

Bridging the Gap: People-Centered Ethics and Practice in Ontario Family Law

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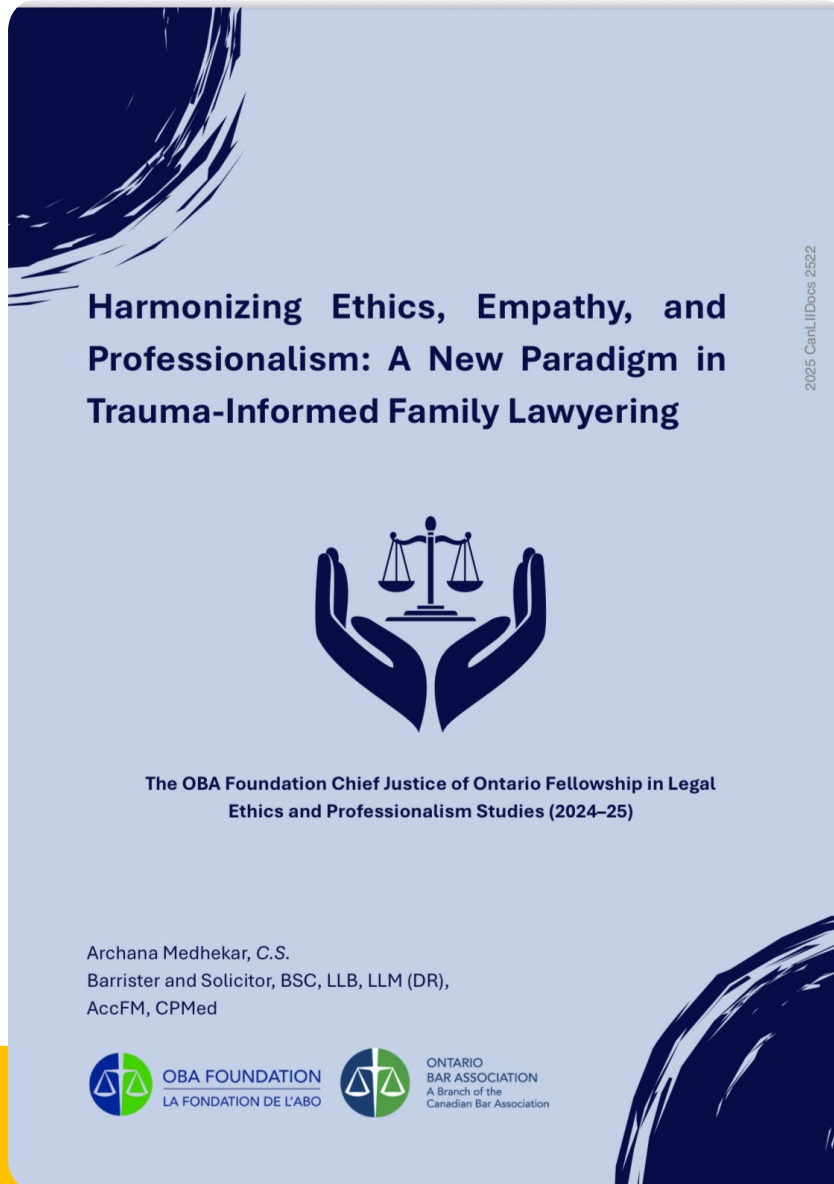


Acknowledgement



- This presentation is based on findings from the **Chief Justice of Ontario Fellowship in Legal Ethics and Professionalism (2024–25)**, supported by the **Ontario Bar Association Foundation**.
- The study, [*Harmonizing Ethics, Empathy, and Professionalism: A New Paradigm in Trauma-Informed Family Lawyering*](#), was conducted as part of this Fellowship. (**2025 CanLIIDocs 2522**)
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About the Fellowship Study



- **Chief Justice of Ontario Fellowship in Legal Ethics and Professionalism (2025–26)**
Supported by the **OBA Foundation**
- **Focus:** How Ontario family lawyers navigate ethical duties in trauma-affected, culturally complex cases
- **Participants:** Over 90 lawyers across Ontario
- **Methods:** Surveys, interviews, and focus groups
- **Goal:** Reimagine professionalism as relational, empathetic, and grounded in human dignity

Learning Objectives

- By the end of this session, participants will:
- Understand how **trauma, culture, and systemic inequality** shape client experiences and challenge lawyers' ethical responsibilities.
- Examine the **tension between adversarial norms** and emerging collaborative roles in family law.
- Learn **practitioner-informed strategies** for embedding empathy, professionalism, and trauma-awareness in practice.
- Identify **ethical blind spots** that risk re-traumatization or loss of trust.
- Explore how **people-centred professionalism** strengthens both justice outcomes and lawyer well-being.

