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Baxter, J. & Yoon, A. (2014). What is access to justice? *Osgoode Hall Law Journal*, 52(1), forthcoming.

Jamie Baxter and Albert Yoon

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Keywords:

Access to justice, law and geography, empirical legal studies, law and society, rural and remote lawyers, territorial justice

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No Lawyer for a Hundred Miles?
Mapping the New Geography of Access of Justice in Canada¹
Jamie Baxter and Albert Yoon²

Sept 24, 2014

Recent concerns about the geography of access to justice in Canada have focused on the distribution of lawyers—especially their dwindling numbers in rural and remote areas—raising anxieties about the profession’s inability to meet current and future demands for localized legal services. These concerns have motivated a range of policy responses that aim to improve the education, training, recruitment and retention of practitioners in underserved areas. Based on a survey of Ontario lawyers measuring their geographic scope of practice, we address the underlying question: does physical proximity between lawyers and clients actually matter for ensuring access to justice—and if so, how? We show that lawyers' scope of practice varies based on several factors and we argue that debates about the geography of access need to be reframed around territorial justice as an equitable distribution of legal services, replacing a narrower emphasis on the physical location of lawyers.

¹ Our title alludes to a recent article in the New York Times: Ethan Bronner, “No Lawyer for 100 Country Miles, So One Rural State Offers Pay” *New York Times* (9 April 2013) A1.

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*[G]eography is destiny: the services available to people from eligible populations who face civil justice problems are determined not by what their problems are or the kinds of services they may need or be able to use, but rather by where they happen to live.*³

I. Introduction

Amid growing worries about the inaccessibility of legal services for many Canadians,⁴ the spatial distribution of lawyers and the persistence of regional disparities in access has emerged as a prominent but understudied set of concerns. These concerns are framed by emerging trends in the declining number of lawyers located in rural and remote areas,⁵ and thus premised on the profession's inability to meet some residents' current or future demands for *localized* legal services.⁶ Alongside these trends is a new awareness that geographic barriers to

³ Rebecca Sandefur and Aaron Smyth, *Access Across America: First Report of the Civil Justice Infrastructure Mapping Project* (Chicago: American Bar Foundation, 2011), online: American Bar Foundation

<http://www.americanbarfoundation.org/uploads/cms/documents/access_across_america_first_report_of_the_civil_justice_infrastructure_mapping_project.pdf> at 9.

⁴ See Action Committee on Access to Justice in Civil and Family Matters, *Access to Civil and Family Justice: A Roadmap for Change* (Ottawa: Action Committee on Access to Justice in Civil and Family Matters, 2013) [Action Committee] at iii (“There is a serious access to justice problem in Canada. The civil and family justice system is too complex, too slow and too expensive.”)

⁵ Social scientists apply varying definitions of “rural”, including Statistics Canada’s “Census Metropolitan Influence Zone” measure, see Statistics Canada, “Census metropolitan influenced zone (MIZ)” (2012), online: <<http://www12.statcan.ca/census-recensement/2011/ref/dict/geo010-eng.cfm>>. See *infra*, Part III for the quantitative indices of rural and remote used for our statistical models.

⁶ See e.g. Canadian Bar Association, *The Future of Legal Services in Canada: Trends and Issues* (Ottawa: Canadian Bar Association, 2013), online: CBA Legal Future Initiative

<<http://www.cbafutures.org/CBA/media/mediafiles/PDF/Reports/trends-issues-eng.pdf>> at 16 (noting that in spite of “excess capacity” in the market for legal services, some locations confront a decline in capacity due to retirements and inability to attract new entrants); Law Commission of Ontario, *Increasing Access to Family Justice through Comprehensive Entry Points and Inclusivity* (Toronto: Law Commission of Ontario, 2013) at 48 (“[n]otwithstanding [the] trend toward urbanization, legal services must be delivered across the province, including more remote locations. Distance has been identified as the biggest barrier to obtaining legal information and services”); Alison McPhail, “Report of the Access to Legal Services Working Group” (2012) Working Group on Access to Legal Services of the Action Committee on Access to Justice in Civil and Family Matters, online: http://www.flsc.ca/_documents/ACTIONReportAccessLegalServices2013.pdf at 18 (asserting that “[t]he lack of lawyers in remote communities is a growing problem”); Donalee Moulton, “Rural lawyers heading for cities” *The Lawyers Weekly* 31:41 (9 March 2012) (describing “disturbing” demographic

access—in combination with other determinants—may systemically disadvantage residents by creating local “advice deserts” or by rendering legal services inaccessible to population groups at a regional level, such as Indigenous peoples in the North.⁷ All of which leads to a palpable sense of unease that, at least for some individuals and communities, geography is destiny.

Law and society scholars studying the socio-economic determinants of access to justice⁸ have focused mainly on the basic demographic profile of people with justiciable problems, examining factors such as income, education, gender, ethnicity and language and the intersection between them.⁹ But they have largely ignored the spatial aspects of justice systems and service

trends among aging rural lawyer populations); Christopher Reynolds, “Rural B.C. Facing Severe Lawyer Shortage” *Vancouver Sun* (13 July 2012) (observing that “[l]awyers are becoming an endangered species in rural B.C.”).

For studies on geographic access in Ontario see Karen Cohl and George Thomson, *Connecting Across Language and Distance: Linguistic and Rural Access to Legal Information and Services* (Toronto: The Law Foundation of Ontario, 2008); Jamie Baxter and Albert Yoon, *The Geography of Civil Legal Services in Ontario* (Toronto: The Ontario Civil Legal Needs Project, 2011). For related concerns in Australia, see Law Council of Australia and the Law Institute of Victoria, *Report into the Rural, Regional and Remote Areas Lawyers Survey* (Braddon, ACT: Law Council of Australia, 2009). See also Kevin McDougall and Reid Mortensen, “Bush Lawyers in New South Wales and Queensland: A Spatial Analysis” (2011) 16 *Deakin L Rev* 75.

⁷ See Gayla Reid and John Malcolmson, *Voices from the Field: Needs Mapping Self-help Services in Rural and Remote Communities* (Vancouver: British Columbia Supreme Court Self-help Information Centre, 2008), online: Justice Education Society <http://www.justiceeducation.ca/themes/framework/documents/Voices_from_the_Field_Final_August_2008.pdf> at 6 (noting that “[g]eography imposes barriers, particularly in terms of access to court services in the [N]orth”); Saskatchewan Ministry of Justice and Attorney General, *Northern Access to Justice Committee: Final Report* (Ministry of Justice and Attorney General, 2007) at 3 (describing the special barriers and challenges posed by geography in the North).

⁸ In this paper we use the terms “access to legal services” and “access to justice” interchangeably to refer to a client’s opportunities and abilities to have her or his justiciable problem(s) resolved by a licensed lawyer. We adopt this narrow definition with full knowledge that the term “access to justice” is often heavily contested and we readily acknowledge that broader dimensions of access go well beyond the availability of lawyers’ services: see 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 (describing different conceptions of “access to justice” employed by Canadian courts and their relationship to the rule of law). See also Action Committee, *supra* note 4 at 2 (advocating for “a more expansive, user-centered vision of an accessible civil and family justice system” as one “that provides the necessary institutions, knowledge, resources and services to avoid, manage and resolve civil and family legal problems and disputes”).

⁹ See e.g. Rebecca L Sandefur, “Access to Civil Justice and Race, Class and Gender Inequality” (2008) 34 *Annual Review of Sociology* 339; Ab Currie, *The Legal Problems of Everyday Life: The Nature, Extent*

delivery.¹⁰ Despite the new availability of data on the geographic spread of legal services and client needs, we still know too little about how physical proximity between lawyers and clients affects the demand for and delivery of these services.. Nor do we understand how these relationships vary across different locations and local contexts.

In spite of this knowledge gap, concerns about the geography of access to justice have motivated a range of policy responses that aim to improve the education, training, recruitment and retention of practitioners willing to locate in underserved areas.¹¹ Some of these initiatives provide direct financial incentives for new members of the bar who choose to practice in rural or remote locales, and many provide professional support for established lawyers in these regions to improve recruitment and plan for law firm succession. Other approaches represent a broader movement toward “place-based learning”, whereby new law schools are themselves located in underserved areas to attract local applicants, encourage post-graduate retention, and provide regional and cultural-specific training. Policy models also focus on reducing the need for localized practitioners altogether by improving access to knowledge and services over longer distances—for example, by establishing toll-free telephone assistance or web-based portals and

and Consequences of Justiciable Problems Experienced by Canadians (Ottawa: Department of Justice, 2009), online: Department of Justice <http://justice-canada.net/eng/pi/rs/rep-rap/2007/rr07_la1-rr07_aj1/rr07_la1.pdf>; Hazel Genn, *Paths to Justice: What People Do and Think About Going to Law* (Oxford: Hart Publishing, 1999).

For a review of socio-economic determinants of access to justice in Ontario see Ontario Civil Legal Needs Project, “Listening to Ontarians: Report of the Ontario Civil Legal Needs Project” (Toronto: Ontario Civil Legal Needs Project, 2010); Jamie Baxter, Michael Trebilcock and Albert Yoon, “The Ontario Civil Legal Needs Project: A Comparative Analysis of the 2009 Survey Data” in Michael Trebilcock, Anthony Duggan and Lorne Sossin, eds., *Middle Income Access to Justice* (Toronto: University of Toronto Press, 2012).

¹⁰ See Mark Blacksell et al., “Legal Services in Rural Areas: Problems of Access and Local Need” (1988) 12 *Progress in Human Geography* 47 at 57 (reporting in the late 1980s that, “[d]espite its relatively high rural population, very little critical, academic work has been carried out on rural legal services in Canada”).

¹¹ See *infra* Part II.

by networking local lawyers across different regions and speciality areas, allowing them to reduce service delivery costs and offer broader and more flexible legal services in a given locale.

Although the success or failure of these different approaches remains to be seen, most appear to rest on the plausible but untested assumption that a client's proximity to a lawyer significantly impacts his or her access to legal services. What policymakers lack, in our view, is research that more directly addresses the underlying question: does physical proximity between lawyers and clients actually matter for ensuring access to justice—and if so, how? Are legal services, in other words, purely “local” goods or does the geography of service delivery vary across different practice contexts? In taking up these questions, we propose that policymakers ought to know about more than the location of law firms and clients to adequately confront concerns about the geography of access to justice. Broadly speaking, they would benefit from better understanding: (i) how legal service delivery on the supply side varies according to the physical distance between lawyers and clients, and (ii) how an individual's advice-seeking behaviour on the demand side is impacted by their proximity to legal service providers. Our study takes up the first of these issues by investigating how far away lawyers and their clients actually reside from one another in today's legal services markets and by tracing how this *scope of practice* varies according to specialization, firm size, urban versus rural location, and other demographic characteristics of lawyers and clients. This line of inquiry will begin to sketch a more accurate picture of accessibility at particular locations and to particular subsets of the client population, and will ultimately help to inform and evaluate current policy responses to address access barriers, especially among rural and remote residents.

Our study findings—based on a recent survey of more than 1,800 lawyers in Ontario—establish a basic but easily overlooked point about the geography of access to justice: legal

service delivery is not strictly a local phenomenon. Lawyers can and frequently do provide assistance to clients at considerable distances, and some kinds of lawyers serving certain client populations tend to do more of this long-distance work than others. Researchers by now take for granted the observation that living *close* to a lawyer does not ensure adequate access to justice. The reasons are severalfold: legal services are unaffordable; potential clients lack sufficient information about services or about their rights; or other systemic barriers. But our study suggests that, in some cases, the inverse is also true. Living far away from a lawyer does not, on its own, guarantee that legal services are inaccessible in a given locale.

Based on our survey results we find that, on average, the majority of an Ontario lawyer's total clients (58 per cent) live within close driving or transit distance (25 kilometres), but a substantial proportion also live further (26 per cent between 25 and 100 kilometres) or much further away (16 per cent more than 100 kilometres). As a starting point, then, it appears that a substantial proportion of the legal services currently being provided are not strictly local to a lawyer's practice location. That starting point leads to a further question: what factors might influence the scope of legal service delivery? Drawing on our quantitative results, we identify four statistically significant factors below. First, we identify variation in practice scope based on the urban versus rural setting, and based on the regional location of a lawyer's practice. Lawyers in major urban centres report a larger scope of practice, as do those located in the densely populated Greater Toronto Area and in the Eastern regions, compared to other regions in the province. Second, a lawyer's scope of practice tends to increase as the size of their firm increases, with the largest firms allocating a considerable proportion of their work to long-distance clients. Third, we find that the average income of a lawyer's main client base is a significant factor, such that lawyers who serve predominantly wealthier clients tend to do so from further away

compared to those who serve mainly lower and middle-income clients. Fourth, and perhaps most revealing for present policy debates, our data show that a lawyer's scope of practice tends to vary according to their field(s) of specialization. For example, family law clients and those receiving advice on wills and estate issues tend to reside closer to their lawyers, whereas clients in intellectual property and human rights matters tend to live much further away.

Our baseline results suggest that because the geography of access of justice maps to a relatively uneven landscape, regulatory responses to the challenges experienced by underserved areas should be closely tailored to specific locations, client and lawyer demographics, and the legal service specializations in demand. Because some legal services, in some contexts, can be and are being provided in the absence of close physical proximity between lawyers and clients, broad-brush initiatives that simply encourage lawyers to locate or remain in rural and remote areas may be ineffective or inefficient responses to the problems of inaccess. Rather, given the variation we observe in the geographic scope of practicing lawyers, our study suggests that policy makers have considerable flexibility to craft innovative solutions. Bringing lawyers and clients closer together may be appropriate in some cases, while increasing the capacities of lawyers and clients to work at a distance may be more fruitful in others. Our results point to some variables—such as firm size and location in an urban centre—that are likely to impact these capacities, though this issue is one that warrants closer examination.

