bencher of the Law Society of British Columbia and chair of the Credentials Committee and the Equity, Diversity and Inclusion Advisory Committee, echoes the sentiment that we are privileged by virtue of our profession, and society is only as good as those who contribute to it selflessly. After the pandemic has dissipated, Dhaliwal hopes that we will continue to prioritize both personal connection and our communities.

THE BENEFITS OF CONTRIBUTING DURING A PANDEMIC

Even during this stressful time, upholding our justice system is paramount and can be best achieved by contributing to both our local and our legal communities. Although some may seek to dim the importance of these contributions in comparison to competing initiatives of government, we still need to prioritize the justice system. McLachlin acknowledges this: “We need to fight hard for the court’s justice system ... We’re not going to be able to have a just country and the kind of country that we want for our children without it.”

Being Connected to the Public Benefits Our Judicial System

A crucial part of contributing to our communities is engagement with the public, which helps maintain the trust and confidence in the profession and the larger “system”. According to McLachlin, “It’s in a lawyer’s interest to contribute to their legal and local communities ... We need the public to support the justice system or the repute of the justice system will go down.”

While there are powerful personal and professional obligations to get involved, contributing also helps us stay in touch with society as a whole. Ruth Bader Ginsburg, Associate Justice of the Supreme Court of the United States, was asked during her 1993 Senate confirmation hearing how she stayed in touch with individuals with “real problems”. She responded: “One of the things that I have done every other year with my law clerks ... is to visit the local jail ... to expose myself to those conditions, and also for my law clerks. Most of them will go on to practice in large law firms specializing in corporate business, and won’t see the law as it affects most people. That is one of the things I do to stay in touch.”³

Bettering Our Mental Health

It remains unclear what the toll might be on the mental health of British Columbians after the pandemic subsides. Reports from Wuhan, China indicate that even after the initial shock of the lockdown had passed, some individuals continued to need support, and several mental health services were rapidly set up to respond to the demand.⁴

By contributing to the general and legal communities, a lawyer can cultivate a positive outlook that has been empirically shown to foster greater mental and physical health. Such an outlook can also combat the current swirling sea of negativity and defeatism and place the profession and its members in a position where they can be looked to for leadership and inspiration.

In B.C., Dr. Maureen Whittal, co-founder of Anxiety Canada and a psychiatry professor at UBC, says: “It’s too early yet to have done any population-based studies here in Canada ... but right now, the world is experiencing one giant precipitating event, and when this is all said and done, I think what we will see is an increase in the prevalence rates of anxiety and depression.”⁵

Lawyers often take care of other people first, both professionally and personally, too often neglecting their own self-care. Brook Greenberg, an elected benchler of the Law Society of British Columbia and chair of the Mental Health Task Force, says that the “pandemic has added a number of challenges to an already difficult profession.” He highlights that while we do not have all the answers, we must listen and reflect when someone needs to talk. The Law Society has resources such as a web page⁶ that outlines specific supports for those dealing with mental health pressure during this time.

LaCroix has a similar view of our profession, noting that lawyers dislike change. He points to a study by Dr. Larry Richard, a trial lawyer turned psychologist, who stated that “on a percentile scale which ranges from zero to 100%, the average for resilience among the public is the 50th percentile; among lawyers, the average is the 30th percentile. Even more telling is the

distribution: 90% of the lawyers we test score below the 50th percentile".⁷ LaCroix states that more than ever, we need to consciously shift our mind-sets in a positive way. He also acknowledges that more lawyers are finding it challenging to adapt and offers that the Lawyers Assistance Program exists to provide myriad, flexible support to the profession.