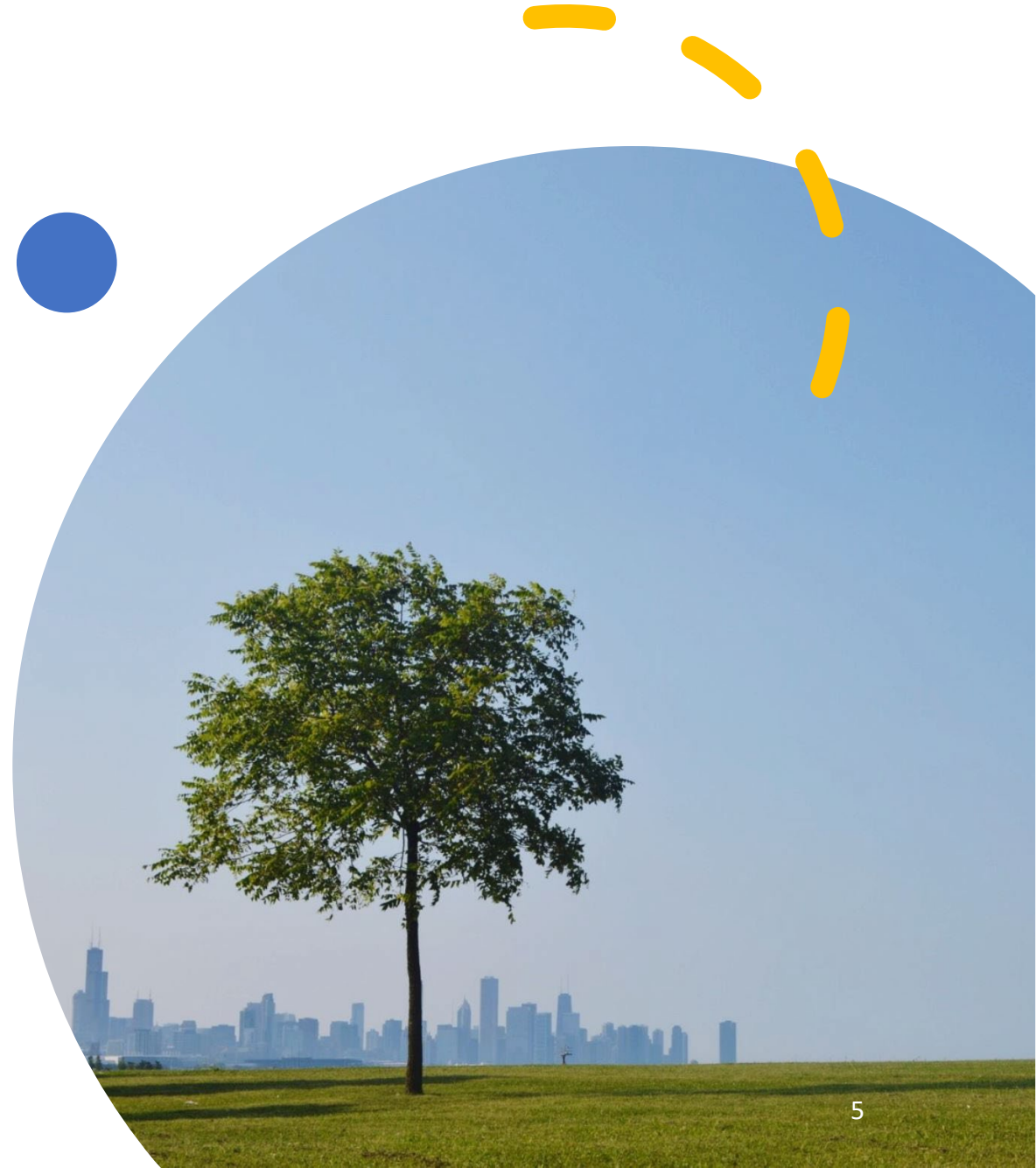


Why This Conversation Matters

Ontario's family law landscape is changing.

Lawyers now work at the intersection of:

- **Trauma and family violence**
- **Cultural and linguistic diversity**
- **Systemic inequality and access barriers**
- **Evolving professional and ethical expectations**



Divorce Act

Family Violence Provisions

- Evidence-based definition: s. 2(1)
- ***family violence*** means any conduct, whether or not the conduct constitutes a criminal offence, by a family member towards another family member, that is **violent or threatening or that constitutes a pattern of coercive and controlling behaviour or that causes that other family member to fear for their own safety** or for that of another person — and in the case of a child, the **direct or indirect exposure to such conduct** — (...)

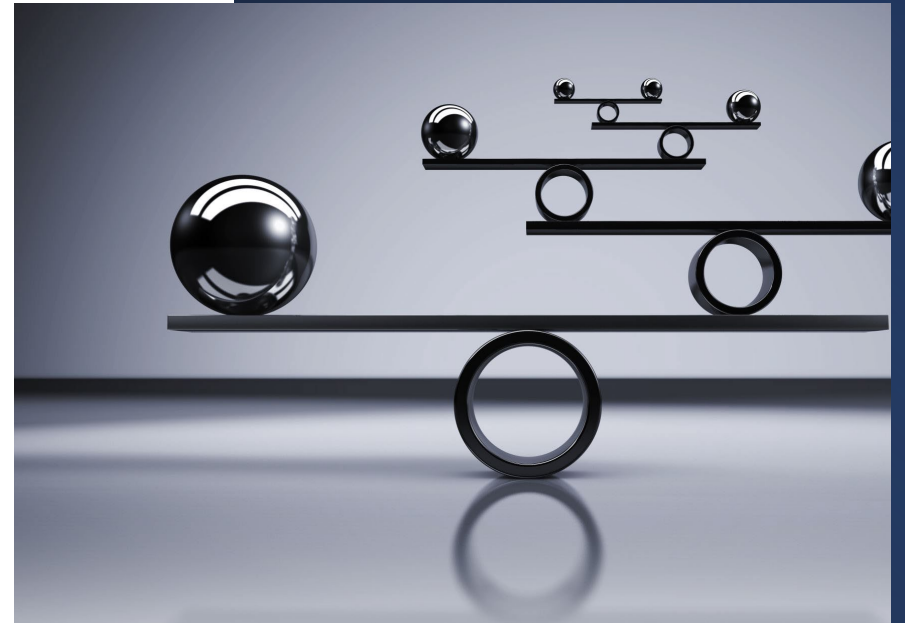


What Does Trauma-Informed Practice Mean?

