

The Access to Justice Needs of Manitobans: Legal Practitioners' Views

GERARD J. KENNEDY,*
NATASHA BROWN**

ABSTRACT

A unique survey of Manitoba legal practitioners' views on the greatest access to justice needs of Manitobans, we bring experiential data to the question of how to facilitate access to justice for Manitobans. This is truly unique, first-hand, Manitoba-focussed research and we can think of no better place to publish than the Manitoba Law Journal.

Keywords: *Courts, Access to Justice, The Legal Profession, Surveys, Civil Procedure*

I. INTRODUCTION

Access to justice is generally cited as the most pressing concern facing Canada's justice system, one that must be addressed through many different avenues.¹ Over the past decade, there has been considerable scholarship addressing this issue, much of it

* Assistant Professor, Faculty of Law, University of Alberta.

** Director of Access to Justice & Community Engagement, Faculty of Law, University of Manitoba. The authors thank Keza Uwitonze, April Lount, Natasha Ellis, and Lou Lamari for their research assistance. This work was approved by the Research Ethics Board at the University of Manitoba.

¹ *Hryniak v Mauldin*, 2014 SCC 7 [*"Hryniak"*] at paras 1, 26; Trevor CW Farrow, "What is Access to Justice?" (2014) 51:3 Osgoode Hall LJ 957 [*"Farrow 2014"*] reviews the literature in this area at fn 1. The various approaches to addressing this issue are discussed in more detail below in Part IA.

concentrating on particular provinces, such as Ontario,² Quebec,³ British Columbia,⁴ Alberta,⁵ Saskatchewan,⁶ and Nova Scotia.⁷ This article seeks to

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- ² Brandon Orct, “The Jury Strikes Back: Enhancing the Viability of the Civil Jury System in a Post-Pandemic Ontario” (2022) 13:1 Western J Leg Studies, 2022, online (CanLIIDocs 1241): <canlii.ca/t/7jdv>, [perma.cc/4EYT-PHHU]; David Rainsberry, “Online Dispute Resolution: Filling the Void Left by Lawyers’ Monopoly on Legal Services and Compelling a Regulatory Reckoning in the Conflict Marketplace” (2022) Canadian Legal Information Institute, 2022 online (CanLIIDocs 1480): <canlii.ca/t/7kcm1>, [perma.cc/N87C-DXFQ]; Alicia Lam, *et al*, “Integrating Social Work Within Legal Clinics: An Inter-Professional Perspective to Address Social-Legal Needs” (2022) 38 Windsor YB Access Just 10, 2022, online (CanLIIDocs 1374): <canlii.ca/t/7jslc>, [perma.cc/C9FE-VEXX]; Selwyn A Pieters “Access to Administrative Justice for Community Users: A Litigator’s Perspective” (Paper written for CIAJ’s National Roundtable on Administrative Law, June 2021), Canadian Legal Information Institute, 2021, online (CanLIIDocs 1516): <canlii.ca/t/t92k>, [perma.cc/Q6Y8-2ASU].
- ³ Valier P Costanzo, “Access to Justice: A Missed Opportunity and the Proposal for a Unified Family Court in Quebec” (2023) 173 RDUS 52; J  r  my Boulanger-Bonnely, “Actions collectives et tribunaux administratifs: un vide juridictionnel    combler” (2022) 67:4 McGill LJ 453.
- ⁴ Katie Sykes, *et al*, “Civil Revolution: User Experiences with British Columbia’s Online Court” (2020) 37 Windsor YB Access Just 161, 2020, online (CanLIIDocs 3957): <canlii.ca/t/tw07>, [perma.cc/3KM2-RR4]; Christine Parsons, “Kids v Parents: Best Interests in BC’s Reformed Relocation Law” (2021) 30 Dal J Leg Stud 33, 2021, online (CanLIIDocs 13019): <canlii.ca/t/ts12>, [perma.cc/47GP-RK4T]; Jennifer Koshan, *et al*, “Introduction: Domestic Violence and Access to Justice within the Family Law and Intersecting Legal Systems” (2023) 35:1 Can J Fam L 1, 2023, online (CanLIIDocs 631): <canlii.ca/t/7n3cw>, [perma.cc/4KUJ-35GA].
- ⁵ Erin L Nelson, “Alberta’s Mental Health Review Panels: Accountable, Transparent Adjudication?” (2022) 59:3 Alta L Rev 563, 2022, online (CanLIIDocs 1106): <canlii.ca/t/7j1rc>; Jennifer Koshan, “Mapping Domestic Violence Law and Policy in Alberta: Intersections and Access to Justice” (2021) 58:3 Alta L Rev 521, 2021, online (CanLIIDocs 627): <canlii.ca/t/t2gt>, [perma.cc/Q5CZ-X3YE]; Sarah Kriekle, “Gatekeeping Admissions: Access to Justice and Inclusive Admissions Processes” (2022) 31 Dal J Leg Stud 85, 2022, online (CanLIIDocs 4268): <canlii.ca/t/7n10g>, [perma.cc/DG2E-2JYB].
- ⁶ Brea Lowenberger, Alyssa McIntyre & Elaine Selensky, “Reducing the ‘Justice Gap’ Through Collaboration Models for Systemic Change: Using Networks to Improve Access to Justice” (2023) 101:2 Can Bar Rev 389, 2023, online (CanLIIDocs 2335): <canlii.ca/t/7n75b>, [perma.cc/4E5U-6BL2]; Muhammad Asadullah & Barbara Tomporowski, “COVID-19 and Restorative Justice” (2021) 10 Ann Rev Interdisciplinary Justice Research 92, 2021, online (CanLIIDocs 1710): <canlii.ca/t/t9hr>, [perma.cc/55VL-V3ZS].
- ⁷ WH Charles, “Small Claims Disputes in Nova Scotia and Access to Justice” (2020) 43:2 Dal LJ 1, 2020, online (CanLIIDocs 2475): <canlii.ca/t/sxjd>, [perma.cc/EBN9-EAKB]; “#TALKJUSTICE Report Back to Service Providers” (December 2019), online

fill this gap in Manitoba not through analyzing case law (though that is important) or engaging in abstract discussion about what “access to justice” means (though that can be fruitful).⁸ Rather, we have asked Manitoba legal service providers what *they* consider to be the greatest needs in this area.

In September 2022, all Law Society of Manitoba (“LSM”) licensees were invited to complete a survey, asking them to indicate what they consider the greatest areas of need in the realm of access to justice. While this is not exhaustive of the experiences of litigants in Manitoba,⁹ legal service providers are “repeat players” in the justice system who can observe trends, unlike “one-off” litigants.¹⁰ We accordingly hope that the results of this survey, as explained in this article, will result in the better tailoring of policy interventions that have the motivation of facilitating access to justice.

Part I of this article provides background on the access to justice crisis in Canada and what definition of “access to justice” we are adopting for the remainder of this article. Part II explains the background and methodology of the survey that the lawyers were invited to complete. Part III describes what the survey showed. Part IV critically summarizes these results and what lessons they provide regarding what are the access to justice needs of Manitobans, including how policy can respond to this.

The results were mixed. Most respondents viewed family law to be an area that is incredibly underserved vis-à-vis the number of individuals requiring services, with criminal law and child protection ranking second and third in terms of areas most in need of support. An assortment of reasons was noted for this. Increased resources—particularly dedicated to service provision and increased availability of free and/or subsidized services—were cited as possible solutions, though there is reason to be skeptical of the likelihood that these will come to pass and, to the extent that they do, whether they will provide access to true justice. As would be expected in Manitoba, there is a significant rural-urban divide, with an acknowledgment that access to justice issues manifest differently in rural

(pdf): <lawreform.ns.ca/wp-content/uploads/2022/11/Report-to-Service-Providers.pdf>, [perma.cc/Y3WC-ZLVL].

⁸ It is important to note that, concurrent with this study, the Manitoba Law Foundation undertook a survey of Manitobans to examine their everyday legal problems. The results of this study are not yet publicly available.

⁹ Farrow 2014, *supra* note 1.

¹⁰ See Marc Galanter, “Why the ‘Haves’ Come Out Ahead: Speculations on the Limits of Legal Change”, In *Litigation: Does the “Haves” Come Out Ahead*, Herbert M. Kritzer & Susan Silbey, eds. (Palo Alto: Stanford University Press, 2003) 13 at 14, cited in Bahaar Hamzehzadeh, “Repeat Player vs. One-Shotter: Is Victory all that Obvious” (2010) 6 Hastings Bus LJ 239 at 241.

and especially northern communities. In these communities, access to travelling courts and better internet access could make a real difference, with the latter also supporting other social needs.¹¹ These macro-level results were complemented by a host of interesting perspectives from participants, which illuminate our macro-level findings and provide other potential sources of innovation in this regard.

II. BACKGROUND

A. *The Access to Justice Crisis in Canada*¹²

Generally speaking, Canadians should feel pride in their justice system: Canada always ranks very highly in international rule of law comparisons.¹³ Nonetheless, access to justice in civil and family matters has been viewed regularly as one of the justice system's least admirable aspects.¹⁴ The *status quo* is frequently described as a "crisis". Most Canadians cannot afford to retain lawyers for most matters, even though most will encounter legal issues that call for a lawyer's assistance. As individuals are unable to resolve legal issues, legal problems tend to multiply and the significant majority of these problems go unaddressed; this results in a host of social and health consequences.¹⁵

These broad phenomena have been documented thoroughly elsewhere and there is no "silver bullet" to address them.¹⁶ This in turn has led to multiple definitions of access to justice, varying in light of what is at stake. Some definitions are very broad, including philosophical analyses of "what

¹¹ See, e.g., Institut national de santé publique du Québec, "Inequalities in Access and Use of Digital Technologies: A Determinant of Concern for Population Health?" (Government of Quebec, 2022), online: <inspq.qc.ca/sites/default/files/publications/3148-inequalities-access-digital-technologies.pdf>, [perma.cc/AJ78-B265].

¹² This section of this article is based in large part on Gerard J Kennedy, "The 2010 Amendments and *Hryniak v Mauldin*: The Perspective of the Lawyers Who Have Lived Them" (2020) 37 Windsor YB Access Just 21 ["Kennedy Interviews"] at 23-24.

¹³ E.g., The World Justice Project, *The Rule of Law Index*, online: <worldjusticeproject.org/rule-of-law-index/global>, [perma.cc/7XQD-6QJW].

¹⁴ *Ibid.*

¹⁵ Farrow 2014, *supra* note 1 at 963; Trevor CW Farrow, "A New Wave of Access to Justice Reform in Canada" in Adam Dodek & Alice Woolley, eds, *In Search of the Ethical Lawyer: Stories from the Canadian Legal Profession* (Vancouver: UBC Press, 2016) ["Farrow 2016"] at 166-167.

¹⁶ See, e.g., Farrow 2014, *ibid.*

is justice”.¹⁷ Such broad definitions often include arguments for the need for transformative social justice.¹⁸ Much access to justice literature also concentrates on *access* to the court system. Even within this more traditional definition, however, there remain diverse conceptualizations of access to justice. Many analyses of civil procedure, for instance, have looked at making court processes more efficient, allowing courts to resolve more cases fairly on their merits.¹⁹ Other scholarship, however, has concentrated on how to deliver legal services in a more accessible manner.²⁰ And additional work has looked at alternative dispute resolution (ADR) such as mediation, arbitration, and administrative procedures that lessen the need for resort to courts and can deliver “justice” more efficiently.²¹ Overall, these analyses suggest that courts and lawyers can be a problem as well as a solution in facilitating access to justice.

These approaches to improving access to justice are all important, and we adopt the views of those, such as Trevor Farrow, who view these varying definitions as being complementary rather than in tension.²² That is why we adopted a very broad definition of “access to justice” for the purposes of asking Manitoban legal service providers their opinions on the topic. Specifically, we concur with authors Allison Fenske and Beverly Froese, who in their examination of Manitoba’s access to justice landscape in *Justice Starts Here: A One-Stop Shop Approach for Achieving Greater Justice in Manitoba* stated that, “Access to justice is achieved through fair processes and fair outcomes”

¹⁷ E.g., Farrow 2014, *ibid* at 969; Patricia Hughes, “Law Commissions and Access to Justice: What Justice Should We Be Talking About?” (2008) 46 Osgoode Hall LJ 773.

¹⁸ E.g., *ibid*; see also Sarah Buhler, “The View from Here: Access to Justice and Community Legal Clinics” (2012) 63 UNB LJ 427.

¹⁹ See, e.g., Brooke MacKenzie, “Effecting a Culture Shift: An Empirical Review of Ontario’s Summary Judgment Reforms” (2017) 54:4 Osgoode Hall LJ 1275.

²⁰ E.g., Gillian K Hadfield, “The Cost of Law: Promoting Access to Justice Through the (un)Corporate Practice of Law” (2014) 38 Supplement Intl Rev L & Econ 43. Thanks to Thomas Cromwell for introducing me to this.

²¹ See, e.g., Julie Macfarlane & Michaela Keet, “Civil Justice Reform and Mandatory Civil Mediation in Saskatchewan: Lessons from a Maturing Program” (2005) 42 Alta L Rev 677; Robert G Hann & Carl Baar, “Evaluation of the Ontario Mandatory Mediation Program (Rule 24.1): Final Report – The First 23 Months”, described by Martin Teplitsky, QC, “Universal mandatory mediation: A critical analysis of the evaluations of the Ontario mandatory mediation program” (Winter 2001) 20 Advocates’ Soc J No 3, 10. See also Gary Smith, “Unwilling Actors: Why Voluntary Mediation Works, Why Voluntary Mandatory Mediation May Not” (1998) 36 Osgoode Hall LJ 847, expressing doubt about the wisdom and utility of mandatory mediation.

