LOOKING BACK FROM 2030

WHAT SHOULD WE DO NOW TO TRANSFORM THE LEGAL PROFESSION (INCLUDING BY THE USE OF MACHINE LEARNING TECHNOLOGY) TO ENSURE ACCESS TO JUSTICE FOR ALL AND THAT THE PROFESSION IS AS DIVERSE AS THE COMMUNITIES AND BUSINESSES IT SERVES

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Many, futurists, or not, ponder the future role technology will play in society. Unfortunately, the legal professional is infamously known as traditional and slow to adapt. Therefore, the legal profession must take proactive steps in the present to utilise technology in progressing its purposes. This should be done concerning the key ideal of "access to justice" which while regarded as an inherent aspect of the legal system has often been plagued by criticism. In addition to this, the legal profession must be attentive to notions of diversity, to properly carry out their function of serving society, not just a part of society.

It can be said that the law is *"open like the doors of the Ritz Carlton hotel"*. This poignant phrase helps to highlight the idea that for many, access to the law is not a right they can exercise. It should be noted that although the lay definition for "access", that is the ability to use, needs to be kept in mind. The discussion on access to justice is broadened to include the quality of this access. For example, whilst a person might have "access" to bring a claim in court, persistent cuts to legal aid will damage their overall access to the law. It is a question of degree.

Technology can play a vital role in reducing the issues of access to justice in the modern legal system. We can look to Richard Susskind's work for evidence of this.[1] One of Susskind's guiding principles on the topic is the idea of "service". With the shift towards a multi-sourcing legal environment, work needs to be done in the present to implement technology as a method of legal delivery. A notable example of this is triaging Chatbots. These systems run autonomously and diagnose legal issues.

These chatbots can be "Good Old-Fashioned Artificial Intelligence" (GOFAI) or, more excitingly, "Machine Learning Artificial Intelligence". Such systems can easily be put on the internet, casting a wide net of society with as much as 85% of the British public having some access to the internet.[2]

Furthermore, these systems are also relatively cheap to employ. This is key as take up will be incentivised by market forces. Examples of this in the law industry are already in practice

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1   Richard Susskind, Tomorrow's Lawyers An Introduction To Your Future (2nd edn, Oxford University Press 2017).

2   Ibid (Susskind, 2017).

today. Law Firm "Mills & Reeve" have already implemented such a solution in diagnosing certain family law legal issues.

The triaging process here is essential as although the AI can diagnose and provide advice on legal issues by itself, it also allows the user to initiate face-to-face legal processes if they desire.

This helps more people get access to justice in the form of legal advice, without deteriorating the quality of individual advice for more complex or bespoke legal issues. It should be recommended that both state and private take up of triaging chatbots, and technology of the nature, be incentivised.

On the discussion of the future implementation of technology in curing the ills of access to justice, Margaret Hagan's theory of "legal design" should be given its proper validation.[3] Hagan puts forward the importance of a human-centric perspective in building out a legal system as it increases the system's accessibility. This should be noted as we continue to develop legal tech infrastructure. It is better to be proactive than reactive. Consider the long debated "online court". Here, proper legal design should be sufficiently considered as failure to do so will result in an ineffective online interface. Bad website design issues, such as faulty buttons and small text, will cause users to get frustrated and avoid utilising online legal services in the future. This decreases the

accessibility of the law. Further, visual design such as diagrams and charts can help even more by making the law more accessible for groups such as the linguistically and visually impaired. Similarly, a multi-channel approach should be considered in building out an online court.[4] Completely shifting the physical court system to an online system would be extremely disruptive. Instead, action in the present should be focusing on providing different channels, such as via phone or text, that users can utilise to navigate the court system. This will help ease people into the technological revolution of the future as well as ensure that those less technologically inclined are not digitally excluded. An online court solution should also understand any changing attitudes in technology. One such example is the shift from computers to devices such as mobile phones, with as much as ¼ of all adults solely relying on devices other than computers to go online.[5] As such, the online court may need to be mobile optimised or risk the platform being non-functional. As events such as the vaccine roll outs have demonstrated, the most effective way to do this is through all-in-one mobile applications.

The importance of diversity in the legal profession need not go remiss. This should not be done in the pursuit of liberal PC culture and diversity hires, but rather, as a crucial element of upholding faith in the legal system. This is because in the broader picture, a lawyer's job is to serve society by upholding the rule of law. A legal profession that is not reflective of our diverse society may build doubt in the system, something that ultimately weakens it.

Affirmation action policies are a good step in the right direction, however, the quest for diversity requires more systemic changes.

Helping marginalised communities "get a foot in the door" should be seen as the bare minimum rather than the be all and end all. It becomes a question of culture, and morale, rather than admission. Diversity is even more relevant in the law given its discussion-based nature, and discussion without diversity becomes very stale and halts development. Further, given the implication of technology on the legal profession, diversity in expertise should also be considered. Institutions should begin recruiting the best technologists in the world, as they will be the ones best prepared to brace the legal profession for the future.

Access to justice has been one of the biggest failures of the legal system. However, technology provides us with an unprecedented opportunity to correct this. Although the legal system is very much behind the times when it comes to its utilisation of technology, the pace that technology develops means that if adopted early, the likes of artificial intelligence can propel the legal profession to be at the very least on par with other industries, if not further ahead. The journey of developing the future begins today.

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3   Margaret Hagan, 'Law By Design' (Law By Design) <https://lawbydesign.co/> accessed 27 February 2022.

4   JUSTICE, 'Preventing Digital Exclusion From Online Justice' (JUSTICE 2018).

5   Ibid.