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# **LAWYER WELLBEING IN THE (ROBOTIC) FACE OF TECHNOLOGICAL CHANGE**

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## LAWYER WELLBEING IN THE (ROBOTIC) FACE OF TECHNOLOGICAL CHANGE

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*Lawyers have had to make many adaptations to their work practices as technology has advanced. Yet the rate of change continues at a frenetic pace. This chapter considers the impact of new technologies in legal practice on lawyers' wellbeing. Labour-saving technology promises greater efficiencies, with the potential to free lawyers from routinised and dull tasks, and even the office environment itself. At the same time, in an atmosphere of competition in a diverse and changing legal services market, technology becomes yet another area with which lawyers must contend.*

### I. INTRODUCTION

The wellbeing of lawyers has become a key focus of professional and academic interest. Against this backdrop, this chapter considers how technological change — occurring on a seemingly inexorable trajectory — impacts lawyers' wellness.

As a group, lawyers are not well suited to change. They typically score high on personality traits such as scepticism, pessimism, and rigidity in patterns of work and thought,<sup>1</sup> which as we demonstrate in this chapter, correlate negatively with adaptation to change. Yet, increasingly, technological change including developments in artificial intelligence, is accepted as something which lawyers cannot afford to avoid. Of particular note has been the rise of smart phones and other devices which, many claim, have contributed to a round-the-clock work culture from which the lawyer is never disconnected.<sup>2</sup> The ubiquitous internet is also changing the ways that consumers of legal services perceive and act upon legal problems as well as the way that lawyers and firms deliver their services.<sup>3</sup> Technological progress signals both promises and threats: it promises freedom from tedious or menial work, or even from the office or court environment; simultaneously, it threatens job loss and the exacerbation of competition in an already highly competitive and hierarchical field.

Part II of this chapter outlines research findings, not only about lawyers' wellbeing, but also their typical personality traits. We link these to how lawyers, as a group, tend to experience and respond to change. We examine some of the potential benefits and stressors associated with technological change, connecting these specifically to the wellbeing of lawyers. Part IV concludes by considering the differential impacts of technological change for lawyers' wellbeing.

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<sup>1</sup> L Richard, 'The Lawyer Personality: Why Lawyers Are Skeptical', *What Makes Lawyers Tick* (Blog Post, 11 February 2013) <<https://www.lawyerbrainblog.com/2013/02/the-lawyer-personality-why-lawyers-are-skeptical/>>; M E P Seligman, P R Verkuil and T H Kang, 'Why Lawyers Are Unhappy' (2001) 23(1) *Cardozo Law Review* 33 at 40–1; J Foster et al, *Understanding Lawyers: Why We Do the Things We Do*, white paper for the Hogan Assessment Project of Lawyer Personality, 2010.

<sup>2</sup> See, eg, M Thornton, 'The Flexible Cyborg: Work-Life Balance in Legal Practice' (2016) 38(1) *Sydney Law Review* 1 at 16–17; R Susskind, *Tomorrow's Lawyers: An Introduction to Your Future*, 2nd ed, Oxford University Press, Oxford, 2017, pp 46–7; R Collier, 'Naming Men as Men in Corporate Legal Practice: Gender and the Idea of "Virtually 24/7 Commitment" in Law' (2015) 83(5) *Fordham Law Review* 2387.

<sup>3</sup> See, eg, J Crowe et al, 'Understanding the Legal Information Experience of Non-Lawyers: Lessons from the Family Law Context' (2018) 27(4) *Journal of Judicial Administration* 137.

