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The Canadian Legal Information Institute - Ten years On

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THE CANADIAN LEGAL INFORMATION INSTITUTE – NINE YEARS ON*

*By Yemisi Dina** and Louise Hamel****

Sommaire

CanLII, la bibliothèque juridique virtuelle gratuite pour le Canada, s'est développée de façon significative quant à son contenu et à sa présentation au cours de ces neuf dernières années. Cet article passe en revue et analyse ces développements et les résultats obtenus lors d'un sondage mené auprès des avocats et des bibliothécaires qui utilisent cette base de données. Les résultats du sondage indiquent que plusieurs répondants utilisent CanLII comme première source d'information pour obtenir de l'information juridique et trouvent le site très convivial.

Brief History of CanLII

CanLII, the free virtual law library for Canada, has its roots in three separate developments. The first was the launch of the Legal Information Institute movement, with Cornell and Australia as the first models of these efforts. Second, in Canada, LexUM (Centre for Research at the Université de Montréal's Faculty of Law) had a long history of supporting open access to law since it started publishing the case law of the Supreme Court of Canada.¹ Third, the Director of the Law Society of Upper Canada at the time was advocating to the National Virtual Library Group of the Federation of Law Societies of Canada that there was a need to make legal information affordable for legal practitioners² due to the escalating and uncontrollable cost of legal publications and services and the copyright restrictions being litigated by the commercial publishers.

The time was right, and the goals were congruent; it was a natural fit. LexUM would provide the technical expertise from its projects and LII experience, and it would partner with the Federation of Law Societies, which was prepared to

make an investment in the development of a made-in-Canada solution. At the end of the discussions between LexUM and the Federation, a not-for-profit institute was established, and in August 2000, CanLII was launched.

While CanLII's mission is broad, its focus is to provide free legal information to legal professionals and the public. CanLII has recently decided that its future direction will emphasize the needs of legal professionals. It should also be noted that all law society and county law association libraries have a vested interest in the success of CanLII: lawyers in each province are taxed for this service, and it is heavily promoted throughout the library systems.

Since its inception, CanLII has grown to include not only court decisions but an array of decisions from tribunals and adjudicative bodies in the following subject areas: human rights, privacy, labour relations and employment. Currently there are 140 databases with comprehensive coverage of federal and provincial case law and legislation. The historical scope of the databases continues to grow periodically; for example, cases appealed to the Supreme Court of Canada originating from Ontario from 1876 were added in 2008 and a similar project is currently underway for British Columbia. In addition to content, the user interface has been improved with the introduction of new features and search functionalities, and recent developments such as a citator service, Reflex, and point-in-time legislation, SATAL. In fact, the producers of CanLII have been leaders in developing tools to improve the user experience to equal and even surpass what is offered by the commercial/for-profit publishers. In June 2008, CanLII executive members were featured in a YouTube video entitled, "A Short History of Legal Information Institutes."

In 2004, an advisory group under the umbrella of the Canadian Association of Law Libraries (CALL/ACBD) was formed at the request of the Canadian Law Society and Courthouse Library Directors.³ Its mandate is to provide CanLII with informed feedback, recommendations and

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¹ Daniel Poulin, "CanLII: How Law Societies and Academia Can Make Free Access to the Law a Reality" (2004) 1 J.I.L.T. <<http://www2.warwick.ac.uk/fac/soc/law/elj/jilt/>>.

² Janine Miller, "The Canadian Legal Information Institute – a Model for Success" (2008) 8 Legal Info. Mgmt. 280.

³ Barbara Campbell, "CALL/ACBD CanLII Advisory Committee" (2005) 30 Can. L. L. Rev. 31.

advice regarding the functionality, accuracy and development of resources on CanLII for the purpose of providing a user-friendly and reliable source of primary legal resources. The mandate is similar to other advisory groups, such as the Abridgment Editorial Advisory Board,⁴ in that it serves as a liaison between the Association's members, the CanLII Executive Director and LexUM. The committee is composed of a cross-section of law librarians to ensure broad-based user input.

