

Leading the Future: The Human Science of Law Firm Strategy and Leadership



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Executive summary

We have all been told how artificial intelligence, computers, digitization, decomposition, and robotics are going to decimate law firms and make most lawyers unemployed. This may be true, but the future has a funny way of not turning out as predicted.

We have become entranced with what machines can do. They can solve legal problems, make predictions and better diagnoses than the best and most experienced doctors, and – according to one report – will eventually render 90 percent of accountants redundant. This is all due to the exponential growth in computing technology and mathematics.

In this book, we look at the business of law from the perspective of a different set of sciences: the human sciences of psychology; behavioral neurogenetics; biological psychiatry; anthropology; and neuroscience. Groundbreaking new research in these areas has dramatic implications for all areas of life and represents humanity's most exciting new frontier. In terms of leading law firms, it is showing us that there are different, vastly more efficient, and yet more human-centric ways of working together, and of leading, marketing, and selling.

Science tells us that the product that lawyers are selling is not, and never has been, law. It shows that it does not matter if the practice of law itself is obliterated, because what will take its place is a profession that lawyers are uniquely suited to occupy.

Each of the chapters in this book develops from a basic premise that has been proven by a vast body of research over the last 10 years or so: humans are relationship-forming animals and in everything that we do, in all the work we perform and all the things we make, sell, and distribute, we have one essential objective, which is to surround ourselves with a nexus of supportive relationships. The most recent research has added considerably to our understanding of what this really means.

It is not that we can outdo machines at performing tasks; we cannot. We cannot make better predictions or analyze big data faster or more

efficiently. However, we can use what we the authors call “human science” – the wisdom of all those sciences – to construct firms that sell services with a legal focus. Because those services are based on how humans really work and what humans really want, clients will really need and will be willing to pay for them.

We can also manage our firms much more efficiently by working with our people in ways that will enable them to do their jobs better, more collaboratively, and with greater flexibility. The new way of working will allow for increased innovation and staff engagement. There will be improved trust between people at all levels. The enthusiasm with which people work together will, as the research shows, draw clients to the firm. In terms of marketing – when applied to clients, prospective clients, and stakeholders – “human science” enables law leaders to ask the questions that will lead the way to far greater results, and even a new way of looking at the business they are in.

The 15 chapters in this book examine how human science interacts with different aspects of leading, managing, and marketing in a law firm. The book is very practical in focus, with tools and tips that you can immediately put into practice. We, the authors, have deep experience in applying the latest science to business challenges. We are therefore uniquely qualified to guide you to shape a successful strategy and drive positive change through the right leadership, culture, business development, and customer relationships for your legal business. Our experience is shared liberally throughout this book in the form of actionable guidance, backed up by hard facts.

Chapter 1 looks at the future for law firms from the perspective of, on the one hand, a futurist who envisages a world where law will be largely the province of artificial intelligence, the internet, and robotics; and, on the other hand, from the point of view of human science. It’s not that the two conflict; it’s just that they point to differing outcomes. One is fairly pessimistic with lawyers reduced essentially to IT professionals; in the other, there is a whole new service that lawyers are, perhaps uniquely, able to provide. How do we lead the law firm of the future in such a way as to make the best of the new opportunities that will arise? Again, human science points the way to something different. It points to needing new skills and offering people in the firm a new and more autonomous way of working.

Chapter 2 examines strategy. Not any particular strategy, but the best way of making strategy work. Our premise is that, currently, between 70–90 percent of all strategic initiatives fail to achieve their goals. In

this chapter, we look closely at the reasons behind this failure rate. We examine what human science has to say about the best way of going about formulating strategy. We look at questions such as: What really is strategic thought? What role should game theory play? Who are the best people to devise a new strategy? What is the role of big data in formulating strategy? What are the pitfalls that stop leaders from doing the right things in formulating strategy?

Chapter 3 covers leadership. How should firms be led in the era of the “new normal”, of constant change and innovation? Most law firms are managed in ways that prevent them from taking advantage of the opportunities that are arising. Human science shows managing partners and other law leaders how to get the most from their people, how to get them committed to the leader, to the firm, and to the strategy of the firm. It shows the simple techniques that law leaders can use to ensure a high level of engagement, flexibility, and innovation.

