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**THE JUSTICE CRISIS
THE COST AND VALUE
OF ACCESSING LAW
BOOK REVIEW**

Marc Bhalla
LL.M. (DR), C.Med, Q.Arb, MCIArb

Shadow of the Law Publications

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ABSTRACT

Marc Bhalla reviews a book about Canada's access to justice crisis featuring contributions by The Honourable Thomas A. Cromwell, Trevor C.W. Farrow, Lesley A. Jacobs, Michael Trebilcock, Moktar Lamari, Pierre Noreau, Marylène Leduc, Lisa Moore, Mitchell Perlmutter, Ab Currie, Matthew Dylag, Jennifer Koshan, Janet Mosher, Wanda Wieggers, David Wiseman, Carolyn Carter, Catherine Piché, The Honourable Justice Lorne Sossin, Devon Kapoor, M. Jerry McHale, QC, Herbert M. Kritzer, Michaela Keet, Heather Heavin and Noel Semple.

ABOUT THE AUTHOR

Marc Bhalla, LL.M. (DR), C.Med, Q.Arb, MCIArb (he/him) [biracial] is a mediator, arbitrator and lecturer based in Toronto, who practices online. He has been involved in dispute resolution professionally for almost two decades.

Marc earned a Master of Laws in Dispute Resolution from Osgoode Hall Law School. He has an Executive Certificate in Conflict Management from the University of Windsor's Faculty of Law, an E-Commerce Certificate from New York University and an honour's undergraduate degree from the University of Toronto's prestigious Trinity College.

Marc holds the Chartered Mediator designation of the ADR Institute of Canada, along with domestic and international arbitrator designations.

Marc has presented from coast-to-coast in Canada on a variety of conflict management issues. He has had over 100 articles published, including academic journal contributions to the McGill Journal of Dispute Resolution, the Journal of Arbitration and Mediation, the Canadian Arbitration and Mediation Journal and this publication. His book, *The Art of Role Play in Dispute Resolution Training*, was released last year.

Marc guest lectures at the Faculty of Law at Queen's University, the Faculty of Law at the University of Calgary and Osgoode Hall Law School. He serves as faculty of the Canadian Collaborative for Engagement & Conflict Management, where he teaches about online dispute resolution and arbitration. Marc is accredited as a trainer by the ADR Institute of Canada and the Law Society of Ontario.

In 2020, Marc was presented with a STAR Award by the ADR Institute of Ontario for his leadership, dedication and contribution to the dispute resolution field.

For more about Marc, please visit 456dr.ca.

BOOK REVIEW

Trevor C.W. Farrow & Lesley A. Jacobs, eds, *The Justice Crisis – The Cost and Value of Accessing Law* (Canada: UBC Press, 2020).

ISBN: 978-0-7748635-8-2

I first came across Professor Farrow's research on Canada's access to justice crisis early on in my Master's studies at Osgoode Hall Law School. The justice system's lack of accessibility was of specific interest to me, as I focused my research on online dispute resolution and the opportunities it offers to overcome traditional obstacles. The *Everyday Legal Problems and the Cost of Justice in Canada - Overview Report*, published in 2016 by the Farrow-chaired Canadian Forum on Civil Justice, offered a glimpse into the reality of the failings of our system. Farrow's team helped inspire much of my work, so it was with great interest that I took notice of *The Justice Crisis – The Cost and Value of Accessing Law*, released last September.

When I visited the UBC Press website to order it the \$89.95 price tag (before taxes and shipping) gave me pause. Like many academic publications, I felt the cost was too steep for casual reading... and even pondered if the book on access to justice might itself be inaccessible as a result. (There were digital versions available at lesser cost to make the text accessible upon release; it is simply my personal preference to hold books of this nature in hand.) When I learned that a more affordable paperback version was released earlier this year, I rushed to order my copy. Flipping through the Contents page, I was impressed to see an all-star list of contributors to the 345-page book edited by Farrow and Lesley Jacobs. It was like an assembly of the Avengers!

The Justice Crisis is divided into four sections – Part 1: Understanding the Access to Justice Crisis, Part 2: Experiencing Everyday Legal Problems, Part 3: Legal Services and Paths to Justice and Part 4: The Legal Profession and Meaningful Access to Justice. The text is full of figures, charts and statistics from many research studies featured, including several which were the first of their kind in Canada. The chapters range from philosophical considerations around accessing justice - including the different waves of views and prospective solutions offered over the years - to narrow focuses specific to the Indigenous community, domestic violence, landlord-tenant conflicts and class actions.

While Canadian in its focus, references to successes, failures and innovations of other countries are also shared, for both domestic comparison purposes and idea generation. The chapters are presented in a traditional academic manner, with repetition in the introduction and conclusion to ensure the reader is clear of the objective of each.

While I expected to take the book in slowly, reading a chapter at a time here and there, I found myself captivated and unable to put it down. I may have been easier to hook because of my personal interest in the subject matter, but I believe my captivation was also attributable to how well organized the book is. There is a natural flow between the many topics addressed at great depth by some of our brightest legal academic minds. The chapters are impressively connected as the contributors seem well versed in one another's work.

What I like most about *The Justice Crisis* is its honesty - various authors are open about the challenges and limitations of their research. An example is Ab Currie's chapter which speaks of the costs of everyday legal problems beyond money. Currie examines the additional burden placed upon such programs as employment assistance, social assistance and health care directly attributable to unresolved legal problems. While the dollar figures connected to a lack of justice access seem astronomical, Currie explains that they are actually small in comparison to the overall operating cost of these programs. This helps readers better understand the context and confines of these issues.

The challenges make sense. How can you count the number of people who do not have access to something? Particularly when it comes to justice, when one may not even be aware they have a legal issue and lack basic information about how to effectively address it. While this leaves the reader unable to put their finger on the complete reach of the crisis, the sheer volume of empirical research and consideration given to many of the presented obstacles leave no doubt that we have a significant problem on our hands.

A criticism I have is that there is only one, short, passing reference to British Columbia's Civil Resolution Tribunal (CRT). While a chapter by Lorne Sossin and Devon Kapoor acknowledges that online tribunals offer innovative approaches that can help overcome the lack of access to justice, *The Justice Crisis* does not give the depth of analysis of online options to improve access to justice that it gives to other considerations, such as the regulation of paralegals in Ontario. I expect this is due to a lack of time to delve as deeply into Canada's online administrative tribunals. The CRT launched in 2016 and

the Condominium Authority Tribunal of Ontario in 2017, while the analysis of other methods of improving access to justice go back at least a decade. Still, Canada's online tribunals' innovative platforms offer practical ways to address many historic access to justice issues. Perhaps the second edition of *The Justice Crisis* can include a chapter on this important topic.

I recommend *The Justice Crisis*. It has something for everyone. While it may seem of obvious interest to legal academics and those directly involved in addressing our access to justice issues, I think it has potential for wider appeal, including to those interested in or involved in the justice system and also private conflict resolution service providers. Judges, arbitrators, adjudicators, mediators and other conflict resolution professionals, along with legal advocates, can reflect on their role in offering access and consider how to improve their service offerings. I believe this book will give all who read it something important to think about.