
The Pivot Generation: How Tomorrow's Lawyers Will Help Build a New and Better Legal Market

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I. INTRODUCTION

When I received an invitation to deliver a presentation at Suffolk University Law School as part of the Donahue Lecture Series, I was only too glad to accept.¹ I have visited Suffolk Law School several times, and have been fortunate enough to teach an intersession course of my own creation—21st-Century Lawyering—on two occasions. I am also an avid supporter of the school’s myriad innovations and advances in legal education and legal career training. In addition, I always welcome the opportunity to speak to law students about the legal market into which they will soon graduate, and what they should expect to find there.

Only after I agreed to deliver the presentation did the thought occur to me that I should probably learn more about the Donahue Lecture Series itself. It was upon visiting the *Suffolk University Law Review* website that I realized just how deeply I was in over my head. Previous speakers at the Donahue Lecture include a Chief Justice of the Supreme Court of the United States (SCOTUS), several Associate SCOTUS Justices, an Attorney General of the United States, and a Pulitzer Prize-winning journalist. Given that the highlight of my own brief legal career was standing up in motions court to seek an adjournment of a hearing in an insolvency proceeding, it seems fair to say I felt significantly underqualified to speak at an event of this pedigree.

Nonetheless, having accepted the invitation, I meant to go through with it. I knew I was in no position to deliver a lecture rich in jurisprudential insight, but I also figured that that was not why I was asked to speak. My line of work is legal market analysis: I study the global environment for the purchase and sale

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1. I was an untraditional choice to deliver the Donahue Lecture, so this is an untraditional law review article to follow it up. I deeply appreciate the indulgence of the *Suffolk University Law Review* in allowing me to submit this paper for publication.

of legal services; I identify changing patterns and emerging trends within that market; and I tell market participants—principally lawyers in law firms—about what's going on, what it all means, and what is likely to happen next. I resolved to make that the focus of my presentation at the Donahue Lecture, but with one additional element: to view the extraordinary changes underway in the legal market from the perspective of law students and new lawyers.

In one of my first conversations with the editors of the *Suffolk University Law Review*, who organized this event and generously extended me this opportunity, we talked about the fact that a student starting law school this year would enter the legal profession around 2020. Assuming this person remained a lawyer in some capacity throughout her career, she would likely retire around 2060. For this student, the legal market of the 1980s or 1990s would provide no practical guidance or relevance for her own future path. Even the market conditions that have emerged throughout most of the early years of this century would change again soon after her call to the Bar.

The legal market is transforming, and it is not at all clear what the result of that transformation will be.² Our hypothetical student—along with her entire generational cohort—needs a travel guide to a country that does not exist, and a route to get there along a road that has yet to be built. As someone who is frequently introduced as a “legal futurist,” I can say this: I have absolutely no idea what the legal services marketplace will look like in 2060. Though I possess neither that map nor that route, I have collected enough information over the past couple of decades in this profession that I can at least provide future lawyers with a useful outline of what to expect.³

In the end, that was what my presentation for the Donahue Lecture aimed to do: give the lawyers of the 2020-to-2060 period a preview of what they should and should not expect to encounter during their legal careers, and what they will and will not be called upon to do. That is also what this Article, which expands beyond the contents of my presentation, aims to do as well.

II. THE PIVOT GENERATION

This generation includes lawyers who began graduating from law school in the mid-to-late-2000s, around the time when the American mortgage-backed securities house of cards collapsed, and subsequent Great Financial Crisis occurred.⁴ Each generation normally lasts for twenty to twenty-five years; so,

2. See Frederic S. Ury & Jordan Furlong, *What the Future Legal Market Means for Lawyers and Bar Associations*, A.B.A., http://www.americanbar.org/publications/bar_leader/2012_13/july_august/what_future_legal_market_means_lawyers_bar_associations.html (last visited Feb. 15, 2017) [<https://perma.cc/XL5C-WK69>] (discussing transformation of legal market over past decade).

3. See Jordan Furlong, *Visit Legal: Your Travel Guide to the New Legal Landscape*, LAWS. ON DEMAND (Apr. 3, 2015), <https://www.lodlaw.com/your-travel-guide-to-the-new-legal-landscape> [<https://perma.cc/3WXZ-KU4B>] (mapping out likely terrain of new legal careers in 2015 report).

4. See *The Origins of the Financial Crisis: Crash Course*, ECONOMIST (Sept. 7, 2013), <http://www.economist.com/node/170000000000000000>.

we can forecast this Pivot Generation of lawyers will end with the graduating law classes of the late 2020s or the early 2030s. By an unhappy coincidence, this cohort overlaps closely with the members of what we call the Millennial Generation, born approximately between 1980 and 2000.⁵ The oldest members of this generation were twenty-seven when the financial crisis broke; those who had chosen legal careers in law firms were perhaps just settling in as junior associates. Their lack of seniority meant they were among the first to be jettisoned when law firm revenue nosedived in the aftermath of the crisis.⁶

Today, nearly ten years after the financial crisis first metastasized and began to eviscerate the global economy, this generation of lawyers continues to suffer. Full-time, law-related employment rates for newly graduated lawyers began falling shortly after the financial crisis, and is hovering around seventy percent as of early 2017.⁷ This statistic represents a total population of unemployed and underemployed American lawyers in the tens of thousands, one that swells a little more every year. And each graduating class of new lawyers seems to enter the profession as the most heavily indebted in history, a dubious honor that it immediately bequeaths to the next class that follows it.⁸

There is little immediate relief in sight for people who either became lawyers over the last decade or people who are urgently seeking salaried positions that will keep roofs over their heads and stave off collection agencies.⁹ As we will see later in this Article, the short-term emergency

economist.com/news/schoolsbrief/21584534-effects-financial-crisis-are-still-being-felt-five-years-article
[<https://perma.cc/W6L9-UCBB>] (examining causes of financial crisis).

5. See NEIL HOWE & WILLIAM STRAUSS, MILLENNIALS RISING: THE NEXT GREAT GENERATION 414 (Vintage Books 2000) (fixing Millennial Generation's birth period from 1982 to 2002). Generations are artificial constructs, making the start and end points for all generations (other than the Baby Boomers (Boomers)) the subject of some dispute. See Richard Fry, *Millennials Overtake Baby Boomers As America's Largest Generation*, PEW RES. CTR. (Apr. 25, 2016), <http://www.pewresearch.org/fact-tank/2016/04/25/millennials-overtake-baby-boomers> [<https://perma.cc/8VHV-6R83>] (fixing Millennials' birth dates from 1981 to 1997).

6. See Jordan Furlong, *The Disappearing Associate*, LAW21 (Feb. 13, 2009), <https://www.law21.ca/2009/02/the-disappearing-associate> [<https://perma.cc/R6HE-VZWQ>] (summarizing and analyzing associate layoffs in law firms). The resulting trend toward smaller associate classes at law firms has not yet reversed itself, and seems unlikely to happen in the near future. See Stephanie Francis Ward, *Employment Data for 2015 Law School Grads Is Concerning, Some Law Profs Say*, A.B.A. J. (May 3, 2016), http://www.abajournal.com/news/article/employment_data_for_2015_law_school_grads_released_by_aba_legal_ed [<https://perma.cc/MR5J-3JK8>] (examining decreased hiring practices after financial crisis).

7. See Amanda Royal, *800 Law Firm Jobs Lost in One Day*, AM. LAW. (Feb. 13, 2009), <http://www.americanlawyer.com/id=1202428249235/800-Law-Firm-Jobs-Lost-in-One-Day> [<https://perma.cc/Z75P-UR7R>] (noting massive law firm layoffs in 2009); *ABA Legal Education Section Releases Employment Data for Graduating Law Class of 2015*, A.B.A. (May 3, 2016), http://www.americanbar.org/news/abanews/aba-news-archives/2016/05/aba_legal_education.html [<https://perma.cc/BY69-K3AN>] (noting 2015 law school graduate statistics of thirty percent unemployment rate).

8. See Paul Caron, *Law School Student Debt Rankings*, TAXPROF BLOG (Nov. 23, 2016), http://taxprof.typepad.com/taxprof_blog/2016/11/law-school-student-debt-rankings.html [<https://perma.cc/6665-NWUR>] (ranking ten top and bottom law schools by average student debt).

9. See Steven J. Harper, *Too Many Law Students, Too Few Legal Jobs*, N.Y. TIMES (Aug. 25, 2015),

decisions by law firms to reduce their associate ranks have evolved into long-term trends away from hiring new lawyers and towards the eventual elimination of the traditional associate role in law firms. This trend is likely to continue for at least the next five to ten years, a period that will closely track the end of the Millennial Generation's ill-fated journey into the law.

To state the obvious, none of the preceding is cause for jubilation. And yet, for reasons I will explain, I remain bullish about the mid-term and long-term prospects for this cohort of new lawyers. They are receiving a baptism by fire, but I am confident they will nonetheless turn this unhappy experience to their advantage. I still think of them as the Pivot Generation in law, and I believe this gauntlet they are being forced to run will nonetheless operate to their ultimate benefit.

This is the Pivot Generation because we are currently standing directly on the fulcrum between two eras of law, at a key inflection point in the evolution of the legal services market. The market is changing from a dormant, low-tech, individualistic system to a dynamic, high-tech, collaborative one.¹⁰ This current generation of lawyers is experiencing the fiercest effects of that change—they began law school at the end of one era, and will join the legal market at the start of another. As one set of market dynamics subsides and another rises to take its place, these lawyers are the most vulnerable to the turbulence generated by this storm of change. But precisely because these lawyers are at the center of the storm, they will be the first to ride its winds.

Increasingly in the coming years, the members of the Pivot Generation will not be victimized by change in the legal market, but will instead lead it, taking control of and driving this transitional process. In the beginning, they will do so because they have no other choice; scrambling for opportunities and improvising solutions will be the only way for many lawyers to survive. But as time goes on, the Pivot Generation will start to push for greater and faster changes in the market, forcing it to fully transition—not because they need to, but because they want to. More clearly than anyone else, they will see both the immense needs and the enormous opportunities that this transition period has revealed.

This is the Pivot Generation because many years from now, we will look back and recognize that this was the generation around which the old legal market collapsed, and the new legal market coalesced. We will see how one law firm model faded away and another grew in its place. More than we can today, we will appreciate that this generation of lawyers was the one that

<http://www.nytimes.com/2015/08/25/opinion/too-many-law-students-too-few-legal-jobs.html>
[<https://perma.cc/8VCX-ZY3V>] (exploring dysfunction within legal education system).

10. See Blair Janis, *How Technology Is Changing the Practice of Law*, A.B.A. (May/June 2014), http://www.americanbar.org/publications/gp_solo/2014/may_june/how_technology_changing_practice_law.html [<https://perma.cc/BQ87-HFFH>] (discussing technological advances, including “Moore’s law”).

pushed the legal market where it needed to go. Just as the Boomers transformed the legal profession according to their own experiences and values, so too will the Pivot Generation, which will rival or even exceed the Boomers in size and scale.¹¹

The marketplace for legal services is changing fast. Waves of new providers and platforms are flooding the market, ending centuries of lawyer dominance over legal services.¹² The traditional law firm is crumbling, and going down with it is the traditional lawyer career. But new opportunities, law firms, platforms, and careers for lawyers will arise from the wreckage of the old system. A new legal world will emerge.