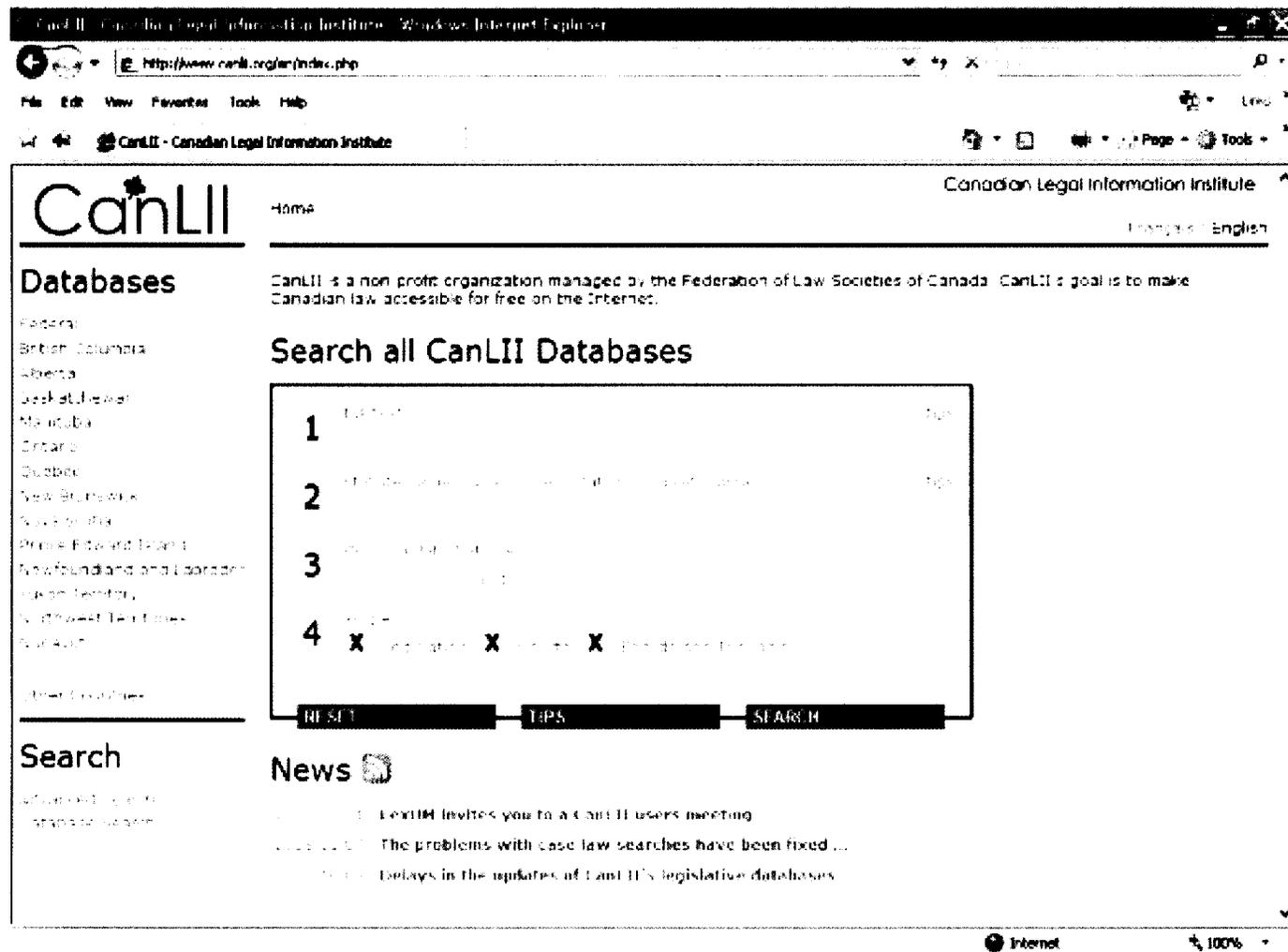
CanLII has been developing more robust legislative

content with the following improvements to its content and search capabilities:

- Point-in-time access
- Point-in-time searching
- Version comparison
- Weekly updates
- RSS Feeds
- Improved note-up functionality.

