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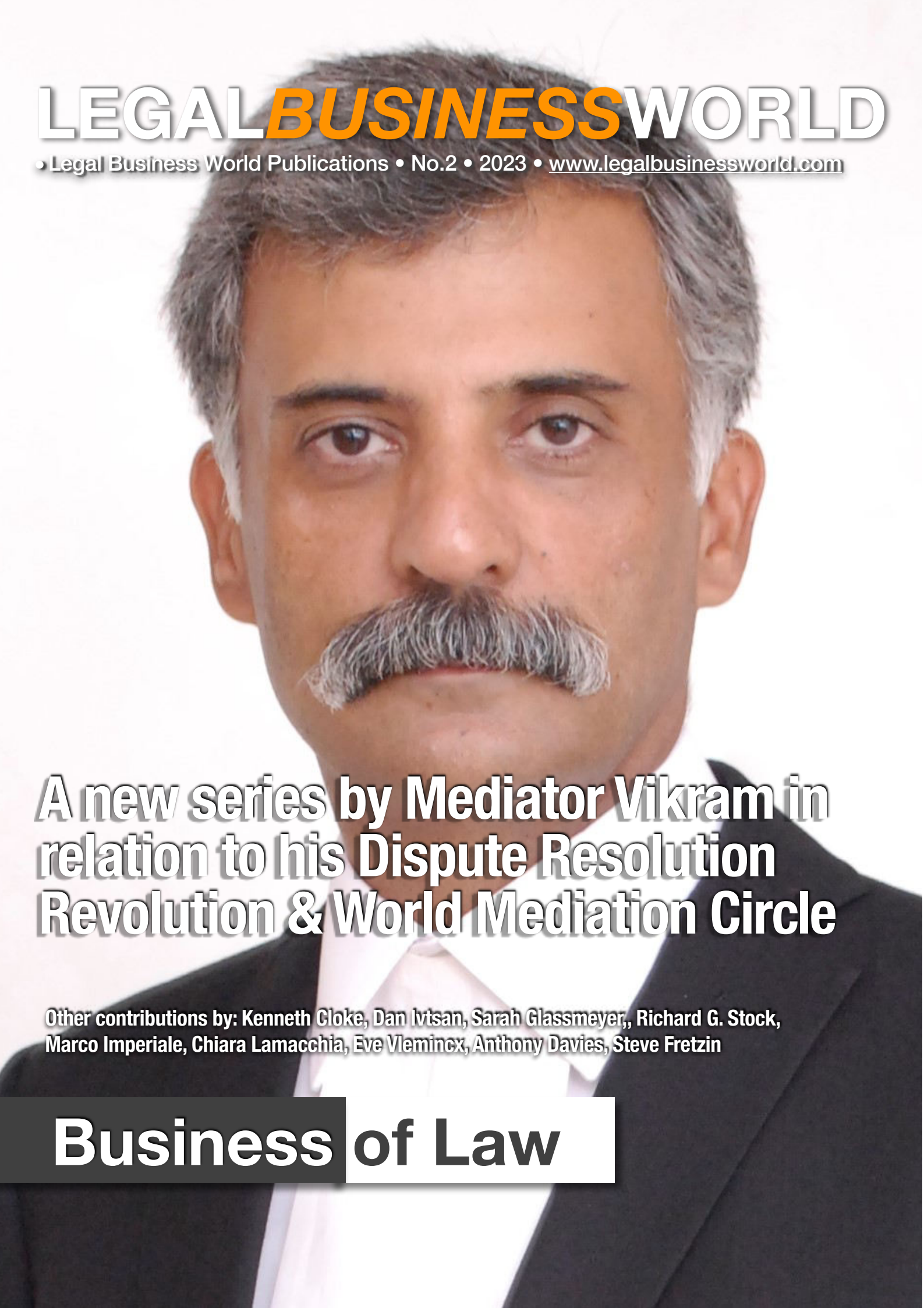

A new series by Mediator Vikram in relation to his Dispute Resolution Revolution & World Mediation Circle

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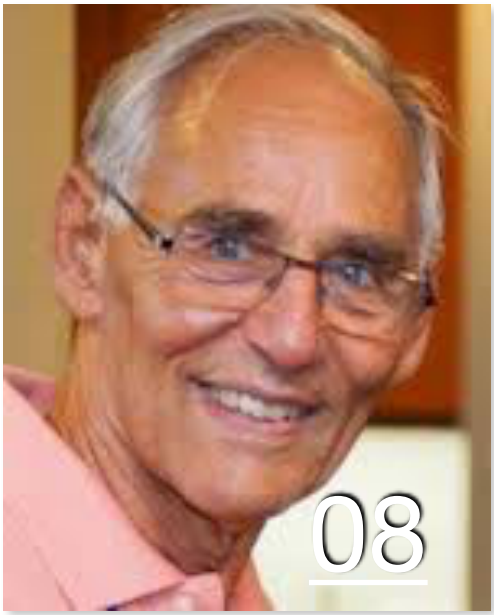
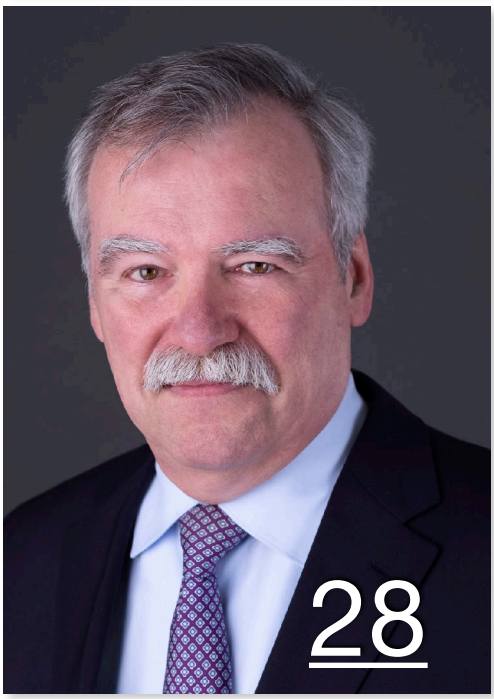
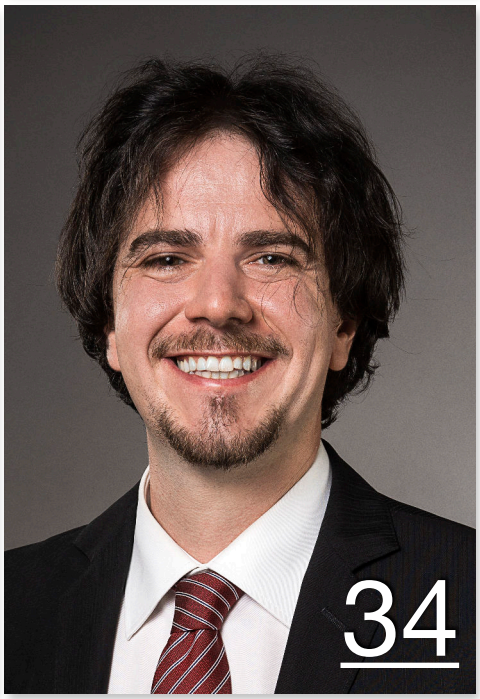
Business of Law







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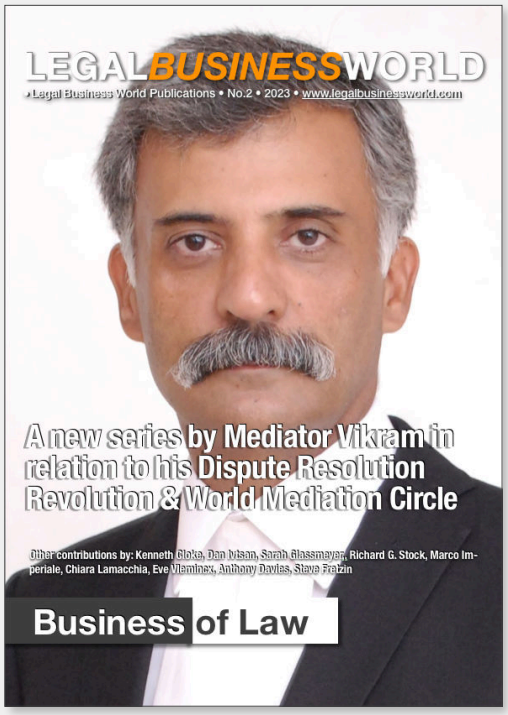

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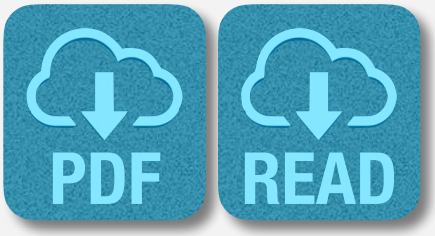

A NEW VISION FOR CORPORATE LAWYERS

Part 1: The T-Shaped Lawyer Series

'This book is primarily for those who are interested in taking change in the legal industry to a new level. However, it is also written for those who may be oblivious to the changes happening in the industry and have not given much thought to why they might want, or need, to change and what they can change.

The focus of the book is on human transformation. By that I mean making significant changes in the work that lawyers do and in their capabilities to do this new work. It might not attract the headlines of digital transformation, but it is at least, if not more, important for lawyers, legal departments, firms and especially clients.

In order to transform, not just improve, yourself and your work you need a clear picture of what that work could look like and understand why it might be in your interest to change. This book paints that picture in some detail for all corporate lawyers, legal departments, and firms.

I know from my work on transformation with lawyers all over the world that, for some, the proposed vision will be alarming and uncomfortable. For others it may seem like something that they already do. In fact, the vision calls out and spells out something that a few lawyers do sometimes on the side so that all lawyers can do it on a regular basis as a core component of their work.

For individuals this new vision offers a way to flourish and to reimagine your work so that it is more interesting and more valued by your clients. For legal departments and firms, it offers the promise of completely reimagining your offerings to clients and the way you organise and operate. If there is sufficient interest in the first book, I propose to publish follow up books in the series that provide more detail on how individuals, legal departments and firms can turn this vision into reality.'

Peter Connor

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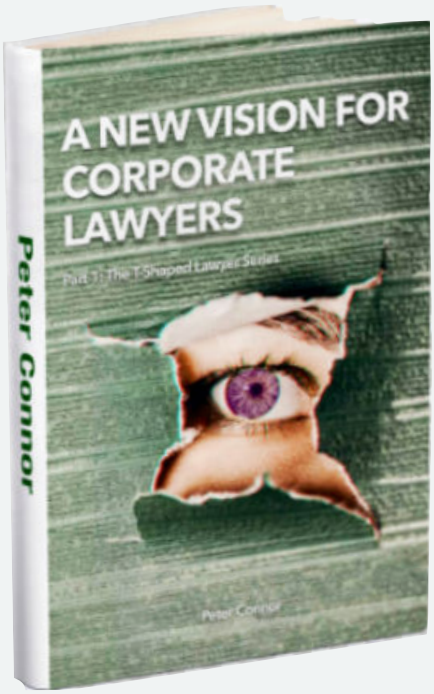

A Series by Mediator Vikram in relation to his Dispute Resolution Revolution

In this series edition

The Magic in Mediation: How to Find, Feed, and Foment It

By Kenneth Cloke, Mediator, dialogue facilitator, conflict resolution systems designer, teacher, public speaker

"The world is full of magic things, patiently waiting for our senses to grow sharper."
- William Butler Yeats

Anyone who has mediated even a few disputes is likely to have experienced the magic of mediation, and would very much like to do so again. But if asked where this magic came from, how it happened, what it consisted of, and how they might replicate it, most would be hard pressed to answer.

These unanswered questions, of course, form part of what makes any experience seem magical. Yet they are also the beginning of all arts and sciences. If we want to explore the magic in mediation more deeply, or explain the "fuzzy logic" that turns conflict into resolution, or consciously replicate these moving experiences, we need to unfold, unpack, dissect, and demystify the "miracles" of resolution we experience in mediation, without cancelling, mangling, or eviscerating them in the process.

By magic, I do not mean illusion, trickery, sleight-of-hand, or superstition; but the very real, unpredictable metamorphosis of impasse into resolution. **Nor do I mean fantasy,** mys*ticism, or*

"spooky action at a distance," but real laws of motion that are subtle, camouflaged, largely unexamined, and implicit in the nature of conflict and the methodology of resolution.

By magic, I mean something inexact, probabilistic, meaningful, even poetic; something with hidden variables, something so sensitively dependent on changing conditions that it can quickly turn chaotic, unpredictable, and irreplicable. However we define magic, it requires a mixture of just the right ingredients, in just the right way, at just the right time, in just the right circumstances, with just the right people, and it can disappear without warning when these are not in exactly the right ratio.