At the same time, we caution against the suggestion that problems of access to justice might be “solved” simply by centralizing legal services and subsidizing service delivery to rural and remote regions by out-of-towners located in larger centres or urban hubs. Our empirical work does not bear out that conclusion, nor does it attempt to address unanswered questions about the impact of localized service delivery on service quality or on the demand for lawyers’

services more generally. Moreover, our data do show that lawyers serving predominantly lower and middle-income clients have a smaller geographic scope of practice, raising questions about the needs of certain client populations and underscoring the necessity of better understanding intersections between geographic and socio-economic dimensions of access. Our study also demonstrates the need to pay close attention to regional differences and local contexts, given the dramatic variation in community structures, population densities, and client populations at this level—highlighting the differences, for example, between the Greater Toronto Area and Northern Ontario.

Our article proceeds as follows: In Part II we canvas the existing literature on the geography of access to justice, focusing on the relationship between empirical and theoretical developments in this area. We discuss how the literature exposes the underlying question of—and ambivalence about—whether equal access to justice across geographies necessarily requires an equal spatial distribution of lawyers and service supports. Parts III and IV present our study results, and we then return to conceptual issues and to our policy conclusions in Part V.

II. Geographic Barriers to Access

Our study adds to the existing body of work on the geography of access to justice by investigating how the scope of a lawyer's practice—i.e. how far away his or her legal services extend in order to reach clients—maps onto the spatial provision of legal services. Research in this area has been slow to materialize since British scholars laid the groundwork for studies on the geography of civil justice systems more than forty years ago. Beginning with research on the comparative density of lawyers in urban and rural settings, this work has evolved to examine regional variation in the distribution of legal specializations and to probe the dynamics of lawyer migrations across the rural-urban boundary. Overall, however, researchers have persisted in their

focus on the physical location of lawyers and clients without much attention to the means or mechanisms by which practitioners actually supply legal services over geographic space.

A. Framing Territorial Justice

From a normative standpoint, scholarship on the geography of access to justice has rested heavily on the principle of “territorial justice”, which emerged prominently in debates about the spatial organization of social welfare systems in Britain in the late 1960s. Focusing attention on regional differences in the provision of social services generally, public administration scholars sought to articulate a clear distinction between formal versus proportional equality (or equality versus equity) of public expenditures regionally, defining and championing the latter as “a high correlation between indices of resource-use...and an index measuring the relative needs of an area’s population for the service.”¹² This principle was quickly adopted by researchers interested in the provision legal services in Britain and the allocation of legal aid funding between regions. Using territorial justice as their starting point, socio-legal scholars began to seek out measurable, quantitative data to assess whether the criterion of equitable access was in fact being met. In this section, we aim to show that—in spite of a sound conceptual pedigree—these studies have cultivated a certain ambivalence around the idea of territorial justice as it was originally proposed, by equating the location of lawyers with the accessibility of legal services in a given locale but without attempting to probe more deeply the relationship between lawyer location and equitable access. That ambivalence, in turn, has found its way into the contemporary policy discourses and initiatives in Canada that comprise the dominant responses to access barriers in rural and remote communities.

¹² See Bleddyn Davies, *Social Needs and Resources in Local Services* (London: Michael Joseph, 1968) at ___, cited in Ken Foster, "The Location of Solicitors" (1973) 36 *Modern Law Review* 153 at 153.

In the introduction to his foundational study on the distribution of solicitors in England and Wales in the early 1970s, legal researcher Ken Foster argued:¹³

If the provision of legal services is to be considered as a social service, it becomes important to establish both the nature and extent of the community's legal needs and the distribution of the services which are purporting to supply those needs...an equal allocation of legal services throughout the country can only be justified if there is a corresponding equal distribution of legal need. However, until research is conducted into the distribution of legal need, both met and unmet, it must be assumed that legal services ought to be evenly spread throughout the country. It follows that, although the legal profession is not the only source of legal aid and assistance, solicitors should as far as possible be equally available to an individual wherever he [or she] lives.

Foster's adaptation of the territorial justice concept to the legal context contained two important ideas. First, Foster drew attention to the fact that a truly equitable provision of legal services across localities requires information about the distribution of legal needs (or "justiciable problems" in the modern terminology), in addition to knowledge of service supply. Lacking such information, a formal equality of services is likely a second-best response. This first point appears relatively uncontroversial and closely tracked the reasoning applied to other social services debates in England at the time. But Foster also identified a second, crucial aspect of territorial justice—namely, that this principle is not concerned with an equitable distribution of *lawyers per se*; rather it requires an equitable distribution of legal service *availability*. Unfortunately, this second aspect of Foster's theoretical groundwork has continually been overlooked, leaving most studies in the field to focus exclusively on regional differences in the physical location of lawyers and law firms rather than the scope and extent of legal services supply.

¹³ Foster, *ibid.*

Indeed, Foster himself concentrated his empirical efforts on demonstrating that the location of British solicitors varied between urban and rural areas, and between regions nationally. He observed that solicitors tended to practice predominantly at or near the centre of larger urban areas, close to commercial and financial organizations, courts, and other relevant institutional focal points. Proximity to these focal points likely improved some efficiencies in legal practice, but also created a variegated landscape of service provision even within densely populated cities. At the urban-rural divide, Foster noted that the ratio of population to solicitors was less than half that of the surrounding areas, raising questions about whether cities might exert a kind of “gravitational pull” on their proximate regions by drawing practitioners closer to the urban core.

Following Foster’s lead, the Access to Justice in Rural Britain Project (AJRBP) undertook a more comprehensive study of rural access issues in 1988.¹⁴ The AJRBP’s most striking finding was that rural communities in Britain were not necessarily disadvantaged in terms of the ratio of solicitors to population.¹⁵ Although solicitors tended to concentrate their practices in the main British towns and cities, AJRBP researchers found that solicitors were actually more evenly distributed among remote rural populations compared to urban ones. But the AJRBP results did support Foster’s earlier findings that commercial urban centres disproportionately attracted solicitors, confirming a pattern whereby regions adjacent these centres had much lower per capita densities of practicing lawyers, even when compared to

¹⁴ Reported in Mark Blacksell, Kim Economides and Charles Watkins, *Justice Outside the City: Access to Legal Services in Rural Britain* (Essex: Longman Scientific & Technical, 1991).

¹⁵ *Ibid* at 41-42 (“[R]ural districts nationally in England and Wales are *not* badly provided with solicitors in terms of number... Any study of the provision of legal services in rural areas therefore needs to investigate in greater depth the range and quality of legal services available, and the difficulty that people may have in travelling to see a solicitor”).

outlying rural areas. This trend in some cases produced a “hollowing out” of legal services in areas close to London, and to a lesser extent, in regions around other major centres.¹⁶

Subsequent research in Britain has nuanced these earlier analyses by seeking to distinguish between what Iwan Davies and Lynn Mainwaring call “high-level” and “low-level” specializations.¹⁷ These authors observe that the relatively equitable distribution of solicitors in Britain nationally holds for a core-practice set of legal skills, namely those areas covering day-to-day civil legal needs such as conveyancing, employment, family, civil litigation, personal injury, and wills and probate. This small number of core-practice areas accounts for an overwhelming amount (87 per cent) of civil justice activity. By contrast, lawyers who practice in more specialized areas of business and commercial law tend to concentrate their activities in cities and regional centres. Davis and Mainwaring argue that the latter’s preference for cities accounts for the main gravitational effects of urban areas identified by the AJRBP. They found that core-practice lawyers in the United Kingdom were, comparatively, much more evenly distributed.¹⁸

Recent trends in the geographic distribution of lawyers in other Commonwealth countries, by comparison, paint a more dismal picture of access. In 2009, the Law Council of Australia conducted a nationwide survey of practitioners in rural, regional and remote areas, finding that 43 per cent of law firm principals were not employing enough lawyers to adequately serve their

¹⁶ *Ibid* at 42-43 (through the authors note that important counter-forces are also relevant, including the growing number of retired people and homeowners in rural locations demanding legal services).

¹⁷ Iwan Davies and Lynn Mainwaring, "Territorial Justice and Access to Knowledge: the Distribution of High-Level Legal Skills in the Regions of England and Wales" (2007) 14 *International Journal of the Legal Profession* 237. The idea that rural solicitors in the UK tend to be less specialized compared to those practicing in urban centres is corroborated by Mark Blacksell, "Social Justice and Access to Legal Services: a Geographical Perspective" (1990) 21 *Geoforum* 489.

¹⁸ *Ibid*.

existing client base.¹⁹ According to the Australian study, the growing number of retiring lawyers in these regions is expected to exacerbate lawyer shortages in the future, with 42 per cent of respondents reporting that they did not intend to be practicing law in five years time. Meanwhile, a substantial percentage of young lawyers in the study indicated plans to seek better remuneration and work opportunities in cities in the future.²⁰ The Law Council was careful to point out that these trends are predicted to have a disproportionate impact on poor and marginalized people, given the active participation of rural, regional and remote lawyers in community-based legal aid and pro bono work.²¹

In Canada, a 2005 survey of small and solo rural practitioners by the Law Society of Upper Canada—the province’s lawyer regulator—presaged the Australian findings, reporting that 64 per cent identified legal services shortages in their locale, with the largest gaps in family law, legal aid specialities, and civil litigation.²² A more recent qualitative study of legal services provision has added insight to these concerns, finding that “[study] participants identified distance as the number one barrier to obtaining legal information and services in rural or remote areas of [Ontario]. Legal service providers spoke about their rural clients walking an hour or more, or hitchhiking, to keep appointments with legal clinics or to attend administrative or court

¹⁹ Law Council of Australia, *supra* note 6 at 17.

²⁰ *Ibid* at 6, 10.

²¹ *Ibid.* at 16-17.

²² Law Society of Upper Canada, *Final Report of the Sole Practitioner and Small Firm Task Force* (Toronto: Law Society of Upper Canada, 2005) online: Law Society of Upper Canada <www.lsuc.on.ca/media/convmr05solepractitioner.pdf>.

Comparable research on lawyer geography in the United States has been relatively slim. The National Center for State Courts commissioned a study on the effects of space and distance on the administration of justice in rural courts in 1977, organizing a series of workshops to gather feedback from judges, court officers and personnel, *see* E Keith Stott, Theodore J Fetter and Laura L Crites, *Rural Courts: The Effect of Space and Distance on the Administration of Justice* (Denver: National Center for State Courts, 1977). While this study helps to identify many of the specific challenges facing rural justice systems, it has little to say about access to legal service providers. *See also* Donald Landon, *Country Lawyers: the Impact of Context on Professional Practice* (New York: Praeger, 1990).

proceedings.”²³ Likewise, in 2011, the Alberta Legal Services Mapping Project released its overview report of an extensive multi-year collaborative study to collect and link qualitative data on the legal needs and available community service providers within local judicial districts in the province.²⁴ Mirroring concerns about access to lawyers in rural and remote areas, the study found that “Alberta’s geography and demography pose significant barriers to ensuring equitable delivery of, and access to, legal and other services.”²⁵

It is worth noting that concerns about the location of lawyers and other legal service providers in rural and remote areas in Canada have emerged against the background of a steady *increase* in the overall per capita supply of lawyers in overall. For example, growth in the number of licenced lawyers in the country during the five years to 2011 outpaced national population growth by a margin of 3 per cent, despite poor overall economic conditions in this period.²⁶ In Ontario, the lawyer population increased annually on average 2.0 per cent between 2006-2011, compared to an average annual population growth of only 1.1 per cent.²⁷ These statistics frame perhaps the most basic concern of access to justice advocates in Canada: although the overall relative supply of legal service providers is growing, the accessibility of legal advice services—in geographic and other dimensions—appears to be on the decline.

²³ Cohl and Thomson, *supra*, note 6 at 32.

²⁴ Mary Stratton, “Alberta Legal Services Mapping Project: An Overview of Findings from the Eleven Judicial Districts” Canadian Forum on Civil Justice (2011), online: < <http://www.cfcj-fcjc.org/sites/default/files/docs/2011/mapping-final-en.pdf>>.

²⁵ *Ibid.* at 19.

²⁶ Federation of Law Societies of Canada, *Statistics Archives* (2014), online: Federation of Law Societies of Canada <<http://www.flsc.ca/en/resources/past-statistical-reports>>; Statistics Canada, *Census of Canada* (2011), online: Canadian Census Analyzer.

