

## **BAILII - the Next 10 Years**

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The British and Irish Legal Information Institute <https://www.bailii.org/>, recently celebrated its 20<sup>th</sup> anniversary and we are looking forward to maintaining and enhancing our services to our diverse user communities.

The announcements by the Ministry of Justice and The National Archives (hereafter TNA) about a planned new service for “important” judgments and “cases of legal significance” from England and Wales have caused some confusion about the ongoing role of BAILII. We have a much wider remit covering 10 jurisdictions and like BIALL, ‘Britain and Ireland’ are at the heart of what we do. BAILII will continue to publish all our current range of materials, including those from England and Wales. No materials will be removed and all those linking to BAILII can be assured that links to documents will remain permanent. BAILII will continue to play its part in ensuring that free legal information services are seen to be appropriately independent and is working on plans to add valuable additional features and content.

### *BAILII's role*

BAILII will remain the largest free to internet provider of primary legal materials in the United Kingdom. The service is simple to use, popular, fast, and low cost. We load new judgments within hours of receipt. Usage is anonymous, requires no logon or registration, and there are no cookies, trackers or analytics.

BAILII has played a key role in the international movement for free access to law as means to promote access to justice and the rule of law. We are determined to ensure that public access and a single search of case law from jurisdictions throughout the UK and Ireland are maintained and to enhance BAILII's role to help users and their lawyers and advisers to access, understand, and use the law.

### *BAILII's plans*

One of the enhancements being explored by BAILII is access to high-quality fully-indexed legal commentary alongside and interlinked with judgments, making it faster and easier for the public and legal professionals to find and access commentary on recent court decisions. This will be an important development in BAILII's role in

supporting access to justice and in its contribution to public legal education. BAILII looks forward to discussions with selected blog authors and commentators to offer them an additional route to publicise their work, reach wider audiences, and share their insights.

BAILII is updating and enhancing its OpenLaw service, with the assistance of the Institute of Advanced Legal Studies (IALS), liaising with academic specialists, to support legal education. The service links to judgments of leading cases by topic for law students and will include brief descriptions to assist in understanding at a glance their significance. An example is the updated list for torts at <https://www.bailii.org/openlaw/tort.html>.

### *What we do*

Usage of BAILII continues to grow and there were spikes of usage during the lockdown, particularly in 2020 when page views increased by 3 million to 79 million and downloads increased from 3.7 million to 5.4 million.

BAILII contains 102 databases covering 10 jurisdictions comprising 169+ gigabytes of legal materials and over a million searchable documents with links to extend searches to the worldwide network of free access to law partners to which it belongs and contributes (<http://www.commonlii.org/>, <http://www.lawcite.org/>). Over 35,000 items are usually added each year. These derive from many sources: actively sought from courts and individual judges, from collaborative digitisation projects such as the case papers of the Judicial Committee of the Privy Council, donated by or licensed from partners and supporters, in addition to the judgments sent directly by judges.

BAILII is committed to expanding our content, building on our role as a one-stop shop for materials from England & Wales, Scotland, Northern Ireland and the Republic of Ireland. BAILII includes decisions of the European Court of Justice and the European Court of Human Rights, and judgments from other jurisdictions including Jersey. We have recently reached agreements to publish the judgments of commercial dispute resolution courts applying English law such as the Abu Dhabi Global Market courts, the Dubai International Financial Centre courts, and the Qatar International Court.

### *The free flow of judgments*

BAILII has campaigned for the need to improve access to judgment data and the information flow by which it reaches the public from judges. The forthcoming creation of a government archive for future generations is a major step forward for England and Wales and one which BAILII has long advocated and is supporting while maintaining all of its own content and services.

BAILII is assisting with recent developments and hopes that information flow will be improved with more comprehensive, speedy and structured judgment data for the benefit of all users. In 2021 BAILII gave copies of over 40,000 judgments to TNA to populate their archive together with briefings and know-how on the current process of creation, transmission, and publication of judgments and the challenges involved.

TNA has indicated that in addition to its main archive function, it will initially publish online about 3,000 new judgments per year. Hopefully TNA and therefore BAILII and other publishers will have access to a larger number of judgments over time, including more transcripts of extempore judgments.

Judgments in England & Wales are generally distributed directly by judges to interested parties including publishers. TNA has been added to the distribution lists and is receiving the same judgments as BAILII and other publishers. This will enable TNA to prepare for their launch of their service in April 2022.

However, there have recently been instructions to judges to send judgments from April 2022 onwards to TNA but not to send them to publishers. TNA have assured BAILII that they will facilitate the continued publication of judgments by BAILII. They promise to provide an ongoing supply of judgments both immediately on receipt by TNA in the form in which BAILII currently receives them and also in a marked-up format sent on to BAILII within the timeframe which BAILII currently operates. BAILII has yet to see marked-up versions but expects samples in due course to examine.

This undertaking by TNA confirms that BAILII will be in a position to continue to publish all the England & Wales judgments which it currently publishes and over time perhaps even more, offering the advanced features of its service and the same quick turnaround as at present.

There is a feature of this planned system of distribution of judgments worth noting. It appears that, unlike the present system by which independent judges make their judgments public by directly sending them to publishers, in future transmission of E&W

judgments will be in government hands. This is only a theoretical drawback in current times but in other times and places such a gatekeeper function would give rise to concern. It is to be hoped that the new role for government through TNA will not adversely affect the speed or selection of cases made available for publication as this might compromise both independence and access to the law.

BAILII is grateful to all its stakeholders, including BIALL, for their continuing support for what promises to be an even more useful, free, easily accessible and independent service.