## II. LAWYERS' WELLNESS AND PREDISPOSITION TO CHANGE

To consider how technology may support or threaten lawyer wellbeing, it is necessary to set out some of the recognised causes and indicators of lawyer distress. Wellbeing is a challenging phenomenon for study since it is dynamic and multifaceted. According to the American Bar Association's National Task Force on Lawyer Well-Being, wellbeing is a 'continuous process whereby lawyers seek to thrive in each of the following areas: emotional health, occupational pursuits, creative or intellectual endeavours, sense of spirituality or greater purpose in life, physical health and social connections with others'.<sup>4</sup> Wellbeing 'is not limited to: (1) an absence of illness, (2) feeling happy all the time, or (3) intra-individual processes — context matters'.<sup>5</sup>

Another useful and similarly expansive framework for examining the impacts of technological change on lawyers' wellness is self-determination theory (SDT). SDT is a theory of motivation that was initially developed by psychologist-scholars Deci and Ryan,<sup>6</sup> and has since been extensively applied and expanded.<sup>7</sup> SDT focuses on analysing people's 'inherent growth tendencies and innate psychological needs' that form the basis of their drives to activity and, thus, their wellbeing.<sup>8</sup> These innate needs are autonomy (a sense of control and authenticity), competence (feelings of mastery over tasks and activities) and relatedness (feeling included or affiliated with others).<sup>9</sup> SDT has demonstrated that when an environment and activities promote these individual basic needs, a person is more likely to be engaged in their learning and work in a sustained and healthy way.<sup>10</sup> Autonomy has been empirically shown as the premier emotion, because 'only when people's feelings of relatedness and competence result from' autonomous or self-driven, self-endorsed behavior, does it flow on to 'optimal engagement and wellbeing'.<sup>11</sup> Here, we consider how technological change may impact lawyers' innate needs, specifically their autonomy, competence and relatedness.

Meanwhile and bearing in mind that wellbeing is multi-faceted, the literature suggests that change can be especially challenging for lawyers as a group. This is indicated by matching up

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<sup>4</sup> National Task Force on Lawyer Well-Being, *The Path to Lawyer Well-Being: Practical Recommendations for Positive Change*, report, 2019, p 9.

<sup>5</sup> National Task Force on Lawyer Well-Being, note 5 above, p 10. See discussion of the term wellbeing in M Thornton, 'Squeezing the Life Out of Lawyers: Legal Practice in the Market Embrace' (2016) 25(4) *Griffith Law Review* 471 at 482–3; R Collier, 'Wellbeing in the Legal Profession: Reflections on Recent Developments (Or, What Do We Talk About, When We Talk About Wellbeing?)' (2016) 23(1) *International Journal of the Legal Profession* 41.

<sup>6</sup> E Deci and R Ryan, 'The "What" and "Why" of Goal Pursuits: Human Needs and the Self-Determination of Behavior' (2000) 11(4) *Psychological Inquiry* 227.

<sup>7</sup> M Hartnett, *Motivation in Online Education*, eBook, Springer, 2016, p 20–3.

<sup>8</sup> R Ryan and E Deci, 'Self-Determination Theory and the Facilitation of Intrinsic Motivation, Social Development, and Well-Being' (2000) 55(1) *American Psychologist* 68 at 68.

<sup>9</sup> *Ibid.*

<sup>10</sup> *Ibid.* See also K M Sheldon and L S Krieger, 'Understanding the Negative Effects of Legal Education on Law Students: A Longitudinal Test of Self-Determination Theory' (2007) 33(6) *Personality and Social Psychology Bulletin* 883.

<sup>11</sup> Deci and Ryan, 'The "What" and "Why" of Goal Pursuits: Human Needs and the Self-Determination of Behavior', note 8 above, 243, citing R Ryan, 'Agency and Organisation: Intrinsic Motivation, Autonomy and the Self in Psychological Development' in J Jacobs (ed), *Nebraska Symposium on Motivation: Developmental Perspectives on Motivation*, vol 40, University of Nebraska Press, Lincoln, 1993, p 1. See also K M Sheldon and L S Krieger, 'Does Law School Undermine Law Students? Examining Changes in Goals, Values, and Well-Being' (2004) 22 *Behavioral Sciences and the Law* 261 (finding that autonomy-denying features of legal education caused poor motivation).

