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# THE FUTURE OF LAWYERS: AN EXTRAORDINARY COLLOQUIUM

by Alvin Chen & Nisha Francine Rajoo

Amidst Singapore's circuit-breaker period, over 320 members of the Law Society "zoomed in" on 19 May 2020 for a full day online webinar organised by the Law Society. The topic? Not the latest trends in commercial law, or 100 ways to draft better documents, but a subject befitting the times – the role of lawyers in the age of disruption.


Indeed, this is no ordinary age of disruption – witness the ongoing COVID-19 pandemic that has dramatically transformed the way lawyers work, communicate and practise law – and this was no ordinary webinar. It was the first online Colloquium, if not the first ever Colloquium, organised by the Law Society. A historic moment, bringing together legal practitioners, academia and other legal industry stakeholders to explore the future of lawyers.

The Colloquium, titled "The Role of Lawyers in the Age of Disruption: Emerging Regulatory Challenges", sought to examine two important questions. First, how should we re-examine the role of lawyers in an age of disruption, especially with increasing automation, competition and liberalisation? Second, given that professional regulation sets the parameters of lawyers' business models, practice structures and professional values, how should lawyers, law practices and potential new entrants to the legal market be regulated or re-regulated in the future of legal work?

To explore these questions, 13 research papers were presented across four thematic panel sessions, helmed by expert moderators and commentators. We present a snapshot of the highlights of the Colloquium in this article.

## ***Panel Session 1: The Role of Lawyers in the Age of Disruption***

Kicking off the first panel session for the morning on 'The Role of Lawyers in the Age of Disruption', Professor Simon Chesterman (moderator) and Professor Goh Yihan (commentator) sparked a lively discussion on whether technology will render lawyers redundant.



# DISRUPTIONS COULD OFFER OPPORTUNITIES FOR LAWYERS TO STRENGTHEN THEIR VALUE PROPOSITION BY LOOKING BEYOND LEGAL SOLUTIONS TO SOLVE CLIENT PROBLEMS

In their different presentations, the presenters explored how Artificial Intelligence (**AI**), automation and the use of online dispute resolution (**ODR**) platforms might impact the traditional model of legal service delivery (i.e. legal services provided by a law firm). At the same time, the presenters suggested that these disruptions could offer opportunities for lawyers to strengthen their value proposition by looking beyond legal solutions to solve client problems (e.g. using design thinking), and by taking active steps to reinvent themselves and their practice (e.g. by enhancing their commercial awareness, adopting a flexible mindset and honing their people-skills) to be more effective legal advisors.

A member of the audience asked whether the presenters' views that lawyers can co-exist with technology were "too optimistic". Professor Chesterman and Professor Goh probed the presenters for their thoughts on the following proposition: are lawyers not just going to be made ancillary, but irrelevant by technology? Some presenters (Ms Claire Tan, Ms Amelia Chew and Ms Irene Ng) took the view that lawyers would still have a role even in an age of disruption, although it would likely be redefined. Moreover, as Ms Jennifer Lim observed, the types of problems that lawyers are typically called on to resolve require human input, which cannot be replicated by a machine; technological developments could in fact offer more novel ways of practising the law, as opposed to displacing the role of lawyers entirely.

A continued resistance to change could, however, render lawyers irrelevant, unless lawyers begin to take active steps in charting the course forward, as Ms Yu Kexin pointed out. In a similar vein, Mr Koh Cheng De observed that while lawyers are currently co-existing with technology, the rapid acceleration in technological advancements over time could render lawyers obsolete when they are unable to keep up with the pace of advancement.

Mr Neil Yap added that lawyers ought to equip themselves with a basic understanding of technology, and to always remain conscious of whether such technological advances could potentially replace a lawyer's main value proposition. These observations provided an apt transition to the second panel session for the morning on "Legal Ethics and Technology".

### ***Panel Session 2: Legal Ethics and Technology***

Led by Mr Alvin Chen (moderator) and Associate Professor Helena Whalen-Bridge (commentator), this panel considered the ethical aspects of the use of technology in the legal profession. From the vantage point of professional ethics, Ms Gan Jhia Huei highlighted the need to clarify and emphasise a lawyer's obligation to exercise independent professional judgment in using AI, whereas Ms Jennifer Lim suggested that current professional conduct rules already require lawyers to advise their clients on the use of cost-saving technologies.

