



E-JUSTICE – NO GROUND FOR OPTIMISM

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I understand e-justice as referring to legal-adjudication-and-enforcement arrangements, gradually absorbing more ICT-services in their operational architectures.

These services wash ashore on the ICT-tidal waves of our time. In this context it is no more than natural to raise questions

- (i) about e-justice being a good or a bad thing,
- (ii) about whether the e-justice choices we make are on the right track or not and
- (iii) about what influence our choices do have anyway.



The case of the ‘Yellow Line’



Two neighbors A and B live next to each other, as neighbors do. Their living-room windows give access to a view of the park. A owns a car, B does not. And A has developed a habit of parking his car at the sidewalk in front of B’s window, thus blocking B’s view and preserving his own. B does not agree and asks A to park on ‘his own half of the sidewalk.’ A persists in his parking behavior. B buys a tin of yellow paint and paints the curbstones of ‘his half of the sidewalk’ yellow. A parks his car on the yellow line. A policeman notices this and delivers a parking ticket to A. A goes to court, claiming the yellow line not to be a legitimate traffic-regulation sign and thus that his parking ticket is null and void.

Where is e-Justice, or where could it be?



Technology (and law)

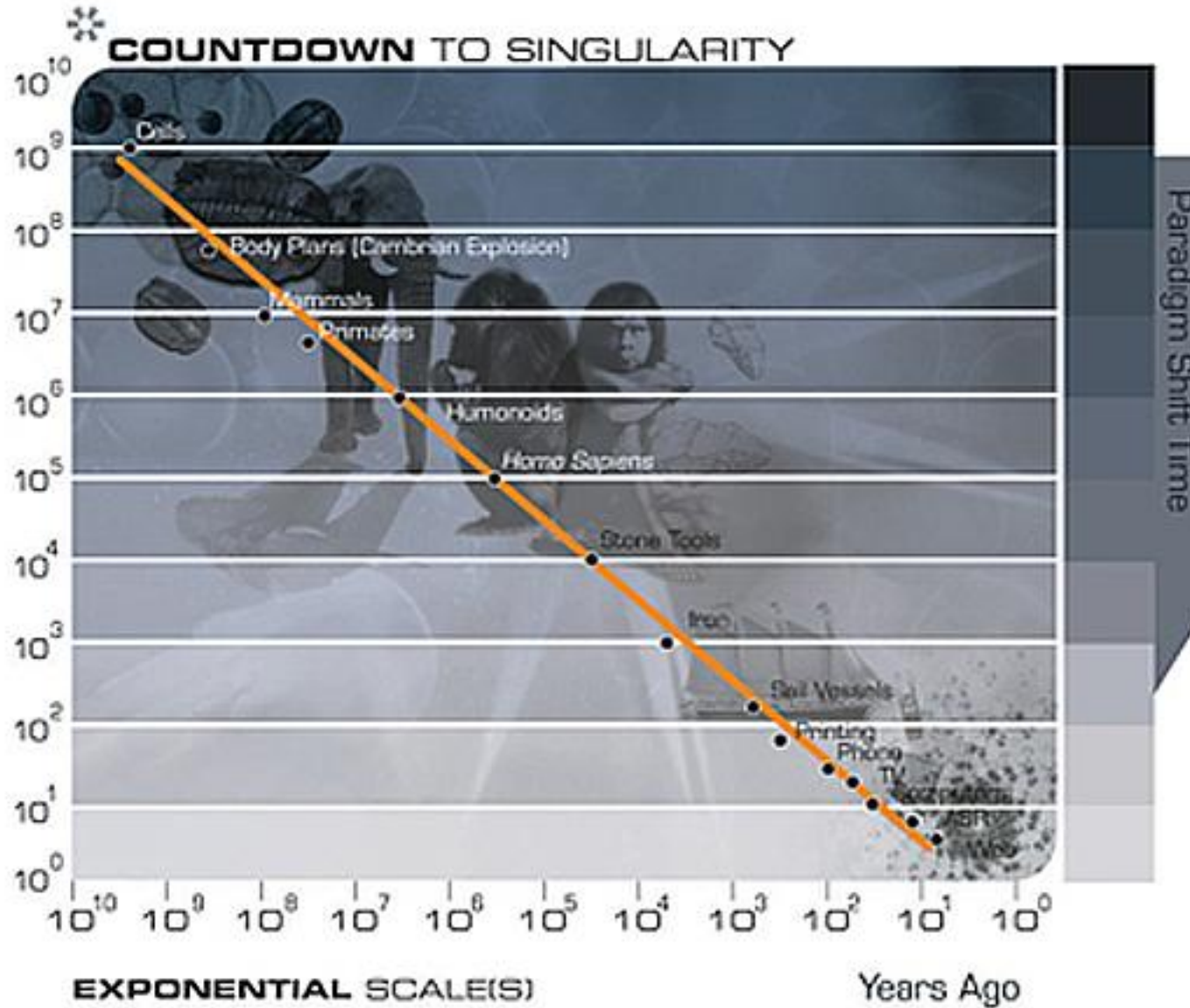


Optimism (ICT, Nano technology & evolution:
Kurzweil)

Pessimism (ICT, Nano technology & evolution:
Schmidt)



Kurzweil 2001, the singularity point





Singularity-point thinking ...



Technical progress is accelerating exponentially indeed, and, with it, the threat-rate of mass-destructive abuse is accelerating towards quite another singularity point: the moment that a single individual will be capable to mass-destruct its proper species on earth. *Where singularity-point thinking leads to fantasies about turning some of us into immortal bionic men with superhuman intelligence, I lose interest. Where singularity-point thinking leads to worries about a world wherein a, any, single individual is capable of mass destruction, I do not.*



... continued



