

The Legal Profession in the 21st Century

**Remarks of the Right Honourable Beverley McLachlin, P.C.
Chief Justice of Canada**

At the 2015 Canadian Bar Association Plenary

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Introduction

I want to begin with a story – one of the oldest stories of human history. It is the story of Ulysses, king and adventurer, who lived over three thousand years ago, as taken up by the poet Alfred, Lord Tennyson¹. Ulysses has travelled the world, fought great battles and won the City of Troy. Home at last, he sits by the hearth. Yet he is not content; his mind goes to new ventures. He concludes that “Some work of noble note, may yet be done.” And so he resolves to move on: “Come, my friends,” he says, “T’is not too late to seek a newer world”.

Today, as my thoughts turn to the future of the legal profession, I take Ulysses’ words as my theme. Like Ulysses, the legal profession has a noble history replete with great achievements. But, as in Ulysses’ world, times are changing and work remains to be done. The legal profession, like Ulysses, has a choice. It can sit back and rest on what has been accomplished, or it can resolve, as did Ulysses, to venture forth to seek a newer world.

I believe that a strong, independent legal profession is essential to the rule of law and

¹ J.E. Tilton and Co., *Poems of Alfred Tennyson* (1866), *Ulysses*, at pp. 153-154.

democratic society. It is vital to provide justice to individuals; to buttress the economy and investment; and to ensure that state power is exercised constitutionally. In a word, it is vital to maintaining the rule of law.

To ensure that it remains strong, independent and relevant in the 21st century, the profession must meet the challenges of our times, adapt and, like Ulysses, move forward with conviction, hope and optimism.

To do this, the profession, I suggest, must ask itself three questions. First, where does the profession stand as it enters the second quarter of the 21st century? Second, what are the forces that have led to the challenges the profession is facing? Third, against this background, how can the profession move towards the newer world it seeks?

1. Where Does the Profession Stand?

Four years ago, *The Economist* ran an article entitled: “Law Firms: A less gilded future”². The piece painted a bleak picture of the legal profession. It mentioned that, according to the annual survey by the *National Law Journal*, the 250 biggest U.S. law firms in 2009 shed more than 9,500 lawyers. In recounting the collapse of the big American IP firm Howrey in the midst of the 2009 recession, the article proposed that a downward trend was beginning to hit the profession and was likely here to stay. Increased competition for market share; plummeting profits; clients’

² *The Economist* (May 5, 2011).

determination to keep their bills down. Those were mere symptoms of a graver malady.

This pessimistic view has been echoed by legal commentators, scholars and lawyers. One only has to look at the shelf at the local bookstore, where the titles of the books on the legal profession speak volumes: *The Lawyer Bubble*, *Declining Prospects*, *The American Legal Profession in Crisis*, *Failing Law Schools*, *The End of Lawyers*, *The Vanishing American Lawyer*, *The Destruction of Young Lawyers*, *The Betrayed Profession*, *The Lost Lawyer*.³

The assault on the legal profession and its way of doing business has two facets — the first internal, the second external.

Internal Concerns

Let me first turn to internal concerns. Discontent within the legal profession runs deep. A fair share of the blame is laid at the feet of big law firms. As one Canadian commentator says, “most law firms around the world still practice law the way it has been practiced for centuries; a labour-intensive endeavor carried out by high-priced personnel billing by the hour. Protected by legislated monopolies, law firms have been allowed to grow complacent, fat and inefficient”⁴. And the law firms have only gotten bigger. In 1960, the largest American law firm had 169 lawyers.

³ Steven J. Harper, *The Lawyer Bubble, Declining Prospects* (2013); Michael Trotter, *Declining Prospects* (2012); James E. Moliterno, *The American Legal Profession in Crisis: Resistance and Response to Change* (2012); Richard Susskind, *The End of Lawyers* (2010), Thomas Morgan, *The Vanishing American Lawyer* (2010); Douglas Litowitz, *The Destruction of Young Lawyers: Beyond One L* (2006); Sol M. Linowitz & Martin Mayer, *The Betrayed Profession: Lawyering at the End of the Twentieth Century* (1994); Anthony Kronman, *The Lost Lawyer: Failing Ideals of the Legal Profession* (1993).

⁴ Mitchell Kowalski, *Avoiding Extinction: Reimagining Legal Services for the 21st Century* (2012), at p. xiii.