One interesting issue was whether lawyers should have an additional ethical duty to be technologically competent (as proposed by Ms Gan). A snap poll of the audience conducted immediately after Ms Gan's presentation drew a wide range of views. Although the majority of the respondents agreed with such an additional duty, some respondents felt that the term 'technological competence' should be clarified. Another presenter, Mr Josh Lee, suggested that rather than focusing on the standards of technological competence required of lawyers, the spirit behind such a duty was more important, i.e. lawyers should keep up-to-date on key technological developments as much as possible.

In contrast to the other presentations, Mr Lee's and Mr Tristan Koh's presentation focused on the need to develop an epistemic understanding of AI first and then to go back to first principles to address the legal and ethical issues

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arising from the use of AI. In this regard, in view of the lack of explainability of neural networks, one issue was whether developers of AI systems could therefore argue, in the context of a negligence claim, that they should be held to a lower standard of care or that any damage caused was too remote. Associate Professor Whalen-Bridge considered such arguments to be “highly questionable”. For example, she observed that if these developers are unable to predict with sufficient accuracy what their AI systems can do, they should not make the systems available in the market to consumers in the first place, and if the systems are nevertheless put on the market and result in harm, such harm is arguably not too remote.

Concluding the panel discussion, the presenters provided much food for thought for the audience just before the lunch break! Ms Gan observed that being a legal practitioner in an age of disruption ultimately comes down to being a good advisor to one’s clients. Ms Lim added that leveraging technology would help lawyers to become better advisors. Mr Lee highlighted the inevitability that developments in technology will continue to accelerate, as the progress from decision tree systems to deep learning systems has shown, while Mr Koh suggested that it would be ideal for lawyers to possess both legal and technical knowledge to leverage technology fully.

***Panel Session 3: Alternative Legal Service Providers –  
To Regulate or Not to Regulate?***

Vanishing from their Zoom screens to consume their lunches “offline”, the participants soon eagerly returned for the afternoon panel sessions. The first panel for the afternoon, moderated by Ms Irene Ng, examined whether Alternative Legal Service Providers (**ALSPs**) should be regulated.

The emergence of ALSPs has challenged the traditional model of legal services delivery and presented regulators with complex challenges. This issue was thrust into the spotlight earlier this year when the Honourable Chief Justice Sundaresh Menon announced at the Opening of the Legal Year 2020 that the Ministry of Law was studying the regulatory need for ALSPs in Singapore.

The presenters explored different approaches to this issue. Ms Jennifer Lim and Mr Andrew Wong proposed a principled framework based on firstly, the content of the ALSP's product or service (i.e. whether it constituted legal advice or the mere provision of legal information, as well as the standard of care that the ALSP held itself to provide), and secondly, whether the intended end-user was a legally-trained person or a layman. Looking beyond the horizon, Ms Nisha Rajoo examined the regulatory approaches towards ALSPs adopted in Canada, the United Kingdom and the United States, which ranged from more liberal frameworks that seek to promote innovation and competition, to more conservative quasi-lawyer regulatory models. Using chatbots as a case study, Ms Liza Shesterneva proposed how to reduce concerns about the unauthorised practice of law and how to ensure that lawyers stay relevant.

Interestingly, a snap poll of the audience revealed that a majority of the respondents voted for "Maintaining professional values" as the most important policy consideration in regulating ALSPs. Consumer protection came a close second, while promoting access to justice and increasing innovation and competition were ranked third and fourth respectively. Some panellists noted that maintaining professional values and consumer protection were effectively two sides of the same coin, as the regulatory framework governing the legal profession also served to protect consumers from potentially negligent legal services.