²⁷ *Ibid.*

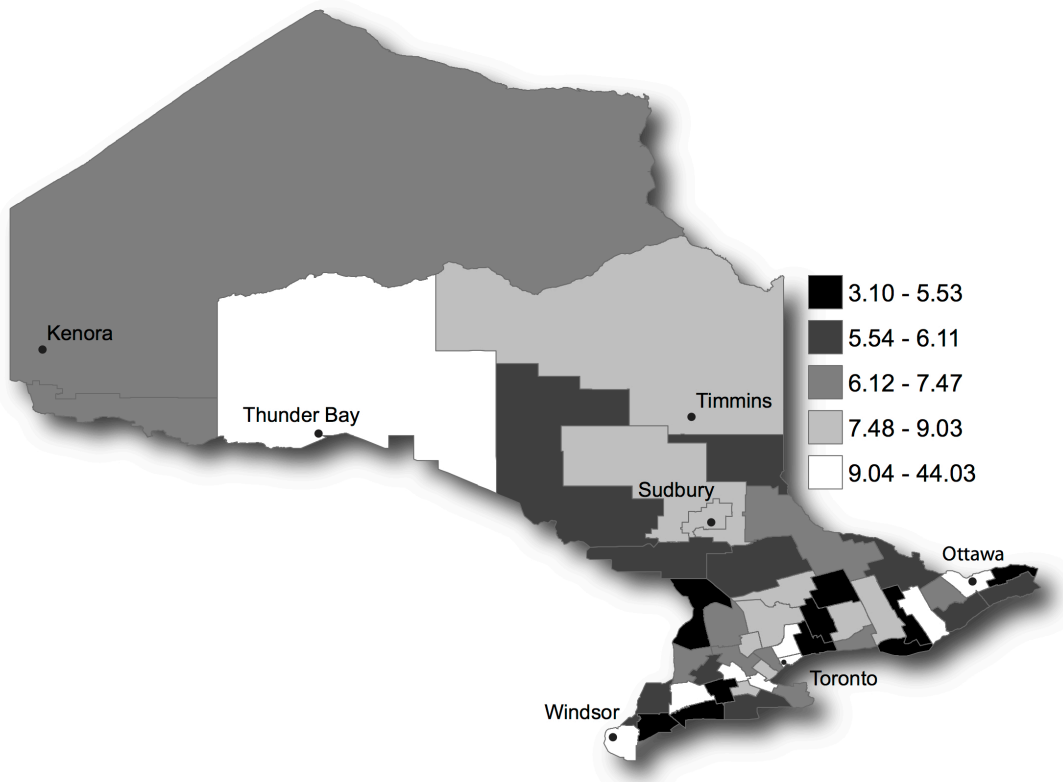


Figure 1: Ontario Lawyers Per 10,000 Census Population

Our own prior research on the geography of legal services in Ontario—reported in a 2011 study prepared for the Ontario Civil Legal Needs Project—suggested a mixed picture of lawyer distribution in the province at present. At the level of census divisions, areas containing major metropolitan centres such as Toronto, Ottawa, London, Hamilton and Thunder Bay have the highest density of lawyers in private practice, each with ratios exceeding 1 lawyer per 1,000 people—though these data should be interpreted with some caution given that divisions in Northern Ontario are much larger by total area compared to those to the south.²⁸ Locations with the lowest density of lawyers per capita tend to be rural areas in the Southern and Central regions, but overall Figure 1 reveals something of a patchwork quilt of lawyer distribution in the province.

²⁸ Baxter and Yoon, *supra* note 6 at 37-8.

Looking to the future, our 2011 study data reinforced concerns about an aging lawyer population in Ontario, showing that the median age of lawyers was highest in rural areas overall, though lawyers in the Northern region were within the lowest age quintile.²⁹

B. Policy Responses

In light of past studies and considerable anecdotal evidence reported in the media and elsewhere, regulatory bodies, educational institutions and civil society organizations in Canada have responded to inequalities in the geographic distribution of lawyers through a variety of policy measures. Our overview below groups these initiatives into four basic non-exclusive models: (i) *location incentives*, which directly subsidize legal services markets in underserved areas by offering lawyers financial inducements to relocate; (ii) *place-based education*, which shifts recruitment efforts upstream by attracting applicants from underserved areas, encouraging post-graduate retention, and providing regional and cultural-specific training that is directly applicable to rural and remote practice; (iii) *succession planning and recruitment tools*, which provide financial and professional supports directly to existing rural and remote law firms and aim to increase their capacity to deliver legal services in these areas in the future; and (iv) *network building*, which produces professional collaboration and knowledge-sharing networks to support existing and future practitioners in underserved regions. We describe each of these models briefly, and return to them when we discuss implications from our current study in Part V, below.

²⁹ *Ibid.* at 40.

i. *Location Incentives*

Financial inducements that encourage professionals to locate their practice in rural and remote regions have long been a staple of the healthcare professions, but have only recently emerged as tools to promote a more uniform geographic distribution of lawyers in Canada and more recently in the United States.³⁰ Financial incentive programs are generally designed to overcome structural barriers in under-serviced markets that make it too costly for professionals to maintain a viable practice in these areas—at least, in comparison to more attractive options in alternative locations. In the healthcare field, where location incentive programs are widespread, market distortions are primarily a consequence of publically determined fee schedules that are insensitive to geography, restricting physicians’ abilities to charge patients directly with greater fees for service.³¹ In this context, financial incentives may be needed to raise private practice incomes to a level necessary for physicians to voluntarily relocate. But in the field of legal services lawyers are free to negotiate their own fees. Thus financial incentives address at least three alternative restraints on a lawyer’s practice income in under-served regions: the number of available clients; the existing client population’s ability to pay; and switching costs associated with a lawyer’s transition from one practice context to another. This latter barrier likely includes not only the direct expense of physically relocating one’s practice and living arrangements, but also costs associated with retraining—for example to broaden the range of one’s practice

³⁰ See Ian P Sempowski, "Effectiveness of Financial Incentives in Exchange for Rural and Underserved Area Return-of-Service Commitments: Systematic Review of the Literature" (2004) 9 *Can Journal of Rural Medicine* 82; Denis Bolduc, Bernard Fortin and Marc-André Fournier, "The Effect of Incentive Policies on the Practice Location of Doctors: A Multinomial Probit Analysis" (1996) 14 *Journal of Labor Economics* 703.

The Canadian *Action Committee on Access to Justice in Civil and Family Matters* has recently recommended that “[k]ey justice stakeholders should collaborate to identify and implement strategies to encourage lawyers to practice in rural or remote communities”, see McPhail, *supra* note 4 at 19.

³¹ Bolduc, Bernard and Fournier, *ibid* at 704 (discussing the market implications of physician incentive programs).

specialties to serve a more diverse market—and establishing new professional and social networks.

Currently, Manitoba is the only province in Canada to formally pursue a strategy of direct financial incentives for lawyers. In 2010 the Law Society of Manitoba partnered with the University of Manitoba Faculty of Law to create a program offering forgivable loans to law students from under-served communities, covering up to \$25,000 CAD in tuition and living expenses for each year of law school. Those loans are subject to a return of service agreement providing loan forgiveness at a rate of 20 per cent per year spent practicing in an under-served Manitoba community in the province upon graduation.³² By linking eligibility to prior residence in under-served communities, the program aims to target recruits who are presumably more likely to remain in these areas after completing their return of service agreement.³³ More recently in the United States, the idea of location incentives has been taken up by the South Dakota legislature, which passed a bill in 2013 to create the state’s first Rural Attorney Recruitment Program.³⁴ Unlike the Manitoba program, South Dakota’s strategy targets practicing lawyers with financial incentives amounting to five annual payments at 90% of one year’s resident tuition and fees at the University of South Dakota School of Law, and does not link eligibility to prior

³² Law Society of Manitoba, “Forgivable Loan Program Information and Application Form”, online: Law Society of Manitoba <http://www.lawsociety.mb.ca/news/publications/other-publications/forgivable_loan_application_form.pdf>.

³³ Gail Cohen, “Manitoba Law Society Introduces Forgivable Loans” *Canadian Lawyer Magazine* (18 October 2010).

³⁴ An Act to provide for the transfer and appropriation of funds upon the occurrence of certain events and to assist rural counties in the recruitment of attorneys, House Bill 1096 (signed by Governor 25 March 2013).

residency. After considerable media attention to the recent reforms, this model has also attracted growing interest from other jurisdictions in the United States.³⁵

ii. *Place-based Education*

A second set of initiatives addressing the geography of access to justice has taken a somewhat broader approach by aspiring to recruit, educate and train lawyers within underserved regions themselves.³⁶ This strategy aims to confront a primary criticism of location incentives—namely, that these programs tend to perform poorly at long-term retention of professionals in underserved areas, especially once the terms of their return of service agreements have been fulfilled.³⁷ Place-based education programs attempt to encourage long-term retention in several ways. First, they target applicants with pre-existing ties to rural and remote communities on the theory that these individuals will be more likely to practice in those or similar communities upon graduation. In addition to granting admissions preferences to rural and remote residents, place-based education programs encourage local enrolment by locating education delivery close to home and thereby capturing potential applications who may otherwise be unwilling or unable to

³⁵ Ethan Bronner, “No Lawyer for 100 Country Miles, So One Rural State Offers Pay” *New York Times* (9 April 2013) A1.

³⁶ *But see* Amanda Kennedy et al., “Preparing Law Graduates for Rural and Regional Practice: A New Curriculum-Based Approach” (2013) 93 *Procedia-Social and Behavioral Sciences* 317 (discussing Australian curricular reforms in law schools to address the specific needs of rural and remote practice) and Trish Mundy, “Placing the Other: Final Year Law Students Imagined Experience of Rural and Regional Practice Within the Law School Context” (2012) *International Journal of Rural Law and Policy* (arguing for the importance of “place-consciousness” in law school curricula).

³⁷ For an overview of empirical studies in the health care field, *see* Renee Misfeldt et al., “Incentives for Improving Human Resource Outcomes in Health Care: Overview of Reviews” (2014) 19 *Journal of Health Services Research & Policy* 52 at 54 (finding that higher wages have a positive effect on initial recruitment and job satisfaction, but not necessarily on longer-term retention); *see also* Penny Humphreys Buykx, John Wakerman and Dennis Pashen, “Systematic Review of Effective Retention Incentives for Health Workers in Rural and Remote Areas: Towards Evidence-Based Policy” (2010) 18:3 *Australian Journal of Rural Health* 102 at 103 (“[t]he balance of evidence suggests that financial incentives might assist with recruitment and short-term retention...but not necessarily longer-term retention in the same area”).

travel greater distances away to attend law school. Second, place-based educational institutions offer opportunities for regional and cultural specific programming to train new lawyers with the skills most relevant to the challenges of rural and remote practice. Finally, this strategy enables law students to forge professional connections in local areas that may lead directly to future articling placements and/or full-time employment.

In September 2013, Lakehead University in Thunder Bay, Ontario, opened what is arguably the first law school in Canada with an explicit commitment to place-based learning, with the stated goal of “improving access to legal services in Northern Ontario and throughout rural Canada.”³⁸ The school’s program has a heavily practice-oriented approach and focuses on practice areas including Aboriginal law and natural resources and mining specialities. Although it is premature to evaluate Lakehead’s long-term success at training and placing rural and remote lawyers, the school appears to have had some initial success in recruiting applicants from these areas—with 57 per cent of the first class comprising students from Northern Ontario and a further 15 per cent from small town and regional Ontario and Canada.³⁹ Other universities located in underserved regions will likely be following Lakehead’s initiative closely; the place-based model also appears to have been taken up at Memorial University in St. John’s, Newfoundland, with the release of a recent report recommending the feasibility of a new law school predominantly designed to recruit and educate Newfoundland lawyers.⁴⁰

³⁸ “Why Study Law at Lakehead?”, online: Lakehead University Faculty of Law <<https://www.lakeheadu.ca/academics/departments/law/why-study-law>>.

³⁹ “Where Our Students are From”, online: Lakehead University Faculty of Law <<https://www.lakeheadu.ca/academics/departments/law/student-hometowns>> (providing statistics and presenting a visual map of student hometowns from the inaugural law school class).

⁴⁰ Law School Feasibility Committee, “Report on the Feasibility of a Law School at Memorial University” (St. John’s: Memorial University, 2013), online: Memorial University <<http://www.mun.ca/president/Lawschoolreport2013.pdf>>.

iii. *Succession Planning and Recruitment Tools*

Whereas location incentives and place-based education have targeted mainly incoming lawyers, a third set of policy initiatives attempts to support existing law firms and organizations by facilitating new recruitment, and in some instances succession planning, to ensure their ongoing viability in the future. These programs place greater emphasis on individual firms and organizations to address questions of access, though they may also offer substantial flexibility to those with on-the-ground knowledge of local needs and capacities in the form of financial and professional supports.

In 2009, the British Columbia branch of the Canadian Bar Association launched its Rural Education and Access to Lawyers Initiative, a program that offers funding to assist law firms in hiring summer students, as well as financial and promotional support for marketing to new recruits. The program also funds a Regional Legal Careers Officer to assist with recruitment, hiring and retention of students and new lawyers in small communities and rural areas.⁴¹ Likewise, as part of its Connecting Project, the Law Foundation of Ontario has funded over forty articling positions across the province at community legal clinics and Legal Aid Ontario area offices where students would serve either linguistic minorities or rural and remote

⁴¹ Canadian Bar Association, "REAL", online: Canadian Bar Association <<http://cbabc.org/Advocacy/Initiatives/REAL>>. For similar initiatives in Australia, see Trish Mundy, "Recruiting and Retaining Lawyers: A Problem in Rural, Regional and Remote Communities" (2009) 34 *Alternative Law Journal* 32.

communities.⁴² In some provinces, law societies have also focused on developing training tools that target law firm succession for solo practitioners and small firms.⁴³

iv. *Network Building and New Technologies*

A final set of initiatives is targeted at reducing the costs of rural and remote practice, thereby making it more cost-effective for existing and future lawyers to deliver legal services in these areas, such as by strengthening self-help services for underserved residents or establishing long-distance access to legal services through centralized toll-free telephone assistance or web-based portals.⁴⁴ Perhaps even more promising are innovative tools that leverage the existing resources of small and solo practitioners and draw on network arrangements to link lawyers across different regions and speciality areas, allowing them to offer a broader and more flexible range of legal services in a given locale. For example, in 2011 the Law Society of Alberta launched its unique SoloNet Pilot Project providing a confidential online social network for solo and small firm practitioners to collect and share professional knowledge and practice advice.⁴⁵ According to one participant, the network has “allowed solo and small firm practitioners to draw on the expertise and resources of many very skilled and experienced lawyers that they would otherwise not be able to access” and for some “feels like being part of a 100-lawyer firm.”⁴⁶ While there may be inherent limitations to this “decentralization” of the firm, these professional

⁴² Law Foundation of Ontario, “Connecting Project Progress Report” (April 2013), online: Law Foundation of Ontario <<http://www.lawfoundation.on.ca/wp-content/uploads/Connecting-Interim-Report-April-2013.pdf>> at 3.

