

ADVANCEMENT IN TECHNOLOGY: SIGNPOST OR REQUIEM TO LEGAL PRACTICE¹

The Planning Committee invited me to speak on the “consequential effect of advancement in technology and thousands of software issued every year on legal practice”, suggesting the above topic. I am most honoured and grateful. However, I am not anywhere near as qualified for the task as the invitation letter states, which stated qualification I must conceal, lest it goes viral. I could not decline because the invitation, properly construed in the context of the composition of the Class of 78, is an order by a court from which there is no further appeal. So, I will give it my best shot and urge you to view my shortcomings with leniency.

We live in the age of disruption. In most professions, including the practice of law, technology is enabling levels of performance that were hitherto inconceivable. Consequently, it is also disrupting settled practices, to such an extent, and at such a speed, that the Planning Committee may justifiably ask if the disruption is leading up to the destruction of legal practice, at least as we know it.

The scale and speed are truly astounding. Just consider this: speaking at the invitation of the National Judicial Institute (NJI) at the Induction Course for Judges on the 20th day of June 2014, just two years ago, I quoted Stephen T. Maher², who wrote in April 1995, that:

Technology will transform the practice of law as it transforms the world. Newly available technologies, like voice recognition, digital video and high-volume data storage, will create new protocols governing how agreements are formed and monitored and how disputes are resolved. The rise of technology, or more accurately, the unbinding of technology from servant of our wishes to master of our destiny, is about to take place before our eyes. The technology currently making lawyers so much more productive and efficient may soon escape their control, change their routines, challenge the inefficiencies they enjoy and form the foundation of a new practice of law.

He wrote that in 1995. That was before blockchain technology. Maher was predicting the creation of “new protocols governing how agreements are formed and monitored”. Now,

¹ Lecture delivered by Kashim Zannah, Chief Judge of Borno State, Guest Speaker at the 40th Anniversary Celebration of the Nigerian Law School Call to the Bar Class of 78.

² Stephen T. Maher, Lawfutures, or, Will You Still Need Me, Will You Still Feed Me, When I'm Sixty Four?, 1 Rich. J.L. & Tech 6 (1995). Available at: <http://scholarship.richmond.edu/jolt/vol1/iss1/9>

since blockchain, the discussion is also on how technology has moved to potentially change how agreements may be enforced too, without involving lawyers and yes, courts too.

Blockchain? I neither have the knowledge nor the inclination to make this a lecture on the strictly technical aspects of technology. I will only try to explain the import, not just of blockchain technology, but the salient underlying technological advancements that enabled the development and deployment of the thousands of software that caught the attention of the planning committee. I will only try to highlight a few of these disruptive applications that are signposting the direction of legal practice or perhaps composing the dirges of legal practice, at least as we know it today.

It is also important to draw attention to the fact that technology is not doing it alone. Technological advancements are propelled by factors and in turn create or enable other factors that propel legal practice on its perhaps inescapable trajectory. Hopefully, as our discussion progresses, the trajectory shall be obvious to all.

However, much of these developments are yet to manifestly take root here, yet. Therefore, it may be pertinent to, at some stage, pause for a reality check and attempt to determine our place in these fast unfolding phenomena. I shall then, with all humility, hazard stating what may be the useful takeaways from the discussion.

UNDERLYING TECHNOLOGICAL ADVANCEMENTS

The computer, leading to the electronic or digital age and the Internet, spurred the technological revolution in generating, storing, managing and disseminating information. The practice of law being substantially about effectively gathering and deploying information, is inevitably impacted. Permit me to drill down to a few of the recent technological advancements that underlie the development of the applications that have impacted legal practice and led to our topic for discussion today.

Big Data

Information is and has always been power. Possessing relevant information or facts about human and other activities, needs, desires and inclinations have always underpinned the effectiveness and successes of persons, businesses, institutions etc. From experienced persons possessing vast information in their memories, to ledgers and books kept by traders and businesses, information has always been a valuable determinant of success.

