

LAWIT

Lawgistic

THE FUTURE OF OPPORTUNITY

Perspectives on the transformation of legal services
(a collection of articles by international experts)



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EVERY
PROBLEM
CARRIES THE SEEDS
OF SOME
OPPORTUNITY

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Introduction



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There is no scale we can use to measure 2020 –it has been exceptional for the wrong and right reasons– and, for many of us, looking at it in the rear-view mirror will be the best part about the year. But, if 2020 has taught us only one thing in the legal industry, it is that we now know we can do things differently in the legal industry. Our challenge is to move on quickly from the endless debate about whether we can change and, instead, to focus our energies and resources on making it happen. That is our opportunity, change. We can embrace it or lose it but, we can no longer ignore it.

Over the last 12 months, we have realized both the vulnerability and resilience of law firms and inhouse legal teams. The entire legal ecosystem had to respond and adapt to a new reality.

Such circumstance has demanded a great deal of innovation and transformation, and leadership to embrace the digital transformation required by this new economy.

Most importantly, it required a good deal of analysis, to better understand the challenges and the opportunities ahead.

For that reason, we are proud to present this eBook, thanks to the generosity of a very select group of international leaders who are transforming the business of Law.

When we invited them to join us in creating a special publication focused on the future of opportunity for the Legal ecosystem, they immediately accepted the task, sharing their insights, knowledge, and experiences.

The valuable content they have provided will serve as important guiding points for anyone who comes across this publication. Our commitment and our goal are precisely that...to share the knowledge, so that more people can gain a good perspective on the market trends and opportunities ahead.

The legal profession is reaching a tipping point. Evidence shows the growing interaction of technology solutions in the legal industry operation. That is why publications like this one are relevant to be better equipped to adapt and change, to remain relevant.

It took a pandemic for this to happen. It seems undeniable that COVID-19 has had a major effect on the legal profession's awareness and willingness to adapt.

A lot has changed in the past year, and the continued unpredictability caused by the pandemic has resulted in a new –or updated– mindset about technology, as a tool to process and deliver legal services.

In a significant way, the pressures generated by the pandemic, reduced the legal profession's historical resistance to fundamental change,

motivating a reaction of accelerated technology adoption that will ultimately lead to an overall redesign in the way that legal services are delivered. In other words, the pandemic has been a “tipping point” for our profession and to the entire legal ecosystem.

Anecdotal evidence, combined with many valuable analysis, research, surveys, opinions, and metrics, clearly indicate that our profession has indeed reached a tipping point and that many aspects of the practice of law, will look quite different on the other side of the pandemic.

For more than a decade, along with many others, I have been insisting about the need for lawyers to both understand and use technology in their day-to-day practices, but it has been a slow process of adoption. There is no question that the trend has been moving into the direction of growing awareness and acceptance. It took a global pandemic for most players in the industry to react.

It remains to be seen the extent of the digital transformation and if it proves to be a tipping point for the legal industry. As Bill Gates perceptively noted in his book *The Road Ahead*, “We always overestimate the change that will occur in the next two years and underestimate the change that will occur in the next ten”.

The lawyers, law firms, and businesses that do not get on the digital transformation train –embracing legal technology tools– will increasingly be left behind, and eventually displaced. As a recent ABA Journal cover story explained, “Artificial intelligence is changing the way lawyers think, the way they do business and the way they interact with clients. Artificial intelligence is more than legal technology. It is the next great hope that will revolutionize the legal profession”.

The digital transformation train is leaving the station –it is time to jump on board.

Such implementation is all about leadership. It is dependent upon how much the leadership wishes to change how things are done... with all the risks and opportunities that brings. Today it is time to prepare the future, not relying on hope.

Thanks again to my friends and colleagues who have made this eBook possible. This is a time for collaboration, time for sharing and for caring.

As we did in our 2020 eBook publication, this one is also whole heartly dedicated to those heroes in the healthcare industry who have showed the world the silence of sacrifice, the power of dedication and the spirit of humanity. The world is changed by your example.

Houston, Texas

March 2021

FROM THE EXPERTS

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In an increasingly globalized world where not only law firms but business and international entities are merging on one or more aspects of their activity, growth is based on forces “teaming up” rather than being single players: law firms.

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REFLECTIONS AND PERSPECTIVES GOING FORWARD

Starting Your Innovation Journey: Ingredients for Success



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Starting an innovation journey is exciting, but it can be overwhelming. Attorneys are bombarded by blogs, articles, and webinars, making it difficult to keep up. Nearly everyone claims to be interested in innovation, but what exactly does it mean to be innovative? That is a complicated question with many variables.

The short answer is that there is no single definition of “innovation.” But that’s a good thing because once you start your journey, the definition of what innovation means to you will begin to reveal itself. The beauty of innovation is that it can be executed in countless ways. In fact, for it to be done successfully, it must be customized and personalized to you.

While defining innovation may be complicated, it’s much simpler to explain what innovation is not: It will not be found in conversations where the words “this is how we’ve always done it” are spoken; it will not be a cookie-cutter approach to solving problems; it does

not exist with the simple click of a button; and it is certainly not found in the billable hour.

Beginning your innovation journey requires some primary ingredients:

Courage

Logic

Support

...and a dash of curiosity.

Lawyers are naturally curious about their practice areas and legal issues. That curiosity is what will guide them to explore methods for modernizing their law practice. It is not uncommon for there to be anxiety around developing new approaches and changing how things have been done for so long. How many times have you looked at the approach your firm is taking to solve a problem and thought to yourself, "Why?" When that happens, often the answer is "because that's how we've always done it," which is a great indication that there **MUST** a better way.

The first ingredient to starting an innovation journey is courage. You have to have the courage to challenge the status quo, even when you don't yet have the experience to back it up. But it's not experience you need, it's the courage to look at a procedure or system with a critical eye. Through a series of attempts, tweaks, and experiments, you stumble upon a new and original way to streamline or improve that procedure. Of course, there is the possibility of failure, but that is part of the experience. Innovation requires experimentation, which very well may fail, but it just as well may succeed.

Having the courage to leave your comfort zone and step out into the unknown can be hard. Beginning an innovation journey requires actively

embracing new ideas and exploring their limits. This means being open to trial and error because the only way to innovate is to experiment.

The second ingredient is logic. Not only are lawyers naturally curious, but they are also original thinkers, able to consistently solve legal problems through creative and logical thought.

Trusting your logic and employing new ideas based on what makes sense is a key foundation of innovation. Since innovation is often born of a need to do something better, applying logic will organically bring you to a place of improvement. For example, reviewing existing data and considering what you already know about your clients then applying logic to reveal new and unexpected ways to delight them. Often innovation is just trying something that is so logical, you won't believe you didn't think of it before. Follow your intuition.

The third ingredient is support. Having the right professional support is critical to fostering innovation. Speak openly and candidly with leaders and express your interest in innovation. Present concrete ideas with obvious benefits to the firm or the firm's clients. Engage with senior attorneys who are also interested in innovation and collaborate on ideas. Group efforts have a greater likelihood of success and are certainly helpful when exploring ideas and testing theories.

There is a fair chance you will come up against a partner with a business-as-usual mentality, but that doesn't mean you shouldn't present your case for innovation. Just be mindful of your audience and craft your "pitch" so you address the firm's overall goals. For example, share your ideas on implementing automation to increase productivity and how to pass savings to clients in an effort to strengthen the relationship and increase their loyalty for the long-term.

The decision to step outside of your comfort zone and think outside the box means you are ready to begin exploring innovation opportunities at your firm. Don't be afraid to try new ways of handling work. No law firm will openly reject innovative ideas if the ideas make sense and are aligned with the culture and infrastructure of the firm. In fact, there are opportunities to innovate in every corner of a law firm. There are small changes you can make without too much disruption and with small investments.

A few ideas designed to help kickstart creative thinking include starting with internal processes that are not visible to the client and which may be received more favorably by those partners who are resistant to change. Try creating some basic reporting for clients that showcase trends or themes among bodies of work. Create ways to apply your experience with consumer applications to the systems already in place. Use social media to keep clients informed –in real time– on events impacting their business or relevant legal news.

As you start your innovation journey, remember to tap into your inherent curiosity, find the courage and the confidence to identify something that seems so logical and seek out the support to do it.

Happy Innovating!

FROM THE EXPERTS

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The COVID-19 pandemic has brought significant implications - remote working, virtual courts, video communications, and more importantly, a realization that what many lawyers thought could not be done virtually - or through technology - actually could. These are going to have tremendous impact on the legal tech industry and the broader legal industry.

First, we will see the growing importance of cybersecurity. This is significantly fueled by the continuation of remote working, the need for lawyers to access client data remotely, and the rise of virtual law firms. It is a significant growth area. The global cybersecurity market, worth US\$173 billion in 2020, is expected to grow at a rate of 7.2% annually over the next six years.

Second, a rise in systems that allow for better performance tracking, including tools that track the performance of employees, and client conversion rates. This will likely be particularly relevant in the Asian context, where a desire to track performance measurably, coupled with the inability for management to get a physical "feel" of work in the office, will cause lawyers to turn to technology to track the firm's performance.

Third, reforms to legal education. In 2020, with the need for online legal education and the growth of massive open online courses, there may be a re-think of the meaning and value of legal education. Must it always be done the way it was done in the 20th century? More importantly, how can legal education train lawyers practicing not the way law was, but what it may be? There may also be a rise of online courses and education programs featuring global faculties, able to teach anyone from anywhere in the world.

Fourth, I suspect that there will be greater soul-searching about what legal services mean. With effectively all clients now online-savvy and highly cost-conscious, they will weigh more critically the need to approach the lawyer, versus the possibility of doing it oneself through online resources or legal tech tools. Lawyers will thus have to think harder about what they truly bring to clients.

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REFLECTIONS AND PERSPECTIVES GOING FORWARD

Transformation from Within



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Many years ago, I recognised the need for law firms (and for the legal industry generally) to transform. I had trained and practised as a lawyer in the UK in the '80s before shifting my career (and my country of residence) to focus on management consulting in the legal services industry. So frustrated was I with the conservative and complacent approach of lawyers and law firms that I wrote a book in 2000 titled *'Why Lawyers Should Eat Bananas'* in which I suggested the profession was in a state of crisis and in need of change. As part of my argument, I cited statistics about the dismal high rates of depression, dissatisfaction, and stress caused by the pressure-cooker environment of the profession.

In the twenty or so years that have elapsed since publication of my book, much has changed in the legal industry. It has survived the GFC and is now weathering the storm caused by the COVID pandemic; in the process, lawyers have demonstrated how resilient, adaptable and profitable they can be, even when the chips are down.

We have seen regulatory reform in some countries opening up opportunities for new players and increasing competitiveness and witnessed how new technologies have modernised and improved law firm operations, service delivery, and accessibility. For some firms, this has been disruptive but for the majority, it has been hugely enabling. And yet, in spite of all these developments, I question whether, in fact, they have been transformative.

Indeed, research around the world continually shows that the issues I referred to over twenty years ago still afflict the industry with continuing reports of depression, disengagement, stress, anxiety and sexual harassment. In New Zealand (where I am now based), following a review in 2018¹, the then President of the NZ Law Society, Katherine Beck, stated 'when nearly 30% of lawyers feel major changes are needed to the culture of their workplace, and when 40% of lawyers under 30 believe changes are needed to their workplace culture, we must call a spade a spade: there is a cultural crisis in the (New Zealand) legal profession.' The crisis is not isolated to New Zealand. It is still endemic in western jurisdictions and is now being exacerbated by the Fourth Industrial Revolution (let alone COVID!) a technological revolution that is fundamentally altering the way in which we live, work and relate to one another. Potential restructuring and job losses are adding to the anxieties, especially those of the younger generations. The economic costs of this crisis are huge; the reputational damage to the legal services industry is considerable. In such circumstances, it is difficult to defend the traditional law firm culture and ways of working.

My point is this: while external factors such as pandemics, economic slowdowns, new technologies and regulatory reforms may act as catalysts for

1 The 2018 Workplace Environment Survey, NZ Law Society, June 2018; <https://www.lawsociety.org.nz/news/lawtalk/issue-919/the-2018-legal-workplace-environment-survey/>

change, transformation of the legal industry will only occur when those on the inside of the profession change their attitudes and approaches to doing business.

It's now time to do law differently. Change-as-usual strategies will not be sufficient to move the legal industry from breakdown to breakthrough. I believe there is an urgent need for lawyers, law schools and law firms to re-think how they operate if they are to fulfil the potential of their people and their businesses and to relieve some of the strain on their people and the planet. Fortunately, there are signs that this is starting to happen. For example, the ABA's task force in its 2017 comprehensive report² formally acknowledged the importance of lawyers' mental, emotional and physical health to the profession's sustainability. In an effort to promote a healthy work/life balance, some firms are now copying the success of New Zealand trust company Perpetual Guardian by implementing a 4 Day week. New law firms ('NewLaw') are emerging and adopting innovative and sustainable work practices, thereby securing themselves a competitive edge in their respective markets.

Even if you are working in an established law firm, it is never too late to try to bring about transformation from within. You have an opportunity, –even a responsibility, to help to transform not just your firm, but the industry as a whole. The flywheel effect means that the more firms who build momentum and effect change, the greater the impact will be across the board.

Where do you start? Perhaps by addressing these two interrelated questions: *'What are our commercial objectives?'*; and, *'what do we need to do to engage and inspire our people in order to achieve them?'*

2 'The Path to Lawyer Well-Being: Practical Recommendations for Positive Change' - the National Task Force on Lawyer Well-Being; <https://lawyerwellbeing.net/>

Half of the answer may lie in ensuring your firm's commercial objectives are not just about safeguarding next year's PEP (Profits for Equity Partner). Your people need to feel they have a vested interest in seeing your firm succeed even if they aren't shareholders (Partners) in the business. As Howard Shultz, CEO of Starbucks has been quoted as saying³ 'people want to be part of something larger than themselves. They want to be part of something they're really proud of, that they'll fight for, sacrifice for, and trust.' Law firms can take the lead from a growing number of businesses worldwide who have adopted a triple bottom line approach to their business (profit, people and planet), measuring the financial, social and environmental performance of the organization. The growth of **B Corporations** is an example of this. Closer to home, the **Australian Legal Sector Alliance** has over 40-member law firms who have made a commitment to promote sustainable and inclusive workplaces, community support, environmental conservation and responsible governance.

The other half of the answer lies in working to build a vibrant workplace culture in which people are fully engaged; in other words, they feel connected to each other and the objectives of the firm; their work is meaningful and they enjoy what they do. They are more motivated to achieve. The end result is a happier, more co-operative and productive firm.

The job of addressing this central challenge lies with the firm's leadership.

First and foremost, that means all the Partners. They, (rather than just the Managing Partner, Practice Manager or 'HR' manager) are responsible for setting the culture, defining the standards and overseeing the environment in which people are being asked to contribute. It's their business after all.

³ Strategy and the Fat Smoker, (Maister) p61.

Therein lies a major problem. Many law firm Partners still do not appreciate the role of leadership, assuming it to be more about command and control rather than motivating and engaging people around a shared purpose and vision. As renowned futurist Professor Richard Susskind stated during an interview⁴ I conducted with him in 2020, 'leadership is a move away from the consensus and the collegiality of the standard partnership to more of a corporate model where leadership means leadership; it doesn't mean passive management. It means putting a point on that horizon, a brave, bold position, working towards it and taking those who you can with you.'

So how can you take that bold, brave position Susskind's refers to? Here are five approaches that may help you on your way:

- 1. Power: Have a mandate to lead.** Being a leader in a law firm, especially in an executive position, is notoriously difficult. Leaders often have to address issues of control, behaviour, conflicting interests and partner autonomy. Ensure you have a clear mandate from the partnership to pursue an agreed agenda. This will prevent frustration later on.
- 2. Purpose: be clear about your 'why'.** Answer the question, 'why does our firm exist?' Contrary to many Partners' beliefs, it should not be about making money. Every business has a purpose beyond making money. While profit/cash is the life-blood of a business, it is not the reason for its existence; it is simply a measure of its viability. I believe the primary purpose of a law firm is to serve the interests of its clients; by solving problems, helping businesses grow and families prosper, it helps society to function. Thereafter you need to ensure that every

⁴ LawChat, 23 October 2020. <https://lnkd.in/gxqnKBz>

objective or initiative you embark on is consistent with your overall purpose. Working for a firm that has an overriding sense of social purpose is one the way people can find more meaning in their work.

3. Productivity: measure what matters. 'Being more productive' in a law firm traditionally means working longer hours or billing more. Yet time or 'presenteeism' is not a true measure of productivity. Productivity refers to outcomes (results gained/value delivered) rather than inputs (time spent at the office and hours billed). In attempting to improve productivity while promoting work/life balance, many organisations have now introduced flexible work practices. One pioneer is New Zealand trust company Perpetual Guardian who successfully trialled and implemented a four-day week in 2018. Staff were asked to design a work schedule that would permit them to meet their existing productivity requirement on the same salary but with a twenty percent cut in work hours. As its CEO, [Andrew Barnes](#) writes in his compelling book *'The 4 Day Week'*, the results have been stunning: engagement, productivity and profitability have increased, stress levels have decreased and work/life balanced enhanced significantly. The idea is catching on, even in legal circles, –[Portcullis Legals](#) in Plymouth in the UK being one example.

4. Perspectives: ask your people what they think. Everyone has a role to play in building and shaping the culture of a firm. So it follows they should be a part of the solution. Ask them (either via an online survey or focus group or team retreat) for their ideas, suggestions and opinions about your workplace; what works, what doesn't, what ideas they have to enhance the firm and their working lives. The answers can be revealing and instructive. By giving their people a say, law firm leaders have a much higher chance of building trust and engagement.

Mistrusting employees may be sceptical about this approach, so it is essential that this process is seen for what it is: an endeavor to involve them for the good of the business rather than a witch hunt.

5. Professional development: invest in your people. If you want your people to succeed, you have to help them to build their capabilities by investing in their learning and development. As the old adage states: 'if you think training is expensive, try ignorance'! Nevertheless, many firms still view training more as a cost, privilege or reward rather than a requirement. I have even had experience of team members being refused permission to attend a seminar, workshop or other similar learning opportunity, either because the firm did not support a learning culture or it was simply unwilling to invest the money. Nothing is more de-motivating to an employee than being told they are not allowed to learn new skills. I encourage firms to adopt a professional development programme that includes a blend of hard and soft business and interpersonal skills.

Law firms today have to compete for talent just as they have to compete for clients. Like clients, potential recruits have a choice as to where and how they work. If you can demonstrate you have a workplace culture that puts your people, not just your partners, at the centre of your firm's decision-making, you will have an advantage. The evidence increasingly shows that if you do this, you will easily outperform those other firms who are still stuck in the last century. Apart from being transformative, it is simply the right thing to do.

FROM THE EXPERTS

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2021 will be the year of consolidation for some legaltech categories such as: documents and process automation and digital signature.

Being trained in digital transformation, legaltech and digital skills such as legal design thinking, and legal project management will be a priority for many professionals.

More and more law firms will set up a line of legaltech services for inhouse departments.

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REFLECTIONS AND PERSPECTIVES GOING FORWARD

Driving innovation through legaltech



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At Hogan Lovells, innovation means supporting our clients through the development of fresh and effective strategies, tools, and solutions that will help them achieve their legal and business goals. We know that getting the technology piece right is an absolutely essential component of this approach –and that it will only grow in importance over time.

To meet this challenge, we have invested thoughtfully in our teams and our technologies, and through our work, have refined our approach to legaltech:

1. **Data driven:** We listen closely to our clients and the market, and work with the data we collect to make informed decisions about where and how we can be the most effective and responsive with our technology.
2. **Client driven:** We solve the problems our clients need us to, not the ones we think they have. Many of our most effective, award-win-

ning solutions have been created in response to and in partnership with our clients.

3. **Never complacent:** We know how quickly the world moves, and we are committed to staying cutting edge in our approach. We don't rest on our laurels; we regularly evaluate the effectiveness of our current stable of tools as well as those coming into the market to determine the best balance of value and efficiency.
4. **We embrace our creativity:** We have invested deeply in the creation of an innovative culture over the past six years. From firmwide contests to mindset trainings, we strive to create a workplace where every member is empowered to look at their remit with fresh eyes and raise their hand with ways to do it better.

Creating solutions

We recognize that our clients are faced with complex challenges. We have developed a full suite of potential mechanisms to solve these challenges.

Our lawyers, Global Legal Operations group and industry-focused leadership continually assess new technologies to evaluate their potential to support the services we provide our clients. We test and re-test, evaluate how they can be used to better deliver advice to our clients and then fully integrate the best of those technologies with the expertise, industry knowledge and full range of human capital that the firm, our clients and other industry partners have to offer. It's this dynamic, human element that allows the technology to reach its full potential - without this expert engagement, tech will fall flat.

Our clients also often need custom-tailored solutions. We stay focused on finding potential gaps and opportunities in commercial technologies,

and filling those gaps- whether those solutions be process, people or machine-oriented.

Highly-scalable and efficient advanced delivery

Solutions are only as strong as our ability to implement them, however. Using our creativity and our partnerships to scale advanced delivery is equally critical to our clients' success.

For example, when we had to help clients rapidly respond to contractual challenges resulting from the COVID-19 crisis, our Global Legal Operations team sprang into action with our partner service providers to rise to the occasion. Almost immediately, our clients across every sector around the world had a pressing need to better understand the potential use of force majeure clauses, MAC provisions, repayment terms, termination provisions and financial covenants. We built an innovative, highly scalable and efficient delivery model that leverages AI technology, lower cost attorney resources in our delivery centers, and legal project management. When combined with our lawyers' market insight and connectivity to regulatory bodies, the result was a hybrid process that combines the best people with the most advanced legal technologies to deliver a premium service at a cost efficient price point. A true win-win proposition and result.

