

MEANINGFUL JUSTICE DESIGN: A PRACTICAL
IMPLEMENTATION OF ACCESSIBLE JUSTICE

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Abstract

Traditional legal systems often include barriers to access to justice, and the integration of technology frequently fails to deliver user-centric solutions. This thesis investigates how user-centric design methodologies can optimize technology integration to enhance access to justice while mitigating barriers. It proposes “Meaningful Justice Design” (MJD), a novel methodology aiming to make justice systems responsive to users’ needs for understanding, navigation, and effective problem resolution.

This research encompasses a literature review, a meta-analysis of empirical data, and an examination of Canadian and international case studies, revealing that contemporary justice processes often lack genuine user-centricity. MJD is organized around five core tenets: Justice is the Goal, Injustice is the Metric, User-Centricity, One-Size-Fits-Some Resolution Pathways, and Transformative Integration of Technology.

MJD provides a framework for systemic justice reform with significant implications, advocating for system designs that are not only procedurally sound but also foster accessible, equitable, and restorative experiences for all users.

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Chapter 1: Overview

1.1 – Introduction

Access to justice, a fundamental right and cornerstone of a just society, is often hindered by systemic barriers inherent in traditional legal systems. Financial constraints, lack of legal knowledge, and complex bureaucratic processes often exclude marginalized and underprivileged individuals from effectively resolving legal issues. While technology offers the potential to enhance access to justice, contemporary approaches to justice process design often fall short of achieving this goal due to a lack of user-centricity and ineffective integration of technology. The rush to digitize during the COVID-19 pandemic resulted in many integrations of technology into justice process design that merely translated analog processes into digital ones without any transformation of the underlying process. This shoehorning results in those processes losing many benefits offered by technology while inheriting most of the barriers to access to justice already inherent in those analog processes. This thesis explores the research question of how user-centric justice process design methodologies can optimize the integration of technology in justice systems to enhance meaningful access to justice while mitigating both existing and emerging barriers to accessibility.

Many contemporary approaches, while aiming to move beyond the traditional adversarial model, still operate within the confines of the formal justice system and fail to fully address systemic inequalities. While attempting to simplify processes, problem-solving courts, specialized tribunals, and alternative dispute resolution (ADR) mechanisms may not be suitable for all disputes and risk overshadowing fundamental procedural guarantees. Reforms aimed at assisting self-represented litigants, such as simplified forms and online resources, often fail to address the underlying challenges faced by these individuals.

The integration of technology, while promising, has also presented challenges. The focus on automation and digitization of existing processes often fails to address the root causes of access to justice issues. Digital justice initiatives, while offering benefits such as remote access and reduced costs, risk exacerbating existing inequalities and creating new barriers for those lacking technological access or digital literacy.

Section 1.2 – Terminology sets out the proposed definitions for terms and phrases heavily used throughout this thesis to ensure a consistent reading of its content. For this thesis, I propose specific definitions of justice, a state of injustice, a justice process, a legal process, a user, meaningful access to justice, and a system. While some of these concepts will be more fully explored in Chapter 3, for now it should suffice to say that this thesis proposes a comprehensive, practical understanding of justice, what it means to have meaningful access to

justice, and how users should be able to interact with a justice system to achieve a personal sense of justice. A system designed to accomplish this experience of justice as a design goal is a system that empowers those in a state of injustice to understand, prevent, and resolve their problems in ways that align with their individual pursuit of justice.

This thesis draws a distinction between a “legal” process and a “justice” process, both of which are defined in Section 1.2 – Terminology. As will be explored throughout this thesis, this distinction becomes increasingly relevant with the understanding that contemporary approaches to legal process design are continually improving the legal system’s capacity to resolve legal issues in ways that promote traditional access to justice, but are becoming increasingly disconnected from the notion that the individual using the justice system is achieving a sense of justice through their issue’s resolution.

In answer to the research question above, I propose in this thesis a novel approach to justice process design called “Meaningful Justice Design” that prioritizes user-centricity, transforms existing processes to optimize for an individual’s sense of meaningful justice, and properly integrates technology to maximize the benefits experienced by integration while mitigating both inherent and novel barriers to access to justice. By focusing on the needs, experiences, and perspectives of justice system users, this methodology aims to create justice processes that are accessible, understandable, and responsive to the diverse needs of all individuals. The integration of technology is guided by the principle of “technology follows justice,” evolving from a related but more constrained principle, ensuring that technology complements and enhances reforms rather than simply digitizing existing processes. At its core, Meaningful Justice Design is about ensuring that justice systems are designed for the system’s users, rather than those who administer them. It acknowledges that justice should not be defined solely by procedural milestones, such as access to courts or legal aid, but by the ability of individuals to understand, navigate, and resolve their issues effectively. By rethinking justice process design from this perspective, Meaningful Justice Design seeks to bridge the gap between theoretical access to justice and meaningful, real-world outcomes, making justice system processes more accessible, equitable, and effective for all.

Through a comprehensive analysis of user-centric design principles, empirical data from two case studies, and a meta-analysis of existing research, this thesis aims to contribute to a deeper understanding of how technology can be leveraged to promote a more accessible, equitable, and user-centred justice system. By integrating my prior research and expertise, I will provide valuable context and insights into the design and implementation of user-centric justice processes. The findings of this research will have implications for policymakers, legal professionals, and technology designers involved in shaping the future of access to justice. This

thesis aims to contribute to the development of a more just and inclusive justice system by demonstrating the potential of user-centric justice process design.

I recognize that many of the issues this thesis addresses are multifaceted and have broad political and socio-economic components. However, as the crux of this thesis is related to the interaction between technology and access to justice in the context of process design, adequately analyzing these components would stray beyond the intended scope of this thesis. These components warrant a focused analysis from a policy perspective, and the processes that support them would benefit from the methodology presented in this thesis. However, a future research project would be necessary to adequately address these broader concerns.

This first chapter captures an overview of the thesis and my research methodology. The second chapter canvases the literature to define the concept of “justice” and what it means to have access to it, provides a clear understanding of what user-centric design entails, assesses contemporary approaches to legal process design, and identifies the design implications of technology. Following this review, the third chapter examines meaningful access to justice and presents my proposed framework, Meaningful Justice Design. The fourth chapter will illustrate the value and analytical lens of Meaningful Justice Design through two case studies: *New Brunswick’s Access to Justice Summit*, and the Federal Court’s *Simplified Judicial Review Pilot Project*. The fifth chapter supplements the explanation of this methodology by detailing the role and impact of technology in Meaningful Justice Design, and will examine international examples of technology integration that adhere to the tenets of Meaningful Justice Design. This thesis concludes in Chapter Six with a summary of the previous chapters, discussing both the limitations of my proposed process design method and areas for future research and application. Chapter Six also includes my own critical reflections on the topics and issues explored throughout this thesis, including contrasting philosophical perspectives in Meaningful Justice Design against the more pragmatic issues engrained in justice reform, the methodological nuances of an “insider” perspective, the challenges of addressing injustice, and the power dynamics of technology’s role in legal procedure and justice reform.

1.2 – Terminology

At this early juncture, a common understanding of the terms and phrases that are heavily used in this thesis is necessary. The terminology that must be set out is as follows:

- **Justice:** the quickest, least resource-intensive, and most holistic resolution of any problem that places an individual or collective in a state of injustice;
- **State of Injustice:** a subjective belief that the combination of circumstances creating or contributing to a problem amounts to a situation that merits a resolution which can be enforced through the law;

- **System:** a combination of processes and the infrastructure, people, and resources that support them, through which the resolution to a problem can be achieved and enforced;
- **User:** the actual individual or collective entity who is interacting with a system to achieve a resolution. These interactions might include self-represented litigation, pursuing alternative dispute resolution, engaging with government programs, or employing an agent (i.e. a lawyer) to interact with the system on the user's behalf. It is crucial at this juncture to recognize that neither lawyers, judges, law enforcement, nor justice system administrators are users of the justice system, they are merely system actors who play a role in the functioning of the justice system;
- **Legal Process:** a process whereby, through interacting with some facet of the legal system, a user can achieve a legal resolution to an issue with a legal or justiciable component which is enforced through the law;
- **Justice Process:** a process where a user can achieve a legally enforceable resolution to any issue cheaply, quickly, and holistically, whether or not the issue has a legal or justiciable component at the time a resolution is sought; and,
- **Meaningful Access to Justice:** a holistic, interdisciplinary, and technologically integrated approach to justice, responsive to the diverse and evolving needs of users.

These terms and phrases will regularly appear throughout this thesis, and both their definitions and various components will be discussed specifically where appropriate. Where a concept is discussed that diverges from these definitions, such as the divergence between meaningful access to justice and traditional access to justice, the divergent definitions will be clearly articulated where relevant.

1.3 – Methodology

My research employs a mixed-methods approach, combining insights from previously conducted empirical studies with learnings from secondary research and the integration of prior works, to examine the integration of technology in justice processes, including the necessity of user-centric justice process design in enabling meaningful access to justice. I will integrate four key components in this research:

- **Literature Review:** I will first conduct a comprehensive review of relevant literature to establish a theoretical framework for understanding access to justice, user-centric design, and the integration of technology in justice processes. This review will critically analyze existing research in law, technology, and design, with a focus on contemporary approaches and their limitations.
- **Meta-Analysis of Empirical Data:** I will then conduct a meta-analysis of prior quantitative and qualitative studies to assess the impact of civil procedure design on

access to justice. This assessment will systematically review and analyze existing research to identify trends, patterns, and best practices in the field.

- **Integration of Prior Research:** I will leverage my prior work and research in access to justice, including my involvement in developing and implementing the chosen case studies. By integrating my prior work and research in this area, my thesis will provide valuable insights and context for analyzing the initiatives and drawing meaningful conclusions.
- **Case Studies:** I will analyze two case studies: the New Brunswick *Access to Justice Summit* and the Federal Court's *Simplified Judicial Review Pilot Project*. These case studies represent different stages of the design methodology, allowing for an in-depth examination of the challenges and opportunities at each stage.

Throughout this process, I will systematically analyze the identification of user needs, the design of tailored solutions, and the iterative testing of these innovations. I will also address ethical considerations, such as confidentiality, data privacy, and equitable representation of marginalized voices. By combining theoretical insights with empirical data, practical experience, and simulation analysis, I aim to provide a comprehensive and nuanced understanding of how user-centric justice process design can enhance access to justice in the digital age. In the interest of accessibility and consistency, references throughout this thesis have been formatted according to the Canadian Open Access Legal (COAL) citation guide.¹

I also wish to acknowledge my dual function in conducting this research. While I am the author of this thesis, I am also the author or co-author of previously published works and empirical studies upon which I rely throughout this thesis. In addition, in previous capacities, I served in instrumental roles in the design and implementation of the projects I rely on as case studies in Chapter 4.² My involvement raises questions about my ability to remain truly objective in analyzing these case studies, but I will endeavour to do so and flag any potential concerns of bias to the best of my ability. I will rely on publicly accessible information about these case studies, and I have obtained consent from the Chief Justice of New Brunswick and the Chief Justice of the Federal Court to use this information for the purpose of my thesis. Any references made to interviews and stakeholder feedback related to these projects refer to information that has already been publicly disseminated by the respective bodies and their agents for these projects. Furthermore, any use of information gathered from interviews or stakeholder

¹ See generally COAL-RJAL Editorial Group, Canadian Open Access Legal Citation Guide, Canadian Legal Information Institute, 2024 CanLII Docs 830, <https://canlii.ca/t/7nc6g>.

² My prior work on the New Brunswick Access to Justice Summit and the Federal Court's Simplified Judicial Review Pilot Project case studies was in addition to my ordinary working capacities with the Canadian Institute for the Administration of Justice and the Federal Court, respectively, and was not compensated for. I have no financial or other conflict of interest in analyzing these projects now.

feedback will be limited to publicly disseminated facts regarding the design and implementation of these projects. No confidential, sensitive, or personally identifiable information will be used or relied upon throughout this thesis. An ethics review was deemed unnecessary by York University's Faculty of Graduate Studies because all the work conducted for both case studies was completed prior to my commencement of this thesis and relies on previously published and publicly accessible information.

1.4 – About the Case Studies

1.4.1 – New Brunswick's *Access to Justice Summit*

In August 2023, the Canadian Institute for the Administration of Justice (CIAJ) and the University of New Brunswick (UNB) Legal Innovation Laboratory co-hosted the New Brunswick Access to Justice Summit at the UNB Faculty of Law in Fredericton.³ The two-day event brought together approximately 53 participants representing various stakeholders from the province's justice community, including members of the judiciary, lawyers, public legal service providers, community organization representatives, and academics.⁴ The Summit was convened in response to recognized access to justice challenges within New Brunswick, particularly concerning its unique bilingual and rural demographics, and aimed to initiate discussions on reforming the justice system, with a specific focus on family law and the role of digital technology post-COVID-19.⁵ Key outcomes included the identification of seven broad areas requiring change (referred to as the "7 Changes," emphasizing user-centricity, community leadership, funding, family system reform, technology, rural needs, and bilingualism) and providing the impetus for the revival of the New Brunswick Access to Justice Committee to develop a strategic plan for provincial reforms.⁶ Subsequent provincial government action included a significant funding announcement in April 2025 directed towards the digital transformation of the court system.⁷

1.4.2 – Federal Court's *Simplified Judicial Review Pilot Project*

The Federal Court of Canada initiated the Simplified Judicial Review Pilot Project (originally named the Study Permit Pilot Project) on September 30, 2024, scheduled to run for a 180-day

³ See N Afilalo, D Escott & A Panezi, *New Brunswick Access to Justice Summit - Digital Transformation: Putting People at the Heart of the System* (2023) Canadian Institute for the Administration of Justice at pp 1, 6, 9, 33, online: https://ciaj-icaj.ca/wp-content/uploads/documents/2024/01/ciaj-icaj_2023-access-to-justice-summit_nb-report_en.pdf?id=17747&1706548237. [N Afilalo et al. 2023]

⁴ See N Afilalo et al. 2023 at pp 1, 9, 33.

⁵ See N Afilalo et al. 2023 at pp 2-3, 6-9.

⁶ See N Afilalo et al. 2023 at pp 3-4, 7-9.

⁷ See New Brunswick, Office of the Minister of Justice and Public Safety, *Investments to improve access to justice* (3 April 2025), https://www2.gnb.ca/content/gnb/en/news/news_release.2025.04.0123.html. [NB News Release]

period.⁸ Developed collaboratively by the Federal Court, Department of Justice Canada, Immigration, Refugees and Citizenship Canada (IRCC), and members of the immigration bar (including through an Online Dispute Resolution Working Group), the pilot aimed to address the increasing volume of immigration cases and improve access to justice by streamlining the judicial review process for specific types of decisions.⁹ The pilot created an optional, expedited procedure specifically for non-complex refusals of study permit applications.¹⁰ Key features included mandatory e-filing, the use of a concise “Simplified Submissions Form” instead of traditional court records, reliance on a “Simplified Certified Tribunal Record” (SCTR), the elimination of oral hearings, and a simultaneous determination of both leave to apply for judicial review and the merits of the application itself.¹¹ Eligibility required the case to be non-complex (e.g., no issues of inadmissibility or national security) and for both the applicant and the respondent (Minister of Citizenship and Immigration) to opt into the simplified procedure.¹² At this time it bears mentioning that this case study is focused on the Simplified Judicial Review process itself. The broader policy issues related to the Canadian study permit program are beyond both the Federal Court’s jurisdiction and the scope of this thesis.

1.5 – Onwards

This initial chapter lays the groundwork for the thesis by introducing the persistent challenges in achieving meaningful access to justice, particularly in an era of rapid technological advancement. It articulated the central research question focusing on how user-centric design methodologies can optimize technology integration to enhance such access while mitigating accessibility barriers. Key concepts such as “justice,” “meaningful access to justice,” the “user,” and the distinction between “legal” and “justice” processes were defined to provide a clear conceptual framework. Furthermore, this chapter outlined the proposed “Meaningful Justice Design” approach as a novel solution. The research methodology was detailed, specifying a mixed-methods approach that combines a literature review, meta-analysis of empirical data, integration of prior research, and an examination of two key case studies: New Brunswick’s Access to Justice Summit and the Federal Court’s Simplified Judicial Review Pilot Project. Having established this overview, research plan, and the practical contexts of the case studies, the subsequent chapter will now delve into a comprehensive review of the existing literature. This review will examine the theoretical foundations of justice and access to it, the principles of user-centric design, assess contemporary legal process design, and identify the critical design

⁸ See Federal Court, *News Release – Study Permit Pilot Project* (26 September 2024). [Federal Court News Release]

⁹ See Federal Court News Release; see also A Diner, “Study Permit Pilot Project” (Presentation delivered online, 5 September 2024) at slide 2, https://www.youtube.com/watch?v=tefv1bMdX0g&ab_channel=FederalCourt. [Justice Diner Online Presentation]

¹⁰ See Federal Court News Release; see also Justice Diner Online Presentation at slides 3, 6.

¹¹ See Federal Court News Release; see also Justice Diner Online Presentation at slides 3-4, 8.

¹² See Federal Court News Release; see also Justice Diner Online Presentation at slides 6-7.

implications of technology, thereby providing a deeper context for the proposed Meaningful Justice Design.

Chapter 2: State of the Literature

2.1 – Analytical Themes

2.1.1 – Defining the Goal: Justice, and Access to It

As this thesis proposes a justice process design methodology that optimizes the maximum potential of access to justice, it is crucial to define access to justice at this stage. This definition must be informed by the evolution of access to justice over time, culminating in a holistic definition that captures its roots while adapting to the digital age.

Access to justice is a multifaceted concept that has evolved significantly, moving from a narrow focus on formal legal institutions to a broader understanding of how individuals experience and interact with the justice system.¹³ Early conceptualizations of access to justice were primarily concerned with ensuring access to courts and legal professionals, particularly lawyers, to enforce rights and resolve disputes.¹⁴ This perspective emphasized the importance of legal aid programs and other initiatives designed to remove barriers to accessing the formal justice system.¹⁵ However, this approach was limited by its focus on the “availability” of services rather than their “accessibility” and often neglected the underlying social and political factors contributing to legal problems.¹⁶

As the understanding of access to justice broadened, a key shift occurred from a focus on “access to law” to a broader concept of “access to justice”.¹⁷ This shift acknowledged that meaningful access to justice requires more than simply making legal institutions and services available.¹⁸ It involves questioning the very nature of justice itself and whether the legal system adequately addresses the needs of diverse communities.¹⁹ In 2005, Macdonald defined five “waves” of access to justice needed in order to achieve true access to justice: access to lawyers and courts, institutional redesign, demystification of law, preventative law, and proactive access

¹³ R Macdonald, “Access to Justice and Law Reform # 2” (2001) 19 Windsor YB Access Just 317 at p 318. [R Macdonald 2001]

¹⁴ See R Macdonald, “Access to Justice and Law Reform” (1990) 10 Windsor YB Access Just 287 at pp 312, 328. [R Macdonald 1990]

¹⁵ See R Macdonald 1990 at pp 314-316; see also T Farrow & L Jacobs, “Introduction” in T Farrow & L Jacobs, eds, *The Justice Crisis: the Cost and Value of Accessing Law* (UBC Press, 2020) at pp 15-16.

¹⁶ See R Macdonald 1990 at pp 315-316, 326.

¹⁷ See R Macdonald 1990 at pp 289-290.

¹⁸ See R Macdonald 1990 at pp 324-326.

¹⁹ See R Macdonald 1990 at pp 290-291, 331-332.

to justice.²⁰ Separately yet similarly, this shift is encapsulated by the three “waves” of justice reform elaborated by Cappelletti and Garth.²¹ The first wave is marked by the emergence of a focus on providing access to legal representation in the “formal system” for the economically disadvantaged.²² The second wave has a broader focus, marked by diffused interests marked by the advent of public interest litigation and class action suits.²³ Finally, the third wave focuses on a holistic approach beyond “case-centred advocacy,” which Moore and Perlmutter describe as efforts in access to justice that define problems “in terms of substantive inequality rather than mere exclusion from legal institutions.”²⁴ This shift also recognizes that justice is not solely confined to formal legal processes but also encompasses the ability of people to understand, prevent, address, and resolve the legal problems they encounter in their daily lives.²⁵

One of the core issues identified is the problem of “surrogacies”.²⁶ This meta-phenomenon involves a shift from the desired ends to the means of achieving them, which then become the new focus, and describes how the focus has shifted from justice itself to law, and from the substance of justice to its accessibility.²⁷ This displacement has led to a situation where “access to justice” has become synonymous with “access to law” and, even more narrowly, access to legal institutions and services.²⁸ Such displacement results in a focus on the formal legal system and its institutions, neglecting ADR methods and community-based solutions.²⁹ This surrogacy is evident in the common conflation of terms like “courts of justice” and “ministry of justice” with legal institutions and services.³⁰ Conflating these similar yet distinct concepts is a significant obstacle to meaningful access to justice because it fails to address the underlying social and political issues that often cause legal problems.³¹ Such a narrow view of justice can obscure

²⁰ See R Macdonald, “Access to Justice in 2003: Scope, Scale and Ambitions” in J Bass et al., eds., *Access to Justice for a New Century - The Way Forward* (Toronto: Irwin, 2005) at p 19.

²¹ See generally M Cappelletti & B Garth, “Access to Justice: The Newest Wave in the Worldwide Movement to Make Rights Effective” (1978) 27 *Buff L Rev* 181.

²² See M Cappelletti & B Garth at pp 197-209.

²³ See M Cappelletti & B Garth at pp 209-222.

²⁴ L Moore & M Perlmutter, “Public Spending on Access to Justice: Where do we go from Here?” in T Farrow & L Jacobs, eds, *The Justice Crisis: the Cost and Value of Accessing Law* (2020) University of British Columbia Press 69 at p 71.

²⁵ See T Farrow & L Jacobs at pp 8-9.

²⁶ R Macdonald 1990 at pp 289-290, 335-336.

²⁷ See R Macdonald 1990 at pp 289-290, 336-337.

²⁸ See R Macdonald 1990 at pp 289-290, 314-315, 328.

²⁹ See T Farrow, “What is Access to Justice?” (2014) 51:3 *Osgoode Hall L J* 957 at pp 960-962; see also R Macdonald 1990 at pp 314-315.

³⁰ See R Macdonald 1990 at pp 328.

³¹ See R Macdonald 1990 at pp 290-291, 326-327.

systemic injustices, disempower individuals, reinforce the status quo, and overlook opportunities for simpler, more effective advocacy.³²

A clear example of this “surrogacy” phenomenon can be seen in the way eviction disputes are handled. Ideally, justice in a housing context would mean secure, affordable, and fair housing conditions. However, when a tenant faces eviction, the focus often shifts entirely to whether they have access to legal representation or can navigate the tribunal system, rather than addressing the broader issue of housing insecurity. The legal process becomes the central concern, rather than the root causes of displacement, such as unfair rent hikes, lack of tenant protections, or systemic inequality in housing policies. This shift means that “access to justice” is equated with having a lawyer or a day in court, rather than with achieving housing stability or preventing unjust evictions in the first place. Instead of prioritizing genuine access to justice, the focus becomes making the existing legal system more accessible, thus limiting the potential for meaningful reform and neglecting the diverse needs of the people the system is meant to serve.³³ As Roderick Macdonald states, “once you can give a problem a convenient label which everyone claims to understand clearly - like Access to Justice and Law Reform - it is no longer the real problem”.³⁴

While this problem of surrogacy is pervasive among foundational sources, many also critique the common metaphor of “barriers” to justice as a problematic distortion of the discussion of justice and access to it.³⁵ This metaphor frames justice as a product that would be delivered to all who seek it, but for the obstacles built into the system and broader society.³⁶ The focus on barriers often leads to a preoccupation with ancillary concerns, such as the availability of courts, lawyers, and information, while neglecting substantive issues and the quality of justice rendered.³⁷ This “barrier” approach does not address the limitations of the legal system and tends to focus on physical or structural barriers, such as convenient hours and wheelchair access, which do not address the essence of justice.³⁸ This focus on “availability” rather than “accessibility” distinguishes the two concepts, and it becomes a key issue when taken at scale.³⁹ On scaling beyond individual instances to a more systemic view, whether the system’s design permits justice to be *available* for those participating in the system matters much less if the system’s users remain unable to *access* justice through their participation. This creates an

³² See R Macdonald 1990 at pp 287-288; see also T Farrow at pp 960-962; see also R Macdonald 2001 at pp 321-322.

³³ See R Macdonald 1990 at pp 287-288, 314-315.

³⁴ R Macdonald 1990 at pp 337.

³⁵ See R Macdonald 1990 at pp 315, 326.

³⁶ See R Macdonald 1990 at pp 315-316, 326-327.

³⁷ See R Macdonald 1990 at pp 324, 326-327.

³⁸ See R Macdonald 1990 at p 315.

³⁹ R Macdonald 1990 at pp 315, 326.

artificial dichotomy between users who can access justice on their own and those who may be eligible for justice but face difficulties accessing it or are unable to access it entirely without further accommodation.

This “barrier” metaphor frames justice as something inherently available, with the problem being merely the difficulty of reaching it. This perspective views justice as a fixed product, something that already exists and continues to exist with persistence and permanence within the legal system, and it simply needs to be made more accessible, whether by expanding court hours, increasing legal aid, or improving access to legal representation. However, as previously mentioned, this approach conflates availability with accessibility. True accessibility is not just about ensuring people can access existing legal structures, but also about questioning whether those structures genuinely serve their needs in the first place. By focusing on removing logistical barriers rather than addressing substantive shortcomings, the legal system risks reinforcing systemic injustices rather than transforming them. The result is a fixation on formal legal institutions rather than a broader, more meaningful conception of justice that includes alternative dispute resolution, community-based solutions, and systemic change.

A more recent perspective emphasizes “meaningful access to justice,” which focuses on people’s ability to understand, prevent, address, and resolve the legal problems they face in their everyday lives.⁴⁰ This approach recognizes that most legal problems are not resolved in courts and prioritizes pathways to justice that are affordable, timely, and well-suited to individual needs.⁴¹ It emphasizes a diverse range of options to solve legal problems, including access to information, community-based services, and ADR mechanisms.⁴² This problem-centred approach also emphasizes preventative measures to avoid legal issues in the first place.⁴³ Some research suggests that many people consult with relatives, friends, and colleagues for advice on legal issues.⁴⁴ Additionally, there is a growing recognition that technology and online resources can be a way to increase access to justice by providing easy access to legal information and support.⁴⁵

One of the greatest challenges in obtaining modern access to justice is the historical lack of large-scale and empirical studies on the issue, which means the only evidence we have to support historical theories of justice and access to it are smaller qualitative studies and

⁴⁰ See T Farrow & L Jacobs at pp 8-9.

⁴¹ See T Farrow & L Jacobs at pp 8-15.

⁴² See T Farrow & L Jacobs at pp 8-9; see also Macdonald 1990 at pp 319-321; see also *Hyrniak v Mauldin*, 2014 SCC 7 at para 27 [*Hyrniak*]; see also Organization for Economic Cooperation and Development, *Legal Needs Surveys and Access to Justice* (2019) at p 78, online: https://www.oecd.org/en/publications/legal-needs-surveys-and-access-to-justice_g2g9a36c-en.html. [OECD]

⁴³ See T Farrow & L Jacobs at pp 8-15.

⁴⁴ See OECD at p 34.

⁴⁵ See OECD at p 76.

anecdotal evidence. As Macdonald highlighted in 1990, and Farrow and Jacobs reinforced more recently, there is a longstanding consensus on the importance of public engagement in access to justice discussions, putting the public squarely at the centre of the justice system.⁴⁶ In order to better understand the experience, indicators, and contraindicators of justice, empirical research and data collection have played an important role in understanding how people experience the justice system and identifying areas for improvement.⁴⁷ One such research tool has been the advent of legal needs surveys, such as the Canadian Forum for Civil Justice's "Cost of Justice" survey and the Organization for Economic Cooperation and Development's "Legal Needs Survey".⁴⁸ Legal needs surveys are a tool to give visibility to legal problems and drive policy responses.⁴⁹ These surveys go beyond government and administrative data to provide a multidimensional picture of how access to justice can be secured.⁵⁰ They provide an important measure of access to justice that can be used to compare jurisdictions.⁵¹ The surveys help capture the individual experience of justiciable problems and how people seek resolution to those problems, while also measuring dimensions of access to justice, including legal capability, legal need, and problem-solving behaviour.⁵²

Methodological differences in surveys, such as how questions are asked or the sampled population, can impact findings.⁵³ Greater consistency in methods is recommended to improve the quality and replicability of legal needs surveys.⁵⁴ Several elements of surveys are identified for standardization, including how problems are identified, how the seriousness of a problem is assessed, and how sources of help and problem-solving behaviour are categorized.⁵⁵ Legal needs surveys can be incorporated into other types of surveys, although the focus may need to be narrowed to specific problem types.⁵⁶ The way questions are asked, whether using lists or individual questions, can impact response rates.⁵⁷

Contemporary conceptions of access to justice have gravitated towards a more "expansive vision" that fundamentally reorients the inquiry by consciously considering both the "deliverables" (what specific services, information, or outcomes are to be accessed) and the

⁴⁶ See R Macdonald 1990 at pp 328; T Farrow & L Jacobs at p 6.

⁴⁷ See T Farrow & L Jacobs at pp 5-6, 14-15.

⁴⁸ See for example L Moore, *Everyday Legal Problems and the Cost of Justice in Canada: Cost of Justice Survey Data* (2018) Canadian Forum on Civil Justice, online: <https://cfcj-fcjc.org/wp-content/uploads/Everyday-Legal-Problems-and-the-Cost-of-Justice-in-Canada-Cost-of-Justice-Survey-Data.pdf>; see generally OECD.

⁴⁹ See OECD at pp 13, 18-19.

⁵⁰ See OECD at pp 28-30.

⁵¹ See OECD at pp 35-38, 150-153.

⁵² See OECD at pp 58, 87-88.

⁵³ See OECD at pp 89-90.

⁵⁴ See OECD at pp 18-19.

⁵⁵ See OECD at pp 12, 74-78.

⁵⁶ See OECD at pp 60-61.

⁵⁷ See OECD at pp 73-76, 80-81.

"beneficiaries" (the diverse groups of individuals for whom access is intended).⁵⁸ A foundational tenet of this contemporary approach is the explicit recognition that "socioeconomic and other structural differences among citizens affect their respective abilities to benefit both from the justice system itself and from initiatives designed to improve access to justice."⁵⁹ This emerging trend of deviating from some version of legal systems meeting legal needs is also exhibited by Sandefur's critique of the prevailing narrative of "unmet legal need" as often a self-serving construct propagated by the legal profession to maintain jurisdictional control over problem definition and resolution.⁶⁰ Sandefur's focus, deeply rooted in social-scientific research on "justice problems" or "justiciable events", being daily occurrences with civil legal aspects such as wage theft or eviction, fundamentally shifts the inquiry from assuming the necessity of legal services to empirically asking: "what assistance do people need?"⁶¹ This means access to justice is achieved when disputes and problems resolve with outcomes that align with both substantive and procedural legal norms, irrespective of whether lawyers are involved or if the problem ever reaches a formal court or tribunal.⁶² From this vantage point, the access to justice crisis manifests in two primary components: firstly, access is "restricted," meaning only a subset of individuals and justice problems achieve lawful resolution; and secondly, access is "systematically unequal," with privileged groups consistently obtaining more access than disadvantaged groups.⁶³ This convergence of perspective on modern access to justice issues move beyond a narrow, reactive, and lawyer-centric approach to access to justice, advocating for a broader, proactive, and inclusive vision that considers the diverse needs of citizens and empowers them in their pursuit of just outcomes, whether through formal legal channels, alternative dispute resolution, community support, or comprehensive systemic reforms.⁶⁴ This includes a critical assessment of technological solutions, ensuring they are deployed with a "nuanced and robust examination" of their differential impacts on various beneficiaries, rather than exacerbating existing disparities.⁶⁵

Juxtaposing a more conventional model of access to justice with a more expansive, people-centred framework advances a paradigm shift in legal process design that foregrounds legal process design as a mechanism for ensuring that justice is delivered in ways that are proportionate to the needs and capacities of those experiencing legal issues. Access to justice would no longer be measured by the ability to access courts but rather by the effectiveness of

⁵⁸ See J Bailey, J Burkell & G Reynolds, "Access to Justice for All: Towards an 'Expansive Vision' of Justice and Technology" (2013) 31:2 Windsor YB Access Just 181 at pp 181-182.

⁵⁹ See J Bailey et al. at p 182.

⁶⁰ See R Sandefur, "Access to What?" (2019) 148:1 Daedalus 49 at p 49.

⁶¹ R Sandefur at pp 49-50.

⁶² See R Sandefur at pp 50-51.

⁶³ See R Sandefur at p 51.

⁶⁴ See J Bailey et al. at pp 183-184, 193-197, 205-207; see also R Sandefur at p 53.

⁶⁵ See J Bailey et al. at pp 183-184, 193-197, 205-207.

the mechanisms available for resolving legal problems. These findings underscore the necessity of moving from incremental reforms to systemic reimagination, wherein legal institutions embrace a holistic, interdisciplinary, and technologically integrated approach to justice, responsive to users' diverse and evolving needs. I will address this necessity directly in Chapter 3, outlining the need to shift paradigms to a novel user-centric process design methodology that incorporates these considerations.

2.1.2 – Understanding User-Centric Design

I have set the stage by identifying our design goal (justice) and what the end result of our design exercise should resemble: meaningful access to justice. Next, an abstract understanding of user-centric design is required. User-centric design is a methodology that prioritizes the needs, experiences, and perspectives of the individuals who will use a system or service.⁶⁶ This approach contrasts with traditional methods, emphasizing operational efficiency or technical capabilities.⁶⁷ The core idea is that the system or service should be designed around the user rather than requiring the user to adapt to the system.⁶⁸ This method of design involves users in the design and development process directly.⁶⁹

Key hallmarks of user-centric design include a deep understanding of user needs, contexts, and mindsets, with a focus on empowering users to achieve their goals.⁷⁰ This understanding is achieved through methods such as user journey mapping, which charts the user's interactions, thoughts, actions, and feelings at each stage, and empathy mapping, which captures the user's thoughts, actions, and feelings throughout the user journey.⁷¹ Additional methods include personas and scenarios, which help designers understand the needs and characteristics of different user groups and the use of probes as a source of inspiration and creativity.⁷² A persona is a fictional person who adheres to a certain role, fact matrix, and limitations, to serve as a user or stakeholder in a simulated process. Similarly, a probe is an intentional, exploratory action or experiment in the live system used to gather information about how a process behaves in certain circumstances. User-centric design also prioritizes sharing user expertise and welcomes iterative design, which uses continuous feedback to refine systems and services.⁷³ This approach

⁶⁶ See N Afilalo, D Escott & A Zariski, "Multi-Functional Access to Justice Centres" (2024) 40 Windsor Y B Access Just 262 at pp 263-265 [N Afilalo et al. 2024]; see also N Afilalo et al. 2023 at pp 13-14.

