LIQUIFY LEGAL

Transforming the Legal Department in 7 Steps

The Liquid Legal Institute e.V. Transformation Method

First edition developed by

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liquid
legal
institute

EDITIONS WEBLAW

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1. PREFACE BY THE EDITORS

Well-known legal works (method books and textbooks) best augment their academic weight by placing a Latin quote at the beginning. This draws attention and gives the author a certain gravitas – alas:

Temporas mutantur et nos mutamur in illis

And never has the phrase been so apt - times are changing rapidly and we need to adapt to be able to keep up with that change. We must change ourselves! The image that best describes this constant process of change in nature is water, which always finds its way. It flows and cannot be stopped (without further effort) ... "Panta rhei," we hear the Greek philosopher Heraclitus exclaim! And thus, we have also ticked off the Greek quotation.

In fact, the metaphor of *Liquid Legal* for our first book title was a quite deliberate choice. In our preface, we write, "[...] we all agree that Liquid Legal is not just a book title, but rather a new term for the *future of law*, encompassing topics such as digitization, transformation and much more. Liquid Legal will be considered the one source of aggregated knowledge and information that people around the world will think about and seek out. Liquid Legal will highlight trends to provide guidance for companies, industries, for millions of people regarding the *future of law*. Liquid Legal will be a pioneer of change."

The years have passed, but the mission of wanting to be a source and inspiration for change and for the future of law has lost none of its relevance. At the Liquid Legal Institute e.V., we work with many 'forward thinkers' on a daily basis to realize this vision. With LIQUIFY LEGAL, we now present a new companion for transformation. The book may help and stimulate you, dear reader, who wants to (or has to) go along with the change. This book wants to guide, explain, and broaden the view, but at the same time it also wants to provide practical benefits, because it originated from practice and has been created for practice. It is divided into 7 consecutive steps on the path of transformation, and it contains useful handouts and exercises that will allow you to (co-)create your own personal transformation instead of being transformed. It will enable you to adapt to the changing world – today, tomorrow and for a better *future of law*.

The book came about in the same way as projects at our institute: someone has an idea and gathers a small team. Composed of as diverse a group as possible (in this

case: experts in lifelong learning, agile methods, digitization and digital leadership), the team gets to work. The team works *agile*, i.e., the big picture is created first (*Epic*) and the *Features* required for its implementation are considered. One of the *Features* is now at your disposal: this method book – other *Features* are the hybrid LIQUIFY LEGAL seminar, the corresponding LIQUIFY LEGAL webpage and a constantly growing LIQUIFY LEGAL *Community*, which ensure continuous improvement and further development. Because this is also important to say up front: the LIQUIFY LEGAL method itself does not stand still, it evolves as the Institute evolves, as the members evolve and as our legal industry evolves. Therefore, we look forward to continuing to learn from our exchange with you, dear reader.

The main difference between LIQUIFY LEGAL and the work for the Institute is probably that the projects at the Institute are organized during members' leisure time – everyone contributes to the extent his/her situation allows. LIQUIFY LEGAL, on the other hand, is made for the work environment. Can we transfer the principles of voluntary projects to this work environment?

We think yes! But that can change at any time. Just as we switched to agile working last year because of the Covid pandemic, we may soon invent yet different ways of working. We will also test these in our Institute with our members and, if necessary, update the LIQUIFY LEGAL method. Everything is in flux.

That is why we have decided to publish this book ourselves, because we want to react quickly to changes (time to market) to be a reliable partner for you in the transformation.

If you like the LIQUIFY LEGAL method – then you will also like our Institute. Become part of the Liquid Legal movement and shape the future of law! Apply here: Become a Member - Liquid Legal Institute e.V. (liquid-legal-institute.com)

2. INTRODUCTION: THE HISTORY OF THE LIQUID LEGAL INSTITUTE

In the beginning, there is friendship and along with it, the realization that you can achieve so much more together than alone. The challenges at work we all face as a professional group have reached a dynamic and magnitude that individuals can no longer control. However, instead of going into battle by ourselves, as lone warriors, we have joined forces and exchanged ideas.

We deliberately use the word *friendship* - because it requires courage to open up and admit that this is all a bit overwhelming, that you don't quite know where to go, that you might even be afraid of where the journey will take you and whether there is room for you in the new world!

We noticed that many of our colleagues had two narratives at hand: the official knowledge of the future and how to meet it, confidently delivered on the big conference stages, and the unofficial word of frustration, doubt, despondency and sometimes anger, exchanged in private.

First insight: "We need to create an environment where people feel comfortable and open up."

We have also seen time and again that although the right topics were discussed in the already existing associations, *think tanks* and *roundtables*, at the end of the day all these discussions were not capable of changing even one tiny thing in the real daily working life.

Hence, our second insight is: "Doing is like wanting – only crazier!" – We want to produce tangible results that immediately make life easier for all of us – instead of just talking about it!

As a result, Roger Strathausen, Dierk Schindler and Kai Jacob wrote a *Call for Papers* and invited colleagues from the legal industry to contribute to a compendium on the state of transformation in the legal market. The title of the book *"Liquid Legal – Transforming Legal into a business savvy, information-enabled and performance driven Industry"* was admittedly a bit bulky, but it also offered a broad source of insight, provided by over 30 authors with a wide variety of perspectives!

The title initially gave our publisher a headache: "Liquid Legal" as a search term on Google led to strange hits at the time, sometimes on the verge of legality. But we did not let that change our minds, because the image "Liquid Legal" perfectly describes what we want for the legal market: a change of aggregate state from solid (rigid) to liquid (moving). The fluidity also represents the adaptability we need to acquire as a profession: we need to evolve our DNA so that we can react and respond flexibly to new circumstances.

With more than 5,000 participants, we launched a very successful *MOOC (Massive Open Online Course)* in which we shared the key points and diverse perspectives of the first book's 40 authors. After a promising book promotion tour in summer 2017, we hosted the first Liquid Legal conference with our partner Convent (from ZEIT Group) in that winter.

We knew that our "Liquid Legal Conference" would draw crowds if we broke new ground, tried out new things and experimented. Instead of the usual 45-minute frontal presentations, we formed topic groups: everyone could outline his or her topic for 20 minutes (today we would say: they were pitching) – and afterwards, we discussed it with the audience on an open stage. It went well! The final part was a demo – we presented the vision of a *Common Legal Platform (CLP)*.

The CLP – the holy grail of the LegalTech movement! The place where the commoditization of law will be realized. A place of virtual collaboration, exchange, a marketplace for legal service providers, a knowledge base, an access point to LegalTech and a network for lawyers. The sky is the limit!

After this conference was over, a loud "Keep going!" resounded. Positive feedback came in from all sides and people asked how they could get involved! The answer was a typical German one: we gathered 7 collaborators and founded the Liquid Legal Institute e.V. in Munich – an association according to German law.

Jens Wagner, our Supervisory Board Chairman, drew up the incorporation documents and sent us to the notary and it could have been done very quickly if the Registration Court in Munich had not seen things differently and submitted our case to the Munich Bar Association for review. They were concerned whether legal services were being provided here in a non-statutory manner. After a change in the articles of association and the inclusion of a half-sentence that explicitly excludes this, we were finally able to get started in the fall of 2018. In addition to the 3 editors, Astrid Kohlmeier (legal designer), Bernhard Waltl (legal IT specialist), Jens Wagner (legal counsel) and Thomas Wegerich (legal publisher) were involved from the very beginning.

Every year in November – until Covid 19 spoiled our fun – the founders met for a retreat in Seville (where our Vice Chairman of the Board, Roger Strathausen used to live; now he resides in Málaga) to further develop the Institute's strategy, to set ourselves specific goals for the year and to discuss key issues the members and the network raised.

One result of these strategy meetings was to change the statutes one more time to ensure a good balance between all participants in the legal market. It is important to us that we reflect the diversity of our industry as evenly as possible and are not dominated by Big Law, Big Four, Big Corporates or Big Tech. It is a matter close to our hearts to provide a platform for all those involved in law, as well as those affected by law and to ensure that their interests are represented. As part of this change, we created the Supervisory Board under the leadership of Jens Wagner, including representatives from the LegalTech community with Zoe Andreae, from US Legal Innovation with Lucy Bassli, from Legal Design with Astrid Kohlmeier and German Law Publisher Thomas Wegerich.

Another result of these highly creative meetings in Spain is the revision of our homepage: with our partner Polaris and together with our members we have created a *Liquid Experience* that reflects the spirit of the Institute in an outstanding way and builds an identity for our association towards the outside world!

At the same time, a small team surrounding the Executive Board focused on creating our "clubhouse", the place to meet, share, collaborate and be friends. After some back and forth, our member Jason Padman (Polderon) helped us with the breakthrough and worked with us to design the MS Teams environment where all communication, project work and knowledge transfer takes place.

And while we were digitizing processes, designing web pages and setting up working groups, Roger Strathausen was already working on the *Call for Papers* for the second *book "Liquid Legal – Towards a Common Legal Platform"*. And once again, 30 authors honored us with their ideas and visions for a legal future involving a potential CLP. More than 600 pages set the pace for the next big chapter of legal transformation.

An institute like ours thrives with its members and the active volunteer work of many great people, such as Baltasar Cevc, our auditor and probably our most dedicated fellow campaigner for the transformation. He coined the expression that we are a *"Do-ocracy"*. Not just wanting – doing!

In the background, three friends act as the Executive Board of the LLI who call themselves Co-CEOs: Kai Jacob, Dierk Schindler and Bernhard Waltl. For one year now, supported by a small team of working students (Patrick, Evgeny and Antonia), they have been working agile, i.e., in sprints of 2 weeks with dailies, retros and everything else that goes with it – still following the motto: break new ground! Never stand still, always stay liquid and adapt!

As executive board, as supervisory board and as a community, we feel we are in a good place to master the challenges of the future. Because there are many of us, because we focus on people and because we stand together in friendship!

With LIQUIFY LEGAL, our transformation method, we want to convey this spirit to you and show that transformation is, above all, one thing: a lot of fun!
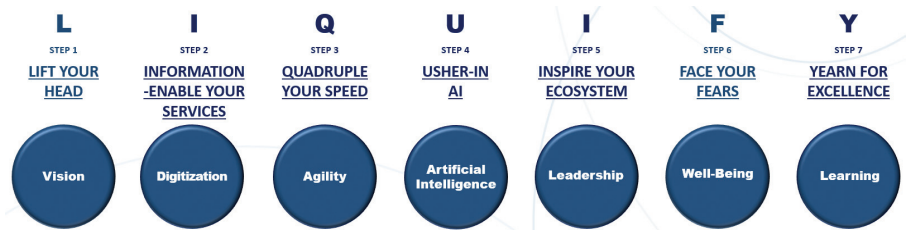
Liquid!

Kai, Bernhard, Dierk and Roger

3. LIQUIFY LEGAL – THE LLI TRANSFORMATION METHOD

In physics, "liquefaction" describes the aggregate state change of a matter: from a solid state (with no or little movement of its elements) to a liquid state (with rapid movement of its elements).

The LIQUIFY LEGAL transformation method was developed for internal legal departments, law firms and, more generally, for lawyers seeking to innovate their way of working and to achieve more with less effort. Based on scientific findings and practical experience, as well as the knowledge of our LLI members and the results from our LLI projects, LIQUIFY LEGAL represents the latest state of our knowledge about the transformation of the legal market.

L	**I**	**Q**	**U**	**I**	**F**	**Y**
STEP 1	STEP 2	STEP 3	STEP 4	STEP 5	STEP 6	STEP 7
LIFT YOUR HEAD	INFORMATION -ENABLE YOUR SERVICES	QUADRUPLE YOUR SPEED	USHER-IN AI	INSPIRE YOUR ECOSYSTEM	FACE YOUR FEARS	YEARN FOR EXCELLENCE
Vision	Digitization	Agility	Artificial Intelligence	Leadership	Well-Being	Learning

(Figure 1: the LIQUIFY LEGAL Method)

This LIQUIFY LEGAL book is intended as an introduction to the method and as preparation for our *LIQUIFY LEGAL Blended Learning and Certification Program*, which consists of 7 modules over the course of 4 weeks and includes a 2-hour online course with the respective module trainer each Monday and Friday, for a total of 16 hours of live instruction.

The *LIQUIFY LEGAL Blended Learning and Certification Program* combines synchronous and asynchronous training elements to create a holistic hands-on learning experience. For each of the 7 program modules, participants read materials in advance to prepare for the live online sessions with the instructor and then learn on their own and in small groups in our *LLI Virtual Learning Center* (based on MS Teams). The instructor introduces each module with a 30-minute presentation followed by a discussion. Participants are then given a case study and a work assign-

ment to complete before the next live session. Each learning group presents their results that will be discussed in plenary before the next module begins.

At the end of the LIQUIFY LEGAL program, participants understand the LIQUIFY LEGAL methodology, can apply LIQUIFY LEGAL principles in law firms and legal departments and have the LIQUIFY LEGAL mindset to transform their work environment. In addition, they have learned a lot, developed concrete ideas and found a network where the exchange can continue after the end of the program.

Our program philosophy: learner-centered, interactive, practice-relevant

The *LIQUIFY LEGAL Blended Learning Program* is didactically designed to be learner-centered rather than instructor-centered. It focuses on the interests and needs of learners and combines synchronous and asynchronous instructional elements to create a productive and engaging learning environment. Specifically, we do not want to put "experts" on a pedestal and condemn learners to be passive consumers of their supposed wisdom. The reading material for each module is available in the *LLI Virtual Learning Center* and ensures that participants have a common knowledge base before the live online session begins. The half-hour instructor presentation at the beginning of the inline session deepens this knowledge and provides an opportunity for discussion.