Chapter 4 deals with decision making. In particular, we show that the usual ways we go about making decisions – weighing all the evidence, relying on our past experience, looking at the relevant facts and figures – are all somewhat suboptimal. This chapter looks at how decisions are actually made in the brain, and what are the influencers of those decisions. We examine the role of emotions and our “perceptual filter”, the network of beliefs and assumptions (most of which are misguided) that tend to lead us to make bad choices. We look at what really works, how the best decisions are made, and how you can use this knowledge to vastly improve the accuracy of your decision making.

Chapter 5 is about getting the right culture in place to drive innovation and change. It offers practical tips and suggestions about how to lead culture change and how to get your people engaged in the process. In this chapter we outline how you can get your people engaged in creating the right culture, and how you can build that culture around a vision and mission that they can subscribe to. We emphasize the importance of concentrating on specific behaviors, rather than trying to build a culture around vague statements of values. We show that there is a right time to lead in culture creation and a right time to step back and let the new culture evolve. We guide you through the process.

Chapter 6 is about getting commitment to change. Most organizations, and people, resist change. It goes through the same brain pathways as physical pain – it hurts! In this chapter we look at ways to carry out successful change. We look at the false assumptions that most leaders have which can derail innovation and change. We look at the use, and

misuse, of influencers. We give practical tips which will make it easy to overcome “change fright” in individuals and firms, and share ways to make change stick.

Chapter 7 outlines how to create and inspire high-performing teams. Teams are much more effective than individuals in almost all areas of human endeavor. But there is something really rare and special about genuinely high-performing teams (HPTs). It is these that every firm wants and needs in order to successfully navigate the future. In this chapter we look at the science of high performance and the practical lessons that can be taken from this new knowledge in order to create and inspire HPTs. We also take a closer look at the key things that determine high performance in teams: HPT dialogue, and the concept of leaderless teams. It is these that distinguish HPTs from the rest.

Chapter 8 examines the how-to of effective persuasion. Over the last couple of years neuroscience and behavioral neurogenetics have taught us a huge amount about how to persuade and influence people. Effective persuasion is, of course, vital in selling our services, leading our people, and changing and growing our firms. We examine what the latest research says about influence and persuasion – what does and what does not persuade. You will find that many of the techniques you currently use to try to persuade people are actually counter-productive and switch people off, no matter what they say. We look at the real hidden persuaders – not the ones which, up until a few years ago, people cited. We show how it is possible to discover what people’s real needs are so that you can target them more accurately – without the need for big data. We end the chapter with the “10 commandments” of effective persuasion. Many of them will surprise you.

Chapter 9 is about driving trust at all levels. Most law firms are deficient in trust. These days the authors are asked more often to help in building trust and cooperation than anything else. Recently, researchers have discovered the real drivers of trust in human beings, what gets the trust neurochemical, oxytocin, really flowing to the right parts of the system. In this chapter, we go through the how-to of creating and sustaining trust throughout the firm. We show you how to powerfully use what we call the “five Cs” of trust, which science and our own experience prove can increase the level of trust in any relationship, or any organization.

Chapter 10 is about the how-to of powerful dialogue. Research shows that there are six essential characteristics of dialogue. We use words not just to convey information, but more importantly to tell people

about ourselves. We use conversation to discover commonalities which encourage trust, we use it to find out other people's needs and to convey our own, and we use it to make people feel loyal and committed to us. Yet the truth is that we don't hear over 60 percent of what other people are saying. We are too busy formulating our own answers, putting forward our own points of view, thinking our own thoughts, getting caught up in our own fears. This chapter shows not only how to use good dialogue skills, but how to genuinely hear what other people are saying. We also give you the how-to of asking the powerful questions which will get to the heart of the matter, whatever you're talking about.