In mediation, the ingredients are subtle, complex, hidden, camouflaged, denied, multi-dimensional, intensely emotional, and constantly changing, so that the very same techniques that result in agreement at one moment may end in impasse at another only moments later. A single word or gesture, if handled correctly, can lead to a breakthrough, and if not, can trigger aggression, aggravate tensions, prompt denial, and end in intractability.

For this reason, nothing in conflict resolution works always, everywhere, or for everyone – and also for this reason, everything in mediation is imbued with magical possibilities. What we therefore need to do, is figure out what it consists of, where it comes from, how to release it, and gradually get better at finding, feeding, and fomenting it.

Some Sources of Magic in Mediation

In reflecting on the sources of what we regard as magical, mystifying, and miraculous in mediation, we want to ask: "What is it specifically that gives rise to magic in mediation?" And as a follow-up question: "What can we actually do as mediators to invite this magic into ordinary conflict conversations?"

In response, based on my experience mediating thousands of disputes over more than four decades, it is possible for all mediators to identify the potential causes, explanations, and "sources" of magic that are unique to each dispute, each set of parties, and each mediator. As a result, there are hundreds of possible sources of magic in every conflict. Here is a list of my top 15 [For more on each, see my forthcoming book, The Magic in Mediation]:

1. A shift in awareness, attitude, emotion, thought, or intention
2. A fresh insight, realization, unanswered question, or imaginative leap
3. An added dimension, duality, or degree of freedom
4. A change in process, relationship, shape, or form -- i.e., a "transformation"
5. A new, innovative, or advanced technology
6. A higher order technique, skill, aptitude, or capacity
7. An emergent phenomenon, arising out of chaos or complexity
8. A new symmetry, synthesis, or combination of existing ingredients
9. A recognition of hidden sources, connections, or meanings
10. An evolution or adaptation to new environmental conditions
11. A revolution, paradigm shift, systemic change, or phase transition

12. A discovery of integration, balance, poise, authenticity, integrity, or center
13. A completion, transcendence, rising above, or deep learning
14. An increase in love, caring, or kindness
15. A metamorphosis of experience and heart-knowledge into wisdom

Each of these sources can be considered *scientifically*, to identify more precisely how it operates; and *artistically*, to apply it creatively to an immense variety of conflicts between diverse individuals in unique circumstances, under rapidly changing conditions, in an effort to achieve something that is not only different, but *unimaginable* just moments before it occurs.

If we define conflict as a state of being stuck, or at impasse, then by definition, it is nearly impossible for anyone *inside* a conflict to imagine how it might be possible to become unstuck, and outside it. To them, the conflict *feels* intractable, confining, static, and hopeless, leading those in its' frozen grip to slip into frustration, aggravation, and negative thinking – not just about each other, but about *themselves* for being stuck, and about the hope of ever becoming unstuck.

The first "miracle," or source of magic, that can take place in any conflict is the resurrection of hope, which is often triggered by the mediation itself, simply by the arrival of the mediator – i.e., of someone *outside* the conflict, and therefore able to escape its hypnotic, circular, adversarial, hopeless assumptions; yet also *inside* the conflict, and therefore able to use empathetic listening, reframing, and similar skills to unravel its deeper causes; and simultaneously able to see *around* the conflict, and identify the subtle effects of systems, cultures, histories, biases, contexts, environments, and similar sources of conflict that may have passed unnoticed, merely because they are so pervasive, or subtle, or taken for granted.

A second miracle in mediation can occur when the parties recognize that their conflict is merely a place where they are stuck over the same issue -- perhaps because they were emotionally triggered by each other's defensive or adversarial actions; or because they lack the skills they need to respond successfully to each other's behaviors; or because there are two or more truths and they each assume there is only one, which is theirs.

A mediator may then evoke a third, deeper, more subtle, and simple yet profound miracle, merely by helping each person calm their emotions, or by modeling mediative skills, or by drawing their disparate truths into conversation or dialogue with each other. A mediator can help them explore the nuances and subtleties of their respective experiences; surface their deeper interests; search for syntheses and creative combinations; empower their diversity and dissent; or suggest novel approaches and collaborative solutions.

Even in the most intractable and emotionally intense conflicts, a mediator can sometimes deepen this miracle in a fourth way by revealing -- perhaps through questions, facilitated dialogue, or practical proposals for resolution -- how their conflict can be transformed into

opportunities for learning, growth, and improvement; into openings into insight, awareness, and empathy; or into pathways to wisdom, heart-knowledge, and transcendence.

Beyond these "ordinary" miracles, we can use any of the 15 sources of magic to more deeply understand *how* these magical outcomes occur, bring to the surface all the unspoken, unexplored, underlying elements, components, and characteristics that invisibly define the conflict; and shift the ways people think, feel, and respond to the issues, each other, and *themselves* that keep them locked in conflict, orbiting around each other, and unable to escape.

For example, people in conflict often ascribe very different meanings to the same events, communications, and behaviors -- based both on their conflict-driven perceptions and experiences, and on the fluctuating state of their awareness, attitudes, emotions, thoughts, and intentions. Any significant shift in either party's awareness, attitudes, emotions, thoughts, and intentions can fundamentally alter the *form* of their conflict, either by triggering, sustaining, or escalating it; or seemingly by magic, unlocking it at its hidden source.

While much of our focus as mediators is on the substantive issues that divide people, most of what transpires in conflict is a product of the parties' attitudes and intentions.

If their attitudes and intentions are negative and hostile, intransigence and resistance will make the issues appear more important and less amenable to solution, whereas if they are positive and constructive, the issues will cease being obstacles and instead become gateways to synergistic, higher order outcomes.

As mediators, we therefore want to consider the means and methods we might use to reach conflicted parties – not merely at the relatively superficial level of the issues they are fighting over -- but the far deeper level of the *meanings* they attach to them; that is, at the level of their *choice* of a state of awareness, attitude, emotion, thought, or intention in relation to their conflict. These choices can be seen as options leading to fundamentally different outcomes, allowing mediators to design interventions around what I think of as "pivot points," or locations where conversations and conflicts can quickly shift or turn.

There are a number of points or places where conflicts can pivot, change direction, and assume a fundamentally different form. In ordinary mediations, it is possible to find pivot points that often take the form of "dangerous" questions that shift people's focus from the misdeeds of others to ourselves and what we might have done better; or from the past to the present or future; or from accusatory stories to underlying emotions, emotions to interests, interests to problem solving, and problem solving to negotiations.

The real difficulties lies first, in identifying the "work" that is needed to complete each task in navigating our way through the conflict; second, in knowing when that work is done; and third, in designing transitional questions that help draw attention away from the past and the work that is now complete to the next task

that is waiting to be finished in a specific order.

In doing so, it is helpful to identify the stages, steps, phases, decision gates, and boxes that need to be checked in order to move through the process -- and if we try to move from one step to the next without finishing the work of the first, we are likely to be drawn back to those prior tasks until we complete them.

For example, people in conflict commonly interlace their communications with negative, indirect, emotionally laden accusations, exaggerations, power words, metaphors, gestures, signs, and signals, which indicate: first, that they are experiencing intense negative emotions; and second, that they do not feel entirely comfortable or skillful expressing them directly or constructively to the other person.

These uncommunicated, indirect, negative emotions are then sublimated, distilled, distorted, and repressed, leaving tiny traces, even in the words and phrases, tones of voice, body languages, subtle signs and semiotic indicators, that *indirectly* reveal their hidden meaning.

Beneath these distrustful, strangled, and distorted emotional defenses lie *desires* for open, trusting, wholehearted, honest communications; unspoken requests for respect, recognition, and acknowledgement; requests for forgiveness; and cries for help in re-orienting their conversations to constructive, collaborative efforts to satisfying their mutual interests. Together, these can be interpreted by mediators as unspoken *invitations* and *implicit* permission to intervene, dig deeper, and get their communications back on track.

As mediators, we may, for example, ask questions that make the parties' emotional states explicit ("How does this conversation feel to you right now?" "What could the other person do or say to make it feel more constructive?"). Or, we may invite people to express their deeper desires ("What words would you use to describe the kind of relationship or communication you most want to have with each other?" "What is one thing you would like him to acknowledge or thank you for?" "Are you willing to do that right now?"). Or, we may identify ways the parties can shift their conflict dynamics ("Is this conversation working?" "What is one thing she could do or say that would make it work better for you?" "Are you willing to do that?").

Any of these interventions or questions, and thousands like them, can create significant shifts in both parties' awareness, attitudes, emotions, thoughts, and intentions, and in doing so, fundamentally transform the dynamics between them, resolve the issues that are invisibly driving the dispute, and alter the course of their conflict as though by magic.

Mediators in any conflict can also design and ask difficult, dangerous, complex, and *paradoxical* questions that might elicit some fresh insight or realization in the minds of the parties; or surface and address some unasked or unanswered question; or trigger an imaginative leap in some brand-new direction, and unlock the conflict in an unanticipated, unpredictable way.

There are two primary reasons for asking questions in mediation: first, to find answers; and second, to reveal deeper *questions*, which may themselves be partly answers, and lead to still deeper questions and answers – questions not merely about what the parties think, but who they *are*, or want to be; questions that they answer with their lives. In my experience, there are two deep, transformational goals in conflict resolution that can be advanced by asking poignant and profound questions:

1. Aiding people in gaining *insight* into the sources of their conflict and the reasons why they are stuck, thereby revealing a path, or multiple paths, forward; and

2. Aiding people in gaining *perspective* on themselves, their opponents, and their issues, thereby strengthening their empathy and humility, recalibrating their attitudes and intentions, surfacing their unsatisfied interests, and redefining their problem – not as a "you," or a "them," but as an "it" and a "we."

In addition, there are three fundamental *categories* of questions we can ask:

1. Questions based on *power*, resulting in answers that *indirectly* reinforce:
   - Obedience
   - Loyalty or acceptance of ranking
   - Dominance in hierarchy and status

   A simple example might be: "Who is the oldest or tallest person in the group?", which produce a single correct answer for everyone.

2. Questions based on *rights*, resulting in answers that *indirectly* reinforce:
   - Compliance with abstract rules and regulations
   - Bureaucratic forms and processes
   - Single, uniform, objective facts

   A simple example might be: "How old/tall are you?", which produce that seek a single correct answer for each person.

3. Questions based on *interests*, resulting in answers that *indirectly* reinforce:
   - Unique personal wishes and desires
   - Complex emotions
   - Multiple, diverse, subjective truths

   A simple example might be: "What issues are you facing at whatever age you are at?" "What does your height mean to you?" "What did it mean to you growing up?" These questions produce multiple correct answers for each person.

- While "magic," in the sense of unexpected answers or fresh insights, is unlikely to occur in response to the questions listed in categories 1 and 2, they are far more likely to arise in response to questions in category 3, as these evoke reflection and invite insight. There are countless questions like this that can fundamentally alter the course of a conflict. Consider, for example, could happen in response to these:

- What question, if it were answered, would mean the most to you right now?
- What does the other person's response mean to you? What is important to you about it? Why does it matter?
- What *draws* you to this issue? What is your history with it?
- What is your intention or deeper purpose in this conflict?
- What opportunities do you see in this conversation?
- What dilemmas or dangers do you see in it?
- What assumptions do you need to test or challenge in addressing it?
- What do you know about it so far? What do you *not* know, and still need to learn?
- What do you think may lie *beneath* the opinions you have about it, or about each other?
- What is at the center of this issue for you?
- What has surprised you in what you have heard so far? What has challenged you?
- What is absent or missing from the picture so far? What is it you are not seeing? What do you need more clarity about?
- What has been your greatest learning, insight, or discovery so far?
- What is the next level of thinking you need to get to in order to solve it?
- If there is one thing that hasn't yet been said, but *needs* to be said in order to reach a solution, what would that be?
- What would it take to improve the way you are communicating with each other, or addressing this issue?
- What do you imagine each of you might be able to do to solve it?
- What could *I* or others do that would enable you to feel more engaged or energized or effective in solving it?
- What most needs your attention right now, or going forward?
- If your success were completely guaranteed, what bold steps might you be willing to take?What support do you need in order to move forward?
- What unique contribution can you make to the solution?
- What challenges do you face, and how might you meet them?
- What conversation, if you started it today, could ripple out and create new possibilities for your future?
- What seed might you plant together that could make the greatest difference to your future?
- What question could you ask each other that might change everything?
- What question would you most like to be asked right now?
- What question have you been waiting for? What question do you wish, or pine for?
- What question do you, or they, most want *not* to be asked?
- What question, if it were asked right now, could take your breath away, or drop you to your knees?
- What question have you always wanted to ask him/her, but were reluctant to do so?
- What question could either of you ask that, if answered, could reveal that you are wrong about what you think about each other or the issue?
- What question have you been withholding or hoarding? Why?