The *LIQUIFY LEGAL Blended Learning Program* is interactive. Our instructors are primarily pedagogically trained facilitators who enable and encourage active learner participation and sharing. Pedagogy teaches us that the more learners are engaged in the learning process and the more actively they create their own outcomes, the more they will not only retain what they have learned, but they will also be able to apply newly acquired knowledge and skills to their professional practice. After each online session, learners can use the *LLI Virtual Learning Center* to find additional learning materials, meet with their respective learning group and chat or video conference with specific fellow learners. All program-related materials can be found in the Learning Center and learners can post their own work results as well as study the results of other groups. Each day between online sessions, the instructor is available for an hour to answer questions, comment on work results and guide learners.

The *LIQUIFY LEGAL Blended Learning Program* is hands-on. Our LLI instructors are well-known and experienced academics and/or practitioners in their respective fields. The case studies presented in each of the 7 modules outline concrete and realistic business challenges and to solve the task learners receive

at the end of each online session, they need to apply what they have learned, and they need to work together in groups and practice skills that are critical in any profession: the abilities to listen, argue and persuade others, to agree on compromises and to present joint work results. Thus, the program not only allows participants to acquire knowledge and practice skills, but also teaches them a value that is increasingly critical to success in today's legal industry: *the value of collaboration!*

Your benefits: Actionable insights, networking, extensive documentation.

By the end of the program, you will have gained plenty of actionable insights that are key to transforming the legal department or law firm where you work.

In addition, you will have met, collaborated with and learned from other lawyers who are in a similar situation as you. Note that all of the topics in the program are about strategic and operational aspects of legal service delivery, not about the interpretation of substantive law or the delivery of legal services itself. In no way or form does your networking with learners from other or even competing firms compromise any professional codes of conduct. On the contrary, there is widespread agreement in the legal community that more collaboration on business issues is necessary to move the industry forward, for example, by agreeing on technical and procedural standards (see LLI's Common Legal Platform initiative).

The comprehensive documentation that each participant receives at the end of the program, along with the certificate of attendance, includes the reading materials, the instructor's presentation (pptx and docx), the case studies, the work assignments and group work results and the recorded online sessions (if agreed upon by all participants). You can refer to this documentation at all times to refresh your learning experience. It can also serve as a reference and toolkit to drive innovation in your workplace. LLI members can use the *LLI Virtual Learning Center* to continue collaboration after the program ends.

NEW: The exclusive LLI knowledge base

As an additional support for you, we are concurrently working on a knowledge database where we regularly collect recurring information and make it available to our learners. By ticking which of the data is relevant to you and your work and by adding any missing records, we create a reference point together and at the same time a benchmark we can all benefit from.
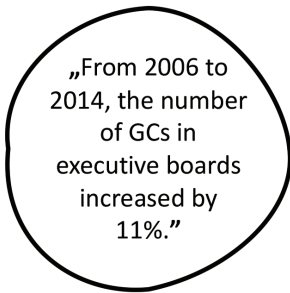
Here's an example:

Example:

In the course of the second module (**"Information-Enable Your Services"**), we ask you to create a list of all contract types that are relevant for you or for your current work environment. Instead of creating such a list yourself (by entering "non-disclosure agreement", "license agreement", "contract for work", etc.) we will provide you with a list of all contract types we know and ask you to simply check off the ones relevant for you and to add missing ones. As a result, you will not only have made an inventory of your contract types (which you need for your digitization strategy), but we as LLI will also have collected important reference points regarding who uses which contract types.
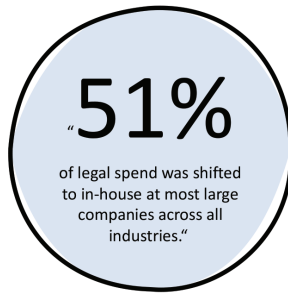
3.1 "LIFT YOUR HEAD" – VISION
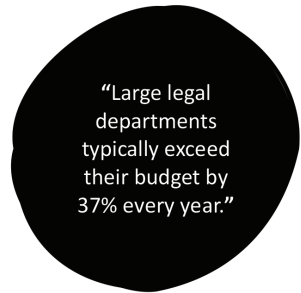

(Figure 2: "Lift Your Head")

- **"LIQUIFY LEGAL" as a transformation method describes a vision for the future of in-house legal departments and law firms.**

- **This vision consists of a "liquefaction" of rigid organizations, structures and processes primarily through the use of digital technologies, resulting in better, more "liquid" and agile collaboration with colleagues as well as internal and external clients.**

- **In order to be able to implement "LIQUIFY LEGAL" as a generic overall vision in a particular company, several smaller visions are needed, which can only come from within the company itself and from the employees concerned.**

- **With the LIQUIFY LEGAL method, we only provide a framework and not a detailed implementation plan. Instead, we presuppose the creative and constructive cooperation of the project participants in transformation projects.**

- **To motivate employees, we propagate a "liquid" and agile corporate culture characterized by information accessibility, by cross-departmental and cross-hierarchical communication and by transparent rules.**

"From 2006 to 2014, the number of GCs in executive boards increased by 11%."

51%

"of legal spend was shifted to in-house at most large companies across all industries."

"Large legal departments typically exceed their budget by 37% every year."

Thomson Reuters, "The impact of general counsels on corporate boards" (2017)

Exterro, "2017 In-House Legal Benchmarking Report"

Law.com, "10 Ways that Outside Counsel Disguise Overbilling" (2019)

(Figure 3: Facts on VISION)

It may seem strange to begin a book on the transformation of legal departments and law firms with the invitation to "lift your head!" After all, we are upright walking creatures, and it is our normal posture to hold our heads high and look forward.

So why did we choose to sound like a yoga teacher?

For two reasons: First, because to *lift your head* in English not only has a literal meaning, but also a metaphorical one. It expresses self-confidence, and self-confidence is something we feel many legal departments have too little of when it comes to the business side of their work.

The second reason why we have our method begin with the prompt to *lift your head* is to remind you that even the literal meaning of these words, upright posture and looking forward, is not natural, but the result of a long evolutionary process. Over hundreds of millions of years, we humans as a species have learned that it is advantageous to walk upright and to look forward.

Why? Because when we lift our heads, we can see farther, and the ability to see what is happening in the distance was essential to our ancestors' survival in finding food and avoiding danger. And again, we want to use this statement of "far-seeing" in a metaphorical sense, referring not only to seeing farther in space, but also to seeing farther in time, that is, to anticipate the future and to develop strategies to achieve our goals.

Lifting our heads is easier said than done. It often happens to us that we get lost in mundane activities, that the sheer amount of work forces us to bury our heads deep in various issues. As a result, we lose track of what is going on around us, and we

may even lose sight of why we are doing all this work in the first place and what we really want to accomplish in the long run.
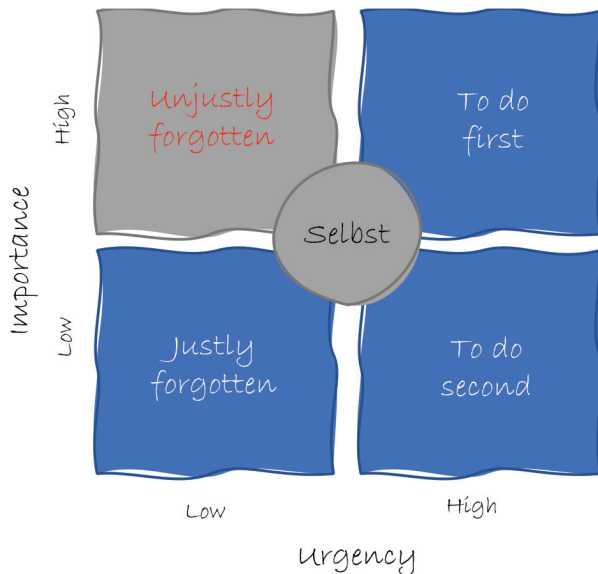

(Figure 4: Importance Versus Urgency)

You probably know this simple 2 x 2 matrix, which is helpful to understand why we often feel stressed and believe that we do not have enough time to do everything that is important, i.e., what others and we ourselves expect from us. This is because we tend to confuse urgency with importance. Instead of delegating tasks that are urgent but not important, we do them ourselves, often because they are in our comfort zone and require little effort. Meanwhile, we forget to schedule and perform tasks that are important but not urgent. So, we end up doing more and more of the same, but with less and less time and under increased pressure.

To envision the future may not be an urgent task – but it is certainly an important one! Our visions provide us with meaning and purpose, they motivate us to keep going and they tell us where, in what direction, we need to go. And if you are a leader, if you manage a project, a team, or even an entire company, others depend on your ability to inspire them, to communicate a vision and to back it up with a strategy that makes the vision achievable.

Of course, it is difficult to convince others of your vision for the future. This is simply because even within the same company and in the same location, we work with different people, individuals who have personal characteristics and unique stories. And these personal characteristics and individual stories mean that each of us has a particular view of things and may interpret reality a little differently than others.

Let us take visual perception as an example.[1] The images we see with our eyes are not the imprint of some objective truth that we passively receive; rather, our visual impressions are an active construction of our minds. Our sensory organs are physically stimulated, e.g., by light rays hitting the retina of our eyes, and these physical stimuli produce signals in the nervous system which will be interpreted by the brain and constructed as an image.
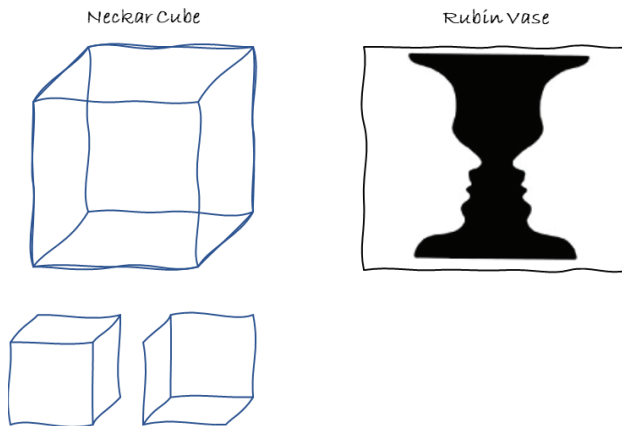
(Figure 5: Neckar Cube and Rubin Vase; source: Google)

Looking at the Neckar cube, we realize that this figure cannot really exist as it is drawn. It is ambiguous: we can either perceive *a quadrant in the lower left corner with imaginary lines* or *a quadrant in the upper right corner with imaginary lines*. Our mind interprets the impossible picture in a consistent way, and we use experiences, templates, paradigms to make sense of the picture. And because each of us has different experiences, different personal, social and cultural backgrounds, we can perceive the same image in different ways.

The same is true for the Rubin vase. Some see a vase; others see two facial profiles looking at each other.

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[1] This and the following text section were first published in English in "Leading When You're Not the Boss", Roger Strathausen, New York 2015.

What does this mean? Is each of us doomed to live alone in our own personal world, isolated from everyone else around us? Some philosophers and psychologists may believe this, but most of us think that an objective reality exists that is independent of our own thoughts and feelings. And why? Because that is what real life presents us with every day. We all need to breathe, eat and drink to survive, we all fall to the ground when we lose our balance, and we all (most of us anyway) cross the street when the light turns green. And we work together as teams in business contexts, so we operate within a common framework and pursue a common, overarching goal. The prerequisite for this cooperation is that we have a common perception of business reality.

And yet, "the one reality" exists only within the physical macro-world. Quantum mechanics taught us more than a century ago that at the micro level, when we look very carefully and VERY CLOSELY at things, for example atoms, reality begins to blur. Experiments prove that just by looking at particles, the scientist affects the way those particles behave.

In other words, there is no absolute observer (except God, of course). The position an observer occupies enables him to see things, but that position itself escapes his gaze. We can only see something because we are blind to something else. For our purpose here, we must keep in mind that there is no place outside the system of which we are a part. We can try to look at ourselves (our team, our company) from the outside, but that view is always subjective.

So let us take a concrete example that falls into our theme of legal transformation. Let us say you run a legal department, and every year you go over budget, and every year your boss tells you s/he is unhappy about it and that you should plan better.

In this situation, you may find it very difficult to resist the urge to point out all the reasons why it is impossible to plan better: First, because your boss him/herself is constantly changing his/her plans and asking you to do new things. Second, because government regulations are constantly increasing and changing. And third, because your internal customers often do not do what you tell them to do, which creates additional and unpredictable risks. And finally, there is *"the big unknown"*, the "classic" in the discussion about legal department budgets: litigation, i.e., having to defend yourself against legal attacks from outside.

For all these aspects, you are on the receiving end of things that are out of your control, and there seems to be nothing you can do about it. So, it is not your fault that you exceed your budget every year – it is everyone else's fault! They are responsible for overspending, not you.

Now, blaming others or circumstances like this is an understandable reaction when you are being criticized, but it is still one you should avoid. Because no matter what the specific situation is: *You are part of the system, so you are also part of the problem.* On the other hand: *Because you are part of the problem, you can also be part of the solution!* Later and in another LIQUIFY LEGAL module, we will deal with possible solutions for the specific problem related to budget planning.

For now, it should suffice to say: *There will be no transformation of the legal industry unless you are willing to change yourself (your team, your department, your company) as well,* and acknowledge that you control all the levers necessary to do so.

Holistic thinking requires that we look at the role we ourselves play in a dynamic system characterized by movement. Remember that motion is the defining characteristic of *liquid* versus *solid* objects. The whole point of LIQUIFY LEGAL as a transformation methodology is to make the legal department more dynamic, to increase team and stakeholder interaction, and to get you to focus on actions and change rather than static objects.

