

VOA Ep 5 featuring Frank McNally: The Justice Gap—Understanding Legal Barriers for People with Disabilities

[00:00:00] Welcome to Voices of ABLE2, where we share real conversations about disability, inclusion and community. I'm Emelou Porquez, and today's episode is called: The Justice Gap, understanding legal barriers for People With Disabilities. Today, we're exploring a critical gap in the justice system; access to legal services for people with disabilities.

In this episode, we speak with Frank McNally, a lawyer and founding partner of McNally Gervan, who brings both professional expertise and lived experience to his work, identifying as hard-of-hearing individual. Throughout his career, Frank has been deeply committed to disability rights and access to justice.

He served as a board member of the Brain Injury Association of Canada and the Canadian Hard of Hearing Association [00:01:00] and was president of Reach Canada, an organization dedicated to providing pro bono legal services and education for people with disabilities. For decades, Reach Canada has filled a vital role in ensuring that people with disabilities weren't left behind when facing legal challenges.

Whether it's employment discrimination, housing disputes, or navigating complex disability benefits. In 2023, Reach Canada merged with ABLE2 combining forces to create a more integrated approach to disability support. Today, Frank serves as a board member with ABLE2, where he continues to champion access to justice for people with disabilities.

In today's conversation, we'll explore the everyday legal barriers that people with disabilities face, What barriers exist to accessing justice and how ABLE2 Reach legal referral services breaks these barriers. [00:02:00] Whether you've navigated the legal system with a disability or simply want to understand this, often overlook gap in justice access,

this episode is for you. Please note that this conversation provides general legal information only and is not intended to serve as legal advice. It is not a replacement for a legal consultation with a licensed lawyer or paralegal. Alright. Hello Frank. Welcome to Voices of ABLE2. Thank you for having me.

Yeah, absolutely. So let's dive right into it. Reach Canada was founded to address a specific gap in the legal system. What was the landscape like when Reach Canada was established and what problem, uh, was the organization trying to solve? So I wanted to first talk a little bit about, you know, how, uh, Reach came about because it, it speaks volumes about what, what society [00:03:00] was like at the time and how much impact Reach has had

on access to justice for people with disabilities. Mm-hmm. So the organization was founded by Ernie Tannis and Lawrence Greenspon, two young Ottawa lawyers. We realized there was a significant gap in our justice system for people with disabilities. All this started because there was a relationship that, that Mr.

Tannis had with a severely disabled gentleman named Rod Carpenter, before he became a lawyer. Um, Mr. Tannis took a position as a high school teacher and he had opportunity to teach Mr. Carpenter who had cerebral palsy and couldn't walk or talk. The only way for Rod to communicate was in writing.

Mm-hmm. At the time, you know, the disability community was very marginalized that they didn't have the available government support or [00:04:00] resources that those do today to be able to participate fully in our society. Despite his challenges, Rod persevered and got his university degree at Carleton and set up a business.

And that business was to try to accommodate, help businesses, uh, accommodate people with disabilities. Mm-hmm. About all this time, Ernie maintained a friendship with Rod. Through university and as he got his law degree and kicked off his career as a lawyer. And throughout these chats with Rod, he came to understand that access to justice for people with disabilities was a major issue.

'cause for example, rod had a problem with banks allowing him to do his own banking and to sign cheques because of his disability, he was not able to sign cheques 'cause he wasn't able to really use his [00:05:00] hands. So Ernie banded together a group of lawyers in his firm, Lawrence Greenspon, who's now a prominent criminal and civil lawyer in Ottawa to take on his case.

They found a law student who researched the Bank Act and notice that that act didn't define signatures. Through their advocacy, they got the bank at the time as the Bank of Montreal to agree to a new system to allow disabled individuals who couldn't sign like Rod to stamp and use their fingerprints.

This gave Rod independence and dignity to manage his financial affairs. In turn, this garnered headlines have led other banks to agreeing to the same policy. This was the start of Reach. So to me, you know, harking back how Reach started, that it was to the point where people with disabilities [00:06:00] didn't necessarily have the right to do their own banking.

Yeah. Sign their own cheques. And at the time, uh, there wasn't even a charter of rights mm-hmm. Uh, in Canada, which, um, which prevented people from discriminating. Uh, for the purposes of, you know, the physical and mental health. Mm-hmm. So it started prior to that day. That made some real major changes. So at the time, you know, like that was their first case.

