Volume **1** (1) 2019 https://doi.org/10.5204/lthj.v1.i1.1314

# The Profession(s)' Engagements with LawTech: Narratives and Archetypes of Future Law

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## Abstract

This article argues that there are three narratives to technology's role in augmenting, disrupting or ending the current legal services environment—each of which gives life to particular legal professional archetypes in how lawyers react to LawTech. In tracing these influential narratives and associated archetypes, we map the evolving role of LawTech, the legal profession and legal services delivery. The article concludes by proffering a further narrative of technology's role in law known as 'adaptive professionalism', which emphasises the complex, contextual nature of the legal professional field. Through this normative rather than descriptive account it is suggested that the profession may access the benefits of technological developments while holding on to essential notions of ethical conduct, access to justice and the rule of law.

***Keywords**:* LawTech; Legal Profession; End of Lawyers; Disruption; Adaptive Professionalism.

## Introduction

'LawTech'—the adaptation and adaption of digital technologies to legal practice[2]—has been heralded as a disruptive force within the legal profession and legal services delivery. There is nascent literature on the types of technologies that are under development and now in the early stages of use within law. Broadly speaking, LawTech growth in law firms has been described as falling within the following categories: (1) contract analysis; (2) expertise automation; (3) analysis and prediction; and (4) legal research[3]—and/or (1) document review; (2) case preparation, advice and strategy; (3) legal research; and (4) case

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[2] Corrales, "Digital Technologies, Legal Design and the Future of the Legal Profession."
[3] Bennett, Current State of Automated Legal Advice Tools.

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administration and management.[4] Commentators have noted a range of likely effects of technology in this context, including efficiency gains,[5] access to justice opportunities,[6] profit margin increases[7] and decomposition of the legal profession and/or the division of legal work into a range of tasks (many of which can be automated).[8] They also point to push-and-pull factors including the role of consumers,[9] regulators,[10] professional bodies,[11] legal educators and the tech sector itself.

This article examines three analytic narratives of technology's role in augmenting, disrupting or ending the current legal services environment. We identify that these narratives give life to particular legal professional archetypes (or ideal types)[12] in how lawyers react to LawTech, and further draw from the established story of status professionalism, the works of Clayton Christensen on disruption and Richard Susskind on radical change. In tracing these influential ideas about the future of law, we hope to explore the way in which they underpin how we think about the evolving role of LawTech, as well as the legal profession and legal services delivery. In turn, we identify how each narrative crystallises around a specific future lawyer persona—an archetype of what lawyers and LawTech might be in the future. For the status professional narrative, the archetype is an enduring sense of the 'True Legal Professional'. In drawing upon Christensen, the archetype is the 'Technological Disruptor', which can be observed in emerging NewLaw innovators.[13] Finally, Susskind's narrative inspires the archetype 'Death', foreseeing the demise of the legal profession to be replaced by specialisations in project management and data manipulation.

The popularisation of these ideas heralds unprecedented interest in how the future might make law more accessible or lawyering more efficient and enjoyable, or perhaps a bad career choice and investment. However, we suggest that there are detriments to simply leaving these narratives loose in the profession, as they can be inaccurate and misleading or, conversely, become a reason for inaction where some is required. In contrast, we begin to trace what we describe as adaptive professionalism with emphasis on the complex, contextual nature of the legal professional field. We do so to expound how the legal profession could and should develop in a digital age. Although this article draws upon largely Australian examples to illustrate its points, we contend that these narratives have more general applicability across common law notions of legal professions and professionalism. We seek to provide a new lens through which to view the field's relationship with technology to refocus the discourse on ethical professionalism and professional work, rather than to challenge the descriptive narratives through empirical interrogation. Instead, we aim to provide a means by which the legal profession(s) may continue to undertake specialised knowledge work within a context that sees technology actively destabilising knowledge itself. This will help practitioners to reap many benefits from technological development, while holding on to essential notions at the heart of the profession's role about ethical conduct, access to justice and the rule of law.

## Background And Context

The legal profession, law firms and other legal services providers are under pressure from a number of policy, societal and market variables. For the individual legal services market in some jurisdictions, high-street establishments face declining legal aid funding and extremely tight profit margins. As such, their justice systems must cope with the rising number of self-represented litigants, and legal consumers are increasingly forced to seek help anywhere they can find it—sometimes from unregulated sources.[14] Certain disciplinary areas are also declining in lawyer numbers through underfunding or market compression, or increased specialisation[15] or in regional areas.[16] Clients in some regional towns or low socio-economic sectors

[4] Yeung, Artificial Intelligence in the Legal Services Industry.

[5] Kohn, "An AI Law Firm Wants to 'Automate the Entire Legal World'."
[6] Webley, "Legal Help by Student Lawyers."
[7] Donahue, "A Primer on Using Artificial Intelligence in the Legal Profession."
[8] Susskind, The Future of the Professions.
[9] See Bailes, "An End to Lawyers?"
[10] See, for example, the involvement of CILEx Regulation and the Solicitors Regulation Authority in England and Wales.
[11] See The Law Society, "Technology and the Law Policy Commission."
[12] Weber, Economy and Society, 4–22. See also McIntosh, "The Objective Bases of Max Weber's Ideal Types."
[13] NewLaw is used here to describe emerging legal business models involving a range of legal service providers, including alternative business structures, legal start-ups providing legal services direct to the public, and/or multidisciplinary practices.
[14] In an Australian context, see Community Law Australia, Unaffordable and Out of Reach.
[15] Rhode, "What We Know and Need to Know About the Delivery of Legal Services by Nonlawyers."
[16] For example, the lack of lawyers in regional Australia; see Rice, "Access to a Lawyer in Rural Australia"; Mundy, "The Lone Wolf or Rural Justice Champion."

suffer compounded legal problems and difficulty accessing legal services.[17] For commercial client legal services, corporate law firms are under relentless pressure to reduce client costs and provide innovative ways to deliver swift services. In this context (i.e., the 'push' factors), we can say that all sectors of the legal profession are motivated or moved to innovate.[18] Large corporate law firms seek innovative solutions to achieve their competitive market advantages,[19] employing back-of-house systems with natural language processing or statistical machine learning such as ROSS Intelligence (artificial intelligence [AI] research service) and Kira (AI document examination).[20] They may also employ innovative solutions for their sophisticated repeat clients (with in-house counsel), such as bespoke document automation using causal-decision logic trees for common regulatory compliance services. Many multinational law firms are also investing in in-house innovation[21] for appropriate development purposes or possibly just to be viewed as part of the LawTech industry.[22] For smaller, private practitioners, in-house innovation is unlikely to be an option. However, there are increasingly complete and authoritative online repositories of primary law materials to access for legal research (e.g., AustLII and the United Kingdom's [UK] 'legislation.gov.uk' statute law database). Law firms and community legal centres are even providing legal information to the public using a range of new media, including through websites,[23] apps[24] and social media.[25] This may help laypersons identify problems, redirect them towards assistance or perhaps facilitate self-help.

In these ways, technological developments are assisting and making increasingly possible the removal of human lawyers from routine legal work. In the past, this work was the preserve of trainee lawyers, then an army of paralegals. In time, this may be the exclusive domain of algorithms.[26] While it is beyond the scope of this article to canvas the role of technology generally in law (such as in courts, tribunals and government administrative decisions), we must acknowledge that machines are largely or wholly responsible for a range of administrative decision-making affecting people's legal rights.[27] Automation and related legal technologies[28] may take over 30–50 per cent of current law work performed by lawyers.[29] At this stage, automated legal advice tools (ALATs)—which is a general term encompassing legal information apps and chatbots[30]—can be viewed as a relatively mixed bag for the legal market.