The difference between *thinking in terms of movements and lines* and *thinking in terms of objects and points* can be illustrated by looking at networks.[2] In its simplest form, we can describe a network as a structure of lines and points, as shown in this simple diagram. We see the three lines a, b and c and the three points A, B and C.
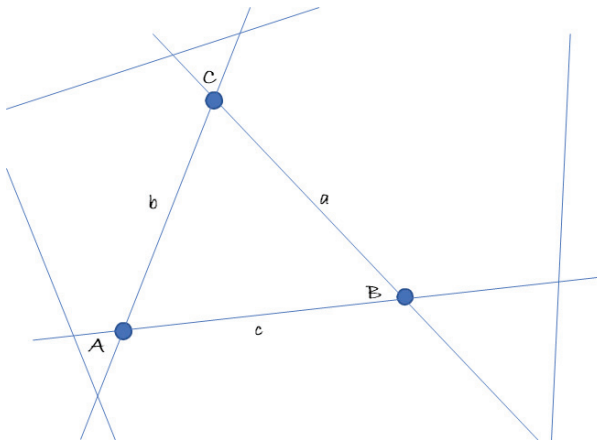
(Figure 6: Network of Dots and Lines)

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2   The following comments on 'networks' and 'culture' are a German translation from my 2015 book in English, "Leading When You're Not the Boss" (Apress, New York).

To understand this network, we now have two possibilities: We can either define the points as primary and understand the lines as secondary, as the connection between the points. Or we can define the lines as primary and understand the points as secondary, as the places where the lines intersect.

These two ways of understanding a network reflect two different scientific traditions. The first, which still dominates thinking today, is called the atomistic view. Philosophically, it goes back to the Greek philosopher Democritus (approx. 460-370 B.C.), who was one of the first to argue that the world is made up of ultimate, indivisible, minute units (atoms), the combinations and connections of which make up larger things. The result of this view is scientific reductionism, the idea that complex things can be decomposed and analyzed at the level of their constituent parts. The best example, of course, is the atom – the stuff all physical things are made of. And in the business world, Taylorism is an example of scientific reductionism. Taylor broke the work process down into small activities that could then be optimized.

The problem with atomism and reductionism is its inability to explain the behavior of dynamic systems and complex networks, systems in which the whole is more than the sum of its parts. In other words, complex systems are characterized by so-called "emergent" properties that arise from the unpredictable interaction of their constituent elements.

A popular example of emergence is the butterfly effect, which was introduced in the 1970s by meteorologist Edward Lorenz in the much-discussed paper, "Predictability": *Does the Flap of a Butterfly's Wings in Brazil Trigger a Tornado in Texas?* Lorenz simply showed that dynamical systems are extremely sensitive to initial conditions and exhibit highly variable behavior over time. He used a combination of differential equations to show that even small motions like the flap of a butterfly's wings can alter nascent wind channels that, through mutual amplification over time, can lead to extreme weather effects that are disproportionate to their cause.

Lorenz's description of the butterfly effect leads us to another, second view of the world, radically different from Democritus's atomistic, mechanical view. Let us call this second view relationism and trace it back to the Greek philosopher Heraclitus (535-475), who asserted, "Everything moves, and nothing remains still." Heraclitus' aphorism was "Panta Rei" – everything flows.

In other words, movements or "vanishing lines" are the primary stuff of the world, and points or nodes are the secondary results of these intersecting lines. This philosophical view requires a shift from the parts to the whole. It is a holistic or systemic view of the world in which the whole has properties that none of its parts possess.

So, we could say that our supposedly new LIQUIFY LEGAL way of thinking is actually more than two and a half thousand years old!

The LLI answer to the question of how legal departments – but also how law firms – should respond to increasing demands and complexity, is therefore to look at your department, or law firm, holistically and foster a LIQUID culture. Culture has been described as the DNA of an organization-norms, expectations and practices that are not officially enforced but are somehow embodied in "the way we do things around here".

In a liquid culture, information is abundant. If people are not informed or cannot inform themselves about what is happening around them, outside of their daily routines, they cannot understand the whole and cannot adopt a systemic (liquid) perspective and way of thinking.

> What is a "*liquid*" culture? – First of all, it is a culture of lines and not of points, a culture of relationships, not of entities, a culture of processes, not of hierarchies.

In a liquid culture, communication is pervasive. Employees need to be able to talk to each other across departmental, geographic and hierarchical boundaries in order to know and understand what others in the organization are doing and why.

In a liquid culture, the rules are transparent. People will not be to work well together if they do not know or understand the rules, and the rules themselves cannot be discussed and adjusted as needed.

We believe that in such a LIQUID culture, visions of a better future emerge on their own, because our experience shows that it literally provides employees with the 'wiggle room' to think in new or novel ways.

The ability to create powerful visions that inspire and motivate others is not a constant trait in people but depends on the context. We think that in principle every employee, and not only executives, managers and high potentials, can become visionaries – If the conditions are right and if a LIQUID culture exists.

For us, a LIQUID culture is one in which people are encouraged and enabled to act as situational leaders and express their ideas – anytime, anywhere.

This concludes the first module of our "LIQUIFY LEGAL" program.

I hope you could realize why to "lift your head" is indeed the first step to solving your problems and changing your work environment. When you look ahead with your head held high, you can see where you currently stand and where you want to go.

Get started and get your hands dirty!

- Be clear about what exactly your business is: Who are your customers? What is the value of your work? How do you measure success?

- Create an inventory of your services: What legal services are provided, by whom, when, how, how often, why and to whom?

- How does your department and your work fit into the overall strategy of the company? What are your manager's expectations for the future?

- Formulate a vision for the future: Where do you want to be in 3 years? What should stay the same, what should be different and why?

- Try to establish a LIQUID culture in the sense described above to motivate employees to develop their own visions for the future.

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3.2 "INFORMATION-ENABLE YOUR SERVICES" – DIGITIZATION

(Figure 7: "Information-Enable Your Services")

- **The dissolution of rigid and fixed structures in legal departments and law firms, i.e., the change of aggregate state from "solid" (little or no movement of organizational elements) to "liquid" (great and rapid movement of organizational elements) can only succeed if as much information as possible is available on all aspects of legal services and if this information can flow freely within the organization.**

- **Digitization is a strategic way to enable such a comprehensive flow of information. By going digital, relevant data is created quasi-automatically.**

- **Digitization means breaking down existing value chains into their constituent parts and standardizing and automating them through software in order to achieve economic scale effects.**

- **By changing the cost-benefit ratio of individual activities, new service offers are created while other services are changed or abandoned.**

„Global spending on digital transformation is expected to increase from $1.2K in 2019 to $2.3K in 2021. ″

„Better service quality and consistency is the no. 2 value driver in legal departments.″

„In-house legal teams preserve new types of data (50% text messages, 24% social media communication and 8% portable devices).″

statista, "Spending on digital transformation technologies and services worldwide from 2017 to 2023"

Allen & Overy, "Legal Innovation Benchmarking Report" (2020)

Exterro, "2017 In-House Legal Benchmarking Report"

(Figure 8: Facts on digitalization)

In Module 1, "Lift Your Head", we created a vision for your legal transformation. In Module 2, "Information-Enable Your Services", we design a digitization strategy to make services information-based.

When we talk about *information enablement* in the context of legal transformation, we mean that legal departments and law firms need to be able to build the knowledge they need to make the right business decisions.

Note that information does not necessarily have to be obtained in a digital format or via digital media. Digitization, the conversion of information into a computer-readable format, i.e., into bits, is only the latest form of *information enablement*. The history of information enablement is also a history of the media used to store and transmit information – e.g., handwritten and later typewritten letters, emails, records, telephones, audio and video cassettes, radio and television, computer disks…

The main advantage of using computers for information retrieval is that digital information can be stored and transferred very easily. Infinite copying and instant availability of information with very low transaction costs – this is the essence of the current disruption called "digitization", which leads to a higher number of server parks with increasingly faster machines.

The disruption of established companies through digitization began as early as the nineties of the last century. Take the music industry as an example. When Napster was founded in 1999 as peer-to-peer (P2P) Internet software that enabled the exchange of digital audio files in MP3 format, music producers and distributors feared a loss of revenue and successfully sued Napster for copyright infringement. But the

transformation of the music industry had begun, and the same digital disruption soon took place in many other markets.

Retail was disrupted by online shopping, video stores by *streaming*, hotels by private *room sharing*, and cabs by private *carsharing*. In each of these cases, digitization broke up established value chains and changed the cost-benefit ratio for certain activities. By enabling these activities to be delivered better, faster and cheaper, new products and services emerged that changed traditional business models.

For a long time, the legal industry seemed immune to digitization. Protected by strict government regulations and by the fact that most private and business clients did not have the knowledge to assess the quality of the services they received, law firms continued to primarily use human labor and bill by the hour. Legal departments continued to name legal risks without taking business responsibility for avoiding them and continued the practice of simply asking for more budget when costs went out of budget.

But in the last decade, digitization has also made its way into the legal industry, with LegalTech startups using software to streamline and automate service delivery for corporate clients.
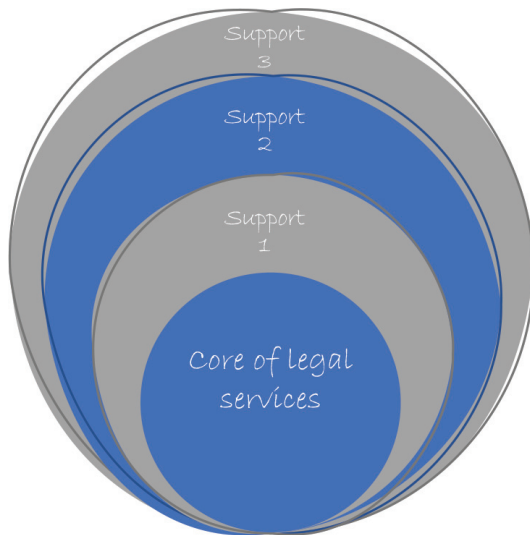
(Figure 9: Legal core and support services)

In essence, corporate legal departments are in a similar position today as information technology, finance and human resources departments were 20-30 years ago: Chief financial officers (CFOs) now expect in-house legal departments and law firms to use technology to deliver legal services ***better, faster and at lower cost***.

While the core of legal services, namely the subsumption of real facts under an abstract law, is still too complex to be performed by machines in most practice areas and cases, this legal core continues to be supported by many operational activities such as document analysis, contract drafting and project management, the consequence of which being that clients are no longer willing to pay high hourly rates for lawyers. The deconstruction of legal work has led to the standardization of high-volume, low-value tasks, resulting in the entry of legal process outsourcers (LPOs) into the market. In the next module, we will analyze this in depth using the DevOps methodology.

The first step in making your services information-ready is to look at the status quo of the services themselves. What is in your portfolio? Which services does your team deliver to whom, when, how, how often – and why? Which services are really needed, i.e., how do you judge their success in terms of customer satisfaction and business relevance?

Only when you have the information to answer these questions can you build the knowledge to make the right business decisions for the legal department, such as determining which services to continue or discontinue, which services to change, and which new services to add to your portfolio.

If, on the other hand, you cannot answer these questions, it means that your services are currently not sufficiently supplied with information. This may have several different reasons. Maybe the information you need does not exist. Maybe it exists, but you do not know where. Maybe you know where the information exists, but you do not know how to get it. And maybe you do get the information, but not fast enough or in a format that allows you to connect it with other information and draw the right conclusions.

It is also possible that instead of receiving too little information, you receive far too much information and have difficulty deciding which is relevant for which area. Paradoxically, digitization itself can be a reason for this phenomenon of 'too much information'. Maybe you have installed too many different software solutions that

only cover certain aspects of your business, are not integrated and now provide you with information silos.

In such a case, the individual solutions may need to be integrated to provide relevant information in a single dashboard. Or you may decide to replace the standalone solutions with a platform solution where the modules are already integrated and work together seamlessly (at least that is what the vendors promise).

You could also consider using an AI solution that looks at all that past dashboard data you have collected, identifies patterns, and allows you to evaluate your own performance and that of others involved in the process, such as legal spend. AI could also help you predict future trends and plan your budget more accurately by telling you when to insource or outsource service delivery, under what conditions you should settle litigation, etc. And again, you will have to choose between best-of-breed AI solutions and platform solutions that claim AI is already built in. We will talk more about AI in Module 4.

But of course, not just the employee needs to change, but the employer as well. Because digitization as a means of accessing information also raises several other questions: Do you want an on-premise or a cloud solution? Do you want to buy it or maybe even develop it yourself? Or do you want to outsource everything to an LPO? Do you have management's support for their ideas? How much will it cost? What do your internal customers and team think?

To answer these questions, you need a *digitization strategy*. And if you already have a vision of where you want to take your legal department (Module 1), developing such a strategy should not be too hard.

Get started and get your hands dirty!

- Do you / your department or your company have an explicit digitization strategy?

- Assume a holistic view of digitization – looking at people, processes, content and technology.

- People: Who inside and outside your company is involved in your services? Identify technology-savvy colleagues who could support you implement your strategy. What additional roles that do not exist today do you need to implement your strategy?

- Processes: Perform an as-is and a to-be analysis: How do processes currently work, and how should they work in the future?

- Content: Turn your data into digital assets that are centrally stored, semantically searchable and reusable.

- Technology: Take stock of the technologies and software solutions used in your department/company, determine any gaps with regards to your strategy and think about how you can close these gaps!