As of February 2009, the number of cases that can be searched in the database has grown to 620,000.

Figure 1: CanLII Home Page



⁴ The Canadian Abridgment Editorial Advisory Board, created jointly by CALL and Carswell, serves an advisory function with respect to the Canadian Abridgment, a key Canadian legal research resource published by Carswell.

Purpose of Survey, Instrument and Methodology

While CanLII has continued as a prominent free search engine for Canadian case law and statutes, the commercial publishers' scene has been changing. In the spring of 2008, the CanLII Board completed a survey of lawyers. In order to continue to meet the needs of its users as well as improve its services, the CALL/ACBD CanLII Advisory Committee also decided to conduct a survey and get opinions about CanLII's effectiveness among librarians. This paper discusses the findings of the CALL/ACBD CanLII Advisory Committee and uses the surveys to provide a perspective on how lawyers and librarians differ in their use of CanLII for legal research.

In March 2008, an invitation to participate in a brief anonymous survey was issued on the CALL listserv. The survey was created in Zoomerang (www.zoomerang.com), an online survey software tool. The questions covered demographics and types of libraries, and respondents were also asked to select their preference of database source for various activities.⁵ The database options were chosen for their penetration in the market and content so that a more robust comparison could be made to CanLII. The database selections were LexisNexis Quicklaw, WestlawCarswell (now Westlaw Canada), individual court websites, and provincial legislation websites.

Survey Results

A. Librarians' Survey

Of the approximately 400 members of CALL, a total of 159 English and 16 French questionnaires were received. This represents a significant response rate (44%).

1. Demographics

For purposes of comparison, the analysis of the survey considered only Canadian responses. Responses from foreign jurisdictions were excluded. All provinces were represented; however, the majority of respondents came from Ontario which one might expect given the geographical size and density of courts and law firms in the province.

Over 48% of the respondents had at least 10 years of experience and they represented all types of libraries (private law firms, law society/county libraries, academic libraries, government libraries, and court libraries). Private law firm librarians represented 34% of respondents, and academic, court, government, and law society/county librarians were in the 11- 17 % range. Librarians from a variety of positions, including solo librarians, trainers, technical services librarians, research librarians and managers, all took the time to respond.

2. Survey Questions

In what order do you use the following resources when you search for legislation? (responses ranked by choice)

The majority of librarians prefer their provincial legislative websites over any competitor as the first source for legislation. This result is not surprising given that these sites often tend to be updated more frequently than certain other sources for the same information. It should also be noted that many provincial legislative websites are free services. Several of the provincial websites also have additional features or data such as point-in-time statutes or legislative research tables. CanLII ranked well as a second choice followed by WestlawCarswell and Quicklaw.

In what order do you use the following resources when you search for a decision? (responses ranked by choice)

a) First Choice

The majority of librarians ranked Quicklaw as their first choice to answer case law questions, with CanLII scoring the next highest in this category.

b) Second Choice

As a second choice, most librarians chose WestlawCarswell followed by Quicklaw and then by Google. Quicklaw was the brain child of Professor Hugh Lawford, and its success built upon the relationship he established with each court in order to receive decisions automatically. It was one of the earliest legal databases in the Canadian market and it is logical that librarians with long service in the legal field are most familiar with it. It is now the practice for most Canadian courts to treat various publishers alike by giving them equal access to decisions distributed in electronic format. Therefore, CanLII's position in this market will likely change with improvements in service and historical content particularly since the service is free.

c) Third Choice

Provincial court websites along with Google emerged in the rankings as a third choice option, and Google ranked higher than provincial websites. While it is no surprise that provincial websites have a poor ranking since many lack robust search engines and historical content, the Google ranking was unexpected considering that some of the provincial websites, and CanLII, have a robot.txt that prevents indexing of the decisions. This renders Google ineffective as a tool to search specific databases containing a great deal of Canadian case law.

⁵ See appendix for the survey.