[17] Law Council of Australia, The Justice Project; Coumarelo, Legal Australia-wide Survey; Pleasence, "Justice and the Capability to Function in Society."

[18] See the detailed report from Esteban, President's Task Force on the Future of Legal Services. This resource provides a range of 'drivers' for change and stasis in the legal profession, including global uncertainty about financial stability, the geographic expansion of firms, increased transparency of legal work (largely through technology) and changes in education.

[19] Waye, "Innovation in the Australian Legal Profession."

[20] Day One, "Legal and Digital Technology."

[21] Waye, "Innovation in the Australian Legal Profession."

[22] Many large law firms also hold a range of subsidiary companies that provide various additional services to clients, which again might rely on technological capabilities.

[23] See Saligari, The Law Handbook, 41st ed, which has been provided as community education since the inception of the community legal movement; however, it is not fully online and searchable. See also LawRight, "Legalpedia Queensland."

[24] See, for example, Justice Connect, "Our Gateway Project."

[25] Giddings, "Australian Community Legal Centres Move into the Twenty-first Century."

[26] McGinnis, "The Great Disruption"; Guihot, "New Technology." We will discuss in the following sections his thesis predicting the rise of computers as the legal profession.

[27] Perry, "iDecide"; Walsh, The Effective and Ethical Development of AI.

[28] Gillers, "A Profession, if You Can Keep it."

[29] Veith, How Legal Technology Will Change the Business of Law; Frey, "The Future of Employment: How Susceptible Are Jobs to Computerisation?" Further, Deloitte considers that 39 per cent of legal jobs can be automated, while the McKinsey Global Institute puts that figure at 23 per cent: Hill, "Deloitte Insight: Over 100,000 Legal Roles to Be Automated"; Manyika, A Future That Works. More broadly, The Future of Work project predicts that unemployment globally will be at 24 per cent by 2050 as a result of automation: Daheim, 2050: The Future of Work, 11.

[30] Applications available for the public include writing one's own wills and non-disclosure agreements, challenging parking tickets and administrative fines (DoNotPay), claiming travel disruption compensation, developing non-disclosure agreements (Robot Lawyer LISA), completing certain court documents that they then file themselves, and gaining online divorce assistance (Lumi) to buy and sell real property that is registered on the blockchain. Illinois and Sweden are two jurisdictions that have begun experimenting with blockchain in real property transactions. See Mirkovic, "Blockchain Cook County"; ChromaWay, "Blockchain and Future House Purchases." See generally Graglia, "Blockchain and Property in 2018"; Veuger, "Trust in a Viable Real Estate Economy with Disruption and Blockchain." Although, the value of blockchain within the Australian Torrens title system, with its central registry, is arguably less.

Essentially, they:

> create opportunities, notably of commoditisation of advice-giving … to reduce costs and open-up latent markets … particularly in the context of current debates around declining access to justice. But ALATs also highlight challenges to market incumbents across the industry.[31]

In short, now is a period of intense change for lawyers and law firms, and technological developments are an important aspect. As the market gets more enthusiastic about the narratives of inevitable change, exponential growth in LawTech becomes more apparent.[32] However, as we argue here, the latest technological development might not be the only driver of change in the legal services market and should not monopolise discussions of what we *think* makes the best model for providing legal aid and access to legal rights.

## Lawyer Adoption Of LawTech Innovations

Depending on where one looks in the world, the research on automation in the legal profession varies. The United States (US) is more advanced in this regard, with significant groups like the American Bar Association forming commissions and publishing reports.[33] Both the Legal Services Board and the Law Society in the UK have published reports on legal technology, and the Royal Society has discussed machine learning, including its effects on various professions.[34] In Australia, there is the empirical work by Waye et al. and Thornton.[35] Nevertheless, the extent to which such technologically driven innovation will be sustaining or disruptive to the professional status quo in the short to medium term is unclear.[36] It is also unknown how automation will affect consumers, the rule of law and access to justice. Uptake of LawTech is patchy and is likely to be adopted at different rates by different types of lawyers and law firms. Diffusion theory would suggest that the legal profession and/or legal services market would divide into five segments, as uptake of technology varies: innovators, early adopters, early majority, late majority and laggards.[37] The first two segments are estimated to comprise roughly 15 per cent of the profession.[38] Research on lawyers' technology use in Queensland, for example, partially reinforces this view, indicating low levels of sophistication and rare innovation or early adoption.[39] However, it needs to be acknowledged that Queensland also comprises the largest proportional percentage of small firms (2–4 solicitors) in the country, which might affect the structural and financial capacity to innovate.[40] For example, across Australia few lawyers have the capacity to invest in the research and development necessary to select the best systems, as evidenced in national figures that show 73 per cent of solicitors are sole practitioners.[41] Further, too, clients may also struggle to engage with their lawyers if the relationship were mediated by technology. Lawyers who are isolated—perhaps geographically, lacking resources and serving high client numbers—are likely to lag in adoption, despite many being resourceful and innovative as a result of their conditions.[42] Thus, there are important complexities and contours, which become apparent at closer inspection of the industry, to the adoption of LawTech and its resultant effect on legal work and legal organisations.

Currently, legal professions in Australia, England and the US are actively discussing how to make better use of technology, recognise the perils of its application and increase awareness around concerns that others may gain first-mover advantage if

[31] Bennett, Current State of Automated Legal Advice Tools, 4.
[32] For example, Pivovarov, "713% Growth: Legal Tech Set an Investment Record in 2018."
[33] See, for example, American Bar Association, Report on the Future of Legal Services in the United States; Campbell, "Rethinking Regulation and Innovation in the US Legal Services Market"; Hongdao, "Legal Technologies in Action."
[34] See The Law Society, Capturing Technological Innovation in Legal Services; Royal Society, Machine Learning.
[35] Waye, "Innovation in the Australian Legal Profession"; Thornton, "The Flexible Cyborg."
[36] Christensen, The Innovator's Dilemma. We will return to examine Christensen's thesis in the next section. Compare to Remus, "Can Robots Be Lawyers."
[37] Rogers, Diffusion of Innovations, 5th ed, 281.
[38] Rogers, Diffusion of Innovations, 5th ed.
[39] Jones, "The Use of Technology by Gold Coast Legal Practioners"; Sam, "Community Legal Centres in the Digital Era."
[40] Wallace, 2018 National Profile of Solicitors, 36.
[41] Wallace, 2018 National Profile of Solicitors, 36. See also Ribstein, "The Death of Big Law."
[42] Hart, "Sustainable Regional Legal Practice."

they do not embrace technology.[43] With a few notable exceptions,[44] we note that much of the discourse is at a relatively high level of abstraction, which oscillates between different conceptions of how technology may aid or jeopardise lawyers, the justice system and the rule of law. These grand narratives may prove inaccurate or misleading. At the least, they can hamper lawyers' capacity to chart an effective course of adoption through the maze of emergent technologies, based on a coherent conception of how their market will develop.

As a result of the stratified and historically varied legal industry, rates of technology diffusion in the legal profession are uneven and often slow due to the composition of the legal social system.[45] Some commentators argue that we are experiencing the early stages of the fourth industrial age and are at a tipping point for technological change, leading on to organisational and professional evolution.[46] However, we begin with the premise that any account of progress must factor in unevenness because the social system of lawyers is broadly split between individual and corporate sectors,[47] where each is subject to different pressures and tensions.[48] Thus, overarching stories around general change in a profession or legal market might be substantively inaccurate for specific legal entities. Further, any conceptualising must have some historical perspective: professions like law have especially long survival rates in the face of change, which suggests that lawyers are not over-socialised and conditioned into roles—and, therefore, lacking agency.[49] As we explain in the next section, an unappreciated history of the field may mean that predictions about technological adaption and innovation will never be realised.

