

TAKE THE STAGE: LEGAL TECH FALLACIES AND THE STRUCTURAL TRANSFORMATION OF THE LEGAL PROFESSION



It was in early 2009, within a London Business School program, when I was first faced with a clearly articulated and empirically supported argument about the advent of legal technology and the structural transformations in the legal services market that were likely to ensue.

Since then, in more or less a decade, we have all become very familiar, at least at the “legal talk” level, with the concepts of the “digitalization” and “commoditization” of legal services. Many companies these days actively use various legal technology tools and do significant legal data processing via customized legal software platforms; most of them employ “legal tech analysts” assigned dedicated functions and retain specialized staff to manage the “Legal-IT interface.” Tech-based standardization of legal instruments and “legal sampling” or legal process design programs are projects common to general counsels in big businesses and SMEs alike, and law firms of course invest in tech tools and expand in what is generally referred to as “client-attorney cyberspace.”

But the Legal Services Market is Improperly Reduced to a “Client-Attorney Cyberspace”

There is no doubt that certain legal processes, precisely because they suppose a level of routine and repetition, have become more standardized through technology. These entail a true cyberspace which is being produced and managed, where content is being built, where software administrators and analysts operate, and so on. Regulatory and compliance tasks and legal due diligence work and document production projects, to give a few examples, will of course be faster and more efficiently delivered on a tech-based formula.

But legal processes which can be easily digitalized amount to only a small por-

tion of legal services, and – even where certain ancillary legal assistance needs are created within the digitalization itself – a commoditization of all processes occurs eventually. Therefore, the underlying legal process turns into a “legal product,” which in turn becomes governed by the rules of retail sale. The paradox here is that legal processes and legal products become, throughout the standardization stage, a sort of quasi-legal process, and precisely due to this transformation, are fully internalized or are delivered within the organization through non-legal staff as corporate procedures, or are fully outsourced to specialized consultants, and not to law firms (e.g., recently, GDPR consultants).

That Is, Mistaking “Legal Processes” for Legal Service is a Legal Tech Fallacy.

It is true that automation will result in some lawyers losing their jobs – perhaps many lawyers in certain areas – but that will happen not necessarily due to legal tech tools being made available, but because lawyers are perceived as no longer offering proper value for money. And also, it won’t happen because the demand for legal services narrows, but because more efficient ways to meet that demand have been found.

In fact, the demand for legal services has increased and become more complex as the global economy continues to grow and new markets are being unlocked. Revenues of global law firms has increased. Corporations have built in larger legal departments. Some say that legal expertise has moved in-house – and some argue the opposite, that the legal function within the organizations is getting outsourced. This is only an illusory conflict, as the changes reflect the dynamics of a structural transformation of the legal services market, steered by development of legal tech.

I believe though that this happens indirectly, through a reshaping of certain corporate functions within organizations that are traditionally of key interest for the legal services sector, such as: (i) corporate-secretarial and business administration; (ii) compliance and control; (iii) procurement; (iv) HR and resource management; and (v) private-public interface.

We’re facing a structural transformation of the legal services market; one that shakes corporate lawyers’ standard value proposition and changes their pricing, billing, and revenue formats, their operational model, and ultimately, their forms of organization.

Ultimately, legal tech tools and the client-attorney cyberspace fueled a binary process of fragmentation and also of consolidation of the legal services sector. Legal assistance tasks which could be broken down into processes were automatized, further commoditized, and outsourced to non-legal consultants and technicians. But at the same time, when a very specifically framed legal assignment task turns out to be a far more complex one, a true legal project management mission arises.

We see more and more how law firms are assigned complex kinds of management agreements that cover projects, transactions, claims, and compliance altogether, under a plan contracted on and driven by true key performance indicators.

Legal analysts and technicians are required in order to build and operate legal data bases, tech tools, and IT platforms, but corporations’ needs in terms of legal compliance and transaction, claim and project management more generally are constantly increasing. And they demand lawyers.

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