In the digital age we now live in, the quantum of information that is available as data has reached hitherto unimaginable proportions. Almost all our activities now leave footprints stored as data, from making phones calls and Snapchatting to purchasing a flight ticket; use of GPS to social media platforms like WhatsApp and Facebook, taking and sharing photos on

Instagram, sending wedding and other invitations by SMS and emails, the list of data generating activities is endless. Big Data refers to the collection and use of these across a wide range of formats and areas.

Today, the amount of data we create in two days equals that created from the beginning of time to the year 2000. It is predicted that in less than 10 years, the quantum of data available would double every 12 hours. Big Data is the fulcrum of most of the technological transformations we are witnessing today.

The capacity to gather, store, manage or manipulate vast amounts of data was hitherto very expensive and afforded by only the biggest of corporations and institutions. That changed with the advent of cloud computing.

Cloud Computing.

Cloud computing is the delivery of computing services, the use of hard and software, analytics, etc., over the Internet. It enabled the availability of tremendous computing and storage power at affordable and economic rates. One no longer needed to acquire the expensive soft and hardware and manage them at great costs. One only bought the service as needed, to access via the internet. Cloud computing makes data backup, disaster recovery and business continuity easier and less expensive, because data can be mirrored at multiple redundant sites on the cloud provider's network. It thus became possible to develop from, and deploy applications to, wherever in the world internet services have reached. That facilitated the advent of the Virtual and New Law Firms and services that we shall discuss later.

Advanced Analytics

Now enhanced by big data and made available and available via cloud computing, to businesses, including the legal services business, is the technology that enables the practical and effective use of the vast amounts of data available in great variety. The technology, applied to legal practices and services, is called legal analytics. It "enables users to search millions of legal data points by Company, Law Firm, or Judge to better advise clients, predict possible outcomes, and inform their litigation strategy."³ It also includes charts and graphs to better visualize trends.

Artificial Intelligence (AI) and Machine Learning (deep learning, particularly reinforcement learning).

AI (artificial intelligence) is the simulation of human intelligence processes by machines, especially computer systems. These processes include learning (the acquisition of information and rules for using the information), reasoning (using the rules to reach approximate or definite conclusions) and self-correction. Particular applications of AI include expert systems,

³ Bloomberg Law <https://www.bna.com/litigation-analytics>

speech recognition and machine vision. AI can perform tasks such as identifying patterns in the data more efficiently than humans, enabling users to gain more insights out of their data.⁴

Blockchain Technology.

This the new technology that underlies what is perhaps giving sleepless nights to many legal practitioners, the Smart Contract. It is said to have the capacity to eliminate the middle man in transactions and that it is self-executing.

The technology and its applications are still unfolding. It suffices for our purpose, to understand that it enables the recording of transactions and values in a tamper-proof manner and the formation of agreements whereby in the event of an agreed event, another is automatically executed, for example, upon a buyer of goods or services receiving value, payment is automatically taken from him, hence the smartness of the agreement.

OTHER FACTORS

These technological advancements are heightening and are heightened by other developments and factors in disrupting legal practice. They feed into each other. We need to briefly highlight two.

Liberalization

We are familiar with the clamour and campaign in England and Wales, against what was considered restrictive practices in the legal services “market” that led to the Clementi Report in the year 2004. An accountant, Sir David Clementi, was appointed by the Lord Chancellor to review the regulatory framework for legal services. The report led to the Legal Services Act 2007. The Act permits the setting up of new types of legal businesses, ‘alternative business structures’ (ABSs), so that nonlawyers can own and run legal businesses; it facilitates external investment, such as private equity or venture capital, to be injected into legal businesses by outside investors and thus lets non-lawyers become owners of law firms. The new ownership rules came into force in October 2011 and the licensing of ABSs by the Solicitors Regulation Authority began in March 2012. More than 500 licences have been granted. Three of the Big 4 accountancy giants (KPMG, PwC, and EY) are amongst them. Several long-established law firms (for example, Irwin Mitchell, Knights, and Weightmans) have been licensed as ABSs, as have many smaller firms and start-ups.