Chapter 11 is about effective collaboration and cooperation. In our experience, most law firms are not good at collaboration. In fact, they vary from being fairly good at it, to being appalling. This applies whether the collaborators are in one place, or spread virtually throughout the world, or even where the firm has no fixed offices at all. In this chapter, we show that in all of these situations you can build an engaged and compelling tribe. We show how you can encourage cross-selling, resolve conflicts, and even build collaborative relationships with your clients. You can encourage your partners and lawyers, wherever they are, to work as a committed team.

Chapter 12 shows how to reward people in meaningful ways without simply resorting to paying them more. In the future, law firms will have to find ways of rewarding people without continuously paying them more money. One of the things that science shows is that money is not a great motivator; there are much better ones. In this chapter we show the how-to of devising and using non-material rewards, and in particular how to use what we call "relational rewards". By using these skillfully, law leaders can drive performance, increase engagement, and increase the happiness that people derive from working in their firms.

Chapter 13 delves into how research dictates you should hire and promote the right people. Who are the right people for your firm? How do you select for the traits that will give you the right balance? Who should you promote? Should you select for diversity in all areas, or for commonality? Are there a few simple rules that you can follow which will get you through this minefield? Fortunately there are, and the more we know about how the human system works, the clearer they become. This chapter gives you the answers to the questions you need to ask before you set out to hire anybody, as well as how to pick out those who will meet your needs and will become truly engaged employees.

Chapter 14 outlines how to create an optimistic firm. Optimistic firms are more productive and profitable. We the authors are amongst the foremost experts on creating optimism at work and in families, having written two best-selling books and many, many articles on the subject. Our own and other people's research over the past several years has revealed a lot more about how law leaders can create an optimistic work environment and reduce the incidence of depression and other mood disorders. We will explore the five elements of creating optimism, and give you practical advice and guidance on how to implement them.

Chapter 15 asks a fundamental question: What are you really selling? It looks at the business of law firms and concludes that their business is not law, but something quite different. We delve into the very latest findings in human science to outline what people are really willing to buy, and why. We look at the drivers of all purchasing decisions. We find that what people are really buying when they enter the doors (real or virtual) of your firm does not include law. We conclude that, in fact, law firms have never been in the business of law. This realization leads to an even greater one: lawyers are uniquely qualified to sell a service that every businessperson and every corporate and government leader wants and needs. Instead of a pessimistic vision of the end of lawyers, we arrive at a totally different conclusion which can change the whole nature of what law firms are about. This chapter is a how-to of the future.

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With Bob she authored the best-selling books *Creating Optimism* and *Raising an Optimistic Child* (McGraw-Hill). These international best-sellers have become standards in the fields of optimism and resilience.

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Chapter 1:

The future of the business of law

This chapter considers:

- What law firms will look like 10–15 years from now;
- The services lawyers of the future will provide; and
- The role firm leaders will play.

For the last few thousand years, the business of law has remained pretty much the same. Law has been a kind of guild in which the practitioners have reserved unto themselves a body of knowledge, and on the basis of that knowledge they have dispensed advice, rather like a medical doctor diagnoses a problem on the basis of their knowledge and gives the patient a prescription. Both the lawyer and the doctor have traditionally been “keepers of knowledge”.

For both physicians and lawyers, those days are passing and will soon be gone for good. Knowledge, via the internet search engine, is now the common currency of the masses. Like the weavers after the invention of the spinning jenny, the holders of knowledge must find a new relevancy. One of the attributes of a great managing partner or CEO of a law firm is the ability to look into the future and visualize what their firm will be like 10–15 years from now.

In his book *Death of the Lawyer*, law futurist Richard Susskind says that besides globalization there are currently three drivers of change in law firms: cost pressure, liberalization, and technology. We would argue that this is certainly correct, but that there is another driver of change – the new knowledge coming out of the various sciences of human behavior.

In the course of this book, we want to look at both the future and the present in the light of these sciences. The ones which will inform much of what we say are behavioral neurogenetics, neurobiology,

neurochemistry, psychology, and anthropology. Collectively, they tell us how to understand the real needs of clients, predict future trends, allow for the best combination of people and technology, and manage people to get them to perform at their best. This is the how-to of the future.

What will law firms look like?