the literature on the sorts of personality types that tend to react positively or poorly to change with the various studies on lawyers' typical personalities. The research shows that, along with specific demographic, personal and work status variables,<sup>12</sup> the main characteristics of 'change recipients' that predict a *positive* reaction to change are: an internal locus of control (or a belief that one is able to determine one's own fate); jobs with 'high decision latitude'; high levels of self-efficacy; optimistic outlook; dispositional openness to change; 'tolerance for ambiguity'; low neuroticism and high conscientiousness; openness to experience; and an 'active and autonomous orientation'.<sup>13</sup>

The personality traits that correlate to a *negative* reaction to change, even when those changes might be beneficial are: '(a) routine-seeking, (b) emotional reaction to imposed change, (c) short-term focus, and (d) cognitive rigidity'.<sup>14</sup> Routine-seeking assesses the degree to which individuals value and attempt to create stable and lasting routines in their lives.<sup>15</sup> Emotional reaction relates to how individuals act when faced with externally-imposed changes, for instance happy and excited or stressed and anxious.<sup>16</sup> Short-term focus is about whether individuals fixate on the short-term difficulties that accompany most change programs or if they focus on the potential long-term benefits of change.<sup>17</sup> Finally, cognitive rigidity is indicated by 'a tendency to tenaciously hold on to one's views'.<sup>18</sup>

The literature on lawyers' personalities suggests that they are more likely to react negatively to change.<sup>19</sup> Several studies have shown how lawyers perceive their work to be less autonomous and more externally-managed and regulated than ever before.<sup>20</sup> This is not a new change or condition for lawyers. Over the past few decades, the political and business environments have meant that lawyers are experiencing an increase in competition, management and regulation.<sup>21</sup> Due to this, lawyers may not hold a strong belief (real and perceived) that they are able to determine their own fates. The heterogenous nature of the profession means that these ongoing changes do not affect lawyers and their practices in the same way. However, professional work, especially legal work, is supposed to be

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<sup>12</sup> See S Oreg, M Vakola and A Armenakis, 'Change Recipients' Reactions to Organizational Change: A 60-Year Review of Quantitative Studies' (2011) 47(4)461 at 481–2.

<sup>13</sup> Ibid 486–8, 490.

<sup>14</sup> S Oreg, 'Resistance to Change: Developing an Individual Differences Measure' (2003) 88(4) *Journal of Applied Psychology* 680 at 690.

<sup>15</sup> Ibid 681.

<sup>16</sup> Ibid.

<sup>17</sup> Ibid 681–2.

<sup>18</sup> S Oreg et al., 'Dispositional Resistance to Change and Occupational Interests and Choices' (2009) 17(3) *Journal of Career Assessment* 312 at 313.

<sup>19</sup> Richard, 'The Lawyer Personality: Why Lawyers Are Skeptical', note 1 above.; Seligman, Verkuil, and Kang, note 1 above; Foster et al, note 1 above.

<sup>20</sup> H Sommerlad, 'Managerialism and the Legal Profession: A New Professional Paradigm' (1995) 2(2)–(3) *International Journal of the Legal Profession* 159; J McEwan, 'From Adversarialism to Managerialism: Criminal Justice in Transition' (2011) 31(4) *Legal Studies* 519; I Campbell and S Charlesworth, 'Salaried Lawyers and Billable Hours: A New Perspective from the Sociology of Work' (2012) 19(1) *International Journal of the Legal Profession* 89.

<sup>21</sup> J Rogers, D Kingsford Smith and J Chellew, 'The Large Professional Service Firm: A New Force in the Regulative Bargain' (2017) 40(1) *University of New South Wales Law Journal* 218 at 230.

characterised by high autonomy,<sup>22</sup> control,<sup>23</sup> and professionals seek out this ‘preferred’ identity.<sup>24</sup>

