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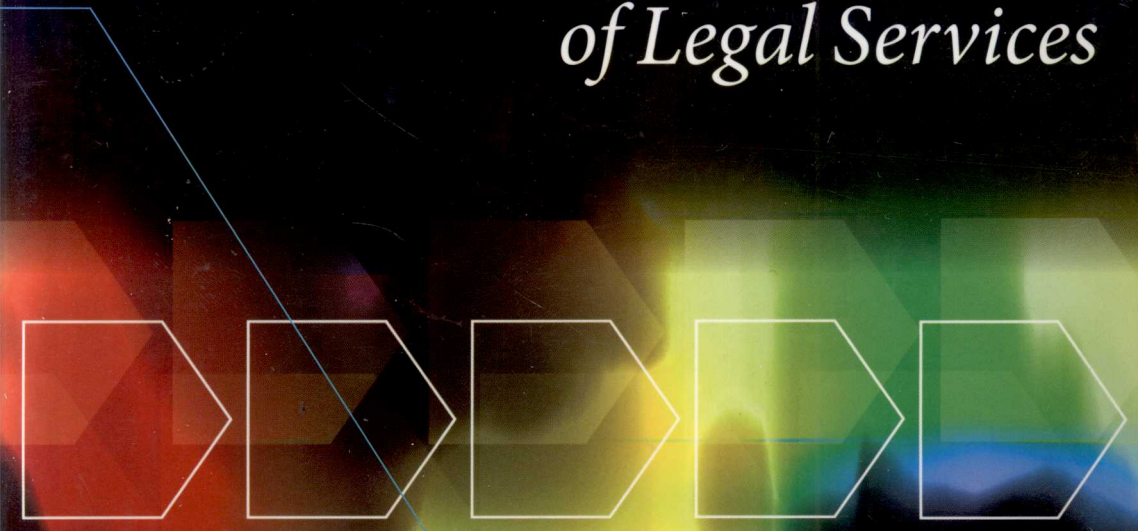
THE END OF LAWYERS?

Rethinking the Nature of Legal Services



RICHARD SUSSKIND

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Rethinking the Nature of Legal Services

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I dedicate this book to mentors from my younger days

Robin Downie
Emeritus Professor of Moral Philosophy
at the University of Glasgow

and

Colin Tapper
Emeritus Professor of Law
at the University of Oxford

Preface to the Hardback Edition

I already know what many people think of this book.

Consistent with the current spirit of the Internet, extracts of an early draft of the first chapter were placed on *Times Online* in late 2007, alongside some commentary from experts and journalists.[1] Debate from readers was invited. I hoped that those who became involved in online discussion would enjoy having early access to some of my latest work, that the experience of engaging electronically would be fun, and that they would welcome the opportunity to have some input to the book. I am pleased to report that many tens of thousands of people visited the site.

Releasing the extracts early and online allowed me to test some of my ideas. Ordinarily, you write a book; it gets published; and after that, from reviews and feedback, you get a sense of what your readers think, where you have been misguided, and what topics are of greatest interest. And then you write a revised paperback or a second edition. But why not release the ideas and arguments a little earlier, and invite people who are interested to comment and debate? It is surely handy to have advance notice if you have lost the place, or let an error or two slip in, or perhaps neglected some crucial evidence.

It was an interesting experiment. In the event, I found the feedback posted at *Times Online* itself to be quite polarised—there were the sceptics (mainly lawyers) who did not seem to think they should read what I had to say before rejecting it; and there were the enthusiasts, often every bit as biased, who were immediately fond of anyone they thought might be taking a pot-shot at lawyers. Meanwhile, the most remarkable response arrived by conventional postal service and had clearly been prepared on an elderly manual typewriter. It was a three-page letter. And I was sent the carbon copies. There are many (younger) readers of this book who will not know what I am talking about. Suffice it to say that, in the world of law, old habits do indeed die hard.

What fascinated me most was that a great deal of insightful and challenging online discussion on the extracts sprang up elsewhere—on at least 40

[1] <http://www.timesonline.co.uk/tol/system/topicRoot/The_End_of_Lawyers>.

other websites and blogs.[2] What helped me most, however, were the considered and balanced responses by e-mail that came directly to me.

In the end, I have to say, none of the feedback led me to make fundamental alterations or to jettison great chunks of manuscript. But it did cause me to refine and tighten arguments, to insert more examples, to address likely objections more fully, and to be braver in some of my predictions.

