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Law, Technology and Access to Justice:

Where are we now?

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Technology is changing the provision of access to justice around the world. This paper attempts to identify the various currents of development. It weaves around the national and international context. Technology is international - but attitudes to its practical adoption vary nationally. In addition, regulation of legal services differs considerably around the world - from a relatively lax approach in the UK to US inspired restrictions against the unauthorised practice of law. Cultures are different and take different attitudes from, for example, to the use of e-mail to whether professional bodies should mandate technological competence.

The context of technological adoption is, thus, unavoidably national even if the products and processes concerned are not. Singapore, for example, has come up with a prescriptive set of guidelines for the adoption of various levels of technology within private practice. This is an initiative led by an alliance of government and profession and using the offer of grants to boost uptake. The United States has, in the Legal Services Corporation, a lead body for federally funded civil services with a creditable track record of encouraging development through a competitive grant programme. By contrast, England and Wales has lacked any such body in recent years. Development has been much more dependent on the myriad of individual decisions by private practice and not for profit providers - albeit in a context where, at least historically, the need for legal aid case reporting has encouraged a degree of technological adoption of business processes. These approaches lead to different results and different stages of development - though within a common broad direction of travel.

The easiest way to get a handle on history may be to see development as a series of currents, coming on stream at slightly different times over different jurisdictions and all of them continuing in the present, albeit that some may have been more powerful in the past or promise, like ODR, to be more powerful in the future. They are not exclusive: they overlap.

Current One: Technology as a business tool

A [US report](#) published by CLASP and NLADA as early as 2002 pointed to the use of technology in the previous four years 'to accomplish many things that otherwise would not have been possible, such as:

• Improving program and office management through increased use of telephones and cell phones and computerized data collection

• Allowing remote representation through conference calls and video conferencing

• Quickly contacting clients with vital information

• Using program websites to educate the public so that they may conduct their own research about their situations, or avoid legal problems in the first place.

In doing this, organisations were following general trends at the time widespread through commercial and non-commercial provision.'

By 2012, the US Legal Services Corporation at its [Technology Summit](#) was noting how business processes could be further improved by technology.

> All access-to-justice entities will employ a variety of automated and non-automated processes to make the best use of lawyers' time to assist requesters with their cases, including:
>
> ◦ conducting business process analyses to streamline their internal operations and their interactions with all collaborating entities
>
> ◦ having clients/litigants perform as much data entry and handle as many of the functions involved in their cases as possible (given the nature of the case and the characteristics of the client/litigant)
>
> ◦ having lay staff perform a broad range of assistance activities not requiring the expertise of a lawyer
>
> ◦ having expert systems and checklists available to assist and save time for lawyers and lay service providers
>
> ◦ maximizing the extent to which services are provided remotely rather than face- to-face, to save the time of both the clients/litigants and the service providers.

Goals like these are very much dependent on basic office productivity tools that would now be routinely expected in a commercial environment. Installation of these is a continuing work in progress for many organisations and is the source, around the world, of an enormous amount of effort. Many small not for profit organisations are still upgrading their basic 'productivity tools'. An example is the recent grant by the Legal Education Foundation of members of the Law Centres Network in England and Wales to implement a digital vision which included:

> … a minimum standard for digital equipment and systems across the network … [followed by]
>
> - phased rollout of desktop computers to Law Centres,
> - move from office systems to cloud based services such as Office 365,
> - migration of data to secure cloud based storage,
> - upgrading broadband where required,
> - establishing national IT support,
> - developing a national Law Centre data set and standardized set of forms,
> - distributing digital tools being developed for Law Centre specific use as they become available, such as, tools to assist with client reception, client feedback and document generation.

In developing its approach, the Singapore Academy of Law effectively takes these productivity tools for granted. It develops a four prong strategy to making Singapore a leader in the use of technology: 'Legal technology will likely usher in an era of unprecedented legal self-help and collaboration, with grandmothers eventually being able to write and execute their own wills without assistance from legal counsel ...' This policy is now being implemented through a 'Tech-celerate' programme which provides grant assistance to get firms to the first, 'baseline', level. This includes practice management systems; document management systems; and online legal research systems. It recommends specific products, for example, including Thomson Reuters and LexisNexis as well as some local providers. The next, more advanced prong, includes 'document assembly, document review, e-Discovery and automated client engagement'.