Lawyers’ general self-efficacy, meanwhile, is less straightforward to assess. Research has shown how professional expertise, or status, is mastered over a long period of time. It involves intense self-doubt and self-presentation strategies, described as the wearing of a ‘cloak of competence’ until ‘real’ confidence has developed.<sup>25</sup> Once they have developed this confidence, lawyers’ expertise can make them “‘informational intimidators’”, where their ideas and styles must be asserted over others at the expense of innovation and engagement with and constructive opposition from others.<sup>26</sup> Moreover, at the same time as displaying confidence and control (and perhaps because of this), lawyers have low resilience. This is presented as hypersensitivity to criticism and resistance to feedback.<sup>27</sup>

Foster et al’s United States study of 1800 large-firm lawyers compared to 48,000 ‘highly educated’ managers and professionals in other industries showed that lawyers as a group are marked out as excitable (tense and overly critical), cautious (reluctant to take risks and make decisions) and leisurely (resistant to authority).<sup>28</sup> They also tend to be above average in scepticism (doubting the motivations of others).<sup>29</sup> In Richard’s 2012 study of over 1000 lawyers — mostly in senior management positions in law firms and corporate law departments — scepticism was consistently the highest scoring personality trait.<sup>30</sup> Lawyers are typically suspicious of others, attentive to ‘real’ motives, and they tend to distance themselves from others.<sup>31</sup>

Another key finding about lawyers’ personalities is their strong pessimism. For example, Seligman, Verkuil and Kang argue that law rewards people with pessimism and a psychological tendency for depression.<sup>32</sup> Lawyers also score high on urgency, which is

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<sup>22</sup> D L Rhode, ‘What Lawyers Lack: Leadership’ (2011) 9(2) *University of St Thomas Law Journal* 471 at 475; Foster et al, note 1 above; L Richard, ‘Herding Cats: The Lawyer Personality Revealed’ (2002) 29(11) *Report to Legal Management* 2 at 9.

<sup>23</sup> Sommerlad, note 21 above.

<sup>24</sup> A D Brown and M A Lewis, ‘Identities, Discipline and Routines’ (2011) 32(7) *Organization Studies* 871 at 886.

<sup>25</sup> This analytical concept is used heavily in studies of the socialisation of professionals, especially doctors. It comes from R B Edgerton, *The Cloak of Competence: Stigma in the Lives of the Mentally Retarded*, rev ed, University of California Press, Berkeley, 1993. For an example in law, see J Rogers, ‘Feeling Bad and Being Elite: A Comparative Analysis of the Anxieties and Uncertainties of Aspiring Barristers’ (2014) 13(1) *Comparative Sociology* 30 at 36, 42.

<sup>26</sup> Rhode, note 23 above, 476, citing R M Kramer, ‘The Great Intimidators’ (2006) 84(6) *Harvard Business Review* 88 at 94.

<sup>27</sup> Richard, ‘Herding Cats: The Lawyer Personality Revealed’, note 22 above, 9; Foster et al, note 1 above.

<sup>28</sup> Foster et al, note 1 above, p 7.

<sup>29</sup> Rhode, note 23 above, 475, citing Richard, ‘Herding Cats: The Lawyer Personality Revealed’, note 22 above, 1, 3–4 and S Daicoff, ‘Lawyer, Know Thyself: A Review of Empirical Research on Attorney Attributes Bearing on Professionalism’ (1997) 46(5) *The American University Law Review* 1337, 1349, 1390–91. See also Foster et al, note 1 above.

<sup>30</sup> Richard, ‘Herding Cats: The Lawyer Personality Revealed’, note 22 above, 4. For his study, Richard used the Caliper Profile, a self-report psychological test used as a work-related recruitment and development tool. The personality component consists of 22 scales: ‘accommodation, aggressiveness, assertiveness, cautiousness, ego-drive, ego-strength, empathy, energy, external structure, flexibility, gregariousness, idea orientation, level-headedness, openness, risk-taking, self-structure, sensitivity, skepticism, sociability, stress tolerance, thoroughness, and urgency’: *Caliper Profile (Caliper Predictor): Summary of Test Review*, The British Psychological Society, <<https://ptc.bps.org.uk/test-review/caliper-profile-caliper-predictor-0>>.