Nonetheless, we observe that the profession's engagement with technology appears to be mediated through professional narratives as well as a number of important technology and law narratives. In the remainder, we trace these accounts, the archetypes they animate and their likely effects in diverse legal sectors, including their respective drawbacks.

## Professional Narratives

The legal profession is a bundle of contradictions that has played out over its 800-year history.[50] Despite having monopoly control of its activities and titles in many parts of the world, the domain faces stiff competition from other professions such as accounting, which controls tax or insolvency work.[51] Legal work relies on precedent and a strong sense of history and tradition, yet it has adopted (albeit slowly) almost every technological development that has come along (e.g., printing, telephones and computers). It regards itself as a homogeneous profession with all its members working in similar organisational structures and largely qualifying through the same route—with minor variations in some jurisdictions for those with special accreditation requirements (e.g., barristers) or those who undertake higher court advocacy. Yet, the profession is highly stratified, as Heinz and Laumann[52] have shown, into an elemental set of sectors based around client types such as 'corporate' and 'individual'. As demonstrated in the next section, even its conception of professionalism has retained certain fluidity.

These tensions and contradictions have continued, as many law firms have transformed into large and global professional service firms alongside equally large accounting and consulting firms. They are highly bureaucratic and corporatist, but still

[43] Examples of legal regulator initiatives to stimulate LawTech use include Solicitors Regulation Authority, "Legal Access Challenge"; the Victorian Legal Services Board and Commissioner's proposal for a 'regulatory sandbox' to encourage development of Lawtech Tools; American Bar Association, "Legal Technology Center." Examples of legal professional body inquiries into the role and effect of LawTech include The Law Society, "Lawtech"; The Law Society of New South Wales, Future of Law and Innovation in the Profession. Examples of discussions about regulation include Hook "The Use and Regulation of Technology in the Legal Sector Beyond England and Wales." For consideration of LawTech, professionalism, the legal academy, and education and training see Galloway, "The Legal Academy's Engagements with Lawtech."

[44] See further the series of LawTech podcasts and reports launched by the Legal Services Board in England and Wales: Legal Services Board, "Technology and Regulation."

[45] Henderson, "Innovation Diffusion in the Legal Industry," 402–403.

[46] Brynjolfsson, The Second Machine Age; Schwab, The Fourth Industrial Revolution; Susskind, The Future of the Professions.

[47] Heinz, Chicago Lawyers.

[48] As scholars of the legal profession have long noted, there is a wealth of diversity that must be attended to in any study. We cannot address this complexity, but try to emphasise that this is a crucial part of any thesis about change across the profession or likely future delivery of law in a market.

[49] Wrong, "The Oversocialized Conception of Man in Modern Sociology."

[50] Brand, "The Origins of the English Legal Profession."

[51] Abbott, The System of Professions.

[52] Heinz, Chicago Lawyers.

maintain a sense of professional occupation.[53] One way of reading these changes is to view transformation of the legal profession and professionals as a transition from the charismatic to the bureaucratic.[54] Change is not merely articulated through the construction of differing archetypes, but also materialises as a series of fluid narratives that present the legal profession to itself and to those outside. It is these accounts that enable technology to pervade the professional discourse.[55]

Narratives have many roles to play and one argument is that professions have to recreate their 'stories' or risk losing their established positions in society. Essentially, narrative myth fosters the capability to retain both legitimacy and power, told to the world about how 'essential' professions are to civilised society. Narrative myths justify professions use of power and self-regulation, their status and of course their earnings.[56] They are about trust and usefulness, public orientation, the value of their knowledge and expertise. However, there is a double nature to storytelling for professions. They must consider the internal dynamics of the institution: how will it reproduce itself and with whom? The *production* of producers is not a mechanical process. Different professions are in competition with each other to secure the best graduates from business and law schools. If professions lack legitimacy, they will diminish in attraction to prospective employees. Hence, the two sets of narratives must mesh and mutually reinforce each other—but this is beset with difficulty because each one's trajectory runs at a different speed, causing a kind of arhythmical disjunction. This was evident in the Great Recession, when professional service firms laid off many associates while preserving the positions of both partners and senior members. Disjunctions such as these affect the building of trust and respect. Without them, the raison d'être of professions disappears. Therefore, narrative is the connective tissue that enables various scenarios to play out and (it is hoped) thrive. Yet, managing divergent and convergent narrative streams is complex, difficult and never-ending.[57]

The role of technology in these evolving narratives is also complex. One aspect of technology is that it replaces people[58] and makes them redundant. Another is that technology is incorporated into practice and so becomes a valued member of the team. The latter narrative is less threatening than the former, but in reality there is a more subversive understanding of technology in law. As lawyers retreat to their professed and protected 'core strengths', those outside the legal perimeter and not beholden to law's normative and institutional cultures begin to create technology that can be deployed in a number of settings, of which law is merely one. This is particularly evident in jurisdictions where unauthorised legal practice rules are narrow and 'NewLaw' is able to offer legal services direct to the public, mediated by technological interfaces.[59] While this may be perceived as threatening, the threat level is in fact relatively low. Most legal work, according to the McKinsey Global Institute,[60] is above absorption into the technological because such forms as AI (despite advances in neurological networks) are still primitive compared to the abilities of the human brain. As such, the following sections explore the role of narrative by identifying analytic narratives that have become closely, but also competitively, engaged in the ongoing story of LawTech.

## Status Professionalism: True Legal Professionals

The first narrative we characterise is 'status professionalism'. This concept helps to capture, phenomenologically, the largely defensive discourse of 'classical' professionalism deployed (at least some of the time) by practising lawyers, law associations and other significant stakeholders, such as the judiciary. Status professionalism is used to defend professional hegemony against technological counter-narratives developed by such thought leaders as Susskind and Christiansen. It is, as will clarify, a remarkably robust ideal of the 'True Legal Professional'.

Status professionalism describes the specific range of symbolic designations that reflect the forms of legal work, knowledge, normative orientation and training. This not only serves to construct an ideal type of the 'compleat lawyer'[61] but also frames

[53] This is true also, to a lesser extent, of the increasingly corporatised English Bar. The structure of the Australian Bar remains on the whole significantly less stratified and corporatised.
[54] Weber, Economy and Society.
[55] Flood, "Professions and Professional Service Firms in a Global Context."
[56] See, for example, the contributions in Liljegren, Professions and Metaphors.
[57] Brock, "The Changing Professional Organization"; Adams, "The Discursive Construction of Professionalism."
[58] Frey, "The Future of Employment."
[59] For example, DoNotPay.
[60] Manyika, A Future That Works.
[61] Widgery, "The Compleat Advocate"; Boon, "Trials of Strength." It is also apparent from this formulation that there is a strong association between the professional ascription of status professionalism and the classical functionalist account developed in the sociology

change to organisational and work practices, preferably to safeguard traditional privileges and rewards for the existing profession—or more particularly its historically dominant groups, such as (male) law firm partners and senior members of the Bar.[62] These ideals can be summarised as professional claims to deploy highly specialised knowledge—the product of extensive and equally specialised education and training—in the public interest in exchange for certain market protections or privileges. Early ideals of professionalism were predicated on the guild structure of medieval livery companies. Guilds created monopolies around knowledge and mastery (based on extensive apprenticeship) in specific fields, such as those of goldsmiths or drapers.[63] For lawyers, the Inns of Court in England were the crucibles of lawyers as master journeymen.[64] By the mid-nineteenth century, early iterations of the modern law firm (solicitors) evolved through kinship and clan identities, which kept business small and elite. In the twentieth century, there was a dramatic change in the presentation of the law world and legal profession, accelerated by industrialisation, globalisation and regulatory reforms that removed restrictions on the size and, ultimately, legal form of law businesses. Evidently, the modern legal profession was mutating along with its increasingly corporate clientele.[65]