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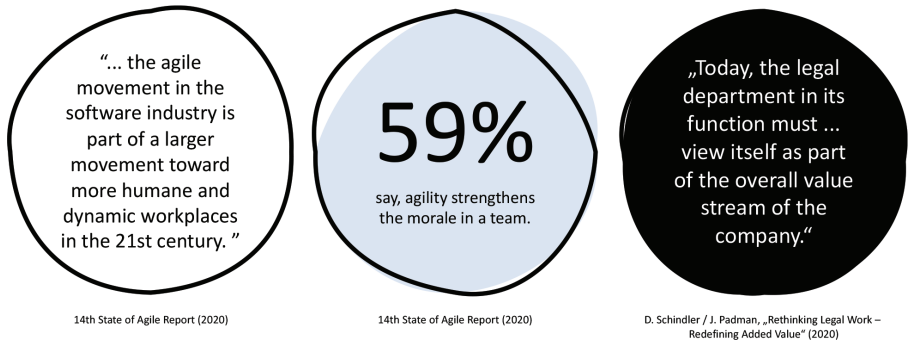
3.3 "QUADRUPLE YOUR SPEED" – AGILITY

(Figure 10: "Quadruple Your Speed")

- **A lot more is expected of the modern legal department than in the past: to be involved early on as a consultant, to think and act more broadly as a risk manager.**

- **At the same time, legal departments are increasingly subject to the general rules of efficiency and quality measurement. The superficial do-more-with-less challenge must be disrupted by new methods and a new mindset.**

- **DevOps – a method from IT – offers an ideal starting point to identify and analyze the different value streams and the different types of work a legal department performs – and, moreover, to understand how each value stream can be made more efficient.**

- **The speed of change, constantly shifting priorities and constant flux demand that the fear of change is transformed into an enduring ability to adapt. Agile methods – especially Scrum and Kanban – can ideally be applied to the work of a legal department.**

- **"Digital first" must be the approach for the new working environment that enables and supports DevOps and Agile working. This can be achieved with a company's standard applications and does not require a mega IT**

project. And the resulting data provides insights that can be used to develop a strategy tailored to the client.

"... the agile movement in the software industry is part of a larger movement toward more humane and dynamic workplaces in the 21st century."

14th State of Agile Report (2020)

59%

say, agility strengthens the morale in a team.

14th State of Agile Report (2020)

"Today, the legal department in its function must ... view itself as part of the overall value stream of the company."

D. Schindler / J. Padman, „Rethinking Legal Work – Redefining Added Value" (2020)

(Figure 11: Facts on agile working)

In Module 1, we discussed the importance of a vision for transforming a team, and in Module 2, we discussed the digitization strategy. In this Module 3, we will now focus on how you can use DevOps principles to dissect the different types of legal work and how applying agile methods with a digital-first approach can turn the frustrating do-more-with-less challenge into a positive, transformative exercise.

The ongoing and fundamental business transformation entails many challenges that translate into more "pull", i.e., increased demand for the services of lawyers, but also changes the role of the lawyer as a function in the company. The embedded lawyer becomes a legal (co-)designer and is thus involved much earlier and more deeply in all legally relevant business processes. At the same time, a company undergoing change must always optimize its cost model to create room for investment in future growth. At first glance, managers are therefore confronted with increasing demand and decreasing resources.

So, are we on a mission impossible, in a race that we cannot win at all, and that we are racing at the expense of the well-meaning – and ultimately the well-being – of our teams?

To break through this seemingly "dilbertesque" challenge, we need to take a much closer look at the big picture. We need to begin to understand all the details so we can dissect the present and rebuild our function for the future. We need to ask and answer questions like: How do we invest our time? Where does our customer need us the most? Is our support for managing risks and seizing strategic opportunities

balanced with the time our team spends on standard work? Can we provide focus and creativity while constantly being maxed out, i.e., overworked and understaffed?

"But we all have to do this - we cannot just ditch part of our work!", might often be the first response you hear from your leadership team. While this statement is obviously not a proper analysis, it does point to two elements that need comprehensive and deep examination: First, what is our role as a legal team, i.e., what role do we need to fulfill to create true value for the business? And second, what do we spend our time on (and why is that?), and is that in line with our answer to the first question? As experts in law, we tend to analyze our work simply along the following two dimensions: by specialty (e.g., can the job be done by a general business attorney or does it need a true specialty attorney) and by specialty level (e.g., does it need an experienced attorney or can it be done by a junior attorney). This approach, however, tells us only a fraction of what we need to know: which subject areas we need to cover and how comprehensively. But it also complicates our answer to the question, how we can manage the ever-increasing mass of work!

This is where applying DevOps principles can dispel the fog, directing our focus to understanding the "Types of Work". We have developed color coding for the different types of work. According to this, RED means: we support our internal customers in customized, complex / risky / strategic transactions. GREY: We need to support a large amount of "standard stuff", typically based on templates and/or related to small / low-risk transactions. ORANGE: We need to innovate ourselves, i.e., support internal projects or business innovation. WHITE: ... and there is always the unknown (e.g., a crisis - AND work we have already delivered coming back to our table with more requirements).

What lawyers actually do – a DevOps perspective
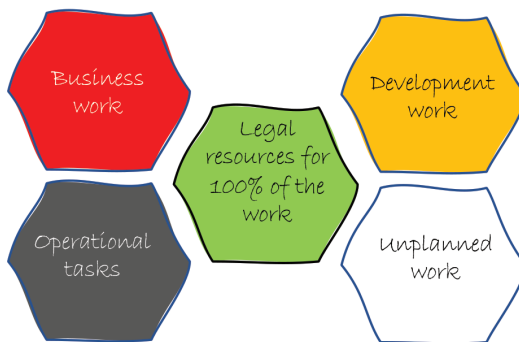
(Figure 12: Legal DevOps)

According to DevOps principles, 3 rules apply:

1. We need to focus on all value streams because we need to deliver on all of them – it would be negligent to pretend that one is "not there".

2. We need to work in very short feedback loops and permanently challenge our approach because business needs are constantly changing and so are priorities within or between "colors".

3. We need to maintain a growth mindset; there needs to be a tolerance for mistakes, otherwise we will shackle ourselves to pure expertise and will be perceived as bottlenecks.

But "more is more and requires more resources", you might now say. So, how do we address the ultimate challenge of getting more done without increasing – or even with decreasing – resources when, at the same time, costs must be optimized? Well, we MUST break the seemingly unshakable principle of direct proportionality that legal teams have lived with for far too long.

But how do we do that, and how will the DevOps approach help us? We will quickly discover that each of the types of work just described can be optimized by very different means. Here, business work requires early engagement, deep understanding, close and often personal interaction with the customer. In parallel, continuous (re-)prioritization must take place. In addition, for operational work, standards and templates as well as robust processes that can be automated are an important lever. Development work requires explicit planning in advance, strict prioritization and strong project management skills. Unplanned work is the biggest threat of all for a function, which means that quality assurance in the other three areas must curb unplanned work because this provides us with the wiggle room we need to respond to a crisis, for example.

This means that we must analyze each type of work, each value stream separately and in detail. We will look at how to obtain the data for this in a moment.

We need to invest in processes to eliminate "wasted" work. We need to automate wherever possible and introduce tools that increase efficiency in getting the work done, and classic operational work, i.e., the "standard stuff" (like our bulk contracts, typical T&Cs, NDAs, etc.) will be the top candidates for efficiency gains.

We need to be open to learning continuously – through quick and frequent interactions with our internal experts, through the feedback we receive from our customers (and in turn provide to them), through exchanges with peers in internal and external networks (like LLI).

Last but not least, we need to eliminate "command & control", i.e., hierarchical thinking, and replace it with team empowerment to the extent possible. For now is the time to break useless cycles, to reduce expert bottlenecks and to uncover hidden talents in the team.

Distinguishing between work types and optimizing them, as well as applying DevOps principles of analysis to set and measure goals, pushing continuous feedback loops, investing in processes and automation, and maximizing individual empowerment, are all elements of taking on the transformation challenge as a functional leader.

However, the hidden message behind DevOps and running legal as (one of many) business functions is that it is essential to have the required information structures in place. The necessary insights depend on a solid data base that can be analyzed and discussed.

This is when we need to emerge from the opaque sea of "getting things done with Word and Outlook", of tasks and tasks managed in folders and on individual notepads. We need to harness the information, let it flow freely and easily across the team, using a digital *Agile First* approach.

So why is Agile so perfectly suited to meet today's need for flexibility, scalability and customer intimacy that legal departments face? Quite simply, because Agile grew out of the very same challenge software developers faced 20 years ago, when the good old waterfall approach no longer worked, based on months of planning, more months of development and annual release cycles. The translation of the principles formulated in the Agile Manifesto into the reality in which we have to run a legal function is surprisingly stringent. And it ties in perfectly with what we just looked at through the "DevOps lens".
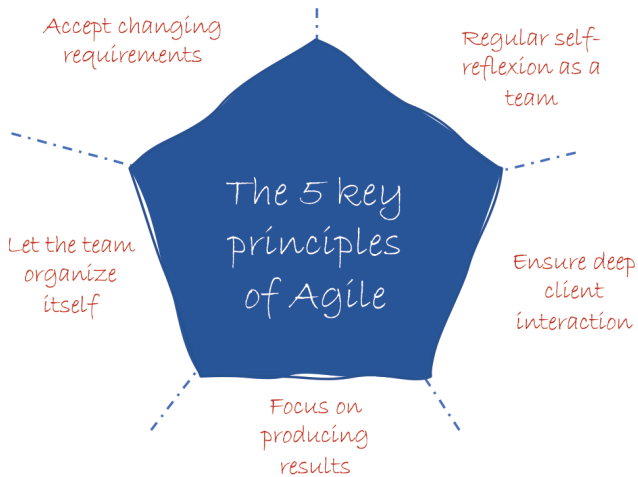
(Figure 13: 5 Principles of Agile)

As it often happens, the devil is in the details. There are plenty of methods that can be subsumed under "Agile" – which is the right one? A good guiding principle for approaching Agile methods is to think of Agile as a supermarket you enter to prepare a meal. You will only need a small subset of what is offered, and what you need depends on what you want to do. And even two people shopping for the same type of meal will hardly ever have the same products in their basket. Make sure you are clear about what the problems are that you want to solve and why they need to be addressed, so that you can measure the success of your transformation not against a theory, but against YOUR reality.

For legal teams, the two agile methods SCRUM and KANBAN have stood the test of time.

The strength of Scrum lies in the fact that it radically places individuality and interactions above fixed processes and restrictive tools. By means of a highly structured and very focused rhythm of short team meetings (*dailies*), in which the small, diversely composed units (called squads) meet regularly, a new and highly adaptable neural system is created between the individuals and throughout the organization.

"Kanban" dates back to the 1940s, when Toyota changed its production from a long-term planning (push) model to a demand-driven (pull) model. The term Kanban is derived from the Japanese language and translates into "sign" or "signal". Visualizing work by using a digital Kanban board reveals the flow of work and when it slows down; it indicates overload and available capacity; and it provides relevant

status information to all stakeholders when needed, to name just the most important benefits.
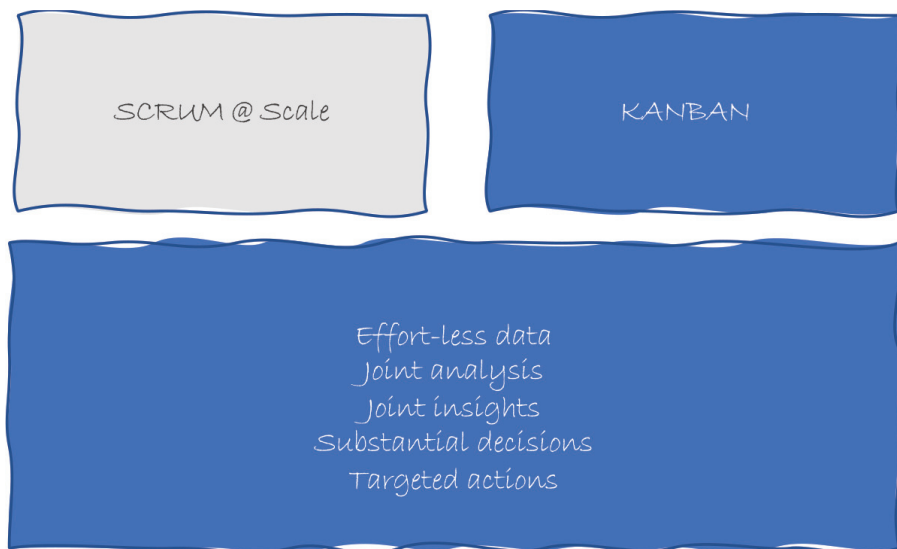
Much has been said about digitization and its value in itself. However, in our context here, we need to be very specific, as we are ultimately talking about another significant change: namely, the "HOW-we-work" (DevOps & Agile) in relation to the "WHAT-we-use" to organize our work. But it is worthwhile and perhaps even crucial to directly include this additional dimension of change. This becomes evident when we assume a stakeholder-centric view:

Let us start with the team: We need to enable our teams to work from anywhere because when the unexpected happens, e.g., COVID-19, handwritten post-it notes on a wall in the office turn a lockdown into a "lockout" from the work system. The "new deal" with our teams around the ever-increasing demands for agility and adaptability will be to grant flexibility in return, i.e., the ability to get work done from anywhere, anytime, and from any time zone. Only a robust and integrated digital work environment will accommodate this.

From the perspective of our key stakeholders, i.e., the clients and the C-suite, a key element of repositioning our role and adding value is to provide them with relevant and reliable information when they need it. To do that in real time and at a large scale, we need to overcome hierarchical "phone chains" upwards on the client side and downwards on the legal side. One click on the right report or query should be enough, and we should also be able to distribute automated status updates on strategic transactions.

From an operational management perspective, in a digitized environment the legal "production process" can be directly linked to the business processes on the (internal) customer side, creating a more effective flow of work and data. The result is continuous insight into "what's going on", i.e., the client can see where a particular case is at the moment and where there may be peaks or overload situations. This enables leadership to react much better and support the team much faster.

Behind all of this is an end-to-end digital environment that automatically generates that wealth of data ABOVE and BELOW the legal work, the very data we so desperately need. What would otherwise mean manual data entry "for the sake of tracking" (a horror for any team) becomes "effortless data collection", i.e., data that exists simply because the team is using digital work tools.