⁶⁷ See N Afilalo et al. 2024 at pp 263-265; see also S Hong, J Lee & J K Lee, "Human Behaviour Simulation for Promoting Usefulness and User-Centric Values in Parametric Design" (2024) Automation in Construction at p 2.

⁶⁸ See N Afilalo et al. 2024 at pp 264-265; see also N Afilalo et al. 2023 at pp 13-14.

⁶⁹ See J Jarke, *Co-creating Digital Public Services for an Ageing Society*, (Springer, 2021) at pp 2, 16.

⁷⁰ See N Afilalo et al. 2024 at pp 266-270; see also N Afilalo et al. 2023 at pp 13-14.

⁷¹ See A Ambika, V Jain & J Sheth, "Designing an Empathetic User-Centric Customer Support Organisation: Practitioners' Perspectives" (2024) 58:4 European Journal of Marketing 845 at pp 851-854, 858-860.

⁷² See J Jarke at p 64-68.

⁷³ See N Afilalo et al. 2024 at pp 263-265; see also J Jarke at pp 31, 47-48.

also calls for a holistic view that acknowledges how user needs and goals are related to the contexts in which they exist.⁷⁴

In the context of digital public services, a user-centric approach calls for co-creation, which involves citizens as active partners in the design process.⁷⁵ This partnership includes co-production, where citizens are involved in planning and providing services; co-design, which emphasizes user involvement in developing information systems; and the use of civic open data, empowering citizens to create their own solutions using publicly available data.⁷⁶ User-centred design also emphasizes accessibility and inclusivity, especially when considering users with limited digital literacy or other barriers. In the justice system, a user-centric approach means designing justice processes that are proportional to the needs of the people using the system. User-centric design requires moving away from focusing on formal legal institutions to including resources that help people understand, prevent, and resolve legal problems.⁷⁷ It also calls for the use of technology in ways that complement and enhance legal reforms and to avoid simply “grafting” technology onto existing processes without meaningfully improving them.⁷⁸

The value of a user-centric design methodology lies in its capacity to create systems and services that are more effective, equitable, and user-friendly.⁷⁹ By focusing on the user, these methods are more likely to produce positive results and improve user satisfaction and uptake, leading to more sustainable outcomes.⁸⁰ By incorporating the user’s perspective, user-centric design can reduce frustration and build trust in the system.⁸¹ It empowers users by giving them a greater understanding of and control over the processes in which they are involved.⁸² This approach also prioritizes empathy by acknowledging the needs and feelings of users to create services that prevent adverse user reactions.⁸³ It also strives to meet users where they are, and to use a variety of official and unofficial spaces where law and legal culture operate.⁸⁴ A user-centric approach can promote collaboration and community and counter feelings of ostracism,

⁷⁴ See N Afilalo et al. 2024 at pp 266-270; see also N Afilalo et al. 2023 at pp 13-14.

⁷⁵ See J Jarke at p 16.

⁷⁶ See J Jarke at pp 16, 27-36.

⁷⁷ See N Afilalo et al. 2023 at pp 13-14; see also N Afilalo et al. 2024 at pp 267-268.

⁷⁸ See N Afilalo et al. 2024 at pp 264-265, 268-270; see also S Chiodo, “Ontario Civil Justice Reform in the Wake of COVID-19: Inspired or Institutionalized?” (2021) 57:3 Osgoode Hall LJ 801 at p 828; see also R Susskind, *Online Courts and the Future of Justice* (Oxford University Press, 2020) at p 63.

⁷⁹ See N Afilalo et al. 2024 at p 269; see also J Jarke at p 18; see also A Ambika et al. at 859-860.

⁸⁰ See J Jarke at pp 2-4, 47-51; see also A Ambika et al. at pp 857-858.

⁸¹ See A Ambika et al. at p 856; see also H Kulp, “Real Feedback from Real People: Emphasizing User-Centric Designs for Court ODR” (2020) 26:2 Dispute Resolution Magazine 6 at p 11.

⁸² See N Afilalo et al. 2023 at pp 13-14; see also N Afilalo et al. 2024 at p 268.

⁸³ See A Ambika et al. at pp 848, 859-861.

⁸⁴ See N Afilalo et al. 2023 at pp 13-14.

inequality, and helplessness.⁸⁵ Ultimately, user-centric design is vital in creating more effective, inclusive, and accessible systems and services for all.⁸⁶

Each of these concepts will be explored more fully in Chapter 3. For now, the next question is: does the way legal processes are currently designed resemble a user-centric approach to provide meaningful access to justice? The next section of this literature review will assess contemporary approaches to legal process design and begin to identify where they diverge from user-centricity.

2.1.3 – Assessing Contemporary Approaches to Legal Process Design

Contemporary approaches to legal process design reflect a growing awareness of the need for user-centric systems yet often fall short of achieving true accessibility and justice.⁸⁷ Many of these approaches are rooted in a desire to move beyond the traditional adversarial model of justice, which is seen as slow, costly, and complex.⁸⁸ One common approach is the development of problem-solving courts, which attempt to address the underlying causes of criminal behaviour by considering issues like drug addiction, mental health, and poverty.⁸⁹ These courts often employ a therapeutic jurisprudence approach, which views the law and court processes as potentially therapeutic or anti-therapeutic.⁹⁰ While problem-solving courts represent an effort to move beyond a purely procedural focus, they still operate within the formal justice system and may not fully address systemic issues of inequality.⁹¹

Another approach involves the creation of specialized courts and tribunals to deal with specific types of disputes, such as small claims or consumer complaints.⁹² These mechanisms often utilize simpler procedures and more informal decision-making processes in order to make the system more accessible to ordinary people.⁹³ Similarly, ADR methods, like mediation and conciliation, are increasingly promoted as a way to resolve disputes outside of the court system.⁹⁴ While these approaches aim to reduce the complexity and cost of legal processes, they may not be appropriate for all types of disputes, especially those involving power

⁸⁵ See N Afilalo et al. 2023 at p 14.

⁸⁶ See N Afilalo et al. 2024 at pp 266-268; see also N Afilalo et al. 2023 at pp 13-14.

⁸⁷ See T Farrow, “What is Access to Justice?” (2014) 51:3 Osgoode Hall L J 957 at pp 970-972.

⁸⁸ See S Van de Veen, “Some Canadian Problem Solving Court Processes” (2004) 83:1 Can Bar Rev 91 at pp 157-158; see also M Cappelletti & B Garth at 291-292.

⁸⁹ See S Van de Veen at pp 93-95.

⁹⁰ See S Van de Veen at pp 93-95, 155-156.

⁹¹ See S Van de Veen at pp 93-95, 157-158; see also National Action Committee on Access to Justice in Civil & Family Matters, *Responding Early, Responding Well: Access to Justice Through the Early Resolution Services Sector* (2013) at pp 3-5. [Responding Early]

⁹² See M Cappelletti & B Garth at pp 232-260.

⁹³ See M Cappelletti & B Garth at pp 223-227, 232-238.

⁹⁴ See M Cappelletti & B Garth at pp 232-238; see also National Action Committee on Access to Justice in Civil & Family Matters, *Access to Civil & Family Justice: A Roadmap for Change* (2013) at p 17. [Roadmap for Change]

imbalances.⁹⁵ Furthermore, focusing on efficiency and cost reduction may overshadow the importance of fundamental procedural guarantees, such as the right to be heard, and the non-legal aspects of problems brought through these mechanisms.⁹⁶ This is not to say such a focus is inconsistent with my proposed redefinition of justice, but if the focus is on the *institution's* efficiency and cost reduction then such a focus is misaligned, especially when this approach may be inconsistent with, or even at the expense of, the users' needs and expectations.

From the civil litigation side, a more recent approach has been the use of technology to administer decentralized, asynchronous dispute resolution, such as the British Columbia Civil Resolution Tribunal (CRT).⁹⁷ This approach sees the use of technology to provide users with access to both formal and alternative dispute resolution mechanisms through a digitized tribunal, and its resolutions are enforceable through existing legal mechanisms like court orders.⁹⁸ While transformative procedurally, insofar as the decentralization of the CRT institution and the use of asynchronous adjudication make the dispute resolution process less costly in respect of users' time and resources, the resolutions themselves remain legal in nature and the procedures designed for the CRT only leverage the value of technology to the point that it makes participating in the legal dispute resolution process faster and less resource-intensive.⁹⁹ As Salter identified, despite the utility of the CRT and its "Solution Explorer" in helping users identify what resolutions may be available to them, the processes to achieve them remain rooted in the traditional design of legal services, thereby inheriting the same assumptions and limitations as other existing alternative dispute resolution and adversarial processes spread across the disparate Canadian justice landscape.¹⁰⁰

Contemporarily, Hazel Genn's work implicitly advocates for a fundamental redesign of legal service delivery by emphasizing its integral role in mitigating the social determinants of health and improving overall well-being.¹⁰¹ This approach to legal process design prioritizes the integration of legal services into broader social and health infrastructures, exemplified by the "Health Justice Partnership" (HJP) model, where legal professionals collaborate directly with healthcare teams in health settings to address underlying "health-harming legal needs" such as

⁹⁵ See M Cappelletti & B Garth at pp 238-241, 291.

⁹⁶ See M Cappelletti & B Garth at pp 291-292.

⁹⁷ See for example Canadian Bar Association Task Force on Justice Issues Arising from COVID-19, *No Turning Back: CBA Task Force Report on Justice Issues Arising from COVID-19* (2021) Canadian Bar Association at p 16. [No Turning Back]

⁹⁸ See S Salter, "Online Dispute Resolution and Justice System Integration: British Columbia's Civil Resolution Tribunal" (2017) 34 Windsor YB Access Just 112 at p 114.

⁹⁹ See S Salter at pp 118-121.

¹⁰⁰ See S Salter at pp 125-129.

¹⁰¹ See H Genn, "When Law is Good for Your Health: Mitigating the Social Determinants of Health through Access to Justice" (2019) 72:1 Current Legal Problems 159 at pp 160-161, 201. [H Genn Health]

issues related to income, housing, and employment.¹⁰² Such a design shifts the focus from merely treating symptoms of ill-health to proactively addressing the "causes of the causes" through legal interventions, thus highlighting the critical need for "prevention and partnership" across sectors.¹⁰³ In similar fashion, Margaret Hagan asserts that the prevailing professional- and court-centric approaches have largely failed to produce effective access-to-justice innovations.¹⁰⁴ Hagan champions "participatory design" as a transformative methodology that actively involves end-users, being the individuals interacting with the justice system, alongside other stakeholders in the co-creation of legal processes and technologies.¹⁰⁵ This approach seeks to ensure that new tools and services are genuinely responsive to user needs, practical challenges, and preferences, thereby increasing their adoption and efficacy.¹⁰⁶ Both perspectives converge on the imperative for a nuanced, citizen-centred approach to legal process design, moving beyond supply-side interventions to proactively address systemic inequalities and empower individuals to achieve just outcomes through diverse and equitably designed pathways.¹⁰⁷

The rise of self-represented litigants (SRLs) has also led to reforms focused on making the justice system more user-friendly for those who do not have legal representation.¹⁰⁸ These reforms include the simplification of court forms, the creation of self-help resources, and the development of websites and legal information portals.¹⁰⁹ While these initiatives are intended to empower individuals to navigate the legal system independently, they may not address the underlying challenges many SRLs face, such as a lack of legal knowledge, limited literacy, or language barriers.¹¹⁰ Moreover, the focus on individual empowerment may neglect the systemic barriers and inequalities that contribute to access to justice problems.¹¹¹ A clear example of this issue can be seen in small claims court proceedings. Many jurisdictions have introduced simplified forms and online guides to help SRLs file claims and respond to lawsuits. While these resources make procedural navigation easier, they do little to address deeper challenges, such as understanding legal principles, presenting evidence effectively, or negotiating settlements. An individual in a dispute with a contractor, for instance, may be able to fill out the required forms

¹⁰² See H Genn Health at pp 183-185, 201.

¹⁰³ See H Genn Health at p 174.

¹⁰⁴ See M Hagan, "Participatory Design for Innovation in Access to Justice" (2019) 148:1 Daedalus 120 at pp 120-123.

¹⁰⁵ See M Hagan at p 123.

¹⁰⁶ See M Hagan at pp 122, 125-126.

¹⁰⁷ See M Hagan at pp 125-126; see also H Genn Health at pp 201-202.

¹⁰⁸ See Responding Early at p 30.

¹⁰⁹ See Roadmap for Change at pp 16, 35; see also Responding Early at pp 17-18.

¹¹⁰ See Roadmap for Change at pp 19, 29; see also J Mathews & D Wiseman, *Community Justice Help: Advancing Community-Based Access to Justice* (2020) Community Legal Education Ontario at pp 31-32; see also Responding Early at p 26.

¹¹¹ See M Cappelletti & B Garth at pp 183-186, 222-223.

using self-help guides, but without legal training, they may struggle to argue their case persuasively or recognize when a contractor is acting unlawfully. As a result, the reforms improve procedural access but do not necessarily lead to fairer outcomes, as the systemic disadvantages faced by SRLs remain unaddressed.

Many of these contemporary approaches to legal process design also emphasize the importance of public legal education and information (PLEI).¹¹² PLEI initiatives aim to increase public awareness of legal rights and responsibilities and empower individuals to resolve legal problems independently.¹¹³ However, the effectiveness of PLEI initiatives depends on the quality of information provided, as well as the ability of individuals to access and understand that information.¹¹⁴ Additionally, PLEI initiatives may not address the needs of all populations, particularly vulnerable groups facing unique legal and social challenges.¹¹⁵ An example of this issue can be seen in the context of family law disputes. Many jurisdictions have developed public legal education resources, such as online guides and workshops, to help individuals understand child custody, support obligations, and divorce procedures. While these resources can be valuable, they often assume a baseline level of literacy, digital access, and emotional readiness to engage with legal materials. The information may be too general to address the complexities of their specific situation, such as obtaining emergency protection orders or dealing with power imbalances in mediation. In such cases, PLEI alone is insufficient, as it does not address the structural and personal barriers that prevent vulnerable individuals from effectively asserting their rights.

The shift towards digital technologies in the delivery of legal services is another significant trend in contemporary legal process design.¹¹⁶ The use of video conferencing, online dispute resolution (ODR) platforms, and AI-powered legal tools is intended to improve the efficiency and accessibility of the justice system.¹¹⁷ While these technologies have the potential to overcome geographical barriers and reduce costs, they also raise ethical concerns related to privacy, data security, and the potential for bias.¹¹⁸ Additionally, the digital divide may exclude some populations who lack access to technology or digital literacy skills, further exacerbating existing

¹¹² See Responding Early at pp 5-6.

¹¹³ See Responding Early at pp 4-6, 12-13.

¹¹⁴ See Responding Early at pp 17-18, 26.

¹¹⁵ See Responding Early at p 26; see also T Farrow at pp 963-964, 981-982.

¹¹⁶ See E MacLoud & J Santuber, *The Five Es: Propositions to Designing for Access to Justice in Courts of Tomorrow* (Presented at the International Access to Justice Forum, 2024) at p 1.

¹¹⁷ See H Aqallal, B Aubert & G Babin, "Providing an Architecture Framework for Cyberjustice" (2014) 3:4 *Laws* 721 at p 722; see also E MacLoud & J Santuber at pp 1, 11.

¹¹⁸ See G Philp, *Listening and Responding to the Future of Virtual Court: A Report on the future of virtual courts in Canada* (2022) Nova Scotia Court of Appeal at p 93; see also E MacLoud & J Santuber at p 11; see also F Contini, E Ontanu & M Valicogna, "AI Accountability in Judicial Proceedings: An Actor-Network Approach" (2024) 13:6 *Laws* at p 2.

inequalities.¹¹⁹ Finally, these technologies may obscure the power dynamics within the justice system and fail to empower citizens.¹²⁰

While these contemporary approaches to legal process design reflect a move towards more user-centred systems, they often operate within a limited understanding of justice that prioritizes the institution's desire for internal efficiency and cost reduction over the user's right for procedural and substantive fairness and desires for equity and the experience of justice. The focus on individual empowerment, simplification, and digital technology may neglect the underlying social, economic, and political factors that contribute to access to justice problems, potentially reinforcing existing inequalities. A genuinely user-centric system requires a more holistic and critical approach that addresses systemic barriers and empowers all community members, including marginalized groups, to participate in the justice process fully.

There is another wrinkle in understanding what a modern user-centric legal process design methodology might entail: the integration of technology has genuine and novel implications in process design. In pre-modern times, processes were simply a series of structured interpersonal interactions. In this way, their design only had to accommodate the *human* element. The emergence of technology, and especially transformative tools like automation and artificial intelligence, introduces new *non-human* design considerations. Any modern design methodology must be able to understand and account for both *human* and *non-human* design considerations, especially when considerations posed by technology have the capacity to transform the processes themselves.

2.1.4 – Shortcomings of Contemporary Approaches

Contemporary approaches to justice delivery reveal systemic deficiencies that render the current system increasingly out of step with the complex, multifaceted needs of modern society. Traditionally, the justice system has been structured around a model that equates justice with resolving disputes through formal adjudication. In this paradigm, success is measured primarily by procedural adherence, efficiency in processing cases, and the consistent application of established legal rules. While these factors are undeniably crucial for maintaining the rule of law and ensuring predictable outcomes, they fail to capture the deeper, more human dimensions of justice experienced by those seeking redress.

One of the most significant shortcomings is that traditional legal processes are designed with an institutional mindset that prioritizes throughput and procedural conformity over the holistic restoration of balance in the lives of individuals. As previously highlighted, the formal resolution of a case through the legal system often results in a decision that, while legally sound, does little

¹¹⁹ See J Mathews & D Wiseman at pp 31-32.

¹²⁰ See E MacLoud & J Santuber at p 11.

to alleviate the underlying harms that users continue to experience. The legal needs surveys previously discussed provide compelling evidence that many users, particularly those who are marginalized or self-represented, continue to feel disempowered and frustrated even after their disputes have been formally adjudicated.¹²¹ These surveys reveal a persistent disconnect between the objective efficiency of the system and the subjective experience of justice, a gap that traditional performance metrics, such as case clearance and time-to-resolution, often fail to bridge.

Moreover, the conventional justice delivery model typically adheres to a one-size-fits-all approach, funnelling all disputes into a single, standardized adjudicatory process. This remains true even if there have been derivations of this process to fine-tune for bespoke issues, such as small claims or summary trials. This rigid structure does not accommodate the inherent diversity of individual circumstances. True justice must be user-centric, providing multiple, flexible pathways that recognize the unique context of each case. Yet, contemporary practices continue to rely on predominantly adjudicative processes like small claims procedures, summary judgment, or arbitration that do not meaningfully adapt to the varied needs of users. Instead, while many of these practices are indeed well-intentioned, they continue to require users to limit their possible pathways and available resolutions to what particular “brand” of adjudication they would prefer. The result is a system that resolves *legal* disputes but often falls short of actually solving problems, potentially leaving many users with lingering feelings of injustice and a sense that their unique situation has not been fully addressed.

In addition to these issues, the digital transformations initiated during the COVID-19 pandemic have exposed further limitations. While there has been a push towards integrating technology into the justice system, these efforts have focused primarily on converting analog processes into digital counterparts rather than reimagining those processes from a user-centred perspective that best leverages the value propositions of the technologies they seek to employ. Many of these digital initiatives have been criticized for reinforcing the very inefficiencies and rigidities that the integration of technology was meant to overcome. For instance, the integration of virtual hearings and online filing systems, though valuable in increasing access during emergencies, frequently mirrors the traditional processes’ one-size-fits-all structure. The use of video-conferencing tools transcended the physical limitation of attending a courtroom, but had little to no positive impact on the efficiency of these proceedings or users’ sense of justice. This effort fails to address the specific needs of diverse users, especially those with limited digital

¹²¹ See for example J Macfarlane, *Identifying and Meeting the Needs of Self-Represented Litigants – Final Report* (2018) The National Self-Represented Litigants Project at pp 38-50; see also A Currie, *A National Survey of the Civil Justice Problems of Law and Moderate Income Canadians: Incidence and Patterns* (2005) Department of Justice Canada at pp 19-22. [A Currie 2005]

literacy or access to high-quality internet, but may also exacerbate existing inequities by treating technology as a panacea rather than a tool for genuine transformation.

Furthermore, the adversarial nature of the traditional justice system often results in overly complex and intimidating procedures. Many users encounter a labyrinth of legal jargon, bureaucratic hurdles, and stringent procedural requirements that create barriers to effective participation. These complexities are well-documented in later chapters and have been shown to contribute significantly to the user's ongoing sense of frustration and marginalization. For those who are already vulnerable, such an environment not only discourages them from seeking redress but also compounds the adverse impact of the injustice they experience.

Traditional approaches also tend to measure success through quantitative, institution-centric metrics that do not capture the qualitative aspects of justice. Metrics such as case resolution times, cost-efficiency, and throughput, while helpful in evaluating procedural performance, do not reflect the overall impact of the process on an individual's life. They overlook whether the resolution of a case has led to a genuine restoration of balance or merely satisfied an administrative requirement. There is a pressing need to shift the evaluative focus towards more qualitative, user-centred outcomes such as user satisfaction, perceived fairness, and the alleviation of emotional distress, which provide a fuller picture of whether the justice system is truly meeting its transformative goals. While efficient in many respects, the contemporary justice system is inherently limited by its focus on institutional priorities rather than the real-world experiences of its users. It operates within a framework that values procedural regularity and legal formalities, often at the expense of addressing the underlying problem. This misalignment between the system's design and the lived experiences of those seeking justice is a fundamental flaw that calls for a radical rethinking of how justice is conceptualized and delivered.

The shortcomings of contemporary justice delivery reveal a fundamental misalignment between the system's design and the lived experiences of its users. The overemphasis on institutional efficiency, the rigidity of one-size-fits-all processes, the superficial digitization of traditional practices, and the reliance on quantitative metrics that fail to capture the qualitative dimensions of user experience collectively underscore the urgent need for a new paradigm. Incremental adjustments and minor modernizations, while beneficial in some respects, have failed to address the underlying problem or restore balance and well-being meaningfully. Instead, these persistent gaps highlight the urgent need for a radical rethinking of the justice system, shifting the focus from abstract, procedural metrics to the tangible, holistic outcomes that truly reflect the experiences of those seeking redress. This need is precisely what MJD seeks to address: a holistic, user-centred approach that redefines both the objectives and the measures of success in the justice system. By reorienting the focus from abstract procedural

metrics to the tangible restoration of balance and well-being for individuals, MJD provides a comprehensive framework for transforming the justice system into one that is truly responsive, adaptive, and equitable. In the next section, we will explore in detail why such a paradigm shift is essential, demonstrating that only a comprehensive, user-centric framework can adequately respond to the multifaceted challenges of modern justice delivery.

2.1.5 – Identifying Design Implications of Technology

Integrating technology into the justice system has spurred significant debate regarding its impact on access to justice, with a range of perspectives on the benefits and challenges.¹²² The COVID-19 pandemic accelerated the adoption of digital tools in courts, highlighting both the potential of technology to enhance access and the risk of exacerbating existing inequalities.¹²³ This conflict between benefits and deleterious consequences has led to a critical re-evaluation of how justice processes are designed and delivered, with a growing emphasis on user-centric approaches.¹²⁴

Early perspectives on technology in the justice system focused on “automation,” which involves grafting technology onto existing processes to improve efficiency.¹²⁵ However, this approach often fails to address the fundamental issues of cost, complexity, and accessibility that hinder access to justice.¹²⁶ In an article I co-authored with Nathan Afilalo and Archie Zariski in 2024, we argued that true transformation requires a shift towards a user-centric approach where “technology follows law”.¹²⁷ This concept means designing justice processes around the users’ needs and then leveraging technology to facilitate a more accessible, efficient, and collaborative process rather than simply digitizing outdated systems.¹²⁸ The “digital justice” concept encompasses all court operations using digital technology.¹²⁹ This approach reveals that digital tools can provide remote access, reduce costs, and improve efficiency, but they may also create new barriers, especially for marginalized communities lacking access to technology or digital literacy.¹³⁰ Therefore, the focus must be on ensuring technology empowers individuals and promotes a more just and inclusive society.¹³¹

¹²² See N Afilalo et al. 2024 at 263-265; see also A Schmitz, “Measuring ‘Access to Justice’ in the Rush to Digitize” (2020) 88:6 Fordham L Rev 2381 at 2381-2386.

¹²³ See N Afilalo et al. 2024 at 263-265, 276; see also *No Turning Back* at p 9.

¹²⁴ See N Afilalo et al. 2024 at 263-265.

¹²⁵ See R Susskind at pp 33-36.

¹²⁶ See N Afilalo et al. 2024 at pp 268-270; see also R Susskind at pp 33-36.

¹²⁷ N Afilalo et al. 2024 at pp 268-270, 273.

¹²⁸ See N Afilalo et al. 2024 at pp 268-272.

¹²⁹ See N Afilalo et al. 2024 at pp 263-265.

¹³⁰ See N Afilalo et al. 2024 at pp 266-267, 276; see also J Evans & A Ndegwa, *Use of Technology in the Family Justice System: Annotated Bibliography* (2022) Department of Justice Canada at pp 12-13.

¹³¹ See N Afilalo et al. 2024 at p 273.

Recent discussions emphasize the importance of empirical research in understanding the true impact of digital justice initiatives.¹³² Studies are needed to evaluate the effectiveness of ODR programs, assess user satisfaction, and measure the outcomes achieved compared to traditional face-to-face processes.¹³³ It is important to consider who benefits from these technologies and whether they help level the playing field for self-represented litigants.¹³⁴ Concerns have also been raised about the potential for remote hearings to exacerbate existing access to justice barriers, the loss of non-verbal cues in virtual settings, and the risk of algorithmic bias in automated systems.¹³⁵ There is also a need to address issues of transparency and accountability in ODR processes.¹³⁶

The idea of multi-functional Access to Justice Centres (AJCs), stemming from my co-authored 2024 article, was proposed to address the limitations of simply grafting technology onto existing court systems.¹³⁷ AJCs are physical spaces that provide individuals with access to technology, legal information, and support.¹³⁸ This approach is consistent with the “technology follows law” principle, complementing a redesigned, user-centric legal framework.¹³⁹ These centres could provide state-of-the-art interfaces for digital justice services and help bridge the digital divide by providing access to technology, training, and support for self-represented litigants.¹⁴⁰ Furthermore, they could centralize core court functions, preserve the decorum of in-person proceedings, and offer wraparound services like financial literacy and mental health support, recognizing the interconnectedness of legal and social issues.¹⁴¹

For the purpose of illustration, an AJC could take the form of a digitally equipped community justice hub located in a remote area where access to traditional court services is limited. For instance, a reimagined circuit court facility in Northern Canada could serve as an AJC by providing both in-person and digital legal services. This centre would allow individuals to participate in virtual hearings with judges presiding remotely, reducing the need for long-distance travel while maintaining the dignity of a formal court setting. Additionally, the centre could offer self-help kiosks, legal aid consultations, and ODR services, ensuring that users receive legal guidance tailored to their needs. By integrating technology with in-person support, an AJC like this would address digital literacy gaps, provide access to reliable internet, and offer

¹³² See N Afilalo et al. 2024 at pp 263-267; A Schmitz at pp 2384-2385.

¹³³ See A Schmitz at pp 2384-2385; see also J Evans & A Ndegwa at pp 11-12; see also *No Turning Back* at pp 14-16.

¹³⁴ See A Schmitz at p 2395.

¹³⁵ See N Afilalo et al. 2024 at pp 266-268; see also J Evans & A Ndegwa at p 13; see also R Susskind at pp 287-288; see also F Contini et al. at pp 8, 14-15.

¹³⁶ See A Schmitz at pp 2404-2405.

¹³⁷ See N Afilalo et al. 2024 at pp 263-265, 270-272.

¹³⁸ See N Afilalo et al. 2024 at pp 270-272.

¹³⁹ See N Afilalo et al. 2024 at p 273.

¹⁴⁰ See N Afilalo et al. 2024 at pp 270-273.

¹⁴¹ See N Afilalo et al. 2024 at pp 270-273.

wraparound services such as access to social support programs or digital health services, making the experience of justice more accessible, efficient, and user-centred.

A key element of this transformation is integrating technology based on the principle that “technology follows law,” meaning that technology should support a redesigned, user-centric legal system rather than being grafted onto existing processes.¹⁴² This contrasts with the current practice of identifying digital tools that jurisdictions would like to use first and then reforming the law to integrate that technology.¹⁴³ For example, AJCs are proposed as physical spaces that combine technology with in-person support and community-based services.¹⁴⁴ These centres are designed to provide individuals access to technology, legal information, and support, empowering them to engage with the justice system more effectively.¹⁴⁵ By centralizing court functions, providing state-of-the-art digital interfaces, and offering wraparound services, AJCs address the “grafting” concern, which is when technology is applied to traditional processes without addressing the underlying issues of cost, complexity, and accessibility.¹⁴⁶ They are intended to transform the justice system to be more user-centred and accessible by making legal services more convenient, affordable, and understandable.¹⁴⁷ This approach recognizes that legal problems are often intertwined with social and economic issues, thus necessitating a holistic approach to justice.¹⁴⁸

The role of judges in the digital justice transformation is vital, and research shows that many Canadian judges are ready for such changes.¹⁴⁹ For example, as a result of the largest-ever survey of Canadian judges, it was reported that 82.35% of respondent judges believed that technology has had a positive impact on access to justice, and 91.67% of respondent judges either “agree” or “strongly agree” that the existing legal system could be made both more efficient and accessible with the best use of technology.¹⁵⁰ They recognize the potential of technology to improve access to justice and increase judicial efficiency.¹⁵¹ However, they also acknowledge the challenges, such as the need for reliable internet access and digital literacy

¹⁴² See N Afilalo et al. 2024 at pp 263-272;

¹⁴³ See N Afilalo et al. 2024 at pp 263-265.

¹⁴⁴ See N Afilalo et al. 2024 at pp 263-265, 270-272.

¹⁴⁵ See N Afilalo et al. 2024 at p 270.

¹⁴⁶ See N Afilalo et al. 2024 at pp 271-272.

¹⁴⁷ See N Afilalo et al. 2024 at pp 268-272.

¹⁴⁸ See N Afilalo et al. 2024 at pp 263-272; see also N Afilalo et al. 2023 at pp 15-16.

¹⁴⁹ See N Afilalo et al. 2024 at pp 274-276.

¹⁵⁰ See N Afilalo, D Escott & A Zariski, *Report on the Results of a Survey of Canadian Judges Concerning Technology in Judging Conducted by the Canadian Institute for the Administration of Justice and Athabasca University in 2022* (2023) Canadian Institute for the Administration of Justice at pp 10-15, online: https://ciaj-icaj.ca/wp-content/uploads/page/2023/08/ciaj-athabasca_2023-report-on-canadian-judges-and-technology_en.pdf. [CIAJ-Athabasca Survey]

¹⁵¹ See N Afilalo et al. 2024 at pp 274-276.

among both lawyers and litigants.¹⁵² A user-centric approach must also prioritize public legal education, preventative legal services, and community-based services to empower individuals to understand and resolve their legal issues.¹⁵³ In this context, technology acts as a tool that is part of a more significant transformation of the justice system.¹⁵⁴

In the context of process design methodology, the sum of this research suggests that the justice system's designers shift from replication or automation towards a more transformative design approach. Transformation involves integrating technology into court operations and rethinking the fundamental design of justice processes to ensure that they are user-centred, accessible, and equitable. The vision of digital justice is to create a system that uses technology to empower individuals rather than further marginalize vulnerable groups. Digital justice requires ongoing research, evaluation, and a commitment to fairness, transparency, and accountability.

2.2 – Analysis

Contemporary approaches to legal process design often fall short of achieving “meaningful access to justice” because they prioritize legal resolutions over holistic, user-centric outcomes.¹⁵⁵ This shortfall is evidenced by the fact that traditional systems tend to focus on providing access to formal legal institutions, such as courts and lawyers, with the aim of securing redress for wrongs through adjudicated decisions.¹⁵⁶ This approach views access to justice as a product the state delivers through its dispute processing agencies.¹⁵⁷ The focus is primarily on the availability of legal services and state-sanctioned dispute resolution processes, often within the context of the rule of law.¹⁵⁸ This perspective frequently translates into a system where “equal access to justice” means equal access to lawyers or some variant of “judicare”.¹⁵⁹ Such a model neglects the potential of paralegals, community clinics, and public legal education as equally viable means of achieving access to justice.¹⁶⁰

The shortcomings of the traditional approach are highlighted by the fact that most everyday legal problems are not resolved within the formal court system.¹⁶¹ Many people experience legal issues related to consumer, debt, employment, or family matters.¹⁶² The current system is often too complex, slow, and expensive, creating significant barriers for those seeking legal

¹⁵² See N Afilalo et al. 2024 at pp 274-276; see also R Susskind at pp 149-150.

¹⁵³ See N Afilalo et al. 2024 at pp 266-268.

¹⁵⁴ See N Afilalo et al. 2024 at pp 266-270.

¹⁵⁵ See N Afilalo et al. 2024 at pp 264-265, 267-268; see also N Afilalo et al. 2023 at p 14.

¹⁵⁶ See N Afilalo et al. 2024 at pp 267-268; see also N Afilalo et al. 2023 at p 14.

¹⁵⁷ See R Macdonald 1990 at pp 294-298.

¹⁵⁸ See OECD at pp 15-18, 28-30, 41; see also T Farrow at pp 970-972.

¹⁵⁹ R Macdonald 1990 at p 297.

¹⁶⁰ See R Macdonald 1990 at pp 297-298.

¹⁶¹ See T Farrow & L Jacobs at pp 8-9; see also Responding Early at pp 3-5.