⁴³ For example, the Law Society of Upper Canada has developed a Succession Planning Toolkit targeted at solo and small firms, see Law Society of Upper Canada, “Succession Planning Toolkit”, online: <<http://ecom.lsuc.on.ca/cpd/product.jsp?id=CLE09-0040901>>

⁴⁴ See Cohl and Thomson, *supra* note 6 at 36.

⁴⁵ See, e.g., Alberta SoloNet (a pilot project operated by the Law Society of Alberta, providing a confidential forum for lawyers who are solo practitioners or working in remote locations in Alberta “to connect and share information”).

⁴⁶ Jocelyn Frazer, “Interest Growing Strong in SoloNet Pilot Project” (2012) 10 *The Advisory* 1 at 13.

linkages between remote practitioners in different locations appear to track similar dynamics in the long-distance client-lawyer relationships we report below.⁴⁷

C. Reframing Territorial Justice

Before turning to the results of our survey and their implications for the policy directions canvassed above, we conclude this section by drawing attention to two broader consequences of framing territorial justice in terms of the distribution of lawyers over geographic space. In the final sections of this paper, we argue for a return to the original principal of territorial justice as *equitable access to legal services* and discuss the future implications of this conceptual shift.

First, a research and policy focus on lawyer location and locality has tended to mould debates about access to justice into a struggle over “rural justice”, which pits urban against rural/remote communities in a contest both for public resources and public attention to regional or local need. To the extent that legal services are understood as geographically confined to a given locale, the issue for rural/remote communities has become mainly about how to draw new practitioners into these areas and how to stem the flow of practitioners migrating to cities and regional centres. In this frame, struggles over access to territorial justice become part of what Kim Economides calls “centre-periphery tensions” in both legal theory and legal practice—i.e., the product of centripetal or centralizing tendencies in legal systems that draw resources toward urban centres and orient substantive law toward urban concerns.⁴⁸ One prominent illustration of these dynamics is the gravitational pull on lawyers’ locational decisions exerted by major urban locations that has been observed by early socio-legal scholars in England.⁴⁹ In this case, central

⁴⁷ See *infra*, Part IV.

⁴⁸ Kim Economides, “Centre-Periphery Tensions in Legal Theory and Practice: Can Law and Lawyers Resist Urban Imperialism?” (2012) *International Journal of Rural Law and Policy* 1.

⁴⁹ See Davies and Mainwaring, *supra* note 17.

cities are seen as benefiting from access to a greater concentration of lawyers and institutional resources as well as from increased economic activity—all to the direct detriment of peripheral regions.

A second and related consequence of the dominant account of territorial justice has—somewhat ironically—been the tendency to privilege uniformity over an authentic recognition of local context and regional differences. To the extent that access to legal services is equated with the quantity of lawyers in a given locale, solutions to inaccess risk becoming primarily a numbers game in which uniform lawyer-population targets overshadow more nuanced goals and approaches that evaluate which services local communities actually need and what legal service providers can actually deliver.

Inspired in part by the literature on health care services delivery in rural and remote regions, our aim in this paper is to push the existing body of socio-legal research on the geography of access to justice beyond a strict focus on the physical locations of lawyers. Each of the policy responses described above represents an important step toward addressing the geographic distribution of legal services in Canada. They share, however, a degree of collective ambiguity in their implicit understanding of how legal services are actually supplied to clients over geographic space. It is clear that providing equitable access to legal services requires more than simply balancing lawyer-client ratios between regions.⁵⁰ Equitable access must, at a minimum, account for and address the actual distribution of legal needs, including geographic

⁵⁰ See Alan Hay, "Concepts of Equity, Fairness and Justice in Geographical Studies" (1995) 20 *Transactions of the Institute of British Geographers* 500 at 505 (noting, "it is often argued that the presence of a good match between the distribution of a client population and some element of provision may be misleading due to the problems of ecological correlation..[f]or example, the presence of a high level of medical provision in a region with large numbers of elderly people is not evidence that the requirements of [equity, fairness and justice] are being met because there is no guarantee that the medical provision is appropriate and available to the elderly people").

variation in the incidence of justiciable problems and the characteristics of local client populations.⁵¹ Less clear, however, is how the geographic scope of legal services provision itself varies along different dimensions, and research to date has done little to identify which factors might influence how close by lawyers and clients actually tend to (and need to) reside. It is this latter issue that we aim to address below, and in doing so we explore how variations in the scope of practice might inform more targeted policy interventions to supply legal services to those who need them most, in the form that is most effective and efficient. As Economides, Blacksell and Watkins envisioned with considerable foresight in the mid-1980s, “[the goal is not] to describe the distribution of legal services so much as to provide policymakers with concrete guidelines as to where legal services, especially public legal services, should be located in order that they are utilised to the maximum.”⁵²

As a first step toward that goal, our study examines the geographic scope of legal service provision among practicing lawyers in Ontario. Going forward, this work lays a foundation for future research on a second set of issues—namely, how geographic variables influence patterns of advice-seeking behaviour, lawyers’ locational choices, and client outcomes. For example, a large law firm located in an urban centre might provide civil litigation services over a relatively large region, but this fact does not tell us whether potential clients might be deterred from seeking long-distance help, nor does it indicate whether there are differences in the quality of service provision based on factors such as a lawyer’s familiarity with local context or the ability to meet face-to-face.⁵³ A related set of issues is about how we can better understand the plurality

⁵¹ See Foster *supra* note **Error! Bookmark not defined.**

⁵² Kim Economides, Mark Blacksell and Charles Watkins, "Spatial Analysis of Legal Systems: Towards a Geography of Law, The" (1986) 13 *Journal of Law & Society* 161 at 173

⁵³ See Donald D. London, "Lawyers and Localities: The Interaction of Community Context and Professionalism" (1982) 7 *Law & Social Inquiry* 459. See also Davies and Mainwaring, "Territorial

of local legal cultures in rural and remote areas.⁵⁴ Formulating suitable responses to access to justice barriers for rural and remote residents will undoubtedly require future work to address these questions as well.⁵⁵

III. Study Overview

A. Methods

Data for this study were collected from an electronic survey distributed to all lawyers and paralegals licenced by the Law Society of Upper Canada (LSUC) to practice in Ontario and who were paying annual fees as of November 8, 2012. A web link to this optional survey was distributed via email and survey responses were collected over the period November 13, 2012 to December 29, 2012. The survey included forty-one short answer questions touching on a range of practice, lawyer and client characteristics. Survey responses were completed and submitted anonymously via an online form.

We asked respondents to report on several aspects of their legal practice, including the size of their law firm, annual net earnings, practice specializations, practice and client locations, and client income characteristics, as well as key demographic indicators of the respondents themselves. Of particular interest for this study were respondents' answers to questions about the geographic proximity of clients to their law office. Respondents were asked to report the total

Justice", *supra* at 238 ("...careful distinction must be drawn between local legal cultures which emerge in particular localities because whilst law in a positive sense is all-pervasive in terms of its impact and application, it will be informed by local custom and attitudes); Simon Rice, "Access to a Lawyer in Rural Australia: Thoughts on the Evidence We Need" (2011) 16 *Deakin Law Rev.* 13 at 19.

⁵⁴ Blacksell et al., *supra* note 10 at 60 ("Future research ought, therefore, to be concentrated on defining more precisely the multiplicity of legal cultures that exist. To what extent do rural environments, with their sparse populations and generally poor levels of accessibility, actually exhibit distinctive features in terms of legal needs and expectations?").

⁵⁵ See Stratton, *supra* note 24 at 6 ("To achieve access to justice for all Canadians, legal services must be delivered as part of a coordinated and holistic response to local social conditions and needs").

number of clients they had represented in the preceding twelve months and to estimate the percentage of those clients located in each of five distance categories: within 10 kilometres, between 10-25 kilometres, between 25-50 kilometres, between 50-100 kilometres, and beyond 100 kilometres away. Survey respondents were also asked to identify the first three digits of the Canada Postal Code where their law office is located. Together, these data allow us to identify the geographic scope of each respondent's practice, defined as the average proximity between a practitioner and his or her clients.⁵⁶

B. Data

Our sample data include 1898 respondent lawyers and 438 paralegals out of a total study population of 19,059 lawyers and paralegals licenced to practice in Ontario—representing a response rate of approximately 12 per cent.⁵⁷ We exclude reported data from paralegals in this paper and concentrate exclusively on data collected from respondent lawyers.

⁵⁶ We note that our survey asked respondents to report the “geographic proximity” of clients to their law office in kilometers. While respondents were not asked to distinguish between linear and driving distances, we assume that the former were reported when constructing our visual maps, below.

⁵⁷ We are unable to disaggregate our study population further into the respective number of licenced lawyers and paralegals surveyed, however assuming a conservative estimate that our study population included only lawyers our survey of Ontario lawyers alone has a margin of error of +/-2.13 percentage points 19 times out of 20.

Survey population (Lawyers and paralegals)	19,059
Sample population (Lawyer respondents)	1,898
Sample demographics	
Male	61.3%
Female	38.7%
Transgender	0%
Median age	52
Firm size	
Solo	36.1%
2-5 lawyers	22.9%
6-10 lawyers	9.91%
11-25 lawyers	8.75%
26 or more lawyers	22.3%
Civil lawyers	71.4%
Criminal lawyers	14.7%
Mean number of clients	100
Located in major urban area*	70.0%
Regional location	
Greater Toronto	45.4%
Central	22.4%
South-Western	14.2%
Eastern	13.9%
Northern	4.11%
Annual net earnings	
\$0-\$100,000	41.2%
\$100,000 - \$200,000	27.8%
\$200,000 - \$300,000	8.38%
Above \$300,000	10.7%
Rather not say	11.9%
Predominant civil client income group	
Mostly lower	7.06%
Mix of lower and middle	24.8%
Mostly middle	18.5%
Mix of middle and upper	34.3%
Mostly upper	15.3%

Table 1: Survey Summary Statistics

*defined as an urban area with population equal to or greater than 200,000

Lawyers in our sample population are predominantly solo practitioners (36.1 per cent) or practice in small firms of 2 to 5 lawyers (22.9 per cent), though a substantial number also practice in large firms of 26 lawyers or more (22.3 per cent). They are also mainly civil justice practitioners, with over 70 per cent of respondents reporting that they served civil justice clients, while only 14.7 per cent practice criminal law.

Practice Area	Mean Percentage of Clients
Civil Litigation	26.3
Family	18.4
Corporate/Commercial	10.1
Personal Injury/Malpractice	8.92
Employment	6.98
Trusts and Estates	6.84
Administrative	6.20
Intellectual Property	3.87
Immigration	2.07
Human Rights	1.88
Tax	1.21

Table 2: Civil Lawyers – Practice Area

As Table 2 shows, average client loads in speciality areas of civil practice among lawyers in our sample vary considerably. Civil lawyers represent on average the highest percentage of clients in civil litigation proceedings (26.3 per cent); family law proceedings (18.4 per cent); and corporate and commercial law proceedings (10.1 per cent). Conversely, they represent on average the lowest percentage of clients in tax proceedings (1.12 per cent); human rights (1.88 per cent); and immigration (2.07 per cent).⁵⁸ The average total client load in our sample is slightly greater than 100 clients per lawyer over the preceding twelve months of practice.

⁵⁸ See *infra* Part IV.B(i).

As to location, 70 per cent of respondents practice law in a major urban area (defined as having a population equal to or greater than 200,000).⁵⁹ Regionally, our respondents are concentrated mainly in the Greater Toronto Area (45.4 per cent), followed by the Central region (22.4 per cent), South-Western region (14.2 per cent), Eastern region (13.9 per cent) and Northern region (4.11 per cent). The mean age of lawyers in our sample is 52 years, with 38.7 per cent of respondents identifying as female, 61.3 per cent as male and none as transgender. Respondents report annual net earnings in 2011 that range from less than \$100,000 per annum (41.2 per cent), to between \$100,000-\$200,000 per annum (27.8 per cent), to greater than \$200,000 per annum (19.1 per cent).⁶⁰ With respect to clients served by civil practitioners, lawyers in our sample tend to represent a range of income groups, with only 7.06 per cent serving mainly lower income clients, 15.3 per cent serving mainly upper income clients, and the remainder serving some mix of income groups.