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An engaging discussion ensued from a question posed by Ms Ng on whether ALSPs, like lawyers, should be subject to ethical and professional obligations, so as to level the playing field. Ms Lim and Ms Shesterneva took the view that this should ideally be assessed on a case-by-case basis, depending on the type of service offered by the ALSP in question. For instance, ALSPs engaging in e-discovery should arguably be subject to the same standards of confidentiality as lawyers, since these ALSPs would be dealing with niche client data and sensitive information. Ms Rajoo suggested reviewing the issue holistically, in terms of how the regulation of ALSPs might interface with current restrictions on lawyer advertising and fee-sharing, if the intended outcome was to enable lawyers to compete, on an even footing, with ALSPs in the market.

***Panel Session 4: Law Practices and the Future of Work***

The final panel session for the day on “Law Practices and the Future of Work” began with a fun poll question on where the work of lawyers began – India, the United Kingdom or Greece and Rome (find out how many respondents chose the right answer at the end of this article). Moderated by Ms Rachel Eng, the panel considered the future of legal work in the context of law as a business, the liberalisation of the global legal profession and the pros and cons of remote working arrangements compelled by the COVID-19 pandemic.


Mr Nicholas Poon emphasised the need for lawyers to move away from “short-termism” and focus on investing in their legal practices – for example, by investing in technology or in enhancing the workplace culture – to reap longer-term gains that would, in turn, benefit future generations of legal practitioners.

It was important to recognise that the practice of law is also a business, and this necessitated a re-assessment of the current restrictions on shareholding and voting rights by non-lawyers and non-practising lawyers, including retired practitioners, that would incentivise them to take a longer-term interest in their legal practices.

In highlighting the turn towards greater non-lawyer involvement in legal practice in Singapore, the United Kingdom and more recently, even the United States, Mr Alvin Chen observed that the introduction of Alternative Business Structures (ABSs) in the United Kingdom in 2011 did not appear to have the widespread impact that was envisaged. Indeed, the majority of ABSs in the United Kingdom was still lawyer-owned (i.e. less than 50 per cent non-lawyer ownership), which pointed to the difficulties in shifting away from a traditionalist paradigm that law practices must be owned by lawyers. A snap poll conducted *before* Mr Chen's presentation appeared to support this view, with 74 per cent of the respondents taking the view that other professions should not control more than 50 per cent interest in a multi-disciplinary legal practice (if such a practice is permitted).

With the COVID-19 pandemic resulting in almost all law firms having to operate their practices remotely, would remote working become the "new normal" for small firms in particular? Ms Faith Sing, whose firm has adopted a distributed law firm model, suggested that remote working could become the norm for *all* law firms, if there are substantial cost savings. The results from a snap poll conducted *before* Ms Sing's presentation, where the majority of the respondents preferred a hybrid office-remote working model, appeared to confirm this view as well.

# THE PRACTICE OF LAW IS ALSO A BUSINESS, AND THIS NECESSITATED A RE-ASSESSMENT OF THE CURRENT RESTRICTIONS ON SHAREHOLDING AND VOTING RIGHTS BY NON- LAWYERS AND NON-PRACTISING LAWYERS



Ms Eng concluded the panel discussion by noting, among other things, that the model of the law firm had been discussed for many years and continues to be an important topic in view of AI and other recent disruptions to the legal profession.

### ***How Can I Find Out More about the Discussions at the Colloquium?***

Many more insights and perspectives on the above topics were shared and discussed by the panellists during the Colloquium. These will be consolidated in the notes of proceedings from the Colloquium, together with the presenters' papers. Do keep a lookout for the Colloquium publication, which will be released by the Law Society in August 2020.

In the meantime, we will be sharing commentaries and analyses of the topics discussed at the Colloquium through our Future Lawyer Bytes series. To receive these articles, click [here](#) to subscribe to our newsletter, ***Pro Scientia*** (*For Knowledge*).

The Legal Research and Development Department would like to take this opportunity to thank our moderators and commentators, as well as our presenters for their time in preparing and presenting their research papers and contributing to the development of valuable thought leadership in these topics of currency and relevance. We would also like to thank all our participants for their enthusiastic participation and insightful comments and questions.

*Please click [here](#) for the profiles of our speakers, moderators and commentators.*

*The answer to the fun poll question for Panel 4: Greece and Rome. 78 per cent of the respondents selected the correct answer.*

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