This presented a readily apparently challenge to classical ideals of professionalism. In 1916, Cohen published the critical booklet *The Law: Business or Profession?*[66] and in 1938 Llewellyn was already decrying the law factory,[67] yet status professionalism proved highly adaptable. In reality, highly segmented specialist knowledge could be worked harder and longer to generate historically unimagined profits for equity partners. The service ideal could be reframed to suit commercial realities, reifying client over public interests, while public interest and ethical claims of independence could still be put to work in maintaining at least some entry and competition barriers to limit encroachments on the market to legal services.[68]

In the context of LawTech, status professionalism appears Janus-faced. Indeed, new technology is a 'once in generations'[69] opportunity to be exploited by commercially savvy lawyers—a solution to the 'more for less challenge';[70] a relief to the tedium of repetitive, low-level grunt work; and a means to enhance access to justice and open new markets for previously uneconomic services.[71] It is an extension of the move from scriveners, to typed documents, to document precedents stored and amended on computers, to document assembly algorithms. However, we can also observe a more defensive discourse in which technology is the interloper against which status professionalism must protect, particularly from risks of de-professionalisation and the diminution of a lawyer's role in the delivery of legal services. This is reflected in the hesitance of parts of the profession regarding the fit of new tools and technologies with *traditional* practices. This is also observed in worries about the existential threat technology poses to professional ethics and values, or to the continuing ability of the profession to recreate itself in its own image.[72]

Status professionalism details the endurance of lawyering and law jobs, with LawTech positioned either as only affecting the tools that lawyers have (supportive) or as an impending threat that must be defended against by shoring up the regulatory walls (substitutive and risky).[73] In the happy story, these 'new' tools are incorporated as a valued aspect, potentially regenerating their power by assuring those outside (clients, regulators, law graduates) of its contemporary orientation within a time-tested bureaucracy of legal professionalism and firm structure. In its negative form, it reminds us of the perils of any form of LawTech-driven deregulation, as this inevitably leads us into a Susskind world. In both ways, the True Legal Professional can be viewed as a response to the Technological Disruptor and Death archetypes (detailed below). We can arguably see these discursive moves in many of the reports produced by professional bodies (i.e., Future of the Legal Profession and the Justice Project).

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of professions, *and* in revived form in organisational theory. See, for example, Saks, "A Review of Theories of Professions, Organizations and Society"; von Nordenflycht, "What is a Professional Service Firm?"

[62] Muzio, "On the Consequences of Defensive Professionalism."

[63] Krause, Death of the Guilds.

[64] Prest, The Rise of the Barristers.

[65] Flood, "Entrepreneurship, Managerialism and Professionalism."

[66] Cohen, The Law.

[67] Llewellyn, "The Bar's Troubles, and Poultices."

[68] Abel, English Lawyers Between Market and State.

[69] Bailes, "The Law and Legal Technology."

[70] Susskind, Tomorrow's Lawyers.

[71] Bennett, Current State of Automated Legal Advice Tools.

[72] See, for example, Law Society of Western Australia, The Future of the Legal Profession, 4, 6. See also Ambrogi, "Latest Legal Victory has Legal Zoom Poised for Growth" for discussion on American Bar Association challenges through unauthorised legal practice rules.

[73] See or listen to Legal Services Board, "Talking Tech." For greater consideration of other ways in which innovations may be conceptualised within the legal services market see Semple, Tending the Flame. For concerns about protection by regulators see section 4.5.

These works simultaneously signal the field's awareness of and action on LawTech, or how LawTech can respond to intransient legal problems such as lacking access to justice, and yet they insist on the importance of lawyers and their pivotal role in the legal domain of work. For example, none of the reports recommend a loosening of the laws restricting its practise to Australian legal practitioners. Barton and Rhode document this process in more dramatic regulatory action, assisted by the local American Bar Association, responding to (and ultimately defeating) the nonhuman lawyer, Avvo Legal Services.[74] To analogise from the work of Abel, we can frame technology as a crisis story[75] through which to respond with further protective regulation. A recent example may be the call for regulation of nonlawyer LawTech developers through the existing professional regulatory mechanisms (and lawyer-captured bodies).[76] In the status professionalism story, the archetype of the True Legal Professional not only endures in a LawTech future but also possibly thrives. Its historical privileges and powers allow it to assimilate within an existing sense of what it means to be a 'lawyer' and further within the existing firm structures, while incorporating or excluding possible non-law LawTech competitors.

## Christensen: Technological Disruptor

The second analytic narrative is associated with speculation on the way in which technology may 'disrupt' the development of law and legal services.[77] The linking of technology and disruption has its origins with Christensen's 1997 book *The Innovator's Dilemma*.[78] Christensen's initial context is not technology or law, but rather concerned with the dynamics of firms in the marketplace.[79] He focuses on what could be called the danger of success for firms, identifying how material triumph leads establishments to narrow and incrementally innovate existing products for existing customers. This narrowing explains a reluctance or failure by firms to develop radically new products or ways of doing things for new customers.[80] Once an established firm has good market share for an existing product, it is too invested to move on to new products or react by adopting a new method of operation. Here, Christensen's narrative of 'disruptive technology' is not tied to digital technology,[81] but rather encompasses all forms of technological and managerial innovation. Over time, he came to use the term 'disruptive innovation' with a focus on business models.[82] Christensen's example for this change in emphasis was the motor vehicle. He claimed that elite vehicles produced in the pioneering era of motoring were not disruptive of horse-and-buggy related transport industries until Henry Ford, the Ford Model T and the business model of mass production emerged in 1908.[83] Greater focus on incremental improvement rather than radical reimagining may lead to improvement but not real innovation. Thus, he identified that true innovation, really disruptive innovation, often occurs outside of established market players; perhaps in a legal context this would be by alternative business providers. A common example cited that seemingly follows Christensen's account is the fate of Kodak following the rise of digital photography and its reliance on a high-quality analogue product base.[84] The narrowing of focus led to obsolescence rather than success. Mass production and digital photography—new ways of doing things—led to revolutions in travel and image creation, as well as preservation for consumers. Radical shifts, such as these, have yet to be seen in legal services.

Over the past decade, key concepts within Christensen's work have seeped into public discussions on technological-driven change. In particular, the language of 'disruption' has entered the law, the legal profession and legal services, and appears to have led to binary stories. The first tells of danger. Often, public and intellectual discourse about a contemporary technology is

[74] Barton, "Access to Justice and Routine Legal Services."
[75] Abel, English Lawyers Between Market and State.
[76] For examples from legal professional bodies and/or regulators in France (action against an online divorce service), Taiwan (prohibition on lawyers participating in online marketplaces for services) and the United States (US) (action against lawyers in an online legal service provider) see Hook, "The Use of Technology in the Legal Sector Beyond England and Wales," 34. Another related example is the new designation of nonlawyer legal services providers in Washington State. See Crossland, "The Washington State Limited License Legal Technician Program."
[77] Katyal, "Disruptive Technologies and the Law"; Brescia, "What We Know and Need to Know About Disruptive Innovation."
[78] Christensen, The Innovator's Dilemma.
[79] Christensen, The Innovator's Dilemma.
[80] Christensen, The Innovator's Dilemma.
[81] Christensen, The Innovator's Dilemma, 3–28. Within his initial context, only one of his case studies on disk-drives manufacturing and innovation over the 1970s and 1990s related to information and communication technologies.
[82] Christensen, The Innovator's Solution, 32; Utterback, "Disruptive Technologies."
[83] Christensen, The Innovator's Solution, 49.
[84] Gans, The Disruption Dilemma.

framed as 'disruptive', suggesting in the unsettled notion of disruption the need for law and regulation.[85] For example, the emergence of 3D printing has led to dedicated literature on how it subverts established intellectual property regimes, which require reform to deal and regulate such disruption.[86] Similar discourses can be observed in regard to LawTech supposedly threatening the future of the legal profession or good governance.[87] Through this narrative about uncertainty and unknown danger, these developments can be seen as antithetical to *good* legal work or the rule of law and, thus, require restriction, containment and control rather than support and development. In this sense, the threat of Technological Disruptor might be used by True Legal Professionals to reinforce the status quo.