Legal aid/services organisations in other jurisdictions have inched toward such baseline provision. Many have sought to instal modern customer relationship management programmes developed originally in a commercial context. The LSC has provided the funding for its own case management software, LegalServer. AdvicePro is an English equivalent, associated with AdviceUK and widely used in the not for profit sector. The English and Welsh Citizens Advice Service - the largest national information and advice provider - has developed its own product, Casebook. Meanwhile, commercial products like Clio, are becoming more sophisticated and more relevant with the possibility of various 'plug in' additions which could make them an effective rival for practices with low income clients.

There is a distinction between technology that improves efficiency and technology that radically alters business models and operation. On the borderline - but still on the business side - would be the use of Skype or video to extend services. A number of legal services organisations are experimenting with video links from their home base to remote locations in a variety of different ways -

sometimes involving pro bono advisers in the package. Thus, just as examples, we have a legal clinic in Ontario which is using a link with a neighbouring community:

> Technically, the requirements are simple. We first started doing this with lawyers and para-legals using their laptops in their offices. When we moved into new office space, we included in the plans two video-conferencing rooms. These have a 55" computer monitor mounted on the wall and a computer under a table. When seated at the table in the room, the images on the screen are at the same level – effectively sitting across the table from us. A webcam is mounted just above the monitor, so that when the clinic caseworker and client are looking at the monitor, they are also facing the webcam. A control on the table allows the direction of the webcam to be moved if necessary. We also have a polycom conference phone on the table as some video conferencing solutions use telephone audio. A softbox light in the room boosts the lighting, showing the client and caseworker more favourably than overhead fluorescent lighting. Finally, an 'on air' light outside the room warns others that it is in use, so the door should not be opened.

Two English projects, funded by the Legal Education Foundation, have undertaken similar projects: one in Brighton and the other linking the Legal Advice Centre (University House) in London with an advice centre in Cornwall in the far west of the country. Many jurisdictions, and certainly the US, have used video in this way.

Kate Fazio from JusticeConnect in Australia shows how this approach to using pretty standard business practices might be taken further to reach commercial standards:

> Technology is exciting when it comes to access to justice, however, a lot of basic stuff is not being done well in the legal assistance sector (and the legal sector more broadly). Search engine optimisation is a good example. Not-for-profit and government agencies are not coming up in google search results when common search queries are made … The sector needs to focus on getting some basic things right – their websites and data management systems, and then move into really innovative spaces. Once the sector has a stronger digital foundation, there are really exciting collaborative possibilities.

Current Two: net-based, assisted DIY services

De-regulation of the legal profession (led by England and Wales) looked likely to encourage providers like Co-operative Legal Services (CLS) to link web-led firms with DIY unbundled legal services in cheap fixed fee packages in areas like divorce. CLS was originally established in 2006 and then expanded in 2012 to offer family law services as an 'alternative business structure' (a legal firm owned by a non professional third party) to considerable fanfare and was seen by the legal profession as a potential major disrupter. CLS, however, failed to thrive in the context of a general

decline of the fortunes of the Co-op and perhaps internal management failings. It is now very much the rump of its former ambitious and deeply tied to the Co-op's existing funeral business.

Around the time that CLS took off, there was great excitement on both sides of the Atlantic with the possibilities of platforms of various kinds that would open up an online marketplace for legal services to a wider range of providers. A number of these emerged in the US and fought battles with the legal professional bodies to establish themselves in the thick of practice restriction legislation. Right in the thick of this was Avvo, founded by Mark Britton. This was taken over by a bigger group, Internet Brands, and Britton left in 2018. The firm now seems to have lost its radical edge and has settled for being an online referral provision for lawyers. Avvo never had a UK operation but two other US pioneers did. RocketLawyer can provide a series of legal documents and help with online company registration. LegalZoom acquired a UK law firm, Beaumont Legal in Wakefield, and sought to build an online business largely around its conveyancing practice, wills and small business services. A number of surveys eg in 2015 MarketWatch, have raised questions as to the suitability of online provision for assembly documents in non-standard situations. This claimed that LegalZoom had a market share of 6 per cent in the US and that revenues had doubled by 2006. Overall, however, these online, DIY providers seem, at least in the UK, to have taken a sufficiently small share of the market to exclude themselves from being seen as major market disruptors. Online provision may yet improve but, as yet, it has not revolutionised legal services even in the most liberal of professional markets, England and Wales. It may be that there is some consumer resistance, both merited and not, to dealing with complex legal problems through DIY document assembly.