<sup>31</sup> Richard, ‘The Lawyer Personality: Why Lawyers Are Skeptical’, note 1 above.

<sup>32</sup> Seligman, Verkuil, and Kang, note 1 above, 40.

characterised by impatience, immediacy and a desire for economy in everything — ranging from conversations to case management and relationships.<sup>33</sup> Lawyers tend to have low tolerance for ambiguity.<sup>34</sup> They also tend not to have a dispositional openness to change — they are trained to quickly identify and minimise risks (ie uncertainty), with a view to maintaining predictability.<sup>35</sup> Finally, within their pressurised environments and in part due to the stressful and public nature of their roles, lawyers are more likely to suffer from significant psychological distress.<sup>36</sup> This makes resistance to change even more likely. For these reasons, before we introduce the complications of technology as emblematic of and driving transformation, change can be challenging for lawyers' wellbeing, and lawyers tend not to like it. We note, though, that many lawyers are at the same time eagerly innovative.<sup>37</sup> Indeed, some of their typical qualities — intelligence, competitiveness and confidence — could be harnessed for change. However as we now explore in Part III, within the wider contextual challenges and given lawyers' tendencies just outlined, the impacts of technological change on lawyers' wellness is not straightforward.

### III. TECHNOLOGICAL IMPACTS ON WELLBEING

The debate about lawyers' perpetual connectivity mentioned on page X is framed as a cost-benefit analysis of flexibility in work, in a trade off against increasing encroachment of work into non-work time.<sup>38</sup> So, in different ways, technology more generally may both support and impede lawyers' wellbeing. On the supportive side of the equation, it may increase demand for lawyers to do meaningful work; support high autonomy and control over that work; and also enable service to the community, as a benefit of greater efficiency. These conditions are, as noted, associated with wellbeing under SDT. Less positive are threats to legal work itself, as increasingly, elements may be automated.<sup>39</sup> This further shrinking of lawyers' traditional monopoly will likely damage lawyers' prestige and sense of purpose and self-efficacy.

As noted, along with vast practice and regulatory changes, lawyers have already had to adapt to significant technological change in the last few decades. Further, developments in legal artificial intelligence have generated new applications. These may be process innovations, including automated review and automated drafting of documents, and also automation of advice-giving.<sup>40</sup> Another set of tools could be described as a means of improving or enhancing the quality of legal work, such as legal research tools and legal analytics.<sup>41</sup>

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<sup>33</sup> Richard, 'Herding Cats: The Lawyer Personality Revealed', note 22 above, 4; Foster et al, note 1 above, pp 6–7.

<sup>34</sup> S Tang and T Foley, 'The Practice of Law and the Intolerance of Certainty' (2014) 37(3) *University of New South Wales Law Journal* 1198.

<sup>35</sup> W H Fortune and D O'Roark, 'Risk Management for Lawyers' (1994) 45(4) *South Carolina Law Review* 617.

<sup>36</sup> See, eg, N Kelk et al, *Courting the Blues: Attitudes Towards Depression in Australian Law Students and Lawyers*, report, Brain and Mind Research Institute and Tristan Jepson Memorial Foundation, 2009; Law Council of Australia, *National Attrition and Re-engagement Study (NARS) Report*, report, 2014; C Kendall, *Report on Psychological Distress and Depression in the Legal Profession*, report, Law Society of Western Australia, 2011.

<sup>37</sup> See, eg, Melissa Coade, Kate Allman and Jane Southward, 'Meet the Innovators' (2019) 52 *Law Society of NSW Journal* 30.

<sup>38</sup> Thornton, 'The Flexible Cyborg: Work-Life Balance in Legal Practice', note 2 above.

<sup>39</sup> See M Chui, J Manyika and M Miremadi, 'Four Fundamentals of Workplace Automation' (2015) *McKinsey Quarterly*; J Manyika et al, *Harnessing Automation for a Future that Works*, report, McKinsey Global Institute, 2017.