However, the story can be told differently. For the Technological Disruptor, Christensen's narrative is a manifesto to remake the lawyer–client relationship through different business means. In this context, his narrative identifies and possibly valorises NewLaw as the inevitable future—that is, victorious disruptors over traditional firms and business structures in law (BigLaw).[88] 'NewLaw' is an emerging category of legal services entities that attempt to innovate how legal aid is delivered.[89] Drawing inspiration from the 'ecomodernist'[90] forms and sensibilities of Silicon Valley start-ups—with less obvious hierarchies, technological-mediated flexible work structures and technical innovation—NewLaw entities are experimenting with the structures and models for the service delivery of law jobs. Essentially, NewLaw firms represent an innovative challenge to the market share of BigLaw by offering alternative forms of lawyering than the high-cost, high overheads of traditional high-street lawyers or corporate law firms.

However, much of the technological substructure facilitating NewLaw firms is not specifically LawTech. Rather, NewLaw is generally leveraging the speed and frugality of digital communication technologies to dispense with the costs and geographic limits of BigLaw's 'brick and mortar' firms.[91] In this way, much of the challenge with NewLaw to traditional forms of lawyering is similar to that of online retailers to established stores. In addition, NewLaw is exploring the flexibility and practicality of 'uberised' employment relations,[92] and can possibly capitalise on the increasing underemployment of recent law graduates by using gig-economy models. However, recent work by Thornton indicates that NewLaw might in fact still rely upon existing professional hierarchies in unexpected ways, where, for example, only established lawyers with industry (human–human client) ties are economically viable.[93] Thus, young lawyers must still be trained and professionalised within old structures. The significant growth of NewLaw can be also viewed as unevenly arising within the profession, and perhaps less disruptive than at first glance. It is equally possible to trace a range of disruptive forces coming from social, rather than technological, causes such as the #MeToo movement that challenge the status claims of BigLaw.[94] As Guihot points out, with his focus on inherently flawed human forces within BigLaw (which prioritise maximisation of profits to the detriment of clients), it might be the extant BigLaw firm culture that causes a rethink of professional organisations.

There is much literature documenting the prevalence of toxic cultures of overwork and bullying[95] to which human lawyers might sensibly react. While technology was once vaunted as the answer to such social concerns, offering more lawyer flexibility

[85] See Tranter, "Disrupting Technology Disrupting Law."
[86] For discussion on how regulatory regimes or conceptions need to adapt to new technology see Desai, "The New Steam"; Craig, "Technological Neutrality"; Thierer, "Removing Roadblocks to Intelligent Vehicles and Driverless Cars"; Thierer, "Guns, Limbs, and Toys"; Stephens, "Rolling Your Own."
[87] For a range of contrasting views on this see Katz, "Quantitative Legal Prediction"; Simpson, "Algorithms or Advocacy"; Lippe, "What We Know and Need to Know About Watson, Esq."; Mountain, "Could New Technologies Cause Great Law Firms to Fail?" For discussion on how these can be informed by those adopted in the context of MedTech and FinTech see Brownsword, The Regulation of New Technologies.
[88] BigLaw describes the multinational corporate law firm, which has generally been characterised as a secretive, tightly controlled partnership model with a hierarchical structure reinforced by what Marc Galanter and Thomas Palay have described as the 'tournament' approach to lawyering. See generally Galanter, Tournament of Lawyers.
[89] See generally Cooke, "A New Future for the Law"; Waye, "Innovation in the Australian Legal Profession."
[90] Daggett, "Petro-masculinity," 33–34.
[91] Barton, "Access to Justice and Routine Legal Services."
[92] Wright, "The Uberization of Law"; Cooke, "A New Future for the Law"; Tejani, "Professional Apartheid."
[93] Thornton, "Towards the Uberisation of Legal Practice."
[94] See the recent plethora of inquiries into sexual harassment and bullying in the legal profession. See also Pender, Us Too? Bullying and Sexual Harassment in the Legal Profession.
[95] Bagust, "The Culture of Bullying in Australian Corporate Law Firms"; Thornton, "Squeezing the Life Out of Lawyers."

within BigLaw, this is now subject to significant critique as simply exacerbating the 24/7 lifestyle.[96] Organisational innovation that is occurring may, therefore, have technology as 'the tool used to disrupt rather than the root causes of the disruption.'[97]

Likewise, technology and technological change in Christensen's narrative are not the primary focus. Rather, they, alongside LawTech and more diffuse digital technologies, are regarded as facilitating different, more responsive organisational structures that could outcompete traditional firms in various markets for legal services. Arguably, the conceptualisation of what it means to be a lawyer and the existing standards of status professionalism remain mostly unchallenged by NewLaw. Instead, some of the forms and outward physical signs of status professionalism, as manifested in BigLaw entities, will diminish. Possibly existing BigLaw firms that are unable to adapt and compete with NewLaw firms and practices will also exit the market. An historical parallel might be the decline of IBM in the 1980s (with its hardware emphasis) in the face of disruptors such as Microsoft, which used software along with different business and marketing models to gain dominance within the personal computer market.[98] While IBM has not since exited the field, its historical market share and leadership have waned as newer firms (Apple, Google and Facebook) have come to prominence. It could be that the established firms and forms of BigLaw will continue but lose market share and competitiveness in new markets to ascendant NewLaw entities.

The implication of Christensen's narrative is directed at the partners and managers of BigLaw. His 'disruption' thesis is meant as a salutary reminder to existing corporate leaders to be wary of sustaining innovation (i.e., only investing in piecemeal reforms to existing products and processes) at the expense of embracing disruptive innovation.[99] In relation to LawTech, Christensen's narrative warns BigLaw not to be Kodak or IBM, but to nurture and adapt not only to new technologies but also the work structures and products of NewLaw to retain market share and leadership.

Thus, within Christensen's view, lawyering and the profession and responsive BigLaw players will endure the rise of LawTech. Again, the Technological Disruptor stands next to the True Legal Professional and helps to transform workplaces and practices rather than the nature of lawyers and lawyering. This is not the story of the future as told by Susskind.