Today, it has over 4000 – almost 24 times as many!

Discontent within the legal profession extends to the culture of law firms – a culture where long hours and exponentially escalating billable hours are equated with value to clients and commitment to the firm.

This culture imposes a high professional price on lawyers with family responsibilities – typically women. The statistics are striking:

Women constitute more than a third of the profession but only about a fifth of law firm partners, general counsels of Fortune 500 corporations and law school deans. Women are less likely to make partner even controlling for other factors, including law school grades and time spent out of the workforce or on part-time schedules. Studies find that men are two to five times more likely than women to make partner. Even women who never take time out of the labor force and who work long hours have a lower chance of partnership than similarly situated men.⁵

This culture also takes its toll on mental health. Lawyers suffer from a disproportionately high rate of depression, alcoholism and substance abuse. Recent surveys report that six out of ten lawyers who have been practising law for ten years or more would advise young men and women to avoid law school⁶. One study found that almost half of associates leave law firms within 3 years; three quarters leave within 5 years.⁷

Let me mention a final criticism – or more accurately paradox – from within the profession.

⁵ Deborah L. Rhode, *The Trouble with Lawyers* (2015), at p. 61.

⁶ Steven J. Harper, *The Lawyer Bubble*, at p. xi. “The Pulse of the Profession” *ABA Journal* (October 1, 2007), quoted in Steven J. Harper, *The Lawyer Bubble*, at p. 57.

⁷ See Kristin K. Stark & Blane Prescott, “Why Associates Leave” *Legal Times* (May 7, 2007).

On the one hand, many of society's legal needs are going unmet. On the other, a significant number of law grads are struggling to find articles and enter the profession. Why this disconnect, lawyers and law societies are asking themselves. And what can be done to remedy it?

External Concerns

From concerns within the legal profession, let me turn to voices of concern from outside the profession. Sometimes the criticism is gentle – the mild contempt of the jokes about lawyers that turn on motifs of self-importance and greed. I am not a fan of these jokes, but one of them is pertinent to my subject today. “How many lawyers does it take to change a light bulb?”, it goes. The answer, “What's change?” I prefer the response to the question, “How many psychiatrists does it take to change a light bulb?” The answer, “One, but the light bulb has to want to change.”

Other criticisms are more substantive. The main one is that justice is no longer accessible. Lawyer fees are too expensive. Court proceedings are too complicated and too long. Going to court is a last resort, critics say. Point me to other experts that will help us deal with the matter more efficiently, they demand.

Statistics support the view that accessing the justice system with the help of a legal professional is increasingly unaffordable to most people. Nearly 12 million Canadians will experience at least one legal problem in a given three-year period, yet few will have the resources to solve them. According to an American study from a few years ago, as much as 70%-90% of

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legal needs in society go unmet⁸. We all know that unresolved legal problems adversely affect people's lives and, ultimately, the public purse. Among the hardest hit are the middle class – who earn too much to qualify for legal aid, but frequently not enough to retain a lawyer for a matter of any complexity or length. Additionally, members of poor and vulnerable groups are particularly prone to legal problems, and legal problems tend to lead to problems of other types, such as health issues⁹.

The cry for access to justice is rising from what was once a dull murmur to a crescendo. Other actors – including courts and governments – bear much of the responsibility. But lawyers can be a big part of the solution. Everyone needs justice. Lawyers hold the key to exclusive domain called justice. But they open the doors only to a privileged few, the critics charge.

The sad truth is that around the world, the legal profession and the courts are often not fulfilling the expectations of consumers of legal services. Legal systems everywhere are experiencing an access to justice crisis that cries out for innovative solutions. Legal aid funding and coverage is not available for most people and problems, and the cost of legal services and length of proceedings is steadily increasing.

Fulfilling the public's expectations for justice – in a phrase, providing “access to justice” –

⁸ Russell Engler, “Connecting Self-Representation to Civil Gideon: What Existing Data Reveal about when Counsel is Most Needed” (2010) 37 *Fordham Urban L.J.* 37, at p. 40 (citing Legal Services Corporation, *Documenting the Justice Gap in America: The Current Unmet Civil Legal Needs of Low Income Americans*, updated report (Washington, D.C.: Legal Services Corporation, September 2009).