These ABSs came in with the capacity to leverage new technologies to provide legal services at speeds and levels of efficiency unmatched by traditional law practices. This story is still unfolding. But the ability of these ABSs to leverage technology and cut the cost of legal services to clients (consumers) portends an obvious threat to the traditional practitioners of law, a challenge to “the inefficiencies they enjoy”.

⁴ <https://searchenterpriseai.techtarget.com/definition/AI-Artificial-Intelligence>

One key factor that propelled liberalisation was consumer demand for it.

Cost of legal services

Buyers, big and small, rich and poor, will always want to pay less for more and better goods and services. So do clients or “consumers’ of legal services. Without a doubt, amongst lawyers are to be found the most endowed persuaders, but the persuasive skill to convince clients and consumers of legal services to pay more for less, on a consistent and sustainable basis, may be a tall order. Ironically, perhaps, only advanced analytic tools may make that possible.

Therefore, a combination of three forces, cost of legal services, liberalization and advances in technology combined to disrupt and will continue to determine the trajectory of legal practice.⁵

DISRUPTIVE APPLICATIONS AND PRACTICES

We may now mention some of the applications and practices spurred by the foregoing.

1. Document Automation.

Applications have been developed which enable the drafting of documents like wills and contracts by simply answering question on screen, at the end of which a draft is generated. The range is wide, from generating (drafting) forms, wills and contracts to complex briefs and opinions.⁶ Some are proprietary applications that are used by lawyers to save time and effort with increased accuracy. Others are simple but effective applications for use by laymen to produce legal documents. This was the service initially offered by the popular LegalZoom in the United States of America. The company and others like it, On Demand Legal Service Providers, operating online. They have already moved on to expand the range of their legal services.

2. Alternative Legal Service Providers (ALSPs): On Demand Legal Service Providers:

-LegalZoom.com, Inc. is an online technology company that provides legal solutions for families and small business. Through the platform, customers can access legal help for products including wills and living trusts, business formation documents, copyright registrations and trademark applications. The company also offers legal help through a network of independent attorneys and registered agent services. LegalZoom is often described as a disruptive innovator in the market for legal services. By using computer technology to render services at lower prices, the

⁵ Susskind, R.E., *Tomorrow’s Lawyer: An Introduction to Your Future*, (Oxford, Oxford University Press, 2017)p.15

⁶ <http://www.contractexpress.com/>

company also helps expand the ability of consumers and small business owners to access legal services.

- **Avvo** is the largest online legal marketplace connecting consumers and lawyers. In Avvo's Q&A forum, consumers can get their legal questions answered for free by more than 175,000 participating lawyers or search more than 6 million previously posted questions and lawyer-provided answers. The lawyer directory provides Avvo-rated profiles, client reviews, and peer endorsements for 97 percent of all lawyers in the U.S., so consumers can find the lawyer who's right for them.⁷

- **Rocket Lawyer** is an online legal technology company based in San Francisco, California. It provides individuals and small to medium-sized businesses with online legal services, including incorporation, estate plans, legal health diagnostics, and legal document review.

- **Juridocs**: offers same in Brazil.⁸

- **Text A Lawyer**: for \$20 a question and \$8 follow up.⁹ Uber like.

Some practices have also adopted the deployment of technology to an extent that sets them apart from the traditional practitioners.