## Susskind: Death (of The Legal Profession)

The third narrative is that LawTech will fundamentally alter what it means to be a lawyer, the definition of legal work, how it is performed, by whom and to what end. We borrow the idea of death from Bergman's *The Seventh Seal*,[100] which sees a knight return from the Crusades to find his society engulfed by the plague and disintegrating. He plays chess with Death only to lose. Much of Susskind's work is about predicting the 'death' of the legal profession, as it finds itself disconnected from contemporary society and located in the past. This analytic and predictive narrative coalesces around Susskind's writing, which has long heralded LawTech's significant disruption to legal practice.[101] In his most recent work, he sees current changes on a continuum from the nineteenth-century model of legal professionalism, arguing that:

> tomorrow's legal world … bears little resemblance to that of the past. Legal institutions and lawyers are at a crossroads … and are poised to change more radically over the next two decades than they have over the last two centuries. If you are a young lawyer, this revolution will happen on your watch.[102]

The disruptive forces Susskind describes are threefold, encompassing the 'more-for-less' challenge, the liberalisation of professional regulation and information technologies. To survive, he suggests that law firms will need to charge less, engage in alternative fee arrangements, outsource, 'multisource' and break legal matters down (decompose) into tasks for distribution among specialists. While some of this seems similar to Christensen's disruption, Susskind goes further. He essentially is arguing

[96] Thornton, "The Flexible Cyborg."
[97] Guihot, "New Technology."
[98] Bower, "Disruptive Technologies," 43. Although, it is interesting to note the resurgence of IBM and big computing as it advances into the field of quantum computing. See Pednault, "On 'Quantum Supremacy'."
[99] Tranter, "Disrupting Technology Disrupting Law," 3.
[100] Bergman, The Seventh Seal. The legal profession is represented by the knight who is confused by what he has returned to and what he has been doing in the Crusades. Death is Susskind moving the profession to its ineluctable end and demise.
[101] Susskind, The Future of Law; Susskind, The End of Lawyers?; Susskind, Tomorrow's Lawyers.
[102] Susskind, Tomorrow's Lawyers, xiii.

not just for a change in business model, but also for a complete reconfiguration of legal work with resulting consequences for the profession's identity: the death of the True Legal Professional.

Faced with these challenges, Susskind views lawyers as project managers rather than status professionals or business innovators, overseeing a flexible and nimble decentralised team of multiskilled operators.[103] Knowledge is relegated to only one aspect rather than a primary aspect of the role of lawyer, and further requires a palpably different skill set. Although the bespoke adviser role of the status professional model might persist for some niche work, Susskind contends that the majority of jobs will lie in legal project management, knowledge manipulation, legal technologies and online dispute resolution. Lawyer training will need a radical overhaul to become more interdisciplinary, even if 'exposure to and understanding of traditional legal service should provide a valuable foundation upon which to build any new career in law.'[104] In his narrative, status professionalism will shift substantially in line with the view that change is inevitable and must be embraced if professionals currently known as lawyers are to survive in the fourth industrial revolution. Indeed, it is possible that the term 'lawyer' will decline, replaced by a plethora of technical role-specific labels, such as contract analyst, resolution engineer or digital justice expert.

Susskind has reiterated his ideas over many years, yet some in the profession still consider them revolutionary.[105] The extreme of Susskind's predictions may even seem inconceivable where the True Legal Professional remains in strong ascendance. Still, his projections of LawTech's likely disruptive effect on traditional models of legal practice and organisational structures through commodification and unbundling of legal and accountancy services[106] can be viewed in some legal service sectors, particularly where NewLaw entities are emerging.[107]

In this sense, Susskind presents a very different theory of the LawTech future than Christensen, who otherwise posits organisational change within markets. Susskind offers particular (some might suggest idiosyncratic) speculation on how digitalisation will fragment what is now known as lawyering. While Christensen saw human actors innovating for market share, Susskind instead recognises digital technologies supplanting human legal labour, automating, transforming and replacing existing law jobs. There is a sense of technological determinism to his envisioning of a digitalised future of loosely connected, decomposed tasks existing within the space that is currently occupied by law and professional lawyering. The trajectory of Susskind's vision of LawTech is, to quote one of his book titles, 'the end of lawyers'.[108] He means not just the end of specific firms and firm structure or professional collectives, but also the end of human lawyering itself: the Death figure. In other words, Susskind is trying to write the end of professionalism as Fukuyama predicted the end of history[109]—and failed, as most likely will Susskind.[110] In this sense, his work is widely told as a dystopian story representing the extreme fear and anxiety of status professionalism. True Legal Professional points to Death from the archetype of technological change: it provides reason to reinforce the regulatory walls and reclaim the social contract with professions, ensuring definitively the rule of law through lawyers.[111]

## Navigating A More Specific Future Course: Adaptive Professionalism

The narratives drawn from status professionalism, Christensen's and Susskind's work, and the associated archetypes of the True Legal Professional, the Technological Disruptor and Death together present three different stories about LawTech, lawyering and the future. However, they are not incommensurable. As demonstrated, they interact in a stratified and segmented legal market, and are counter-narratives or correctives to each other. For example, Susskind's figure of Death compels True Legal Professionals to attempt to reinforce the regulatory barriers, while Christensen's Technological Disruptor is a deceptively attractive ideal for Professionals wanting to break free from the conventions of BigLaw. At one level they can be mapped on a

[103] See further Fenwick, "The Lawyer of the Future as 'Transaction Engineer'."
[104] Susskind, Tomorrow's Lawyers, 119.
[105] Susskind describes his early predictions about greater use of email between clients and lawyers, and complete reliance on internet research, as characterised by some in 2016 as 'outrageous if not seditious': Susskind, Tomorrow's Lawyers, 125.
[106] Susskind, The Future of Law.
[107] Bennett, Current State of Automated Legal Advice Tools.
[108] Susskind, The End of Lawyers?
[109] Fukuyama, "The End of History?"
[110] Flood, "Are Professions Merely a Set of Outcomes?"
[111] For examples see Legal Services Board, "Talking Tech"; Semple, Tending the Flame.

continuum graded by LawTech's effect on the future of legal professions. This sees minimal change (True Legal Professional), increased opportunities for innovation and some variation in legal practice entities, but the essence of lawyering continues (Technological Disruptor). Meanwhile, Death foresees legal entities and professions undergoing radical transformation. While each has different emphasis, they all proceed from a very high level of generality, which gives explanatory power but also comes at a cost of context specificity. Therefore, we suggest drawing upon the grand stories of LawTech, lawyering and the envisioned futures to build a normative narrative of adaptive professionalism. This approach aligns to navigating a LawTech future informed by understanding on the specific knowledge and skills of a human lawyer. This is further enhanced by a commitment to retaining and engendering certain values in the practise and production of law.

The idea of adaptive professionalism draws upon work on adaptability and adaptive expertise in other contexts, such as teacher education and professional development.[112] It also petitions analytic underpinnings that can be found in earlier work on the legal profession. These accounts are specific and detailed rather than universalising. For example, Halliday[113] and Paterson[114] point to the resilience *and* fungibility of the professional ideal in itself, while Muzio and Ackroyd show the ways in which changing legal labour processes have been deployed to preserve key aspects of what we describe as status professionalism.[115] Francis defines emergent models of legal professionalism 'at the edge of law',[116] and Liu analyses the mechanisms by which a lawyer seeks to maintain control over professional work in the face of client influence.[117] Beyond these descriptive applications of the concept, we instead argue for adaptive professionalism as an emerging *archetype* upon which we should build.

That is, adaptive professionalism accepts the assertions that lawyers need to change, to develop new skills and competences to manage the uncertainties of a complex, tech-enabled environment. At the same time, it is based on nuanced understanding about the diversity of 'legal professionalism' and the range of complex forces acting on any field in which a lawyer works. A one-size-fits-all approach to adopting LawTech—represented by the other archetypes of disruption and death—is impractical and likely involves significant normative risks of throwing out babies and bathwater. Embracing an archetype devoid of nuance could also make us lose sight of certain agreed-upon values underpinning ethical lawyering, including the rule of law and access to justice. This is not to suggest a rejection of LawTech, but rather that lawyers must navigate technological futures deliberately and with purpose.