- What question will you wish that you had asked today, or be most disappointed if you don't ask?
- What kind of person would you most like to be in this conflict? What values or higher qualities would you most like to bring to this conversation?
- What questions might you ask that would allow you to be and do that?

These questions encourage people to reflect on how their conflicts may have trapped or confined them to ways of thinking, feeling, and being that have kept them stuck and blocked their capacity for learning and growth, and this realization has magic in it.

There are, of course, *far* more sources of magic in mediation. And since magic is subtle and sensitively dependent on existing conditions, it will never succeed always, everywhere, or for everyone.

Magic is an *activity*, a *process* that inevitably begins with a search, which turns into a succession of failures and recoveries, until suddenly, somehow, something works – usually for reasons we do not fully understand, and therefore experience as magical. Magic is also a kind of *immediacy*, a quality of presence, which can be found in language – not in the sense of the external objects it is used to describe, but in the artistry, poignancy, and *mediative* quality of language itself.

Every mediation begins with the most magical assumption of all – that somehow, against all odds and expectations, we will be able bring people together who are *completely* stuck in their conflicts; who are experiencing intense feelings of hatred, fear, distrust, frustration, hopelessness, and desperation; who have been traumatized repeatedly and failed to resolve their differences. Yet we believe we can somehow help them discover or invent a way out, without even the slightest inkling of where or how this will occur. The *idea* that this might be possible is an *extraordinary* leap of faith, yet it is one that routinely results in documented settlement rates of between 85 and 98%, with disputes that seem 100% stuck.

The only way of explaining these results is by suggesting that there is both a science and an art that lie hidden beneath the surface, creating an impression of magic, because we do not fully understand them. Yet despite this lack of complete understanding, either of the sources of conflict or the methods of resolution, the magic happens -- not only because of what we *do*, but of who we *are*; and the strength of our commitment.

Magic happens *in spite* of everything people have said and done to each other; in spite of their belief and determination that it will not happen; despite all their anguish and pain and trauma and loss, all their failed efforts and hopelessness. Why? Because we, their mediators, know, in our minds and hearts and bodies and souls, that magic is *possible*, and are ready, in every mediation, to step from that light and certainty into darkness and uncertainty, and search for it there.

In doing so, we allow ourselves, for a moment, to *become* the magic the parties are seeking, merely because they do not yet understand

that the magic is *already* there waiting for them. The greatest magic of all is their discovery that the magic is not in the inside and *between* them; that each of them can become magicians; alchemists who discover how to transform the lead of conflict into the gold of resolution.

This article is drawn from, The Magic in Mediation, to be published in Fall, 2023.

About the Author

Ken Cloke is a world-recognized Mediator, dialogue facilitator, conflict resolution systems designer, teacher, public speaker, author of numerous books and articles, and a pioneer and leader in the field of mediation and conflict resolution.

About the Series Editor

Mediator Vikram (Vikram Singh), is a full-time Mediator & Peacemaker and a part-time golfer. He's a lawyer based in New Delhi, India and is promoting Mediation around the world for which he organises lots of shows & events. Recordings are available on his YouTube Channel. There are 575+ videos on his Channel which are an excellent resource on everything Mediation. He has created the World Mediation Circle which is a World Wide Web of Mediation Circles. World Mediation Circle will promote Mediation and develop a Culture of Mediation around the world so that Mediation becomes the preferred method of Dispute Resolution. Mediation Circles will bring a moral values, principles and ethics based humanistic approach to Dispute Resolution where Heart Soul Spirituality play an important role. A collaborative approach to Dispute Resolution has been used by families and communities including indigenous and business communities for time immemorial. We have to go back to our roots and move away from an adversarial approach. We have to break out of the colonial mindset towards dispute resolution. Please visit MediatorVikram.com for more information about his activities for the promotion of Mediation.

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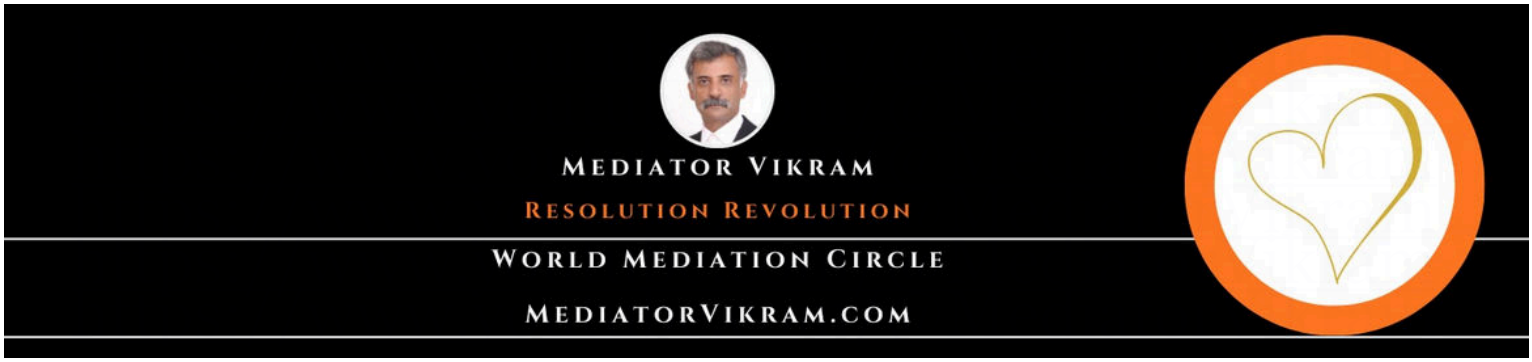

Legal Technology and Nuclear Verdicts

By Dan Ivtsan, VP of Product for UniCourt

The legal and insurance industries are facing the harsh reality that not only are nuclear verdicts here to stay, but also that they are exceedingly likely to become even more frequent, and it would be a staggering reversal of fortunes if the average award from nuclear verdicts veered from their current trajectory of eye watering growth.

Without belaboring the point, even with a restrictive definition of nuclear verdicts, the median award from nuclear verdicts has vastly exceeded inflation in the last 10 years, and the increase in frequency matches this trend. The underlying drivers of this growth, from "reptile theory" tactics used by plaintiff side attorneys, to trends in general perceptions and opinions of jurors becoming ever more militant against

"corporations," mean that how industry mitigates nuclear verdicts could become one of the most important facets of success for much of the Fortune 1000 in the coming decade.

While that description of the predicament highly litigative industries are facing may seem daunting, in this article, we will discuss the extremely powerful ways in which one can use legal data and analytics to mitigate nuclear verdicts and their secondary effects.

Legal technology is not a panacea, but by empowering corporates with the data they need to predict and mitigate nuclear verdicts, the risk of nuclear verdicts can be managed far more efficiently with billions of dollars in potential savings.

Downstream Effects of Nuclear Verdicts

The costs of nuclear verdicts are not, unfortunately, limited to actual litigation that leads to a nuclear verdict. The actual costs of these verdicts could be several multiples of the ultimate aggregate award amounts. Consumers are becoming more aware of the ubiquitousness of nuclear verdicts, which naturally affects their propensity to settle.

On the defense side, our expectation of the potential for a nuclear verdict will naturally influence how generous of a settlement offer we would make to plaintiff's counsel to avoid a jury trial. The private nature of settlements makes it difficult to estimate the effect that nuclear verdicts are having on the overall costs of litigation, but it would be a brave attorney who

would argue that the effects are minimal outside of the nuclear verdicts themselves.

The Good News: Legal Analytics

If you know a nuclear verdict is coming, how and when you choose to settle will, naturally, be impacted. Similarly, if you know a nuclear verdict in a case is extremely unlikely, you may be more resolute about mounting a full defense at trial.

How do we predict when a nuclear verdict is coming?

The current analogue process utilized by most in the industry is simple – read the documents. With the benefit of experience, we can see the telltale signs from the case itself. Our relationship with opposing counsel gives us clues as to what actions they may take throughout the different stages of litigation. Though we cannot know exactly how the jury may react to opposing counsel at trial, we can get a solid idea based on past interactions with them.

All of these methods, however, rely on experience and heuristics. A veteran of litigation could have been involved in thousands, if not tens of thousands of cases. That level of knowledge is a treasure trove of value if that litigator can distill their knowledge and apply it accurately to new case filings. Imagine, then, the value that same lawyer could have if they had read and understood *hundreds of millions* of cases, from start to finish, and knew all the relevant outcomes.

That is the level of value that legal analytics is finally on the verge of achieving – our internal experts cannot possibly be expected to understand the sophisticated statistical relationships between a filing in a given jurisdiction, with given opposing counsel, material facts, and presiding judge.

Massive databases of legal documents, such as the nearly 1 billion filings stored by UniCourt and other legal data providers in the legal technology sector, however, contain all the information and data points for us to predict, to a great degree of specificity, what is *likely to happen* in the exact scenario facing the defense counsel of a newly filed lawsuit.

Why Now? What's New?

The reputation of Artificial Intelligence (AI) has veered between different shades of dystopian from The Terminator to Westworld, Battlestar Galactica, and all shades in between.

Practically speaking, most people's relationship with AI has, more often than not, been simple irritation. It could be the words autocorrecting on your phone three times in a row, despite the fact you have clearly tried to type the same word each time, or it could be the utter annoyance you might experience when attempting to speak to an actual human being when trying to reschedule a flight or find your lost luggage.

However, with the release of the oft-touted ChatGPT, we appear to have finally reached the stage of sophistication that even the lay person can vastly improve their productivity and efficiency using AI in their daily life.

Having access to incredible databases of legal filings, dockets, and connected legal data is immensely useful, and has added untold value across the legal industry in the last decade. Now, however, we have reached the level of advanced analytics that we can feasibly read *and understand* the entirety of these legal databases, and extract the very real statistical conclusions from their datasets.

Machines may not be as intelligent as the ultra-experienced attorney, but they can read and understand a corpus of information which exceeds even the most brilliant attorney by an order of millions.

The output of these processes will not replace attorneys – we are not there yet, nor are we even close. The adage, however, that attorneys who use AI will replace attorneys who do not is ever more true as these ultimate insights, completely inaccessible to those who do not utilize artificial intelligence will prove a game changer.

Mitigating Nuclear Verdicts with Legal Analytics

Nuclear verdicts are a permanent feature of the legal industry in the United States, but as the positive feedback loops which encourage ever greater jury awards accelerate, players in highly litigative industries can utilize the conclusions from legal analytics to not only mitigate their losses from nuclear verdicts, but to also add a layer of negative effects to the destructive feedback loop associated with nuclear verdicts.

About the Author

Dan Ivtsan is the VP of Product for UniCourt, a SaaS offering using machine learning to disrupt the way court data is organized, accessed, and used. UniCourt provides Legal Data as a Service (LDaaS) via our APIs to AmLaw 50 firms and Fortune 500 businesses for accessing normalized court data for business development and intelligence, analytics, machine learning models, process automation, background checks, investigations, and underwriting.

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Open Your Mind to Open Tools

By Sarah Glassmeyer, law librarian

Now that it's been 20 years, I can admit that I didn't quite have a real career plan when I decided to go to library school after I graduated from law school. It was, to borrow a term from American football, a "Hail Mary pass." I was putting myself in motion and hoping and praying I landed somewhere good. I did know two things: I wanted absolutely nothing to do with technology or copyright law.

There is another saying that comes to mind: "Make plans, God laughs."

Through a circuitous route, the details of which I won't bore you with, I find the professional topics that I am most passionate about lay right in the intersection of those things: open content, open source technology, and standards. I hope,

by the end of this piece, you are as excited about these topics as I am or, at the very least, understand how they impact all verticals of law and can greatly impact the future of how we create and use legal information and knowledge.

Let's Set the Stage

I analyze legal technology for a living. The tools I've studied range from those used by large international corporations to manage thousands of contracts to something used by solo practitioners to track their client engagements. I don't care if it's for transactions, litigation, criminal, Big Law, Small Law, In-House, or access to justice, in my mind most legal technology just helps legal professionals create, use, analyze, or store legal content, be it data, information, or knowledge.

I like to divide the delivery of legal data, information, and knowledge into two pieces: content (the text of the material being delivered) and container (the format that contains it.) Right now, aside from a few notable exceptions, most of this content and the technology used to access and manipulate it, is closed down. That is terrible for legal innovation, Access to Justice, and all the practitioners who don't think they need to worry about those first two.

