

The Resolution of Legal Problems in Ontario

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In 2014, the Canadian Forum on Civil Justice (CFCJ) completed a comprehensive survey inquiring into the civil legal needs among Canadians.¹ Among the numerous insights provided by the survey, one finding of particular interest is that most Ontarians do not obtain formal legal advice when they are faced with a legal problem. This is not to suggest that Ontarians fail to take steps to resolve their legal issues – only about 4.3% of Ontarians with legal needs failed to take any action to resolve their problems – rather, a strong majority of Ontarians engage in types of resolution mechanisms that can be categorized as informal self-help methods. Specifically, many Ontarians resolve their problem by talking to the other party directly (71.5%), by seeking the advice of friends or relatives (49.6%) and/or by searching for information on the internet (27.8%). Approximately one-quarter of Ontarians with legal needs (26.2%) sought non-legal assistance by contacting an organization, such as the police, a union or a professional association, while only 17.9% of respondents stated that they sought formal legal assistance by contacting a lawyer for advice at some point during their resolution process.

¹ Trevor C.W. Farrow, Ab Currie, Nicole Aylwin, Les Jacobs and David Northrup, *Everyday Legal Problems and the Cost of Justice in Canada* (Toronto: Canadian Forum of Civil Justice, 2014) <<http://www.cfcj-fcjc.org/cost-of-justice>>.

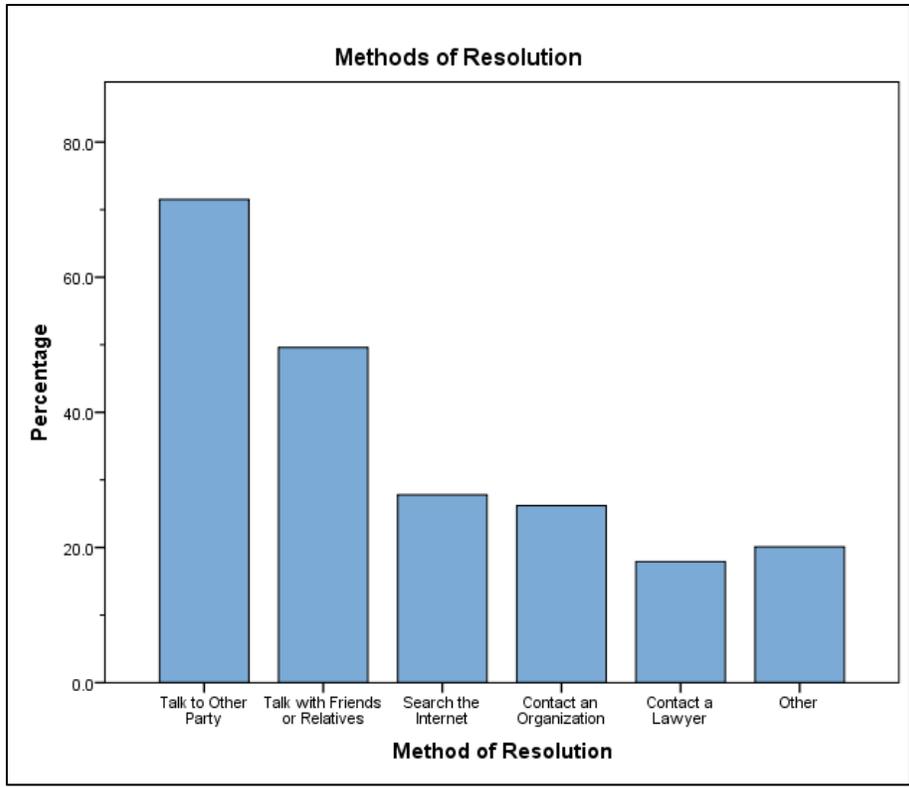


Table 1

There may be a variety of reasons why most Ontarians do not seek formal legal advice when faced with a legal problem. One might expect, for example, that knowing how expensive private legal services can be, those in lower income categories would seek formal legal advice less frequently; however this is not the case. When examining methods of resolution by income, just as many low-income individuals contacted a lawyer as high-income individuals (18.8% and 18.7% respectively) and only slightly more middle-income individuals contacted a lawyer than the other two categories (21.0%). A more likely indicator of whether an individual will seek legal advice has to do with how the problem is perceived.

