

Decomposition Works in Our Favour

By Morten Bergsmo

Policy Brief Series No. 114 (2020)

1. The End of International Criminal Lawyers?

This attention-seeking heading may serve to introduce Richard Susskind's eye-opening 2008 monograph *The End of Lawyers? Rethinking the Nature of Legal Services*.¹ Susskind argues with Raymond Kurzweil that, "within several decades information-based technologies will encompass all human knowledge and proficiency, ultimately including the pattern-recognition powers [and] problem-solving skills".² Building on this broad vision, Susskind and his son claim in their consequential 2015 book *The Future of the Professions* that "we are on the brink of a period of fundamental and irreversible change in the way that the expertise of [the professions, including lawyers] is made available in society. [...] in the long run, we will neither need nor want professionals to work in the way that they did in the twentieth century and before".³ They predict that "increasingly capable systems [“for sharing expertise”] will bring transformations to professional work”, anticipating "an 'incremental transformation' in the way that we produce and distribute expertise in society".⁴

The professions are "an artefact that we have built to meet a particular set of needs in a print-based industrial society",⁵ resting on "increasingly antiquated techniques for creating and sharing knowledge" (p. 34). Their workings "are not transparent" and "the expertise of the best is enjoyed only by a few" (p. 3), whereas in a "technology-based Internet society there will be a wide range of new ways to create and share knowledge that are more affordable and accessible" (p. 35). They ask with Andrew Abbott why there should be "occupational groups controlling the acquisition and application of various kinds of knowledge?"⁶

The Susskinds may or may not be right. I recall Foucault's general warning that "the time we are living in is not exactly a unique, fundamental or breakthrough point in history".⁷ But Susskind's books are largely about a perceived lack of preparedness for technology-driven changes among lawyers, caused in part by a wish to preserve professional benefits. Citing George Bernard Shaw's acidic description of the

professions – "They are all conspiracies against the laity"⁸ – Susskind explains that this "view regards legal professionals not as benevolent custodians [of the law and legal institutions], but as jealous guards, who have for too long hindered access to the law and legal processes".⁹ If nothing else, let this nourish our humility.

2. From Internal Knowledge Systems to Online Legal Services

Susskind predicts a trend whereby the legal profession will have to provide more legal information, knowledge and expertise freely to the public, with significant societal consequences over time. He designed 'The Law Firm Grid' to visualise and ease our understanding of this trend.¹⁰ Applied to criminal justice for core international crimes, it may look like this:

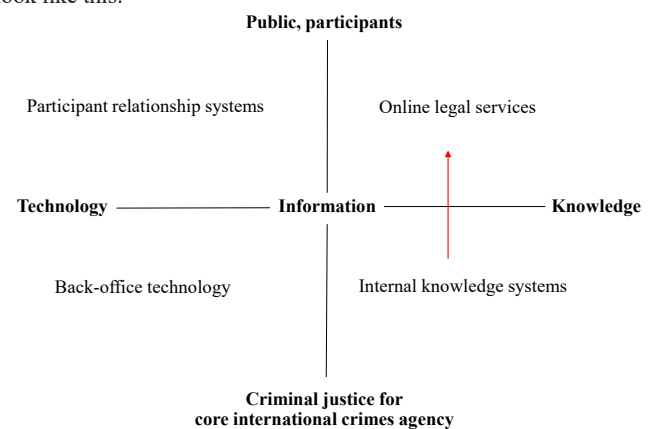


Figure 1: Susskind's grid adapted to criminal justice for core international crimes.

Susskind is primarily concerned with knowledge management within the professional law agency – the "systematic organization and exploitation of the collective knowledge" of the agency¹¹ – and the extent to which it shares knowledge with the public commons. By 'internal knowledge systems' in the grid is meant "work product databases, searchable repositories of selected e-mails, libraries of standard form documents (templates and precedents), procedure manuals and practice

¹ Richard Susskind, *The End of Lawyers? Rethinking the Nature of Legal Services*, Oxford University Press ('OUP'), 2008 ('Susskind, 2008').

² Raymond Kurzweil, *The Singularity is Near*, Viking, New York, 2005, p. 8.