III. THE OLD LEGAL MARKET

To appreciate how and why the market for legal services is now undergoing such rapid and forceful change, it is necessary to understand just how long it successfully resisted change. Furthermore, it is important to understand why the market was not universally beloved by all its participants.

At the beginning of the legal market was the lawyer. There have always been “legal needs,” even before there was a coherent legal system or various civil frameworks by which legal remedies could be achieved. People still had problems resolving interpersonal conflicts, achieving certainty around business transactions, and regulating interactions between the government and the governed. But the longstanding demand for solutions to these challenges only transformed into a market once there was a corresponding supply to meet that demand. For many centuries, that supply has consisted solely of lawyers.

Legal solutions are restricted to this sole type of seller because potential competition is banned through regulations against the “unauthorized practice of law.”¹³ Legal services regulation has endeavored for many years to scour the legal market of any legal services options other than lawyers. Though this

11. See Fry, *supra* note 5 (explaining Millennials surpassed Boomers in living population); see also Philip Bump, *Here Is When Each Generation Begins and Ends, According to Facts*, ATLANTIC (Mar. 25, 2014), <http://www.theatlantic.com/national/archive/2014/03/here-is-when-each-generation-begins-and-ends-according-to-facts/359589> [https://perma.cc/GG7X-7WDW] (detailing timeframe for each generation).

12. See Rachel Zahorsky, *Why Silicon Valley’s Biggest Investors Are Betting on Alternative Legal Companies*, A.B.A. J. (Sept. 19, 2013), http://www.abajournal.com/legalrebels/article/silicon_valleys_biggest_investors_are_betting_on_alternative_legal_companies [https://perma.cc/G43F-BC95] (outlining three examples of alternative legal companies taking work from traditional law firms); Rachel Zahorsky & William D. Henderson, *Who’s Eating Law Firms’ Lunch?*, A.B.A. J. (Oct. 1, 2013), http://www.abajournal.com/magazine/article/whos_eating_law_firms_lunch [https://perma.cc/VF4W-8RLN] (noting traditional law firm no longer constitutes best choice for all clients’ legal needs).

13. These regulations are promulgated and enforced in the United States by state supreme courts and/or by state bar groups empowered by the judiciary or legislature. Lawyers and judges, in other words, control the regulatory systems that designate lawyers as the sole authorized supplier of legal services. In any other industry, this would draw the attention of competition authorities or higher courts; as such, this exception may not continue.

means lawyers have always enjoyed a monopoly over the provision of legal services, it is difficult to argue that it has improved the market power of legal services buyers.

A further complication is that the legal market has traditionally featured great asymmetry of power between its buyers and sellers. Legal services buyers invariably have had little knowledge of the law, minimal ability to assess the quality of services they purchase, and no way to assess competing claims of expertise among providers.¹⁴ This rendered buyers little more than supplicants to those who sell solutions for their needs. Additionally, the urgency and seriousness of most legal problems and the perceived complexity of most legal solutions further eroded buyers' bargaining positions.

A market in which there are many customers, but only a single supplier, is generally considered a monopoly; and a monopolized market develops some interesting characteristics.¹⁵ For example, most lawyers' services are sold by a specified hourly rate multiplied by an unspecified number of hours; a system that infamously discourages efficient production and shifts the risk of unforeseen developments from the seller to the buyer.¹⁶ In the absence of any competing pricing mechanism, however, hourly billing has reigned over the legal market for many years, and still constitutes the dominant pricing mechanism in many law firms today.¹⁷

The law, therefore, has always been a seller's market; because the sellers are exclusively lawyers, it is more precisely termed a lawyers' market. In this sense, lawyers have constituted perhaps the world's last true guild, a term that is defined as an "organization of persons with related interests, goals, etc.,

14. See Nicola Searle, *Believe Me—Legal Services, Credence Goods and the CMA*, IPKITTE, <http://ipkitten.blogspot.ca/2016/01/believe-me-legal-services-credence.html> (last visited Feb. 15, 2017) [<https://perma.cc/L5A8-FNWK>] (explaining clients do not understand how to value services). Law is often regarded as a credence good, one whose value is difficult or impossible for a consumer to determine even after using it. This is as you would expect, given the often opaque and complex nature of much legal work and the unsophistication of the buyer relative to the expert seller.

15. See *Monopoly*, BUS. DICTIONARY, <http://www.businessdictionary.com/definition/monopoly.html> (last visited Feb. 15, 2017) [<https://perma.cc/PJZ7-98PJ>] (defining monopoly).

16. See Paul M. Barrett, *How Billable Hours Changed the Legal Profession*, BLOOMBERG (Dec. 4, 2014), <https://www.bloomberg.com/news/articles/2014-12-04/how-billable-hours-changed-the-legal-profession> [<https://perma.cc/N9HG-9755>] (explaining downfalls of billable hour system).

17. See Sue Reisinger, *Legal Departments Are Decreasing Outside Counsel Spend, Study Finds*, CORP. COUNS. (Nov. 2, 2016), <http://www.corpcounsel.com/id=1202771430876/Legal-Departments-Are-Decreasing-Outside-Counsel-Spend-Study-Finds> [<https://perma.cc/9WZR-MCLV>] (reporting on alternative fee arrangement percentages). This might finally be starting to change, at least in the corporate law sector. Survey results published in late 2016 by Hildebrandt Baker Robbins found that 85% of law departments now use alternative fee arrangements (AFAs), and 80% plan to increase their use of AFAs in the next year. Kaitlin Mansour, *Law Departments Continue the Journey Toward Operational Excellence, According to HBR Consulting LLC in Annual Survey Released Today*, HBR CONSULTING (Nov. 1, 2016), http://www.hbrconsulting.com/downloads/2016_LD_Survey.pdf [<https://perma.cc/PVE4-NNQV>] (highlighting "resource optimization" in legal industry). Importantly, this definition of AFAs does not rely on the old dodge of counting discounted hourly rates as an alternative arrangement; fixed fees per matter and flat fees for all matters in a field of work were the two most commonly cited AFAs in the survey. *See id.*

especially one formed for mutual aid or protection.”¹⁸

Most other guilds, from farriers to harness-polishers to stonecutters, have long since disappeared.¹⁹ Yet the lawyer guild is still with us today—and not, it should be said, without reason. Historically, when lawyers said nobody could do what they do as well as they could, they were correct. When lawyers said that amateurs could not be trusted to carry out legal tasks because the stakes were too high, they had a good point; law is challenging, complex, and consequential work. The high-voltage legal system, if properly approached, can derail people’s lives and compromise companies’ prospects. It is the same legal system that governs the rights to which people and companies are entitled, and the responsibilities to which they must submit. Law is the last guild left standing, perhaps because society truly needs lawyers for the peaceful enjoyment of its members.

Accordingly, society has been willing to tolerate the monopolistic nature of the legal market and the guild status of the legal profession, as long as two conditions were continuously observed. First, the fiduciary relationship between the lawyer guild and the society it served had to remain intact; second, lawyers had to be the only viable option for the provision of legal services. The main reason that the legal market is undergoing such upheaval today is the failure of both conditions.

IV. THE BREAKDOWN IN RELATIONS

The area of breakdown between the lawyer guild and the society it serves is often described using the term “access to justice.” Problems with “access to justice” are not new to the current legal market.²⁰ When I was called to the Bar as a lawyer in 1995, lawyers had been giving and receiving lectures about the legal system’s failure to achieve “access to justice” for quite some time. But the picture that these lectures painted has always been incomplete; very little objective data existed about exactly how many legal problems were left unaddressed. Moreover, those who held forth on the access problem tended to be lawyers, judges, and politicians, each of whom brought their own opinions to the table, but did not provide much in the way of measurable evidence. There was little on-the-ground data gathered from the people who were on the receiving end of the access problem.

About ten years ago, that began to change. A series of studies over the past

18. *Guild*, DICTIONARY.COM, <http://www.dictionary.com/browse/guild> (last visited Feb. 15, 2017).

19. See *Guild*, ENCYCLOPEDIA BRITANNICA, <https://www.britannica.com/topic/guild-trade-association> (last visited Feb. 15, 2017) [<https://perma.cc/VHJ2-PYQF>] (highlighting history of guilds).

20. See AM. BAR ASS’N RULE OF LAW INITIATIVE, ACCESS TO JUSTICE ASSESSMENT TOOL: A GUIDE TO ANALYZING ACCESS TO JUSTICE FOR CIVIL SOCIETY ORGANIZATIONS 3-38 (2012), http://www.americanbar.org/content/dam/aba/directories/roli/misc/aba_roli_access_to_justice_assessment_manual_2012.authcheckdam.pdf [<https://perma.cc/C7RW-FMFH>] (discussing six elements of access to justice).

decade explored an important question that had not been thoroughly considered before: What does the access problem look like—in measurable terms—from the perspective of legal system users?²¹ Conducted in Canada, Great Britain, Australia, and the United States, each of these surveys examined different population types and market segments, ranging from low and middle-income persons to small business owners. The surveys posed variations of the following questions to their respondents: Have you recently encountered a justiciable issue or life event—meaning a problem or situation that related in some way to the law—and if so, what steps did you take in response?²²

In all the surveys, the percentage of respondents who either hired a lawyer or considered doing so ranged from eleven to nineteen percent.²³ You could call this the “patent” legal market, the one in which lawyers and law firms are engaged by clients to resolve legal problems. But the great majority of respondents in each case did not turn to a lawyer. Some tried to deal with the problem themselves or turned to third parties—including family, friends, other professionals, unions, government, and online resources—for help. Others did nothing at all, hoping the problem would resolve itself, or they outright

21. See CHRISTINE COUMARELOS ET. AL., LAW & JUSTICE FOUND., LEGAL AUSTRALIA-WIDE SURVEY: LEGAL NEED IN AUSTRALIA iii, xiii-xiv (Geoff Mulherin ed., Aug. 2012), [http://www.lawfoundation.net.au/ljf/site/templates/LAW_AUS/\\$file/LAW_Survey_Australia.pdf](http://www.lawfoundation.net.au/ljf/site/templates/LAW_AUS/$file/LAW_Survey_Australia.pdf) [https://perma.cc/HN8X-ZVQT] (summarizing aim, method, and findings of Australian access to justice survey); AB CURRIE, DEP’T OF JUSTICE CAN., THE LEGAL PROBLEMS OF EVERYDAY LIFE: THE NATURE, EXTENT AND CONSEQUENCES OF JUSTICIALE PROBLEMS EXPERIENCED BY CANADIANS 1-4, http://www.justice.gc.ca/eng/rp-pr/csj-sjc/jsp-sjp/r07_la1-rr07_aj1/r07_la1.pdf (last visited Feb. 15, 2017) [https://perma.cc/F6CN-NRGQ] (utilizing survey approach to inform policy makers of public’s limited access to civil judicial process); TREVOR C.W. FARROW ET. AL., CAN. FOUND. ON CIVIL JUSTICE, EVERYDAY LEGAL PROBLEMS AND THE COST OF JUSTICE IN CANADA: OVERVIEW REPORT 3-4 (2016), <http://www.cfcj-fcjc.org> (to access follow perma.cc link) [https://perma.cc/466N-AFPC] (describing national legal problems survey based on random sample of 3,000 adult Canadians); PASCOE PLEASENCE & NIGEL J. BALMER, IN NEED OF ADVICE? FINDINGS OF A SMALL BUSINESS LEGAL NEEDS BENCHMARKING SURVEY i-ix (2013), <http://docplayer.net/106931-In-need-of-advice-findings-of-a-small-business-legal-needs-benchmarking-survey-professor-pascoe-pleasence-and-dr-nigel-j.html> [https://perma.cc/7LMR-PQ2R] (presenting summary on research methodology for small business access survey); REBECCA L. SANDEFUR, AM. BAR FOUND., ACCESSING JUSTICE IN THE CONTEMPORARY USA: FINDINGS FROM THE COMMUNITY NEEDS AND SERVICES STUDY 4-5 (2014), http://www.americanbarfoundation.org/uploads/cms/documents/sandefur_accessing_justice_in_the_contemporary_usa_aug_2014.pdf [https://perma.cc/L69W-CWFX] (explaining methodology for public experience with civil justice Community Needs and Services Study).

