Super Ordinary Lab

2020

Still waiting for disruption: Final report

Asraf, Amreen, Brown, Meredith, Martin, Christine, McCoubrey, Sarah and Stein, Suzanne

Still Waiting for Disruption

Final Report

ASHRAF, BROWN, MARTIN, MCCOUBREY, STEIN

Abstract

Advances in legal tech are not currently disrupting Canada's access to justice crisis. In this project we sought to understand the barriers and opportunities for disruptive legal technology to address people's everyday legal problems. The application of the discipline of Strategic Foresight to the justice system allowed us to examine the forces of change in the current environment affecting A2J actors and identify key levers that could be pulled now to support transformative change. The project has resulted in a set of practical tools for A2J actors.

Authors: Ashraf, Brown, Martin, McCoubrey, Stein

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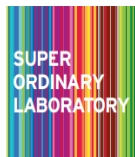
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Attributions

The Project Team is grateful for the contributions of time and insight given to us and the project by:

- The Project Advisory Committee:
    - Trevor Farrow, Osgoode Hall Law School
    - Noel Semple, University of Windsor Law School
    - Andrew Pilliar, Thompson Rivers University Law School

- Workshop participants:
    - Tami Moscoe, Superior Court of Justice
    - Michelle Bouthiette, Superior Court of Justice
    - Nuno Silva, Ministry of the Solicitor General and Community Safety
    - Will Morrison, Law Society of Ontario
    - Rui Chen, SprintForms
    - Sheau Lih Vong, Vong Law
    - Lisa Stam, Spring Law
    - Geevith Rubakumar, Innovator and Lawyer
    - Mona Datt, Loom Analytics
    - Michelle Cader, CLEO
    - Nye Thomas, Law Commission of Ontario
    - Hersh Perlis, Legal Innovation Zone

The Project Team is:

OCAD University: Suzanne Stein, Amreen Asraf, Christine Martin

CALIBRATE: Sarah McCoubrey, Meredith Brown

While we received tremendous support and wisdom from these contributors, any errors or omissions should be attributed entirely to the Project Team.

June 22, 2020

Suzanne Stein
Sarah McCoubrey
Meredith Brown
Amreen Ashraf
Christine Martin

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Project Context

Technological innovation has arrived in the legal sector and is beginning to have significant impact in some areas, such as the work of lawyers and decision-making applications. From customizable products and case research to machine-driven contract review and AI-supported legal analysis, these tools are becoming more and more common in law firms and corporate legal departments. Legal tech is transforming these areas, radically changing the way these functions are accomplished. Access to justice (A2J) has not seen a similar disruption. While legal tech is improving lawyers' workflow and business model, it is not yet meaningfully improving people's justice experience or access to legal conflict resolution.

The *Still Waiting for Disruption* (SWD) Project explores this gap in legal tech innovation to support a revised approach to legal tech disruption, one that includes advancing access to justice. Our goal is to highlight the value of positive legal tech impact on the access to justice crisis in Canada, by exploring the existing barriers to innovation and building future models and practical tools that provide direction for A2J actors, tech innovators and funders/investors now.

ACCESS TO JUSTICE IS A CRISIS IN CANADA

The existence of an access to justice crisis in Canada is well-documented and not a recent development. Canada's Chief Justice, Beverley McLachlin, introduced the "Roadmap for Change" in 2013, stating:

> *"The problem of access to justice is not a new one. As long as justice has existed, there have been those who struggled to access it. But as Canadians celebrated the new millennium, it became clear that we were increasingly failing in our responsibility to provide a justice system that was accessible, responsive and citizen-focused. Reports told us that cost, delays, long trials, complex procedures and other barriers were making it impossible for more and more Canadians to exercise their legal rights."*
> (Action Committee, "Roadmap for Change" i)

Access to justice impacts individuals facing 'everyday legal problems' --a problem arising out of the normal activities of people's daily lives that has a legal aspect and has a potential legal solution (Farrow et al. 5). These are also referred to as 'personal plight issues' (Semple 19-20). Excellent efforts across Canada have produced responses addressing the access to justice crisis but it has not yet abated. On the World Justice Project Rule of Law Index 2020, in overall score, Canada ranks 9/128 globally. However, on the measure of "people can access and afford civil justice", Canada ranks a sobering 56/128 (World Justice Project) .

Access to justice remains a confounding issue for Canadians and, in particular, for those working in the justice sector. Despite excellent local, regional and national efforts, in Canadian urban centres almost 80% of family litigants are filing unrepresented, and people's civil legal needs are

overwhelmingly unmet (NRSLP "Facts about Self-Representation"). The impact of this on the Canadian population cannot be underestimated: Almost 50% of adults in Canada experience 1 or more civil or family justice problems in a given 3-year period and many experience multiple issues. According to the Canadian Forum on Civil Justice's important study "Everyday Legal Problems and the Cost of Justice in Canada", within any given period, adult Canadians experience approximately 35,745,000 separate everyday legal problems. As the authors of the study note: "This suggests that the formal justice system - as it exists today - would be overwhelmed if it were expected to help resolve all of the everyday legal problems experienced by the public. Further, we know from other studies and reports that people generally cannot afford to access the legal system, nor do they generally understand or feel welcome by it" (Farrow 7).

The literature review below examines a number of the critical studies and analyses conducted in Canada with respect to the existence and persistence of the access to justice crisis. This review supports the Project Team's assertion that responses to the access to justice crisis should be many and varied, with as few barriers to innovation as possible.

SEEKING DISRUPTION

"Disruptive innovation", as first coined by Christensen, is a process where new entrants target overlooked, underserved groups often at the bottom of the market (Christensen et al. 4). While incumbents focus on incremental improvements on existing products and services for their current, often higher end customers, disruptive innovators gain a foothold at the lower end, or with new markets, offering functionality to suit their needs, usually much more affordably. Over time, incumbents start to widely adopt these new models, resulting in disruption overall. Disruptors often create innovative new business models and for new markets, create entirely new value networks (Christensen et al. 7, 10). Disruptive innovation is characterized by being easy to use, having basic features (to start) and being affordable (Christensen et al. 4) It can be a powerful positive force for change.

Transformative change in the legal tech landscape is critical to helping address the serious access to justice situation in Canada, and worldwide. Rather than more incremental innovation that may add new technologies or options to improve existing products for the higher end clients, **real disruption has the potential to help create the dramatic positive change the A2J sector is seeking**, responding to unmet legal needs.

It is this kind of disruption we are exploring in this study, disruptive innovation, that has the potential to make justice available to many more, with the potential to transform the whole system.

Technology is not, and cannot be, the complete answer to resolving the access to justice crisis. It does, however, offer a wider array of options for the prevention, aversion and resolution of personal plight legal issues than are currently available. Significantly, it offers the ability to think beyond the current legal structure with its physical settings and adversarial approach.

In other sectors, such as health and finance, tech-mediated services have made it easier for people to interact with institutions on their own schedule, with lower costs and less stress. These interactions are largely transaction-based. In other words, while they may be of significant personal importance to the individual involved in the transaction, the outcome is predictable and controllable.

This transactional factor is less prominent in the resolution of legal issues. The range of potential outcomes and the corresponding level of personal risk introduce complexity. In situations of uncertainty, emotional stress or interpersonal conflict, people may place different importance on issues of privacy, individualized advice and human connection. People may define justice as 'being heard'. The technology preferences that individuals bring to transactional engagements may not align to their preferences in resolving disputes.

Currently, few legal tech start-ups are targeting access to justice or direct to the public legal services that support the complex nature of the prevention, aversion or resolution of legal issues. While in some circumstances there may be a trickle-down impact for people, such as process improvements in small business law, even these improvements are not primarily targeted at the public's personal plight legal needs or direct improvements to access to justice.

OUR APPROACH TO INFLUENCING CHANGE

We suggest that for legal tech disruption to advance, innovators would benefit from having greater information about the challenges of accessing justice, including the appetite for technological solutions for conflict resolution and the ways people might use technology in addressing personal plight legal issues. Innovators, A2J actors including the large justice institutions, and investors/funders would benefit from a greater understanding of the opportunities and barriers to entering the access to justice legal tech market. This could include better information about value modelling and a compelling case for investors and institutions.

Currently, legal tech starts-ups look to practicing lawyers as subject matter experts for an array of reasons. Access to the perspectives and needs of self-represented litigants or public-facing subject matter experts would be challenging at the ideation stage. Investors may tend to prefer validation on product viability and user need from law firms, further favouring innovations around lawyer work flow. Naturally, and as the 'bias of experience' would anticipate, the input of practicing lawyers is largely geared towards areas that might benefit their work such as process improvements, with presumptions about legal process and representation.

With this project, therefore, we want to capture the opportunities that come with a better understanding of the expectations and needs of people with everyday legal problems, as well as the barriers to legal tech innovation to improve access to justice. There is room for a more transformative, and possibly disruptive, legal tech environment when it comes to access to justice, one that can come with a deeper understanding of the system, the issues and the opportunities that this project seeks to explore.

Introduction to Strategic Foresight

ABOUT THE DISCIPLINE

Strategic foresight is an anticipatory practice of developing possible multiple futures through critical junctures in the present environment, taking a transformative philosophy through a mixed methods approach. In social systems, a common vision is needed for social action across actors - within and across organizations. Strategic foresight strives to forge a common goal and understanding of the forces of change that might be co- or counter-indicated towards that aim.

Futurists use anticipation and foreseeable implications in our interpretation. Horizon scanning is a key backbone of the discipline. This involves scanning for factors of change - trends and drivers that may affect our operating environments to assess the impacts, implications, our state of readiness, or resiliency, and helps to identify actions for change.

Applying a foresight lens to the practices of literature review, surveys and workshops allows the team to assess the current environment affecting A2J actors and the potential differing configurations of integration of tech entrepreneurial activity into the justice system, to search for opportunities for systemic change.

The foresight profession is not new, having been formalized through government-led practices at the conclusion of World War Two. Over time, it has evolved and is regularly applied to multiple complex problems, systems and organizations. Canada is a leader in foresight development and practices, introducing it through the (Pierre) Trudeau era Think Tanks such as Foresight Canada, the creation of Policy Horizons Canada (a federal division), and with the creation of the Strategic Foresight and Digital Futures capacity at OCAD University, through its master's degrees, and research units. The Super Ordinary Laboratory is part of the extension of foresight capacities as a methodology of positive change through complex problem solving. Foresight methods are evolving as more diverse practitioners join and as our current and future environments evolve due to economic turbulence, climate change, aging populations, and social fragmentation (or inequities).

> *We do not predict the future, but we look to understand how present day forces and patterns of change may combine differently, asking how we might circumnavigate away from negative states, and promote better futures* (Stein).

This Project is an exciting opportunity to bring the discipline of foresight to a critical challenge in the legal profession. The introduction of new perspectives, methodologies and language can support transformation in a sector that struggles to balance the need to change with the importance of protecting its bedrock principles. While the foresight approach may seem novel or alternative to some in the sector, it provides a new lens through which to approach both the challenges and the opportunities for solution.

APPLYING THE DISCIPLINE TO THE PROBLEM

Perhaps we might ask, why not just fix the current system rather than develop tools to think ahead? Yes, this would help. But how? How might we galvanize actors in a shared wisdom and path forward? Foresight helps with this.

In our process, we have integrated the insights from diverse actors through our mixed method approach to form a collective understanding. Our workshops have been key to this aim, as they are social and convivial - a process of understanding the partial knowledges of the individuals that have worked with us and harnessing these into a collective understanding to discern the forces that might prevent or enable change. Further, foresight work is premised on the idea that all systems (and products and services) lose relevance over time; that the contextual environment shifts and a need for responsiveness on the part of those structures is needed to sustain them in their meaningful objectives. If we respond to the Now, we may not be taking in the changes - including opportunities that are already in play - overtly or latently.

Foresight work introduces skills to create a structured dialogue for positive change. In the course of this project, we have strived to make sense of the issues in A2J from a variety of perspectives and have structured the dialogue through our workshops, landing in the suggestion of tools to continue action forward.

While this project focuses on increasing the opportunities for positive tech disruption in A2J, we are cognizant of the ongoing efforts of legal tech entrepreneurs, A2J actors and legal academics to introduce change right now. Our collaboration and the results of this project are intended to support and bolster these efforts, as well as entice even more innovation into the A2J space. These types of collaborations may prove even more important over time, as crisis, uncertainty and competition for ever-fewer resources promise to be hallmarks of this and the coming decades.

It should be noted that during this project we found ourselves dealing with adverse events and doubling down on our common toolkit to make sense of it. You will see, as integrated below in our analysis, we ourselves were 'disrupted' by the COVID-19 pandemic. We, as others, were caught in an added layer of sensemaking and tracking changes as well as their implications. The tack and jibe in this report reflects on the movements underway right now - those that need to be preserved post-pandemic, and those that have surfaced as further barriers to be relieved - towards the goal of increasing access to justice in a socially conscious, equitable manner. It should also be noted that as this report is being written, another wave of disruption partially implicated in COVID-19, has surfaced, the profound inequities of society, across racial lines.

In this report, we are pleased to present:

- A summary of the methods we deployed to understand the present contextual environment: literature reviews and surveys,

- An account of our foresight workshops, both before and after the onset of COVID-19,

- The conclusions of the application of foresight methodologies to the problem, and

- A series of tools for the actors involved in making change through technological disruption.

- A Roadmap for Positive Disruption: Concrete steps to drive A2J tech mapping steps on a collective path.

- A2J Metrics: Standardized A2J metrics based on international and domestic models.

- Project Evaluation Criteria: Criteria of initiatives that drive towards A2J, as a basis for decision-making.

- A2J Impact Matrix: A fillable tool to assess the A2J impact.

- A2J Risk Matrix: A fillable tool to assess the A2J risks of new initiatives.

- A2J Valuation: A2J valuation to complement financial valuation.

- Journey Map: Levers of change mapped onto the user journey in personal plight law.

- Reading List: Academic and sector research and resources that support A2J tech.

Research Stages

In this research project, we applied the discipline of Strategic Foresight to bring new thinking to entrenched, complex access to justice challenges, to help imagine new approaches to system change. Strategic foresight, combined with system and subject matter expertise has successfully been applied to advance projects in health, education and government sectors. It is commonly used across disciplines to understand the impact technological disruption will have in possible futures and to guide policy and planning to mitigate risk and increase the success in each future scenario, of environmental tensions and changes.

We used a variety of complementary and integrated research approaches, through several stages, in order to address the core areas of enquiry. These components included the following:

- Literature review of A2J and technology research

- Surveys including legal professionals, as well as intermediaries, self-represented litigants (end users), and tech entrepreneurs.

- Strategic foresight workshop with A2J actors, legal professionals and tech entrepreneurs

- Workshop - Pandemic impact assessment and pragmatic tools review with members of our advisory council, A2J actors, legal professionals and tech entrepreneurs

Culminating in a:

- Virtual symposium to present our findings and tools for a broader audience - including lawyers, law school students, tech entrepreneurs, and investors.

In this section of the report, we highlight the insights gleaned at each of the research stages as illustrated in figure 1.

