

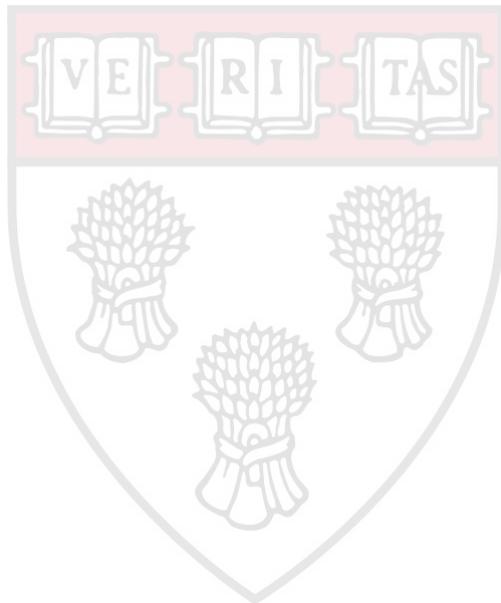
# HARVARD JOURNAL OF LAW & TECHNOLOGY

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*Harvard Journal of Law & Technology Occasional Paper Series — February 2013<sup>1</sup>*

## **Summit on the Use of Technology to Expand Access to Justice: Analytical Framework**

By John M. Greacen, Greacen Associates, LLC & William L Jones, ABA Center for Pro Bono



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<sup>1</sup> The *Harvard Journal of Law & Technology Occasional Paper Series* is an online-only component intended to showcase thoughtful and innovative writings on a wide variety of subjects related to the law and technology field. These pieces are reformatted for consistency, but otherwise undergo no editing or cite-checking by the members of the *Harvard Journal of Law & Technology*.

## Summit on the Use of Technology to Expand Access to Justice

### Analytical Framework

By John M. Greacen, Greacen Associates, LLC & William L Jones, ABA Center for Pro Bono

Challenge to Access	What delivery system(s) address the issue?	What are the roles of technology, both seen and foreseeable, for each system?	How is that technology to be delivered to the person seeking access?	How will the technology be developed and deployed?	
				Methods of facilitation	Barriers
Poor people do not know their legal rights	<p>Legal aid outreach and public education</p> <p>Legal aid hotlines</p> <p>Legal aid and state court websites</p> <p>Public libraries</p>	<p>Expedite access to high quality information through multiple communication channels</p> <p>Taxonomy used to markup/tag content and resources by geographic locale, language and Area of Practice (AOP) will help organize the existing store of resources and help manage new materials.</p>	<p>For general education one good approach is through narratives of sample cases.</p>	<p>Standardized metadata structure for content and resources.</p> <p>National taxonomy for AOP such as Legal XML.</p> <p>Groups that own content to have consumable feeds so other organizations can tap their marked up resources.</p> <p>Hotlines, Internet Representation Projects, etc to be able to send back a tailored list of appropriate resources to the requestor.</p> <p>Centralized database of resources to allow compilation of tailored lists of resources within a state or smaller geographic area.</p>	<p>Low literacy needs must be accommodated</p> <p>Language translation must be addressed for at least a subset of resources.</p> <p>Existing resources will need to be tagged.</p>

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<p>Poor people do not realize when they have a legal problem</p>	<p>None at present</p>	<p>Help people avoid a legal problem by helping them choose a preferred course of action.</p>	<p>Present statements to enquirer: "I'm going to buy a car," "I'm going to rent an apartment," "I want to set up a business." "I need to prepare a will." The enquirer selects a statement then sees a list of perhaps the top 10-20 most common legal issues associated with the choice. Each possible problem is explained and suggestions made for how to prevent them.</p>	<p>This approach could draw on tagged resources as suggested above or by pulling data from a WIKI.</p> <p>The simplest approach might be a number of statements with a drop menu of issues for each, but one could also approach the issues as A2J Author interfaces.</p>	<p>It would be helpful to identify the level of complexity of each legal solution/protection. But creation of such a scale might be more in the line of an automated triage system. It might be sufficient to mark each remedy as easy, moderately difficult or complex to signal which protection would most likely need the involvement of a lawyer.</p>

