



LAW COMMISSION OF ONTARIO
COMMISSION DU DROIT DE L'ONTARIO

BACKGROUND DEFAMATION LAW IN THE INTERNET AGE

What the Project is about?

The LCO's project is a comprehensive review of defamation law. The project is analyzing if or how defamation law in Ontario should be updated to account for "internet speech," including social media, blogs, internet platforms, and digital media.

Defamation law protects reputation from harm caused by false words. The law tries to balance two fundamental yet potentially conflicting values: protection of reputation and freedom of expression. Both values are important to individuals and the functioning of a modern democracy. Both values are informed by community norms and influenced by the society in which they operate.

Defamation law originated in the 17th century and the values and norms from that period continue to influence the law today. Ontario's current defamation law developed primarily through common law supplemented by the Libel and Slander Act (LSA).

Now, in the 21st century, the advent of the internet has brought many of these legal principles into question. The internet has revolutionized how we communicate. It instantly puts us in touch with a potentially global audience and we can, if we choose, speak to that audience anonymously. Publications are also increasingly electronic, whether they are in the form of a traditional media news story, digital media news story, blog or social media post. These developments have understandably had a huge impact on a law designed to regulate expression. Furthermore, the power of the internet to connect individuals and groups has transformed us into a networked society where communities of shared interests exist regardless of geography.

The LCO's project is the most comprehensive analysis of Ontario's defamation law framework to date. It is designed to analyze the underlying purpose and function of defamation law and to update the law to reflect the social and technological developments that will continue well into the future.

Key Issues in the Project

Some of the issues the LCO will consider in this project include:

- How should Ontario's laws balance free expression, reputation, and privacy?
- How do "internet speech" and digital communications affect free expression and reputation?
- Should Ontario's Libel and Slander Act be reformed to specifically address internet defamation?
- Are the traditional legal tests and procedures for defamation still appropriate in the internet age?
- Should Ontario create new remedies to help restore the reputation of people who are defamed on the internet?
- How can or should Ontario's laws deal with internet defamation outside of Ontario?
- Should internet intermediaries (such as Google, Facebook, and/or other internet platforms) be held legally responsible for defamatory statements created by others?

What We Have Done So Far

- In 2015 and 2016, the LCO undertook research and conducted roughly 35 preliminary interviews with complainants in defamation actions, traditional and new media organizations, defamation lawyers and academics, government representatives, members of the judiciary, civil society organizations, internet intermediaries and online review businesses.
- In 2016, the LCO organized an expert Advisory Group representative of key stakeholder groups to provide ongoing input and support for the project.
- The LCO commissioned five research papers addressing specific issues and bringing important insights to the project. The commissioned papers are available at the LCO's website: <http://www.lco-cdo.org/en/our-current-projects/defamation-law-in-the-internet-age/final-commissioned-papers/>.

Next Steps and More Information

The Consultation Paper will be released on November 6, 2017. Following that, the LCO will organized focus groups, meetings, and interviews with a broad range of individuals and organizations interested in these issues. The LCO also expects to host a defamation conference in 2018, culminating the consultation process.

The **deadline for submissions is March 30, 2018**.

More information about the project is available at <http://www.lco-cdo.org/en/our-current-projects/defamation-law-in-the-internet-age/>.

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Making a Submission

All interested parties are invited to provide submissions by mail, fax or e-mail to:

Law Commission of Ontario
Defamation Law in the Internet Age
2032 Ignat Kaneff Building
Osgoode Hall Law School
York University
4700 Keele Street
Toronto, Ontario M3J 1P3
Att: Sue Gratton, Project Head

Toronto (416) 650-8406
Toll-Free 1 (866) 950-8406
TTY (416) 650-8082
Toll Free TTY 1 (877) 650-8082
Fax (416) 650-8418
Email: lawcommission@lco-cdo.org