The literature review and surveys informed our process of horizon scanning as we looked into this data to ask about the current state and the patterns of movement, tension and change. These informed our Trends - recent patterns of change that may have an impact in the next five years that we should have a response to; and Drivers, - longer term forces of change that have a social language and form many of our assumptions about the future. Trends and Drivers identified were mobilized in our workshop for scenario development where we looked at how they might combine in different resolutions of tensions in the justice system (agency of control and adoption of change). During our analysis, COVID-19 struck and we began to look at disruption already happening. This resulted in a second workshop considering the impacts of COVID-19 on our analysis and provided confirmation of the validity and need for the planned tools.
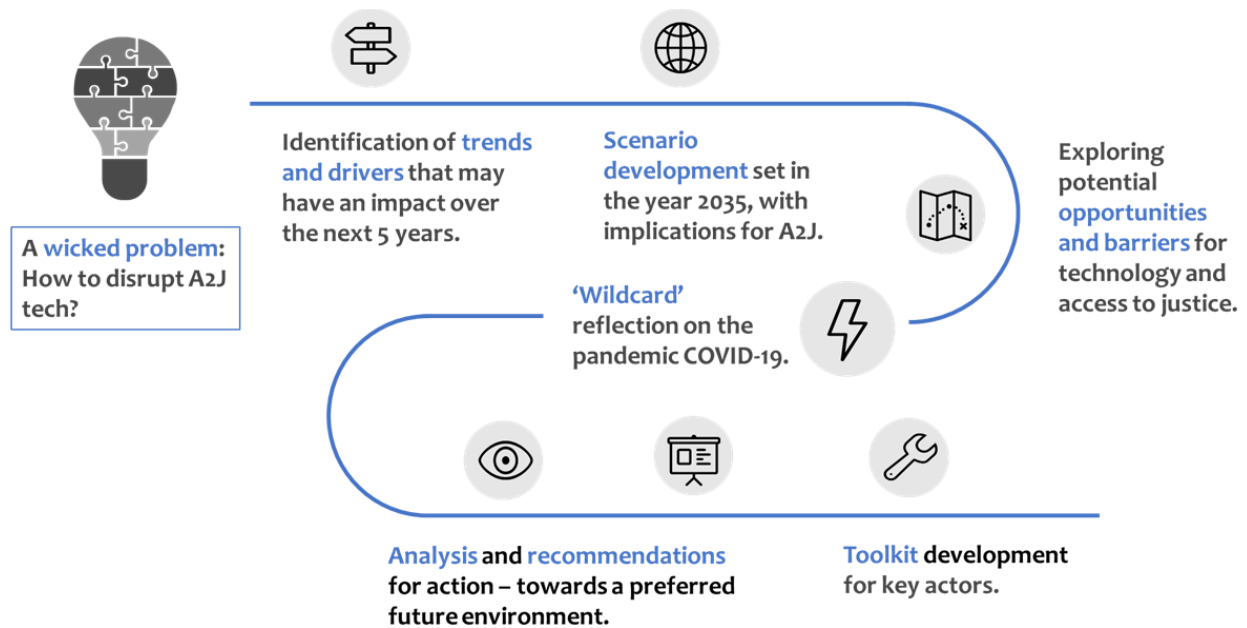
FIGURE 1: THE PROJECT JOURNEY

UNDERSTANDING THE RELEVANT ACTORS

Throughout the research, we focused on key actors in the access to justice and technology sector:

- *Legal technology innovators*: start-ups and other technology innovators building technology applications and services in the legal sphere

- *Legal professionals*: lawyers and other legal professionals working in personal civil and family law

- *Public users*: self-represented litigants and others facing everyday legal problems

- *Intermediaries:* professionals outside the legal profession who help people with their everyday legal problems (such as librarians, social workers and faith leaders)

- *A2J actors*: institutions such as the courts, government, the regulator, the funders and public legal education and information organizations

Our aim was to understand how each of these actors interact with each other and to further investigate the role technology plays in these interactions. Understanding the current relationships allowed us to examine and consider the potential opportunities, barriers and tensions. We acknowledge that there is variety within each of these groups that creates complexity but even this broad investigation helped us to draw out the necessary data to understand innovation in the context of A2J and tech.

Literature Review

Cross-sectoral research was conducted from September 2019 - March 2020 with a review of the existing academic, social science and quantitative research on access to justice in Canada, technology usage in problem solving and legal issues and emerging innovations in legal tech. Through the research, we looked for signals of change and identified key trends and drivers that may influence the legal tech and access to justice domain in the coming years. These trends and drivers were then incorporated into the horizon scanning component for the foresight workshop. Here, we identified current and emerging legal sector technology uses, reviewed concerns held about technology such as: privacy and 'safety' of interactions.

UNDERSTANDING THE LANDSCAPE: ACCESS TO JUSTICE IN CANADA

Access to Justice in Civil and Family Matters is a Crisis in Canada

The 2016 report "Nudging the Paradigm Shift: Everyday Legal Problems in Canada" explored everyday legal problems encountered by Canadians. These problems, or justiciable events, occur in the normal transactions and transitions of everyday life, and include things like buying and selling, entering into a contract, gaining and losing employment, forming or dissolving domestic relationships that involve some measure of dependency, managing the medical or financial affairs of another person, providing or obtaining services (Currie 1). These problems occur "at the intersection of human adversity and the law", have a legal aspect and potential legal solution (Currie 41).

Of note, almost 50% of adult Canadians will experience at least one serious everyday legal problem over a three-year period (Currie 3). In addition, problems have a tendency to multiply -- having one kind of legal problem can often lead to other legal, social and health related problems (Action Committee iii). Multiple legal problems are also linked to being socially disadvantaged (Currie 8). Legal problems tend to lead to more legal problems, building momentum (Currie 7). For example, legal problems in the consumer area have been found to trigger subsequent problems in debt, employment, family (relationship breakdown) and more (Currie 12).

The challenges people in Canada face resolving their everyday legal problems is widely studied. The challenges of serving clients with 'personal plight' issues are complex and often not financially rewarding for lawyers (Semple 3). Fewer than one out of five Canadians with legal problems have professional legal advice to deal with them (Farrow et al. 9). Personal plight issues are growing, further deepening the A2J crisis in Canada (Semple 26). The poor, and the vulnerable are particularly impacted with compounding, intersectional legal problems (Action Committee iii). Rural Canadians struggle to access legal support in their communities (Semple 28).

Canada's poor performance in access to justice is known globally. While Canada ranks 9th overall out of 128 countries on the Rule of Law Index 2020, in the measure of accessible and affordable civil justice, it falls to 56th. (World Justice Project).

Justice is Costly

Canada's formal justice system is unaffordable to most Canadians. (Farrow et al. 3). Cost is the primary reason that people choose to represent themselves in court, many times after first seeking professional legal support and then running out of resources (Macfarlane 8). Legal fees can run into the hundreds of dollars an hour. Legal aid is limited to a small range of legal issues and very few people meet the financial qualifying threshold.

Over 50% of Canadians are facing their legal problems either on their own or with some legal advice (Action Committee 4). In 2013, a survey found that one out of three of the Ontarians in low- and middle-income brackets that were surveyed sought to resolve their civil legal needs on their own, without the support of legal professionals (Baxter and Yoon 12). They sought legal advice from a range of places, and tended to resolve civil problems outside the formal system (12).

> *People with everyday legal problems look for non-legal assistance through other organizations (28%), online (33%), directly contacting the other party (75%) and getting advice from family and friends (61%), with mixed feelings about these options*
> (Farrow et. al. 9).

The "Self-Represented Litigants Project", in its 2013 survey of self-represented litigants in Canada found that 60% of self-represented litigants were family litigants and 31% were in civil court (Macfarlane 8). The study further found that litigants with legal counsel are more likely to receive better outcomes than those without (8).

In 2012, everyday legal problems cost Canadians $7.7 billion annually, amounting to almost half of what the average Canadian household spent on shelter (Farrow et al. 13-14). The cost to the state, as a result of lost employment, health issues and more, is $800 million at least per year (Farrow et al. 16).

The cost of legal problems and consequent resource allocation are disproportionate to the moments in which people experience their issues. While most legal problems can be resolved at the earliest stages, cost and resource allocation are weighted far more significantly at the end of the process - when matters come to court - despite the limited number of people who are able to access court to resolve their issues (see figure 2).

Figure 2: **The ERSS and Formal Justice System: Volume of needs vs. cost and funding allocations**
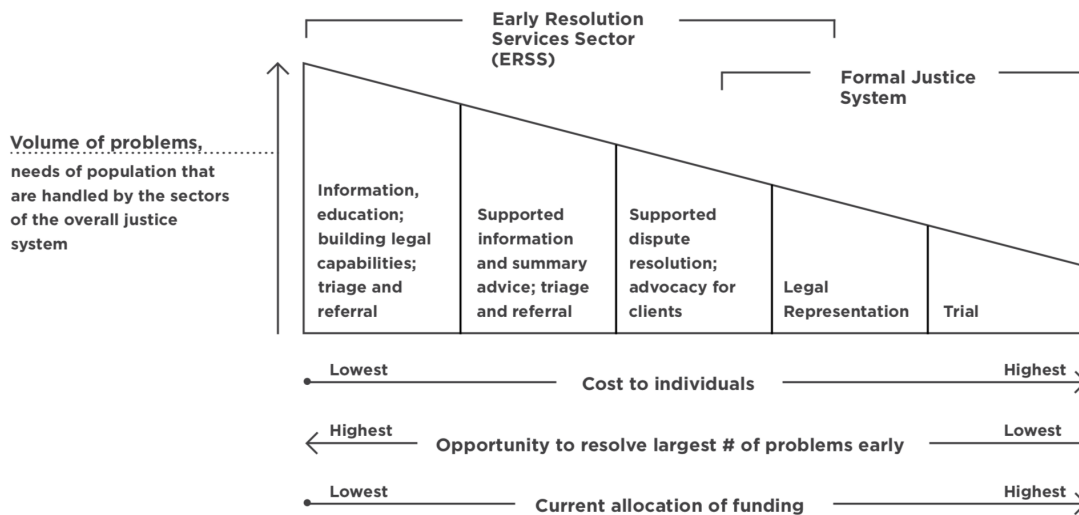
FIGURE 2: VOLUME OF NEEDS VERSUS COST AND FUNDING (Action Committee, "Roadmap" 12)

TECHNOLOGY INNOVATION IN THE LEGAL SECTOR

Legal technology and services have been expanding at a rapid pace in recent years. A variety of innovative digital tools and applications, including ones that use artificial intelligence, are supporting lawyers and law firms to improve their workflow, efficiency and service offerings (Morrison 2). "Legal technology is a rapidly developing field, and includes tools targeted at a range of different user groups, including lawyers, law firms, corporations, in-house legal departments, court systems, community organizations, and individual users who are not trained as attorneys" (Sandefur 5). The Technology Task Force of The Law Society of Ontario notes that the justice sector has continually adapted to new technologies, but the current ones bring unprecedented capabilities at an unprecedented pace. Legal professionals and the general public alike are accustomed to using technology in their day-to-day lives, such as banking and health services, and expect the same in addressing legal issues, including making demands for lower costs, new services and greater productivity.

Some justice technology tools are simply the adoption of common tools, such as e-mail, social media, wireless internet and virtual conferencing. While the existence of virtual court functions significantly predates the COVID-19 pandemic, the adoption of the technology as a default rather than an exception has been accelerated.

Other justice technology is more specifically adapted and developed for use in the legal and justice sector, focusing on functions such as data analytics, process automation, and cognitive computing

(Morrison 3). These can often perform legal tasks faster, more cheaply and at times arguably better than, a legal professional.

The Legal Geek Start-Up map classifies technologies into four key areas of function (Legal Geek 1). There are those that help manage the business (e.g. for education and training or recruitment), those that manage work (such as analytics, research and regulatory compliance), those that perform the work (such as online dispute resolution) and those that provide a public consumer service (such as wills or document creation). These kinds of innovation are largely focused in the corporate legal areas, where clients and their law firms are investing in savings through technology and other means (Semple 28). Similarly, uncontested personal business matters are making use of technologies like automated forms (e.g. RocketLawyer and LegalZoom).

Artificial Intelligence

Artificial intelligence (AI), which includes machine learning (ML) and natural language processing (Morrison 7-8) is expanding in the legal sector. The Technology Task Force of the Law Society of Ontario defines AI as the ability for computers to accomplish tasks normally associated with the intelligent actions of human beings. AI (8).

In the legal sector, AI is being used in contract analysis, document discovery and due diligence, assisting with routine questions, outcome prediction and legal document generation (Morrison 9). These are intended to improve things by making them cheaper, faster and more effective than they would have been. For example, E-discovery platforms in recent years have transformed legal processes, including functions like "predictive coding", which makes inferences about documents using AI. Predictive analysis, using statistical analysis and computing on large amounts of data, is in an early stage (10).

Machine learning, which uses algorithms to continually learn and adapt how it performs tasks using data that is fed back, is a key part of these predictive tasks. There has been a growing use of algorithms in the criminal justice system to help assess risk, such as the chance for recidivism (Mayson 2218). AI and machine learning are based on historical data and therefore might entrench historic bias (Mayson 2218). Gender and racial biases may be reinforced in ways that we cannot detect.

Legal Tech & A2J

Legal technologies for personal plight issues are on the rise as well, although not nearly as much as in the corporate law realm. Noel Semple notes that "Very few personal plight firms rank among the trailblazers identified in the CBA Futures' innovation case studies. With a small number of interesting exceptions, innovative personal plight firms also seem to be missing from the work of incubators such as Ryerson's Legal Innovation Zone, the MaRS, LegalX Cluster, or Fleet Street Law." (26). When looking at available A2J technology, it is largely focused on generalized legal information, rather than tailored to individual client needs (30).

A survey in the fall of 2018 in the United States revealed 322 technologies for use by non-lawyers, with about half of these helping the user to take some sort of action on a justice issue, such as such as creating a legal document, compiling evidence, diagnosing a legal problem, or resolving a dispute. (Sandefur 3). They found that there is a poor match between what people want and what is currently

offered by legal digital tools (14). Three reasons are highlighted for this: outdated design processes that don't include the user, the ecology of tool creation, and limited resources in tool development in the nonprofit sector (14).

In the summer of 2016, about forty Canadian access to justice apps were identified (McGill et al. 57-63). The past few years have seen the growth of even more technology tools seeking to further advance access to justice. Millennials in particular are keenly interested in technology-based solutions for access to justice, and are looking for time and cost savings, as well as easy to find legal information ("Millennials, Technology and A2J" 2,9). At the same time, millennials, while so called 'digital natives', still prefer face-to-face channels for seeking legal information, and look to intermediaries like librarians, as well as legal professionals (5).

In Canada, legal technology apps and tools are mostly developed by private developers, although government and justice sector bodies such as law schools are increasingly getting involved (McGill 2). The function of these apps fall into a number of categories including providing legal information, offering administrative information, document or form creation, evidence collection, legal advice, or self-help. (McGill 9). End-users may be lawyers, the general public or non-lawyer service providers such as social workers.

When specifically looking at direct-to-public (sometimes called direct-to-consumer) apps, there are a number of different types. A recent paper, "Developing Privacy Best Practices for Direct-to-Public Legal Apps: Observations and Lessons Learned", identified four main types of apps (web and mobile-based) (Scassa 4). There are those that provide legal information, those that focus on document creation, others that streamline conventional processes and those that support evidence creation (4).

How Technology is Used in Canada

In 2018, over 91% of Canadians are internet users, with 88% having a smartphone for personal use (Government of Canada). However, internet access and smartphone usage is not consistent in Canada. People without internet and app access are becoming dramatically disadvantaged and disenfranchised in an 'IT Poverty Loop'.

For those that do have access, we sought to understand their receptivity and adaptation. Canadians are commonly using smartphones to conduct online banking (63%) or to buy things (54%). A recent study showed the top three reasons people look to technology: (1) to help simplify their lives (43 %), to save time (40%), and to be able to do things and complete tasks from anywhere (38 %) (Simplii 6). Many Canadians also use mobile apps, with 78% using 1-9 apps on their phones on a daily basis (Simplii 11). Of note, 32% of Canadians were found in 2017 to use at least one mobile health app over three months and one out of four Canadians owns at least one smart health or wellbeing device (Paré 6). In examining the perspectives of millennials and A2J legal tech, the *Action Group on Access to Justice (TAG)* addressed some of these issues for the sector, comparing to the analogous shifts already occurring in the banking industry:

> "The challenge now is for digital justice initiatives to entice citizens with cost and time savings significant enough to pique their interest, without sacrificing the credibility or reliability of useful and accurate legal information or advice. This type of transition has already been successful in the banking industry, where the perception of security and

expertise is critical to gaining a client's trust, which bodes well for future digital justice tools." (TAG "Millennials, Technology and A2J" 11)

NEEDS, OPPORTUNITIES AND CHALLENGES IN A2J TECHNOLOGY

The literature review revealed a number of insights around current and future needs and key tensions. These insights point to a number of areas of opportunity for technology disruption to improve access to justice.