3. Alternative Legal Service Providers (ALSPs): NewLaw:

A category of alternative legal service providers (ALSP) that sets itself apart from BigLaw or TradLaw providers in the following key ways. Using new or 'disruptive' technologies, flexible working and flexible client focused legal services, agility etc. "While the provision of traditional legal services is predicated largely on high-quality legal ability, NewLaw providers seek to couple that legal nous with innovative, client-focused delivery methods that utilise cutting-edge IT and process innovation." The recently released *2016 Australia: State of the Legal Market report*¹⁰ by the Melbourne Law School and Thomson Reuters Peer Monitor® highlights a shift in the Australian legal sphere that traditional law firms can no longer ignore. As the report suggests, law firm success in an age of disruption will require a combination of ability, stability, affinity and agility. Law firms need to master the means to sense relevant changes in client and competitor arenas, identify creative options, make good

⁷<https://www.avvo.com/>

⁸<https://www.law.com/legaltechnews/2018/06/08/juridocs-brings-online-legal-services-to-brazil/?kw=Juridocs%20Brings%20Online%20Legal%20Services%20to%20Brazil&LikelyCookieIssue=true>

⁹[https://www.law.com/legaltechnews/2018/07/05/this-serial-entrepreneur-thinks-finding-a-lawyer-can-be-as-easy-as-hailing-an-uber/?kw=This %27Serial Entrepreneur%27 Thinks Finding a Lawyer Can Be as Easy as Hailing an Uber](https://www.law.com/legaltechnews/2018/07/05/this-serial-entrepreneur-thinks-finding-a-lawyer-can-be-as-easy-as-hailing-an-uber/?kw=This%27Serial%20Entrepreneur%27%20Thinks%20Finding%20a%20Lawyer%20Can%20Be%20as%20Easy%20as%20Hailing%20an%20Uber)

¹⁰ <http://insight.thomsonreuters.com.au/resources/resource/state-of-the-australian-legal-market-2016>

commercial choices and adapt to meet new needs and realise new opportunities. These are all key factors to ongoing success and survival.¹¹

4. Law Firms in the Cloud: Virtual Law Firms.

Cloud computing technology enabled legal practices without physical offices and human office helps. The number of law firms that do not practice from an office building is growing, their practices being almost entirely and some completely cloud based. Several effective and comprehensive legal practice management software are available to enable lawyers set up and practice online, Clio, Rocket Matter, Total Attorneys, etc. They save on rents and cost of paying secretaries and associates.

Culhane Meadows PLLC in the United States is one of the big ones, growing from four partners to 60 at a point and receiving three BigLaw migrants. “One of the biggest misconceptions is that we only do commodity work, that we’re not doing big deals,” said Kelly Rittenberry Culhane, a founding partner. “That is so far from the truth. We are called on a regular basis for \$100 million-plus deals, dozens of them a year. And our partners all come together to work on matters and form teams, just like in BigLaw.”¹²

There also are cloud based solo practitioners.

5. Gigging.

The practice is now merging and rising of freelance lawyering. Lawyers are electing not to have or belong to firms nor have offices but rather practice from home or wherever they wish, online or on contract at the client’s location. The clients may be company legal departments or even law firms requiring additional hands or skill sets to execute big projects.¹³ Technology enabled freelance platforms that have emerged to facilitate freelance lawyering, e.g. Axion, Vario, Lawyers on Demand, etc.¹⁴ Tools like Yammer and Basecamp also facilitate collaboration by lawyers on specific big projects. Enabled and utilizing technology to avoid hiring assistants, renting offices and incurring other expenses incurred by traditional practices, they offer services at low cost and disrupt the traditional practices.

6. Legal Question Answering.

The success of IBM’s Watson in defeating, in 2011, the best two human contestants in the TV quiz competition, Jeopardy, demonstrated that systems can answer

¹¹ Rebecca Lim, 8 December 2018: <http://insight.thomsonreuters.com.au/posts/true-newlaw-firm>

¹²<https://www.culhanemeadows.com/law360-virtual-law-firm-growth-outpacing-biglaw/>

¹³<http://insight.thomsonreuters.com.au/posts/gig-economy>

¹⁴<https://amazelaw.com/lawyers-demand-future-legal-services/>

questions better than humans. Application to law is obvious. So Jimoh Ovbiagele and Arruda went to work and came up with ROSS:

The ROSS application works by allowing lawyers to research by asking questions in natural language, just as they would with each other. Because it's built upon a cognitive computing system, ROSS is able to sift through over a billion text documents a second and return the exact passage the user needs. Gone are the days of manually poring through endless Internet and database search results... it also learns from feedback and gets smarter over time. To put it another way, ROSS and Watson are learning to understand the law, not just translate words and syntax into search results. That means ROSS will only become more valuable to its users over time...¹⁵

7. Chatbots: Robot Lawyers.

The application of artificial intelligence in solving legal problems is just beginning. One such application, DoNotPay¹⁶, is already available online for the UK and 50 States in the US. It has helped, for free, 375,000 persons to successfully contest parking tickets. Users can type in questions like "I got an unfair parking ticket," or requests for legal compensation from an airline or reporting discrimination, for a total of 1,000 different categories. If the chatbot successfully directs you to the appropriate issue, it can then generate an appeal letter for you that you can sign and print. The letters include language like "I believe that the court should exercise fairness in cancelling a ticket that...is perfectly justified to be cancelled," and "I feel that the issue of a ticket is an unlawful action inconsistent with precedent."¹⁷ Time Magazine dubbed it the Hero the World Needs.¹⁸

Ailira- "an artificial intelligence that uses natural language processing to provide free legal information on a broad range of legal issues, including Business Structuring, Wills and Estate Planning and much more coming soon! In addition, you can use Ailira to instantly generate Australian legal documents for your business and personal use, much cheaper and faster than a visit to a lawyer would take".¹⁹

8. Legal Advice Crowdsourcing.

Free collaborative versions of the services offered by the ALSPs, albeit limited versions, so far, are also disrupting the legal market. Enabled by technology, they offer

¹⁵<https://www.ibm.com/blogs/watson/2016/01/ross-and-watson-tackle-the-law/>

¹⁶<https://www.donotpay.com/>

¹⁷ <https://www.theverge.com/2017/7/12/15960080/chatbot-ai-legal-donotpay-us-uk>

¹⁸ http://time.com/4386361/robot-lawyer-drivers-parking-tickets/?xid=time_socialflow_twitter

¹⁹ <https://www.ailira.com/>

free legal advice. An example is Reddit.²⁰ The promise of free legal services, the type that legal practitioners now charge for, may just be starting to unfold.

I have highlighted just a few of several applications out there, which may indicate the trajectory of legal practice. As they take root and develop further, what may we expect?

THE TRAJECTORY

Where is legal practice headed? Even the CEO of the technology giant, Microsoft, knows that: Forecasting technology trends can be perilous. It's been said we tend to overestimate what we can achieve in the short run, but underestimate what can be achieved in the long run.²¹

Nevertheless, it is perhaps a no-brainer to predict that the lawyer who insists on working as was done in the past or is done today, without adopting and adapting to the imperatives of technological developments, had better be 65 years old, perhaps 85.

What about those who adopt and adapt to technology? Will their mode of practice survive the relentless march of technology? Or, will technology 'unbind from servant of their wishes to master of their destiny'? I have not come across any credible assertion that technology would not significantly transform the way law is practiced, or rather, the way legal services are delivered. The controversy is rather on the extent of the transformation, how much of the work now done by lawyers may end up taken over and performed by machines and systems?

Small Firms or Practices.

We start with an interestingly bold short run prediction. The demise of small law firms in jurisdictions where legal practise is liberalized.

As for much smaller firms with very few partners, aside from those which also offer a genuinely specialist or personal service that some market is prepared to pay for, I find it hard to imagine how these legal businesses will survive in the long run unless they change fundamentally. The threats will come from various directions, not least from online legal services providers. On the High Street, in liberalized legal regimes, banks and retailers will also compete with sole practitioners and small firms for everyday legal services (such as conveyancing, probate, and personal injury work). But it is likely that these alternative business structures, fuelled by external investment and driven by experienced business managers, will standardize, systematize, and externalize legal services and bring cost savings, efficiencies, and experience that

²⁰ <https://www.reddit.com/r/legaladvice/>

²¹ Nadella, Satya, *Hit Refresh: The Quest to Rediscover Microsoft's Soul and Imagine a Better Future for Everyone* (New York, HarperCollins, 2017) p.140

traditional, small law firms will find impossible to match. This will be the end of lawyers who practise in the manner of a cottage industry. I do not see much of a future (beyond 2020) for most traditional small firms in liberalized regimes.²²

Almost certainly, our present law firms, in Nigeria, are small firms. But they will be around beyond the year 2020. But for how long thereafter? We shall return to that later. Let us exhaust the above prediction first. Underlying it is the assertion that legal services will be decomposed or disaggregated.