¹⁶² See T Farrow & L Jacobs at pp 8-9.

recourse. Additionally, the adversarial nature of the formal legal system can create a win-lose mindset, encouraging manipulation and producing harm, particularly in family law contexts.¹⁶³ This model focuses on the “resolution of disputes in our pursuit of justice,” which fails to recognize other important goals, such as dispute containment and avoidance, and provides greater insight into the benefits that the law can confer.¹⁶⁴

In contrast, a user-centric system would prioritize early resolution services and preventive measures to address legal issues before they escalate.¹⁶⁵ It is about empowering individuals to take control of their legal situations by providing them with the information, tools, and support they need.¹⁶⁶ This may involve leveraging technology to make the justice system more accessible, efficient, and user-friendly, but only if technology is implemented thoughtfully and purposefully, and not simply grafted onto existing processes.¹⁶⁷ As such, the “technology follows law” principle emphasizes that technology should complement and enhance legal reforms, not drive them.¹⁶⁸ Furthermore, a user-centric system must be sensitive to the diversity of users, including those facing barriers to technology access or digital literacy.¹⁶⁹ The system should be designed to address emerging issues responsively and flexibly and be open to ongoing evaluation and refinement.¹⁷⁰

A growing body of research and policy suggests that a more meaningful approach to access to justice is required, one that shifts the focus from formal legal processes to the needs and experiences of the people seeking justice.¹⁷¹ As previously alluded to, a user-centric approach emphasizes empowering individuals to understand and resolve their legal issues, recognizing that legal problems are often intertwined with social, economic, and health issues.¹⁷² It is not simply about providing legal representation but about enabling people to pursue their goals and address their law-related problems in ways that are consistent with fair legal standards and processes.¹⁷³ This entails providing individuals with the information and tools they need to make informed decisions about their legal matters and to participate meaningfully in the justice system.¹⁷⁴

¹⁶³ See N Afilalo et al. 2023 at p 14.

¹⁶⁴ R Susskind at pp 66-70.

¹⁶⁵ See Responding Early at pp 3-5.

¹⁶⁶ See N Afilalo et al. 2024 at pp 267-268; see also T Farrow at pp 979-980.

¹⁶⁷ See N Afilalo et al. 2024 at pp 267-270; see also S Chiodo at 828.

¹⁶⁸ See N Afilalo et al. 2024 at pp 267-268.

¹⁶⁹ See N Afilalo et al. 2024 at pp 267-268; see also J Evans & A Ndegwa at p 12.

¹⁷⁰ See N Afilalo et al. 2024 at pp 267-268.

¹⁷¹ See N Afilalo et al. 2024 at pp 264-265; see also N Afilalo et al. 2023 at p 14; see also T Farrow at p 959-962.

¹⁷² See N Afilalo et al. 2024 at 267-268; see also T Farrow at pp 963-965.

¹⁷³ See N Afilalo et al. 2024 at pp 267-268; see also N Afilalo et al. 2023 at p 14.

¹⁷⁴ See N Afilalo et al. 2024 at pp 267-268.

By optimizing for a redefined notion of “justice” that emphasizes the quickest, least resource-intensive, and most holistic resolution of problems placing an individual or collective in a state of injustice, and by employing user-centric design methodologies while thoughtfully integrating technology, a modern justice process design methodology can be significantly more effective at providing meaningful access to justice than contemporary approaches. Traditional approaches to access to justice often prioritize formal legal resolutions through courts and lawyers, while a user-centric design focuses on the needs and experiences of the individuals seeking justice, aiming to provide accessible, efficient, and collaborative processes.¹⁷⁵ Therefore, the crux of the issue is not merely about making the current legal system more efficient, but about reimagining the entire system around the needs of the user, aiming to achieve the cheapest, quickest, and most holistic resolution of any issue, regardless of its current legal status.¹⁷⁶ This may involve community-based services, public legal education, and innovative uses of technology to create a justice system that is more accessible, equitable, and responsive to the needs of all individuals.¹⁷⁷ This shift in focus requires a move away from a system that treats justice as a commodity to be delivered and towards a system that empowers those in a state of injustice to understand, prevent, and resolve their legal issues in ways that make sense for them.¹⁷⁸

This user-centric methodology is also more amenable to the integration of technologies that move beyond mere digitization of processes and towards a more collaborative and flexible legal system. ODR platforms, for example, can guide users through a dispute resolution process, providing information, resources, and communication tools to help them reach a resolution.¹⁷⁹ Such systems can facilitate communication, negotiation, and mediation with the assistance of a virtual mediator, reducing the need for formal court proceedings.¹⁸⁰ These technologies also enable remote participation options, real-time captioning, and assistive listening devices, enhancing accessibility for individuals with disabilities.¹⁸¹ In this way, a user-centric approach can enhance access to justice and make the process more fair, secure, effective, and proportionate to the public’s needs.¹⁸²

2.3 – Where We Are Now

The literature reviewed in this chapter underscores a fundamental tension in contemporary access to justice efforts: while many reforms seek to simplify legal processes and expand public

¹⁷⁵ See T Farrow at pp 970-972; see also N Afilalo et al. 2024 at pp 263-267, 270-271.

¹⁷⁶ See N Afilalo et al. 2024 at pp 267-268; see also N Afilalo et al. 2023 at p 14.

¹⁷⁷ See N Afilalo et al. 2024 at pp 267-270; see also *Responding Early* at pp 3-5, 35.

¹⁷⁸ See R Macdonald 1990 at pp 294-298, 331-332; see also T Farrow & L Jacobs at p 7.

¹⁷⁹ See A Schmitz at pp 2384-2385; see also J Evans & A Ndegwa at pp 11-12; see also *No Turning Back* at pp 14-16; see also N Afilalo et al. 2024 at pp 268-269.

¹⁸⁰ See N Afilalo et al. 2024 at p 273.

¹⁸¹ See N Afilalo et al. 2024 at pp 269-270.

¹⁸² See N Afilalo et al. 2024 at pp 263-273; see also H Kulp & A Schmitz at p 11.

access, they often remain constrained by traditional legal paradigms that prioritize institutional efficiency over user experience. The evolution of access to justice from its early focus on legal representation to broader conceptions of justice as a holistic, problem-solving endeavour demonstrates the need for a shift in design methodology. However, existing frameworks frequently conflate access to law with access to justice, reinforcing the limitations of formal legal institutions rather than addressing systemic inequalities or empowering individuals to resolve disputes in ways that are meaningful to them.

Moreover, the integration of technology, while often framed as a solution to accessibility challenges, risks perpetuating existing barriers when implemented without a user-centric foundation. Digital justice initiatives must go beyond merely replicating analog processes online and instead be designed to enhance meaningful access to justice. Similarly, efforts such as public legal education and self-help resources, though valuable, cannot directly or holistically address the complexity of issues faced by individuals who may lack the knowledge, resources, or social capital to navigate the justice system effectively.

A reimagined approach to justice process design must therefore move beyond incremental adjustments to fundamentally rethink how justice is experienced. As the next chapter will explore, distinguishing between legal processes and justice processes is key to this transformation. By centring design principles on users' lived experiences, optimizing for holistic problem resolution, and ensuring that technology serves rather than dictates legal reforms, a new methodology, Meaningful Justice Design, can offer a more inclusive, efficient, and accessible justice system.

Chapter 3: Meaningful Justice Design

This chapter explores the concept of meaningful access to justice, elaborates on Meaningful Justice Design, and discusses how technology can be integrated through MJD to achieve many of the perceived benefits it can offer in the justice system. The chapter's structure is as follows:

- 3.1 defines the concepts of “meaningful justice” and “meaningful access” as the overall objective of Meaningful Justice Design;
- 3.2 identifies and explains the core tenets of Meaningful Justice Design;
- 3.3 justifies the need for a paradigm shift to a novel approach to process design in the administration of justice that fundamentally differs from contemporary and historical approaches to designing Canada's justice system; and,
- 3.4 ties together the discussion of MJD and transitions to chapter 4.

3.1 – Meaningful Access to Justice

3.1.1 – Defining Meaningful Access to Justice

3.1.1.1 – Meaningful Justice

Contemporary scholarship tends to make a seemingly innocuous addition of “with a legal component” to qualify a problem as solvable through our justice system (often referred to as “justiciability”).¹⁸³ This qualification is supposed to ensure that, when discussing justice and access to it, we remain focused on problems that we consider “justiciable,” being a problem or a component thereof for which a resolution is prescribed and enforceable by law. In 1999, Hazel Genn defined a “justiciable event” as:

...a matter experienced by a respondent which raised legal issues, whether or not it was recognised by the respondent as being “legal” and whether or not any action taken by the respondent to deal with the event involved the use of any part of the civil justice system.¹⁸⁴

The Canadian Bar Association (CBA) incorporated this “justiciable” notion into their finding that “over the course of a lifetime almost everyone will confront a justiciable problem”.¹⁸⁵ Currie incorporated Genn’s view of justiciable events into their study of unmet legal needs, which he opined as lacking a common definition but endeavoured to qualify as “problems and disputes encountered in the daily lives of people [that] have a legal aspect”, going on to evaluate the incidence of 80 specific justiciable events.¹⁸⁶

As the discussion of what may or may not be justiciable evolved, in 2019 the OECD built upon Genn’s view of justiciable events:

However, in the context of legal needs surveys, the term has acquired a more particular meaning... arising from the recognition that beyond problems that become “legal” – through use of traditional legal services or processes, or simply through consideration in legal terms – there are many for which law provides a framework, and in which law could potentially be invoked, but for which no (explicit, at least) consideration is given to law (often appropriately and without cause for concern). Accordingly, throughout this document, the term “justiciable” is used to describe problems that raise legal issues, whether or not this is

¹⁸³ See for example Canadian Bar Association, *Reaching Equal Justice: An Invitation to Envision and Act* (2013) Canadian Bar Association at p 8 [Reaching Equal Justice]; see also A Currie, *The Legal Problems of Everyday Life: The Nature, Extent and Consequences of Justiciable Problems Experienced by Canadians* (2007) Department of Justice Canada at pp 5-6. [A Currie 2007]

¹⁸⁴ H Genn, *Paths to Justice: What People Do and Think about Going to Law* (Oxford: Hart Publishing, 1999) at p 12.

¹⁸⁵ Reaching Equal Justice at p 8.

¹⁸⁶ See A Currie 2007 at pp 4-7.

recognised by those facing them, and whether or not lawyers or legal processes are invoked in any action taken to deal with them.¹⁸⁷

I suggest that the justiciable paradigm strains our justice system, and an odd result is that it makes “justice” difficult to measure. Ironically, as will be illustrated in sections 3.1.2 and 3.3 below, efforts built upon the justiciable paradigm may actually impede access to justice for the same reason that both the integration of technology in our justice system and the design of the justice system itself fail to meet users’ expectations.

As set out in Chapter 1 above, for the purpose of this thesis and the design methodology it proposes, a redefinition of “justice” is proposed. Namely, justice in this context has been redefined as the quickest, least resource-intensive, and most holistic resolution of any problem that places an individual or collective in a state of injustice. At this juncture, it is worth noting that, in this context, justice is not absolute; there are no realistic scenarios in which it can be definitively claimed that perfect justice has been achieved. Any effort to offer a practical definition of justice must accept that, while direct measurement continues to prove difficult, there must nevertheless be some relative scale of justice whereby one can state in relation terms that a higher degree of justice has been achieved in one scenario when compared to another. This proposition suggests there are three components for what constitutes justice in the context of a problem that places an individual or collective in a state of injustice:

1. Time-to-resolution: “quickest” in this sense denotes an effort to see the least amount of time from the moment a problem is encountered to the moment it has been resolved;
2. Resource utilization rate: “least resource-intensive” encapsulates not only traditional measures of resources for process facilitation and resolution enforcement, such as the financial and similar costs, but also the human resources allocated, as well as the intangible costs (such as health or social) of the individual or collective experiencing the problem for which a resolution is sought; and,
3. Likelihood of resurgence: “most holistic resolution” is a broad but clear statement that a greater degree of justice must be linked to the resolution’s impact on the problem being resolved, measured in most scenarios by some probability of the problem’s continued impact or subsequent mutation, or in the criminal sense by a likelihood of recidivism.

It is crucial to recognize that the three proposed components of justice, the quickest, least resource-intensive, and most holistic resolution, do not exist in isolation but in a state of dynamic and healthy tension. A simplistic pursuit of any single component at the expense of the others risks replicating the very shortcomings this redefinition of justice seeks to overcome. For instance, a system that exclusively prioritizes the “quickest” and “least resource-intensive”

¹⁸⁷ OECD at p 58.

resolution would inevitably favour superficial, temporary fixes that fail to address the root of a user's problem, thereby failing the “holistic” test. This mirrors the institution-centric mindset that prioritizes throughput and procedural finality over the user's substantive and restorative needs. The result is the persistent disconnect observed in legal needs surveys, where individuals may receive a formal legal resolution yet continue to feel disempowered and that their underlying problem remains unresolved. This redefined justice, therefore, posits that the highest possible degree of justice is not found in the maximization of any one component, but in the deliberate and user-centric balancing of all three.

The interplay between these components is where a more nuanced and practical understanding of justice emerges. The “most holistic resolution,” defined by its capacity to minimize the likelihood of the problem's resurgence, serves as an essential counterbalance to the pure pursuit of speed and efficiency. A resolution that is fast and cheap but virtually guarantees the problem will re-emerge represents a lower degree of justice than a slower, more resource-intensive process that achieves a lasting and stable outcome. Focus must remain on treating the root of a problem rather than just its symptoms, ensuring the user is no longer burdened by the system or the issue it was meant to resolve. A simple consumer dispute might be justly resolved through a pathway that optimizes for speed and low resource use, whereas a complex family matter involving children necessitates multiple, parallel pathways that heavily prioritize a holistic, though perhaps slower and more resource-intensive, resolution to prevent future conflict and harm. The ideal is not a single, universally “best” formula, but a system that offers a spectrum of resolution pathways, each representing a different, carefully considered equilibrium between the three components.

Navigating this healthy tension is the central challenge for any justice system aspiring to be truly responsive to its users. It is the user's specific context and their subjective experience that must inform the appropriate balance of speed, resource allocation, and holism for their unique problem. By continuously measuring whether a given process effectively diminishes a user's state of injustice, the system can learn and adapt, refining the equilibrium offered by its diverse approaches. This ongoing negotiation among the three components, guided by user-reported outcomes, prevents a system from calcifying around rigid institutional priorities. It ensures the system remains agile and focused on its fundamental purpose: the tangible restoration of balance, dignity, and well-being in a user's life.

Given the divergence between the justiciable paradigm and this discussion on meaningful justice, contemporary efforts to build remedial mechanisms and restorative processes to promote the resolution of justiciable events through the justice system simultaneously suggest two salient points. First, it is an implicit recognition by lawyers and courts that the justice system's design is too narrow to meet users' expectations, as acknowledged by these

institutions as conduits and arbiters of the system. Creating additional mechanisms and processes that offer solutions not currently provided by the justice system would be an unnecessary effort, certainly not an effort worth allocating support and resources towards, if the justice system's current design were meeting users' expectations of available resolutions. Second, this effort by the conduits and arbiters of the system is a well-intentioned effort by the non-users who do the system's work to make it easier for users to access the services and processes of these non-users, which the non-users believe will inherently promote access to justice, but only the view of justice built into the system in which they serve, not access to justice according to the users' own experience. Proverbially, it would be similar to putting hammers and screwdrivers in charge of making building houses using hammers and screwdrivers easier. This limited perspective inherently undermines the importance of the user by prescribing the means by which users are permitted to interact with the system, as opposed to prioritizing the user's perspective and facilitating design decisions based on their expectations and limitations.

3.1.1.2 – Meaningful Access

Etymologically, "access to justice" is a modern construction combining the neutral "access" with the abstract "justice," forming a phrase whose meaning is derived entirely from our collective agreement on its intended purpose: facilitating engagement with processes to experience justice. Essentially, it is a phrase we've assigned a specific, functional meaning to, rather than one derived from inherent, historical linguistic roots. Whether through traditional or meaningful approaches, what we are referring to when we use the phrase "access to justice" is the creation or enhancement of justice system users' ability to engage in processes by which they can experience justice. When discussing access to justice from a design perspective, this construction of access to justice means we are really talking about the structure and sequence of the justice system's processes.

The traditional approach to access to justice, as discussed in Chapter 2, amounts to providing users with access to courts and access to lawyers. A meaningful approach would instead provide users with a series of resolution pathways that, either individually or combined, will holistically resolve the problem, placing them in a state of justice as quickly and efficiently as possible. While this aligns with many "problem-centric" theories of access to justice, even contemporary problem-centric approaches unnecessarily limit themselves to predominantly legal resolutions and making it easier for users with certain disadvantages or circumstances to access those legal resolutions. Chapter 2's literature review identified this gap; many contemporary efforts to provide problem-centric solutions manifest as surrogates for the formal legal system, streamlining users' ability to avail themselves of certain legal resolutions based on unique eligibility criteria and determining factors. However, these efforts remain stuck in their focus on the means to achieve a narrowly pre-defined view of justice, in contrast to a broader effort to

resolve users' problems in ways that meet their own expectations of justice. In essence, the traditional approach requires that users conform their pursuit of justice to the resolutions that the system can provide, whereas a meaningful approach instead designs the system to create myriad resolution pathways that enable as many users as possible to accomplish the kinds of resolutions they would need to experience justice individually.

If justice is the quickest, least resource-intensive, and most holistic resolution of a problem that places an individual or collective in a state of injustice, what then does it mean to have access to this experience of justice? I propose that the redefinition of justice as a user-centric design goal was the first component of meaningful access to justice; the six components required of meaningful access to justice to align with this redefinition of justice would be:

1. **Defining the goal of "justice" differently:** Deviating from the traditional view of "justice" and access to it, chiefly the ability of litigants to access representation and the formal system, a meaningful approach to access to justice must understand that its goal is not to produce settlements and court decisions. Instead, a meaningful approach to access to justice must achieve "justice" in the sense of the fastest, most holistic, and least resource-intensive resolution of a problem, regardless of whether it has a legal component.
2. **People-Centred System:** Justice (#1) requires not only dispute resolution mechanisms but emphasizes prevention and plain-language education to prevent legal issues from arising at the outset and early intervention beyond the legal system. A meaningful approach cannot achieve justice (#1) unless people are on a relatively even level of understanding regarding their rights.
3. **Resolution Pathways:** Where the People-Centred System (#2) fails, or its design is imperfect, flexible pathways (both formal and informal) must be available to empower people to "choose their own adventure" to achieve justice (#1). These pathways must peacefully co-exist to offer people different resolution methods, including the formal system and alternative mechanisms to the formal system, like community-led solutions. These pathways ensure accessibility to various legal resources and support services. This "bottom-up" approach to legal process design also allows communities (be they provinces, regions, or municipalities) to tailor resolution pathways to flexibly address emerging issues in a responsive manner with available resources.
4. **User-Centric Design:** The result of the contemporary methodology of legal process design (relying on lawyers and courts), being the formal system, cannot sustain the concept of "perfect access to justice," whereby all people with a problem can resolve

their problem. A meaningful approach achieves justice (#1) when each Resolution Pathway (#3) is optimized to resolve a problem in the fastest, most holistic, and least resource-intensive way possible in light of the resources available for each pathway. This user-centric methodology allows designers to tailor solutions to people's experiences in a way that is both relative and proportionate to the specific challenges faced. This may increase the likelihood of improving the experience of a justice system user. With the understanding that current justice system users are faced with myriad barriers to accessing this system, it could also increase the proportion of people outside the justice system due to barriers that can achieve some measure of justice (#1).

5. **Holistic resolution:** Justice (#1) is not achieved when the system treats symptoms instead of problems, especially when the system itself causes some symptoms. A justice system that cannot recognize its own flaws is doomed to perpetuate them. A meaningful approach means people can access justice (#1) through a People-Centred System (#2) or Resolution Pathways (#3) in a manner that best reduces the likelihood that the problem reoccurs by identifying and treating the root of the problem. If the symptoms are treated but not the root, justice (#1) has not been achieved. The result of this traditional approach is that the person is no longer a burden on the system, but that is not justice (#1) for the person, only relief for the system.
6. **Innovation and adaptation:** One of the most common criticisms of the Canadian justice system, indeed the entire legal profession, is a staunch resistance to change. As will be discussed in some measure below, this institutional inertia, in many ways, causes or exacerbates access to justice barriers. A meaningful approach achieves justice (#1) when both the People-Centred System (#2) and Resolution Pathways (#3) are responsive and adaptable, especially in how they consider integrating new procedures or technologies. Innovation and adaptation must be encouraged to identify and address barriers in order to improve outcomes.

The most fundamental distinction between traditional and meaningful access to justice is the frame of reference. Not only does meaningful access to justice prioritize user-centricity, it requires positive experiences from engagement with the justice system to accomplish the intended result. Even with an optimistic view of traditional access to justice, a user experiencing a state of injustice under the traditional approach merely compensates for their lack of capacity and resources by retaining counsel, counsel engages with the system on their behalf, and some legal resolution may eventually manifest. The user's inability to positively participate in the dispute resolution process as a result of the system's design, and thereby requiring the user to

either accept their disadvantage or compensate for it, is one of the factors contributing to the sense of unfairness coming from legal resolutions in the current system.¹⁸⁸

By changing the frame of reference, it becomes clearer what *precisely* the system is providing users the ability to access. Traditional access to justice necessarily requires altering the circumstances or capacity of the user or their problem to provide access to a legal resolution. In contrast, meaningful access to justice requires the system to be built to accommodate the user. Traditional access means the user must compromise on some aspect of their sense of justice to accomplish any resolution, whereas meaningful access permits the user to pursue any resolution pathway that best aligns with their personal sense of justice.

At this point, it would be beneficial to reframe a *legal* process from a *justice* process. A legal process, as the phrase suggests, is a process administered as part of the legal system to accomplish a legal resolution to a user's problem. A justice process adopts a broader definition, which may incorporate a legal process, but takes its meaning from both its goal and administrator: a process administered as part of the *justice* system to meaningfully resolve a user's problem. By reframing access to justice in terms of meaningful resolution rather than procedural adherence, a justice process complements and enhances the legal process rather than supplanting it. While the legal process remains critical for adjudicating matters that require legal enforcement and formal judicial oversight, the justice process ensures that issues are addressed at the most appropriate level, preventing unnecessary litigation and empowering individuals to resolve disputes in ways that best serve their interests. In this sense, a justice process serves as an essential counterpart to the legal process, reinforcing the justice system's capacity to deliver efficient, accessible, and user-centred justice outcomes.

This shift in system design becomes even more crucial in the context of technological integration. Technology, both as a result of the need to appeal to consumers and as a product of decades of improving user experiences in a capitalist market, has evolved to be offered commercially as inherently user-centric, designed to streamline processes, enhance accessibility, and empower individuals in their interactions with systems. However, as Chiodo and Susskind warned, when technology is grafted onto traditional legal processes without rethinking the underlying system design, it perpetuates and reinforces the same rigid constraints that hinder access to justice.¹⁸⁹ To fully realize the benefits of technology in promoting access to justice, the processes into which technology is integrated must themselves be designed with the user at the centre. This means leveraging technology not just to digitize existing legal pathways but to transform justice delivery in a way that prioritizes efficiency, accessibility, and problem resolution over strict procedural formalism. In doing so, the justice

¹⁸⁸ See for example J Macfarlane at p 97-104; see also N Bala et al. at pp 76-79.

¹⁸⁹ See S Chiodo at p 828; see also R Susskind at p 63.

system can evolve into a more responsive, adaptable, and inclusive framework that genuinely meets the needs of those seeking resolution.

3.1.2 – Justice & Shovels

So where did we go wrong? How does meaningful access practically differ from what we do now? I originally pursued my research question on how to design legal processes that best integrate technology in ways that maximize meaningful access to justice because the post-COVID consensus around the forced digitization of the justice system in 2020 did not yield anywhere near the access to justice or efficiency benefits that had long been speculated.¹⁹⁰ Post-COVID, efforts made by Chiodo and others highlighted that the mere integration of technology into analog legal processes was “insufficient to address the crippling backlog facing the courts, and that a more transformational response is required to ensure a functioning civil justice system, which is essential to a functioning democracy.”¹⁹¹ The implication that the justice system’s current design must be transformed to realize the potential of technology is a recognition that the current design prioritizes a form of “legal justice” while impeding more holistic forms of justice that could more beneficially employ technology. Like justice system users who shoehorn their problems into a legal format to attempt to resolve those problems within the justice system, the justice system’s current design requires that technology must warp or transform itself to integrate into its existing processes. This limitation contradicts the “technology follows justice” design principle, instead suggesting that the technology deployed in a given process must conform to the design limitations of that process. The consequence of this approach is that technology cannot enable or empower design choices; they must only be considered post-design to make already-designed processes more efficient, working towards institution-centric process goals.

To explain the problematic, institution-centric perspective and design of the current justice system in a more practical way, let us consider a truly unique and Canadian thought experiment: a state-run snow removal system.

Plainly stated, the goal of this state-run snow removal system is to remove snow from pedestrian and vehicular passages. However, just as the current justice system has been designed to provide enforceable legal resolutions to problems, this state-run snow removal system only removes snow using square-point shovels. Square-point shovels were identified hundreds of years ago as a reasonably fair way to remove snow for most passages and common

¹⁹⁰ See for example Roadmap for Change at pp 21-24; see also T Farrow et al., *Everyday Legal Problems and the Cost of Justice in Canada: Overview Report* (2016) Canadian Forum on Civil Justice at pp 20-21; see also S Johnson, “Developing First Nations Courts in Canada: Elders as Foundational to Indigenous Therapeutic Jurisprudence” (2014) 3:2 *Journal of Indigenous Social Development* 1 at pp 2, 10-11.

¹⁹¹ S Chiodo at p 803.

areas, and over time the state has sought to institutionalize the removal of snow with square-point shovels. The arbiters and funders of this snow removal system have tried myriad ways to make removing snow using a square-point shovel more accessible and affordable, such as the accessible use of movable grips and providing access to professional shovelers for those who cannot shovel as well as professionals. If you need snow removed, you always have recourse to removing the snow yourself using a square-point shovel. If you cannot afford to take time off to remove the snow, or you are not sufficiently confident in your square-shaped shovel snow removal skills, you can always hire a self-regulated professional shoveler.

Many stakeholders of the state-run snow removal system recognize that snow can be removed through means other than a square-point shovel. Unfortunately, the state has invested considerably into building an entire policy and infrastructural apparatus around removing snow with these square-point shovels, and so does not accept other forms of snow removal like using scoop-shaped shovels as part of their snow removal role, even if other methods like the use of a scoop-shaped shovel might be better in certain situations. Recently, those in charge of the snow removal system have tried new technologies in the burgeoning field of snow removal. Tools like state-owned trucks with vehicle-sized square-point shovels have made a marked impact on the state's ability to remove snow, but many have complained that the state's exorbitant investment in these new technologies has not had the impact they hoped it would. The state-run snow removal system is more concerned that transformative technologies like a "snowblower" would be incredibly disruptive to the way they remove snow, and a group of longtime professional shovelers believe that since a snowblower only blows snow and does not, in fact, shovel snow, snow blown by such a machine might not even be removed at all. Some have even suggested that since the professional shovelers do not fully understand how a snowblower removes snow, nobody should use it to remove snow at all.

Unlike a snow removal system, the justice system does not exist solely to deliver outcomes, it also serves broader purposes like procedural fairness and predictability. However, just as the ineffective design of a snow removal system can ultimately undermine its goal, a legal system that prioritizes procedural adherence over problem resolution risks failing its users.

3.1.3 – Technology Follows Justice

The foregoing thought experiment ties into the role of "technology follows justice" as a process design principle. What is the role of technology, and how does it factor into designing processes that work towards meaningful access to justice? This question is the progenitor of my thesis' research question: how can user-centric justice process design methodologies optimize the integration of technology in justice systems to enhance meaningful access to justice while mitigating both existing and emerging barriers to accessibility? As the "technology follows justice" design principle suggests, a user-centric justice process design methodology can

integrate technology to enhance meaningful access to justice while mitigating accessibility barriers by understanding technology's role in the design process and leveraging that role in ways that have a net-positive result on meaningful access to justice.

There is one outstanding question of framing that influences how technology factors into meaningful access to justice: do we design the process first and find technology that fits it, or do we identify technologies and design processes around their key value propositions? The answer is somewhere between “neither” and “both”. The article I co-authored in 2024 proposed the principle that “technology follows law”, which “emphasizes that technology should serve to support and enhance a redesigned, user-centric legal system, rather than simply being grafted onto existing processes.”¹⁹² I would extend this principle to a broader, user-centric justice system to phrase the principle as “technology follows justice”. In this way, I propose to expand the former principle by suggesting that true user centrality lies in using technology to increase the probability and measure of justice achieved by processes that employ it. The decision to integrate technology into a process must be a measured one, weighing not only the goals of the integration but also questioning whether integrating technology is the best means of accomplishing those goals.

As an illustration of “technology follows justice”, if a justice process is already designed to be user-centric and users are experiencing a measure justice through the process, but the desire is to simply make this process more efficient or to reduce human resources allocated to its administration, exploring ways to keep the resolution pathways intact for the user while identifying and deploying technologies that replace the need for human resources, oversight, or intervention make the most sense. However, if users of a justice process are routinely failing to experience a measure of justice through a resolution pathway, the issue is more complicated, and there are really two questions that designers must address:

1. Can we redesign the resolution pathway based on user experience data to address users' concerns or misgivings; and,
2. Are there technologies we can responsibly deploy that users with the same issues and/or set of circumstances can employ to achieve justice?

The answer to the first question is almost always “yes”, but the second question requires a simultaneous awareness (or willingness to make oneself aware) of available technology and a principled approach to procuring and deploying technology in ways that promote justice while respecting users' rights and preferences. It may be entirely possible to redesign a resolution pathway purely from a procedural perspective to address users' concerns or misgivings, but the eventual limitations of this purely procedural reform are always the same: human resources are

¹⁹² N Afilalo et al. 2024 at pp 267-271, 273.

neither efficient nor infinite. At some level, I suggest that transformative process design naturally gravitates towards technology because technology transcends these two limitations. Likewise, the beauty of processes that integrate technology is that they often benefit from the ability to perform several functions simultaneously, and to continue repeating those functions for as long as they have the electricity and computing power to do so *ad infinitum*.

Fundamentally, the value proposition of technology in process design always boils down to these two transcendent qualities. So how can technology impact meaningful access to justice? By understanding where the users' pain points are. If we have a user-centric justice system that incorporates regular user experience assessments, and the user experience feedback identifies either unaddressed issues contributing to a state of injustice or enforced resolutions that do not resolve the state of injustice, there are likely only three possible design concerns. Either:

1. The procedural design of the resolution pathways available to and employed by the user are ineffective at sufficiently resolving the issue contributing to a state of injustice;
2. The resource limitations of the body administering the resolution pathway are either failing to meet users' expectations or are themselves contributing to a state of injustice; or,
3. The resolution pathway's possible enforced resolutions do not align with the user's quest for justice.

If the identified design concern is procedural in nature, technology can impact meaningful access to justice by enabling designers to redesign the resolution pathway's procedure in more creative ways, essentially widening the scope of potential reforms by incorporating relevant technologies to achieve at least a more sufficient measure of justice for users. Such procedural concerns might be related to unnecessary complication, work duplication, or disproportionate resource costs to users employing these resolution pathways. For example, a resolution pathway that is procedurally fair and has a high probability of resulting in experiencing justice when users achieve an enforced resolution may nevertheless fail to meet users' expectations if the procedural hurdles to pursue that process take up more time, attention, or money to participate in than the value the user assigns to the probability of that justice experience. This would be a key sign for designers to re-engineer the pathway's procedure to be faster and less resource-intensive, and technology could play a transformative role in stretching the same amount of allocated system resources into simultaneously administering this re-engineered process for several more parallel users than a human-focused system like a court registry office could possibly account for.

Conversely, if the identified design concern is related to the resources available to administer a pathway, technology plays a much more dominant role. These are the scenarios where more existential questions must be asked, such as:

- Are we effectively using our resources at each stage of the procedure?
- Is our resource utilization dictated by the procedure's design, or by broader concerns like policy or the availability of human capital?
- Are the resolution pathway's current design and potential enforced resolutions aligning with users' expectations in their quest for justice, such that the efficiency of the system is the ultimate concern?

Attempting to answer these questions is where a designer's understanding of technology's role in process design can truly shine. Not only can technology be used to holistically address these questions, but it can also be used to identify the answers to these questions. A process monitoring system that constantly evaluates resource utilization rates and user experience assessments through key performance indicators (KPIs) to take the guesswork out of the equation, directly identifying whether resource utilization rates are the limitation or if the underlying issue is related to *how* resources are being used. In either scenario, the "technology follows justice" principle dictates that the situation of the quest for justice in relation to the underlying issue will determine whether technology or procedure is the first proverbial domino to fall. If resource utilization rates are the limiting factor, as "technology follows justice" suggests that the integration of technology should be informed by the underlying issue preventing or inhibiting users' ability to experience justice, the designers should make an effort to exhaustively identify technologies that meet the required functionalities to administer the process both for users and the administering body, and then its integration should inform any resulting procedural changes. If the limitation is *how* resources are being utilized, the "technology follows justice" principle recognizes that it is the procedure's design and/or broader issues like policy that are dictating the ineffective use of pathway resources. In this case, designers should first consider reforming either or both of the relevant procedure and its resource allocation policies, and the discussion of procedural reform itself is where designers should consider technologies that enable either the more optimal use of resources or more creative process design choices that leverage the technology's functionality to help users reach the pathway's options for enforced resolutions in faster, less resource-intensive, and more holistic ways.

Finally, there is a more systemic design concern: the resolutions your system can enforce for or upon users are not meeting users' expectations to experience a sufficient measure of justice to alleviate their state of injustice. This means only one of two things: you should connect the user to additional pathways that can more holistically address their state of injustice, or you should create a new enforceable resolution and associated pathway to access it. This scenario is more ambiguous to the question of technology's role. Technology can make the justice system's ability to enforce resolutions more efficient, and as emerging technologies continue to develop, they can enable new types of resolutions and methods to enforce them. However, enabling these

new resolutions and enforcement mechanisms does not alter the justice system's ability to provide the same. Modifying existing resolutions and their enforcement mechanisms, or creating new ones, are not mere design questions, even if they should be informed by design methodology and user experience evidence. These are questions of law and policy, being the terms that the state has determined it will enforce any given resolution on a party with any given issue in any given circumstance. Technology's transformative capacity has the potential to enable fascinating and never-before-anticipated resolutions and state enforcement mechanisms, but the state's willingness to provide and/or enforce any given resolution remains a policy or legal decision, and therefore beyond the practical scope of process design methodology. It is in these circumstances that user-centricity and user experience evidence are paramount, and the roles of the legislative and executive branches at the top of a user-centric justice system are where action must take place. Failure by these branches to adhere to user-centric principles in designing the legal framework for the state's capacity for the provision and enforcement of resolutions must be built into the understanding that justice is a design goal, but the goal of perfect justice is not always available. This is where the system's design to accommodate for the gap between "perfect justice" and "sufficient justice" is crucial, and the system's design must always strive towards its goal with iterative improvements based on user feedback.