Case studies in Latin America

The cost of the technology is always a factor when clients agree to the use of legaltech. Having case studies and metrics for the client to consider when making the decision is helpful to show the efficiency and effectiveness of the technology to justifying its use. Artificial Intelligence is increasingly used in Latin American legal matters, including natural language processing, supervised and unsupervised machine learning, as

well as structured and conceptual analytics, along with automation technologies. We have found that using supervised machine learning can save a client 60 to 90% of the cost of review. Structured analytics can reduce a dataset up to 40%. Collaboration technologies are also being used to share information within a case team or with a client. Clients appreciate collaboration sites so they can get updates to the matter without talking to their outside counsel. Here are a few success stories we can share:

1. Analytics and Data Visualizations Led To Successful Development of Risk Mitigation and Compliance Program

The firm conducted an internal investigation for a large power generation and distribution company in South America in response to allegations related to a federal corruption and bribery scandal stemming from the payment of illegal money in return for large contracts. The matter required the review of over a thousand different custodians' data sources as well as the enterprise systems from nine different companies under its profile for fraudulent transactions relating to some of the biggest construction projects on the continent. The breadth and scope of the data volumes peaked at 153 terabytes of unstructured data with another 126 terabytes of structured data from live ERP systems and archived legacy systems.

Our internal expert and case team, coupled continuous active learning technology and analytics, discovered the most relevant data in mobile device communications, emails, text and other data sources. Analytics tools were leveraged to synthesize structured data that connected seemingly unrelated data points and identified key patterns about the scheme, then linked to the email and text messages. As a result, the case team identified numerous shell companies and fraudulent third party vendor accounts as well as those who were operating them within our client's organization. After the discovery, the internal investigation, team assisted the client with

the rollout of a remediated compliance program that included better risk mitigation through data protection and real time risk monitoring. Because of the risk mitigation and monitoring solutions developed by the firm and implemented by the client, the U.S. Department of Justice declined to prosecute.

2. Robotic Process Automation

For a project in Mexico, we have proposed using a tool we developed to monitor all levels of legislative and regulatory changes as well as proposed changes that could have an impact on products sold by the client. It uses Robotic Process Automation, or RPA, to pull down new content posted by a government agency on its website that is pertinent to the client. The new content, including the associated metadata, is downloaded and combined into standard e-discovery load files via custom scripting. Those load files are then transferred to an e-discovery platform, and we've then created custom dashboards that allow both the client and outside counsel to easily search and review documents gathered.

3. Collaboration

We use collaboration tools that allow attorneys to share information internally as well as with clients. Using one of these tools that we are effectively employing in Mexico, we have tailored a secure online extranet service to create a custom solution for our lawyers to monitor regulatory activity by the Mexican data privacy authority. Source data from the agency is pulled into our master database, where we can easily pull up analysis and patterns that allows us to better advise clients on their particular risk and exposure.

The future of innovation and legal tech

The global economy is going to impact how we practice law as some companies struggle with their budgets. We will be forced to rely on tech

to an even greater degree, including legaltech and tech to support remote work and increased digitization. We are all going to need to step up our game and find solutions that will enable us to perform at that needed level while doing more with less.

Predictive analytics is used in business intelligence by taking historic and current data to predict future events or outcomes. In law, we see tools on the market that predict outcomes of contentious matters. Having been banned in France recently, other jurisdictions like the United States continue this practice. We also see law firms deploy predictive analytic tools on their own data to be more efficient and profitable. We will continue to see development in this area.

Finally, cybersecurity threats continue to rise. Ransomware attacks alone have increased over 400% already in 2020 after increasing 600% in the previous 12 months. Not only do we need to protect our own organizations, but be careful and cognizant how we work with vendors and other stakeholders now more than ever.

Bearing these and other observations from our client work is critical to sustaining our innovation and technology strategy - both for the challenges that 2020 has brought, and for those yet to come. We are excited about helping our clients meet their current and future needs as effectively and efficiently as we can.

FROM THE EXPERTS

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Many of the services provided by lawyers today have been definitively replaced by computerized processes that can be carried out directly by users, in their relationship with the public administration, in the contracting of goods and services and in the fulfilment of different legal obligations.

The challenge for lawyers still is to add value to personal and business decisions. This requires an increasingly deeper and more global knowledge of different matters, being informed of market trends and being able to provide their services in an absolutely digital environment, in which time and space have changed substantially. The teams of people and the logistical support with which the lawyer currently carries out his work have changed and being able to manage his work in this new environment requires skills that are not acquired exclusively through practice.

LAWIT
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REFLECTIONS AND PERSPECTIVES GOING FORWARD

What should the post-lockdown legal industry look like?



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Many think of COVID-19 as a crisis cast upon us. That, however, creates a false impression of a lack of control. Our response is in fact the combined result of many very-human decisions.

With great power, however, comes great responsibility. With the legal industry seeing dramatic change in a matter of weeks, it shows that change - when sorely needed - can come with determination and willpower.

Below, we cover 7 areas –from digitalisation, legal education to allied professionals– where change is sorely needed, and where we should next direct our energies towards.

Much ink has been spilt about how COVID-19 has changed and disrupted the legal industry. A search on Google turns up numerous articles on how COVID-19 has done overnight what no law or policy could: forced lawyers to adopt

a fully-digital mode of doing business,¹ change court practices² (to the extent that even being called to the Bar is now a digital occasion)³, and forced law schools to turn to AI invigilators to deter cheating in stay-home exams. Perhaps the clearest sign of the times is to hear practicing lawyers confide that for once, they get to spend more than 7 hours of their day at home.

Reading these news articles, however, tends to convey a sense of disempowerment. It conveys a message that an foreign and invisible force has swept into the industry and forced us to change. The human element of being able to control the situation has been taken out of our hands.

This is a mis-framing of the issue. While there is no running away from the fact that COVID-19 has been a truly disruptive force, what has caused our law firms to turn into virtual law practices and practically transformed the courts into online dispute resolution platforms, is at its heart **the human factor**.⁴ It has been the decisiveness to change, the rational and steady investment in technology over the decades and stubbornness to keep providing access to justice, that have made all the difference between what we see today and the legal industry keeling over in defeat.

1 Mark A. Cohen, "COVID-19 Will Turbocharge Legal Industry Transformation" *Forbes* (24 March 2020) <<https://www.forbes.com/sites/markcohen1/2020/03/24/covid-19-will-turbocharge-legal-industry-transformation/#549f78791195>> (accessed 30 May 2020).

2 Lydia Lam, "Some Singapore court hearings to take place via video conference as judiciary rolls out COVID-19 measures" *CNA* (26 March 2020) <<https://www.channelnewsasia.com/news/singapore/court-hearings-video-conference-covid19-12578730>> (accessed 30 May 2020).

3 Lydia Lam, "'Surreal' and 'seamless': 115 lawyers called to the Bar via video conference in a first for Singapore" *CNA* (13 May 2020) <<https://www.channelnewsasia.com/news/singapore/lawyers-called-to-the-bar-video-conference-first-in-singapore-12728678>> (accessed 30 May 2020).

4 Chief Justice Sundaresh Menon, "Message from Chief Justice Sundaresh Menon: The Singapore Judiciary's response to COVID-19" *Supreme Court of Singapore* (26 March 2020) <<https://www.supremecourt.gov.sg/docs/default-source/module-document/speech/message-from-cj-on-covid-19.pdf>> (accessed 30 May 2020).

In fact, it shows that changes in a time-honoured profession are, when most needed, possible and feasible – as long as we have the decisiveness, gumption and willpower to undertake them. Framing the issue in this way, then, places the control and power over the situation back in the hands of us lawyers.

But as we all know, with great power comes great responsibility.

Now that decisive change is shown to be possible, we should take the opportunity to re-look at what other areas have been wanting change in the industry, and be willing to take up those changes for our present and future good. It is for this reason why this missive is titled what the post-lockdown legal industry *should* look like, rather than what it *would*.

First, it is time for the profession to seriously look at the issue of allied legal professionals,⁵ and to give them the professional training and recognition they deserve. Just as it has been done in the field of medicine, there is ample room in the industry for lawyers to share the limelight alongside allied professionals, including legal technologists, legal knowledge engineers, project managers, legal management consultants, legal designers, as well as more common roles such as trade mark and patent agents, legal executives, and paralegals. Professionals like legal technologists, for instance, have proven their value during the present COVID-19 crisis, by advising lawyers and firms on how to transit into a digital-only mode of business. In this regard, professional training and recognition could for instance come in the form of legislated standards, such as the **Allied Health Professions Act 2011**,⁶ which sets out the

5 Tay Peck Gek, "Alternative legal practitioners: MinLaw studying regulatory need" *Business Times* (7 January 2020) <<https://www.businesstimes.com.sg/government-economy/alternative-legal-practitioners-minlaw-studying-regulatory-need>> (accessed 30 May 2020).

6 Allied Health Professions Act 2011 (Cap 6B, 2013 Rev Ed).

certification requirements needed to be registered as an allied health professional.

Second, take this crisis as an opportunity to shift to a truly digital model of business.⁷ The world is not going to be same now that the Pandora’s box of digital transformation has been opened. It would be a mistake to revert to the former physical ways of operating, when clients have seen what can be done digitally, quickly, and at a fraction of what has been done before.

Third, it is time for the legal industry to recognise the importance of proper cyber security.⁸ Little more needs to be explained for this, save to note that going digital without the right cyber defences is like moving into a new home without installing a lock on the front door.

Fourth, as countries around the region begin to ease crippling lockdowns, law firms would do well not to rush to squeeze employees to the bone in order to regain lost ground. Time will be needed for people to re-adjust to a new normal, and for firms to find a new equilibrium. Putting employees under immediate pressure to revert to the old pace of business would force them past their breaking point. On this subject, it is time for the profession to **change its historically less-than-positive working culture.**⁹ As a start, firms can put in long-term plans to ensure

7 Mark A. Cohen, “COVID-19 and the Reformation of Legal Culture” *Forbes* (14 April 2020) <<https://www.forbes.com/sites/markcohen1/2020/04/14/covid-19-and-the-reformation-of-legal-culture/#4c7f7879171d>> (accessed 30 May 2020).

8 Lucy Ingham, “Celebrity law firm hit by “surgical” cyberattack, threatening A-list personal data” *Verdict* (12 May 2020) <<https://www.verdict.co.uk/celebrity-law-firm-cyberattack-lady-gaga/>> (accessed 30 May 2020).

9 Mark A. Cohen, “COVID-19 and the Reformation of Legal Culture” *Forbes* (14 April 2020) <<https://www.forbes.com/sites/markcohen1/2020/04/14/covid-19-and-the-reformation-of-legal-culture/#4c7f7879171d>> (accessed 30 May 2020).

that legal professionals are physically and mentally well-prepared for a digital age, such as supporting extensive or even permanent remote working arrangements, enabling work-life balance routines, and improving team-building cultures in firms. The winners in the new reality will be law firms and departments that can treat their people as the cornerstone in everything they do, rather than just as resource units to be expended.



Image credit: Atlantic Council.

The virus has not spared any country in Asia, but the changes wrought by it are the result of many very human decisions.

Fifth, the pandemic has seen an explosion in COVID-19 related initiatives, such as articles on the legal impact of the pandemic, resource hubs, webinars and the like. While there is no question that these initiatives are animated by good intentions, the fact that there are so many of these

initiatives out there should spark the realisation that **quality, rather than quantity**,¹⁰ should be the real focus. People are more likely to pay attention to the one good resource that they can keep coming back to, rather than a buffet of uncoordinated and incidental initiatives.

Sixth, many firms have also embarked on **upskilling** efforts during this time,¹¹ reflecting the conventional wisdom not to “waste a good crisis”. While this is encouraging, with lockdowns around the world starting to ease, however, there could be an urge to rush back to the old normal (where lawyers are so overworked with little time or energy to improve themselves). Tied to the point above about placing people at the centre of all they do, is that **firms should continue steady investments in up-skilling their lawyers**. The skills they learn today for an hour will be returned in kind far more than if the hour been spent on another submission or email.

Seventh, it is time to relook legal education.¹² For nearly two decades, people have said that law schools are churning out 20th century lawyers for the 21st century. Now that education has gone online, there is no better chance to re-design our curriculum and ways of thinking about how law and legal practice should be taught to our law students. Rather than focusing on rote memorisation and the application of legal concepts, sensitise students to business, corporate and policy realities, so that they

10 Graham Page, “Authentic Empathy: How Marketers Should Respond to COVID-19” *Affectiva* (10 April 2020) <<https://blog.affectiva.com/authentic-empathy-how-marketers-should-respond-to-covid-19>> (accessed 30 May 2020).

11 Jeanne Meister, “3 ways HR leaders can build new capabilities during COVID-19” *HRMASia* (12 May 2020) <<https://hrmasia.com/3-ways-hr-leaders-can-build-new-capabilities-during-covid-19/>> (accessed 30 May 2020).

12 Lydia Lam, “Greater diversity in pathways to Singapore Bar among new ideas for legal education system: Chief Justice” *CNA* (6 January 2020) <<https://www.channelnewsasia.com/news/singapore/diversity-pathways-singapore-bar-law-legal-education-12238038>> (accessed 30 May 2020).

see the world from more than just the legal angle. Encourage them to adopt a curious mindset towards learning about technology and other longer-term disruptive forces. Orientate them towards a good foundation in actual industry practices, rather than just in academic thought. That way, our law graduates will be better prepared for the future. We do them a great disservice otherwise.

COVID-19 may have been nature-wrought (or may not have been, depending on what you read and believe). But the implications from it are very clearly due to the compound effects of multiple –and very human – decisions. This shows that fundamental change in the legal industry for the better is not just fathomable, but very doable.

In the time of COVID-19, let us do what no pandemic itself can do - to build a better legal industry for generations to come.

FROM THE EXPERTS

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Strategic communication will become a great asset to support all the changes to come. Startups need to talk effectively about what they do to stakeholders and investors. CEO's need to spread convincing information within their teams on why it is important to accept changes. Firm Partners need to understand and speak clearly to their clients in order to sell more.

Successful communication KPIs will translate in reputation, credibility, and visibility, building a strong long-lasting prestige for the legal industry.

LAWIT

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REFLECTIONS AND PERSPECTIVES GOING FORWARD

Importance of Legal Function Strategic Plan



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The role of the General Counsel continues to evolve. More and more they are viewed as a full C-Suite executive and often tasked to contribute to areas that go beyond providing legal advice. They are tasked to solve broader business problems that may or may not have a genesis in legal/regulatory issues. The increased importance and focus on environmental, sustainability and governance (“ESG”) concerns for Boards and Senior Executives also has helped expand the role and expectations of the General Counsel. To successfully navigate the increased responsibilities of the legal function and optimize its performance, every legal function needs to implement a legal function strategic plan.

A legal functional strategic plan is a three to five-year plan that details the vision and path forward for optimizing the performance and value contribution of the legal function of a company. It is critical

because a fully formulated plan accomplishes the following: (i) aligns the legal function and how it deploys its resources with the key strategic company objectives; (ii) it aligns the overall legal team on both understanding the function's key priorities and initiatives and how each member contributes to supporting these priorities and initiatives; and (iii) it forces the legal function to be "pro-active" in how it is managed and achieves its longer term goals, including the strategic investments that need to be made, whether people or technology, to optimize its performance and contributions to the company.

Having a legal function strategy does not only apply to large in-house legal teams. While having size and scale can drive a different set of priorities, it is equally important for smaller legal functions. When you are smaller and overwhelmed with issues driven by growth, it is even more important in understanding the types of resources you will require to manage growth and the key investments needed now to avoid some of the mistakes inherent in just adding resources to catch-up with growth (e.g. too much low value work being performed, misalignment of staffing model, failure to automate, etc.). A legal function strategic plan will provide greater clarity and consistency to your decision-making process for ongoing staffing and investment decisions. It will also allow the members of the legal function to understand why certain investments were prioritized over other requests.

The first step in creating a legal function strategic plan is to understand the company's strategic plan and how legal can enable/impact key priorities. This alignment has the benefit of en-

suring resources are prioritized appropriately across the legal department. It further ensures that every member of the legal department understands the company's strategic objectives and how they can contribute toward their success. Being a successful in-house practitioner requires you to deeply understand the underlying business you support, and this alignment helps reinforce this across the department. Finally, it enhances the legal function's credibility with executive management when it can demonstrate it is focused on helping achieve the company's key strategic objectives.

Once you understand and are aligned with the company's strategic objectives, you need to conduct a thorough assessment as to the current state of the legal function. It is in conducting this assessment that you will identify key gaps in optimizing the legal function's performance and ensuring you can dedicate resources to supporting the company's strategic objectives.

To conduct a thorough assessment, you will need good data. This may be an easier task in a legal function that has good foundational tools that tracks detailed spend (both internal and outside spend), has visibility into all legal services requests, and has good transparency into the workloads of all members of the legal function. Most legal functions will have gaps in the transparency and visibility of all work being performed by the function. There are however tools and processes available to help close these gaps. This can include interviews of key stakeholders (both legal department members and key clients), department surveys on workload, and time tracking tools (can be deployed for limited periods of time).

An important caveat to remember before you begin a workload assessment. Please make sure you over communicate the reason you are conducting the assessment. There is often a fear that the purpose of an assessment is related to a staffing reduction exercise. The purpose of the assessment needs to be made clear to avoid creating needless fear and uncertainty. You will also obtain better transparency in your data without this fear, particularly if you are relying on interviews or surveys.

Given that each legal function will have its own set of priorities and objectives to focus on post the assessment, we will focus in this article on the key foundational pillars that should accompany whatever priorities your legal function selected. These four key pillars relate to: (i) organizational structure; (ii) talent management; (iii) workload/staffing model; and (iv) technology and content enablement.

As with any corporate strategic planning process, once you create the strategy you need to understand whether the current organizational structure enables the strategy or is an obstacle in achieving the objective. This will be true for your legal function strategic plan as well. This may not lead to a formal reporting structure change, but it may require some changes to overcome potential obstacles with your current structure. For example, you may need to create practice groups across teams and geographies to ensure consistent implementation of an initiative. You can also use the performance management process and related rewards (such as bonus) to ensure teams work well together in achieving your strategic aims.

Talent and talent management processes play a critical role in any long-term strategic plan. Assess if you have the skills necessary on your current team to achieve your identified priorities and initiatives. For example, you may want to reduce outside counsel spend and in-source critical legal knowledge. This however requires the internal talent to do so. You will also want to assess whether you can “upskill” current talent via specific and time-bound development plans. Ensure that in your talent management process you are also looking broadly at the skill sets required to achieve your strategic plan. A modern legal function needs more than lawyers. It also requires excellent operations resources, program managers and technology experts.

Your legal function strategic plan will also require for you to drive to an optimal staffing model. If you want your team to spend more of their time on key strategic imperatives or drive key initiatives, you need to create capacity for them to do so. All legal work in your portfolio needs to be performed via one of the following options: (i) in-house team; (ii) outside counsel; (iii) lower-cost alternative legal services provider; (iv) client self-help; or (v) automation. You need to understand all the work in your portfolio and be deliberate on how you want it being handled in the future. This will require key initiatives as part of your legal function strategic plan to ensure work can be performed via most appropriate option.

Next you need to understand what are the key technology tools and content enablers that allow the legal function to successfully implement its strategic plan. Technology tools need to include the minimum basic tools that provide you with sufficient

data and transparency to run a legal function, such as matter management, e-Billing, and workflow automation. Content enablers can include contracting playbooks or self-help guidance to minimize legal function involvement in certain tasks.

Once you have created your legal function strategic plan you need to carefully consider how to optimize your team's ability to execute on the plan. First, you need to select resources needed for plan execution. Ideally you will have a dedicated lead and the participation of key legal function members. The execution of any of the identified priorities or initiatives can be something you only focus on when you have spare time. This is a recipe for failure. Be honest upfront as to whether you have the internal skill sets and bandwidth internally to execute on the plan. If you lack confidence in your team's ability to execute on the plan or on specific initiatives, there are external resources available to help.

To ensure successful execution with your legal function strategic plan, you must focus on metrics, reporting and overall governance. Metrics need to be things you can track and report on in a timely manner. Avoid metrics that are not quantifiable and subjective in nature. Remember the corporate adage of "what gets measured gets done".

Metrics needs to be frequently reported on. Ideally you are producing at least a monthly report and sharing that report with senior legal management. The report should not only track your progress on any individual initiative, it should also provide visibility on any known obstacles and identify what needs to be

accomplished by next reporting period. In this way, you ensure the necessary momentum to execute on each initiative on a timely basis.

Finally, the governance model needs to include frequent reporting to the General Counsel and, as necessary, to members of direct staff. If applicable, there can be check-ins with executive management, particularly for those initiatives that are a critical part of the company's strategic plan. Also make sure that regular updates are being provided to the entire legal function. They both need to understand progress being made and that the plan is a key component on how the function is being run. This will ensure timely cooperation from everyone that can make an impact to the success of any of the plan's objectives and initiatives.

Let me close this article by sharing a few best practices. As you develop your first legal function strategic plan, it is better to focus on fewer initiatives that you can dedicate resources and time to ensure successful execution. I have seen plans fail from trying to accomplish too many things at the same time and all you do is make small, incremental improvements on each initiative. Better to taste success with a few initiatives and drive credibility across the legal function and your clients with your ability to successfully execute. Also, be sure to revisit the plan on a yearly basis. Company's are not static, and priorities can change from year to year and your plan should be dynamic and shift as needed to reflect these changes.

FROM THE EXPERTS

INNOVATION
DISTINGUISHES
BETWEEN A LEADER
AND A FOLLOWER
– STEVE JOBS –

LAWIT
by LAWGISTIC

REFLECTIONS AND PERSPECTIVES GOING FORWARD

Knowledge Management: a (re)New 2021 Legal Trend



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With the start of the new decade, the Legal Sector is understanding that all of internal and external processes that Firms have accommodated for years need to be revisited: GDPR, Covid-19, price pressure from clients and time-to-market expectations (client's response times) becoming increasingly shorter are just some of the key factors that are putting upside down all of our current ways of work.

In the past few years there has been huge renewed interest in Knowledge Management. Document and matter security is getting much more restrictive due to "Need-to-Know" security models, also improvements in AI and the explosion of LegalTechs around the world, have made available hundreds of Web Apps automatizations; seem self-evident that the main beneficiaries of all this disruptions will be the KM Processes! Consequently in order to be able to compete, both in costs as well as response times, medium and large law firms need to leverage their huge knowhow based on years

of practice of hundreds of lawyers. If not, smaller more cost-efficient firms will have the cutting edge over legal pitches.

Historically when asked about Knowledge Management, all of the different players have put the focus only of single documents. These could be models, precedents, even technical notes or press articles, but like many other aspects this is also changing. It is more and more common to find that Firms look not only at documents but also at other types of knowledge, per example Experts or Bound-Volumes just to name two.

