Open to All, Like the Ritz

The right to justice, the failed system, and how to fix it

David Eqbal · Citizen Stance / Position Citoyenne · October 2026

Key messages

- **Most people never reach a court.** Almost half of Canadian adults, about 11.4 million people, face a serious civil or family legal problem over any three years. About 19 percent get legal advice; about 7 percent appear before a court or tribunal.
- **The promise is clear.** Magna Carta pledged not to sell, deny or delay justice. The Supreme Court of Canada has called access to justice "the greatest challenge to the rule of law in Canada today." Justice for a person must be reachable, timely, understandable, equal and respectful.
- **The system fails that promise on all five counts.** The failure is not at the bench, where cases that arrive are decided fairly. It is on the road to it: cost, delay, complexity and silence.
- **It was not designed to enrich lawyers, but it is built and run by insiders.** Judges and lawyers write the rules, with no public seat on either of Ontario's rules committees. Lawyers govern the body that decides who may compete with them. Hourly billing rewards every added step. The people who pay for every lever hold none.
- **The fix is design, not better people:** make timely justice a right, give users a hand on the whole, and finish the reforms already begun, with dates.

The facts

Cost. In 2021 a contested divorce cost $20,625 on average and a five-day family trial $43,481, more than a full-time worker earns in a year at Ontario's minimum wage. Legal aid certificates are limited to the lowest incomes: since 2020 the published threshold for a single person has been $18,795 with a contribution agreement. Most people with family and civil problems are in the "missing middle": too well paid for legal aid, too poor for a lawyer.

Delay. In Toronto a civil case can take four to five years to reach trial, and in 2023 motions were being booked more than a year out. In 2019 the Auditor General of Ontario found family court waits up to three times the courts' own targets, and records too unreliable to say which cases were still open. The Landlord and Tenant Board's active caseload, under 14,000 before the pandemic, stood at about 53,000 in 2023 and 2024 and about 41,500 in March 2025.

People on their own. More than half of the parties in Ontario family cases were unrepresented when they filed (2019). In the most recent national intake report of the National Self-Represented Litigants Project, 73 percent said they could not afford a lawyer, more than a third had had a lawyer until their money ran out, and 41 percent held a university or professional qualification.

The public cost. Unresolved legal problems cost governments about $800 million a year in employment insurance, social assistance and health care, by the most careful national estimate, before counting what they cost the people involved.

Why it happens

Seven levers shape the system, and every one is held inside it:

Lever	Held by	What it cannot see
Rules of procedure	Rules committees of judges, government lawyers and private lawyers; no public member	The total time and cost to the parties
Price of legal help	Lawyers and firms; uncapped, mostly hourly	The total cost of a case
Who may give legal help	Law Society, governed mainly by lawyers	The person who has no help at all
Costs rules	Rules committees and judges	The deterrent to people who cannot afford to lose
Legal aid	The province	The missing middle who never apply
Court capacity	Ottawa (judges), the province (staff, systems), the courts (calendars)	The capacity of the whole
Tribunals	The province	The wait from the user's side

No one has the job of looking at the whole from the side of the people who use it. No court in Ontario publishes how long its cases take from start to finish or what they cost the parties.

The legal profession is not a cabal, and most of its members act in good faith. But a system built and run by one profession will drift toward complexity, because every incentive inside it points that way and nothing from outside pushes back.

The four checks applied

The brief applies the four checks of *Channels, Not Dams*. They are checks on the **system**, never on how a judge decides a case.

Check	What exists	What is missing
Independent evaluation	Auditor General audits parts; Ombudsman reviews tribunals but cannot investigate the courts	No body measures time, cost and outcomes from the user's side
Transparency	Some tribunal indicators; partial national statistics	No regular public report of wait times or costs; British Columbia's Provincial Court shows it can be done
Flagging channel	Complaints about individual lawyers and judges	No channel for delay, cost and complexity; audit recommendations need not be answered
Monitoring from below	Consultations; lay benchers appointed by the province	No user seat on either rules committee

The two conditions also fail. Most of what the system knows about itself stays inside it, and the checkers, the rules committees and the Law Society, are largely checked by themselves.