The impact of technology on meaningful access to justice hinges on its alignment with a user-centric justice system, where process design, technology integration, and institutional frameworks all work in concert to enhance the user's experience of justice. The "technology follows justice" principle underscores that technology should be deployed not merely for administrative efficiency, but to directly address procedural barriers, resource constraints, and systemic limitations that inhibit users from experiencing justice. However, even the most sophisticated user-centric technology cannot compensate for a justice process that is designed primarily for institutional convenience rather than user needs. If the processes governing justice remain structurally misaligned with user experiences and expectations, then technology, no matter how well-designed, will fail to deliver its intended value to either the user or the institution. True transformation requires that the process design itself is rooted in user-centricity, allowing technology to enhance, rather than merely supplement, access to justice and thereby facilitating *meaningful* access to justice. Ultimately, the iterative nature of process design must continuously integrate user feedback and emerging technological capabilities to narrow the gap between "sufficient justice" and the aspirational goal of "perfect justice", ensuring that justice remains not only accessible but meaningfully experienced.

3.1.4 – Digging Ourselves Out

Whether it be justice or snow removal, at some point in the system's ever-growing design there was a subtle shift in purpose from accomplishing the system user's goal (experiencing justice, or just removing snow from their driveway) to accomplishing the system's goal (the most efficient legal resolution/removal of snow with a square-point shovel). It may even be that achieving the user's goal was never the system's goal. As the system evolved, this divergence became more pronounced through the prioritization of the system's existing functions in service of its goal. A snow removal system with this shift in prioritization becomes ingrained with the notion that snow must be removed with a square-point shovel, and it must therefore ensure that removing snow with a square-point shovel is as efficient and accessible as possible. Similarly, a justice system with this shift becomes focused on ensuring as many users as possible can resolve their problems *through the courts*. This shift in priority is essentially a drift from a focus on maximizing service to users to a focus on maximizing the number of users for the system's service, making the service itself more rigid while providing more opportunities for disadvantaged users to access that service. That shift is how we ended up using the right principles to design a justice system that accomplishes the wrong goal.

I propose that the reason for technology's perceived shortcomings in the justice system and the disconnect between the intended design goal and the outcome of our justice system's current design are explained by the same phenomenon: the view of "justice" as a goal for the justice system's current design has been too narrowly focused on resolving legal problems as efficiently as possible, as opposed to resolving as many problems as possible for as many people as possible. This misapplication has led to the design of an institution-centric justice model that prioritizes its own processes and authority over user needs, reinforcing its own paramountcy rather than serving justice to the system's users in a truly accessible and responsive way. If we applied the same foundational principles to design a user-centric system, the result should prioritize resolving as many problems for as many people as possible, ensuring broader access to justice rather than merely optimizing system efficiency. With this in mind, it naturally follows that an informed, user-centric approach to integrating technology into the justice system's current designs would not meet expectations. By forcing the integration of technology to warp itself to fit into the system's design, instead of taking a transformative approach, nearly any integration of technology taking a user-centric view of access to justice would be prevented from meeting users' expectations while simultaneously failing to meet the institution-centric system's expectations. Essentially, the lukewarm reception of technology in the administration of justice can be attributed to being stuck between a rock and a hard place.

In response to my research question, and as an effort to extricate our justice system from the institution-centric hole it appears to be stuck in, I have developed a process design

methodology unique to justice processes: Meaningful Justice Design, or MJD. MJD facilitates the design of both civil and criminal procedures primarily from the perspective of the users of those processes, while bridging the practicality gap experienced among legal theorists in the User/Person/People-Centred access to justice space. It is challenging to operationalize accepted legal theories of meaningful access to justice because they approach the justice system's design from the aforementioned focus on maximizing the number of users for the system's services, rather than maximizing service to the system's users. MJD recognizes that the principles of the design are sound but, as will be discussed later with respect to the two case studies included in this thesis, the system's design can be elastic when it is approached as a process engineering exercise instead of a legal argument.

3.2 – Introducing Meaningful Justice Design (MJD)

3.2.1 – Context & Purpose

In the preceding chapters, this thesis set out to reimagine the nature of justice and the processes through which users access it. Chapter 1 established the core research question: “How can user-centric justice process design methodologies optimize the integration of technology in ways that enhance meaningful access to justice while mitigating both existing and emerging barriers to accessibility?” Here, the fundamental premise was that traditional legal institutions, despite reforms and digitization, often struggle to deliver swift, equitable, and holistic outcomes to users, especially those who are marginalized or self-represented.

Chapter 2 expanded on this premise by reviewing the evolving concept of “access to justice.” Early models conflated “justice” with legal services, placing courts and lawyers at the centre of reform efforts. Although many contemporary initiatives now attempt to streamline processes and integrate technology, the resulting systems still primarily serve institutional ends rather than user needs. Empirical studies (including legal needs surveys) show that when individuals face legal or quasi-legal challenges, what they require goes well beyond formal adjudication or conventional legal remedies: they need support that is timely, proportionate, clear, and embedded within their broader context.

With this context in mind, the stage is set for a novel methodology that incorporates user-centric design principles, harnesses technology effectively, and ensures that process transformation is guided by the reality of people's everyday needs. Meaningful Justice Design (MJD) is the proposed approach for closing the gap between the existing system and the system that users genuinely require. It aims to redesign justice processes so that they are:

- **Rooted in Redefined Justice:** Every process strives for outcomes that directly address a user's problem, rather than resolve a narrowly defined legal claim.

- **Structured by User-Centricity:** Principles such as plain language, flexible resolution pathways, iterative user feedback, and co-design with community partners become indispensable in shaping process improvements.
- **Technologically Integrated:** Technology is deliberately harnessed where it can enhance user experience by simplifying communication, enabling early interventions, reducing costs, and eliminating distance-related barriers, rather than merely digitizing existing legal processes.
- **Systemically Mindful:** All transformation efforts must coexist with, and even reinforce, essential rule-of-law safeguards. While Meaningful Justice Design embraces a broader suite of resolution tools, it does so without undermining the contemporary justice system's core commitment to procedural fairness and consistent legal standards.

The novelty of MJD lies in its comprehensive and actionable framework, meticulously constructed to achieve "meaningful access to justice" as described in section 3.1 of this thesis. Traditional legal process design has historically centred on institutional efficiency and the application of legal doctrine, often resulting in processes designed by and for legal actors. This contrasts sharply with the vision of meaningful access, which prioritizes the user's ability to engage in processes that facilitate their experience of justice, being the quickest, least resource-intensive, and most holistic resolution of their problem. MJD operationalizes this vision by fundamentally reorienting the design locus to the user and their specific experience of injustice. It achieves this not merely by advocating for user-centricity as a principle, but by embedding it within five interconnected core tenets applied across a practical Project Lifecycle. This structured yet adaptive methodology directly supports the components of meaningful access, including redefining justice as the design goal, building a people-centred system, and offering flexible resolution pathways that move beyond narrow legal resolutions to address the user's comprehensive problem.

While advancements like legal needs surveys have been crucial in identifying the prevalence of justiciable problems and mapping user experiences and unmet needs,¹⁹³ MJD provides the subsequent, critical step: a systematic methodology for *designing and implementing* transformative solutions based on these insights. It is not content with merely diagnosing the shortcomings of existing systems; instead, it offers a pathway to reimagine and rebuild processes from the user's perspective upwards. The emphasis on pathway plurality and process transformation within MJD is not merely about improving existing structures but about enabling fundamentally different, more adaptable, and more responsive justice ecosystems. MJD thus bridges the gap between the recognized need for change, as highlighted by theorists and empirical data, and the practical steps required to effect that change systemically.

¹⁹³ See generally A Currie 2005; see also J Macfarlane.

This section will identify and explain the MJD methodology in detail. By reorienting process design around the lived realities of those seeking justice, this methodology envisions a more inclusive, accessible, and genuinely supportive system. Rather than confining “justice” to court adjudications or legal counsel, it calls for an ecosystem of options, formal and informal, high-tech and face-to-face so that people can find swift and meaningful solutions to their problems. In doing so, MJD can enrich existing reform initiatives and new efforts to modernize how justice is conceived, delivered, and experienced. MJD accomplishes these outcomes by understanding and operationalizing the interactions between five core design tenets, including understanding how these interactions change across four different stages of the justice process design lifecycle.

3.2.2 – Core Tenets

The core tenets of Meaningful Justice Design discussed in this chapter serve as a transformative framework for reimagining meaningful access to justice. At its heart, this methodology is built upon five interrelated principles:

1. Justice is the Goal;
2. Injustice is the Metric;
3. User-Centricity;
4. One-Size-Fits-Some Resolution Pathways; and,
5. Transformative Integration of Technology.

Collectively, these five tenets form a cohesive, user-centred framework for reimagining the justice system. They underscore the need to shift from traditional, institutional metrics to a model that prioritizes the lived experiences and real-world outcomes of those who seek redress. By aligning process design to reframe the design perspective and prioritize holistic resolution, MJD provides a robust foundation for building a more inclusive, equitable, and effective justice system.

3.2.2.1 – *Justice is the Goal*

Justice is not merely the resolution of legal disputes through formal adjudication but a transformative outcome that restores users’ balance, dignity, and well-being. In reimagining the purpose of our justice system, the core tenet that “Justice is the Goal” calls for a fundamental shift away from conventional paradigms, where success is measured solely by adherence to procedural norms and achieving legal outcomes. Instead, this tenet posits that true justice is achieved when the system swiftly and comprehensively resolves users’ multifaceted, everyday justice problems.

Historically, traditional frameworks focused on processing cases and delivering rulings that conform to established rules and regulations. This is an admirable and necessary component of our democratic society. However, as has been previously discussed, an approach that artificially

limits the concept of justice to legal resolution often neglects the deeper, more personal dimensions of true justice. Many who navigate the legal system feel disempowered and marginalized, even when their cases are formally resolved. It is not enough to merely adjudicate disputes or settle claims; the objective must be to effect a substantive change in the conditions that cause people to feel wronged and seek redress. In this light, justice becomes synonymous with restoring a state of balance in which the legal, social, economic, and emotional harms (and likely others) inflicted upon an individual are meaningfully addressed. This reconceptualization urges us to view access to justice as a holistic process that actively works to alleviate the enduring effects of everyday justice problems, whether through legal processes or other pathways.

Central to this tenet is the recognition that a justice system designed solely around institutional imperatives may succeed in delivering a legal resolution while simultaneously failing to address the underlying causes of the inequities its users experience. A system that prioritizes merely the efficient processing of as large a volume of cases as it can handle is likely to overlook the broader implications of its decisions on its users' lives. Therefore, when designing justice processes, it is crucial to understand that the goal of these processes is to accomplish justice *from its users' perspectives*. This means acknowledging that justice must be measured not by the speed of case resolution alone, but by the degree to which the process helps to restore a sense of fairness, security, and hope among its users. Such an approach demands that we shift our evaluative criteria to include qualitative metrics such as user satisfaction, *perceived* fairness, and the extent to which the process contributes to alleviating users' overall experience of distress.

The transformative vision encapsulated in "Justice is the Goal" compels us to consider justice as an inherently restorative outcome. It calls for a justice system that is responsive and adaptive, going beyond the rigid confines of traditional legal procedures to incorporate a more comprehensive suite of services and support mechanisms. This may involve integrating community-based resources, counselling services, and innovative technological solutions to create a multifaceted support network for those in need. By reorienting the system this way, we shift the focus from a narrow, case-by-case adjudication to a broader commitment to reducing the adverse impacts of everyday justice problems. The aim is to create an ecosystem in which legal processes are not isolated events or the exclusive resolution pathway available, but are part of a continuum that supports users in rebuilding their lives and regaining their confidence in the justice system.

As will be discussed later, the New Brunswick Access to Justice Summit exemplified this tenet. With a focus on family law in New Brunswick, stakeholders recognized that the traditional adjudication of legal rights was poorly suited to most family matters, which often involved

complex social, emotional, and economic factors, leading the adversarial system to frequently exacerbate conflict and inflict additional harm, particularly to children.¹⁹⁴ The Summit accepted that the justice system’s current view of the goal of “justice” did not feel like true justice to many of its participants, and in limited contexts, the system’s design even worked against true justice for its users.

“Justice is the Goal” represents a call to reimagine the purpose of our justice system from the perspective of the system’s users, accepting that it is users’ individual experiences of justice, not the institution’s view of justice, that should inform design choices. This tenet challenges us to go beyond the limitations of traditional legal processes to build a system that truly honours the lived experiences of its users. Such a system would not only dispense legal decisions but also serve as a powerful tool for social restoration and empowerment, offering meaningful and lasting redress for users. By embracing this transformative change in perspective, we lay the foundation for a justice system that is more inclusive, equitable, and effective.

3.2.2.2 – Injustice is the Metric

“Injustice is the Metric” establishes that the accurate measure of a justice system lies in its capacity to diminish the subjective experience of injustice among its users. This tenet recognizes that, while justice is the design goal, it is important to understand and accept the difficulty of contemporary efforts to measure or quantify justice, such as legal needs surveys. This makes “justice” a near-impossible metric to measure the success of the justice system. Instead, “Injustice is the Metric” proposes that relative and qualitative metrics can serve as a stand-in to enable a user-centric justice system to measure its performance based on how its processes change whether or to what degree users experience justice throughout their interactions. Unlike traditional performance indicators that focus on procedural efficiency, case volumes, or time-to-resolution, this tenet calls for evaluative metrics that capture the qualitative dimensions of user experience, such as procedural and substantive satisfaction, perceived fairness, and the extent to which individuals feel that their overall state of injustice has been alleviated. In essence, the effectiveness of a justice process can be judged in relativistic terms by how well it transforms an individual’s problem into an experience of equilibrium and security.

Outcome-based metrics form one key category in this framework. These include survey items and rating scales where users can express, in quantifiable terms, their overall satisfaction and perceived fairness after engaging with the justice process. Legal needs surveys, as discussed in Chapters 1 and 2, routinely gather qualitative and empirical data related to these dimensions and have revealed that many users continue to experience an everyday justice problem despite obtaining a formal legal resolution. This discrepancy underscores that traditional metrics do not fully capture the real-world impact of justice processes, but the discrepancy also identifies the

¹⁹⁴ See N Afilalo et al. 2023 at p 14.

true value of legal needs surveys: while making indirect efforts to measure justice, what they actually measure is users' point-in-time circumstances and perceptions thereof, and some efforts like Farrow's 2014 legal needs study sought to continue tracking changes in these circumstances and perceptions over time.¹⁹⁵ These surveys assessed users' quantitative and qualitative factors, such as health and economic well-being, and how these factors were perceived. They tracked changes in these factors and perceptions over time to determine a measure of justice. In essence, these surveys were actually measuring the factors and perceptions of *injustice* and trying to infer some measure of justice by a relative change in the state of injustice. If a justice system were to integrate these kinds of measurements directly, the designers would have a live understanding of whether a given process is having the desired effect on user experience by tracking changes in factors or users' perceptions.

Process-based metrics offer another valuable perspective by examining the efficiency and accessibility of the justice system from the user's point of view. While conventional measures such as time-to-resolution and cost-efficiency are essential to understanding overall system function, they must be interpreted in terms of their contribution to users' experience of justice, not merely the institution's own objectives. For instance, rapid case resolution is only meaningful if it coincides with users reporting a clear improvement in their sense of well-being. A perfectly efficient process that fails to meet user expectations is nonetheless a failure. The legal needs surveys indicate that when process enhancements are paired with support services such as accessible information, counselling, or community legal aid, users report a more significant reduction in the subjective experience of injustice.¹⁹⁶ This demonstrates that the quality of the process, not just its speed or cost, is critical in achieving restorative outcomes.

A great example of how conventional, process-based metrics can be interpreted in terms of their contribution to users' experience of justice is the Federal Court's Simplified Judicial Review Pilot Project. This case study will be discussed at length later, but the impetus for this pilot project from the users' perspective was that the average time to adjudicate an application for judicial review of a study permit refusal was an average of approximately 18 months, while many study permit applicants were unable to defer admission to their chosen institutions beyond one or two years.¹⁹⁷ While fair on its face for not treating study permit refusals differently than any other judicial review applicant in immigration, the substantive consequence of this "fair" timeline was that many positive judicial review decisions were ultimately moot because the applicant's window for admission had lapsed. In this case, the conventional metric

¹⁹⁵ See T Farrow at pp 959-964, 981-982

¹⁹⁶ See for example J Macfarlane at pp 11-12; see also A Currie & T Farrow, *Exploring Community-Based Services, Costs and Benefits for People-Centred Justice* (2023) Canadian Forum on Civil Justice at pp 12-14, online: <https://cfcj-fcjc.org/wp-content/uploads/Exploring-Community-Based-Services-Costs-and-Benefits-for-People-Centered-Justice-by-Trevor-CW-Farrow-and-Ab-Currie.pdf>. [CBJ Report]

¹⁹⁷ See Federal Court News Release.

of time-to-resolution when viewed from the users' perspective had a direct effect on their ability to access justice, and so the pilot project sought to create a bespoke process that respected users' rights while addressing their inability to access meaningful justice in their circumstances.

The tenet of "Injustice is the Metric" reframes the evaluation of justice processes by prioritizing reducing users' subjective experiences of injustice as the key indicator of success. Drawing on established methods from the private and technology sectors, this approach employs a combination of quantitative and qualitative metrics to provide a holistic assessment of system performance. By continuously measuring these dimensions and integrating the data into ongoing system improvements, we can create a truly responsive, adaptive justice system that delivers meaningful, restorative outcomes for all users.

3.2.2.3 – User-Centricity

User-centricity asserts that an entire justice process, being a holistic pathway for resolving a user's problem, must centre on the lived experiences, needs, and expectations of those seeking redress. This differs fundamentally from traditional legal process design, which is primarily focused on formal adjudication and procedural adherence. Whereas a legal process is designed to resolve disputes through rigid, rule-bound mechanisms, a user-centric justice process more broadly aims to restore balance and alleviate the multifaceted burdens of injustice in a manner that is responsive and adaptive to the individual.

A user-centric justice process is characterized by its commitment to and prioritization of users' needs and perspectives. It recognizes that the complexities and characteristics of legal proceedings often leave self-represented or marginalized individuals feeling overwhelmed by legal jargon and bureaucratic obstacles. By employing plain language, intuitive interfaces, and streamlined procedures, the system becomes more navigable for users, ensuring that the intimidating nature of traditional legal processes does not deter those who require assistance. This approach is informed by the empirical insights presented in Chapters 1 and 2, where legal needs surveys consistently reveal that many users experience a disconnect between the formal resolution of a case and users' actual sense of feeling heard and supported.

Operationalizing user-centricity within the MJD framework requires moving beyond abstract principles to engage in concrete design activities, chief among them being co-design. This process, which involves users as active partners, can manifest in two distinct but complementary forms: indirect and direct co-design. Indirect co-design represents a pragmatic approach where process designers engage with a select group of justice system stakeholders who, while not users themselves, work directly with the intended user population. For instance, lawyers at a community legal clinic or specialized social workers might be engaged to offer the perspectives of their clients. The practical value of this method is significant; these stakeholders

act as invaluable translators, capable of articulating aggregated user experiences and identifying systemic patterns that individual users may not perceive. This method is already commonplace among Canadian justice reform, reflecting the realities of access barriers and resource constraints around directly engaging large, diverse, and dispersed user populations. However, this approach carries the inherent risk of filtering the user's voice through a professional lens, potentially prioritizing institutional or legal practicalities over the raw, lived experience of injustice. The second inherent risk of indirect co-design is that, even when stakeholders are engaged to explicitly represent marginalized or underrepresented communities like rural communities or Indigenous groups, those representative stakeholders may lack the experience and nuance to accurately represent the perspectives they have been asked to present.

In contrast, direct co-design is a more linear and authentic method, involving potential users of the process in the design exercise itself. This approach provides unfiltered access to the user's journey, uncovering nuanced emotional and practical barriers that may be invisible to even the most empathetic intermediary. While representing the proverbial "gold standard" for embedding user experience, direct co-design can be more resource-intensive and requires careful facilitation to mitigate power imbalances and ensure diverse and representative participation. Within MJD, these two approaches are not mutually exclusive but are complementary tools in the designer's toolkit. A robust process might leverage indirect co-design during the initial Ideation phase to map the broader systemic landscape, as was the case with the New Brunswick Access to Justice Summit, while employing direct co-design during the Experimentation and Iteration phases to test prototypes and validate that a designed pathway truly reduces the user's subjective experience of injustice. The optimal blend depends on the project's lifecycle stage, available resources, and the specific questions the design process aims to answer.

Embedding user-centricity as a core tenet of Meaningful Justice Design also draws on successful practices from other sectors. In the technology industry, companies routinely employ iterative design, real-time user feedback, and co-design workshops to ensure that products evolve in response to consumer needs. At their core, most commercial technologies are designed to be user-centric as a result of this type of design, which I propose is where the design goal of existing legal processes and the design goal of the technologies they seek to employ are misaligned. This approach is well established and has proven effective in creating user-friendly, adaptive solutions that reach mass market appeal. By mirroring these methods, the justice system can similarly incorporate continuous feedback loops by using tools such as enhanced legal needs surveys, qualitative assessments associated with individual interactions with the system, and digital feedback modules to monitor and improve user experience. For example, the Federal Court built feedback loops into their pilot project through an ongoing working group and building bespoke data analysis capabilities to have a thorough understanding of the

project's performance and reception. Such measures enable justice processes to remain dynamic and responsive, continually adapting to users' evolving needs.

3.2.2.4 – One-Size-Fits-Some Resolution Pathways

“Maslow’s Hammer” describes a cognitive bias where someone over-relies on a familiar tool or method to solve problems, even when it is not the most appropriate solution; this is the source of the adage “[i]f the only tool you have is a hammer, it is tempting to see everything as if it were a nail”.¹⁹⁸ The current justice system only has one tool, a giant hammer (adjudication), and chooses to see all users’ problems as nails. Instead, a user-centric justice system recognizes that no single resolution pathway can adequately serve all users’ diverse needs and circumstances. In contrast to the traditional system, a user-centric justice system must be conceptualized as a societal toolbox; a collection of specialized, flexible tools that each excel in addressing particular problems. In this framework, the MJD tenet of “One-Size-Fits-Some Resolution Pathways” is not merely a beneficial add-on; it is an essential feature demanded by the very nature of a truly user-centric justice system.

This tenet builds upon earlier discussions highlighting the limitations of conventional legal processes, which often impose procedures that fail to account for user experience and the user’s own perceptions of justice. When individuals engage with a user-centric justice system, their journey does not begin or end at a fixed procedural point; instead, it is defined by a series of choices that emerge organically from their initial interactions. As a user begins their search for redress, the system’s structure becomes personalized; each user effectively ‘chooses their own adventure’ by selecting from an array of available pathways. Some issues might be best resolved through formal adjudication, while others may benefit more from mediation, community-based services, or even state-run social welfare programs. The key is not only that every resolution pathway must be continuously evaluated and iterated upon to maximize its effectiveness in delivering outcomes that restore a sense of fairness and balance, but also that no resolution pathway is faulted for failing to “stretch” itself to address needs or resolve issues for which it was not intentionally designed. This dynamic, evolving approach starkly contrasts traditional legal process design, which tends to fixate on institutional efficiency and uniformity rather than on delivering a transformative experience for each user.

A fundamental implication of adopting “One-Size-Fits-Some Resolution Pathways” is that the justice system is reframed not as a linear process with a clear start and finish, but as an adaptable ecosystem that only takes shape once a user initiates contact. There is no predetermined “correct” pathway that suits every case; instead, the system must be flexible enough to provide a tailored sequence of interventions based on the individual’s specific situation and choices. While certain procedural steps within any given pathway might need to

¹⁹⁸ A Maslow, *The Psychology of Science: A Reconnaissance*, (Harper & Row, 1966) at pp x, 15-16.

occur in a particular order (e.g. a preliminary assessment before one specific form of resolution is attempted), these steps are not rigidly fixed across all cases, and this particular pathway is not rigidly applied to all users. Instead, the pathways are made available to users in a way that promotes agency and self-empowerment, while simultaneously supporting more holistic outcomes. Drawing on Chapter 2's discussion of empirical evidence from surveys, individuals often report a significant disconnect between the resolution provided by a traditional legal process and their subjective experience of justice. This gap underscores the necessity of designing resolution pathways that are efficient and truly responsive to the multifaceted nature of justice problems. For instance, a self-represented litigant might benefit from a specialized mediation process incorporating community support and plain language resources. These features are absent in the conventional, one-size-fits-all model. The societal toolbox metaphor aptly captures this reality: just as a carpenter selects a specific tool for a particular task, users must also be empowered to choose the resolution pathway that they believe best fits their unique circumstances.

It is important to note that embracing a multiplicity of resolution pathways does not mean every pathway must be viable for every problem. It is precisely the diversity of specialized tools that makes a user-centric system robust. Some pathways will only be effective in certain contexts, and their utility is measured by how much they enable users to achieve their goal of experiencing justice. What is crucial is that the system offers users a choice, a menu of pathways that collectively cover a broad spectrum of needs.

The iterative nature of this design methodology ensures that each resolution pathway is subject to continuous improvement. As technology companies routinely update their products based on user feedback and performance metrics, the justice system must evolve. Tools within the societal toolbox are constantly reassessed, refined, and, if necessary, replaced, based on real-time data and qualitative feedback from users. This iterative process ensures that the system remains adaptable and that each specialized tool improves or maintains its relevance and effectiveness over time.

Ultimately, the tenet of "One-Size-Fits-Some Resolution Pathways" recognizes that a user-centric justice system is inherently non-linear and flexible. It does not impose a rigid structure on individuals seeking redress; instead, it provides an open-ended, adaptable structure that empowers users to navigate their own unique quest for justice. By seeing the justice system as a societal toolbox, we acknowledge that the actual value of the system lies not in its uniformity but in its ability to offer tailored, specialized interventions that directly address the root of a user's problem.

3.2.2.5 – Transformative Integration of Technology

A cornerstone of MJD is the “Transformative Integration of Technology,” serving not only as a tool for increasing efficiency but also as a catalyst for reimagining and reshaping the very structure of the justice system. Unlike traditional approaches that digitize existing legal procedures, this tenet views technology as an inherently user-centric medium that empowers users by offering innovative ways to design, modify, and enhance resolution pathways and the administrative processes that underpin them.

At its core, technology in this framework is deployed to bridge the gap between formal legal adjudication and the holistic experience of justice. Previous chapters have highlighted that conventional legal processes, with their rigid, one-size-fits-all approach, often fail to address the nuanced and multifaceted nature of injustice experienced by individuals. In contrast, transformative technology integration reconfigures these processes so that every stage, from initial intake to final resolution, is adaptable, responsive, and centred on the user’s lived experience. This transformation is not merely about automating existing procedures but about creating an entirely new ecosystem of resolution pathways that can flexibly respond to each user’s specific needs and contexts.

One of the primary ways technology facilitates this transformation is through the creative design of resolution pathways. Digital platforms enable the development of a wide array of tools like interactive online interfaces that guide users through self-help resources, or sophisticated data analytics systems that monitor user feedback in real time. These technologies allow for the continuous refinement of processes based on empirical evidence gathered from multiple sources simultaneously. For instance, by tracking user satisfaction and perceived fairness through digital surveys and feedback loops, system designers can identify which aspects of the justice process are most effective at reducing users’ states of injustice and where further improvements are needed. This iterative cycle of design, evaluation, and redesign mirrors the best practices found in the private sector, particularly in the technology industry, where continuous user feedback is central to product development and innovation.

In addition to enabling dynamic feedback, technology also plays a vital role in overcoming traditional barriers to access. By eliminating geographical and temporal constraints, digital tools enable users to engage with the justice process from virtually anywhere. This is particularly significant in the Canadian context, where vast distances and remote communities have long posed challenges for equitable access to legal services. These benefits are presently stemmed by the issues of digital literacy and the availability of broadband in many communities, which themselves contribute to many experiences of injustice. Similarly, more systemic issues like insufficient digital literacy could be addressed in a user-centric justice system by providing both static (i.e. learning materials) and dynamic (i.e. human support workers) resources to

accommodate for these deficiencies. Through remote communication, asynchronous digital platforms, and mobile applications, technology broadens access and ensures that the resolution pathways available are both timely and contextually appropriate. In many instances, these tools can enable early intervention when the individual immediately recognizes their problem, as opposed to when an agent of the justice system recognizes the same, which is critical in preventing minor issues from escalating into more complex and entrenched issues.

Furthermore, transformative technology integration supports the creative modification of administrative processes. Traditional administrative procedures in the justice system have often been criticized for their opacity and inefficiency, which can exacerbate frustration and marginalization among users. Transformative digitization offers the opportunity to redesign these administrative processes from the ground up. For example, a user-centric case management system can incorporate user-friendly dashboards, automated scheduling, and real-time status updates, thereby reducing uncertainty and enhancing transparency while offering efficiency improvements and ease-of-use features for other justice system actors like lawyers, court administrators, or social workers. In this sense, technology underpins a “choose your own adventure” approach to justice, where the system itself is flexible and responsive, dynamically evolving in response to user inputs and needs. The ability to enable system actors to support and facilitate a near-infinite amount of parallel resolution pathways and likewise enable users to participate in the same myriad pathways, means the only true absolute limit on how many parallel pathways can be designed, supported, and facilitated is the imagination of their designers.

The transformative integration of technology represents a fundamental shift in how the justice system is conceptualized and delivered. It moves beyond mere digitization, positioning technology as a powerful enabler of creative process redesign and adaptive service delivery. This approach ensures that resolution pathways are not static but are continuously refined to meet the evolving needs of users, ultimately aligning institutional efficiency with the overarching goal of delivering meaningful, restorative justice. By harnessing technology in this transformative way, the justice system can become more accessible, responsive, and practical, thus fulfilling its mandate to restore balance and promote well-being.

3.2.3 – Project Lifecycles

While the five MJD tenets provide the foundational principles for designing user-centric justice systems, understanding the *process* of implementing MJD in practice benefits from conceptualizing a project lifecycle. Meaningful justice innovation rarely occurs as a single, static event; rather, it unfolds through distinct stages, each requiring consistent application of MJD principles. This MJD Project Lifecycle offers a framework for analyzing and guiding such initiatives, encompassing four iterative phases:

1. **Ideation:** This initial phase involves recognizing and defining a specific, meaningful justice problem from a user-centric perspective. It requires understanding the needs, experiences, and barriers faced by those interacting with the justice system. Activities in this phase focus on brainstorming potential solutions, exploring diverse approaches, and establishing the core goals for intervention, always grounded in the MJD tenet of focusing on the user’s holistic problem (“Justice is the Goal”).
2. **Design:** Moving from broad ideas to concrete plans, the Design phase involves structured consultation with subject-matter experts, potential users, and diverse stakeholders. It focuses on translating MJD principles into tangible features, processes, or service models. This phase requires careful consideration of available resources, technological feasibility, potential risks, and evaluation metrics, ensuring the proposed solution is intentionally designed for user-centricity and inclusivity (“User-Centricity”, “One-Size-Fits-Some Pathways”).
3. **Experimentation:** Recognizing that designs must be tested in real-world conditions, the Experimentation phase involves implementing at least one designed solution, often as a pilot project, within a relevant, high-impact context. This allows for direct observation and assessment of the design’s strengths, weaknesses, user uptake, and actual impact on access to justice. Rigorous data collection and feedback mechanisms are critical during this phase to evaluate the intervention against MJD tenets, particularly measuring user experience (“Injustice is the Metric”) and assessing the effectiveness of technology (“Transformative Integration of Technology”).
4. **Iteration:** Based on the data and feedback gathered during Experimentation, the Iteration phase involves modifying and refining the design. This may lead to further rounds of experimentation or scaling the improved solution more broadly. Crucially, iteration implies a commitment to continuous learning and adaptation, embedding ongoing evaluation and user feedback loops to ensure the system remains responsive and aligned with MJD principles over time.

Applying MJD tenets rigorously throughout each phase of this Project Lifecycle is essential for ensuring that justice innovations are not only well-intentioned but also practically effective, sustainable, and genuinely user-centric in their outcomes.

3.3 – Why Do We Need Meaningful Justice Design?

3.3.1 – Theoretical Support for a Paradigm Shift

The prevailing discourse on access to justice increasingly advocates for a fundamental re-evaluation of the justice system, moving beyond incremental improvements to embrace a radical, user-centric paradigm. This perspective challenges the conventional institution-centric model, which prioritizes efficient case processing, strict adherence to procedural rules, and a

uniform approach to dispute resolution, arguing instead for a system reimagined from the ground up, with the needs and experiences of individuals at its core.¹⁹⁹ The traditional model often equates access with physical and procedural access to courts and legal representation; however, this approach has proven inadequate in addressing the multifaceted barriers that prevent individuals from effectively navigating the legal system.²⁰⁰ Several sources highlight the shortcomings of merely “grafting” technology onto existing processes, which fail to address underlying issues of cost, complexity, and accessibility.²⁰¹ Macdonald contends that the focus on “access to law” rather than “access to justice” results in a system that prioritizes the efficient operation of state agencies over the achievement of substantive justice.²⁰² This institution-centric view often leads to a narrow definition of access to justice, primarily focused on the delivery of traditional legal services.²⁰³

In contrast, a user-centric approach prioritizes the needs and experiences of individuals seeking justice, recognizing that legal problems are often intertwined with social, economic, and health issues.²⁰⁴ This perspective calls for holistic solutions that empower individuals to understand their legal rights and responsibilities and to navigate the justice system effectively.²⁰⁵ As Farrow and Jacobs advocate, access to justice should encompass a diverse range of information, institutions, and organizations that help individuals navigate legal challenges. This broader understanding acknowledges that not everyone has the same level of legal knowledge or access to resources and that solutions must be tailored to the specific needs of different individuals and communities.²⁰⁶ Shifting from a court-centric to a user-centric model requires a re-evaluation of what “justice” means, moving beyond a purely legalistic definition to encompass fairness, equality, morality, and active societal participation.²⁰⁷ Macdonald suggests relaxing professional monopolies on the access to justice agenda and confronting the “costs” of formal legalism, which he identified as reformers’ reticence to deploy “substantive rules, structures, institutions and procedures of private law for redistributive purposes... [reinforcing] at least some of the power imbalances evident in informal social interaction”.²⁰⁸

A user-centric system emphasizes proactive and preventative measures to address legal problems before they escalate, including public legal education, preventative law initiatives, and community-based services that empower individuals to understand their legal rights and

¹⁹⁹ See Responding Early at p i; see also T Farrow at pp 968-970.