Indicative of the relative market failure has been the fate of Quality Solicitors. This was founded in 2008 to head off the threat by CLS as an online alliance of law firms and, at its peak, had a base in branches of W H Smith. An ambitious franchising scheme has been abandoned as firms have left the alliance and in January the Law Society Gazette announced (with barely concealed satisfaction):

> The struggles of marketing outfit QualitySolicitors are brought into sharp focus by new accounts that reveal a steep fall in income and job cuts which leave the business with fewer than 10 full-time staff. For the year ended 31 March 2017, accounts filed on 20 December show that Quality Solicitors Organisation Limited generated turnover of £1.34m, down 25.6% on 2016. The company, which once aspired to be the first household-name legal brand, shed more than half of its full-time staff in 2016/17. By March it employed just one sales person (down from seven) and two people in marketing (down from four). Annual salary costs fell during the year from more than £900,000 to around £257,000. Exceptional costs on redundancies totalled £250,000.

To date, probably the most innovative use of the internet for private practice has probably been in relation to the provision of such online platforms to provide freelance help to law firms or to form the basis of a virtual law firm like [Scott Moncrieff](#).

Current Three: the Dutch make their move with the Rechtwijzer

The [Rechtwijzer](#) project, initially funded by the Dutch Legal Aid Board, suggested that there might be internationally marketed products that combined user-focused guided pathways with online assistance in court proceedings - funded by legal aid authorities. A paper from Earl Johnson deals with the Rechtwijzer in detail.

It was the Dutch who led a global approach with a practical product. Staff from what is now known as the Hague Institute for Innovation of Law or [HiiL](#) fanned out across the world to promote the [Rechtwijzer](#), a product that they had designed in collaboration with the Dutch Legal Aid Board and an American developer, Modria (which was eventually subsumed into [Tyler Technologies](#)).

The Rechtwizjer was important for two reasons - it was both a unique product and it was also uniquely promoted. HiiL was always an internationally as well as technologically focused organisation. Indeed, it has now re-orientated towards justice innovation in the legal system, particularly in the developing world. It is run by a charismatic leader, [Sam Muller](#), who comes from an international criminal justice background. As one instance of HiiL's international reach, its Jin Ho Verdonschot addressed the LSC's annual technology conference in 2015. It now runs annual global legal challenges aimed largely at developing countries.

The Rechtwijzer was largely focused on family problems, though it was intended to expand to others. Part of its uniqueness was the way in which it used 'guided pathways'. Instead of static screens of information, users interacted with the programme and received bite-size answers to structured questions. In addition, it allowed online third party mediation and, indeed, structured communication between the parties. So, mediation could take place asynchronously in a considered way - with or without third party assistance - and with the parties aware of the likely results of court intervention.

The Rechtwijzer was designed to increase the number of settlements which could be presented to the court for approval. It was not in itself an ODR (online dispute resolution) platform where the online process itself resolved conflicts: agreements were drafted for submission to a judge in a conventional way for final approval. The hope was that with user payments from private litigators and contributions for legally aided parties it would become financially self sufficient. The Legal Aid Board pulled the plug when they considered that it was running at too much of a loss. The reasons

for its collapse have been contested. One of those involved in the project thought the reason for failure was that 'The Dutch legal aid board and Ministry of Justice did not actively market the platform'. But, there may be other reasons. This was a good product but it faced particular difficulties: there were changes of key personnel; the financial goals were too difficult to meet; not enough time was given; the organisational structure of three organisations trying to work together was unwieldy. Some support for the view that the reasons were contingent rather than structural is given by the fact that the Rechtwijzer has been re-incarnated as a more limited product with easier financial constraints and more a national focus. It may yet arise from the ashes. Keep an eye out for its successor, Justice42.