I am therefore very grateful to Alex Spence, the legal editor of *Times Online* for setting up and managing the project. Frances Gibb, the legal editor at *The Times*, was also very supportive, as she has been of my work for many years, allowing me the space to write over 100 columns for the newspaper. My thanks in that context also go to Clare Hogan, who patiently tolerated many missed deadlines. I have drawn regularly from the case studies in these columns to support many of the claims in this book.

More generally, and from the heart, I thank a group of friends and colleagues who helped me in various ways while I prepared draft after draft. Some offered detailed comments on specific chapters, while others sent me e-mails that helped shape my thinking. The individuals in question are (in alphabetical order) Alex Allan, Ron Barger, David Bone, Simon Carne, Jeff Carr, Mark Chandler, Richard Cohen, Paul DiGiammarino, Matthew di Rienzo, Craig Glidden, David Goldberg, Dick Greener, Chris Harris, Michael Leathes, Michael Mainelli, David Maister, Iain Monaghan, Darryl Mountain, Martin Partington, Anthony Ruane, Mark Saville, and Conrad Young.

I was also very fortunate in having the ongoing moral support of Jeremy Hand, Paul Lippe, Ian Lloyd, Christopher Millard, and Alan Paterson, each of whom, often unknowingly, chivvied me on when the task looked impossibly daunting.

I am sure most authors are more systematic than I am in their working habits. Much of this book was prodded out with two fingers on my faithful Sony VAIO or with two thumbs on my ever-present Blackberry. Some early drafts were created by dictation and Tricia Cato deserves great praise for making sense of my too-speedy Glaswegian stream of consciousness, a series of sounds that no voice recognition system can yet comprehend.

Early versions of two important lines of argument were previously published: the evolutionary model of legal service (Chapter 2) was first laid out in the *Legal Technology Journal*, then under the editorship of Charles Christian;[3] while an initial formulation of my thinking on public legal information

[2] See for example <http://www.abajournal.com/news/susskind_are_lawyers_becoming_obselete> and <http://blogs.law.harvard.edu/ethicalesq/2007/10/28/the-end-of-lawyers-or-the-cartels-last-stand>.

[3] R Susskind, 'From bespoke to commodity' (2006) 1 *Legal Technology Journal*, 4.

policy (Section 7.8) was presented in *Intellectual Property*, a book edited by Charlotte Waelde and Hector MacQueen.[4]

Three people read and commented on the entire draft manuscript: Tony Williams, a close friend and collaborator whose ongoing support I value enormously; David Morley, a client over the past few years and an entirely enlightened law firm leader; and Gail Swaffield, whose talents as a legal technologist at the coal face are surpassed by no-one. Pouring over the full text of a book is a very major burden, and I owe these three busy people a huge debt of gratitude for taking on the job with such good humour. Their comments were of very considerable help.

As ever, my publishers, Oxford University Press, have been a pleasure to work with. Although no longer with OUP, Chris Rycroft must be mentioned and thanked – he commissioned the book in the first place and strongly supported its publication. I am also very pleased to express my appreciation to Luke Adams, Kirsty Allen, Andy Redman, Fiona Stables, Christopher Wogan, and Victoria Wright, each of whom contributed substantially to the publication process.

Finally, I have a loving family to thank. My parents, as ever, have always been on hand with a word of encouragement. My brother, Alan, is everything I could want from an older sibling. He is extremely supportive, available whenever I need him, but he is challenging too – his detailed comments on some of the ideas in this book gave me serious pause for thought.

I am blessed with two fine sons, Daniel and Jamie, both now at university. They are more scholarly than ever I was; and I have benefited hugely from their fertile minds. They have helped me more than they know. I am also blessed with a wonderful daughter, Ali, who has been with me in my study during much of the conception of this book – lighting up my workspace with her very special brand of happiness and humour. And Michelle, my wife, has once again (for the seventh time now) exhibited remarkable and uncommon patience during the fraught process of authoring; indeed, since 1981, when I began working on law and technology, she has always shown unwavering confidence in my various writing projects.

To my family, friends, and colleagues, once again I extend the heartiest of thanks.

Richard Susskind
August 2008
Radlett, England

[4] R Susskind, 'The public domain and public sector information', in C Waelde and H MacQueen (eds), *Intellectual Property* (Cheltenham: Edward Elgar, 2007).