Both Greenberg and LaCroix acknowledge that negativity can be countered by volunteering in our communities. A study by two Carnegie Mellon University researchers found that adults over 50 who regularly volunteered for altruistic reasons were less likely to develop high blood pressure than non-volunteers.⁸ This study was backed up a study by University of Exeter researchers showing that the benefits of contributing were conditional on the volunteers' intentions.⁹ Suzanne Richards, one of the contributors to the University of Exeter study, stated: "The evidence points to volunteering as something that can potentially be good for people, but only when they choose to do it, and at a level that feels right for them ... Compelling people to volunteer is unlikely to yield health benefits."¹⁰ So while an awareness of vulnerable populations is important, an individual will neither commit nor derive, or confer, any benefit from volunteering based on insincerity.

Becoming Better Advocates for Our Clients

Besides keeping connected to society and looking after our mental health, we can become more effective counsel by contributing to our communities and advocating for clients of all societal backgrounds.

Sara Forte of Forte Law has taken contributing one step further by including community involvement in her business plan and as a guiding principle for her firm. For example, last year, she advocated for raising awareness about workplace sexual harassment. She wrote many articles and blog entries, gave talks and webinars, and incorporated the issue into a new service offering by her firm. Her contributions aligned with the values of both her community and her business model. She has expanded this approach for her team at Forte Law and also challenged them to develop their own ways of educating the public and legal communities.

CONTRIBUTING TO THE LEGAL COMMUNITY

Contributing to the legal community can take many forms, whether it is joining and participating in a legal association, conducting speaking engagements, writing articles and/or blog posts, or simply ensuring that you are connecting with your colleagues. In the last few months, we have seen that unity in the bar can still take place through Zoom calls, phone calls or simply sending e-mails to check in, forms of communication that require reliance on technology.

McLachlin notes that technology was initially met with resistance within the profession, but when people are forced to use it, they become more receptive. Thus, “people have adapted to the shock and know that they need to do something.” While McLachlin adds that there will always be a place for in-person hearings, many of the lessons we are learning now will carry on after the pandemic. “We must embrace technology.”

Litigation procedures and processes are evolving every day. Discoveries and mediations have been booked over video platforms, and all levels of court regularly published updates online even in the early, acute stages of the pandemic. Fortunately, many lawyers overcame initial reluctance and have been quick to adapt to the changes, and all three major legal associations in B.C. have provided timely content with insights and strategies for the new normal.

LEGAL ASSOCIATIONS

Legal associations in B.C. have quickly adapted to the pandemic to serve their members through educational programs and relevant content. Absent the pandemic, the associations would have continued with their steady schedule of both social and educational programming with conferences and retreats. By being forced to limit in-person participation to fewer than 50 people, these associations have been tasked with providing creative and timely content to support their members.

The legal associations have asked members for direct input on the type of programming in which they are most interested. The current climate is evolving daily and so too are the needs of lawyers. Lawyers and other legal professionals are finding strategies that are effective and often take advantage of new technologies. And these associations are also asking for volunteers to author articles and participate in speaking engagements and online webinars.

The pandemic has inspired collaboration as many of the legal associations have come together to bring the best content to members. The Canadian Bar Association, BC Branch (“CBABC”) and the Trial Lawyers Association of BC (“TLABC”) joined forces to put on two webinars featuring the Chief Justice of British Columbia and the Chief Judge of the Provincial Court, which led to one webinar’s registration maxing out at 500 participants and another webinar resulting in over 100 questions being asked of judges and staff.¹¹

Here are some other examples of how legal associations are providing for their membership at this time:

Vancouver Bar Association (the “VBA”)

According to Andrea Fraser, president of the VBA, the association has shifted both board meetings and member events online (when possible). They are scheduling their summer CLE series “Breakfast with the Bench” on Zoom and have already had their first session with Justice Skolrood as a guest speaker.

The VBA has also responded to the pandemic by changing timelines for recruitment and interview guidelines for summer students (i.e., the on-campus interview (“OCI”) process) as well as the articling recruitment process for firms in the downtown Vancouver area.¹² The 2021/22 articling recruitment will take place through September and October of this year. The summer student recruitment process has been pushed back, with applications due in January 2021, and the OCI process will take place in February 2021. Student interviews may be conducted via video, depending on the situation.