We may need to rethink our legal arrangements however when mass-destructive capabilities get randomly proliferated over individuals. When the enormity of the risks involved requires pro-active enforcement (including surveillance), we may even need to turn to quite comprehensive e-justice services in order to survive. If better (e-)justice would help, we need it now.

But do we understand the dangers of such, '*better*' e-Justice?



e-Justice SWOT

Universiteit Leiden



	<i>Asset</i>	<i>Liability</i>
<i>Internal</i>	<p>Strengths Natural legitimacy (willingness to participate) Monitoring Law System quality,</p>	<p>Weaknesses Legitimacy failures Incommensurability trap Internal knowledge asymmetries Internal power abuse Individual capability of mass destr. Modeling the unknown</p>
<i>External</i>	<p>Opportunities Technology for global surveillance available Architectures for global cooperation available</p>	<p>Threats Individual capability of mass destr. External power abuse 'Protectionist' e-justice design External knowledge asymmetries</p>



An ICT-development project disaster in NL:

“Only a small part of the resulting ICT-systems for the Social security service (Wia) can be deployed by the principal (UWV). We talk about a worth of 3.5 million Euro, out of 87 million Euro invested. The project was aborted in June 2008.”

Since we cannot imagine a principal *who understands the ins and outs of an ICT project* to let willingly emerge a situation wherein he pays 87 million for what is worth 3.5 million, we suspect a problem here.



Concluding argument



1. If we accept the production of inventions to accelerate exponentially, we will very soon have to face the risk of any individual having the capability of mass destruction.
2. The risk of any individual having the capability of mass destruction requires global e-justice services relying on ubiquitous surveillance and pro-active law enforcement.
3. Ubiquitous surveillance and pro-active law enforcement by e-justice services may destabilize our legal systems when they reduce natural legitimacy.
4. We do not know how to model e-justice services that support natural legitimacy.
5. We do not have the capability to avoid the risks of the knowledge-asymmetry syndrome, currently inherent to e-justice project procurement and e-justice governance.

So there is hardly reason for optimism.