One of the best traits about working in a large legal corporation is that its professionals could specialize themselves in very specific matters or tasks. Of course the down side it's the difficulty that entails to find these Experts in case of need. Thus this is one of the hottest topics right now, as the Legal Sector is witnessing great tools and in-house solutions to help solve this hassle. Just to name one, Knowledge Graph from iManage will allow the lawyer to have a holistic view over a particular problem, hence when looking at an issue and searching for the previous documents on the topic, it will also advice over the Experts of that particular matter. In order to create this Experts list the use AI is of course a must. This way, the information of who has written these documents in the past blends with many other sources of information of the firm to turn into a true new Knowledge Data Source. Very Clever!

Bound Volumes (BV), also referred as Experiences in other parts of the world, are bundles of documents that are part of the same client mandate. From a M&A Agreement to a Project Finance, a BV is the set of executed documents that are usually provided to the different counterparts at the end of a matter that a Firm has been advising to. Of course when dealing with a BV, the knowledge management process has to act over

dozens of documents at once, but also allow the Professional Support Lawyers (PSLs) to engage each document separately. At the end of the day, when a Firm lawyer will search for a specific piece of knowledge, the relevant document should be presented either by itself or as a part of a larger collection or BV. The gain for the professional it's obvious since not only can create a new draft of a particular document but also will understand all of the different steps that needs to follow in other to prepare the proper solution for their client.

As one may expect, in our 2021 technological world, complexity can't be tolerated when designing a User Interface. Because of this, there are very few solutions that intelligently deal with BV in a very simple, intuitive and maximum usability interface point of view. Probably one of the biggest challenges that Knowledge Management BV faces today is how to allow very complex classifications, either manually or through the use of different AI Web Services, while streamlining the work of the PSLs and the later search & filtering by the lawyers - also referred as "findability".

Certainly at Lexsoft we have no doubt that 2021 is going to consolidate multiple very large Knowledge Management projects by some of the World Top Legal Firms and, that these type of solutions are rapidly going to be introduced by the rest of the medium and large legal entities. During this year, it's a certainty that the Legal Sector is also going to discover new trends on KM besides the classic path, Knowledge Graphs, or Bound Volumes publication; and that they will be putting the spotlight on how firms can leverage upon their existing knowledge and how can arise all of hidden knowhow which today, in many cases, is unused and lost.

FROM THE EXPERTS

FAILURE
IS AN OPTION HERE.
IF THINGS
ARE NOT FAILING,
YOU ARE
NOT INNOVATING ENOUGH.
– ELAN MUSK –

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REFLECTIONS AND PERSPECTIVES GOING FORWARD

Automation Is Your New Key Differentiator: How No-Code Legal Automation Platforms Can Help Lawyers Thrive



TOM MARTIN

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A lot happened in 2020.

COVID-19 has changed the way we conduct business, from Zoom hearings and trials to in person masked client meetings to online dispute resolution. GPT-3 and other artificial intelligence technological achievements have us rethinking what we do and how we do it. Billion dollar investment in legal technology companies, which have finally gone prime time.

It's no wonder that the adoption of legal technology has increased, from fear of missing out as well as concern with staying ahead of the competition.

In 2021, a key piece of this new puzzle is automation.

"What are the jobs that are going to be there in the future?" Theoretical physicist and co-founder of string field theory, Michio Kaku famously answered: "The jobs of the future will be those jobs that cannot be done by artificial intelligence

and robots.” Or, to put it differently, whatever can be automated, will and should be automated.

When Henry Ford implemented the assembly line for mass production of automobiles, bespoke manufacturers were supplanted. When Netflix popularized video streaming of movies and television, brick and mortar videocassette rental stores went bankrupt. And, for many years, this analogy failed to apply to lawyers because the logic did not extend from products to services, but those times have changed.

Let me share with you a few ways in which automation can impact the traditional attorney-client relationship and improve service delivery.

Issue Identification and Categorization

The traditional lawyer may take a phone call or conduct a client meeting, at the lawyer’s time and convenience and client’s hourly expense, to listen to the client’s story and discern what legal issues arise in the context of the facts presented. This tried and true method is lengthy, sometimes awkward to schedule, and expensive.

The modern lawyer uses a no-code legal automation platform to conduct a standardized conversation, at the client’s time and convenience and little to no expense, to ask the client a series of interdependent questions that define the legal issues. This conversation can be conducted via text, online messaging, phone call or voice-activated chatbot.

Legal issues can be spotted either by using classical AI (for example, if/then conditional logic) or modern AI (for example, supervised or unsupervised machine learning).

Suffolk Law's [Legal Innovation & Technology Lab's Spot API](#) is an example of a machine learning issue spotter created by Lab director David Colarusso with funding from the Pew Charitable Trusts. By using lawyers to "teach" the Spot tool how to identify legal issues arising from factual scenarios, the tool can now identify legal issues on its own.

Answering Simple and Repetitive Questions

The traditional lawyer may relate to the frustrating experience of answering a barrage of repetitive questions from potential new and existing clients. "How much do you charge?" "What's 'service of process'?" "What's the status of the case?" These questions seek to elicit simple factual information, but don't require judgment in the way that "What are my chances of winning the case?" would.

The modern lawyer uses a no-code legal automation platform to construct a virtual legal assistant to field client's simple legal questions by using natural language processing to identify the intent of their question and match it to a suitable answer. The answer is crafted by the lawyer to reflect their best understanding and the virtual assistant can answer a client's questions 24/7/365.

Complex questions or questions for which there are no pre-existing answers can be flagged for lawyers or their staff to answer in the traditional manner.

Tennessee Alliance for Legal Services' (TALS) [Renter Defender](#) is an example of a virtual legal assistant that both identifies relevant landlord-tenant legal issues and answers renter's questions about them. By virtualizing this experience, TALS can scale to provide assistance to thousands in need, no longer constrained by how many lawyers it has, or in person meetings.

Automagically Create Standardized Documents

The traditional lawyer may, after conducting a lengthy client interview, create a legal document either from scratch or by copying and pasting from prior work product and adding the new client's information. It's a detail-oriented and time consuming process that is prone to error.

The modern lawyer uses a no-code legal automation platform to connect an automated client conversation to a legal document template that is either created by the lawyer or supplied by a legal information service, such as Thomson Reuters, and is updated to comport with recent changes in the law. When the client completes an automated interview, their answers are used to auto-populate the forms, resulting in completed legal documents.

The modern solution is quicker, faster and less expensive to maintain.

Tennessee's [Workers' Champion](#), created by the Bureau of Workers' Compensation in partnership with TALS, is an example of a voice-activated legal assistant that uses automated conversations, conducted in English or Spanish, to gather information from workers and fill out their Petitions for Benefit Determination along with electronic filing instructions.

Conclusion

The ground has shifted beneath us. How we react to change is what defines us. Automation can be a new key, to differentiate lawyers from traditional practitioners who are caught in a 1 to 1, analog world with limited resources. A modern approach, supported by no-code legal automation platforms, can allow lawyers to scale up with little additional overhead and greater client satisfaction. Be the change you want to see in the world.

FROM THE EXPERTS

THE **KEY** IS TO
EMBRACE DISRUPTION
AND CHANGE **EARLY**.
DON'T **REACT** TO IT
DECADES LATER.
YOU **CAN'T FIGHT**
INNOVATION.

– RYAN KAVANAUGH –

LAWIT
by LAWGISTIC

REFLECTIONS AND PERSPECTIVES GOING FORWARD

The transformational impact of Legal Design



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The legal market is in motion. This is due to digitalization with its new possibilities for legal organizations and the changing expectations of consumers and business. The need for innovative solutions therefore is ever increasing. Legal Design as an instrument to tackle those challenges has moved from being a niche to recently creating a buzz. Nevertheless there seems still a widespread lack of understanding about the value of Legal Design. It is a new concept to master developing systems and solutions for legal content, contract, workflow and process optimization tasks that are easy to access, less complex and understandable. The idea behind the method is mainly to embed design and especially design thinking into the field of law and transfer the mindset of designers to legal issues. The goal is to drive legal innovation by building user-centric and helpful solutions.

Legal Design offers the legal market a new mindset with valuable tools and instruments to work out concepts that meet relevant user

needs. It is built on an ecosystemic approach that puts the user of a service, a product or a technical solution at the center of all considerations. Besides it contains the approach of 'creative problem solving' that leads to fresh and innovative ideas to make navigation in complex legal issues easy. It leads legal and cross-disciplinary teams through different stages of analysis, defining a problem, ideation, prototyping, testing and implementation.

Why do we need Legal Design?

There are three major reasons why Legal Design as a method is on the rise and should play a major role in future legal businesses and private practices.

1. Cost pressure

The Legal Industry is almost drifting from a pull to a push market where individuals and businesses demand cheaper legal advice and want to benefit from digital developments that make legal tasks faster and easier to answer and fulfill. Legal market players such as Law Firms have therefore to re-think their service approach and need to develop better solutions to make their clients happy and satisfied.

The tendency of legal inhouse departments to do "more inhouse" is just another phenomenon of our times. Instead of automatically outsourcing legal tasks to external law firms, inhouse departments are on the way to become business savvy service entities. The demand of the Business Management is clear: conduct more (work) with less (money). A circumstance that leads directly to the second reason why legal design could be a big help in this changing process.

2. Digitalization

New technical developments are constantly evolving and have a deep impact on the legal industry: Many legal tasks will be automatized and in best

case standardized. Machine only based legal advice, where legal tasks are supported by a machine (for example by legal chatbots) with users going all mandatory steps in a legal process by the help of coded solutions, without any human involvement, is on the uprise. The demand for quick and easy workflows that enables users to get from A to Z in a safe legal net is therefore getting higher. Legal technology has already produced a variety of solutions to make legal tasks easy and fast, such as no code builders for lawyers (eg. BRYTER) or platforms where consumers can get automated legal aid eg. through a chatbot within seconds (see eg. flightright.de or other platforms revolving around compensation for delayed flights).

But what about the development of such technical solutions itself? Here especially the need of a method that focuses on user needs and leads to useful and usable tech solutions is increasing day by day. To build the right tool that supports individuals getting legal advice or quick legal help needs not only a strong idea about the legal needs and options to solve it, but also a good design that helps users to intuitively navigate through. Legal Design is combining the legal needs with the possibilities in tech and the requirements from a design perspective - the ultimate combination to create not only user-friendly environments, but rather to lead to real legal user experiences (LUX).

3. Regulations

More and more regulations are leading to more and more complexity. The legal ecosystem in our globally connected business world demands a system that simplifies legal content and workflows in legal organizations. Only by supporting simplification and the accessibility of the high amount of increasing legal requirements, individuals and businesses are capable to oversee what they have to do in order to fulfill the existing and upcoming regulations.

Legal Design is helping to reduce the complexity of legal content and processes by emphasizing the human factor that is part of the method: It helps to identify painpoints, hurdles and complex issues and supports the way to de-complex and break down complexity into small modules that are easier to understand and create a solution for.

Who needs Legal Design?

- **The users and addressees of law like ordinary citizens and all stakeholders of businesses**, because they are the ones who benefit most from the simplification of legal tasks and transparency. They are the ones who need to understand which rights apply to them in which way and what the consequences are in case of non-compliance or, what to do or not to do based on the design of contracts. Legal Design can especially support the way how fast people understand legal content. In the business context it supports the way contracts and business issues are being structured and solved.
- **Authorities and Administration** (executive branch) to simplify processes and administrative procedures and make them user-friendly.
- **Legislators**, by adopting the 360 view immanent in the method, to better understand relevant needs/circumstances in the legislative process, in order to pass understandable and clear legislation. This can also prevent exorbitant lobbying and allows ALL affected parties and thus stakeholders of a given regulation to be considered early and properly.

The process leading to the passing of a law can thus be designed in a user-centered way. Based on the user needs of all stakeholders, ideas and prototypes could be designed, which then could be tested in a real life setting (i.e., norm addressees). A way to do this may be through recently built instruments called 'regulatory sandboxes'.

- As a new skill set for especially **Lawyers** (whether in law firms or companies):
 - to change their perspective towards their clients,
 - understand clients` needs better and
 - offer them exactly the products and services that really are solving their problem.
 - Last but not least to make internal workflows, legal tech environments / tools and processes user-centric and focused on people, not processes.
- **Providers of innovations in law**, such as legal tech companies, who should tailor new services and products based on their customer needs. Only those who truly understand the needs of their customers will develop tools that are also useful, intuitive, and purposeful. Clients of legal tech providers often complain that their real needs are not recognized. This can be addressed with the customer-centric approach that is part of the Legal Design Method.

What are the challenges before starting with Legal Design?

The basic prerequisite to start with legal design is to be open-minded, curious and flexible. Since innovation has not been particularly prominent in the legal industry so far, lawyers often have to develop an innovative mindset first. There is still a lot of potential in the legal market, regardless of whether we are looking at law firms or legal in-house departments. Although we have been seeing an increasing willingness to innovate recently, an innovation strategy is often missing. Most lawyers in law firms and legal departments have yet to learn what innovation even means in their field and why innovation leads not only to better offerings, but also to competitive advantages. It is therefore first necessary to understand

what it takes to perform as a proactive business player, instead of remaining rather reactive and passive in the majority of cases. This is a challenge for most players in the legal market at the moment.

The ones who have already entered into a new system of innovation and are already applying tools such as Legal Design are currently at the forefront of development. Such companies have already clear innovation concepts and are implementing them consistently. They remain flexible and have adapted to permanent change. These are precisely the companies and law firms that are already at the top of their competition and can truly satisfy their clients. There are still far too few of them, but developing the awareness of 'change the new normal' will help to successfully tread the path of innovation.

Curious about more insights and how to implement Legal Design in your legal business? Stay tuned for the upcoming book by Astrid Kohlmeier and Meera Klemola about the impact of legal design with a practical guideline how to start and transform your legal organization into a place that delivers better services and relevant products.

The book will be published in the first half of 2021 –send us an email to receive firsthand info about the exact publishing date to: hi@astridkohlmeier.de

FROM THE EXPERTS

MANAGEMENT

**INNOVATION IS GOING TO
BE THE MOST ENDURING
SOURCE OF COMPETITIVE
ADVANTAGE. THERE WILL
BE LOTS OF REWARDS TO
FIRMS IN THE VANGUARD.**

– GARY HAMEL –

LAWIT
by LAWGISTIC

REFLECTIONS AND PERSPECTIVES GOING FORWARD

The case for client-centric design in law firm technology roadmaps*



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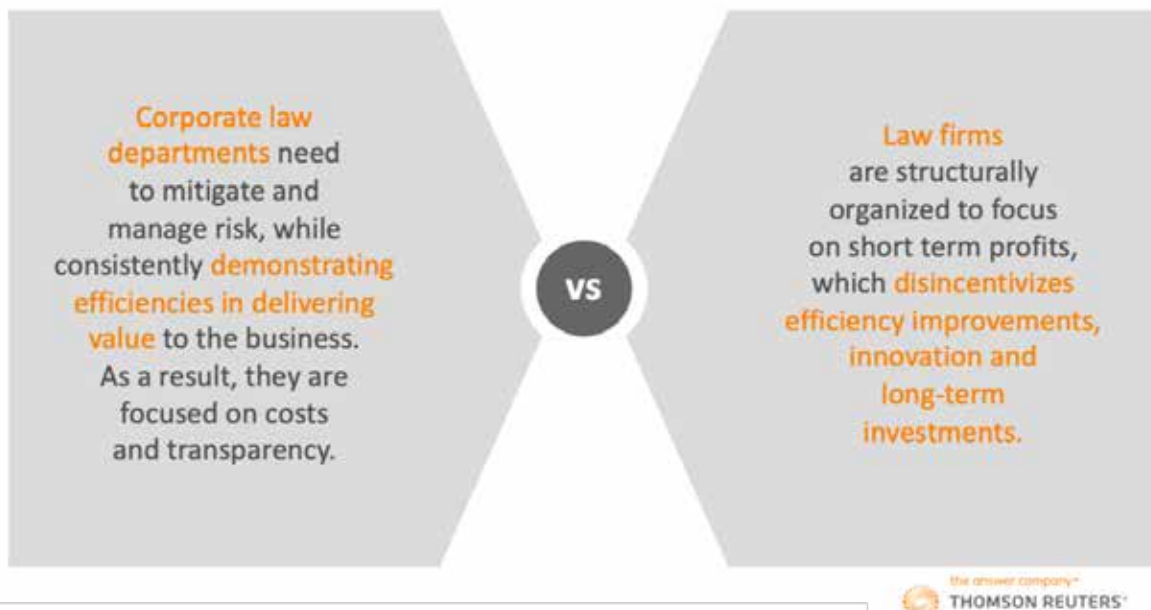
As the legal services market becomes more competitive, law firm strategy –or lack thereof– will have real consequences.

If we polled business school professors, all would agree that long-term strategy beats short-term strategy, at least over the long-term. If true, the following two statements ought to be in tension with one another:

- 1. The traditional law firm operating model is designed to maximize profits for ownership over the short-term.** See, e.g., Jonathon T. Molot, [“What’s wrong with law firms? A corporate finance solution to law firm short-termism,”](#) 88 So Cal L Rev 1, 5 (2014) (noting that law firms have “a decidedly short-term bias”); Jordan Furlong, [Law is a Buyer’s Market](#) 63-65 (2017) (noting that “most partners prioritize their short-term financial interests ahead of the firm’s long-term well-being, sometimes to absurd lengths”).

* First published in legalevolution.org
(December 27, 2020)

CLASH: Buyers (corporate legal dept) vs. Sellers (large law firms)



2. **Large corporate law firms remain remarkably profitable, even during a global pandemic.** Nicholas Bruch, [“Law Firms Are More Profitable Than Ever. How are They Doing It?”](#) Nat’l L Newsletters, Nov 2018 (attributing growing profitability to higher rates and higher leverage, albeit the pull on each lever varies by firm); Gina Passarella & Patrick Fuller, [“Will 2020 Be Law Firms’ Most Profitable Year Yet?”](#) Law.com, Nov 12, 2020 (reviewing data that suggest higher profits during global pandemic, due in part to large reduction in expenses).

Even a gifted lawyer would struggle to make the case that the law of supply and demand doesn’t apply to the market for legal services.

Thus, a more plausible explanation for the success of short-termism in law, advanced in this essay and other Legal Evolution posts, is that the massively complex and segmented legal services market is slowly evolving in the direction of greater transparency, see [Post 209](#) (Raj Goyle discussing how the advent of AI-enabled price transparency is the first step

toward competition among large law firms), and that the benefits of the long-term are beginning to come into focus, particularly in the area of client-facing technology, see [Post 213](#) (Zach Abramowitz reviewing bullish signs for law firm tech ventures).

We know the legal services market is becoming more competitive when clients have more and better choices. The early stage of pressure on law firms has been the movement of work in-house, see, e.g., Casey Sullivan, "[Law Firms are Seeing Renewed Competition-from Clients](#)," Logikcull Blog, July 9, 2020 (noting that "66% of law firms with 250 or more lawyers are losing business to law department in-sourcing"), and the migration of more work to ALSPs, see [Alternative Legal Service Providers 2019](#), Legal Executive Institute (2019) (noting \$10 billion market that is growing at 12.9% annual rate).

One of the next waves of client choice, which is being accelerated by the global pandemic, will be between (1) a relatively small group of firms who make strategic investments in technology designed to improve the client experience and expand overall client value, and (2) a larger group of law firms who forgo such investments in favor of ever more short-term profit. Cf. [Stein's Law](#) ("If something cannot go on forever, it will stop.").

This essay makes the business case that now is the time for law firm technology roadmaps with a client-centric design. As discussed below, technology roadmaps are strategic planning documents with a multi-year time horizon. Likewise, client-centric design requires immersion in the needs and experience of key firm clients rather than the opinions or views of powerful partners.

We make our business case in three parts:

- **Part I** draws upon market data on law firm demand to better understand the traditional law firm operating model and its fixation with short-term financial results;
- **Part II** looks at data reflecting the voice of the corporate legal departments, identifying potential opportunities and sources of competitive advantage for proactive law firms;
- **Part III** provides an exemplar of a technology roadmap that is tied to a realistic law firm strategy and reviews some of the fundamental steps to implement a client-centric design.

I. Short-term law firm strategy: the beginning of the end

Law firms' fixation on the short term has been thrown into sharp relief by how they've responded to the global pandemic.

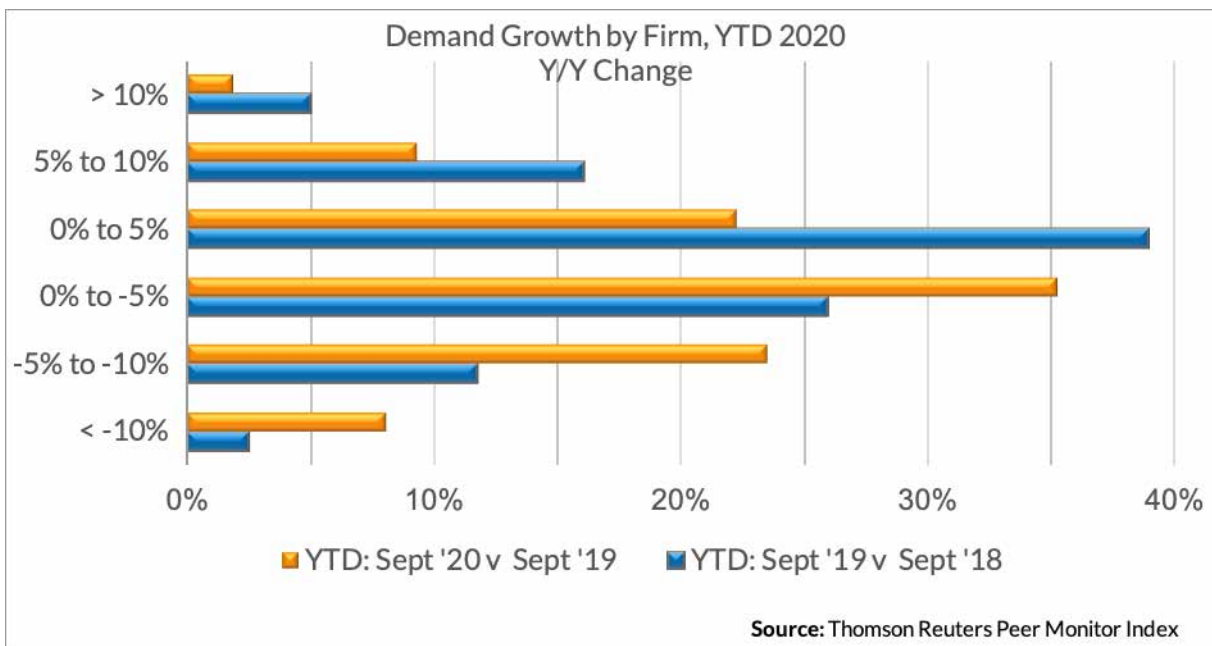
To illustrate, let's break down some of the performance trends among some of the largest US firms, aggregated by Thomson Reuters' most recent [Peer Monitor Index](#) report (Q3 2020).