22. See e.g., COUMARELOS ET AL., *supra* note 21, at xiii-xiv (considering justiciable problems troublesome circumstance with potential legal consequences and remedies); CURRIE, *supra* note 21, at 3 (defining legal problems in terms of problems individuals cannot resolve effectively using their own means); FARROW ET AL., *supra* note 21, at 6-7 (describing problematic legal issues arising from normal daily activities with legal aspect and potential legal solution).

23. See COUMARELOS ET AL., *supra* note 21, at 96 (reporting 51.1% of respondents sought formal advice, 30.3% of which was formal legal advice). Based on this information, the percentage of respondents who sought formal legal advice is 15.48%. See *id.*; see also CURRIE, *supra* note 21, at 56 (reporting 11.7% of survey respondents sought legal advice); FARROW ET AL., *supra* note 21, at 9 (reporting 19% of those surveyed obtained legal advice); PLEASENCE & BALMER, *supra* note 21, at 24 (reporting 15.9% of businesses sought legal advice).

resigned themselves to their misfortune.²⁴ Those individuals who did not seek out lawyers' services comprise the latent legal market, and constitute nearly eighty percent of the total legal issues and opportunities in the United States.²⁵ The legal profession's longstanding failure to serve the latent legal market has become a serious problem.

These surveys demonstrate the unpleasant reality that the legal profession is not serving most legal needs.²⁶ In fact, the legal profession serves only the most visible, obvious, and presumably well-funded portion of potential legal needs. The "patent" legal market is only the tip of the iceberg; the clients and lawyers fortunate enough to be within this segment of the market float safely above the waterline. All others—those in the "latent" segment of the legal market—are underwater, holding their breath.

The legal profession has long kept sole possession of an extremely important commodity: solutions to legal problems. This commodity is essential to the quiet enjoyment of life in our constitutional democracy. No one else can provide this commodity, on pain of prosecution for the unauthorized practice of law. Yet lawyers sell this commodity as if it were a luxury.

A growing number of people—in business, technology, and especially government—are becoming aware of this situation. They calculate that the tens of millions of individuals who would benefit from a change in these market conditions are a vastly preferable constituency to the hundreds of thousands of lawyers who would not. They are prepared to undertake, and in some cases have moved towards, a radical reshaping of legal services regulation.

This has already unfolded in jurisdictions such as Australia and Great Britain, where the regulation of legal services has started to liberalize.²⁷ Both these countries permit the ownership or outside funding of law firms by "non-lawyers," a regulatory change that remains a source of deep and ongoing controversy in the United States.²⁸ Resistance on the part of the legal profession notwithstanding, it is only a matter of time before liberalization of legal regulation comes to America as well.

24. See SANDEFUR, *supra* note 21, at 3 (reporting 22% of respondents sought third-party advice). Where respondents sought legal advice, lawyers were involved 42% of the time when the legal problem resulted in court involvement, and 5% otherwise. *Id.* at 12.

25. See COMM'N ON THE FUTURE OF LEGAL SERVICES, AM. BAR ASS'N, REPORT ON THE FUTURE OF LEGAL SERVICES IN THE UNITED STATES 14 (2016), http://www.americanbar.org/content/dam/aba/images/abanews/2016FLSReport_FNL_WEB.pdf [https://perma.cc/BSS9-X387] (reporting percentages of people self-solving problem, doing nothing, or seeking help from family and friends).

26. See *id.* (highlighting merely 16% of individuals facing legal problems even consider seeking help from lawyers).

27. See generally NOEL SEMPLE, LEGAL SERVICES REGULATION AT THE CROSSROADS: JUSTITIA'S LEGIONS (2015) (explaining loosening of regulations in Australia and England).

28. See Blake Edwards, *The Debate over Non-Lawyer Firm Ownership Is Officially Closed, For Now*, BLOOMBERG L. (May 17, 2016), <https://bol.bna.com/the-debate-over-non-lawyer-firm-ownership-is-officially-closed-for-now> [https://perma.cc/7E3K-SSX6] (discussing idea of firms owned by non-lawyers).

Part of the coming solution to the access problem is the eventual legislative or judicial removal of lawyers' monopoly status in the legal marketplace. But the other part of that solution will not be provided by external intervention in the market. Instead, it will come through an explosion of new service options.

V. NEW COMPETITION FOR LAWYERS

Legitimate, reliable substitutes for lawyers and law firms have started to appear in the legal market.²⁹ Reasonably enough, many lawyers consider these new market participants to be competitors. But perhaps a better way to look at them is from a client's perspective. Clients see these new participants as choices. Buyers like choices, and once they know a choice is available to them, they do not give it up easily.

British legal futurist Richard Susskind foresaw the rise of these new market options years ago, and described the impact they would have on the traditional process of performing legal work. In his 2008 book, *The End of Lawyers?: Rethinking the Nature of Legal Services*, Susskind sets out and explains a process that he calls "the evolution of legal services."³⁰ Most legal services, Susskind writes, become prone to systematization and simplification over time.³¹ Accordingly, a spectrum of five types or stages of legal work, from most to least complex, can be identified. At the far left of the spectrum are "bespoke" services, typified as extremely customized and high-value.³² At the far right are the "commoditized" services, which are so basic and widely available that their market price is effectively zero.³³ Between these two extremes is a series of stages by which legal work that was bespoke becomes subject to process improvement, standardization, automation, and packaging.³⁴ These changes render the work easier and cheaper to perform, and therefore less expensive to buy.

More importantly, in a growing number of cases, the journey towards commoditization takes legal questions outside the previously sacrosanct boundary of work that was exclusive to lawyers in firms. This work can now

29. In economic terms, "substitute goods" are products that the market perceives to be so similar to other products that raising the price of one increases demand for the other. See *Substitute*, INVESTOPEDIA, <http://www.investopedia.com/terms/s/substitute.asp> (last visited Feb. 15, 2017) [<https://perma.cc/7U95-SJX7>] (defining substitutes for other products). A lawyer substitute is a person or process capable of providing an outcome so similar to what a lawyer could provide that each may be used interchangeably. In this scenario, if the lawyer becomes too costly, the substitute will be the consumer's first choice. Similarly, a law firm substitute is a commercial platform and enterprise that provides many of the same functions that law firms have provided, but at an equal or lower cost.

30. See RICHARD SUSSKIND, THE END OF LAWYERS?: RETHINKING THE NATURE OF LEGAL SERVICES 28-33 (revised ed. 2010) (breaking down model step-by-step).

31. See *id.* at 28.

32. See *id.* at 29.

33. See *id.* at 31-32.

34. See SUSSKIND, *supra* note 30, at 28-33 (describing path to commoditization).

be given to and performed by a lawyer outside a firm, a “non-lawyer” technician, a decision tree, or a software program. Operational efficiencies can be applied to the work to help lower costs and improve accessibility to buyers through lower prices—or to increase profitability to sellers through higher margins.

Myriad new providers of legal work are taking advantage of these methodological improvements and technological advances. Tomorrow’s lawyers need to understand who these providers are and what they offer to the market because these providers are currently reshaping the market into the one these lawyers will soon enter. Below are some of the major new players in the new market.

A. In-House Counsel

Corporate and public-sector lawyers have been around for decades; in recent years, however, in-house counsel has become even more sophisticated and proficient. Perhaps just as importantly, it has become less expensive than their outside counsel counterparts. The Association of Corporate Counsel recently estimated that the full cost of an in-house lawyer is fifty percent less than an equivalent lawyer in a law firm.³⁵ In-house legal departments keep—or insource—a growing volume of work that was routinely sent to law firms in the past.³⁶

B. Flextime Lawyer Agencies

One of the best-known examples of a flextime provider in the United States is Axiom, but there are similar providers elsewhere in the country and overseas.³⁷ These companies employ lawyers who once worked for large law firms but no longer do—either because they left of their own volition or were laid off—and who value the professional flexibility and personal independence that these platforms offer. Flextime lawyer agencies provide lawyers’ services for lower rates than law firms, and they apply efficiencies and process improvements to amplify productivity.

35. See Frank Strong, *Law Firm Competition: Buyers Becomes a New Entrant*, LEXISNEXIS BUS. L. BLOG (Nov. 4, 2015), <http://businessoflawblog.com/2015/11/law-firm-competition> [<https://perma.cc/VK7R-FQW8>] (noting shift toward in-house work).

36. See Thomson Reuters Survey of Legal Departments Highlights In-Sourcing, Outside Partners, THOMSON REUTERS (Oct. 14, 2015), <http://thomsonreuters.com/en/press-releases/2015/october/survey-legal-departments-highlights-in-sourcing-outside-partners.html> [<https://perma.cc/6UVP-Y5ZX>] (reporting on increased use of in-house counsel).

37. See Leigh McMullan Abramson, *Will Law Firms Be Disrupted by High-End Temping Gigs?*, BLOOMBERG L. (May 18, 2016), <https://bol.bna.com/will-law-firms-be-disrupted-by-high-end-temping-gigs/> [<https://perma.cc/2AFF-U3FV>] (suggesting temporary corporate lawyer may disrupt law firm structure based on partnership track); Alisa Levitt, *Is There Alternative Life Inside and Outside of Big Law?*, MONTAGE LEGAL GROUP (Sept. 23, 2013), <https://montagelegal.com/is-there-alternative-life-inside-and-outside-of-big-law/> [<https://perma.cc/75YE-62DK>] (discussing well-known alternative firms).