How far back does a database need to go to meet the majority, say 80%, of your research needs?

The nature of case law research requires case law databases to have historical depth, as jurisprudence builds upon decisions of the past. Approximately 3% of the librarians indicated 5 years of scope were required, 25% said 10 years were required, and another 58% indicated that at a minimum 20 years were required. This response might be interpreted to mean that 20 years of content on CanLII would satisfy 86% of the respondents.

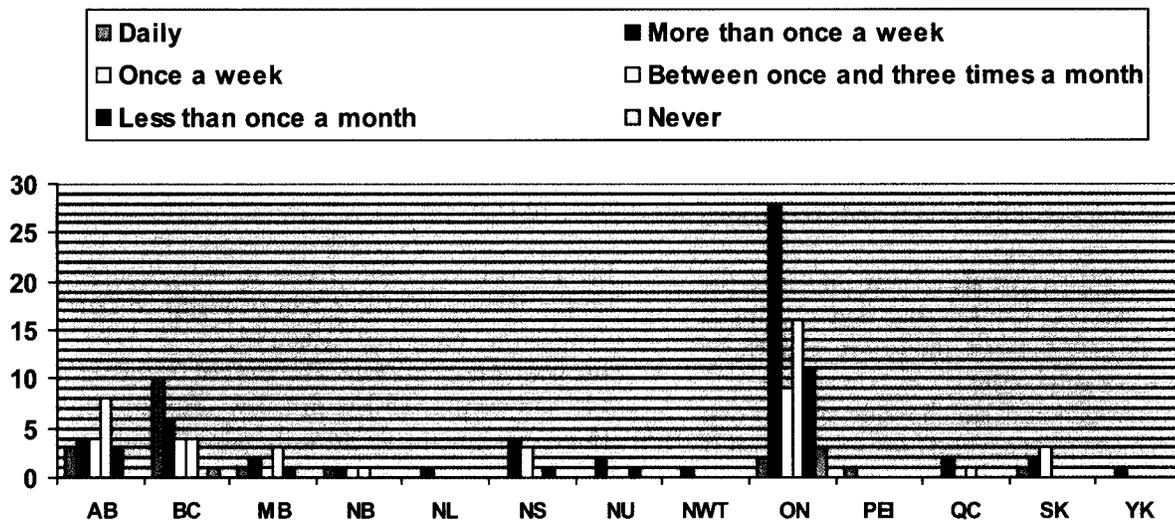
During the past three months, how often have you used...?

Respondents were asked how often they had used CanLII and the comparator databases in the last 3 months. From the results, it appears that librarians use multiple sources to respond to information requests. Quicklaw was first when compared to the other databases with 38% of librarians indicating that they use it on a daily basis. Respondents were asked how often they had used CanLII and some other databases in the last three months. The figures in Table 1 show that a third of respondents use CanLII more than once a week. Of this number, approximately half are librarians from Ontario who use CANLII more than once a week.

Table 1 How often CanLII was used in the last 3 months by province of residence⁶

	AB	BC	MB	NB	NL	NS	NU	NWT	ON	PEI	QC	SK	YK	TOTAL
Daily	3	10	1	1	0	0	0	0	2	1	0	1	0	19
More than once a week	4	6	2	1	1	4	2	1	28	0	2	2	1	54
Once a week	4	4	1	1	0	3	0	0	9	0	0	3	0	25
Between once and three times a month	8	4	3	1	0	1	0	0	16	0	1	0	0	34
Less than once a month	3	0	1	0	0	1	1	0	11	0	0	0	0	17
Never	0	1	0	0	0	0	0	0	3	0	0	0	0	4
TOTAL														
(no. of responses)	22	25	8	4	1	9	3	1	69	1	3	6	1	153

Figure 2 How often CANLII was used in the last 3 months by province of residence



⁶ Not all respondents to the survey answered this question.

Respondents were asked to compare the tools in two areas: success in finding information and user-friendliness. It should be noted that Quicklaw was in a state of constant change with the transition to the new platform and this may have influenced a lower ranking in the user friendliness category. This may also be true for CanLII, which has also undergone changes in the last few years.