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<p>Poor people do not know where to go to obtain legal help</p>	<p>Legal aid outreach and public education</p> <p>State bar pro bono promotion</p>	<p>Make it easy to find information on legal help in each state using various strategies from traditional print/poster to newer social media and digital tools.</p>	<p>Use of QR codes in posters, postcards placed in places that people frequent: food stores, malls, schools, churches. Information piggy-backed in a state's utility bills as done by Illinois' <i>Citizens Utility Board</i>.</p> <p>Encourage federal legislators to include this type of information in their mailings to constituents sent via their franking privileges and on their websites. State governors and legislators might also be encouraged to post this information since many requests for help are sent to them.</p>	<p>Search engine optimization strategies to ensure that major legal help sites score heavily in major search engine algorithms, e.g., LawHelp sites. Suggested metadata (including location coding), linkage to other state and local legal sites and law schools.</p> <p>Establish a Legal Help non-profit channel on YouTube or agree to a set of keywords to help locate similar organizations.</p> <p>Encourage notable celebrities to do PSAs on television for their states. PSAs to also be stored at YouTube.</p>	<p>More people seeking legal assistance will put pressure on an already under-funded system and result in more turn-aways.</p> <p>Working with new partners can be difficult, but this might be an ideal campaign where Taproot could assist at both the state and national levels.</p>

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<p>Poor people do not know the cost of legal assistance provided by the private bar</p>	<p>None at present</p>	<p>On-line applications provide persons with the ability to locate lawyers who offer services at lower costs</p> <p>Ratings and Evaluation sites (e.g., modeled on Angie's List) for attorneys might include hourly rates as well</p> <p>Existing LRIS sites might add hourly rates, unbundled rates.</p> <p>Individual attorneys with websites can indicate their rates or communicate quickly with possible clients concerning representation costs.</p> <p>Citizens can now exchange information about attorneys in their location via social media.</p>	<p>A bar association could create an on-line application on which lawyers could advertise their rates for specific services</p> <p>An entrepreneur could create an on-line application to report lawyer's rates to which individual lawyers interested in serving this clientele could register</p>	<p>Since Ratings sites already exist and social media can be unaccountable for accuracy, it is in the interests of attorneys to post accurate hourly rates and/or unbundled rates by type of matter. This data is most appropriate for online LRIS services.</p>	<p>It's understandable that posting rates is not popular. But the pricing model has been under pressure in the last few years and there are fewer hires going into big law firms at the older salaries. More attorneys in the market should make reduction in rates more likely. Can Bar Associations reduce the friction towards reaching a good pricing point?</p> <p>Some state LRIS groups offer a discounted consultation with an attorney for a half-hour or hour. This is helpful and should be encouraged</p>

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<p>Poor people cannot afford to pay the fees of private lawyers</p>	<p>Pro Bono Programs</p> <p>Attorneys who do low-bono in certain situations.</p> <p>Self-Represented Litigants groups</p> <p>Mediation/ADR</p>	<p>On-line applications provide persons with the ability to locate lawyers who offer services at lower costs</p> <p>Virtual law firms can compete on cost.</p> <p>Unbundling can lower costs to a client.</p> <p>SRL groups</p> <p>Online mediation tools</p>	<p>Websites that list the hourly rates and unbundled rates for attorneys</p> <p>Websites or smartphone apps to allow organizations to seek out donations for particular goals, e.g. 10 foreclosure cases with one presented as a compelling narrative, perhaps in conjunction with attorneys who will do low-bono or strongly discounted services in exchange for a significant volume of cases.</p>	<p>Some states allow attorneys to use Groupon-like services to advertise.</p> <p>Websites or smartphone apps that allow "sponsoring" a case via donations from multiple givers to underwrite all or a portion of the costs.</p>	<p>Encourage all LSC affiliates to use 100% of their PAI resources.</p>