Needs of End Users

People facing personal plight issues want effective and affordable services that genuinely help them to resolve their legal problems. As a foundation, people need to have sufficient legal literacy to face their issues, and those with personal plight challenges tend to be more likely than others to be legally inexperienced (Semple 13). While almost 12 million Canadians experience at least one legal problem over 3 years, most people don't *expect* to encounter a legal issue in their lifetime (Action Committee, "Roadmap for Change" iv; CLEO, "Don't Smoke" 43). This difference between reality and expectation creates a skill gap in which people are unable to meaningfully manage their legal health and conflicts that arise.

There is a continuing need for reliable and accessible information, especially for those representing themselves (CLEO, "Public Legal Information" 20). Legal needs are complex and often interconnected with other non-legal needs, such as social exclusion, poverty and physical and mental health issues (Action Committee, "Roadmap for Change" 3; Currie 25;). According to a recent survey of Millennials, some of the resources they are looking for include self-serve online legal information, unbundled legal services, online dispute resolution and assisted "Do It Yourself" services (TAG 8).

In 2013, an extensive survey of self-represented litigants (SRLs) found that people are looking for easier to access and understand information available through online services and resources (Macfarlane 9-11). SRLs noted that court forms and procedures are difficult to understand and navigate. They shared that legal information sources, including online, were complex and limited in how they provided help. Instead, SRLs were seeking easy-to-navigate, usable information covering a full range of aspects for their use, including the practical process aspects. They also needed better information sources and tools. Additionally, they expressed a "need for orientation and education (aside from legal training) to enable them to better anticipate and plan for what is involved in self-representation", as well as a need for one-on-one "coaching" (Macfarlane 11). Finally, SRLs in this study expressed a need for more information around mediation as well as basic office resources like photocopying (MacFarlane 12).

Intermediaries - "go-to" people for discussing issues, such as social services, immigrant settlement, health care, librarians and faith workers - are looking for easier ways to navigate the plethora of legal information that is out there (CLEO, "Public Legal Education" 52). There is more work to do in understanding how best to equip and serve these A2J actors who are critical in the eco-system.

Barriers, Challenges and Tensions

Five key areas of risks are highlighted by McGill et. al., that provide a helpful starting point to understanding the issues confronting legal tech (5):

- Privacy and security issues: data collected by apps may be at risk of misuse and unauthorized access

- Uneven/unequal access to justice: existing inequities (e.g. socio-economic, geographic, literacy) may further deepen the 'digital divide'

- Regulatory issues: existing structures and rules, including restrictions on legal advice, create concerns and barriers

- Uncertain reliability of information: an unregulated landscape for apps means there is no managed way to know if information is accurate or current

- Skewing the access to justice debate: a focus on technology may distract from larger systemic A2J efforts

A Question of Privacy

There is a lack of best practices for legal apps and other technologies (Scassa 9). Legal apps present particular privacy issues, with the collection of uniquely sensitive but potentially valuable information (Scassa 3). The research noted that with many apps coming from private developers, addressing privacy issues, the "burden of compliance", may take a back seat to other priorities for the developer -- privacy is not necessarily top of mind (Scassa 9). Additionally, a vague regulatory framework, along with a tendency for privacy issues to arise in later stages of development, adds further complication in effectively addressing the privacy and security needs of users (Scassa 10-11). 'Privacy by design' is not the current norm.

Concerns have been raised recently about sharing of personal information from apps, including health apps (Scassa 20-21). The public has concerns about privacy, as indicated by a survey of Ontario millennials -- the greatest barrier identified in adopting digital legal services was uploading identification for processes, with over 25% of these digital natives expressing discomfort (TAG 7).

For health and financial issues, privacy and security concerns related to tech are being addressed directly by federal and provincial governments with the mandate and the desire to coordinate innovation without sacrificing quality and data breaches. The legal system, with a shared mandate and split responsibilities has been slower to engage in privacy and security dialogue.

Capability and Access Disparities

While technology may offer great promise for addressing access to justice, it may also exacerbate some A2J issues. Sandefur notes that many of the current tools require users to have resources or capabilities that vulnerable groups may not easily access (3). People in remote and rural communities have limited digital access. Without access to digital tools, or sufficient digital literacy, the digital divide will likely worsen and decrease justice for these groups (McGill 5). And these issues are not only digital. In particular, those facing personal plight issues are more likely than others to have minimal legal experience, with limited understanding of their legal rights or options (Semple

23). For many low-income people, the potential costs associated with the use of legal technology services may mean they simply cannot afford to use it.

Regulatory Barriers

Oversight of the legal profession, including the definition of the work of the profession is conducted by the provincial law societies. As McGill et al. note, "Non-lawyers can offer legal information, but not legal advice . The line between information and advice is notoriously murky. Because most apps operate without regulatory oversight by government or justice entities, there is concern that some apps could amount to the unauthorized practice of law" (5). This difference between just giving information versus giving legal advice, and the issues that arise, is hampering access to justice, including on the technology front (Matthews). For those representing themselves, who are seeking information and guidance, this difference between legal information and legal advice is creating barriers, causing frustration and challenges (Macfarlane 11).

Similar issues occur when trusted community intermediaries try to navigate this "dividing line", worried about oversight and possibly losing funding if they cross the line, limiting their ability to provide the help needed by those they serve (Matthews). With a legal system that stipulates that legal service entities must be owned by lawyers who are the only ones who can deliver legal services, a virtual monopoly, the options are limited in raising capital, working with non-legal professionals and exploring innovative solutions (Carolino). In a late 2019 blog post exploring this "dividing line", Julie Matthews at CLEO asks,

> *"Does the current line – to the extent that it can be clearly defined (and we all accept that it is blurry) – make sense, from an access to justice point of view and, if so, on what basis? If our insistence on keeping community workers from crossing the line stems from a concern for protecting the public interest – and I think it does – what is the evidence for that?"* (Matthews).

Gillian Hadfield has described how the legal profession works as a close community that stifles innovation excludes technology and complicates informal justice (HiiL, "Innovating" 7). "The doors through which game-changers from the outside have to pass are heavily guarded by bar associations and courts who apply early 20th century rules to 21st century technologies, firms, start-ups and online supported procedures" (HiiL, "Innovating" 7).

Evidence is increasingly pointing to the ability of non-lawyers to safely, and effectively, provide some services to address justice problems (Sandefur 16), However, without revisions to some of the rules about 'unauthorized practice', the expansion of what human non-lawyers and digital tools can provide will remain limited. As Sandefur notes, "what is missing is the will to tackle these revisions" (16).

Resources and Capacity

The resourcing of the legal sector limits its ability to effectively meet people's justice needs. Unlike the health sector, with its significant public funding for health resources and prevention, the civil legal sector is largely private and the funding for access to justice initiatives, including prevention, is much less resourced (CLEO, "Don't smoke" 38). Underfunding has resulted in almost no capacity for the time, attention and ability to fail required by innovation.

Individuals within the system who are interested in innovation frequently lack capacity to innovate. Those who are hungry, open-minded and keen on innovation (often younger, newer lawyers and students are not the ones have the best capacity to enable large-scale and lasting innovation, which relies on a certain level of experience (Semple 118). Tech innovation is more challenging for personal plight firms that tend to be small (Semple 121).

Quality Control

The companion argument to the complaint about law society regulation is that, because there is no direct regulation for legal tech applications, there is no way for users to know if the information contained in an app is accurate or up-to-date (McGill et al. 5). Self-represented litigants have found that online legal tools have outdated or unreliable information with no way for users to assess its reliability (Macfarlane 10). To add to this, with a plethora of resources out there to navigate, many of the tools have not applied user-centred design, making it that much more difficult for users to plow through long lists and articles with lots of text (Sandefur 14).

Resistance to Change

Legal professionals and law firms are notoriously resistant to change. Furlong highlights several key components to the tendency, from "Law is a Buyer's Market" (13). These include "the endowment effect", that most values what is already owned, along with "status quo bias" that prefers things as they are. Additionally, Furlong notes, lawyers display unusual levels of skepticism, love to argue and are trained to draw distinctions between circumstances. Taken together, fostering innovation and disruptive change, including with technology, becomes that much more challenging in the justice sector.

An entrenched, risk averse, and monopolistic justice system itself limits the application of tech to A2J solutions.

> *"Digital legal technologies hold promise to empower individuals and communities to identify, understand, and take action on their justice problems and to use the rights that are theirs under law. At this stage in the growth of this field of activity, realizing that promise is not a technological challenge, but rather a social one."*
> (Sandefur 16)

A Lack of Empowerment

For people who are facing everyday legal problems, power imbalances are often at play in the conflict (CLEO, "Don't Smoke" 45). People can feel powerless or intimidated and so, may choose to do nothing. In addition, "the symptoms of these [everyday] transactions are often disguised and may not present as legal in nature until the problem escalates to the point of crisis" (45). Interconnected and multiplying problems in life are overwhelming, making it even more difficult to feel a sense of power or even find a starting point.

Algorithmic Bias

With more and more technologies incorporating elements of artificial intelligence and machine learning, the issues of algorithmic bias become real tensions in legal technologies. For instance, algorithms are currently being used for predictive purposes in the criminal justice system to assess recidivism (Mayson 2218). However, these algorithms have a disparate racial impact (2218). The

nature of prediction itself always looks to the past to make guesses about the future. This means that in an already biased and stratified world, any method of prediction will "project the inequalities of the past into the future" (2218). **"Algorithmic prediction has the potential to perpetuate or amplify social inequality, all while maintaining the veneer of high-tech objectivity" (Mayson 2221)**. Taking these kinds of algorithmic tensions to heart, applying best practices and strategies to minimize, is critical to applying AI and machine learning to A2J technology applications.

Where is the Business Case?

For those seeking to advance legal tech innovation, whether legal professional, tech entrepreneurs or other A2J actors, finding ways to make it financially sustainable is a real barrier. Current business models and billing practices do not necessarily incentivize personal plight lawyers to innovate with technology (Semple). Due to the structural challenges previously mentioned, entrepreneurs and investors can only play subordinate roles in firms (Semple 118). More broadly, the way that justice innovation is currently funded, primarily through government, is not likely to close the justice gap (HiiL, "Innovating" 19-20). Opening up financing models, learning from other sectors like health and education, may be part of overcoming this challenge.

Additionally, the mindset that justice systems are a burden that cost money can create a barrier to investment. Without new ways of thinking, where the access to justice sphere is seen as a potentially huge market for both social and economic benefits, growth in legal services in this area may be restricted (HiiL, "Innovating" 8).

Access to Justice - Beyond Technology

One concern expressed by the McGill et al. study is the possibility that A2J apps may reduce the sense of urgency around the broader A2J crisis (5). While technology innovations may be part of the solution, they note that there continues to be a need to address affordability and accessibility for real-time legal and court services for people. (5). There is more to innovating justice and reducing the justice gap than technology solutions alone.

> *"The willingness of the state to create new legal rights […] has dramatically outstripped its willingness to fund the expensive systems and professionals that can meaningfully help people assert those rights. Meanwhile, the common law's tendency to ramify into ever more-complex labyrinths of doctrinal distinctions steadily increases the demands on everyone involved"* (Semple 28).

(Not) What People Need

The current landscape of legal technology only partly matches people's justice problems. Tools are not necessarily incorporating user-centered design principles or understanding what people really need (Sandefur 15). Few of the tools offer more than one service, and most simply hold information about the law. While many are free or low cost and reasonably accessible, they do not necessarily have the quality needed to truly support A2J needs (Semple). Few tools help people to understand legal components of their problems, let alone provide support to resolve them. With the prevalent framing of justice as "applying norms to people's behaviour", a mindset that focuses on their needs and eventual outcomes is a challenge (HiiL, "Innovating" 2).

A Host of Opportunities

The literature review revealed a host of ways that technology might help to address Canada's access to justice crisis and improve the ability of Canadians to address their everyday legal problems. In 2016, McGill et al. concisely described six potential areas of opportunity where mobile and web-based apps might improve A2J (3): mitigating financial barriers, mitigating psychological and informational barriers, mitigating physical barriers, addressing needs beyond conventional legal services, developing big data and insight, and modernizing public legal education.

These areas present a wide range of opportunity for A2J legal tech, technology that can be used to update age-old legal processes or to bring in completely new, 21st century advances (HiiL "Innovating" 8). Direct-to-consumer (or user) products and services can provide people with alternates beyond traditional options for dispute resolution (Carolino). Technology offers a potential solution to the unaffordability of conventional legal services (Scassa 1).

Revisiting the justice system visualization in figure 2, there is a real opportunity for more services at the early stages, with quality information, education and building capacity. Rather than waiting until a person is in crisis, later in the legal process, a focus on prevention could have significant benefit to focusing on prevention, and perhaps avoiding legal problems altogether (Semple 26). Semple asks how preventive services through technology might create 'fences' at the top of (life's) cliffs, reducing the number of cases. For example, a 'legal health check' app might support people in the early stages (CLEO, "Don't Smoke" 39; HiiL "Innovating" 8). Additionally, services that help people to actually navigate the legal system, guided pathways, are another way to meet needs in the early stages. Ensuring that these services are reliable, high quality, user-friendly, and address privacy concerns is paramount.

As people move along in their legal journey, there is an opportunity to use technology to support them in addressing their emerging legal issues, and to support the intermediaries (libraries, social workers, etc.) who are often key resources at these times. These technologies can continue to help to significantly reduce costs and to simplify the process, empowering people along the way. Legal information provision can help provide reference material, and even analysis, to help guide a user (HiiL, "Innovating" 10). Combining this with referral elements can further add functionality. Customized and responsive technologies, possibly incorporating AI are also potential. Integrating legal tech apps with other legal tech and other areas (such as health or social work) offers even more potential in addressing complex personal plight needs, many of which intersect with non-legal components. For example, packaging legal and non-legal tech offerings for those divorcing might be a valuable coordinated service (Semple 116).

As someone moves into the dispute resolution phase of early resolution, portals, document creation and forms wizards offer promise in improving access to justice and technology. With these kinds of "technology-first" services, the technology may either replace lawyers entirely or integrate with lawyer services in part, drawing on their skill and knowledge (HiiL, "Innovating" 11). Enhancing functionality and tailoring content for an individual can further meet people's justice needs. As resolution proceeds, online dispute resolution (ADR) like BC's Civil Resolution Tribunal provide valuable tech services for users (CRT, "Welcome"). Matchmaker technology services to help people find legal support can also support, including virtually for those in remote areas (HiiL, "Innovating" 10).

If a person's legal issues end up in the formal justice system, with legal representation, new legal tech opportunities are available. If lawyers and law firms can unbundle their services and open up to technological supports to be incorporated, there is the potential to lower costs (Semple 15). Called "technology-enabled law firm alternatives", these might produce results through a combination of human labour and tech (HiiL "Innovating" 10). Some tasks can thus be delegated to non-lawyers, such as the client, or even technology (Semple 15). The lawyer can then play more of an "assistant" or "coach" role rather than the saviour. Technology can serve to build efficiencies for the legal professional, taking on some of the time-consuming work. Assessments can be enhanced through quantitative legal prediction and evaluation of potential success. (Semple 89). This will help personal plight law firms respond to client's needs while balancing access, quality and profit (Semple).

Thinking more broadly, digitizing the courts is another opportunity for technology to serve A2J needs. Susskind suggests a shift in thinking of the courts less as a place and more as a service (Smith). During the COVID-19 crisis of 2020, we have seen a rapid shift towards online courts that if retained, could continue to reduce costs for litigants, and perhaps also make it easier for non-lawyers to represent themselves, with the appropriate access to technology.

While artificial intelligence and machine learning carry concerns, they are not without their potential to help address the A2J crisis. Algorithms might be used as a reverse diagnostic tool to help to understand existing bias in the system, to help to look for underlying causes and issues (Mason 2284). Technology might be deployed to measure and analyze the data around A2J, to better understand what is working, what isn't, and to understand why. For individual cases, predictive AI might be used as a foundation in dispute resolution. Semple notes that "Artificial intelligence may one day provide customized, responsive legal services to people experiencing personal plight, but that day is not yet imminent (Semple 30)".