Internationally, the Rechtwijzer's influence continues. The principles of the guided pathway can still be seen in MyLawBC.com which was originally developed by the Rechtwijzer team for the Legal Services Society of British Columbia. London-based Relate is also about to launch a product originally developed with help from the Rechtwijzer team. A number of advice websites – such as Victoria Legal Aid's Legal Checker – now incorporate interactive elements to narrow down relevant areas of information which are then given in familiar linear fashion - as a form of hybrid guided pathway/conventional information site. The possibilities that it opened up of online resolution are likely to be explored by court-based ODR schemes. The greatest intangible legacy is perhaps the internationalism engendered by the project - it successfully challenged national barriers even if the product never reached its ambitious sales targets.

Current Four: Courts and Tribunals enter the fray

A further potential current of interest in developing technology to provide legal services is the consequence of the drive for online courts. ILAG has recently been assisted by the University of Cambridge's Pro Bono Project to provide a comparative analysis of developments in six jurisdictions.

If legal aid is not to be a major central lead body for government-led technological access to justice reform, there is probably only one other really credible candidate (apart from occasional forays by Ministries of Justice) other than the commercial market or a few foundations with, overall, very marginal funds: the courts. Around the world, governments and judges are being drawn to the possibilities of delivering their services online. Where the focus is on civil small court or tribunal claims, there may be opportunities for increased access to justice.

The leader in this field is the Civil Resolution Tribunal in British Columbia. This was created by legislation in 2012. The really innovative part of this tribunal has been its front end: the 'solution explorer' which it explains as follows:

The Solution Explorer is the first step in the CRT process. We'll give you free legal infor-mation and self-help tools. If necessary, you can apply to the CRT for dispute resolution right from the Solution Explorer.

The explorer leads you to refine your issue and to ways of resolving it short of court action before you may an online application. The CRT has not been independently evaluated but <u>by July 2018</u> 23,971 people had used its small claims solution explorer and 40,865 for 'strata dispute', a type of housing dispute.

The CRT has been influential around the world. Lord Briggs, asked to write <u>a report</u> to commence the digital court programme in England and Wales, visited British Columbia to see it. He placed high importance on the replication of something similar in the small claims court that he was rec-ommending for his jurisdiction:

> success will be critically dependent upon the painstakingly careful design, development and testing of the stage 1 triage process. Without it, it will offer no real benefits to court users without lawyers on a full retainer, beyond those inadequately provided by current practice and procedure. Pioneering work in British Columbia suggests that it will be a real challenge to achieve that objective by April 2020, but one which is well worth the effort, and the signif-icant funding budgeted for the purpose.

The first tier of the process was also explained in the <u>report</u> of a committee chaired by Professor Richard Susskind that preceded the Briggs Reports (para 6.2):

> The function of Tier One of HMOC [the Online Court] will be to help users with grievances to evaluate their problems, that is, to categorize their difficulties, and understand both their entitlements and the options available to them.This will be a form of information and diag-nostic service and will be available at no cost to court users. This part of HMOC will be shared with or will work alongside the many other valuable online legal services that are currently available to help users with their legal problems. For example, systems developed by charitable bodies or provided by law firms on a pro bono basis will either sit within HMOC or be linked to the service.The broad idea of online evaluation is that the first port of call for users should be a suite of online systems that guide users who think they may have a problem. It is expected that being better informed will frequently help users to avoid hav-ing legal problems in the first place or help them to resolve difficulties or complaints before they develop into substantial legal problems.

The court modernisation programme in England and Wales has proceeded apace, funded largely and controversially by the sale of existing physical courts. Much has amounted to an improvement, particularly for professional users of the court - the judiciary and lawyers. However, in the rush for

rapid implementation, the Briggs/Susskind initial stage has largely been forgotten. A respected mediator reported his profoundly underwhelming experience of using the beta version of the small claims online procedure. There were no guided pathways; no built in assistance for users (who increasingly will be acting with help from legal aid); and the system effectively leaves it all to potential litigants to make their own claim; there are no checks or structure to assist them:

> Apart from a series of questions designed to identify the basic information about the parties you are given a blank box in which to explain the case. … I was left with the impression that I could have answered with information that my case was totally devoid of merit with just a series of rambling random sentences and the case would have issued on payment. This is not how an online justice system should operate.