Decomposition and Commoditization of Legal Work

Susskind contends that a lot of legal work can and will be decomposed and then standardized, systematized and externalized.

I find significant amounts of work... requires more process than judgment, procedure instead of strategy or creativity...document review in litigation, due diligence work, basic contract drafting and rudimentary legal research... can be routinized and undertaken more efficiently whether by less qualified, lower cost human beings, or through computerization. This leads us naturally down a path towards the 'commoditization' of legal work... the 'decomposing' and 'multi-sourcing' of legal work.²³

For example, not every employment contract is drafted a fresh from a clean slate, rather, lawyers begin from a standard template, checklist or precedent, which, with technology, can be systematized and automated. Document automation systems as we have earlier seen, will then generate drafts based on the answers inputted. These services may then be externalized, to be offered and used online for a fee and the lawyer makes money while he sleeps. However, he acknowledges the potential that such services may end up crowdsourced or otherwise made freely available online. The positive side is that it expands access to justice by the teeming populace that may otherwise not afford it.

The other factor that may see to the end of small firms is the advent of alternative business structures (ABS) that leverage technology to deliver legal services at lower costs.

Prospects of the liberalisation of legal services

But then, what are the chances that liberalisation will catch on in other jurisdictions? There is a lot of favourable interest and discussions in the USA, but would that be all?

²² Susskind, R, p.63-64.

²³ Ibid at p.21-22

I believe most of us are aware of a recent attempt here in Nigeria and the pushback. Will it be the last attempt? Can such attempts be successfully waded off forever? Susskind predicts that:

...when this liberalization gives rise to legal businesses and legal services that better meet clients' growing more-for-less challenge, then this will have a ripple effect around the world... I predict that within 10 years or so, after intense agonizing and various changes of direction, most major jurisdictions in the West and many emerging jurisdictions too will have liberalized in the manner of England. And, even if they do not, liberalization in some countries will bring liberation in most others.²⁴

End of practice as usual

Susskind concludes that:

It is not that computer systems will replace all legal work by, say, 2020. Of course not. But around that time and from then on it will become common place across the legal profession for all substantial and successful legal businesses to be converting their businesses processes from human handcrafting to ever more sophisticated and capable technology-based production... A legal world will emerge that is manifestly different from today's.²⁵

LONG TERM OUTLOOK

How different? Where will it end, in the very long run? Are machines and computer programs going to take over legal practice from humans? There are, broadly, two opinions that I believe may interest us here: one answer is YES and the other is YES BUT. Of course, there several other answers and variations, including NO. It is my humble opinion that the two are the ones that command consideration and, I guess, my remit as intended by the planning committee of this august occasion.

Let us consider the YES BUT which is closer to a NO answer.

Man, and Machine: practicing law together.

The position is that machines and systems will have limitations, where only human skill and capacity can perform.

There's no denying that some elements of lawyering are going to be heavily affected by the development of AI. Just take a look at the software developed

²⁴ Susskind, R, p.9-10.

²⁵ Ibid at p.91

by JP Morgan²⁶ that can save humans months of hard work. With technology advancing like this, lawyers will be moved to more strategic tasks, ones that require emotional intelligence and advanced problem-solving skills—ones that no machine (in their current state) can ever perform. In law, there are many gray areas that require interpretation. Any AI would struggle with these gray areas as there's no definitive answer to what's right or wrong.²⁷

Let me illustrate this with an opinion on what blockchain technology heralds, that smart legal contracts are what to practicably expect and aim for, not autonomous, self-executing smart contracts that obviate the need for human lawyers and courts. While it is easy to already see that the use of blockchain technology by, for example, land registries may eliminate the need for searches conducted by lawyers, what is already manifest today is that the technology is capable of enhancing the traditional legal agreement, involving both the computer and the human, making agreements smarter.