Surveys of Access to Justice Actors

The Project Team conducted four online surveys in January-February 2020 to better understand how people currently use technology to resolve personal issues or disputes, their interests in technology and the challenges they face. The surveys explored the public appetite for using technology, the barriers faced by tech innovators and the perspectives of the legal sector and intermediaries. The reach of the surveys was small, with 30 complete surveys. This was complimented by information from a previous survey of 93 self-represented litigants conducted by CALIBRATE in 2018.

We focused on the perspectives of four groups of A2J actors:

- Legal tech innovators
- Legal professionals
- Intermediaries
- Self-represented litigants (SRLs)

The survey results echo the literature review and similarly hook into the patterns noted in our horizon scanning (signals, trends and drivers), discussed in the next chapter. It gave us some texture to the experiences of groups that were not part of our workshop process, namely SRLs, members of the public that are self-represented and may also need the most support in personal plights, as well as intermediaries, who often provide support, in lieu of formal counsel.

The survey responses underscore trending values, such as "from system to human", where legal professionals and SRLs both want human intelligence and oversight integrated into AI processes.

In an increasingly online and internet mediated society: "digitizing our lives", is clearly a driver of change that most end users desire the legal system to respond to, as they already rely on and benefit from digital platforms to address multiple needs: be it banking or healthcare.

Most legal tech entrepreneurs focused on the fact that the sector generally lags behind others in its adoption of tech.

> *"I think the industry is definitely going to shift to a digital-first product/service interaction (as all industries are headed) - so it's just a matter of time until it becomes a decent business case to do this"*.
> (Legal tech innovator survey respondent)

TECHNOLOGY APPLICATIONS & TOOLS USAGE

Each of the four survey groups use technology tools differently, with some seeking to provide greater tools to others (e.g. legal tech entrepreneurs to all other groups, legal professionals to intermediaries and SRLs, etc.). Despite the appearance of opportunity created by the inter-dependence of these actors (ease of creation, dispersion and adoption of tools), the survey results suggest that information flow and collaboration between them is presently limited.

In the survey, each A2J actor identified commonalities in their technology usage:

- All users share certain commonalities in the way they already use quotidian technologies such as email dependency and using the internet as an integral part of information seeking exchange and functioning.
- Legal professionals and intermediaries both use CLEO and the 'Steps to Justice' website in helping those that seek their counsel or support.
- Legal professionals and SRLs both use cloud-based services such as Dropbox for the sharing and storing files.
- Respondents across the groups expressed a desire for the legal system to see technological innovation in the delivery of services and informational supports, similar to health and finances. Further they all see potential for emerging technologies such as Artificial Intelligence and Machine Learning in supporting or improving A2J, if applied more broadly.

Notable differences between actors in technology usage included:

- Legal professionals have far more access to legal technology tools and information (such as case law databases) than the other groups and are the primary beneficiaries of legal tech innovation.
- Intermediaries are the least visible direct beneficiaries of legal tech and tech innovators do not appear to create tools with this group in mind.

A SNAPSHOT OF NEEDS

Each survey group was asked to identify key needs. In order to expand our understanding of the needs of SRLs, the Project Team broadened the data to include data from a previous CALIBRATE survey of SRLS, entitled 'Out of Pocket: Litigant'. For ethical reasons, SRLs were only included in this research project through the literature review and survey data but not as a part of the workshops. The extra data bolstered our understanding.

Needs of Legal Tech Innovators

While tech innovators told us that they are eager to develop direct to consumer products, they chose to focus on the lower risk in developing for legal professionals.

> *"There is a great deal of uncertainty surround the sale of legal technology directly to end consumers, which made legal professionals the logical choice of market [...] as entrepreneurs fear being sued for the unauthorized practice of law."*
> Legal tech innovator survey respondent

Legal tech entrepreneurs indicated that their needs include:

- Information and data sharing between entrepreneurs and legal professions in improve end-to-end A2J platforms and services, including access to data from courts and regulators;
- Efficient and risk-free access to building direct to consumer legal tech information products;
- Business strategies to finance research and development that might result in, for example, AI models for coaching SRLs;

- Increased collaboration with regulators in adapting and adopting technology including for example, automation of legal tasks from the side of government and courts; and
- Increased systemic support for profit-driven models as an approach to innovation in serving the public, as well as an easy and understandable breakdown of the A2J marketplace.

Needs of Legal Professionals

Legal professionals highlighted the development of technology in analyzing cost structures, rather than responding to the legal needs of clients. In other words, legal tech has advance billing practices and financial management more than client need. Legal professionals indicated that technology integration in the sector, with courts and government, is required before legal tech can expand in a client-centric manner.

> *"Until the judiciary and tribunals are more willing to embrace shared digital systems, there will be limits on how well we can simplify the work from the outside."*
> Legal professional survey respondent

- The provision of tech tools that are user-centred and do not alienate those with limited tech literacy;
- Tools that increase cost efficiency for both clients and lawyers;
- Tools that break down reliable legal information into explainable and accessible chunks for clients;
- Tools that don't require clients to have extensive internet access; and
- An increased willingness by courts and government to move more services online.

Needs of Intermediaries

Intermediaries noted that they are typically approached by people once they are already facing a serious legal challenge. They also noted that there is a broad spectrum of people who approach an intermediary with diverse backgrounds and experiences.

Intermediaries indicated that their needs include:

- Professional and factual information platforms;
- Tools that aid in locating information and services, such as search engine optimization tools;
- Easy and navigable information that supports faster decision-making;
- Tools that are affiliated with a non-profit or public sector organization; and
- Chatbots or live chat functions that allow interaction with humans when further assistance is needed.

Needs of Self-Represented Litigants (SRLs)

SRLs frequently navigate the justice system with the help of the Internet, both to gain information pertaining to their case and to find tools to support preparation and organization of their documents. They cited record keeping as an area of specific need.

SRLs indicated that their needs include:

- Finding means of reducing reliance on lawyers and incurring legal costs;

- Allowed for organized record keeping, including timeline tools to keep track of legal matters;
- Access to relevant case law;
- Tools that maintain their privacy and confidentiality;
- Intuitive AI solutions to support their decision-making; and
- Human interaction as a follow-up to using tools to bolster confidence or ensure that they are meeting the requirements.

COMMON BARRIERS AND OPPORTUNITIES

Access to information

Each of the actors indicated that lack of access to information from courts and governments was a critical barrier. Innovators lack the data required to populate AI and machine learning tools. Both innovators and legal professionals cited the lack of data as a transparency flaw as well as a barrier to innovation.

SRLs highlighted a lack of access to case law and tools to support the understanding of case law. One survey respondent commented on the need to ensure that gender and racial bias in past case law does not infuse future decision-making.

System Integration

System integration across the justice sector was a common barrier. Entrepreneurs and legal professionals cited it as a barrier to innovation and intermediaries and SRLs cited it as a barrier to access. Intermediaries specifically called out the lack of standardized technology for the creation and filing of legal forms.

Cost

There is a general sense among entrepreneurs and legal professionals that direct to consumer products are not profitable in the legal sector. Legal professionals have only a limited interest in paying for products that will replace their services and the market for paid services among members of the public is, as yet, unclear. However, legal professionals did indicate a strong interest in tools that would allow them to share advanced legal information with their clients. For example, tools that would help clients prepare for a visit with the lawyer.

The responses of intermediaries and SRLs suggest that they would be willing to pay some amount for services that allowed for a flow through of legal support from information, to case assessment, to filing. Those groups also identified opportunities for more integrated case management and organizational features for SRLs, including document management and timeline notification and planning. Intermediaries did identify an interest in tools that help people make decisions about next steps.

Futures Workshop 1: Horizon Scanning and Scenario Development

On March 3, 2020, the Project Team conducted a half-day strategic foresight workshop involving legal professionals and tech innovators. During the workshop, participants developed four potential future scenarios for 2035, against two critical uncertainties of adoption of change and level of control. Participants explored potential opportunities, challenges, technology and key actors around legal tech and access to justice in each world. They also refined trends and drivers. The full workshop report can be found online at www.stillwatiingA2Jtech.ca .

2035: (A future where) people are equitably supported (able) to prevent, avert and resolve conflicts equitably/fairly.

HORIZON SCANNING

The horizon scan – the results of the literature review, the survey and the prior foresight research(cite) – sought to identify factors in the external environment that could impact the A2J tech sphere and should be anticipated, monitored and implicated as they shift over time.

A number of key Drivers were identified – forces that are often systemic and involve complex interrelationships with multiple groups and structures. Drivers analysis looks at these forces and how each may influence and alter several different trends due to their large scale and complexity. Core Trends, the more immediate and dynamic factors in the next five years, were also identified and further refined into a broad spectrum of areas to provide a holistic picture (social, technological, environmental, economic, political and values, as well as legal (STEEPV+L)). Through an iterative process with the research team, the final list of trends and drivers was determined, and is described below. Workshop participants identified additional trends and drivers as part of the gap analysis, which echoed these core trends and drivers.

DRIVERS

AI TAKEOVER

The swiftly expanding application of deep machine learning, natural language processing, and related technologies across sectors.

AGEING POPULATION

Canadians are living longer on average, with seniors making up a larger percentage of the population. Serving this demographic and its unique needs is a growing challenge.

URBANIZATION

The large majority of the world's population is moving into cities, a dramatic shift of people moving from rural and remote settings to larger urban centres. Mega-city epicenters may emerge, with a promise of employment and infrastructure, that could crumble under their own weight.

BLOCKCHAIN

Decentralized digital ledger technology through networked computers, to create a more secure way to exchange, authenticate and track value, including goods, services and currencies.

DIGITIZING OUR LIVES

More and more aspects of people's lives are being moderated online, from social media and online tools to apps for everything. Digital banking and health services draw on more personal data than ever, while asynchronous communications are the norm.

MISINFORMATION

The spread of inaccurate or false information that is often rapid and ubiquitous. It may sometimes include 'disinformation', deliberately intended to deceive.

OPEN SOURCE

In contrast to proprietary technologies that may lock users into platforms and systems, open source allows users to access, contribute and further develop content, code and software.

SURVEILLANCE

Both online and in the physical world, issues of covert and overt surveillance are emerging as a side effect of a society in a deep embrace with technologies and networks.

TRENDS

SOCIAL TRENDS

Changes in social Institutions and often brought on by demographics, lifestyle changes, and social inclusion.

DIGITAL ACTIVISM

The increasing use of electronic media to facilitate organization in advocating for change.

TOWARDS EQUALITY

Ongoing struggles to address economic, social and cultural equality, including in health, education, wages, etc.

CLIMATE CRISIS

Accelerating climate change will mean water scarcity and ecosystems collapse. Warnings sound that we only have only a few short years to enact pollution and gas emissions control and change the way we do business.

RISE OF THE (ALT) RIGHT

The increasing popularity of nationalist and fascist ideologies, with growing influence on society.

LIBRARIES AS HUBS

Libraries are transforming into key community hubs for shared resources, diverse services, and citizen wellbeing.

SHIFTING DEMOGRAPHICS

The make-up of Canada's population is shifting due to immigration, economic and age distribution and growing Indigenous communities.

TECHNOLOGICAL TRENDS

Shifting communication methods, digitalization impacts, new products, and emerging tech.

PORTABILITY & MOBILITY

Mobile devices are permeating most areas of our lives, strongly shaping the consumption and communication behaviors of society, changing how we interact with location and each other.

TECHNOETHICS

People are increasingly concerned about the ethical uses and applications of new technologies, including issues of algorithmic bias and transparency. Technological 'progress' may mean moral erosion.

GRIN...BANG...WHAT?

Acronyms proliferate as mnemonic devices to help use think through emerging tech, but our social understanding and inter-institutional capacity to respond lags behind their deployment.

IT POVERTY LOOP

The inability of people in schools, communities and families to access information and communication technology such as internet, laptops, cell phones, software and applications perpetuates the cycle of poverty.

ENVIRONMENTAL TRENDS

An often overlooked change variable, but of critical importance, including issues related to sustainability, climate change, natural world.

CLIMATE MIGRATION

The increasing pace of people moving internally and across borders as the result of climate change.

TOXIC TECH

The health risks associated with the hardware and connective software associated with our digital devices.

CLIMATE EMERGENCIES

The frequency and severity of extreme natural disasters is on the rise, including flooding, wildfires, and storms, causing displacement and increased vulnerability.

DIGITAL CARBON FOOTPRINT

Requirements to power the internet are outstripping capacity to generate and putting undue pressure on the environment.

ECONOMIC TRENDS

Factors that alter, create or calculate (financial) value: international trade, business models, new currencies.

PRECARIOUS EMPLOYMENT

Full time, permanent, benefit protected work is becoming more and more elusive for Canadians in the workforce due to the rise of the technologically facilitated by the "gig economy".

INCREASING DEBT LOAD

Household debt is increasing rapidly, leaving people vulnerable to unexpected expenses and stretched budgets.

SHARING ECONOMY

Alternative economic systems of asset and service sharing that are on the rise, often mediated by technology.

(AFFORDABLE) HOUSING CRISIS

Finding affordable housing (rental or owned) is an increasingly difficult challenge for many Canadians of all ages, especially in cities.

THE APP DIVIDE

The disparity between the thoughtfulness, quality, programming of paid mobile applications and free ones.

POLITICAL TRENDS

Changes in the political landscape include policy and partisan viewpoints, taxation, and regulation.

GOVERNMENT CUTBACKS

The prevalent pattern of governments reducing, or even eliminating, key funding for public services and institutions.

GOV 2.0

New internet-enabled applications and services create access and participatory opportunities for engaging citizens while also spawning an increasing demand for transparency and accountability.

ACCESSIBILITY AS A RIGHT

Accessibility rights are enshrined in law, such as Ontario's AODA 2025. Organizations are investing in barrier-free physical and digital infrastructure and processes to comply.

INDIGENOUS RECONCILIATION

The obligation to address the historic and current harms of colonialism against Indigenous peoples in Canada, as called out by the Truth and Reconciliation Commission and the MMIWG Inquiry.

VALUES TRENDS

The newest member to the framework, value-based factors isolate changing personal attitudes, beliefs, and preferences.

ERODING INSTITUTIONAL TRUST

Trust in various long-standing institutions meant to serve and protect the public is on the decline.

INFORMALISM

With flattening hierarchies and a distrust of assertions or symbols of authority, professional and social interactions are becoming more informal.

LEGAL TRENDS

Key changes happening in the realm of law, legal services and access to justice.

OPENING UP THE LEGAL PROFESSION

There is a push to allow non-lawyers to deliver ancillary or traditional legal services.

UNFILTERED ONLINE INFORMATION

A wealth of legal information online is difficult to understand, to search or to trust.

FROM SYSTEM TO HUMAN

Companies and institutions are increasingly putting the user or client first, applying design principles and empathetic mindsets.

ENTREPRENEURIAL SPIRIT

Many Canadians are looking towards creating their own initiatives and businesses, rather than filling traditional employee roles.

PRIVACY CONCERNS

Increasing worries and fears about violations of personal privacy and data, both online and in physical space.

TECH EFFICIENCIES

An accelerating adoption of technologies to augment the work of lawyers and law firms, adding efficiencies and sometimes profit.

LIMITED ACCESS TO GOOD DATA

Unreliable or restricted data sets limit solution-oriented innovation, along with the lack of interoperability of institutional databases and systems.

SCENARIO DEVELOPMENT

To drive the process of building robust, plausible scenarios, it was essential to select two critical uncertainties that would be significant drivers of change towards the future of legal technologies and access to justice. Critical uncertainties are areas of change with both high impact and high uncertainty. These two uncertainties are mapped onto two intersecting axes in a 2x2 matrix.

X-axis: Degree of Control

Control here refers to the degree to which the justice sector institutions control the standardization and dissemination of information, the rules, the resources and the access to the process.

As the degree of control decreases, it highlights the exertion of a formalized system where power is much more distributed amongst many actors in the system. There is also a space for non-conventional actors to be present.