⁹ Action Committee on Access to Justice in Civil and Family Matters, *Access to Civil and Family Justice: A Roadmap for Change* (2013), at p. iii.

is vital. It is vital to providing the justice to which every person is entitled. Statistics show that people who get legal assistance in dealing with their legal problems are much more likely to achieve better results than those who do not¹⁰. As servants of justice, lawyers have a duty to help solve the access to justice crisis that plagues our legal systems. It is vital to the rule of law. And finally, it is vital to the future of the profession. If the legal profession fails to meet the demands of the public for prompt and affordable justice, people in search of justice will go elsewhere, rendering the legal profession increasingly irrelevant.

The picture I have painted — a picture of internal discontent, external critiques — seems bleak, at first blush. However, increasingly, members of the legal profession and those who study it are casting an eye to the future and seeing not bleakness, but promise. They are examining the forces of change at play and asking themselves how the legal profession should respond. These visionaries have much to teach the entrepreneurial lawyer of today. Like Ulysses, they have concluded that there is important work to be done, and that it is not too late to seek a newer world.

2. The Forces that have led to the Legal Profession's Challenges

This brings me to the second part of my talk – the forces that are changing and challenging the legal profession.

Underlying the changes the profession is grappling with, is the most profound driver of

¹⁰ Action Committee on Access to Justice in Civil and Family Matters, p. 4.

change of our times – the digital revolution. The digital revolution has transformed how the world computes, communicates, does business and yes, even how it thinks.

Consider this. Two years ago, Google’s Eric Schmidt was saying that every two days, his company created as much information as all of humanity did from the dawn of civilization until 2003.¹¹ A veritable industry is emerging to help cope with the unfathomable size of the data sets spawned by the pervasive and worldwide use of information technology and the Internet. According to Ray Kurzweil, by 2020, the average desktop computer will have the same processing power as the human brain; by 2050, it will have more processing power than all of humanity combined.¹²

Or consider how social networks like Facebook and LinkedIn influence how we forge and maintain personal and professional relationships. Think of how smartphones or apps like Twitter influence how we are now constantly connected to people. Think of how the Internet is changing how we think about the world – including lawyers and judges. As the Canadian artist, novelist and cultural commentator Douglas Coupland would no doubt observe, the number of people who can still access their “pre-Internet brain” is ever decreasing¹³.

The legal profession is not immune from the effects of the digital revolution. Lawyers are

¹¹ Quoted in Richard Susskind, *Tomorrow’s Lawyers: An Introduction to Your Future* (2013), at p. 10.

¹² Ray Kurzweil, *The Singularity is Near* (2005).

¹³ Perhaps best known for his novel “Generation X”, Douglas Coupland is a celebrated artist and writer. In his recent exhibition “everywhere is anywhere is anything is everything”, he explored the impact of the pervasive presence of technology on the 21st century human condition. He was made an Officer of the Order of Canada in 2013.

part of it, and there is no escape. This is good. Lawyers benefit enormously from it, processing information and producing work more efficiently than lawyers in the pre-digital era could ever have imagined. For example:

- Online databases of legal precedent are equipped with increasingly sophisticated search engines, making legal research more efficient to conduct.
- Courts are providing online access to their records.
- Social networks and online marketplaces are making it easier for lawyers to share their skills, build (or lose!) reputations and identify potential clients.
- IT-enabled legal knowledge sharing within legal departments and between organizations is cutting duplicative work and building institutional memory far superior to the recall of the smartest individuals.
- And easier access to legal information is leading to a better-informed public and driving down the cost of basic legal services.

As Douglas O. Linder and Nancy Levit put it, “[f]or a new generation of nimble and tech-savvy lawyers, the brave new legal world can be an exciting new place”¹⁴.

So, the digital revolution has transformed the way lawyers work, and for the better. Yet, as it does so, it is undermining the fundamentals of legal practice. Let me mention three related challenges the digital revolution presents for the legal profession.