Smart contracts, including smart legal contracts, need to have legal enforceability in the eyes of the courts. The outcome, when a smart contract is executed, needs to be recognized as legally effective, otherwise it can be set aside by the courts. It is thus important that a smart legal contract tool be designed in a way so that its intended outcomes have legally binding and enforceable effects.²⁸

The concept of smart legal contracts is still relatively new, and many questions need to be answered before we see widespread adoption. What is important to remember is to not be blinded by the tech. We have had smart contracts for years—e.g., EDI gave effect to automated contractual relations. What smart contract technology offers is the opportunity to do this on a much wider, multi-lateral, and distributed scale. That is where the future of smart legal contracts lays, and not on the misconceived notion of smart contracts somehow replacing the infrastructure of contract law.²⁹

It may have been noted that this position is premised on machines “in their current state”. But will systems and machines remain in their current state? The answer is one of the reasons for the opposing view.

We may now look at the prediction and answer closest to an outright YES, machines and systems will replace lawyers.

²⁶ <https://www.bloomberg.com/news/articles/2017-02-28/jpmorgan-marshals-an-army-of-developers-to-automate-high-finance>

²⁷ <http://www.lawtechnologytoday.org/2018/01/why-ai-could-never-substitute-a-lawyer/>

²⁸ https://www.law.com/legaltechnews/2018/05/31/the-future-and-the-promise-of-smart-contracts/?kw=The_Future_and_the_Promise_of_Smart_Contracts&LikelyCookieIssue=true

²⁹ https://www.law.com/legaltechnews/2018/05/31/the-future-and-the-promise-of-smart-contracts/?kw=The_Future_and_the_Promise_of_Smart_Contracts&LikelyCookieIssue=true

Machines and systems will become much more capable, outperform and displace lawyers.

But machines and systems will not remain in their current state. AI, natural language processing (NLP) and affective computing (systems with emotions) will improve. Indeed, chances are that quantum computing may in the not too long run be readily available and not just change but fundamentally transform the game.

Furthermore, it is observed that the conviction that intelligent machines and systems can never replace human lawyers is premised on the misconception that the machines and systems will have to replicate human thinking processes, think like human lawyers do, in order to successfully displace them. That is not the case, they do not, that's the "AI fallacy".³⁰ Deep Blue did not defeat chess master Gary Kasparov by thinking like a human, but by playing its own way, leveraging sheer brute computational power, calculating 330 million moves per second.

AI has moved further since Deep Blue. AlphaGo Zero system³¹ developed by Google's DeepMind unit. That powerful computer system learned to master the ancient Chinese board game of Go, a more complex game than chess. Instead of learning from the best human players, it taught itself in its own way, a newer AI technique known as reinforcement learning, by playing millions of games against itself to learn how to master the game on its own.

For machines and systems to replace lawyers, they only need to produce better results in a cost-efficient manner. The focus is on the outcome and not on the mode of performing the task. It is the outcome that matters to the client, the buyer, not how the outcome is obtained. For example, to the 375,000 drivers helped by Robot Lawyer, it is the successful challenge that matters, that they avoided paying. When the success comes at a fraction of the cost of a human lawyer's service, in these particular cases free, the choice is obvious.

REALITY CHECK

Perhaps we should have a reality check at this stage. It is reasonable to suppose that the elephant in this room, in the course of our discussions, is the question whether all the foregoing developments and transformations are western phenomena, too far removed from our realities, in our current state of development, to be of much concern.