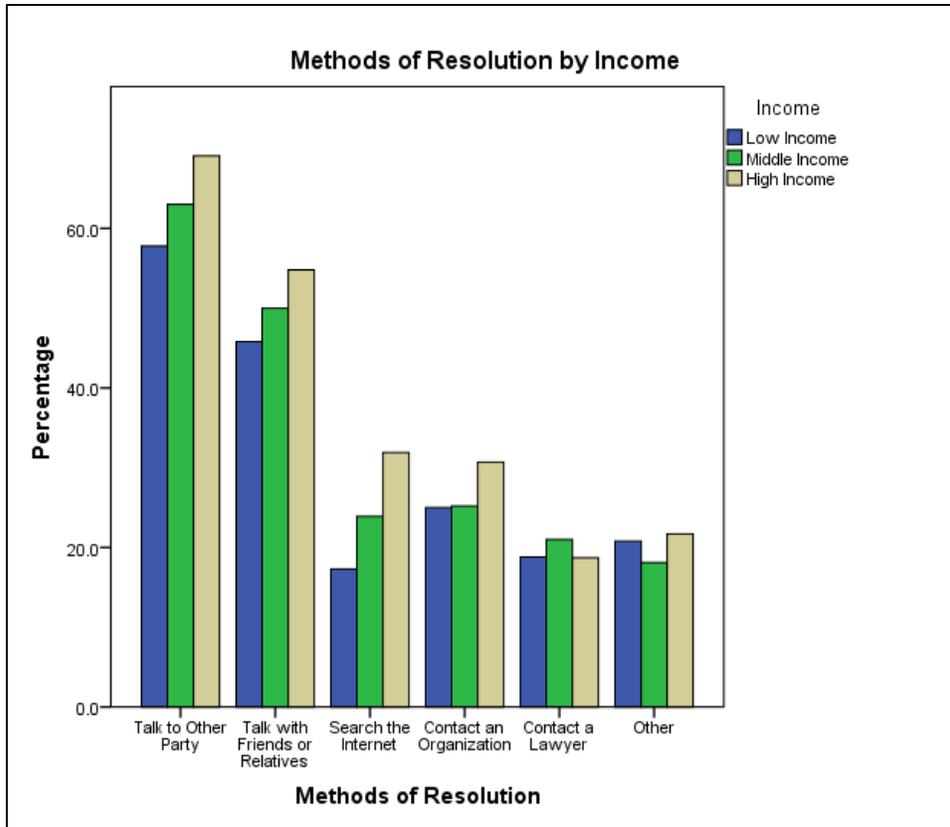


Table 2

For example, Ontarians who stated that they understood how serious the problem was or how serious the problem could become were slightly more likely to contact a lawyer than those who were not aware of how serious their problem was (22.4% compared to 13.2%, respectively). Not surprisingly, there is a much stronger statistical correlation between those that contacted a lawyer and those that understood the legal implications of their problem. Of those that were aware of the legal implications of their problem, 31.1% contacted a lawyer whereas only 11% of those that were unaware contacted a lawyer.

In a similar vein, numerous studies have concluded that the type of problem experienced by the individual is a strong indicator of whether they will seek legal

advice.² This appears to be the situation in Ontario where those categories that qualify for either legal aid certificates or duty counsel – being family, immigration and housing – had some of the highest percentage of respondents who contacted a lawyer (53.6%, 45.5% and 41.7% respectively). By contrast, the three most frequently experienced problem categories – being debt, employment and consumer problems – all had a fairly low rate of contacting a lawyer (21.6%, 19.2% and 17.1% respectively). The only other problem categories that were found to be correlated with contacting a lawyer are: being threatened with legal action and wills and powers of attorney (66.7% and 39.6% respectively).