Y-axis: Adoption of change

Adoption of change here is defined by how quickly change is facilitated by the rate of technology development and integration. The greater the technology development the more accelerated and disruptive change is seen.

By setting the critical uncertainties as intersecting axes, we developed a 2x2 matrix. Each quadrant of the matrix thus represents a plausible future that could drive a different model for legal technology and access to justice. These scenarios set the foundation for subsequent discussion around opportunities, barriers and strategy for the future.

Scenario Building

In the workshop, participants were divided into four groups and directed to consider the trends and drivers of change relevant to one of the possible futures. In order to develop what that possible future would look like and the potential impacts for legal technology and access to justice, participants collaboratively filled out the scenario worksheets [figure 3] to build out their respective worlds. The participants answered the following questions:

- What trends and drivers are prominent and which ones are reversed?

- What is life like in this world? What is happening ?

- What might the prominent technology and key stakeholders be in this world?

| SCENARIO

World Name		Quadrant #
Logic (overarching drivers):		
Description *Overall Summary* *What is life like in this world? (Government, corporations, everyday life?)* *How did we get here?*	**Primary Drivers/Trends**	**Reverse Drivers/Trends**
Prominent tech	**Who are the major stakeholders? Are there new actors? Why?**	

FIGURE 3: SCENARIO WORKSHEET

At the workshop, the participants developed four plausible future scenarios using the worksheet and the axes.

Scenario 1: What's Old is New - A world in which control is restricted and adoption of change is incremental. A world where technology brings efficiency to do the same things in new ways.

Scenario 2: Coup d'État - A world in which control is restricted and adoption of change is disruptive. A highly-control world with sustainability at its centre, resulting from a climate change catastrophe, with rapid tech innovation to support the cause.

Scenario 3: Accessia - A world in which control is dispersed and adoption of change is disruptive. A "wild west" world of many actors, mediated by technology

Scenario 4: Parallel Justice - A world in which control is dispersed and adoption of change is incremental. A profit-driven world with new legal tech options.

**Restricted
Control**

*Scenario 1:
What's Old is New*

*Scenario 2:
Coup d'État*

**Incremental
Adoption of Change**

**Disruptive (Fast)
Adoption of Change**

*Scenario 4:
Parallel Justice*

*Scenario 3:
Accessia*

**Diffused
Control**
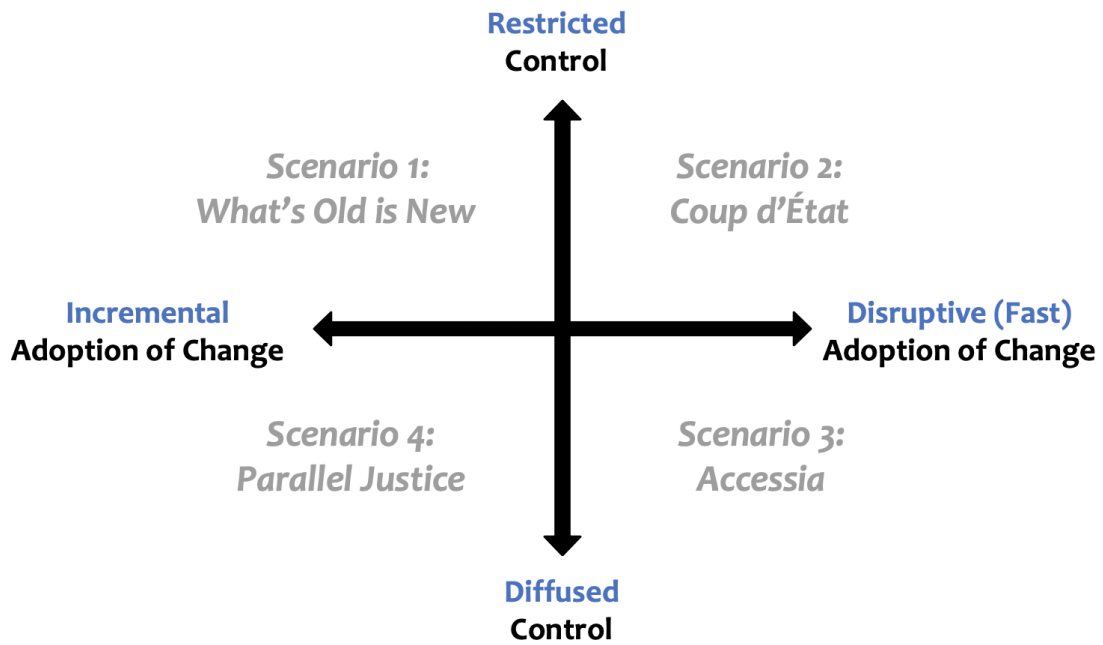
FIGURE 4: SCENARIOS ON THE AXES

Using the world scenarios, the participants identified the barriers and opportunities present in each of the worlds. [figure 4]

What's Old is New
Key Barriers
- Siloed justice processes. Innovation resistance
- Limited access to data or systems

Key Opportunities
- More consistency, simplicity & efficiency with automation
- Improved quality, like plain language
- Build on existing processes (limited)

Coup d'État
Key Barriers
- Surveillance & data privacy
- Access to technology

Key Opportunities
- Open & quality data, entrepreneur-friendly
- Centralized control, regulation & accountability; cross-sectoral integration
- AI and machine learning for government support

Restricted Control

Incremental Adoption of Change

Disruptive (Fast) Adoption of Change

Parallel Justice
Key Barriers
- Two different systems
- Profit-driven world
- Access to technology

Key Opportunities
- Online justice, including for SRLs
- Increased data access, entrepreneur-friendly
- SRL-targeted tech for justice like online dispute
- AI, document automation, blockchain
- Greater transparency

Diffused Control

Accessia
Key Barriers
- Inconsistency across the system (multiple systems)
- Data privatization issues
- Access to technology, digital literacy

Key Opportunities
- Cross-sectoral integration, increased access to justice potential
- Entrepreneur-dependant
- Decreased regulation (possibly an issue too)
- AI decision-making

FIGURE 5: OPPORTUNITIES AND BARRIERS IN PLAUSIBLE WORLDS

Analyzing the barriers and opportunities of each of the worlds also allowed the participants to draw out which A2J actors would thrive and those that would be left out in these potential future states. [figures 5 and 6] Some worlds such as *Accessia* see the emergence of actors such as artificial intelligence systems that would take on more of the traditional legal jobs. In *Parallel Justice* and *Accessia*, there were multiple legal systems allowing for justice to be accessed by people with a variety of beliefs and approaches.

Who is included and excluded in each plausible world created by the workshop participants - contents are described in text under each scenario

Who is excluded

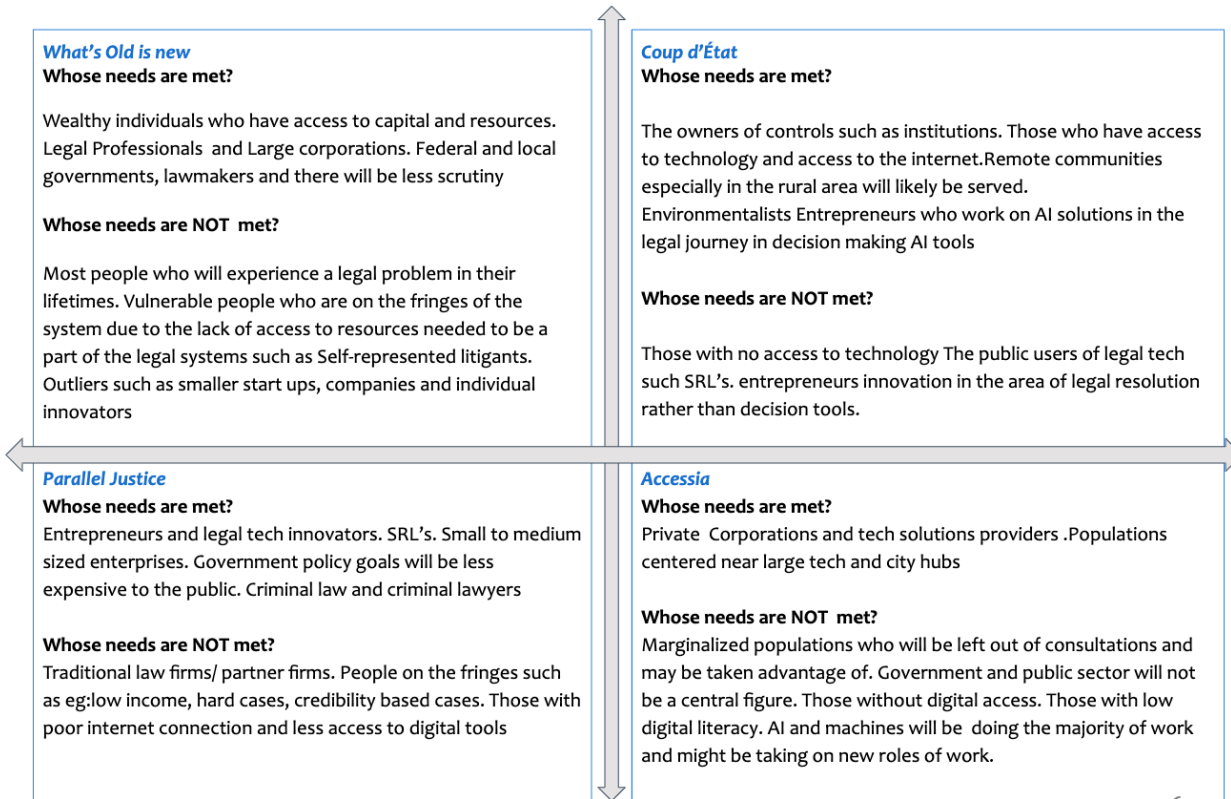|	
What's Old is new **Whose needs are met?** Wealthy individuals who have access to capital and resources. Legal Professionals and Large corporations. Federal and local governments, lawmakers and there will be less scrutiny **Whose needs are NOT met?** Most people who will experience a legal problem in their lifetimes. Vulnerable people who are on the fringes of the system due to the lack of access to resources needed to be a part of the legal systems such as Self-represented litigants. Outliers such as smaller start ups, companies and individual innovators	**Coup d'État** **Whose needs are met?** The owners of controls such as institutions. Those who have access to technology and access to the internet.Remote communities especially in the rural area will likely be served. Environmentalists Entrepreneurs who work on AI solutions in the legal journey in decision making AI tools **Whose needs are NOT met?** Those with no access to technology The public users of legal tech such SRL's. entrepreneurs innovation in the area of legal resolution rather than decision tools.
Parallel Justice **Whose needs are met?** Entrepreneurs and legal tech innovators. SRL's. Small to medium sized enterprises. Government policy goals will be less expensive to the public. Criminal law and criminal lawyers **Whose needs are NOT met?** Traditional law firms/ partner firms. People on the fringes such as eg:low income, hard cases, credibility based cases. Those with poor internet connection and less access to digital tools	**Accessia** **Whose needs are met?** Private Corporations and tech solutions providers .Populations centered near large tech and city hubs **Whose needs are NOT met?** Marginalized populations who will be left out of consultations and may be taken advantage of. Government and public sector will not be a central figure. Those without digital access. Those with low digital literacy. AI and machines will be doing the majority of work and might be taking on new roles of work.

FIGURE 6: WHO IS EXCLUDED IN THE PLAUSIBLE WORLDS

SCENARIO 1: WHAT'S OLD IS NEW

- **Control:** Restricted

- **Adoption of Change:** Incremental

In this 2035 world, control of the justice system is restricted, held by a few key players. This control is concentrated mostly in the government and established legal institutions. An increased deference to authority means people have accepted, and even find it comforting, that there is one clear avenue for dealing with legal issues. These processes are siloed between these institutions: the courts, government, law societies, and lawyer's associations.

Innovation is incremental. Familiar processes have been automated, but there has been no real change at the systemic level. Technology brings efficiency to do the same things in new ways. The justice system offers efficient, streamlined processes that only work for the majority of cases. The legal system lags behind many sectors who have adopted transformative technologies.

Legal problems and disputes in this world are similar to 2020, creating similar results and spiraling effects. Legal services are accessible to a smaller segment of society.

This scenario arises out of a sense of inertia and control, and a strong grip on the status quo. There is a lack of engagement with users and minimal change. Legal professionals and institutions, driven by economic concerns, privacy issues and tech instability, have become protectionist.

In this scenario, there are no new actors from 2020, and in fact the number of actors may shrink. Innovative efforts have not been able to integrate into the system and have dropped off. The public has accepted the status quo, either acquiescing or even finding assurance in an imperfect, but predictable system.

The prominent technologies that are expected in this world are largely with the governments, lawyers and courts. There will be some automation, but email and pdf still dominate.

Key Barriers

- Siloed justice processes. Innovation resistance

- Limited access to data or systems

Key Opportunities

- More consistency, simplicity & efficiency with automation

- Improved quality, like plain language

- Build on existing processes (limited)

This world brings with it a number of frictions and barriers to access to justice and technology. It brings with it a "one size fits all" ethos, along with limited individual choice of service models. Less scrutiny of institutions is likely in this world. There is limited integration of the justice sector with other sectors or services.

There will be limited motivation or opportunity to innovate. There will be limited open source technology, data or system access, making it difficult for entrepreneurs to develop new products and tools. Only those with political capital will be able to influence the system.

Wealthy individuals and corporations benefit in this world and have their needs met. Legal professionals thrive.

Most vulnerable people will not have their legal needs met, and will have stopped turning to the justice system for help. Outliers, both individual or corporate, will not take new issues to the legal system as there is limited room for legal evolution.

This world does offer some key opportunities for Access to Justice. There is the potential in this scenario to develop more consistency and uniformity in how issues are handled. This would then create more certain outcomes, on these issues, for everyone. There is the opportunity to also create a simpler system overall.

While there may be a narrower range of options to resolve legal problems in this world, there is the opportunity to develop a higher quality within those options. There is the potential to engage users more in any reform initiatives. Eliminating Latin and moving to a clear language approach is a potential in this world.

Whose needs are met?

- Wealthy individuals who have access to capital and resources.

- Legal Professionals

- Large corporations

- Federal and local governments, lawmakers and there will be less scrutiny

Whose needs are not met?

- Most people who will experience a legal problem in their lifetimes.

- Vulnerable people who are on the fringes of the system due to the lack of access to resources needed to be a part of the legal systems such as Self-represented litigants

- Outliers such as smaller start-ups, companies and individual innovators

- There will be no room for a robust legal education for the public

SCENARIO 2: COUP D'ÉTAT

- **Control:** Restricted

- **Adoption of Change:** Fast

This world in 2035 is managed by the use of top-down control. Life is very structured and bureaucratic. Government exerts significant control over corporations. There is a strong consciousness around sustainability, with significant control around environmentally sensitive activities.

This scenario arose out of a catastrophic climate disaster, resulting in rampant disease, migration and urbanization. An entirely new party came to power, one driven by sustainability. People willingly gave significant power to the party in exchange for strong ecological and health management.

There is little grassroots movement and limited protest. People appear relatively happy/cooperative with the structure.

Innovation is happening rapidly, with a lot of openness to change. This change is largely service institutions, especially the government, to support their structures and priorities.

This world is dominated by government as the primary actor. Additionally, diverse communities have surfaced as more significant actors.

Technologies that can support monitoring and tracking are prevalent in this world. These include applications for surveillance, including facial recognition. Artificial intelligence and machine learning are often applied to these applications.

The need for rapid change and the ability to respond quickly to emergencies means the government is willing and readily able to work with technology entrepreneurs.

A range of frictions and barriers emerge in this alternative world, that have bearing on access to justice and technology. Data protection and access to data become issues, as more monitoring is implemented. Along with this come privacy concerns.

In the legal system in this scenario, there is a decreasing use of the courts as an independent check on power.

Environmentalists and entrepreneurs alike benefit in this world. If people can access the tech, their needs can be met. There is the potential that the needs of remote communities might be better served as well. More than anyone else, those who hold control, institutions, have their needs met the most.

Those without adequate access to technology or technological literacy are the key people who lose out.

People with everyday legal problems do not benefit from creative resolution, with a focus on AI-formula decision-making.