²² Farrow 2016, *supra* note 15.

and also includes a “meaningful opportunity to participate in the development and reform of the law and legal processes”.²³

III. THE SURVEY²⁴

A. *Background*

In order to do better on the access to justice front, we need to understand if our efforts are working – not just theoretically, but practically. Surveyed lawyers can give us insight into that. Having previously conducted such a survey, we found asking lawyers provides substantial insight into how they, their clients, and their practices were affected by attempts to simplify procedural law.²⁵

Qualitative surveys have historically been uncommon in legal scholarship.²⁶ There are a few reasons for this. One may be principled: Langdellian views that law is a science to be discovered through primary sources and as such surveys have little to add.²⁷ But while critical legal studies’ views on law’s indeterminacy are often overstated,²⁸ it is equally naïve to suggest that law is purely “scientific”: a whole host of practical considerations can affect how it is likely to be applied.²⁹ There are also likely more practical reasons for the rareness of surveys in legal scholarship. First, they are difficult to orchestrate. Second, it is indeed true that obtaining a sample of lawyers that would be statistically representative would be

²³ Allison Fenske & Beverly Froese, “Justice Starts Here: A One-Stop Shop Approach for Achieving Greater Justice in Manitoba” (2017) at 2, online (pdf): <policyalternatives.ca/sites/default/files/uploads/publications/Manitoba%20Office/2017/11/Justice_Starts_Here_PILC.pdf>, [perma.cc/H33S-YQ62].

²⁴ The structure of this section of this article borrows heavily from Farrow 2014, *supra* note 1 at 965.

²⁵ Kennedy Interviews, *supra* note 8.

²⁶ Urszula Jaremba & Elaine Mak, “Interviewing Judges in the Transnational Context” (2014) 5:3 Law and Method 1 at 1.

²⁷ See, e.g., the discussions in David Sandomierski, “Canadian Contract Law Teaching and the Failure to Operationalize: Theory & Practice, Realism & Formalism, and Aspiration & Reality in Contemporary Legal Education” (2017), SJD Thesis, Faculty of Law, University of Toronto at 51-52.

²⁸ See, e.g., Mark Mancini, “Linguistic Nihilism” *Double Aspect* (2 November 2020), online: <doubleaspect.blog/2020/11/02/linguistic-nihilism/>, [perma.cc/2FH2-7JUJ]; Lawrence B Solum, “On the Indeterminacy Crisis: Critiquing Critical Dogma” (1987) 54(2) U Chi L Rev 462.

²⁹ See, e.g., Duncan Kennedy, “Form and Substance in Private Law Litigation” (1975) 89 Harv L Rev 1687.

tremendously challenging.³⁰ However, this is not to suggest that experiential knowledge and personal experiences cannot complement other sources of knowledge.³¹ Merely in the vein of access to justice, for instance, Trevor Farrow³² and Julie Macfarlane³³ have reported very interesting insights in light of surveys with those who experience the justice system. This builds on work done outside of Canada, such as that of Hazel Genn.³⁴ This is complementary to scholarship that seeks to place law's subject at the core of legal analysis.³⁵

Admittedly, this project surveyed legal service providers while it may be preferable to speak to litigants – those who experience the justice system on a day-to-day basis more acutely. However, the impressions of these providers are still important in access to justice analysis,³⁶ especially as their views are likely to transcend experiences of individual cases.³⁷ More importantly, finding a group of litigants who were even remotely representative of legal problems and their solutions seemed prohibitively challenging. By approaching each licensee, we at least ensured that all legal service

³⁰ See, e.g., Tim Roberts & Associates, “A Supreme Lack of Information (March 2019)” UVicACE, 2019), online: <ajrindotco.files.wordpress.com/2019/03/48fa3-attributionfollow-upreport-feb2019.pdf>, [perma.cc/7GFP-YZRW], noting that courts can collect better data on what actually happens to cases and parties.

³¹ Farrow 2014, *supra* note 1 at 966.

³² Anne Griffiths, “Using Ethnography as a Tool in Legal Research: An Anthropological Perspective” *Law Explorer* (20 May 2017), online: <lawexplores.com/using-ethnography-as-a-tool-in-legal-research-an-anthropological-perspective-anne-griffiths/>, [perma.cc/JB5E-N6EW]; Farrow 2014, *supra* note 1 at 966, citing Anne Griffiths, “Using Ethnography as a Tool in Legal Research: An Anthropological Perspective” in Reza Banakar & Max Travers, eds, *Theory and Method in Socio-Legal Research* (Portland: Hart Publishing, 2005) 113.

³³ Julie MacFarlane, Final Report, “The National Self-Represented Litigants Project: Identifying and Meeting the Needs of Self-Represented Litigants” (May 2013), online: <lsuc.on.ca.ezproxy.library.yorku.ca/uploadedFiles/For_the_Public/About_the_Law_Society/Convocation_Decisions/2014/Self-represented_project.pdf>.

³⁴ See, e.g., “Paths to Justice: What People Do and Think About Going to Law” (Oxford & Portland, OR: Hart Publishing, 1999).

³⁵ See, e.g., Roderick A Macdonald, “Access to Justice in Canada Today: Scope, Scale and Ambitions” in Julia Bass, WA Bogart & Frederick H Zemans, eds, *Access to Justice for a New Century – The Way Forward* (Toronto: LSUC, 2005) at 19; Martha-Marie Kleinhans & Roderick A Macdonald, “What is a Critical Legal Pluralism?” (1997) 12 Can J L & Soc 25; Farrow 2016, *supra* note 15 at 170; Justice Thomas A Cromwell, Address (Remarks delivered at the PLEAC Conference, 26 October 2012) [unpublished] at 2 as reported in Mary Eberts, “‘Lawyers Feed the Hungry’: Access to Justice, The Rule of Law, and the Private Practice of Law” (2013) 76 Sask L Rev 115 at 120, fn 32.

³⁶ Farrow 2014, *supra* note 1 at 965.

³⁷ Kennedy Interviews, *supra* note 8.

professionals with views on the matter had the opportunity to compete the survey. To the extent that the sample of legal service representatives is not representative, it could be that those who responded had practices where “access to justice” issues emerge more frequently. In this circumstance, putting greater reliance on their experiences is not inappropriate. Moreover, future research can complement this work by surveying litigants.

B. Methodology

In September 2022, all licensees of the Law Society of Manitoba—lawyers and articling students—received two emails asking them to complete the survey,³⁸ in addition to information about the survey embedded in communications on other topics. The survey was also advertised on social media, notably Twitter. Licensees were given the opportunity to fill out the survey through SurveyMonkey. Of approximately (approximation necessary due to changes in membership between communications) 2,186 licensees emailed, 124 responded to the survey—a take-up rate of approximately 5.6%.

The questions, many of which are repeated below and all of which appear in Appendix A, mostly fall into five categories:

1. two questions asking the extent to which respondents agreed with certain propositions;
2. eight questions concerning respondents’ views on areas of law most in need of assistance;
3. eight questions concerning respondents’ views on which populations are most in need of assistance;
4. two questions concerning respondents’ views on what their clients’ legal needs precisely are; and
5. eleven questions concerning respondents’ demographics.³⁹

This was prefaced by a question confirming that the respondents had consented to participating in the survey.

All answers to the qualitative questions were copied into Word documents, and common themes were grouped by the two of us, as we checked the work of each other. Many substantive comments are reflected below. In the interests of brevity, many of these comments are paraphrased.

³⁸ The authors wish to thank Brea Lowenberger, of the Faculty of Law at the University of Saskatchewan for her assistance with developing the survey questions.

³⁹ Clearly essential in critical race scholarship: Shanthi Elizabeth Senthe & Sujith Xavier, “Re-Igniting Critical Race in Canadian Legal Spaces: Introduction to the Special Symposium Issue of Contemporary Accounts of Racialization in Canada” (2013) Windsor YB Access Just 1; Faisal Bhabha, “Towards a Pedagogy of Diversity in Legal Education” (2014) 52 Osgoode Hall LJ 59 at 87. Categories were chosen based on a previous survey conducted through the University of Saskatchewan.

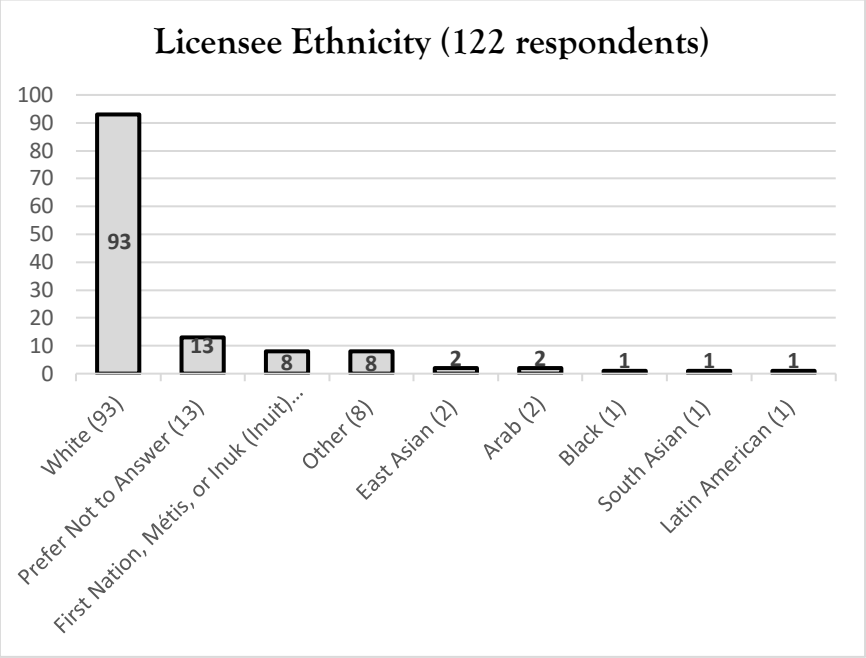
C. Limitations of Methodology

Since licensees in Manitoba are disproportionately in Winnipeg (and, to a lesser extent, Brandon), the respondents are disproportionately from those cities. This does limit the extent to which the lessons can be drawn from the lawyers' impressions, which are likely to be tailored to their particular experiences. And despite the respondents' diversity of experience, it cannot necessarily be said to mirror that of the Manitoba bar, especially given the geographic limitations. Nor does 124 lawyers constitute a particularly large sample. The results of the survey also depend on the accuracy of respondents' memories and/or impressions. It would accordingly be ill-advised to change public policy/the law based *only* on the responses to this survey. However, that does not mean that the respondents' impressions are uninteresting or cannot complement other work in this area.

1. FINDINGS

i. Demographics and Place in the Legal Profession of Sample

Respondents were asked whether they wished to identify their gender and ethnicity. Respondents were evenly divided (among those who answered the question) between men and women: 57 each with 8 preferring not to answer. Turning to ethnicity, more than three-quarters of respondents identified as White, with only 13% identifying otherwise:

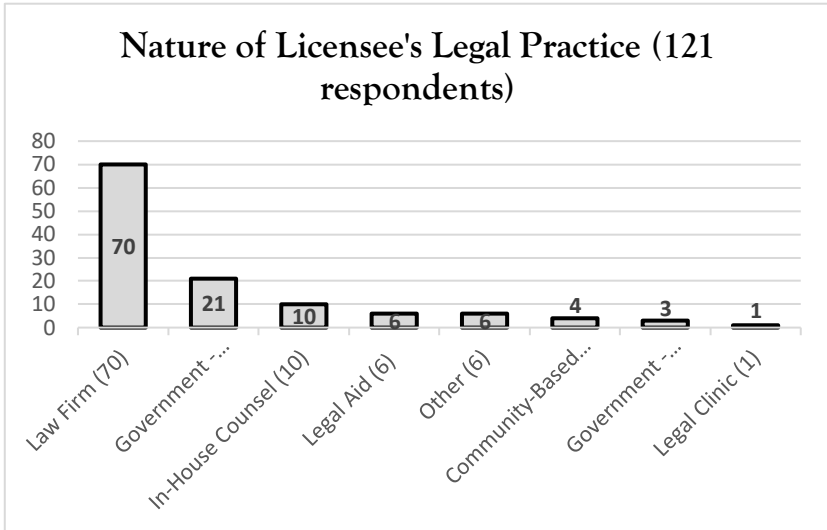


These responses are not reflective of the diversity of Manitoba. They are, however, reasonably reflective of the diversity of the Manitoba bar, wherein approximately 14.7% of the membership identify as non-White lawyers.⁴⁰ The Law Society of Manitoba indicated in its 2023 Annual Report, that of the 2,186 lawyers with active practicing status in Manitoba as of December 31, 2022, 321 identified as Indigenous or as a visible minority.⁴¹ Given the small sample sizes of non-White lawyers, no trends based on lawyers' ethnicities in responses to other questions were analyzed.

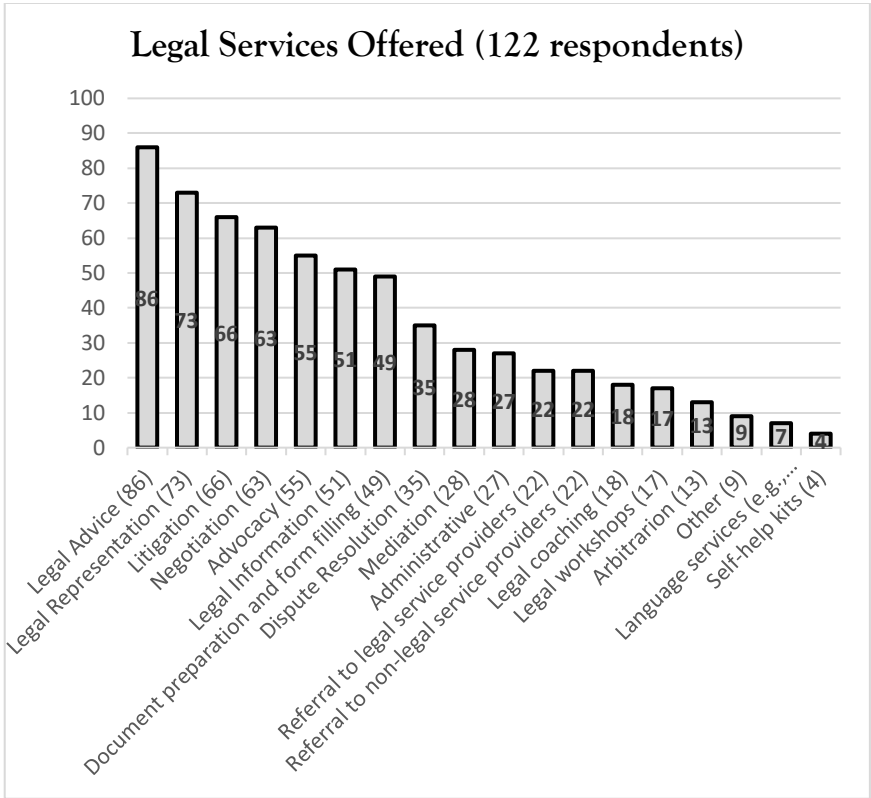
⁴⁰ "Annual Report 2023" (2023), *The Law Society of Manitoba*, online: <lawsociety.mb.ca/wp-content/uploads/2023/07/2023-Annual-Report.pdf> [perma.cc/WP2U-KVWB].

