

INNOVATION AND ACCESS TO JUSTICE: ADDRESSING THE CHALLENGE OF A DIVERSE JUSTICE ECOSYSTEM

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Despite having been a mainstay topic of conversation for many years in the fields of business, technology, public administration and other specialized service sectors such as medicine, ‘innovation’ has only recently begun to infuse conversations in the justice sector. With the widespread recognition that globalization is disrupting traditional legal roles and organizational structures, that technology is poised to radically reconfigure how legal services are delivered, and that despite best efforts, the access to justice gap continues to grow in Canada, innovation – as both a noun and a verb - has become a talisman, poised to help address the challenges pushing at the door of the legal profession.

While conversations about disruptive innovation in law seem to flow more easily when discussing legal technology or the changing nature of “big law”, the discussions around innovation have been more hesitant in dialogues on access to justice. This hesitation may be due in part to an unfortunate history of the term being equated with doing more work with less money – a situation that has often been foisted upon already stretched publically funded legal service providers (like, for example, community legal clinics, or other not-for-profit legal information sources). However, recently, a more nuanced and cross-disciplinary conversation about innovation has emerged. Legal practitioners, academics and access to justice advocates have begun to explore how the theories, methods and tools of innovation in adjacent sectors can be applied to meet the complex access to justice challenges presenting in Canada. This special edition, focused exclusively on exploring innovation through an access to justice lens, is an exciting opportunity to join a burgeoning scholarship on the topic of innovation and access to justice.

I. A ‘CRISIS’ IN ACCESS TO JUSTICE

Almost half of all adult Canadians will experience at least one civil or family justice problem over any given three-year period.¹ Unfortunately, survey research suggests that just over half of Canadians – 55% - will be able to afford to resolve these types of legal problems.² This means 45% of Canadians are regularly left with unresolved legal issues.³ This is partly because resolving a legal problem through the formal system is costly. Hourly legal fees amount to hundreds of dollars and even a relatively short court proceeding can be priced at thousands of dollars. Legal aid is not widely available. It can only be accessed by those with very low income and it is not obtainable for all types of legal problems.⁴ The result is an ever-widening gap between those that can afford to access justice and those that cannot. No

¹ Trevor C.W. Farrow et al, *Everyday Legal Problems and the Cost of Justice in Canada: Overview Report* (Toronto: Canadian Forum on Civil Justice, 2016), online: Canadian Forum on Civil Justice: <<http://www.cfcj-fcjc.org/sites/default/files/Everyday%20Legal%20Problems%20and%20the%20Cost%20of%20Justice%20in%20Canada%20-%20Overview%20Report.pdf>>.

² *Ibid.*

³ *Ibid.*

⁴ While we recognize that there is an equal need and level of discussion on the role of innovation in improving the criminal justice system, this edition focuses primarily on civil and family justice.