Core principles: Safety, Trust, Choice, Collaboration, Empowerment

Applied differently in lawyering and mediation

Shared goal: reduce harm, enable participation, support dignity



Trauma-Informed Family Dispute Resolution

- Aims to reduce re-traumatization
- Recognize the role trauma plays in the lawyer-client relationship
- Better communication with client
- Increased connection with clients
- Higher level of trust in lawyer/ mediator
- Improved advocacy/ outcomes

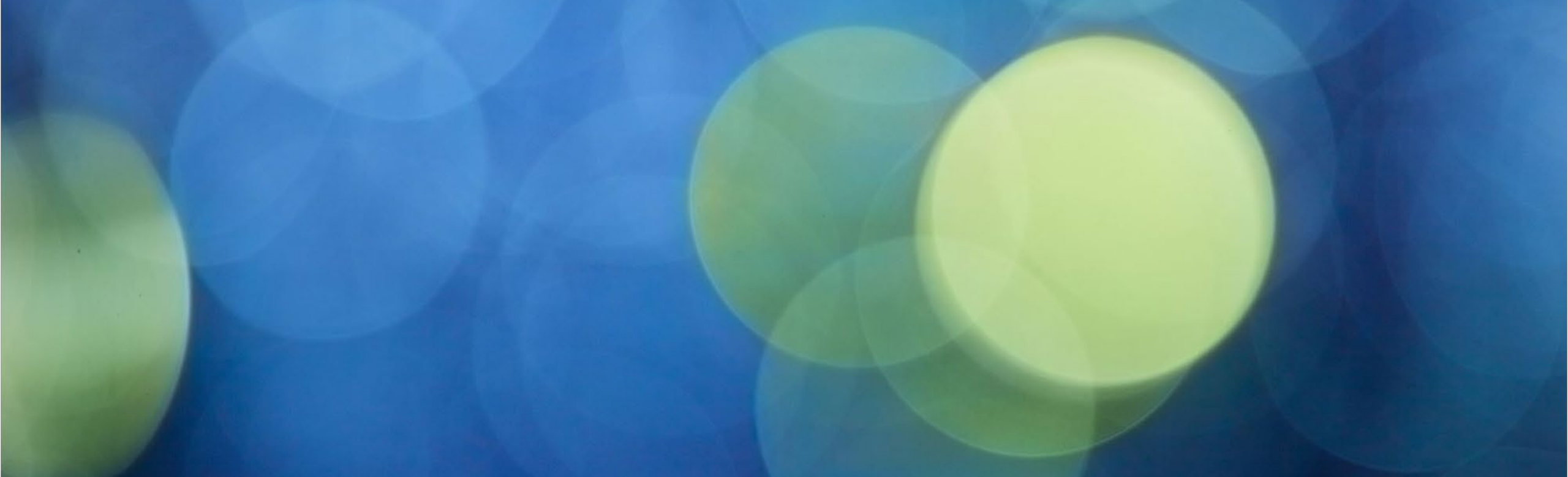


Identifying Signs of Trauma

- Awareness, not a checklist
- Look beyond words
- Notice patterns: silence, shutdown, escalation
- First step toward safe process

Root Causes of Conflict

- Symptoms vs causes
- Legal framing vs human reality
- Diagnosing before prescribing



Two-step process

- The trauma-informed practice takes place in two steps.
- First- identifying the trauma, and
- Second- adjusting the client relationship in relation to the trauma.
- This process does not include diagnosing a client or trying to be a “therapist” for clients.