⁴¹ *Ibid.*

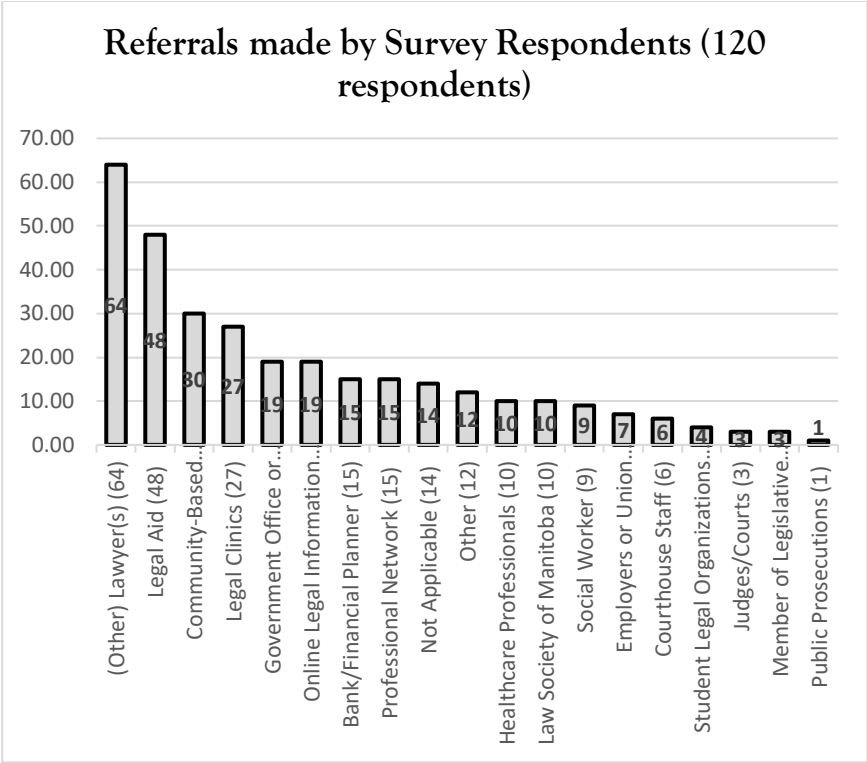
We also asked the respondents about the nature of their employment. Here, we saw significant diversity. Though the majority of the respondents are employed by law firms, they come from a variety of different other employers:



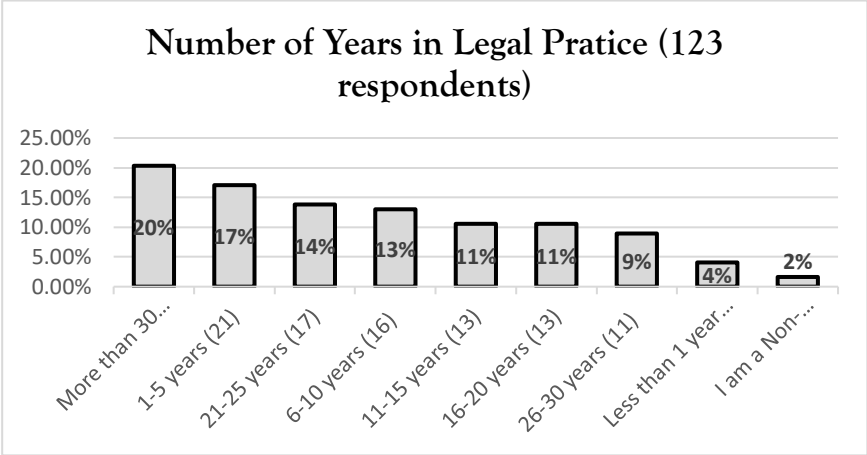
Concerning legal services, respondents similarly had a diversity of experiences. Most had diverse experiences themselves, in different areas, in response to a question that allowed respondents to acknowledge the multiple roles that they play:



Regarding sources of business, 41% of respondents confirmed that Other Lawyer(s) were their main source of receiving referrals from or for legal services. Not far behind were Personal Referrals (e.g., family/friends at 35.3%) followed by the respondents’ Professional Networks (30.3%), Self-Referrals (28.7%), Community-Based Organizations (22.1%), and Legal Aid (20.5%). Regarding referrals that respondents *make*, they similarly referred broadly, though community-based organizations and legal clinics were by far the two most common responses:



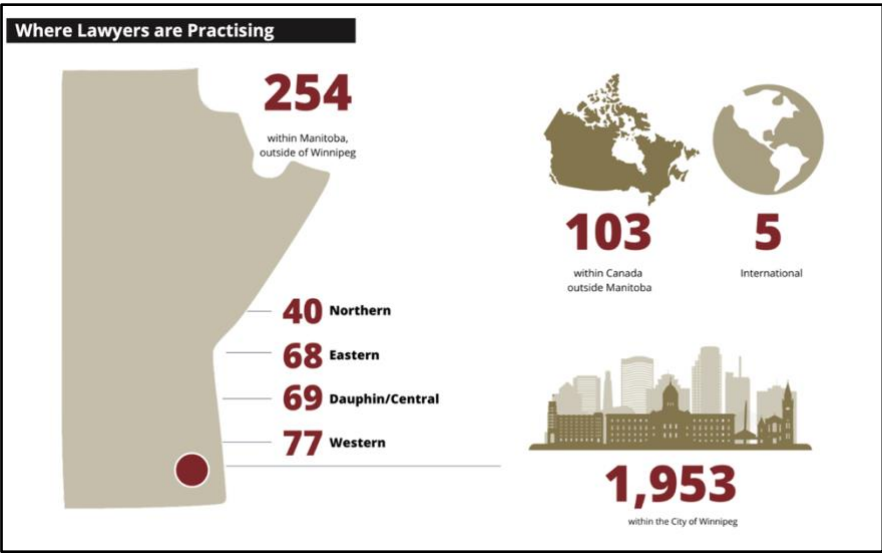
Respondents similarly had an incredibly diverse range of experiences in terms of seniority, as demonstrated in their answers to how long they have been practicing law:



They were, however, disproportionately based in urban centres. Of the 96 responses we received regarding which centres in Manitoba that they served, most of the lawyers surveyed took this question to ask which geographical area of Manitoba they served. As a result, the answers were commonly, “Winnipeg,” “Brandon,” or “Manitoba.” There were mentions of rural Manitoba: Selkirk, Beausejour, Portage la Prairie, and Steinbach, as well as circuit communities in Northern, Southern, and Central Manitoba. But the open-ended nature of this question (Question 27) prevents precise reporting of results.

We did precisely ask, however, whether the lawyers delivered services in Northern Manitoba. Somewhat surprisingly, 36.7% of them answered in the affirmative while 62.3% answered in the negative. Most of these lawyers clearly do not practice full-time in Northern Manitoba. But this nonetheless indicates a presence.

Image source: Law Society of Manitoba, *Annual Report 2024* (Winnipeg: Law



Society of Manitoba, 2024) at 18.

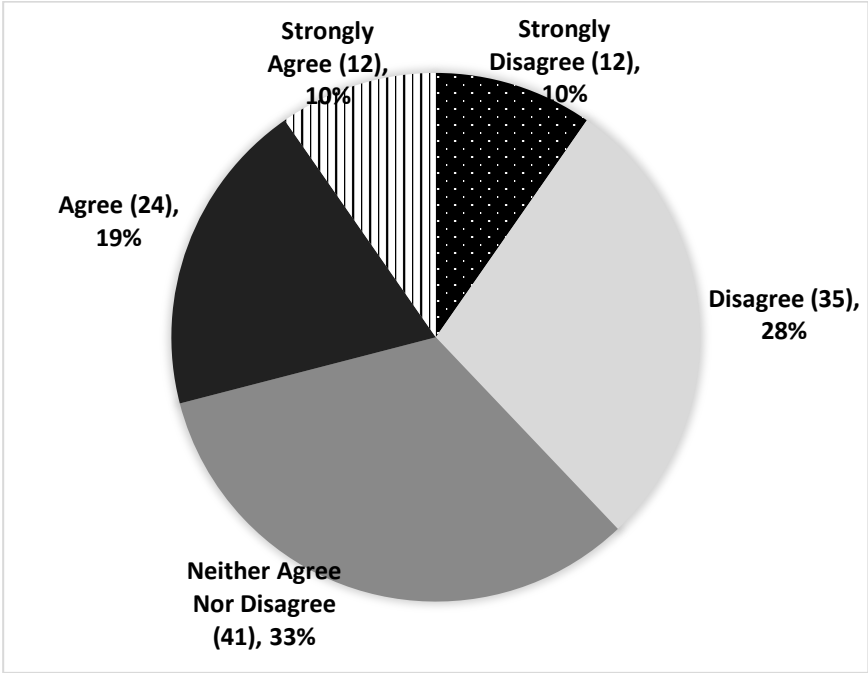
ii. Areas of Practice of Sample

Of the 123 lawyers who stated the areas in which they practiced, the area of law with the most responses was Wills and Estates with 42 votes (34.15%). Close behind was Family law with 40 votes (32.52%), followed by Real Estate with 35 votes (28.46%). Various other areas had even smaller representation, though respondents represented lawyers with diverse areas of practice, drawn largely from large urban centres.

iii. Overarching Thoughts on the Justice System

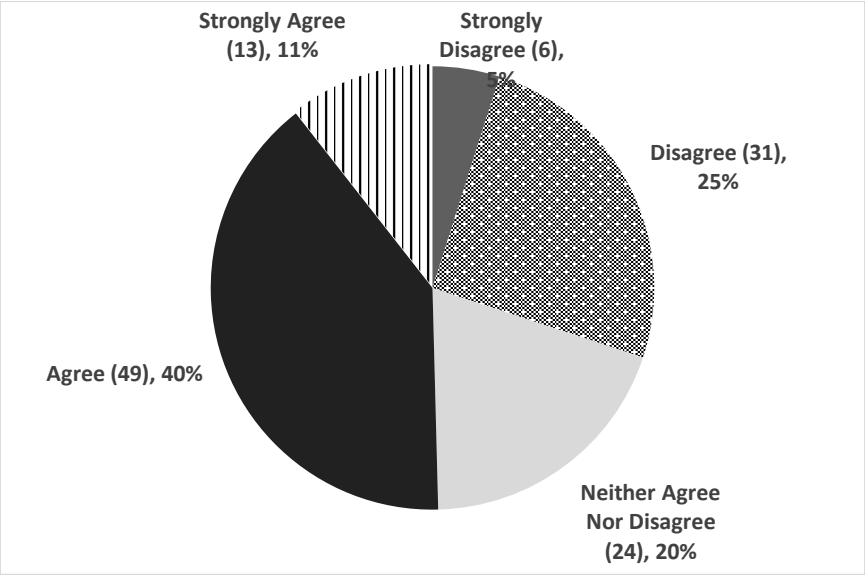
The first set of questions asked about the extent to which individuals can resolve their disputes, realistically, using the justice system. The results were not encouraging:

People experiencing a justice-related problem are better off addressing it through the formal legal system (124 Respondents)



The fact that lawyers were roughly divided on the propriety of resolving cases through the formal legal systems needs to be read in concert with views on whether certain questions even can be resolved outside the formal legal system, with the overwhelming majority of respondents agreeing that the “vast majority” of justice-related problems can be resolved outside the formal legal system:

The vast majority of justice-related problems can be resolved outside of the formal legal system (123 respondents)



This indicates openness to alternative ways of resolving disputes—but that an important role remains for the justice system, even if it is usually not the best way forward.⁴² The “vast majority” is not “all”. And a minority of respondents disagreed on whether even the vast majority of justice-related problems can be resolved outside the formal legal system.

Unsurprisingly, virtually all respondents agreed that higher costs (not just money but also time and energy) are a disincentive from using the formal legal system, with more than 90% of respondents agreeing that “people are less likely to take action to solve justice-related problems that have higher costs”. In this vein, 75% of respondents agreed that eligibility criteria for free, subsidized, or low-cost legal services are too restrictive. Only 13.6% disagreed, and only 1.6% disagreed strongly. Complementary to this, more than 81% disagreed with the proposition that there are an adequate number of services available to support the community’s legal needs, with

⁴² This is consistent with work praising the virtues of alternative dispute resolution: see, e.g., Catherine Piché, “Judging Fairness in Class Action Settlements” (2010) 28:1 Windsor YB Access Just 111 at 116-117; Jennifer Schulz & Jocelyn Turnbull “Mediation: The ‘Girly’ Litigation?” (2013) 2:2 Journal of Arbitration and Mediation 43 at 72; Tamar Meshel, “Arbitration, Courts, and the Rule of Law Post-Uber” (2024) SCLR (3d) (forthcoming).

barely 7% agreeing with this proposition (and only 2.4% agreeing strongly). The fact that more than 73% of respondents further agreed that the unintegrated nature of services available in the community was “a significant barrier to addressing individuals’ legal needs” further showed the problems in this regard.