To begin with, let's look at what a major law firm might look like 10–15 years from now. Of course, what we can perhaps all agree on is that it won't be the same as it is today! Whatever we put here won't be accurate.

Predicting the future is a necessary, but chancy, function for any organization. For example, if you are a planner in the US State Department, you play with a number of possible scenarios. These might include larger global issues such as economic, climate, and social change, as well as the more specific ones such as the European Union disintegrating, China or Russia splitting into a number of separate states, or civil war breaking out in South Africa. Each of these is looked at in depth and the options for the US are explored. Any law firm leadership should do a similar exercise at regular intervals because doing so will help them to devise a number of strategies to cope with any of the contingencies they envisage, should they arise. It will also get them used to concentrating on and planning for the future rather than viewing the present and the future through the lens of the past.

Many firms already do this, Herbert Smith Freehills being a prime example. Surprisingly, some don't. Many see strategic thinking as a one-off exercise instead of a continuous process. Some also see the present as part of a cycle which will, somehow, revert to the more comfortable times of the past. It won't. The new normal is constant flux.

So, let's take a look at a possible future of the major law firm 10–15 years down the track. Bear in mind that we are just projecting current trends into the future and the butterfly may yet flap its wings in Tibet and everything may change. Many of the routine offerings that firms used to provide have disappeared – they have been outsourced, in-housed, or broken down and made into software. In the future, we believe law will no longer be the prime offering of most of what are now “law firms”. Under pressure from the Big 4 accounting firms – PwC, KPMG, Deloitte, and EY, who will all have developed legal practices as part of their one-stop-shop offering – law, and even legal advice of a high order, will have become thoroughly commoditized. It will no longer be profitable for this to be the sole offering of a “law” firm.

Current trends seem to indicate that just like the large plaintiff-law corporation Slater and Gordon, most if not all major firms will have become corporations, the majority of them listed on the London, New York, Shanghai, or Sydney exchanges. This will allow them to raise the funds and be flexible enough to better compete with the Big 4. The idea of partnership might hang on in some form in some of these ex-firms, but the reality is that the “partners” will have long since become employees rather than owners of the business.

By this time, almost all service-related businesses will have become virtual. This will also be true of legal businesses. The magnificent offices will have vanished; for most there will be no physical presence. The software to establish and run a virtual law firm already exists and some US high-end virtual firms, such as Rimon PC, have already become pretty large.

This trend will spread up the food chain to the Wall Street giants and the Magic Circle as the search for cost-saving becomes more and more imperative. In many of these businesses the lawyers will simply be self-employed individuals working principally, but not always exclusively, for one business.

The argument against this is that, for certain high-brand firms, there will always be a market for a law practice that helps clients solve the most intricate of problems and whose advice, in these circumstances, is “beyond value”. That may be true, and there may be room for 10 or more such firms in the world, but looking ahead 10 years or so, on all serious current projections, that’s it.

Open plan offices and agile workplaces will be seen for what they are: steps towards the elimination of offices altogether. The 10 firms mentioned above may still, quaintly, have offices – for all others, the cloud will be the office, the means of communication, the storage place for data, the place for knowledge management, and the place where the team, the “tribe” of lawyers that makes up the company, meets.

In-house corporate lawyers will be a thing of the past. Almost everything that they currently do will be decomposed, disaggregated, broken down into its component parts, and either farmed out, digitized, or swept up into AI. The dialogue will no longer be lawyer-to-lawyer, but rather lawyer-to-business function head, or even lawyer-to-CEO or COO.

And of course, above all else, client demands will have changed. Clients too will be swimming in a sea of rapid technological innovation, little growth, increasing regulation, declining employment driving cost and pricing pressures, digitization, low profits, and a rapidly changing economic environment. They will need guides who can help them

navigate these waters. Unless the present law firms are very clever, it will be the Big 4 who provide the guidance.

Fortunately, the human behavioral sciences have vital things to say about coping with all of this and helping firms to meet future challenges, whatever they turn out to be. As the legendary ice hockey player Wayne Gretsky famously advised: “skate to where the puck is going to be, not where it has been”.