Introduction to the Paperback Edition

The central theme of this book is that lawyers should change the way they work. Better and more efficient techniques for delivering legal services are now emerging and I urge the legal profession to embrace them. Clients—from multi-national corporations to individual citizens—deserve nothing less from their professional advisers.

This theme has also been central to my work over the last 30 years. During this period, my conviction about the need for changes in the legal system has remained fairly steady. In contrast, I think it fair to say that the position of most legal practitioners has shifted. In response to my published views on the future of the legal world, I believe that some lawyers have now progressed through all 'four stages of acceptance' identified by the British biologist, JBS Haldane:

(i) this is worthless nonsense;

(ii) this is an interesting, but perverse, point of view;

(iii) this is true, but quite unimportant;

(iv) I always said so.[1]

Haldane was speaking about reactions to new ideas in science and not about the law. But his words resonate in today's legal marketplace.

In November 2008, when this book was first published, many of my claims and arguments were met with the third of Haldane's responses. Lawyers conceded that there was some truth in what I had to say—for example, about new ways of sourcing legal work—but they doubted its relevance for daily legal practice. Nonetheless, I was actually quite pleased. No longer was I interesting but perverse, as seemed to be thought in 2000 when *Transforming the Law*[2] appeared; and, reassuringly, I was now not thought to be the purveyor of worthless nonsense, which generally was the reaction in 1996 to *The Future of Law*[3] and, much earlier, in *1987*, to *Expert Systems in Law*.[4]

[1] JBS Haldane, 'The Truth about Death' (1963) 58 *Journal of Genetics* 463–4.
[2] Oxford: Oxford University Press, 2000.
[3] Oxford: Oxford University Press, 1996.
[4] Oxford: Oxford University Press, 1987.

Remarkably, though, in less than two years, we have now migrated into Haldane's fourth stage. Around the world, stirred by the recession, senior lawyers are now sagely proclaiming not simply that the time has come for the profession to modernize and transform itself but that they have been anticipating this for years. In this massive wave of cognitive dissonance, I am rather disconcerted: after decades in the wilderness, it is strange to have become mainstream.

That said, by no means all lawyers concur with what is written in the pages that follow. In fact, some seem to disagree with *all* of it. Often, before I speak at a conference, I am warned, in hushed tones by a friendly organizer, that I should tread warily because some formidable legal dignitary is in the audience and that he or she disagrees with my book. I often quip: the naysayer cannot surely object to *everything* in the text. The index and bibliography, for instance, are entirely unobjectionable.

To oppose the entire book is surely to admit that it has not been read. Some of what is said here is not contentious. The reality is that I present a wide range of analyses, hypotheses, case studies, recommendations, and predictions. I am emphatically not putting forward a single, all-or-nothing argument, or a unified theory-of-everything that can be shot down by a single, well-aimed missile. As I like to say, I am simply laying out a buffet of likely options for the future and am happy for readers to select some of what is on offer and leave the rest to one side. Naturally, I would prefer that most of what I say is accepted, but my mission is to widen horizons and not to force-feed.

Admittedly, I do predict great changes in the legal market that may cause discomfort in the reactionary camp: a movement towards the commoditization of legal services; a shift toward 'decomposing' legal work into its constituent tasks and sourcing each in the most efficient way; a related increase in the outsourcing, off-shoring, and, as I say, the 'multi-sourcing' of legal work; the emergence of new forms of legal businesses underpinned by novel business models and innovative external funding; a rapid increase in the impact of various disruptive information technologies; and much more besides. These changes are being hastened, I claim, by the growing need for most clients (businesses and individuals) to secure 'more for less'—more legal service at less cost. I maintain that there are only two sustainable strategies here.[5] The first is for in-house departments not only to be vastly more

[5] For dispute resolution, I have recently become aware of a third possible strategy—third party litigation funding. See S Garber, *Alternative Litigation Financing in the United States* (Santa Monica: Rand Corporation, 2010), AJ Sebok, 'The Inauthentic Claim', forthcoming, (2011) 64 *Vanderbilt Law Review*, and J-F Ng, 'The Role of the Doctrines of Champerty and Maintenance in Arbitration' (2010) 76 *Arbitration* 208–213. I am grateful to Selvyn Seidel for introducing me to this field.

efficient in their deployment of the traditional combination of internal labour and external law firms, but also to ensure that work is undertaken, where appropriate, by less costly suppliers of legal services, such as legal process outsourcers and paralegals. The second strategy is for General Counsel to collaborate with one another and so share the costs of some common legal expenses. In short, the options are either to cut the costs, and I call this the 'efficiency strategy', or to share the costs, which I refer to as the 'collaboration strategy'. These strategies apply not only to large volume, low value work but also, and vitally, to the routine elements of high value work.