At the same time, less than half of respondents (46.8%) disagreed with the statement that there are an adequate number of legal service providers practicing in areas of law for which the community has the most need. While those who perceive a deficit amount to more than the 31.5% who agreed with the statement, the responses are more equally divided compared to responses to many other questions. Similarly, there were roughly equivalent responses to the statement that legal service providers deliver services in a culturally appropriate manner: 33.1% disagreed compared to 33.1% who agreed. However, the 37.9% who had no opinion on this topic should be taken as notes of caution in this regard.⁴³

Finally, a question was asked whether recent emphases on summary procedures have facilitated prompter resolution of actions on their merits.⁴⁴ This struck us as particularly important given recent encouragement from the Supreme Court of Canada to use summary procedures, which has had impacts in Manitoba.⁴⁵ Respondents were skeptical, with fewer than 1% (i.e., one person) agreeing strongly, and barely 25% agreeing at all. This is consistent with other research suggesting such emphases have had modest impacts on how litigation is actually resolved.⁴⁶

iv. Individuals’ Access

Despite views on access to legal services, when it came to more discrete items, respondents could be less pessimistic. For instance, while only 3% of respondents believe that individuals “always” obtain effective legal *information* for a justice-related problem, 46.8% said that these individuals “often” do and 43.6% said that they “sometimes” do. Only 6.5% answered “rarely” and no one answered “never”.

Turning to individuals’ ability to obtain effective legal *advice*, 41.5% of respondents said individuals “often” are able to do so, compared to 48%

⁴³ Richard Delgado, Jean Stefancic & Angela Harris, *Critical Race Theory: An Introduction*, 2d ed (New York University Press, 2012) at 7.

⁴⁴ See the discussion in, e.g., Gerard J Kennedy, “*Hryniak* Comes to Manitoba: The Evolution of Manitoba Civil Procedure in the 2010s” (2021) 44:2 Man LJ 36.

⁴⁵ *Ibid*; *Hryniak*, *supra* note **Error! Bookmark not defined.**

⁴⁶ See, e.g., Gerard Joseph Kennedy, “*Hryniak*, the 2010 Amendments, and the First Stages of a Culture Shift?: The Evolution of Ontario Civil Procedure in the 2010s”, PhD Dissertation, Faculty of Graduate Studies, York University, January 2020.

who said they “sometimes” are able to do so. 8.9% said individuals are “rarely” able to obtain effective legal advice. Only 1.6% responded “always”, which is still better (to set the bar low) than the zero respondents who answered “never” to this question.

Respondents, interestingly, produced mixed views regarding the ability to receive legal *representation*. The vast majority of respondents remain in the middle in this regard: 35% saying that such persons “often” manage to obtain representation while 43.9% say that this “sometimes” occurs. This is in contrast to 18.7% who responded “rarely”, 2.4% who responded “always”, and no one who responded “never”.

Things become even less rosy when lawyers are asked about individuals’ ability to access legal supports in a *timely* manner. 28.5% of respondents report that this never (1.6%) or rarely (26.8%) occurs. The bulk of the responses, 47.2% said this occurs “sometimes”, contrasted to 22% who say it “often” occurs and 2.4% who answered “always”.

Legal support is something in which respondents report mixed faith. While no respondents held that individuals are “always” able to satisfactorily resolve justice-related problems *as a result of seeking legal support*, neither did any respondents answer “never”. Meanwhile, 39% held that this “often” occurs while 49.6% responded “sometimes”. 11.4% responded “rarely”.

When it came to individuals’ abilities to satisfactorily resolve justice-related problems *promptly*, not a single respondent asserted that this “always” happens and only 11.4% said that it “often” does. This is contrasted to 44.7% who responded “sometimes”, 39% who said “rarely”, and 4.9% answering “never”.

Finally, and perhaps even more damning, respondents expressed extreme skepticism in individuals’ abilities to “satisfactorily resolve justice-related problems *with minimal financial expense*”. Only one respondent (0.8%) said that this “always” happens while only 9.8% said it “often” does. By contrast, 26% responded “sometimes”, 51.2% responded “rarely”, and 12.2% responded “never”.

These results can be represented in the following table:

Frequency	<i>Timely Legal Services</i>	<i>Satisfactory Results As a Result</i>	<i>Satisfactory Results Promptly</i>	<i>Satisfactory Results With Minimal Expense</i>
Always	2%	0%	0%	1%
Often	22%	39%	11%	10%
Sometimes	47%	50%	45%	26%
Rarely	27%	11%	39%	51%
Never	2%	0%	5%	12%

In an ideal world, these questions would overwhelmingly be answered “always”. While some responses suggest that many individuals can access certain legal services relatively easily, taken as a whole, the responses paint a rather depressing picture, consistent with the aforementioned conceptualizations of access to justice as a “crisis”: having respondents divided between “often” and “sometimes” is a better ratio among these questions. Moreover, when it came to the final question regarding satisfactory outcomes—at the core of the role of the justice system⁴⁷—the picture painted was dark indeed.

v. Areas Most in Demand & Possible Solutions

a. Practice Areas in Most Demand

Asking lawyers to identify the three practice areas with the greatest demand, family law was selected 45.97% of the time. This is of little surprise since an estimated 3,000 to 5,000 Manitoba families are affected by separation or divorce each year,⁴⁸ even placing to the side the other matters addressed by family law.

Criminal law and child protection law were tied for the second greatest area of need at 22.58%. Aboriginal/Indigenous law came in at third at 19.35%. Housing/residential tenancies was identified by lawyers as an area of need by 14.52% of lawyers, while general civil litigation and

⁴⁷ As Karakatsanis J noted in *Hryniak*, *supra* note 1 at para 23, “Our civil justice system is premised upon the value that the process of adjudication must be fair and just. This cannot be compromised.”

⁴⁸ “Family Law Modernization Action Plan” (2020) at 4, online (pdf): *Government of Manitoba*, online (pdf): <gov.mb.ca/familylaw/documents/flm_action_plan_eng.pdf>, [perma.cc/K4PK-4PR9].

immigration/refugee law were identified by 13.71% of lawyers. Government income was identified by 12.90% of respondents. All other practice areas were identified less than 10% of the time, with no lawyers selecting traffic law as an area of need.

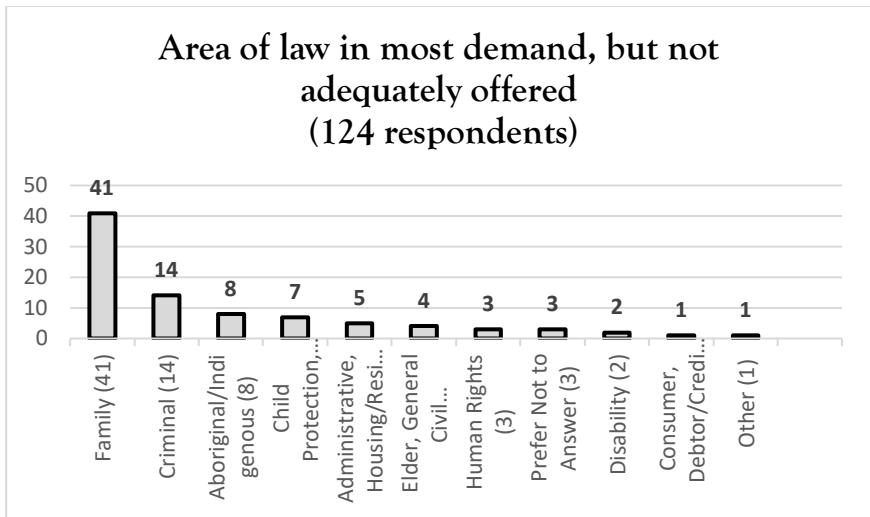
We then asked lawyers which area of law they believed to be most in demand in their community, but is not adequately offered. Again, the majority of responding lawyers (33%) identified family law as the area of greatest need. This is likely a direct correlation to the fact that it is estimated that at least 40% of parties are self-represented when they appear in court for Family Law issues.⁴⁹

Criminal law was identified by 11.29% of responding lawyers and Aboriginal/Indigenous law was identified by 6.45%. Surprisingly, although 22.58% of lawyers identified Child Protection as being an area of need, only 5.65% of responding lawyers identified it as the area of law that is not adequately offered.

It is interesting to note that although Legal Aid Manitoba provides services to Manitobans in the areas of Family Law, Criminal Law and Child Protection, along with providing support with Residential Tenancies and Government Benefits issues,⁵⁰ these areas of law were amongst the most indentured areas of need.

⁴⁹ See: Julie MacFarlane, "The National Self-Represented Litigants Project: Identifying and Meeting the Needs of Self-Represented Litigants: Final Report" (2013) at 32, online (pdf): <representingyourselfcanada.com/wp-content/uploads/2016/09/srlreportfinal.pdf>, [perma.cc/U453-ASN6].

⁵⁰ "Services" (2023), online: <legalaid.mb.ca/services/who-we-serve/>, [perma.cc/R6GJ-U5Z3].



b. Causes of inadequate legal services

We then asked Manitoba lawyers to identify why they believe that legal services are not adequately offered in the previously selected area of law. The majority of the 121 responses (66 votes or 54.55%) selected a lack of low-cost legal service providers in the area of law as the main problem.

Almost the same number of respondents (65 votes or 52.72%) reported that a lack of “free or government-subsidized services like Legal Aid” were not adequately available in this area of law. This is not a surprise based on the findings from the previous question.

“Complexity of the area of law and related legal procedures”, “lack of capacity among legal service providers to meet the demand for services in this area of law”, and a “lack of interest in providing services in this area of law” each received 48 votes (or 39.67%). Concerns about excessively complex law accord with previous analyses that this is an access to justice barrier.⁵¹

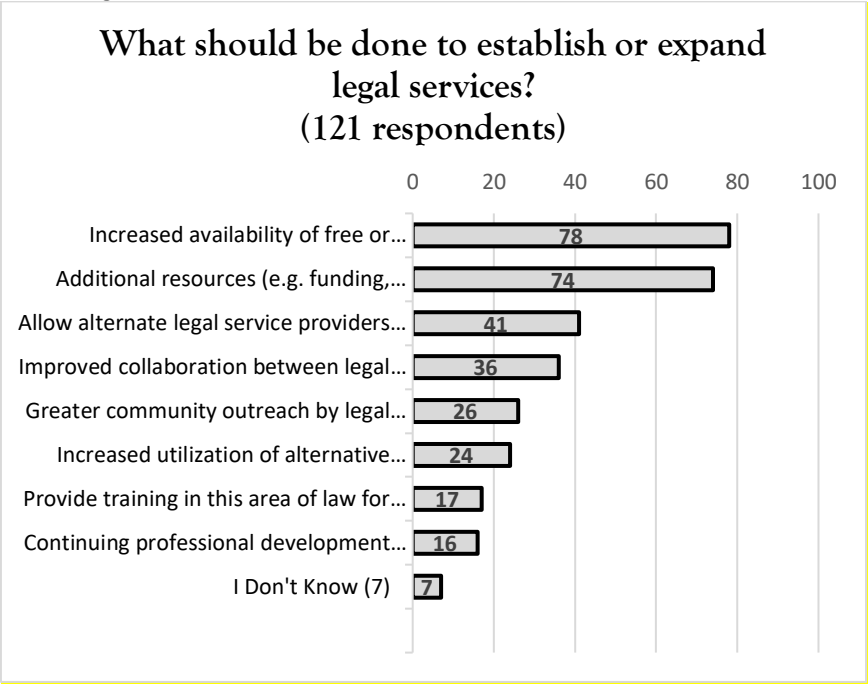
A “lack of collaboration between legal and non-legal service providers in this area of law” received 29 votes (or 23.97%), with a “lack of expertise to provide services in this area of law” close behind with 27 votes (or 22.31%).

⁵¹ See, e.g., Meghan Menzies, “The Right to Access to Justice: Expanding the Court’s Protections Against a Complex Law”, LLM Thesis, University of Manitoba, 2020; Gerard J Kennedy, “The Rules-Standards Debate and Ontario Civil Procedure Reform: A Case for More Rules” (2022) 47:1 Journal of Legal Philosophy 24.

A “lack of community outreach in this area of law” was selected by 21 lawyers (or 17.36%) and 14 participants (or 11.57%) responded that the legal services were not adequate for some other (not listed) reasons. 9 participants (or 7.44%) answered that they did not know why the services were not adequately offered.

c. Possible solutions

Lawyers were then asked for their views on what should be done to establish or expand legal services in the area of law they previously identified as lacking.



The majority of respondents reported that they would seek to increase availability of free or government-subsidized services, or provide additional resources which would be dedicated to service provision.

It is important to note that 41 respondents (or 33.88%) indicated that we could establish or expand legal services by allowing alternate legal service providers to provide some limited legal services. Similarly, 36 respondents (or 29.75%) indicated that we need to improve collaboration between legal and non-legal service providers. These responses reflect a shift within the legal profession to increase access to justice by making space for non-traditional legal service providers and building upon the expertise of trusted community partners.

We then asked the Manitoba legal profession their thoughts on what should be done to make the area of law that they referenced earlier more accessible to individuals. 121 lawyers responded. The vast majority of respondents indicated that the main method in which we could increase access to legal services is to increase access to lawyers. Notably, 82 respondents (or 67.77%) agreed that greater access to low-cost or free full-scope legal representation would make the area of law more accessible and 79 lawyers (or 65.29%) called for additional funding for legal and advocacy support networks. 61 lawyers (or 50.41%) referenced that greater access to low-cost or free limited-scope legal representation would increase accessibility to their noted area of law.

In addition to increasing access to lawyers in a more traditional legal service delivery model, 47 lawyers (or 38.84%) noted that a greater utilization of alternative dispute resolution models would increase access and 35 lawyers (or 28.93%) referenced a need for greater access to community-based restorative justice approaches.

For the purposes of our survey, “legal service providers” were defined as “lawyers and assistants working under the supervision of lawyers who provide legal services” and “alternative legal service providers” were defined as professionals who are not lawyers who provide legal services within a limited scope, such as limited licence practitioners, notaries public, and paralegals. “Non-legal service providers” were defined as professionals who are not lawyers who provide support(s) to individuals experiencing justice-related problems, such as community service organizations.

37 lawyers (or 30.58%) noted that allowing alternative legal service providers (e.g., limited licensed practitioners) to provide limited scope legal services would increase access to justice. This will be of particular interest to the Law Society of Manitoba as it seeks to determine who might be entitled to a limited practice certificate, pursuant to (the recently added) section 25.1 of *The Legal Profession Act*.⁵² Though we mostly address respondents’ substantive answers below in Part H, we note that one respondent objected to our questions in this area: “Your survey is obviously skewed to support an agenda. Why don’t you just say it: let’s eliminate lawyers and have legal service providers do everything.” We can honestly say that this was not our intention and the numbers/responses speak for themselves.

