

Forceful governor general tells lawyers, 'Heal thyself'

In stinging rebuke, Johnston says it's time legal profession regains sight of justice, public good

BY RICHARD FOOT, POSTMEDIA NEWS AUGUST 15, 2011



Gov. Gen. David Johnston has singled out Ontario as having the worst court processing times in Canada.

Photograph by: Ashley Fraser, The Ottawa Citizen

HALIFAX - Canada's lawyers and judges are losing sight of their commitments to justice and the public good, and the profession must reform itself and rebuild the trust of ordinary citizens, says Gov. Gen. David Johnston.

In a rare, forceful speech at the opening of the Canadian Bar Association's annual meeting in Halifax on Sunday, Johnston issued a stinging assessment of the legal profession and pleaded with it to change.

"We need a new model for professionalism in law," he said. "To borrow a saying from a sister profession: physician, heal thyself."

A former dean of law at the University of Western Ontario, Johnston said lawyers such as himself enjoy a "social contract" with society: In return for self-regulation and a monopoly over the practice of law, he said, "We are duty bound" to improve justice and serve the public good.

Instead, he said the profession is failing to uphold its end of the deal.

He said Canadians in all provinces wait too long to have their cases heard in court, and face unacceptable delays once there. He singled out Ontario for the worst court processing times in the country, and said despite efforts to reverse the trend, "the pace (of change) is woefully slow."

Johnston said judges and lawyers must act with "urgency" to break through what criminologists have called a "court culture" of complacency, if they hope to streamline the process.

Johnston also chastised lawyers — not specifically in Canada but across the democratic world — for contributing to the collapse of trust between citizens and public institutions, and the resulting social instability in many western nations today.

He cited the 2008 financial collapse on Wall Street as one example.

"How many lawyers 'papered' the deals that involved fraudulent statements of assets, liabilities, income and valuations?" he said.

"How many lawyers 'sounded the alarm' about conflict of interest in the web of financial transactions and creative financial instruments?"

"How many lawyers were silent in the face of a pattern of deregulation which has left the economy naked to excessive leverage, and which any thoughtful observer knew was bound to have its inevitable pendulum swing?"

Johnston also rebuked Canada's law schools for losing touch with practicing lawyers in the real world, and for relying too heavily on narrow criteria, such as the standardized Law School Admissions Test, for selecting new students.

He lamented the lack of work-life balance in law firms that "penalize those with a family," particularly young mothers — a comment that drew applause from the audience.

And, like Supreme Court Chief Justice Beverley McLachlin on Saturday, Johnston said the profession must make legal services more affordable, and simple, for millions of middle-class Canadians.

"For many today the law is not accessible, save for large corporations and desperate people at the low end of the income scale charged with serious criminal offences. We must engage our most innovative thinking to redefine professionalism and regain our focus on serving the public.

"If we wish to avoid having change forced upon us, we must embrace new ideas."

It is rare for a Canadian Governor General to make such frank public speeches, but Rod Snow, president of the Canadian Bar Association, said he welcomed Johnston's honest words.

"He talked about things that he knows," Snow said. "He probably gauged that this audience wanted to hear something of substance and I think he probably got it right."

Ontario Bar Association president Lee Akasaki said he was surprised by Johnston's strong stand, but also agreed with it.

"We have to get the bar back on track, be more relevant to the people we serve and hopefully in doing that we'll improve the image of lawyers," he said.

Arianna Huffington, the American social media pioneer and founder of The Huffington Post online website, spoke to the conference after Johnston.

She praised his remarks as a "speech of tremendous depth" and said what Johnston highlighted was essentially a breakdown in trust and a crisis of leadership among political and professional elites in many democracies.

"I completely agree with the Governor General," she said. "Our leaders refuse to innovate because they are afraid of rocking the boat," she said. "But if they don't innovate, change will be forced upon them."

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