Okay. And then that case gave them some publicity and they started to gather, um, lawyers. To push access to justice issues with people with disabilities. And the focus was how to integrate them into society. Duty to accommodate, anti-discrimination was a focal point in the [00:07:00] early days. Mm-hmm. And you know, Reach has received key support along the way from people like the CCLA, which is the organization that covers the Ottawa bar.

We got an endorsement, which created a legal roster. Mm-hmm. And then we got the University of Ottawa, which helped create a pro bono program mm-hmm. For law students. And that's how I found Reach when I was a law student, university of Ottawa. Wow. So this was, you know, the start of Reach and then it evolved when, you know, there was a report that came out.

And from, you know, justice Abella, the Court of Appeal later Supreme Court of Canada, which she was asked to look at accessibility for people with disabilities. Mm-hmm. And they named Reach as a community organization we're supporting, [00:08:00] um, could Reach then evolved from doing pro bog legal work to legal education.

'cause what Reach realized, is order to break the stigma, get the message out, we have to educate not only the public social service frontline workers on the law to ensure that the message gets out on, on how we can assist people, um, with their legal rights. Mm-hmm. And then, you know, Reach's roster then took off with the help of Gowlings, Gordon Henderson, who

it was known at the time as a lawyer's lawyer, and we would say, what's the point of a justice system without access to justice? And, you know, having the support of a law firm like Gowlings, and most recently we have, um, an honorary counsel named Domenic Crolla, who was the managing [00:09:00] partner Gowlings for many years.

That, that was a huge boost to our roster. And then now we reached the point where we have 200 lawyers across the city, practice all sorts of different variety of areas, all pro bono roster, ready to help, um, at any time, individuals, uh, with a variety of legal issues, so long as they have disability. So where we've come from is from the days where, you know, individuals didn't have the independence to even sign cheques.

Yeah. Uh, or do their own banking. Now we've evolved to a point where we're dealing with all sorts of legal issues. Mm-hmm. Now including duty to accommodate, financial security, education rights, uh, family law issues. Um, so Reach has had a major role [00:10:00] in improving access to justice, not only in the city but in Canada.

'cause in, in 1993, you know, Canada won the Franklin Roosevelt International Disability Award. Mm-hmm. Um, which was accepted by then Prime Minister Jean Chrétien, and it just shows the impact that Reach has had. On, on the issue of access to justice for people with disabilities. Wow, that's, that's an incredible history.

And just thinking about how much has changed over the years since Reach was founded, the organization has really been instrumental in changing the landscape for accessibility and inclusion for people with disabilities. And to think that it started with just helping a person with a disability access banking

services, and now the organization merged with ABLE2 is now [00:11:00] serving all kinds of areas of law and helping people just basically integrate and have equitable access to justice. So, uh, thank you, thank you for that very comprehensive history of Reach. All right, so my next question is, what are the most common legal issues faced by people with disabilities?

So I think. One of the first big issues is how to navigate the system. You have to first think about, okay, a lot of these people have a variety of issues. Some of them have, um, mental health issues, pain issues, um, and then they have to in order, for example, to get certain services or benefits, not to fill out complicated forms or tasks,

very hard to understand legal evidence. And so we have a fragmented system with difficult legal language. [00:12:00] And then on top of that, you often have symptom burdens that come with having a disability, so a lot of people don't even bother applying. I read somewhere that, say, for example, the Canada Pension Plan

which provides people with income support prior to 65 if they need a specific task that only one of four may even apply. So you have, you know, a system where people look at what the tasks are, what the evidence is, and then they just say, um, it's too difficult for me to apply. So somebody like Reach where they have, you have access to pro bono legals

um, students, you have lawyers who could help you navigate the system, and then you have social service workers who will tell an individual with these problems, this is where you should go. So the first thing is navigating the system is not easy. [00:13:00] That's why, you know, when a report came out by Justice Abella, uh, she talked about the number one thing is to assist people with navigating the system.

If they need accommodations such as interpreter should be given for free. Um, the second big issue that we're seeing is financial security. As we know, people with disabilities are often, you know, underemployed or unemployed. So getting the assistance they need and deserve is not an easy task because the test involve to access these benefits.