We suggest that in the face of LawTech, adaptive professionalism recognises that professional knowledge is essentially problematic.[118] Technology, on top of other forces such as hyper-specialisation, is questioning what is unstable in terms of core professional knowledge.[119] This is particularly the case in contexts where advanced technologies are making (or will make) the defining disciplinary knowledge itself, to some degree, redundant. Its response to professional acumen differentiates this archetype from others. Where the status professional prizes knowledge, technology will work as a process tool but not as an expert knowledge resource for clients. Here, the Disruptor values business knowledge as the key to disruption, not expert knowledge in a legal sense. For Susskind, knowledge is commoditised to such an extent that it is built into the product rather than embodied in a person (excluding niche contexts).

The adaptive professional archetype, in contrast to other archetypes, might reclaim knowledge in an holistic sense—one that is imbued with the values that might be valorised by status professionalism but that are not necessarily lived, given the access-to-justice crisis. Adaptive professionalism considers the way in which knowledge is understood and modified, distinguishing routine knowledge (susceptible to mechanisation and automation) from adaptive knowledge that is uniquely human in its capacity to bridge the theory–practice divide. This is done by contextualising knowledges[120] and the values that imbue them in

[112] Darling-Hammond, Preparing Teachers for a Changing World; O'Brien "The Adaptive Professional"; Sanford, "Transforming Teacher Education Thinking."
[113] Halliday, Beyond Monopoly.
[114] Paterson, "Professionalism and the Legal Services Market."
[115] Muzio, "On the Consequences of Defensive Professionalism."
[116] Francis, At the Edge of Law.
[117] Liu, "Client Influence and the Contingency of Professionalism."
[118] Collins, Rethinking Expertise.
[119] See generally Jamous, "Professions or Self-perpetuating Systems?"
[120] See Eraut, Developing Professional Knowledge and Competence. The plural here acknowledges, without disregarding the problematics of such models, the significant advances made in understanding knowledge and operational 'intelligences' as more complex, differentiated modalities than heretofore. See, for example, Gardner, Intelligence Reframed. The complex interplay of knowledge forms and organisational settings in constructing a 'professional knowledge' is also empirically relevant here. Collins, "Three Dimensions of

service of the needs and vulnerabilities of society. Thus, the core expertise of a professional is to adapt to change while working in service of and by embodying the (also adapted) values of the professional project.

Legal education and professional discourse often expresses knowledge and ethics as knowledge of both law and ethics. Here we suggest that for knowledge work to be complementary to and not subsumed by technological automation, it must be infused with the ethical values of law, justice and professionalism, developed through critical reflexivity and practice.[121]

Status professionalism tells of the endurance of lawyering and law jobs, with LawTech positioned either as only affecting the tools that lawyers have or an impending threat that must be defended against by shoring up the regulatory walls. On both accounts, the True Legal Professional stands in for the need to rethink regulatory approaches and professional bodies. The conservative message is made desirable by the threat, where LawTech is positioned as outside and suspect. Yet, as scholars have long argued, the concern might come from within where lawyers are anticompetitive and inaccessible *because* they are protected by their own: that is, 'lawyer regulation by its very design operates from a baseline of capture'[122] by the profession itself. As Rhode[123] and others have long argued, stories around unauthorised interlopers might obscure the good case for further liberalisation of lawyers' monopoly on legal services to allow new ways of facilitating access to justice.[124] Status professionalism was grounded on the highly problematic assumption that a world in which law work is done by lawyers is self-regulated, as a professional was a self-evident good.

Further, legal regulation differs around the common law world. Australia and England and Wales have a co-regulatory model that has specifically reacted to 'capture' by those regulated. Still in Australia there are no signs of lawyers' monopoly being loosened.[125] Yet, Moorhead's work in England and Wales, where there is an historically different approach to reserving legal tasks, demonstrates that in markets where lawyers and nonlawyers compete there is little evidence of the jurisprudential claims underpinning a professional monopoly of better lawyer standards, knowledge or ethics.[126] In England and Wales, nonlawyer organisations or other forms of alternative business structure are increasing their market share of legal work in a context where unauthorised legal practice rules are very narrow.[127] In a range of quantitative studies conducted by Sandefur in the US, there is evidence of little value provided by lawyers except for greater access to legal resources and relevant cultural capital.[128] Thus, large stories can obscure nuanced debates around legal professionalism, just as they can provide the catalyst to question them afresh. We argue that LawTech offers an important context for us to test the traditional claims of professionalism. Hence, an adaptive professional narrative will need to consider both the desirable policy 'ends' of legal services and the specific regulatory and practical contexts of distinct jurisdictions.

Christensen presents a complex story that looks through LawTech to the dynamics of innovation and entrepreneurialism. It is less about LawTech and a lawyer's role and more about the decline of traditional commercial entities within a market. This may be a solid prediction but we suspect a range of reasons can argue *for* the move to NewLaw. Likewise, it is too early to tell whether this will be a significant shift that will shake the hold of traditional law firms. The Technological Disrupter haloed by entrepreneurialism and innovation has a culturally seductive glow, but there remains limited scholarly research on how NewLaw is emerging. Still, as the small Australian study in Waye et al. shows, firms appear to acknowledge a need *to be seen* to do technological change.[129] There is great hype at present.

Expertise" shows how there are limits to the individual acquisition of knowledge and that full professional knowledge only comes with being part of a professional community, otherwise there is no way to communicate the professional tacit knowledge.

[121] See Galloway, "The Legal Academy's Engagements with Lawtech."

[122] Newman Knake, "The Legal Monopoly," 1305.

[123] Rhode, "Protecting the Profession or the Public?"

[124] See also a range of arguments in Newman Knake, "The Legal Monopoly."

[125] This is said despite seemingly little action by regulators to prosecute unlicensed practice by technology entrants into the legal services market, unlike the relatively aggressive approach in the US. See Barton, "Access to Justice and Routine Legal Services."

[126] Moorhead, "Contesting Professionalism."

[127] Webley, "Legal Professional De(Re)Regulation." We will return briefly to the question of regulatory push-and-pull factors in the final section.

[128] Sandefur, "Lawyers' Pro Bono Service and American-style Civil Legal Assistance."

[129] Waye, "Innovation in the Australian Legal Profession."

In the literature, Cohen enthuses a LawTech future of NewLaw providers who are:

> customer-centric, agile, align providers with the clients/customers they serve, leverage data, invest in (re)training their workforce on an ongoing basis, meld tech with human resources to optimize performance, and derive profit from performance and customer satisfaction, not hours billed.[130]

This description is infused with techno-innovation speak. If it were not for the mentioning of status professionalism's billable hours, it could describe any entity desiring to adapt digital and gig-economy strategies—from a ride-share firm to an aeronautical engineering business. Absent are core values of ethical conduct, access to justice and the rule of law that we believe should inform adaptive professionalism. Further, the focus on structure ignores the more essential values. As such, we can be sceptical about unrestrained claims that new models will provide unprecedented access to justice. This structural approach to enhancing such rights had been made before and generally fails. It has also proven difficult to 'build an economically-sustainable business model' for low-cost legal work by (or overseen by) lawyers.[131] In Australia, a few publicly listed law firms have emerged (due to regulatory liberalisation), where capital raising is easier and nonlawyers are involved. Still, the approach of one (Slater and Gordon) to acquire a large market share (in personal injury and family law) and provide mass services led to corporate failure on a grand scale. With ethics, access to justice and the rule of law as a foundation, concerns might also prosper around NewLaw's ability to provide ethical, accessible and rule-of-law affirming services, simply due to its use of LawTech. Conversely, an adaptive professional narrative does suggest that more modest, technologically enabled NewLaw models in certain areas may well deliver more accessible, cheaper legal services, which are both sustainable and offer good working environments for (senior) lawyers working qua lawyer—but without certain status (and cost) overheads.