Looking ahead to November, the VBA board is continuing to explore technology-based options for their AGM, which would usually have over 500 attendees. Members are being encouraged to stay involved by following the association on its social media channels.¹³

Lastly, Fraser notes that the VBA has temporarily suspended coffee operations at the barristers’ lounge at the Vancouver courthouse, “but rest assured, we’ll be back up and running as soon as we can, to continue bringing counsel the best value for coffee (though perhaps *not the best-tasting coffee*) around!”

CBABC

Kenneth Armstrong, president of the CBABC, indicates that the association has adapted both internally and externally over the last few months. The use of webinars has significantly increased in a number of sections, and many roundtable discussions have been transitioning to online media. Armstrong has led discussions with managing partners across the province via Zoom, with conversations centered on how to support lawyers during the pandemic, whether by ensuring a safe return for lawyers and staff or by supporting summer and articling students at the beginning of their careers.

Further, the CBABC has gathered information on COVID-19 and made resources and updates for the legal industry more widely available, including: “CBABC Updates & Advocacy”, “Professional Development Programming”, “Support for Business”, “Wellness Resources” and “Returning to the Office” on their online “COVID-19 Resource Hub”.¹⁴

TLABC

TLABC, like the CBABC and the VBA, has transitioned much of its programming online. Similar to the CBABC, TLABC has updates and resources related to COVID-19 on its website.¹⁵ The association has also expanded its website, with creative solutions for conference sponsors including social distancing guidelines.¹⁶

TLABC introduced its “Support Series”,¹⁷ which features—at latest count—a dozen webinars (free for members) on topics like the latest strategies for family lawyers; online mediations; and anxiety, stress and resilience skills. The webinars are well attended, with over 100 participants at each, and are expected to continue after the pandemic, as they benefit lawyers across the province. Many lawyers who ordinarily would not have had the opportunity to engage can do so with their colleagues across B.C. TLABC's exclusive trial practice list server (featuring a variety of specific practice areas) has also seen a significant increase in participation since the early stages of the pandemic, thereby fostering an increase in collaboration among members.

TLABC has begun looking at the next year of programming to find ways to adapt the online experience while keeping audiences engaged. For example, breakout rooms in Zoom allow a facilitator to go from room to room, while moving participants around, between different groups. This way everyone has an equal opportunity to pose questions during the conference or seminar, and networking opportunities among attendees are actively encouraged and facilitated.

INFORMAL WAYS TO CONTRIBUTE

Virtual Social Events

Legal organizations and firms are having social webinars to help connect people through virtual chats over coffee and virtual happy hours. While not replacing the real experience, lawyers can check in with their colleagues in an informal environment. Amy Mortimore of Clark Wilson LLP notes that the socials allow lawyers to connect with their colleagues and continue informal mentoring relationships even while working remotely.

Engaging with Young Lawyers and Law Students

This pandemic has brought the needs of young lawyers, and articling and summer students, crashing to the forefront. Some have been let go or had their positions compromised due to the economic impacts of COVID-19. This is a stark reality for newly minted lawyers who find themselves jobless in an economic downturn, carrying a mountain of debt, after many years of dedicated work towards achieving their professional goal.

Many lawyers have reported an increase in calls from young lawyers and students. LaCroix draws attention to the plight of articling students who will continue to be directly affected by the pandemic as classes, PLTC and even call ceremonies are postponed or delayed.

LaCroix encourages all lawyers to spend time engaging with young and future lawyers, even if they are not in a position to hire. Such interaction forms an important part of informal mentoring. Support from more experienced counsel can be extremely helpful to those navigating the next steps of their career.

CONTRIBUTING TO THE COMMUNITY

For decades, McLachlin has been an advocate of access to justice. In her article for *The Lawyer's Daily*, McLachlin gave examples on how to modernize and improve our court system with centralized portals for justice (e.g., dispute resolution tribunals, legal clinics, government programs, the Internet, etc.) and smart technology, and she referred to the support people need to access the justice system.¹⁸ If adopted, these initiatives will improve our justice system and, in turn, strengthen our local communities.