IV. Study Results

We present the results of our study in two parts. First, we describe the geographic scope of legal practice in Ontario, based on survey responses about the location of a lawyer's clients by distance from their practice location. Our data show that, on average, the majority of lawyer's clients live close by—within 25 kilometres—but we also observe a substantial proportion of legal services being delivered over much greater distances from a lawyer's practice. By

⁵⁹ Statistics Canada defines urban areas as places with a minimum population of 1,000 and a minimum population density of 400 people per square kilometre. Rural areas are places that are not urban areas. Because our data do not allow us to track these definitions, we rely primarily on the distinction between those who live in major urban centres (over 200,000 population) and those who live outside those centres in regional, rural and remote areas.

⁶⁰ 11.9 per cent of respondents indicated that they would “rather not say” in response to the question that asked them to report annual net earnings in 2011.

employing a few simplifying assumptions, we use these data to construct a visual map of how legal services are currently distributed across the province. This approach produces a picture of access based on how lawyers are currently delivering services over geographic space. Compared to methods that simply illustrate the distribution of lawyers, our approach offers a more accurate means to identify underserved populations and to understand the current geographic distribution of legal services and their real-world accessibility to clients.

Second, we characterize in more detail the scope of legal practice among our survey respondents by investigating how this scope varies by the size of firm, by region, by urban and rural location, by area of practice, and by other demographic characteristics of lawyers and clients. We first present unadjusted results from our survey, then estimate the influence of these variables on the scope of a lawyer's practice using a series of regression models. Part V then concludes with some preliminary observations on the implications of our study for theory and policy in this field.

A. Lawyers' Geographic Scope of Practice

As one might expect, a majority of clients in our sample live relatively close to their lawyer (i.e. within 25 kilometres), but the data in Table 3 also show that a substantial proportion of legal services in Ontario are being delivered by what might be called non-local providers. On average, 34 per cent of clients were located within 10 kilometres, 58 per cent live within 25 kilometres and almost 84 per cent within 100 kilometres of their lawyer—meaning that a full 41 per cent live more than 25 kilometres away.

Client Distance from Practice Location	Proportion of Lawyer's Clients (%)		Mean Proportion of Clients in Sample (%)
	Mean	Cumulative	
0-10 km	34.1	34.1	40.3
10-25 km	24.2	58.3	26.7
25-50 km	15.6	73.9	15.0
50-100 km	9.40	83.3	8.4
>100 km	16.7	100	9.8

Table 3: Proportion of Clients by Distance from Practice Location

These data support the basic insight of our study that physical location alone does not appear, in some cases, to constrain the client population that a lawyer can reach with his or her services. To illustrate this idea in visual terms, Figures 2 and 3 below map the sample distribution of *legal services availability* within and around two major urban centres in Ontario, defined as the maximum number of potential clients within geographic range of our survey respondents.⁶¹ Unsurprisingly, in the area of southern Ontario captured in Figure 2, the highest density of available legal services is centred in the Greater Toronto Area. But we also observe that availability appears to decline along a relatively smooth gradient as one moves outward from the urban centre. Figure 3 replicates this visualization for the Eastern region of the province around centres such as Ottawa and Kingston, where a similar though somewhat more uneven pattern is apparent. While necessarily a rough approximation given the precision of location data collected in our survey, these maps provide a useful counterpoint to conventional representations of the lawyer geography reported in the literature, such as Figure 1, above.

⁶¹ Figures 2 and 3 were constructed using the ArcGIS software suite to map our survey data based on a computational model developed with the assistance of researchers at the GISciences Centre, Dalhousie University. The model employs two primary simplifying assumptions: (1) a lawyer's reported location in each Forward Sortation Area (FSA), designed by the first three digits of their postal code, was assumed to be at the centre-point of that FSA; (2) a lawyer's legal services were assumed to extend a full 360 degrees from his or her practice location for each geographic range of client locations reported in our survey.

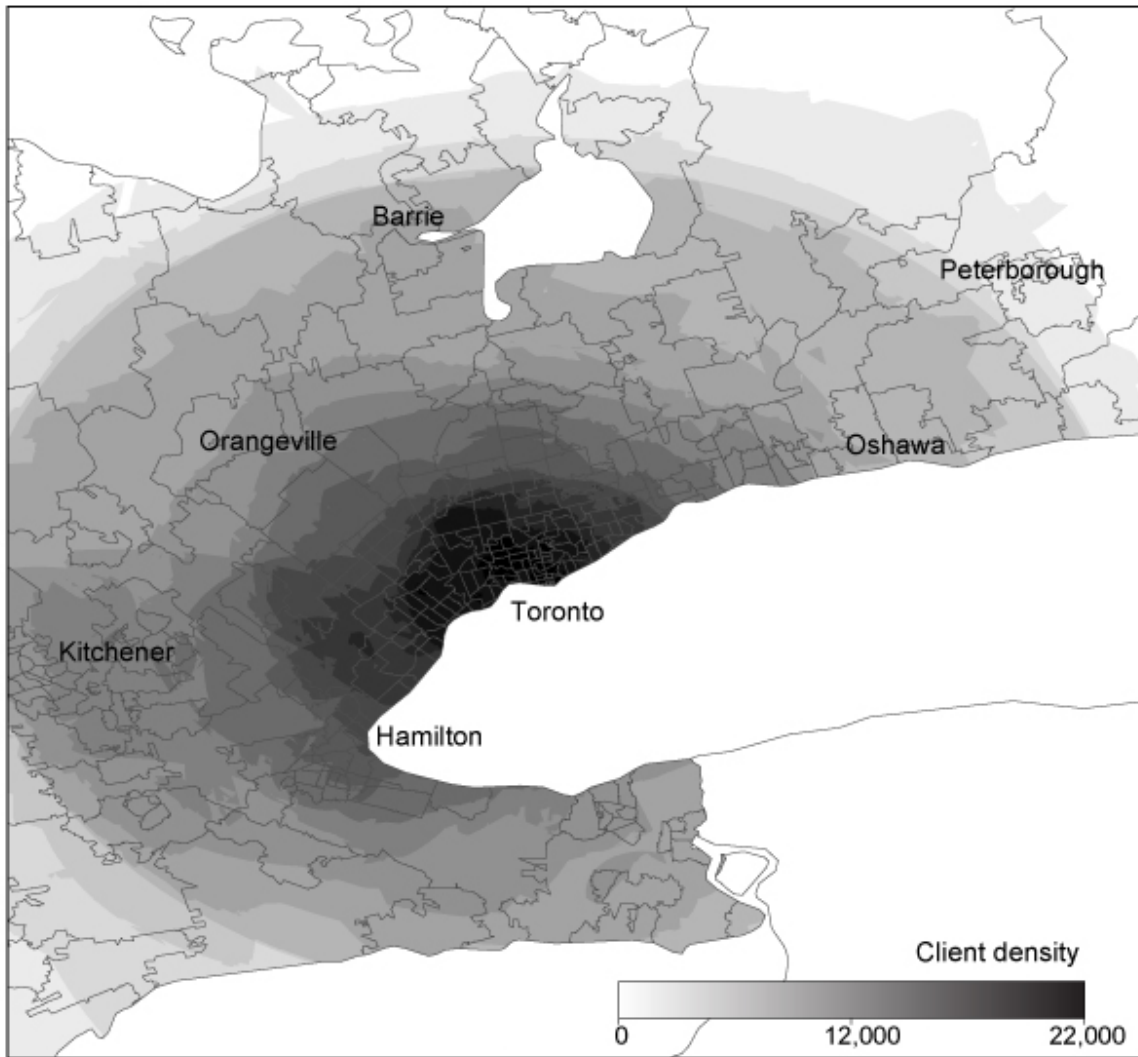


Figure 2: Sample Density of Available Legal Services, Southern Ontario

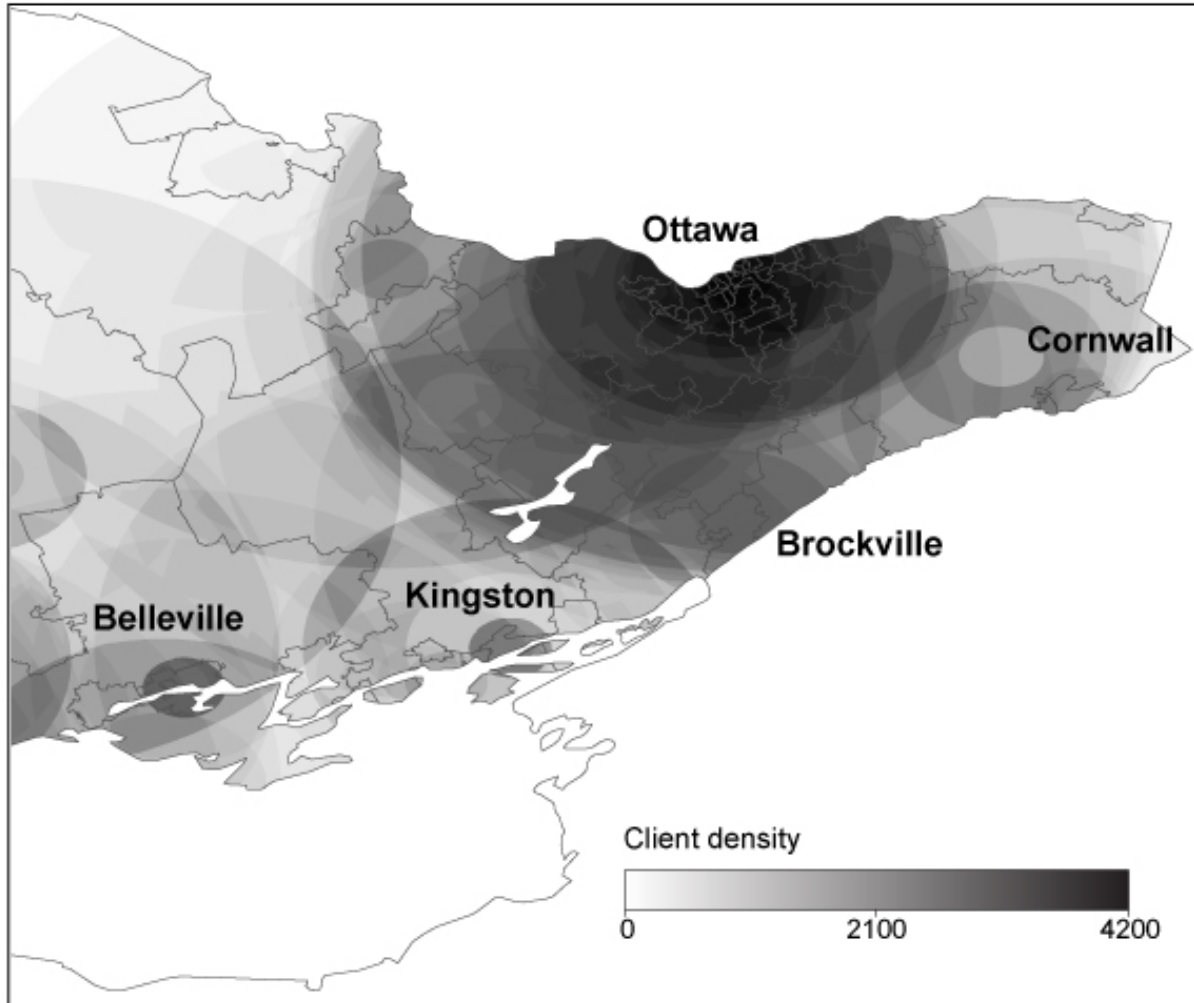


Figure 3: Sample Density of Available Legal Services, Eastern Ontario

One interpretation of these visualizations is that legal services in some areas may be more readily accessible than the local market supply of lawyers would indicate, at least for rural regions within the ambit of major urban centres that tend to attract a high concentration of lawyers with a relatively broad scope of practice.⁶² By comparison, the dynamics of accessibility may be quite different for remote regions with a more dispersed population, especially in the Northern part of the province. More concrete conclusions along these lines, however, will turn crucially on the factors that affect a given lawyer’s scope of practice, including areas of practice

⁶² See *infra* Part IV(vii).

specialization, size of firm, regional location, and client income. In the next section, we investigate the variation in our survey data along these different dimensions and provide some basic statistical tests of their correlation with a lawyer's geographic scope of practice.

B. Determinants of Practice Scope

i. Civil Law Practice Specializations

Our survey data reveal that a key factor related to the scope of practice may be a lawyer's practice area specialization(s). Over 70 per cent of lawyers in our sample report that they represent clients in civil matters, with nearly 95 per cent of these lawyers dedicating 30 per cent or more of their practice to this area of work. By comparison, only 14.7 of respondents practice criminal law. Table 2, above, reports the proportion of lawyers in the civil law group who practice in each of eleven reported civil law practice areas. Among lawyers who practiced civil law, 84 per cent describe their civil clients as "all private (not Legal Aid Ontario certificate)", while only 5 per cent describe their clients as "mostly" or "all" Legal Aid Ontario certificate clients.