<sup>40</sup> J Bennett et al, *Current State of Automated Legal Advice Tools*, discussion paper 1, Networked Society Institute, University of Melbourne, 2018, p 13.

<sup>41</sup> For a diagrammatic depiction of existing legal artificial intelligence applications, see *AI in Law*, Neota Logic, 2018, [www.neotalogic.com/2018/04/19/ai-in-law/](http://www.neotalogic.com/2018/04/19/ai-in-law/)

Importantly, technological developments affect lawyers in different ways. Suggestions of lawyers' impending redundancy, have largely given way to more qualified assessments of how legal work will be further changed by technological developments.<sup>42</sup> Given the varied nature of the legal profession, which can be differentiated on a number of bases including the organisation (if any) in which the lawyer practices, area of legal practice and type of client, wide generalisations are difficult.<sup>43</sup>

Nonetheless, the primary benefit of technological development is increased efficiency in the way that 'legal services' are delivered,<sup>44</sup> which may engender flow-on psychological benefits. In many ways the language used by proponents of legal technologies mirrors a more familiar discourse of competition, associated in recent times with deregulation and an increased focus on the consumer of legal services.<sup>45</sup> Several spin-off benefits to increased efficiency are predicted: first, it is claimed that lawyers' material rewards will correspondingly increase. In large firms, this will occur through cost-savings and competition; another argument is that small and specialised firms can also benefit.<sup>46</sup> It is certainly, however, the largest Australian firms that appear to have embraced new technologies to date.<sup>47</sup> It has been argued that technology provides the only viable solution to the problem of a pervasive lack of access to justice.<sup>48</sup> More salient for lawyers' wellbeing is the claim that access to justice will also be facilitated as more information and self-help options are available.<sup>49</sup> Lawyers can pass cost savings on to clients, making legal services more affordable. Generally, increasing access to justice is positive for lawyers' wellbeing,<sup>50</sup> as this is part of the professional mandate, and aligns with the sense of purpose and social connection dimensions of wellness. Yet, the use of technology by non-lawyers in the access to justice space may also be threatening, as it implies that lawyers have failed to deliver on a core element of public service.

Second, it is argued that new law and technology-related occupations will be created, diversifying and expanding the range of legal jobs available.<sup>51</sup> These roles will be needed to fill the interstices as law and technology continue to intersect in different ways. While a

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<sup>42</sup> See, eg, G E Marchant 'Artificial Intelligence and the Future of Legal Practice' (2017) 14(1) *The SciTech Lawyer* 20 at 21.

<sup>43</sup> D Remus and F Levy, 'Can Robots be Lawyers? Computers, Lawyers, and the Practice of Law' (2017) 30(3) *Georgetown Journal of Legal Ethics* 501; T Rostain, 'Robots Versus Lawyers: A User-Centered Approach' (2017) 30(3) *Georgetown Journal of Legal Ethics* 559.

<sup>44</sup> Susskind, note 2 above, pp 20–2.

<sup>45</sup> Rogers, Kingsford Smith and Chellew, note 22 above, 236–46.

<sup>46</sup> Susskind, note 2 above, pp 59–65.

<sup>47</sup> E Chin, G Grovum and M Grace, *State of Legal Innovation in the Australian Market*, white paper, Alpha Creates, 2019; Macquarie Bank, *An Industry in Transition: 2017 Legal Benchmarking Results*, report, 2017. See also Susskind, note 2 above, pp 184–5 (on UK firms).

<sup>48</sup> E Walters, 'Read/Write: Artificial Intelligence Libraries' (2017) 22(1) *AALL Spectrum* 21 at 22. See also D Luban, 'Spring 2015 Reconsidering Access to Justice Symposium: Optimism, Skepticism and Access to Justice' (2016) 3(3) *Texas A and M Law Review* 495 at 500.