What Practitioners Told Us

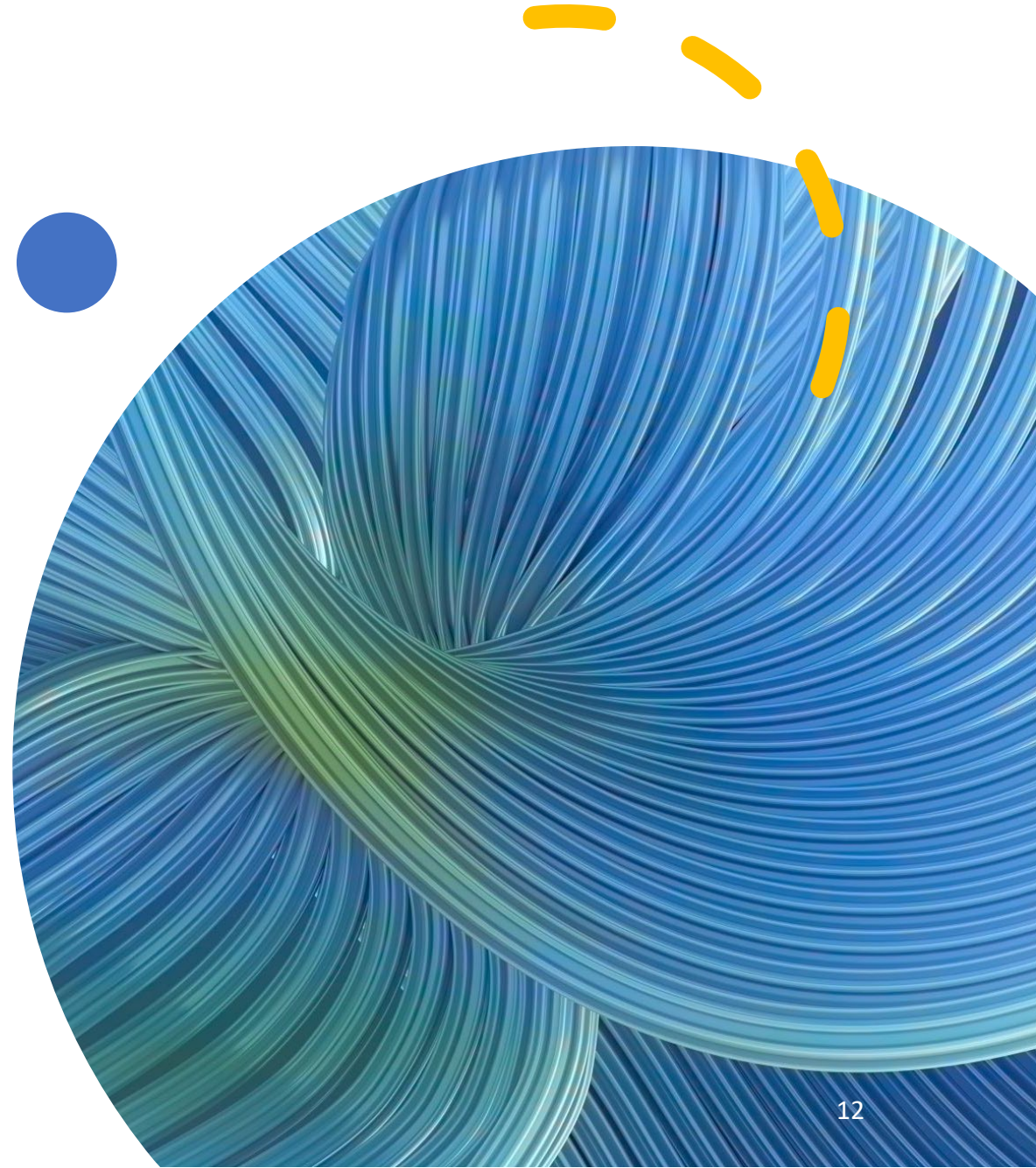
Insights from **103 participants** - 99 lawyers and 4 academics -revealed that:

Ethical challenges often emerge **not from bad intent**, but from **systemic constraints and emotional fatigue**.

Lawyers struggle when **formal codes** fail to reflect the **human complexity of cases**.

Many described **moral distress** when compelled to act legally but not ethically.

There is growing demand for **supportive ethics**—grounded in care, culture, and context.





Key Takeaways

- Trauma-informed professionalism is **not a soft skill**—it is a form of competence.
- Ethical lawyering in family practice requires **power literacy** and **relational awareness**.
- Supporting clients with dignity begins with **supporting the practitioner**.
- The shift from **code to connection** strengthens both justice and lawyer well-being.