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<p>Private lawyer fees are often too high for poor and middle-class people</p>	<p>Law practice management programs suggest ways to reduce law office costs</p> <p>Virtual law practice can reduce the costs of interaction with clients</p> <p>Expert systems can reduce the cost of analyzing a client's problems</p> <p>Limited scope representation can provide advice and specific services to persons representing themselves at low cost</p>	<p>Expert systems to reduce the cost of analyzing legal situations and produce legal documents</p> <p>Document assembly</p> <p>On-line applications provide persons with the ability to locate lawyers who offer services at lower costs</p>	<p>Most of these applications need to be purchased and deployed by individual lawyers or law firms</p> <p>A bar association could create an on-line application on which lawyers could advertise their rates for specific services</p> <p>An entrepreneur could create an on-line application to report lawyer's rates to which individual lawyers interested in serving this clientele could register</p>	<p>It is not clear how the development of expert systems would be financed – perhaps a vendor of such systems could be lured into the legal field.</p> <p>Technically savvy lawyers are creating their own virtual law practices and applying document assembly software in that process</p> <p>Cheaper access to legal research, e.g. Recap</p>	<p>The principal barrier appears to be a lack of interest among lawyers in developing a law practice focused on persons of limited means; perhaps publicity concerning a successful experiment would create more interest. Funding for the development of expert systems.</p>

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<p>Private lawyers do not provide limited scope representation as authorized by state ethics rules</p>	<p>Some courts maintain lists of lawyers who offer limited scope representation</p> <p>Family law practitioners in some areas of the country are supporting each other in developing this type of practice, as a part of a general family law practice.</p> <p>Some individual lawyers have developed this as an exclusive form for their law practice.</p>	<p>An on-line application that will provide persons with the ability to locate lawyers who offer services on a limited scope basis</p>	<p>A bar association could create an on-line application on which lawyers could advertise their availability for limited scope services and the rates they charge</p> <p>An entrepreneur could create an on-line application to report lawyer's limited scope representation practices to which individual lawyers interested in serving this clientele could register and advertise their rates</p>	<p>Creation of an on-line application is not technically challenging</p>	<p>It is not apparent what profit motive there would be for creating this sort of on-line resource</p>

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<p>Current legal assistance programs do not have the resources to provide assistance to all persons seeking their help</p>	<p>Legal aid Pro bono programs</p>	<p>Better outreach/communication with volunteers whether law firm, corporate, government or pro bono.</p> <p>Mobilize bench and bar to do more to help, as ethically permitted activities to "improve the administration of justice"</p> <p>Better statistics to demonstrate the impact of existing resources and the shortfalls that prohibit helping more citizens.</p> <p>Assist LSC affiliates support Pro Bono volunteers</p> <p>In conjunction with ATJ groups, encourage State and Local Bars to do annual "task force" to address a particular legal need</p> <p>Need more efficient ways of "handing off" those who will not receive LSC help to other organizations and/or SRL resources</p> <p>Connect citizens turned away from LSC affiliates to their elected representatives.</p>	<p>Virtual law office technology (or web-based case management system at the least) made available to LSC-affiliates to enable better handling and integration of volunteers with the least barriers to pro bono participation.</p> <p>Use of GIS data on maps to persuade grant makers and legislators to fund more.</p> <p>Online list of email links and postal addresses for all senators and representatives which can be used by those turned away from LSC affiliates to petition their representatives for adequate funding through a polite but serious canned letter.</p>	<p>Web-Based tools or smartphone apps to make operations more efficient and easier for volunteers to do pro bono service.</p> <p>Non-LSC groups that take in clients that cannot be served by LSC will set up mechanisms for these citizens to contact their senators and representative in Congress through a polite but serious canned letter to ask for more funding.</p>	<p>Encourage all LSC affiliates to use 100% of their PAI resources.</p> <p>Funding issues should be addressed. As LSC is restricted from lobbying, other organizations may be able to help bring up funding levels.</p> <p>Lobby Congress through social media and petition-creating web sites or smartphone apps</p>