The limitation of domestic English thinking is particularly concerning because a wave of jurisdictions are now poised to implement online small claims courts - from Utah and Ohio in the United States to Victoria in Australia. In this process, different weights are put on the objectives of saving money and increasing access to justice. That will, no doubt, be a major tension and source of debate for some time. Irrespective of that, however, putting court and tribunal processes online potentially revolutionises the work of the agencies that interact with them. Tribunals in England and Wales are hoping to move to a system of Continuous Online Resolution where a court file looks more like a What'sApp discussion. Agencies assisting users - and users themselves - are going to have to be geared up to deal with an appropriate form of representation. But the influence of that is yet really to be seen.

Current Five: The aggregation of disparate gains

Here, we begin with a plan and continue in a less organised way with an aggregation of independent initiatives. The United States Legal Services Corporation, building on an existing technical initiatives programme, developed what it presented a coherent plan for the use of technology among its grantees - those delivering legal services to those on low incomes in individual states - which was agreed at a summit in 2013. It identified a five point strategy as below..

> Technology can and must play a vital role in transforming service delivery so that all poor people in the United States with an essential civil legal need obtain some form of effective assistance. Technology can and must play a vital role in transforming service delivery so that all poor people in the United States with an essential civil legal need obtain some form of effective assistance.
> The strategy for implementing this vision has five main components:

1. Creating in each state a unified "legal portal" which, by an automated triage process, directs persons needing legal assistance to the most appropriate form of assistance and guides self-represented litigants through the entire legal process;
2. Deploying sophisticated document assembly applications to support the creation of legal documents by service providers and by litigants themselves and linking the document creation process to the delivery of legal information and limited scope legal representation;
3. Taking advantage of mobile technologies to reach more persons more effectively;
4. Applying business process/analysis to all access-to-justice activities to make them as efficient as practicable:
5. Developing "expert systems" to assist lawyers and other services providers.

Each of these has developed in its own way both through LSC grants and otherwise. Looking back, this was a remarkably percipient list in which the first two are proving particularly important. The third - adapting to mobile - was really important but is now pretty standard. The business processes, we have dealt with. Expert systems may be to come though can be seen in the adoption of AI.

Portals

The US principles from the 2013 summit provide the beginning of a grid against which we can place developments in different jurisdictions. Many jurisdictions are, for example, concerned to provide some version of an advice 'portal'. These differ in their emphasis but have some or all of the same elements. There is the provision of general information (for some jurisdictions, the distinction between advice and information is important, as in the US, and others, such as the UK, it is not); referral to providers - who, in many jurisdictions, may be predominantly pro bono services (which in an increasingly accepted jargon, may be managed at levels that are often described as cold, warm or hot depending on how much assistance is given to the person being referred); and intake for specific services on clearly demarcated grounds of scope, merit (sometimes) and financial eligibility. The Legal Services Corporation is working on two demonstration projects in Alaska and Hawaii. These have assistance in kind from Microsoft and contributions from the formidable Pew Charitable Trusts.

Meanwhile, Justice Connect in Australia has just developed its similar Gateway project. With help from Google, Justice Connect is developing a suite of linked programmes:

Our online intake tool, already launched, helps people quickly and easily understand whether they are eligible for our services, and make a full application online. Our referral tool will help our sector colleagues understand when we can help, and easily warm-refer

clients deep into our system, reducing referral drop-out. Our pro bono portal will revolution-ise the way we work with our network of 10,000 pro bono lawyers, ensuring we're making the most of their capacity, and matching them with the rights clients.

An important element of a full portal is the provision of information which will potentially allow a user to deal with their own problem or, at the least, to understand it better. England and Wales has two of the best examples of general information websites: that of the citizens advice service and one by an organisation called Law for Life. Historically, these did not have to be so good at referral because legal aid was widely available from lawyers in private practice. That position is now changing and there may well be a move to sites more like that of Illinois Legal Aid Online whose origins are in the pro bono movement and which combines the provision of information, some self help material, referral and intake.