Many lawyers focused on the ways in which we can increase legal knowledge and information, with 22 respondents noting a need to further educate self-represented litigants. 43 lawyers (35.54% of respondents) identified the need for greater access to alternative legal information (e.g.,

⁵² CCSM 2002, c L107.

through public legal education, libraries, or other entry points for legal information) and 23 respondents (or 19.01%) referenced a need for increased legal coaching (i.e. unbundled legal services). Similarly, 34 respondents (or 28.10%) referenced a need to an increase in the number of legal clinics as a means in which to increase access and 17 respondents (or 14.05%) expressed interest in more legal toolkits and do-it-yourself guides.

With respect to technology and digital access, 16 respondents (or 13.33%) referenced a need for more online legal service delivery options and 21 respondents (or 17.36%) referenced the importance of increasing access to technological tools (e.g., Internet, electronic devices).

Lawyers also recognized the importance of collaborating with community partners and trusted members of communities in order to increase access to justice. 26 lawyers (or 21.49%) identified a need to better connect with communities in order to better understand the legal needs of their clients and the systemic barriers in place. Likewise, 24 respondents (or 19.83%) highlighted the need for increased collaboration with community service providers in order to provide legal services in culturally appropriate and trusted spaces.

Interestingly, and perhaps surprisingly, only 31 lawyers (or 25.62%) called for an increase in cultural competency training for legal service providers and only 20 lawyers (or 16.53%) noted an importance to recognize Indigenous cultural values, ideologies, and legal traditions within the legal profession. The Truth and Reconciliation Commission's Call to Action #27⁵³ calls on law societies to **ensure** that all lawyers receive appropriate cultural competency training as a basic understanding of Indigenous history and issues is essential to be able to practice law competently. It is important to note that although only 25.62% of respondents called for an increased training in this area, as of October 2, 2023, the Law Society of Manitoba requires all practicing Manitoba lawyers to take an Indigenous Intercultural Awareness and Competency Training called *The Path* within the next 18 months.⁵⁴

Finally, 11 respondents (or 9.09%) noted additional ways in which we could improve access to legal services and 5 respondents (or 4.13%) indicated that they did not know how to make their previously referenced area of law more accessible to individuals.

⁵³ "Justice (25 to 42)" (2023), (online): *The Government of Canada: Crown-Indigenous Relations and Northern Affairs*, online: <rcaanc-cirnac.gc.ca/eng/1524502695174/1557513515931>, [perma.cc/5MRE-P6WZ].

⁵⁴ "The Path" online: *The Law Society of Manitoba*, online: <lawsociety.mb.ca/regulation/education-requirements/the-path/#toggle-id-20>, [perma.cc/5HEL-CCXF].

d. Access to Justice barriers

In order to further explore Manitoba's legal profession's views of legal service delivery (or lack thereof), we then asked them to identify what makes it difficult for individuals to access services and support(s). Respondents were able to select as many options as they deemed appropriate from a specified list.

Of the 122 responses received for this question, the vast majority of lawyers (94 of them, or 77.05%) answered that limited financial resources for legal representation and other expenses associated with accessing legal support is the main barrier to accessing legal help.

66 lawyers (or 54.10%) referenced the complexity of the area of law and related legal procedures as a difficulty for accessing supports, followed by 53 lawyers (or 43.44%) who referenced delays/time lags. Fifty participants (40.98%) chose lack of understanding of the formal justice system and 44 (36.07%) identified cultural barriers as a major difficulty.

40 lawyers (or 32.79%) reported that an unawareness of how to access legal support(s) to resolve a justice-related problem was a barrier and the following four barriers tied for the fifth, with 31.79% (or 39 lawyers):

- concerns about the fairness of the justice system;
- limited personal resources (e.g., childcare, transportation) which support attendance at legal appointments;
- restrictions in eligibility for legal support(s) in this area of law; and
- unawareness of legal rights and responsibilities.

It is also important to note that lawyers reported on barriers outside of the cost of legal services and a lack of access to legal supports and information. Many lawyers identified significant cultural and systemic barriers.

Specifically, 38 lawyers (or 31.15%) reported on the discomfort with the adversarial nature of the justice system and 29 lawyers (or 23.77%) identified both language barriers and the fear of being mistreated within the justice system as barriers to legal help.

Similarly, 26 lawyers (or 21.31%) selected a mistrust of the justice system as a reason for difficulty accessing legal services and 24 lawyers (or 19.67%) selected the fear of negative consequences for accessing legal services (e.g., threats to personal safety, threat of additional legal action) as a barrier.

It is significant that although only 11.7% of Manitoba's active bar practices in rural and remote Manitoba⁵⁵, 32 respondents (or 26.23%)

⁵⁵ Law Society of Manitoba, *supra* note 42 at 20.

identified “limited-to-no legal service providers available in the community” as a barrier. In addition, geographic barriers (such as the distance from services) and limited access to technological tools (e.g., Internet, electronic devices) was referenced by 31 respondents (or 25.41%). Clearly, the barriers encountered by northern, rural and remote Manitobans are observed by lawyers both in and outside of Winnipeg.

Of final note, 8 respondents (or 6.56%) referenced “other” (but not articulated) barriers to accessing legal services and 5 respondents (or 4.10%) simply did not know the answer to the question.

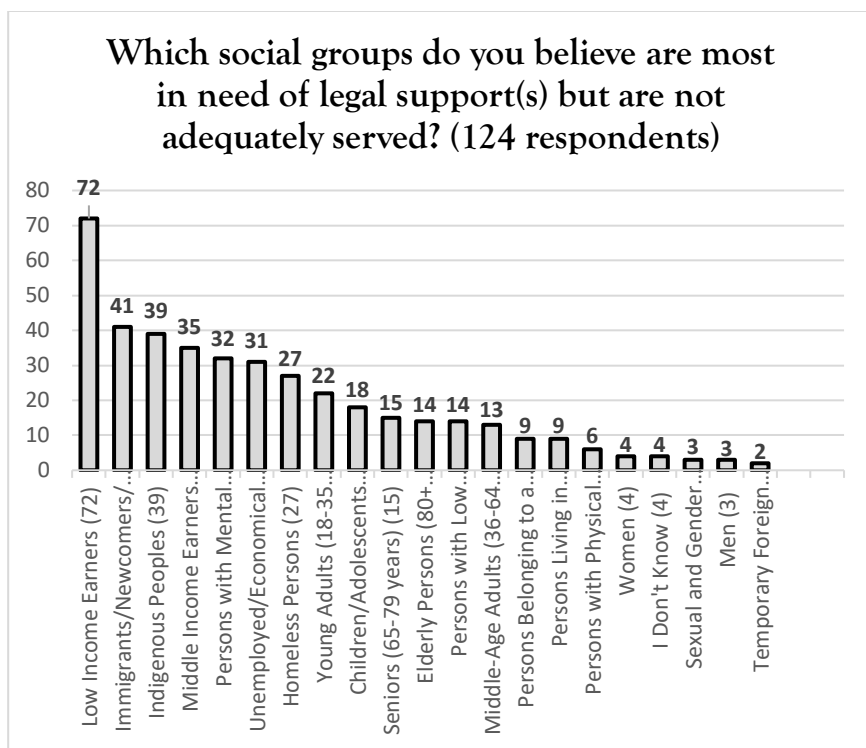
We did ask the profession to share their thoughts about the areas of law they believe are in demand in their community (Question 11) and will discuss their written comments later herein in Part H.

vi. Social Groups Most in Need of Assistance

a. Identifying particular groups

In addition to examining the particular areas of law that are most in demand, we sought to examine who, specifically, is most in need of legal help. As one of the tenets of “access to justice” requires a legal system which is accessible to all, we recognized that we must examine which members of our community are most in need of legal supports and to what extent are their legal needs being met.

We began by asking the profession to identify the social groups they believe are most in need of legal support(s) but are not being adequately served. They could select up to three groups.



58.06% of responding lawyers referenced low-income earners as those most in need of legal supports but are not adequately served. As Legal Aid Manitoba provides free legal representation to those who meet their financial eligibility requirements⁵⁶, this response indicates that Legal Aid Manitoba is not meeting the legal needs of this group on its own. This is by no means necessarily the fault of Legal Aid; rather it is demonstrative of the fact there are a number of low-income earners who, for a number of reasons, cannot or choose not to access support from Legal Aid.

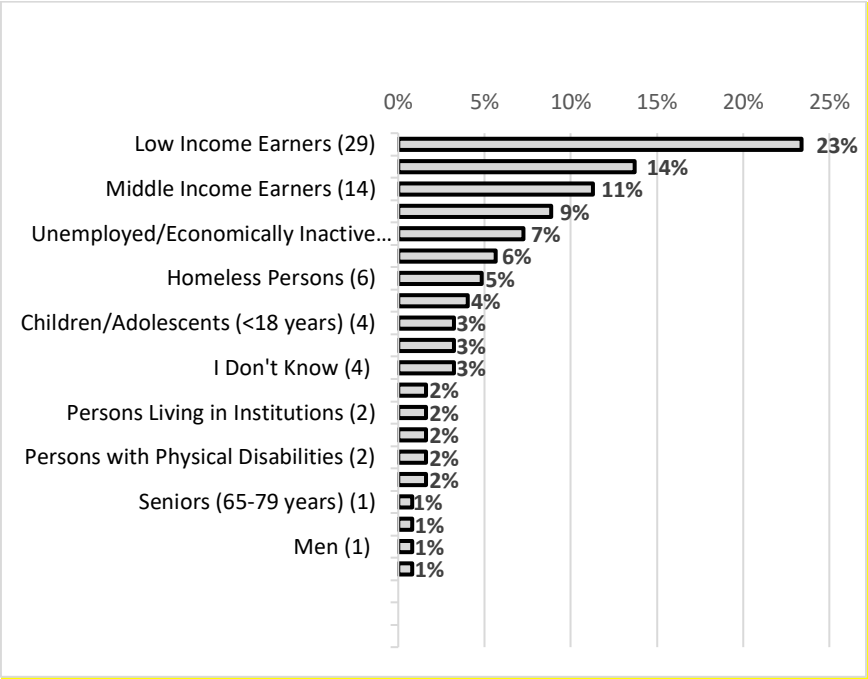
The second and third social groups most in need of legal supports but not adequately served had overlap with groups generally accepted as underserved. 33.06% of respondents indicated that immigrants/newcomers/refugees are in need and 31.45% felt the same with respect to Indigenous Peoples.

When asked (at Question 13) to select only one social group most in need of legal support(s) that is not being adequately served, surprisingly, the

⁵⁶ "Financial Rules" (2023), online: *Legal Aid Manitoba*, online: <legalaid.mb.ca/financial-rules/do-i-qualify-financially/>, [perma.cc/LRL4-9DNG].

three most selected groups varied. Indigenous Peoples moved into second place and middle-income earners was third. Immigrants/newcomers/refugees moved down to sixth place.

What is the single social group in most need of legal support(s) that is not being adequately served? (124 respondents)



b. Barriers pertaining to specific groups

We then asked lawyers to identify why they believe legal service providers are not able to adequately offer support(s) to the group they referenced in the two previous questions. An overwhelming number of respondents, 82 (or 66.67%) answered that free or government-subsidized services (e.g., Legal Aid) are not adequately available to provide legal support(s) to the group they previously identified in the earlier question.

This was followed by 34 lawyers (or 27.64%) who suggested that the reason was a lack of capacity among legal service providers to meet this group's legal needs. 32 lawyers (or 26.02%) referenced a lack of collaboration between legal and non-legal service providers and 25 lawyers (or 20.33%), referenced a lack of community outreach.

Only 18 lawyers (or 14.63%), suggested the reason why the social group most in need of legal support, but whose needs were not adequately met,

was due to a lack of expertise among legal service providers to meet this group's legal needs. 18 lawyers also voted for the "Other" (or 14.63%) category and 5 lawyers (or 4.07%) indicated that they did not know why adequate support could not be provided.

Question 15 asked lawyers to select what makes it difficult for the social group they previously identified to access the legal supports they require. Participants could select more than one response.

Of the 124 responses to this question, the number one answer, with 79 votes (or 63.71%), was limited financial resources for legal representation and other expenses associated with accessing legal support. This response is to be expected as the group identified most in were low-income earners.

At 58 votes (or 46.77%), the complexity of laws and related legal procedures received the second-highest number of votes. This is of no surprise since it was the second most popular response to our earlier question (Question 6) on access to justice barriers.

The challenges pertaining to limited personal resources (e.g., childcare, transportation) was selected by 46 lawyers (or 37.10%) and lack of understanding of the formal justice system was referenced by 44 lawyers (or 35.48%). An "unawareness of legal rights and responsibilities" was right behind with 43 lawyers (or 34.68%) selecting that option. Respondents also identified delays/time lags, for example waitlists, as a factor in creating difficulties. This answer received 38 votes (or 30.65%). Restrictions in eligibility for legal support(s) and a fear of being mistreated within the justice system were also concerns, coming in with 37 (or 29.84%) and 36 votes (or 29.03%) respectively.

In a tie with 35 votes each (or 28.23%) were cultural barriers and an unawareness of how to access legal support(s) to resolve a justice-related problem.

In another tie with 33 votes each (or 26.61%) were concerns about the fairness of the justice system and geographic barriers (e.g., distance from services). In addition to geographic barriers, the respondents noted technological barriers in the form of limited access to technological tools (e.g., Internet, electronic devices), which received 32 votes (or 25.81%).

The following three barriers tied with 30 lawyers (or 24.19%):

- discomfort with the adversarial nature of the justice system;
- fear of negative consequences for accessing legal services (e.g., threats to personal safety, threat of additional legal action); and
- mistrust of the justice system.

As the three barriers noted above all relate to potential systemic barriers and could disproportionately affect members of historically disadvantaged groups, it makes sense that they would elicit the same number of responses.

Other barriers received votes, notably “limited-to-no legal service providers available in the community” which received 29 votes (or 23.39%) and language barriers which received 23 votes (or 18.55%).

