



## Suzanne Rab on Legal Profession and Legal Education in Changing and Uncertain Times

### Uncertain Times

As a practising barrister and university law Professor, I have lived through the experience of trying to combine (juggle) a busy commercial law and regulatory practice with online court hearings, virtual arbitrations and mediations, as well as online teaching. Now that most aspects of my legal practice are getting back to a semblance of normality (if that is indeed a concept), I would like to share my experiences and aspirations for the future of legal practitioners in these uncertain and changing times.

### The Transformational Effect of Technology

In 1915 Rudyard Kipling in his poem Gehazi talked “of knowledge which is profit in any marketplace”. These words came at a time when international air travel, let alone space voyage was in its infancy, before globalisation of human rights and before artificial intelligence (AI), nanotechnology, autonomous vehicles, smartphones and multi-media devices became a reality. It was before video-conferencing, before online delivery of groceries and before contactless payments. It was before the United Kingdom’s withdrawal from the European which became a reality in January 2021.

In a rapidly changing world, it is and has been imperative for lawyers to continuously refresh their knowledge and keep current with developments in law, technology and society. Whilst we are returning to a sort of ‘business as usual’ following the height of the COVID-19 pandemic, access to reliable, and highspeed internet

and multi-media devices is not ubiquitous. Even where these are available, the loss in human experience can be palpable if it is not supplemented with face-to-face interaction.

### A New Breed of Lawyers is Emerging

I can only highlight some of the main themes emerging. The trajectory in terms of the implications for the legal profession in changing times is becoming clearer; even if the endpoint is yet to be determined.

First, certain areas of law are blooming. The world changed over the course of a few months and there is no escaping this phenomenon and, with changes in the world, come changes in law, specifically areas of law that are now more important than ever. Areas of law which were previously expanding and which show no signs of relenting include subjects as diverse as data protection, cyber-security, social media regulation, intellectual property and, with the inevitable economic dip, opportunistic litigation claiming damages for competition law breaches.

Secondly, the legal profession has embraced efficiency-enhancing technology solutions, supporting virtual as well as physical trials, including video-conferencing, live streaming and e-bundling – and there is no turning back. In 2016, Lord Justice Michael Briggs evaluated the potential for online courts, noting that the antiquated and inefficient IT systems in operation at that time were in dire need of an overhaul. That observation might now seem

prescient. The case of *National Bank of Kazakhstan & Anor v The Bank of New York Mellon & Ors*<sup>1</sup> is an early example of how technology was deployed in a virtual hearing. The trial was listed for seven days starting on 23 March 2020. In anticipation of a lockdown, the judge directed the parties to attend a hearing on 19 March 2020 and against the defendants’ submissions that the trial should be adjourned. This case may be considered an important decision and symptomatic of a ‘no nonsense’ approach to moving to full virtual trials in appropriate circumstances and which has characterised the experience that followed. On 24 March 2020, the Supreme Court conducted its first ever remote hearing. And the rest is history.

Thirdly, these trends can be expected to have a levelling effect. It is an exciting time to embark on a career in law. The industry is facing turbulence much like society and those who embrace this will be a part of a newly shaping legal industry. Barristers and solicitors ‘in the waiting’ may not have the same battle as their predecessors in trying to change and adapt old behaviours, systems, and traditional ways of working. Instead, they will likely be part of a new dynamism that has the potential to effect radical and positive change in the profession.

Fourthly, there will be more focus on emotional intelligence. This brings more emphasis on the client/customer and the ability to adapt to the plethora of technological shifts that will come while organisations – including barristers’ chambers

<sup>1</sup> *National Bank of Kazakhstan & Anor v The Bank of New York Mellon & ors* [2020] EWHC 916 (Comm). 01



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and law firms - explore different platforms to meet the new demands of their clients. There are more organisations endorsing flexible working arrangements and work/life balance both during and in the aftermath of the height of the pandemic. This reflects a recognition that what Silicon Valley discovered years ago has resonance beyond that environment and that at least some old ways of onsite working are unsustainable. Even with adjustments which ensure that the value of physical interaction, so important in a relational profession like law is not lost, there are increasing opportunities to work in a way that suits individual needs. This can only be good for future lawyers who should have greater prospects of being able to balance their home life with work in a way that the legal industry had not previously experienced. At the same time, the cost of living crisis reminds us that the 'work at home dream' may not be affordable to everyone.