SCRUM @ Scale

KANBAN

Effort-less data
Joint analysis
Joint insights
Substantial decisions
Targeted actions

(Figure 14: SCRUM & KANBAN)

That leaves the question: Are we talking about massive, costly IT projects? Not at all! A lot, if not everything, can be done simply by using the IT applications already available in an organization, e.g., O365 (with Microsoft Teams) in combination with Azure (DevOps, Boards, etc.), which is enough to configure (not to be created individually!) an environment that supports Scrum and Kanban at a large scale, including queries that provide core analytics.

Get started and get your hands dirty!

1) Do you know the distribution of your department's capacity across the different value streams or client requirements?

2) If you transfer the four value streams to your team, do you have an optimization strategy for each of them?

3) Does data make the finished work visible to the team?

4) How many tools (digital or analog) are used in the team to capture client requests and document progress?

5) Are digital work tools / applications directly linked to the client's value creation process (e.g., the CRM or ERP system)?
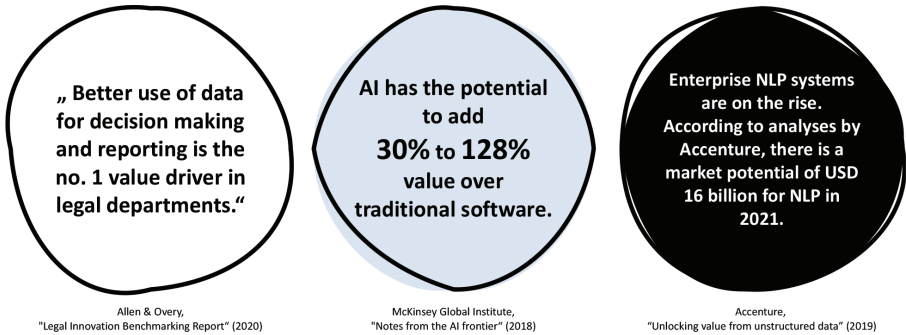
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- "The Phoenix Project – A Novel about IT, DevOps and Helping Your Business Win", 3rd Edition, 2018, Portland (USA)

3.4 "USHER IN AI" – ARTIFICAL INTELLIGENCE

(Figure 15: "Usher in AI")

- **Software is increasingly capable of performing tasks independently that were previously reserved for humans. Today, however, we no longer speak of 'software' but of artificial intelligence.**

- **The search function, extraction of information from documents, machine translation, document classification and creation are classic use cases for AI that will make our lives easier in the future.**

- **The main ingredients for using AI in an enterprise are: data, algorithms and digital infrastructure.**

- **In addition to the main ingredients, however, it also takes "computational thinking", i.e., the combination of knowledge (about the potentials of AI and about business processes) and law, to identify where AI can add value. The adaptable human being (LIQUID!) will always have a place even in a world permeated by AI.**

„ Better use of data for decision making and reporting is the no. 1 value driver in legal departments."	AI has the potential to add **30% to 128%** value over traditional software.	Enterprise NLP systems are on the rise. According to analyses by Accenture, there is a market potential of USD 16 billion for NLP in 2021.
Allen & Overy, "Legal Innovation Benchmarking Report" (2020)	McKinsey Global Institute, "Notes from the AI frontier" (2018)	Accenture, "Unlocking value from unstructured data" (2019)

(Figure 16: Facts on AI)

In Module 1, we created a vision for your legal transformation; in Module 2, we designed a digitization strategy to make services information-enabled; in Module 3, we used DevOps to analyze the different types of work and defined agile working methods to speed up processes.

In Module 4, we will discuss the role of Artificial Intelligence in the context of legal knowledge work and outline key application scenarios ("use cases") and strategies to identify potentials for the use of AI.

The use of software that is capable of performing tasks independently that previously required a lot of experience and knowledge is very attractive for legal departments. Under the heading of artificial intelligence (AI), we have consolidated a great deal of experience and many expert opinions to get to the bottom of what is important if you want to understand AI and identify use scenarios for AI at your company. Data, algorithms and infrastructures are the central components of AI. For us, the "digital mindset" counts as another basic prerequisite, without which AI cannot develop its full potential. In this section, you will learn what is behind all this and how you can successfully prepare your department for the use of AI.

Artificial intelligence is a complex field and describes a wide range of different tools, methods, approaches and use cases. Rendering machines and computer programs intelligent has been a significant goal since the invention of machines in general, a goal already pursued by the German philosopher Gottfried Wilhelm Leibniz (1646 – 1716). AI is, above all, also one of the most important fields of computer science, e.g., advanced by the computer pioneer Alan Turing (1912 – 1954) and has been firmly anchored there since the early phase of computer science.

Due to the manifold methods, it is no longer trivial to define the term "Artificial Intelligence (AI)". Many books try to clearly name the term and its facets. However, because our experience has shown that this discussion is not particularly relevant for end users, we limit our view to the practical potential and application possibilities that arise from AI. These mostly stem from the most important methods that are considered and accepted as state of the art:

Rule-based expert systems and symbolic methods: This method describes the areas of AI in which knowledge about relationships and rules are explicitly programmed into algorithms, e.g., in decision trees. Here, the rules represent the existing and conscious knowledge of humans. Simple rules are, for example: "As soon as a human being is born, his legal capacity begins", or: "On federal highways you are not allowed to drive faster than 100km/h".

Statistical methods and calculations: Considerable knowledge is also contained in data and is implicit in data sets. By using mathematical methods from the field of statistics, this knowledge and its correlations can be made explicit. This allows statements to be formulated for which no rules exist. For example, court decisions from the last two years may show that district courts in Bavaria ruled in favor of the tenant in 99% of cases on topic X and only in favor of the landlord in 1%.

Deep Learning and neural networks: To solve very difficult problems with large data sets, methods from the field of "Deep Learning" have emerged in recent years. They involve network-like structures that can learn, map and store complex patterns and correlations. This is mainly used in the field of analysis of images and, for example, to perform machine translations into dozens of different languages in real time and in high quality.

Three main ingredients are required for the development and deployment of artificial intelligence:

Infrastructure: In the end, AI is a piece of software (a computer program) that requires hardware to run. This can be a central server in a data center, a smartphone, a laptop, or a cloud service. Creating and developing an AI can be computationally intense, while running it (e.g., a decision tree) is very cheap and fast. In terms of infrastructure, two main components are relevant: computational power and memory. To access both of these main components quickly and cost-effectively, two basic options are available:

> **On-premise:** Dedicated (purchased) hardware in a server room or data center. If I do not need the service at the moment, I pay for its presence through maintenance and energy costs. Therefore, high input investments are required for this option.

> **Cloud services:** Computing power and storage are used and billed flexibly as needed. If I do not need the service at the moment, I don't pay anything. No (high) upfront investments are required.

Both *on-premise* vs. *cloud* have advantages and disadvantages. As a rule, coordination and alignment with the company's IT strategy are necessary. Higher-level considerations (e.g., vendor lock-in) or legal aspects (e.g., data protection, Schrems II) also play a role here, which we deliberately do not address further in this article.

Algorithms: The decision structures of AI are mapped in algorithms, i.e., operationalizable rules (computational rules). By now, thousands of different algorithms exist, which have been specifically optimized for different processes. The algorithms are developed by mathematicians, computer scientists, roboticists, etc. Vast research takes place at universities and private research institutes. With the trend to publish and "open-source" the algorithms, most of the algorithms are known and can be reused by everyone. Hence, they are "free", i.e., they can be used without restrictions.

And most importantly: ANNOTATED DATA! What is the challenge when algorithms are free and the infrastructure can simply be obtained via the cloud? We need the data! To "teach" machines to behave like humans, we need the information from which to learn that behavior. For the current application of artificial intelligence, it turns out more than ever before that data is the oil of the 21st century. Data is fed into algorithms so the algorithms can recognize and extract the implicit relationships that exist in the data.

Data is now produced manifold. Even in everyday activities, e.g., writing an e-mail, surfing Internet websites, using a smartphone, etc., data is produced. For some tasks, therefore, data is already available that can be used. In the legal context, we have consistently observed in the past that the following data is particularly relevant for getting started using AI:

a. Laws, court decisions, contracts; internal documents (incl. metadata); reviews, comments; emails, internal discussions

b. Conversations and correspondences with customers/clients/government agencies; information from document and case/matter management systems.

Algorithms can learn to write contract reviews similar to humans, but only if we can show correct and incorrect examples from the past (we then talk about annotated data!). This process is called *supervised learning*.

So far, we have learned about the role of infrastructure, algorithms, and data. The most important ingredient, however, is an **AI-ready (algorithmic) mindset**, known as *computational thinking*. Using AI requires a technical understanding of what AI can do, as well as a business understanding of what is relevant and should be done in departments.

These departments need a mandate and management support to do their job of closing the so-called "knowing-doing gap". Teams that want to use AI must act as intermediaries between IT and the business. AI will not work with 100% accuracy (by the way, neither do humans), but AI can work 24/7 and thus process large volumes of documents much faster than humans. So, the point is to identify use cases where machines, AI, can help us. We want to understand how the cooperation between humans and trained algorithms can be designed in such a way that humans can perform their tasks more efficiently and without errors and thus emerge as the big winners.

> We need the ability to recognize and unleash the potential of AI. And we need departments and companies that have the courage to use AI!

AI use cases for the legal industry

Search and exploration: AI can help us index (keyword) large volumes of documents so that we can easily search and find relevant information. The tedious task of finding information in a printed folder becomes irrelevant. Information can be accessed anywhere (not just in the office where the printed document is securely stored). Internal document and knowledge management (including contract management) will become increasingly important in the future and even better and more contributive with AI.

Information extraction: AI can help us extract specific information from documents automatically and within milliseconds (i.e., in real time). AI can extract contract parties from a contract, can check whether a contract is signed or not, whether there are obvious contradictions in the contract, whether clauses match contracts from a clause database, or whether clauses deviate from allowed versions, etc.

Document classification: AI can help us classify a document based on its content in order to file it correctly or identify the most appropriate person to deal with the document – either because AI has identified the client and can decide who in the legal department last dealt with that client, or because the content of the document can be classified, indicating that the insurance law expert should look at the case. For example, if the in-house legal department receives a document with the general inquiry for review, an AI can automatically determine what the inquiry is about and forward it to the person who has dealt with similar issues in the past.

Machine translation and summaries: AI can help automatically translate a document from one language into another in a matter of seconds, and now with relatively high quality, as evidenced by the likes of DeepL. For large enterprises and companies with an international footprint, this significantly reduces language barriers between departments. Legal departments can translate contracts (e.g., real estate contracts or T&Cs) and other legal documents into their primary language to make their content accessible. Machine translation will not eliminate the need for translation by professional translators, but given its immediate availability and low cost, machine translation should be in the toolbox of every legal professional in the 21st century.

Document generation and composition: Algorithms can help us automatically generate legal documents or formulate draft documents, such as contracts based on a manually maintained library of templates and clauses. Minor changes, such as naming the contracting parties, can be easily and effectively changed for very long documents and complex contracts. This reduces the amount of work required to create them and ensures consistency throughout the document.

Predictive Analytics: In addition to document and text analytics use cases, AI can also help predict future events or their likelihood of occurrence. For example, AI in the area of legal spend can help us predict what expenses are to be expected for legal fees or engagements, or what the likelihood is that a certain decision will or will not occur which would be particularly interesting in predicting court rulings. So far, however, no AI application is known that can do this very reliably. Nevertheless, AI can help to find arguments that increase the probability of the certain outcome of a court decision.

We have seen various AI use cases and scenarios in the past and discussed them with members of the LLI and experts outside of the LLI. The description of the examples is intended to help outline those areas where AI can improve the efficiency and effectiveness of working with documents. We expect to see an increasing number of technologies that can automate small but relevant steps in our professional

lives. Most important, however, is reflecting on our daily routines and processes and classifying them in a structured way according to the nature of the job (see DevOps in the previous chapter).

AI offers great opportunities and can be leveraged by those professionals who are well prepared and who know their processes. This includes a critical reflection on the current state, and an open and honest discussion about where the limits of AI lie, because this knowledge is also essential for successful transformation towards a digital future.

Two starting points are particularly suitable for engaging in an AI discussion: Data and processes.

Data:

- What kind of data and documents do we process regularly and in large numbers?
- What manual operations are performed on the documents, e.g., information extraction/review, generation, assembly, search, translation, etc.?
- Do we have enough data to train an algorithm?

Processes or workflows:

- What are the different activities and phases executed one after the other?
- In which phase could an algorithm support us?
- And finally: Can algorithms / AI radically change the way a (legal) service is provided (disruption)?

We have seen that in addition to the technological capabilities of the algorithms, we also need to consider the specific use case and its relevance to the business. There are a few guiding questions that can help calculate a business case:

Technological feasibility: Is the technology ready to solve my problem and do I have the data to create a solution?

Economic feasibility: Is the technology (including design, implementation, maintenance, etc.) more efficient (including price) than the current solution? This also includes strategic considerations, e.g., scaling and strategy.

User perspective: Are users and customers ready to work with the new system? How can we create incentives to avoid pressure and the feeling of being "left behind"? Despite many claims to the contrary: **The trend toward active use of AI in legal departments underscores the importance of putting people at the center of transformation.**

We wish you all the best with your first AI project!

Get started and get your hands dirty!

- Do you have an overview of the data / documents that are regularly processed, created, revised, analyzed and commented?

- Do you have an overview of the activities (e.g., search, information extraction, etc.) that are performed regularly?

- Do you know which specific use cases can be implemented through AI?

- Have you precisely described your use cases and derived requirements for the software from them? Do you know which users would work with the software in which situation?

- Are the results of the feasibility study satisfactory? If not, why not? What would have to be fulfilled (how good would the software have to be) for me to be satisfied?