<sup>49</sup> See, eg, L R Lupica, T A Franklin and S M Friedman, 'The Apps for Justice Project: Employing Design Thinking to Narrow the Access to Justice Gap' (2017) 44(5) *Fordham Urban Law Journal* 1363.

<sup>50</sup> R Maguire, G Shearer and R Field, 'Reconsidering Pro Bono: A Comparative Analysis of Protocols in Australia, the United States, the United Kingdom and Singapore' (2014) 37(3) *University of New South Wales Law Journal* 1164, 1165; citing J A Piliavin and E Siegl, 'Health Benefits of Volunteering in the Wisconsin Longitudinal Study' (2007) 48(4) *Journal of Health and Social Behavior* 450, 456; L Sossin, 'The Public Interest, Professionalism, and Pro Bono Publico' (2008) 46(1) *Osgoode Hall Law Journal* 131, 140; National Pro Bono Resource Centre, *The Australian Pro Bono Manual – A Practice Guide and Resource Kit for Law Firms* (Victoria Law Foundation and National Pro Bono Resource Centre, 2nd ed, 2005) 22–9.

<sup>51</sup> Susskind, note 2, pp 133–45.

deviation from the traditional professional model — premised upon controlled entry and careful mentorship of new entrants to fulfil the inculcation of professional values — there may be positives in the recognition of new and different skills. Further, negative aspects of traditional professionalism, such as its hierarchies and elitism, may be destabilised by technological change. First as new roles are created, and second, due to the differential ways that each area of law will be impacted. For example, it has been suggested that the work of lawyers with clients who are individuals — such as family law, criminal law and wills and estates — is less susceptible to technological disruption. This is because these areas rely heavily on personal interactions and qualities that cannot be automated.<sup>52</sup> This is in contrast to work typically carried out for corporate entities such as contract management, due diligence and discovery as part of litigation. This work is far more susceptible, with developments in machine learning, to automation.<sup>53</sup>

Third — but perhaps the most convincing in wellbeing terms — it is suggested that technology will minimize or eliminate ‘grunt work’: administrative, tedious or repetitive tasks.<sup>54</sup> This allows lawyers to focus on more meaningful and high-level work. As already explained, the demonstration of expertise and self-efficacy is associated with wellbeing, as is autonomy and control over work.<sup>55</sup> If lawyers retain control and a sense of mastery over their tasks and activities — which continue to be challenging and respected, wellbeing should be maintained. Despite this, the impact of new technologies is likely to support a competition and managerialist agenda, which has many negatives for lawyers’ wellness. In and of itself, the pursuit of profit, an extrinsic motivation, is not directly associated with wellbeing.<sup>56</sup> Rather, intrinsic motivations such as autonomy and relatedness, are determinative — but may also be threatened by technological development.

Lawyers traditionally benefitted from the professional monopoly not just in terms of control, limited competition and financial gain, but through a sense of community, support of peers and a professional commitment to service. This in turn provides stability, group cohesion and a sense of meaning and purpose, all wellness-supportive features.<sup>57</sup> This traditional model has already been destabilised by the context of change we mentioned: the loss of monopolies and the rise of competition principles and regulatory intervention. Increasingly, the legal profession can be seen as fragmented, in which any sense of professional community is more likely to imbue in localised workplaces or practice areas.<sup>58</sup> Accordingly, the benefits of diversification and the creation of new legal roles must be seen as occurring against a

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<sup>52</sup> See, eg, N Semple, ‘Personal Plight Legal Practice and Tomorrow’s Lawyers’ (2014) 39(1) *The Journal of the Legal Profession* 25 at 25–6.

<sup>53</sup> Susskind, note 2 above, p 61; M R Grossman and G V Cormack, ‘Technology-Assisted Review in E-Discovery Can Be More Effective and More Efficient than Exhaustive Manual Review’ (2011) 17(3) *Richmond Journal of Law and Technology* 1.

<sup>54</sup> C B Frey and M A Osborne, *The Future of Employment: How Susceptible are Jobs to Computerisation?*, working paper, Oxford Martin School, University of Oxford, 2013, p 41.