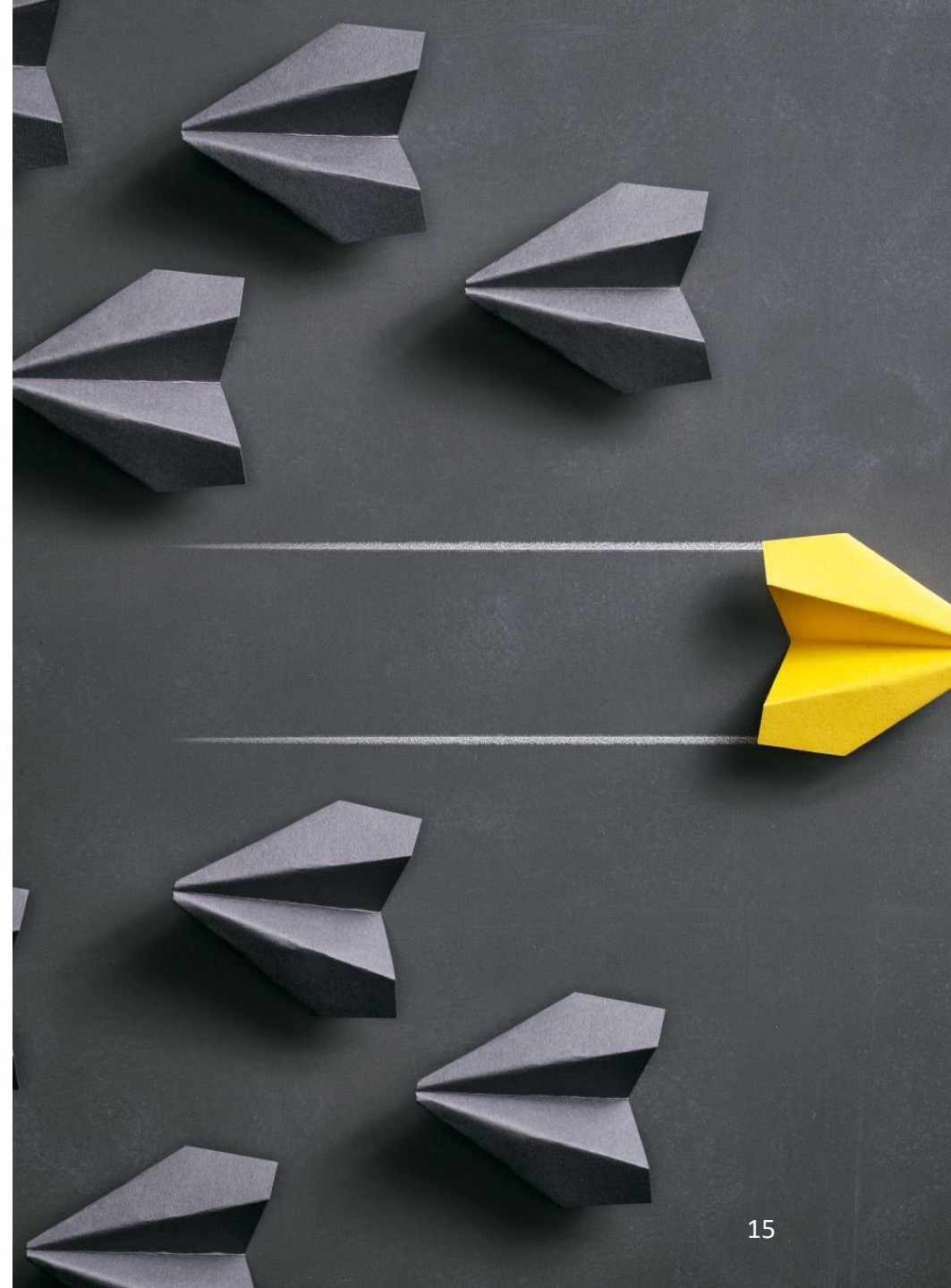
Findings and Framework

- Theme 1: Trauma and Trust”
- “Theme 2: Culture and Context”
- “Theme 3: Systemic Barriers and Blind Spots”
- “Theme 4: Redefining Professionalism”?



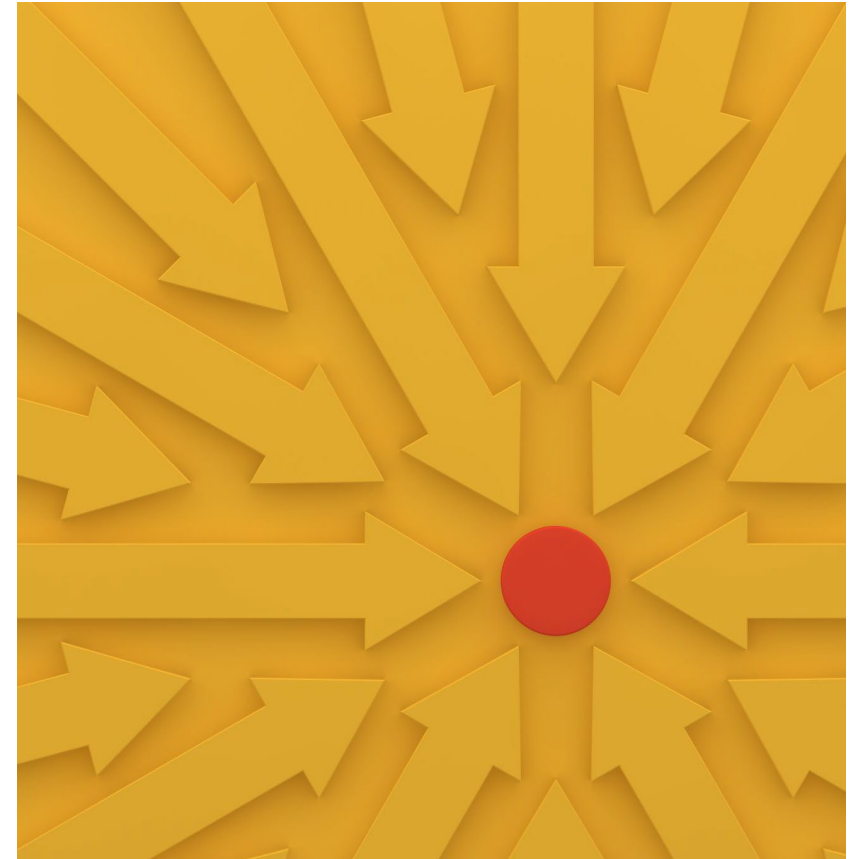
Theme 1: Trauma and Trust

- **What we heard:**
- Participants reported working weekly with trauma-affected clients (84%).
- Over half said vicarious trauma or emotional fatigue affects their ethical judgment (52%).
- Many described a tension between “professional detachment” and “human empathy.”
- **Key insight:** Ethical competence in family law now requires **trauma literacy** - the ability to recognize trauma responses, regulate one’s own reactions, and avoid re-traumatization in clients or colleagues.



Theme 2: Culture and Context

- **What we heard:**
- Lawyers said cultural misunderstandings have led to misjudged credibility or parenting capacity (73%).
- Many felt ill-equipped to navigate cultural or linguistic differences ethically (68%).
- Several observed bias or stereotypes influencing outcomes (41%).
- **Key insight:** Cultural responsiveness is **core to ethical lawyering**. Professionalism must account for context and culture, not assume conformity.



Theme 3: Systemic Barriers and Blind Spots

- **What we heard:**
- Most participants identified systemic delays and access barriers as key ethical stressors (77%).
- Nearly two-thirds had witnessed adversarial tactics that caused emotional harm (64%).
- Some described “procedural violence” — processes that comply with law but erode dignity.
- **Key insight:** When process harms people, **ethics demands awareness and advocacy.** Systemic barriers are not administrative inconveniences; they are justice issues.