Often we see people filling out the forms incorrectly or insufficient medical evidence. Uh, and if it gets denied, which is often denied, how do you appeal? Mm-hmm. That's a major issue. Another common issue with we confront is the duty to accommodate. People with Disabilities want to work, they wanna be productive members of society, but you [00:14:00] know, they, they have, um, some issues that need to accommodate.

And, you know, it's, it's always a struggle when you're dealing with employers and whether they're gonna be sensitive to your needs and your value. And sometimes that doesn't happen. Uh, so Reach comes in, they try to educate individuals of what their rights are and uh, also to also educate the public as well on that.

And the other, you know, major issue we see is how do you navigate? The legal system. So say you have, you know, a family law dispute and then you have a physical mental disability, you're worried about how that's gonna be used

against you in the family court. And so the lawyers can assist you to advocate for you in the system so that that cannot be used against you.

And they, you know, can, you can ensure that you get your appropriate rights in in [00:15:00] the court system. Because a lot of people can't afford lawyers. Lawyers are very expensive. Legal aid is underfunded. Um, so there's this gap between people who may be eligible for legal aid and then people who make too much money, but insufficient to cover the cost of a lawyer.

Mm-hmm. That's where Reach comes in. We offer, you know, pro bono legal services to help fill that gap, um, which is not there through legal aid, by providing a lawyer for a number of hours for free legal services, and some of them may take on, uh, a case in its entirety. An example is I went to a conference on PTSD and I met this woman who was involved in a car accident, and then she indicated that her whole life was upended after this asset, but she didn't apply for benefits, she wasn't aware.

There's conversation available for treatment. I, [00:16:00] you know, I took on the case and assisted her in insurance without the right treatment and the compensation that's available to her. All thing is just speaking to a lawyer. Mm-hmm. And to know that, you know, there's a roster lawyers because speak to you at no cost, uh, on any type of legal issue.

It could be, uh, for example, uh, education. Yeah. And say your parents or people with disabilities and their son is not getting the, uh, the necessary accommodations, a Reach lawyer will direct you to someone with that expertise. Yeah. Who can advise you how to advocate to ensure you get. Whatever the necessary tools are for your son or daughter.

Yeah. And, and these legal issues, they're certainly very challenging to navigate alone. So having Reach legal referral services is very beneficial, especially to those who don't know where to start. Um, and yeah, I [00:17:00] agree with you. Like just speaking with a lawyer can give you guidance, education, and you know, this just the path that someone needs to take to be able to assert their rights and, um

get the support that they deserve. Um, so beyond the legal issues themselves, are there any logistical or systematic barriers that still prevent people with disabilities from accessing justice? Yeah, on top of the, you know, the procedural barriers in dealing with legal documents, the financial constraints, or dealing with a lawyer.

There's also like people with disabilities often face stigma. Problems with attitude, even with, you know, lawyers. Yeah. Because, or, or social service organizations, because working with people with disabilities can be a challenge. You know, often a lot of them have mental health issues. They have difficulties following through with tasks expected of them.

So part of, [00:18:00] you know, what you get when you, uh, speak to a lawyer with Reach is we know how to communicate. With people with disabilities and empathize with them. Yeah. I'm not gonna judge you if you know you miss an appointment or you're unable to provide documents or all sorts of other things, because I know it's not necessarily you.

It may be, for example, your mental health issues. Mm-hmm. So part of also what Reach tries to do, and this by and large, you know, ABLE2's mission, is to be the, the organization that advocates for people with disabilities in Ottawa is to, you know, break that stigma associated with disabilities so that they can lead their full lives.

Um, also, you know, another big issue for people with disabilities is, okay, I have a disability. How am I gonna access court? Say if I have a hearing impairment. [00:19:00] How am I gonna show up in court? These resources are available, but you don't know where to start. Yeah. You know, um, what happens if, you know, I'm not able to meet a timeline for court because mental health reasons, or, you know, and so they suffer some so extreme anxiety that they can't fill out particular forms and have it in time.

Well, lawyers can assist you with that. We can ask for extensions of time. The thing is, you gotta, you know, you have to be able to know how to use the system. Marshal the evidence for your benefit. That's where Reach can come in to help you level the playing field so that you can access the system fairly.