How often you find what you are looking for

The highest number of responses for all services were in the “very good” category: Quicklaw at 58%, WestlaweCarswell at 55% and CanLII at 46% of responses. Local government websites for legislation received a ranking of “very good” by 36% of respondents, while local courts’ websites for case law received a ranking of “good” by 38% of respondents.

User friendliness

Once again, the highest number of responses were in the “very good” category with WestlaweCarswell at 50%, CanLII at 43% and Quicklaw at 40%. Local courts’ websites scored better than local government websites for legislation in the “good” category.

CanLII’s Services

The next part of the survey looked at ranking the various services offered by CanLII and the use of CanLII. CanLII has been undergoing continual improvement in order to offer legal professionals a virtual Canadian library that meets their needs at no cost. As a result, users who have had limited exposure to the new services may not have a high comfort level when using the tools. The following is a summary of the results of the various services:

- Search functionality was ranked strongly in the “good” and “very good” categories.
- The note-up function was ranked strongly in the “good” category.
- In terms of comprehensiveness, as noted above, CanLII ranked almost identically at the “good” and “very good” level.⁷
- The ranking for legislative databases was similar to the comprehensive ranking. Considering that provincial legislation websites are the first choice for research by librarians, this was a good result.
- The ranking for navigation in search results showed that this is an area that will need improvement by the CanLII team. Forty-six percent of librarians scored it at the “good” level.
- The paper reference guide was ranked “good” by 43% of librarians; however, it should be noted that only 70% of

the respondents answered this question.

- Librarians indicated that they could use CanLII to address 10-25% of the research work 41% of the time.

With escalating print costs and similar increases in the online world, librarians were asked if the use of a free service such as CanLII would influence collection development policies or changes in search behaviours as well as what potential impact CanLII would have on their libraries in the next three years. The most popular responses were that CanLII use would increase or that there would be no change at all. Real change was indicated as a third option, where librarians felt there would be some impact on collection development with cancellations to the print collection and changes to the electronic subscriptions.

B. Lawyers’ Survey

Over 2,200 lawyers from across Canada responded to a similar survey conducted in 2008 by the board of CanLII, which represents a response rate of 26% of lawyers surveyed.

The following are some of the results of this survey:

- CanLII is the first choice for 39% of lawyers as a source for quick legal information.
- 39% of the lawyers use CanLII once a week or more often making it the most frequently used electronic legal resource.
- In comparison to Quicklaw and WestlaweCarswell, CanLII was rated highest by 47% for user-friendliness.
- 74% use CanLII to find documents as well as to conduct legal research.
- 71% said using CanLII has reduced the cost of using legal information.

Comparison of Research Behaviours between Lawyers and Librarians

From the responses, it appears that lawyers and librarians differ in their research behaviours. This can be attributed to a number of factors:

- Librarians have on-site access to more resources than lawyers who may have to request mediated searches on some of the commercial databases.
- The lawyer response rate is influenced by the number of solo and small-sized law firm lawyers who responded. This may skew the results in favour of a free service, as the variety of resources available in small firms may be limited. Furthermore, in Ontario, CanLII is heavily promoted even though northern and smaller centres have access to a suite of desktop resources.
- Lawyers are not necessarily familiar enough with the

⁷ This should improve in the future as the historical breadth of the case collections is supplemented.

that librarians turn to the provincial websites for legislation because the information is usually up-to-date.

For case law, lawyers preferred CanLII while librarians turned to Quicklaw and ranked CanLII as a second choice. A number of factors may be responsible for this such as the librarian's knowledge and familiarity with Quicklaw. Librarians may have to perform a search which is more in-depth, particularly when a patron's search fails to deliver results. As a result, librarians require a more robust search engine and the more refined features of Quicklaw.

This is apparent when you compare librarians' and lawyers' responses about what percentage of research work can be done with CanLII. Thirty percent of lawyers indicated that they are able to use CanLII for 50-75% of their research work, while librarians are able to complete 12% of their research using CanLII.

