

## Review: The Future of the Professions

by Sharon D. Nelson, Esq. and John W. Simek

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No one would describe *The Future of the Professions* as a “light and frothy read.” We are huge fans of author Richard Susskind’s previous books and his evolving thoughts about the future of the legal profession. In this book, he and his son Daniel, a lecturer in economics at Oxford University, look across all the professions to see what the future might hold, observing many commonalities in that future.

For us, there is a kind of complex crystal ball embedded in this book and attorneys would be well advised to heed the Susskinds’ view of the future, which we find extremely compelling.

Both of us can rip through our beloved murder mysteries in a single sitting, but this book deserves much more. It is best read (we think) in 30-45 minute segments with pauses to digest what you’ve read and to reflect upon your own thinking.

The primary criticism of this book (and its predecessors) is that it represents “doom and gloom.” In some respects, that is true. The authors do indeed believe that a radical shift is coming and that the unprepared may not fare well if they don’t change their thinking. If some form of Armageddon is coming, protesting its coming is hardly helpful, though it is often a first response.

There are rays of hope, as the authors are keen to point out. This review is written from the legal perspective as we live in the legal world though the book tackles all the professions. We will try to track the book itself, which begins by describing the “grand bargain.”

Fundamentally, this a bargain in which those with special knowledge and expertise are granted a monopoly over certain services with the hallmarks including specialized training, self-regulation, the issuance of a license and an adherence to ethical standards. Now that is our over-simplified definition which is set forth far more comprehensively in the book.

The Susskinds believe that lawyers, and others, have breached the grand bargain, in large by protecting their monopoly and providing services at a price point which is beyond the reach of the average person. This leads to a charge of protectionism, which all lawyers are familiar with. Speaking cynically, the public sees self-regulation as the fox guarding the henhouse in the profession of law – or as the book’s authors more charmingly phrase it, “Are we asking the rabbit to guard the lettuce patch?”

The days of the country lawyer who is revered for his/her service to the community are probably over. The public cannot help but see the extent to which profit is the measure of success in law firms. Legal fees have steadily increased and lawyers are a luxury that most cannot afford. As the Susskinds say, “We seem to have a Rolls-Royce service for the well-heeled minority while everyone else is walking.”

And there you go. Access to justice is denied to so many – and the situation is worsening. The book calls for a new mindset and suggests that “by and large, our professions are unaffordable, under-exploiting technology, disempowering, ethically challengeable, underperforming and inscrutable.” They note that these are not trivial charges, but it is our sense that the public at large would agree with this description.

The book goes through some of the modern changes to the legal profession, including liberalization and alternative business structures in England and Australia (but still anathema to most American lawyers) as well as new legal service providers, including companies which offer customers contract lawyers on an “as needed” basis. Contract lawyers are being utilized on a regular basis now, even by large law firms.

We have increasing unbundled legal services, priced them at a fixed fee, outsourced them (including offshore) and delegated them at times to paralegals. Online services, such as LegalZoom, Rocket Lawyer and Avvo, continue to grow – as do online dispute resolution services and virtual courts.

Much of the change is technology-driven. As the authors note, “the future of legal services is unlikely to look like John Grisham or Rumpole of the Bailey – who will in large part be “replaced by advanced systems or by less costly workers

supported by technology or standard processes, or by law people armed with online self-help tools.”

The book looks to a post-professional world. We hear all the time, “I just want to make it to retirement” (or “hang up their boots” as the Susskinds put it). Lawyers of a certain age who feel unable to keep up with the changes are simply unwilling to try to adapt to a technology-driven practice of law. Sadly, we have seen many who have resigned them to extinction.

The book extensively explores the impact of technology on the law and other professions. Innovative systems can provide access to legal knowledge at a much lower cost – and they show that there was a huge latent demand for legal services at an affordable cost. Clearly, new providers have found a way to reach those people – and the most disquieting part of this to us is how clearly the success of those providers has demonstrated the failure of the legal profession to provide meaningful access to legal services to the majority of Americans.

The Susskinds do not suggest that alternative legal service providers necessarily be unregulated – in fact they clearly state that they believe in more proportionate regulation, a path which the American Bar Association appeared to be haltingly walking down at the August 2016 meeting of the House of Delegates which adopted Resolution 105, *Model Regulatory Objectives for the Provision of Legal Services*.

Reading *The Future of the Professions* closely will help all lawyers determine how important it is to be flexible and innovative in thinking about the future of law practice. The book suggests that we need to “race with the machines” rather than fight against them (surely a losing battle). As the book notes, machines are becoming increasingly capable. There is an extensive discussion (fascinating) of the second generation of artificial intelligence (AI) which examines the ongoing development of IBM’s Watson and its deployment in a host of professions, including the legal profession. One day, and in the not too distant future, it may shock us that people actually used to do things in a law office that machines then routinely do. The Susskinds comment with humor that one day people will be shocked that people actually used to drive cars. Undoubtedly true.

While the book acknowledges that it is not possible to predict the future with great specificity as to actions and timing, the past allows us to extrapolate the

direction of change in the legal profession and even to make certain likely conclusions about what the future may look like. What we know for sure (emphasized by the rapidity of technological change) is that “no change” is not an option for our future.

Do they look toward a “big bang” transformation? No, but they don’t expect the transformation to be leisurely either. They foresee “incremental transformation” which indeed we have been seeing over the last several decades. And they see less and less work that the machines cannot do, resulting in what they call “technological unemployment” across all professions.

Is it a certain amount of work to read this book, which tackles a complex subject in great depth? Assuredly. But well worth the effort. The authors take great pain to leaven their research with colorful quotes and statistics from others and to translate the complex subjects into more digestible and sometimes humorous tidbits.

For us, the bottom line message of this book was encapsulated in this quote, “For the professions, there is no way of softening the blow. Decades from now, today’s professions will play a much less prominent role in society.”

We imagine we hear many lawyers gulping just reading those words. The prophecy is very likely true – and the best way to prepare for the future is to understand it. Lawyers are not condemned to extinction – unless they refuse to evolve. Reading *The Future of the Professions* is an excellent way to begin that process of evolution.