³ Richard Susskind and Daniel Susskind, *The Future of the Professions: How Technology Will Transform the Work of Human Experts*, OUP, 2015, p. 1 ('Susskinds, 2015').

⁴ *Ibid.*, p. 2 (footnote omitted).

⁵ *Ibid.*, p. 3.

⁶ Andrew Abbott, *The System of Professions*, Chicago University Press, 1988, p. 1.

⁷ Michel Foucault, "The Ethic of Care for the Self as a Practice of Freedom: An Interview with Michel Foucault", in James Bernauer and David Rasmussen (eds.), *The Final Foucault*, The MIT Press, Cambridge, 1988, p. 69. More recently, by a sober Swedish academic: "The idea that our age is particularly creative and dynamic and involves a 'paradigm shift' is clearly attractive – and this has been the case for some time", see Mats Alvesson, *The Triumph of Emptiness*, OUP, 2013, p. 131.

⁸ George Bernard Shaw, *The Doctor's Dilemma: A Tragedy*, Preface on Doctors, Constable and Company Ltd., London, 1922, p. xxii. He was familiar with Adam Smith's writings: "People of the same trade seldom meet together, even for merriment and diversion, but the conversation ends in a conspiracy against the public, or in some contrivance to raise prices", see Adam Smith, *The Wealth of Nations*, P.F. Collier & Son, 1902 (first 1776), p. 207.

⁹ Susskind, 2008, p. 284. Cf. Morten Bergsmo, Mark Klamberg, Kjersti Lohne and Christopher B. Mahony (eds.), *Power in International Criminal Justice*, Torkel Opsahl Academic EPublisher ('TOAEP'), Brussels, 2020 (forthcoming).

¹⁰ Susskind, 2008, pp. 155-58.

¹¹ *Ibid.*, p. 155.

notes”, as well as document assembly, digests and commentaries.¹² A law agency will be differentiated by how it (a) “captures and shares knowledge internally (bottom-right)”, and (b) “imaginatively and creatively makes that available to clients externally (top-right)”.¹³ The ‘top-right’ is the Internet – the global or public commons – which has installed “information-processing and knowledge-generation capacity in every one of us”.¹⁴

Technology and the Internet will necessitate increased sharing from the internal knowledge systems to the commons – taxpayers will gradually steer public mandates and consumers will influence market advantage in this direction. Susskind also makes a moral-political argument for such sharing, opining that access to justice “is as much about *dispute avoidance* [or compliance] as it is about dispute resolution [or accountability]”.¹⁵

In the case of the International Criminal Court (‘ICC’), the principle of complementarity – on which its existence is based – gives States Parties an immediate financial interest in strengthened ability and will to conduct national investigations and prosecutions, especially when increasing such capacity does not generate additional costs over the Court’s regular budget. Deliberately designed knowledge-sharing may actually not entail costs for the Court itself. It does, however, require careful thought: “the organization and representation of legal knowledge in computer systems is, fundamentally, a job of legal research and analysis; and often this knowledge engineering will be more intellectually demanding than conventional work”.¹⁶

3. The Prince of Legal Work-Processes: Identification and Interpretation of Legal Sources

At the heart of international criminal law work lies *interpretation* of provisions in treaties, rules and regulations, to determine their scope of application. This work-process relies on additional legal sources, the bread and butter of lawyers. Finding such sources is indispensable to interpretation. Between 1975 and 2000, retrieval of legal sources went from dependency on memory and physical libraries, to reliance on the Internet.

Online services were developed by proprietary actors who found profit by placing themselves between courts, parliaments and public administrations that produce legal sources (by use of taxpayers’ money), and lawyers willing to pay for access. Launched in New York in April 1973, LexisNexis turned a profit already in 1977, and was sold to Reed Elsevier for USD 1.5 billion in 1994.¹⁷ Other well-known proprietary actors in this area include HeinOnline and Westlaw. Even non-profit legal information foundations such as Lovdata in Norway would originally charge substantial subscription fees for Norwegians to be able to read court decisions and other legal sources. This proprietary barrier between the law-generators and the public led to strong reactions.¹⁸

¹² *Ibid.*

¹³ *Ibid.*, p. 158.

¹⁴ Manuel Castells (referred to as a ‘founding philosopher of the Internet’), *The Internet Galaxy: Reflections on the Internet, Business and Society*, OUP, 2001, p. 277.