It would be impossible to fully cover every specific local variation of copyright coverage in a piece of this size, especially as it relates to content. In the United States, where I

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reside, the text of law at the federal, state, and local level is considered to be in the public domain and free of copyright encumbrances. (However, in practice, freely accessing the law is not always easy, although that is changing.) Other countries put copyright restrictions on the text of the law, such as Crown Copyright in Canada, and others make accessing the law that governs citizens almost impossible.

Of course, the work of law is more than just using primary law as published by government bodies. Lawyers of all types create legal knowledge products, including litigation filings, transactional documents, and advice to clients. In creating these, they consult materials created by commercial publishers or within their organization.

This content does not float around in amorphous blobs. Traditionally it was contained in physical containers such as parchment, paper, books, and loose-leaf. However, as the computer age came upon us, this content was digitalized and contained in databases and other electronic resources.

In recent years, the content/container line has been blurred and legal professionals have been able to use analytical tools that manipulate sources of legal data, information, and knowledge to assist in their creation knowledge products. These tools require content to be trained as well as programmatic languages to analyze them. Also existing in the grey area between content and container is metadata applied to content (such as taxonomies), as well as format and deployment standards.

Open Content and Technology Powers Innovation and Access to Justice

Legal innovation is about more than legal technology. However, one cannot deny that technological advances have provided an engine to power many of the "legal innovation" changes that can increase efficiency and quality of legal work. Almost every piece of legal technology has some sort of analysis tool for the content that is contained within. Finding the seed content to do the initial modeling and training to create those tools is not an easy task and making this a scarce resource is inhibiting the ability of new legal technology providers to enter the market.

As an example, one can look to the long term dominance of Thomson Reuters and RELX in the legal knowledge space. This duopoly was only recently chipped away at by new and innovative companies such as Fastcase and Casetext because the base content of primary law was made more readily available through the work of activists and cooperation between new market entrants. Another new legal research company, Ross Intelligence, is currently pausing operations as they engage in litigation with Thomson Reuters over possible copyright violations for the content they used to train their AI.

A major goal of legal innovation is increasing efficiency. Why do lawyers spend time reinventing the wheel and creating content from scratch? The answer, of course, is they don't. They use internal clause banks or boilerplate files to create content. Most content created by legal professionals in the course of their work is covered by copyright. But what if legal professionals decided to share content that is repeatedly used and that requires very little creativity? Creators can specifically and affirmatively alter the copyright attached to their

work through licensing tools such as Creative Commons. They can also join consortiums to create shared and agreed upon content. One such experiment in shared open content in the legal world is OneNDA.

As for the container piece of legal innovation, some of the technology that makes up the digital containers of legal content is proprietary, but not all is! There exists a category of technology called “Open Source Technology” that allows for free use of the tools. Free, of course, meaning no cost to acquire, but there will be costs associated with deployment and maintenance. As with openly licensed content, there may be limitations on how the technology may be used (e.g. commercial or non-profit use) and what derivatives can be made of the original work.

Open source technologies allow for a relay race of development instead of everyone starting from the same starting point over and over again. A few years ago, Jonathan Pyle, a Legal Aid attorney in Pennsylvania created Docassemble, an open source expert system. That code base was then used by others to create commercial products that improved upon the user experience and functionality of the original tool. One of those tools, Afterpattern, was then acquired by NetDocuments. Would NetDocuments have an expert system integrated within their suite of tools without the initial open sourcing of Docassemble? Maybe, but of all the tools available to acquire, they chose that one.

I would be remiss if I didn’t note the access to justice implications of closed content and containers. It seems obvious that a person should be able to access the law that governs them as a basic human rights issue. However that is not always the case and the work of Legal Information Institutes is critical everywhere, but especially in these more closed off jurisdictions.

Like legal professionals, Self-Represented Individuals require more than primary law to solve their issues or even understand what their legal issues may be. Open primary law would allow access to justice minded individuals and organizations to more easily create knowledge products to assist these people. Additionally, legal practitioners could choose to openly publish explanatory materials.

As for technology, I know from experience many large legal organizations employ in-house technologists to create crosswalks or improvements to existing commercial offerings. This is a solution not available to many non-profit organizations.

All user types - innovation, access to justice, and maybe someone like you that just wants to be “a regular lawyer” - can benefit from an open legal ecosystem. You do not have to be an IT professional to realize that some of your legal tech tools do not play well together. A lack of uniformity in metadata and other types of internal formats is a big reason. Some of this can be solved through adopting standards such as the SALI metadata standards. And some of it can be solved through legal technology providers adopting open deployments through Kubernetes or other open systems. Artificial intelligence-based generation and analytic tools are becoming more commonplace. It’s also a rapidly changing landscape, so much so that some of the major tools didn’t exist when I was first asked to contribute this

article. Right now, most of these tools are black boxes. We don't know what they were trained on, we don't know what they prioritize, and we don't know if we can change any of this to better meet our individual needs. Open alternatives to the commercial offerings would allow the legal community to better understand the choices made in analysis by these tools and possibly choose to alter the code to prioritize other results.

If we continue along this trajectory, soon tools thought of as critical to standard legal practice will be only available to the few and users will be at the mercy of the decisions of technology companies. An open content and technology ecosystem in the legal world would allow for more intelligent use of these tools and also allow for a more equitable distribution of this technology.

There is always one giant elephant in the room when I talk about open source technology and content that I have thus far avoided: money. If lawyers are knowledge workers and they get paid for their knowledge, why should they give it away for free? Or pay for their internal technologists to contribute to open source projects? Aside from the fact that open content and technology allows for more creative solutions to existing problems and can assist in access to justice, the legal world needs to stop ceding control of the tools it needs to perform to commercial entities.

While one should never consider the relationship between legal professionals and vendors as a "us vs. them" situation, community created and controlled content and technology will even that balance of power and possibly provide more useful solutions as it comes from the user group.

What can I do to help?
You've read this far, so congratulations! You're educating yourself on the issue and that's always the first step towards making a change.

If this is something you want to actively support, some other options to explore include:

- Support the work of organizations like SALI, Legal Information Institutes, and oneNDA. Support can come in the form of volunteer hours, monetary donations, or encouraging adoption and use within your organization.
- Learn the copyright status of primary law in your locale and advocate to decision makers for more openness if it's not fully open. (Spoiler alert: it can probably be more open and accessible.)
- If you are a decision maker at a firm or organization, consider open sourcing technology or content produced in-house, encourage use of open source technology in homegrown products, or allow your creators to contribute to open source projects (content or technology).

About the Autor
Sarah Glassmeyer is law librarian that has worked in academia, non-profits, and legal technology for the past 15 years. Her main professional interests include making legal technology understandable and accessible to all and encouraging the use of open content and technology through the legal world. Sarah lives in a rural area in the middle of the United States and if the law thing doesn't work out she's going to start to raise sheep.

Sit back, relax, and enjoy!

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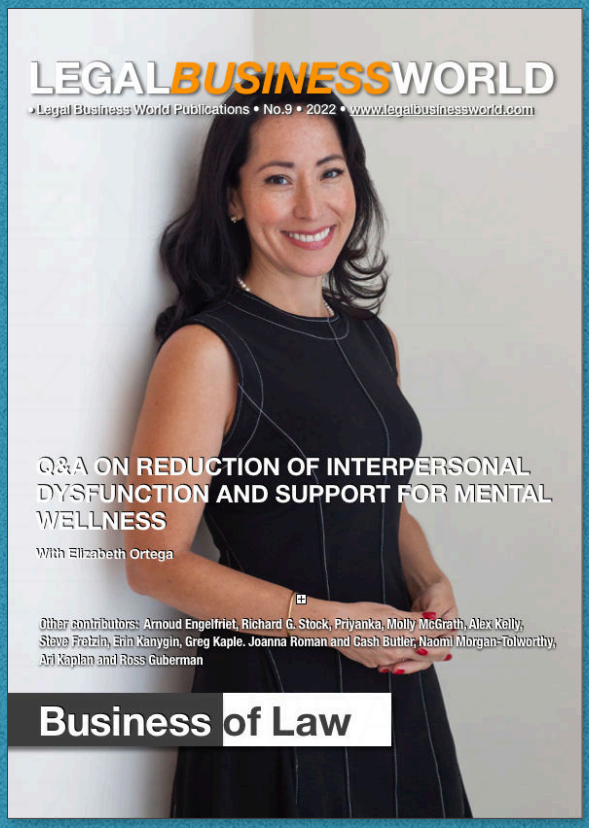

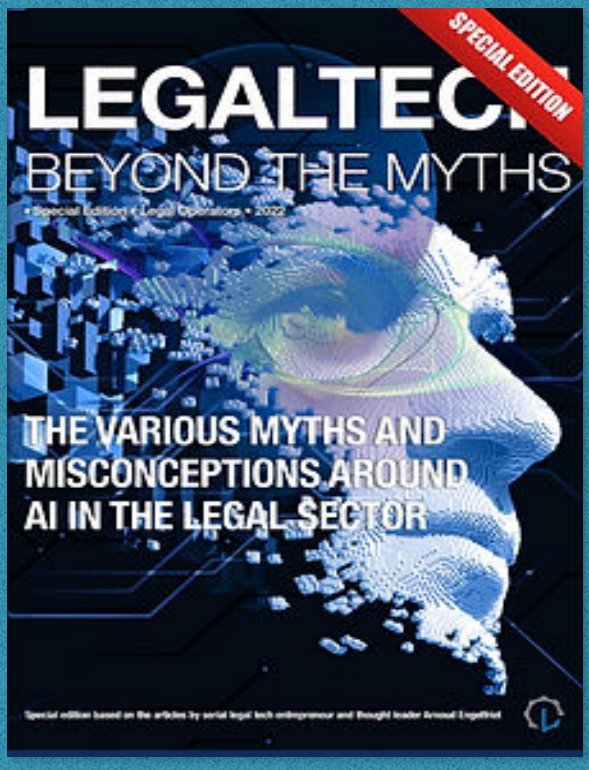

Evaluating Preferred Law firms

By Richard G. Stock, M.A., FCG, CMC, Partner with Catalyst Consulting

This is the forty-first in a series of articles about how corporate and government law departments can improve their performance and add measurable value to their organizations.

Structured conversations about the performance of preferred law firms are needed with both the firms and the law department team when introducing and then maintaining a performance plan. The goal is to ensure consistency and sustainability for this kind of initiative. A performance plan, sometimes taking the form of a scorecard, should always pass the **SMART** test because it should be

- **S**pecific
- **M**easurable
- **A**chievable with the available resources
- **R**esults-oriented, meaning results for each KPI and the related initiatives
- **T**ime-based, respecting a set schedule or intervals

It then makes sense to embed the scorecard and the related metrics and tools like law department operating protocols, legal project management templates, complexity levels, optimal staffing distributions and average rates, etc. in a multi-year partnering agreement.

Key Performance Indicators (KPIs) and Initiatives

Five KPIs when taken together can constitute the metrics, while the initiatives define what specific objectives are to be achieved. The anticipated level of performance is the target. Today, law departments of all sizes introduce multi-faceted partnering agreements with their law firms to take the relationship beyond the requirements of the traditional billing guidelines and operating protocols.

Communications and Responsiveness

For example, the first of two initiatives for this KPI might call on the law firms and the client organization to communicate effectively as the partnering agreements are introduced and then managed over time. An evaluation will focus on how well the firm's responsible lawyer communicates.

A second initiative calls for diligence in respecting the letter and the spirit of the law department's operating protocols. Evaluations should be carried out by all law department team members responsible for files referred to firms. Firms should be met every two months for the first year, and then quarterly to review their progress against the partnering agreements and the agreed operating protocols.

The message to law firms is that communications about the relationship, and not just about specific files, must be effective when firms are regarded as the company's "legal business partners".

Results

Value is a combination of service, results, and price. A proper scorecard covers all three. The weight assigned to the *Results* KPI and its initiative(s) is the greatest at 40 %. Legal project management plans are the principal tool to define and communicate the anticipated outcome for a matter. These LPMs should be accompanied by the planning assumptions for phases and tasks, the degree of certainty for each assumption, and the anticipated results for matters by category and level of complexity.

Efficiency

Companies with significant file volumes should consider introducing a system of categorizing file complexity / severity with three or four levels. This can done after a careful analysis of 100 recently closed files and then categorizing the files against pre-established thresholds. The internal review process also allows calculation of the average number of hours per file, the actual and preferred distribution of hours by fee earner level of experience (staffing profile), and the optimal cycle times (duration) for each file and its complexity level.