Literature

- "Artificial Intelligence", Thomas D. Barton, in: *Liquid Legal II*, eds Jacob, Schindler, Strathausen, Heidelberg 2020, pp. 61-83

- Wagner, J. (2020). Legal Tech und Legal Robots: Der Wandel im Rechtswesen durch neue Technologien und Künstliche Intelligenz. Springer.

- Github Repository on Legal Text Analytics; Liquid Legal Institute, CC-BY-SA-4.0 https://github.com/Liquid-Legal-Institute/Legal-Text-Analytics (An overview of NLP use cases in the legal domain including references to freely available datasets, as well as algorithms and methods that greatly facilitate entry and prototype implementation.)

3.5 "INSPIRE YOUR ECOSYSTEM" – LEADERSHIP

(Figure 17: "Inspire Your Ecosystem")

- **Transformation is not an end in itself – it needs a vision and thus an overarching goal. We need to be clear about who the stakeholders of our transformation are, what their different interests are, and how we can win them over as supporters.**

- **The client should be at the center – this is as much right as it is wrong! Of course, the result of our work must reach our client "in time" and "in quality". But we must not disregard the legitimate expectations of our team, the needs of the individuals in the team, or the interests of our functional leadership.**

- **The strategy must also "make sense" to all stakeholders, i.e., add value and benefits.**

- **We discuss new organizational forms and conclude by deducing why certain methods of leadership are predestined to make the transformation successful.**

„In 2025, only half of the employees in a legal department will have graduated from law school."

KPMG, "10 predictions: the legal function in 2025 – KPMG Global" (2021)

„Only **76%** of legal departments in Europe are closely integrated into the organization."

Wolters Kluwer, "Legal Departments in a Digital Era" (2020)

„Only a **few** legal departments have a legal operating model."

Deloitte, "Legal Management Consulting" (2020)

(Figure 18: Facts on LEADERSHIP)

In Module 1 we developed a vision for your legal transformation, in Module 2 we designed a digitization strategy, in Module 3 we defined agile working methods to speed up operations, and in Module 4 we used AI to gain business insights from your data and develop predictive capabilities.

In Module 5, we now focus on obtaining clarity on who the stakeholders of our transformation are and what their interests are. We also look at the importance of organizational structure in this context.

Transformation and Change – why and for who?

The digital transformation in business life also means massive change for lawyers, who ultimately (have to) help shape this change.

Functional "change", i.e., the specific change of the legal department, is the key topic of this book. Leading a team or function through a change process is a field that has been researched, analyzed and described by experts for many years and has been equipped with a variety of strategies and handouts by consultants and practitioners. We at the Liquid Legal Institute, along with more than 30 co-authors, also contributed in 2017 with our first book, *"Liquid Legal - Transforming Legal into a Business Savvy, Information Enabled and Performance Driven Industry"*. We will not review this here but refer to the sources for more information.

So, what else is there to say? From our own practice, from the projects in the LLI and from the diverse and open exchange in our network, three topics have emerged that hinder change processes, especially among lawyers, or even cause them to fail, and which we are therefore deliberately focusing on:

1) The customer (client) belongs at the center – period. All too often, e.g., in management teams of the legal department, we hear global goals for the legal department are not necessary, because ultimately its aim is to support the company's goals. This is as true as it is false! Undoubtedly, every function (including the legal department, which sees itself as a business function) must ultimately pursue global corporate goals. But at the same time, as a service function, we should not use alignment with corporate goals as a welcome shortcut to not having to worry about them. Rather, we need to ask ourselves: How do we help our specific clients, i.e., the functions we directly support, to realize these corporate goals! Basically speaking, the transformation of lawyers is not an end in itself but must also and above all help our clients and, consequently, serve the corporate goals.

2) The transformation of a function affects all "personas" in the team, (1) each team member, (2) the leadership function(s), (3) the executive stakeholders, and (4) possibly external supporters. In our experience, many transformation processes in law firms or legal departments are portrayed as though the major strategic changes are thought of and executed exclusively "by executives for the employees". Here, it is also important to take a closer look. Managers are exposed to change both as people and as a function – and this must be another conscious part of the process.

3) What does the change mean from an organizational perspective? New methods such as "Agile", "DevOps" or "TEAL" did not emerge from thin air. "Agile", for example, arose from the need of software developers to adapt to completely new requirements on the part of their customers. "DevOps" arose from the realization by IT departments that they simply could no longer afford the friction and massive inefficiencies between the development departments and operations that had been taken for granted for years - they threatened the company's success in an increasingly fast-changing business context. We touch on the topic of "TEAL" and thus a possible organizational form of the future at the end of this chapter. The success of such methods is simply due to the fact that many other business areas – such as software development or IT – are facing the same challenges. But what does the transfer of such methods mean for us lawyers?

Who are the essential stakeholders – and "what's in it for them"?

A simple picture has proven useful. The stakeholders relevant for the transformation of a team of lawyers can be captured in four dimensions:

What is success? – It is defined by the stakeholders!
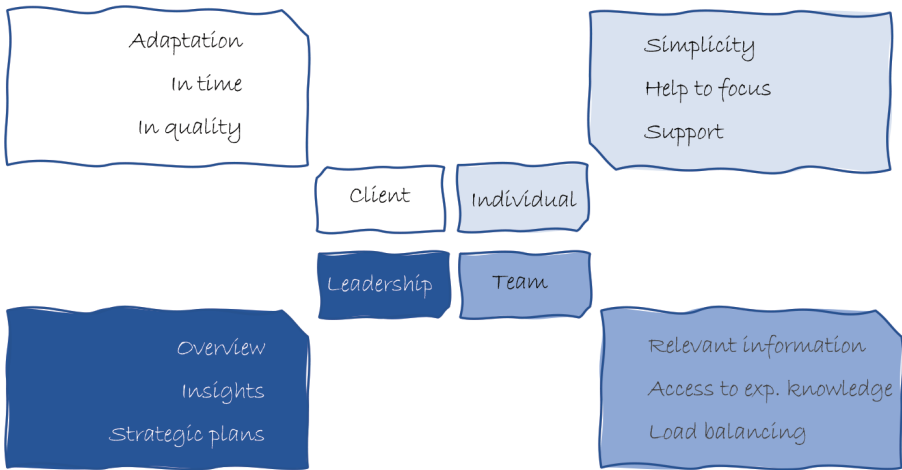
(Figure 19: Different understandings of 'success')

The client (i.e., the customer of our product "legal advice"), the team member (i.e., the individual person in the team), the team (i.e., the functional unit in its entirety), and the management level (i.e., put simply, the general counsel).

If we take a closer look at the 4 dimensions of our stakeholders and ask them as personas what they each expect to get out of the transformation, we can immediately infer three things: (1) what goals we need to pursue with the transformation, (2) how we can turn all stakeholders into interested supporters of the changes, and (3) what we can (and must) measure success by in the end.

Let us test this with a practical example: **automating the processing of NDAs (non-disclosure agreements).**

The team decides to get rid of NDA routine work and implements this by simplifying the template, capturing the FAQs collected so far and transferring everything into a bot solution. In the future, the client will no longer send the NDA to the team but will be prompted by a bot to answer a few questions and select a set of fallback clauses. The team enthusiastically calls the project, **"No more NDAs!"**

- **The message to the individual team member is:** Finally, away with the boring task – more focus on the exciting topics. Good!

- **The message to the team is:** We relieve you because the workload is growing in other, strategic places. Also good!

- **The message to the legal leadership is:** We have understood the mandate for digitization and increased efficiency. That is also coherent.

- ***… But the message to the client is, bluntly said: We are shifting our work to you and, by the way, we are canceling a service … Not good!***

We have addressed everyone – except for the client, whom we wanted to put at the center…

What do we have to change? First, we name the project, at least externally, in such a way that it reflects the added value for the client, e.g.: **"Fast Track NDAs"**, because we always deliver the service promptly – "the bot never sleeps". Second, we involve client representatives in design and testing of the new setup to ensure that we meet the need in the details of the solution and process. Third, we establish an escalation path that catches the inevitable exceptions and immediately lands them with the appropriate lawyer. *"Now we are talking!"*, the client will say.

What is true at the project level is even more true at the strategy level!

At the level of individual projects (like the one just described), we are still dealing with clearly definable groups of clients to whom we can explain the added value for them. Even that is not always easy. The challenge is even greater to implement the same mechanism at the strategy level, i.e., to elaborate and communicate the added value for the clients, while at the same time we also have to convince the stakeholders in our own function as well, i.e., the individual team member, the team as a whole and our functional management level.

Again, an example: If we keep in mind the picture of the four stakeholder dimensions introduced above, it is clear that a proclaimed "efficiency strategy for the legal department" may reach the CFO, but probably already leads to questions for the client's executives (e.g., are services being cut?) and is pretty much a red rag for the team (do more with less). If, on the other hand, we talk about a "high-low-no-touch strategy" for our clients, the translation can be successful:

- **Clients** can recognize: Together with them, we focus on supporting them in the strategic and risky issues with as many resources as are required. Moreover, the team works on lean processes and tries to simplify routine work as much as possible so that the loop to the lawyer is not even necessary.

- **Team members** conclude: Ideally, we try not to create more with less, but even less with more! Routine work is largely eliminated, standard topics are optimized, and the focus lies on strategic topics, which are more interesting and fulfilling to work on.

- The **team as a whole** gets the message: Our expertise is in demand again and we are relieved from dead weight. The analysis of routine work and processes together with the clients serves the common goal of ensuring that the relief is also sustainable.

- And the **functional leadership** up to the General Counsel now has a strategy that is aimed at the efficiency goals of the CFO, but at the same time also addresses the goals of the other representatives of the C-suite, namely to provide future-oriented legal services with a modern and robust team.
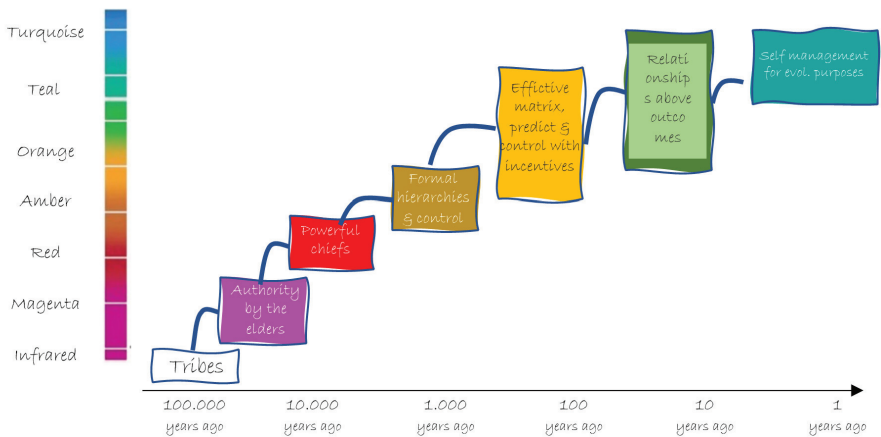
Later, we will discuss how this inevitably means incorporating new skills and more diverse thinking into the strategic direction of the legal department. Who are the change agents? Who contributes project management skills? Who has the necessary understanding of processes and digitization?

At this point, however, it is important to consider the final aspect raised at the outset:

What does the stakeholder-centric approach mean in terms of organization and for how we manage teams?

We can refer to a large number of books that describe possible organizational forms of the future (keyword: Holocracy or Open Beta Codex). A very clear overview of the development of organizations from the dawn of mankind to the status quo is provided by Frederic Laloux in his book *"Reinventing Organizations"*. Through his color coding, he offers a vivid pictorial language for the different stages of human cooperation.

Levels of consciousness

Turquoise	
Teal	Self management for evol. purposes
Orange	Relationships above outcomes
Amber	Effictive matrix, predict & control with incentives
Red	Formal hierarchies & control
Magenta	Powerful chiefs
Infrared	Authority by the elders
	Tribes

100.000 years ago 10.000 years ago 1.000 years ago 100 years ago 10 years ago 1 years ago

(Figure 20: Development or organizations
Source: https://www.intelligenthq.com/teal-the-future-of-business-management
Translation: LLI)

According to Laloux, some companies are still on a red organizational level, characterized by hierarchies and obedience. For the most part, however, companies today are at a green level, where collaboration is gaining importance, but these companies still serve the interests of their stakeholders first and foremost. At the next stage of development, however, according to Laloux, companies will organize themselves by forming autonomous small groups around a product or service to be provided. The so-called TEAL organization is characterized by a clear vision, but unlike in green organizations, this vision is not conceived by a management team and cascaded down to lower levels**; instead, the vision evolves in and through the autonomous teams.** With Simon Sinek (*The Infinite Game*), one would certainly also be able to attest these teams an *infinite mindset*. The exciting thing about the emergence of TEAL organizations is that they persist almost entirely without a superstructure or corporate function. Besides a CEO, possibly supported by a small team, there is no finance department, no sales department, no production department etc. There are only teams in which the legal department is also present either in the form of a legally trained or further educated team member, a dedicated legal expert or represented by external support.In his books and lectures, Laloux offers numerous examples of companies that are already successfully following this path. Applied to our profession, this could mean it may no

longer be enough to reposition ourselves by introducing agile working methods and digital leadership.

We believe the opposite is true. The first step is a change in the mindset of employees and the ability for adaptive working. Those who succeed in adapting will also find ways to build a decentralized, virtual team of legal experts embedded in autonomous units who, in addition to purely legal activities, can also handle related tasks or tackle legal tasks with new skills.

Instead of "just" lawyers, we now have *"legal angels"* who cover a variety of topics: they help establish company-wide standards, exchange best practices with their legal colleagues from other autonomous teams, support their own sales or those of neighboring teams, perhaps take on tasks in product development or accounting, depending on where the team's interests and needs lie.