Finally, technological skills are more important than ever. One does not have to be an expert in quantum computing to appreciate the significance of IT-literacy for the new generation of lawyers. Gone are the days where a dictaphone and a typist were the standard toolkit of a practising lawyer. Future lawyers will therefore need to demonstrate that they can work with a multiplicity of software and hardware with agility. They will need to show their digital as well as legal acumen in order to contribute to a wider use of existing and evolving technology.

### Reimagining the professional practice of law and its relationship with legal education

COVID-19 has provided a catalyst for re-imagining the relationship between the academic and professional practice of law. The 2020/2021 cohort of law students was always going to face unprecedented difficulties by not

having had the opportunity to learn and sit exams in the conventional manner. The 2021/2022 cohort faced challenges; not least with the stop-start nature and uncertainty of a return to more normalised approaches. Now, more than ever, it is important to maintain standards and confidence in the robustness of the legal education system and to equip lawyers of the moment and of the future with skills that are transferable to the workplace. This applies as much to undergraduate courses as it does to executive education. Otherwise, the qualifications are not worth the paper they are written on and lose their currency in the battle for talent at universities and, ultimately, in the legal profession.

There are also opportunities for academia to connect more with the legal business world of practice than previously. For law professionals, the emerging new(ish) normal is an opportunity to reinvent a legal practice.





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The imposed physical isolation has encouraged interdisciplinary working in a way that happened less frequently pre-pandemic. There is greater recognition that some of the positive interchanges and, particularly, the exchange of ideas should not cease.

These changes were probably coming anyway. The public health emergency and its aftermath has forced us to reassess how we relate to each other, in an business, academic and personal environment. Many have found opportunities for personal development and heutagogy (self-determined personal development). Whether these insights are sufficiently embedded to flourish on a more sustainable basis will be the next interesting development to follow.

The inequities highlighted or intensified by COVID-19 have affected almost all areas of everyday life. These include the compulsory shut-down of education institutions and courts; home schooling and the impact on households without access to dedicated devices or reliable internet; and domestic situations which do not support effective online working. These imbalances will have to be addressed as part of sustainable education and professional access programmes at all levels: in schools, in higher education, in executive learning and access to the profession.

### A ladder of opportunity

Organisations who are witnessing these shifts, as well as aspiring and more established legal

practitioners, will inevitably need to operate with uncertainty for some time to come. In this environment, the prospects for personal self-directed and flexible development and re-thinking of traditional approaches are enhanced.

*“Chaos is a ladder” is an iconic line from a speech on the third season of The Game of Thrones. This provides a clarion call to action where, out of chaos, comes the ladder of opportunity: “Many who try to climb it fail, and never get to try again — the fall breaks them. And some are given a chance to climb, but they refuse.”*

This Serleshare mini takes its inspiration from a series of chapters that Suzanne has recently had published in the book, “Legal Education and Legal Profession During and After COVID-19”. The book captures experiences and experiments in the governance of law schools and the legal profession during and after the COVID-19 pandemic. It presents the psychological, philosophical, and sociological and economic aspects of the transformation and records the transformations changes brought about by leaders in the legal profession and legal education and the legal profession against the evolving context of COVID-19.

Suzanne’s chapters are:  
[Legal Education and Legal Profession During and Beyond COVID-19. Studying Law During the COVID-19 Pandemic \(pages 71-105\).](#)

[Legal Education and Legal Profession During and Beyond COVID-19 Building Bonds Between Academia and Practice \(pages 287-325\).](#)



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