It is obvious that the planning committee for this event did not think so and hence the choice of topic. I believe their concern is justified. The march of technology has been relentless and

³⁰ Susskind, R.E. & Susskind, D. R, *The Future of the Professions* (Oxford, Oxford University Press, 2015) p.45

³¹ <http://fortune.com/2017/10/19/google-alphago-zero-deepmind-artificial-intelligence/>

pervasive. Ultimately, these changes will arrive. In fact, it may already be here. Remember Jimoh Ovbiagele?

What about alternative business structures and multi-disciplinary practices (MDP)? Will the legal profession successfully push back and permanently keep them away from the Nigerian legal market? I doubt it, not in the long run. Not if, elsewhere, liberalisation takes root and serves clients better. The battle will then be the profession against society and the outcome is predictable.

Indeed, younger lawyers coming on to the market may find more attractive and rewarding the prospect of working from ABSs and MDPs, than joining dinosaur law chambers. Just find a way of gauging the murmurs and body languages of the new wigs on their feelings concerning the established law practices. Pushing back against liberalisation may well pitch a divided profession against the rest of society.

There will be pushbacks and setbacks. The ultimate path, however, is onwards and forward. As I was writing, precisely on the 9th of July 2018, I received news that Internet Brands, the company that acquired it in January, announced that Avvo will, at the end of the month, discontinue its bespoke services after battles with some (not all) US State Bar Associations, that its practice of fee splitting was unethical. Technology and the market may return to resolve or change things.

Conversely, I also received the news via a release from his office on the 10th of July 2018, that the Vice President, Prof. Yemi Osinbajo, SAN, was in Silicon Valley, luring and securing the commitment, amongst others, of tech giant Google, to come to Nigeria and invest in the establishment of Google Artificial Intelligence Centres in Institutions of Higher Learning in Nigeria.

Therefore, the reality is that technology will not leave out Nigeria and the Nigerian legal market.

TAKE AWAYS

Legal practice is business, but it is service too, to the client. The endurance of legal practice, in whatever form, indeed of the legal system, must depend on its effectiveness and efficiency in serving its purpose. As technology increasingly makes the world a truly global village, tolerance for sloppy service will be minimal, from a populace that is easily aware of better service obtaining elsewhere.

The Facebooking, Snapchatting, Instagraming and Uberriding young men of today are the coveted clients of tomorrow, manning the big businesses and successful startups, the sources of the coveted fat briefs.

The legal marketplace of tomorrow cannot be immune from the technology that will permeate the socio-economic fabric of society. Paper based practices and practitioners will surely be as extinct as dinosaurs are today.

Society will continue to need law and legal services. But new skillsets will be required of the providers of the service. Indeed, new services will emerge and for those who prepare for and change with the times, new opportunities.

There is good news too. BigLaw firms, ABSs and MDPs in the west, faced with the demand by large corporations for the reduction in the cost of their services, are and will increasingly decompose their services and subcontract some to other jurisdictions and firms with lower overheads. South African lawyers are already benefitting from such work from London-based law firms.³² Law firms in Nigeria that 'up their tech-games' should attract such work.

Permit me another lengthy quote. Richard Susskind deserves it:

It is often observed, not especially profoundly, that we cannot predict the future. This seems to give licence to the unimaginative, the shortsighted, and the indolent to discard any foresights as pointless speculation. In contrast, I join others who believe that we can anticipate many (but not all) broad trends, if not the specific details of the world yet to me.

Given our economic conditions, the shift towards liberalization, the new providers in the marketplace, and the burgeoning, exponential increase in the power and uptake of technology, I find it unimaginable that our current legal institutions and legal profession will remain substantially unchanged over the next decade. Indeed, it seems to me that the least likely future is that little will change in the world of law.³³

CONCLUSION

May I, therefore, conclude that advancements in technology indicate a trend towards profound transformation, the birth of a new era in the delivery of legal services, one that expands access to justice. For some legal practices and practitioners, it means a requiem. But the true leaders of the bar, the real ministers in the temple of justice shall be singing the Nunc Dimittis.

³² Susskind, R.E. at 38

³³ Ibid, at 190-191