The CEO represents the company externally and ensures that the teams can work undisturbed and self-determined. Some companies bring in coaches to support the teams, but these coaches do not have a say or even the right to issue directives.

Such a liquid team of *embedded lawyers* might decide to establish a virtual legal department as a further education project, as a place of retreat, a place of exchange, a place of learning… – a great idea!

This development towards autonomous teams will by no means succeed in one step. Nor does it have a defined end. The goal is not the one, very specific and defined organizational form, but to improve the adaptability of organizations and teams. That is why, in our view, it is crucial to create this agile mindset in our teams, to move away from hierarchies and towards *self-empowered teams*.

This vision drives the massive changes we expose our teams to. We owe this promise to our teams and our clients to make them trusted partners in development. And we, as leaders, must also adopt this mindset ourselves in order to be credible and competent coaches of our teams.

Get started and get your hands dirty!

1) Do you know the expectations of all stakeholders and can you assess the degree to which you can meet them?

2) If you think about your last and the current innovation project: Have all stakeholders been considered in a balanced way? Have you tailored the communication to the stakeholders?

3) If you look at your strategy slides: Are all stakeholders considered in a balanced way? Have you tailored the communication to the stakeholders?

4) On which level (according to Laloux) would you place your organization? Is that OK – or do you see a need for development, especially when you look at your company as a whole?

5) Can you name three topics or areas in which your teams work "self-empowered"?

Literature

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- "The Infinite Game", Simon Sinek, Portfolio, 2020

3.6 "FACE YOUR FEARS" – WELL-BEING

(Figure 21: "Face Your Fears")

- **Humanization or "humanizing" is the necessary practical counterpart to digitization.**

- **Many companies and executives suppress employees' fears of digitization, which jeopardizes transformation projects.**

- **Transformation projects fail if the affected employees are not turned into participants, the software solutions introduced do not bring them any real benefit, or the interfaces are not designed to be user-friendly.**

- **The empirically proven, declining mental health of lawyers as a professional group and the resulting negative consequences for society, companies and the affected individuals themselves make targeted "well-being" programs worthwhile.**

(Figure 22: Facts on WELL-BEING)

In the 19th century, Sigmund Freud, an Austrian neurologist and the founder of psychoanalysis, discovered the subconscious mind, which harbors fears and desires unknown to our alert minds. These hidden emotions often control our thoughts and actions without us realizing it. Of course, fear also has a positive function for the organism: it warns us about danger, allows the body to release adrenaline, and mobilizes all forces to fight or flee from the threat.

A basic idea of psychoanalysis is that these hidden fears must be confronted and made conscious in order to overcome them. However, if these fears remain in the dark and are not brought to light, they can lead to frustration and even mental illnesses such as anxiety and depression.

And unfortunately, mental illness is an issue that also plagues the legal profession and needs to be addressed when talking about transformation.

At least for the U.S., there is empirical evidence that lawyers' mental health (stress, tinnitus, insomnia, anxiety, depression, burnout, substance abuse) has declined in recent decades.[3] In 2006, suicide was the third leading cause of death among lawyers, after cancer and heart disease. The suicide rate among lawyers is nearly six times the suicide rate in the general population, and nearly 40% of law students suffer from some form of depression.[4] Lawyers are three times more likely than non-

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[3]   National Task Force on Lawyer Well-Being (2017), 'Creating a Movement To Improve Well-Being in the Legal Profession'; American Bar Association (2016), 'The Prevalence of Substance Use and Other Mental Health Concerns Among American Attorneys'; Johns Hopkins University (1990) 'Occupations and the Prevalence of Major Depressive Disorder'.

[4]   Mauney, Stuart (2013) 'The Lawyers' Epidemic'

lawyers to become addicted to alcohol or other substances, and evidence suggests that nearly half of them are unhappy with their career choice.[5]

On a societal level, the justice system clearly cannot function without healthy lawyers to interpret the law and represent clients in court. And if current trends continue, lawyers may become increasingly unfit to do their jobs and young people may be discouraged from going to law school. In addition, rising health care costs for lawyers must be borne by the insured and by taxpayers.

> The declining mental health of lawyers is not only relevant for the individuals concerned themselves, but also affects the companies employing them and society as a whole.

At the firm level, high turnover and absenteeism lead to financial and reputational losses. The same is true, of course, for law firms and in-house legal departments. Clients complain about the services they receive from overworked lawyers, services they see as poorly communicated, rudely and arrogantly delivered, and offered at an inflated price. In addition, professional errors by disgruntled attorneys can lead to costly complaints and liability suits.

While there are no figures on the economic harm of addiction and other mental health problems among lawyers specifically, the National Safety Council offers an online tool for calculating the total cost of substance abuse to employers, stating that the annual cost of addiction at a firm of 2,000 employees is $1.7 million.

It is not easy to tell when lawyers are suffering. They stay productive for a long time and generate a high number of billable hours – until it is too late. Lawyers' declining health uproots their professional lives and affects their social lives. Friendships dissolve; marriages break up; children are depraved of the time, emotional closeness and love they should expect from their mothers and fathers.

There are many reasons for the declining mental health of lawyers: long working hours, high self-expectations, isolation, a tendency towards perfectionism, a low tolerance for failure, high-risk legal cases, dealing with difficult life situations and with difficult clients, the pressure of wanting or needing to earn a lot of money, a hostile and competitive work environment… – the list goes on.

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5   David, Ted (2011) 'Can Lawyers Learn to Be Happy?'

No easy solution to the problem of lawyer well-being exists – but there are at least as many possible solutions as there are challenges. In our context of legal change, one important way to regain control of one's work life and reduce stress is through the use of technology. However, it is crucial to use the right technology in the right way and for the right people.

Many lawyers, however, do not perceive technology as a solution to their health problems, but as one of the reasons for them. They are uncomfortable with being forced to learn new skills they do not want to learn or for which they consider themselves untalented. Some of them even fear losing their jobs altogether and being replaced by a machine.

And for some employees in the legal industry, digitization may actually mean leaving their comfort zone and embracing technology or even changing jobs. But therein also lies the opportunity to focus on those human qualities and skills that no machine can deliver or provide: imagination, creativity and leadership qualities!

But of course, it's not just employees who need to change - employers need to change along with them. To reduce the negative impact of mental health issues on their business, team leaders, partners, general counsels and managers in all sectors would be well advised to follow a simple LIQUID principle: *Put people over positions!*

Today's companies are no longer static organizations where employees are only required to perform prescribed routines in fixed positions and are otherwise expected to leave their personalities at the door. This mechanical thinking that prevailed in the minds of last century's executives has long since been replaced by the realization that companies operate in a dynamic environment and must therefore be flexible and agile. Employees must be able to organize themselves and collaborate across departmental and geographic boundaries. Managers should not create hierarchical positions and then hire people to fill them; instead, they should do it the other way around: hire exceptional people and then create positions for them, or even let them create these positions themselves!

Employees who enjoy their work and are intrinsically motivated are more engaged at work and perform better - and are much less likely to suffer from mental health problems.

From a LIQUIFY LEGAL perspective, companies are underutilizing the mature talent that already exists within their organization. We express this idea of "*People over Positions*" in a 2 x 2 matrix.
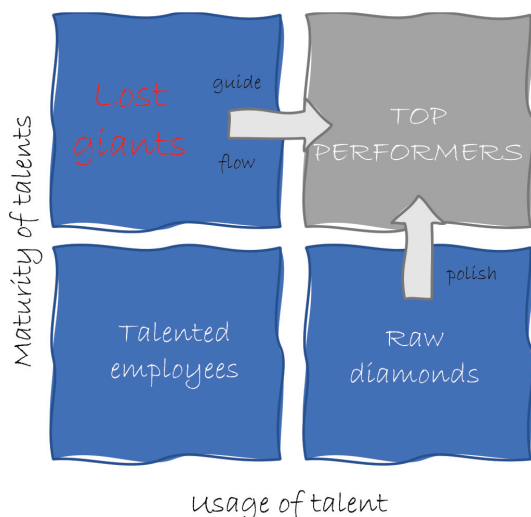
(Figure 23: Lost Giants; this figure was first published in "Leading When You're Not the Boss", Roger Strathausen, New York 2015)

The goal of any talent management program is to place employees with mature talent in the right positions to create top performers (upper right corner). The mainstream approach to talent management in most organizations is for managers to define fixed positions and then look inside or outside the organization to fill those positions with individuals. If the individuals do bring the required talent, they are subjected to costly training and development programs to make them fit for the position. They grind rough diamonds cylindrical instead of letting them shine with as many facets as possible.

This approach of cylindrical grinding applied to rough diamonds should be complemented by managing *stray giants*. Stray giants are employees who already possess mature talents but cannot use them to their full potential because they are in the wrong position. These employees need to be guided to the right positions or even allowed to create new positions and tasks that match their talents.

Do not get us wrong. Training will always have a place in organizational and personal development, but it needs to be complemented with leadership and with the creation of LIQUID structures that allow talent to easily move to the places in the organization where they are most needed and can deliver the most value.

And from a societal perspective, what is needed to reduce the risk of sick lawyers and a dysfunctional legal system is a different, more technology-savvy, more collaborative and more human form of legal education. We will look at this aspect in the next LIQUIFY LEGAL module, Step 7, "Yearn For Excellence".

At all three levels we examined – the societal level, the corporate level, and the individual level – *"Facing Your Fears"* is an important aspect of legal transformation that needs to be addressed openly and without taboos.

Get started and get your hands dirty!

- Communicate frequently with colleagues and employees – not just in annual performance reviews.
- Conduct employee surveys to determine your employees' level of physical and mental health and satisfaction. What are your sick leave and turnover rates? Compare your data with that of other legal departments and law firms.
- Set humanization and change management on the transformation agenda.
- Use technology to reduce stress in the office.
- De-taboo the topic of "mental health" and provide opportunities for relaxation and mindfulness exercises.

Literature

- "The Silent Epidemic", LLI 2020
- "Health Compass for Attorneys", Fritjof Nelting, in: *Liquid Legal II*, eds Jacob, Schindler, Strathausen, Heidelberg 2020, pp. 311-337
- "Humanization and the Law", LLI Call for Papers, 2021
- "Lawyer Well-being", Kai Jacob et. al., LLI [Weblink] ➔ https://www.liquid-legal-institute.com/workinggroups/lawyer-wellbeing/
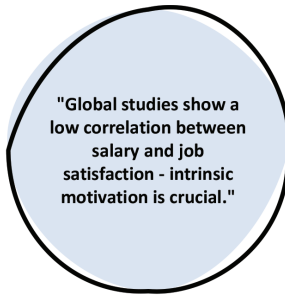
3.7 "YEARN FOR EXCELLENCE" – LEARNING
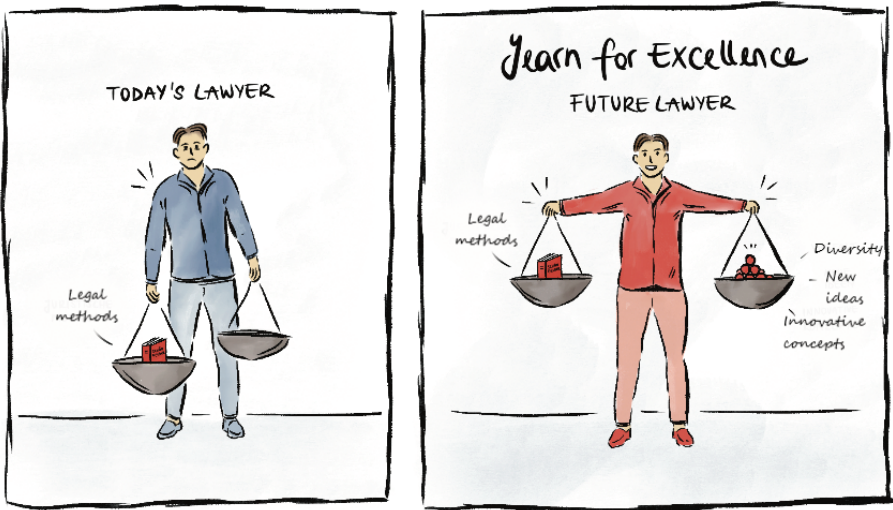
(Figure 24: "Yearn for Excellence")

- **The transformation of legal departments and law firms is an ongoing process that continues even after the completion of specific software and LegalTech projects.**

- **In the LIQUIFY LEGAL method, organizational development and continuous learning among managers and employees therefore assume an important role.**

- **Lawyers especially need additional social and communication skills as well as technology and media competence.**

- **In addition, the skills to manage projects and to market themselves are becoming increasingly important for lawyers.**

"Even though legal departments are pure cost centers, the scope of GCs' responsibilities expands as they become more integrated into the business side."

Diligent, "The Role of the General Counsel in Corporate Governance" (2018)

"Global studies show a low correlation between salary and job satisfaction - intrinsic motivation is crucial."

Journal of Vocational Behavior, „The relationship between pay and job satisfaction" (2010)

"The most valuable skills of lawyers in 2022 will be analytical thinking & innovation; active learning & learning strategies; and creativity, originality and initiative."

*IE Law School, "The skills, tools and knowledge every future lawyer needs" (2019)*

(Figure 25: Facts about LEARNING)

Desire is part of human nature. The innate ability to imagine things differently than they actually are leads to the desire to turn these imaginings into reality. The Para-Olympics athletes are a good example for this. Instead of simply accepting their fate, disabled and partially paralyzed people work hard to become athletes and compete with others. This shows that excellence, regardless of their particular condition, is a relative and not an absolute concept. What is considered excellent performance depends on the initial conditions and the context in which the individual operates.

> It is an essential characteristic of humankind to continue to *become* rather than simply to *be*.