Adjustments to the findings from such a review can be made to set challenging standards for the number and distribution of hours, and for cycle times by level of complexity / severity. Success in meeting cycle time standards can constitute the first of two initiatives for an *Efficiency* KPI.

A second initiative for an *Efficiency* KPI is the effective utilization of legal project management methodologies and the related technologies for all new files requiring more than 50 hours. The law department should introduce its own templates for use by all firms. Templates should account for the allocation of resources (hours) by fee earner for each phase and task in a matter. Project plans and budgets are prepared by firms for approval by the law department. The department can then go further by requesting legal project management plans and budgets for all open files when more than 50 hours of legal work remain.

Both initiatives for the *Efficiency* KPI depend on effective communications. Over time, they can be correlated with targets for results and legal spend.

Total Legal Spend

Introduction of a financial KPI depends on success in introducing reliable legal practice management protocols, one of the initiatives for the *Efficiency* KPI. A fee or a narrow fee range is agreed with the law firm for less complex files (under 50 hours). A detailed legal project management budget is agreed for all files exceeding 50 hours. Both approaches to budgeting should respect standards for cycle times. Every six months, the law department evaluates law firm success in meeting or beating the budget on every active file – not only on closed files.

Unit Costs

Blended hourly rate standards can be developed for all but the most complex file types and categories. A customized blended rate can be generated for the most complex matters by a rigorous legal project management process.

The objectives are to encourage teamwork and the appropriate delegation of labor with law firms. However, this KPI is not designed to control the number of hours per file.

The law department should incorporate the blended rates into the partnering agreements with its preferred firms. The effect is to reduce the amount of monitoring of the firm's practice management habits.

Weighting the KPIs and Initiatives

Some law firms maintain that each case is different and that they cannot be held accountable for results and the number of hours per file. The introduction of standards for cycle times, number of hours, and work distribution mitigates such objections. KPIs for Results, Efficiency and costs (Total Legal Spend and Unit Costs) have been accepted practice for more than 10 years.

Most firms will readily accept the five KPIs and related initiatives. However, they may object to the weighting given to each initiative. They may also wish to include other KPIs such as legal expertise. The response by the department should be consistent with trade literature surveys on why clients select and keep law firms as counsel. The top reasons are rarely about saving money. Instead, they relate to quality of service and getting the job effectively.

For this reason, the Results KPIs represents 40 % of the value of the expected performance from law firms. Many firms have improved their service levels, making this a dimension on which differentiation among firms is difficult and less relevant. The focus for clients is to secure the planned results on each matter, thus supporting at least 40 % of the weighting given for results.

The two sample initiatives for efficiency target productivity improvements. Law firm culture and the hourly business model do not encourage productivity. The law department should require its preferred firms to actively manage productivity and demonstrate improvements using proven methods. Each law firm can build up a track record over time so that the law department can compare the success rates of each firm. Allocating a 30 % weighting to the efficiency initiatives sends the right message. One can reduce this weighting in favor of the Results KPI or raise the standards after a few years.

Only 30 % of the weighting for performance directly measures financial performance, even though the Efficiency KPI does so indirectly. There is very little ambiguity in the two financial KPIs. The challenge is in the research, in setting budgets, and finalizing blended rates. A 30 % weighting for financial performance suggests that quality (results) and efficiency together (70%) are more important than saving money. The KPIs and initiatives should be highly correlated and integrated. Performance management in professional services requires it.

The law department sets specific targets based on the business relationship, working protocols, standards, budgets, blended rates, cycle times, and effective use of legal project management.

The law department team should conduct a monthly evaluation and share the result with firms every six months. Transitional arrangements may begin with bi-monthly rather than

semi-annual de-briefings with firms for the first year. But a de-briefing does not alter the plan that formal evaluations should be conducted every six (6) months.

Some law departments link law firm performance to allocating a larger share of files. The expression "You get what you measure, and you get what you pay for" should apply. In the same vein, performance can be better aligned with alternative fee arrangements than with a straight discounted hourly rate.

Agreements with Preferred Firms

The commitment to performance management should be embedded in multi-year partnering agreements with preferred law firms. KPIs, the related initiatives, and targets should form part of the agreement. It makes sense to also include law department operating protocols, legal practice management and budgeting templates, the levels of complexity and staffing distributions by file category and complexity, and the blended rates by level of complexity. Finally, the agreements should briefly describe how the performance management system will be managed.

About the Author

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Click on the cover

B Corp and Benefit Corporations

By Marco Imperiale, Head of innovation at LCA Studio Legale

Preamble

Among the innovative ways to impact the world, Benefit Corporations and B Corps have emerged as a promising method.

Benefit Corporations and B Corps are similar (yet different, see below) ways to define corporations and entities who decide to underline their commitment regarding ESG values (mainly in relation to environment, social impact, and governance strategies).

Basically, the idea is shifting from a shareholders' perspective to a stakeholders' one,

believing that a different approach to the business and the world will bring prosperity to both the company and our planet. By mandating that companies consider the public benefit alongside profits, Benefit Corporations and B Corps are creating a new standard for corporate responsibility.

The differences

Despite the fact that we tend to mix the concept of Benefit Corporations and B Corps, there are several differences.

A Benefit Corporation is a legal entity that is recognized in more than 30 countries (including Italy, United States, France, and Colombia). To become a Benefit Corporation, a company must amend its articles of incorporation to include a social and environmental purpose, and commit to considering the impact of its decisions on stakeholders other than shareholders. The public benefit generally refers to a positive impact on society or the environment, and it can include anything from reducing greenhouse gas emissions to supporting community development programs. A Benefit Corporation must also publish an annual benefit report

that details its social and environmental performance.

A B Corp is not a specific form of company, but an entity that has been assessed by an external no profit organization (B Lab) [1] to meet rigorous standards of social and environmental performance, accountability, and transparency. The assessment and the supported documentation cover a wide range of topics, from employee benefits and diversity to supply chain management and environmental impact, taking into account mainly five areas: governance, workers, community, environment, and customers. In order to be recognized as a B Corp, the company should reach at least 80 points on 200. The certification has to be renewed periodically.

Currently, there are over 6,000 certified B Corps worldwide, operating in various sectors and in many countries. Among them Patagonia, Ben & Jerry's, and Seventh Generation. These companies have long been leaders in the sustainability movement and have demonstrated that businesses can be profitable while also making a positive impact on the world.

It is worth stressing that Benefit Corporations and B Corps are not just large, established companies. Startups and small businesses can also benefit from becoming a Benefit Corporation or obtaining B Corp certification. In fact, there are even incubators and accelerators that specialize in supporting social and environmentally responsible startups.

Why choosing to become a Benefit Corporation and/or a B Corp?

The reason to choose to start/become a benefit corporation or a B Corp are various.

A) Long term benefits. Companies that commit to social and environmental good can create long-term value for shareholders and react better in times of crisis and recession. Research has shown that companies that have obtained a B Corp certification have outperformed non-certified companies in terms of long-term revenue growth and profitability. For example, a study by the Harvard Business Review found that companies with a strong sense of purpose outperformed their peers in terms of revenue and profit growth [2]. Another study by the University of Oxford found that companies with high social and environmental performance were more likely to outperform their peers in terms of long-term financial returns [3];

B) Talent attraction and retention. Being a benefit-oriented company can help attract and retain talent seeking meaningful work and who want to work for a company with similar values. It is very interesting to notice that Gen Z and Millennials are very attracted by Benefit Corporations and B Corps, and prefer to work in companies that take into account ESG values and put them at the core of their activity [4]. Moreover, sharing and promoting ESG values can be positive in terms of employees morale and engagement in company's activities;

C) Self-awareness. Obtaining a B Corp certification is not an easy process. It requires companies to rethink their purpose and business model and to make significant changes to their operations. They must meet rigorous standards of social and environmental performance, accountability, and transparency. This long process is very useful in terms of understanding

what works and what doesn't both from an internal and external perspective;

D) Redefining the relationship with investors, stakeholders and providers. Deciding to become a Benefit Corporation or a B Corp means highlighting a specific way of conducting business. This means sometimes redefine and searching relationships with providers/investors, and/or search for entities and institutions that share the same values;

E) Company reputation and customer relationships. Consumers are increasingly mindful of sustainable and socially responsible business practices and are more likely to choose a company that demonstrates that it takes these aspects seriously. Becoming a Benefit Corporation or a B Corp can be a strategic way to differentiate from the competitors;

F) Network. Becoming a Benefit Corporation or obtaining B Corp means becoming part of a global community of like-minded businesses committed to creating a better world.

The risk of impact washing and greenwashing

Undeniably, being a Benefit Corporation and/or a B Corp has many advantages. But there are also considerable risks. The main ones are impact washing and greenwashing.

Impact washing is a term used to describe the practice of overstating or exaggerating a company's positive social or environmental impact in order to appear more socially responsible than it actually is. This can involve misleading claims about a company's sustainability practices, community engagement efforts, or other socially responsible initiatives. Impact washing can be especially problematic when it is used to distract from harmful practices or negative impacts on communities or the environment.

Greenwashing specifically refers to the practice of making misleading or exaggerated claims about a company's environmental impact or sustainability practices. This can include using vague or undefined terms like "green" or "eco-friendly" without providing specific information on what those terms mean or how they are being implemented.

Both impact washing and greenwashing can not only ruin the reputation of a company, but they can also undermine the credibility of the Benefit Corporation and B Corp field. Indeed, they make it difficult for consumers, investors, and other stakeholders to trust that companies are truly committed to social and environmental responsibility. As such, it is important for companies in this space to be transparent about their practices and impact, and to avoid making claims that cannot be backed up with evidence.

How about Benefit Corporations and B Corps in the legal field?

Despite the interest from the legal profession there are very few examples of Benefit Corporations and B Corps in the legal field.
The main examples are, probably, Marque Lawyers in Australia, Hanson Bridgett in California, and Sustainable Law Group in California. Another law firm worth mentioning is Impactiv Lab in Poland. In Italy several firms (including Deloitte Italy) certified as Benefit Corporations, but no one – at the moment – as

B Corp. It is worth mentioning, however, that several law firms (including LCA) decided to release social or integrated reports, to underline their work in the ESG fields and the values behind their activity.

The reasons behind the lack of Benefit Corporations and B Corps in the legal field are various.

Firstly, despite the similarities between a company and a firm, it is very difficult for a law firm to adopt all the standards required in terms of environment, social, and governance structure. B Lab standards tend to be very company-oriented, while law firms tend to need *ad hoc* assessments.

Secondly, law firms and lawyers are related to specific codes of values. If a company can decide not to have a specific provider or shareholder (e.g. a tobacco company or a producer of weapons), the scenario for a law firm is different. Can a law firm decide not to deal with a client or a providers only on the basis of their activity?

Last but not least, the legal entity is most of the cases different from a typical corporation. In Italy, for example, most of structured law firms are associations of lawyers, while just a small amount of them being a corporation.

Conclusions

I believe that - of all the trends of innovation which are coming from the post-pandemic scenario, both inside and outside of the legal field, this is one of the most intriguing.

The world is increasingly becoming aware of the need to prioritize social and environmental values - Benefit Corporations and B Corps are leading the way in this regard. Becoming a Benefit Corporation or a B Corp is a strategic move for businesses that want to achieve long-term benefits, attract and retain talent, promote self-awareness, redefine relationships, and enhance reputation. Benefit Corporations and B Corps should be viewed as part of a global movement of businesses committed to creating a better world, and their impact can be far-reaching.

We tend to consider innovation in the legal field from a technological point of view, but if we look at the etymology of the word, we notice that it comes from the Latin *en* and *novare* (mainly, looking at things from a new perspective). And there is nothing more innovative than reshaping our own thoughts and process in order to being more committed in terms of welfare, environment, and good governance.

Notes

[1] For further information, visit the website https://www.bcorporation.net

[2] Harvard Business Review. The Business Case for Purpose. (2016). Available at https://hbr.org/sponsored/2016/04/the-business-case-for-purpose

[3] Clark, G. L., Feiner, A., & Viehs, M. (2015). From the stockholder to the stakeholder: How sustainability can drive financial outperformance. Oxford: University of Oxford, Smith School of Enterprise and the Environment.

[4] For further information, see the following report https://www2.deloitte.com/content/dam/Deloitte/at/Documents/human-capital/at-gen-z-millennial-survey-2022.pdf

About the Author

Marco is a lawyer and the Head of innovation at LCA, a leading Italian firm. He has extensive experience in legal design, legal tech, and in the interplay of copyright law and the entertainment industry. Whenever he finds time, he also works as mediator, teaching fellow for Harvard Law School (CopyrightX course), and mindfulness trainer. He is a frequent public speaker and the author, together with Barbara de Muro, of the first Italian book on legal design.