C. Online Document Providers

Led by companies such as LegalZoom and Rocket Lawyer, online legal document providers sell wills, business incorporation papers, and other basic legal forms and documents to consumers and small businesses for as little as ninety-nine dollars each.³⁸ They generate basic, reliable materials that satisfy many customers' legal needs. Many solo practitioners and small-firm lawyers consider these providers to be serious competition; others view them as potential business development partners.³⁹

D. Global Accounting Firms

The Big Four accounting firms are increasingly active in the legal markets in Europe, Asia, and most recently, Canada.⁴⁰ These firms are no longer content to conduct tax-related legal advisory work. They are now hiring lawyers and building systems to deliver mid-level corporate, commercial, employment, immigration, and intellectual property law services. Their sheer size cannot be overlooked as a competitive factor; while the largest law firm in the world has more than 7,000 lawyers, the smallest Big Four accounting (KPMG) has more than 170,000 employees.⁴¹

E. Technology Solutions

Prominent high-tech solutions abound in the legal market. Technology-assisted review uses machine learning to render e-discovery, contractual due

38. See LEGALZOOM, <http://www.legalzoom.com> (last visited Feb. 15, 2017) [<https://perma.cc/6BSQ-M92M>] (offering easy and affordable legal services).

39. See *Are You an Attorney With a Desire to Help People and a Track Record to Prove It? Let's Talk.*, LEGALZOOM, <https://www.legalzoom.com/join-attorney-network.html> (last visited Feb. 15, 2017) [<https://perma.cc/Q9FG-S9YM>] (seeking to recruit established attorneys to join LegalZoom). LegalZoom is one of a number of similar operations seeking lawyers as business partners. See Susan Cartier Liebel, *Legal Zoom, Rocket Lawyer—We Fear What We Don't Understand and to Our Detriment*, SOLO PRACTICE U. (Apr. 5, 2013), <http://solopacticeuniversity.com/2013/04/05/legal-zoom-rocketlawyer-we-fear-what-we-dont-understand-and-to-our-detrimen> [<https://perma.cc/5HRB-JKU5>] (discussing, however, disruption caused by businesses like LegalZoom, necessitating further study of long-term implications).

40. See Eric Chin, *Clash of the Titans: Big Four vs MBB vs BigLaw*, BEATON CAPITAL (Feb. 16, 2015), <http://www.beatoncapital.com/2015/02/clash-titans-big-four-vs-mbb-vs-biglaw> [<https://perma.cc/U4Q6-5AYM>] (discussing evolution of accountancy, law, and management consulting professions); Catrin Griffiths, *Accountants Aren't Kidding with ABS This Time*, LAWYER (Mar. 3, 2014), <https://www.thelawyer.com/issues/tl-3-march-2014/accountants-arent-kidding-with-abs-this-time> [<https://perma.cc/JE2M-4Z77>] (discussing emerging accountant market and potential challenges to legal market); Michael McKiernan, *Accounting Firm Enters Business Law Market*, LAW TIMES (Mar. 14, 2016), <http://www.lawtimesnews.com/201603145283/headline-news/accounting-firm-enters-business-law-market> [<https://perma.cc/2DHR-692G>] (discussing restructuring of EY Canada's affiliated law firms and potential implications).

41. See Sarah Butcher, *Working for PWC, Deloitte, EY and KPMG. What's the Difference?*, EFINANCIALCAREERS (Apr. 28, 2016), <http://news.efinancialcareers.com/uk-en/204621/working-for-pwc-deloitte-ey-and-kpmg-whats-the-difference> [<https://perma.cc/Q4F9-K55P>] (examining similarities and differences between Big Four accounting firms).

diligence, and document review amenable to execution by software, siphoning off thousands of previously billable lawyer hours.⁴² Expert systems can answer basic legal, regulatory, and compliance questions through the use of advanced legal knowledge management and artificial intelligence.⁴³ Several online applications can be downloaded onto mobile devices, and can accomplish tasks like litigating parking violations (Fixed).⁴⁴ One online application called PaperHealth, developed by Suffolk University Law School alumnus, William Palin, can even assign a healthcare proxy.⁴⁵

F. Low-Cost Lawyer Alternatives

The state of Washington was the first in the country to create a class of Limited License Legal Technicians (LLLTs) to perform basic family law matters.⁴⁶ Similarly, New York State authorized the creation of Court Navigators to provide support to people facing legal challenges related to housing, benefits, and other areas underserved by lawyers.⁴⁷ Another private sector alternative to hiring a lawyer is a legal process outsourcing company (LPO). LPOs take routine and repeatable work away from law firms, and subject it to heavy process improvement and quality enhancement, sometimes—but not always—offshore.⁴⁸

42. See Victor Li, *Technology Assisted Review Isn't Perfect, But It's Here to Stay*, LEGALTECH NEWS (Oct. 14, 2013), <http://www.legaltechnews.com/id=1202623460412/Technology-Assisted-Review-Isn't-Perfect-but-Its-Here-to-Stay> [https://perma.cc/7FDP-EKZQ] (weighing advantages and disadvantages of technology-assisted review).

43. See MICHAEL MILLS, THOMSON REUTERS, ARTIFICIAL INTELLIGENCE IN LAW: THE STATE OF PLAY 2016 3 (2016), <http://www.neotalogic.com/wp-content/uploads/2016/04/Artificial-Intelligence-in-Law-The-State-of-Play-2016.pdf> [https://perma.cc/Z5VH-4CJQ] (explaining use of artificial intelligence in legal field).

44. See Lucy Bayly, *Got a Parking Ticket? Yup, There's an App for That*, NBC NEWS (July 10, 2016), <http://www.nbcnews.com/tech/tech-news/got-parking-ticket-yup-there-s-app-n602566> [https://perma.cc/8MLP-FFLM] (discussing app to fight parking tickets); SHAKE, <http://www.shakelaw.com> (last visited Feb. 15, 2017) [https://perma.cc/47CX-SG49] (promoting creation of “legally binding agreements in seconds”).

45. See *PaperHealth App*, CAMBRIDGE L., <http://cambridgelaw.org/paperhealth/> (last visited Feb. 15, 2017) [https://perma.cc/538A-HN75] (explaining how app allows quick assignment of healthcare proxy or living will).

46. See LAW SOC'Y OF UPPER CAN., REPORT TO THE ATTORNEY GENERAL OF ONTARIO PURSUANT TO SECTION 63.1 OF THE LAW SOCIETY ACT 2-3 (2012), <http://www.lsuc.on.ca/WorkArea/DownloadAsset.aspx?id=2147488010> [https://perma.cc/B7QA-G85Q] (setting out the details of paralegals’ scope of activities in Ontario); *Limited License Legal Technician Program*, WSBA, <http://www.wsba.org/licensing-and-lawyer-conduct/limited-licenses/legal-technicians> (last visited Feb. 15, 2017) [https://perma.cc/G473-C4ER] (describing LLLTs’ history and scope of practice); see also Gene Johnson, *Washington Experiments with More Affordable Legal Advice*, SEATTLE TIMES (Sept. 27, 2015), <http://www.seattletimes.com/seattle-news/washington-experiments-with-more-affordable-legal-advice/> [https://perma.cc/9Y9Y-5AAV] (noting seven other states considering launching LLLT programs).

47. See *Court Navigator Program*, N.Y. CTS. (Feb. 10, 2014), <https://www.nycourts.gov/courts/nyc/housing/rap.shtml> [https://perma.cc/G3F3-ZBMJ] (detailing role of Court Navigators in New York).

48. See Rebekah Mintzer, *Legal Process Outsourcing Comes Back Onshore*, CORP. COUNS. (July 29, 2015), <http://www.corpcounsel.com/id=120273303001/Legal-Process-Outsourcing-Comes-Back-Onshore> [https://perma.cc/UL2K-RBFU] (discussing LPOs’ increasingly outsourced nature).

G. Self-Navigators

Self-navigators is a blanket term I created to describe the growing population of people and businesses that make use of the developing suite of tools and providers outside of law firms—the emerging legal support ecosystem. These people and businesses are not engaged in traditional “self-representation”; they are simply taking on basic and straightforward aspects of the legal process while leaving the more complex issues to lawyers. This is sometimes associated with the unbundling of legal services or limited-scope retainers. Essentially, self-navigators are going some distance towards finding legal solutions on their own.⁴⁹ The outcome of these developments is an ongoing, real-time transformation of the legal market—a transition from a dormant, low-tech, individualistic market to one that is dynamic, high-tech, and collaborative. Below are the features of this transformation:

- Technology has advanced to the point where systems and software can perform functions that only lawyers could previously accomplish, and these technological advancements are likely to expand during the next several years.
- The Internet lowered previously insurmountable barriers to accessing legal information, and enabled communication and collaboration between buyers and a wide range of new parties interested in the legal sector. This unprecedented access also helped to increase buyers’ legal knowledge.
- Globalization helped reduce the cost of many services by facilitating outsourcing of legal work to less expensive locations, thereby reducing the importance of service providers’ physical presence and changing price conversations.⁵⁰
- Competition arising from these factors swept through the market, offering lawyer-like services conveniently and at lower prices. This shifted buyers’ expectations about legal service delivery, and shook lawyers’ business assumptions to their core. This empowerment of buyers led them to try navigating parts of the legal market without the aid of lawyers with an unprecedented chance of success.

49. See generally THE RELEVANT LAWYER: REIMAGINING THE FUTURE OF THE LEGAL PROFESSION (Paul A. Haskins ed., 2015) (examining self-navigation trend in legal market). In this book, I contributed a chapter entitled, *Client Change: The Age of Consumer Self-Navigation*, which explains in more detail how a self-navigation trend rising throughout the legal market is enabling people to resolve some aspects of their legal challenges on their own with the assistance of an emerging ecosystem of technology providers and non-lawyer helpers. See generally Jordan Furlong, *Client Change: The Age of Consumer Self-Navigation*, in THE RELEVANT LAWYER: REIMAGINING THE FUTURE OF THE LEGAL PROFESSION 37 (Paul A. Haskins ed., 2015). Self-navigation is eclipsing self-representation and should eventually replace it altogether; this will have dramatic implications for both lawyers and the legal system.

50. See Mike Collins, *The Pros and Cons of Globalization*, FORBES (May 6, 2015), <http://www.forbes.com/sites/mikecollins/2015/05/06/the-pros-and-cons-of-globalization/#20ca8e542170> (discussing role of globalization in driving down legal costs).

VI. THE DEMANDS OF THE NEW MARKET

We have explored at some length the nature of the new marketplace for legal services. We have also touched upon, and will discuss in more detail below, the fact that the first cohort of lawyers to enter this new environment will belong to the Millennial Generation. What is not often considered is that tomorrow's clients will be increasingly of the Millennial Generation.

The buyers of legal services are aging and transitioning into new stages of life as surely as are the sellers of these services. Millennials are getting married, buying houses, having children, caring for aging parents, getting injured, getting arrested, crossing borders, starting companies, running corporations, firing and being fired, and experiencing a nearly endless stream of other justiciable issues and life events. When Millennial clients enter the market to procure services and solutions to help them address these situations, they will do so in a manner distinct in key respects from the Boomers and Generation-Xers who preceded them.