What is already changing

Ontario's Civil Rules Review (final report, December 2025) proposes three tracks, an evidence-first model in place of most oral discovery, and a hearing within about two years for most cases. The Small Claims Court limit rose to $50,000 in October 2025. Digital courts went live in Toronto in October 2025. Paralegals may now do limited family law work. These reforms are real and mostly come from inside. But they work on the levers, not on who holds them, and none makes timely justice a right. The larger civil rules changes have no date.

Recommendations

For the Government of Ontario and the Legislature

1. Pass an **Access to Justice Act** that states the right to civil and family justice that is reachable, timely, understandable, equal and respectful, and sets **published time standards** for every court and tribunal.
2. Put the **consequences of delay on the system, not the parties**: priority and fee waivers for cases delayed by the system, and a written plan from the Attorney General, tabled within 45 days, when a court or tribunal misses its standards twice in a row.
3. Create an independent **Justice Access Office**, an officer of the Legislature, that publishes every quarter how long people wait and what cases cost at every courthouse and tribunal, writes an impact note on every proposed rule change, and requires public written answers to its recommendations within 45 days. It would never comment on a judge's decision.
4. Give **at least a third of the seats** on the Civil and Family Rules Committees to members of the public, including people who have been through a case, paid and supported.
5. Tie **family legal aid** to what a contested case really costs, and offer free advice at every first family court appearance.
6. Allow **temporary child support** to be set on documents under the Child Support Guidelines before the first case conference, and create an **online tribunal** for small debts and undisputed rent arrears, on the model of British Columbia's Civil Resolution Tribunal.
7. Finish the **Civil Rules Review** with published dates for each stage.

For the Government of Canada, with Ontario

8. Sign a public agreement to fill superior court vacancies within a set period and complete **Unified Family Court** in every region, including Toronto, by a stated date, with yearly reporting.

For the Law Society of Ontario

9. Include people drawn from the users of legal services among its lay members, and report each year, with measures, on what it has done to fulfil its statutory duty to facilitate access to justice.

What this brief does not claim

It does not claim that judges are unfair or that lawyers are dishonest. It does not recommend any change to judicial independence or to the independence of the legal profession from government. It does not claim that money alone, or rules alone, would solve the problem. Its claim is narrower: that a system on which every Canadian's rights depend should be measured from the side of the people who use it, and should answer to them.

About this brief

This brief summarizes *Open to All, Like the Ritz: The Right to Justice and the Failed System* (David Eqbal, 2026), which applies the four checks of *Channels, Not Dams: Architectural Republicanism and the Design of Legitimate Power* (SSRN, ssrn.com/abstract=7617458). The full paper, with four invented case studies, all figures and full references, is free to read at citizenstance.ca/research. The author is not a lawyer; this brief is not legal advice.

Sources: Canadian Forum on Civil Justice, *Everyday Legal Problems and the Cost of Justice in Canada* (2016); Action Committee on Access to Justice in Civil and Family Matters (2013); *Hryniak v. Mauldin*, 2014 SCC 7; *Trial Lawyers Association of British Columbia v. British Columbia*, 2014 SCC 59; *Canadian Lawyer* Legal Fees Survey (2021); Legal Aid Ontario; Auditor General of Ontario, Family Court Services (2019) and follow-up (2021); National Self-Represented Litigants Project, Intake Report 2023–25; Ombudsman of Ontario (2023); Tribunals Ontario, Annual Report 2024–25; Court of Appeal for Ontario, Civil Rules Committee; Civil Rules Review final report (December 2025); Provincial Court of British Columbia, *Time to Trial* (March 2026).

Citizen Stance / Position Citoyenne is a Canadian registered charity based in Ontario. Contact: David Eqbal, de@citizenstance.ca.