Theme 4: Redefining Professionalism

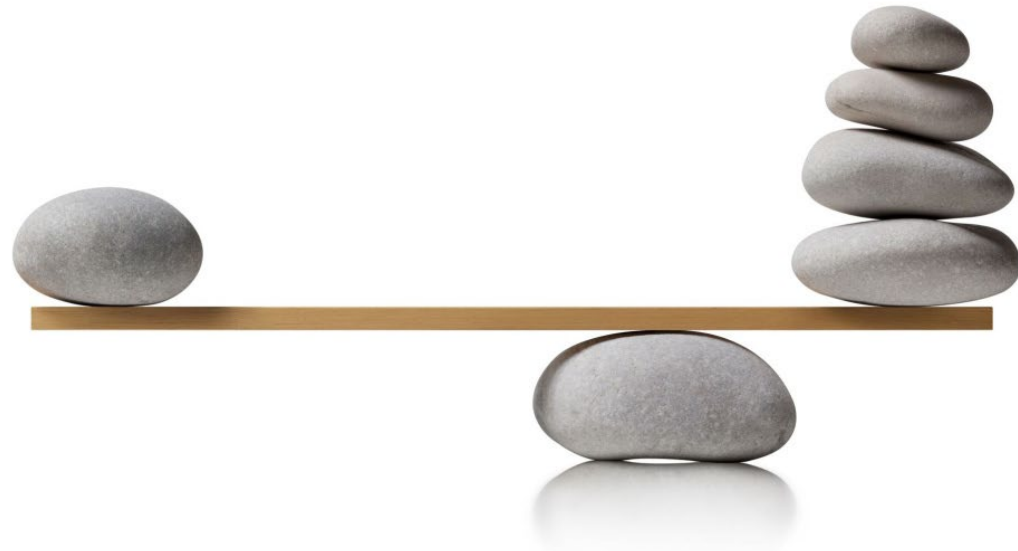
- **What we heard:**
- Most participants agreed that traditional professionalism no longer fits today's realities (91%).
- A large majority supported reframing professionalism around empathy and relational ethics (82%).
- Many called for structured supports - training, mentorship, and reflective supervision.
- **Key insight:** Professionalism must evolve from **rule compliance to relational competence** - the foundation of the **CARE Framework** (Competence, Accountability, Relational Ethics, Empathy).

Relational Justice in Family Disputes

Family disputes extend beyond two parties

Ripple effects: children, extended families, communities

Relational justice: holding rights, interests, and relationships together



Strategies to Support Clients in a Trauma-Informed Way

- Screening as foundation
- Process design matters
- Safety, voice, dignity

Impact on Children

- Children as “invisible parties”
- Separation vs conflict: what actually harms
- Ripple effects of family violence, mental health, addiction
- Bringing children’s voices into the process



Incorporating Trauma- and Violence-Informed Principles and Cultural Safety and Awareness

Being trauma-informed: address risk of harm.

- Factors such as race, gender and poverty are therefore relevant to increased trauma responses.

Social and Cultural Context

- Randell and Haskell found *“research suggests that the more marginalized and most vulnerable members of society are at greater risk for trauma responses. It is more common for youth, the impoverished, and minority groups to experience trauma.”*

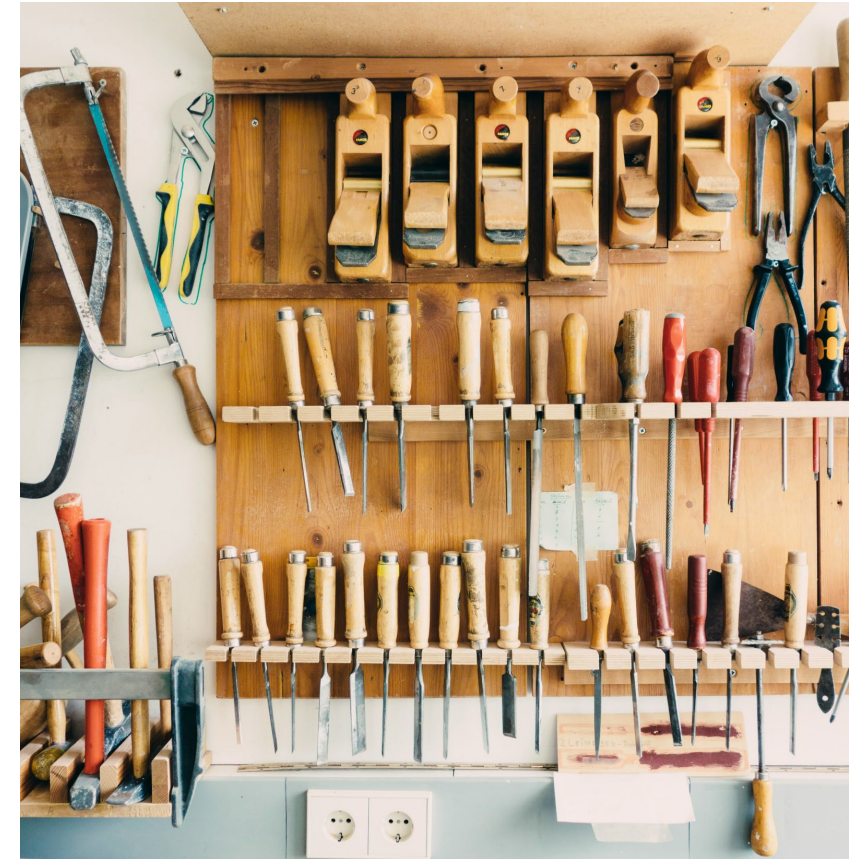


HELP Approach and Toolkit

- [Justice Canada HELP Toolkit](#) :

Justice Canada released a **toolkit** to assist family lawyers in supporting clients who have experienced family violence.