If Millennial lawyers are pondering how best to market their talents and provide legal services to this emerging client population, they need only consider how they themselves interact with other markets that they enter. What kinds of consumers are Pivot Generation lawyers? The answers to that question should reveal a great deal about the nature of the clients they will serve. Based on my experiences with both would-be lawyers and would-be clients from this generation, service providers in the new legal market must be prepared to encounter and respond to the following characteristics in their client base.

A. Affordability Is a Top Priority

Chronic indebtedness and difficulties in procuring steady employment are not features exclusive to lawyers of this generation. Millennial clients also came of age during the worst economic crisis since the Great Depression, and they share an abiding concern about budgets and an inherent thriftiness born of necessity.⁵¹ They will seek basic, sufficient products and services rather than expensive, deluxe solutions. They will be stringent judges of value for money, and they will not hesitate to haggle or to walk away.⁵² Corporate clients will demand more for less as a matter of course. To succeed, Pivot Generation lawyers must make themselves affordable to this market segment—or they will be rendered invisible.

51. See Polly Mosendz, *Millennials Aren't Cheap, They're Thrifty*, BLOOMBERG (Oct. 28, 2016), <https://www.bloomberg.com/news/articles/2016-10-28/millennials-aren-t-cheap-they-re-thrifty> [https://perma.cc/B84K-TFV3] (highlighting Millennial value of saving money).

52. See *id.* (explaining Millennials "don't spend lightly").

B. Choice Is a Given

Millennials have never known a market in which there is only one type of product or one choice of supplier. They grew up in grocery aisles with nearly endless options for cold cereal and corn chips. They watched televisions with hundreds of channels and surfed an Internet with millions of pages. They instinctively understand different market segments, and can identify which ones they inhabit. They will regard lawyers as neither the singular nor the default option for obtaining legal services, setting them apart from every generation that came before. Lawyers wishing to serve this group must position themselves within an array of viable competing service options, and identify precisely why they are best positioned to meet the current need or opportunity.

C. Convenience Is Prized

This is the one-click generation, filling shopping carts online at any hour of the day and assuming purchases will be shipped free and/or overnight.⁵³ Where their parents accepted that banks closed for the weekend on Friday afternoons, Millennials take Saturday banking and Sunday shopping for granted. They will not be impressed by law offices that open their doors at 9:00 a.m. and close them at 5:00 p.m. They will have difficulty understanding why they cannot buy products or access data on these law firms' websites. Lawyers must redefine what "availability" will mean to clients in the coming years. A law firm need not keep a lawyer on the premises twenty-four hours a day, but making a few lawyers and staff available on evening and weekend hours should be strongly considered. Furthermore, lawyers need to understand that a law firm's website must be more than an online brochure.

D. Transparency Is Vital

Millennials want to know the accurate price—not the billable hour rate or a guesstimate—of a lawyer's services, and they expect to be able to compare the prices charged by several lawyers quickly and easily online. They will seek out reviews and assessments of lawyers' performances, crowdsourcing this information through rating websites like Avvo.⁵⁴ They will Google a lawyer's name to see what comes up, both good and bad. Millennials' buying habits are shaped by online stores like Amazon; they expect to be able to access a complete list of features, an array of similar products and services, and a host of online reviews and ratings from customers who have used the service before.

53. See Marc Ambasna-Jones, *One-Click Checkouts and Pay-by-Selfie: The Rise of Mobile Commerce*, GUARDIAN (June 23, 2016), <https://www.theguardian.com/media-network/2016/jun/23/mobile-commerce-growing-security-mcommerce> [https://perma.cc/WM4C-RBYB] (implying transactional ease concerns many Millennials).

54. See AVVO, <https://www.avvo.com> (last visited Feb. 15, 2017) [https://perma.cc/7N5G-HK38] (highlighting various prices for services offered).

Pivot Generation lawyers must be ready to publicly disclose, or to see publicly disclosed, immense amounts of information about who they are and what they do.

E. Personalized Service Matters

Among the unfair characterizations of the Millennial Generation is the label “special snowflake,” a purported overweening self-regard.⁵⁵ But the stereotype hides a grain of truth: members of this cohort expect to be treated personally and specifically, to have their unique interests and preferences considered by their service providers. They are accustomed to customization in their buying experience, even if the product or service they seek to obtain is not itself customized. Lawyers who serve these clients should endeavor to collect as much information as they can about who these clients are, what they are seeking, and how they prefer to receive it. Client intelligence will be crucial to a lawyer’s ability to provide services that are not only competent and professional, but also feel as if they have been created and delivered specifically for this client.

F. Knowledge Is Power

It might be a low bar to clear, but this generation of clients will be the most well-informed and sophisticated group ever to venture into the legal market. An extraordinary amount of reliable legal information exists on the Internet, much of it generated by law firms or non-profits either for marketing materials or for public legal education purposes. Increasing transparency surrounding price and service experiences will give clients additional leverage when choosing and negotiating with lawyers. In some cases, clients will be equally or better informed than lawyers about the latest process improvements and technology-driven productivity tools. The longstanding asymmetry of knowledge between lawyers and clients is rebalancing fast, and this will realign the power dynamics between the two just as quickly. In a legal market of unprecedented competitiveness, it has never been more important for lawyers to understand the needs and wishes of their clients. Rest assured that many of the new providers identified earlier take this kind of market research and analysis quite seriously. Pivot Generation lawyers are well advised to do the same.

55. See Eleanor Halls, *Millennials. Stop Being Offended by, Like, Literally Everything*, GQ MAG. (Aug. 12, 2016), <http://www.gq-magazine.co.uk/article/millennials-created-generation-snowflake> [https://perma.cc/GJK2-HM9Z] (discussing fragility of Millennial Generation); *Me, Me, Me: The Rise of Narcissism in the Age of the Selfie*, NPR (July 12, 2016), <http://www.npr.org/2016/07/12/485087469/me-me-me-the-rise-of-narcissism-in-the-age-of-the-selfie> [https://perma.cc/4ND8-Z4RF] (alleging Millennials constitute more narcissistic cohort than previous generations).

VII. THE SKILLS NOW REQUIRED

The challenges outlined above present difficulties for lawyers now entering the legal market. These challenges are further compounded by legal education and lawyer admission systems that struggled to meet the demands of law practice in the twentieth century, let alone the twenty-first. Great Britain and Canada have made strides towards establishing baseline practice competencies for new lawyers, but such practices have yet to reach the United States.⁵⁶ While several American law school faculties have made significant strides towards modernizing their curriculum to meet these demands—Suffolk University Law School among the premier examples—many have not.⁵⁷

Thus, many Pivot Generation lawyers entering the legal market lack key skills and proficiencies that will be required of successful legal service providers over the next decade or two. But equally, many new lawyers will find, by previous work or life experience, they are surprisingly well-equipped to provide competitive offerings. Those who are not should welcome the news that these skills can be acquired, either through formal training and instructional regimens or simply by constant use and improvement. Below are skills that I predict to be among the most important for lawyers to possess in the coming years.

A. Collaboration

Collaboration, a key skill across all industries and professions in the twenty-first century, will prove especially significant in the field of law. Lawyers will need to cooperate with each other on fixed-fee, tightly managed client projects. They will need to work closely with technicians and professionals outside of the legal profession. Most importantly, they will have to collaborate with their own clients through unbundling, pricing, and joint value identification.

B. Customer Service

Anyone who has been on the wrong end of a call to technical support or their local cable company understands the value of polite and helpful customer service, and the frustration that its absence can inspire. Lawyers are not renowned for their personal touch with clients. Because many of their competitors do not suffer from this handicap, it is essential for lawyers to develop strong relationship-building and relationship-maintenance skills with

56. See Jordan Furlong, *Have We Gone TFARR, or Not Far Enough? The Search for Lawyer Competence Standards*, NALP (Nov. 2015), http://www.nalp.org/uploads/1115_PDQ_Furlong.pdf [<https://perma.cc/6MUG-TCV8>] (describing required lawyer competencies).

57. See Victoria Santoro, *Interested in the Future of Legal Tech? So Are These Law Schools*, LAW TECH. TODAY (July 29, 2014), <http://www.lawtechnologytoday.org/2014/07/interested-in-the-future-of-legal-tech-so-are-these-law-schools> [<https://perma.cc/CVV9-JAYV>] (acknowledging Suffolk University Law School's leadership role in legal technology across country).

their clients.

C. Empathy

A well-developed sense of empathy is a key ingredient of superior customer service. This is one of the underrated soft skills traditionally overlooked by legal education and training, but it will be highly valued in the coming market. It is not, however, simply a matter of customer relations; empathy allows lawyers to understand their clients' real concerns better and tailor their solutions to meet unasked or even unrealized requests. Personal care can be a value-added performance advantage.

D. Entrepreneurialism

Lawyers must develop entrepreneurial skills because there will likely be fewer salaried positions for lawyers over the coming decade. Accordingly, it is wise for new lawyers to develop the skills and attributes associated with entrepreneurialism, including the know-how and inclination to run a small business and a cultivated ability to assess and take calculated risks. Few lawyers come by this skill naturally, so experience outside law school working for—or running—a company can be invaluable.

E. Financial Literacy

The fundamental knowledge tools of business, though closely associated with entrepreneurialism, are valuable even for lawyers engaged in more traditional jobs. Lawyers should be able to balance a ledger, understand basic tax principles, work easily with statistics, calculate profit margins, and price their services competitively and profitably. These will be especially essential skills for lawyers who pursue careers in corporate in-house environments or who advise companies of any kind.

F. Flexibility

Many lawyers in the new legal services market will engage on a rotating basis with short-term, contract, or project work. Those who choose this type of career will need the ability to juggle competing priorities, adjust quickly to new demands, switch working environments upon request, and write every schedule in pencil. Flexibility will be an important skill in an agile, multi-employer marketplace.

G. Leadership

Many law firms today devote a remarkable amount of effort towards providing their lawyers with leadership training. Not quite as many, however, provide these same lawyers with opportunities to gain leadership experience.

Seek out both methods of building leadership skills, take courses where they are available, but more importantly, be a leader. Start by volunteering for a local community organization or charitable group that needs someone to solve problems and plot out strategies.

H. Process Improvement

Most legal work processes are currently remarkably inefficient, the product of poor work habits built up over the course of decades in an undemanding marketplace. The ability to remove these inefficiencies and amplify a lawyer's productivity through process improvement will shortly prove to be an essential skill. Legal project management, "Legal Lean," process mapping, and other operational improvements, will soon constitute foundational skills in the new legal market.⁵⁸

I. Strategic Thinking

One of the most pernicious effects of legal market change will be removing many process and knowledge-based offerings that supported law firms in the past from lawyers' basic inventory. In their place, lawyers will have to offer higher-value services like advocacy, risk assessment, and most of all, strategy. Clients keep strategic advisors nearby and seek their guidance, insight, and wisdom. Strategic thinking is a skill that can be honed through both formal training and experience.