A more centralized platform in this scenario opens up the opportunity for building on it. The data would be of higher quality and security.

With a focus on innovation to address challenges, there would be more funding for change initiatives as well as more adoption of that change.

This world would include more open source options, but with increasing regulation and accountability. More data for tech entrepreneurs would be available. Centralized control would ensure that those on the fringes or the less educated would not be left behind. The hope is that this would be a democratic approach.

Key Barriers

- Surveillance & data privacy

- Access to technology

Key Opportunities

- Open & quality data, entrepreneur-friendly

- Centralized control, regulation & accountability; cross-sectoral integration

- AI and machine learning for government support

A range of frictions and barriers emerge in this alternative world, that have bearing on access to justice and technology. Data protection and access to data become issues, as more monitoring is implemented. Along with this come privacy concerns.

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This world would include more open source options, but with increasing regulation and accountability. More data for tech entrepreneurs would be available. Centralized control would ensure that those on the fringes or the less educated would not be left behind. The hope is that this would be a democratic approach.

Whose needs are met?

- The owners of controls such as institutions
- Those who have access to technology and access to the internet.
- Remote communities especially in the rural area will likely be served.
- Environmentalists
- Entrepreneurs who work on AI solutions in the legal journey in decision making AI tools

Whose needs are not met?

- Those with no access to technology
- Thee public user of legal tech
- Entrepreneurs innovation in the area of legal resolution.

SCENARIO 3: ACCESSIA

- **Control:** Diffused

- **Adoption of Change:** Disruption

In this 2035 world, power is spread out across different actors. This contributes to the development of multiple and concurrent legal systems. These might include a national system, an Indigenous system and/or alternate religious systems. Everyone in this world is informed and empowered to use these systems.

Innovation is disrupting society rapidly and there is a strong openness to change. Due to the increasing tools to access justice, more people are able to have their legal needs met by the system. The justice system is deregulated leading to faster and more efficient decision making.

This is a world mediated by technology, that emerged out of a move toward decentralization and deregulation. This allows new players like large technology corporations to enter the field, with their resources for data gathering and storage. At the same time, entrepreneurs are the driving force in creating access to tech tools.

This scenario is populated by a range of key actors. Governments and the justice system continue to play a role, but they have agreed to de-regulation. Communities have become key.

Entrepreneurs are essential players and tools like AI lead to more algorithmic decision making in the access to justice sector. In some ways, AI may even emerge as a stakeholder.

In this scenario characterized by innovation, new technologies are being developed all the time. These might include the widespread use of artificial Intelligence, cryptocurrency and open data platforms and possibly surveillance. Data will be privatized leading to more efficiency, but there will be an increasing risk of misuse due many private stakeholders having access to personal data.

Scenario 3: Accesia

Key Barriers

- Inconsistency across the system (multiple systems)

- Data privatization issues

- Access to technology, digital literacy

Key Opportunities

- Cross-sectoral integration, increased access to justice potential

- Entrepreneur-dependent

- Decreased regulation (possibly an issue too)

- AI decision-making

This world feels more like a "wild west" which brings a number of potential frictions and barriers for access to justice and technology. There would be a lack of consistency which could lead to imbalances and a lack of quality control. Additionally, competition could become too high in the market.

In this world, private corporations would be the big winners. Private sector entrepreneurs would thrive. It is unlikely but possible that low-income or marginalized people would have more options. This could also include self-represented litigants.

On the other hand, marginalized populations would likely be either left out or taken advantage of. Those without digital literacy or digital access would equally be left out. Government and public sector would not have their needs met.

The opportunities for technology and access to justice in this world are broad. There is great potential to achieve more equality along gender, racial and other lines. Costs could go down and conflicts might be resolved more quickly, such as through online dispute resolution.

This world opens up the opportunity for more players in the legal system, not just legal professionals. They could even have equal power to lawyers. This world would see more integration with other sectors or services.

This world, with a trust in more open data, would spur more action towards innovation. To provide oversight, independent review boards could be established.

Whose needs are met?

- Private Corporations and tech solutions providers
- Populations centered near large tech and city hubs

Whose needs are not met?

- Marginalized populations who will be left out of consultations and may be taken advantage of
- Government and public sector will not be a central figure
- Those without digital access
- Those with low digital literacy
- AI and machines will be doing the majority of work and might be taking on new roles of work.

SCENARIO 4: PARALLEL JUSTICE

- **Control:** Diffused

- **Adoption of Change:** Incremental

This future world of 2035 is a profit-driven one, characterized by two parallel justice systems. One is managed by the government for major cases. The second is more outside the formal system, using alternative means to achieve resolution.

This is a world rich in innovation. Online legal products abound, including more automatic dispute resolution. There is a move from "winners" and "losers" to more give and take and compromise.

Self-represented litigants are driving better outcomes for themselves in this world, encouraging innovations that serve their needs.

Government cutbacks were a key driver in the emergence of this world. Additionally, online information became democratized, with data becoming a leading profit-driver and decision-maker.

The primary actors in this scenario are focused in the private sector. Non-legal experts and entrepreneurs have taken the centre stage as stakeholders. Self-represented litigants have emerged as important stakeholders as well.

A number of technologies are prevalent in this future scenario. Document automation and artificial intelligence prediction are both prominent. Technologies that provide personal services and translation are common. Undergirding these is a blockchain infrastructure.

Key Barriers

- Two different systems

- Profit-driven world

- Access to technology

Key Opportunities

- Online justice, including for SRLs

- Increased data access, entrepreneur-friendly

- SRL-targeted tech for justice like online dispute

- AI, document automation, blockchain

- Greater transparency

This world brings with it a range of potential frictions and barriers for access to justice and technology. Issues related to supply and demand, as well as heavy costs, could emerge. Varying levels of technological expertise may influence the quality of tools and services that are developed.

With much of justice moving online, in a more pragmatic system, the opportunity to be heard may be challenging. In some situations, particularly in personal plight, the need to "have your day in court" is part of the desired resolution.

Businesses and small and medium-sized enterprises all have their needs met in this scenario. Entrepreneurs have ample opportunity to develop. Self-represented litigants have more options available to serve to meet their needs in this world. Governments benefit as well, with lower costs. On the other hand, traditional law firms and partners struggle more.

The system(s) do not adequately serve those on the fringes, such as low income and vulnerable people and those with poor internet-connections. Harder cases and those that are based in credibility also struggle.

This scenario presents a range of potential opportunities to serve access to justice. New entrepreneurship mindsets stimulate new ideas and approaches. Data would be more open, to support systems and other innovation.

Services could become more user- centered, with plain language and better interfaces. More online dispute resolution tools are likely to emerge, possibly incorporating a video element.

Justice could become more transparent and open, building more trust. Integration with other sectors and serves is more possible as well.

Whose needs are met?

- Entrepreneurs
- SRL's
- Small to medium sized enterprises
- Government policy goals will be less expensive to the public
- Criminal law and criminal lawyers

Whose needs are not met?

- Traditional law firms/ partner firms
- People on the fringes such as e.g. low income, hard cases, credibility based cases
- Those with poor internet connection and less access to digital tools

TRENDS AND DRIVERS ACROSS THE WORLDS

In the workshop, the participants were asked to highlight the drivers and trends which were part of each of the worlds highlighting those that were prominent and those that were neutralized or reversed based on the degree of control and change. Figure 7 shows a comparison of the drivers and trends across the four scenarios, with primary ones marked in blue with a '**+**'and those that are neutralized or reversed marked in red with a '**−**'.

FIGURE 7: KEY DRIVERS AND TRENDS ACROSS FOUR SCENARIOS

+	**Primary** - propulsive forces and key to that world existing

−	**Neutralized/reversed** - slowed or started moving in an opposite direction

1: What's Old is New   *2: Coup d'État*   *3: Accessia*   *4: Parallel Justice*

TREND/DRIVER NAME	1	2	3	4
DRIVERS				
AI TAKEOVER		+	+	+
AGEING POPULATION	+			
URBANIZATION		+		
BLOCKCHAIN		+		+
DIGITIZING OUR LIVES	−		+	
MISINFORMATION	+	−	+	
OPEN SOURCE		−		
SURVEILLANCE		+	+	
CLIMATE CRISIS				
TRENDS	1	2	3	4
SOCIAL				

DIGITAL ACTIVISM	−	−	+	
TOWARDS EQUALITY	+	+	+	−
RISE OF THE (ALT) RIGHT		−		
LIBRARIES AS HUBS		+		−
SHIFTING DEMOGRAPHICS				

TECHNOLOGICAL

PORTABILITY & MOBILITY	−		+	
TECHNOETHICS	+	−		
GRIN...BANG...WHAT?				
IT POVERTY LOOP	+		−	+

ENVIRONMENTAL

CLIMATE MIGRATION	+	+	+	
CLIMATE EMERGENCIES			+	
DIGITAL CARBON FOOTPRINT				
TOXIC TECH				

ECONOMIC

PRECARIOUS EMPLOYMENT	+		+	
INCREASING DEBT LOAD	+			
SHARING ECONOMY				
(AFFORDABLE) HOUSING CRISIS				
THE APP DIVIDE	+		−	

POLITICAL

GOVERNMENT CUTBACKS	+	−	+	+
GOV 2.0	−	+		

ACCESSIBILITY AS A RIGHT				
INDIGENOUS RECONCILIATION		+	−	
VALUES				
ERODING INSTITUTIONAL TRUST	+	−	+	+
INFORMALISM	−	+		
FROM SYSTEM TO HUMAN				
ENTREPRENEURIAL SPIRIT		+	−	
LEGAL				
OPENING UP THE LEGAL PROFESSION	−		+	
UNFILTERED ONLINE INFORMATION	+		+	+
PRIVACY CONCERNS	+			+
TECH EFFICIENCIES			+	
LIMITED ACCESS TO GOOD DATA	+		−	−

Primary trends common across multiple worlds included 'AI Takeover', 'Towards Equality' (although this was reversed in *Parallel Justice*), 'Climate Migration', and 'Unfiltered Online Information'. Interestingly, 'Government Cutbacks', and 'Eroding Institutional Trust', common across three worlds, were both reversed in Coup d'État, not dissimilar to the shift in government reliance occurring in the COVID-19 pandemic. In the worlds with more restricted control, *What's Old is New*, and *Coup d'État*, 'Digital Activism' as a trend was reversed, while it was a primary mover in *Accessia* with diffuse control. By contrast, in the scenarios with more diffused control, *Accessia* and *Parallel Justice*, 'Limited Access to Good Data' was reversed.

The drivers and trends connected to the digital world were crucial in catalyzing the shift: 'Digitizing our Lives', 'Portability and Mobility' and 'Digital Activism'. Minimizing trends like 'The App Divide', and the 'IT Poverty Loop' were critical. Beyond the digital realm, fostering 'Opening up the Legal Profession' and improving '(Limited) Access to Good Data' were seen as essential to shifting the needle. These trends in particular were used as the foundation in developing the actionable toolkit for A2J actors, the primary output and findings for this research report.

Continuing to pay attention to what is happening in these different signals over time will help us to understand if and how the current world may be tilting towards one of these plausible scenarios, or a combination of them.

Where are we and where are we going?

Using a "dot" exercise, participants marked the state of the current justice sector (blue dots) and imagined the preferred future state (green dots). [figure 8]
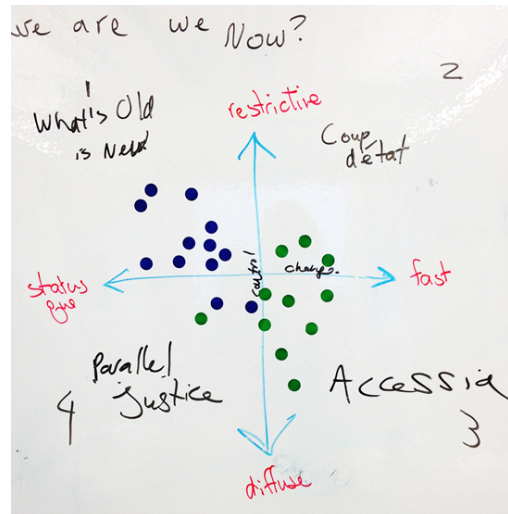

FIGURE 8 : CURRENT AND FUTURE STATE OF THE JUSTICE SECTOR

Pandemic - Wildcard

In March 2020, within days of the workshop, the World Health Organization declared a pandemic and many countries, including Canada, took drastic measures to contain the spread of COVID-19. In Ontario, as elsewhere, almost all activity was severely restricted, with schools, courts, businesses and institutions closing abruptly and strict physical distancing and social isolation measures put into place. These restrictions stayed in place for months.

The justice system was severely tested as courts scrambled to find ways to conduct urgent matters without in-person hearings, and lawyers and service providers sought to protect the rights of their clients while working from home with limited tools. Institutional legacy systems were unable to support all-virtual case processing and antiquated rules requiring in-person activity were called into question.

A notoriously change-averse sector was galvanized. Regulations were suspended and hearings and trials were conducted virtually. As the sector began to see the possibility of introducing significant change made clear through the pandemic, the rhetoric of leaders also began to shift. Leaders, including Chief Justices and Ministers of Justice, called for lessons learned from the experience and vowed to use the pandemic as an impetus for permanent change. The courts took on a significant leadership role in response and reform, with Chief Justices forming and leading provincial and national committees. Government resources were shifted and allocated towards court system upgrades.

The SWD Project Team identified the increased and more immediate relevance of the work of the project and that the analysis would need to shift to accommodate the new trends and drivers introduced into the system by pandemic response.

The team returned to the original list of trends and drivers to explore how these might be accelerating, becoming neutralized or even reversing in light of the pandemic and the A2J tech landscape. In the first six weeks of the pandemic (March-April 2020), most of the original drivers continued to seem important to watch, with 'Surveillance' and 'Urbanization' seen as key influencers at the time. Within the social trends, 'Digital Activism' and 'Libraries as Hubs' continued as strong trends. With people staying at home, 'Portability and Mobility' seemed less relevant (at least temporarily), but the 'IT Poverty Loop' seemed incredibly powerful. Similarly, 'Climate Migration', a core environmental trend, seemed neutralized but 'Climate Emergencies' and 'Toxic Tech' were identified as important. With more and more internet usage, we wondered what the impact might be on the 'Digital Carbon Footprint'.

On the economic front, all of the original trends were prominent, and the increasing attention to the '(Affordable) Housing Crisis' might become a catalyst for positive change. With significant government funding, 'Government Cutbacks' seemed reversed while 'Gov 2.0' became more relevant than ever. Both of these are potential catalyzers for longer-term shifts to support A2J tech. In the early stages of the pandemic, 'Indigenous Reconciliation' seemed neutralized, but may be rising again. The SWD Team noted that 'Accessibility as a Right' was an area in flux to watch. In this spring period, 'Eroding Institutional Trust' was seen as a value that was potentially reversing, while 'Informalism' and 'Rising Entrepreneurial Spirit' were strong forces at play. Finally, 'Privacy Concerns' in the legal sphere were of primary concern while all the other trends were important to continue to watch.

Additionally, in this dynamically shifting environment, a number of new drivers and trends began to emerge. With things changing seemingly weekly, the drivers and trends can be considered a snapshot of some key factors in the external environment in the spring of 2020. The pandemic has revealed the ability of the justice sector to respond in a fluid fashion and the long-term impacts of these trends and drivers is, as yet, unclear.

NEW DRIVERS

MODERNIZING INFRASTRUCTURE

Urgent need to modernize tech and system infrastructure of all sectors to respond to current and future crises.

ONLINE EVERYTHING

Seen as the Panacea to get through these times, everyone and everything flocks online, a stop gap measure.

PHYSICAL DISTANCING

'Flattening the Curve' by staying alone and separate. (Was social distancing.)

HYPER LOCALISM

Care and concern for one's own neighbourhood and neighbours become a main locus of concern.

NEW SOCIAL TRENDS

NEW PLAYERS

Players outside of institutions responding and stepping in.

DIGITAL EQUITY CONCERNS

Disparate access to technology and digital tools becomes more acute.