For the legal profession, this book suggests numerous radical consequences. For example, it follows from what I say that the market for the traditional legal practitioner will diminish, as will the need for the traditionally trained law graduate; many small firms and sole practitioners will struggle to survive; many medium-sized firms will merge; and some large firms will shrink, while others will fold. Some sceptics will respond by saying that I may be wrong about the future. To them I often say that if there is a reasonable possibility of my predictions coming to pass, then the implications for the profession are so profound that lawyers should surely be preparing in some way.

But I do not wish to concede any ground whatsoever on the central thrust of the book, and I stand by the principal arguments and conclusions. My purpose in this new Introduction, accordingly, is not to revise or revisit them but instead to offer a brief update on my thinking and to provide some new techniques and tools. The update is not comprehensive but it should give a sense of my views on the impact of the recession on the legal market, on some notable recent developments, and on the rise of legal process outsourcing. As for the new techniques, I present a tool for analyzing the legal market and four models for legal businesses of the future. I conclude by suggesting how senior managers in legal businesses might meet some pressing strategic challenges.

Impact of the recession

Although first published in late 2008, I completed the manuscript of this book many months earlier, before anyone had any sense of the depth of the world's economic problems. What, then, is the impact of the recession on my various forecasts? Generally, I believe that the dreadful economic conditions are accelerating the various effects and phenomena I predict in this book.

This is to be expected—many of the changes that I envisage and advocate are driven by the market's need to reduce the cost of legal services. As that need has become more pressing, then the imperative to embrace, say, multi-sourcing, becomes correspondingly stronger.

Some of the consequences of the growing pressures facing the legal profession were identified in late 2009 in a study of the US legal industry, commissioned by LexisNexis.[6] According to this research, clients in the US say that law firms are not doing enough to respond to the economic downturn, while law firms claim that clients are too focused on costs. It was ever thus. Pricing, quite predictably, emerges as the top issue facing the profession, according to 71 per cent of the 150 in-house lawyers surveyed, and to 60 per cent of the 300 practitioners in private practice. Taking the various findings together, US lawyers seem to agree that, in due course, hourly billing will be largely displaced by alternative billing structures; but not in 2010 and never entirely. And clients are keener on this shift than law firms.

This snapshot of the US broadly aligns with similar research conducted in England by Eversheds, the law firm. Their work identifies a shift towards a buyer's legal market, the emergence of clients as major agents of change, downward pressures on fees, new efficiencies being driven by the recession, and the uptake of novel ways of sourcing legal work.[7]

My own research and consulting work suggest that an analogous survey in the City of London today would yield very similar results. Here, many General Counsel tell me that they are under mounting pressure from their boards to cut their legal budgets severely—up to 40 per cent—and so they are naturally turning to their law firms and asking them to rethink their hourly rates and charging models. In turn, in the City and across the UK, law firms have indeed been proposing volume discounts, blended rates, fixed fees, various forms of value billing, and more. However, astute clients say, with justification, that when most firms present alternatives to hourly billing, the underlying modeling is still based on time spent, that firms are not inclined to bid in a way that will reduce their profitability, and so the proposals contain charging models that may superficially seem more palatable but do not substantially reduce the final bill. This, in my view, is a truth that is rarely articulated by commentators.

In the end, the key issue is whether charging differently will, in hard numbers, yield the scale of savings that clients require, or whether firms and

[6] See 'State of the Legal Industry Survey' (2009) <http://www.lexisnexis.com>.

[7] See *The Client's Revolution: the impact of the recession on the legal sector* (London: Eversheds, 2010), available at <http://www.eversheds.com>.

clients need to start working differently. Intense recent interest in legal process outsourcing, in leasing lawyers, and in sub-contracting to lower cost jurisdictions, suggests that some clients are encouraging radical new ways of working. The business case is clear: with outsourcing, for example, if routine and repetitive work can be undertaken in India at one tenth of the cost, this is going to bring savings far in excess of, say, volume discounts from firms working in the traditional manner.