Presumably, a lawyer's area(s) of specialization may impact their ability to deliver legal services over longer distances in a number of ways. Practice areas may differ, for example, in the necessary frequency of face-to-face meetings with clients, or in their requirements for regular attendance at specialized courts or tribunals. Our unadjusted data bear out this predicted variability, showing observable differences in the geographic scope of legal practice based on a lawyer's area(s) of specialization. Figure 3 shows the mean proportion of clients in our sample in

each of five distance categories, reported by civil practice specialization for lawyers with a “substantial” practice in that area.⁶³

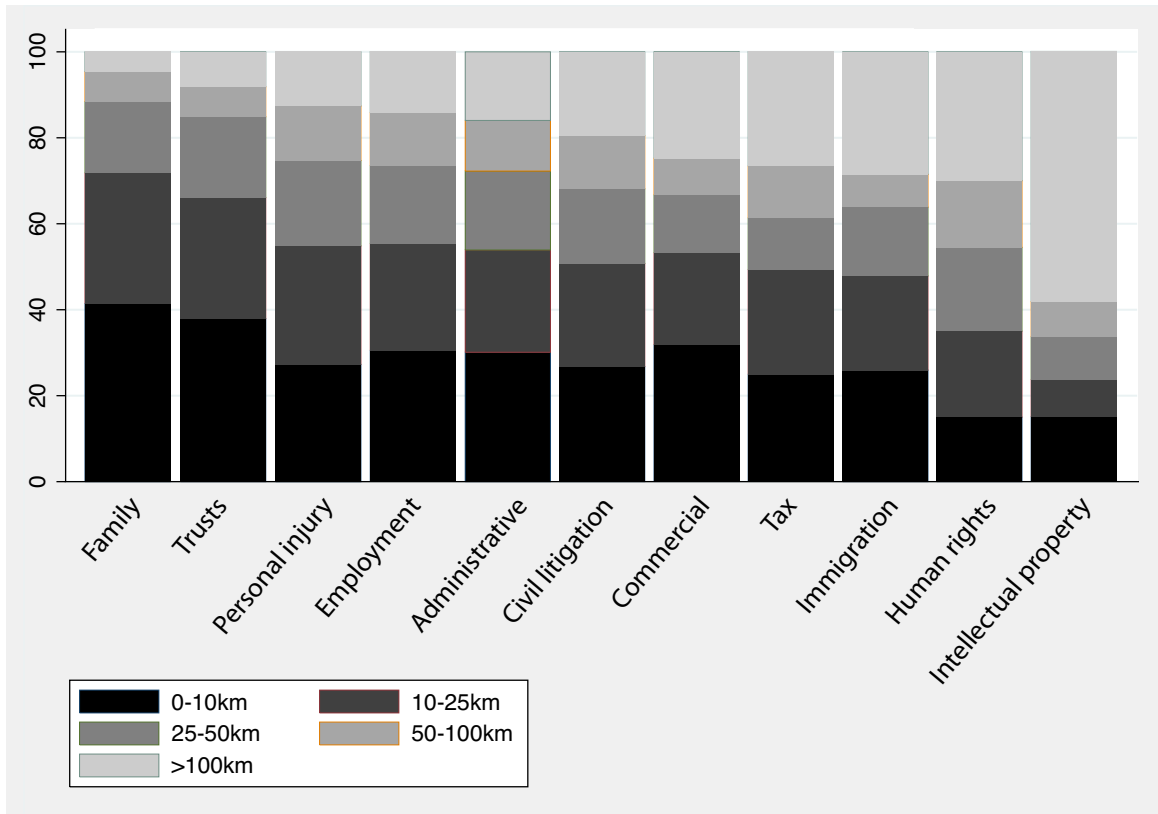


Figure 3: Mean Proportion of Clients by Civil Practice Area

We find that lawyers with a substantial practice in two core practice areas—family law and wills and estates issues—tend on average to have the smallest geographic scope of practice, with more than 70 per cent and 65 per cent of their clients respectively located within 25 kilometres, and relatively few clients located at distances greater than 100 kilometres away. Among the right-most columns of Figure 3, lawyers with a substantial practice in more specialized areas such as intellectual property and human rights tend to reach across much greater distances, with a majority of clients located more than 50 kilometres from the lawyer’s

⁶³ We define “substantial” here as a lawyer’s practice at least 30 per cent of which is dedicated to a given specialty.

firm.⁶⁴ For other civil law practice areas the average proportion of clients within 25 kilometres remains relatively constant at around 50 per cent, but there is greater variation in the proportion of clients located 50 kilometres or more away from their lawyer across these specialities.

ii. *Law Firm Size*

Firm size may also impact the delivery of legal services at a distance. As we report in Table 1, above, our sample population is comprised of lawyers predominantly (78 per cent) from solo and small to medium-sized law firms of less than 25 lawyers. Perhaps unsurprisingly, the largest firms of more than 25 lawyers are highly concentrated in major urban centres, with 95 per cent of these firms located in cities with a population greater than or equal to 200,000 residents. By comparison, only 62 per cent of solo practitioners are located in major urban centres. In terms of practice specialities, noticeably more solo firms provide legal services in specialities such as family law and trusts and estate law (51 per cent and 42 per cent respectively) compared to larger firms.⁶⁵ Lawyers practicing in the largest firms also appear to be more highly specialized while lawyers in the smallest firms—especially those with 5 lawyers or less—tend to offer a greater range of legal services across speciality areas.⁶⁶

⁶⁴ It is possible that for some practice areas, a lawyer's larger scope of practice is driven by a significant proportion of out-of-country clients. For example, we speculate that some respondents practicing intellectual property law may have a substantial client base in the United States.

⁶⁵ For example, among firms with greater than 25 lawyers, only 4 per cent and 9 per cent provided family and wills/estates services respectively.

⁶⁶ Lawyers in firms with greater than 25 lawyers practiced an average of 2.2 specialties, while lawyers in solo firms and in firms with 2-5 lawyers practiced an average of 2.8 and 2.9 specialties respectively.

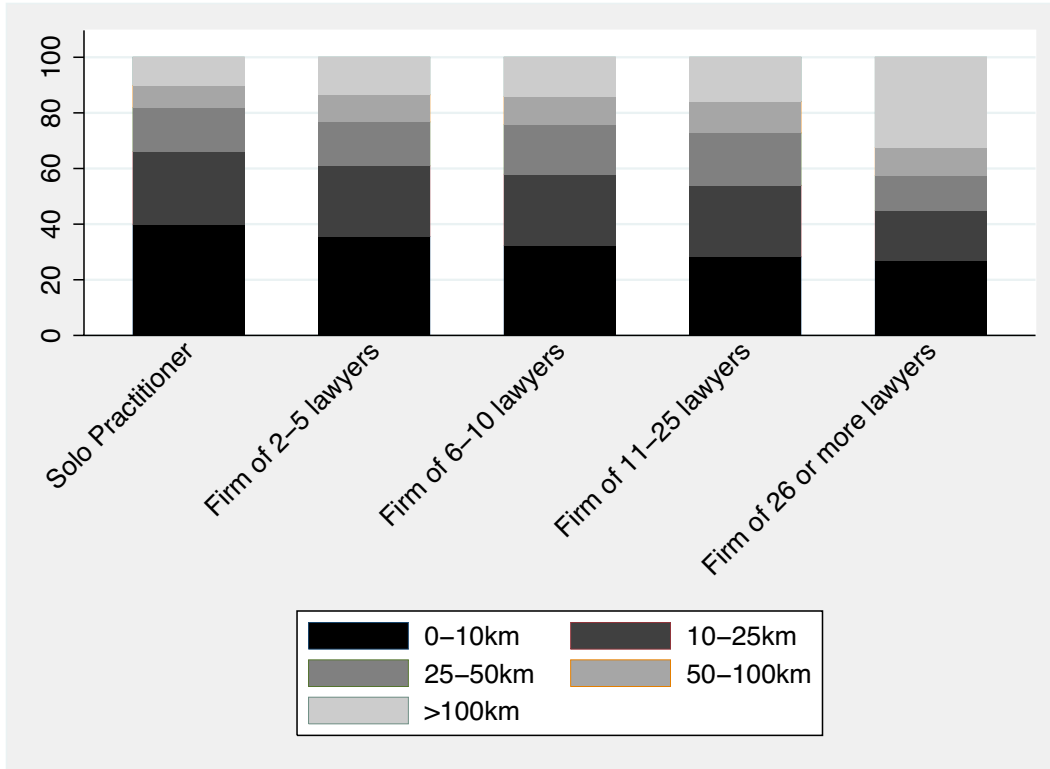


Figure 4: Mean Proportion of Clients by Practice Setting

Figure 4 graphs the scope of legal practice by size of law firm. Our data show that geographic scope tends to increase along with firm size, with the greatest variation apparent between firms with fewer than 25 lawyers and firms with 26 lawyers or more, mainly in the number of clients located more than 100 kilometres away. The smallest firms—those with 5 or fewer lawyers—tend to have a higher than average proportion of clients in close proximity, i.e. within 25 kilometres of their practice location.

iii. Regional and Central-Peripheral Location

Our survey data also show considerable variation in the scope of legal practice across major regions of the province, and between major urban centres and locations beyond the periphery. In general, respondents located in major centres of 200,000 residents or more—and in regions with the largest of these centres (Toronto and Ottawa in the Eastern Region)—report a

larger scope of practice compared to other locations, making it relatively clear that lawyers in large cities currently provide services to clients over the greatest distances. By comparison, lawyers in the Central and Southwestern regions of the province have a smaller geographic scope, with more than 60 per cent of a lawyer's clients on average located within 25 kilometres. Finally, in the Northern region where distances between residents and between communities are greatest, a lawyer's average proportion of clients located more than 50 kilometres away is greater compared to the Central and Southwest, but smaller compared to the East and the Greater Toronto Area. Overall, however, the proportion of services in the North provided within 25 kilometres is perhaps higher than what one might expect given regional population densities, suggesting either that legal service providers are in fact relatively evenly distributed or perhaps that lawyers are simply not providing legal services at all in the most remote locations.

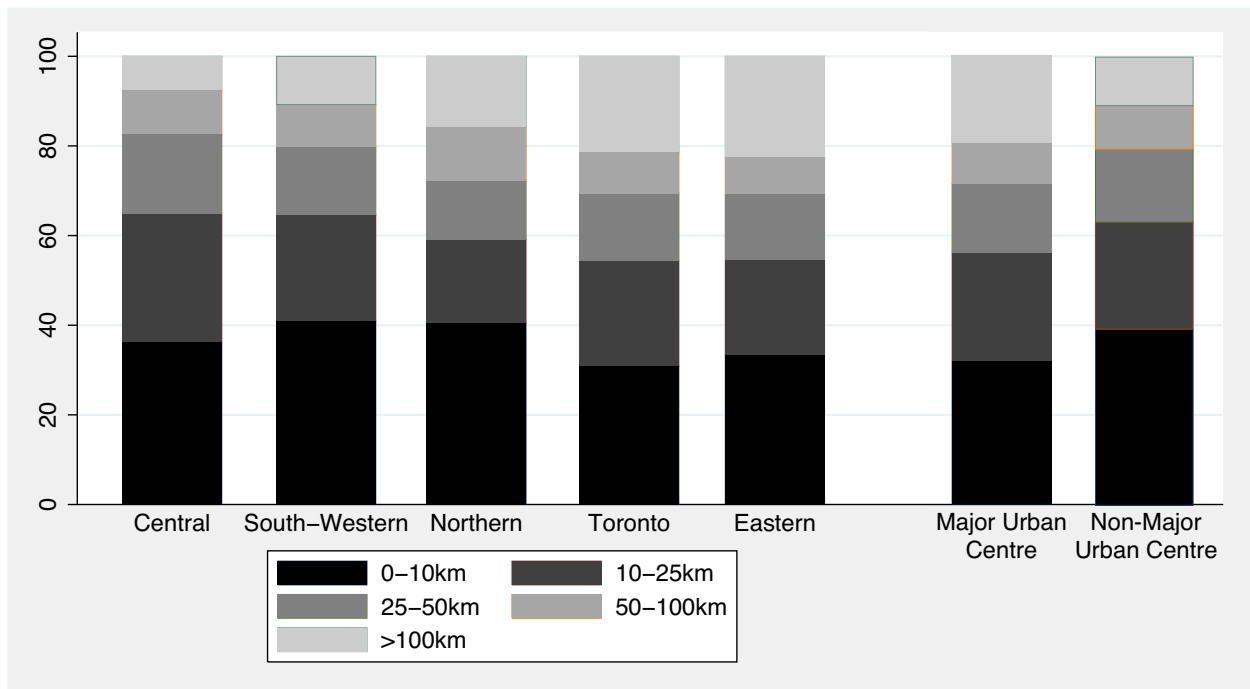


Figure 5: Mean Proportion of Clients by Location

iv. Client Income

An additional source of variation in our survey data appears to be the income profile of clients served by a given lawyer. Respondents in our survey were asked to report whether their clients were mostly: lower-income, middle-income, upper-income, or some mixture of these categories. Figure 6 reports the mean proportion of clients in each distance category, grouped by income.