Lawyers also noted that the identified social group in the previous question might be unaware that there is a legal aspect (and potential legal solution) to their problem(s). This answer found 22 votes (or 17.74%).

6 respondents (or 4.84%) selected “other” and 4 respondents (or 3.23%) referenced that they did not know the reason why the particular social group experienced difficulties accessing legal help.

c. Possible solutions

We then asked lawyers to identify what should be done to make the legal support(s) of the identified social group more accessible. Participants could select more than one response from the list provided. This question differs from that of Question 6 wherein participants were not limited to viewing methods of increasing access to legal support through the lens of a specifically identified social group.

There were 122 responses and 76 respondents (or 62.30%) agreed that additional funding for legal and advocacy support networks would make the legal support of the identified social group more accessible. Similarly, and with just one vote less, 75 respondents (or 61.48%) referenced a need for greater access to low-cost or free full-scope legal representation.

In keeping with the call for greater access to more traditional legal services, 56 lawyers (or 45.90%) identified a need for greater access to low-cost or free limited-scope legal representation.

A greater access to community-based restorative justice approaches received 41 votes (or 33.61%), and greater access to legal information (e.g., through public legal education, libraries, or other entry points for legal information) received 39 votes (or 31.97%).

Lawyers also noted that greater utilization of alternative dispute resolution models would provide assistance, with 38 respondents (or 31.15%) voting for this option. This was followed by 32 votes (or 26.23%) for greater collaboration with community service providers to provide legal services in trusted spaces, 30 votes (or 24.59%) for greater community outreach to see what certain groups need, and a two-way tie at 29 votes (or 23.77%) for greater access to alternative legal service providers (e.g., limited license practitioners, notaries, paralegals) and more legal services in remote areas.

In addition to more legal services, there were 26 respondents (or 21.31%) who highlighted the need for more legal clinics. There was a two-way tie at 22 votes (or 18.03%) for greater access to legal coaching and for legal education for self-represented persons.

21 lawyers (or 17.21%) identified that access to legal supports would require a greater recognition of Indigenous cultural values, ideologies, and legal traditions. Likewise, there were 20 votes (or 16.39%) in favour of cultural training more broadly for legal service providers. When cross-referencing these responses with those of Question 6, one can see that 10 fewer lawyers identified the need for a greater recognition of Indigenous cultural values and traditions here. It is important to remember that this question required lawyers to address solutions pertaining to the particular social group they referenced earlier, so that if a lawyer selected “low-income earners” as the social group most in need, they would be answering this question from the viewpoint of how best to serve the members of that group.

20 lawyers also noted a need for greater utilization of adjudicators (e.g., mediators, courts).

Some respondents recognized the importance of greater access to case management support, with this answer receiving 19 votes (or 15.57%) and improved language services (e.g., multilingual professionals, interpretation services), which received 18 votes (or 14.75%).

Access to legal supports were also referenced by respondents. There were 17 votes (or 13.93%) for increased access to technological tools (e.g., Internet, electronic devices), and a two-way tie at 10 votes each (or 8.20%) for more legal toolkits and do-it-yourself guides and more online legal service delivery options. In addition to these factors, there were 7 respondents (or 5.74%) who selected “other solutions” to increase accessibility and 5 respondents (or 4.10%) who did not know the ways in which we could seek to improve legal assistance to the particular group.

d. Social groups and areas of law

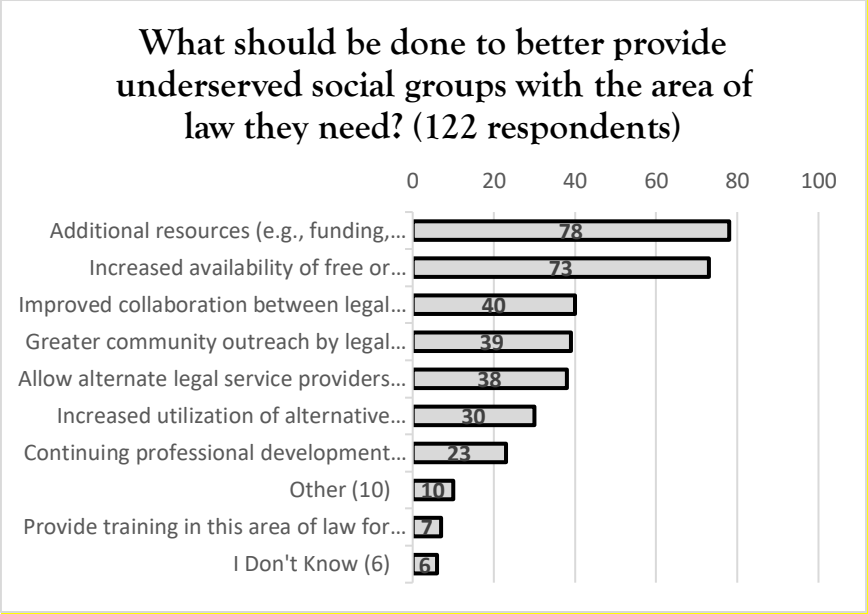
While still viewing access to justice through the lens of the previously identified social group (i.e., the group they determined was most in need of legal services), we asked lawyers to identify the areas of law that the social group is most in need of. Participants could select more than one response.

Of the 122 responses to this question, 61 respondents (or 50.00%) answered that Family Law is the area in which the previously identified social group is most in need of legal support. This was followed by Criminal Law with 34 votes (or 27.87%) and Child Protection with 26 votes (or 21.31%).

Government Income, Housing/Residential Tenancies, and Health/Medical Law received 24, 23, and 20 votes each (19.67%, 18.85%, and 16.39% respectively). These areas were followed by Human Rights Law (e.g., Discrimination) with 18 votes (or 14.75%) and a two-way tie between Aboriginal/Indigenous Law and Administrative/Boards/Tribunals Law with 16 votes (or 13.11%). 15 lawyers (or 12.30%) noted

Employment/Labour Law as an area of law in which the previously identified social group was most in need of and General Civil Litigation received 13 votes (or 10.66%). All other areas of law received less than 10% of lawyers votes with the exception that Agricultural, Entertainment, Environmental/Natural Resource, Intellectual Property/Information Technology and Municipal Law received no votes.

Question 18 then asked participants to identify what should be done to better provide the social group identified the areas of law they need.



Similar to the most common responses that we received in regard to Question 7, the vast majority of respondents called for additional resources dedicated to service provision in specified area of law (78 lawyers or 63.93%) and for increased availability of free or government subsidized services in the specified area of law (73 lawyers or 59.84%).

Importantly, nearly 1/3 of responding lawyers identified a need for improved collaboration between legal and non-legal service providers and for greater community outreach by legal service providers.

Finally, with respect to social groups, we asked the profession to share any thoughts regarding the social groups they believe are in need of legal services and support(s) in their community. Their written feedback will be shared in Part H herein.

vii. Respondents’ Clients

In addition to asking lawyers their thoughts on the legal needs of Manitobans broadly, we also asked them to identify the types of justice-related problems their clients most often have and the types of legal supports they typically require to manage those problems. There were 120 respondents for this question.

43 of the responding lawyers (or 35.83%) reported that “Family (Relationship Breakdown)” was the main type of justice-related problem that clients most often have. “Family (Other)” was the second most popular answer with 31 votes (25.83%). It is important to remember that although 32.52% of responding lawyers indicated that they practiced in Family Law, the most commonly practiced area of law by respondents was Wills and Estates.

The second most common response to the question regarding the types of problems their clients face was General Civil Litigation with 30 votes (or 25.00%). Criminal law received 29 votes (or 24.17%), Employment law received 28 votes (or 23.33%), Child Protection received 27 votes (or 22.50%) and Wills and Powers of Attorney issues received 24 votes (or 20.00%).

Justice-related problems were also found in Contract Disputes with 22 votes (or 18.33%), in Housing with 16 votes (or 13.33%), in Money or Debt with 15 votes (12.50%), in Discrimination with 13 votes (or 10.83%), and Threat of Legal Action with 12 votes (or 10.00%).

All other justice-related responses received less than 10% of the votes, with one respondent noting that they did not know which types of justice-related problems their clients most often have.

In order to better understand client needs, we ask lawyers to share their thoughts on the types of legal support their clients most often need to manage their justice-related problems. This question was open-ended so as to receive a wide range of unlimited responses. There were comments from 75 respondents to this question, with the vast majority of responses focusing on an increased need for free or cost-effective legal advice and representation.

Some respondents referenced the difficulty clients face in finding the right legal supports for the issue at hand. One lawyer described a real estate client contacting them “for help with challenging an involuntary admission to a mental health facility, which [they had] no experience with”. This illustrates the need for not only access to lawyers, but access to lawyers who practice in the areas of law most in need.

One lawyer suggested a “legal triage system that is easy for lay people to navigate” which could direct the public to legal supports for their specific legal issue.

Several lawyers commented on the broad needs of their clients and how lawyers could better serve these needs. For example, one lawyer commented that clients need “an experienced lawyer who is familiar with, and understands the cultural, socio-economic, and political situation in a community” and another reflected that “so many of [our clients’] problems related to poverty and a much wider social problem”. One respondent wished to remind the profession that the delivery of legal services ought to be “grounded in kindness and compassion”.

viii. Other Thoughts

We provided an opportunity for all respondents to share any additional comments or general feedback on access to justice. 32 respondents chose to comment. From these comments, several repeated themes emerged.

a. Rural/Remote Access to Justice Needs

Many of the responses were concerned with the lack of legal representation available for rural, remote and northern Manitobans. One lawyer noted, “On a per capita basis, there are [6 times] more lawyers in [Winnipeg] than outside of it.” This statement was echoed by another respondent who noted, “Aside from areas of law, there is a vast disparity in the availability of legal services in rural Manitoba as compared to within Winnipeg”, and another who wrote, “there is little or no incentive for a lawyer to relocate and establish a practice North of the 51st parallel”.

Not only is there a concern regarding access to the lawyers, but also “how little access there is to the law or to legal information in [northern communities]”. This lack of access to legal information might be resolved with the help of virtual services, as another respondent recommended. They suggested that an increase in internet availability would allow for virtual services to reach [unserved] areas. The respondent notes the caveat that internet providers can be expensive and hopes that “libraries or other municipal buildings (lex. band office) could offer internet connections to clients ([Wi-Fi] connection or access to a terminal), which would make things easier”.

One lawyer suggested that we could use technology in rural courthouses to assist with access to justice. Specifically they suggested that, “electronic filing of court materials and resumed availability of teleconference or video conference appearances would permit judges in Brandon or Winnipeg to service Morden without the travel requirements and allow more flexibility on dates instead of cramming everything onto a monthly or quarterly list”.

b. Legal Aid Funding

Some lawyers suggested that improvements with our legal aid system, such as increasing the number of Legal Aid staff lawyers or increasing the Tariff fees for the private bar, are necessary to tackle Manitoba's access to justice crisis. Understandably Legal Aid Manitoba operates on a set budget and these suggested changes would require increased Legal Aid funding from government or other sources.

One lawyer wrote, "You will not fix the problem until you adequately fund legal aid and guess what? That will never happen... I have pretty well stopped doing legal aid work as I am never paid properly". Another lawyer agreed with this sentiment:

Legal aid underpays the lawyers, so lawyers are either unwilling to accept legal aid certificates or they accept too many. When lawyers accept too many certificates their clients are not as well represented as they might be from a paid lawyer. As a result, the people on legal aid are not getting the same representation as a person who is paying for a lawyer... In my opinion, increasing the number of staff lawyers at legal aid would assist in resolving this issue. In the alternative, increasing the legal aid tariff might also help.

c. Family Law Services

Some lawyers commented on an observed/perceived lack (or reduction) of family law lawyers in recent years which has made it more difficult for clients to access family law legal assistance. One lawyer noted that changes to family law processes within the Manitoba *Court of Queen's Bench Rules*⁵⁷ (as they then were) in 2018 have "resulted in a number of lawyers changing their areas of practice and has resulted in a deficit of family law lawyers throughout Manitoba". Similarly, another lawyer indicated that:

There is a significant lack of family law lawyers, especially in rural areas. Young lawyers do not want to enter the field of family law. Also, recent changes to the family case conferencing system have made it harder, not easier, to access justice. Self-represented litigants are bogging down the family law system. There needs to be more and less expensive access to collaborative family law lawyers who are resolution minded.

This was echoed by another respondent who stated that "changes in family law procedure brought in in 2018 were meant to decrease delays in the court system. This was accomplished by setting up barriers to access to the court system, rather than making the system itself function better".

When looking at the family law legal system, which addresses not just divorce but separation, custody disputes, and many other issues, one lawyer wrote that the "case conferencing system has made the entire process far too expensive and time consuming. It should be streamlined for better and less costly access". Another suggested an alternative decision-making model.

⁵⁷ Now the *Court of King's Bench Rules*, MR 553/88.

Specifically, they suggested that, “high conflict families need access to an adjudicator basically on a weekly basis. It does not have to be a Judge. It could be a parent coach/coordinator with powers or arbitration, but these families can rarely afford to pay for this service privately”.

d. Decolonizing and Revamping Legal Systems

Some respondents were in favour of a complete overhaul of the legal system or at least changes made to both the courts and the litigation process. One comment proposed that “judges should take a much more active role at the pre-trial stage to assist the parties in resolving their disputes,” which could be done by “offering to mediate, [advising] the parties (or their counsel) that their positions are unreasonable or of low chances of success, and/or provide viable settlement solutions based on the judge’s assessment of the case”.

Another lawyer suggested that the “entire litigation process is outdated” as it “encourages adversarial positions, it creates stress and uncertainty [and it] increases risk of depression and suicide in lawyers”.

There were several commentators who called for change within Manitoba law and policy. They articulated a need for Manitoba to do more work regarding UNDRIP (The United Nations Declaration on the Rights of Indigenous Peoples). For example, one lawyer stated:

The legal system is not designed for Indigenous law or in finding a replacement for [*The Indian Act*]. There is also a true need to implement UNDRIP. Manitoba law and policy is two-tiered and racially discriminates First Nations [people]. We need to go out into the community to confirm/learn about the actual needs rather than asking lawyers what they believe the needs are.