What will lawyers do?

If the future is not likely to require the law in the traditional sense of the word, what will all the lawyers of the future be doing? The employees of legal businesses can only provide services that people are willing to buy. Therefore, we would ask a more fundamental question: What will people be buying? In reality, the business of law is a function of something else. People don't buy law – there is no market for law as such, and there never was. Only lawyers, or law students, are interested enough in the law to buy it.

Over the last few years, scientists and psychologists have discovered more about how the human system works and the prime human motivators than we learned in the previous 1.5 million years of our existence. One of the things we have discovered is that there are only four things that humans want enough to buy, and everything that is bought is a variation on one of these themes or to satisfy one of the following needs:

- Shelter, which includes clothing;
- Food, including drink;
- Sex and reproductive success; and
- Relational safety.

Probably, neither now nor in the foreseeable future will law corporations or firms be in the business of selling housing, clothing, food or beverages, or sex. The business that lawyers are, and have always been in, is the same one that psychologists, doctors, priests, parents, tarot-card readers, accountants, and insurance salespeople (among many, many others) are in. They are catering to the strongest of all human needs: the need for relational safety.

It's a fundamental fact about humans that we seek safety within relationships. Recent research has shown that almost all our actions are

related to our drive to form or consolidate relationships with those who we believe will support us. Our greatest fear is of abandonment.

All those pieces of the legal business which are not germane to establishing supportive relationships are the ones which are being, and are increasingly in danger of being, disaggregated. What will be left is the factor which is most saleable: the relationship between the partner – or whatever they might be called in 10–15 years – and the client.

While that relationship provides safety and support, it is a valuable service. The Big 4 realized this some time ago and began to expand out of accountancy and concentrate on what they call “advisory”, which in PwC’s case – besides the normal accountancy services – includes strategy, performance enhancement, legal services, deal-making, sustainability, and climate change etc. It’s all about relationship safety. It’s about entering into their “tribe” and letting them look after you. It’s a hard act to follow.



Ask yourself what you are really in business for.

What will law leaders do?

But this quest for relationships is not only the future of law firm sales, business development, and marketing, it’s also the future of law firm management. Much of the work that managing partners do today will also be decomposed. Break down almost any task – even one that seems so very important that only the top person can do it – and a machine can do it better, or it can be outsourced to some enterprise who can do it better and certainly cheaper.

If we look at leadership through a neurogenetic lens, we find that people follow leaders because they believe that person will make them safe. If employees, or partners, feel that the managing partner, or CEO, has their back, has their interests at heart, and has a clear vision of how to deliver them from perceived threats, then they will become committed to them and, through that commitment, will be more engaged with the business. They will also become more productive, for a whole variety of reasons which we will go into later.

The law firm leader will also “lead” far fewer people. The race to the bottom in terms of the numbers employed has only just begun in

professional service firms. In many legal businesses non-legal support staff have already been all-but eliminated. Paradoxically, this will necessitate the managing partner, or CEO, having even greater people skills and being able to engender even greater commitment.

Conclusion

Very few lawyers presently in law firms have the right traits and skills for the future. There are too many specialists, too many black-letter lawyers, and too many legal technicians. Few of these will be needed in the firm of the future. What will be needed will be men and women who understand the art of listening, questioning, and giving advice in a way that gives clients a sense of safety. These people will understand business and, more importantly, the psychology of running and operating a business. They will be more like advisory partners in the Big 4.

Such people are rare in law firms at present and there will be great competition for them in the future. The law leader of the future will need to be able to interact with these people in ways that are quite different from the present. The science of human behavior shows how a leader can retain, inspire, and motivate this new class of “lawyer” (and we will explore this further in the next chapter of this book).

In fact, behavioral science comes into play in every aspect of running a legal business, from the way we make decisions, to the way we deliver good or bad news, interrelate with clients, and communicate. You don't have to be a scientist to use the tools derived from this new knowledge, you just have to follow the tips outlined in each of the following chapters. If you do, you will have a first-rate, successful business – and you won't even worry too much about whether it's a law business or not.