A. Declining demand

Demand is perhaps the most significant revenue driver. As shown in the graphic below, through Q3 2020, 67% of firms have had demand contraction. Last year through the same point in time, 60% of firms (nearly double of the firms this year) had demand growth.

Although it's possible for some firms—particularly larger firms—to sustain profitability through diversified practices with countercyclical demand (e.g., Real Estate-related services work negatively correlated with Restructuring), see, e.g., McKinsey & Co, "[COVID-19: Implications for Law Firms](#),"

May 4, 2020 (discussing effective law firm strategies during prior recessions), law firms cannot escape the fact that in comparable periods in 2019 and 2020 (Jan-Sept), aggregate demand at the average firm declined 2.1% on a year-over-year basis.



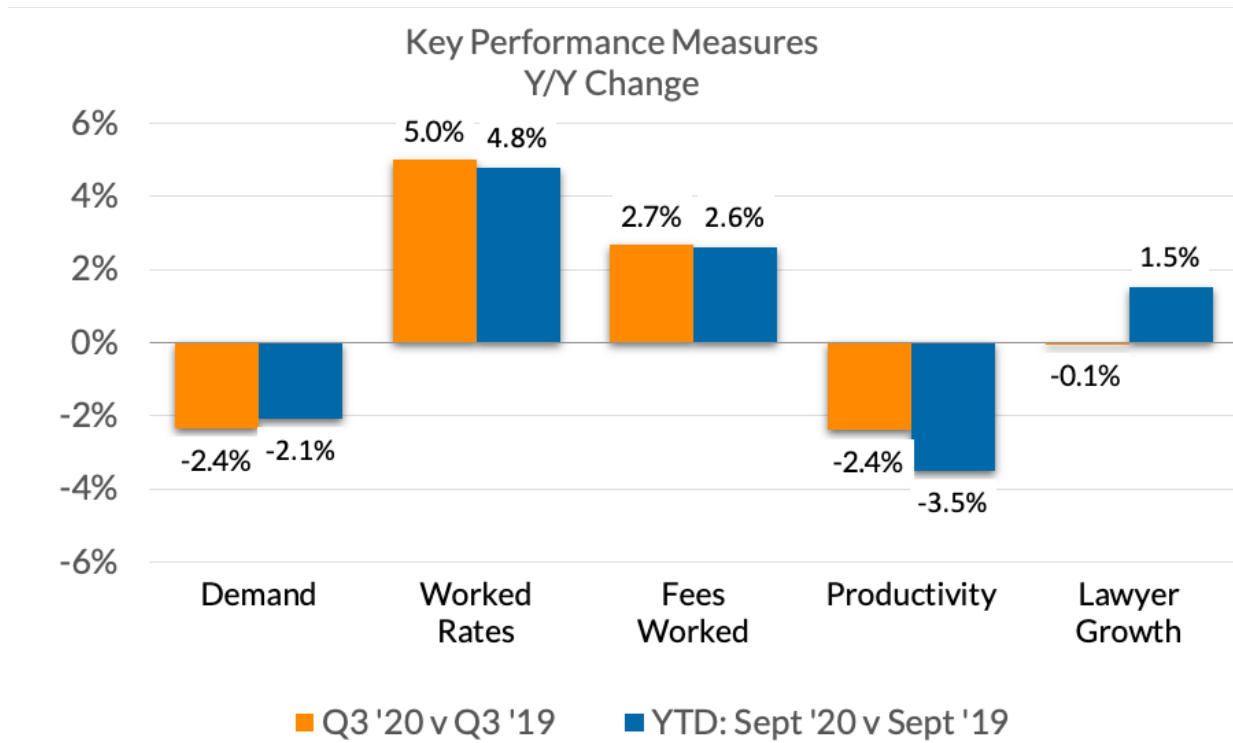
B. Higher billing rates

In times of flat to declining demand, law firms have offset revenue gaps through higher billing rates, more effective realization (collected fees), and by shifting work to higher fee earners (especially partners).

Notice that all these measures are aimed at protecting profitability but do not necessarily create a better client experience. In fact, some of them carry collateral implications that could impair the client experience and the long-term sustainability of the business.

For example, we can read in the chart below that worked rates continued their rise in the latter half of 2020, increasing by an average of 5.0% year

over year. Additionally, fees worked, fueled by higher average worked rates, increased by 2.7% in Q3 and is now up 2.6% year-to-date.



Source: Thomson Reuters Peer Monitor Index

C. Trimming expenses

Moving from revenues to expenses, as shown in the graphic below, law firms have continued to aggressively reduce overhead expenditure through Q3, with average overhead spend down 3.7% on a rolling 12-month basis. Included in overhead, however, are sizeable year-over-year cuts in recruiting, marketing, and business development, which is likely to impact a firm’s future operations and performance.

Moving from overhead to direct expenses (i.e., the cost of performing legal work for clients), non-partner timekeepers are, by far, the biggest component. Direct expenses are still growing year-over-year (1.1%). Yet,

if current lawyer staffing trends persist in Q4, we are likely to see overall direct expense contraction. This all demonstrates that firms are beginning to reduce lawyer headcount and relying on partners to pick up most of the work.



Reducing the number of salaried timekeepers is, at best, a stop-gap solution. All service-levels at least equal, one could expect that partners and more senior lawyers directly servicing clients could lead to retention and client satisfaction—that is, *if clients are not price-sensitive*. However, this approach opens the door to a competitive response from smaller large law firms who are willing to provide similar partner-led service at lower price points.

OVERHEAD HIGHLIGHTS

Rolling 12-Month Y/Y Change | Q3 '20



**Circular Band surrounding expense is equal to Proportion of Overhead Spend in 2019.*

Source: Thomson Reuters Peer Monitor Index, Q3 2020

In fact, we're already seeing some evidence of this. According to Thomson Reuters' [2020 Legal Department Operations \(LDO\) Index](#), Amlaw 1-50 firm partners and associates increased their rates on average by ~3.6% from 2019 to 2020; the same fee earners in the Amlaw 101-200 band decreased them by ~1.4%, signaling a willingness to compete on price for the same book of business. See p. 14. What this all means is that law firms are successfully stopping the bleeding caused by a drop in client demand with measures that risk commoditizing their services and endangering long-term growth.

In the not-too-distance future, the levers of short-term strategy are destined to impose real costs on law firm profitability. Cf. [Stein's Law](#) ("If something cannot go on forever, it will stop.").

Client-centric firms would still be concerned about managing expenses in an economic downturn. However, instead of cutting expenses across the board as a stop-gap measure, law firms could be re-allocating investment into categories that are more likely to yield differentiation, a better client experience, and ultimately strengthen the baseline for sustainable business growth. In order to do this prioritization, they need to look externally and listen intently to their clients, mapping their investments directly to impact in their experience.

It may well be that some client experience accelerators are in technologies or non-billing employees of the law firm. When a firm is more focused on profitability and not tracking which non-revenue generating activities have the most impact to their clients' satisfaction, retention, and conversion into other practice areas, they risk impairing future revenue drivers.

II. Finding the voice of corporate legal departments

For the last several decades, corporate legal departments have undergone a major growth spurt. See, e.g., [Post 003](#) (between 1997 and 2016, the number of salaried lawyers in legal departments grew by 203% compared to 27% in law firms). Much of the benefit of this approach came through simple labor arbitrage of bringing law firm associates in-house. In the current era, however, ongoing cost pressures have forced legal departments to become more sophisticated, including how they engage with outside counsel and how they utilize and leverage technology.

A. Areas of accountability

Corporate legal departments have many areas of responsibility. In addition to delivering legal services for their enterprise stakeholders, they need to mitigate and manage risk for the corporation while consistently

demonstrating efficiencies in delivering value to the business. As a result, they are focused on costs, transparency, and demonstrable impact.

The graphic below provides a snapshot of areas of accountability for corporate legal departments.



Source: Thomson Reuters

Law firms seeking to obtain more work from in-house lawyers need to zero-in on the pressures and pain points that surround each of these areas of accountability.

Indeed, to better manage these areas of accountability, corporate clients seek partnership from their law firms. Yet, a substantial number of in-house counsel tell us that it's relatively rare to find a true strategic partner who understands their business and uses that business knowledge to be more proactive and more collaborative. Not surprisingly, firms that fit this bill are awarded a greater portion of overall legal work.

As an example, in a recent discussion among a cohort of large corporate legal departments (\$10B+ annual revenue), participants noted how law firms typically position the economic environment to justify annual rate

increases. There was agreement among several large corporates that had a law firm been proactive in acknowledging the pandemic-related impacts to their business, reflected in reduced rates or other new tools or resources to help them deal with the reductions they are being asked to make internally, the in-house lawyers would be significantly more likely to award those proactive firms with more work now and into the future.

Based on the discussion in [Part I](#), perhaps it is not surprising that no law firms – literally none – had taken a more proactive, client-centric approach to the challenges of the pandemic. After all, in the face of a downturn in demand, the largest firms are relying on price increases to maintain profitability. Given their perceived lack of options to maintain profitability, law firm leaders and partners may be burying their heads in the sand to avoid listening to the clients on this point. Indeed, this is all anecdotal hearsay until clients begin engaging with competitors in the next market tier who have reduced fees to capture market share.

At the same time that law firms are preserving profitability through higher rates and the shedding headcount and overhead, their in-house counterparts are experiencing a different set of stressors. As shown in the graphic below, legal departments report increasing workloads and a need to deliver the same level of service with fewer resources—all while increasingly dealing with matters outside their normal areas of expertise due to the pandemic.



Source: Thomson Reuters

Notably, 27% of surveyed corporate legal departments are using more legal technology, while 35% report increasing use of outside counsel. This picture illustrates how the COVID-19 pandemic has amplified the need for law firms to be closer to their client-base, who are more willing to spend on the right matters and engage with technology.

B. Growing use of technology and data

Increasingly, corporate legal departments are relying upon technology (and the data it collects and processes) to help them operate more efficiently, effectively, and better mitigate risk.

In Thomson Reuters' [2020 State of the Corporate Law Department](#) report, 70% of today's corporate legal departments identified use of technology as a high priority. See p. 16. Likewise, in our [2020 Legal Department Operations \(LDO\) Index](#), 56% of legal departments reported a rate of process or technology advancement that was either moderate ("demonstrated progress each year") or fast ("large-scale advancement each year"). See p. 9. Technology and data ultimately help corporate legal departments better demonstrate their value and act as a business enabler. How many law firm leaders and partners are keeping pace with these changing dynamics?

Although the use of technology may have been accelerated by the pandemic, legal departments are not adopting technology haphazardly. Like other functions within the enterprise, even before the pandemic, they have incrementally defined legal technology roadmaps aligned with business strategy to help control cost, and drive efficiency and effectiveness.

For example, the [2019 Corporate Legal Operations Consortium \(CLOC\)](#) Report identified technology as a key area of focus among legal operations professionals, with the goal of improving transparency, data

analytics, efficiency, quality, consistency of work, and speed of execution. Of CLOC members surveyed, 72% reported having a technology roadmap. See p. 16. We should expect continued growth of technology alongside the evolution of legal department processes.



Jason Barnwell, AGC,
Modern Legal at Microsoft

Technology roadmaps in corporate legal departments are being planned and deployed by expert talent brought in to leverage adoption accelerators. Gartner recently predicted that by 2023, 33% of corporate legal departments will have a dedicated legal technology expert to support the increasing automation of core in-house workflows. Jim Murphy & Nader Henein, [“Predicts 2020: Corporate Legal and Compliance Technology,”](#) Gartner, Dec 17, 2019. Additionally, as [Jason Barnwell](#) points out in [Post 210](#), technology adoption costs have plummeted due to cloud services, no code low code platforms, and natural language machine learning models bridging the gap.

The most common technology used in corporate legal departments today is an eBilling/Spend and Matter Management system, but there is rapid expansion in the corporate legal use of technology, including contract management solutions designed for the legal work within the legal department, document management solutions, and the expanding the use of legal-specific productivity and workflow solutions.

An example of COVID-19 accelerating tech adoption can be seen in the use of e-signature technologies, which typically started with a few subscribers in the legal department, but in an all-remote working environment has expanded to all signers and members of the legal department

within the corporation. Indeed, this was an opportunity for in-house lawyers to be true business enablers. Law firms that enable similar outcomes will find themselves in a true long-term partnership with their clients.

III. Technology roadmaps that proactively meet client needs

Other posts on Legal Evolution have made the case that the legal services market is destined to become much more multidisciplinary, primarily because one-to-many products and solutions can only be built by combining law with expertise from other allied disciplines. See, e.g., [Post 190](#) (“By their very nature, one-to-many offerings require multidisciplinary teams.”); [Post 128](#) (Anusia Gillespie discussing multidisciplinary nature of legal innovation); [Post 126](#) (noting that “[o]ne-to-many legal solutions are built by teams of multidisciplinary professionals”); [Post 088](#) (Liam Brown discussing Elevate as a “1,200-person, multidisciplinary organization of lawyers, engineers, consultants, data scientists, and business professionals”).

One of these essential disciplines is technology.

A. Technology roadmaps: an example

A technology roadmap is a plan that identifies the specifics on how technology can support the organization’s strategies and priorities over a specific time period (typically a three-year window).

Within corporate legal departments, technology roadmaps are being designed to address the strategic needs of their business stakeholders. Likewise, in designing their own technology roadmaps, law firms would be wise to work with their clients to identify shared needs and opportunities to build in collaboration functionality, an enhanced user experience, and interoperability between systems employed by the law firm and their core clients.

Too often, law firm technology roadmaps are based exclusively on imitation of technologies used by competitors and in response to requests from internal firm stakeholders. If the development of a roadmap is approached as a client-centric design with implications for firm strategy rather than a planning exercise done for budgeting purposes, an organization has the opportunity to explicitly identify and reconcile internal stakeholder needs with client expectations.

In addition to understanding the technology roadmaps of the law firm's key clients (i.e., at corporate legal departments), technology leadership at law firms should work closely with key Personas at their clients (i.e., legal operators and technologists) to understand the source of their priorities and challenges. By collaborating with true empathy, they may be able to stage technology investments at the law firm in a way that aligns the desired experience for internal and external 'clients' with feasible deployment and adoption schedules.

To help make the concept of a technology roadmap more concrete for lawyers working in law firms, consider the following prototype, which we built based on themes and data collected by Thomson Reuters. We start first with the known needs and desires of our clients.

According to a recent Insight update by research firm Acritas, the top 5 law firm improvements most desired by clients were more competitive costs, responsiveness, commerciality/strategic, efficiency, and consistent across offices (see graphic on next page).

With this knowledge, a law firm's technology organization should frame assumptions and hypotheses around how their technology roadmap decisions could impact clients and vice-versa. For example, if key client organizations are facing a significant need to control costs, should

the law firm’s roadmap include investments in structuring and managing data that can help demonstrate the value and predictability of alternative fee arrangements? Another example: Should the firm invest in financial management systems and processes to proactively show adherence to client billing guidelines and technologies to reduce clients’ internal time in invoice review?



Source: Acritas Quarterly Insight Update (Oct 2020)

The image below illustrates how we can take the top 5 client priorities for 2020 and translate them into strategic objectives for the firm:



Source: Thomson Reuters

In turn, we use these strategic priorities to inform the action component of the firm’s technology roadmap:

LEGAL STRATEGY	TECHNOLOGY ROADMAP INITIATIVE
2021	
 Increase attorney responsiveness	Roll out collaboration software
 Develop business acumen	Roll out business intelligence news service
 Competitive costs: enable client self-service	Implement document automation for client self-service (routine work)
2022	
 Increase consistency across offices	Centralize access to work product through document management system
 Increase attorney responsiveness	Implement client extranet
 Increase efficiency / consistency	Implement project budgeting software
2023	
 Competitive costs: optimize project staffing	Roll-out expertise management system
 Increase efficiency / consistency	Implement knowledge management
 Increase efficiency / consistency	Practice-area (use case-based) automation

Source: Thomson Reuters

This example is based on general trends, which are a good source of information to form assumptions and hypotheses around client needs and expectations.

That said, a law firm's technology roadmap should be designed around the specific needs of their key stakeholders, including internal practitioners and the firm's clients. All law firms are different: from their internal planning and budgeting cycles to their risk appetite, technology maturity, and their client portfolio and relationships.

The key takeaway is that we've provided evidence for why embedding client-centricity in technology roadmap planning makes strategic and business sense for the law firm. We've also laid out how technology initiatives can be directly tied to discrete client priorities and expectations, in addition to internal law firm stakeholder expectations. The crucial piece for law firm leaders is to frame the roadmap planning process as a business service design exercise, where the output is a roadmap capable of aligning client value expectations with the law firm's strategic goals and priorities.

B. Benefits of technology roadmaps; risks of not having one

The value of an aligned and communicated roadmap is that members of the firm understand the mid-term direction and technology strategy making the change management journey simpler. Corporate clients continue to look for firms to be more proactive in demonstrating value, and a technology roadmap that is focused on client needs is a valuable way to differentiate.

A clear roadmap can also reduce the risk of deploying the wrong technology at the wrong time, reduce the risk of lack of connectivity between tools, and ensure resources to demonstrate technology success. Finally, without a technology roadmap, there could be a competitive disadvantage, compared to firms who demonstrate client value through their technology strategy, as corporate clients are looking to award a greater percentage of work to firms that are proactive in value demonstration.

Below is a graphic we created at Thomson Reuters to remind stakeholders of the immense risk we take on when we fail to create a detailed client-centric roadmap:



Source: Thomson Reuters

C. Designing a client-centric technology roadmap

There are several principles that law firm leaders, working with their own technologists, can draw on to make their technology roadmaps more client-centric. Many of these principles can be distilled from the application of [Design Thinking](#) methods on the planning process.

In this final subpart of our essay, we offer the following three pointers:

1. Contextualize and prioritize the problem

The clients' biggest pain points and challenges are often the law firm's biggest commercial opportunities.

One way to identify these problems/opportunities is to conduct a simple survey of the firm's core clients. From there, build assumptions and hypotheses that can be validated through client discovery interviews, quick experiments and pilots. In addition, set up advisory board sessions with key

clients and a representative group of law firm users (e.g., early adopters) to narrow down and prioritize investment opportunities.

What we are trying to build here is a methodologically strong sounding board to define problem and opportunity spaces before defining technology initiatives on the roadmap.

2. Map the Journey

Before a full-blown exploration of technologies and applications available in the market, it is imperative to understand the people, processes, and systems currently in place.

We can accomplish this by listing out systems utilized to form a clear picture of our technology stack, including contract renewal dates, available updates, and active utilization levels of technologies available to the firm. We also want to identify the most common internal requests for new products or technologies and understand common client requests for better collaboration or technology harmonization. For all existing and desired technologies, we want to place them into context within the existing workflows and evaluate how well they are working.

Mapping the journey should be about plotting scenarios where specific technologies can improve *predetermined* use cases, workflows, and metrics. This is because we want to identify entry-points to the technology for users in the process as well as interoperability opportunities with existing systems for the technology investments under consideration.

The journey mapping process is also a golden opportunity to actively engage with clients. Legal departments are always looking for ways to proactively monitor and assess business risk, and increase speed in business transactions to act as a better business enabler. We should be exploring

how the firm's technology investment and better data can help drive a client's business objective. For instance, one of the best-case scenarios is when a potential technology investment by the law firm can help position the client (i.e., legal department) as a revenue generator to offset the perception that legal is only a cost center.

Finally, as we go a level deeper and map processes that could be improved by technology investments, we need to define requirements and success measures along the way, including metrics that track the impact on the overall client experience. Setting these benchmarks will allow us to better plan adoption and monitor how the investment is trending.

3. Plan for implementation and/or procure solution

Technology roadmaps don't always have to result in the procurement of new technology—indeed, we may have a system in place that needs to be optimized versus replaced. With a map of priorities and processes, it will be easier to stage initiatives in ways that build on each other and demonstrate value along the way. It will also allow us to allocate resources for deployment.

In summary, if a law firm invests the time and resources into creating a high-quality client-centric technology roadmap, they are likely to be repaid many times over through the time saving and reduced risk of actual technology purchase.

The graphic on the next page provides a quick recap of the process for creating a client-centric technology roadmap.



Conclusion

Engaging customers in the technology roadmap journey is a true opportunity to gain a greater share of overall corporate work. In addition to producing a truly differentiated client experience, over the long-term, it is sure to equate to greater law firm profitability and the future sustainability of the law firm operating model.

FROM THE EXPERTS

INNOVATION
IS THE ABILITY
TO SEE **CHANGE**
AS AN OPPORTUNITY,
NOT A **THREAT.**
– STEVE JOBS –

LAWIT
by LAWGISTIC

REFLECTIONS AND PERSPECTIVES GOING FORWARD

Legal Data Analytics for In-House Legal Teams: Understanding the “Who, What, When and Why” Behind Your Work Can Drive Improvement



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For in-house legal teams, legal data analytics covers much more than spend: a comprehensive approach can provide actionable clarity about a Legal Department’s capability, capacity and cost. A successful analytics program relies on accurate information-gathering - the ‘inputs’ –translated into relevant and actionable data–the ‘outputs’.

It is not necessary to have an advanced degree in statistics to structure such an endeavor. Legal data analytics essentially comes down to four basic questions: who, what, when and why?