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We do not have any mechanisms for predicting when persons are incapable of representing themselves on a particular legal matter	Courts Legal services Pro bono programs	Development of self-learning automated triage systems to serve this purpose.	The same application could serve both court and legal services programs and be accessible directly by persons considering representing themselves and persons seeking help at court self-help centers and legal aid programs	Grant support will undoubtedly be needed to support the development of such systems	There is no profit making potential from triage processes
<b>Challenge to</b>	<b>What</b>	<b>What are the roles of</b>	<b>How is that</b>	<b>How will the</b>	<b>Challenge to Access</b>

<b>Access</b>	<b>delivery system(s) address the issue?</b>	<b>technology, both seen and foreseeable, for each system?</b>	<b>technology to be delivered to the person seeking access?</b>	<b>technology be developed and deployed?</b>	
<p>Persons who represent themselves need information concerning the law, the legal process, courtroom procedures, and appropriate forms</p>	<p>Legal services hotlines and programs</p> <p>Court-based self help centers</p> <p>Legal services and court websites</p>	<p>Expedite access to high quality information through multiple communication channels</p> <p>Taxonomy used to markup/tag content and resources by geographic locale, language and Area of Practice (AOP).</p> <p>A2J Author might be used as a way of "mapping" the milestones/complexities of a sample case in easy steps. This is different than the steps used to fill out a form, but the metaphor of a journey that A2J Author uses could be useful for this.</p> <p>An online or smartphone apps "game" approach to dealing with a legal matter might also be instructive, given resources to develop such an application.</p> <p>Build online communities of people who can be support groups: those who have already gone through the particular legal process and those starting.</p>	<p>Precise lists of documents and multimedia resources, filtered by AOP, language and geographic location would be available through websites, in smartphone apps, sent as an email or text message to a smartphone, placed in an Internet Representation Project passworded box as a resource document, etc.</p>	<p>Standardized metadata structure for content and resources.</p> <p>National taxonomy for AOP</p> <p>Content owners to have consumable feeds so other organizations can tap their marked up resources.</p> <p>Centralized database of resources to allow compilation of tailored lists of resources</p> <p>Hotlines, Internet Representation Projects, etc to be able to send back a tailored list of appropriate resources to the requestor.</p> <p>Even if resources are not marked/tagged, they should be grouped by AOP on a website or WIKI</p>	<p>Low literacy needs must be accommodated</p> <p>Language translation must be addressed for at least a subset of resources.</p> <p>Existing resources, particularly online forms such as those managed by LawHelp Interactive, will need to be tagged so they can be efficiently located.</p> <p>An online or smartphone apps game would require either finding existing educational resources or development of a game from scratch--the game would need multiple modules for different types of legal matters. Building a game from scratch would require significant funding or some degree of donated resources.</p> <p>Online support groups might generate UPL issues.</p>

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<p>Persons representing themselves have difficulty getting through many court processes, which were designed for lawyers and which assume that the moving party will take steps to bring the case to resolution</p>	<p>Court case management processes</p>	<p>Case management systems already contain the capability to generate email messages; this can be expanded to include text messages.</p> <p>Courts can proactively generate messages to parties involved in cases alerting them to the opportunity or the requirement to take a next step in a particular case, using algorithms imbedded into the case management system with values set by court managers. Although developed for self-represented litigants, these messages will be sent to lawyers as well.</p>	<p>Courts will obtain contact information from all persons initiating cases and require them to provide contact information for the opposing parties</p>	<p>Once a software vendor incorporates this capability in its product, it will quickly become a standard feature of all case management applications</p>	<p>The traditional court view that it is the responsibility of the parties – particularly in divorce cases – to move a case forward. One of the bases for this view is the fear of disrupting efforts by the parties to reconcile their relationship</p>

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<p>Court processes are unnecessarily complicated</p>	<p>Court process simplification</p> <p>ADR</p> <p>Administrative processes</p>	<p>On-line applications could be developed to supplant the traditional complaint and answer process for reaching "joinder" of the issues in a case. They could also be developed to support rudimentary disclosure and discovery processes. Automated ADR offer and counter offer processes have been in existence for over a decade.</p>	<p>These technologies would be incorporated into court case management applications</p>	<p>Once a software vendor incorporates one of these capability in its product, it will quickly become a standard feature of all case management applications</p>	<p>It is a radical departure from traditional law practice.</p>