The desire and ability to learn and to grow beyond the status quo is deeply embedded in our human nature. For biological reasons, mainly because of our large heads that would not fit through the birth canal after more than nine months in the womb, we human beings are born too early, in a very unfinished state. As newborns and babies, we are helpless and completely depend on others for survival. It takes almost two decades for us to develop our full mental and physical capabilities. Against this anthropological background, speaking of "knowledge society" and "lifelong learning" refers to more than economic factors.
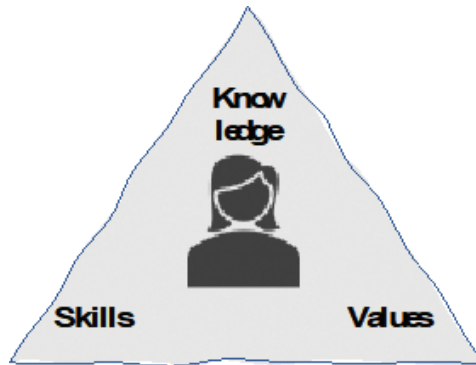
(Figure 26: The "pedagogical triangle," after Pestalozzi)

The "Pedagogical Triangle" developed by Swiss educator Heinrich Pestalozzi (1746-1827) metaphorically illustrates, through three human body parts, which areas can become the subject of teaching and learning. The head represents cognition, i.e., knowledge through the formation of the mind, the hand represents physical abilities through the formation of the body, and the heart represents values, i.e., the right desires through the ethical formation of the psyche.

In formal legal education at university, but also in professional development throughout careers in law firms or in-house legal departments, there is an emphasis on acquiring knowledge. Lawyers specialize in certain areas of law and jurisdictions, and for those areas and jurisdictions they need to know old and new laws and court decisions as well as procedural rules.

In addition, they must apply certain cognitive and methodological skills to provide their services. These legal skills primarily include research, document review and drafting, abstract thinking, and verbal reasoning. In essence, then, most of the training and learning of lawyers focuses on the core of legal service: *subsuming a particular case under a general rule of law.*

Such a focus of training on law leads to skills gaps among corporate lawyers, for whom law is only a means to achieve the business purpose. Even though legal departments are primarily cost centers, the scope of General Counsel s' responsibilities is expanding as they become more integrated into the business side. As a result, lawyers increasingly need to learn business-relevant practical skills that encompass and support their work, especially (a) interpersonal and communication skills and (b) technical and media skills.

Social and communication skills are needed when interacting with clients who often do not understand legal terminology and procedural rules and require an emotional approach. Like working with non-lawyers, leading cross-functional and geographically dispersed legal teams also places high demands on the communication skills and Emotional Intelligence (EI) of management personnel.

Project management skills are needed to coordinate external lawyers. Since even the legal departments of large companies cannot provide expertise in all areas of law, they typically hire one or more law firms to assist them in a particular case. The in-house lawyer must be able to manage these disparate experts from different law firms and ensure that they work together to achieve the common goal.

In addition to social and communication skills, lawyers increasingly need technical and media skills. LegalTech automates high-volume services around due diligence and contract drafting and management, so lawyers need to understand how these tools work and how to use them.

Because of Covid-19, virtual meetings that require media skills have become the norm. Media skills include not only the ability to use video conferencing and virtual collaboration tools, but also knowledge of online etiquette.

In addition, professional social media platforms such as XING and LinkedIn have become important self-marketing tools for lawyers.

So far, we have covered two of the three areas of human learning: knowledge and skills. But for lawyers in particular, the third domain of learning, values, is equally important. Lawyers are sworn to protect the law as a representation of societal values that culminate in the ideal of justice. In this regard, lawyers have always strived to be excellent. Indeed, according to Webster, one meaning of the word "excellence" is virtue – conformity to a standard of law.

But laws and societal values change, and in the legal business, lawyers also need to adopt new and different values that are not directly related to the law. One crucial value in business that has received far too little attention in the legal industry is *collaboration*. Lawyers are still too focused on *win-lose* scenarios and underestimate the power of innovative *win-win* strategies.

Experts predict that by 2022, the most valuable skills for lawyers will **be analytical thinking and innovation; active learning and learning strategies; as well as creativity, originality and initiative**. (Source: https://www.ie.edu/law-school/news-events/news/skills-tools-knowledge-every-future-lawyer-needs/). Since there

is a clear trend from teacher-centered to learner-centered learning, from learner-directed to self-directed learning, from passive to active learning, it will be the task and responsibility of each individual to continue their education and to use all means available to them to achieve personal excellence.

Get started and get your hands dirty!

- Create competence profiles of yourself, your colleagues and your employees and compare them with the competence requirements of the respective roles.

- Close competence gaps through appropriate training and development measures.

- In particular, offer training and learning opportunities on the topics of communication, project management and LegalTech.

- Strengthen the exchange and cooperation among employees.

Literature

- "The Future of Legal Education", Stephan Breidenbach, in: *Liquid Legal II*, eds Jacob, Schindler, Strathausen, Heidelberg 2020, pp. 157-177

- "Commoning and Tribes of Confidence", Kai Jacob, in: *Liquid Legal II*, eds Jacob, Schindler, Strathausen, Heidelberg 2020, pp. 371-391

- "What Does the Digital Revolution Mean for Legal Education?", Emma Ziercke et. al., in: *Liquid Legal II*, eds Jacob, Schindler, Strathausen, Heidelberg 2020, pp. 513-537

4. THE LIQUIFY LEGAL METHOD IN PRACTICE

The LLI would like to provide its members with assistance in the transformation. In various projects, all of which were proposed by our members, we are working together on solutions, handouts and standards, which will then be made available not only to our members, but also to all participants in the legal market, for example as white papers.

Here is an overview of some LLI projects:

4.1 WORKING GROUP "DIGITALIZATION"

4.1.1. The Digitalization Guide – now Edition 2.0

Members with hands-on experience in the day-to-day operations of legal departments have compiled comprehensive information on the dos and don'ts and lessons learned from their legal department transformation projects. The findings were consolidated by a core team, reviewed by our designer and shared with our members. The whitepaper has received extensive and positive feedback from both inside and outside LLI.

4.1.2. eSignature

Many of us will remember 2020 as the year when digitization really took off. The Covid-19 crisis highlighted the immense overhead cost of ineffective contract processing and signature processes. The cost of paper-based signatures remains one of the biggest cost drivers. With our eSignature project, we aim to enable companies to make a pragmatic transition to a digital process. Every company seems to have the same problems – and should not have to reinvent the wheel.

4.1.3. How to select a CLM vendor?

Liquid Legal Institute has been approached by several members about the following problem: *"How do you choose a CLM vendor?"* Instead of helping one member, let's do it the LLI way and work together! There is already a wealth of knowledge

about the various CLM vendors, their products and their pros and cons – it just needs to be shared!

4.1.4. Legal In-House Processes

The aim of this project is to better understand and describe the operational processes in a legal department and to make them more transparent. It is about the core of legal work and the associated workflows. We create transparency about which services are provided by legal departments in companies and which processes are required for this.

4.1.5. Legal Inhouse KPIs – soon including a Legal KPIs matrix

With the increasing digitization of work methods and due to the increasing pressure to make legal functions and services more measurable, the use of KPIs and metrics in a legal department is increasingly necessary. As part of LLI, our legal department representatives currently discuss standard metrics and KPIs to achieve this goal, while incorporating the framework conditions at the same time (keyword: mindset).

4.1.6. Corporate Digital Responsibility for Legal

Corporate digital responsibility (CDR) is an important topic for all business leaders worldwide and has gained tremendous momentum in recent years. However, CDR, as a business requirement, has not yet been adequately addressed by the legal sector. Law firms are looking at CDR primarily from a material law and compliance perspective and thus are missing the opportunity to improve their brand and differentiate themselves from the competition by pro-actively defining digital social, environmental and sustainability goals for their practice.

4.1.7. Virtual Reality for Work and Play

LLI is establishing itself as the leading international legal platform for open-minded legal professionals. It follows that LLI and its members would want to assess and determine the potential and implications of this rapidly developing VR technology for their upcoming virtual meetings and more. We would like to start asking the right questions, gathering information, and later write a report on our findings. We aim to explore and assess the new possibilities for remote team collaboration as well as new forms of digital leisure activities, like concerts and exhibitions.

4.2 WORKING GROUP "STANDARDIZATION"

4.2.1. How to define Contract Metadata

Managing contracts (i.e., in some kind of CLM tool) involves creating and storing structured data (metadata) about contracts (think: parties to the contract, type of contract, status of the contract, etc.). But which data points are useful to track? And what guiding principles might help define the "metadata map" of my company's contract landscape?

4.2.2. Standard Non-Disclosure Agreement (NDA)

The project aims to standardize a non-disclosure agreement (NDA) globally and regionalize it as needed.

4.2.3. Standard SPA (Share Purchase Agreement)

A standard SPA template makes transactions faster because only the specifics need to be drafted and negotiated. Instead of arguing over the "best" template, the team can focus on the specifics of the transaction. This *Standard SPA* is exactly what the project team creates.

4.3 WORKING GROUP "METHODOLOGIES"

4.3.1. Experience WoL for the Liquid Legal Institute

Working out Loud (WOL) is used successfully in many places, including large corporations. With the LLI project, we would like to jointly explore the question of whether the WOL principles would need to be adapted for successful use in the legal field (to turn the approach into a more low-threshold one).

4.3.2. Legal Agile Toolkit

To a large extent, legal science still works with the same procedural processes and methods as decades ago – which can lead to friction losses. This project identifies methods and tools to recognize digitization potential in legal processes, to make them more efficient and to enable collaboration in a rapidly changing environment. To this end, we are creating an overview of existing tools, describing their features and how they can be used in the legal field.

4.3.3. Agile Working Methods for Legal Departments

Many legal departments face the challenge of learning about new methods and, at best, even implementing them, in addition to a very demanding workday. What it means to work "Agile" as a legal department or a team within a legal department – this is what a number of members exchange about every two weeks in our "Scrum Master Round-table"-project.

In addition to sharing, and learning new skills, the team has decided to write a small practitioners' guide in which participants talk about their experience, and in which the team provides assistance for those who also want to embark on this journey.

4.4 WORKING GROUP "EDUCATION"

4.4.1. The Future of Legal Education

With the *New School of Law*, our member Prof. Stephan Breidenbach has presented his vision of legal education in the future. As a project partner, LLIU supports the effort to introduce a breath of fresh air to the reorientation of legal education.

4.4.2. University Roundtable

A group of >15 representatives from universities in German-speaking countries meets up regularly to exchange ideas on future topics in education that are at the top of students' lists.

4.4.3. Meta-Lex: The Ultimate Legal Transformation Resource Library

The current concept is, first within LLI, to agree upon a set of essential topic categories. Then list resources that we find best and most useful. Where within LLI we have a related Project, Working Group or otherwise a subject matter expert, we'd ask these members to leverage their experience by contributing and ranking resources that they find most helpful and would first recommend to others. We will compile this list in GitHub. In a second stage, we will invite partners from other organizations, bar groups, universities, leading law school Centers on Legal Tech & Innovation, Centers on the Legal Profession, etc. to comment and contribute. In this or a third stage, we will engage partners outside of Europe, North America and Australasia to ensure that we broaden our Eurocentricity so as to be helpful to colleagues in other regions in ways supportive of their journeys. While LLI will host the

site, we hope that all partners and contributors will cross-link to Meta-Lex so that it becomes the premier global reference hub.

4.5 WORKING GROUP "MATERIAL LAW"

4.5.1. A Digital Twin of the Law – Law as Neural Network

The Liquid Legal Institute investigates the theory that an ecosystem of artificial neural networks might be such an ideal computable form of law. Like its biological model, an artificial neural network flexibly allows storage and connection of information on different levels and categories.

4.6 WORKING GROUP "COMMON LEGAL PLATFORM"

4.6.1. CLP Principles and Layers

A group of LLI members has developed the principles of a Common Legal Platform (CLP) and published their results on the GitHub platform. The feedback has been overwhelmingly positive and helps us bring the topic of CLP to a wider audience.

4.6.2. HPI Project

Two teams with 10 students each from the Hasso Plattner Institute (HPI) in Potsdam under the supervision of the Liquid Legal Institute investigated the question of why cooperation is less common and "natural" in the legal world than in other industries. The students' findings provided us with important insights into how our profession works and thinks.

4.6.3. CLP Communication and Public Relation

The *Liquid Legal Institute* serves as a neutral and open hub hosting a common legal platform *(Common Legal Platform)*. The structure and content are provided by partners and affiliate companies. Our primary goal is for the platform to address the needs of the industry to initiate legal transformation.

4.6.4. Lawyer Well-Being Initiative

Covid-19 is changing the world – it feels like our public lives will never be the same again. But this pandemic should also sensitize us for other threats lurking in the dark that could have an equally negative impact on society. Liquid Legal Institute is tackling a sensitive issue that has been taboo in the legal industry for far too long and that may now, in an era of digital transformation and fundamental societal change, turn out to be a silent epidemic: the declining well-being and personal health of lawyers and legal professionals.

4.6.5. Innovation Management

We ask our members: How do you manage innovation? And is it something that can be managed at all?

4.6.6. Corporate Health Award – Initiative

Based on the study on the state of health of lawyers, Liquid Legal Institute will take concrete steps to place the topic of "Well-Being" on the agenda of law firms and legal departments in the long term.

4.6.7. LLI Diversity

Liquid Legal Institute's greatest asset is its members! With this project, we want to assess our current state of diversity and find ways to embed diversity in everything we do so that we all enjoy working together.

4.6.8. Towards an Oath of Justitia

Our student workers are overseeing a global student competition with the goal of presenting a contemporary *Oath of Justice*. The winning team is rewarded with prize money and a publication in a legal journal.