Yeah, yeah, absolutely. So since the merger, uh, how has being part of ABLE2 allowed reach legal referral services to better address some of the barriers that you have shed light on? As mentioned [00:20:00] earlier, in late, even from the beginning when Reach was starting. Reach, and then Citizen Advocacy shared a mission to enhance the lives of people with disabilities, and it's really good karma that we eventually merged together.

Yes, because ABLE2 has given Reach like any small bootstrap organization, we struggled with day-to-day funding. Um, we had some really good fundraising, um, you know, options and so forth, but you, it's, uh, it's hard to get sustainable year on year, on, you know, financial support. This is where ABLE2 comes in.

So what we're doing is ABLE2 has given Reach the financial administrative support to enhance our mission. We've been able to take on more referrals with the support of University of Ottawa Law School and are expanding to other law schools throughout Ontario. We've obtained more grants such as [00:21:00] the McLachlin Foundation grant, which set up a will and estate clinic.

Mm-hmm. To service in an area of financial security for people with disabilities and estate planning. And more recently, we have an, we've gotten a number of grants from the Law Foundation, which we're really grateful for, uh, to provide. Currently, we have one where we are researching to provide plain language, plain legal language to people with disabilities.

It's a problem where people with disabilities look at, as I said earlier, the forms or the tasks required to access benefits or services, and then they just step away and they say. I don't get this, I'm not gonna pursue it. Mm-hmm. So, you know, with the help of the law Foundation and just being part of a larger organization allows us to get more financial grants, allows us to be able [00:22:00] to outreach to more lawyers and students and broaden our mandate to increase access to justice.

Yeah. Yeah. And it's incredible that, um, it like. To me, it just made sense that Reach merged with ABLE2 because we shared the same mission and it, um, served the same, you know, people. And so if you could change one thing about how the legal system serves people with disabilities, what would it be? Well, I think, um, one of the things that if people could just empathize with, you know, the disabled community,

and the resilience it takes for them to step into the legal system to fight for their rights and ensure their voices are heard. Just starting with that and ensuring you have, uh, lawyers who also empathize with sometimes the, the daily struggle that people with disabilities have, that would create [00:23:00] a more level playing field and then

doing whatever you can within the system to accommodate their disability, whether it's mental or physical, to make, you know, their struggle a little bit more easier. Because I think if lawyers taking on pro bono legal cases, the more lawyers we have who do this, the more meaningful difference will have in people with disabilities' lives.

Yeah, and even to this day, there seems to be still a lot of barriers to accommodate people with disabilities hindering them from their full participation in the community. And so really Reach has been instrumental in

ensuring that everyone has equal access to justice. Um, so for our listeners who work with or support people with disabilities,

what should they know about legal rights and where can people turn for help today? Well, don't turn to ChatGPT or [00:24:00] Gemini, which we all do little too much. I think what you need to do is ask around and you know, if you can land a program like Reach, it's gonna make a difference. It's gonna guide you to the right places.

It's gonna provide you a roadmap to ensure your rights are protected. But the main thing is just to, you know, for people who are frontline workers is to ensure that, you know, they got the right education, which could be provided through Reach. Mm-hmm. We're willing to offer, um, legal education seminars so that they could be directed to the right spots and to ensure their, their rights are protected.

Yeah. Wonderful. That is truly very helpful for our listeners and, uh, thanks again so much, Frank, for this insightful discussion about access to justice and legal support for people with disabilities. We [00:25:00] appreciate your time and expertise on this matter. Thanks a lot. For many people with disabilities, the legal system can feel overwhelming long before they ever step into a courtroom.

Complex forms, inaccessible processes, Financial barriers and stigma, all compound what is already a heavy burden. And too often those barriers quietly discourage people from even trying, leaving rights unclaimed and voices unheard. What we've heard today reminds us that justice should never depend on someone's capacity to navigate an unforgiving system on their own.

Real access to justice means meeting people where they are, recognizing the realities of living with a disability, and building systems that are flexible, compassionate, and inclusive by design. It also means valuing legal education, community-based support, and [00:26:00] pro bono services as essential parts of a fair justice system. When people understand their rights and have someone in their corner, the power dynamic shifts.

Dignity is restored, and justice becomes something that feels possible. At ABLE2 we believe that inclusion must extend into every part of life, including the legal system, because without access to justice, access to housing, employment, healthcare and financial security, they all remain out of reach.

Thank you for listening and for being part of the work to close the justice gap so that everyone has a real chance to be heard, protected, and supported. We would

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