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<p>Many courts require self-represented litigants to prepare their own final orders; SRLs have difficulty doing so</p>	<p>Courts and court-based self help centers</p>	<p>The information entered into a document assembly application to create a request for court relief contains all of the information needed to create an order granting that relief. Courts merely need to create “smart” documents that provide all of that information for storage in the court’s case management database, or to obtain access to a separate document assembly application that stores the information.</p>	<p>Courts will create electronic filing processes requiring the submission of smart forms rather than PDF filings; implementation of this process will require the courts to analyze all standard filings and represent them as smart forms.</p>	<p>At least one e-filing vendor offers its services based on this model today. Courts will demand this capability in the future in order to support “in the courtroom” real time preparation of minute orders, orders and judgments</p>	<p>The effort required by court staff to analyze standard filings and represent them as smart forms. Perhaps vendors offering their services on a transaction cost basis can be required to provide this capability in future contracts with the courts they serve.</p>

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<p>Self-represented litigants have difficulty understanding and enforcing court orders</p>	<p>Courts and court-based self help centers</p>	<p>Application to generate both the court order and a second document that is written in plain English for a lower literacy level. As a web document, legal jargon could be highlighted with a "hover" capacity that would have a plain language explanation or allow a link to a legal phrase definition.</p> <p>Provide technology for court interpreter to provide a native language audio of the original document.</p> <p>Any further responsibilities of the SRL to be spelled out in the second document in a checklist.</p>	<p>A resource generated at the court with the original order would be desirable. If not, perhaps a website where the order could be uploaded and its boilerplate "translated" and returned to the user.</p> <p>It would be helpful if such a document could include a contact number/email so that the SRL could receive some guidance on understanding anything that remained confusing. The contact might be a hotline, an Internet Representation Project, a court clerk, a LiveHelp operator or other volunteer qualified to render assistance.</p>	<p>A national translation table should be built for commonly used legal phrases and instructions. The first column to be the legal version of a phrase or word, the second column to be a plain English version of the phrase, the third column to be Spanish, and then, other languages as the community adds in more languages. Another column could have an audio clip explaining the term. If possible an audio clip for each language.</p> <p>Non-English speakers would appreciate that their "translated" document be in their own language.</p> <p>An alternative is to convert the "translated document" into spoken text stored as an MP3.</p>	<p>Simplified version of the order may be harder to implement the less boilerplate is in the original order.</p>

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<p>Self-represented litigants face barriers in understanding English, understanding legal terminology, being able to articulate their point of view, physical and mental handicaps, and in traveling long distances from their homes to the courthouse</p>	<p>Judges  Court interpreter programs</p>	<p>Help remove barriers to understanding legal issues, the options a SRL has and the legal process through which they are going.</p> <p>Website or app to help coach SRL in how to present their point strongly: show them weak or unfocused statements vs. stronger, focused assertions.</p> <p>Ranking system in LSC affiliate's intake that gives more weight to applicants with physical/mental issues.</p> <p>Use of mobile capabilities to bring translation services into the court room.</p> <p>Mapping tool: Identifying courts that are not ADA-accessible to allow alternate solutions, such as allowing an SRL to appear via mobile tools.</p> <p>Will new smartphone personal assistants be capable of translation of materials in the near future?</p>	<p>Smartphone apps or websites sites with more translation capability.</p> <p>YouTube videos in different language versions</p> <p>National translation table allows drawing in low literacy or multi-lingual support for various types of content.</p>	<p>A2J Author case mapping could be in multiple languages via embedded audio clips.</p> <p>Bilingual judges could be contributors to a National Translation table.</p>	<p>This will be more difficult without the partnership of minority Bar Associations and other agencies that serve those who are not native speakers.</p>