NEW TECHNOLOGICAL TRENDS

TRACKING PEOPLE

Potentially mainstreaming SIM & other mobile tracking, wearables, drones, and facial recognition.

NEW ECONOMIC TRENDS

UNIVERSAL BASIC INCOME

Every individual's basic right to a guaranteed income.

SALARY CAPS

Salary caps potentially being put into force across sectors.

NEW VALUES TRENDS

INTERNET AS RIGHT

With public facilities closing there is renewed push to make Internet access a basic provision. Functioning in civil society depends on it.

NEW LEGAL TRENDS

TECH CAPACITY/ COMFORT

Differing skill levels in adapting technology solutions in to daily use.

TRIAGE RAMP UP

Law courts closed except for critical cases where civil liberties may be profoundly encroached & risk of harm is evident.

FOLLOW THROUGH LAG

Technology fatigue and increased usage leading to reduced follow through in response.

With this in mind, the time of the pandemic seems to have catalyzed an accelerated shift towards faster, more disruptive change, on the right of the 2x2 futures matrix, towards the worlds of *Coup d'État* and *of Accessia*. Based on the discussions in the foresight workshop, and the "dot exercise" shown earlier in figure 8, it can be concluded that moving more towards the *Accessia* quadrant would be the most hospitable for supporting access to justice. While access to justice can be improved in any of the worlds, with the right levers, *Accessia* offers the greatest promise for addressing A2J. This then leaves us with a gap. While the accelerated shifts in COVID-19 seem to be pushing towards disruptive change, they do not largely seem to be moving towards more diffused control in the system, where *Accessia* resides. As figure 9 illustrates, it is therefore desirable to shift the accelerated trajectory from the observable, current one (moving to the right in purple), to an imagined line of change, one that moves both horizontally, to the right, as well as downwards (in blue).
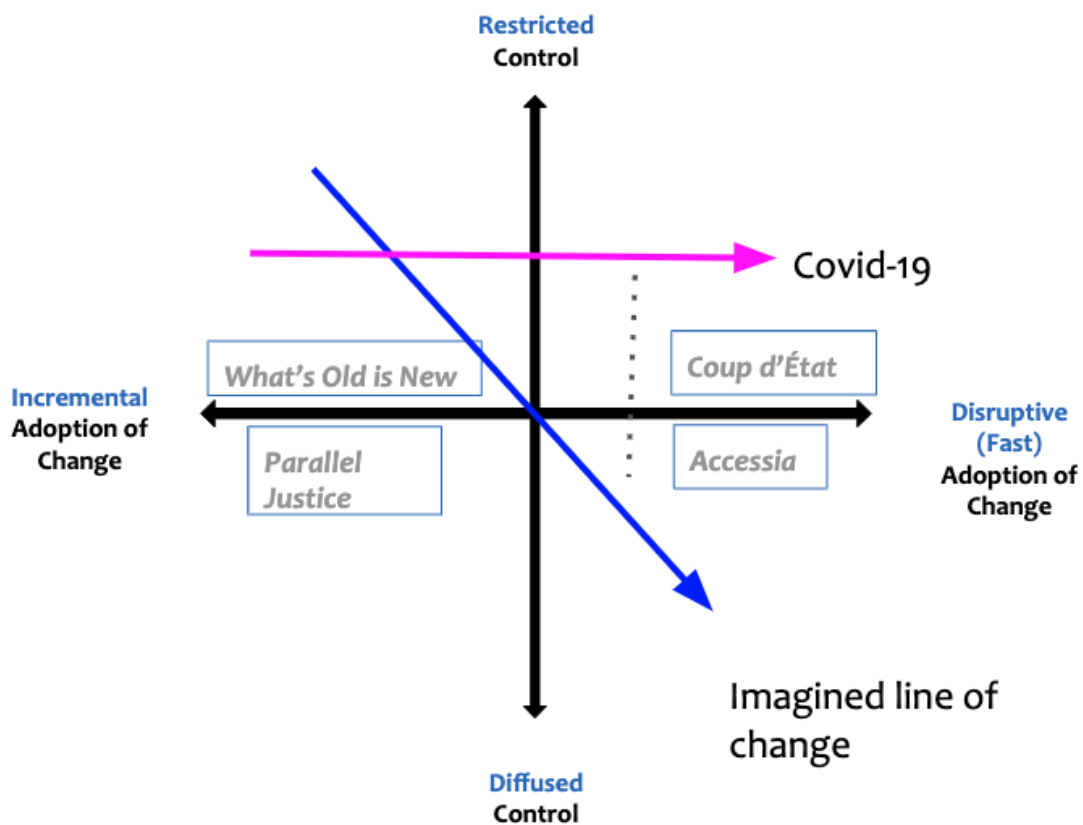
FIGURE 9: ACCELERATED CHANGE DURING THE PANDEMIC: REAL AND IMAGINED

At the heart of capitalizing on these accelerated dynamics, with an intention of fostering positive and lasting change in this direction, it was important to continue to explore the pandemic implications, and the key factors that would help move towards the vision of the future. This led the SWD Project Team to host a second interactive workshop to further explore the shifting environment with industry representatives, and to begin to build the actionable tools that would help A2J actors apply these perspectives in the 'real world'. The following section highlights the insights gleaned during this workshop.

Workshop 2: Pandemic Implications and Toolkit Prototype

Original workshop participants were invited to join the workshop, along with the project's Advisory Committee members and the Director of the Legal Innovation Zone.

This virtual workshop, held on May 28, 2020, had a two-fold purpose:

1. To understand the impact of the pandemic on the analysis through analysis of changing trends and drivers, their impact on the current state of the justice system, and resulting shifts in current reality on the 2x2 axes explored in workshop 1 (control and adoption of change),

2. To ensure understanding and validate the work of the project by sharing preliminary findings, reviewing outcomes and outputs and discussing the contents of a prototype toolkit built from the research.

Following a review of the project goals, progress to date, and a refresher on the major principles of strategic foresight, participants were introduced to the new trends as described on page 53 of this report. They assessed the level of impact (from minimal to significant) that the new trends and drivers were having on A2J and tech, placing trend "stickies" on an impact scale using a virtual interactive platform, as illustrated in figure 10.
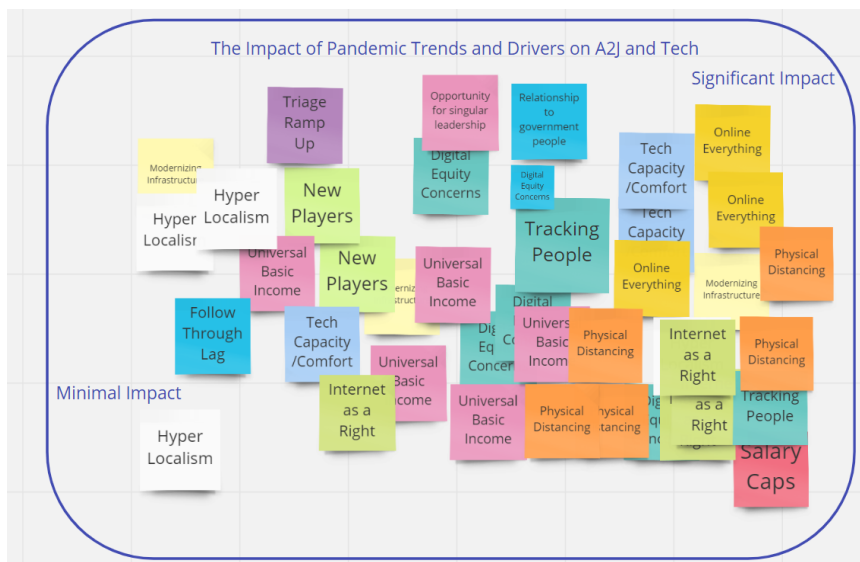

FIGURE 10: NEW PANDEMIC TRENDS IMPACT ON A2J AND LEGAL TECH

Most participants agreed that new trends of highest impact on A2J legal tech were 'Online Everything' and 'Physical Distancing', while 'Hyper-localism' and 'New Players' were largely felt to have minimal impact. In the middle to low impact ground, the majority of participants felt that 'Universal Basic Income' and 'Digital Equity Concerns', had a moderate degree of impact

There was less agreement on 'Modernizing Infrastructure', 'Internet as Right', 'Tech Capacity/Comfort', 'Tracking People'. These differences of perspective would be a valuable tension to explore more fully. The trends of 'Follow-through Lag' and 'Triage Ramp Up (at the minimal impact end) and 'Salary Caps' (at the significant impact end) appeared to be of less relevance with only one stickie for each.

As a part of the same exercise, participants proposed and discussed other trends, drivers, two of which are included in figure 10, 'Opportunity for Singular Leadership' and 'Relationship to Government People'. Beyond horizon scanning, the group explored other considerations and general developments that are having impact on the conduct of justice as a result of the pandemic. These included the following:

- Openness for new ways of working with flexibility for care-giving

- The differences between larger firms (with more reserves and bench strength) and smaller ones (with less overhead and more adaptability)

- The difference between those who can or can't adapt to technology

- The increasing digital divide and digital equity concerns - for legal services and small firms too, also impacted by finances (and bandwidth)

- Growing legal needs as a result of the pandemic

- Justice backlogs (courts, tribunals)

- Greater need for A2J data (e.g. postal code), with growing public comfort in data collection

- Concerns about the talent pipeline in a virtual world and the reduction in entry level jobs in A2j sector; legal training is still rooted in old thinking

- Strained government funding with pandemic priorities and slowing economy - justice sector is not top of mind

- Digital allows for larger geographic range for legal services

- Drive to justice sector leadership that is open and shares data (no digital hoarding)

- Shifts in legal incentives with re-prioritizing in life

Following this exercise, the participants returned to the exercise from March 3 in which they had been asked to place blue dots on the axes of control and adoption of change for 'where are we now?' and green dots for 'where should we go?'. Participants were shown the original set of dots and were asked to place a new round of dots answering the same questions in light of the pandemic and also to add red dots for 'where does it seem we are heading?' [figure 11]
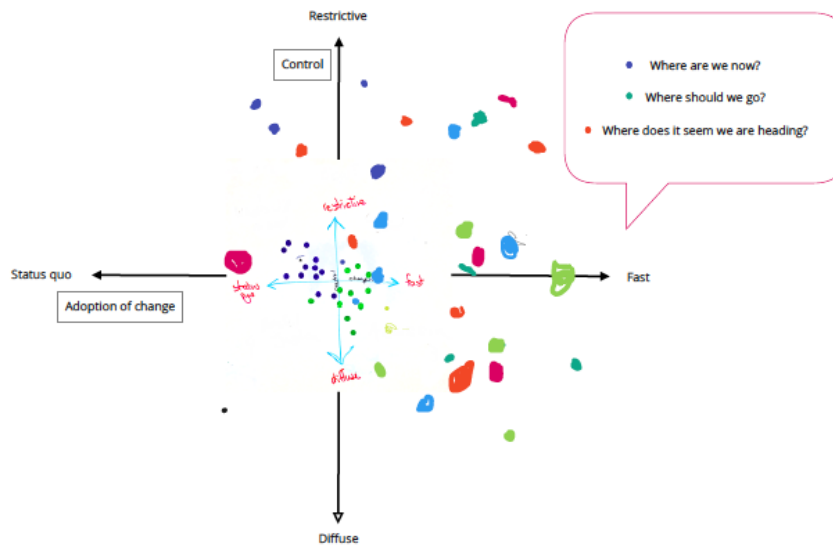
FIGURE 11: WHERE ARE WE NOW? WHERE ARE WE GOING?

Participants discussed the shift towards restricted control - both actual and perceived - as the public is more reliant on and compliant with the direction of a small number of government leaders. They noted that this trend is occurring in justice as well, where the courts and particularly the Chief Justices are taking a strong lead in managing crisis response and the language around reform. The implications of this, including a court-centric focus, a limited place for disruptive technology and the challenge of needing more government action that leads to a loosening of regulatory controls, were raised and discussed.

Through the dot exercise, participants noted a shift on both axes in the current environment - towards more adoption of change and more restrictive control. While there was general consensus that we should be headed towards more adoption of change, the group was varied in terms of the optimal nature of control. In terms of the probable future (where does it feel like we are heading), participants were also split although most seemed to indicate that control would stay more restricted than diffuse.

TESTING THE TOOLKIT FOR POSITIVE DISRUPTION

For the second half of the workshop, the project team reviewed the prototype outputs of the project. The SWD Project had always been envisioned as one that would result in practical tools for various actors in the A2J tech world. This would help enliven and apply the insights gleaned through the research and get it 'off the shelf and into the field'. The preceding research stages built the foundation for developing a draft collection of tools for a fulsome 'toolkit', along with some preliminary prototype versions. The proposed tools and their anticipated uses were explained and participants were asked to identify which group of users--A2J actors, tech innovators, and

investors/funders–would benefit from each of the tools. Participants validated multiple audiences for each tool and rated usefulness as illustrated in figure 12.

Participants were also asked to discuss the tools and provide suggestions to expand or improve them, to suggest other potential tools, and to provide other comments. There was consensus among the group that tools targeting the regulator as a stand-alone user would be useful, accompanied by tools supporting tech innovators seeking to manage regulatory risks. Guidance around digital and data were also desired. The practicing lawyers stressed the need for clear, action-oriented tools for busy practitioners that are easily integrated and allow an expanded approach to A2J in practice.

Valuation and an approach to understanding value was highlighted as a current challenge that the tools could support. The practicing lawyers noted that the current practice approach makes it difficult for lawyers to see value in terms other than the billable hour, particularly for lawyers who are already doing personal plight law. It was suggested that a valuation tool for lawyers and innovators needs to support profit-seeking while also integrating other value constructs, such as A2J benefits. Conversely, the participants indicated that regulators and investors need the valuation tool to support other value considerations such as the social return on investment and cost-benefit analysis that assess societal costs.

There was strong support for using A2J metrics from current Canadian and international research to strengthen calls for data integration and to ensure a common measurement framework. It was also noted that a "regulatory compliant" roadmap would be valuable for private sector actors. Additionally, clear tools of "what to do", tailored by sector, were seen as useful.

Finally, there was consideration for future A2J actors and how the research and tools could entice thinkers and innovators to work more directly in A2J. Suggestions included finding ways to share the tools more broadly in the tech innovation sector and introducing the approach to law students as a future body of A2J innovators.

	A2J Actors	Tech Innovators	Investors/Funders
Framework	*	****	**
A2J Metrics	**	******	**
Project Evaluation Criteria	******		***
Risk and Impact Assessment	*****	**	****
Valuation Formula	****	*	********
Roadmap	*****	****	**

Communication Tools		**★★★★**	**★★**
Research & Resources	**★★★★**	**★★★★**	**★★★**

FIGURE 12: USEFULNESS OF POTENTIAL TOOLS IN THE TOOLKIT FOR POSITIVE DISRUPTION

Symposium: The Soft Launch

On June 11, the Project Team hosted 45 people for a virtual Symposium. The Team presented the project – its research, methodologies and strategies for action, including the toolkit.

The participants were invited to participate in a 'dot exercise' mimicking the exercise done in the workshops to engage with the discipline of Foresight and to share ideas for disseminating the tools across the A2J community.

Strategies for Action

We know that the future is uncertain. Presently, we have a justice system, premised on the equal application of the rule of law for all but reliant on a small number of experts and largely inaccessible to those who cannot afford the services of these experts. Without adjustment to our services and systems, we know that the probable future is one where those with power and resources will be favored in the justice system, despite its original premise.