¹⁴ Douglas O. Linder and Nancy Levit, *The Good Lawyer: Seeking Quality in the Practice of Law* (2014), at p. 279.
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The first challenge is that the digital revolution makes available new non-lawyerly ways of obtaining services that in the past only lawyers could deliver. Today's lawyers find themselves competing with legal software and services provided over the Internet. Consider LegalZoom, a US-based company that makes legal documents available to people and businesses who cannot afford routine solicitor work involving incorporations, trademarks and wills and estates. Consider also that today, a typical North American with a smartphone has easier access to legal sources than most lawyers did in the 1980s. Consider, finally, that it is already possible in some jurisdictions to obtain online cheap or free legal advice, and even to engage in online dispute resolution. In the UK, over-the-counter divorce will soon be available. Type in your info, out comes the decree. The face-to-face consultation and advice that is the hallmark of the lawyer's work is being replaced by new technologically driven alternatives.

The second challenge is that the digital revolution is producing a public that demands delivery of legal services with greater speed and efficiency and at less cost than ever before. The digital world is a fast world. Consumers of legal services, be they corporations or individuals, are not prepared to wait for results. The time-honoured legal phrase "with due deliberation" has no place in the new world in which we live and practice. And that's not all. The digital world is also a competitive world. Consumers of legal services are no longer prepared to pay blindly for justice whatever the cost, be they governments funding legal aid for criminal and family cases or individuals and corporations seeking legal advice or the resolution of a dispute.

The third challenge is to the assumptions underlying how the legal profession does

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business. One of those assumptions is the monopoly that the legal profession has traditionally enjoyed on the delivery of legal services. Historically, it was widely accepted that only qualified lawyers – practitioners vetted and certified by bar associations – were permitted to provide legal services to clients, and then only through specific types of organizations, such as partnerships. These assumptions no longer prevail. In the age of the Internet, people are questioning why they, the consumers of legal product, should be forced to go to expensive lawyers working in expensive office buildings located in expensive urban centres. Why, they ask, should a client retain lawyers, when integrated professional firms can deliver accounting, financial and legal advice? Why are simple disputes not resolved in simple, cost-effective mediation rather than by elaborate and expensive court proceedings? Public attitudes and demands are changing.

Demands to relax the laws and regulations that govern who can offer legal services and how they should be rendered are following swiftly on the heels of questions like these.

I am not talking about the future, but of now. Consider the licensing and regulation of paralegals. In 2004, the Attorney General of Ontario asked the Law Society to expand its public interest jurisdiction and provide independent oversight over paralegals. Licensed paralegals in Ontario are “professionals” who meet standards of competence and training. Whether representing clients in small claims court or traffic court, or guiding them through the procedures of administrative tribunals, paralegals increasingly fill legal needs of those who find lawyers too expensive, but are unable to navigate the legal system without professional assistance.

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Liberalization of the rules that govern the legal profession is rapidly spreading to other jurisdictions, like the U.K. and Canada. Recognizing this, the Canadian Bar Association recently launched a “Legal Futures” probe into the future of the legal profession, to help the Canadian legal profession remain relevant, viable and confident in the face of change. Everywhere, more and more, the profession is accepting that the old monopolies are fading and that the profession must embrace new ways of doing business. And increasingly calls are heard for law schools to adapt their curricula to these new realities. The question is not whether the rules governing the legal profession should be liberalized, but how.

To sum up, the digital revolution and the modern social and economic forces it has unleashed are creating new modes of delivery of traditional legal services, creating new demands and expectations for meaningful access to justice, and eroding the fundamental assumptions upon which the legal profession of the past was built. This is compelling the legal profession to revise old patterns and approaches – to seek, in Tennyson’s phrase, “a newer world”.

3. What is the Way Forward?

I have talked about the state of the profession and its critics – internal and external. I have talked about what is driving these critiques: new ways of doing business and higher expectations from the public, resulting in challenges to how lawyers do business and demands for new models and revised court rules. Permit me now to offer a few thoughts about the future.

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Some say the legal profession, historically conservative, cannot alter its ways. Others, echoing Ulysses' debate with himself, muse on whether it is too late to change. Yet these excuses are increasingly irrelevant. The reality is that change is already upon us. If we believe, as do I, that an independent and vibrant legal profession is essential to the public welfare and the rule of law, if we want the legal profession to remain relevant into the next century, our only choice is to turn the changes that are already upon us into opportunities to build a new and invigorated legal profession.