- The development of an evidence- and user-based tool for family lawyers with practical suggestions on how to identify and respond to family violence in a way that is safe for the client.
- Our research project team was invited by Justice Canada to provide expert paper to feed into the HELP toolkit
- Archana Medhekar et al., [Domestic Violence in Ethno-cultural Communities: the Potential Impact on the Identification and Response to Domestic Violence by Family Law Lawyers](#) (Gatineau: Department for Women and Gender Equality, 2020, unpublished)
- [Understanding family violence in diverse communities: What subject-matter experts think family law legal advisers should know](#)



Closing Reflections

- **Justice with care begins with us.**
- Every interaction — with clients, colleagues, or the court — is an opportunity to model the ethics we want the system to embody.
- Trauma-informed, people-centred professionalism is not a specialty. It is the modern standard of competence, integrity, and humanity in family law.
- **The challenge ahead:**
To move from awareness to accountability, from care to culture shift.





Self-Care from Vicarious Trauma

- Secondary trauma is real
- Boundaries, balance, sustainability
- Supporting ourselves to support others

Questions/Comments



Resources: Department of Justice Canada (DOJ) publications 2023

- [Estimating Expenditures on Children by Families in Canada, 2014 to 2017](#) (report)
- [Family spending on children in Canada](#) (infographic)
- [Identifying and responding to family violence in family law cases: Results from the 2019 Survey of Lawyers and Quebec Notaries on Family Law and Family Violence in Canada](#)
- [User-Experience Testing of the HELP Toolkit](#)
- [Child to parent violence and aggression: Reviewing the research](#)
- [Experiences of Indigenous families in the family justice system: A literature review and perspectives from legal and frontline family justice professionals](#)
- [Making appropriate parenting arrangements in family violence cases: Applying the literature to identify promising practices, 2023](#)
- [Perceptions of and confidence in the Canadian family justice system: Key findings from the 2022 National Justice Survey](#)
- [Understanding family violence in diverse communities: What subject-matter experts think family law legal advisers should know](#)

Resources: DOJ training and useful links

- Canada, Department of Justice, *The Divorce Act Changes explained*, June 2021: *Department of Justice* <<https://www.justice.gc.ca/eng/fl-df/cfl-mdf/dace-clde/index.html>>
- Visit the Department of Justice website (<https://www.justice.gc.ca/eng/>) for updates to information for families, legal advisers and service providers.
- Cross, Pamela et al., “What You Don’t Know Can Hurt You: The importance of family violence screening tools for family law practitioners” (2018), online (pdf): *Department of Justice* <<https://www.justice.gc.ca/eng/rp-pr/jr/can-peut/can-peut.pdf>>.
- Department of Justice, “About Family Violence” (2019), online: *Department of Justice* <<https://www.justice.gc.ca/eng/cj-jp/fv-vf/about-a-propos.html>>.
- Cynthia L. Chewter, “Violence Against Women and Children: Some Legal Issues” (2003) 20 Can. J. Fam. L. 99.
- Myhill, Andy & Katrin Hohl. “The ‘Golden Thread’: Coercive Control and Risk Assessment for Domestic Violence” (2019) 34:21–22 J Interpersonal Violence 4477–4497, online: <<http://journals.sagepub.com/doi/10.1177/0886260516675464>>.
- United Nations, “Declaration on the elimination of violence against women.” (1994) online (pdf): *UN* <<https://undocs.org/en/A/RES/48/104>>.

Resources: Legislative amendments & Articles

- Koshan, Jennifer and Mosher, Janet Eaton and Wiegers, Wanda Anne, A Comparison of Gender-Based Violence Laws in Canada: A Report for the National Action Plan on Gender-Based Violence Working Group on Responsive Legal and Justice Systems (April 30, 2021). Available at SSRN: <https://ssrn.com/abstract=3995519>
- Nicholas Bala, “Bill C-78: Reforms to the Parenting Provisions of Canada’s *Divorce Act*” (2020), 39 *Canadian Family Law Quarterly* 48-77
- John-Paul Boyd, A Brief Overview of Bill C-78, An Act to Amend the Divorce Act and Related Legislation, Canadian Research Institute for Law and the Family, 2018 CanLII Docs 38, < [A Brief Overview of Bill C-78, An Act to Amend the Divorce Act and Related Legislation | CanLII](#) >, retrieved on 2023-11-13
- John-Paul Boyd, A Brief Overview of Bill C-78, Part 2: Amendments Relating to Interjurisdictional Agreements and Treaties. [Boyd-Overview-of-Bill-C78-Pt-2-June-2018.pdf \(afccontario.ca\)](#).
- Nicholas Bala & Andrea Himel, *Using The AFCC-O Parenting Plan Guide And Template: Resources For Ontario Family Lawyers*. (2020, Law Society Summit materials)
- Rollie Thompson, “Legislating About Relocating: Bill C-78, N.S. & B.C.” (2019) 38 Can F. L.Q. 219.