But what will be the longer term impact of the recession? Given these changes in billing and working practices, opinion in the US, according to the LexisNexis survey, is fairly evenly split on the future of the legal industry—about half of the clients and law firms surveyed believe the recession will permanently change the way that legal business is undertaken.

Whether the profession is enduring a temporary adjustment or a longer-term structural upheaval is also a matter of discussion in the UK. Some City firms are embracing the hunker-down strategy. This involves cutting costs, winning as much work as possible, keeping morale up, and hanging on in there until the economy recovers, when, it is assumed, pre-recession working and billing practices will be resumed. Other firms believe that large volume, low margin legal work is being irreversibly changed but that, for their high end work, clients will be happy in more buoyant times to revert to conventional ways.

There is a growing group of senior lawyers and clients who are less sanguine. They see that these troubled times are indeed exposing many current working practices as unjustifiably inefficient, that new ways of working are emerging, that the costs of routine and repetitive legal work can be cut dramatically, that boards and CEOs are now aware that lawyering can be conducted differently, and that irreversible change is likely to extend to some parts of high end work, such as document review and due diligence. On this view, when the economic storm passes and the dust settles, there will be no return to past practices. Even if the economy bounces back with gusto, clients will not suddenly feel impelled to go back to the old tariff.

I largely agree with those who are saying, essentially, that the genie cannot be put back into the bottle. But I think there is an exception to this rule of no return—it seems to me that when, in the future, major clients need external legal advice on bet-the-ranch deals or disputes, then they will still tend to turn to one of a handful of top firms (on the 'no-one ever got fired for hiring IBM' principle) and this kind of work will not be price sensitive (on the 'a million here or there makes no odds in the scheme of things' principle). In other words, for big-ticket work, the leading firms may indeed be allowed to revert to unconstrained hourly billing at eye-watering rates.

But I also believe there might be an exception to this exception, one that might change the legal market for ever. Consider the possibility of one of this handful of top firms breaking rank and radically changing the way it works, perhaps through off-shoring, computerization, or sub-contracting. If such a firm were then able to offer the comfort of its brand along with the talents of its finest experts, and yet at a much lower overall cost of service, then it would be hard to imagine, despite the price insensitivity, that major clients would be comfortable going elsewhere. In turn, other leading firms would have to respond and change would cascade across the market.

In discussing economic recovery and future trends in the market with law firms, I am always struck by their attraction to the status quo. Most law firms, I sense, would prefer a return to the working practices and charging models of around 2006; as well they might, because substantial profits were enjoyed at that time. A very few, the most likely market leaders of the future, think differently. They say that, if a reinvigorated economy allows a reversion to past practices, then they will nonetheless press ahead with radical change. They say this because they see great opportunity in working differently—better and less costly service for clients and competitive advantage for the firms themselves. They hope for the return to the mind-set of 2006 because they know this to be the comfort zone of most of their rivals. It is comfortable not just because it is familiar but because it is reassuring to stay with the pack. The deeper truth here, as I say in Chapter 8, is that most firms (other than market leaders) are more concerned about avoiding competitive disadvantage than gaining competitive advantage.

As for in-house lawyers, they betray a puzzling lack of self-confidence when discussing the future. They will often ask me if I think law firms will go back to their old ways when business becomes brisker. I always reply that it is very much up to them as customers to answer that question. If in-house lawyers do not want the reassertion of past habits, they must direct the market accordingly and emphatically.

They must also bear in mind that they will increasingly find themselves subject to greater scrutiny than ever before. As it becomes common knowledge, for example, that legal work can be sourced in different ways, chief executives, chief finance officers, and non-executive members on boards will quite naturally ask their General Counsel whether they are embracing and maximizing the opportunities of these new ways of working. To help shift their mind-set and prepare for this new environment, I suggest that in-house lawyers apply a new test when considering how best to source their legal work. I call this the 'Shareholder Test'—when a costed proposal for the conduct of a deal or dispute is being considered, would a commercially astute

shareholder, who was familiar with the growing number of alternative ways of sourcing legal work, consider what is contemplated as representing value for money? If law firms return to pre-recession billing and working practices and in-house lawyers countenance this, they will invariably fail the Shareholder Test.