Another lawyer commented that it is “colonial law” that has created these access to justice barriers and that “Manitoba needs to change law and policy to amend historic racist law and policy”.

e. Lack of Legal Help/Information

Some lawyers commented on the lack of legal information and/or lack of general knowledge surrounding free legal help organizations. According to one respondent, “if the general public do not know of these services, let alone how they operat[e], they will not utilize them to the best of their abilities or at all”. They also suggested that there must be better outreach and education “of these and other programs and organizations, so the public is made aware of them and feel inclined to reach out to them for assistance”.

Another lawyer agreed by stating, that “individuals should be able to figure out what they need and what resources can help them so lawyers and

other legal service providers can more readily identify their issue and may be more likely to provide assistance in a limited or low-fee way”.

Increasing the number of legal clinics was also suggested. One lawyer commented that legal clinics are valuable ways in which we can deliver free legal services and legal information.

f. Cost

It is no surprise that several lawyers commented on the costs of legal services being a barrier to justice. One lawyer suggested that “more support and incentives are required for pro bono services by members of the bar. Governments should also step up and fund provision of services”.

Another lawyer stated that:

You can't pro-bono nor undertrained-service-provider your way out of an A2J problem. Either lawyers should be doing the work, or they shouldn't. If they should be, then society needs to provide adequate access to them... [not] asking lawyers in underpaid areas of law to do more work cheaply or pro bono.

Other commentators called for an increase in lawyers practicing in the areas of immigration and refugee law; an increase in supports Manitobans with disabilities; and, a call for the Manitoba bar to work towards dismantling systemic barriers which cause some Manitobans to distrust our legal system.

IV. SUMMARY

It is clear that Manitoba lawyers recognize that access to justice is a real and pressing issue in Manitoba. We must increase access to justice in the area of family law, increase Manitobans' access to low-cost legal service providers, increase access to legal information generally, and better serve members of historically disadvantaged groups and those residing in rural, remote and northern communities.

This work cannot be untaken in silos. It will require a coordinated effort of all access to justice stakeholders within the province, including but not limited to government (both provincial and federal), the Law Society of Manitoba, the Manitoba Bar Association, the University of Manitoba - Faculty of Law, the judiciary, and the Manitoba Law Foundation, with the guidance and support of Indigenous organizations and partners, newcomer-serving organizations, NGOs and non-profits working in the access to justice space and those practicing in rural and remote communities.⁵⁸

⁵⁸ See Action Committee on Access to Justice in Civil and Family Matters, "Access to Civil & Family Justice: A Roadmap for Change" (2013). Canadian Forum on Civil Justice at

It is not surprising that there are general calls for more funding: after all, who would not prefer to be better resourced? Obviously, such calls should not be dismissed, as noted above. However, there is reason to be skeptical of these calls. As noted above, an excessive emphasis on lawyers and courts has likely contributed to the access to justice problems now confronting the profession, with more and more emphasis on looking at solutions outside the traditional justice system. In any event, in a time where there is immense pressure to reduce the size of government, however (albeit perhaps slightly less prevalent in Manitoba), it may be wise to concentrate on structural reforms to achieve better value for money in the justice system.

Data collection on access to justice in Manitoba will continue. We need to collect more robust data in the area of family law and with respect to the disproportionate legal needs for those in rural and remote Manitoba. It is important that people-centred data collection does not slow after this survey and that we continue to gather and report on access to justice issues facing Manitobans so that we can be held accountable for our shortcomings and work towards measurable improvements and solutions.

The Director of Access to Justice at the University of Manitoba is sharing the findings of this research with the newly created “Manitoba’s Access to Justice Advisory Network” so that it can assist in guiding the Network and the Director’s work over the next few years. In other words, this survey is the beginning of more data-focussed discussions on access to justice in Manitoba.

V. CONCLUSION

Access to justice is a complicated problem that must be considered through many lenses. This is a reason why, after decades of study into this topic, myriad solutions have been proposed, and none has been a silver bullet. This is complicated by the finite resources that governments and courts have to devote to this problem and, as respondents to this survey have noted, the limited political upside. In that vein, it is important to have data—experiential as well as empirical—to devote to proposing solutions. This article has sought to contribute to this discussion in a small way through reporting the views of Law Society of Manitoba members. The overarching conclusions from this survey are that family law and child

7, online: <digitalcommons.osgoode.yorku.ca/cfcj/58>, [perma.cc/EX38-4XVC]; and Allison Fenske & Beverly Froese, “Justice Starts Here: A One-Stop Shop Approach for Achieving Greater Justice in Manitoba” (2017) *Canadian Centre for Policy Alternatives Manitoba* at 4, online: <mra-mb.ca/publication/justice-starts-one-stop-shop-approach-achieving-greater-justice-manitoba/>, [perma.cc/5RHH-EHW5].

protection are particular areas of need and that a lack of accessible services and legal aid is a major stumbling block. This will require significant investment in resources to “fix” and even those resources likely will not “fix”. But it should be an area of priority. Apart from that, several other potential solutions could make a difference around the margins. We should not expect a radical transformation. But we hope that this survey represents a small contribution so that policymakers recognize potential solutions to achieve access to justice in Manitoba, even recognizing the uphill battle that we face.

APPENDIX A – SURVEY QUESTIONS

A. Legal Needs in Manitoba: Lawyer Survey

Gerard J. Kennedy, Natasha Brown
August 29, 2022

We are interested in learning about the extent to which the legal needs of individuals and communities in Manitoba are being met. One way we are doing that is by asking legal service providers, such as yourself, about their perceptions of legal needs in the province based on their experiences with their clients and the work they do. This first set of questions ask you to reflect upon your general perceptions of justice-related problems and legal needs.

Justice-related problems are defined as “everyday problems which have a legal aspect and a potential legal solution.” A legal need is defined as “a deficit in personal legal capability, which necessitates legal support(s) to appropriately manage a justice-related problem.”

Please indicate the extent to which you agree or disagree with each statement regarding the community in which you serve and community members’ experiences with justice-related problems and legal needs.

	(1) Strongly disagree	(2) Disagree	(3) Neither Agree nor Disagree	(4) Agree	(5) Strongly agree	(6) Don’t know

1. People experiencing a justice-related problem are better off addressing it through the formal legal system.						
2. The vast majority of justice-related problems can be resolved outside of the formal legal system.						
3. People are less likely to take action to solve justice-related problems that have higher costs (e.g., financial, time, energy).						
4. Eligibility criteria for free, subsidized, or low-cost legal services (e.g., Legal Aid) are too restrictive.						
5. There are an adequate number of services available to support the legal needs of our community.						
6. People are aware of the legal support(s)						

available in the community which may assist in resolving a justice-related problem.						
7. A significant barrier to addressing individuals' legal needs is the unintegrated nature of services available in the community.						
8. There are an adequate number of legal service providers (e.g., lawyers and supporting legal assistants) practicing in the areas of law in which our community is in need.						
9. Legal service providers deliver services in a culturally appropriate manner (e.g., services are tailored, where necessary, to account for clients'						

cultural backgrounds)						
10. Recent emphases on summary procedures in Manitoba have facilitated the prompter resolution of actions on their merits.						

Please indicate how frequently (from never to always) the following situations occur in the community in which you serve in relation to community members’ experiences with justice-related problems and legal needs.

	1) Never	2) Rarely	3) Sometimes	4) Often	5) Always	6) Don't know
People are able to:						
Obtain effective legal advice for a justice-related problem (if they are in need of legal advice).						
Obtain effective legal information for a justice-related problem (if they are in need of legal information).						
Obtain effective legal representation for a justice-related problem (if they are in need of legal representation).						
Access legal support(s) in a timely manner to resolve a justice-related problem.						
Satisfactorily resolve justice-related						

problems as a result of seeking legal support(s).						
Satisfactorily resolve justice-related problems promptly.						
Satisfactorily resolve justice-related problems with minimal financial expense.						

B. *Areas of Law*

In this section, we are interested in learning about the areas of law in which you provide services, the areas of law you perceive to be in demand but are not adequately offered, and strategies for increasing access to these areas of law.

1. In what area(s) of law do you provide services? *Please select one or more categories, if applicable, from the list provided. If other, please specify.*

- Aboriginal/Indigenous
- Administrative/Boards/Tribunals
- Agricultural
- Bankruptcy/Insolvency
- Constitutional
- Consumer
- Corporate/Commercial
- Criminal
- Debtor/Creditor
- Disability
- Elder
- Employment/Labour (e.g., Worker's Compensation)
- Entertainment
- Environmental/Natural Resource
- Family
- Foreclosure
- Government Income (e.g., Benefits, Social Assistance)
- Guardianship/Incapacity
- Health/Medical
- Housing/Residential Tenancies

- Human Rights (e.g., Discrimination)
 - Immigration/Refugee
 - Insurance
 - Intellectual Property/Information Technology
 - Lawyer Complaint
 - Municipal
 - Personal Injury
 - Police Complaint
 - Prison
 - Real Estate
 - Small Claims
 - Tax
 - Traffic
 - Wills and Estates
 - Other – Specify
 - Non-Practising Lawyer
2. In your community, which three (3) areas of law do you believe are most in demand but are not adequately offered? *Please select **up to three (3)** categories. If other, please specify.*
- Aboriginal/Indigenous
 - Administrative/Boards/Tribunals
 - Agricultural
 - Bankruptcy/Insolvency
 - Constitutional
 - Consumer
 - Corporate/Commercial
 - Criminal
 - Debtor/Creditor
 - Disability
 - Elder
 - Employment/Labour (e.g., Worker's Compensation)
 - Entertainment
 - Environmental/Natural Resource
 - Family
 - Foreclosure
 - Government Income (e.g., Benefits, Social Assistance)

- Guardianship/Incapacity
 - Health/Medical
 - Housing/Residential Tenancies
 - Human Rights (e.g., Discrimination)
 - Immigration/Refugee
 - Insurance
 - Intellectual Property/Information Technology
 - Lawyer Complaint
 - Municipal
 - Personal Injury
 - Police Complaint
 - Prison
 - Real Estate
 - Small Claims
 - Tax
 - Traffic
 - Wills and Estates
 - Other – Specify
 - None
 - Prefer Not to Answer
3. Of the three areas of law you previously selected, which area of law do you believe is **most** in demand in your community but is not adequately offered? *Please select the **top category**. If other, please specify.*
- Aboriginal/Indigenous
 - Administrative/Boards/Tribunals
 - Agricultural
 - Bankruptcy/Insolvency
 - Constitutional
 - Consumer
 - Corporate/Commercial
 - Criminal
 - Debtor/Creditor
 - Disability
 - Elder
 - Employment/Labour (e.g., Worker's Compensation)
 - Entertainment

- Environmental/Natural Resource
- Family
- Foreclosure
- Government Income (e.g., Benefits, Social Assistance)
- Guardianship/Incapacity
- Health/Medical
- Housing/Residential Tenancies
- Human Rights (e.g., Discrimination)
- Immigration/Refugee
- Insurance
- Intellectual Property/Information Technology
- Lawyer Complaint
- Municipal
- Personal Injury
- Police Complaint
- Prison
- Real Estate
- Small Claims
- Tax
- Traffic
- Wills and Estates
- Other – Specify
- None
- Prefer Not to Answer

2. FOLLOW-UP QUESTIONS (FROM Q3) ACCORDING TO AREA OF LAW

[DEFINITIONS BELOW TO BE INCLUDED AT TOP OF PAGE]

For the purposes of this survey:

Legal service providers are defined as lawyers and assistants working under the supervision of lawyers who provide legal services.

Alternative legal service providers are defined as non-lawyer professionals who provide legal services within a limited scope, such as limited licence practitioners, notaries public, and paralegals.

Non-legal service providers are defined as non-lawyer professionals who provide support(s) to individuals experiencing justice-related problems, such as community service organizations.

4. Why do you believe services in [INSERT AREA OF LAW] law are not adequately offered? *Select one or more categories, if applicable, from the list provided.*
 - Complexity of the area of law and related legal procedures
 - Free or government-subsidized services (e.g., Legal Aid) are not adequately available in this area of law
 - Lack of capacity among legal service providers to meet the demand for services in this area of law
 - Lack of collaboration between legal and non-legal service providers in this area of law
 - Lack of community outreach in this area of law
 - Lack of expertise to provide services in this area of law among legal service providers
 - Lack of interest in providing services in this area of law among legal service providers
 - Low profit for legal service providers in this area of law
 - Other - Specify
 - I Don't Know
5. What should be done to establish or expand services in [INSERT AREA OF LAW] law? *Select one or more categories, if applicable, from the list provided.*
 - Additional resources (e.g., funding, personnel) dedicated to service provision in this area of law
 - Allow non-legal service providers to practice in this area of law with a limited license
 - Continuing professional development in this area of law for legal service providers
 - Greater community outreach by legal service providers in this area of law
 - Improved collaboration between legal and non-legal service providers in this area of law

- Increased availability of free or government-subsidized services (e.g., Legal Aid) in this area of law
 - Increased utilization of alternative billing arrangements (e.g., flat fee, co-pay systems) in this area of law
 - Provide training in this area of law for non-legal service providers
 - Other – Specify
 - I Don't Know
6. What makes it difficult for individuals to access services and support(s) in [INSERT AREA OF LAW] law? *Select one or more categories, if applicable, from the list provided.*
- Complexity of the area of law and related legal procedures
 - Concerns about the fairness of the justice system
 - Cultural barriers
 - Delays/time lags (e.g., waitlists) in this area of law
 - Discomfort with the adversarial nature of the justice system
 - Fear of being mistreated within the justice system
 - Fear of negative consequences for accessing legal services (e.g., threats to personal safety, threat of additional legal action)
 - Geographic barriers (e.g., distance from services)
 - Lack of understanding of the formal justice system
 - Language barriers
 - Limited access to technological tools (e.g., Internet, electronic devices)
 - Limited personal resources (e.g., childcare, transportation) which support attendance at legal appointments
 - Limited financial resources for legal representation and other expenses associated with accessing legal support
 - Limited-to-no legal service providers available in the community
 - Mistrust of the justice system
 - Restrictions in eligibility for legal support(s) in this area of law
 - Unaware of how to access legal support(s) to resolve a justice-related problem
 - Unaware of legal rights and responsibilities
 - Unaware there is a legal aspect (and potential legal solution) to their problem(s)
 - Other – Specify

- I Don't Know
7. What should be done to make [INSERT AREA OF LAW] law more accessible to individuals who have legal needs in this area? *Select one or more categories, if applicable, from the list provided.*
- Additional funding for legal and advocacy support networks
 - Cultural training for legal service providers
 - Greater access to alternative legal service providers (e.g., limited license practitioners, notaries, paralegals)
 - Greater access to case management support
 - Greater access to community-based restorative justice approaches
 - Greater access to legal coaching
 - Greater access to legal information (e.g., through public legal education, libraries, or other entry points for legal information)
 - Greater access to low-cost or free full-scope legal representation (e.g., Legal Aid)
 - Greater access to low-cost or free limited-scope legal representation
 - Greater collaboration with community service providers to provide legal services in trusted spaces
 - Greater community outreach to see what certain groups need
 - Greater recognition of Indigenous cultural values, ideologies, and legal traditions
 - Greater utilization of adjudicators (e.g., mediators, courts)
 - Greater utilization of alternative dispute resolution models
 - Improved language services (e.g., multilingual professionals, interpretation services)
 - Increased access to technological tools (e.g., Internet, electronic devices)
 - Legal education for self-represented persons
 - More legal clinics
 - More legal services in remote areas
 - More legal toolkits and do-it-yourself guides
 - More online legal service delivery options
 - Other - Specify
 - I Don't Know

8. Is there anything else you would like to share about the **areas of law** you believe are in demand in your community?
 - [open-ended response]

C. Demographic Groups in Need of Support

In this section, we will ask you questions about the social groups you believe are most in need of legal supports but are not being adequately served, what makes it challenging for these social groups to access the legal supports and areas of law they require, and strategies for improving their access to legal supports and areas of law in the future.