Resources: Assessing and Identifying FV

- Chaze, F., Osborne, B., Medhekar, A., & George, P. (2020). [Domestic Violence in Immigrant Communities: Case Studies](#). ECampus Ontario Pressbooks.
- Chaze, F., & Medhekar, A. (2017). The Intersectional oppressions of South Asian Immigrant Women's Mothering. *Matrimonial Affairs*. <https://www.oba.org/Sections/Family-Law/Articles/Articles-2017/March-2017/The-Intersectional-Oppressions-of-South-Asian-Immi>
- Websdale, N., 2000, Lethality assessment tools – A critical analysis, http://new.vawnet.org/category/Main_Doc.php?docid=387.
- Cross, Pamela et al., “What You Don't Know Can Hurt You: The importance of family violence screening tools for family law practitioners” (2018), online (pdf): *Department of Justice* <https://www.justice.gc.ca/eng/rp-pr/jr/can-peut/can-peut.pdf>
- Department of Justice, “**HELP Toolkit: Identifying and Responding to Family Violence for Family Law Legal Advisers**.” <https://www.justice.gc.ca/eng/fl-df/help-aide/index.html>
- George, P., Medhekar, A., Chaze, F., Osborne, B., Heer, M., Alavi, H. (2022). In search of interdisciplinary, holistic and culturally informed services: The case of racialized immigrant women experiencing domestic violence in Ontario. *Family Court Review*, <https://doi.org/10.1111/fcre.12653>
- Medhekar, A., George, P. Osborne, B., Chaze, F. & Alavi, H. (2020). Expert paper on the impact of family violence in ethno-cultural communities: The potential impact on the identification and response to family violence by family law lawyers. Department of Justice, Government of Canada.
- Archana Medhekar et al., [Domestic Violence in Ethno-cultural Communities: the Potential Impact on the Identification and Response to Domestic Violence by Family Law Lawyers](#) (Gatineau: Department for Women and Gender Equality, 2020, unpublished)

Resources: Safety Planning and triage

- www.idetermine.ca
A useful website to send parties to, to help them identify safety risks and learn about safety plans.
- www.mulberryfinder.ca
A comprehensive list of gender-based violence services in Ontario
- Australian resources for IPV/DV screening & working with children exposed to violence.
- www.childrenbeyonddispute.com shares other helpful resources
- Family “Doors” APP (DOORS = “Detection of Overall Risk Screen”) Developed by Dr. Jennifer McIntosh from 2011 and report in October FCR 2021 of 10 year follow-up of universal risk screening in mediation and counseling organization:
- Family Doors 1 = triage for parents (version for those with children and without) brief and can be done at reception –depending on outcome –may proceed to Doors 2.
- Family Doors 2 = Professional follow-up questions depending on outcome of triage with Doors 1 that guides risk analysis and follow-up needs/planning and how to keep all safe.

Resources: For Men and FV

- [Intimate Partner Abuse Against Men - Canada.ca](#) (DOJ)
- [Prof Michael Flood - Engaging Men and Boys: Theory and Evidence - Now and Men](#) (capture.fm)
- [Canadian Centre for Men and Families – No one's invincible. Now there's a place for him and the people in his life.](#)
- [Men's Line: Get help if you are experiencing violence | ontario.ca](#)
- [Support Services for Male Survivors of Sexual Abuse - CLEO Connect](#)

Resources: for Practice Management

- [New Lawyer Resources – practicePRO](#)
- [Retainers and Non-engagement letters – practicePRO](#)
- [Practice Tip Sheets – practicePRO](#)

Resources: Understanding emotions (Harvard)

- “Core Concerns Framework”: originally set out by Harvard professors Roger Fisher and Daniel Shapiro in ***Beyond Reason: Using Emotions as you Negotiate***.
- [Summary of "Beyond Reason: Using Emotions as You Negotiate" | Beyond Intractability](#)
- [Emotional Preparation tool: Preparation Guide: Microsoft Word - EPS.doc \(harvard.edu\)](#)
- [- core concerns analysis chart.pdf \(harvard.edu\)](#)
- [- Microsoft Word - EPS.doc \(harvard.edu\)](#)

Resources: Trauma Informed Lawyering

- Canadian Mental Health Association. (2013). Posttraumatic stress disorder. Retrieved October 6, 2018, from <https://cmha.bc.ca/documents/post-traumatic-stress-disorder-2/>
- Kulkarni, S. (2019). Intersectional trauma-informed intimate partner violence (IPV) services: Narrowing the gap between IPV service delivery and survivor needs. *Journal of Family Violence*, 34, 55–64. <https://doi.org/10.1007/s10896-018-0001-5>
- Tolin, D., & Foa, E. (2006). Sex differences in trauma and posttraumatic stress disorder: A quantitative review of 25 years of research. *Psychological Bulletin*, 132, 959-992. doi: 10.1037/0033-2909.132.6.959
- American Psychological Association, “Uncovering the Trauma of Racism” [apa.org/pubs/highlights/spotlight/issue-128](https://www.apa.org/pubs/highlights/spotlight/issue-128).
- Katz, Sarah & Haldar, Deeya “The Pedagogy of Trauma-Informed Lawyering” (2016) 22:2 Clinical L Rev 359.
- Randal, Melanie & Haskell, Lori, “Trauma-Informed Approaches to Law: Why Restorative Justice Must Understand Trauma and Psychological Coping” (2013) 36:2 Dal LJ 501.

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