¹⁵ Susskind, 2008, p. 231 (italics added): Developing a “just society (one in which legal insight is an evenly distributed resource) [...] will involve introducing novel ways of putting legal insight at everyone’s fingertips”.

¹⁶ *Ibid.*, p. 272.

¹⁷ Charles P. Bourne and Trudi Bellardo Hahn, *A History of Online Information Services, 1963-1976*, The MIT Press, Cambridge, 2003, pp. 300–301. When Toyota released Lexus in 1987, the for-profit mindset was so strong that LexisNexis’ owners unsuccessfully sued for trademark infringement. Interestingly, the innovative origins of LexisNexis were not in business or venture capital, but the pioneering work of the lawyer John Harty on comparative hospital law at the University of Pittsburgh Health Law Center from 1956 (see Tina Batra Hershey and Donald Burke, “Pioneers in Computerized Legal Research: The Story of the Pittsburgh System”, in *Pittsburgh Journal of Law and Technology*, 2017-18, vol. 18, no. 1, pp. 29–39), who inspired the Ohio State Bar Association to develop its own system from 1965 (see Bourne and Bellardo Hahn, *op. cit.*, pp. 235-36).

¹⁸ The founders of the platform Rettspraksis.no – Fredrik Ljone and Håkon Wium Lie – tested Lovdata by releasing 166 years of Norwegian Supreme Court decisions, only to be sued by Lovdata and ordered to remove five years of Lovdata

The Free Access to Law Movement was started already in 1992 by Thomas R. Bruce and Peter W. Martin of Cornell Law School, coinciding with the establishment of the United Nations Commission of Experts for the former Yugoslavia,¹⁹ the forerunner to the International Criminal Tribunal for the former Yugoslavia (‘ICTY’).²⁰ A decade later, the 4th Law via Internet Conference held in Montreal in 2002, three months after the entry into force of the ICC Statute, adopted a declaration on access to law which includes these aspirations:

[1] Public legal information from all countries and international institutions is part of the common heritage of humanity. Maximising access to this information promotes justice and the rule of law; [2] Public legal information is digital common property and should be accessible to all on a non-profit basis and free of charge; [3] Independent non-profit organisations have the right to publish public legal information and the government bodies that create or control that information should provide access to it so that it can be published.²¹

The declaration places public legal information squarely within the global commons. This idea has been further developed by Asbjørn Eide to include a link to the Universal Declaration of Human Rights.²² Susskind ties the discussion to access to justice: “We cannot have access to justice if our lawyers and legal advisers do not have access to the law”.²³

As they coincide in time, what has been the impact of the Free Access to Law Movement on the rebirth of international criminal justice? Each of the *ad hoc* international criminal tribunals gradually developed online retrieval platforms for their own case-related public documents, with uneven quality and challenging beginnings,²⁴ but respecting the principle of open access. The ICC adopted a different approach from its start.

Already in its first year of operation (2003-04), the Court²⁵ started building a digital library of all legal sources that may be relevant during the writing of a submission or decision in international criminal justice, the ICC Legal Tools Database (‘LTD’).²⁶ In Susskind’s grid, the LTD went from being part of the Court’s internal knowledge system, to serving as an online legal service as early as 2006, initially by

database-protected materials, see Supreme Court of Norway, Order, 11 September 2019, HR-2019-1725-A (<https://www.legal-tools.org/doc/cizmwg/>). On 26 November 2019, Parliament decided that Norwegian court decisions will be made freely available online. The Deputy Chair of the Justice Committee credited Ljone and Wium Lie, “[w]ho pursued an idealistic case and tried to get this done themselves”, which was “obviously right in principle”, continuing: “for some strange reason Norway has chosen to hide the judgments behind tall paywalls”, which “is just not good enough”; “All Norwegian citizens shall have an unconditional right to know which judgments have been rendered”, see Eirik Husøy, “Dommer blir gratis tilgjengelig for alle”, *Aftenposten*, 27 November 2019.

¹⁹ UNSC resolution 780 (1992) (<https://www.legal-tools.org/doc/cdc5ad/>).

