

Access to justice, legal education, and 21st century legal service

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Outline of lecture

Overview

The legal world is changing rapidly and profoundly. In years to come, legal services will be delivered in new ways, not least across the Internet. Online legal services hold the promise of greatly increasing access to justice. The next generation of lawyers will need to work, and be trained, quite differently if the legal profession is to remain relevant.

21st Century legal service

Lawyers are currently being driven by four main pressures:

- the delivery of more legal service at less cost ('more for less')
- the move from bespoke service to standardized and systematized work
- the liberalization of legal services, and so new competitors in the market
- the transformational effect across society of IT and the Internet

In response, legal work (deals and disputes) will come to be *decomposed* (broken down into more basic tasks); the market will require individual tasks to be *sourced* most efficiently (by a combination of outsourcing, off-shoring, sub-contracting, computerization, use of paralegals, and more).

The Internet and IT will play a major role in bringing about change. Almost every industry and sector is being radically changed by existing and emerging technologies; there is no rational reason to think lawyering might be exempt from IT-based change.

Case studies

'The future has already arrived. It's just not evenly distributed yet.' (William Gibson)

There are numerous examples of new ways of working. For example:

- Rio Tinto outsourcing routine legal work to India and saving \$14m in six months
- Major UK law firms sub-contracting work to law firms in lower cost jurisdictions
- City practices setting up capabilities in Belfast to undertake lower end work
- Agencies providing senior lawyers for specific projects on a contract basis
- legalzoom.com - best known US legal brand: online legal documents for citizens
- eBay traders have settled millions of disputes ODR (online dispute resolution)
- Dedicated social networks for lawyers already exist (eg Legal OnRamp)

The future for lawyers?

Key question - what parts of lawyers' work can be undertaken differently – more quickly, cheaply, efficiently, or to a higher quality - using alternative methods of working?

Future jobs for lawyers

If lawyers are sufficiently imaginative and entrepreneurial, a variety of new roles will be undertaken by them (beyond the traditional bespoke, consultative, trusted adviser):

- the legal knowledge engineer
- the legal hybrid
- the legal process analyst
- the legal project manager
- the legal risk manager

Access to justice

With cuts in legal aid, inaccess to justice is a deeply disturbing social problem. Access to justice is not just about dispute resolution. It is also about dispute avoidance and legal health promotion. And the challenge is not just to do a better job of helping those who are being assisted and represented today; it is to help realize the 'latent legal market' – those who need guidance today but do not even seek help (too forbidding or costly).

Conventional, one-to-one consultative advisory service, delivered by lawyers on an hourly billing basis, is not the answer. We need radically new ways of helping individual citizens: (1) to recognize when they need legal help; (2) to select the best source of legal help; and (3) to secure guidance at as low a cost as possible (consistent with the quality of help needed). IT and the Internet can help in all these dimensions:

- recognition – online legal triage, altering, embedded legal knowledge
- selection – auctions, reputation systems, price comparison systems
- service – online legal service, ODR, document automation, open source law

Communities of legal experience will also build up on the Internet – people will share their success and failures in the law and help one another.

Legal education and training

The current legal education and training review in England and Wales comes at a pivotal time. A great challenge is to articulate education and training needs for the legal world as it is likely to be, and not how it is today (or was in the past).

Some quick answers to some important questions

- Can law be an academic discipline worth pursuing for its own sake? (yes)
- Can a law degree provide a useful training to have even if a career in law is not planned? (yes)
- Is current legal education generally as demanding as that provided for many other professions we respect? (no)
- Are the academic and practising branches of our profession sufficiently dovetailed? (no)

Fundamental question no.1. - what are we training young lawyers to become?

- Traditional one-to-one, bespoke, face-to-face consultative advisers who specialise in individual jurisdictions and charge by the hour? *or*
- More flexible team-based, hybrid professionals, able to transcend legal boundaries and willing to draw on modern techniques?

Fundamental question no.2 - what elements of my talk today should we be sharing with undergraduates?

In many law schools, the law is taught as it was in the 1970s, with little regard for, say, globalisation, commoditisation, information technology, modern business management, decomposing, alternative sourcing.

Many law graduates in the UK are ill-prepared for everyday legal work of today ... still less for tomorrow.

Should we extend the remit of law schools and colleges to include other disciplines such as risk management, project management, legal knowledge management, and disruptive legal technologies?

We need must address the following questions:

- Is there a place for ‘the future’ in the busy law curriculum?
- What are the reasonable expectations of students who pay for legal training?

Answer - surely, we should provide at least options to ... (1) study current and future trends in legal services and (2) learn 21st century legal skills

Fundamental question no.3 - how will young lawyers learn their trade when their training ground (routine work) is sourced differently?

- Although crucial, this question will not kill alternative sourcing.
- Do lawyers really learn their trade by, say, spending months reviewing documents (do not confuse training with exploitation)?
- The root of the problem is that firms pay large salaries for young talent
- And clients no longer want to pay for the training of young lawyers in law firms
- Remember there will be fewer *traditional* lawyers to train
- An answer:
 - Return to some kind of apprenticeship model after qualification
 - Some parallel working (mirroring work that is sourced alternatively)
 - Supported by powerful new techniques of e-learning

Fundamental question no 4 – what role has technology to play in legal education?

- The potential here is enormous, fundamental, but not widely recognised
- Consider ted.com and how powerful an online lecture can be

- Look at the work on e-learning at the College of Law
- And the immersive, simulated legal practice, pioneered by Paul Maharg

‘The best way to predict the future is to invent it’ (Alan Kay)