Recent developments

Much has happened in the legal sector in the two years since I finished writing the first edition of this book. One way of gauging the rapidity of change and progress in the legal sector is by looking at the nature and scale of the published literature on the legal profession. In my view, in the quarter century since I began my doctoral research in law and computers, that is, between 1983 and 2008, only a handful of books (apart from my own, I feel bound to say) could be said to address genuine transformation in the way in which legal services are delivered.[8] Strikingly, in the two years since I submitted the manuscript for this book, I have come across eight new books that contain fundamental challenges to conventional legal service and practice. They represent a variety of genres. Some are more scholarly and better researched; others are more practical and action-oriented. But together they have in common and reflect an unprecedented willingness to question the way that lawyers have worked in the past and to point to a very different future.

Perhaps the boldest and certainly the most prescriptive is *The Smarter Legal Model* by Trevor Faure, who is General Counsel at Ernst & Young.[9] Drawing heavily on management theory, economics, and organizational psychology, and rooted also in his extensive practical experience as an in-house lawyer, Faure offers a set of tools to help reduce costs, increase legal coverage, improve compliance, and increase client satisfaction. More ambitiously, he casts aside the traditional, often fraught, commercial relationship between law firms and their clients and replaces this with a species of partnership arrangement,

[8] My short-list of the most important are ME Katsh, *The Electronic Media and the Transformation of Law* (Oxford: Oxford University Press, 1989); ME Katsh, *Law in a Digital World* (Oxford: Oxford University Press, 1995); and M Parsons, *Effective Knowledge Management for Law Firms* (New York: Oxford University Press, 2004).

[9] T Faure, *The Smarter Legal Model: more from less* (London: The Practical Law Company, 2010).

under which the business interests of the in-house lawyers and their external advisers are much better aligned.

Many of Faure's themes are reflected, more anecdotally and in less detail, in *Bright Ideas*,[10] a collection of 26 essays, written by a variety of prominent legal figures in the legal industry; and in *Unbound*,[11] which identifies seven major trends in legal service, based on interviews with a similar troop of leading lawyers. Both of these books exude a sense of unrest and impatience—a group of senior, bold, imaginative lawyers (from firms and in-house) who are suggesting, in a variety of ways, that legal work can and should be undertaken differently.

On the face of it, Philip Howard has an even more radical message, because he is the author of a controversially-titled volume, *Life Without Lawyers*.[12] As I should know better than most, however, we should never judge a book by its title. In the event, Howard's book is a damning indictment not of lawyers, but of the law itself. His focus is on the US legal system. Echoing my theme of 'hyperregulation',[13] Howard laments the excessive legal bureaucracy, the decades of accumulated regulation, and the pervasive litigation, which combine, he says, to restrict citizens' freedoms and to encourage individuals and organizations to behave ever more defensively and litigiously. His mission is to liberate Americans from too much law. Lawyers are largely let off the hook, which is a shortcoming because there can be little doubt that some, if not many, US litigators promote rather than discourage litigation. In common with the other authors mentioned here, however, Howard's is a call for comprehensive change in the law and not mild reform.

According to Julie Macfarlane, substantial change has already occurred in the world of dispute resolution. In *The New Lawyer*,[14] her focus is on Canada and the United States. Based on a decade of extensive empirical research, she charts a move away from lawyers as combative, gladiatorial, adversarial advisers to lawyers as empathetic counsellors who are more inclined to negotiate, mediate, and seek consensus; and to do so with more active participation of clients than accompanies conventional litigation. Macfarlane shows that many stereotypes of legal advisers are outdated and that a new

[10] EL Dance, (ed.), *Bright Ideas: Insights from Legal Luminaries Worldwide* (Minneapolis: Mill City Press, 2009).

[11] D Galbenski, *Unbound: How Entrepreneurship Is Dramatically Transforming Legal Services Today* (Royal Oak: Lumen Legal, 2009).

[12] PK Howard, *Life Without Lawyers* (New York: Norton, 2009).

[13] See pp 18–19 of this book, and *The Future of Law*, pp 12–18.

[14] J Macfarlane, *The New Lawyer* (Vancouver: UBC Press, 2008).

breed of lawyer may well be emerging; lawyers who are as skilled at pre-empting disputes as they have traditionally been at escalating them.