Foresight analysis assesses all of the potential futures, including the possible, plausible, probable, preferable and the wildcard. [figure 13]

We are in a wild card scenario, a pandemic, that has altered our environment radically. We may be witnessing changes that reverse the tide in wealth as a determiner of outcome, towards a preferred future, but this is uncertain. The impacts of the pandemic may also be short-lived, returning our trajectory to its pre-pandemic path.
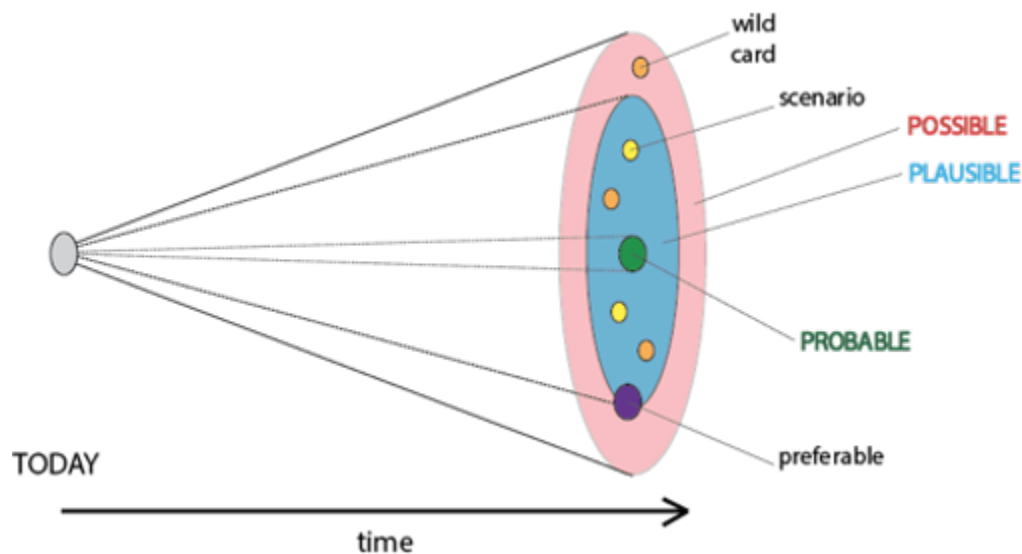

FIGURE 13: THE FUTURES CONE (Voros 13)

The Project Team identified the preferred future as:

[a future where] people are equitably supported (able) to prevent, avert and resolve conflicts equitably/fairly.

As called out in the research stages, there are a multitude of current and potential future barriers to achieving this vision. These strategies for action identify levers to pull now to drive towards that preferred future.

Three Horizons

The "three horizons framework" is a critical tool in foresight analysis (figure 14). It allows the researcher to consider the decreasing relevance of the current model, the collection of potential impacts and possibilities and the preferred vision of the future.
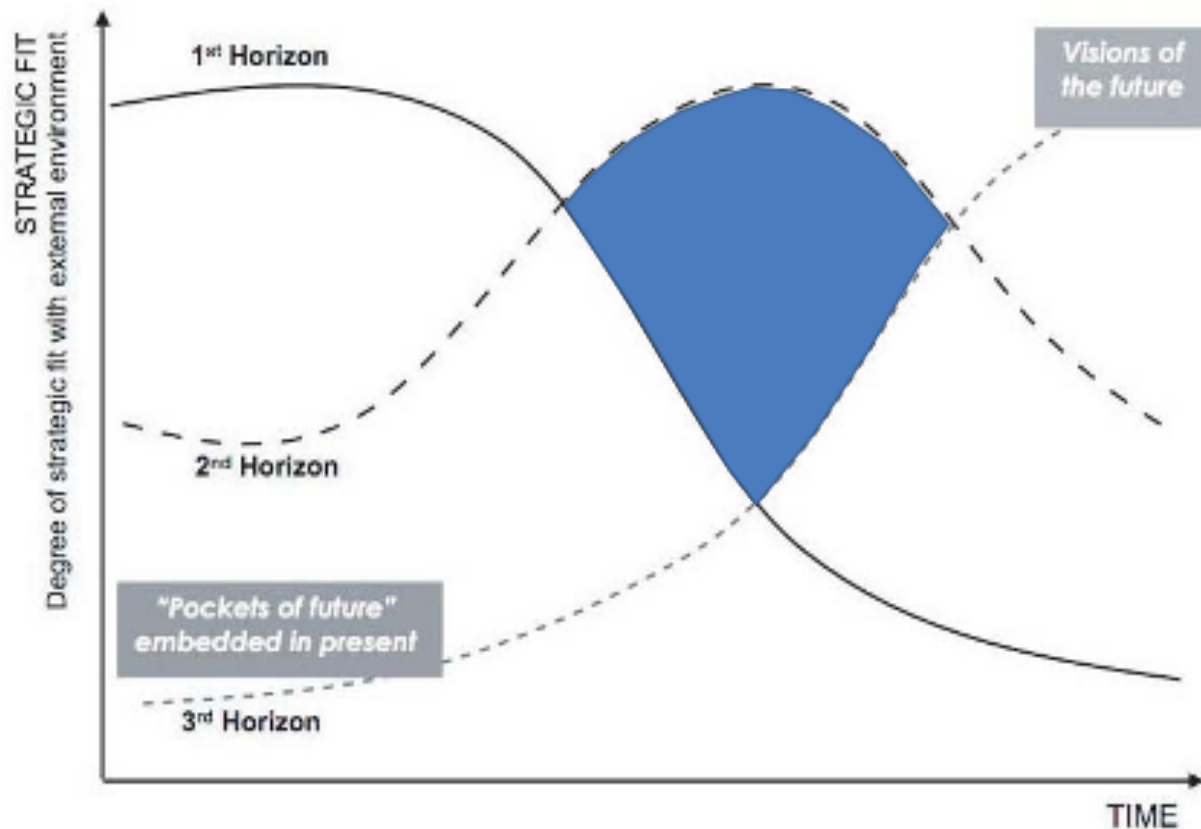

FIGURE 14: THE THREE HORIZONS (Curry)

The **first horizon** represents the current justice system. As with any system of services, it will fall out of favour over time without adjustment – as represented by the current A2J crisis. The current system, without significant adjustments, cannot stay relevant or resilient.

The **third horizon** represents the preferred vision of the future as set out above and articulated on the axes.

The **second horizon** is the series of potential actions and decisions that make up other possible or plausible futures.

The area of confluence between the three horizons is the 'triangle of choice' – a place of contradictory ideas and many options (as shown in blue in figure 14). Without effort, we will make decisions that fit the 'legacy' system of justice, which we know is falling out of fit with contemporary contexts and logic. We need to think through our choices, actions and strategies to ensure that we

are moving ourselves and the system towards its intended goal. The toolkit presented in this report is meant to aid in the decision making in this triangle of choice to move towards a preferred future, where the justice system has adapted and has become meaningful in our new present context.

Preferred Future Environments

The definition of the preferred future is not new – indeed it is widely shared across the justice community.

> So, imagine the year is 2030, and the justice system takes into consideration different legal needs, providing timely, holistic and personalized assistance to achieve lasting and just outcomes. People are empowered to manage their own legal matters, with a strong emphasis on prevention where feasible and public participation in overseeing the justice system. As a result, people feel a strong connection to the justice system, and a strong sense of ownership. Practices are evidence-based and the justice system is a nurturing environment for innovation. It consists of learning organizations committed to continual improvement. (CBA 153)

Through our analysis of the different justice environment scenarios, we asked what common actions across these worlds would bolster this aim. We cannot predict the future, particularly how critical uncertainties of control and adoption will evolve, but we can examine the differing types of resolutions of these tensions to understand how we may better achieve access to justice in each.

Our research demonstrates that the limitations on tech innovation geared towards end-users is problematic, that entrepreneurs, institutions and regulatory bodies need to work in concert to realign support for end-users.

BARRIERS OPPORTUNITIES AND FRICTIONS

Exploring these scenarios surfaced a number of challenges to technology innovation and access to justice. Systemic issues of wealth distribution affected access to justice in all of our scenarios. We also observed common opportunities:

Access to and quality of data, a key consideration for entrepreneurship and innovation in A2J is widely varied across the scenarios.

The **nature of the system** brings varied implications - centralization increases consistency and predictability, while multiple systems allow for different options serving different needs.

Personal access to technology is critical for all - without it people are disadvantaged and marginalized.

Entrepreneurship drives innovation across the scenarios and only occurs with an open system, even with high government control. However, a benefit for A2J is not guaranteed.

Increased reliance on AI and machine learning is common, where case conduct and decision-

making rely more on it. Consistency and speed improve but limit responses for non-typical cases.

We also see that the legal system is shifting in response to the cost of formal resolution, but also to pressure from an increasingly diverse society with linguistic needs, cognitive and physical disabilities, socially fragmentation and intersectional identities. The justice system is caught in a tension between its historic service model and the needs of its current public users.

CREATING THE ENVIRONMENT TO A2J INNOVATION

In a dynamic, multi-player system like the justice system, many actors will impact the triangle of choice. The decisions of policy makers, institutions, and individuals will all affect how we collectively navigate the triangle of choice. While we can't proscribe how people act, we can create an environment in which they can drive towards the preferred future. We can create the conditions for accessible, equitably justice technology.

> *The drive toward this future will be a combination of supporting the good work underway and creating the environment for new innovation.*

The steps that institutions like the courts and the Law Society have taken to advance access to justice are a positive start down this path. Welcoming new thinking, like this Foresight research and other Design Thinking methodologies is also a promising shift. New approaches and openness to new ideas is key in the ongoing evolution of the justice system in an ever-changing landscape. New paradigms of thought will serve the system well in its adaptation, adjustments and alignments.

Circling back to the groups surveyed at the beginning of the research, we have identified shifts in the environment that would support each group's A2J efforts. We then developed tools designed for easy adoption for these A2J actors across the system. As we identify environmental shifts that will benefit each of these groups, we note that all A2J actors benefit from a culture of open discussion and collaboration.

Legal Professionals

- Broader acceptance of user-defined concepts of justice including collaborative processes and timely resolution
- Better data about system-wide impacts of specific legal processes
- Understanding of different concepts of resolution, informed by culture, history and systemic barriers
- Expanded professional support of efforts to identify and address systemic bias
- Understanding of the impact of blended models of technology and in-person services

Legal Tech Innovators

- Establish a culture of collaboration to identify and remove regulatory barriers and reduce the risk to innovators
- Harness intellectual and financial investments in A2J tech

- Engage with tech innovators about the nuances of privacy, resolution outcomes and service quality to establish rules that meet users' needs and protect vulnerabilities
- Build a business case for accessible legal technology
- Collect and share data about users' needs, including users not currently served by the traditional service model
- Fund innovation hubs and incubators to focus on public user needs

Public Users and SRLs

- Acknowledge the self-represented litigant as a permanent part of the justice system
- Cultivate blended models of legal support to allow users to decide when they want to pay for representation and when they want to use other types of support
- Adopt a 'No Wrong Door' approach to legal information and support

Intermediaries

- Expand access to early resolution supports through intermediaries
- Listen to intermediaries about the needs of public users
- Collect and share data with health and social services
- Identify community spaces like libraries as a critical part of the justice system
- Design tools for intermediaries to use to guide users to legal supports

There is no way, in a collective, complex system to guarantee A2J. However, **we can create the environment that will support A2J innovation and drives us towards the preferred future.** Creating this environment will take coordinated and sustained action. We have developed a series of tools to make it easier for A2J champions across the system to contribute to this culture shift.

Toolkit for Action

The toolkit that we have developed is meant to help foment current actions and guide us collectively forward. Its tools are based on actions to support positive forces of change and to counteract those that would deter us from achieving better A2J. We look to change that will to move us out of the current scenario of tight controls and little adoption into a concerted opening up of the potential for innovation in the A2J space that would serve End Users, including SRLs, as well as the intermediaries and legal professionals that support them.

The Trends

Drawing on the comparison of scenarios in the foresight process, it became clear that several trends were most important to focus on in order to drive forward the level of innovation needed. These are the differences that would make a difference. In some cases, trends may be manifestly different in nature, but would demand the same or similar response in upholding (amplifying) them or counteracting (subduing) them.

Trends to amplify

- Better integration with an **increasingly digital life**
- Increase avenues for **digital advocacy and activism**
- Improve **portability and mobility**
- **Modernize infrastructure** *
- Support for a more **open legal profession**
- Increase **tech capacity & comfort** *
- Reduce the **app divide**
- Increase **digital equity** *
- Decrease the **IT poverty loop**
- Increase **access to data**

*pandemic jumpstart

There are also trends that are evident in both our current state and on the path to a more accessible tech future. These help to assess the risks of new initiatives to avoid harm.

Trends to track

- More and more inclusive visions of **equality**
- Global responses to **climate migration**
- **Precarious employment**
- **Government cutbacks**
- **Eroding institutional trust**
- Addressed the **wealth of online information**
- Use of **artificial intelligence** (AI)

Pandemic Disruption

Shifting the pace of change and the concentration of control is currently being tested in an unexpected, and dramatic real-world challenge. The current pandemic has accelerated the willingness to change. Individuals, institutions and systems that have, for years, or even decades, resisted digital service models are now offering full-service dispute resolution, with procedural protections, online. Problem-solving these pandemic-era solutions has been a shared responsibility, relying on professional ethics and a common commitment to the rule of law and meaningful resolution.

Even more significant than system change, has been the change in mentality. People across the justice system have shifted from a mindset rooted in maintaining traditions to a problem-solving mindset, focused on meeting people's needs. Justice sector leaders are espousing their eagerness to change and their self-perception as a leader of that change.

The challenge to A2J innovation is to harness this mindset shift and come out of this global disruption with *new* ways to solve users' issues. And quickly, before people slide back to the status quo.

THE TOOLS

Still Waiting for Disruption has developed eight tools that can be used across the sector to ensure that new initiatives, funding, research and projects drive toward the preferred future environment. Designed for use by tech innovators, legal professionals, funders and investors and legal institutions and regulators. These tools are designed to make it easier to incorporate concrete steps into existing operations, design efforts and decision making (figure 15). The tools fit together by emphasizing common actions, modified to each context.

Tools in the Positive Disruption Toolkit

Tool	Description	Primary A2J Actors	Secondary A2J Actors	Action
Framework	Identifies the key trends and the analysis supporting A2J innovation	• Legal professionals • Funders / Investors • Tech Innovators • Institutions		
Roadmap	Concrete steps to drive A2J tech mapping steps on a collective path	• Legal professionals • Funders / Investors • Tech Innovators • Institutions		
A2J Metrics	Standardized A2J metrics based on international and domestic models	• Institutions Funders / Investors • Tech Innovators	• Legal professionals	
Project Evaluation Criteria	Criteria of initiatives that drive towards A2J, as a basis for decision-making	• Institutions	• Funders / Investors	
Impact Matrix	A fillable tool to assess the A2J impact	• Tech Innovators	• Legal professionals • Funders / Investors	
Risk Matrix	A fillable tool to assess the A2J risks of new initiatives	• Tech Innovators	• Funders / Investors	

Valuation	A2J valuation to complement financial valuation	• Funders / Investors	• Tech Innovators	
Journey Map	Levers of change mapped onto the user journey in personal plight law	• Tech Innovators • Legal Professionals	• Funders / Investors • Institutions	
Reading List	Academic and sector research and resources that support A2J tech	• Institutions	• Tech Innovators • Legal professionals	

FIGURE 15: POSITIVE DISRUPTION TOOLKIT

The framework, "Shaping the Future of A2J Tech", sets the stage and is rooted in the context and literature review of this research project, highlighting the significant trends identified throughout the foresight analysis. The "Roadmap for Positive Disruption" draws on the insights gleaned throughout the research, and highlights how and were different steps, including the tools, might be applied. The "A2J Metrics" tool supplements these two by highlighting the current state of the A2J crisis in Canada, drawing on the contemporary Canadian and global sources cited in the research.

The next four tools, the "Project Evaluation Criteria", "A2J Impact Matrix", "A2J Risk Matrix", and "Valuation Formula" all take the significant trends identified through the foresight analysis, those that support A2J tech (or need to be subdued), converting them into assessment tools for different contexts.

The "Journey Map" aligns with various stages in the legal process, both informal and formal, as described in the research and draws on the opportunities and technology options highlighted throughout the research stages.

The Reading List identifies recent writing and research to build up the capacity of teams, both legal and technology based, to understand A2J needs and trends.

Taken together, we hope that these actionable tools will help all actors to better navigate A2J tech, supporting disruption towards a future where) people are equitably supported (able) to prevent, avert and resolve conflicts equitably/fairly.

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