²⁰ UNSC resolutions 808 (1993) (<https://www.legal-tools.org/doc/660ee3/>) and 827 (1993) (<https://www.legal-tools.org/doc/0bff83/>).

²¹ Declaration on Free Access to Law, 3 October 2002 (<https://www.legal-tools.org/doc/jr1ypq/>).

²² Asbjørn Eide and Alf Butenschøn Skre, “The Human Right to Benefit from Advances in Science and Promotion of Openly Accessible Publications”, in *Nordic Journal of Human Rights*, 2013, vol. 31, no. 3, pp. 427-453 (<https://www.legal-tools.org/doc/6992b4/>).

²³ Susskind, 2008, p. 255.

²⁴ The mindset at the time meant some constraints. I vividly recall how even Judge Antonio Cassese refused to allow his collection of German World War II cases to be photocopied for the benefit of other lawyers at the Tribunal, until he had used them in high-profile decisions. Around the same time, Tribunal leaders thought a yearbook published during its first years would become the principal publication medium for its indictments and decisions, providing an “historical record of the Tribunal’s work” (see Dorothee de Sampayo Garrido-Nijgh, “Preface”, *Yearbook 1994, ICTY*, p. 5). Unsurprisingly, proprietary actors were circling to secure the publication rights.

²⁵ The ICC Legal Tools Project was initiated within the ICC Office of the Prosecutor (‘ICC-OTP’) in October 2003, but with participation of all the organs of the Court, under the guidance of a Court-wide Legal Tools Advisory Committee.

²⁶ It remains available under the URL used from the start: <https://www.legal-tools.org/>.

use of the original folder-structure, later as an online database,²⁷ most recently upgraded in October 2019.²⁸ The LTD is ‘document-centric’ and has grown to offer open access to 155,192 documents,²⁹ loaded through automated transfer arrangements or *pro bono* by a group of external partner institutions³⁰ and more than 40 CMN Fellows offered by CILRAP³¹ without cost to the ICC budget.³² Each document has a persistent URL, facilitating extensive hyperlinking to the LTD, also by courts and publishers³³ (as the links do not break), contributing to several million hits to the database in the past years. Standard metadata³⁴ and keywords³⁵ were developed through lengthy consultations among lawyers in all Court organs during 2006-08, but it took almost ten years before the hectic schedule of the Court allowed its lawyers to start registering keywords.

That effort has facilitated the development of the soon-to-be-released ICC Case Law Database (‘CLD’), fully integrated on the Court’s Legal Tools platform. It is centred on thousands of abstracts of ICC decisions prepared by lawyers at the Court, referred to as ‘legal findings’. The Legal Tools keywords have been expanded and tagged to the legal findings, thus facilitating more precise search in ICC case law. This is timely, as the ICC’s case law is gradually taking centre stage in international criminal justice, a few years after the closing of the *ad hoc* tribunals for the former Yugoslavia and Rwanda. The CLD will not only contribute significantly to the dissemination of ICC case law; importantly, it places the access point to ICC case law at the centre of the public commons of legal information for the entire discipline of international criminal law, thus confirming that the Court is part of a broader system.

4. From Retrieval to Support of Legal Analysis and Learning

Looking beyond retrieval,³⁶ the Lexsitus knowledge system provides legal *analysis*-support in international criminal law by offering visually-integrated services at the level of every article of the ICC Statute, including digests of case law on ICC Statute crimes;³⁷ structured libraries of case law and preparatory works; commentaries on all provisions in the ICC Statute and Rules of Procedure and Evidence;³⁸ and an audio-visual library of 236 lectures covering all main provisions in

the ICC Statute.³⁹ Arabic and French versions are about to be prepared, as further signs of stakeholder commitment to Lexsitus.⁴⁰ Another example of a legal analysis-support tool is the Cooperation and Judicial Assistance Database (CJAD), a central information hub on all aspects of co-operation legislation, developed by Olympia Bekou further to the earlier National Implementing Legislation Database (NILD, a part of the LTD).⁴¹ CJAD and Lexsitus are fully hyperlinked to the LTD.