Document Assembly

The LSC's second objective related to self help document assembly. In the US, the LSC has rather shrewdly funded a project called A2J author which is

> a cloud based software tool that delivers greater access to justice for self-represented liti-gants by enabling non-technical authors from the courts, clerk's offices, legal services or-ganizations, and law schools to rapidly build and implement user friendly web-based docu-ment assembly projects.

This allows organisations to use a basic template to draw up a simple guided interview that gener-ally takes a user through half a dozen steps to a courthouse where there objective is achieved - eg to issue proceedings of some kind. A2J Author is supplemented by the work of an NGO, Law Help Interactive, a Pro Bono Net project, which provides assistance both to users and to lawyers. One of its products, a motion to modify child support of spousal maintenance in Minnesota won recogni-tion as the 'best automated form' in 2017 from the Self Represented Litigants Network. That re-flects a move toward the provision of self-assembly documentation.

The UK has followed into the self assembly field with caution. CourtNav, however, is very similar to projects fuelled by A2J author – without the visuals. It is an online tool developed by a specialist Citizens Advice Service office in the Royal Courts of Justice (the central civil courts of England and Wales). The system has now been taken up by the whole Citizens Advice service and can be ac-cessed from local offices. It relies on pro bono lawyers to check the self-assembled documents.

There has also been some exploration in England and Wales of the possibility of interactive self-assisted letters rather than court interventions eg for a disability payment known as PIP where an

app will help the users with a letter of claim and another provider will produce a similarly interactive request for a mandatory reconsideration. A user can be guided to complete a standard letter with information that is relevant to the matter in hand - and given 'just in time' resources to help them understand what is required.

The interactivity enabled by the internet offers a number of ways in which provision may be tailored to an individual user and services leveraged. The guided pathway framework for advice is one example. Another more specific use has been in digitalising 'legal health check ups'. This idea has been around for some time and, before the internet, it consisted of offering people a questionnaire to check on their legal needs. This is an obvious candidate for digitalisation and the newly created ABA Centre for Innovation has announced that

> Currently in development is a free, online legal checkup tool that is being created by a working group led by the ABA Standing Committee on the Delivery of Legal Services. The checkup will consist of an expert system of branching questions and answers that helps members of the public to identify legal issues in specific subject areas and refers them to appropriate resources.

Actually, Canada has already got there in the form of Halton Community Legal Services in Ontario. Since it published an online legal aid checkup in 2014, around 3,000 have been completed leading to over 1000 requests for more legal advice and another 1000 for more information.

Interactivity, AI and chatbots

The LSC identified the importance of expert systems. This takes us into the world of artificial intelligence and its little sister, the Chatbot. Indeed, guided pathways are a move towards the kind of branching logic required by AI and, ultimately, its application must be able to help in the presentation of information and advice.

Chatbots have been the subject of enormous hype. At the centre of their use in an access to justice context has been Joshua Browder, onetime Stanford University student. He has developed a number, most famously grouped under the Do Not Pay name and available as an app. These began with assistance in challenging parking tickets and have now moved into the field of (US) small claims. They do help and the interactivity of the bot is an advance but many of the applications are actually still quite simple, not to say simplistic. They may well assist well informed users with fairly good technical and language skills. Those more disadvantaged are likely to need more of a combination in which the technology supplements rather than replaces individual assistance.

Inevitably, artificial intelligence has attracted attention. For a time, it looked like world leadership might have been seized by an Australian development, Nadia. This was extremely sophisticated, 'a virtual chatbot that can not only portray human emotion, but also read human facial expressions. The aim is to take chatbot service to the next level by humanizing the interaction between man and machine, basically by making them more like us. The chatbot, or Nadia as it (she?) prefers to be called, can 'see' users through webcams and get a better sense of users' emotions … Just like AI, EI can learn through experience. The more Nadia interacts with real people, the better she will get at reading people's emotions. If a user changes his tone or facial expression, Nadia will be able to pick up on that and adjust her answers to better fit the user's emotional state … Nadia, who is voiced by none other than the amazingly talented Cate Blanchett, was developed for the Australian government to improve services for people with disabilities. Nadia helps users access the National Disability Insurance Scheme (NDIS) and find the information they need as well as improving their experience of the system.'

