

Welcome Message of the Right Honourable Beverley McLachlin, P.C., Chief Justice of Canada: International Association of Law Librarians Conference - October 1, 2012 - Toronto, Ontario

Good morning ladies and gentlemen. **Mesdames et Messieurs, bonjour. C'est avec grand plaisir que je vous adresse la parole, même à distance, à l'occasion de la 31e réunion annuelle de la International Association of Law Librarians.** While other commitments prevent me from joining you in person this morning at the IALL's 31st Annual Course, I am very pleased to have the opportunity to address you remotely thanks to modern technology. As Chief Justice of Canada, I bring greetings on behalf of the Supreme Court of Canada and the Canadian judiciary generally. **En tant que juge en chef du Canada, je vous salue au nom de la Cour suprême du Canada et la magistrature canadienne.**

My role this morning is to welcome you to Canada and to the City of Toronto. Toronto, as you have no doubt noticed already, is a diverse, vibrant and exciting metropolis. The theme of your conference is "Canada: The Cultural Mosaic and International Law". Canada is indeed a cultural mosaic and our country's great diversity is very much reflected in the city of Toronto.

Canada was born of diversity — the coming together of three groups of peoples — the aboriginal nations, the French settlers of Acadia and Quebec, and English speaking peoples from England, Scotland and the United States. And Canada is becoming ever more diverse. According to a recent Census 1 in 5 Canadians were born outside of Canada and nearly 1 in 6 are visible minorities. We continue to be a country of immigrants, and all signs suggest that diversity in Canada will only increase in the years to come.

Diversity enriches a society. But it also presents challenges. The justice system is not immune from these challenges as many of the topics you will explore — multiculturalism, aboriginal law, same-sex marriage, polygamy — demonstrate.

The first challenge to the justice system that results from diversity is that people appearing in Court — whether witnesses or litigants — will often be very different from the judge and the lawyers involved in the dispute.

Their experiences, values and perspectives, even the language they speak, may be quite foreign to those of the other participants.

A second challenge is that the issues that require adjudication may be different. They may be entirely novel. Or they may be familiar, but presented in a new way with new implications. As a law student, I never dreamed that I would be called upon to decide whether a religious Muslim woman may be permitted to wear a Niqab while testifying, or whether same-sex couples should be allowed to marry, or whether children can refuse life-saving medical treatment on religious grounds, to take but three examples. New questions and new contexts inevitably challenge pre-conceived notions and expectations.

A third challenge of diversity is the challenge of complexity. The legal issues that arise tend to be complex, and to involve competing values. The problems are polycentric.

There are a number of things that judges, lawyers and other justice professionals must do to meet the challenges of diversity. In my remarks this morning, I will focus on but one of these: the importance of having a proper appreciation social context. Alertness to social context recognizes that the law is a human endeavor aimed at governing the behavior of human beings in all their diversity and complexity. To apply legal rules and norms appropriately, one must appreciate the lived reality of the men, women and children who will be affected by the law. To understand social context is to truly understand, not just the legal problem, but the social reality in which a dispute or legal issue arises.

Canadian courts have used social context information in a number of cases to gain a more complete perspective of a variety of problems including, for instance, the racial dynamics of police-community relationships, the overrepresentation of indigenous Canadians in the criminal justice system and the complex circumstance of battered spouses.

Understanding the social context of disputes and legal issues became particularly important in Canada with the adoption of the *Canadian Charter of Rights and Freedoms* in 1982. The *Charter* requires judges to assess legislation and government action for compliance with fundamental rights and freedoms. Defining the ambit of these rights and how they interact with one-another in a way that is meaningful and workable requires appreciation of the social context in which these rights are claimed.

At the same time, it is important not to misuse or overuse social context evidence. Quantities of unfocussed and often contradictory information on social context may obfuscate rather than clarify, and may improperly divert the jurist away from legal analysis and into the realm of optimum social policy. Social context is an aid. It complements, but does not supplant, the traditional legal techniques of statutory construction, reliance on precedent and the weighing of evidence presented through the adversarial system. In short, social context is about having the right information about the social dimensions of a legal problem and understanding how to use that information properly.

This, of course, is where Law Librarians are of great importance. Information, including social context information, is the raw material of legal reasoning and you are the experts, the professionals of legal information. By understanding the importance of social context information to the legal system and using your expertise to identify, evaluate and organize useful social context information you can make an invaluable contribution towards assisting the justice system in meeting the complex and difficult challenges of diversity. So, over the next few days and thereafter, when you return to your work, I ask you to bear in mind the importance of understanding the social reality of the legal problems you are required to examine and the need for social context information that can shed light on the lived reality of those affected by the law.

Allow me to conclude my greetings by thanking you for choosing Canada and Toronto for your 31st annual course. I do hope that you will have occasion to enjoy some of what this fine city has to offer and I wish you stimulating and fruitful discussions. **Je vous souhaite la bienvenue à Toronto ainsi que de très fructueuses discussions.** Thank you for your attention. **Merci.**