Lexsitus is also designed to support *learning*, not only retrieval and analysis. Many conventional law lectures “are often not given by gifted (or even trained) orators”,⁴² a fact which also applies to international criminal law. Susskind argues that “e-learning will be disruptive of conventional legal training but it will be beneficial to lawyers’ traditional know-how systems”.⁴³ Behind the 236 lectures in Lexsitus is a faculty of 50 lawyers from around the world, including several world-leading authorities on the provisions they address.

5. Atomise and Optimise Skills, Share in the Commons

More fundamental than standardisation design and systems development is the “decomposition of legal work”,⁴⁴ a deconstruction of the way we work as lawyers into constituent work-processes or -units.⁴⁵ Such third-person disaggregation is required if we would like enhanced knowledge systems to go beyond retrieval of legal information (Section 3 above) and support of analysis or learning (Section 4 above), to include *the sharing of legal expertise and skills in the public commons*.⁴⁶ If we see international criminal law as a system of law as well as of action,⁴⁷ such sharing is vital to give effect to the significant investments by states and civil society in the ICC.

Particularly relevant work-processes for atomisation may be the small number of habitual core functions that rely extensively on discretion, including (a) the subsumption of facts under a legal classification (typically, the application of elements of a crime on a factual proposition); (b) the evaluation of evidentiary propositions of a factual nature;⁴⁸ and (c) the prioritisation of incidents, conduct and suspects. These are heavily resourced work-processes where enhanced quality-control and cost-efficiency would always be welcome. Finding ways of “IT-enabled legal knowledge sharing”⁴⁹ by the ICC on such functions could have a disproportionate impact on the public commons and lead to conceptual innovations.

It is not easy for an international court to do this, including for reasons of confidentiality and a sense that the law itself, in particular on procedure, provides all atomisation needed. A professional deference before the veil of legal discretion may also be at work. But what cannot be entirely understood, should not be ignored – surely, not all is magic. We need not venture to the cutting edge of tradition to recognize that even work-processes (a)-(c) contain repetitive aspects and a core set of common steps.

²⁷ The first database version was developed by Mathias Gisch and Ralph Hecksteden.

²⁸ The latest technical version of the LTD was developed by Saurabh Sachan and Mithya Labs, led by him.

²⁹ It may well be that at the start of the project in 2003, no legal expert in the world possessed an international criminal law library of more than 2,000 sources.

³⁰ See <https://www.legal-tools.org/status-of-work-on-the-tools/table-of-responsibilities> for an overview of contributors.

³¹ See <https://www.casematrixnetwork.org/about-us/cm-n-fellows/>.

³² In the interest of sustainability, it was never attempted to fund the LTD over the regular ICC budget, or to have it be maintained by Court staff, due to the ever-changing priorities in operational environments such as an international criminal jurisdiction. There have been a number of voluntary contributors to the project, especially Finland, Norway and later the European Union.

³³ TOAEP has a policy of only using LTD-PURLs. It freely releases all its publications in the LTD.

³⁴ See Völker Nerlich, “The Metadata Scheme of the Legal Tools Project”, in Morten Bergsmo (ed.), *Active Complementarity: Legal Information Transfer*, TOAEP, Oslo, 2011, pp. 133-139 (‘Bergsmo, 2011’).

³⁵ See Franziska C. Eckelmans, “Taxonomy by Consensus: The ICC Keywords of the Legal Tools”, in Bergsmo, 2011, pp. 141-151.

³⁶ Folder- and keyword-structures and prepared abstracts indirectly offer some rudimentary analysis-support.

³⁷ There is one digest page of excerpts of judgments for every element of every ICC crime – more than 800 web pages – for both the ‘Elements Digest’ and the ‘Means of Proof Digest’. The Elements Digest was originally developed in the ICTY-OTP, drawing on the earlier *Fiscal’s Friend* project, edited by Christopher Staker.

³⁸ The Commentary on the Law of the International Criminal Court (CLICC) is the only commentary to cover both the ICC Statute and Rules. It is continuously updated online by a team of more than 50 lawyers led by Mark Klamberg and Jonas Nilsson, but also published as a traditional legal commentary, see Mark Klamberg (ed.), *Commentary on the Law of the International Criminal Court*, TOAEP, Brussels, 2017 (<http://www.toaep.org/ps-pdf/29-klamberg>).

³⁹ The lectures are sub-titled and the transcripts are also full-text searchable in the LTD.