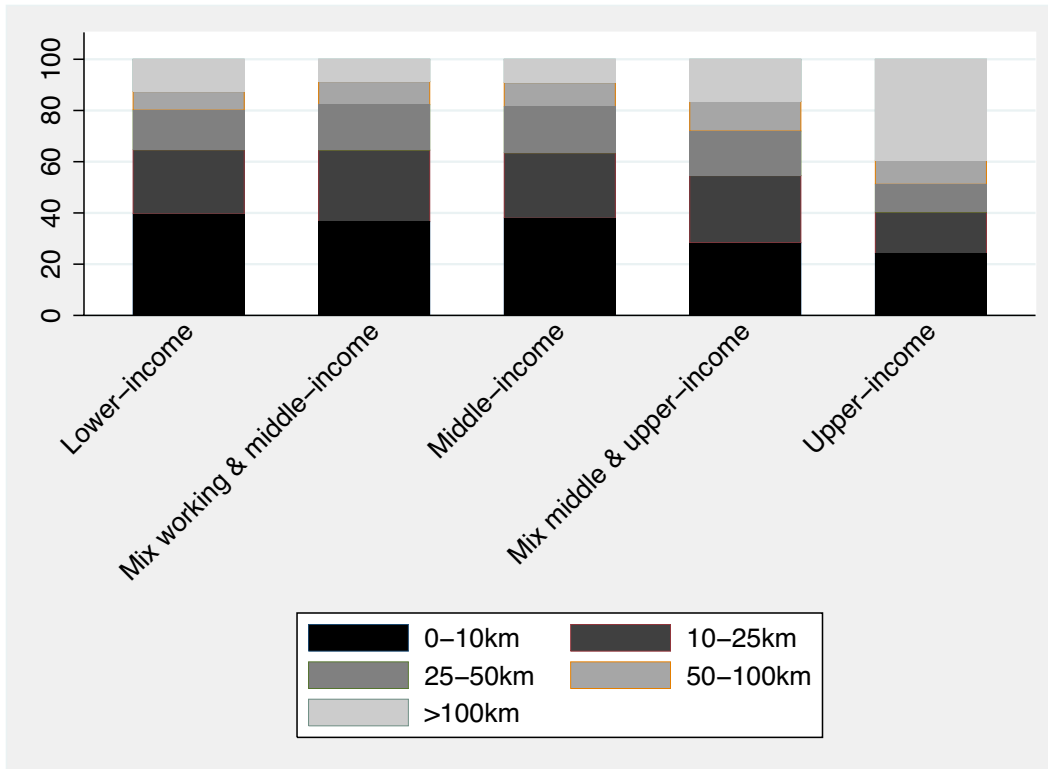


Figure 6: Mean Proportion of Clients by Client Income

While practitioners who supply legal services mainly to lower and middle-income clients on average provide at least 80 per cent of those services within a distance of 50 kilometres,⁶⁷ lawyers serving mainly wealthy clients report a considerably larger scope of practice—with on average nearly 50 per cent of their clients located more than 50 kilometres away.

v. *Law School Attended*

Finally, in light of growing interest in place-based learning to meet the needs of rural and remote residents, we report variation in the geographic scope of practice according to the law schools attended by our respondents in Figure 7.

⁶⁷ From 80 per cent within 50 kilometres for lawyers serving mostly lower-income clients to 82 per cent within 50 kilometres for lawyers serving mostly middle-income clients

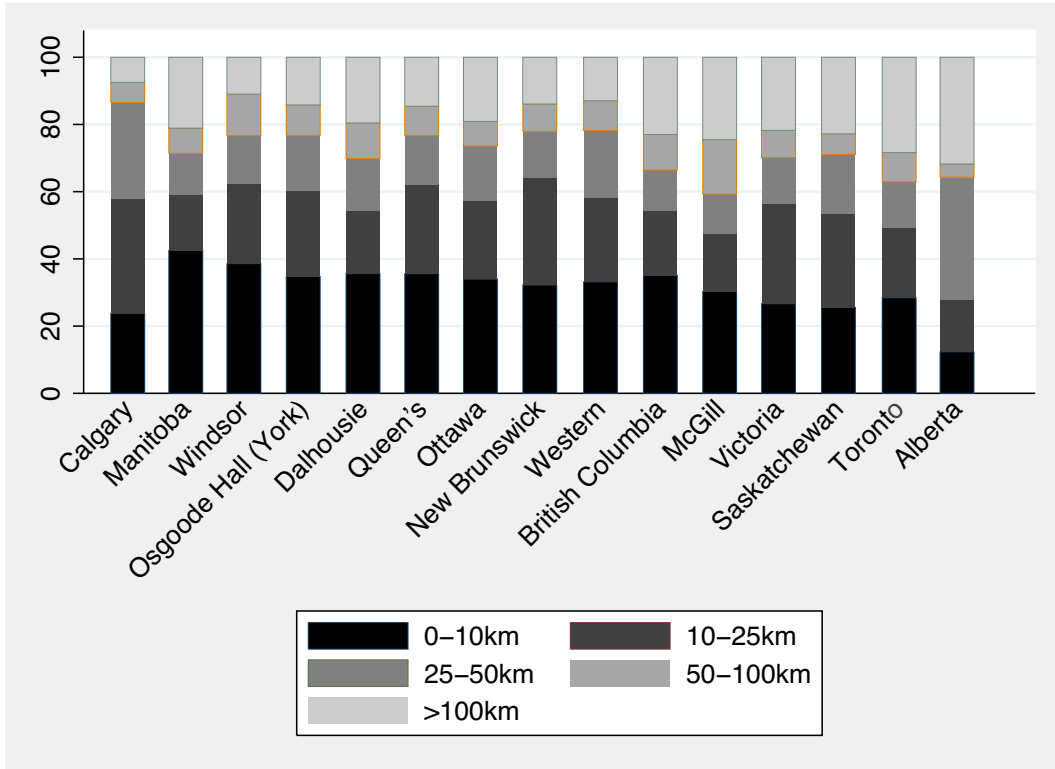


Figure 7: Mean Proportion of Clients by Law School Attended

While it is difficult to generalize the relationship between law schools and lawyers' scope of practice based on the data reported in Figure 7, these results may provide a useful baseline for comparison with future studies that can account for the emerging practice patterns of those graduating from schools with special curricular requirements geared toward non-urban practice and from new laws schools, such as the law school at Lakehead University, which are specifically geared toward training lawyers from rural and remote areas.

C. Hypothesis Testing

Our overview of the unadjusted survey response data above yields the following five hypotheses:

- i. A lawyer's provision of certain core civil law services (e.g., family law, wills and estates) is negatively correlated with that lawyer's scope of practice.

- ii. A lawyer's specialization in certain practice areas (e.g., intellectual property, human rights) is positively correlated with that lawyer's scope of practice.
- iii. The size of a lawyer's firm is positively correlated with that lawyer's scope of practice.
- iv. A lawyer's location in a major urban centre is positively correlated with that lawyer's scope of practice.
- v. The income of a lawyer's predominant clientele is positively correlated with that lawyer's scope of practice.

In this section, we test these hypotheses using a series of linear regression models of the general form:

$$\text{GEOSCOPE_X} = \text{REGION} + \text{RURAL} + \text{CITY200K} + \text{FIRMSIZE} + \text{AGE} + \text{GENDER} \\ + \text{LAWSCHOOL} + \text{CLIENT_INCOME} + \text{PRACTICE_AREA}$$

The response variable GEOSCOPE_X indicates the proportion of a respondent's clients located more than X distance away from that lawyer's law firm, where X = 25 kilometres, 50 kilometres, and 100 kilometres in each of our three models respectively. We use the GEOSCOPE_X indicator as a proxy for the geographic scope of a lawyer's practice at different levels corresponding to the X values. We include excerpted results from our models along with our discussion below. Complete results tables can be found in Appendix A.

The results of our statistical models are consistent with several but not all of the hypotheses listed above. With respect to practice specialization, we find that a lawyer offering services in family law and in wills and estates law are both statistically significant predictors of a smaller geographic scope of practice where X = 50 and 100, while specializations in intellectual property, in immigration and in human rights law significantly predict a larger scope in all models. Specialization in civil litigation also weakly predicts a smaller scope of practice where X = 25, but other practice area controls do not yield any statistically significant results.

Practice Area [‡]	(1) X=25km	(2) X=50km	(3) X=100km
Civil Litigation	0.109* (0.05)	0.062 (0.05)	-0.016 (0.04)
Corporate/Commercial	0.047 (0.06)	0.045 (0.05)	0.049 (0.05)
Employment	0.000 (0.07)	-0.082 (0.06)	-0.121* (0.05)
Human Rights	0.385** (0.13)	0.401*** (0.11)	0.281** (0.10)
Family	-0.096 (0.05)	-0.123** (0.05)	-0.133** (0.04)
Immigration	0.187* (0.09)	0.198** (0.08)	0.177** (0.07)
Intellectual Property	0.396*** (0.07)	0.427*** (0.06)	0.424*** (0.06)
Personal Injury	0.099 (0.06)	0.018 (0.05)	-0.043 (0.05)
Tax	0.074 (0.11)	0.115 (0.10)	0.016 (0.09)
Trusts & Estates	-0.092 (0.07)	-0.160* (0.06)	-0.153** (0.06)
Administrative	0.029 (0.07)	-0.032 (0.06)	-0.094 (0.05)

Standard errors in parentheses

*** p<0.01, ** p<0.05, * p<0.1

[‡]Model specifications include all independent variables described in Appendix A

Table 5: Practice Area Predicting Geographic Scope

Likewise, being a lawyer in a solo or small to medium-size firm predicts a smaller scope of practice, compared to being a lawyer in a large firm of 26 lawyers or more. We note with some interest that our models predict the greatest magnitude of impact on scope for solo practices and for mid-sized firms between 6-25 lawyers.

Law Firm Size [±]	(1) X=25km	(2) X=50km	(3) X=100km
Solo practice	-6.658* (3.13)	-8.780** (2.71)	-8.739*** (2.38)
Firm 2-5 lawyers	-4.584 (3.21)	-5.875* (2.78)	-6.706** (2.45)
Firm 6-10 lawyers	-6.102 (3.70)	-9.211** (3.21)	-7.577** (2.82)
Firm 11-25 lawyers	-5.575 (3.61)	-9.399** (3.13)	-9.005** (2.75)
Firm 26 or more lawyers	0.000	0.000	0.000

Standard errors in parentheses
*** p<0.01, ** p<0.05, * p<0.1

[±]Full model specification includes all independent variables described in Appendix A

Table 6: Law Firm Size Predicting Geographic Scope

Finally, our regression models show that client income is a significant predictor of geographic scope of practice, with lawyers serving primarily lower and middle-income clients predicted to have a smaller scope of practice compared to those who primarily act for upper-income individuals.

Client Income [±]	(1) X=25km	(2) X=50km	(3) X=100km
Mostly lower income	-10.808* (5.08)	-13.452** (4.41)	-10.525** (3.87)
Mixed lower & middle	-13.848*** (3.81)	-17.431*** (3.31)	-15.975*** (2.91)
Mostly middle	-12.738*** (3.74)	-16.729*** (3.24)	-16.149*** (2.85)
Mixed middle & upper	-5.907 (3.11)	-11.306*** (2.70)	-13.201*** (2.37)
Mostly upper	0.000	0.000	0.000

Standard errors in parentheses
*** p<0.01, ** p<0.05, * p<0.1

[±]Full model specification includes all independent variables described in Appendix A

Table 7: Client Income Predicting Geographic Scope

Our models yield weaker results with respect to the relationship between a lawyer’s regional and centre-periphery location and their scope of practice. We find that law practice location in different regions of the province and in major urban centres are not, in general, statistically significant variables—though one of our models does predict a larger scope of practice for law practices in the North and all three models predict a larger scope in the Eastern region at a low level of confidence (compared to lawyers in Toronto). We note that the RURAL variable was in fact positively correlated with a lawyer’s scope of practice and with relatively high magnitude. Derived from the postal code data reported by lawyers in our survey, this variable indicates that a lawyer has been assigned to a rural post office box by Canada Post. Our understanding, however, is that many rural and remote addresses are not necessarily designated as such by Canada Post through the postal code system, making it likely that the RURAL variable is highly under-inclusive of rural and remote residents. Nevertheless, we include these findings in our results below and flag this issue for future investigation.

	(1) X=25km	(2) X=50km	(3) X=100km
Region[±]			
Eastern	7.203* (3.20)	6.484* (2.77)	5.960* (2.44)
Central	2.474 (3.07)	1.692 (2.67)	0.181 (2.34)
South-Western	-0.188 (0.265)	-0.155 (0.305)	0.0780 (0.390)
Northern	2.112 (3.42)	2.038 (2.96)	0.956 (2.60)
Toronto	8.839	14.503**	7.255
Rural (by postal code)	13.545** (5.15)	17.440*** (4.46)	11.970** (3.92)
Large urban centre	0.557 (2.81)	1.172 (2.43)	0.880 (2.14)

Standard errors in parentheses
*** p<0.01, ** p<0.05, * p<0.1

[±]Full model specification includes all independent variables described in Appendix A

Table 8: Lawyer Location Predicting Geographic Scope

V. Implications for Policy and Theory

Geography clearly matters for achieving access to justice—but *how* it matters is more complicated than research and policy has so far acknowledged. Our study demonstrates that the geographic reach of lawyers is not, in the current legal services market, strictly confined to their immediate locale but instead extends over different ranges of geographic space, depending on the service being delivered and the characteristics of lawyers and their clients. This insight opens the way for a more nuanced understanding of geographic barriers to access and potential responses by governments, regulators, educational institutions, non-governmental organizations, and practitioners themselves.

In this final section of the paper we first draw from our study results to discuss some preliminary conclusions for current access to justice policies and policy research in Canada, and conclude by reflecting on the theoretical and conceptual implications of our approach for future work.

A. Understanding Client Needs

Our findings underscore the importance of understanding in greater detail the legal needs of rural and remote clients, in order to adequately tailor programs that address geographic barriers to access. For example, it appears that a lawyer’s substantive area(s) of practice may matter at least as much as his or her physical location—not only because different regions exhibit different client demands, but also because a lawyer’s geographic scope of practice is likely to vary according to the nature of their practice. From this perspective, available data on the ratio of lawyers to clients in a given locale may accurately describe access to justice problems for core

demands such family law services or estate planning where service delivery tends to be highly localized. By comparison, the physical distribution of lawyers in other specializations tells us less relevant information about the barriers actually experienced by clients, because these services are more likely to be delivered across greater distances.