J. Technological Adaptation

It will be essential for lawyers to learn the tools of legal productivity, but those tools need not—and usually will not—include the most advanced, artificially intelligent, "robolawyer" type solutions.⁵⁹ More often, they will encompass basic productivity tools like Word and Excel.⁶⁰ New and updated technologies will continuously enter the market; the real skill will be quick adaptation to the most effective emerging tools of the legal trade, and their rapid deployment in actual practice.

58. See Jim Hassett & Jonathan Groner, *How Legal Project Management Is Changing the Way Services Are Marketed*, BLOOMBERG BNA (Oct. 1, 2013), <https://www.bna.com/how-legal-project-management-is-changing-the-way-services-are-marketed> [https://perma.cc/Z98B-9ZCM] (highlighting importance of project management in firms).

59. See Michio Kaku, *A Scientist Predicts the Future*, N.Y. TIMES (Nov. 28, 2013), <http://www.nytimes.com/2013/11/28/opinion/kaku-a-scientist-predicts-the-future.html> [https://perma.cc/N9T6-4KBG] (noting "animated doctors and lawyers").

60. See *Legal Tech Assessment: Incentivizing Efficient Legal Services*, TECH. ASSESSMENT, <http://techassessment.legal> (last visited Feb. 15, 2017) [https://perma.cc/73PZ-7XFS] (providing information on world's only legal technology audit).

VIII. THE FALL OF THE BOOMER LAW FIRM

Just as future law firms will be defined per their Pivot Generation lawyers, old law firms were defined by their Boomer Generation forebears. Boomers, in the United States, are people born between 1946 and 1964.⁶¹ In 1975, the oldest law firm Boomers were twenty-nine years old, and on their way to becoming junior partners at their staid and relatively small law firms. By 1985, older Boomers aged twenty-nine to thirty-nine were rising rapidly through the ranks, and were on their way to becoming the dominant demographic group; the youngest Boomers turned twenty-nine in 1993. The astonishing growth in the size and activity of American law firms from this time onwards is not, to my mind, a coincidence.

This growth can be measured in terms of the sheer number of lawyers in these firms. Between 1985 and 1999, the number of lawyers employed at the 100 largest American law firms increased at an annual rate of 4.75%; from 1999-2008, that growth rate rose to 5%.⁶² Growth can also be measured in financial terms. In 1985, the three largest law firms in the United States collectively generated \$357 million in revenue.⁶³ By 2015, when Boomers reached the peak earning ages of fifty-one to sixty-nine, the earnings of the three largest law firms was \$7.63 billion.⁶⁴

As they assumed more power and influence within their law firms, Boomers began to remake the firms in their image, according to their values. Their philosophy was to work very hard, turn time into money, grow every year, and repeat the cycle. These values created large, full-service law firms, sustained by ever-increasing hourly billing rates and billable hour targets, numbers that many of us now take for granted as the pinnacle of lawyerly achievement.⁶⁵ Modern law firms, in short, are Boomer constructs.

Over the last forty years, Boomers transformed law firms and occupied center stage in the legal profession. Now, as they deliver their closing lines and prepare to exit the stage, they are starting to pack up their firms too. Sixteen percent of partners at large American law firms will retire before 2021.⁶⁶

61. See Bump, *supra* note 11 (describing generational start and end points).

62. Debra Cassens Weiss, *As Baby Boomer Partners Retire, Law Firms Face Increasing Costs and Client Issues*, A.B.A. J. (Aug. 30, 2016), http://www.abajournal.com/news/article/as_wave_of_baby_boomer_partners_retire_law_firms_face_increasing_costs_and [https://perma.cc/LF4F-PFMV].

63. See *Time Capsule*, ADAM SMITH, ESQ. (Oct. 17, 2016), <http://adamsmithesq.com/2016/10/time-capsule> [https://perma.cc/6J7D-ETU5] (stating largest firms' annual revenue).

64. See *The 2015 Am. Law 100: Rich and Richer*, AM. LAW. (Apr. 27, 2015), <http://www.americanlawyer.com/id=1202755456066/The-2015-Am-Law-100-Rich-and-Richer> [https://perma.cc/3R8WV94L] (demonstrating how rich firms grow richer).

65. See Niki Kuckes, *The Hours: The Short, Unhappy History of How Lawyers Bill Their Clients*, LEGAL AFFAIRS (Sept./Oct. 2002), https://www.legalaffairs.org/issues/September-October-2002/review_kuckes_sep02_2002.msp [https://perma.cc/2SV4-38KS] (describing history of billable hours).

66. Julie Triedman, *Retiring Boomers Pose Big Challenges for Firms*, AM. LAW. (Aug. 29, 2016), <http://www.americanlawyer.com/id=1202765209388?slreturn=20161025093440> [https://perma.cc/XND9-SAJ]

Thirty-eight percent will retire by 2026.⁶⁷ From 2009 to present day, growth in law firms dropped to 1.2% annually.⁶⁸ Financial growth—as measured by a fleet of surveys over the past several years—is essentially flat.⁶⁹ As legal consultant Bruce MacEwen concisely phrased it, “Growth is dead.”⁷⁰

There are myriad reasons for these developments, starting with the impact of the financial crisis, which forced untold numbers of corporate clients to find lower-cost alternatives for outside legal spending. Law departments began insourcing straightforward legal work.⁷¹ Assignments gradually moved off the desks of associates, partly because clients no longer trusted the competence of first and second-year associates, and refused to pay their billed hours; and partly because partners needed the work to meet their own hourly billing targets, so they kept the assignments for themselves. Associate leverage, which was once 3:1 and 4:1 in many large firms, has fallen to 1:1 or even less.⁷² Law firm partners are no longer making investments in future lawyers as they once did.⁷³ In a certain way, it makes sense: Why invest in the future of your firm if you will not be part of that firm in five or ten years?

More than half the firms surveyed by Altman Weil in 2016 reported using

N] (discussing impact of retiring Boomer Generation on law firms).

67. *Id.*

68. *See id.* (describing how “[b]aby boomers generally want to work longer than their predecessors”).

69. *See ALTMAN WEIL, INC., 2016 LAW FIRMS IN TRANSITION 3-5 (2016),* http://www.altmanweil.com/dir_docs/resource/95e9df8e-9551-49da-9e25-2cd868319447_document.pdf [https://perma.cc/JS4B-TU6C] [hereinafter 2016 LAW FIRMS IN TRANSITION] (noting unreliable demand, surplus of lawyers, and inefficient delivery of legal services); ALTMAN WEIL, INC., 2015 CHIEF LEGAL OFFICER SURVEY iii (2015), http://www.altmanweil.com/dir_docs/resource/e377d935-7263-4031-b25d-57dbe4d9d16d_document.pdf [https://perma.cc/42MX-CZRF] (reviewing law firm leaders’ strategies regarding in-house counsel); CITI HILDEBRANT CONSULTING LLC, 2016 CLIENT ADVISORY 10 (2016), <https://www.privatebank.citibank.com/pdf/2016CitiHildebrandtClientAdvisory.pdf> [https://perma.cc/WPR5-KC98] (examining decreasing demand for traditional law firms); GEORGETOWN LAW CENTER FOR THE STUDY OF THE LEGAL PROFESSION, 2016 REPORT ON THE STATE OF THE LEGAL MARKET 2-3 (2016), https://peermonitor.thomsonreuters.com/wp-content/uploads/2016/01/2016_PM_GT_Final-Report.pdf [https://perma.cc/WU6X-9NJC] (reporting on law firm growth).

70. BRUCE MACEWEN, GROWTH IS DEAD: NOW WHAT? LAW FIRMS ON THE BRINK (2013).

71. *See Debra Cassens Weiss, Companies Shift Legal Spending In-House as More Embrace ‘Insourcing,’ A.B.A. J. (Sept. 15, 2014),* http://www.abajournal.com/news/article/companies_shift_legal_spending_in_house_as_more_embrace_in_sourcing [https://perma.cc/LFS3-SSTU]

(noting shift toward in-house hiring); *see also* Strong, *supra* note 35 (discussing transition from outside to in-house counsel).

72. *See Jordan Furlong, The Obsolete Associate, LAW21 (July 14, 2016),* <https://law.21.ca/2016/07/the-obsolete-associate> [https://perma.cc/H42V-FJQP] (discussing falling numbers for associate leverage); Sean Larkan, *Low Leverage: A Low Road to Ruin for Law Firms?,* LEGAL LEADERS BLOG, <http://www.legalleadersblog.com/files/2011/10/Edge-International-Review-October-2011-Low-leverage-low-road-to-ruin-by-Sean-Larkan.pdf> (last visited Feb. 15, 2017) [https://perma.cc/X5H5-9MVK] (estimating ratio just under 1:1 in 2010 for top 200 U.S. firms); Elie Mystal, *Clients Won’t Pay for What Law Schools Churn Out,* ABOVE LAW (Oct. 17, 2011), <http://abovethelaw.com/2011/10/clients-wont-pay-for-what-law-schools-churn-out> [https://perma.cc/2WM5-8D2P] (noting disparity between law school costs and actual training received).

73. *See William D. Henderson & Rachel M. Zahorsky, Law Job Stagnation May Have Started Before the Recession—And It May Be a Sign of Lasting Change, A.B.A. J. (July 1, 2011),* http://www.abajournal.com/magazine/article/paradigm_shift [https://perma.cc/C67B-AXBG]

(explaining law firms prioritize short-term profits over long-term investment in training associates).

part-time and contract lawyers to meet demand, including seventy-five percent of firms with 250 or more lawyers.⁷⁴ Law firms are outsourcing a growing amount of their associate work to freelance lawyers, thereby saving themselves pensions, benefits, management trainings and overhead costs in the process. And it increasingly appears that whatever has not been outsourced will soon be automated. In a 2015 survey, thirty-five percent of law firm leaders said they could envision replacing first-year associates with law-focused computer intelligence within the next five to ten years.⁷⁵ In 2016, Deloitte estimated that 100,000 legal roles could be automated in the next twenty years.⁷⁶ In sum, the amount of traditional work available for law firms is shrinking below the horizon of profitability.⁷⁷

What all this amounts to is that as a class of lawyers within law firms, associates are becoming obsolete. There simply will not be as much need for them anymore.⁷⁸ This represents a drastic shift in the nature of law firms and legal work; as it continues to unfold over the next several years, it will have equally profound effects throughout the legal market.

New associate classes at law firms will become permanently smaller as firms focus on fewer candidates and conduct more intensive assessments to see which of them will become future rainmakers and practice leaders.⁷⁹ Law firms will not be the career launch pads they once were for new lawyers; other entry-level platforms will emerge, and the need for competence training will become more acute. Law schools will reconfigure their curricula to produce fewer general-purpose associates and more lawyers ready to provide value

74. 2016 LAW FIRMS IN TRANSITION, *supra* note 69, at 3.