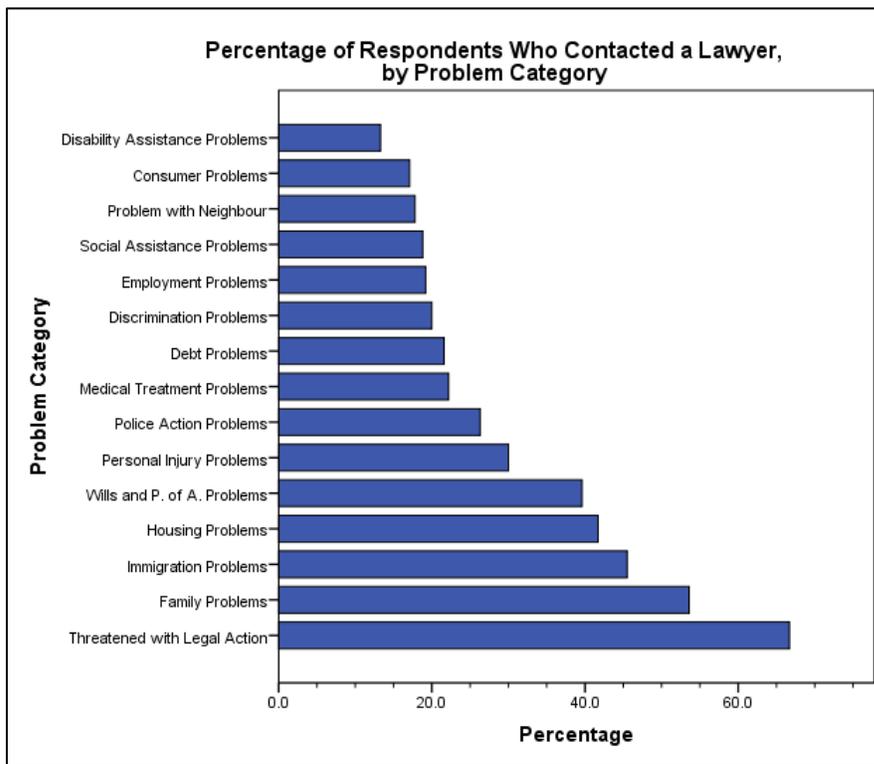


Table 3

² See e.g. Jamie Baxter, Michael Trebilcock & Albert Yoon, “The Ontario Civil Legal Needs Project: A Comparative Analysis of the 2009 Survey Data” in Michael Trebilcock, Anthony Duggan & Lorne Sossin, eds, *Middle Income Access to Justice* (Toronto: University of Toronto Press, 2012) 55 at 84; Hazel Genn, *Paths to Justice: What People Do and Think About Going to Law* (Oxford: Hart Publishing, 1999) at 135 [Genn, *Paths to Justice*]; Herbert M Kritzer, “To Lawyer or Not to Lawyer: Is that the Question?” (2008) 5:82 *J Empir Leg Stud* 875 [Kritzer, “To Lawyer”].

The fact that certain problem categories seek out legal advice more frequently is not surprising given that some legal problems are inevitably viewed as more serious or legal in nature than others. For example, an individual faced with losing custody of their children or being deported more readily understands the seriousness and the legal implications of the issue than an individual who may be denied vacation pay or who receives a call from a collections agent. Moreover, the potential consequences associated with certain types of problems are so great that they warrant spending money on legal advice regardless of one's income. This would help to explain why income alone is not a strong indicator of whether one will seek legal advice. However, this is only part of the puzzle. Even when a problem is perceived as serious or legal in nature, and regardless of problem type experienced (excluding family and being threatened with legal action), the majority of Ontarians still do not seek out legal advice for their legal problems.