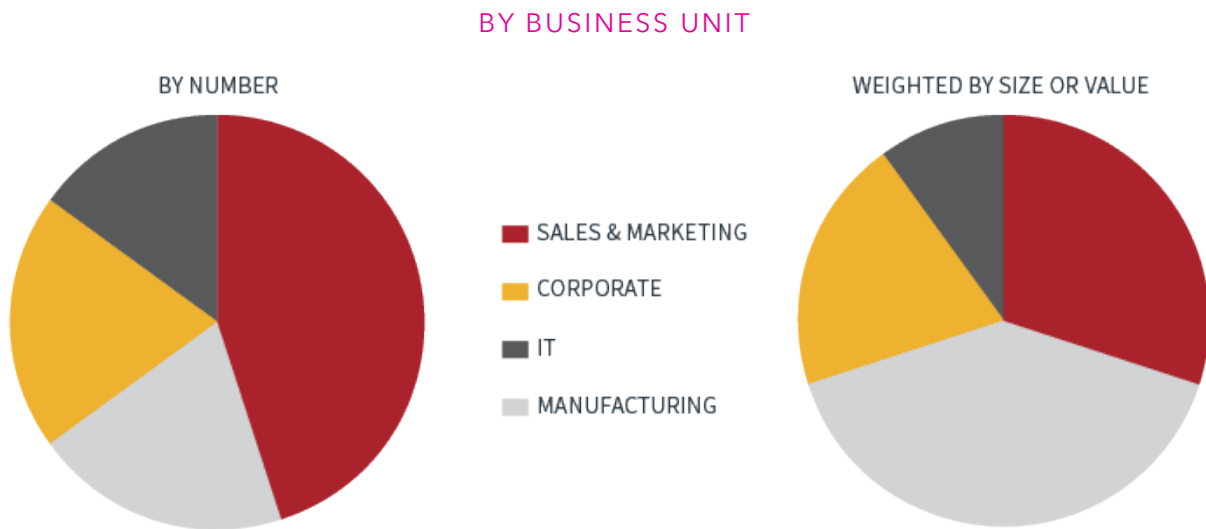
THE ‘WHO’

Business Clients: Who is requesting the work?

Inputs: Every company’s organizational chart is different, and systems for chargebacks vary widely. However, the typical Legal Department provides legal work to various business units, from Human Resources to Marketing to Finance.

Important information here is extremely simple:

- **Business unit.** Where is the work originating?



Outputs: This data will inform important conversations within the Legal Department, with business clients and with the organization’s leadership team.

- **Trouble spots.** What business units are prone to legal troubles, and if so, are there opportunities for training, new policies or corrective action?
- **Relevance.** Consider the origin of the work along with the type of work (see below). What are the most significant matters, in terms of risk and strategic value, and are resources adequate to handle it?

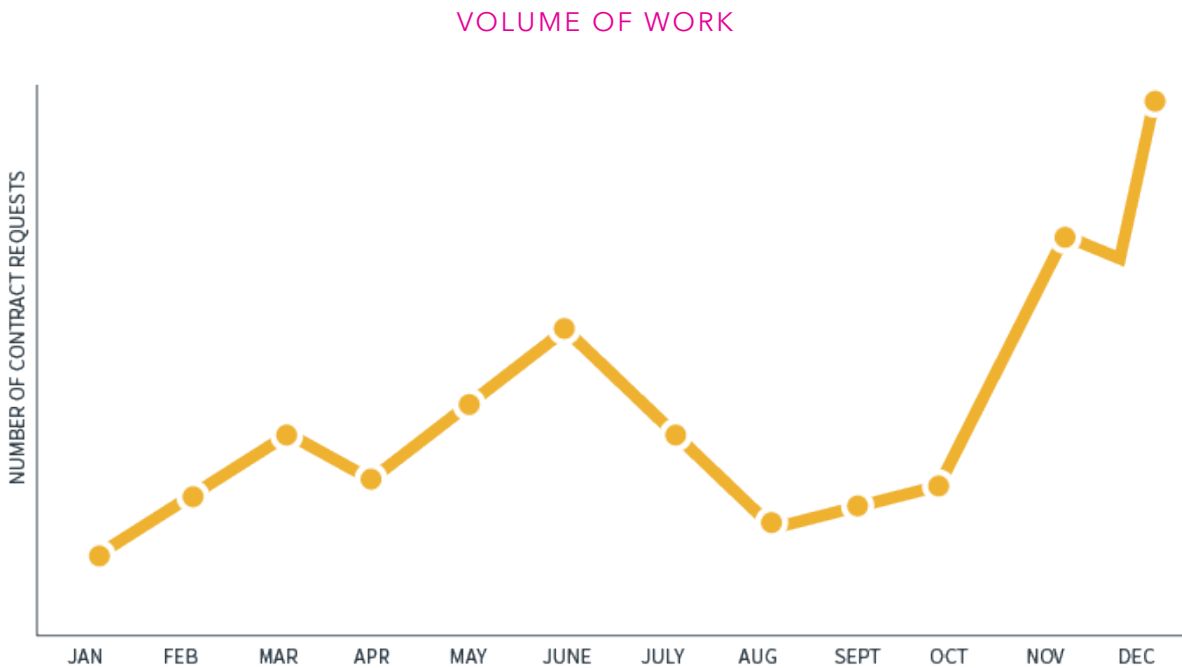
Resourcing: Who is doing the work?

Inputs: The first step in understanding the Legal Department’s resourcing is calculating the split between internal and external resources, i.e. company lawyers vs. law firms and legal service providers. Generally,

42% of legal budgets are spent internally and 58% are spent externally, according to The GC350. The benchmarking survey found these proportions hold true across industries and company sizes.

For internal resources, determine:

- **Seniority and specialty.** What are the experience levels of the personnel in the Legal Department? Are team members subject-matter experts or generalists?
- **Type of work.** What work is being handled internally? As with the external work, consider the client, size, complexity and strategic value.
- **Workload.** How are assignments distributed throughout the Legal Department?



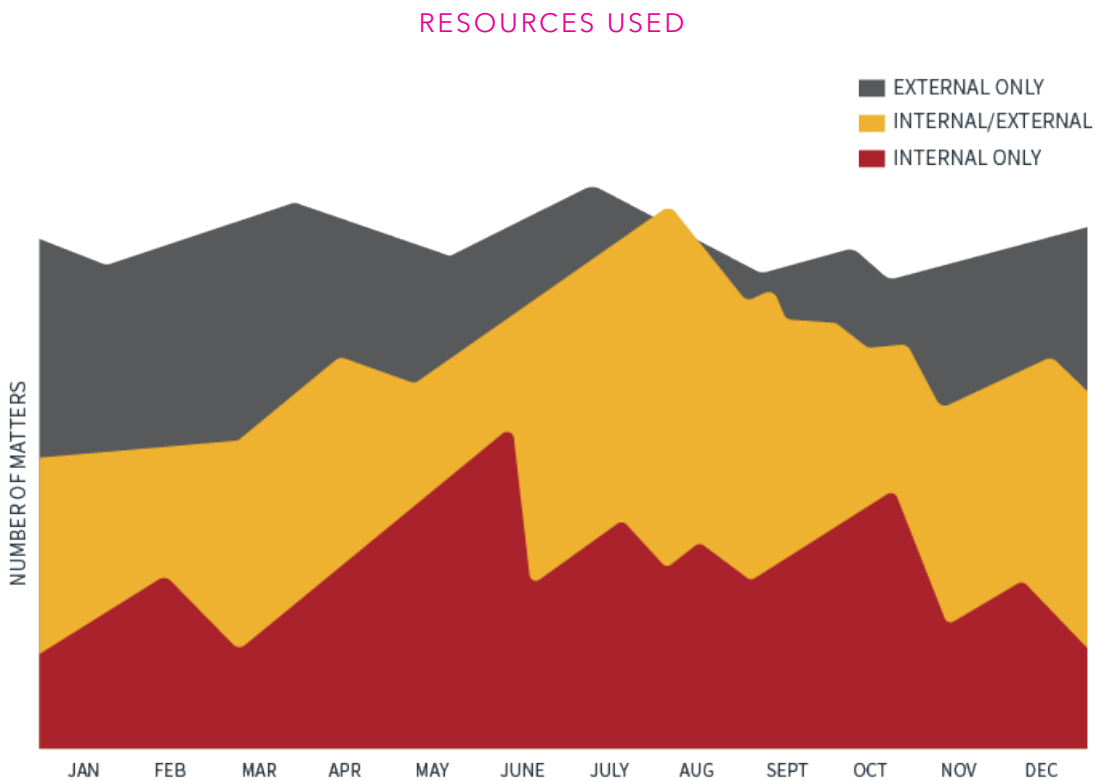
| Contracts team is busiest in Nov/Dec with spikes in March and June. |

For external resources, understand:

- **Type of firm.** Sort providers into law firms and legal service providers. For law firms, drill down further; consider sorting by size (e.g., solo, small, midsize, AmLaw 100, Magic Circle, et cetera) and specialty (full service or boutique).
- **Type of work.** What work is being outsourced? Collect as much information as possible about the business client, size, complexity and strategic value of the matters sent outside the company.
- **Spend.** How much is being paid to whom?

Outputs: By reviewing this “Who” data, start to address:

- **ROI.** Is simple, straightforward work being sent to the most expensive law firms? Where are the opportunities for cost savings?



| Alternative legal providers (external only) are used for overflow business-as-usual work beyond the workload capacity of the internal legal team. |

- **Internal vs. external balance.** How much work is being sent out –and is it work that could be more efficiently handled in-house?
- **Department experience levels.** Does the Legal Department have the right composition of junior and senior lawyers and legal staff?
- **Department capacity.** Are some members of the team overworked while others are underutilized?
- **Risk management.** Is the most complex, most strategic work being handled by the right people?

THE WHAT

Work Type: What is the importance of this work?

Inputs: Classify the importance of matters with straightforward categories, such as:

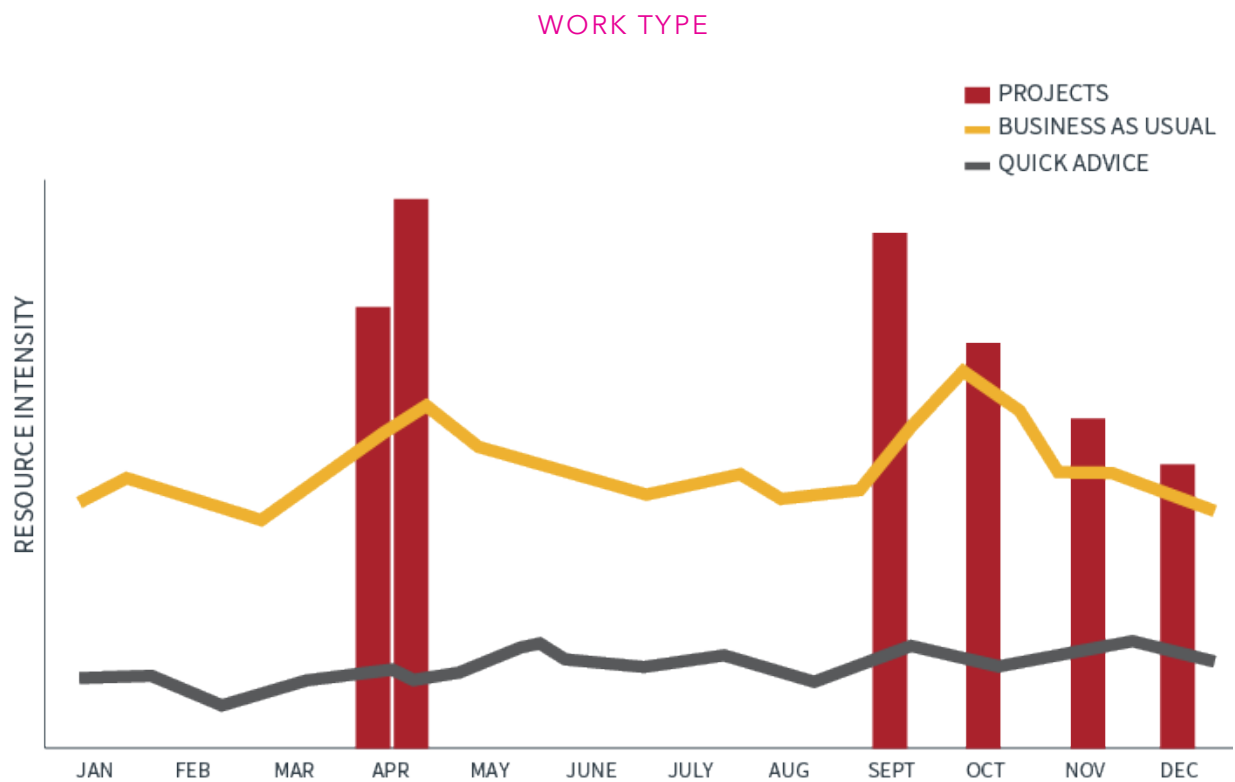
- **Business as usual:** work being done to maintain the core business;
- **Special project:** work not likely to be repeatable (or budgeted);
- **Quick advice:** question-and-answer interaction with business units.

Outputs: This data will inform:

- **Resourcing and Budget.** Is the importance of this work (or lack thereof) properly aligned with legal team staffing and law firm selection?
- **Ideas for process improvement.** Examine the “business as usual” and “quick advice” categories for disproportionate client queries. Often the introduction of self-help tools or guides can curb frequent, low-stakes queries.

Work Category: What type of work is this?

Inputs: Assign each matter a “practice area.” The exact list of practice areas will vary from organization to organization; consistent application is the primary concern. Compiling one master list of categories and sub-categories will ensure clean outputs.

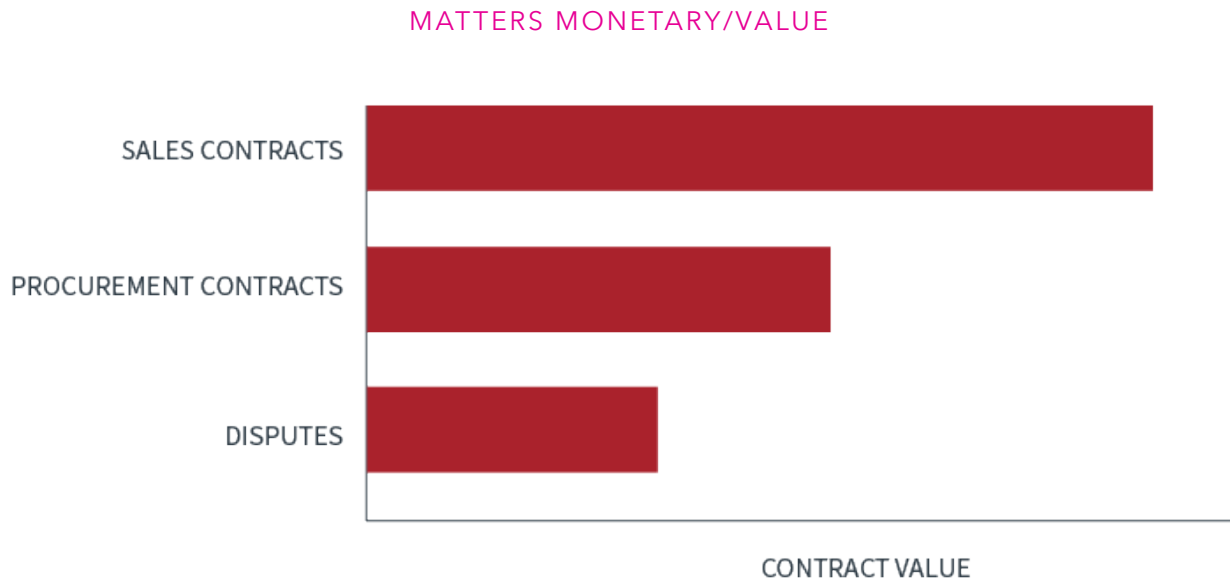


Outputs: Look for trends within the practice areas identified. Which areas are increasing –and why?

For example, an uptick in trademark litigation matters could point to a problematic problem or packaging. A new protocol with Marketing or Product Development could ameliorate this –and the Legal Department may consider bundling the defense of these matters with one law firm to save time and money.

Matter Value: What is at stake?

Inputs: The most straightforward metric, this gets down to monetary value –dollar, Euro, yen or sterling. Simply enter the numbers.



Outputs: Sort matters into both largest to smallest and smallest to largest, and consider:

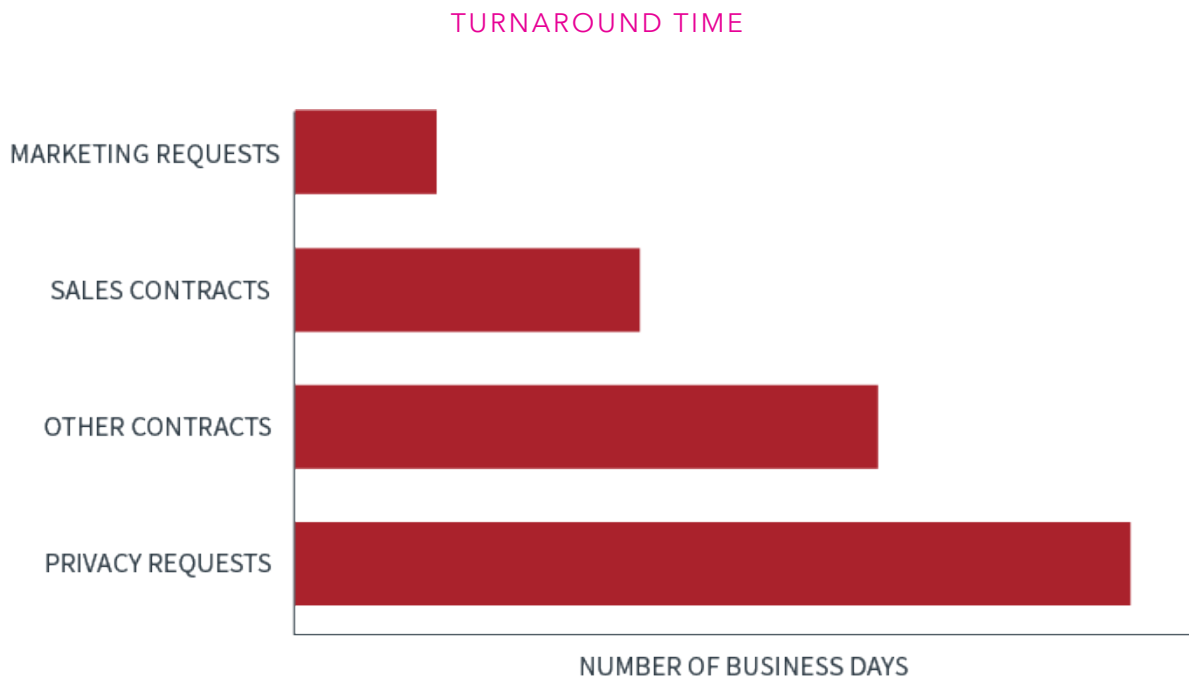
- **Resourcing.** Is the most expensive talent working on the lowest-stakes matters?
- **Diagnosis.** A cluster of small-dollar matters within one business unit can indicate a department-specific challenge or policy problem.
- **Technology solutions.** Small, reoccurring matters can be ideal candidates for legal tech –particularly automation– tools.

THE WHEN

Turnaround Time: How long are matters with the Legal Department?

Inputs: “How long with Legal” may be better stated as “Where is the delay?” Legal data analytics may answer this key question by tracking a

matter through its life span and charting where it is sitting –whether that is with the Legal Department or an outside firm for execution, with the business unit for information or instruction, or with the C-suite for authorization.



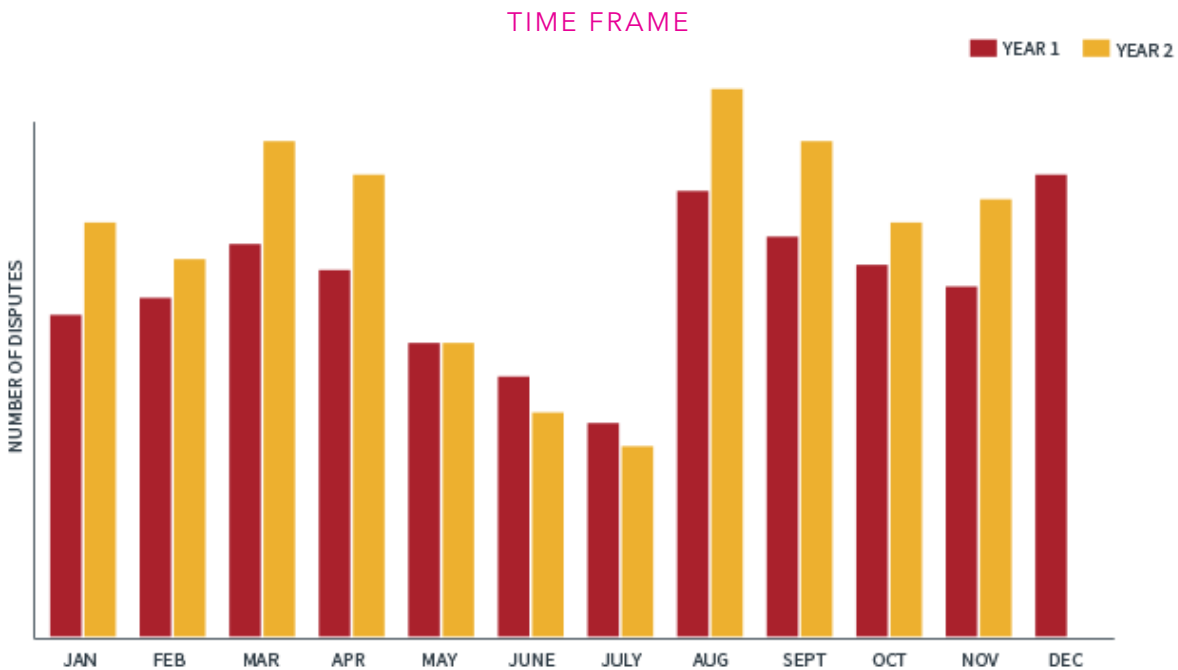
Outputs: This metric can shape:

- **Legal Department reputation.** No in-house team wants to appear incompetent or slow. This information can rebut this perception: It may appear that a project takes Legal six weeks to finalize... when five of those weeks were spent waiting on a response from the business client.
- **Bottleneck repair.** What are the reoccurring delays? How can they be eliminated or expedited?

Time in Hours: How long will this project take?