75. Julie Triedman, *Computer vs. Lawyer? Many Firm Leaders Expect Computers to Win*, AM. LAW. (Oct. 24, 2015), <http://www.americanlawyer.com/id=1202740662236> [<https://perma.cc/CR4Q-5WEA>] (stating law firm's stance on replacing first-year associates with technology).

76. *Deloitte Insight: Over 100,000 Legal Roles to Be Automated*, LEGAL TECH. (Mar. 16, 2016), <http://www.legaltechnology.com/latest-news/deloitte-insight-100000-legal-roles-to-be-automated> [<https://perma.cc/SW3Z-2F28>] (illustrating estimated number of new legal roles automated). In this respect, law is simply experiencing the same job squeeze that many other industries have gone through; thousands of North American manufacturing jobs that have been automated out of existence simply are not coming back.

77. See Ward, *supra* note 6 (discussing law firm practices following financial downturn). All of this helps explain the stubbornly high levels of unemployment experienced by law graduates over the past several years, numbers that have mostly held steady despite a historic drop in the number of law school applications.

78. See Karen Sloan, *Associate Hiring Stood Still at Firms Last Year*, NAT'L L.J. (June 8, 2015), <http://www.nationallawjournal.com/id=1202728560553/Associate-Hiring-Stood-Still-at-Firms-Last-Year> (noting law firms' low hiring rates). Associate hiring among the 350 largest U.S. law firms was flat in 2014, while "MidLaw" firms of 11-100 lawyers rarely hire new lawyers at all. See Shannon Achimalbe, *Back in the Race: Midlaw Does Not (Usually) Hire Newbie Lawyers*, ABOVE LAW (June 29, 2016), <http://abovethelaw.com/2016/06/back-in-the-race-midlaw-does-not-usually-hire-newbie-lawyers> [<https://perma.cc/5RW6-MST9>] (discussing Midlaw hiring practices). The number of salaried positions offered by law firms for lawyers in their first few years of practice is at a standstill, and it is inevitable that these numbers are going to start sliding backward very soon.

79. See *Entry-Level Job Market Heats Up as Firms Scramble for Top Talent*, NAT'L JURIST (Feb. 25, 2016), <http://www.nationaljurist.com/content/entry-level-job-market-heats-firms-scramble-top-talent> [<https://perma.cc/S3ZF-RVJQ>] (discussing change in legal market in part due to smaller law school classes).

through technology, process, and strategic advisory skills.

Most of these shifts in the fortunes of the traditional law firm date to approximately 2009.⁸⁰ Interestingly, just as the youngest Boomers were turning twenty-nine in 1975, the youngest Millennials were turning twenty-nine in 2009. By 1985, Boomers began in earnest to transform their law firms into high-volume, high-growth businesses. By that token, the Pivot Generation should start transforming law firms according to their own norms and values by 2019. This all suggests that a massive demographic transition within law firms is about to begin, and a transition to a new set of operating norms and productivity paradigms within those firms will occur along with it.

IX. THE RISE OF THE PIVOT LAW FIRM

I said at the start of this Article that I was bullish about the prospects of the Pivot Generation of lawyers. Given the contents of the last section, that might seem mystifying. The destiny of this generation of lawyers, however, is not to go down with the sinking of the old law firm ship, one designed and piloted by the previous generation. This cohort's destiny is to launch an entirely new fleet, and then set out to ply the waters of new legal oceans.

The new market still needs law firms; but not the old firms powered by lawyers' time, effort, and billable energy. What the market needs now are firms powered by algorithms, data, analytics, automated services, competitive intelligence, and a whole range of expert professionals, in addition to lawyers' time, effort, and energy. It was an Australian, George Beaton, who first coined a name for these firms that are structured and organized differently, creating and delivering legal services in a novel way: NewLaw.⁸¹

NewLaw firms do not fight the new providers entering the market; they work with them as suppliers or complementary services. They do not object to the rise of non-lawyers or non-practicing lawyers; they embrace them. These firms understand that the future legal market is a massive multi-player game, and they are ready to collaborate to be the premier provider of legal services to whichever market segments they choose to serve. These will be the law firms of the Pivot Generation. Features that will differ markedly from the Boomer firms include the following:

- NewLaw firms will measure inventory less through hours worked and billed by full-time, on-site, individual lawyers, and more through products and services generated by both external talent and internal systems and software.
- The cost of NewLaw's services will change as well, because it is

80. See Larry E. Ribstein, *The Death of Big Law*, 2010 WISC. L. REV. 749, 751 (2010) (placing major big law downturn in 2008-2009).

81. See GEORGE BEATON & IMME KASCHNER, REMAKING LAW FIRMS: WHY AND HOW 4 (2013) (describing terms "NewLaw" and "BigLaw").

impossible to bill clients for hours worked when the workers are algorithms. Furthermore, it will be unprofitable to do so when systems and process improvements reduce time spent and therefore decrease inventory.

- Lawyer compensation systems will change because billable hour totals will no longer reflect the entirety—or even the majority—of law firm productivity. Firms will have to develop new compensation metrics that incorporate value contributed to the firm.
- NewLaw firms will become permanently smaller, due to a lessened demand for full-time, on-site employees to carry out client work; they will also become less lawyer-heavy, as non-lawyers and non-practicing lawyers swell the firms' personnel ranks.

Just as Boomer lawyers molded their law firms according to their values, so too will Pivot Generation lawyers infuse their values throughout law firms as they transform and rebuild them. Below are the cultural and operational characteristics that the most successful NewLaw firms will feature.

A. Collaboration

To solicit effective contributions from all participants, NewLaw firms will form teams—both within firms and as part of “project groups”—of full-time and freelance practitioners. They will also collaborate with non-lawyer providers as well as with clients. All these groups have different characteristics, so effective collaboration will require a deft combination of negotiating and relationship skills. Compensation and cultural incentives will favor team players over lone wolves. Boomer lawyers often worked in silos; team-working Pivot Generation lawyers will de-compartmentalize law firms.

B. Convenience

Boomer law firms place a high premium on hard work, as well as on the visible demonstration of hard work. High billable hour totals, late nights at one’s desk, and “face time” in the office are regarded as signs of productivity and badges of honor. Pivot Generation lawyers will prove less prone to these tendencies; they will work from home, on the road, or at clients’ premises, depending on the circumstances, and especially on their personal situations. The decline of “recorded hours” as law firms’ stock-in-trade will encourage lawyers to work wherever, whenever, so long as the work gets done.

C. Diversity

Increased diversity in law firms will not occur overnight. Numerous barriers to entry and advancement within law firms for members of traditionally less privileged communities remain to be torn down. But diversity should have a fighting chance once the generational turnover occurs because many Millennial

lawyers were raised with more sensitivity to the issue. It will not, however, happen automatically; NewLaw firms must create and enforce hiring and promotion policies if they truly want to advance diversity.

D. Multi-Disciplinary Skills

NewLaw firms will feature an array of expertise provided by a range of professionals and technicians. This growth will stem partly from the relaxation of regulatory strictures against non-lawyer involvement in legal services, and partly from the increasing demand by the legal market for law firms to provide broader skill sets than lawyers alone can offer. Accountants, programmers, data scientists, systems analysts, and legal operations personnel will join lawyers, first as fellow employees and eventually as part-owners. In smaller firms, non-lawyers will include financial planners, real estate salespeople, family counselors, and child psychologists.

E. Responsivity

One significant difference between most Boomer lawyers and their Millennial replacements is that while members of the former cohort often entered law school without any previous work experience, many from the latter group have worked before. Lawyers who once labored in retail outlets, in coffee shops, or on construction sites understand first-hand the realities of customer service-based work, and thus recognize its importance. The firms these kinds of lawyers operate should be better attuned to assess and respond to customer satisfaction issues. In a more competitive market, this will serve them well.

F. Systematization

Carefully designed processes govern the organization and execution of tasks in industrial and professional businesses worldwide. Over the course of the coming generation, law firms will finally join that list. Traditional procedures for carrying out client tasks will be objectively re-examined, evaluated for their effectiveness, and restructured to maximize productivity. Process mapping and project management will be the first two operational systems applied to firms, but others will join them as law firm workflow is reinvented to be more efficient and deliver more value.

G. Technology Adoption

There are currently two stumbling blocks to the widespread adoption of technology in law firms: technology's tendency to reduce labor and thus

billable hours, and Boomer lawyers' tendency towards technophobia.⁸² As law firms reorient themselves by necessity to offer more fixed-fee and subscription-style pricing arrangements, the first factor will be reduced significantly. Although it is a myth that the new generation of lawyers is composed entirely of enthusiastic technophiles, it is nonetheless reasonable to expect that the earlier adoption of technology by Pivot Generation lawyers will further reduce the level of resistance.⁸³ The single most important feature of successful NewLaw firms will be the ability of their owners and stakeholders to ask and answer a critical question: "If we were not already doing it this way, would we start doing it now?" Currently, few law firms are culturally capable of asking that question, and fewer still are structurally capable of acting on the answer. Most of a law firm's operational features—billable hours, associate leverage, hand-crafted solutions, individualistic ethos—can trace their lineage back several decades. The main reason these characteristics linger in modern law firms is the habitual power of long practice; it is simply the way things have always been done. Rarely does a law firm encounter an enterprise-wide opportunity to reconsider these practices seriously, and to wonder whether there might not be a better way. A full-scale generational transition, into which most law firms are now entering, is just such an opportunity.

X. NEW ROLES FOR LAWYERS

As automation and outsourcing take a dire toll on new lawyer hiring, there will be fewer traditional jobs for lawyers. But a broad spectrum of employment and entrepreneurial opportunities will flourish in the coming legal market, and in time, these new and burgeoning categories will grow as well.

A. Knowledge Engineers

Law firms possess a staggering amount of internal information and know-how; not just legal expertise, but also business intelligence regarding costs and workflow. Trained knowledge analysts will have opportunities to sift through and assess that information, helping law firms to develop new products and services, make the firm more competitive, and increase the firm's productivity.

B. Legal Project Managers

Numerous major corporate and institutional clients are clamoring for law

82. See Mary Juetten, *The Future of Legal Tech: It's Not As Scary As Lawyers Think*, FORBES (Feb. 19, 2015), <http://www.forbes.com/sites/maryjuetten/2015/02/19/legal-tech-or-tech-legal/#73328447644d> (detailing lawyers' fears of replacement by technology).

83. See Darth Vaughn & Casey Flaherty, *Tech Comes Naturally to 'Digital Native' Millennials? That's a Myth*, A.B.A. J. (Oct. 13, 2016), http://www.abajournal.com/legalrebels/article/tech_comes_naturally_to_digital_native_millennials_thats_a_myth [<https://perma.cc/9B2C-CZD4>] (explaining need for technology training for new lawyers' success).

firms to apply process improvement techniques to their workflow and systems. Many of these clients are looking to hire legal project managers themselves, to help assess their own operations. Legal project management is not something one can learn overnight, but with due respect to project managers, it is not any harder than getting a law degree.