Nadia, alas, was scrapped. She proved too expensive and the technology, IBM Watson, was not powerful enough. She was, however, perhaps a glimpse of the future in answering questions on legal issues. There remains considerable interest in using Natural Language Processing and Machine Learning to help identifying and responding to legal questions. A project between Stanford University and Suffolk Law School has developed a game called Learned Hands to assemble some of the necessary data:

> Learned Hands is a game in which you spot possible legal issues in real people's stories about their problems. You read the stories, and then say whether you see a certain legal issue — family law issues, consumer law issues, criminal law issues, etc. The game is also a research project. Each time you play, you are training a machine learning model to be able to spot people's legal issues. This model will be used to develop access to justice technologies that connect people with public legal help resources. It will help us to make a Rosetta Stone for legal help — linking the legal help guides that courts and legal aid groups offer to the people who are searching for help.

The LSC in the US is involved in a joint project to develop Legal Navigator, described as:

> the first legal aid tool powered by artificial intelligence, is currently being rolled out by LSC, Pro Bono Net, Pew Charitable Trusts, and Avanade to help reduce the justice gap. The project's goal is help people with limited resources and knowledge about civil legal issues navigate through basic legal proceedings … The tool will be piloted in Hawaii and Alaska, with the hope of eventually expanding the service to communities across the country.

In England and Wales, we have been particularly blessed with committees and competitive grant schemes in relation to artificial intelligence. The Judiciary has just appointed an advisory committee chaired by Richard Susskind. The Law Society, the professional body of solicitors allegedly a

little miffed at their members' widespread absence from the judicial body, has set up a public policy commission chaired by its President (onetime head of Coop Legal Services) Christina Blacklaws.

Slightly bizarrely, the Department of Business, Energy and Industrial Strategy has given the Solicitors Regulation Authority £700,000 to further kickstart the growth of AI in the legal profession and examine the implications. The SRA has subcontracted with Nesta (once more understandably known as the National Endowment for Science, Technology and the Arts) actually to do the business. Even more money is coming from a joint Department of Business and Digital, Culture, Media and Sport Next Generation Services Industrial Strategy Challenge Fund. This apparently amounts to £6.4m given to '18 legal artificial intelligence and data analytics projects'. Much has gone to commercial or academic recipients but it also 'included £262,000 for consumer website and forum Legal Beagles and IBM, working together on ways of using AI to "predict best routes for consumers to find solutions to legal issues" and "locate legal knowledge faster, identify new patterns and trends, whilst at the same time helping consumers with their legal issues". In addition, 'a project on affordable legal advice, involving the Royal Courts of Justice, Solicitors Pro Bono Group and Islington Citizens Advice Bureau among others, was awarded £182,000.'

The Nesta challenge is about to be issued:

> The Legal Access Challenge will seek out technology-enabled innovations which directly help individuals and small businesses to understand and resolve their legal problems in more affordable and accessible ways. Applications will open in late May and four finalists will receive initial development grants of £50,000 with an additional £50,000 prize in Spring 2020 for the winner from among the four.

And, in doing this, it has produced the following list of areas in which it sees a role for more technology of a broad nature rather than focusing simply AI:

- **Communication** Using digital interfaces to make access to legal help near instant and easier to comprehend, for example by using everyday language

- **Self-diagnosis** Supporting evaluation of problems by identifying whether problems have a legal recourse and helping customers to understand their rights and the options available to resolve the problem

- **Triage** Guiding people to sources of support within the legal system, such as automated tools, local advice providers, solicitors and the court system

- **Self-help or guidance** Helping to navigate the chosen process and facilitating the preparation of evidence and legal documentation

- **Empowerment** Users may be able to choose which elements of their legal journey can be self-managed and which need to be addressed by a legal professional

- **Affordability** Reducing legal labour time through automation and supporting increasing access to justice by reducing the financial barriers involved

- **Transparency** Helping to demystify the legal process and improve the flow of information, for example by staying up to date with the progress of a case

- **Efficiency** Reducing transaction and response time, supporting addressing legal problems at the earliest opportunity and preventing unnecessary costs and/or detrimental impact on people's wellbeing.