Pro Bono

"Justice is a fundamental building block of society," says McLachlin, and pro bono work can contribute to the justice system by helping the most vulnerable.

Several pro bono organizations exist across the province, welcoming lawyers at all levels and in various kinds of practice. Access Pro Bono ("APB"),¹⁹ for example, is a non-profit organization with programs and workshops that connect 20,000 people to 1,700 B.C. lawyers each year.²⁰

APB was quick to respond to the pandemic by setting up emergency telephone and online clinics.²¹ According to Jamie Maclaren, Q.C., executive director and staff lawyer of APB, APB has seen an increase of about sixty per cent in the number of clients calling into the organization compared to this time last year. The increased call volume is directly attributable to the fallout from the pandemic. Demand for services in the areas of family law (specifically, in response to domestic violence) and employment law has also seen an increase in the last few months.

APB has expanded its services by teaming up with Qase (an online service connecting clients with lawyers)²² to directly deliver online services that will assist clients in family matters, employment, housing/tenancy, wills and estates, consumer protection and contracts for service.²³ Maclaren hopes that by providing another method of delivery to clients across the province, APB will successfully meet the predicted continued increase in

clientele as more people face legal issues upon returning to work and, further, as the eviction moratorium ends in the coming months.

Another example of action and collaboration across the community comes from John Rice, president of TLABC, who called on his association's board members to commit to volunteering for APB, noting that "for many British Columbians, COVID-19 has made their existing legal issues even more of a nightmare, while for others it has introduced new issues as a result of the pandemic and the impact on their lives".²⁴ Many board members have heeded the call, with some joining APB for the first time in their careers.

Non-Profit Organizations and Charities

An endless need exists for individuals, non-profit organizations and charities. Altruistic volunteerism is a boon for mental health as well as community strength. Many organizations are encouraging people to support their communities, even in small ways if they are unable to commit large amounts of time. They can continue honouring our frontline workers, donating to local food banks, donating blood or shopping at local businesses.²⁵ Volunteer team members for hands-on work are widely needed, especially for some organizations that were previously supported by members who are immune-compromised or part of the older population. For example, seniors make up about half of the B.C. division of the Canadian Cancer Society's 100,000 member volunteer force.²⁶

Each organization requires different levels of time commitment, and now is an ideal time to consider volunteering for a community organization. Many board meetings are taking place over Zoom, which increases time efficiencies. Several of these organizations are in need of lawyers.

LaCroix states that lawyers play a key part in community organizations, many of which would likely come to a halt without the support of lawyers. He points out that the board of any major community organization will usually have at least one lawyer.

Committing to a board or volunteering for an organization still needs to be approached with caution. If you have a prior interest in a given organization, you may want to begin there, but it is not always necessary to have a connection beforehand. You can always start as a volunteer before joining an organization's board. Sara Forte, who is vice-president of Sources Community Resources Society, noted that lawyers should do their due diligence when joining a board or volunteering by researching the organization and its board members to ensure that it will be the right fit and that the lawyer will be able to add value.

CONCLUSION

Cracks appear when structures are stressed. While the final impact of the pandemic remains to be fully appreciated, it has already revealed many vulnerabilities of our justice system and society. Fortunately, our profession has come together in unique and creative ways. Adversaries are sharing strategies, associations are collaborating on educational content and lawyers are finding new and energizing ways to volunteer.

Maya Angelou said, "Do the best you can until you know better. Then when you know better, do better." McLachlin reached a similar conclusion when, after the pandemic illuminated to her the integral nature of our justice system within the country, she spoke of the need to "fight hard" to ensure the strength of the system. Part of winning that fight will be the willingness of individual lawyers to engage with all of our communities to ensure that we continue to have a just society.

ENDNOTES

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