

**Emerging Technological Solutions to Access to Justice Problems: Opportunities and Risks of
Mobile and Web-based Apps**

Knowledge Synthesis Report
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KEY MESSAGES

Canadians experience multiple barriers to accessing justice, including financial constraints, psychological barriers, informational obstacles and physical barriers. Members of marginalized and equality-seeking communities, who are more likely to face multiple justiciable problems as once, experience these barriers acutely. Apps that purport to facilitate access to justice by providing assistance with legal tasks are increasingly being deployed in the legal services arena. This Knowledge Synthesis develops the groundwork for a nuanced analysis of the social, political and legal implications of access to justice apps, canvassing the risks and opportunities inherent in the use of apps in the legal context, considering existing best practice guidance relevant to legal apps and proposing future policy and research directions in this area.

- There is virtually no Canada-specific scholarly work, regulatory consideration or policy initiatives addressing legal apps generally, or access to justice-enhancing apps in particular. While the American experience may be instructive, and there are lessons to be learned from app use in comparable disciplines, like the health field, a Canada-specific approach to legal apps is necessary.
- Apps present a range of opportunities for improving access to justice including: mitigating the financial, psychological, informational and physical barriers associated with traditional legal services; addressing needs beyond conventional legal services; providing insight into interrelated legal needs and modernizing public legal education. Using apps to address access to justice needs also carries significant risks, including: privacy and security issues, the propagation of the digital divide and unequal access to justice; regulatory issues connected to the unauthorized practice of law; uncertain reliability of the information provided; and skewing the access to justice debate away from the ongoing need for structural change.
- There is no best practice guidance specific to access to justice enhancing apps. General guidance on best practices in app development from sources including the Privacy Commissioner on issues of privacy and security and the World Wide Web Consortium on accessibility for persons with disabilities should inform best practices for legal apps. Guidelines on health care apps promulgated by the Canadian Medical Association are highly transferable and may provide a useful starting point for the creation of parallel guidelines in the legal context.
- Future research is urgently required to gain a more complete picture of the state of access to justice apps in Canada and to assess the potential for these apps to contribute to improving the state of access to justice for Canadians. More information is needed on topics including: the demographics of app users and their usage patterns; whether access to justice outcomes are in fact improved through the use of apps; and, the regulatory options available and the risks and benefits of regulation of apps in this area.

Context

There is a widely acknowledged access to justice crisis in Canada. Many Canadians do not have access to legal information, lawyers, courts and the broader conditions of legal empowerment needed to resolve legal issues. Studies indicate that individuals experience a variety of interconnected barriers to accessing the justice system, including: financial constraints connected primarily to the significant costs associated with hiring a lawyer; psychological barriers including fear, embarrassment and stress in relation to pursuing or defending legal rights; informational obstacles including a lack of knowledge about the legal system and available legal support services; and physical impediments linked to the unavailability of local legal services in many rural and remote communities. These barriers are acutely experienced by members of marginalized and equality-seeking communities, such as persons of Aboriginal ancestry, members of visible minority groups, persons with disabilities and those who receive social assistance, who are all more likely to face multiple justiciable problems as once.

While strategies targeting the access to justice crisis in Canada have historically focused on refining existing court processes and increasing access to legal representation, technology is increasingly acknowledged as a means of creating new pathways to justice. To that end, mobile and web-based apps intended to assist individuals with legal tasks are now being deployed in the legal services environment. Although these apps are recent additions to the access to justice world, they are already changing the ways that Canadians interact with the legal system. This Knowledge Synthesis develops the groundwork for a nuanced analysis of the social, political and legal implications of access to justice apps, canvassing the risks and opportunities inherent in the use of apps in the legal context, considering existing best practice guidance relevant to legal apps and proposing future research directions on this topic.

Findings

1. Inventory of Access to Justice Apps

We created a comprehensive inventory of access to justice apps in Canada and a parallel inventory of apps in the United States. We coded these inventories according to: (1) developer(s); (2) intended users; (3) type(s) of law the app engages; (4) brief description of the app; (5) cost accessibility; and (6) function(s) served by app (i.e., providing legal information, offering administrative information, document/form creation, evidence collection, legal advice, self-help). These inventories illuminate three trends about access to justice apps.

First, private developers are responsible for most access to justice apps. However, Canadian government actors and public bodies have recently increased their involvement in promoting technological solutions to access to justice issues through, for example, public competitions like the *Ontario Access to Justice Challenge*. Law schools in both Canada and the United States are also leading innovators in the development of access to justice apps.

Second, access to justice apps target three distinct end-users: (1) lawyers; (2) the general public; and (3) non-lawyer service providers. Apps targeting lawyers are designed to improve the efficiency of legal service delivery, often through streamlining practice management issues or litigation tasks. Apps for the general public focus on making legal services or information easier to access. A significant number of these apps shift the way that individuals interact with the legal system by allowing users to bypass the need to retain a lawyer or minimizing the amount of time a lawyer needs to spend on a legal issue. Examples include apps that: provide legal and procedural information; allow users to create legal documents including contracts and wills; automate the common steps of a legal transaction like a divorce; and, assist with legal research. The final category targets service providers like social workers by providing a tool for them to conduct a basic “legal screening” for their clients.

Third, the majority of public-facing apps are available for free, though there may be hidden costs associated with upgrades or advanced features. Apps aimed at lawyers or that connect a user to legal advice are more likely to cost money than other kinds of apps.

2. Risks and Benefits of Access to Justice Apps

Due to the marked lack of available information and analysis on access to justice apps, it is impossible to draw firm conclusions about the potential for apps to revolutionize the legal arena. However, we identified six preliminary opportunities presented by apps to improve access to justice for Canadians.

- Mitigating financial barriers: For example, apps that allow individuals to generate legal documents without assistance or with reduced assistance from a lawyer are likely to reduce the costs associated with creating basic legal agreements.
- Mitigating psychological and informational barriers: Apps can help demystify the law and legal institutions by providing new opportunities for the public to educate themselves about the law, contributing to an increase in client empowerment.
- Mitigating physical barriers: Assuming a user has access to the internet, apps allow for legal information to be accessed on an anytime, anywhere basis. This flexibility can improve access for those in rural and remote communities who may not have easy access to a local lawyer.
- Addressing needs beyond conventional legal services: Some legal self-help apps provide tools beyond those generally offered by lawyers.
- Developing big data and insight: The data collected by apps could be used to gain insight on connections between legal issues, allowing service providers to better address interconnected client needs.
- Modernizing public legal education: Apps encourage students to communicate legal information in an accessible way, to think about the responsiveness of law to real-world legal problems, and to situate the role of lawyers in a modernized, technological world.

We also addressed five risks apparent in the use of apps to address access to justice issues.

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