⁴⁰ The International Nuremberg Principles Academy and the Norwegian MFA are the main donors behind and participants in the development of Lexsitus.

⁴¹ CJAD contains comments and comparative functionality, see <https://www.casematrixnetwork.org/cm-n-knowledge-hub/>.

⁴² Richard Susskind, *Tomorrow’s Lawyers: An Introduction to Your Future*, OUP, 2013, p. 144 (Susskind, 2013).

⁴³ Susskind, 2008, p. 119.

⁴⁴ *Ibid.*, p. 272.

⁴⁵ Susskind, 2013, p. 29.

⁴⁶ The Susskinds argue that “some practical expertise should be held in a ‘commons’”, see Susskinds, 2015, p. 296.

⁴⁷ Jürgen Habermas, *Between Facts and Norms*, The MIT Press, Cambridge, 1996, pp. 79-80.

⁴⁸ Relevant decomposition-based development on (b) is yet to be undertaken. For an analysis of the advantages of such an approach, see Simon De Smet, “Controlling the Quality of Reasoning About the Link Between Evidence and Factual Findings”, in Xabier Agirre, Morten Bergsmo, Simon De Smet and Carsten Stahn (eds.), *Quality Control in Criminal Investigation*, TOAEP, Brussels, 2020 (forthcoming).

⁴⁹ Susskind, 2013, p. 65.

Decomposition can work in our favour.⁵⁰ A subtle, patient approach can give us generic information on how lawyers execute core discretionary work-processes that are common to criminal justice around the world. This could facilitate knowledge-generation of great practical value for the profession and cost-efficiency for governments. “It is when practical expertise is externalised in this way that we can fully exploit [the non-rival and cumulative] characteristics of knowledge”,⁵¹ by allowing a broader community to make use of the insights and add their own experience.

The ICC has shown foresight in this area. The ICC Case Matrix was developed in the ICC-OTP in 2004-05 and shared in the public commons a year later.⁵² It is an open source application that concerns work-process (a) above: classical criminal law subsumption. It has received formal recognition for contributing to increased awareness about the meeting between norm and fact in criminal justice (including the functions of elements of crimes, their components, and means of proof).⁵³ The ICC’s experimentation with in-depth evidence analysis charts was inspired by one feature of the Matrix (but perhaps not adequately informed by it).

The ICC should facilitate that central work-processes such as subsumption or evaluation of evidentiary propositions are deconstructed and subjected to IT-enabled legal knowledge support. This is an area for legal knowledge engineering, “a central occupation for tomorrow’s lawyers”.⁵⁴ But the more inherent a work-process is to the core functions of lawyers, the less accessible it is to non-lawyers who seek decomposition in order to implement performance indicators or other metric or schematic cost-efficiency devices in areas such as management or budget process. Proprietary off-the-shelf solutions come with strings that are not compatible with the incision required.⁵⁵ They are also, for this purpose, inferior to I-DOC, an open access service based on the ICC Case Matrix, available for customisation and development.⁵⁶

6. Judicious Foresight

The ICC may have done more than any other international court to facilitate open-access retrieval of legal sources in its area of law, through the LTD and the new CLD service. Together with the legal analysis- and learning-support of Lexsitus and CJAD, international criminal law may be the discipline of international law that has seen the most generous development of online legal services to date. The Court’s record here is one of stealth and little fanfare, but painstaking content- and technical-development, seeking sustainable improvements year by year. Volunteer contributors and personal commitment⁵⁷ have made

⁵⁰ Let us put this amusing but macabre slogan of forensic experts at the ICTY to more forward-looking use.

⁵¹ Susskinds, 2015, p. 210.

⁵² It is accessible at <https://www.casematrixnetwork.org/icc-case-matrix/>.

⁵³ The 2008 Dieter Meurer Legal Informatics Prize was granted for its development (<https://www.legal-tools.org/doc/zds2a3/>).

⁵⁴ Susskind, 2008, p. 272.

⁵⁵ They have sought to pick lower-hanging fruits such as work-processes linked to exhibits and transcripts of witness testimony; factual relations between individuals, locations and dates; and scheduling of hearings and filings. That makes sense given the large transactional volume and routine-nature of such work-processes.