Meanwhile, the American Bar Association is to be congratulated for publishing two practical guides for lawyers, one on the use of knowledge tools and the other on technologies that enable collaboration amongst lawyers.[15] These texts are much more than 'how to' aids. If their teachings were implemented, lawyers would work very differently. No longer would the legal adviser be an isolated sole practitioner (more or less). Instead lawyers would become consummate team players, who would avoid duplication of effort by capturing and nurturing their knowledge and sharing their experience with their colleagues and clients. More than this, the service on offer from lawyer to client would shift from being a one-to-one consultative advisory service to a one-to-many information service. Full-scale adoption of knowledge and collaboration tools would transform the work of lawyers.

Also in a practical vein, and on a subject topic that has profound implications for the practice of law, is Michael Bell's book on legal outsourcing.[16] As I indicate in this Introduction, outsourcing creates enormous opportunities for clients and threats to conventional firms. Bell's manual, complete with case studies, is a useful guide to the key business and management issues, including the benefits, the risks, the importance of quality control, the art of vendor selection, and the regulatory implications of outsourcing.

The publication of the eight books I identify here constitutes a clear signal, I suggest, of an upsurge of interest in alternative ways of delivering legal service. They reflect fresh, innovative, and entrepreneurial thinking in the legal world; a new open-mindedness amongst some lawyers at least; a willingness to re-invent, to re-think, and to re-design legal businesses. A very few years ago, there was very little appetite for this kind of thinking. Today, in contrast, I am frequently asked by senior lawyers to suggest reading materials on the future of legal service. Not only am I able to point to these books but some more serious and scholarly writings in the field are also appearing.[17]

Aside from the growing literature on the modernization and transformation of legal service, there have been numerous other developments that

[15] M Lauritsen, *The Lawyer's Guide to Working Smarter with Knowledge Tools* (Chicago: ABA, 2010), and D Kennedy and T Mighell, *The Lawyer's Guide to Collaboration Tools and Technologies* (Chicago: ABA, 2008).

[16] MD Bell, *Implementing a Successful Legal Outsourcing Engagement* (London: Ark, 2009).

[17] Two of the best examples of new scholarship are M Sako, 'Make-or-Buy Decisions in Legal Services: A Strategic Perspective', Working Paper, Revised (June 2010), available at <http://www.sbs.ox.ac.uk>, and MC Regan Jr and TH Palmer, 'Supply chains and porous boundaries: the disaggregation of legal services' (2010) 78 *Fordham Law Review* 2137–2191.

demonstrate just how rapidly the legal sector is evolving. In the next few paragraphs, I select a few of these to give a flavour of the progress being made.

I start with the systems that are now being introduced in the new Supreme Court of the United Kingdom. When preparing the manuscript for this book, in early 2008, I expressed the hope that these systems would become a flagship for a wide range of case management technologies.[18] In the event, I believe that the Supreme Court, which opened in October 2009, is now equipped to be the UK's most technologically-advanced court. One innovation is that, in each of the three courtrooms, there are four fixed cameras. These record all proceedings which will, in due course, I expect, be available on the Web. These filming arrangements are unique in the courts of England, Wales, and Northern Ireland, where cameras have been forbidden in the past. The courts also have document display systems. When barristers argue their cases, the precise pages under discussion can appear instantaneously on the screens. This should eliminate the need for Justices to search for paper-based folders and documents. Justices can also bring laptops into court. On these, it is possible for them to highlight text within their own electronic copies of the case materials, add comments, and copy and paste relevant words. Later, these annotations and extracts can be gathered together as searchable collections of notes. It is also possible for the Justices to roam around the documents, jumping from one to another using hyperlinks. These features are enabled by another innovation—electronic filing (e-filing). Unless permission is given, all documents and bundles submitted to the court *must* soon be sent both in electronic form and as conventional paper-based files: the core volume of documents will be submitted as a single, bookmarked PDF document. For each case, this will give the Justices a convenient electronic document bundle that behaves like a mini-website. Another advantage of e-filing is that the documents feed easily into the Court's case management systems. These are the back office facilities that support the everyday tasks of document filing, case progression, and listing. The system, in turn, provides officials and Justices with fully electronic virtual case files. Meanwhile, any web user can determine the status of cases before the Court. Details are fed from the case management system onto the Court's website. Citizens can view summary information, while practitioners can peruse in greater detail.[19]

[18] See p 206.

[19] See <http://www.supremecourt.gov.uk>.