²⁰⁰ See T Farrow at pp 970-972.

²⁰¹ See *No Turning Back* at pp 6-8; see also Responding Early at p 35; see also S Chiodo at pp 812-825.

²⁰² See Macdonald 1990 at pp 287-288.

²⁰³ See T Farrow at pp 970-972.

²⁰⁴ See Responding Early at p i; see also T Farrow at pp 968-970.

²⁰⁵ See Reaching Equal Justice at pp 7-9, 65-69, 90-91.

²⁰⁶ See Reaching Equal Justice at pp 11-13; see also Macdonald 2001 at pp 321-322.

²⁰⁷ See T Farrow at pp 968-970.

²⁰⁸ Macdonald 1990 at pp 326-327.

responsibilities.²⁰⁹ Recognizing that legal problems are multifaceted and individuals have diverse needs, a user-centric system offers flexible and diverse pathways to resolution.²¹⁰ This may include alternative dispute resolution mechanisms, community justice centres, and online platforms that provide tailored information and support.²¹¹ A key goal of a user-centric system is to empower individuals to take control of their legal situations by providing them with the information, tools, and support they need.²¹² This includes simplifying legal processes and procedures, offering clear explanations of legal concepts, and providing access to legal information and resources in plain language.²¹³ Addressing the interconnectedness of legal problems with other social, economic, and health issues requires holistic and systemic solutions.²¹⁴ This involves collaboration between different sectors and service providers to address the underlying causes of legal problems and provide comprehensive support to individuals.²¹⁵ A user-centric justice system is not static but continuously adapts and innovates to meet the evolving needs of its users.²¹⁶ This requires ongoing user research and feedback to ensure that the system is responsive, accessible, and effective for all individuals.²¹⁷

Technology can play a transformative role in facilitating a user-centric approach to justice.²¹⁸ However, it is crucial to ensure that technology serves the goals of a redesigned, user-centric legal system, rather than simply being layered onto existing processes.²¹⁹ The “technology follows justice” principle emphasizes that technology should complement and enhance legal reforms, not drive them. Digital tools should be developed alongside and integrated into law reform to ensure that they are fair, secure, effective, and proportionate to the public’s needs. Aubert et al. note that, when deployed appropriately, technology like videoconferencing and case management systems can improve access to justice by improving institutional measures of success while directly addressing barriers for users.²²⁰ By embracing a user-centric approach and leveraging technology thoughtfully, the justice system can become more accessible, equitable,

²⁰⁹ See *Reaching Equal Justice* at pp 65-69.

²¹⁰ See *Responding Early* at p 14-16; see also *Diverse Pathways* at p 37.

²¹¹ See C Camion, “Three Trade-Offs to Efficient Dispute Resolution” in K Benyekhlef et al., eds, *eAccess to Justice* (2016) University of Ottawa Press at pp 317-322; see also A Schmitz at pp 2389-2392.

²¹² See *Reaching Equal Justice* at pp 7-9, 65-69, 90-91.

²¹³ See A Walkem, *Expanding Our Vision: Cultural Equality & Indigenous Peoples’ Human Rights* (2020) British Columbia Human Rights Tribunal at p 39, online: <https://www.bchrt.bc.ca/app/uploads/sites/876/2023/03/expanding-our-vision.pdf>; see also C Camion at pp 331-333, 335.

²¹⁴ See *Responding Early* at p i; see also T Farrow at pp 968-970.

²¹⁵ See *Diverse Pathways* at pp 29-31, 37.

²¹⁶ See for example *Roadmap for Change* at p v.

²¹⁷ See for example *Equal Justice* at pp 11-12, 65-66.

²¹⁸ See R Susskind at pp 279-281.

²¹⁹ See J Bailey, “Fundamental Values in a Technologized Age of Efficiency” in K Benyekhlef et al. at pp 25-28; see also S Chiodo at pp 812-825.

²²⁰ See H Aqallal et al. at pp 722-723, 725.

and responsive to the needs of all individuals.²²¹ This paradigm shift requires a fundamental re-evaluation of the goals, processes, and values that underpin the justice system, with a focus on empowering individuals and promoting a more just and inclusive society.²²²

3.3.2 – Empirical Support for a Paradigm Shift

To supplement the theoretical and abstract perspectives supporting this paradigm shift, the legal needs surveys that were previously analyzed in Chapters 2 and 3 consistently reveal a significant proportion of the population experiences one or more justice-related problems. These surveys go beyond simply quantifying the incidence of legal issues; they delve into the lived experiences of individuals, exploring the pathways they take to address these problems, the obstacles they encounter, and the impacts on their lives and communities. These surveys often highlight a disconnect between the formal resolution of a case and an individual's subjective experience of justice. As Currie notes, civil laws regulate many aspects of daily life, and problems can arise in family relations, consumer transactions, housing, and debt.²²³ However, the legal system's response is not always aligned with the needs of the individuals experiencing these problems. Currie's survey demonstrates that the greater the number of justiciable problems experienced, the less likely respondents are to perceive the laws and justice system as fair.²²⁴ About 72% of people who experienced no problems expressed a favourable view about the fairness of the laws and the justice system, but this percentage declines steadily as the number of reported problems increases, with only 40% of respondents with seven or more problems feeling that the laws and the justice system are essentially fair.²²⁵

Despite incremental efforts to modernize the institution-centric model, these efforts still fall short of addressing the increasing number of SRLs in family and civil courts, which is a stark indicator of the access to justice problem.²²⁶ This phenomenon underscores the failure of the traditional system to meet the needs of a significant portion of the population. As Macfarlane notes, policy is being made based on very little empirical information from SRLs about their needs and challenges in navigating court processes.²²⁷ While many SRLs appreciated the assistance they received from duty counsel or other pro bono legal services, the study also found dissatisfaction with the summary legal advice model.²²⁸

²²¹ See N Afilalo et al. 2024 at pp 270-273; see also J Bailey at pp 25-28.

²²² See T Farrow at pp 968-970.

²²³ See A Currie 2007 at pp 1-4.

²²⁴ See A Currie 2007 at pp 70-73, 83-85.

²²⁵ See A Currie 2007 at p 84.

²²⁶ See for example J Macfarlane at p 15; see also A Currie 2007 at p 1.

²²⁷ See J Macfarlane at p 15.

²²⁸ See J Macfarlane at pp 121-122.

The empirical data from legal needs surveys provides compelling support for a paradigm shift in justice system design. By moving away from an institution-centric model and embracing a user-centric approach, we can create a justice system that is more accessible, equitable, and responsive to the needs of all individuals. There is strong conceptual support for the paradigm shift towards MJD, and the empirical data suggests MJD has the right ingredients for the recipe. A fundamental re-evaluation of the goals, processes, and values underpinning the justice system requires both theory and practice to harmonize efforts around a base understanding of what it is they seek to accomplish.

3.4 – From Theory to Practice

In summary, this chapter has established Meaningful Justice Design as a necessary paradigm shift for contemporary justice systems increasingly struggling to meet user needs. By defining meaningful justice through a user-centric lens, outlining its five core tenets – Justice is the Goal, Injustice is the Metric, User-Centricity, One-Size-Fits-Some Resolution Pathways, and Transformative Integration of Technology – and situating these within a dynamic Project Lifecycle, MJD offers a robust theoretical framework for process redesign. The examination of the shortcomings of current institution-centric models, supported by both theoretical arguments and recent empirical evidence, underscores the urgent need for this fundamentally different approach. MJD moves beyond superficial fixes, advocating for a system designed not merely for efficiency or legal formality, but for the tangible restoration of balance and the alleviation of injustice in the lives of those it serves.

Having articulated the conceptual foundations and justification for MJD, the inquiry now pivots from theory to practice. While Chapter 3 established the *what* and *why* of MJD, the subsequent chapter delves into the *how*, exploring the application of this framework within the Canadian context. Chapter 4 will bridge theory and practice by analyzing two distinct Canadian justice innovation projects – the New Brunswick Access to Justice Summit and the Federal Court’s Simplified Judicial Review Pilot Project – through the dual lens of the MJD tenets and the Project Lifecycle phases. Employing a unique methodological approach integrating my own perspective as an insider, the chapter aims to provide grounded insights into the practical challenges and successes encountered when implementing MJD principles during the Ideation, Design, and Experimentation stages, thereby setting the stage for understanding the real-world complexities of user-centric justice reform.

Chapter 4: Bridging Theory and Practice – An Insider’s Account of Meaningful Justice Design in Canada

4.1 Introduction & Roadmap

As established in previous chapters, MJD offers a normative framework for redesigning justice systems around the needs and experiences of their users, grounded in five core tenets. Understanding the practical implementation of MJD, however, also benefits from considering the Project Lifecycle – encompassing Ideation, Design, Experimentation, and Iteration – which provides a lens to analyze the dynamic process of justice innovation, as discussed previously. This chapter turns to the Canadian context to explore how both the MJD tenets and the phases of the Project Lifecycle manifest in real-world initiatives.

The central aim of this chapter is to analyze two distinct Canadian justice projects through this dual framework of MJD tenets and the Project Lifecycle: the New Brunswick Access to Justice Summit (NB A2J Summit) and the Federal Court of Canada’s Simplified Judicial Review Pilot Project (Federal Court Pilot). The analysis will examine how each initiative engaged with MJD principles while navigating specific phases of the Project Lifecycle. The NB A2J Summit will be primarily analyzed as an example of the Ideation phase culminating and transitioning into the Design phase. In contrast, the Federal Court Pilot serves as a case study of a project moving from the late Design phase into Experimentation.

The chapter is structured as follows: Section 4.2 explores the autoethnographic methodology employed for these two case studies. Section 4.3 examines the NB A2J Summit case study, focusing on its Ideation phase activities and the shift towards Design, viewed through the MJD lens. Section 4.4 analyzes the Federal Court Pilot, detailing its transition from Design to Experimentation and the practical application of MJD tenets during the pilot’s operation. Section 4.5 offers comparative insights, drawing lessons from the different lifecycle stages and MJD applications observed in the two case studies. Finally, Section 4.6 concludes by summarizing the key findings and reflecting on the value of the combined MJD tenets and Project Lifecycle framework for understanding Canadian justice reform efforts. I also want to acknowledge at this point that, as these two case studies are very recent in Canada and neither have reached maturity in the Iteration phase, their approach to technology was limited. The use of technology as both a force multiplier and resource extender remains a critical tenet of MJD, but given the early nature of both case studies, I will address this gap through a jurisdictional scan for international examples of uses of technology in legal process design. To that end, Chapter 5 will focus specifically on the transformative integration of technology by analyzing efforts to do so in the justice systems of Singapore, Australia, and the United States.

4.2 Autoethnographic Methodology

As previously mentioned throughout this thesis, the case studies explored in this chapter are projects I helped orchestrate in my professional capacity before I began my Master of Laws program. This constitutes what is referred to as an autoethnographic study, which is a qualitative research method and methodology that leverages the researcher's personal experience as primary data to describe, analyze, and comprehend cultural phenomena within a social context.²²⁹ It is a self-narrative that intricately places the "self" within a broader social milieu, allowing for deep reflection on personal struggles while simultaneously exploring cultural practices and beliefs.²³⁰ Originating from the "crisis of representation" in the 1980s, autoethnography emerged from a radical rethinking of research, challenging positivist notions of truth and validity by positing that personal narrative can yield complex and meaningful insights, helping individuals make sense of themselves and each other.²³¹ It is inherently a "hyper-reflexive process," a constant interplay between internal experience and external observation.²³²

This study, while employing a mixed-methods approach that integrates literature review, meta-analysis of empirical data, and case studies, distinctly features an autoethnographic account of my direct involvement in the design and implementation of the two primary case studies: the NB A2J Summit and the Federal Court Pilot. This means that, in part, this thesis is an autoethnographic account of my efforts to apply MJD principles in complex institutional settings. Unlike some evocative autoethnographies that might focus purely on creative storytelling, or purely analytic ones that strictly separate experience from analysis, my approach aligns with what some scholars describe as "braiding" interpretative, personal texts with systematic analysis.²³³ I aim to demonstrate how my firsthand, "insider" perspective as a co-organizer in these initiatives provides unique, granular insights that would be inaccessible to an external observer. This blend allows me to critically reflect on the pragmatic challenges and decisions involved, maintaining a robust and rigorous approach to the research.²³⁴

²²⁹ See E Campbell, "Exploring Autoethnography as a Method and Methodology in Legal Education Research" (2016) 3:1 *Asian Journal of Legal Education* 95 at p 96; see also E Gregersen, "Telling stories about the law school: autoethnography and legal education" (2022) 56:2 *The Law Teacher* 241 at pp 241-243 [E Gregersen Article]; see also E Gregerson, *The lived experience of a university law clinic supervisor: an autoethnographic inquiry* (Doctorate, Northumbria Law School, 2019) (ProQuest Dissertations & Theses Global) at pp 2-4. [E Gregerson Dissertation]

²³⁰ See E Campbell at p 96; see also E Gregersen Article at pp 241-243.

²³¹ See E Campbell at p 96; see also E Gregersen Article at pp 243-244; see also E Gregersen, "The Emotional Impact of Law Clinic Supervision" in M Atkinson & B Livings, eds, *Contemporary Challenges in Clinical Legal Education: Role, Function and Future Directions* (Routledge, 2024) at pp 105-106. [E Gregersen Chapter]

²³² See E Campbell at pp 96-97; see also N Duncan, "Forward" in M Atkinson & B Livings, eds, *Contemporary Challenges in Clinical Legal Education: Role, Function and Future Directions* (Routledge, 2024) at p viii.

²³³ E Gregersen Article at p 247.

²³⁴ See E Gregersen Dissertation at pp 2-4.

My decision to integrate autoethnography into this thesis stems from its inherent strengths in illuminating the nuances of lived experience within complex professional and cultural contexts. This methodology was preferred for several key reasons, directly relevant to my case studies:

1. **Accessing Insider Insights and Nuance:** As an individual who served in instrumental roles in the design and implementation of both the NB A2J Summit and the Federal Court Pilot, I possess a unique "insider" perspective. Autoethnography provided the ideal framework to harness these firsthand experiences and observations, which are crucial for a nuanced analysis of decision-making processes, stakeholder dynamics, and practical challenges within the justice system. This level of contextual detail and "thick description" is often absent in more traditional research approaches.²³⁵
2. **Capturing the Human Element in Legal Practice:** Autoethnography's focus on personal experience, emotions, and interactions aligns perfectly with the goal of understanding how user-centric justice processes can truly enhance meaningful access to justice.²³⁶ It moves beyond mere data collection to explore the "humanity" of experiences, making research "richer and more meaningful".²³⁷ For example, a previous research effort (though not explicitly an autoethnography) used autoethnographic elements in blog posts to connect with students on issues like law student well-being and the struggles of entering legal practice, demonstrating the power of personal connection and empathy in fostering understanding.²³⁸ My direct involvement allows me to offer insights into the realities of process design, illustrating the "meaning of struggles" for those navigating systemic barriers.²³⁹
3. **Challenging Traditional Research Norms in Legal Education:** Legal education, and by extension, research into justice systems, has traditionally lagged in embracing contemporary qualitative methods like autoethnography.²⁴⁰ My work directly addresses this gap, affirming that personal narratives, when approached with methodological diligence, can enhance the quality of legal education research and contribute significantly to the field.²⁴¹ It allows for "charged moments of clarity, connection, and change" that a purely objective analysis might miss.²⁴² By bringing my personal voice to

²³⁵ E Gregersen Chapter at p 105.

²³⁶ See E Campbell at p 96; see also E Gregersen Article at pp 243-244

²³⁷ E Campbell at p 96.

²³⁸ See B Yau, "Reshaping the teaching-research nexus: connecting with students through research blogging (with an autoethnographic perspective) before they become lawyers" (2020) 54:2 The Law Teacher 261 at pp 263, 270, 280-281.

²³⁹ B Yau at p 263.

²⁴⁰ See E Gregersen Dissertation at pp 2-4; see also E Campbell at pp 96-99; see also E Gregersen Chapter at p 107.

²⁴¹ See E Gregersen Dissertation at pp 2-4; see also E Gregersen Article at pp 251, 255-256.

²⁴² See E Gregersen Article at p 251.

the forefront, I aim to foster a deeper understanding of socio-cultural practices and experiences within legal reform.²⁴³

A pivotal aspect of my methodology is the ethical consideration surrounding my "insider" perspective, particularly regarding the need for a formal research ethics review for this Master's thesis. York University's Office of Research Ethics formally deemed such a review unnecessary for this specific project. This determination was based on the public availability of the sources relied upon in discussing and analyzing these case studies, I collected no new data from human participants over the course of my studies, and the original research project led by Archie Zariski and published in 2023 that contributed to the NB A2J Summit did receive formal research ethics approval from Athabasca University.²⁴⁴

The integration of an "insider" autoethnographic perspective inherently introduces complexities related to bias and ethics. However, these concerns have been actively addressed both during my original involvement in the case studies and in the development of this Master's thesis. First, as previously mentioned, the original research project I participated in that contributed to the NB A2J Summit received research ethics approval from Athabasca University. Second, in my various roles, information gathered and disseminated regarding the case studies was intended for public understanding and was shared by the respective bodies. This transparency in sharing information externally minimized the risk of misrepresenting private interactions or confidential details. Consent to use this information for my thesis was obtained from the CIAJ and the Chief Justices of New Brunswick and the Federal Court. Finally, I have explicitly acknowledged that my direct involvement in the case studies, while providing unique insights, carries an inherent risk of bias and inevitably shapes the narrative. I recognize that the projects chosen are ones with which I have personal experience, and my analysis is filtered through my own advocacy for their success. This forthright declaration is itself a crucial step in ethical autoethnographic practice, as it demands transparency about the researcher's positionality and subjective lens.²⁴⁵

As articulated in autoethnographic theory, the purpose of self-narrative is often "to extract meaning from experience rather than to depict the experience exactly as it was lived".²⁴⁶ My thesis focuses on the insights gained from my experiences in applying MJD principles, rather than providing an exact, uninterpreted chronicle of events. This interpretive approach allows for analytical depth while accepting the subjective nature of memory and narrative construction.²⁴⁷ My analysis is rigorously confined to publicly accessible information and reports. Any references to stakeholder feedback or interviews refer only to information that was *already* publicly

²⁴³ See E Campbell at pp 97, 105.

²⁴⁴ See N Afilalo et al. 2024 at p 274.

²⁴⁵ See E Campbell at p 100; see also E Gregersen Article at pp 249-250.

²⁴⁶ See E Campbell at p 100.

²⁴⁷ See E Gregersen Article at pp 249-250; see also E Campbell at p 100.

available by the original project bodies. This ensures that I am not exposing private communications but rather reflecting on publicly available facts through an autoethnographic lens.

By integrating this autoethnographic approach, through the methodology employed in this chapter, I aim to offer a deeply contextualized and human-centred understanding of justice process design, while remaining transparent about my positionality and adhering to rigorous ethical standards in the presentation of my work.

4.3 Case Study 1: New Brunswick Access to Justice Summit (Ideation → Design)

4.3.1 Overview – The Ideation Summit and Transition to Design

The New Brunswick Access to Justice Summit, held in August 2023 at the University of New Brunswick Faculty of Law, emerged from a recognized need within the province’s justice community to address significant and persistent access to justice challenges.²⁴⁸ This project came about as a result of a broader research project I had embarked on with the Canadian Institute for the Administration of Justice (CIAJ) while I was Chair of their National Student Committee, collaborating with their Director of Legal Research, Nathan Afilalo, on analyzing the impact of technology on access to justice following the rapid digitization flowing from the COVID-19 Pandemic. As our work was underway and discussions began on how to make use of our findings, the CIAJ’s Executive Director, Christine O’Doherty, had a conversation with Chief Justice Marc Richard of the New Brunswick Court of Appeal on the subject. Chief Justice Richard noted that the link between digitization and access to justice was a particular focus of his, and asked if we would be willing to organize what eventually became the NB A2J Summit.

As a co-organizer of this event, I witnessed firsthand the pressing context: New Brunswick, as Canada’s only officially bilingual province and one of its most rural, faces distinct barriers related to geography, language, culture, technology access, and socioeconomic factors.²⁴⁹ There was a shared sense among stakeholders gathering at the Summit – including members of the judiciary, the bar, public legal service providers, community organizations, and academics – that the existing justice system, particularly in family law, was operating at its limits and often failing the people it was meant to serve.²⁵⁰ The prohibitive costs, complexity, and adversarial nature of

²⁴⁸ See N Afilalo et al. 2023 at p 9.

²⁴⁹ See N Afilalo et al. 2023 at pp 2-3, 10-11; see also D Escott, “Leading digital justice transformation: New Brunswick puts users at centre” *Law360 Canada* (7 April 2025), <https://www.law360.ca/ca/articles/2322051/leading-digital-justice-transformation-new-brunswick-puts-users-at-centre-daniel-j-escott->

²⁵⁰ See N Afilalo et al. 2023 at pp 8-9.

traditional processes were seen as undermining public confidence and disproportionately affecting vulnerable populations.²⁵¹

The Summit itself functioned as the critical Ideation phase of the Project Lifecycle for provincial access to justice reform.²⁵² Co-hosted by the CIAJ and the University of New Brunswick (UNB) Faculty of Law's Legal Innovation Laboratory,²⁵³ its primary objective was to bring diverse stakeholders together to collaboratively identify and articulate meaningful justice problems, brainstorm potential solutions, and explore the role digital transformation could play in creating a more user-centric system, focusing exclusively on New Brunswick's family justice system.²⁵⁴ As noted in the Summit's final report, this marked the first time such a diverse group of provincial justice stakeholders convened specifically to consult on user-centric design and the role of digital tools in this context.²⁵⁵ As this initiative stemmed from our broader research agenda at the CIAJ, my role involved stakeholder consultations and contributing to the event's logistics, as well as facilitating on-the-day activities. This aimed to create a space where these crucial ideation activities could occur effectively.

Over two days in August of 2023, participants engaged in plenary sessions and workshops designed to analyze the current system's shortcomings and envision a transformed future.²⁵⁶ Discussions highlighted the negative impacts of adversarial processes, particularly on children and families, and generated consensus around the need for fundamental change beyond mere procedural tweaks.²⁵⁷ The event explicitly aimed to ignite collaboration and advance user-centric reforms tailored to the needs of New Brunswickers.²⁵⁸ This was accomplished by hyper-focusing on intended outcomes from the discussions of each day; the first day of the Summit amounted to a venting opportunity for stakeholders, ranging from sitting judges to social workers, to exhaustively identify the meaningful justice problems in the current system and explore how they might interact or relate to one another.²⁵⁹ The second day then transitioned from problems to solutions, focusing on assessing various substantive, procedural, and technological solutions that respected the resource constraints of their jurisdiction while having the highest-possible impact on meaningful justice.²⁶⁰

²⁵¹ See N Afilalo et al. 2023 at pp 3, 14.

²⁵² This positioning within the Project Lifecycle is based on my involvement and interpretation of the Summit's function. The Summit report itself describes its role in initiating discussion and collaboration. See N Afilalo et al. 2023 at pp 7-9, 30.

²⁵³ See Escott; see also N Afilalo et al. 2023 at p 1.

²⁵⁴ See N Afilalo et al. 2023 at pp 7, 9, 12.

²⁵⁵ See N Afilalo et al. 2023 at p 7.

²⁵⁶ See N Afilalo et al. 2023 at pp 33-35 (Appendix A: Summit Program).

²⁵⁷ See N Afilalo et al. 2023 at pp 14, 20-21.

²⁵⁸ See N Afilalo et al. 2023 at p 7.

²⁵⁹ See N Afilalo et al. 2023 at pp 33-35 (Appendix A: Summit Program).

²⁶⁰ See N Afilalo et al. 2023 at pp 33-35 (Appendix A: Summit Program).

The Summit concluded the intensive Ideation phase by generating a rich set of concepts and identifying seven broad areas requiring change (“7 Changes”):

1. **Change in Design:** Participants supported a shift to user-centric design, prioritizing the needs of individuals using legal services and fundamentally altering how the justice system conceptualizes and processes issues with legal components. This requires new, innovative ways to handle problems rather than relying on quick fixes or partial solutions, moving away from the current adversarial model towards collaborative conflict resolution.²⁶¹
2. **Change Driven by the Community:** Meaningful change must be initiated, championed, and realized by actors within New Brunswick, emphasizing community-led initiatives. Collaboration among stakeholders across institutions and learning from successful initiatives in other provinces are crucial to create a system responsive to the province's needs.²⁶²
3. **Change in Funding Priorities:** There is a need to increase funding and capacity for public legal services, including legal education, legal aid, legal clinics, and social services, as well as the courts. This enhanced financial support is specifically aimed at capacity building and facilitating necessary technological and other reforms to address issues like recruitment difficulties and the limited scope of current services.²⁶³
4. **Change in the Family Justice System:** Participants endorsed a non-adversarial, multidisciplinary, and evidence-based approach to resolving family law-related issues, moving away from the current adversarial system that can harm children and families. This involves incorporating early and preventative services, ensuring "every child wins," and measuring outcomes to ensure the well-being of parties is valued.²⁶⁴
5. **Technological Change:** The justice system requires modernization and e-justice reform, including embracing digital tools, using technology to measure process outcomes, and strategically applying artificial intelligence while reforming the Rules of Court. Priorities include updating the Rules of Court for innovative processes, implementing a bilingual electronic filing and case management system, and ensuring resources are committed to user-friendly design and bridging the digital literacy gap.²⁶⁵
6. **Change for a Rural Population (geographical accountability):** Reforms must address the challenges posed by New Brunswick's geography and heavily rural population, such as access difficulties and insufficient rural infrastructure. Public infrastructure should be rethought to support community and justice needs, potentially repurposing

²⁶¹ See N Afilalo et al. 2023 at pp 13-16.

²⁶² See N Afilalo et al. 2023 at pp 16-18.

²⁶³ See N Afilalo et al. 2023 at pp 18-20.

²⁶⁴ See N Afilalo et al. 2023 at pp 20-23.

²⁶⁵ See N Afilalo et al. 2023 at pp 24-27.

underutilized spaces for travelling professionals and digital access points, acknowledging that access to justice in these areas is linked to access to other essential services.²⁶⁶

7. **Change that Fits an Officially Bilingual Province (language rights):** Language is critical to access to justice, and reforms must ensure that legal information, documents, and justice processes are accessible in both official languages and to print-disabled groups. The officially bilingual legal system needs to be factored into all discussions, with opportunities to review the functioning of bilingualism and use technology to enhance language access, while being cautious about the accuracy of digital translation tools for legal terminology.²⁶⁷

These outputs now serve as the foundational material for the subsequent Design phase. Notably, a key outcome spurred by the Summit's momentum was the commitment to revive the New Brunswick Access to Justice Committee, tasked with developing a strategic plan based on the Summit's findings. This committee is chaired by a senior member of the New Brunswick Court of Appeal, and includes representation from an inclusive cross-section of New Brunswick justice system stakeholders and participants.²⁶⁸ This transition was further solidified by subsequent government action, including a significant funding announcement in April 2025 for legal aid and digitally transforming their court system, directly reflecting the Summit's core recommendations.²⁶⁹ The provincial government has started with changes addressing funding and digitization, specifically addressing courts' insufficient technological infrastructure and the mounting concerns over funding and capacity for legal aid and legal clinics. This sequence demonstrates the intended progression within the Project Lifecycle, moving from collective Ideation towards the structured discussion and planning characteristic of the Design phase.

4.3.2 Relating to Meaningful Justice Design (Ideation → Design)

Analyzed through the lens of MJD, the New Brunswick Access to Justice Summit represented a significant, albeit initial, step towards embedding user-centric principles into provincial justice reform. Functioning primarily within the Ideation phase of the Project Lifecycle, the Summit's discussions and stated goals consistently reflected a desire to move beyond traditional, system-focused approaches towards solutions genuinely centred on the needs and experiences of New Brunswickers. Stakeholders felt a palpable energy and consensus around the need for foundational change, not just incremental adjustments.²⁷⁰ The emphasis was less on optimizing existing court procedures and more on fundamentally rethinking how justice services are

²⁶⁶ See N Afilalo et al. 2023 at pp 27-28.

²⁶⁷ See N Afilalo et al. 2023 at pp 28-29.

²⁶⁸ See N Afilalo et al. 2023 at p 9; see also Escott.

²⁶⁹ See Escott.

²⁷⁰ See N Afilalo et al. 2023 at pp 2-4, 9-10.

conceptualized and delivered, particularly within the challenging context of family law.²⁷¹ This broad commitment to transformation, driven by acknowledged shortcomings of the current adversarial model,²⁷² provided fertile ground for exploring MJD tenets, setting a clear direction for the subsequent Design phase.

The MJD principle of “Justice is the Goal” – redefining the objective as the holistic resolution of a user’s problem rather than mere legal disposition – strongly resonated throughout the Summit. Participants frequently critiqued the existing adversarial system, especially in family matters, for exacerbating conflict and causing harm, particularly to children.²⁷³ The articulation of guiding principles like “every child wins” and an emphasis on a “do no harm” approach directly challenge the win-lose paradigm inherent in traditional litigation.²⁷⁴ Stakeholders were grappling with the limitations of a system focused on legal rights adjudication when the underlying issues often involved complex social, emotional, and economic factors.²⁷⁵ This collective questioning during the Ideation phase was crucial in pushing towards a more holistic understanding of justice, aligning with MJD’s core aim, though the challenge of translating this into concrete designs remained for the next phase.

Similarly, while the Summit wasn’t equipped to formally measure outcomes, the focus of discussions often implicitly invoked “Injustice is the Metric”. The detailed accounts of user frustration, fear, stress, and loss of faith resulting from navigating the current system underscored the importance of the subjective user experience.²⁷⁶ Participants recognized that traditional metrics like case clearance rates fail to capture the human cost of inaccessible or adversarial processes. The resulting call, documented in the Summit report, to incorporate outcome measurement and user feedback into future reforms demonstrates an intuitive grasp of this MJD tenet.²⁷⁷ This commitment, born from the Ideation phase, establishes a critical requirement for the Design and Experimentation phases: success must ultimately be evaluated based on the system’s ability to diminish the user’s experience of injustice. The changes in design and in the family justice system strongly reflect a more holistic focus on resolving issues that litigants present with, regardless of whether they have a legal component, because the designers understand that those issues will eventually develop a legal component if it festers.

“User-Centricity” served as the explicit organizing principle for the Summit, evident in its theme, “Putting People at the Heart of the Justice System.”²⁷⁸ Beyond the title, the substance of the

²⁷¹ See N Afilalo et al. 2023 at pp 3, 14-15; see also Escott.

²⁷² See N Afilalo et al. 2023 at pp 14, 20-21.

²⁷³ See N Afilalo et al. 2023 at p 14.

²⁷⁴ See N Afilalo et al. 2023 at p 21.

²⁷⁵ See for example N Afilalo et al. 2023 at pp 18-23, 27-28.

²⁷⁶ See N Afilalo et al. 2023 at p 14.

²⁷⁷ See N Afilalo et al. 2023 at pp 23, 26.

²⁷⁸ See N Afilalo et al. 2023 at pp 1, 3, 7; see also Escott.

discussions consistently prioritized understanding and addressing user needs. This manifested in the focus on improving public legal education and information (Public Legal Education and Information Service of New Brunswick, or PLEIS-NB, was frequently cited as a positive model),²⁷⁹ the calls for direct public engagement and consultation moving forward,²⁸⁰ and the specific attention paid to the unique barriers faced by New Brunswick’s rural and bilingual populations.²⁸¹ However, despite great strides made in engaging stakeholder groups to collaborate on problem-solving, both the attendees and the final report recognized the limitation that many Indigenous stakeholder groups were not present at this initial Summit,²⁸² highlighting an area that needs specific attention in the subsequent Design phase. Ensuring accessibility also extended to technology, with participants stressing that digital tools must be implemented alongside support for digital literacy and solutions for connectivity gaps to avoid creating new barriers.²⁸³

The Ideation phase heavily engaged with ‘One-Size-Fits-Some Resolution Pathways’. A major thrust of the Summit was brainstorming alternatives to the default adversarial court process. Ideas flowed regarding enhanced community-based services,²⁸⁴ mandatory mediation, triage systems to direct users to appropriate non-legal supports (social work, mental health),²⁸⁵ and the development of multidisciplinary teams to address the intertwined nature of family issues.²⁸⁶ This exploration of diverse, non-judicial pathways aligns directly with MJD’s rejection of a monolithic system. There was considerable enthusiasm for these alternative models, recognizing their potential to offer more proportionate and less damaging resolutions.²⁸⁷ The challenge identified, however, lies in the Design phase – structuring these diverse pathways into a coherent, navigable system for users.

Finally, discussions around “Transformative Integration of Technology” framed digital tools as essential *enablers* rather than primary drivers of change. The desire for province-wide e-filing and modernized court technology stemmed from the need to overcome practical barriers related to geography and language access, and to improve overall system efficiency.²⁸⁸ Technology was also envisioned as a means to support the alternative pathways being discussed, facilitate outcome measurement, and potentially offer new tools for communication

²⁷⁹ See N Afilalo et al. 2023 at p 17.

²⁸⁰ See N Afilalo et al. 2023 at p 17.

²⁸¹ See N Afilalo et al. 2023 at pp 3-4, 10, 27-29.

²⁸² See N Afilalo et al. 2023 at p 9.

²⁸³ See N Afilalo et al. 2023 at pp 26-27.

²⁸⁴ See N Afilalo et al. 2023 at p 21.

²⁸⁵ See N Afilalo et al. 2023 at pp 17, 22.

²⁸⁶ See N Afilalo et al. 2023 at pp 20, 22-23.

²⁸⁷ See for example N Afilalo et al. 2023 at pp 13-16, 18-27.

²⁸⁸ See N Afilalo et al. 2023 at pp 24-25.

or negotiation.²⁸⁹ One such example could be enhancing transparency throughout the dispute resolution process through an accessible, multilingual web portal with access to case management, file management, and resolution explorer functions. Crucially, however, participants maintained a perspective consistent with the MJD principle “technology follows justice,” emphasizing that technological adoption must be guided by user needs and core justice values, accompanied by necessary support and safeguards against digital exclusion.²⁹⁰ The Ideation phase, therefore, set the stage for a *purposeful* integration of technology during the Design phase, focused on supporting the broader user-centric goals.