Inputs: For most Legal Departments, introducing stringent timesheet requirements would be an exercise in futility. Instead, consider a set of

uniform but realistic measurements of time: Will this project take hours, days, weeks or months?



| On average, the number of disputes rose 20% this year. |

Outputs: Knowing how long a project will take, even in the most basic terms, will inform:

- **Staffing and resourcing.** Monitoring internal bandwidth will show where external help or new hires are needed.
- **Timelines and promises.** Accurate estimates for project completion can improve relationships on all sides –with business units, organization leaders and even law firms.

THE WHY

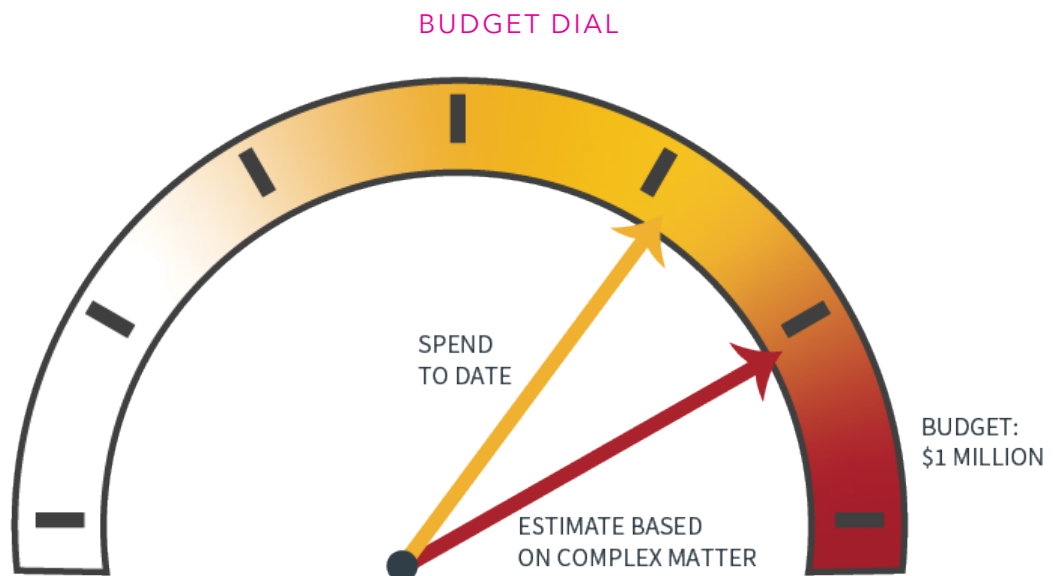
Risk Profile: What is our potential exposure?

Inputs: Set defined ranges for legal risk; low, medium, high and critical work well. Create parameters for the specific business context;

“small” for one company may mean “\$1 million or less,” but for another may be “\$10 million or less.” Dollars aside, consider other types of risk: reputation, potential regulation and more.

Outputs: Sort matters by risk –low, medium and so on– and review them by category, looking for areas of improvement:

- **Capacity.** Where is the bulk of the work, and how is it trending? If the legal team is consumed by small-risk matters, there may be opportunities to engage additional junior staff, a lower-priced firm or even a non-law firm vendor.
- **Capability.** Check to ensure alignment between resources and risk. While no Legal Department wants to put its most formidable law firm on the smallest-risk matters, the opposite also is true: The highest-exposure problems should not go to firms that are ill-equipped to solve them or lack the institutional knowledge to advance the organization’s goals.
- **Cost.** Are the lowest-risk matters going to the most expensive firm? Opportunities may abound in the small –and medium– risk categories for alternative fees, automation and more.



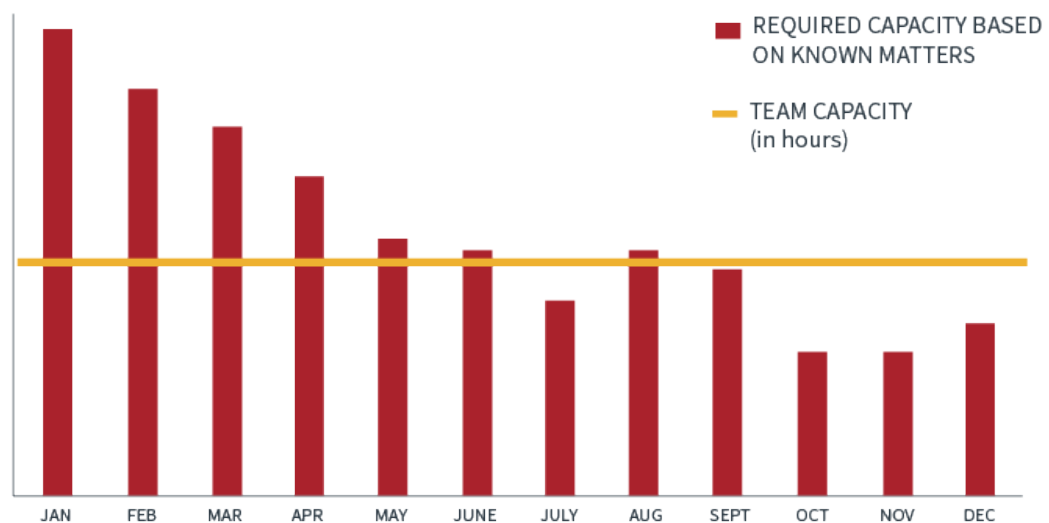
Complexity: How challenging is this work?

Inputs: For every new matter, rate the complexity on a quantifiable scale, such as 1 to 10. The scale may vary from organization to organization, as long as members of the legal team can classify matters uniformly.

Outputs: Sort matters into simple, medium and complex categories, then examine each:

- For **simple** matters, look to see what could be automated, eliminated or outsourced –the more that is moved out of the Legal Department, the more time there will be for matters that demand the team’s expertise.
- For **complex** matters, review resourcing to verify it is appropriate for the difficulty level, then consider the most efficient option. For example, a growing volume of highly specific work could call for the hiring of a subject-matter specialist or enlistment of a boutique firm that can provide the relevant expertise without big law firm cost.

FORWARD PLANNING

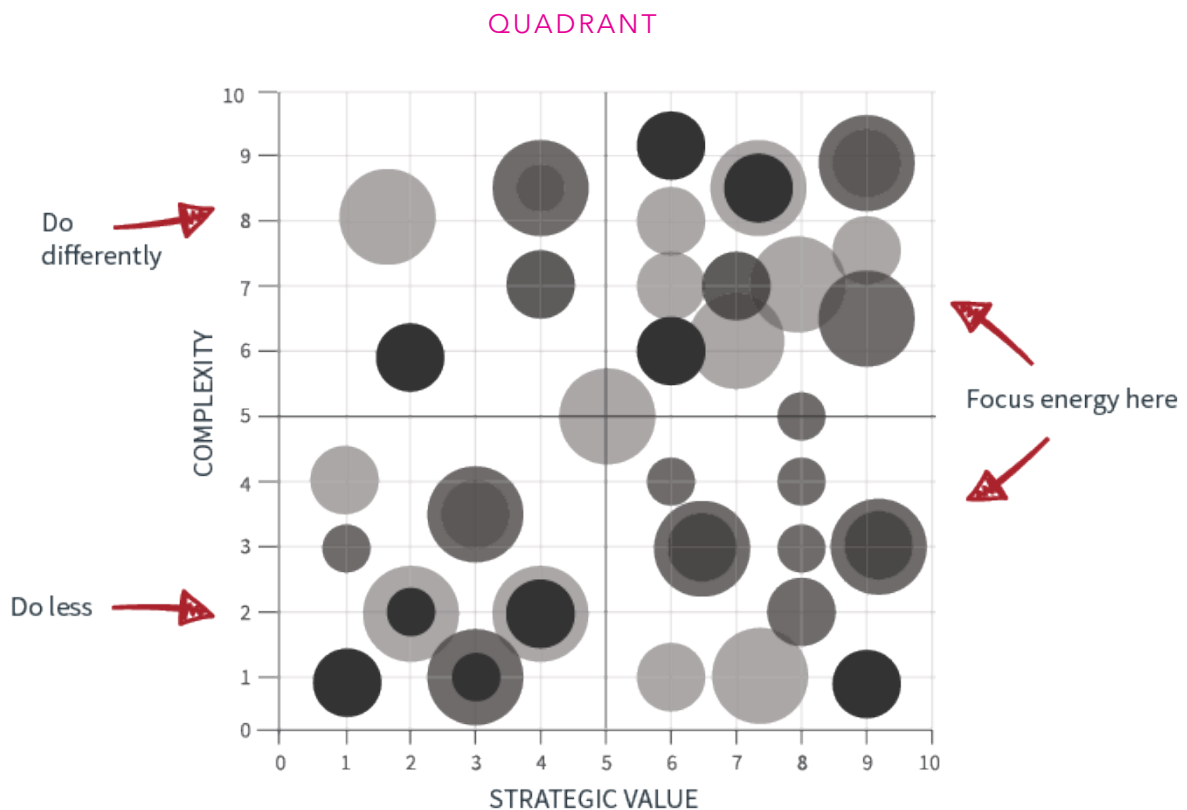


| Team is working above its capacity and will continue to do so. More capacity needed to improve turnaround times. |

Strategy: What is the strategic value of this work?

Inputs: Some legal work will advance the company’s most important objectives; some legal work is done to keep the proverbial lights on. For every matter, enter a measurement of its strategic value, such as a scale of 1 to 10.

One important caveat: For this metric to be useful, every member of the legal team will need to understand the organization’s strategic objectives. Consider circulating a list of priorities, or better yet, schedule a briefing with the C-suite. (This offers an added benefit: The Legal Department will feel more invested with the company, its mission and its work.)



Outputs: Start segmenting matters for analysis:

- For **low strategic value** matters, look for opportunities for efficiency. Internally, this could mean automation, self-help tools

or low-level personnel; externally, consider lower-priced firms or vendors.

- For **high strategic value** matters, confirm the best legal talent is on the case. Internal or external, individuals handling this work should have familiarity with the company's strategic goals and the special expertise to construct creative legal solutions.

The Who, What, When and Why data sets are actionable on their own – but the combination of different elements can provide a whole new level of insight on the Legal Department. For example, to troubleshoot low-importance bottlenecks, look at **Turnaround Time** and **Strategy**: Are there matters of low strategic significance with long lag times? Who are the **Clients** behind them? Start with the data, then identify ways to alleviate the congestion.

GETTING STARTED

While the power of legal data analytics cannot be overstated, the concept of collecting, analyzing and acting upon data can be daunting for a team that is accustomed to anecdotal reporting or a mishmash of systems. Two points of reassurance.

First, know that legal data analytics can be mined using a couple of different methods –no robots required:

- Basic Excel or Google Sheets spreadsheets will make use of software already in place, but legal team members will need to be exceptionally mindful of consistency, both in the way information is entered and described and in teammates' data entry habits.
- Modern matter management software tools streamline the process by collecting information for each matter in less than

30 seconds. The matter entry form is designed to ensure relevance and consistency among the data.

Second, recall the ways legal data analytics can help an in-house team:

- Prioritize work (and de-prioritize work!);
- Allocate resources;
- Identify work that should be automated, eliminated or managed elsewhere;
- Ensure appropriate staffing and workloads;
- Manage the budget and allocate costs to business units; and
- Handle external firms, including fees, deadlines and quality.

By quantifying and sorting the work, its risk profile, complexity, resource demands and more, legal teams can measure whether they are getting the right results; when the answer is no, they can adjust accordingly.

Data empowers in-house lawyers to stop acting on anecdotes and hunches, and start making well-informed, proactive decisions.

FROM THE EXPERTS

**ADAPTABILITY AND
CONSTANT INNOVATION
IS THE KEY TO THE
SURVIVAL OF ANY
COMPANY OPERATING
IN A COMPETITIVE MARKET.**

– SHIV NADAR –

LAWIT
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REFLECTIONS AND PERSPECTIVES GOING FORWARD

Will AI transform justice?



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It is a cliché, but true nonetheless, that the legal professions appreciate tradition more than experimentation. As a result, the attitude of lawyers towards technological innovations is rather cautious. Although some legal practitioners may disagree, I personally consider LegalTech as one of the central factors in the development of the legal field. The LegalTech comprises also (and nowadays perhaps above all) of the artificial intelligence solutions.

Before answering the question whether AI will transform justice, it should be clarified that AI is a very broad term. It consists of many approaches (from logic-based expert systems to advanced deep learning models). When making attempts on defining the artificial intelligence notion, one should also note that there is no widely accepted definition of artificial intelligence. Obviously, it is not my purpose to present all possible definitions of this term or techniques that hide under the notion of the AI, so in this respect, I recommend the European

Commission's technical report prepared by the Joint Research Centre (JRC) "AI Watch. Defining Artificial Intelligence. Towards an operational definition and taxonomy of artificial intelligence" which is a valuable collection of definitions, and the summarisation of the main features of the concept of artificial intelligence.

The main purpose of AI researchers has always been the creation of a system equipped with an ability of independent thinking: perceiving, understanding, predicting or concluding. Speaking of artificial intelligence, its potential creators assume development of the artificial mind, with intelligence equal, or even superior to human intelligence. This objective of creating the "thinking machine" has not yet been achieved. Nevertheless, the creators of AI have reached many intermediate goals. Most of them can be used in order to automate activities performed traditionally in the justice system.

For this reason, LegalTech currently deals only with the „specialized AI“¹, i.e. the method of artificial intelligence concentrated on specific tasks. Such systems already function in various areas of life, proving often their effectiveness, accuracy or speed, which is incomparable to the one presented by humans. Therefore, it should be noted that in some narrow fields of science, the AI systems have already outperformed people in activities, which requires from humans to carry out (usually complex) thinking process. For further considerations –after making necessary simplification– it is possible to define AI collectively as the available IT

1 The opposite of the specialized artificial intelligence is the so-called artificial general intelligence (AGI), which –at least for now– remains in the science fiction sphere. Achieving AGI level would result in developing a system with intelligence comparable to the human's. The artificial general intelligence system would have intellectual abilities at least equal to those possessed by humans, but not only in strictly defined activities, but in all areas of intellectual activity. The creation of such a system is still a thing of the future.

techniques, which serve resolving the problems unresolved with simple algorithms. It includes the variety of technological approaches stemming both from the so-called symbolic, as well as sub-symbolic approach.

The AI-driven judicial automation is presently being discussed both by scholars, LegalTech enthusiasts and public decision-makers. Moreover, competent authorities of many countries around the world are starting to deploy automation tools in their judicial systems. The scope of application of automated judicial systems is broad, ranging from the improvement and acceleration of organisational or office-based court tasks to the automation of substantive judicial decisions. Unfortunately, there is a common misconception that the automation of judiciary can be understood as robots replacing judges. I must admit that the question about AI replacing judges is frequently asked. And I am not surprised. Many media headlines ensure that the supremacy of the AI over lawyers and the incoming end of their careers is inevitable. The article is often accompanied by a picture of a robot. As a result, it is not surprising that many people when thinking about AI in judiciary think about robot-like judges. And this is, obviously, a misleading image of judicial automation. In fact, the opposite is true.

Court automation mainly involves supporting human judges instead of replacing them. I believe that some misunderstanding results from insufficient knowledge about the state-of-art of AI. Nowadays it is possible to automate only specific tasks conducted during the court proceedings rather than automate all activities performed today by human judges. The role of public decision-makers is to correctly indicate areas suitable for AI-driven automation and - at the same time - to determine tasks or decisions that should maybe never be automated. In times of rapid technological development, this meticulous job is crucial in terms of the quality of justice.

Artificial Intelligence is (and should be) a matter of concern from a human rights perspective and should require a series of safeguards in order to ensure compliance with the international fundamental rights framework. It should be remembered that there are not only great possibilities but also challenges that AI brings to justice systems. Speaking about LegalTech, especially this part of LegalTech that deals directly with AI, we cannot allow ourselves to become blinded to the risks involved. Most of these threats are connected with the quality of data processed by AI algorithms, the lack of explainability of the most effective machine learning models, or even such basic issues as already mentioned precision in the choice of deployment area.

There are still many problems that need to be solved in order to safely automate the judiciary. Taking the lack of explainability as an example: How can we agree on the decision-making process performed by the advanced machine learning model during court proceedings, if it will be impossible to find out why the system took the decision? The black-box nature of AI may be contrary to the obligation to justify judicial decisions, the right to fair trial, the right to lodge an appeal, and – above all – the transparency of court proceedings and social control over the judiciary. Concerning the use of the black-box AI in the public sector, the impossibility of understanding and validating the decision process of the system is a clear drawback. This is particularly important because one of the requirements for the proper functioning of the public sphere must be the ability to explicate decisions and actions that were taken against a citizen. The truth is that in the legal sphere the decision itself is of secondary importance, and what matters is the explanation.

The above is just one example of the challenges that need to be solved before the actual judicial automation occurs. Taking that into account, it

should be stated that the judiciary not only could but also should take advantage of AI tools, as they can contribute to the acceleration of court proceedings, unification of the case-law or reduction of fees for judicial services. From the perspective of a citizen, AI has a huge potential to broaden access to justice, enhance the efficiency of justice, (when deployed correctly) increase the quality of justice and as a result, improve the citizens' satisfaction of the judiciary. However, such public use of AI tools requires an appropriate approach based on responsibility, accountability, proper control, fairness, transparency and respect for human rights.

Lawyers –and it is a general comment concerning not only the use of AI in judiciary– need to learn how to cooperate with LegalTech systems, how to combine the human professional skills and AI systems capabilities, and how to minimize the drawbacks that may arise in this context. Creating a hybrid model in which lawyers and technology contribute to the provision of the best possible legal services for citizens should be an ultimate goal.

AI will definitely transform justice, but it is up to us whether it will change it for the better. I strongly believe that the adoption of pro-quality and pro-human rights approach leads to a better administration of justice.

FROM THE EXPERTS

WITHOUT TRUST,
NO ORGANIZATION
CAN SUSTAIN INNOVATION
BECAUSE WITHOUT TRUST,
NO ONE IS WILLING
TO TAKE THE RISKS THAT
INNOVATION REQUIRE.

– HELEN JOHNSON-LEIPOLD –

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REFLECTIONS AND PERSPECTIVES GOING FORWARD

How to prepare legal professionals to become experts in artificial Intelligence: The six levels AI training proposal



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1. Introduction

In the last few months, the references to artificial intelligence (“AI”), the science that deals with the theory and development of software solutions that are capable of performing tasks that normally require human intelligence, such as visual perception, speech recognition, decision-making, and translation between languages, have only increased in frequency in multiple publications (both specialized magazines and mainstream media), as well as various legal sector training and information forums. One can witness all kinds of statements being made concerning AI. Whilst some commentators embrace AI’s potential, others warn about the inherent risks and dangers that its use may raise, next to its impact on legal professions. A common statement is about AI’s capacity to either replace lawyers and judges in their duties or transform national tax authorities into even more “invasive” organisations.

But despite this apparent familiarity, AI is still a very unknown discipline for most legal professionals. This family of technologies and its effects on the legal profession is unclear for the majority. One of the reasons is that trainings focusing on AI for law students and legal professionals and, the trainers with valuable experience in teaching the discipline of application of AI in the legal field, are still very limited.

In this article I reflect on the reasons why lawyers should learn about AI as soon as possible and how they should learn it. In addition to sharing my views on what the training's scope should be, I also propose guidelines for institutions who want to offer education focused on AI and for the teaching professionals who wish to specialise in this field.

2. The three facets of AI legal professionals should know about

In early 2017, I became interested in AI and decided that I wanted to understand exactly what this technology was about, how it was currently affecting and could potentially affect the legal system and professions in the future. Hence, I looked on the internet to find only a few publications on the matter. I visited one of the most important legal bookstores in Madrid and the result was the same: just a couple of books of less than 50 pages, compiling lectures from some congresses on topics related to the internet of things and robotics, but no manual that dealt with the subject in a systematic and complete way. A few months later, the Dutch publishing house, Wolters Kluwer commissioned me to publish a book that would serve as an introduction to the subject for lawyers. In 2020, in the midst of confinement "An introductory guide to Artificial Intelligence for Legal Professionals" (Gonzalez-Espejo & Pavon, 2020) was finally published. In order to fulfil my role as editor to offer a complete overview on the subject, I had to look for specialists in both the technological and legal framework regarding AI. A total of nine authors have participated

in the writing of the different chapters of this introductory book. Why so many? Because of the complexity of the field and the scarcity of sources of information.

After these years of research on AI, I can assess without doubt that AI will become indispensable in the coming years for any legal professional and therefore, all of them ought to understand its potential impact in three main spheres:

Firstly, in the private one. Aside their profession, lawyers are citizens, and they should understand **the impact of AI in their citizenship**. AI is used by many organizations from both the public and private sector for all kind of purposes. In addition, this society demands more civil activists that specialise in the legal aspects of AI, a duty that individuals trained in law seem to be more adequate to assume than citizens without similar education.

AI is also having an impact on the market of legal services providers.

Both private and public sector clients are in search of advice on AI. They are developing, buying and/or using AI based software and this implies, in practice, the need of advice on topics such as AI liability, data protection, human rights, IP, etc. There are already many examples of public institutions that are building and using AI, such as chatbots informing citizens about regulations and procedures or drones being deployed to inspect the non-inspectable until now and facial recognition technologies utilised to identify us in certain situations. These uses can be beneficial but also dangerous and even go against human rights. Therefore, the number of clients in need of legal advice on AI will increase in the coming years. Consequently, lawyers, as experts in the legal system, have a special duty to safeguard their clients using AI in a legal way or defend

the rights of those affected by AI based decisions that do not respect them. Moreover, there is still a long way to go until there is a complete and stable legal framework for AI and some legal professionals might have the chance to advise in its definition and drafting.

Finally, AI tools affect **legal professionals** because there is an exponential number of AI based tools available and lawyers have the ethical obligation to understand the state of the art in LegalTech and use those they can afford. The so-called “technological competence”, which of course includes AI based tools, is gaining its path. In the USA, the American Bar Association (the “ABA”) explicitly included the obligation within its rules in 2012 and most USA states have followed in the subsequent years. Additionally, regarding this so-called ethical obligation, clients will demand their legal advisers to use the best available technology and consider technology as a unique selling proposition (USP) to choose who shall serve them.

The impact of AI on legal professionals as citizens

As citizens, AI is present in our lives in several ways (from e-commerce platforms, fraud prevention tools, decision-making tools for banking and insurance companies, etc.) and lawyers as citizens also need to understand this.