1. In your community, what social groups do you believe are most in need of legal support(s) but are not being adequately served? *Please select **up to three (3)** categories. If other, please specify.*
 - Children/Adolescents (<18 years)
 - Young Adults (18-35 years)
 - Middle-Age Adults (36-64 years)
 - Seniors (65-79 years)
 - Elderly Persons (80+ years)
 - Unemployed/ Economically Inactive Persons
 - Low Income Earners
 - Middle Income Earners
 - High Income Earners
 - Temporary Foreign Workers
 - Immigrants/Newcomers/Refugees
 - Indigenous Peoples
 - Persons Belonging to a Visible Minority
 - Homeless Persons
 - Persons Living in Institutions
 - Persons with Low Education
 - Persons with Mental Illness
 - Persons with Physical Disabilities
 - Sexual and Gender Minorities
 - Women
 - Men
 - Other – Specify
 - None
 - I Don't Know

2. Of the three social groups you previously selected, what social group do you believe is **most** in need of legal support(s) but is not being adequately served? *Please select the **top category**. If other, please specify.*
- Children/Adolescents (<18 years)
 - Young Adults (18-35 years)
 - Middle-Age Adults (36-64 years)
 - Seniors (65-79 years)
 - Elderly Persons (80+ years)
 - Unemployed Persons/Economically Inactive
 - Low Income Earners
 - Middle Income Earners
 - High Income Earners
 - Temporary Foreign Workers
 - Immigrants/Newcomers/Refugees
 - Indigenous Peoples
 - Persons Belonging to a Visible Minority
 - Homeless Persons
 - Persons Living in Institutions
 - Persons with Low Education
 - Persons with Mental Illness
 - Persons with Physical Disabilities
 - Women
 - Men
 - Other – Specify
 - None
 - I Don't Know

FOLLOW-UP QUESTIONS (FROM Q2) ACCORDING TO SOCIAL GROUP

[DEFINITIONS BELOW TO BE INCLUDED AT TOP OF PAGE]

For the purposes of this survey...

Legal service providers are defined as lawyers and assistants working under the supervision of lawyers who provide legal services.

Alternative legal service providers are defined as non-lawyer professionals who provide legal services within a limited scope, such as limited licence practitioners, paralegals, and notaries public.

Non-legal service providers are defined as non-lawyer professionals who provide support(s) to individuals experiencing justice-related problems, such as community service organizations.

3. Why do you believe legal service providers are not able to adequately offer support(s) to [INSERT SOCIAL GROUP]? *Select one or more categories, if applicable, from the list provided.*
 - Free or government-subsidized services (e.g., Legal Aid) are not adequately available to provide legal support(s) to this group
 - Lack of capacity among legal service providers to meet this group's legal needs
 - Lack of collaboration between legal and non-legal service providers
 - Lack of community outreach for this group
 - Lack of expertise among legal service providers to meet this group's legal needs
 - Other – Specify
 - I Don't Know
4. What makes it difficult for [INSERT SOCIAL GROUP] to access the legal support(s) they require? *Select one or more categories, if applicable, from the list provided. If other, please specify.*
 - Complexity of laws and related legal procedures
 - Concerns about the fairness of the justice system
 - Cultural barriers
 - Delays/time lags (e.g., waitlists)
 - Discomfort with the adversarial nature of the justice system
 - Fear of being mistreated within the justice system
 - Fear of negative consequences for accessing legal services (e.g., threats to personal safety, threat of additional legal action)
 - Geographic barriers (e.g., distance from services)
 - Lack of understanding of the formal justice system
 - Language barriers
 - Limited access to technological tools (e.g., Internet, electronic devices)

- Limited personal resources (e.g., childcare, transportation) which support attendance at legal appointments
 - Limited financial resources for legal representation and other expenses associated with accessing legal support
 - Limited-to-no legal service providers available in the community
 - Mistrust of the justice system
 - Restrictions in eligibility for legal support(s)
 - Unaware of how to access legal support(s) to resolve a justice-related problem
 - Unaware of legal rights and responsibilities
 - Unaware there is a legal aspect (and potential legal solution) to their problem(s)
 - Other – Specify
 - I Don't Know
5. What should be done to make the legal support(s) [INSERT SOCIAL GROUP] need more accessible? *Select one or more categories, if applicable, from the list provided.*
- Additional funding for legal and advocacy support networks
 - Cultural training for legal service providers
 - Greater access to alternative legal service providers (e.g., limited license practitioners, notaries, paralegals)
 - Greater access to case management support
 - Greater access to community-based restorative justice approaches
 - Greater access to legal coaching
 - Greater access to legal information (e.g., through public legal education, libraries, or other entry points for legal information)
 - Greater access to low-cost or free full-scope legal representation (e.g., Legal Aid)
 - Greater access to low-cost or free limited-scope legal representation
 - Greater collaboration with community service providers to provide legal services in trusted spaces
 - Greater community outreach to see what certain groups need
 - Greater recognition of Indigenous cultural values, ideologies, and legal traditions
 - Greater utilization of adjudicators (e.g., mediators, courts)

- Greater utilization of alternative dispute resolution models
 - Improved language services (e.g., multilingual professionals, interpretation services)
 - Increased access to technological tools (e.g., Internet, electronic devices)
 - Legal education for self-represented persons
 - More legal clinics
 - More legal services in remote areas
 - More legal toolkits and do-it-yourself guides
 - More online legal service delivery options
 - Other - Specify
 - I Don't Know
6. Which areas of law are [INSERT SOCIAL GROUP] **most** in need of? *Select one or more categories, if applicable, from the list provided. If other, please specify.*
- Aboriginal/Indigenous
 - Administrative/Boards/Tribunals
 - Agricultural
 - Bankruptcy/Insolvency
 - Constitutional
 - Consumer
 - Corporate/Commercial
 - Criminal
 - Debtor/Creditor
 - Disability
 - Elder
 - Employment/Labour (e.g., Worker's Compensation)
 - Entertainment
 - Environmental/Natural Resource
 - Family
 - Foreclosure
 - Government Income (e.g., Benefits, Social Assistance)
 - Guardianship/Incapacity
 - Health/Medical
 - Housing/Residential Tenancies
 - Human Rights (e.g., Discrimination)
 - Immigration/Refugee

- Insurance
 - Intellectual Property/Information Technology
 - Lawyer Complaint
 - Municipal
 - Personal Injury
 - Police Complaint
 - Prison
 - Real Estate
 - Small Claims
 - Tax
 - Traffic
 - Wills and Estates
 - Other – Specify
7. What should be done to better provide [INSERT SOCIAL GROUP] the areas of law they need? *Select one or more categories, if applicable, from the list provided.*
- Additional resources (e.g., funding, personnel) dedicated to service provision in this area of law
 - Allow non-legal service providers to practice in this area of law with a limited license
 - Continuing professional development in this area of law for legal service providers
 - Greater community outreach by legal service providers in this area of law
 - Improved collaboration between legal and non-legal service providers in this area of law
 - Increased availability of free or government-subsidized services (e.g., Legal Aid) in this area of law
 - Increased utilization of alternative billing arrangements (e.g., flat fee, co-pay systems) in this area of law
 - Provide training in this area of law for non-legal service providers
 - Other – Specify
 - I Don't Know
8. Is there anything else you would like to share about the **social groups** you believe are in need of legal services and support(s) in your community?

- [open-ended response]

D. CLIENTS' LEGAL NEEDS

In this section, we will ask you about the types of justice-related problems your clients most often have and the types of legal supports they typically require to manage those problems.

1. What types of justice-related problems do your clients most often have? *Select one or more categories, if applicable, from the list provided. If other, please specify.*
 - Accidental Illness and Injury
 - Child Protection
 - Community and Natural Resources
 - Consumer
 - Contract Disputes
 - Criminal
 - Disability Assistance
 - Discrimination
 - Employment
 - Education
 - Family (Relationship Breakdown)
 - Family (Other)
 - Foreclosure
 - Guardianship
 - Housing
 - Immigration
 - Insurance
 - Land
 - Lawyer Complaints
 - Medical Treatment
 - Money or Debt
 - Personal Injury
 - Police Treatment
 - Small Claims
 - Social Assistance
 - Threat of Legal Action
 - Wills and Powers of Attorney
 - Other – Specify

- Not Applicable
 - I Don't Know
2. What types of legal support(s) do your clients most often need to manage their justice-related problems?
 - [open-ended response]

E. *RESPONDENT DEMOGRAPHICS*

In this final section of the survey, we wish to learn more about you to help us better understand who completed the survey.

1. What type of organization do you work for? *Please select only one. If other, please specify.*
 - Academic Institution
 - Community-Based Organization
 - Court
 - Crown Corporation
 - Government - Federal
 - Government - Municipal
 - Government - Provincial
 - In-House Counsel
 - First Nation, Métis Nation, or Tribal Council
 - Law Firm
 - Legal Aid
 - Legal Clinic
 - Police
 - Professional Association
 - Victim Services
 - Other—Specify
2. What legal services do you provide? *Please select one or more categories, if applicable, from the list provided. If other, please specify.*
 - Administrative
 - Advocacy
 - Arbitration
 - Dispute resolution
 - Document preparation and form filling

- Language services (e.g., translation/interpretation)
 - Legal advice
 - Legal coaching
 - Legal information
 - Legal representation
 - Legal workshops
 - Litigation
 - Mediation
 - Negotiation
 - Referral to legal service providers
 - Referral to non-legal service providers
 - Self-help kits
 - Other – Specify
3. What are the main sources you **receive referrals from** for legal services? *Select one or more categories, if applicable, from the list provided. If other, please specify.*
- Bank/Financial Planner
 - Community-Based Organizations
 - Courthouse Staff
 - Employers or Union Representatives
 - Government Office or Agency
 - Healthcare Professionals
 - Judges/Courts
 - Law Society of Manitoba
 - (Other) Lawyer(s)
 - Libraries
 - Legal Aid
 - Legal Clinics
 - Member of Legislative Assembly or City Councillor
 - Online Legal Information Resources
 - Personal Referrals (e.g., family/friends)
 - Professional Network
 - Public Prosecutions
 - Self-Referral
 - Social Worker
 - Student Legal Organizations

- Other – Specify
 - Not Applicable
4. What are the main sources you **make referrals to** in provision of legal services? *Select one or more categories, if applicable, from the list provided. If other, please specify.*
- Bank/Financial Planner
 - Community-Based Organizations
 - Courthouse Staff
 - Employers or Union Representatives
 - Government Office or Agency
 - Healthcare Professionals
 - Judges/Courts
 - Law Society of Manitoba
 - (Other) Lawyer(s)
 - Libraries
 - Legal Aid
 - Legal Clinics
 - Member of Legislative Assembly or City Councillor
 - Online Legal Information Resources
 - Professional Network
 - Public Prosecutions
 - Social Worker
 - Student Legal Organizations
 - Other – Specify
 - Not Applicable
5. How long have you been providing legal services?
- < 1 year
 - 1 – 5 years
 - 6 – 10 years
 - 11 – 15 years
 - 16 – 20 years
 - 21 – 25 years
 - 26 – 30 years
 - More than 30 years
 - I am a Non-Practising Lawyer

- i. [If *Non-Practising Lawyer*] For how many years did you provide legal services?
6. What community or communities do you serve?
 - [open-ended response]
7. Do you deliver legal services in northern Manitoba?
 - Yes
 - No
 - I Don't know
8. What is your age (in years)?
 - [List]
 - Prefer not to answer
9. What best describes your gender?
 - Man
 - Woman
 - Or, please specify: _____
 - Prefer not to answer
10. Which of the following categories best describes your racial and/or ethnic background? *Select one or more categories, if applicable, from the list provided. Please note: These categories are the same categories used by Statistics Canada on the 2021 Census.*
 - First Nation, Métis, or Inuk (Inuit)
 - White
 - Black
 - South Asian
 - East Asian
 - Black
 - Filipino
 - Arab
 - Latin American
 - Southeast Asian (e.g., Vietnamese, Cambodian, Laotian, Thai)
 - West Asian (e.g., Iranian, Afghan)
 - Japanese
 - Korean

- Or, please specify: _____
- Prefer not to answer

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11. Please provide any additional comments that you have about legal needs in Manitoba.