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#RisingTrends – Business & Human Rights

By Chiara Lamacchia, Founder at lawrketing.com and withoutconsulting.com

Human rights and business interests are sometimes conflicting, particularly in situations where companies operate in countries with weak human rights protections or where their operations may have negative impacts on local communities or the environment. Not only. Some companies have a business model based on human rights violation – paradoxically operating in countries where there are strong human rights protections.

Overall, from civil society to the legislation level, there is a growing trend towards greater corporate responsibility and accountability, all over the world, with a focus on preventing human rights abuses, environmental harm, and other negative impacts associated with business activities.

However, what does it really mean for businesses to comply with human rights?

The business side of human rights

Companies have a responsibility to respect human rights, which means avoiding causing or contributing to human rights abuses, and addressing any adverse impacts that they may have on human rights. I am certainly not going to write an entire dissertation on the relevant conducts or cases. Just to offer a starting point, here a couple of examples of what might constitutes a human rights violation:

- labour rights violations, such as forced labour or child labour
- health and safety violations, such as failure to provide adequate protection for workers or exposure to hazardous materials
- environmental pollution or degradation that impacts the health and well-being of local communities
- discrimination or harassment in the workplace, including sexual harassment or unequal pay for women or minorities

The respect of human rights is becoming a legal requirement in many countries. Beyond the moral or ethical dimension of respecting human rights, business should start conceiving their business models around the compliance of human rights standards as a strategic move for a long-term success and competitive advantage.

Human rights are relevant to business because they can impact a company's reputation, legal

liability, and competitive positioning – in this sense, compliance should be regarded as a strategic tool to:

- enhance corporate reputation
- build strong relationships with stakeholders, including employees, customers, communities, and investors
- reduce lawsuits, fines, and other penalties
- grant a sustainable operation
- facilitate long-term sustainable growth

All these while also upholding the fundamental rights and dignity of all individuals. You kill two birds with one stone!

CSR finally put into practice

Corporate Social Responsibility (CSR) is an important concept in the business world, with some good results, such as the actual implementation of sustainability programs or plans to promote diversity, equity and inclusion in workforce. It is also true that sometimes, CSR is regarded much more as a 'matter of routine'.

Also, the integration of human rights into CSR practices has been less consistent and less comprehensive. Some companies have developed robust human rights policies and practices, and have made significant progress in addressing human rights risks and impacts associated with their operations and supply chains.

However, many companies have struggled to effectively integrate human rights considerations into their CSR strategies, or to address human rights risks beyond the most basic requirements.

Legislations around the globe are finally making significant steps towards a more practical definition of requirements and steps to take, and are holding companies accountable for their human rights and environmental impacts.

On focus: the Belgian Vigilance Act

Also known as the "Law of 21 December 2018 on the Establishment of a Vigilance Obligation for Companies" – the Belgian Vigilance Act applies to companies with an average workforce of at least 100 employees over the last three years and a total balance sheet exceeding €17 million. The law also applies to companies that are part of a group whose parent company meets these criteria.

It requires companies operating in Belgium to implement a 'vigilance plan', aiming to ensure that companies respect human rights, social and environmental standards in their operations, both locally and globally. This has also implications for supply chain management. Companies must ensure that their suppliers and subcontractors also comply with the vigilance plan. If a supplier or subcontractor is found to be in breach of the vigilance plan, the company is required to take appropriate measures to prevent or mitigate the risks.

Companies are required to identify and assess the risks of their operations and supply chains on human rights, social and environmental standards. They must also establish measures to prevent or mitigate these risks, monitor their implementation, and establish a reporting mechanism to ensure that they

are transparent about their efforts to comply with the vigilance plan.

Failure to comply can result in administrative fines, in addition to reputational damage, which could lead to a loss of customers and investors.

Many countries have already similar legislations in place. Many more are considering or enacting similar laws. This undoubtedly highlights the growing global trend towards corporate accountability and transparency.

Risks for companies
These are many risks that companies face when they fail to implement due diligence measures to prevent or mitigate the impact of their operations on human rights, social, and environmental standards. These risks include legal action, public scrutiny, reputational damage, and loss of customers and investors. Here are a couple of real examples.

Legal action – In 2019, the French multinational oil and gas company, Total SA, was sued by several human rights and environmental organisations for violating the French Duty of Vigilance Law. Allegedly, Total SA had failed to prevent human rights abuses and environmental damage caused by its operations in Uganda, Tanzania, and Papua New Guinea. (*The Court dismissed the lawsuit in February 2023*).

Boycotting – In 2021, H&M and Nike faced backlash and calls for a boycott after it was revealed that the company had been sourcing cotton from suppliers in the Xinjiang region of China, where the Chinese government has been accused of human rights abuses against the Uyghur Muslim minority, including forced labour in cotton fields.

Public scrutiny – In 2010, Apple faced public scrutiny and criticism after a series of suicides at the Foxconn factory in China, which manufactures Apple products. The suicides were attributed to poor working conditions and low wages at the factory, highlighting the human rights risks associated with global supply chains.

It is essential for companies to take these risks seriously and prioritise responsible business practices to avoid such consequences.

Recognising challenges in complying
Depending on the size and complexity of their operations and supply chains, complying with laws and regulations related to human rights standards can present several challenges for companies.

Implementing due diligence measures to identify and address human rights risks can be **operationally** challenging, particularly for companies with complex supply chains that span multiple countries and jurisdictions.

Furthermore, due diligence measures can require significant **resources**, including time, money, and expertise. For smaller companies with limited resources, this can be particularly challenging.

Also, compliance with human rights standards should also require a **shift in company**

culture, particularly if the company has traditionally prioritised profit over social and environmental responsibility. This can be a challenging shift for some companies to make.

As a final point, compliance with human rights standards often requires **coordination** between different departments within a company, including legal, HR, and sustainability teams. Ensuring that everyone is on the same page and working towards the same goals is probably one of the most challenging aspect, particularly if there are silos or communication breakdowns between departments.

No matter how challenging this is, companies should address these challenges by investing in resources, fostering collaboration and communication between departments, and adopting a culture of responsibility and accountability. This will inevitably ensure a long-term sustainable growth.

The role of the legal department

If you have been reading my articles, you already know that I am a big supporter of the idea of a legal department that is utilised as a strategic one by the business. Also in this occasion, the legal department plays a critical role in enhancing companies' decision-making, on top of complying with human rights standards. Specifically, the legal department can help the company by:

- Advising on the legal implications of the company's activities and supply chain, ensuring that the company is deciding on the best business move, fully in line with relevant laws and regulations (e.g., on labour laws, environmental regulations, and human rights laws that apply to the company's operations and supply chain)

- Drafting policies and procedures, working with other departments, to ensure compliance with human rights, social, and environmental standards (e.g., drafting contracts with suppliers that require them to comply with relevant laws and regulations)

- Assisting in conducting due diligence on suppliers and subcontractors to identify potential risks and liabilities related to human rights, social, and environmental standards.

- Handling legal disputes, representing the company and work to resolve the dispute in a manner that is consistent with the company's values and obligations

By working closely with legal department, the business can better evaluate strategic moves and gain a long-term competitive advantage.

How to put compliance into practice

Companies can ensure compliance with human rights, social, and environmental standards by implementing a comprehensive due diligence process that considers the company's operations and supply chain. Here are some key steps that companies can take to ensure compliance:

- Embed human rights, social, and environmental standards into their business operations, including procurement, production, and sales. Based on this, develop a policy commitment to human rights, social, and

environmental standards that sets out the company's expectations and obligations company's expectations and obligations

- Establishing clear roles and responsibilities for compliance with human rights, social, and environmental standards, including assigning accountability to specific individuals or departments

- Provide training and capacity building for employees to ensure that they understand the company's policies and standards and their roles in implementing them.

- Conduct a risk assessment to identify potential human rights, social, and environmental risks and impacts associated with their operations and supply chain (e.g., conducting site visits, reviewing supplier contracts, and engaging with stakeholders.)

- Implement due diligence measures, based on the risk assessment, to address potential human rights, social, and environmental risks and impacts (e.g., including developing supplier codes of conduct, conducting audits and assessments of suppliers, and providing training and capacity building)

- Monitor and report their own operations and supply chain, as well as their suppliers' compliance with the company's policies and standards (e.g., regular reporting on progress towards compliance goals and addressing any identified non-compliance issues)

Bonus tip – Engage with stakeholders, including suppliers, customers, and civil society organisations, to understand their concerns and expectations and to build relationships based on transparency and trust. This also mean communicating your progress towards compliance with human rights, social, and environmental standards, including reporting on identified risks and issues and steps taken to address them.

Into the future of business & human rights

The trend towards greater corporate responsibility and accountability is driven by a variety of factors, including the global warming crises, energy crises, the war, and a general change in the public, demanding for sustainable and ethical products and services.

As the awareness of these issues grows, we will see more and more legislations on human rights, social, and environmental standards. It is likely that more countries will implement laws and regulations aimed at promoting greater corporate responsibility and accountability as governments are increasingly recognising the role that businesses can play in this arena.

Companies that are proactive in addressing these issues will be better positioned to comply with future regulations and to build trust with their stakeholders.

Further readings

- Corporate due diligence laws and legislative proposals in Europe (European Coalition for Corporate Justice – ECCJ, 2022)

https://corporatejustice.org/wp-content/uploads/2022/03/Corporate-due-diligence-laws-and-legislative-proposals-in-Europe-March-2022.pdf

- Foxconn Suicides https://en.wikipedia.org/wiki/Foxconn_suicides

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About the Author

Chiara Lamacchia is a consultant in legal, marketing & legal forecasting, working in corporate strategy for global organisations across different sectors, after an LL.M. from Bocconi University (Milan, Italy) and an MSc in Marketing from Edinburgh Napier University (UK). Chiara is the Founder of lawrketing.com and withoutconsulting.com, promoting the adoption of ground-breaking ways of using the law for innovation and competitive advantage.

Among other things, she authored and published the book "Lawrketing – What Business Never Realised About Law", introducing a new concept, lawrketing, combining law, business, marketing and innovation.

> Connect with Chiara on linkedin.com/in/chiaralamacchia

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Navigating Change in the Digital Age

By Eve Vlemincx, Advisor on Legal Digital Transformation, Innovation, and Leadership

Introduction

In today's fast-paced business environment, change is inevitable. The rapid pace of technological innovation has made it imperative for organizations to embrace new technological tools. However, the implementation of such new technologies can be difficult and often results in failure. In fact, 77% of legal tech projects fail in firms. [1] The high failure rate is not unexpected, considering that successful implementation of any change, including implementing new technology, requires paying close attention to the people involved ...

Many firms have gone through the following situation. They devote significant time to adopt a new technological solution, but face unanticipated obstacles leading to a failed

implementation. The main reason is that the successful release of a new technology requires much more than just the practical implementation of the technology.

Imagine a company is implementing a new system that will change how their teams work. Even if their team members understand the reasons why the system is necessary, they may still feel fear, anxiety or anger about the change. If these emotions are not acknowledged nor addressed properly, the team members may resist the change and the implementation will fail.

Therefore, successful change management requires not only a rational understanding of the need for change but also an understanding of people's emotional responses to change and often that part of the process is not given much (if any) attention...

Before getting started, answer the basics: Why do we care? Why should they care?

Why do we care?

Why do we care, relates to the strategic aspects of changes. This refers to the business foundations of the firm. It concerns aligning the new technology with the organization's goals, objectives and mission and answers questions such as as: Does this align with our mission? What do we try to achieve with this new technology and does this align with our long term goals?

Why should they care?

To get people on board and engaged, we have to start with the very basics, being "*Why should they care*". It's a golden and yet often ignored rule of all transformation projects. If one cannot answer this question, neither will the team members and regardless of the time and money invested, any efforts will fail. In additional any potential resistance they might experience, will increase.

So make it relevant and answer these question before anything else.

Logistical, technical, and strategic aspects of the implementation

When introducing new technology, a significant amount of time is dedicated to handling the logistics and technical aspects of implementation [2]. Although these aspects are necessary for a successful implementation, they are not sufficient and can negatively impact the team engagement, despite the best intentions.

Logistical considerations in change management involve creating a project plan, selecting suitable technology, ensuring technical compatibility, testing and validating the system, and providing ongoing support and maintenance. Neglecting these factors can lead to failed implementation, even if team members have emotionally embraced the change.

The technical aspects of implementation involve integrating the new technology with existing systems and ensuring compatibility with other software and hardware, evidently without disrupting the existing systems.

Change is an emotional process

General

For its success, we must understand change in an emotional process.