To these, you should probably add '**Resolution**' - to pick up the legacy of projects like the Rechtwijzer or general sites that encourage mediated settlement like **https://www.resolver.co.uk.**

Serendipity

There is a high degree of serendipity in current exploration of technology. It is important to keep open the potential for totally new products and services. This is a new field and new opportunities are opening up for innovators in all sorts of enterprising and unexpected ways - of which these are three examples. rightsnet in the UK provides an internet platform on which rights workers can build up a community; be updated on new cases and legislation; and mutually assist each other to answer questions. In the US, Project Callisto is developing totally innovative ways using technology to combat sexual harassment on university campuses by facilitating the reporting of sexual harassment in away which allows the automatic matching of records if users report the same perpetrator. Similar, but slightly different use of the confidential recording possibilities of the internet is made by Justfix.nyc which facilitates the recording of housing disrepair in New York City. This has plans to expand into other cities both in the US and elsewhere. And, finally, the crowd funding movement is a good example of an initiative which is, in practice but not theory, dependent on the internet. Technology is just a tool that brings potential funders together with opportunities. But, crowdfunding is beginning to have an impact. British-based crowdjustice.com has funded challenges to Brexit in the UK and Stormy Daniels in her US litigation against President Trump. Finally, AI itself can have unexpected uses. One UK family law practitioner uses his subscription to IBM Watson to predict costs on cases so that he can better meet the challenge of fixed fees.

The Digital Divide

The question of the digital divide still hangs over the use of technology in the provision of access to justice. Where technology is used on a voluntary basis to supplement face to face to provision – such as by the Citizens Advice Service in England and Wales – that is not really a problem. A non-digital route remains. To the extent that systems go 'digital by default', as is the (English and

Welsh) Government's mantra, this raises difficulties. These can be seen in the field of Universal Credit where the intention is to move the whole system to a digital basis. The *Observer* newspaper reported that 'According to data released under the Freedom of Information Act, which analysed applications for universal credit over one month, a fifth were turned down because of "non-compliance with the process"'. We will see in due course how this compares with figures for digital courts and digital exclusion has to be born in mind even by the great enthusiasts for digital expansion. We need more evidence about this crucial factor.

It is too early to accept fixed limitations on the reach of digital in a legal setting but we need more research and experience of whatever the limitations actually are which are imposed by lack of the appropriate technical, cultural, linguistic, social and cognitive skills. There will be a percentage of every population in every country which will not be able to take advantage of digital means of communication and, for them, there need to be alternatives. It may well be that we should accept that, say, 20 per cent of the population will be unable to use digital means of communication effectively. That is sizeable enough to require addressing and retaining face to face channels of communication. But it still leaves a majority of the target population that can be served by technology.

Top ten lessons for legal aid administrators

This paper has sought to put developments within some form of understandable context that will facilitate discussion. The next stage is to look forward and seek to draw out some lessons for legal aid administrators attending the ILAG conference. Readers may disagree but these are my top ten for discussion, all of which seem generally applicable but some of which may be more relevant in some jurisdictions rather than others.

1. Technology provides no one magic bullet. Look for a range of incremental improvements.
2. Technology can supplement, but not substitute for, people. See it as a way of getting more bang for your buck not make savings.
3. Digital exclusion, privacy concerns and public scepticism about ODR and online legal services are real. You have to accommodate them.
4. Jurisdictions benefit from a lead body on A2j and technology.
5. Avoid over-seduction by AI.
6. Technology is International. Embrace that. Evaluate your efforts globally - national comparison is rarely going to be a sufficient. Find a mechanism for sharing developments.
7. Don't make gestures with non strategic wads of cash - particularly not as some sort of palliative for cutting mainline services.
8. Develop the interactive.
9. Get the basics of providers' office management and business performance working.

10. Foster an entrepreneurial culture.