The first step is to accept the idea of change. Lawyers and judges need to stop fearing change. Rather, they must accept that change may be necessary. Change should not be seen as an evil, but rather as the source of new opportunities. Richard Susskind, writing in the context of changes in the United Kingdom, predicts that over the next few decades, the ways in which lawyers work will change radically. As he puts it, "entirely new ways of delivering legal services will emerge, new providers will enter the market, and the workings of our courts will be transformed. Unless they adapt, many traditional legal businesses will fail. On the other hand, a whole set of fresh opportunities will present themselves to entrepreneurial and creative young lawyers."¹⁵

One source of opportunity for the profession lies in making innovative use of technology and service-delivery models, without sacrificing quality. It goes without saying that lawyers of the future will need to be efficient if they are to remain competitive and relevant in the fast-paced

¹⁵ *Tomorrow's Lawyers*, at p. 3.

modern world. They will need to develop strategies to cope with the fact that in the very near future, straightforward, out-of-court work will face brutal competition. They will need to use technology in creative ways. And it may be that they will need to accept that some tasks traditionally performed by lawyers can be out-sourced to non-lawyers. For example, companies have already developed technology to automate document drafting¹⁶.

Richard Susskind argues that the traditional “artisan” model of lawyering is already being replaced by commoditized legal work and that the broader economy’s relentless pressure toward “more for less” will intensify this trend.¹⁷ In like manner, Benjamin H. Barton says that “[c]omputers, non-lawyers, and outsourcing will continue to try to peel off simpler legal tasks and more basic legal questions and commoditize them”¹⁸. In Susskind’s view, the task “is to identify work that can be routinized and undertaken more efficiently, whether by less qualified, lower-cost human beings, or through computerization.”¹⁹

The task of the legal profession is to examine how work can be done better and more efficiently, while maintaining the high professional standards to which it has always been committed. The integrity of legal processes and the interests of the client must never be sacrificed to efficiency – maintenance of these is the essence of what it is to be a lawyer in service of the public. Flexibility and innovation, yes. Abandonment of core professional values, never. Therein lies the challenge and the opportunity of the future.

¹⁶ <http://www.business-integrity.com/products/index.html>

¹⁷ *Tomorrow’s Lawyers*.

¹⁸ *Glass Half Full*, at p. 242.

¹⁹ *Tomorrow’s Lawyers*, at p. 20.

A second source of opportunity for the profession lies in expanding service to sectors that may not have benefited from legal services in the past. Many communities have traditionally been underserved in terms of legal services. Some suggest that the way of the future lies in cutting back legal services. A better way may be to find ways of delivering legal services to people who need them but have traditionally not received them. Here are some examples:

- Legal insurance schemes tied to employment;
- New ways to deliver basic legal needs like wills and probate;
- Encouraging communities who may distrust the law to avail themselves of it;
- Providing services to the increasing number of people in the “older” demographic.

Lawyers should not forget that those whose legal needs are not being met come in many forms. They are individual citizens who need help buying a house or pursuing a personal injury claim. They are business managers who have to deal with human resources issues or with complying with complex regulatory regimes. They are in-house counsel who require external legal advice to conclude large business deals. These very different clients all have two things in common: They cannot afford legal services when delivered in the traditional way, and they cannot afford the disproportionate cost of pursuing a case in court. The consequences for legal businesses are plain: for businesses to thrive, they will need to find innovative ways to make their legal services more generally affordable.

A third source of opportunity for the profession lies in restructuring the ways law firms

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have traditionally organized their internal operations. I would point to the following two:

- The impact of electronic communication on the function of physical space;
- The changes in billing practices

Consider the traditional legal office. Electronic communication with clients and colleagues frees lawyers from the need to huddle together in the same physical space, permitting more flexible work places and raising the possibility of the virtual law office. Such arrangements may increase efficiency, allow lawyers to reach clients they might otherwise not reach, and provide flexibility to people who for family or other reasons find it difficult to check into a distant office each morning and stay there the entire day. Once more, the key lies in finding the right balance – in this case the balance between the value of personal interaction and more flexible working arrangements.

Or consider the traditional ways lawyers have organized their billing and evaluation of service to the client and a particular lawyer's worth. I am old enough to recall a time when law firms billed on the basis of value to the client, rather than billable hours. The billable hours model introduced in Canada in the 1970's transformed the way lawyers billed. Over the decades since, it has expanded expectations. Thirty years ago, most partners billed between 1200 and 1400 hours per year, while most associates billed between 1400 and 1600 hours.²⁰ Now the figures are much higher. As one author writes, "many firms today would consider these ranges acceptable only for

²⁰ Deborah L. Rhode, *The Trouble with Lawyers*, at pp. 12-13.

lawyers who had died partway through the year.”²¹ Today, on average, lawyers are expected to bill around 2,000 hours per year, which requires 50 to 60-hour work weeks.