Any change can be challenging even more so when one does not understand the underlying emotions of the people impacted by it. Unfortunately, this crucial aspect is often disregarded when implementing technology, inevitably impacting its outcomes negatively.

This is exactly the reason to include the Kübler-Ross framework in this article. Often the Kübler-Ross framework is referred to without further explanation. Often assuming it provides answers to the practical side of change, while it is only useful to understand the potential emotions associated with change.

Kübler-Ross framework is an old psychological model that explains how people cope with grief and loss. It was never designed nor developed for organisational change. Its stages can be valuable to understand the underlying emotions involved, while always keeping in mind it does not get into the technical nor practical side of change and cannot be used as such.

To understand and appropriately address these emotions, empathy is a fundamental skill. It enables us to adopt another person's perspective, to empathically step into their shoes rather than judging them.

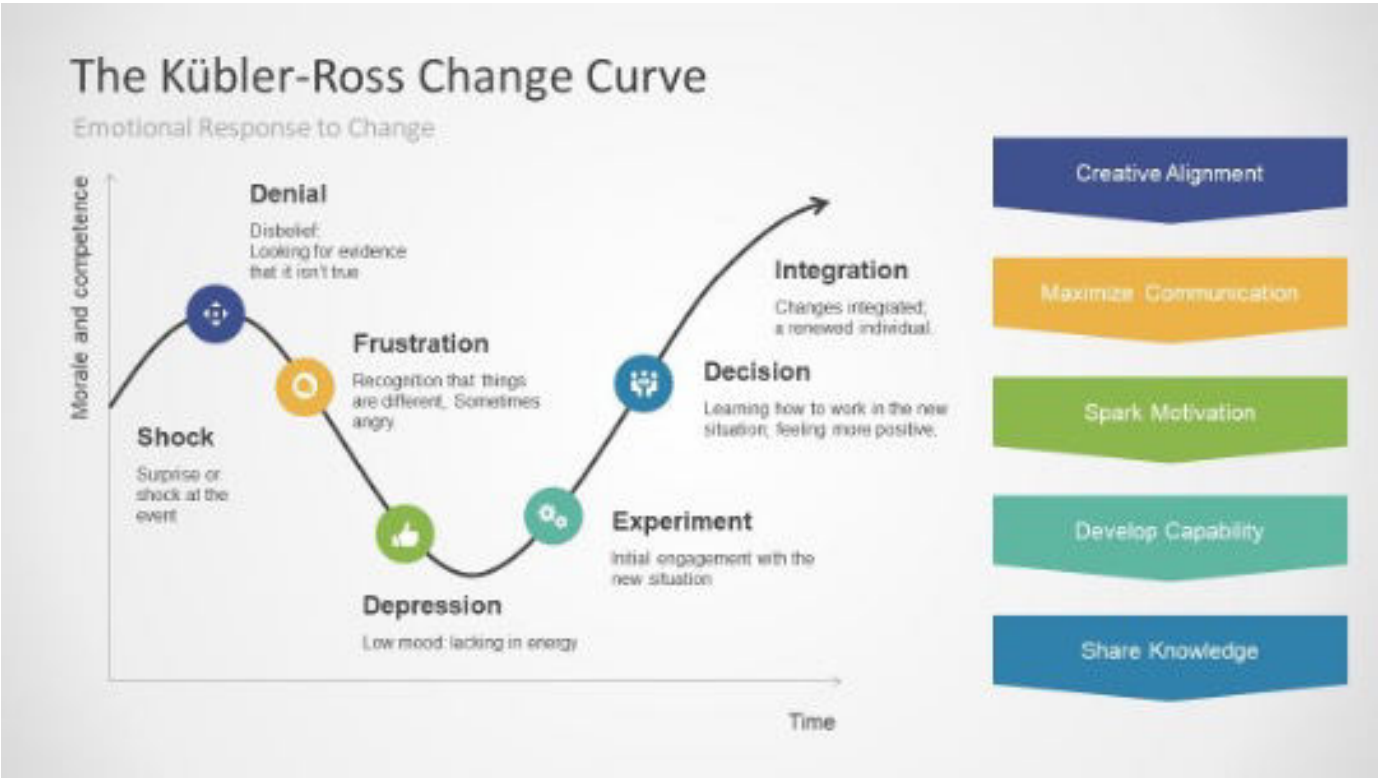
The 5 Kübler-Ross stages
The Kubler Ross framework consists of five stages: denial, anger, bargaining, depression, and acceptance.

These stages may **not** occur in a linear fashion and can overlap or be revisited multiple times. In addition these may manifest in various ways for team members.

Denial is the first. It's where people may refuse to acknowledge the need for change or the benefits of the new technology. They may fear the unknown or believe that the new technology will disrupt their established work routines. To overcome denial, clear and relevant communication on the relevance and the benefits of the new technology are crucial. This can be done through a variety of ways, but important is to make it relevant. When communicating on change we often communicate in the abstracts, while we need to get into the specifics.

It should focus on the benefits of the new technology while acknowledging the challenges that come with the aspired change.

Anger is the second stage, where employees may feel frustrated or angry about the change. They may feel like they have no control over the situation or that the new technology is being forced upon them. Although we must equally realize that when people feel that something has been forced upon them, something went wrong in our decision-making and/or communication process.



Bargaining is the third stage, where employees may try to negotiate the terms of the change or seek ways to minimize the impact on their work routines. To address bargaining, it's essential to work together with your teammembers to find ways to integrate the new technology into their workflows.

Depression is the fourth stage, teammembers may feel overwhelmed or demotivated by the change. They may feel like they lack support or find it difficult to adjust to the new system. To address depression, it's important to provide ongoing support and training.

Celebrating small wins and recognizing peoples' efforts can also help boost morale and motivation.

Acceptance is the fifth and final stage, where people fully embrace the new system and see the benefits it provides. This can include increased efficiency, improved workflows, and better collaboration among team members. To foster acceptance, it's crucial to continue providing ongoing support and training for people. Regular communication about the benefits of the new technology and examples of how it's improving workflows can also help employees see the value in the change.
As mentioned above it is equally important to understand that none of this is a lineair process and individuals may move back and forth between the different emotions and stages of the model.

Therefore, it is essential to continuously monitor and adjust the implementation strategy and meet the different needs of the people impacted to address any challenges or issues that may arise.

Why this framework is not adequate to manage change?
As mentioned above the Kübler-Ross framework was never designed for organisational change. Nevertheless it can be a useful tool to understand the emotions involved.

It is not an adequate framework for managing change for several reasons, such as limited applicability (after all it was developed to describe the emotional response to death and grief), while change in organisations is complex and multifacete.

In addition, it suggests that people move through a series of stages in a linear fashion. However, research has shown that people often experience a variety of emotions simultaneously and may move back and forth between stages.

While emotions are certainly an important aspect of change, they are not the only factor that drives behavior. Still it is a useful tool to understand the underlying emotions.

What is often overlooked when implementing technology?

Strategic aspects
The strategic aspects were shortly discussed above, since those should be considered before anything else.

In addition organizations must also be aware that implementing new technology can potentially impact the entire organization, not

at the least conidering the emotions involved as pointed out in the Kübler-Ross model. When we ignore the emotions involved, no succesful implementation can be achieved.

As a result it is important to involve all stakeholders in the process. This includes not only team members but potentially also clients, vendors, and suppliers. Overall every person or group of people impacted by the usage of the new technology.

Clear and concise communication

Communication is key to ensuring that all stakeholders are aware of the changes and understand how they will be impacted. This requires clear and concise communication about aspects such as the need and motivation for change, the benefits of the new technology, how it will impact the organization and above anything else how it will impact them. The last is – as mentioned above – critical and one of the most forgotten issues when driving change.

When it concerns communication the 'who', 'how', 'when' are just as important as the 'what'.

Leadership

And this brings as to another often forgotten yet critical factor for any succesful implementation of a new technology being leadership. Leaders must be able to effectively communicate the need for change and the benefits of the new technology. They must motivate and inspire team members to embrace the change and see the benefits it provides, properly address any concerns or resistance to the change and provide ongoing support and training to ensure that people can successfully transition to the new system.

Culture

Last but not least is the importance of creating a culture that is open to change.

Creating a culture that values innovation and continuous improvement is essential. A culture of openness to trying new things and taking risks fosters innovation, while a risk-averse culture can hinder change.

In addition, culture affects the outcomes of the change. When a company's culture aligns with the change goals, the likelihood of successful implementation increases. Conversely, if the culture does not support the change, it may be challenging to achieve the desired results.

Culture can be a powerful tool in driving the change implementation. If the organization conducts a culture assessment this helps to identify cultural barriers, cultural strenghts and key influencers within the orgnization who can help drive the change and overcome resistance.

In summary, culture is an essential aspect of change implementation in an organization. By taking cultural barriers into account and addressing them, organizations can improve their chances of successful implementation and achieve the desired outcomes.

Follow up

Organizations must be prepared to pivot and adjust their implementation strategy as needed. The implementation of new technology is not a one-time event, but rather an ongoing process.

Organizations must be willing to listen to feedback and make adjustments to the implementation strategy as needed to ensure that it is meeting the needs of the organization and its stakeholders.
———
To stay competitive in today's fast-paced business environment, the implementation of new technology is inevitable.

However, solely focusing on the logistics and technical aspects of implementation is not a long-term recipe for success.
It's crucial for organizations to understand and consider how people may emotionally react to change. While the Kubler Ross framework can be helpful, it's not enough to guarantee successful implementation of new technology.

To increase their chances of success, firms should build a culture fit for innovation and implementation, have effective leadership and clear strategic goals.

By addressing these factors, organizations can increase the succes of implementing new technology and reap its benefits.

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These sources provide a deeper understanding of the Kubler Ross framework and its application in organizational change management.

Notes
[1] Law Society Gazette; ContractWorks data, 2022.
[2] Since those topics are often given the most attention, while they only are one part of the bigger process, I don't discuss these more in detail.
[3] Critical Operational Decisions and Actions - contracts-direct.com

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About the Author
Eve Vlemincx is an advisor on a broad range of topics regarding legal digital transformation – innovation – leadership. In addition she is an advisor for Harvard Business Review, Executive Course Facilitator at Stanford Graduate School of Business and 5 times Stanford GSB LEAD-Award winner.


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Transforming the Law Firm Office with Workplace Experience

By Anthony Davies, Chief Revenue Officer for Forrest Solutions

The Tug of War Begins

March 2023 will mark the three-year anniversary of the onset of the coronavirus pandemic and the mandated closure of non-essential businesses. During the two-year span of work-from-home that ensued, law firms—for the most part—performed well financially, posting record profits. Revenue for the Am Law 100 grew by 6.6% and 1.1% in the Am Law 200, respectively, and profits per equity partner were up 8.8% for the Am law 200 and 13.4% for the Am Law 100 (American Lawyer Am Law 100/200 Reports 2021)

We were, in general, surprised, and the initial WFH success got attorneys thinking that they'd like to keep it. In fact, by the end of 2021, the

vast majority of attorneys (86%) preferred some form of WFH whereas prior to the pandemic, less than 30% of attorneys reported this preference.

However, and despite the historically robust performance, there was never a sense from leadership that 100% remote working would become permanent for law firms: in fact, the opposite. As the stewards of brand longevity, law firm leaders seemed to agree that law firms are businesses of trust relationships, composed of institutional and cultural knowledge, and that meaningful chunks of this are developed and passed on only in in-person mentorship, collaboration and culture-building activities.

And so, the tug of war began, with leadership pulling in one direction towards "more days in the office" and attorneys in another, towards "less days in the office."

This begs the question: how are firms doing with their return-to-office? What "return-to-office" programs—if any--have been successful in actually getting attorneys back in the office for more days? We decided to investigate.

What the Data Shows

In February 2023, Forrest Solutions launched an RTO survey to decision-makers across the Am Law 100 and 200 and received responses from approximately 20% of the

audience, and there was one central theme that became clear: firms have to earn their attorneys back in the office. Here's what we mean.

The vast majority of respondents (93.54%) reported their firms were implementing hybrid models that required less days in the office than pre-COVID; however, even of this group of 'hybrid' firms, 94.12% do not comply with their firm's RTO policy. That's a pretty large number and what it generally seems to mean is that if the firm has strongly suggested 3 days a week in the office, attorneys are only going in 1 or 2.

But here's where it gets interesting: of the 93.54% of firms that are now hybrid, 12.5% made no changes to real estate and did not add amenities or flexible workplace strategies. These firms' attorneys averaged 2 days a week in the office.

Of the 87.5% of firms made at least one change or addition to their real estate, amenities, flexible workplace strategies--from adding baristas to wellness programs, workplace experience or redesigning floorplans--these firms' attorneys averaged 2.36 days in the office.