However, a more critical analysis reveals areas where the Summit, as an initial Ideation phase project, necessarily fell short of a complete MJD framework. The most significant divergence relates to the core tenet of “User-Centricity” in practice. While the Summit’s theme was “Putting People at the Heart of the System,” the attendees were predominantly legal professionals and institutional stakeholders. As the final report acknowledges, there was a recognized limitation in the direct participation of user groups, most notably the absence of many Indigenous stakeholders. This reliance on indirect co-design, where professionals speak on behalf of users, risks filtering the raw, lived experience of injustice through an institutional or legal lens. Consequently, while the discussions implicitly invoked “Injustice is the Metric” by recounting user frustrations, the Summit was not equipped to formally measure this injustice. The problem definition was therefore based on the aggregated and interpreted experiences of system actors, not on direct, systematically gathered data from users themselves.

Furthermore, the Summit’s outputs, while aspirational, highlight the gap between ideation and a fully realized MJD-aligned system. The principle of “One-Size-Fits-Some Resolution Pathways” was enthusiastically embraced in concept, with participants brainstorming numerous alternatives to the adversarial model. Yet, the primary outcome was the “7 Changes,” a high-level strategic vision rather than a tangible design for an ecosystem of interconnected and navigable pathways. Similarly, the engagement with “Transformative Integration of Technology” remained prospective. The Summit affirmed the need for technological reform, but the difficult work of designing, testing, and integrating specific user-centric tools was deferred to the subsequent Design phase. These points are not so much failures of the Summit as they are acknowledgements of its early position in the Project Lifecycle; they underscore the substantial design and implementation challenges that remained in translating an MJD-aligned vision into an operational reality.

²⁸⁹ See N Afilalo et al. 2023 at pp 26, 29.

²⁹⁰ See N Afilalo et al. 2023 at pp 26-27; see also Escott; see also New Brunswick, Office of the Minister of Justice and Public Safety, *Investments to improve access to justice* (3 April 2025), https://www2.gnb.ca/content/gnb/en/news/news_release.2025.04.0123.html.

Overall, the NB A2J Summit effectively leveraged the Ideation phase to build consensus around a vision for justice reform deeply rooted in MJD principles. By fostering open discussion on the limitations of the current system and encouraging creative thinking about user-centric alternatives, the Summit generated significant momentum and a clear mandate for the subsequent Design phase by unifying stakeholders behind their shared experiences of the Summit and the resulting report, now being carried forward by the revived New Brunswick Access to Justice Committee.²⁹¹ The recent funding announcements from New Brunswick indicate their provincial government has also taken their first steps towards putting this mandate into practice, focusing on digital transformation and funding legal aid.

4.4 Case Study 2: Federal Court’s Simplified Judicial Review Pilot Project (Design → Experimentation)

4.4.1 Overview – Designing and Launching the Pilot

The Federal Court’s Simplified Judicial Review Pilot Project emerged as a practical response to significant access to justice pressures within the Canadian immigration system. Specifically, the Court faced a dramatic increase in its immigration caseload, more than doubling between 2019 and 2023, leading to delays and raising concerns about timely access for applicants seeking review of decisions.²⁹² The impetus of the project was an acknowledged need for a more streamlined process for high-volume low-complexity types of applications, leading into the project’s Ideation phase, which began approximately two years prior to the pilot’s launch and was driven by the Court’s Online Dispute Resolution Working Group (ODRWG), comprising members of the Court and counsel from both the Department of Justice and the immigration bar.²⁹³ Initial concepts explored various avenues, including mandamus applications and dedicated online dispute resolution platforms, before coalescing around a simplified procedure specifically for non-complex study permit judicial reviews.²⁹⁴

My direct involvement commenced during the project’s Design phase, when the project’s lead, Justice Alan Diner, brought me onto the committee at the outset of my clerkship at the Federal Court to pick up much of the outstanding work on stakeholder consultations, legal mechanisms, and project designs. Working collaboratively alongside the other members of the Study Permit Working Group, the successor to the ODRWG, my role involved contributing to the refinement

²⁹¹ See N Afilalo et al. 2023 at p 9.

²⁹² See Justice Diner Online Presentation at slide 2.

²⁹³ See Federal Court, *Notice to the Parties and Profession – Study Permit Pilot Project* (26 September 2024). [Federal Court Notice]

²⁹⁴ These comments were made during the preamble to a presentation announcing the Pilot Project at a Canadian Bar Association conference in 2024. See A Diner, “Student Permit Pilot Project Background and Update” (Presentation delivered at the Canadian Bar Association’s Immigration Law Conference, 10 May 2024). [Justice Diner CBA Presentation]

and finalization of the pilot’s procedural design and supporting materials. This collaborative design process aimed to create a simplified, expedited procedure which is enabled through the Court’s discretionary powers to deviate from standard civil procedure under Rule 55 of the *Federal Courts Rules*.²⁹⁵

The core objective designed into the pilot was to improve access to justice by significantly reducing the time and cost associated with judicial reviews of straightforward study permit refusals.²⁹⁶ While this may at first glance appear to align with more institution-centric goals like case clearance, the practical reality of study permits was that an international applicant who had been offered admission to a program for which they sought a study permit was very unlikely to be able to sufficiently defer their admission long enough that a positive result on judicial review would actually facilitate their admission. The unfortunate consequence of this practical issue was that even if an applicant was successful on judicial review, oftentimes they were unable to pursue their education at the institution and in the program to which they initially applied. In this sense, the goal of meaningful justice required a focus on accelerating the time to resolution, ensuring applicants had a realistic chance of accepting an offer of admission if they received a positive outcome on judicial review.

The key features of the designed procedure included: focusing exclusively on “non-complex” applications where study permits were refused (and any associated temporary visas sharing the same record), requiring both parties to opt-in, and ensuring no complex factual/legal issues (like inadmissibility or national security) were present.²⁹⁷ Immediately aligning with “Justice is the Goal” and “One-Size-Fits-Some”, the design radically simplified the process by eliminating the traditional application record, respondent’s record, reply memorandum, affidavits, and oral hearings.²⁹⁸ Instead, adhering to the need for user-centricity parties would use a concise, four-page “Study Permit Simplified Submissions Form” to make their arguments, and reference a “Simplified Certified Tribunal Record” (SCTR) containing only the Immigration, Refugees and Citizenship Canada (IRCC) decision, reasons, and the original application package.²⁹⁹ A major design innovation was the simultaneous determination of leave to apply for judicial review and the merits of the application itself, based solely on the written submissions and the SCTR.³⁰⁰ Our estimate during the Design phase was that this was projected to reduce the overall timeline

²⁹⁵ See Federal Court Rules, SOR/98-106, at s 55.

²⁹⁶ See Justice Diner Online Presentation at slides 2-3.

²⁹⁷ See Justice Diner Online Presentation at slides 6-7; see also Federal Court Notice.

²⁹⁸ See Justice Diner Online Presentation at slide 12.

²⁹⁹ See Justice Diner Online Presentation at slides 6-7.

³⁰⁰ See Federal Court News Release; see also Justice Diner Online Presentation at slides 8, 12; see also Federal Court Notice.

from 14-18 months under the standard procedure to approximately 5 months under the pilot.³⁰¹

The launch of the pilot on September 30, 2024, marked the formal transition from the Design phase into Experimentation.³⁰² This phase was planned for a 180-day testing period, with a cap of 200 applications, explicitly intended to test the viability and effectiveness of the simplified procedure in a controlled, real-world setting.³⁰³ The design included mechanisms for parties or the Court to opt out and transfer the file to the general procedure if complexities arose, acknowledging the experimental nature of the initiative.³⁰⁴ This deliberate move into Experimentation was crucial to gather data (aligning with “Injustice is the Metric”) to assess the practical impacts of the design choices, gather data on efficiency and outcomes, and inform potential future project iteration or broader implementation.

Throughout the pilot project, 519 applications were received, comprising 70 law firms and 77 self-represented litigants, suggesting 442 applications were filed by those 70 law firms.³⁰⁵ Of these files, 141 applications (27%) were settled and 187 applications (36%) opted-out of the simplified procedure, though the reasoning for opt-outs is unknowable.³⁰⁶ Notably, for an application participating in the pilot project, the average amount of time between the court registry receiving an initial application and the applicant receiving a judgment was 114 days, which is much lower than the projected 5-month timeline.³⁰⁷ While the Federal Court did not have the data or capacity to calculate the average duration of a study permit file, they did report that the worst-case approximation for the duration of an application for leave and judicial review of a study permit application was 18 months, or approximately 548 days.³⁰⁸ We can infer from here that the pilot project resulted in an approximate reduction in time-to-resolution for non-complex study permit judicial review applications of approximately 434 days on average, representing a reduction in time-to-resolution of approximately 79.2% from the traditional procedure.³⁰⁹ Evidently, adhering to the MJD methodology to offer a secondary, user-centric

³⁰¹ See Federal Court, *Frequently Asked Questions – Study Permit Pilot Project* (September 2024) at p 1 [Federal Court FAQ]; see also Justice Diner Online Presentation at slides 4, 12; see also Federal Court News Release; see also Federal Court Notice.

³⁰² See Federal Court Notice.

³⁰³ See Justice Diner CBA Presentation at slide 12.

³⁰⁴ See Justice Diner Online Presentation at slide 11; see also Federal Court FAQ at pp 2, 4.

³⁰⁵ The statistics herein contained were received as a result of a request to the Federal Court’s Media Inquiries Office, and have not been made public. I have received explicit permission from the Federal Court to include these statistics here. See C MacKinnon, *FC Study Permit Pilot Project Statistics* (Federal Court, 15 April 2025).

³⁰⁶ See MacKinnon.

³⁰⁷ See MacKinnon.

³⁰⁸ See Federal Court News Release.

³⁰⁹ Based on my own calculations, converting 18 months to ~548 days and subtracting the pilot’s average of 114 days.

resolution pathway that helps users achieve a more substantial sense of justice produced the intended results.

4.4.2 Relating to Meaningful Justice Design (Design → Experimentation)

Viewed through the combined lens of MJD principles and the Project Lifecycle, the Federal Court’s Simplified Judicial Review Pilot Project stands out as a highly focused and pragmatically successful exercise in moving from Design to Experimentation. Its primary aim, conceived during the Design phase involving extensive collaboration between the Court, government departments, and the bar, was to directly combat crippling delays and reduce costs in the high-volume area of study permit judicial reviews.³¹⁰ My participation in finalizing this design allowed me to see the deliberate choices made to prioritize efficiency and speed for a specific category of cases. The subsequent Experimentation phase, documented by the pilot’s statistics, largely validated this approach, demonstrating significant quantitative gains in processing times and handling a substantial volume of applications.³¹¹ While clearly beneficial in streamlining court processes, the pilot’s MJD alignment is most apparent in its targeted efficiency gains and creation of an alternative pathway, though questions remain regarding broader user experience metrics.

The pilot strongly advanced aspects of “Justice is the Goal” by tackling the procedural inefficiencies that impede timely resolution. Achieving an average judgment time of 114 days, compared to potentially 18 months (~548 days) historically, represents a profound improvement in efficiency for non-complex study permit reviews.³¹² This ~79% reduction in time directly addresses a major source of stress and uncertainty for applicants, aligning with the MJD goal of providing the “quickest, least resource-intensive” resolution possible *within the given procedural context*.³¹³ From my perspective during the Design phase, while we understood that we were not solving the root causes of permit refusals (as the actual immigration process is not within the Federal Court’s jurisdiction to administer), optimizing the review process itself was seen as a crucial and achievable justice goal within the Court’s purview.

Evaluating the pilot using “Injustice is the Metric” provides a more nuanced picture. The dramatic time savings achieved during Experimentation undoubtedly reduced a key element of process-related injustice – the hardship caused by excessive delay. Lowering costs by eliminating hearings and simplifying records also addressed financial barriers that contribute to feelings of unfairness.³¹⁴ However, the pilot’s formal success metrics were primarily operational (timelines,

³¹⁰ See Justice Diner Online Presentation at slide 2.

³¹¹ See MacKinnon.

³¹² See MacKinnon; my calculation comparing to ~548 days.

³¹³ See Federal Court Notice; see also Justice Diner Online Presentation at slide 3.

³¹⁴ See Justice Diner Online Presentation at slide 5; see also Federal Court News Release.

volumes, disposition types),³¹⁵ lacking direct measures of the participants' subjective experience, perceived fairness, or satisfaction with the written-only process. The high opt-out rate (36%) is particularly telling;³¹⁶ while the opt-out mechanism itself is a user-centric feature, the rate suggests that, in nearly two-fifths of the applications that may have proceeded under the pilot initially, at least one of the parties found the simplified process unsuitable or undesirable for the facts of their case. It bears mentioning that there are no statistics for how the opt-out rate changes for SRLs compared to represented parties. Understanding the reasons behind these opt-outs through qualitative feedback would be essential for future iteration to ensure the pursuit of efficiency doesn't inadvertently create other forms of procedural injustice for a substantial group, a complexity we grappled with conceptually during Design but which the Experimentation data brings into sharp focus.

Several features of the pilot reflect "User-Centricity". The simplified four-page Submissions Form was designed to be less burdensome than traditional court filings,³¹⁷ and the expedited timeline was intended to provide quicker certainty for applicants, particularly students facing academic deadlines.³¹⁸ The availability of a "Frequently Asked Questions" (FAQ) document also aimed to improve user understanding.³¹⁹ The statistics indicating that 77 SRLs participated suggest the design achieved some level of accessibility for those without legal representation.³²⁰ Nonetheless, the requirement for e-filing³²¹ and the fact that the vast majority of applications were filed by law firms³²² imply potential ongoing barriers for less adept users. The high concentration of files in major centres like Ottawa and Toronto³²³ also warrants consideration regarding geographic accessibility. This concentration anecdotally aligns with Federal Court filings broadly, but there are no statistics to compare study permit filings in these locations to other locations. Balancing the desire for maximum simplification against the need to maintain legal rigour and accommodate diverse user capacities within a formal court setting was a constant tension; the Experimentation results suggest this balance worked well for many but could potentially be improved, perhaps via tools like a procedural "Navigator" for SRLs to identify their situation and contextualize it based on what resolution pathways are available.

The pilot serves as a clear example of implementing 'One-Size-Fits-Some Resolution Pathways'. By creating a distinct, expedited track for non-complex study permit cases,³²⁴ the Court

³¹⁵ See Justice Diner CBA Presentation at slide 7; see also MacKinnon.

³¹⁶ See MacKinnon.

³¹⁷ See Justice Diner CBA Presentation at slide 6; see also Justice Diner Online Presentation at slide 8.

³¹⁸ See Justice Diner CBA Presentation at slide 4; see also Justice Diner Online Presentation at slide 5.

³¹⁹ See generally Federal Court FAQ.

³²⁰ See MacKinnon.

³²¹ See Federal Court FAQ at p 2.

³²² See MacKinnon.

³²³ See MacKinnon.

³²⁴ See Federal Court Notice.

acknowledged that the standard judicial review process is not necessary or proportionate for every situation. The significant uptake of 519 applications during the pilot period demonstrated a clear demand for this alternative.³²⁵ The opt-in requirement for both parties and the provision for opting out if complexities arise are critical design elements that ensure the pathway is used appropriately.³²⁶ The 36% opt-out rate strongly validates the “fits-some” nature of this specific pathway, confirming that flexibility and choice remain essential even within simplified processes.³²⁷ The 27% discontinuance rate might also indicate that the pilot’s structure indirectly facilitated another, more informal resolution pathway for some participants, but the Federal Court does not have statistics on relevant discontinuance rates to compare with.³²⁸ Reflecting on the Design, the careful definition of eligibility criteria was key to making this specific pathway viable, as limiting participation to a particular subset of high-volume low-complexity immigration that routinely reports common issues made crafting agreeable solutions possible; the Experimentation phase provided invaluable data on how well that definition worked in practice.

The “Transformative Integration of Technology” was instrumental to the pilot’s success. The Federal Court’s enforcement of mandatory e-filing through their existing web portal, IRCC’s use of an SCTR, and the streamlined Submissions Form created for this process amounted to a bespoke digital workflow that efficiently handled the high volume of cases.³²⁹ This technological infrastructure directly enabled the core procedural transformations: the elimination of oral hearings and the simultaneous determination of leave and the merits.³³⁰ These changes, facilitated by technology, led directly to the remarkable 114-day average processing time.³³¹ I characterize this project as a highly effective *digitization enabling significant procedural reform* within a narrow scope, being the ability to leverage digital tools and platforms to accommodate procedural changes that could have otherwise overburdened an already-strained court registry. Nevertheless, the pilot exemplifies the MJD principle of “technology follows justice” by strategically deploying digital tools to achieve clearly defined improvements in efficiency and access. The Experimentation phase confirmed the technical robustness and capacity of this approach.

Despite the pilot’s clear operational success and alignment with several MJD principles, a critical examination reveals divergences from the framework’s more holistic and transformative ideals, largely stemming from the inherent constraints of operating within a formal court structure. The

³²⁵ See MacKinnon.

³²⁶ See Justice Diner Online Presentation at slide 11; see also Federal Court Notice.

³²⁷ See MacKinnon.

³²⁸ See MacKinnon.

³²⁹ See Federal Court FAQ at pp 2-3; see also Justice Diner Online Presentation at slides 3-4, 9, 12.

³³⁰ See Federal Court Notice; see also Justice Diner Online Presentation at slide 4.

³³¹ See MacKinnon.

most pronounced divergence is from the "most holistic resolution" component of the "Justice is the Goal" tenet. As acknowledged during its design, the pilot was intentionally focused on optimizing a specific procedural pathway; it could not, by its nature, address the root causes of the study permit refusals themselves or the administrative processes of IRCC that led to the applicant's state of injustice. The pilot fixed the efficiency of the review, but not necessarily the user's underlying problem. This procedural focus is also reflected in how its success was evaluated. The project largely diverged from "Injustice is the Metric" by prioritizing operational data such as timelines, volumes, and dispositions over the direct measurement of the user's subjective experience, perceived fairness, or satisfaction with the outcome. The lack of qualitative data explaining the high 36% opt-out rate leaves a critical gap in understanding whether the simplified process was truly user-centric, as intended to serve.

The pilot's approach to "User-Centricity" and "Transformative Integration of Technology" also warrants a nuanced critique. While features like the simplified form were user-friendly, the mandatory e-filing requirement and the fact that the vast majority of applications were filed by law firms suggest potential accessibility barriers for SRLs with lower digital literacy or fewer resources. Furthermore, while technology was a crucial enabler, its application was primarily infrastructural rather than fully transformative. It leveraged existing e-filing systems to facilitate a more efficient, paperless process, but it did not introduce new, interactive technologies like guided pathways or integrated ODR platforms that could fundamentally redefine the user's engagement with the court. The pilot thus represents a highly effective digitization that enabled procedural reform, but it stopped short of the deeper, user-interactive transformation that MJD envisions. These divergences highlight the pragmatic compromises often necessary when applying MJD principles within the rigid confines and jurisdictional limits of a formal court.

In conclusion, the Experimentation phase of the Federal Court's Simplified Judicial Review Pilot Project validated the core premises of its Design. It successfully demonstrated that a carefully tailored, technology-enabled pathway could dramatically improve the efficiency of judicial review for a significant volume of non-complex cases, directly addressing MJD goals related to timeliness and creating alternative pathways. The statistical outcomes provide strong evidence for the pilot's operational success. However, fully assessing its alignment with MJD, particularly regarding user experience and perceived fairness, requires supplementing this quantitative data with qualitative insights, highlighting key areas for focus during any future Iteration phase.

4.5 Comparative Insights: Reinforcing MJD Through Diverse Applications

Juxtaposing the New Brunswick Access to Justice Summit and the Federal Court's Simplified Judicial Review Pilot Project provides a unique opportunity to observe MJD principles and the Project Lifecycle operating in markedly different contexts within the Canadian justice landscape. As an organizer involved with both initiatives, I gained valuable insights into how MJD's core

tenets adapt and manifest differently depending on the project’s goals, scope, institutional setting, and, crucially, its phase within the innovation lifecycle. While one project focused on broad, systemic Ideation and the other on targeted, procedural Experimentation, comparing them reinforces the fundamental value of MJD as a flexible yet principled methodology for guiding user-centric justice reform, regardless of scale or stage.

4.5.1 Contrasting Lifecycle Stages: The Dynamics of Ideation vs Experimentation

The New Brunswick Access to Justice Summit served as a quintessential example of the Ideation phase within the Project Lifecycle. Its core function was to convene a diverse group of provincial stakeholders – judiciary, bar, government, community organizations, academics – to collectively identify pressing access to justice problems, particularly in family law, and to brainstorm potential solutions.³³² The atmosphere was one of exploration and vision-setting, challenging existing paradigms like the adversarial system and generating broad consensus around the need for user-centric change, encapsulated in the “7 Changes” captured in our final report.³³³ This phase prioritized divergent thinking, opening up possibilities rather than narrowing them down, and focused on building the collaborative will necessary for future action.³³⁴

Conversely, by the time I became involved in the Federal Court Pilot, the project had already become rooted in the Design phase and needed an orchestrated, institutional push to transition into Experimentation. It involved the careful drafting, projecting, simulating, and redrafting of highly consequential civil procedures in a constant stakeholder feedback loop. After transitioning into Experimentation, the project team began testing a specific, specialized procedural intervention aimed at addressing known issues of delay and cost for non-complex study permit judicial reviews. The focus here was on convergent action: operationalizing the designed procedure, managing the pilot’s logistics within the court environment, and collecting primarily quantitative data to assess its viability and efficiency.³³⁵ Success in this phase was defined by measurable outcomes, such as the dramatic reduction in average processing time from potentially 18 months down to 114 days.³³⁶

Comparing these two phases highlights the dynamic nature of the Project Lifecycle and the different modes of engagement required. Ideation, as seen in the NB Summit, allows for broad, aspirational exploration aligned with MJD’s foundational tenets, particularly redefining “Justice is the Goal” and embracing “User-Centricity” at a systemic level. Design, exemplified by the

³³² See N Afilalo et al. 2023 at pp 7, 9.

³³³ See N Afilalo et al. 2023 at pp 3-4, 7-8, 14.

³³⁴ See N Afilalo et al. 2023 at pp 16, 30.

³³⁵ See Federal Court Notice; see also MacKinnon.

³³⁶ See MacKinnon.

Federal Court Pilot, demands translating those tenets into testable hypotheses and measurable outcomes, focusing on principles that support a multiplicity of pathways like “One-Size-Fits-Some Pathways” and “Transformative Integration of Technology” while keeping in mind the ability to evaluate key performance indicators in ways aligning with “Injustice is the Metric”. Once the Federal Court Pilot transitioned into Experimentation, it put these tenets into action and effected a change that produced clear value without overburdening the existing system and its resources. These phases are critical; effective Ideation provides the necessary vision and mandate for change, thoughtful Design creates an informed strategy to effect change, and rigorous Experimentation provides the empirical validation needed to refine and potentially scale solutions. MJD is the common thread, ensuring that both the broad vision and the specific experiment remain grounded in user needs.

From my perspective as an organizer, the contrast was stark. Facilitating the Summit involved managing diverse opinions, fostering collaboration, and synthesizing broad ideas into a coherent call for action – essentially nurturing the ‘what’ and ‘why’. Overseeing the final design and launch of the Pilot required meticulous attention to procedural detail, stakeholder coordination on logistics, and defining clear operational parameters – focusing on the ‘how’. Both demanded adherence to MJD principles, but the pressures differed: ensuring inclusive dialogue in Ideation versus ensuring operational feasibility and measurable results in Experimentation. This underscores the value of the Lifecycle framework in recognizing that different skills and priorities come to the fore at different stages of MJD implementation.

4.5.2 Defining Scope and Refining Goals: Systemic Vision vs Procedural Focus

The NB Summit tackled a broad, systemic challenge: the need to fundamentally reform the provincial family justice system towards a less adversarial, more holistic, and user-focused model.³³⁷ This wide scope enabled a deep engagement with MJD’s potential, allowing participants to critique the existing paradigm’s shortcomings and envision transformative solutions, such as integrating multidisciplinary services, consistent with the MJD principle of “Justice is the Goal” defined as holistic problem resolution.³³⁸ The resulting goals were ambitious and systemic, aiming for cultural and structural shifts.³³⁹

The Federal Court Pilot operated within a much narrower, procedurally focused scope: streamlining the judicial review process for non-complex study permit applications.³⁴⁰ Its primary goals centred on efficiency – drastically reducing the time and cost associated with this

³³⁷ See N Afilalo et al. 2023 at pp 3, 7, 20.

³³⁸ See N Afilalo et al. 2023 at pp 13-14, 21-22.

³³⁹ See N Afilalo et al. 2023 at pp 3-4, 7-8.

³⁴⁰ See Federal Court Notice.

specific legal procedure.³⁴¹ While less systemically ambitious, this targeted approach allowed for the design and testing of a concrete, manageable intervention that demonstrably improved a specific aspect of court performance, aligning with the efficiency component of “Justice is the Goal” and delivering tangible benefits by reducing user wait times.

This contrast highlights MJD’s scalability and the complementary roles of broad vision and focused action. Systemic Ideation (NB Summit) is necessary to set a meaningful, user-centric direction aligned with MJD’s full potential. However, realizing such visions often requires incremental steps and focused experiments (Federal Court Pilot) that apply MJD principles pragmatically to specific problems. The Pilot demonstrates that even targeted procedural reforms, when guided by user needs like timeliness, can embody MJD principles like “One-Size-Fits-Some Pathways” and generate valuable evidence. Such focused successes can, in turn, build momentum for tackling broader systemic changes envisioned during Ideation.

Reflecting on this, the Summit’s broad scope felt aspirational and essential for defining *what* a better system should look like according to MJD. The Pilot’s narrow scope felt practical and necessary for demonstrating *how* MJD principles could be implemented effectively within existing constraints. The ~80% reduction in processing time achieved by the Pilot³⁴² provided powerful evidence that MJD-informed procedural design could yield significant results, offering a concrete example that could inform the larger reform agenda emerging from the Summit. MJD, in this sense, serves both as an architect’s vision and an engineer’s toolkit.

4.5.3 Approaches to User-Centricity: Broad Consultation vs Targeted Design

The NB Summit embodied MJD’s “User-Centricity” tenet primarily through its *process* of consultation during Ideation. Its theme, “Putting People at the Heart of the System,”³⁴³ guided efforts to gather insights from diverse stakeholders about user experiences and barriers within the family justice system, paying particular attention to New Brunswick’s unique rural and bilingual contexts.³⁴⁴ While acknowledging limitations in direct user representation at the event itself,³⁴⁵ the Summit prioritized collective understanding of user needs as the starting point for reform, aligning with the MJD emphasis on designing *from* the user perspective.

The Federal Court Pilot, conversely, manifested “User-Centricity” largely through its specific *design features* aimed at improving the experience for applicants navigating the study permit JR process. The simplified Submissions Form, reduced steps, faster decisions, and FAQ document

³⁴¹ See Justice Diner Online Presentation at slides 2, 5; see also Federal Court Notice.

³⁴² Calculation based on 114 days vs ~548 days from MacKinnon and Federal Court FAQ.

³⁴³ See N Afilalo et al. 2023 at pp 1, 3-4, 17, 27-29.

³⁴⁴ See N Afilalo et al. 2023 at pp 17, 21.

³⁴⁵ See N Afilalo et al. 2023 at p 9.

were tangible elements designed to lessen user burden.³⁴⁶ The participation of 77 SRLs suggests these measures offered some practical accessibility.³⁴⁷ However, the design was optimized for a specific type of case and assumed a level of digital literacy,³⁴⁸ and the high opt-out rate (36%)³⁴⁹ signals that this targeted design wasn't universally preferred or perhaps fully accessible, even among the eligible group.

This comparison illuminates how “User-Centricity” requires different actions across the Project Lifecycle. The broad listening and empathy of Ideation (Summit) are crucial for comprehensively mapping user needs and systemic barriers. The focused design choices made during the Design phase and tested during Experimentation (Pilot) involve translating those needs into practical features, often requiring trade-offs and assumptions about the target user. Critically, the interaction between the MJD tenets of “Justice is the Goal” and “Injustice is the Metric” demands that these assumptions be validated through evidence and assessment to ensure alignment between performance and objective. The Pilot’s Experimentation phase highlighted the importance of gathering direct user feedback (“Injustice is the Metric”) alongside operational data to truly understand if a design is user-centric in practice, not just in theory.

4.5.4 Developing Pathways: Conceptualizing Alternatives vs Testing a Specific Route

Both initiatives engaged deeply with the MJD principle of ‘One-Size-Fits-Some Resolution Pathways’, but at different stages of development. The NB Summit served as a crucible for *conceptualizing* alternatives to the dominant court-based, adversarial model for family disputes. Ideas generated during this Ideation phase included enhanced community justice services, triage systems, mandatory mediation, multidisciplinary support teams, and simplified procedures,³⁵⁰ reflecting a commitment to building a diverse toolkit better suited to the varied needs of families.

The Federal Court Pilot represented the *implementation and testing* of one such specific, alternative pathway within the formal justice system – the expedited, written JR process.³⁵¹ The Experimentation phase provided concrete data on this pathway’s performance: significant uptake (519 applications) confirmed demand, while the high opt-out rate (36%) empirically validated its “fits-some” nature and the importance of the opt-out safety valve included in its

³⁴⁶ See Justice Diner Online Presentation at slide 8; see also Federal Court Notice; see generally Federal Court FAQ.

³⁴⁷ See MacKinnon.

³⁴⁸ See Federal Court FAQ at p 2.

³⁴⁹ See MacKinnon.

³⁵⁰ See N Afilalo et al. 2023 at pp 20, 22.

³⁵¹ See Federal Court Notice; see also Federal Court News Release.

design.³⁵² The substantial settlement rate (27%) also hinted at the pathway potentially facilitating other, less formal resolution outcomes.³⁵³

This highlights the essential progression required by MJD in pathway development. Ideation (Summit) is needed to break free from existing molds and envision genuinely different approaches. Design and Experimentation (Pilot) are then necessary to operationalize and evaluate the feasibility and effectiveness of specific alternative pathways. The Pilot demonstrates that creating even one viable alternative within a complex system requires significant design effort and empirical testing. MJD values having appropriate *options*, and this comparison shows the distinct work involved in generating those options versus validating them.

4.5.5 Leveraging Technology: Future Enabler vs Foundational Infrastructure

Consistent with MJD's tenet of "Transformative Integration of Technology", both projects viewed technology as a tool to serve user-centric goals, but its role differed based on their lifecycle phase. At the NB Summit (Ideation), technology was discussed primarily as a *potential future enabler*. Participants envisioned leveraging digital tools for province-wide e-filing, improving remote access for rural and bilingual communities, enabling better data collection and outcome measurement, and potentially supporting new ODR platforms or guided pathways to implement the "7 Changes."³⁵⁴ The focus was prospective: identifying justice goals and considering how technology *might* help achieve them in the future Design phase.

For the Pilot, existing technology was the *foundational infrastructure* that made the simplified procedure viable. Mandatory e-filing and the systems supporting the creation and exchange of the digital SCTR and electronic Submissions Form were prerequisites for the pilot's core design features – the elimination of paper and oral hearings.³⁵⁵ The remarkable efficiency gains achieved were a direct consequence of this technology-enabled process redesign, validated during Experimentation by the successful reduction of average processing times.³⁵⁶ The pilot exemplified the MJD principle "technology follows justice" by strategically deploying available digital tools to support a specific, redesigned process aimed at improving speed and access.

This comparison reinforces how technology integration fits within the Project Lifecycle. Ideation involves identifying user needs and justice goals first, then considering how technology might strategically support them. Design and Experimentation involve selecting, implementing, and testing specific technologies as integral parts of a redesigned process. The NB Summit focused

³⁵² See MacKinnon.

³⁵³ See MacKinnon.

³⁵⁴ See N Afilalo et al. 2023 at pp 24-26, 29.

³⁵⁵ See Federal Court Notice; see also Federal Court FAQ at p 2.

³⁵⁶ See MacKinnon.

on the former, aligning potential tech applications with user-centric visions. The Federal Court Pilot demonstrated the latter, showcasing how thoughtful integration of existing technologies could enable significant procedural innovation. Both are crucial for ensuring technology genuinely transforms justice delivery for the better, rather than merely automating flawed processes.

My dual involvement in these projects highlighted the evolutionary nature of MJD-based reforms. The Summit discussions treated technology as a powerful potential solution to problems like geographic barriers. The Pilot work involved the practicalities of ensuring the chosen technological workflow (e-filing, digital documents) was robust and clear enough to function effectively during the Experimentation phase. The Pilot's operational success confirmed that even without cutting-edge technology, the strategic use of basic digital tools can yield transformative results when embedded within a fundamentally redesigned, MJD-informed process.

4.6 Conclusion: MJD Principles and Practices in Canadian Justice Innovation

This chapter has endeavoured to bridge the MJD framework with its practical application in the Canadian justice landscape. Through the comparative analysis of two distinct initiatives – the broad-based NB A2J Summit operating in the Ideation phase, and the focused Federal Court Pilot moving from Design into Experimentation – we have seen MJD principles and the Project Lifecycle function as valuable tools for guiding and understanding justice innovation. The analysis demonstrated MJD's adaptability, providing a user-centric compass for both systemic reimagination and targeted procedural reform. My own experience as a co-organizer gave me the opportunity to design and test the framework's utility in navigating the complex interplay between aspirational goals, institutional realities, stakeholder collaboration, and the distinct demands of different innovation phases.

The case studies clearly illustrated the practical benefits of applying MJD tenets. The Summit showcased how grounding Ideation in principles like "User-Centricity" and a holistic "Justice is the Goal" can generate momentum for meaningful, community-supported change. The Federal Court Pilot provided empirical evidence that designing specific "One-Size-Fits-Some Pathways" with a focus on meaningful justice can yield significant improvements for users, directly addressing user frustration consistent with "Injustice is the Metric" (in terms of reducing delay and related consequences). Both examples also highlighted the importance of viewing technology strategically, as an enabler integrated to serve justice goals ("Transformative Integration of Technology"), rather than as a solution unto itself.

However, these Canadian case studies, primarily situated in the Ideation and early Experimentation phases of the Project Lifecycle, offer limited insight into the more complex challenges and nuances of technology integration during later-stage Experimentation and particularly during Iteration at scale. While the Federal Court Pilot successfully leveraged existing technology as foundational infrastructure for its redesigned process, neither case study involved the deployment, testing, and refinement of more sophisticated digital tools like advanced ODR platforms, AI-assisted decision support, or comprehensive online user guidance systems that are becoming increasingly prevalent internationally. The focus, appropriately for their lifecycle stage, remained largely on foundational process design, stakeholder alignment, and initial procedural testing.