Valuing work only on the basis of time spent shifts the focus from quality and results, to hours put in. Both are relevant to fair fees and fair evaluation of a particular lawyer’s contribution to the firm. Recognizing this, law firms are increasingly proposing methods of charging that are not, or not exclusively, time-based. They are undertaking work on a fixed-cost basis, or on an upper-limit capped basis, and they are adopting value billing, charging for the value of the work undertaken rather than the time expended. More flexible approaches to billing are coming to be viewed not as anathema, but as opportunities.

A fourth source of opportunity lies in collaboration with other lawyers and other professionals, in recognition of the fact that clients’ problems are often complex, polyvalent and incapable of solution on uniform cookie-cutter models. Here are a few examples:

- Lawyers contracted out to law firms to provide legal assistance on a case-by-case basis²²;
- Using social media to multiply collaboration opportunities among legal professionals²³;

²¹ *The Trouble with Lawyers*, at p. 13.

²² The Canadian Bar Association recently conducted a case study of a project initially spearheaded by the international law firm Berwin Leighton Paisner. The project is called “Lawyers on Demand”, and consists of lawyers contracted out to law firms to provide assistance on a project-by-project basis. In-house counsel and law firms can bring in the legal help they need at the point where they most need it, without all the overhead costs. As for the lawyers on demand, in addition to being exposed to challenging and stimulating work, they benefit from flexible work arrangements. The Lawyers on Demand project has inspired others to develop similar models, in the UK and in Canada (e.g. <http://www.evershedsagile.co.uk> ; <http://www.delegatus.ca/>)

²³ Take the “Legal onramp” (or “LOR”) site developed in 2007. LOR is an international social networking and information-sharing site for lawyers, which allows members to share documents and market their services. It

- Clients coming together to share the costs of certain legal services²⁴.

I have mentioned only a few of the opportunities being discussed and implemented in face of the challenges lawyers are facing in the 21st century. Other ideas will emerge, and those I have mentioned may flourish or wither. There are no quick or guaranteed fixes to the challenge of providing effective and affordable justice and sustaining an independent and vibrant bar in the decades to come. We do not know precisely what the legal profession of the future will look like; we know, however, that it will be different in important ways from the legal profession of today.

As the profession continues to evolve with new services, new business models and new delivery mechanisms, it will be crucial to find ways to attract, educate and train the next generation of lawyers in a way that best corresponds to society's needs. Lawyers have much to offer. Law schools equip them with solid analytical skills, and experience develops their ability to quickly digest a mass of facts, sort the wheat from the chaff and, through deliberative thinking, propose sound practical solutions in a persuasive way. The task of legal education is to ensure that these skills are tuned to the demands of our rapidly changing society.

Creativity, empathy, adaptability, resilience and breadth of perspective are essential to today's lawyers. Developing those qualities may require changes to legal education. Suggestions made by the CBA Futures initiative include:

contains an outsourcing centre with interactive forms for automating part of the legal work. Its members are from all parts of the world, with a majority of them practicing in the U.S., the UK and Canada.

²⁴ Richard Susskind suggests that banks, which spend millions of dollars each year on compliance, might benefit from sharing the costs of common compliance tasks.

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- An early emphasis on practical experience, through supervised apprenticeships in the middle of law school or a version of articles in mid-course;
- A broadened and multidisciplinary curriculum;
- An education that exploits technology to its fullest.

Conclusion

Susskind predicts that legal institutions and the legal profession are “poised to change more radically over the next two decades than they have over the last two centuries”²⁵. The question is not whether the change will come, but what form it will take.

Will the legal profession become increasingly irrelevant as governments, corporations and ordinary women and men side-step or find themselves excluded from traditional legal processes? Or will the legal profession rise to the challenges of our times and find new ways to ensure that justice remains available to everyone? Will the legal profession conclude that the world it has made suffices, or will it say, with Ulysses, “Come my friends, T’is not too late to make a newer world”?

The choice is ours.

²⁵ *Tomorrow’s Lawyers*, at p. xiii.