Our results suggest several implications for programs that offer location incentives to lawyers who elect to practice in rural and remote areas. First, general incentive programs of the type deployed to date are likely to be relatively blunt instruments that would better serve rural and remote client needs by targeting specific practice areas where localization tends to matter the most. Drawing from the approach used in our study, policy makers might identify as critical locations those communities that would benefit most from direct financial incentives to relocate lawyers who offer services in core practice areas where physical proximity is a high priority. Second, location incentives might build in considerations about recruits' geographic scope of practice, by including bonuses for individual lawyers or law firms that provide legal services across a certain range of practice specialities. Similar strategies of "practice bonusing" have been employed in the health care field with some success.⁶⁸ Moreover, given that location incentives might ultimately be employed to change a lawyer's practice characteristics, these programs should be regarded as long-term investments in particular localities rather than temporary measures or revolving doors that see individual lawyers complete limited return of service agreements before returning to cities or moving on to other locations.

Third, future policy should take into account client capacities as well as client needs. To the extent that lower and middle-income clients may disproportionately experience geographic barriers to access—as our study results suggest—identifying those regions with critical needs

⁶⁸ Sempowski *supra* note 30 (referencing such a bonusing regime in Ontario as part of the Ontario Family Health Network).

must also involve an assessment of relevant client characteristics that intersect with geography to make legal services more or less accessible over physical distances. Key variables such as access to affordable transportation and communications technologies will play a crucial role.

Finally, by focusing on the supply-side of legal service delivery our study draws attention to an important question going forward: how are client needs on the demand-side affected by their proximity to a lawyer? Drawing an analogy to the health care context, Economides, Blacksell and Watkins raised this question in their early work on legal geography, noting that medical geographers have observed “distance decay” or “the friction of distance,” where “rates of utilisation ... are inversely related to the physical distance of users from the points supplying those services.”⁶⁹ Based on this analogy, they asked: “Can a similar effect also be detected in the operation of legal services whereby specific types of legal problems and clients are disproportionately affected by their distance from lawyers and courts?”⁷⁰

To some extent, the influence of geography on client advice-seeking behaviour may be captured in our study results as a reflection of the current market for legal services. But at this point it is impossible to know whether human rights lawyers, for example, demonstrate a relatively broad scope of practice as a result of client indifference to locality, cost of delivery considerations, other factors, or some combination thereof. Future research might be designed to disentangle these factors and therefore provide further insights into the reciprocal influence of geography on legal needs.

⁶⁹ Economides, Blacksell and Watkins *supra* note 52.

⁷⁰ *Ibid.*

B. Understanding Localities: Remote and Urban Areas

Our results also underscore some of the unique challenges of geography experienced by individuals and communities in remote areas, especially in Ontario's North. As the visualizations in Figures 2 and 3 illustrate in conjunction with our results in Part IV, lawyers in major urban centres, particularly those practicing in larger firms, may play an important role in providing legal services to rural areas within their ambit.⁷¹ For residents in remote regions with low population densities over large distances, however, these urban focal points may offer little in the way of legal services supply. Rural clients with relative proximity to urban centres may therefore have opportunities to meet at least some of their legal needs—options that are simply unavailable to residents in more remote areas.

In line with a more nuanced focus on regional and community-specific client needs, access to justice policies in remote areas must also address the intersection between geography, the status characteristics of remote residents, and the operation of community legal systems. Of particular importance is the provision of legal services to Aboriginal peoples in the North. According to the latest Canadian census data, individuals with Aboriginal ancestry comprise between 8 to 43 per cent of the total population in Northern census divisions,⁷² and several communities maintain or are working to develop justice systems that operate in tandem with or parallel to non-Aboriginal systems. Measures to address legal services in the remote North must therefore be premised not only on an understanding of different population characteristics but also on a recognition that substantive and procedural legal contexts themselves will vary.

⁷¹ *But see* our discussion of the complex relationship between urban service provision and rural need, *infra* Part IV.D.

⁷² Census Canada (2011).

By the same token, we also recognize that geographic dimensions of access to justice are by no means limited to rural and remote areas. Despite the generally higher concentration of legal services availability in urban centres, sub-populations within these areas may have needs that place them at considerable distance from practitioners with relevant skills or cultural competencies, and/or impair their ability to seek even long-distance advice services. For example, Canadian researchers have noted that linguistic barriers can be key impediments to access, especially among newcomer populations that tend to locate in large urban centres.⁷³ These barriers can contribute to particular forms of geographic isolation and should be a central focus of urban access to justice policies.

C. The Role of Technology

Our results also underscore the crucial role that technology is likely to play in addressing legal needs in underserved areas, in at least two respects. First, communications technologies likely increase the geographic reach of existing legal services by connecting lawyers and clients over greater distances to deliver services that do not require face-to-face interactions. Likewise, online information portals improve rural and remote clients' abilities to pursue informed self-help measures where appropriate,⁷⁴ and a range of other service providers may be involved in delivering long-distance services online.⁷⁵ This evolving reality has major implications for future research on the geography of access because, “[w]ith the increasing capacity of technology to upgrade legal competence and overcome the barrier of physical distance, we need to understand that counting whatever counts as a ‘lawyer’, particularly when legal work is multi-

⁷³ See Cohl and Thomson, *supra* note 7 at 13.

⁷⁴ Examples include Clicklaw, operated by Courthouse Libraries British Columbia (www.clicklaw.bc.ca), Your Legal Rights in Ontario (<http://yourlegalrights.on.ca/>), and the Legal Information Society of Nova Scotia (<http://www.legalinfo.org/>).

⁷⁵ See Stratton, *supra* note 24 at 85.

disciplinary and takes place in alternative business structures, is already problematic.”⁷⁶ While remote access to lawyers and legal information is likely no substitute for physical proximity to a practitioner in some aspects of practice, there is little doubt that technologies facilitating remote access are already a key feature of the legal services landscape. Second, new communications technologies can help to connect practitioners already located in rural and remote areas with lawyers in other locations to improve knowledge sharing and collaboration.⁷⁷ These technologies may not only reduce the costs of providing certain legal services in rural and remote areas, but may also improve the range and quality of services available in these contexts.

D. Conceptual Challenges

Finally, we return to the concept of “territorial justice” and reflect briefly on implications from our study and on future challenges. In our overview of past research on the geography of access to justice, above, we argued that both modern empirical work and its attendant policies have moved away from an understanding of territorial justice as a condition of equitable access to legal services, in favour of a predominant focus on the physical distribution of lawyers.⁷⁸ By demonstrating that lawyers can and in fact do offer some of their legal services at considerable distances from their practice location, our study attempts to sever or at least complicate the strict link between lawyer distribution and access to justice. As a result, it provides a solid foundation on which to revisit our understanding of territorial justice in line with the original idea that legal advice services provided by lawyers or others “should as far as possible be equally available to an individual wherever he [or she] lives.”⁷⁹

⁷⁶ Economides, centre-periphery at 5.

⁷⁷ See Part II(iv), *supra*.

⁷⁸ See Part II, *supra*.

⁷⁹ Foster, *supra* note 12 at 153.

That conceptual reorientation, in turn, has important consequences for ongoing debates about the geography of access. Whereas territorial justice conceived as an equal distribution of lawyers has tended to pit rural and urban locations against each other in a struggle to retain lawyers and attract new recruits, our approach may help to diffuse some of these tensions by demonstrating that legal service delivery does not always occur within watertight boundaries. That is, the interests of urban and rural residents, including those advocating strongly for better recognition for and responses to “rural justice”, do not inevitably diverge in all cases—for example, when new developments or innovations in urban delivery centres offer significant benefits to rural locales in terms of access to a greater range of services, potentially at lower costs.

On the other hand, we acknowledge that this insight does not necessarily meet the deeper concerns of some scholars about centre-periphery dynamics that produce systemic biases in favour of urban residents. Indeed, the heterogeneity in geographic scope of legal practice may reinforce their scepticisms that systems of legal service delivery designed for urban locales are inadequate to meet the needs of rural residents, even if they can surmount the barriers of distance.⁸⁰ Ultimately, the question of whether there are mutually beneficial solutions and resources allocations to be found stands as a key challenge going forward—both politically, and in terms of institutional design.

Whatever the answer to this question, a more definitive set of consequences flow from reframing territorial justice as equitable access to legal services: as we describe at various points above, it forces policy-makers away from the temptation of head-counting and establishing lawyer-population targets and toward an appreciation of which services local communities

⁸⁰ Economides, *supra* note 48.

actually need and what legal service providers can actually deliver. Within that framework, there are good opportunities to confront the pervasive problems of inaccess by means that are, from the perspective of territorial justice, fair, efficient, and effective in the long-term.

Appendix A: Linear Regression Results

Dependent Variables	(1) X=25km	(2) X=50km	(3) X=100km
Age	0.096 (0.08)	0.033 (0.07)	-0.045 (0.06)
Gender	4.706* (2.14)	2.421 (1.85)	2.003 (1.63)
Region			
Eastern	7.203* (3.20)	6.484* (2.77)	5.960* (2.44)
Central	2.474 (3.07)	1.692 (2.67)	0.181 (2.34)
GTA	0.000 (.)	0.000 (.)	0.000 (.)
Western	2.112 (3.42)	2.038 (2.96)	0.956 (2.60)
Northern	8.839 (5.15)	14.503** (4.47)	7.255 (3.92)
City Over 200,000	0.557 (2.81)	1.172 (2.43)	0.880 (2.14)
Rural (by FSA)	13.545** (5.15)	17.440*** (4.46)	11.970** (3.92)
Firm Size			
Solo practice	-6.658* (3.13)	-8.780** (2.71)	-8.739*** (2.38)
2-5 lawyers	-4.584 (3.21)	-5.875* (2.78)	-6.706** (2.45)
6-10 lawyers	-6.102 (3.70)	-9.211** (3.21)	-7.577** (2.82)
11-25 lawyers	-5.575 (3.61)	-9.399** (3.13)	-9.005** (2.75)
More than 26 lawyers	0.000 (.)	0.000 (.)	0.000 (.)
Client Income (Civil)			
Mostly lower	-10.808* (5.08)	-13.452** (4.41)	-10.525** (3.87)
Lower & middle	-13.848*** (3.81)	-17.431*** (3.31)	-15.975*** (2.91)
Mostly middle	-12.738*** (3.74)	-16.729*** (3.24)	-16.149*** (2.85)
Middle & Upper	-5.907 (3.11)	-11.306*** (2.70)	-13.201*** (2.37)
Mostly upper	0.000 (.)	0.000 (.)	0.000 (.)
Practice Specialty			
Civil Litigation	0.109*	0.062	-0.016

	(0.05)	(0.05)	(0.04)
Corporate/Commercial	0.047	0.045	0.049
	(0.06)	(0.05)	(0.05)
Employment	0.000	-0.082	-0.121*
	(0.07)	(0.06)	(0.05)
Human Rights	0.385**	0.401***	0.281**
	(0.13)	(0.11)	(0.10)
Family	-0.096	-0.123**	-0.133**
	(0.05)	(0.05)	(0.04)
Immigration	0.187*	0.198**	0.177**
	(0.09)	(0.08)	(0.07)
Intellectual Property	0.396***	0.427***	0.424***
	(0.07)	(0.06)	(0.06)
Personal Injury	0.099	0.018	-0.043
	(0.06)	(0.05)	(0.05)
Tax	0.074	0.115	0.016
	(0.11)	(0.10)	(0.09)
Trusts and Estates	-0.092	-0.160*	-0.153**
	(0.07)	(0.06)	(0.06)
Administrative	0.029	-0.032	-0.094
	(0.07)	(0.06)	(0.05)
Law School Attended			
Dalhousie	0.000	0.000	0.000
	(.)	(.)	(.)
McGill	-11.493	-1.889	-7.295
	(8.60)	(7.46)	(6.55)
Queen's	-17.739*	-14.943*	-8.853
	(7.02)	(6.09)	(5.35)
Alberta	19.635	-8.928	0.578
	(13.21)	(11.46)	(10.07)
British Columbia	-23.320*	-19.091*	-10.778
	(9.95)	(8.63)	(7.58)
Calgary	-13.244	-27.271*	-19.574*
	(12.43)	(10.78)	(9.47)
Manitoba	-8.683	-4.023	1.134
	(13.22)	(11.47)	(10.08)
New Brunswick	-20.164*	-17.738*	-11.956
	(9.21)	(7.98)	(7.02)
Ottawa	-13.003	-13.375*	-7.822
	(7.30)	(6.33)	(5.56)
Saskatchewan	-18.459	-7.851	0.939
	(12.49)	(10.83)	(9.51)
Toronto	-11.088	-10.244	-5.708
	(7.07)	(6.13)	(5.39)
Victoria	-24.141*	-27.521**	-20.961*
	(11.34)	(9.84)	(8.64)
Western	-12.896	-14.642*	-9.094
	(7.13)	(6.18)	(5.43)
Windsor	-18.083*	-15.813*	-13.029*
	(7.16)	(6.21)	(5.46)
Osgoode	-15.737*	-14.753*	-9.920

	(6.84)	(5.93)	(5.21)
Other	-20.813*	-22.824**	-16.639**
	(8.09)	(7.01)	(6.16)
Constant	-128.572	-12.836	131.471
	(162.83)	(141.23)	(124.09)
Observations	915	915	915
R-squared	0.2176	0.3201	0.3488

Standard errors in parentheses
*** p<0.01, ** p<0.05, * p<0.1