⁵⁶ Designed by Ilia Utmelidze, this service is included in the CMN Knowledge Hub, see <https://www.casematrixnetwork.org/cmkn-knowledge-hub/>.

⁵⁷ Klaus Rackwitz played a vital role from as early as the fall of 2003. Prosecutor Fatou Bensouda has held her protective hand over the project throughout her term.

this possible, led by the vision of free access to law.

The further maintenance and enhancement of these services should continue to be motivated by the values articulated by participants. The services help us to “offer proper *access to law*, a precondition to efforts to improve *access to justice*”.⁵⁸ Better access to justice should reinforce *compliance* – “preventative lawyering”⁵⁹ or “legal health promotion”⁶⁰ – not only accountability. Other motivating values have been *legal empowerment*⁶¹ and *positive complementarity*.⁶² Moreover, by disseminating all relevant legal sources in international criminal law in a free and immediate manner, the services should also contribute “towards *broadening the discourse community* beyond mainly Western institutions and constituencies”.⁶³

The “new cadre of self-sufficient legal technologists” that Susskind calls for is important,⁶⁴ but Satya Nadella is right when he, citing Rainer Maria Rilke, makes the point that the future depends on us: “the future enters into us, in order to transform itself in us, long before it happens”.⁶⁵ To strengthen “the common property of the species, and the means of improving and elevating the universal lot”, John Stuart Mill – writing 150 years ago – prescribed “just institutions” as well as “deliberate guidance of judicious foresight”.⁶⁶ With the complementary, judicial nature of the ICC, it is ideally placed to play a continued innovative role in the interest of the public commons of legal information, knowledge and skills.

Morten Bergsmo is the Director of the Centre for International Law Research and Policy (CILRAP). As he is the creator of the ICC Legal Tools Project and Lexsitus, he points out that views expressed in this policy brief are personal and do not necessarily reflect those of the Project or CILRAP. He thanks Professor Ulf Petrusson (Director, Institute for Innovation and Social Change, University of Gothenburg), Dr. Hamid Samandari (Chair of McKinsey’s Knowledge Council), and Dr. Christopher Staker (39 Essex Chambers) for comments.

ISBN: 978-82-8348-151-8.

TOAEP-PURL: <http://www.toaep.org/pbs-pdf/114-bergsmo/>.

LTD-PURL: <https://www.legal-tools.org/doc/k5oxhm/>.

Some of the Court’s best lawyers – Hans Bevers, Enrique Carnero Rojo and Völker Nerlich – have played essential roles over a number of years. Judge Marc Perrin de Brichambaut has lent strategic strength and reason to the project in recent years.

⁵⁸ Statement by CILRAP when Lexsitus was launched on 30 January 2018 (<https://www.cilrap.org/announcements/>) (italics added). Sustainable Development Goal 16 calls on states to “provide access to justice for all”.

⁵⁹ Susskind, 2013, p. 86.

⁶⁰ *Ibid.*, p. 85.

⁶¹ See Aleksandra Sidorenko, “Legal Empowerment: Capacity Building in Core International Crimes Prosecutions through Technology Applications”, in Bergsmo, 2011, pp. 95-130; Morten Bergsmo, “Complementarity and the Challenges of Equality and Empowerment”, TOAEP, Oslo, 2011 (<http://www.toaep.org/pbs-pdf/8-bergsmo>).

⁶² See Olympia Bekou, Morten Bergsmo and Annika Jones, “Complementarity after Kampala: Capacity Building and the ICC’s Legal Tools”, in Bergsmo, 2011, pp. 3-23; Emilie Hunter, “Establishing the Legal Basis for Capacity Building by the ICC”, in *ibid.*, pp. 68-93.

⁶³ Statement by CILRAP, 30 January 2018, *supra* note 58 (italics added).

⁶⁴ Susskind, 2013, p. 113.

⁶⁵ Satya Nadella, *Hit Refresh: The Quest to Rediscover Microsoft’s Soul and Imagine a Better Future for Everyone*, HarperCollins Publishers, London, 2017, p. 12.

⁶⁶ John Stuart Mill, *Principles of Political Economy*, vol. 2, Longmans, Green, Reader and Dyer, London, 1871, p. 332.



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