Lawyers also indicated that CanLII had an impact on their bottom line: 43% responded that it was responsible for

significant savings. That particular response is likely influenced by the large number of solo and small firm lawyers who responded. They would more likely be attuned to costs, and would not have the same variety of research tools available at larger firms.

Conclusion

CanLII started with a mission to provide free access to legal information. In the past nine years, it has evolved not only to provide free access to expanded content but has added functionality to improve access with more search options, supporting parallel citations, legislative and judicial context (Reflex) and now SATAL. From the results of the surveys conducted by the CALL/ACBD CanLII Advisory Committee, CanLII and the CanLII Board, CanLII is becoming a major player in the suite of legal research tools, and for many respondents, can hold its own when compared with Quicklaw, WestlaweCarswell and provincial legislative and case law databases.

Appendix: Questionnaire

1) Where do you reside?

- AB
- BC
- MB
- NB
- NL
- NS
- NU
- NWT
- ON
- PEI
- QC
- SK
- YK
- Other

2) What type of library do you work in?

- Academic
- Court
- Government
- Private
- Law Society/County
- Other, please specify

3) How many years have you worked in a law library?

- 1-3
- 4-10
- 10-15
- 15 +

4) **What is your position?**

- Management
- Research librarian
- Technical services
- Trainer
- Solo librarian
- Other, please specify

5) **In what order do you use the following resources when you search for legislation?**

	1st Choice	2nd Choice	3rd Choice	4th Choice	5th Choice
CanLII					
eCarswell					
Google					
Provincial Website					
Quicklaw					

6) **In what order do you use the following resources when you search for a decision?**

	1st Choice	2nd Choice	3rd Choice	4th Choice	5th Choice
CanLII					
eCarswell					
Google					
Provincial Website					
Quicklaw					

7) **How far back does a database need to go to meet the majority, say 80% of your research needs?**

- 5 years
- 10 years
- 20 years
- 50 years

8) **During the past three months, how often have you used CanLII?**

- Daily
- more than once a week
- once a week
- between once and three times a month
- less than once a month
- never

9) **During the past three months, how often have you used eCarswell?**

- Daily
- more than once a week
- once a week
- between once and three times a month
- less than once a month
- never

10) **During the past three months, how often have you used a local Government website for legislation?**

- Daily
- more than once a week
- once a week
- between once and three times a month
- less than once a month
- never

11) During the past three months, how often have you used local courts' websites for case law?

- Daily
- more than once a week
- once a week
- between once and three times a month
- less than once a month
- never

12) During the past three months, how often have you used Quicklaw / LexisNexis?

- Daily
- more than once a week
- once a week
- between once and three times a month
- less than once a month
- never

13) Based on how often you find what you're looking for, what score would you give to the following tools:

	Poor	Average	Good	Very Good	Excellent
CanLII					
eCarswell					
Local Government Website for legislation					
Local Courts' Websites					
Quicklaw/ LexisNexis					

14) In terms of user friendliness, what score would you give to the following tools:

	Poor	Average	Good	Very Good	Excellent
CanLII					
eCarswell					
Local Government Website for legislation					
Local Courts' Websites					
Quicklaw/ LexisNexis					

15) As a librarian, do you recommend CanLII? Why? Why not?

16) Does your library offer training on CanLII? If not, why not? What are the main difficulties?

17) How do you rate CanLII's:

	Poor	Average	Good	Very Good	Excellent
Search					
Note-up function					
Current comprehensiveness					
Legislative databases					
Navigation in search result					
Paper reference guide					

18) What is the percentage of your research work that you can do with CanLII?

- 0% - 10%
- 10% - 25%
- 25% - 50%
- 50% - 75%
- 75% - 100%

19) What role will CanLII play in your library in the next three years?

	1st Choice	2nd Choice	3rd Choice
Cancel some electronic services			
Cancel some print services			
Use CanLII more extensively			
No change			

20) How do you prefer to be kept up-to-date with CanLII's recent developments?

- a blog
- RSS
- mailing list
- by visiting the website and discovering on my own



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