C. Pricing Officers

Just five years ago, the position of pricing officer did not even exist within law firms. Pricing officers are responsible for calculating profitability, assessing market intelligence, and helping lawyers set fixed and ranged fees for their services. Procurement specialists in-house serve much the same function on the buyer side. Today, most of the AmLaw 100 employs a pricing specialist or a chief pricing officer. This is a rapidly growing field.

D. Artificial Intelligence Programmers

Artificial intelligence (AI) has captured the imagination of the legal profession.⁸⁴ Although much of what is written about “legal AI” is hype or misinformation, the remainder is true and revolutionary. AI systems need programmers, and those programmers will require logical minds with legal knowledge as well as with basic coding skills.

E. Inside Counsel

Corporate and public-sector law departments are bringing back in-house work that they previously outsourced to law firms.⁸⁵ Accordingly, they are hiring more lawyers and legal operations professionals. It is even possible that one day, institutional, “one-client” employment will surpass law firm employment as the primary salaried role for lawyers.

F. Operational Specialists

Operational specialists overhaul existing systems to enhance the effectiveness and productivity of traditional legal tasks and workflow. They are increasingly influential players within law departments, and will make their way into law firms before long.

84. See Julie Sobowale, *How Artificial Intelligence Is Transforming the Legal Profession*, A.B.A. J. (Apr. 1, 2016), http://www.abajournal.com/magazine/article/how_artificial_intelligence_is_transforming_the_legal_profession [https://perma.cc/K5QW-UQ9F] (describing impact of AI on legal profession).

85. See Danny Ertel & Mark Gordon, *Points of Law: Unbundling Corporate Legal Services to Unlock Value*, HARV. BUS. REV. (July-Aug. 2012), <https://hbr.org/2012/07/points-of-law-unbundling-corporate-legal-services-to-unlock-value> (examining different options for maximizing value of legal services).

G. Flex-Time Lawyers

Flex-time lawyers work on a project or contract basis, often from home or sometimes from the client's premises. They operate on flexible hours that suit both the buyer and seller of the services. Lawyers who are willing to trade top salaries, defined benefits, and the partnership track for a customizable schedule, freedom from billable hours, and a chance for work-life balance should strongly consider this option.

H. Preventive Lawyers

Minimizing a client's potential exposure to legal damage, creating compliance and training systems to improve the legal behavior of institutions, and drafting checklists or regimens of healthy legal choices, are all innovative opportunities by which lawyers can deliver value to clients outside the confines of billable-hour systems. Preventive law is a proactive, rather than reactive, legal service. These and other new roles for lawyers will not spring up overnight, and they will not arrive in great numbers when they do. This makes it even more essential that Pivot Generation lawyers stay alert for the signs that these positions are starting to flourish in the market. Avoid the temptation to focus only on getting a traditional job in a law firm; there will be fewer of these jobs in the future. While this door may be closing, countless windows are opening nearby.

XI. THE ESSENTIAL VALUES OF THE LEGAL PROFESSION

This Article is devoted to analyzing lawyers and the legal market from a business perspective, using much the same criteria as would be applied to any other industry or profession. This is both a sound and overdue approach with which to analyze the legal field. Most such analyses to date fail to properly acknowledge and account for the fact that legal service constitutes a multi-billion-dollar industry that is subject, whether lawyers like it or not, to the same commercial realities and demands as any other line of work. It often seems that Boomer lawyers do not fully grasp or explicitly recognize this reality; Pivot Generation lawyers will have to do better, and they will.

Law is not only a business, however—it is also a profession. While it is exposed to the same market pressures as every other line of work, it is also subject to standards, restrictions, and expectations to which most other occupations are not. Lawyers perform certain public and social roles that do not always receive the attention they should, especially from the traditional legal education system. There are three core values that lawyers must exemplify to ensure they fulfill those roles—the duty to serve the interests of others, the duty to advance human dignity, and the duty to defend the rule of law.

I have described many different legal careers of the future in this Article. It

does not matter which one you choose—private practice, in-house counsel, law professor, legal technologist, data analyst, or any other “future lawyer” role—you are still a lawyer. You will take oaths upon entry to the Bar that will bind you for the rest of your career. Accordingly, you will be obliged to care about and apply yourself to these three fundamental duties.

A. Serve the Interests of Others

If you are a lawyer, you put other people’s interests ahead of your own every day. This is not some feel-good mantra, but a reflection of the essential nature of being a lawyer; the law is a service profession. The Latin root of “profession” is *profiteri*.⁸⁶ That word has two components: *pro*, which means “forth,” and *fateri*, which means “confess.”⁸⁷ Taken together, they mean “to announce a belief.”⁸⁸ The word has religious roots; its original use was to bind oneself, publicly by a vow or oath, to a vocation or higher purpose.⁸⁹

Initially, only three occupations qualified as professions: clergy, medicine, and law. If you embarked on one of these careers, you “professed” it, sometimes right in the village square, so that everyone would know you were serving a greater social need.⁹⁰ These professionals made lifelong vows to higher powers and purposes: obedience and poverty for clergy, the Hippocratic Oath for doctors, and allegiance to the court and the rule of law for lawyers.

Professional status was, and still is, serious business. It revolves around the principles of *profiteri*: service, selflessness, higher purpose, and making life better for others.⁹¹ Professionalism in law does not simply mean excellence or good behavior; it also refers to serving the interests of others, prioritizing those interests above our own for a greater cause. To be a “professional” means to work in service of others, to place external interests above internal ones.

There are legitimately high expectations placed upon lawyers, standards against which lawyers are asked to measure up. These expectations attach themselves to lawyers upon their call to the Bar. It is essential that new lawyers understand this fact, and work to express it in all their professional affairs. Gear your market interactions, office relations, client deliverables, and community activities towards improving other people’s situations. Serving the interests of others is not just a nice human interest initiative, it is a core professional value.

86. See Jordan Furlong, *Professionalism Revived: Diagnosing the Failure of Professionalism Among Lawyers and Finding a Cure*, L. SOC’Y OF UPPER CAN. 1, http://www.lsuc.on.ca/media/tenth_colloquium_furlong.pdf (last visited Feb. 15, 2017) [<https://perma.cc/4T5S-ULXG>].

87. *Id.* at 2 (using Latin roots to emphasize word meaning).

88. *Id.*

89. *Id.*

90. See Furlong, *supra* note 86, at 2 (examining roots of professionalism extensively).

91. See *id.* (highlighting “secular usage”).

B. Advance Human Dignity

When we speak about “access to justice,” we tend to express it in terms of being able to afford litigation or to obtain basic legal services. Obviously, these are important capacities to possess. Less obvious is the question of why they are important. How is a person’s overall position improved by access to justice? What does access deliver or accomplish? What is the greater end towards which access to justice is such an important means?

The answer is that access to justice enhances human dignity, a concept with which lawyers are not nearly as familiar as they should be. Human dignity refers to the fundamental respect to which every person, by their humanity alone, is entitled. It makes no difference what sex, race, or physical capacity you possess, whether you are a citizen or a refugee, incarcerated or at liberty, popular or a pariah. You possess baseline entitlements as a human being; they are not privileges, and they are not negotiable. They are, to borrow a phrase, inalienable.

Human dignity is safeguarded by the establishment and enforcement of basic rights; the law is the vehicle by which those rights are asserted. Lawyers are chief among the few people in the world professionally trained, equipped, inclined, and duty-bound to stand up for those rights. We are the guardians of human dignity, and unlike most other people, we have the wherewithal to enforce it.

As a lawyer, you must be alert to transgressions against human dignity. This includes offering your assistance to someone who has experienced a violation of a right and who asserts access to a remedy, but it also includes recognizing and objecting to exploitative actions and heartless omissions by the powerful against the powerless. This means speaking out to oppose cruel and capricious acts against the vulnerable. Lawyers are not permitted to be bystanders in these circumstances. We are required to intervene as best we can, to balance the scales in whatever direction will augment or restore personal dignity.

C. Defend the Rule of Law

Like oxygen, like sunlight, you do not notice the rule of law until you are threatened with its potential deprivation. The rule of law restricts the arbitrary exercise of power by subordinating it to established laws. Under the rule of law, the State and its agents serve the interests of their constituents. In its absence, the State subjugates those interests to serve its own. The rule of law is essential to a civilized, orderly society; it renders the fundamental injustices of this world addressable and remediable, and it gives hope to those who no longer have any.

At the time of writing, there is widespread recognition throughout the United States that its new presidential administration does not greatly value or

sufficiently respect the rule of law and human dignity.⁹² Many of the words and actions of the new administration instead indicate an authoritarian temperament.⁹³ Those people who share this temperament—and it has become clear that there are many—have been emboldened by this turn of events, and they revel in the opportunity to advance it further. Authoritarianism is in direct opposition to the rule of law.

Over the coming months and years, in this country and elsewhere in the world, authoritarians will fill the streets, airwaves, and social media. They will enter legislatures and assume elected office. They will access or consolidate influence within corporations and institutions. And they will be forceful in their insistence that the rule of strength and power is the only rule that matters.

These people will be opposed, as I believe they should be. Their opponents will come from every part of the country and every walk of life, drawn by an instinctive understanding that something incredibly important is at stake. But these opponents need leaders, people who understand exactly why the rule of law matters, and who will defend it with clarity and passion.

When the moment arrives, it will be the duty of lawyers to seek those leadership positions. It will be the duty of lawyers, who swore oaths to uphold the Constitution, to stand up in the public square and profess, as another group of lawyers did many years ago: “We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights . . .”⁹⁴ There is more to being a lawyer than simply earning a living. Lawyers are meant to be the backbones of their communities and the guardians of the rule of law. Anyone who rejects the rule of law, or casts aside human dignity, makes an enemy of the legal profession. Prepare yourself to respond to this eventuality.

Members of the Pivot Generation legal community will have more interesting, engaging, and worthwhile careers in the law than thousands of lawyers who preceded them. But they will also have the opportunity—sooner than they might imagine—to stand up for what is right and to put everything on the line to defend it. They will have the chance to remind everyone that lawyers are not jokes. Lawyers are not irrelevant. Lawyers are not a necessary evil. Lawyers are a necessary good. Lawyers, in fact, are great.

Be a great lawyer. That is my closing message to this generation of lawyers. That is who we need you to be, now more than ever before. I wish you every success on your journey towards that destination.

92. See Jennifer Daskal & Amanda Frost, *President Trump and the Rule of Law*, HILL (Feb. 7, 2017), <http://thehill.com/blogs/pundits-blog/immigration/318362-president-trump-and-the-rule-of-law> [https://perma.cc/7P2V-W6PB] (discussing Trump’s response to judges).

93. See Clare Foran, ‘He’s Going to Continue to Create Chaos,’ ATLANTIC (Jan. 29, 2017), <https://www.theatlantic.com/politics/archive/2017/01/donald-trump-president/514802/> [https://perma.cc/Z39J-ADWN] (discussing Trump’s inability “to work within the typical institutional structures of democracy”).

94. THE DECLARATION OF INDEPENDENCE para. 2 (U.S. 1776).