Therefore, while this chapter has demonstrated MJD’s applicability in guiding the *initiation* and *initial testing* of justice reforms in Canada, a deeper examination of the “Transformative Integration of Technology” tenet requires looking further afield. Understanding how MJD principles navigate the complexities of advanced technology deployment, iterative refinement based on user feedback with digital tools, and the potential risks and rewards of large-scale digital justice initiatives necessitates analyzing international examples operating further along the Project Lifecycle.

Consequently, the vital exploration undertaken here serves as a crucial foundation, but also points directly towards the inquiry pursued in the next chapter. To fully grasp the potential and pitfalls of leveraging technology within an MJD framework – especially concerning sophisticated tools deployed during mature Experimentation and Iteration phases – the subsequent chapter will delve into international jurisdictions. By analyzing their experiences through the same MJD lens, we can gain deeper insights into how technology can be most effectively, ethically, and meaningfully integrated to achieve genuinely user-centric justice systems globally, building directly upon the foundational principles and practical lessons observed in these Canadian initiatives.

Chapter 5 – International Interactions of Meaningful Justice Design & Technology

Building upon the foundational principles established in the preceding chapters, this chapter shifts focus to the international landscape, examining how different jurisdictions are grappling with the integration of technology within their justice systems. Chapter 1 posed the core research question of how user-centric design methodologies can optimize technology integration to enhance meaningful access to justice while mitigating accessibility barriers. Chapter 2 reviewed the evolution of access to justice concepts and user-centric design

principles, while Chapter 3 provided an understanding of meaningful access to justice and outlined how to achieve it through Meaningful Justice Design. Chapter 4 then illustrated the value of MJD as a design methodology through two case studies: New Brunswick's *Access to Justice Summit* and the Federal Court's *Simplified Judicial Review Pilot Project*.

This chapter seeks to highlight MJD's value for technology in law by addressing the weakest point of the two case studies: a lack of focused effort on developing or operationalizing new technologies. Chapter 5 extends the use of MJD as a design methodology by employing it as an analytical lens for a comparative analysis of modern technology deployments in three diverse jurisdictions: Singapore, Australia, and the United States. The primary aim is to critically assess how each nation's approach to adopting and integrating justice technologies aligns with, or diverges from, the core tenets of MJD. By examining specific initiatives ranging from nationwide e-filing mandates and sophisticated ODR platforms to the cautious exploration of AI, this chapter seeks to understand the practical implications of different strategic choices regarding technology in the pursuit of justice.

The selection of Singapore, Australia, and the United States for this comparative analysis was a deliberate methodological choice, designed to provide a rich and varied assessment of technology integration through the MJD lens. These nations represent three distinct and instructive models of justice system digitization. Australia and the United States were chosen as common law comparators, yet they offer contrasting governance structures; Australia's digital transformation has largely been a transparent and concerted effort led by the courts, whereas the decentralized federalist structure of the United States has empowered individual courts with significant agency, yielding a diverse array of initiatives. Singapore was chosen for its renowned reputation as a global leader in digital government, exemplifying a highly centralized, "whole of government" approach to technological integration. A second, critical pragmatic consideration was the availability of reliable and extensive documentation from all three jurisdictions. Official reports, published digital strategies, and judicial commentary concerning their respective technological initiatives are sufficiently public, allowing for the robust, evidence-based analysis required to compare and contrast their efforts against the MJD tenets. Taken together, these three nations, with their divergent strategic approaches and well-documented progress, offer an ideal landscape for exploring the international interactions of technology and justice, and for demonstrating the practical applicability of the MJD framework.

The chapter proceeds as follows: Sections 5.1, 5.2, and 5.3 provide detailed overviews of the technological landscapes in Singapore, Australia, and the United States, respectively, followed by analyses relating their specific initiatives to the MJD framework. Section 5.4 then undertakes a direct comparative synthesis, critically evaluating the alignment and divergence of the three jurisdictions across the MJD tenets, exploring hypothetical scenarios where greater adherence

to MJD might have yielded more positive outcomes. Ultimately, this international comparative analysis demonstrates the practical applicability and diagnostic power of the MJD framework in diverse contexts, highlighting both successful strategies and persistent challenges in leveraging technology to achieve genuinely meaningful access to justice globally. The insights derived here will provide crucial, practical illustrations of the value MJD can bring not only as a forward-looking design methodology but also as a modern diagnostic framework.

5.1 – Singapore

5.1.1 – Overview

Singapore has established itself as a prominent jurisdiction in justice modernization, not simply by adopting digital tools, but through a long-term, strategic incorporation of technology that is fundamentally integrated into the design of its judicial processes. This systematic approach began decades ago, marked by the launch of the LawNet legal research portal in 1990 and culminating in the mandatory implementation of the Electronic Filing System (EFS) for all civil cases by 2000.³⁵⁷ This decisive step necessitated the legal profession’s engagement with digital workflows from an early stage. Singapore’s commitment wasn’t static; the initial web-based EFS evolved into the more sophisticated eLitigation (eLit) system in 2013, featuring interactive online forms designed with built-in compliance checks based on court rules and practice directions, thereby actively guiding users (primarily lawyers) and reducing errors during submission.³⁵⁸ Specialized systems complemented this foundational e-filing infrastructure for various court divisions, including the Integrated Criminal Case Filing & Management System (ICMS, 2013) and the Integrated Family Application Management System (iFAMS, 2017).³⁵⁹

A key driver of recent, more transformative initiatives was the “Courts of the Future” (COTF) taskforce, established in 2016 following extensive consultations.³⁶⁰ The COTF roadmap explicitly aimed to leverage technology to address various pressures and goals, including simplifying processes, making information readily available, reducing physical court appearances and waiting times, exploring AI and data analytics, improving user-friendliness, going paperless, making justice affordable, and enhancing Singapore’s international standing as a dispute resolution hub.³⁶¹ This strategic vision led to a portfolio of projects, later organized under the

³⁵⁷ See O Agarwal, W Tan & L Fernando, “CMS Expert Guide to Digital Litigation in Singapore” (11 May 2023) <https://cms.law/en/int/expert-guides/cms-expert-guide-to-digital-litigation/singapore>.

³⁵⁸ See Agarwal et al.

³⁵⁹ See Singapore Courts, *Integrated Case Management System* (26 May 2024)

<https://www.judiciary.gov.sg/services/icms>; see also Singapore Courts, *Integrated Family Application Management System* (7 January 2025) <https://www.judiciary.gov.sg/services/ifams>. [SG iFAMS]

³⁶⁰ See Singapore Courts, *A Future – Ready Judiciary* (2017) at pp 4, 7 [SG 2017]; see also R Susskind at pp 162-163.

³⁶¹ See SG 2017 at pp 4, 7.

themes of Access to Justice, Efficiency, and Data.³⁶² Coordination is centralized through the Office of Transformation and Innovation (est. 2019), which ensures consistency, promotes mindset shifts, and engages with the legal profession and technology industry.³⁶³

Under this strategic umbrella, Singapore has implemented a range of technologies designed to alter specific processes. ODR capabilities were built into the Community Justice Tribunals System (CJTS) in 2017, providing online negotiation and resolution pathways for small claims, community disputes, and employment claims.³⁶⁴ For motor accident claims, the Motor Accidents Claims Online (MACO) platform features liability and quantum simulators that utilize structured data to provide parties with potential outcome predictions, aiming to facilitate earlier settlements.³⁶⁵ Court orders themselves have been digitized and secured through the Authentic Court Orders (ACO) system, which utilizes access codes, QR codes, and digital signatures that are verifiable via official government websites, thereby reducing the need for physical certified true copies.³⁶⁶

Singapore has also strategically leveraged its national digital identity infrastructure, Singpass.³⁶⁷ The Document Signing Service (DSS), integrated with eLitigation, enables users, including lawyers and commissioners for oaths, to digitally sign court documents, such as affidavits, using their secure Singpass mobile app, thereby creating secure electronic signatures recognized by the courts.³⁶⁸ Furthermore, the courts have enabled substituted service of court documents directly to a party's Singpass app inbox, providing a verified digital alternative to traditional service methods, such as newspaper ads or posting on doors.³⁶⁹ Access to case information and documents has been enhanced via the SG Courts Mobile Application.³⁷⁰ Asynchronous hearings were introduced, initially accelerated by COVID-19, allowing parties and the court to communicate and progress certain types of cases (e.g., administrative matters) without

³⁶² See K Tan & A Abdullah, "Practice of Law – Courts" in S Chesterman, Y Goh & A Phang, eds, *Law and technology in Singapore* (Singapore Academy of Law Publishing: 2021) at pp 143-148.

³⁶³ See Tan & Abdullah at p 143; see also Singapore Courts, "Role and structure of the Supreme Court" (1 April 2025) <https://www.judiciary.gov.sg/who-we-are/role-structure-supreme-court/structure>.

³⁶⁴ See Singapore Courts, *Community Justice and Tribunals System* (17 March 2025) <https://www.judiciary.gov.sg/services/cjts> [SG CJTS]; see also Susskind Book at pp 162-163.

³⁶⁵ See Leagle Sense LLC, "Motor Accident Claims Online ("MACO")" (2022) <https://leagle.com.sg/motor-accident-claims-online-maco/>. [SG MACO]

³⁶⁶ See Singapore Courts, *Authentic Court Orders* (24 May 2023) [https://www.judiciary.gov.sg/services/e-platforms/authentic-court-orders-\(aco\)](https://www.judiciary.gov.sg/services/e-platforms/authentic-court-orders-(aco)). [SG ACO]

³⁶⁷ See for example Singapore Government, *Singpass* (20 March 2025) <https://www.singpass.gov.sg/main/>. [SG Singpass]

³⁶⁸ See Loh Eben Ong LLP, "Document Signing Service Using Singpass" (28 August 2024) <https://help.law.com.sg/faq/document-signing-service-using-singpass/>; see also Singapore Courts, *eLitigation* (6 December 2023) <https://www.judiciary.gov.sg/services/elitigation>. [SG eLit]

³⁶⁹ See SG eLit.

³⁷⁰ See SG eLit.

requiring simultaneous availability, offering significant flexibility.³⁷¹ Efforts are also underway to create ‘Smarter Bundles’ and a ‘Document Lake,’ aiming to de-duplicate exhibits, preserve metadata, and streamline the creation and management of evidence bundles, potentially transforming traditional document handling.³⁷² More recently, Singapore has been actively experimenting with Generative AI, exploring its potential for access to justice use cases, such as assisting SRLs, while carefully managing the associated risks and limitations, including “hallucinations.”³⁷³ This continuous pipeline of integrated, often mandatory, and increasingly transformative technological initiatives demonstrates Singapore’s deeply embedded, process-oriented approach to modernizing its justice system.

5.1.2 – Relating to Meaningful Justice Design

Singapore’s strategic integration of technology aligns in several significant ways with the core tenets of MJD, while also prompting consideration of where their focus lies. The MJD framework, prioritizing user-centricity, holistic problem resolution, flexible pathways, and transformative technology integration guided by the principle of “technology follows justice,” provides a valuable lens for this analysis.

The creation of specialized ODR platforms (such as CJTS) for specific dispute types (e.g., small claims, community, employment) and tailored eServices (e.g., divorce, probate) strongly reflects the MJD tenet of “One-Size-Fits-Some Resolution Pathways.” This extends beyond a single court process, offering dedicated routes that are potentially better suited to the nature and scale of these specific problems. Similarly, the goal of achieving the “quickest, least resource-intensive, and most holistic resolution” (which relates to the tenet “Justice is the Goal”) resonates with the aims of ODR, which aim to provide faster, potentially cheaper resolutions outside the main court structure, as well as with outcome simulators (MACO) designed to facilitate early settlements.³⁷⁴ However, the emphasis often appears focused on efficient dispute resolution within the legal framework rather than ensuring the holistic resolution of the user’s underlying problem, which is a key differentiator in the MJD definition of justice.

“User-centricity” is evident in Singapore’s efforts to simplify and demystify legal procedures, the design of interactive e-filing forms that reduce user errors, and the development of mobile apps for easier access to information. Leveraging the familiar national Singpass system for signing (DSS) and service also lowers barriers for users already within that ecosystem. Yet, while user-friendliness is a stated goal, the success metric seems less explicitly tied to the MJD tenet of

³⁷¹ See Tan & Abdullah at pp 145-146.

³⁷² See Singapore Judicial Service Commission, *Annual Report 2023* (31 December 2023) at p 24.

³⁷³ See Singapore Courts, *Guide on the Use of Generative Artificial Intelligence Tools by Court Users* (2024) at p 2. [SG AI Guide]

³⁷⁴ See for example Tan & Abdullah at p 144.

“Injustice is the Metric” – that is, primarily measuring success by the reduction in the user’s subjective experience of injustice. While efficiency can contribute to a better user experience, MJD cautions against it being the sole or primary driver, insisting the focus remain on the user’s qualitative experience of justice.

Singapore’s approach strongly embodies the MJD tenet of “Transformative Integration of Technology”, often moving beyond mere digitization or “grafting”.³⁷⁵ Initiatives such as interactive e-filing, ODR platforms designed for online interaction, asynchronous hearings that alter the time-bound nature of court events, and the integration of national digital identity for core legal tasks represent fundamental redesigns enabled by technology. This aligns with the principle of “technology follows justice”, where technology serves a redesigned process. While some elements, such as basic e-filing or ACO, might be seen as sophisticated automation of existing steps, the overall direction leans heavily towards transformation.

Singapore’s journey showcases significant alignment with MJD, particularly in creating tailored pathways, pursuing user-friendly design, and leveraging technology for transformation rather than just automation. Their systematic, state-driven approach provides valuable lessons. However, fully embracing MJD would necessitate a more explicit focus on holistic problem resolution as the primary goal and measuring success through the lens of the user’s subjective experience of justice, ensuring that efficiency serves, rather than overshadows, the core aim of alleviating injustice.

5.2 – Australia

5.2.1 – Overview

Australia, with its vast geography and dispersed population, faces unique challenges in providing access to justice, often described as the “tyranny of distance”.³⁷⁶ This context has shaped its approach to integrating technology within the justice system over several decades. While often pragmatic early adopters of specific technologies, systemic, nationwide innovation has arguably been slower, leading some to note an “Australian innovation paradox”.³⁷⁷ Early examples include the pioneering AustLII consortium, which provides free online access to judgments, and the early use of Audio-Visual Links (AVL) for remote appearances in various courts.³⁷⁸ AVL was initially embraced to minimize trauma for vulnerable witnesses and later to

³⁷⁵ See Afilalo et al. 2024 at p 269; see also Chiodo at p 827.

³⁷⁶ See A Wallace & K Laster, “Courts in Victoria, Australia, During COVID: Will Digital Innovation Stick?” (2021) 12:2 International Journal for Court Administration at p 3; see also C Hart, “‘Better Justice?’ Or ‘Shambolic Justice?’” (2017) 1 International Journal of Rural Law and Policy at p 4.

³⁷⁷ See Wallace & Laster at pp 3-4.

³⁷⁸ See M Legg, “Online Dispute Resolution” in M Legg, ed, *Online Dispute Resolution*, 2nd ed, (LexisNexis: 2023) at pp 378-379, 381; see also Wallace & Laster at p 4.

reduce the costs and security risks associated with transporting prisoners for routine appearances.³⁷⁹

More strategic integration efforts are evident, particularly within the Federal Court of Australia. In 2008, the court formulated an eServices strategy aimed at enhancing electronic business conduct.³⁸⁰ This led to key deliverables, including the introduction of electronic document lodgement (eLodgement) in 2011 and the establishment of the Electronic Court File (ECF) as the official court record by 2014, which underpinned the National Court Framework (NCF).³⁸¹ The NCF aimed to harmonize court operations across registries by leveraging technology, moving towards a digital-first approach where actions commence electronically, documents are managed digitally, and judges can access case materials online.³⁸² Many other Australian courts, including those in New South Wales, Victoria, Queensland, Western Australia, and South Australia, have also adopted various forms of electronic filing and case management systems, although the availability, quality, and mandatory nature of these systems vary across jurisdictions.³⁸³

The COVID-19 pandemic significantly accelerated the reliance on and adoption of technology across the Australian justice system.³⁸⁴ To maintain operations amid public health restrictions, courts mandated or heavily utilized electronic platforms for document submission (e-filing), scheduling (electronic court calendars), case management, and, crucially, remote hearings via telephone and videoconferencing (using platforms such as Microsoft Teams, Cisco Webex, and Zoom).³⁸⁵ Courts in Victoria and the federal system provided guidance materials to assist practitioners with these new modes of operation.³⁸⁶ While this rapid shift demonstrated the potential of technology, it also highlighted pre-existing challenges related to the digital divide, including varying access to reliable internet and devices, as well as differing levels of digital literacy among users.³⁸⁷

Beyond digitizing existing processes, such as filing and appearances, Australian justice systems are exploring more advanced technologies. AI and Machine Learning are being considered, for instance, within the family justice system, with an examination of both potential benefits and

³⁷⁹ See Wallace & Laster at p 4.

³⁸⁰ See Federal Court of Australia, *Annual Report 2008-2009* (2009) at p 14. [FCAus 2009]

³⁸¹ See Federal Court of Australia, “The National Court Framework (NCF)”

<https://www.fedcourt.gov.au/about/national-court-framework> [FCAus NCF]; see also J Allsop, “Technology and the Future of the Courts” (2019) 38:1 UQLJ 1 at p 4.

³⁸² See Allsop at p 4.

³⁸³ See Allsop at pp 4-5; see also Hart at pp 4-6.

³⁸⁴ See Castan Centre for Human Rights Law, *Perspectives from Australia on the impact of the COVID-19 pandemic on the administration of justice* (5 February 2021) at pp 3, 12 [Castan Centre]; see also Wallace & Laster at p 5.

³⁸⁵ See Castan Centre at pp 3, 12.

³⁸⁶ See Castan Centre at p 12.

³⁸⁷ See Castan Centre at pp 4, 14-15; see also Hart at pp 4, 10; see also Wallace & Laster at p 1.

risks.³⁸⁸ There is also interest in using technology for ODR, ranging from providing online legal information and self-help tools to facilitating resolution in high-volume minor claims or even complex class actions.³⁸⁹ However, there is notable caution, particularly regarding algorithmic tools like risk assessments used in criminal justice elsewhere (e.g., the US COMPAS system critiqued in *State v. Loomis*).³⁹⁰ Australian courts, such as the Supreme Court of Western Australia, have expressed reservations about the reliability, potential for bias (especially concerning Indigenous Australians), and lack of transparency of such tools, emphasizing the need for empirical validation before adoption.³⁹¹ Concerns have also been raised in some jurisdictions, such as Queensland, that the primary driver for IT adoption by governments might be cost reduction rather than a primary focus on enhancing access to justice, potentially compromising access for those with limited technological means.³⁹² This has led to calls for a more coordinated, potentially national, strategic plan for justice technology, explicitly aimed at increasing meaningful access to justice.³⁹³

5.2.2 – Relating to Meaningful Justice Design

Analyzing Australia’s technological integration through the lens of MJD reveals a mixed picture, reflecting both alignment with user-centric principles and challenges associated with inconsistent implementation and focus.

Early adoptions like online judgment publication (via AustLII) and AVL demonstrate initial steps towards enhancing accessibility and convenience, aligning with aspects of User-Centricity. The Federal Court’s NCF, built upon the ECF and eLodgement, represents a more systemic effort to streamline processes and improve efficiency through technology, aiming for a more accessible and predictable experience for practitioners and litigants. The widespread adoption of remote hearing technologies during the pandemic, while reactive, showed responsiveness to immediate user needs for continued access. However, several challenges indicate potential divergence from MJD principles. The concern that cost-saving may sometimes be prioritized over enhancing user experience and meaningful access, particularly for regional, rural, or disadvantaged users, suggests a potential misalignment with the core MJD tenet of “Justice is the Goal” (redefined as holistic, user-focused resolution). Simply digitizing existing processes without fundamentally rethinking them from the user’s perspective risks “grafting” technology onto potentially flawed

³⁸⁸ See M Zalnieriute & F Bell, “Technology and the Judicial Role” in G Appleby & A Lynch, eds, *The Judge, The Judiciary, and the Court* (Cambridge University Press: 2021) at p 118.

³⁸⁹ See Hart at p 4; see also T Sourdin, “Judge v Robot?” (2018) 41:4 UNSWLJ 1114 at p 5; see also Allsop at p 5; see also Legg at p 1.

³⁹⁰ See H Liu, C Lin & Y Chen, “Beyond *State v. Loomis*” (2019) 27:2 International Journal of Law and Information Technology 122 at pp 125-126, 137.

³⁹¹ See Liu et al. at p 136; see also Zalnieriute & Bell at p 135.

³⁹² See Hart at pp 1, 18.

³⁹³ See Hart at p 4.

systems, replicating barriers in a digital format. This contrasts with MJD’s call for “Transformative Integration of Technology”.

The identified “Australian innovation paradox” – being early adopters of specific tools, such as AVL, but slower on systemic integration – suggests a lack of consistent adherence to a transformative vision. The varying quality and integration of e-filing systems across jurisdictions also points away from a cohesive, user-centric national approach and towards MJD’s concept of “One-Size-Fits-Some Resolution Pathways” being applied inconsistently at a systemic level, even if individual courts are creating tailored digital environments, such as eCourtrooms.

The significant challenge of the digital divide, which impacts access based on geography, socio-economic status, age, or disability, directly affects the MJD tenet of User-Centricity and the goal of equitable access. MJD requires actively mitigating such barriers, suggesting that technological rollouts must be accompanied by robust support systems. The call for a national strategic plan reflects a need for a more coordinated approach, aligning with MJD’s emphasis on systemic, mindful transformation rather than piecemeal adoption.

Finally, the judiciary’s cautious approach towards algorithmic decision-making tools, demanding transparency and validation while being wary of inherent biases, aligns well with the MJD principle that “technology follows justice”. It reflects a crucial understanding that technology must serve, not dictate, legal principles and fundamental rights, such as procedural fairness. Ensuring the system’s success is measured by user outcomes (“Injustice is the Metric”) rather than just institutional efficiency remains a persistent challenge that requires empirical evaluation. While Australia has made significant technological strides, achieving a genuinely user-centric digital justice system aligned with MJD requires a continued focus on equitable access, prioritizing user needs in system design, and ensuring technology serves a transformative purpose, rather than merely automating it.

5.3 – United States

5.3.1 – Overview

The landscape of technology use within the United States justice system is notably complex and highly fragmented, shaped significantly by its dual structure of federal and state courts, alongside vast disparities in resources, procedural rules, and the populations they serve.³⁹⁴ Unlike nations with more centralized judicial administration, the US lacks a unified national strategy for court technology, resulting in a patchwork of adoption levels and system capabilities across thousands of state and local jurisdictions.³⁹⁵ A critical lens through which to view this

³⁹⁴ See P Bookman & C Shanahan, “A Tale of Two Civil Procedures” (2022) 122 Colum L Rev 1183 at pp 1184-1190.

³⁹⁵ See Bookman & Shanahan at pp 1184-1193; see also A Yoon, “Technological Challenges Facing the Judiciary” in D Engstrom, *Legal Tech and the Future of Civil Justice* (Cambridge University Press: 2023) at 366.

landscape is the concept of “two civil procedures”: one operates mainly within the federal courts and involves complex litigation typically handled by lawyers, while the other predominates in state courts, managing high-volume dockets like small claims, debt collection, eviction, and family law, often characterized by a high prevalence of SRLs.³⁹⁶ This distinction has a profound impact on how technology is designed, implemented, and experienced.

The federal court system has long employed established electronic platforms. The Public Access to Court Electronic Records (PACER) system provides online public access to court dockets and filed documents, although it is often criticized for its pay-per-page fee structure.³⁹⁷ While these systems provide a degree of nationwide consistency within the federal judiciary, they represent only one facet of the broader US justice system.

State courts, which handle the vast majority of civil cases, exhibit immense variation in their technological infrastructure and approach. While electronic filing has become more widespread, its availability, functionality (ranging from simple PDF uploads to more interactive systems), mandatory status, and associated costs differ significantly from state to state, and even between counties within a state.³⁹⁸ Funding disparities are a significant factor, with many state courts, particularly those serving large SRL populations, facing chronic under-resourcing that hinders investment in robust technology and user support.³⁹⁹ This resource challenge contributes to the difficulties faced by SRLs, who may struggle to navigate complex e-filing portals or meet technical requirements without assistance.⁴⁰⁰

Responding in part to these access to justice challenges, particularly the “justice gap” for low- and middle-income individuals, ODR has gained significant traction in numerous state courts over the past decade.⁴⁰¹ Often driven by the need to manage high-volume dockets more efficiently and provide more accessible pathways for SRLs, states like Michigan (MI-Resolve for small claims and landlord-tenant), Utah (initially small claims), Ohio, Texas, and New York have implemented court-annexed ODR platforms.⁴⁰² These systems typically offer online tools for negotiation and mediation, sometimes incorporating features such as case diagnosis or document assembly, aiming to resolve disputes earlier and with less formality than traditional litigation.⁴⁰³ Many of these platforms are developed or supported by private technology vendors, such as Tyler Technologies, which acquired Court Innovations, the developer of the

³⁹⁶ See Bookman & Shanahan at pp 1184-1193, 1210-1220.

³⁹⁷ See Yoon at p 359.

³⁹⁸ See for example Hart at pp 6-8.

³⁹⁹ See Bookman & Shanahan at p 1194.

⁴⁰⁰ See Afilalo et al. at p 18.

⁴⁰¹ See Schmitz at p 2385; see also Susskind at p 69.

⁴⁰² See Schmitz at pp 2387-2388; see also Susskind at p 70.

⁴⁰³ See Schmitz at pp 2385-2388; see also Susskind at p 71.

Matterhorn platform used in Michigan and elsewhere.⁴⁰⁴ While promising, the effectiveness and fairness of these platforms, particularly in terms of user experience and outcomes for SRLs, require ongoing empirical evaluation.⁴⁰⁵

The COVID-19 pandemic served as an abrupt accelerant for technology adoption across all levels of the US court system.⁴⁰⁶ Faced with courthouse closures, courts rapidly shifted to remote operations, heavily utilizing video conferencing platforms such as Zoom, Webex, and Microsoft Teams for a wide range of proceedings, including hearings, bench trials, depositions, and settlement conferences.⁴⁰⁷ This emergency transition demonstrated the technical feasibility of remote justice but simultaneously exposed and exacerbated the digital divide, creating significant barriers for individuals who lacked reliable internet access, suitable devices (such as computers with cameras), or the digital literacy needed to navigate virtual platforms effectively.⁴⁰⁸

Beyond procedural tools, the US is a central hub for the development and deployment of AI and predictive technologies within the legal sphere, generating both enthusiasm and significant legal and ethical debate. In the criminal justice context, algorithmic risk assessment tools like COMPAS have been controversially used to inform sentencing and bail decisions, leading to high-profile challenges like the widely-reported Loomis litigation, where the Wisconsin Supreme Court grappled with due process and transparency concerns arising from the proprietary, “black box” nature of the algorithm and worries about potential biases embedded within the data or design.⁴⁰⁹ These concerns about algorithmic fairness, transparency, and accountability extend to the civil justice system as well.⁴¹⁰ Predictive analytics tools are being developed to forecast litigation outcomes or judicial decisions based on analyses of vast datasets of past cases, potentially impacting legal strategy, insurance assessments, and settlement negotiations.⁴¹¹ While proponents suggest these tools could increase legal predictability, critics raise concerns about accuracy, potential biases in the data, the risk of reinforcing existing inequalities, and the impact on judicial discretion and the development of law.⁴¹² AI is also playing an increasingly significant role in automating aspects of legal work, particularly in e-discovery, where Machine

⁴⁰⁴ See Schmitz at p 2391.

⁴⁰⁵ See Schmitz at pp 2385-2400.

⁴⁰⁶ See Yoon at p 350.

⁴⁰⁷ See Bookman & Shanahan at p 1219.

⁴⁰⁸ See Schmitz at p 2382; see also Bookman & Shanahan at pp 1216-1220; see also Yoon at p 350.

⁴⁰⁹ See Liu et al. at pp 126, 134-136; see also A Iftimiei & M Iftimiei, “Law and IT Technologies. Predictive Justice” (2022) 11:1 Perspectives of Law and Public Administration 169 at p 172; see also Yoon at pp 354-355.

⁴¹⁰ See Liu et al. at pp 126, 131-136; see also T Scassa, “Administrative Law and the Governance of Automated Decision-Making” (2023) 54:1 UBC L Rev 251 at pp 252, 278-295.

⁴¹¹ See Iftimiei & Iftimiei at pp 173-175; see also Yoon at pp 353, 359-360; see also J Morison & A Harkens, “Re-engineering justice?” (2019) 39:4 Legal Studies 618 at pp 9-10.

⁴¹² See Liu et al. at pp 126, 134-136; see also Iftimiei & Iftimiei at p 172; see also Yoon at pp 354-355.

Learning algorithms are used to sift through massive volumes of electronic documents far more quickly than human reviewers, albeit raising questions about oversight and validation.⁴¹³ Despite these technological advancements, systemic challenges remain deeply entrenched, including the persistent funding gaps, the lack of national standards or interoperability, and the ongoing struggle to design and implement technology in a way that truly serves the diverse needs of all users across the fragmented American justice landscape.

5.3.2 – Relating to Meaningful Justice Design

Applying the MJD framework to the fragmented and varied technological landscape of the United States reveals both promising alignments and significant systemic challenges.

The proliferation of ODR platforms within state courts represents perhaps the clearest alignment with MJD principles. Driven explicitly by access to justice concerns and the need to manage high-volume dockets involving many SRLs, these platforms often embody the MJD tenet of “One-Size-Fits-Some Resolution Pathways.” By creating dedicated online environments for specific case types, such as small claims, debt collection, or landlord-tenant disputes, they offer alternatives to traditional, often inaccessible, court procedures. Many are designed with User-Centricity as a goal, aiming to simplify processes, provide clear information, and offer convenient negotiation or mediation tools accessible remotely, thus potentially lowering cost and time barriers for users. Insofar as these platforms facilitate quicker, mutually agreeable resolutions outside the formal adversarial system, they also align with the MJD aspiration of “Justice is the Goal,” which is defined as achieving the most efficient and holistic resolution possible from the user’s perspective.

However, significant divergences and challenges emerge when considering the broader context and implementation realities. The stark divide between the well-resourced, lawyer-centric federal system and the often under-funded, SRL-dominated state courts raises questions about equitable User-Centricity. While federal systems like PACER might be efficient for legal professionals, they were not primarily designed for, nor are they easily navigable by, SRLs. In state courts, even where ODR exists, the persistent digital divide – disparities in internet access, hardware availability, and digital literacy – poses a significant barrier, potentially excluding the very populations these systems aim to serve. MJD demands proactive measures to ensure inclusivity, such as providing public access terminals or human assistance (like the proposed AJC model), which are not uniformly available across US jurisdictions. Without addressing this divide, technology risks exacerbating rather than alleviating access barriers.

Furthermore, the emphasis in many courts, particularly under-resourced state systems, often remains on institutional efficiency – managing dockets and reducing backlogs – rather than

⁴¹³ See Yoon at p 353; see also Sourdin at p 1119.

prioritizing the user's experience of justice. This institutional focus can conflict with the MJD tenet of "Injustice is the Metric," which demands that success be measured primarily by user satisfaction, perceived fairness, and the actual resolution of the user's underlying problem. There is a noted lack of comprehensive, independent empirical research evaluating the effectiveness of many court technologies, including ODR platforms, from the user's perspective, making it difficult to assess their actual impact on meaningful access to justice.

The principle of "Transformative Integration of Technology" also faces challenges. While ODR platforms have the potential to be transformative by redesigning dispute resolution processes, much technological adoption, particularly the rapid shift to remote hearings during COVID-19, could be characterized as "grafting" digital tools onto existing procedures without fundamentally rethinking them. Simply holding a traditional hearing via Zoom may replicate, rather than resolve, underlying procedural complexities or power imbalances. The MJD ideal involves leveraging technology to enable fundamentally different, more user-centric approaches to achieving justice.

Finally, the deployment of AI and predictive algorithms raises critical issues concerning the MJD principle that "technology follows justice". The Loomis case, involving the use of the proprietary COMPAS risk assessment tool in sentencing, starkly illustrated the dangers of relying on opaque ("black box") algorithms that may harbor biases and cannot be effectively challenged by the individuals they affect, potentially violating due process rights. While predictive analytics in civil litigation might offer insights, similar concerns about transparency, accuracy, potential bias amplification, and the impact on judicial independence and discretion persist. MJD requires that technology remain subservient to core legal values and principles of fairness, necessitating robust governance frameworks, transparency, and rigorous validation before such tools are integrated into judicial processes.

The United States presents a dynamic but uneven picture regarding MJD and technology. While state-level ODR initiatives demonstrate potential alignment with user-centricity and flexible pathways, systemic issues such as fragmentation, resource disparities, the digital divide, and an enduring focus on institutional efficiency often hinder truly transformative and equitable integration. Achieving the MJD vision across the US requires a concerted effort to prioritize user needs (especially SRLs), invest in bridging the digital divide, demand transparency and fairness in algorithmic systems, and shift the focus from merely digitizing processes to fundamentally redesigning them to deliver meaningful justice, supported by robust empirical evaluation of user experiences and outcomes.

5.4 – Alignment and Divergence with Meaningful Justice Design

The comparative exploration of Singapore, Australia, and the United States in this chapter reveals distinct national journeys in leveraging technology within their justice systems. While shaped by unique socio-legal contexts, governance structures, and resource levels, these jurisdictional approaches can be critically evaluated against the cohesive framework of MJD, as described throughout previous chapters of this thesis. MJD provides a normative benchmark focused on user-centricity, holistic problem resolution, flexible pathways, the transformative potential of technology, and measuring success through the user’s experience of justice. This section undertakes a thorough comparative analysis, drawing specific examples from the three jurisdictions to illustrate instances where technological integration, sometimes inadvertently, aligns with MJD tenets, yielding positive results. It will also critically identify areas of divergence, where adherence to MJD principles might have produced more effective or equitable outcomes, exploring these missed opportunities through hypothetical thought experiments grounded in MJD methodology. This section will conclude with a brief yet focused comparison and contrast of the three jurisdictions’ approaches to ODR, the digital divide with SRLs, and their respective cautions or optimism regarding the use of AI.