While this may at first appear to be an incremental difference, this is 18% or an extra 46 days a year, or 9 additional business weeks in the office—and that's significant.

People want to be with people—but firms have to do something to reimagine their offices to create the atmosphere for connection and collaboration.

What's Working in Practice

We've long contended that the three main reasons anybody attends the workplace 'in person' is to either connect, collaborate or focus. The pre-pandemic workplace was built for the latter, but given the focus is now on using the workplace primarily to focus on its people and the need to connect and collaborate,

many law firms are re-thinking, redesigning and relocating the office to better serve these needs—and our data shows that firms that do this move in the direction of more days in the office.

Here's a little bit more about each tactic that is helping firms move incrementally to more days in the office.

Real Estate – While some firms have elected to reduce space, many have re-utilized space, or even relocated their space to make it more attractive and accessible for its people. Floorplans have been redesigned to reflect the need for more connection and collaboration space. Many firms plan to relocate to locations better served by public transport, and some are even quitting leases early to do this.

Hoteling/Hot Desking –Paying for real estate that is not used is a waste but asking employees to come back to half empty offices is arguably worse when the objective of office time is to be with people. Hot desk floors are starting to appear in law firms, and a common theme is to make these the most desirable floors in the building. Added amenities, refreshments and events make these floors most attractive, and there is now a growing group of

volunteers electing to give up their permanent desk.

Technology – When we speak of the 'intentionality' of attorneys' in-office time, this is something that is going to require technology. Coordinating reservable and shared space, locating colleagues, pre-ordering refreshments and reporting on office utilization lean heavily on the right technology. Room booking systems existed before Covid, but these technologies have evolved fast, giving employees increased control over their whole workplace experience.

Digitization – Paper Documents are particularly inconvenient for hybrid schedules. In the early days of the pandemic, records centers utilized curbside deliveries to get documents to partners homes. Increasingly, widescale scanning projects have now streamlined this process allowing lawyers to review documents electronically and securely wherever they decide to work that day. The paperless office is slowly becoming a necessity to support what attorneys want rather than a nicety.

Incentive Programs – It started with free meals and snacks, but incentive programs have now become much more sophisticated. There are examples of firms rewarding in person work with benefits including better parking spaces, leisure vouchers or even increased bonus payments. Attending social and networking events are an especially important part of driving culture, so can now carry the biggest incentives.

Workplace Experience – Workplace experience is the glue many firms are implementing to knit together all of the changes to the traditional law firm office. In my article "The Rise of Hospitality in Law Firms" from January 2022, I talked about how our professional services and advisory clients had established a new way of focusing in their people by turning to hospitality to attract and retain staff.

In other industries, this 5-star hospitality approach has been long integrated in leading brands. These global brands are creating immersive, authentic connections that support meaningful memorable moments in an effort to drive loyal behavior. This is one of the pillars of Ritz Carlton's world-renowned service.

This is what firms increasingly are looking for: workplace experience, a high engagement, white-glove service that transforms your office into a destination. This white glove services provide high levels of attention, including tailored coffee and water choices, room escorting versus pointing, walking guests with umbrellas in inclement weather, restaurant recommendations and reservations, room temperature adjustments upon request and more.

But workplace experience also means providing seamless support to make hybrid or hoteling or flexible seating work better, ensuring the complexities of whatever hybrid model is in place are working seamlessly and efficiently and the professionals are productive and happy. This positive experience is essential to the success of hybrid operation – and it's a new kind of hospitality offering that goes well beyond 'service'. Hospitality is how you make a person feel, and that's the focus of workplace experience.

Conclusion

Implementing many of these initiatives requires expertise and resources that are not core to law firm activities. Accessing these resources through a flexible outsourcing provider with expertise in talent, hospitality and technology has enabled many firms to drive their hybrid schedule forward much faster – and move up the success—as measured in days in the office-- timeline as well.

The modern workplace continues to play a crucially important role in collaborating and building culture and loyalty, and many firms have now found the right balance and experience to do this without driving employees away. I look forward to continued success building the optimum hybrid workplace experience.

About the Author

Anthony Davies serves as the Chief Revenue Officer (CRO) for Forrest Solutions and is also one of the partners for the organization. As CRO, he leads Sales and Marketing for Onsite Outsourcing and Staffing with a team of experienced sales executives who work with some of the world's largest law firm, advisory and corporate entities.

Anthony speaks frequently at industry events including ARMA, ALA Annual and the COO CFO Forum and has been featured in American Lawyer, Law.com and Legal Management Magazine. He holds a BSc (Hons) in Materials Science and business studies from Loughborough University (UK) and an Executive MBA from Quantic Business School in Washington DC.

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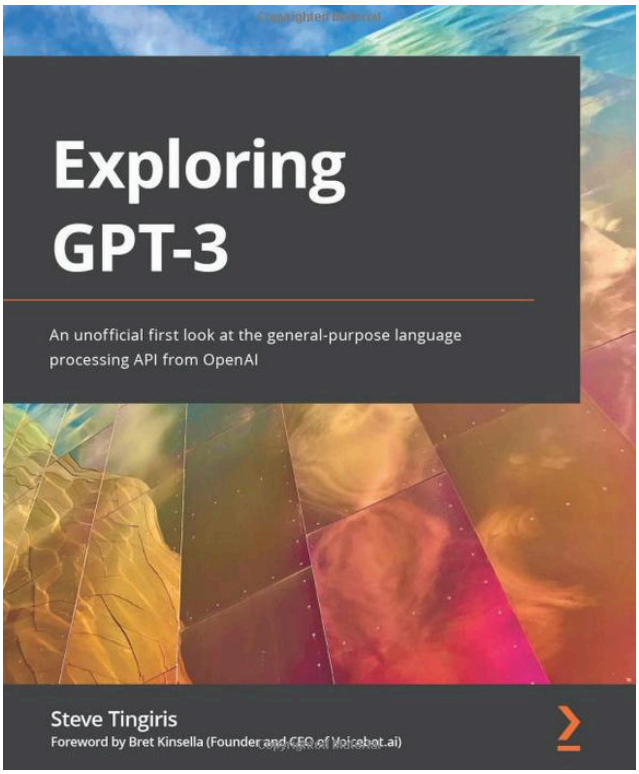

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REINVENTING
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How ChatGPT Could Impact the Way Lawyers Practice

April 7, 2023

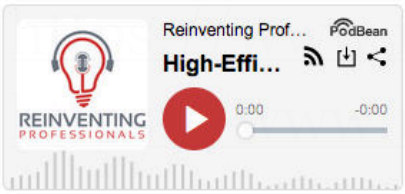
I spoke with Bim Dave, the Executive Vice President of Helm360, a provider of legal technology products and services. We discussed how ChatGPT could impact the way lawyers practice, the risks associated with leveraging AI, best practices that law firms should use when selecting legal technology, and the non-technological barriers to technology adoption at law firms.

REINVENTING
PROFESSIONALS

High-Efficiency AI and Contract Review

April 12, 2023

I spoke with Francisco Webber, the co-founder of Austrian AI company Cortical.io, which develops intelligent document processing solutions for unstructured text supported by natural language processing. We discussed high-efficiency artificial intelligence and why is it relevant for contract review, applications for contract intelligence, and the most common misconceptions about the use of AI.



Being a Winner in Legal Must Involve a Passion for Rainmaking

By Steve Fretzin, President Fretzin, Inc

Since I was a child, I've been obsessed with movies about winning at sports. First, it was the movie "Rocky" and then "Victory" with the amazing Pele. More recently, "Remember the Titans" and "Moneyball." In each of these movies the underdog prevails, and we leave feeling jazzed up and ready to take on the world. However, in the daily grind of being a lawyer, this is very challenging to do. So, how do lawyers "win" at the game of building a successful law practice? Good question...

Recently, I became obsessed with a documentary style show on Amazon Prime called "All or Nothing: Arsenal." It also doesn't hurt that I'm a big Premier

League Football fan (soccer to the Yanks out there). This show follows a struggling team over their 2021-22 season dealing with a relatively new manager, a very young roster of players, and a superstar who wasn't helping the squad come together.

In fact, Arsenal started the 2021 season with the worst record in the league. My favorite person to watch, hands down, is the club manager Mikel Arteta. His job is to win games and by the end of the season, spoiler alert, they are in the top four or five in the league. Mikel's ability to motivate his players to show heart, passion, and desire to win was unprecedented in my TV watching experience. Check it out or YouTube it and you'll see what I'm talking about.

As an attorney in the year 2023, you too must have hunger and resolve to be successful, to win the game. As you know, billing hours alone never seems to win first prize. For many successful attorneys, it's all about positive client outcomes and having your own roster of clients. Being a rainmaker creates control, freedom and for many lawyers, happiness. If there's a way to win in the game of law, this might be the promised land. To illustrate how important the lessons learned from the show "All or Nothing: Arsenal" and, Mikel Arteta were, here are three key attributes that you need to develop to be a successful legal rainmaker.

Attribute #1. You must have the desire to change or improve.
It 's true, we all have bad habits that keep us from achieving greatness. For some it's their weight and health; for others, it's watching too much social media. Whatever the case, we need to get after the things we really want in life. I know it's hard, but there are shortcuts and methodologies to follow that make it easier to change. For example, I struggled with staying tone and fit before and after my paddle tennis season. But, if you read my article from November of last year, you know I joined a Pilates class to take my game to the next level (still going strong in 2023). I needed to pay for a class that removed me from my home environment, as there are too many distractions and absolutely no accountability when working out at home. Get yourself to agree that change is critical and then go and find the resources and people that will act as your change agents.

Attribute #2. You must have passion for the law and helping others. For many attorneys, this isn't a tough ask. You love practicing the law and are clearly passionate when talking about it with anyone who will listen. Ha-ha.

Becoming a top-notch practitioner in your space and using that knowledge and skill to produce positive outcomes for your clients can feel amazing. But here's a question you might not have thought about. If you're passionate about the law and zealously representing your clients, is it an issue that they are not really "your" clients? Does that factor into your overall satisfaction in doing your job? I've worked in many jobs over the past 35 years and never found the same satisfaction in working with other people's clients. To that point, bringing in your own clients, building a strong relationships and providing stellar service to them is on a whole different level in my experience. Remember, doctors are only doctors when they have patients to aid.

Attribute #3. You must bring your "A" game every day.
Many attorneys feel like they are riding a roller coaster of business that's going up (busy) and down (slow) all year long. This isn't a recipe for long-term sustainability as a successful lawyer. Whether it's a lack of legal business development activities or random acts of marketing, you can't get to the top without a consistent performance.

The best way to stay consistent in growing business is to commit to a certain time and date to execute on the initiatives you are planning. This might be meeting with clients to obtain quality introductions, posting on LinkedIn, or writing a new blog post. Without scheduling time for law practice growth, it most assuredly won't happen. Another terrific idea is to ask another lawyer to be your growth accountability buddy. Many of my clients do this weekly and swear to it's effectiveness. You and your lawyer friend/colleague agree to meet weekly on Tuesday mornings from 9-10 a.m., for example. You prepare for that time by creating lists of names and various activities that you believe will be most impactful to growing business. Then, you meet by Zoom at 9 a.m. sharp and tell each other what you're going to do for the next hour. You mute the Zoom call, do the hour-long exercise, and then come back at 10 a.m. and say what you did. And it better not be billing hours!

Being tenacious and determined to win in your legal career is hard. You may already know from your life experience that anything deeply challenging will also be profoundly rewarding. If you need inspiration to win in your career as a lawyer, listen to the words of Mikel Arteta, "When you love what you do, that is called passion. We have to believe; we have to have energy. Show these people how much you care. Let's go for it!" It's also no surprise that Arsenal is at the top of the leaderboard this year in the Premier League.

If you need coaching, training, and accountability to achieve next level goals in 2023, please email me directly at steve@fretzin.com to discuss your goals for the future. You can also check out my BE THAT LAWYER podcast on my website www.fretzin.com/podcast or on any major podcast platform.

About the Author
Driven, focused, and passionate about helping lawyers to reach their full potential, Steve Fretzin is regarded as the premier coach, skills

trainer, and keynote speaker on business development for lawyers.

Over the past 18 years, Steve Fretzin has devoted his career to helping lawyers master the art of business development to achieve their business goals and the peace of mind that comes with developing a successful law practice.

In addition to writing four books on legal marketing and business development, Steve has a highly-rated podcast called, "BE THAT LAWYER."

When not busy helping ambitious attorneys to grow their law practices, Steve enjoys fishing with his son, playing many racquet sports, and traveling with his wife.

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