<sup>55</sup> Deci and Ryan, note 8 above, 70.

<sup>56</sup> Extrinsic motivations - wealth, fame, self-image - are less likely to yield *direct* need satisfaction ‘and may even distract from it’, the needs being those fundamental psychological needs identified by SDT that support human thriving (autonomy, competence and relatedness). Edward Deci and Richard Ryan, ‘The “What” and “Why” of Goal Pursuits: Human Needs and the Self Determination of Behavior’ (2000) 11(4) *Psychological Inquiry* 227 at 244.

<sup>57</sup> Ryan and Deci, note 9 above.

<sup>58</sup> For an analysis of the change from ‘occupational’ to ‘organisational’ professionalism: see Rogers, Kingsford Smith and Chellew, note 22 above.



backdrop of increased impermanence of work, which impacts wellbeing negatively.<sup>59</sup>

It seems likely that the continuing incursion of technology into legal services will exacerbate this fragmentation, as some sectors and members of the profession will benefit from improved efficiencies, new roles and/or the retention of (and increased value attached to) traditional, meaningful and bespoke work. Others, however, will experience increasing precarity in employment and even, as some predict, the loss of lawyer status altogether.<sup>60</sup> It is junior legal roles which are at most immediate risk, as clients are already reluctant to pay for juniors,<sup>61</sup> and with lower level tasks such as document review susceptible to being performed by machines. However, as technology advances, even more senior roles will be impacted. An additional element is the open question as to how, if junior lawyer roles are fewer in number due to automation, new lawyers will attain the expertise needed to become senior and provide the high-level work that cannot presently be automated.<sup>62</sup> If technology places additional stresses on the cohesiveness of the traditional professional paradigm, it is also unclear how new members of the profession will become acculturated to professional values and ethics, where these processes will be more drastically needed in a hyper-technological context.

#### IV. CONCLUSION

The present landscape of lawyering involves almost continuous pressure to change and adapt, perhaps most significantly to new technologies. Lawyers have already faced significant changes to modes of work, status and professional community. Research into their typical personalities indicates that for many, coping with change is immensely challenging.<sup>63</sup> This chapter suggests that the greatest new threats to lawyers' wellbeing involve those technological changes that compromise lawyers' autonomy, self-efficacy and community. As legal work is increasingly 'decomposed',<sup>64</sup> and portions of it are automatable, lawyers may struggle to retain high-level and meaningful work, as well as control over how that work is managed. Simultaneously though, technological change has a role to play in undercutting some of the negative elements of professionalism, such as elitism and a lack of diversity. If lawyers' wellness is influenced by their capacity to choose the nature and form of their work, the hopeful parts of this story is that more choices are becoming available and that in the process different communities within the profession are developing and connecting to others. In the meantime, law practices, the professional associations and law schools need to include lawyers' wellness and their typical personalities as part of their decisions to usher in new technology.

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<sup>59</sup> S Robbins, 'From Big Law to Legal Education: The Trickle Down Effect of the Recession' (2014) 27(3) *The Georgetown Journal of Legal Ethics* 841.

<sup>60</sup> Susskind, note 2 above, pp 133–4; F Pasquale and G Cashwell, 'Four Futures of Legal Automation' (2015) 63 *UCLA Law Review Discourse* 26 at 35–6.

<sup>61</sup> See, eg, K Walsh and E Tadros, 'Client Revolt: We Won't Pay for Juniors', *Australian Financial Review*, 7 July 2017, 31.

<sup>62</sup> Susskind, note 2 above, p 167.

<sup>63</sup> L Richard, 'The Mind of the Lawyer Leader: The Psychological Consequences of Change, the Lawyer Personality, and Five Key Practices for Leading in Times of Change' (Sep/Oct 2015) *Law Practice* 46.

<sup>64</sup> R Susskind and D Susskind, *The Future of the Professions: How Technology Will Transform the Work of Human Experts*, Oxford University Press, Oxford, 2015, p 198.