5.4.1 – Tenet 1: Justice is the Goal

MJD fundamentally reframes the objective of the justice system, shifting it away from merely processing legal disputes to achieving “the quickest, least resource-intensive, and most holistic resolution of a problem that places an individual or collective in a state of injustice.” This requires focusing on the user’s need for restoration and well-being, not just institutional efficiency or procedural finality. Across the jurisdictions, initiatives creating specialized pathways outside traditional courts often show alignment. Singapore’s dedicated ODR platforms for small claims, community disputes, and employment matters (CJTS), along with tools such as the MACO outcome simulators, aim for efficient and targeted resolutions tailored to the specific problem type, reflecting MJD’s focus on effective problem-solving. Similarly, the proliferation of state-level ODR in the US, targeting high-volume dockets such as small claims and housing disputes, is often motivated by a desire to provide faster, cheaper, and more accessible resolutions than formal litigation, aligning with the efficiency and user-centred aspects of this tenet.

However, divergence frequently arises when institutional priorities appear to eclipse the user’s need for holistic resolution. In Queensland, Australia, stakeholders raised concerns that government IT adoption might be driven primarily by budget reduction rather than an explicit focus on enhancing access to justice, particularly for underserved regional populations.⁴¹⁴ Such

⁴¹⁴ See Castan Centre at pp 4, 14-15; see also Hart at pp 4, 10; see also Wallace & Laster at p 1.

a cost-saving imperative risks prioritizing institutional efficiency over the quality and comprehensiveness of the resolution experienced by the user, conflicting with the MJD goal. Similarly, the reality of under-resourced state courts in the US often means technology is deployed primarily as a docket management tool, focusing on throughput rather than ensuring the underlying issues contributing to the user's state of injustice are holistically addressed, as MJD demands. Even Singapore's efficient systems, while resolving the immediate dispute, may not inherently focus on the broader social or economic factors contributing to the user's problem, prioritizing efficient dispute resolution over holistic justice.

5.4.1.1 – Thought Experiment: Australia's Holistic Resolution

Let's reconsider the Queensland example where cost-saving seemed paramount in IT adoption. If MJD's "Justice is the Goal" guided the strategy, the government might have initiated the process with user journey mapping for regional legal service users. This could have revealed that 'justice' for these users often involved interconnected issues beyond the legal claim itself (e.g., lack of transportation, limited access to financial advice, and social isolation that impacted their ability to resolve the core problem). An MJD-aligned technology strategy would then integrate tools addressing these holistic needs – perhaps a portal combining e-filing with secure video links to remote legal aid, integrated financial literacy modules, or automated referrals to relevant community support services based on user input. While potentially involving a higher initial investment than a simple e-filing upgrade, such a system, designed to resolve the user's entire problem, would better align with the MJD definition of justice and likely lead to more sustainable and satisfying outcomes, ultimately reducing long-term system costs associated with unresolved underlying issues.

5.4.2 – Tenet 2: Injustice is the Metric

MJD mandates a shift in evaluating success, moving from traditional institutional metrics (e.g., case volume, speed) to measuring the system's capacity to diminish the user's subjective experience of injustice. This requires incorporating user feedback, perceived fairness, and outcome satisfaction into the core assessment framework. Across the three jurisdictions, this tenet appears to be the least systematically implemented. Singapore's use of pilots and stakeholder engagement offers a potential avenue for gathering user-centric data, but their highlighted metrics predominantly focus on efficiency and modernization benchmarks. Australia, despite judicial acknowledgement of the need to evaluate user outcomes, faces challenges highlighted by commentators regarding the lack of consistent empirical data measuring the real-world impact of technology on user experience, especially outside major federal initiatives. Similarly, while US ODR initiatives are often framed around improving access, there is a significant gap in independent, empirical research evaluating these platforms based

on user satisfaction, perceived fairness, or whether the resolution indeed addressed their sense of injustice. Evaluation is often left to platform providers or remains focused on efficiency.

5.4.2.1 – Thought Experiment: American ODR Learns From Users

Consider the US ODR landscape, which features numerous state platforms. If “Injustice is the Metric” were adopted as a guiding principle for court procurement and platform design, requests for proposals might mandate built-in, standardized user feedback modules administered post-resolution. These modules would not just ask about ease of use, but would also include validated scales measuring procedural justice perceptions (voice, neutrality, respect, and trust) and outcome satisfaction (fairness and the completeness of resolution). Data would be collected and publicly reported (in aggregated, anonymized form) not just by vendors, but by independent researchers or court administrators. Platforms would need mechanisms for iterative refinement based directly on this user feedback loop – for example, if data consistently showed that users felt unheard in mediation, platform design might be adjusted to include mandatory reflection prompts, or mediator training protocols might be updated. This shifts the focus from celebrating platform adoption numbers to demonstrating, through user-reported data, a tangible reduction in the experience of injustice.

5.4.3 – Tenet 3: User-Centricity

User-centricity, the principle that systems should be designed around the needs, experiences, and capabilities of their users, is crucial for meaningful access. Jurisdictions show varying efforts towards this. Singapore’s move towards interactive e-forms in eLit, designed to guide users and reduce errors, and its leveraging of the ubiquitous Singpass digital ID for signing and service, demonstrate user-centric thinking by simplifying complex tasks and using familiar infrastructure. Australia’s Federal Court has explicitly aimed for a more accessible digital experience through its National Court Framework, particularly benefiting regular users, such as legal professionals. The growth of state-level ODR in the US is often driven by the need to serve SRLs in high-volume courts better.

However, significant user-centricity gaps persist. The US ‘tale of two civil procedures’ starkly illustrates how federal court technology (PACER) may cater well to lawyers but remain challenging for SRLs, while state court technology often struggles with under-resourcing, failing to meet SRL needs effectively. The digital divide remains a critical barrier in both Australia and the US, disadvantaging those in remote areas or lacking digital literacy/access, directly conflicting with the inclusive requirement of user-centricity. Even Singapore’s sophisticated systems may implicitly prioritize professional users, requiring ongoing vigilance to ensure genuine ease of use for SRLs. MJD requires not just intuitive interfaces but also proactive support for users facing barriers.

5.4.3.1 – Thought Experiment: Australia Researches Users

Applying MJD’s User-Centricity more deeply to the design of Australia’s NCF/ECF could have involved pre-design ethnographic research and ongoing co-design workshops with a wide spectrum of potential users (SRLs from diverse backgrounds, Indigenous court users, people with disabilities, regional residents). This deep engagement might have revealed needs beyond efficient filing for lawyers. Consequently, the ECF might have been designed with multiple user interface options (e.g., a simplified ‘guided pathway’ for SRLs), mandatory plain language summaries accompanying all court documents, integrated video guides explaining procedures, built-in accessibility features exceeding basic standards, and direct technical/legal support channels accessible from within the platform. Furthermore, recognizing the connectivity challenges in regional Australia, a user-centric approach might have mandated robust offline functionality or seamless integration with proposed physical AJs equipped with necessary technology and human support.

5.4.4 – Tenet 4: One-Size-Fits-Some Resolution Pathways

MJD rejects a monolithic justice system, instead advocating for a diverse “societal toolbox” offering multiple, flexible pathways tailored to different problems and user needs, empowering users to choose the best fit. Singapore clearly aligns by creating distinct, specialized digital systems (eLitigation, CJTS, iFAMS, etc.) and dedicated ODR streams for specific dispute categories. US state courts implementing ODR for specific dockets like small claims or housing also embrace this principle by providing alternatives to formal litigation. Australia’s use of specialized tribunals and exploration of ODR similarly acknowledges the need for varied approaches.

The primary divergence often lies in the systemic coherence and user agency associated with these pathways. The US’s fragmentation leads to an inconsistent patchwork – a pathway available in one state may be absent in another, lacking a systemic vision. Australia’s noted lack of a national strategy can result in similar inconsistencies, hindering the development of a comprehensive “toolbox.” Even where multiple pathways exist, as in Singapore, the question remains whether users have genuine agency to choose their pathway or if mandatory processes limit flexibility. MJD envisions not just the existence of multiple pathways, but a system designed to help users navigate and select the most appropriate one, akin to a “choose your own adventure” model.

5.4.4.1 – Thought Experiment: Bespoke Singaporean Justice

Let’s hypothesize that data from Singapore’s CJTS platform reveals a segment of users in community disputes consistently abandon the process or report dissatisfaction, indicating the standardized online pathway isn’t meeting their needs (perhaps requiring more relational, less formal resolution). A strict adherence to the existing efficient model might dismiss these users

as outliers. However, an MJD approach, embracing “One-Size-Fits-Some,” would see this as a signal to design a complementary pathway. Guided by MJD’s iterative design principles and user feedback, designers might create a new option integrating CJTS for case initiation and document management but branching to locally facilitated, culturally appropriate mediation services, perhaps using technology simply to connect users with these community resources. This wouldn’t replace the efficient online track but would exist alongside it, offering genuine choice and demonstrating the system’s flexibility in providing pathways truly tailored to user needs and circumstances, rather than forcing all users down a single, optimized route.

5.4.5 – Tenet 5: Transformative Integration of Technology

This tenet emphasizes using technology not merely to digitize old methods (“grafting”) but as an enabler for fundamentally redesigning justice processes to be more user-centric, efficient, and effective (“technology follows justice”). Singapore offers compelling examples of transformation: ODR platforms that are inherently digital processes, interactive e-filing that changes how information is submitted, asynchronous hearings that redefine court time, and leveraging a national digital ID (Singpass) for core legal functions. The ambition of Australia’s NCF/ECF to create a unified digital court environment also aimed at transformation. US ODR platforms that integrate negotiation, mediation, and case management into a single online journey similarly demonstrate transformative potential.

However, the temptation to simply “graft” technology onto existing processes remains strong, often driven by expediency, especially during crises like the pandemic. The widespread adoption of video conferencing for remote hearings in Australia and the US, while necessary, often replicated the formalities and potential inefficiencies of in-person hearings without fully leveraging technology to redesign the interaction for greater efficiency or accessibility. The controversy surrounding algorithmic tools like COMPAS in the US represents a more problematic divergence, where technology, laden with potential bias and opacity, was deployed in ways that arguably led rather than followed justice principles, potentially undermining due process and fairness. MJD demands that technology integration be guided by, and subservient to, core legal and ethical values.

5.4.5.1 – *Thought Experiment: AI in the United States Justice System*

Applying MJD’s “Transformative Integration” principle proactively to the use of AI in the US justice system, particularly in light of the Loomis experience, would involve a different development and procurement process. Instead of adopting existing proprietary tools, a court system guided by “technology follows justice” might issue requirements specifying non-negotiable principles: mandatory algorithmic transparency (explainability), pre-deployment independent bias auditing using relevant population data, clear parameters for human oversight and override authority, and mechanisms for affected individuals to challenge automated

recommendations. Technology would be developed or selected to meet these justice requirements, potentially favoring open-source or publicly audited systems. This values-led approach ensures technology serves due process and fairness from the outset, preventing situations where legal principles are retrofitted or compromised to accommodate opaque technology, thereby achieving a truly transformative and just integration.

5.4.6 – Comparing Approaches to ODR Implementation

The implementation of ODR showcases the divergent strategic approaches across the three jurisdictions. Singapore presents a centralized, state-driven model where ODR is integrated into specific tribunal systems (like CJTS for Small Claims) and often mandated, reflecting a top-down strategy focused on efficiency and creating distinct, government-controlled digital pathways. This aligns with MJD’s “One-Size-Fits-Some” principle by creating tailored routes but potentially limits user choice compared to more voluntary systems. The United States offers a stark contrast, characterized by fragmentation and state-level innovation, often driven by access to justice concerns for high-volume SRL dockets and significantly influenced by private technology vendors. This leads to a variety of ODR models (e.g., Michigan’s platform vs. Utah’s) but lacks national coherence and raises questions about reliance on commercial platforms for core justice functions. Australia appears more cautious and exploratory, with ODR discussed and implemented in specific contexts (e.g., certain tribunals, family law potential) but seemingly hampered by the lack of a unified national strategy and perhaps the “innovation paradox,” resulting in less widespread or mandatory implementation compared to Singapore or even parts of the US. These differing implementation strategies reflect varying balances between state control (Singapore), market influence (US), and cautious exploration (Australia), each impacting how effectively ODR serves the MJD goals of user-centricity and providing genuinely accessible, alternative resolution pathways.

5.4.7 – Comparing How Jurisdictions Handle the Digital Divide and Serve SRLs

Addressing the digital divide and the needs of SRLs remains a critical challenge, highlighting significant differences in national context and policy responses, directly impacting MJD’s tenet of User-Centricity. Singapore leverages its advanced national digital infrastructure and high connectivity, integrating systems like Singpass to potentially lower barriers for digitally included citizens; however, its mandatory digital approach may implicitly assume or require digital literacy, potentially disadvantaging those few who remain offline, and its user-focus might still lean towards sophisticated users like lawyers. Australia, facing the “tyranny of distance,” explicitly grapples with the digital divide affecting regional, rural, and Indigenous populations, with connectivity and literacy gaps widely acknowledged, particularly post-COVID. While technologies like Audio-Visual Links were early responses to distance, systemic solutions remain challenging, leading to proposals like physical AJCs offering technological access and support – a

concept strongly aligned with MJD’s requirement for mitigating barriers. The US context is defined by the “two civil procedures” divide: federal courts cater to lawyers, while state courts, where most SRLs appear, are often under-resourced, making technology adoption uneven and support for SRLs inconsistent. Although US ODR aims to serve SRLs, the digital divide remains a major obstacle, potentially excluding many intended beneficiaries without robust public access points or digital navigator programs, which are not uniformly available. Thus, while Singapore relies on near-universal digital inclusion, Australia and the US face more acute challenges in ensuring their technological initiatives do not further marginalize already vulnerable populations, a core concern for achieving truly user-centric justice under MJD.

5.4.8 – Comparing Jurisdictions’ Differing Levels of Caution/Enthusiasm Regarding AI

The approach towards AI in the justice system reveals differing levels of enthusiasm and caution, reflecting distinct legal cultures and governance approaches, particularly relevant to MJD’s “Technology Follows Justice” tenet. The United States has seen significant development and deployment of AI, from controversial risk assessment tools in criminal justice (Loomis/COMPAS) to predictive analytics for civil case outcomes and extensive use in e-discovery. This reflects both market-driven enthusiasm for AI’s potential efficiency gains and subsequent significant legal and ethical debates regarding bias, transparency, and due process, indicating a pattern where technology adoption sometimes precedes robust governance frameworks. Australia, conversely, exhibits more pronounced judicial caution. Concerns raised by courts (e.g., WA Supreme Court) about the reliability, potential bias, and opacity of algorithmic tools, coupled with calls for validation before deployment, suggest a stronger adherence to ensuring technology aligns with legal principles before widespread adoption, positioning AI more as a potential judicial support tool rather than a replacement. Singapore appears to tread a middle path of pragmatic experimentation, exploring Generative AI for practical access to justice applications (like assisting SRLs) while actively managing known risks like “hallucinations,” suggesting controlled enthusiasm within a state-managed innovation framework. This comparative view highlights a spectrum: the US demonstrates rapid adoption leading to reactive ethical debate, Australia shows principle-led caution influencing slower adoption, and Singapore pursues controlled, state-led experimentation. Each approach carries different implications for ensuring that AI integration genuinely serves, rather than potentially subverts, the goals of fairness and justice central to MJD.

5.5 – Wrapping Up

The comparative analysis of Singapore, Australia, and the United States through the MJD framework underscores that harnessing technology for meaningful access to justice is less about the technology itself and more about the design philosophy guiding its integration. Each

jurisdiction offers valuable insights and cautionary tales. Singapore's strategic, centralized approach demonstrates the power of transformative integration and specialized pathways but must remain vigilant about user-centricity beyond efficiency. Australia showcases important federal initiatives and commendable judicial caution regarding AI but grapples with systemic fragmentation and the digital divide. The US presents a dynamic but deeply fragmented landscape where promising state-level ODR initiatives coexist with significant inequities and ethical challenges in AI adoption.

Due to the responsive, user-centric nature of MJD, consistent alignment with MJD principles may correlate with positive outcomes, particularly when technology enables user-centric process redesign tailored to specific problems (e.g., ODR, interactive e-services). Divergence commonly occurs when technology is merely grafted onto existing structures, institutional metrics overshadow user experience, the digital divide is ignored, or technology deployment potentially compromises fundamental justice values. The thought experiments illustrate that a conscious application of MJD – prioritizing holistic user goals, measuring success through user experience, designing inclusively, offering genuine pathway choice, and ensuring technology serves justice – offers a pathway toward more effective, equitable, and truly transformative digital justice systems across diverse international contexts. Achieving this requires moving beyond mere modernization to embrace a fundamental redesign centred on the people the justice system is meant to serve.

Singapore's highly structured, state-driven approach demonstrates the potential for rapid, transformative change and the creation of specialized digital pathways, achieving significant efficiencies. However, its model raises questions about ensuring genuine user-centricity extends beyond institutional optimization and accommodates user flexibility. Australia presents a picture of pragmatic adoption, particularly within the federal system, alongside commendable judicial caution regarding AI's ethical implications. Yet, its progress appears hampered by systemic fragmentation, the persistent challenge of the digital divide across its vast geography, and perhaps a lack of overarching strategic vision focused explicitly on user-centric transformation. The United States showcases dynamism, particularly in state-level ODR innovations aimed at addressing access gaps for common problems, but this occurs within a deeply fragmented system characterized by resource inequities, significant digital exclusion, and highly contested deployments of advanced technologies like AI, often driven by market forces rather than a unified justice strategy.

Across these diverse contexts, common themes emerge. A recurring tension exists between leveraging technology for institutional efficiency versus designing it to enhance the user's holistic experience of justice. The digital divide poses a universal challenge, demanding proactive mitigation strategies beyond mere technological deployment. Furthermore, the

critical importance of the “technology follows justice” principle is evident, particularly concerning AI, where ensuring alignment with fundamental legal values like fairness and transparency is paramount.

Ultimately, this chapter demonstrates that technology alone is not a panacea for access to justice challenges. Its potential is realized only when integrated thoughtfully within a user-centric framework like MJD. Consciously prioritizing the user’s goal of holistic problem resolution, measuring success through user experience, designing for inclusivity, fostering flexible pathways, and ensuring technology serves justice principles are essential for moving beyond simple digitization towards genuinely meaningful digital justice. The international successes and shortcomings explored here provide a vital backdrop against which the Canadian experiences, examined in the previous chapter, can be understood and evaluated, further informing the practical application of Meaningful Justice Design.

Chapter 6: Conclusion

This thesis embarked on an exploration of how user-centric justice process design methodologies can be optimized to integrate technology, thereby enhancing meaningful access to justice while mitigating existing and emerging barriers to accessibility. The research was driven by the observation that traditional legal systems, despite their foundational importance, often erect systemic financial, informational, and procedural barriers that disproportionately affect marginalized individuals. Furthermore, the rapid and often reactive integration of technology, particularly accelerated by the COVID-19 pandemic, has frequently resulted in the mere digitization of analog processes, failing to transform underlying inefficiencies or address ingrained access to justice issues.

To address this, the thesis proposed a novel approach: Meaningful Justice Design (MJD). This methodology is rooted in redefined conceptions of “justice” as the quickest, least resource-intensive, and most holistic resolution of any problem placing an individual or collective in a state of injustice, and “meaningful access to justice” as a holistic, interdisciplinary, and technologically integrated approach responsive to users’ diverse needs.

6.1 – Summary of Key Arguments and Findings

Chapter 1 laid the groundwork by identifying the core problem: contemporary approaches to justice process design often lack user-centricity and effective technology integration, thereby failing to deliver meaningful access to justice. It introduced MJD as a user-centric methodology designed to create justice processes that are accessible, understandable, and responsive, guided by the principle that “technology follows justice.”

Chapter 2 delved into the existing literature, defining “justice” and “access to justice” while critically assessing contemporary legal process designs and the implications of technology. It highlighted the shortcomings of traditional views, such as the problem of “surrogacies” where the focus shifts from justice to law, and the “barrier” metaphor, which misframes justice as an existing product merely needing to be reached. The chapter emphasized the necessity of user-centric design principles and critiqued contemporary approaches for often prioritizing institutional efficiency over user experience and holistic problem resolution. It also underscored that technology integration must move beyond automation towards genuine transformation.

Chapter 3 formally introduced and detailed the MJD methodology. It articulated the five core tenets of MJD:

- **Justice is the Goal:** Shifting from mere legal dispute resolution to a transformative outcome that restores users’ balance, dignity, and well-being.
- **Injustice is the Metric:** Measuring success by the system’s capacity to diminish the subjective experience of injustice among users, rather than traditional institutional metrics.
- **User-Centricity:** Centring the entire justice process on the lived experiences, needs, and expectations of those seeking redress.
- **One-Size-Fits-Some Resolution Pathways:** Recognizing that no single pathway serves all users, advocating for a diverse “societal toolbox” of flexible and specialized resolution options.
- **Transformative Integration of Technology:** Utilizing technology not only for efficiency, but also as a catalyst for reimagining and reshaping the justice system in a user-centric manner, where technology follows justice. This chapter argued for a paradigm shift from institution-centric models to one that truly serves the needs of justice system users.

Chapter 4 provided practical illustrations of MJD’s application through two Canadian case studies: the New Brunswick *Access to Justice Summit* and the Federal Court’s *Simplified Judicial Review Pilot Project*. The New Brunswick Summit exemplified the “Justice is the Goal” tenet by acknowledging the limitations of traditional adjudication in family law and seeking more comprehensive solutions. The Federal Court’s Pilot Project demonstrated how MJD principles, including targeted simplification, strategic technological use, and iterative evaluation, could operationalize a “one-size-fits-some” pathway to significantly improve accessibility, efficiency, and fairness for users in specific immigration judicial reviews.

Chapter 5 expanded the analysis to the international sphere, examining technology integration in Singapore, Australia, and the United States through the MJD lens. This comparative analysis revealed that:

- **Singapore** demonstrates strong alignment with “Transformative Integration of Technology” and “One-Size-Fits-Some Resolution Pathways” through its centralized, strategic approach to e-services and ODR. However, its primary focus may lean more towards efficiency than the holistic resolution of user injustice.
- **Australia** shows pragmatic adoption of technology, with initiatives like the Federal Court’s eServices and judicial caution regarding AI aligning with aspects of MJD. However, systemic fragmentation and the digital divide pose challenges to consistent user-centricity.
- The **United States** presents a fragmented landscape where promising state-level ODR initiatives (aligning with “One-Size-Fits-Some Resolution Pathways” and “User-Centricity” for SRLs) coexist with significant resource disparities, digital exclusion, and ethical debates around AI, often hindering a truly transformative and equitable integration of technology. The chapter concluded that true advancement in digital justice requires a design philosophy that prioritizes holistic user goals and measures success through user experience, ensuring technology serves justice principles.

6.2 – Significance of Meaningful Justice Design

Meaningful Justice Design offers a critical paradigm shift. It moves beyond incremental adjustments to traditional justice systems, which often prioritize institutional needs, procedural formalism, or mere digitization. Instead, MJD advocates for a fundamental reorientation towards the user. By defining justice as a holistic outcome and access to justice as an adaptable, user-responsive system, MJD provides a framework to:

- **Truly centre the user:** Prioritizing their needs, experiences, and perspectives at every stage of process design and implementation.
- **Promote holistic problem-solving:** Encouraging the resolution of the underlying issues that lead to a state of injustice, rather than focusing narrowly on legal claims.
- **Foster flexible and diverse resolution pathways:** Recognizing that a single approach cannot meet the needs of all users or all types of problems.
- **Ensure technology serves justice:** Leveraging technology not as an end in itself, but as a tool to enhance accessibility, fairness, and the overall user experience of justice.

This approach challenges the deep-seated institutional inertia and the tendency to conflate access to legal institutions with the actual experience of justice. MJD provides a practical methodology to bridge the gap between the theoretical aspiration of access to justice and the lived realities of those who seek it.

6.3 – Implications of the Research

The findings and the MJD framework presented in this thesis carry significant implications for various stakeholders:

- **Policymakers:** MJD provides a blueprint for systemic justice reform that transcends piecemeal initiatives. It calls for policies that foster user-centricity, support diverse resolution pathways (including non-legal ones), and mandate the responsible and transformative integration of technology. This includes addressing the digital divide and ensuring equitable access to technologically enhanced justice processes. For example, policymakers could mandate the inclusion of user experience assessments as a prerequisite for funding new justice technology projects, ensuring that MJD principles are embedded from the outset.
- **Legal Professionals (Judges, Lawyers, Court Administrators):** This research encourages a shift in mindset from system actors to facilitators of justice as experienced by the user. It highlights the need for greater collaboration in designing processes, embracing flexibility, and understanding the value of metrics beyond traditional legal outcomes. For court administrators, MJD provides a framework for redesigning services and leveraging technology to genuinely enhance the user experience, rather than merely improving institutional efficiency. An implication for judges and lawyers might be the need to develop new skills in guiding users through flexible resolution pathways, some of which may be technologically mediated or involve non-traditional dispute resolution techniques.
- **Technology Designers and Developers:** The “technology follows justice” principle is a crucial directive. Technology should be developed in the service of user needs and justice goals, not simply to automate existing, potentially flawed, processes. This requires a deeper understanding of the justice context and collaboration with users and justice system stakeholders throughout the design lifecycle. For instance, designers could focus on creating modular technological solutions that can be adapted to various “one-size-fits-some” pathways rather than monolithic systems.
- **Academia:** This thesis contributes to the scholarly discourse on access to justice, legal process design, and the intersection of law and technology. It provides a novel theoretical and practical framework that can be further tested, refined, and applied in

diverse contexts. A potential research implication for academia is the development of new pedagogical approaches that incorporate MJD principles into law school curricula, preparing future legal professionals to design and implement more user-centric justice solutions.

6.4 – Limitations & Critical Reflections

6.4.1 - Limitations

While this thesis offers a comprehensive framework, certain limitations should be acknowledged:

1. **Scope of Case Studies:** The Canadian case studies, while illustrative, represent specific contexts and stages of MJD implementation. Broader application and testing of MJD across different types of legal problems, user groups, and jurisdictions would provide more robust validation. While Chapter 5's international analysis goes some way to addressing this limitation by examining varied approaches to technology in justice, a more valuable study would be a longitudinal study that follows an MJD-based reform comprehensively from its ideation and design through experimentation and iteration, offering deeper insights into its long-term impacts and challenges.
2. **Insider Perspective:** My prior involvement in the case studies, while offering unique insights, also carries the potential for inherent bias. Efforts were made to rely on publicly accessible information and maintain objectivity.
3. **Measurement of "Injustice":** While the "Injustice is the Metric" tenet is central to MJD, developing universally accepted and practical tools for consistently measuring the subjective experience of injustice remains a complex challenge. Shifting focus from attempting to identify complex indicia that predict justice or injustice, which can be abstract and difficult to apply, towards more practical metrics that directly measure user experience throughout their journey in the justice system is crucial. Significant work is needed to identify the types of justice-system-specific user experience metrics that can be measured, focusing on aspects such as perceived fairness, clarity of process, ease of navigation, sense of agency, and overall satisfaction with both the process and the outcome. Legal needs surveys provide a starting point, but more nuanced, real-time feedback mechanisms integrated into justice processes are needed.
4. **Pace of Technological Change:** The field of technology is undergoing rapid evolution. While this thesis advocates for transformative integration, specific technological solutions discussed may become outdated. The core principles of MJD, however, are designed to be adaptable to new technological advancements.

5. **Resource Constraints:** The ideal implementation of MJD, particularly the development of multiple resolution pathways and supportive technological infrastructure, may require significant upfront investment, which can be a barrier for under-resourced justice systems. For example, establishing comprehensive Access to Justice Centres as envisioned (physical and digital hubs providing technological access, legal information, human support, and connections to various resolution pathways) would require substantial initial funding for infrastructure, technology, and staffing. Similarly, developing a sophisticated, interconnected digital ecosystem that seamlessly guides users through various "one-size-fits-some" pathways, integrates with multiple service providers, and incorporates robust user feedback mechanisms would also necessitate significant upfront technological and developmental investment. However, such reforms, by aiming for more holistic and efficient long-term problem resolution, could ultimately serve the broader interests of MJD and potentially lead to cost savings in the long run by reducing repeat issues and reliance on more expensive formal processes.

6.4.2 – Critical Reflections

While this thesis has systematically developed the MJD framework and demonstrated its utility, a comprehensive and critical perspective requires acknowledging not only the research's limitations but also the inherent tensions that emerge from its arguments. This reflection addresses the complexities of the MJD framework itself, my own positionality as the researcher, and the pragmatic challenges of implementing such an ambitious vision.

6.4.2.1 – *The Idealism of MJD versus the Pragmatism of Justice Reform*

A central tension within this thesis is the gap between the aspirational, holistic vision of MJD and the incremental, often institutionally constrained reality of justice reform. The framework proposes a fundamental reorientation of justice systems around the user's pursuit of justice, a paradigm shift that requires significant political will, cultural change, and resource allocation. The "Justice & Shovels" analogy was used to illustrate how deeply ingrained institution-centric thinking can be. The case studies, particularly the Federal Court's Pilot Project, demonstrate that pragmatic, focused change is achievable. However, such projects often represent a compromise – an efficient procedural pathway within the existing legal structure rather than a complete reimagining of holistic problem resolution. This thesis, therefore, exists in the space between what is ideal and what is achievable. While MJD provides a normative compass pointing toward true user-centricity, its real-world application may be a series of pragmatic steps that only ever approach, but perhaps never fully reach, the framework's purest ideals. Future work must grapple with whether this inherent compromise dilutes the transformative potential of MJD or represents the only realistic path to meaningful change.

6.4.2.2 – The Methodological Strengths and Complications of an “Insider” Perspective

My role as an “insider” with direct involvement in the design and implementation of the Canadian case studies provided unique and granular insights that would be unavailable to an external observer. This positionality enabled a nuanced analysis of the decision-making processes, stakeholder dynamics, and practical challenges in both the New Brunswick Summit's Ideation phase and the Federal Court Pilot's transition from Design to Experimentation. However, as acknowledged, this proximity carries an inherent risk of bias. Beyond a simple conflict of interest, this insider role inevitably shapes the narrative. The projects chosen were ones with which I have personal experience, and the analysis is filtered through my own advocacy for their success. A critical reflection must acknowledge that, while this thesis employs MJD as an analytical lens, it is also, in part, an autoethnographic account of attempting to apply these very principles. This duality is both a strength that grounds theory in practice and a limitation, as it frames the research around a particular set of experiences and may unconsciously favour interpretations that align with the intended outcomes of the projects.

6.4.2.3 – The Philosophical Challenge of Addressing Injustice

The tenet “Injustice is the Metric” is a cornerstone of MJD, shifting the focus of evaluation from institutional outputs to the user's subjective experience. As noted, developing practical tools to measure this is a significant challenge. The deeper, more critical reflection is a philosophical one: in the act of trying to quantify, survey, and metricize the subjective feeling of injustice, do we risk creating a new form of institutional process? The very act of measurement can objectify and simplify a deeply personal experience. There is a risk that a system, even one designed with the best intentions of MJD, could become focused on optimizing its “injustice reduction score” rather than genuinely engaging with the qualitative, human dimension of the problems it seeks to solve. This thesis argues for a move away from institution-centric metrics. However, a critical perspective demands that we remain vigilant, ensuring our new user-centric metrics do not become an equally rigid and potentially dehumanizing surrogate for true justice.

6.4.2.4 – Navigating the Power Dynamics of “Technology Follows Justice”

The principle that “technology follows justice” is a powerful directive for ensuring technology serves user-centric goals, rather than simply being “grafted” onto flawed processes. This thesis has demonstrated through international examples the risks of technology undermining justice, as seen with the opaque COMPAS algorithm in the United States. However, a critical reflection must acknowledge the immense power and momentum of the global technology industry. In practice, courts and justice ministries are often consumers, not developers, of advanced technology. They face a market of pre-existing solutions and powerful vendors. The ability of a justice system to dictate terms and demand that technology be built to its precise, user-centric specifications may be limited by market realities, resource constraints, and the sheer pace of technological change. Therefore, while “technology follows justice” is the ideal, the practical

reality may involve a continuous and difficult negotiation to adapt commercial technologies to align with MJD's core values. This thesis advocates for the principle, but its successful implementation depends on a power dynamic that may not always favour the justice system.

6.5 – Areas for Future Research and Application

The MJD framework opens several avenues for future inquiry and practical application:

1. **Expanding Empirical Validation:** Further empirical research is needed to test the efficacy of MJD across diverse legal settings and with varied user populations. This includes identifying the unique needs and experiences of system users in different contexts, such as those involved in criminal justice processes (e.g., accused persons, victims, witnesses) or navigating administrative tribunals beyond immigration (e.g., social benefits, human rights, professional regulation), and tailoring MJD applications accordingly. It also involves studying its impact on Indigenous communities, individuals with disabilities, and those experiencing mental health challenges.
2. **Developing Standardized “Injustice” Metrics:** Collaborative research involving legal scholars, social scientists, psychologists, and UX designers is needed to develop and validate robust, practical metrics for assessing the reduction of perceived injustice within justice processes.
3. **Exploring AI and MJD:** As AI tools become more sophisticated, research should focus on how they can be responsibly integrated within an MJD framework to enhance holistic problem-solving, user guidance, and pathway navigation, while rigorously adhering to the “technology follows justice” principle and mitigating risks of bias and opacity.
4. **MJD in Legal Education and Training:** Integrating MJD principles into legal education and professional development for lawyers, judges, and court staff could foster a more user-centric culture within the justice system.
5. **Cross-Jurisdictional Collaboration and Knowledge Sharing:** Creating platforms for international collaboration to share best practices, challenges, and innovations related to the implementation of MJD and user-centric justice technologies.
6. **Longitudinal Studies:** Conducting longitudinal studies to assess the long-term impacts of MJD-aligned reforms on user outcomes, community well-being, and overall trust in the justice system.

6.6 – Concluding Thoughts

The pursuit of justice is a continuous journey, not a destination. Traditional systems, while vital, have shown their limitations in a rapidly changing world where users demand more than just

procedural correctness; they seek resolutions that are meaningful, timely, and holistic. Meaningful Justice Design is offered not as a panacea, but as a guiding philosophy and a practical methodology to reorient our efforts towards the individuals the justice system is meant to serve. By embracing user-centricity, fostering flexible and diverse pathways to resolution, and thoughtfully integrating technology in service of these goals, we can move closer to a future where justice is not just an abstract ideal but a tangible, accessible, and restorative experience for all. This thesis represents a call to action for policymakers, legal professionals, technologists, and researchers to collaborate in reimaging and rebuilding our justice systems, ensuring they are fit for purpose in the 21st century and beyond.

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