In countries like the US, Germany, Spain and UK, there are already several non-governmental organisations (“NGOs”), as for instance Propublica, Algorithm Justice League, Algorithm Watch, Civio, etc., whose mission is to defend human rights in AI deployment. They have not been founded without a purpose, much to the contrary, they have the aim to protect the rights of citizens and for this purpose to be realized, citizens should be aware of the risks of AI and they need well equipped citizens willing to assume and achieve its realization.

As the Council of Bars and Law Societies of Europe (“CCBE”) has stated in its Manifesto dated from 2019, the use of AI in the judicial field is still at its very early stages of development. Alongside many significant benefits, artificial intelligence also brings its own set of risks and ethical challenges in relation to the rights of individuals and judicial impartiality and independence. So far, the various cases that have gone public such as the Loomis case in the United States (*State versus Loomis*, s.f.), the Syri case in The Netherlands (*Sentencia caso SyRI-Holanda*, 2020) or the Bosco case in Spain (Civio, s.f.) all serve as proof of their unquestionable mission. In so far as there are not yet institutionalized neutral systems to control AI respect of human rights, the role of these kind of organizations will be essential and behind most of them there are a tribe of volunteers, formed by technologists, data scientists as well as legal experts.

The impact of AI on the market of legal services providers

Lawyers will indeed have the job to advise companies and organizations that decide to include AI in their corporate strategies. A phenomenon that is exponentially growing.

AI is a high-impact technology, that is, a technology capable of doing tasks that human beings cannot, such as analysing huge amounts of information, finding relationships in it and returning it so that those who possess the data can know much more about the people they are referring to themselves. It is precisely these super capacities that are causing large companies and public administrations to invest in AI developments that allow them to perform all kinds of tasks. While the advantages are indisputable, the risks of violating fundamental rights are also increasing. Lawyers will have a relevant role in advising organizations on developing, buying and exploiting AI based technologies and ensure that algorithms respect the ethical principles and regulations in force in each case. They

will also have a prominent role in defending those who believe that their rights have been violated due to the use of AI.

Finally, the legal framework for AI is still under construction and consequently, this is a field of interest for lawyers. In the coming years, all countries will need to have their own AI legal framework in place. Therefore, there will be many opportunities to advise on the deployment of the legislative framework.

As the CCBE stated in its 2019 Manifesto (EN_Manifesto_2019.pdf, s.f.), lawyers share a common responsibility to make sure that the values underpinning legal procedures are not undermined using new technologies. whereby member States should deploy recommendations concerning the impact of the introduction of artificial intelligence applications in European judicial systems and phenomena such as access to and use of open data on judicial decisions should be governed and integrated into public policies.

The impact of AI on legal practice

As previously pointed out, the AI sector is booming and its future, by all accounts, is bright. There are indeed already many applications available that support legal professionals in their work and even replace them partially in the deployment of some tasks. AI tools cover tasks such as research and analysis of documents of all sorts, such as sentences, laws, or doctrine; text editing; documents labelling for automatic classification or documents anonymization. These are just to name a few examples of what AI can do for lawyers.

AI is transforming what it means to provide legal services in six primary areas: 1) Litigation review; 2) Expertise automation; 3) Legal research; 4) Contract analytics; 5) Contract and litigation document generation; 6) and predictive analytics (Davis, s.f.).

According to some authors (Watkins & Simon, 2019) as *“AI becomes more integrated into business generally, clients will expect that law firms will deploy AI to increase efficiency and likewise decrease the client’s bill. Similarly, law firms will advisors see the potential of AI for reducing the turnaround time for their clients. These advantages will propel the use of AI in the firm”*. As Gloria Sanchez, Legal Group Vice-President, Head of Transformation the legal department of Banco Santander stated recently in an interview (Sanchez, 2029): *“As regards the relationship between legal firms and large legal providers, we are faced with a circular dynamic. We, as in-house counsels, ask law firms for a series of services, which can sometimes be provided with technological support. In the Legal Tech world, it seems clear to me that there are several technologies that it makes sense for us to have in house and there are others that perhaps it is not necessary to have. Above all, we must consider the size of the legal department and the company, as well as the areas of advice that have the greatest impact on the department. In certain cases, the solution could be to buy legal services in the market that include this technological component. In this sense, I believe that we, in house departments, are being and will be -more and more- the driving force behind this change and the law firms will have the need to transform themselves, as demanded by us and by the unstoppable advance of the legal services sector itself”*.

Consequently, lawyers must learn how to look for tools, distinguishing between those that are suitable and those that are not, know how to ask the relevant questions to software vendors to avoid risks and comply with all ethical and legal obligations, as well as understand what must be included in the contracts they sign and be able to handle the software solutions that they decide to acquire.

Nonetheless, the implementation of AI in law firms should be faced with a long-term vision. AI will have an impact on the organizational aspects of law firms, since its implementation will demand professionals devoted to feeding it with data and capable of using it. The traditional hiring and career development systems need to be reviewed, since law firm needs will radically change in the coming years. As pointed out by Watkins & Simons (Watkins & Simon, 2019) the fact that "... associates begin using the tools, they will find less need to review the various templates the firm has, read cases, weigh discovery, or review source documents first-hand. While the associate will initially be grateful for this, the associate will be at a longer-term disadvantage. Much like how most people now remember fewer phone numbers, soon associates will remember fewer clauses, fewer cases, and fewer idiosyncrasies too and have much less exposure to the fundamentals of their practice. Thus, by the time they become equity partners, they will not have had the same experience as the equity partners of today".

3. What skills and knowledge does a lawyer need to acquire to specialize in AI?

Regarding knowledge, the first thing that lawyers need to understand are the issues surrounding the use of AI so that they can mitigate possible risks and manage potential opportunities. To do that, it is important to have clear concepts about what exactly is AI, what types of technologies fall into this category, what "ingredients" are necessary to develop AI; the importance and risks of the one which is probably the main ingredient: the "datasets"; the relationship between AI and people; the risks derived from the use of AI, and the ethics of AI.

In addition to this general knowledge of AI, it is crucial to understand the impact of AI on different legal disciplines. Data is the fundamental pillar

of AI and it is therefore necessary to know how AI affects personal data and its implications for the right to personal data protection.

The use of AI tools in the Judiciary has even reach maturity levels in some jurisdictions, where AI based tools are used to assist police and judges in their research and decision-making processes. Therefore, criminal law experts ought to understand how these applications are being used and how they work, who owns them, what kind of data they are fed with, etc.

On the other hand, the number of patents registered each year in the countries that lead on AI development, namely the US, China, Canada or South Korea, is growing yearly, and patent holders need advice. Moreover, AI applications capable of “creating” literary, artistic, and musical works have already been developed, raising the interesting question of whether or not it is possible to attribute copyright to a machine. Additionally, AI and cybersecurity must go hand in hand while the overlaps between the two are paramount and every lawyer must be aware of this. Finally, it is necessary to understand AI’s impact on the labour market and labour law; on the tax system and tax law, and on the market functioning and competition rules as well.

Only by taking this multifaced approach, a legal professional could understand the relevance that this technology has and the reasons why we need to devote more time and energy to become **AI legal experts**.

In May 2020, the working group on Artificial Intelligence and Human Development (composed of 300 people from all scientific disciplines, business, and administration), promoted by the Microsoft-University of Valencia Chair in Privacy and Digital Transformation, published the proposal

“Artificial Intelligence and Human Development”¹. According to this proposal, law professionals:

1. *Must be prepared to take on the dynamics inherent in the development of a project of a technological nature in its different phases. And, therefore, adapt their methodology to make it functional to the management model of projects for the development of information and communication technologies.*
2. And they must also “be capable of descending to the material reality” and have “...an open and dynamic conception of regulatory compliance”, because “AI projects will require an enormous effort to systematically interpret the system, from its principles and constitutional values to the sectorial system, from the local to the transnational”.

This same report lists some of the skills that AI-specialising lawyers need to acquire, which are risk analysis and project management & development, and two areas of knowledge in which they need to deepen in: impact analysis and economic analysis of the law and governance of information technologies.

The Valencia Proposal on “Artificial Intelligence and Human Development” lists a set of skills and knowledge that an AI legal expert must acquire, which includes the following:

- How to build hyper-complex systems;
- Pose new questions in complex and difficult environments;
- Develop alternative problem-solving strategies;

1 The document integrates an in-depth analysis of the needs for change in our training model in order to incorporate the indispensable skills in computer and scientific thinking, artificial intelligence, and digital transformation from a perspective centred on the values of dignity, human rights and the use of technology for the common good.

- Choose, interpret and correct the foundations, arguments and alternative solutions offered by the systems;
- Develop computational legal reasoning models and analysis of legal materials;
- Adapt to new economic and social environments as the basis or substrate of legal constructions;
- To develop the creativity / intuition / emotional intelligence / autonomy necessary to be able to build;
- To work collaboratively and horizontally among human beings;
- To understand system-based teaching (with and without supervision), as well as new systems-based learning environments;
- Automatic assessment systems; and
- To use new tools.

Another aspect that is often discussed in relation to LegalTech education, is whether lawyers should learn how to code. In the case of AI, it could be said to be a somehow impossible goal since many kinds of technologies fall under its umbrella, some of high technical complexity. Therefore, it would be completely unrealistic and absurd to train lawyers as AI developers. The complexity of becoming an expert in any discipline, may it be computer science or law, seems to discourage the training of everyone in everything and yet advise that we encourage individuals to learn to collaborate efficiently. Despite this, the evolution of AI technologies shows that there are increasingly non-coding platforms available on the market (applications that allow us to develop applications without the need for computer knowledge, a kind of “lego game” that allows us to put pieces together and build our projects). Lawyers should become acquainted with the fundamental pillars of software and hardware, to understand the basics of the preferred programming language, etc. Finally, this does not need to be done with the goal of doing the job of the technological

partners but rather to understand them and be able to accompany them through the digital journey with legal expertise to enjoy together the AI adventure.

As a final reflection, in respect to the fact that AI will be able to carry out many of the tasks currently performed by lawyers, many experts emphasize the need for devoting efforts to develop skills that AI does not seem to have (at least for now) such as judgment, empathy, creativity, and adaptability. They believe that this is the wise approach to challenge the impact of AI on the legal profession. Legal professionals should invest their energy in improving these four capabilities that machines will never do (or will) at least for now, be less skilled than us humans doing them.

4. The impact of AI on legal education

So far, we have reflected on the relevance of understanding AI and its impact on the legal profession, as well as the knowledge and skills to acquire. In this section we will analyse the two approaches for teaching AI to legal professionals.

When reflecting on the impact of AI on law education, it is interesting to note that this occurs in two areas: on one hand, it derives from the use of this technology to educate, and on the other, it derives from the impact of AI that we have analysed in the previous sections.

With regard to the first of these areas of impact, it should be noted that the advantage of using AI in teaching is that it allows for an individual learning experience and as has been shown by Ocaña-Fernández, Yolvi, Valenzuela-Fernández, Luis Alex, & Garro-Aburto, Luzmila Lourdes (Ocaña-Fernández et al., 2019) with an experiment using Facebook as a tool to foster collaborative learning. The researchers concluded that this social network generates mostly positive perceptions as well as a sense

of community reinforcing this social network as an alternative to the online learning management system. In sum, AI and Big Data, can be considered as tools to improve training systems, to make them more adapted to each individual's needs, and to innovate in teaching by considering new needs such as collaboration and community reinforcement.

Regarding the second sphere, the number of law schools that offer training programs on AI is still limited, with an even smaller number of bar associations doing so. However, Bonami, B., Piazzentini, L., & Dala-Possa, A. (Bonami et al., 2020) have already stated "AI and big data have a social impact in Education" and as For Ocaña-Fernandez, Y., Valenzuela-Fernandez, L., & Garro-Aburto, L. (Ocaña-Fernández et al., 2019) "the greatest challenge for the university is the urgent need to plan, design, develop and implement digital competences to train professionals capable of deploying and using AI tools", and I will add, that in the case of legal experts, being capable of defending individuals and corporation rights and liabilities in all kind of issues that may arise when AI plays a role.

However, as in every field there are always some pioneers who are already offering courses on AI². The present offer is the result of the vision of some individuals that understand the need to start offering these kinds

2 Universidad Autónoma de Chile offers a "Minor in AI and Law programme", a voluntary programme for every student enrolled in their Law and Computer Engineering that provides knowledge and skills connected with programming, the use of algorithms, the design of services or digital products for the resolution of legal problems and with mastery of their regulatory boundaries, in relation to ethics, the protection of privacy and personal data and the security of information assets. Universidad Carlos III de Madrid, (Spain) offers a short course under the name of "big data, artificial intelligence and blockchain: its impact on international business law and the practice of law". This course analyses the impact of Big Data, Artificial Intelligence or Blockchain on Law. Lawyers, university professors and engineers participate in the course to provide a transversal vision next to an accurate view of how to face and solve legal problems derived from technology and the Internet. The third example is Universidad de Buenos Aires with its "Artificial Intelligence and Law Update Program", with a special focus on the impact of AI on fundamental rights.

of trainings and who can convince their institutions to introduce these innovative educational products. But in general, their approach responds more to marketing purposes than to a thoughtful and strategic decision aimed at adapting their education to the potential consequences of the probably most disruptive technology of all times.

5. A proposal to train legal professionals as AI experts: Six-Level Training Framework to become an AI Legal Expert

In this final section, a training framework proposal is included for training legal professionals in a way that will allow them to progressively master AI and to become experts in the field. The proposal is organised in six different levels, each one with its own goals and content:

LEVEL	NAME	CONTENT	STUDENT GOAL ACHIEVED ONCE ACCOMPLISHED
1	Introduction to AI	At this level the student must be trained to understand what this family of technologies consists of, its impact on the economy, society, medicine, law, etc.	Understand the importance of this technology and his own potential role as a citizen in matters related to the use of AI.
2	AI and the legal system	This training requires that each teacher specialised in the different branches of law understands this technology and analyses its impact on their specific legal field.	Understand the impact of AI in different fields of law: labour, tax, competition, intellectual property, etc.
3	Legal and ethical framework of AI	Law, regulations, jurisprudence, ethical principles regarding AI.	Understand the specific ethical and legal framework of AI and become a lawyer able to act in cases either on plaintiff's or defendant's side.

4	LegalTech based on AI	The objective of this training is to bring the student closer to the solutions that exist based on AI for professionals and legal organizations and to understand what they are, how they work, how to acquire them, etc., their impact on the organizations and culture of the firms, on the professional career of the lawyers, etc. Part of this training will consist in demos and real use of tools to respond to real challenges.	Understand the state of the art in AI and be able to acquire the right AI solution for each organisation and be able to manage them.
5	AI by design	The aim of this level is to teach legal professionals what they need to know to be the legal experts in multidisciplinary teams that develop AI solutions. At this level it is also necessary to train in skills such as: legal design; lean methodologies, scrum, Six Sigma, etc., project management; etc.	Be able to give legal support in a project to develop an AI-based application.
6	AI-based LegalTech	The aim of this training is to teach students how AI based tools are build; which legal data sets are available; what kind of team they need to deploy such a tool, etc. At this level it is also necessary to train in skills such as: team building, leadership, legal design; lean methodologies, scrum, Six Sigma, etc., project management; etc.	Be able to design and develop, alone or with other people, their own AI-based LegalTech.

6. Conclusion

I am confident that at this point I have demonstrated that AI is in need of lawyers who are prepared to understand it. Doing so means multiple things: helping them to understand how this technology can affect them as citizens and their potential role as activists for fundamental rights; becoming more technological lawyers and understanding everything about this technology, so that they can advise their clients in cases where they feel their rights have been violated or when they invest in the development or acquisition of AI. It also means that lawyers can advise legislators, as the AI's legal framework is still in its infancy. And finally, that they are able to take full advantage of all the benefits that this category of technologies offers to law firms and other legal sector organizations, which are already many. It is, therefore, our duty as lawyers to get to know them, acquire them safely and learn how to use them.

However, to train their students in AI, law universities, bar associations and other organisations still have a long way to go. They must develop adequate programs and so far, only a few of them have done it. By proposing a six-level training framework on AI for legal professionals, my goal is to help the ones that have the ambition to help lawyers acquire the right knowledge and skills to play the role they must assume as citizens, as legal advisors to their clients and as users of one of the most powerful categories of technologies available in today's world.

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FROM THE EXPERTS

REGULATION

NEEDS TO

CATCH UP WITH

INNOVATION

– HENRY PAULSON –

LAWIT
by LAWGISTIC

REFLECTIONS AND PERSPECTIVES GOING FORWARD

A comparative law argument for Legal Tech: Could tech expand our understanding of jurisdiction?



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The LawIT “Legal Vision 2020” Summit gave me the opportunity to reflect on the role that legal technologies could play in the shaping and re-shaping of jurisdictional boundaries. My main argument, outlined below, links the new world of legal technologies with the old world of legal transplants and the development of mixed jurisdictions.

I start with a hypothesis: that legal technologies can contribute to a modern phenomenon of **tech-mediated legal transplants**.

The latest shift of focus towards legal technologies and their ability to transform the legal profession is yet another manifestation of a very old premise: that law is a living organism. It does not remain static, untouched by progress and particularly technological progress. Following other sectors that also experience the pressures of digital transformation, such as the financial sector which came arguably a bit earlier in this game, the legal sector is finally thinking

and breathing innovation. Lawyers and technologists around the world, in various different jurisdictions, have been teaming up to explore technological solutions to legal problems and processes, to make good use of data and of our digital capacities and to make things faster and more efficient. This shift started as a trend and led to the emergence of so-called Legal Tech hubs in various jurisdictions and most notably cities around the world including San Francisco, Toronto, Madrid, London, Tel Aviv and others.¹ How are these modern hubs affecting developments in other parts of the world? Thinking jurisdictionally, how does the flourishing of legal technologies in certain jurisdictions affect developments in other jurisdictions?

Comparative law scholars have traditionally been analyzing legal transplants thinking of law imports and exports; they have focused on the historically and socially traced influences between legal systems.² Those imports and exports have been seen as less or more systematic –even conscious– efforts to influence foreign legal systems. What usually lie behind the legal influences are historical ties such as colonial or trading relations. For example, Jan Smits has written about the export of Dutch private law “by imposition” analyzing the imperial or colonial exports of private law to a number of jurisdictions including South Africa, Sri Lanka and part of the Caribbean.³ This seemingly started around the 17th century and continued after decolonization. Actually, looking into later years, Smits presented a picture of a rather systematic effort to export elements

1 The Law Society (2019) LawTech: a comparative analysis of legal technology in the UK and in other jurisdictions.

2 Agostini, Éric. “La circulation des modèles juridiques.” *Revue internationale de droit comparé* 42.2 (1990): 461-467.

3 Smits, Jan M., *On Successful Legal Transplants in a Future Ius Commune Europaeum*. *COMPARATIVE LAW IN THE 21ST CENTURY*, Andrew Harding & Esin Örüçü, eds., Kluwer Academic Publishers, 2002, Available at SSRN: <https://ssrn.com/abstract=1104422>.

of the Dutch legal system by multiple stakeholders, private and public, including the ministry of justice, bar associations and others.⁴ Furthermore, the exporting jurisdiction is of course also influenced by other systems; in the case of Dutch law for example, private law and the civil code of the country were historically influenced by both the French and the German civil codes. Finally, the exporter is also influenced by pre-existing norms of the jurisdictions where it exports. In other words, the influencer also becomes influenced to a certain extent.⁵

Mixtures like the above have historically resulted in what we call mixed jurisdictions, a term that follows a major constructed distinction between civil and common law systems or legal families around the world.⁶ Comparative law scholarship has actually discussed where the two main legal families converge and pointed to how exaggerated the differences are sometimes.⁷ Studying the origins of mixed jurisdictions one sees the role of people and historical facts including coincidental facts in the shaping of those systems. Scottish private law, for instance, was for obvious geographical and historical reasons influenced by English common law but also by civil law traditions for various reasons including early influences in legal education.⁸ To take another interesting example of a mixed jurisdiction, Louisiana, in view of its earlier history was subject to

4 Ibid.

5 See various examples at: Daniels, Ronald J., Michael J. Trebilcock, and Lindsey D. Carson. "The Legacy of Empire: The common law inheritance and commitments to legality in former British colonies." *The American Journal of Comparative Law* 59.1 (2011): 111-178.

6 See mostly: Palmer, Vernon V., and Vernon Valentine Palmer, eds. *Mixed jurisdictions worldwide: the third legal family*. Cambridge University Press, 2012. And Tetley, William. "Mixed jurisdictions: Common Law v. Civil Law (codified and uncoded)." *La. L. Rev.* 60 (1999): 677.

7 Merryman, John Henry. "On the convergence (and divergence) of the civil law and the common law." *Stan. J. Int'l L.* 17 (1981): 357.

8 Tetley, William, *supra* note 6, 688-692.

French laws and retained its civil law influence also after the transfer to the United States.⁹

Are legal technologies gradually becoming a novel force behind contemporary jurisdictional mixtures, similar to the historical examples of legal transplants and mixed jurisdictions? Could legal technologies affect and ultimately change our understanding of jurisdiction, and how? Now this question looks at how Legal Tech tools might be shaping laws and ultimately entire legal systems. In other words, we can think of the interaction between laws and legal technologies as going both ways: laws shape legal technologies but also legal technologies can shape laws. The expansion of legal technologies as we see it today seems capable of reproducing patterns of legal transplants globally –this time tech-mediated.

In order to observe this phenomenon practically unfolding, one must take a look at the various Legal Tech projects around the world, their participants and also their audiences. As mentioned above, in this exciting new world of Legal Tech there are country and city-hubs that act as references. These hubs include spaces for experimentation run separately or jointly various stakeholders: labs, research centers, law firms, bar associations and so forth. English-speaking hubs and their projects seem to be particularly influential around the legal world globally. The same for other dominant languages. For example, one can currently observe a very dynamic and fruitful exchange between Spain and the Spanish-speaking jurisdictions of Latin America in the space of legal innovation. Thus, following the historical example of colonial exports of legal systems, one can see that historical and linguistic ties between jurisdictions lead contemporary trends and influences in legal innovation and perhaps soon legal transplants. In fact, looking at how legal technologies spread quick-

⁹ Ibid, 697-699.

ly among jurisdictions that share languages we might soon be witnessing more and more mixtures could *de facto* blur jurisdictional boundaries.