Evidently, Susskind's focus is the revolutionary nature of LawTech as profoundly challenging and changing how law-jobs will be conceived and who (or what) will come to perform them. We have argued that the Death archetype is not yet sure to eventuate, and that it might be discursively used to adopt an overly conservative approach to how we regulate the profession and legal services. To be fair to Susskind's work, he does provide some attention to two important spheres of practice for the commercial and the individual. The previous and most cited account relates to his arguments around commercial practice. Yet, his work also raises important questions about individual access to justice and how status professionalism stands in the way. Susskind suggests that technology, the changing role of lawyers and the court process itself will each provide a range of ways in which citizens can be empowered to manage their own legal problems. Thus, he conceptualises access to justice broadly to 'embrace improvements not just to dispute resolution but also to … dispute containment, dispute avoidance and legal health promotion.'[132] In this sense, technology might support civilian education about the law, systems to manage legal risk through embedding legal rules into systems and procedures, and building communities of legal experience.[133] The latter is reminiscent of online message boards concerning IT problems where the answers are crowdsourced or regulation that has allowed (in Australia and England and Wales) for traditional law firm structures to become more interdisciplinary (multidisciplinary law practices). Yet, many of those boards are staffed by IT professionals who are answering in a private rather than an employed capacity, pro bono rather than as willing amateur dabblers. The apparent *death* of professionals instead manifests as a new medium through which keen individuals volunteer their knowledge to those in need.

Susskind and Susskind also directly engage with the lawyer monopoly debate by arguing that 'good enough' law developed by LawTech is desirable when faced with a choice between nothing and an unaffordable service.[134] Arguably, this is again a simplistic picture offered with little attention to the complex legal services market. Co-design by lawyers and developers applying 'human-centred design' principles has produced exceptionally user-friendly technology and further problematised the binary narrative of 'a lawyer or nothing proposed' by the professional monopoly. At the extreme, Guihot argues that there is no risk to clients or rather that in the future LawTech will deliver technically better and more ethical (without self-interest) services.[135] Still, the formal profession unsurprisingly sees the risks to consumers as too significant to allow any legal services

[130] Cohen, "Getting Beyond the Tech in Legal Tech."
[131] Newman Knake, "The Legal Monopoly," 1333, citing Rhode, Access to Justice, 3.
[132] Susskind, Tomorrow's Lawyers, 85.
[133] Katsh, Digital Justice.
[134] Susskind, The Future of the Professions. Note also that we have a much-admired legal system in which skilled written legal pleading and strong oral advocacy enable the courts to achieve justice in many cases. However, our adversarial systems developed on the assumption that people will be legally represented. Our systems depend on the employment of skilful lawyers, and that, through no fault of working lawyers, involves a cost beyond the reach of most individuals and small businesses. Hodge, "Law and Technological Change," 10.
[135] Guihot, "New Technology."

delivered without a lawyer.[136] Genn has, following the Susskind thesis, long critiqued the alternative dispute resolution revolution (much vaunted as the new frontier for technology) as 'private justice' with a range of detriments.[137] She further warns that we must not view all individuals accessing the justice system as the same: 'Put simply, people want different things depending on their problem and we need a system that is sensitive to that.'[138] Similarly, Robertson and Giddings have cautioned against technology for its own sake, as it is ill adapted to assist those in need. This includes the dangers around 'self-help' as the panacea for closing the access-to-justice gap and the 'crowding out' of adequate government funding.[139] Instead, access requires a range of routes through the legal system rather than a funnel through just one.

That said, Susskind's narrative does pose important questions about the relationship between citizens and the law, and further frames contemporary discourse surrounding the work of lawyers and government promoting access to justice. How much responsibility do we grant lawyers deciding citizens' technological allowance to access their legal rights?[140] Conversely, greater emphasis on self-help through technology leaves to a bunch of undefined, unregulated entrepreneurs—who often premise their business model on legal and civil society disruption—the expanding individual legal services market. An over optimistic view of LawTech might fail to comprehend the capacity of the general public to deal with unmediated information and the extent to which systematic success relies on a particular type of digital connection and literacy.[141] Such systems may also serve those in 'the middle' who cannot afford a lawyer but have the personal skills to help themselves. In terms of access to justice, the profession must still be mindful of those who fall through the system. Based on a Susskind taxonomy, this sees legal services as compartmentalised entities, while the real value of a lawyer might represent an ability to connect for clients disparate parts of the justice system. From an adaptive professionalism perspective, the possibility of LawTech to contribute to a more accessible legal future is inspiring. However, as Susskind's narrative suggests, this will not occur simply through some belief in technological or market determinism. Instead, it befalls through lawyers being highly aware of their role as 'project managers' in a LawTech system. In this sense, there is a need to translate and communicate between clients, disparate LawTech systems and legal institutions. This intimate and distinctly human role—in translating and communicating—is a key skill in lawyers' arsenal from an adaptive professional approach.[142] Moving beyond concerns with practice structures or job losses from LawTech—or even competition from technology-orientated, non-law disruptors—an adaptive professional narrative involves lawyers building and practising within context-specific LawTech futures, which manifest essential values of ethical conduct, access to justice and rule of law through communication.

## Conclusion

We contend that these narratives have created archetypes that suggest certain futures for lawyers and their firm structures: the True Professional will adopt technology and stay the same; the Disruptor either changes or dies; and in Death, lawyers (eventually) perish. However, these ideas have (at least) two problems. First, they are simply predictions often based on analogies from outside law. To dress them up as prophesy is overblown. Second, they become, at least in popular imagination, grand ideas covering all legal work. The legal profession is in fact a diverse field with specific histories, cultures, practices and ethics even between local communities of practice.[143] We are not LawTech sceptics, but rather the opposite. We agree with many of the objectives of its development towards facilitating access to justice and removing the expense of the legal profession's stratification. Indeed, we are largely in agreement that the equally troubling one-size-fits-all regulation, broadly drawn monopoly of lawyers and ethical guidelines in the form of one set of conduct codes need amending. However, we also argue that a nuanced view of law and legal systems shows that there is much to be gained from looking at what human lawyers do now and working out how technology can enable better practices, rather than simply following a story about the need to replace them. We suggest that an adaptive professionalism approach that takes context, history and culture as well as core

[136] Bennett, Current State of Automated Legal Advice Tools.
[137] Genn, Judging Civil Justice; Genn, "What is Civil Justice for?"
[138] Genn, "Online Courts and the Future of Justice."
[139] Giddings, "Large-scale Map or the A–Z?"; Lawler, " 'Maybe a Solicitor Needs to Know That Sort of Thing but I Don't'."
[140] The literature on 'algorithmic justice' in criminal law identified distinct biases and prejudices that are antithetical to established notions of equality before the law. See, for example, Kehl, Algorithms in the Criminal Justice System; Huq, "Racial Equity in Algorithmic Criminal Justice."
[141] Thomas, Measuring Australia's Digital Divide.
[142] This idea of translation has been analysed by earlier researchers such as Cain, "The General Practice Lawyer and the Client"; Sarat, Divorce Lawyers and Their Clients; Flood, "Doing Business."
[143] Mather, Divorce Lawyers at Work.

values of ethical conduct, access to justice and rule of law seriously can (if properly developed) provide a more grounded location from which lawyers can build an ethos and practise within LawTech futures.

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