One would expect that the linguistic diversity that we find in different jurisdictions and different legal cultures is reflected in the development of legal tech tools. Is it though? The ethnography of digitized legal data that are actually available and then fed into Legal Tech algorithms thus far is not necessarily representative of the real ethnography of legal data at large. As expected, widely spoken languages, with big volumes of legal data, are also leading Legal Tech developments.

How could legal technologies affect current jurisdictional boundaries practically? Algorithmic tools that need large training data pools might be trained in legal and other data from various jurisdictions. Also, language might matter or not, if automated translation could also be employed. Jurisdiction and language might matter to us now still, but to the technology it doesn't. The machine doesn't care if the content its processing is Spanish, Mexican, or Chilean laws if it is instructed to process data written in Spanish. In this case, a natural language processing tool would be indifferent to the actual differences between jurisdictions that share languages if it is trained in legal and other relevant data of a particular language. The same could happen also with different languages, allowing further jurisdictional mixtures, if tools of automated translation are employed.

When sharing legal technologies, the number of exports that could take place as opposed to retaining silos between jurisdictions remains, in my view, only speculative at the moment. Here I pose two follow-up questions for further discussion. First, and in case there are (or can be) tech-mediated mixtures or transplants, how do we measure the success

of legal transplants? In other words, what are successful legal transplants? Second, are legal technologies indeed contributing to more uniformity among jurisdictions? As a first attempt to answer the questions, I would start by stating that it depends. It depends on the benchmarks we will use to evaluate developments and measure success and also, first and foremost, it depends on what we wish to achieve. In a sense the answers to the two questions are co-dependent. Thus, if our goal is uniformity, then successful legal transplants should lead to common standards and rules. This is, for instance, how we measure success when we talk about integration in the context of the various legal systems within the European Union. The many efforts to unify European private laws and other fields are seen as consistent steps towards harmonization –harmonized rules and standards that would promote what the EU calls a European Single Market.¹⁰ On the contrary, if our goal is to retain diversity of (competing) legal systems while still allowing the systems to communicate and learn from each other, then the answer to the first question (what is a successful legal transplant) becomes more complicated. Indeed, if legal systems are meant to compete, so that citizens can always find a plurality of solutions and perhaps even be able to ‘vote with their feet’ then we might need to be actively scrutinize the use of imported and exported legal technologies that have been conceptualized and developed in the context of a specific legal system.

Let’s fast-forward a couple of decades and imagine the English-speaking or the Spanish-speaking lawyer or the judge of the future. This lawyer or judge uses legal technologies available to her systematically to search and process laws and also to analyze other relevant digitized content and create new content after that; draft a new contract or a judicial decision.

10 Hesselink, Martijn W. “The politics of a European civil code.” *European law journal* 10.6 (2004): 675-697.

If the legal technologies are trained in data from multiple jurisdictions (to refer to the above examples, models trained in large English-speaking or Spanish-speaking databases) this might help converge laws from different jurisdictions –perhaps first integrating further jurisdictions that share a common history and language already. Our lawyer or judge might be using more and more tools developed in different jurisdictions, perhaps by mixed teams of lawyers and technologists in the various Legal Tech hubs around the globe. Depending on where we find our legal professional –in one jurisdiction that sits in the forefront of legal innovation or one that does not– the tools she will be using will be either ‘produced locally’ and exported or imported. The challenging and perhaps provocative question with which I conclude here is: Will that even matter to the lawyer and judge of the future?

FROM THE EXPERTS

INNOVATION
IS THE NEW
COMPETITIVE
ADVANTAGE
– JULIE SWEET –

LAWIT
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REFLECTIONS AND PERSPECTIVES GOING FORWARD

Conflict Management: Collaborative Law for Civil Matters



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The well-known definition of insanity is doing the same thing over and over, all the while expecting a different result. In the United States, our courts are backed up for years while millions of new lawsuits are filed each year. Although, the Civil Justice Survey of State Courts' (CJSSC) [civil data](#) is from 2005, it's doubtful that today is much different than the reported approximately 7.4 million claims filed annually in state courts with only about 3% ending in an actual trial. Yet, we spend the majority of law school learning to write briefs and litigate, and little if any effort to teach lawyers to work as a team. During my law training, the only joint projects were either as adversaries in moot court or during two MBA/JD classes. The latter saw MBA candidates well equipped to work in groups and the law students did not play well with others.

Conflict is inevitable but most people tend to ignore it until it escalates. Litigation is expensive, time-consuming, and most importantly, often leaves relationships damaged beyond repair.

What if we could work with clients to manage conflict and not only avoid court but equip them with the capacity to resolve future disputes well before lawyers are needed? Transforming dispute resolution by adding a collaborative law option, will not only improve access to justice but, once augmented by online education and automation, may reduce pain and stress and ultimately conflict itself.

Why Collaborative Law?

In 2020, the first time I heard the term ‘collaborative law’ from a fellow business attorney, I was intrigued to do research because it appeared to be a bit of an oxymoron. The approach was started in 1990 by Stu Webb, a burnt-out Minneapolis family law litigator who wanted to leave the profession and decided to exit in, as he put it, an outrageous manner by working with the opposing lawyer on a thorny divorce case. Stu and the other lawyer freely shared information and agreed that if they could not settle the matter, neither attorney would be able to continue into litigation. A local judge coined the term collaborative in case correspondence and the model evolved to include optional neutrals for family law: one each of mental health professional/coach and financial expert, plus in some instances a real estate appraiser.

The collaborative approach is currently mainly used in family law situations, and follows these steps:

- The parties sign a participation agreement so there is clear path forward with an agreed upon scope and often timelines for the meetings;
- Each disputant is represented by a collaborative attorney and the group may engage other neutrals such as facilitator, mental health professional, business appraiser, communication coach (sometimes a mediator);
- All relevant information is shared and disclosed to everyone for full transparency, without any formal discovery procedures;

- The parties all agree to negotiate in good faith towards a settlement; and
- If there is not an agreement, the representation ceases for all the professionals if the matter goes to court.

The above applies to commercial and civil cases such as contested estates and probate or trust matters; employment, contractual, and construction claims; business disputes and restructuring and so on. For these types of non-family matters, the mental health professional is replaced with a neutral coach, mediator, or facilitator who monitors the progress and the communications. Also any specific financial support, such as business valuation, is from one neutral or impartial professional.

The collaborative approach's advantages are numerous as follows:

Eliminates court appearances and associated costs –both time and money;

- Shorter time frame to settlement and therefore less expense;
- Avoids lengthy and costly formal discovery and associated tactics;
- The parties and attorneys control the process;
- Uses mutually respectful, transparent and open communication and information sharing practices;
- Strives to build conflict resolution knowledge and skills for future positive relationships;
- Shared costs for neutrals; and
- Confidentiality for all disclosures and the settlement to avoid any publicity.

How is Collaborative Law Transformative?

Flashback seven years to January 2014 at the Reinvent Law session in an icy cold NYC - what I would give to be traveling anywhere today! That event was a precursor to the adventure that was founding and growing

Evolve Law. Our very mission was to push for change and innovation in the legal field, particularly by borrowing technology, techniques, and approaches from outside the law profession.

One theme that emerged from the Evolve Law days and stuck with me over the years was that innovation does not necessarily require technology. In fact, many lawyers purchase software before looking at their process and try to fit technology into an old approach with the results being wasted money and stagnant practice. In other words, the delivery and client experience have not improved yet the lawyer is claiming innovation.

Further, transformation is defined as a 'thorough or dramatic change in form or appearance' which means more than a move to accept credit cards online. Eliminating acrimonious negotiations and court proceedings to resolve conflicts is a substantial transformation of dispute resolution. The idea is a move to manage conflicts in a non-adversarial manner and as early as possible to avoid escalation.

Client-Centered Law

Although there are thriving family law practice groups that embrace the collaborative approach, the use within other civil matters in the US remains somewhat limited. For example, the [International Academy of Collaborative Professionals](#) (IACP) today lists mainly divorce and family practices as members. That was also reflected in the July 2010 IACP practice [survey](#) with only 3% of the 933 reported cases being civil matters outside of the family law area, however that is decade-old information.

The most recent data on client satisfaction with the collaborative process is mainly limited to those family law cases and is also ten years-old. The [2010 IACP Client experience survey](#) results indicate that seventy-five percent of collaborative law clients were extremely or somewhat satisfied

with the process. As this data from a decade ago, it's not in the traditional net promoter score (NPS) format. However, if the information is loosely adapted to the NPS calculation, it yields a respectable NPS of approximately 47%, based on subtracting the fifty-seven percent that stated that they would "definitely refer someone" from the ten percent that were "unlikely or definitely not likely to recommend" collaborative law. Hopefully, the IACP will update these surveys for 2020 and practitioners can learn more about the client experience.

The goal of collaborative law extends beyond simple conflict resolution. It's about providing a safe space and structured process to resolve the immediate issue, while sharing strategies and future problem-solving skills with the clients. Uncovering interests and goals of our clients creates a roadmap for improved and sustainable relationships plus fosters the ability to manage conflict.

Collaborative Law For all Civil Matters

As outlined above, collaborative law applies in all non-criminal or civil and commercial settings. For family law, the trigger to start a collaborative process is often the filing of separation or divorce proceedings. However, there is no rule that a court case must be filed in order to use the collaborative approach. In the US there is a Uniform Collaborative Law that many states have adopted in whole or in part and often around family law, but attorneys can practice collaboratively in other civil areas regardless with participation agreements. However, in order to work as a collaborative lawyer (or neutral), both mediation training and collaborative law course are required from recognized trainers, which can be found on the IACP website.

Lawyers must Unlearn Law School

In addition to the required training, it's critical to re-program our tendencies as lawyers to be the lone litigator and to go for the jugular when joining a collaborative team. In summary, a shift from the win/lose approach requires lawyers to:

- Stop ego-driven behavior;
- Avoid being adversarial;
- Learn to work in a team;
- Be curious and listen actively;
- Suspend judgment and not jump to problem solving;
- Avoid snap decisions and making assumptions;
- Allow for silence and for the parties to work things out themselves;
- Focus on the parties' interests, goals, hopes, and fears;
- Be patient to understand what lies under the parties' behavior; and
- Emphasize relationships rather than transactions.

Automation versus Online

The recent pandemic has accelerated the use of technology in the legal profession and that would apply to collaborative law, mainly in the form of video conferencing for dispute resolution which I call ZDR (Zoom Dispute Resolution). This ZDR is not to be confused with true online dispute resolution (ODR) that should also include automation and artificial intelligence. As we shift from a litigation focus, to conflict management, innovation includes new approaches, technology, and processes; all to support client education and dispute resolution.

Finally, beyond the changes within the legal technology community where recently we've seen the roll-up of smaller companies, there needs to be a fundamental shift in delivering legal services and at a mass scale. That transformation involves completely new approaches including adding

collaborative law to the toolkit. Anyone interested in discussing collaborative law and online dispute resolution, please reach out [@maryjuetten](https://twitter.com/maryjuetten) on Twitter. #onwards.

FROM THE EXPERTS

WHEN YOU APPLY **COMPUTER
SCIENCE AND MACHINE
LEARNING** TO AREAS THAT
HAVEN'T HAD INNOVATION
IN 50 YEARS, YOU CAN MAKE
RAPID ADVANCES THAT **SEEM
REALLY INCREDIBLE.**

– BILL MARIS –

LAWIT
by LAWGISTIC

REFLECTIONS AND PERSPECTIVES GOING FORWARD

Legal Considerations for an Increasingly Digital World



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We are amidst a new era of technological adoption that is creating the foundation for a radically new way of conceptualizing our digitally connected global society. We are in a position now to question more concretely what it means to be a citizen existing and operating within one particular national framework. We are in a position to demand new technologically advanced systems that enable less biased, more ethical, and globally sensitive behaviour from our political institutions. With these advancements comes the ever increasing demand for evolved legal frameworks. These frameworks will need to embrace these emerging global systems and develop the regulatory infrastructure necessary to sustainably enable the technologies making these systems possible.

While some jurisdictions have more malleable legal systems than others, we are largely battling with archaic infrastructures that are not prepared for what is on the horizon. There is a

grand disconnect between legal and technology professionals, such that we are at a dangerous deficit without suitable legal infrastructure(s) for governing new technologies.

We are in need of a governance framework that:

- a. pragmatically regulates new technologies;
- b. accounts for their inherent global utility;
- c. and that embraces our digitally connected global future.

Pragmatic Regulation: New Technologies

When it comes to the ethical considerations around regulating technologies, it's not actually the one sided conversation proponents of stricter jurisprudence would normally put forward. Whether or not and how to regulate new technologies has, at least, two very strong arguments in need of consideration.

1) There is need for more and stricter regulation:

We are all now too familiar with the many horror stories surrounding new technologies being adopted into effectively lawless¹ real-world environments; mass data breaches, autonomous vehicles killing pedestrians, or genetically modified human beings now walking this planet with potentially heightened mental faculties². These incidents, along with countless others, provide very reasonable demand for putting in more stringent regulatory structures to remedy the loos or non-existent systems in most jurisdictions today.

1 That is, environments where the regulatory structures necessary to manage the ethical and sustainable adoption of technology is not yet established. Companies and other parties building new technologies can and do take advantage of the vulnerabilities in these systems, to test and increase adoption of technologies that otherwise would not be permitted for use in society.

2 Regalado, Antonio. (2019, Feb 21). *China's CRISPR twins might have had their brains inadvertently enhanced*. MIT Technology Review.

This part of the conversation is largely driven by consumer communities that have been wronged by poorly regulated technologies, and policy or lawmakers whose job it is to ensure citizens' rights are protected.

2) We need to regulate less:

The argument has been made, and rightly so, that there is an ethical obligation to continue the research, development, and adoption of new technologies given the ability they have to solve some of our world's most pressing challenges. This argument is most frequently presented when discussing the regulation of AI and related technologies. If we consider the application of machine learning (ML), for example, in the medical field where AI enabled diagnostic tools have been proven to be equal to and in some cases superior to human doctors' ability to diagnose correctly³, it is impossible to draw a logical argument against the benefits of continued development and adoption of these tools. The same argument can be made with regard to the use of predictive analytics in court systems, where the use of these tools has been banned by some nations (e.g. France⁴), yet there are strong indicators to suggest that the use of these analysis instruments could enable us to abate bias and corruption in our judicial systems⁵.

This argument has traditionally been held by BigTech firms and their subsidiaries and, somewhat paradoxically, those being threatened by displacement from these technologies who do not support their continued growth and adoption. Large companies of course have strong business interest in being able to continue the evolution of their products in an

3 Savage, Neil. (2020, March 25). *How AI is improving cancer diagnostics*. Nature.

4 Programming and Reform for Justice Act 2019 Article 33 (Fr)

5 Faggella, Daniel. (2020, March 14). *AI in law and legal practice - a comprehensive view of 35 current applications*. Emerg.

uninhibited manner, and it is true that many industries are being displaced, or heavily augmented, by technologies that have established regulatory environments to thrive in⁶.

While the argument is of course not nearly this binary, there is an urgent need to reconcile the demands presented by these two more prominent stakeholder groups. Currently, the standards and policies that do exist for the regulation of nascent technologies, like emerging applications of AI or decentralized ledger technologies (DLTs), are for the most part non enforceable guidelines put forward by nations and enterprises seeking some solution. There are however promising initiatives with many nations making efforts to substantiate tangible legislative frameworks for governing these technologies, and with adaptive applications designed to keep pace with the rate at which these technologies evolve.⁷

Accounting for Inherent Global Utility

The technologies that will have the largest impact on our global economy and the connectedness of digital communities, are by design effectively borderless and intended to be universal in their application. Some of the technologies and resources that are at the heart of regulatory debates, are also the most globally permeable; for example, AI enabled autonomous systems, decentralized technologies and of course the vast amounts of data enabling the evolution and mass adoption of these technologies. As an example, let's consider autonomous systems that make use of machine learning and/or autonomous decision

6 Manyika et al. (2017, Nov 28). *Jobs lost, jobs gained: what the future of work will mean for jobs, skills, and wages*. McKinsey.

7 "...as it develops its decision framework through adaptive learning rather than preprogrammed code, its important that ethical, legal and regulatory requirements are considered as part of the training conditions for an AI system from the outset." Grixiti et al. (2029, August). *Towards Trustworthy AI: Malta Ethical AI Framework for Public Consultation*. Malta.

making to operate within their environment; here we will consider specifically Autonomous Vehicles (AVs) and Decentralized Autonomous Organizations (DAOs).

Currently, the capabilities from a technological standpoint to enable the mass adoption of both of these autonomous systems are effectively mature, and in some jurisdictions already being adopted.⁸ Like traditional vehicles at the time of their invention, AVs are intended to revolutionize the transport and travel industries, building in modes of efficient transportation previously unimaginable. However, there is a complete lack of interoperability in terms of legislative and city infrastructure to enable their global mobility.

As a case in point, AVs in the United States have varying degrees of regulatory enablement from state to state. In Florida, for example, anyone with a valid drivers license may operate an autonomous vehicle, and are not required to be in the vehicle, so long as there is ability to disable the vehicle remotely should there be need to do so⁹. However, neighbouring state Alabama does not yet allow autonomous vehicles to the same degree, meaning the legal use of an AV on the road for transportation between states is currently poorly defined.

A similar problem of interoperability within legislative infrastructure, and in this case technical infrastructure, exists within considerations of the global mobility of a DAO. These organizations in their most mature definition are not well established to say the least, however decentralized autonomous systems are already a reality and in active use within, for example, crypto economies and partially autonomous organizations like

8 Threlfal, Richard. (2019). *2019 Autonomous Vehicles Readiness Index*. KPMG.

9 Florida Senate 2016 Bill No. HB 7027 (US)

those that have autonomous production lines or various processes and business functions that have been entirely automated.

Let's consider a simplified definition of a DAO, as:

"... a coming together and coordination of an activity amongst various participating parties [that is] autonomous...defined as coordinated effort that occurs according to prespecified, transparent, and executable rules in the form of contracts. Finally, decentralized [indicating] that no single party has the power to destabilize or jeopardize the organization."¹⁰

When we look at this definition of a DAO, and begin to consider the possible makeup of such an organization as consisting of digitally distributed parties across the globe, a promising model for conducting decentralized business on a global consensus based network begins to surface. However, the efficiency and utility of these systems stops the moment these processes or functions interact with the world beyond the jurisdiction of their current allowed use.

There are some legal milestones to achieve before this model is globally realizable. Not only does a DAO have trouble operating as a legitimate legal entity, but identifying provenance and location of parties involved too is difficult, if not impossible on traditional blockchain infrastructure. These organizations are enabled by blockchain or similar technologies, which inherently protect the identity of those involved in an effort to establish computer codified consensus networks that emphasize transparency and consistency while protecting member privacy.

Embracing a Globally Connected Digital Future

The argument can be made that many of us already live and operate in a

10 Ganado et al. (2020, Nov 20). *Mapping the future of legal personality*. Law MIT.

digital society without jurisdiction, at least in part. While we may have legal identity and citizenship rights in one or more national systems, many of the details and enforceability of regulatory environments begin to break down in cross-jurisdictional digital environments. Whereas in a tangible real world environment we interact and behave within the contours of our own nation's legal system, we need only look at any social media platform to see just how convoluted jurisprudence becomes, where one person's behaviour could (and often does) impact individuals from all over the world.

We are approaching a future where jurisdiction is becoming less important for governing social behaviour, at least in a digital environment. The emergence of cryptoeconomics provides real world applications for reviewing how future digital societies could operate. Let's consider the following components enabling our social activity in a way that is traditionally reliant on national legal frameworks; identity, and participation in the economy. We need only look at the billions of currency agnostic dollars flowing through crypto economies and facilitating actual markets¹¹, to see these new models of identity and economy in activity today.

i) Identity: our legal identity granted to us by recognition of a given country is what enables us to participate in the economy; have a bank account, an ability to purchase goods and services, open a line of credit, etc. This notion of identity as being tied to a government for issuance is being brought into question now with the emergence of new digital identity systems, like the use of crypto wallets and self-sovereign frameworks, that equip individuals with the ability to manage their identity without the reliance on a centralized institution.

11 Sonny Singh, Alberto Vega. (2016, March 16). *Why Latin American economies are turning to Bitcoin*. Techcrunch.

ii) Economic participation: we are trained to think of economic participation in terms of having a bank account with money that is issued value by a given government in a given currency. However, we now know that this government issued monetary system is not necessary, with the emergence of cryptocurrencies. While these new monetary systems are still in need of regulation and stability for wider global adoption, they have been proven viable. As a proof point for possible global adoption, we might consider the proposals underway for a Global Digital Reserve Currency that could in practice be independent of any one central bank¹².

The future these new technology enabled systems are making possible will need a unique regulatory infrastructure that both integrates with localized cultural and legal nuances, while also embracing our global digital embeddedness¹³. There will need to be an enforceable regulatory framework that acts to govern our digital global society, if we are to continue to coexist in relative peace. It is unclear how this framework might emerge. The EU's GDPR model is compelling, where nations are coming together to establish domestic applications of this regulation¹⁴. This model's success is evident with the plethora of nations now replicating it, and the EU now working on a similar framework for the governance of AI.¹⁵ However, more radical frameworks encompassing digital protocols and networks of anonymized individuals have been proposed, we need

12 Coppola, Frances. (2020). *Is a global digital reserve currency on the horizon?* American Express.

13 Individuals have immediate and pervasive access to the internet, across multiple devices, and making use of endless accounts for social media, information and content, banking, fitness, and endless others. This mass adoption of digital platforms and activity can be described as our 'digital embeddedness'.

14 Baxter, Michael. (2018, Aug 24). *How GDPR is shaping global data protection*. GDPR Report.

15 Kemkers, Willeke. (2020, Aug 21). *Regulation of Artificial Intelligence in the EU: Status Update*. Lexology.

only look at the items expounded above to acknowledge how such a framework might be realized.

Any technologically advanced legal ecosystem will need to take into account these new systems and develop the digital-legal protocols for its enforceability. This system will need to provide a practical framework that addresses the need for regulation while not inhibiting the continued experimentation and adoption necessary for continued innovation. It will also need to acknowledge the global utility of these technologies, so that we might create adequate infrastructure for our globally connected hyperdigital future.



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