



CHANCELLOR
OF THE HIGH COURT

TheCityUK
Legal Excellence, Internationally Renowned
UK Legal Services 2018

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Chancellor of the High Court

1. We are at a crucial stage in the UK's legal history. We are leaving the European Union at a time of great technological change. And one thing is certain, the legal and financial services landscape will look quite different in 10 years' time.
2. I want to take just a few minutes of your time to explore some of those changes and, in particular, what we might do to ensure that our thriving legal and financial services communities continue to flourish in the years to come.
3. The challenge, as I see it, for the current judiciary is to try to understand what will be the outcome of two seemingly irreconcilable trajectories.
4. The first is the progression of big business towards internationalisation and the use of cross-border technologies which transcend, even ignore, national boundaries. I am talking, of course, about digital ledger technology, which is by definition, borderless, smart contracts that make use of the public blockchain, and, more regionally perhaps, LawTech and RegTech, which will rapidly change the face of even national financial transactions.
5. The second trajectory is the political progression towards more nationalist and populist governments, whose agenda is unashamedly parochial, imposing trade tariffs and defying internationalism in favour of localism. These governments are often not afraid to confront their domestic legal systems when they seek to give effect to international notions of human rights. They take the rule of law to mean that judges should protect the interests of municipal communities and local businesses over outsiders.

6. As might be immediately apparent, domestic legal systems are in danger of being caught in the middle. By definition, a domestic legal system exists to resolve disputes between individuals and businesses resident in the particular jurisdiction, and between those individuals and businesses on the one hand and the state on the other hand. But in some cases, and this is particularly true of the English legal system and our UK jurisdictions, these legal systems have shown themselves over many years and decades, if not centuries, to be peculiarly adept at resolving disputes between individuals and businesses that are neither resident within their home jurisdiction nor indeed, in many cases, have any connection with the home jurisdiction. The best exemplar is perhaps the much-publicised statistic contained in TheCityUK's report that we are launching tonight to the effect that more than 70% of cases heard in our Commercial Court, within our Business and Property Courts, have no connection with the UK and no UK party at all.
7. English law and our UK jurisdictions are not alone in seeking to export dispute resolution. There is a fierce international contest for various domestic laws to be specified in international transactions and in arbitration clauses. We are also now seeing the establishment of numerous international commercial courts in Europe, the Middle East and beyond vying for overseas dispute resolution business.
8. Our lawyers here in the City of London have also been peculiarly successful in attracting overseas clients and in establishing overseas offices. Moreover, London has a large number of overseas professional firms practising here, partly at least because of a friendly regulatory environment.
9. But let me return to the competing trajectories and where that leaves our domestic lawyers and our municipal legal system.
10. Plainly, the domestic economy benefits hugely from the export of legal services and dispute resolution, whether arbitration or court-based. But judges should certainly be astute to ensure that they continue to provide a state-of-the-art dispute resolution service to national consumers and businesses. However important to the economy, overseas dispute resolution business may be, it cannot be provided, in any sense, at the expense of the domestic business that our citizens have a right to expect.
11. But this means that our domestic courts must continue to provide state of the art dispute resolution, utilising the best of the latest technological advances, for the benefit of all users. This is vital and important, and it is just what is going on now in the UK. We are implementing an investment

of £1 billion in court information technology and modernisation intended to create a ground-breaking court system fit for the 21st century.

12. We see more LawTech start-ups in the UK than anywhere else within the European Union put together. The LawTech Delivery Panel on which I sit is looking at ways in which we can make post-Brexit Britain the most technology friendly environment anywhere in the world, so that it will be a business location and legal jurisdiction of choice.
13. Making good use of technology is not, however, as straightforward as it sounds. Of course, we can and should progress towards online courts in order to ensure greater access to justice for all – as I always say, young people will not accept that justice is the only thing they cannot get with a few taps on their mobile phones. We must deal with concerns expressed by some, including the Bar Council, by demonstrating that online justice is not about reducing the need for or the number of face-to-face hearings. The objective is to allow economical speedy dispute resolution, whilst preserving the right to a live hearing where mediation and conciliation efforts fail.
14. Artificial intelligence will also be used to expedite and improve dispute resolution processes both in court and in alternative dispute resolution. But the greatest challenge as I see it is to make our legal system hospitable to smart contracts in financial services and other industries. This requires great investment and commitment of time and resources from the entire legal community. If we succeed, however, the prize could be great, because English law and UK jurisdiction could become the foundation of the new way in which transactional business will be undertaken globally. The lawyers and judges will have to use their imaginations and be prepared to countenance new ways of doing business. Our regulators and law reformers will need to produce a system that works for the international business and financial community. Once again, we will and are encountering competition from other jurisdictions and other international dispute resolution mechanisms. In my view, this is the area of greatest importance to the coming generation.
15. So, if I am right that our entire legal community should be working with the grain of new technologies to position the UK advantageously in the post-Brexit environment, where does that leave us in the face of the increasing localism I have been speaking about?
16. In my view, we should be able to demonstrate that the way we use technological advances in these areas benefits local communities and allows them to prosper. First, the efficient use of technology can bring

justice to the door of individuals and businesses alike. It should reduce the centralisation of justice in London or elsewhere, since the need for physical presence and physical travel is reduced, whether to conclude transactions or to resolve disputes. Secondly, the efficient use of technology will bring economic benefits by making UK's professional, legal and dispute resolution services attractive to global users. Thirdly, and perhaps most importantly, the use of smart technology will undoubtedly benefit consumers as well as businesses. It should, if used appropriately, make domestic lives easier, perhaps even less stressful, reducing the burdens of travel and communication.

Conclusion

17. Even if it seems as if the global trends I have mentioned are irreconcilable, I think that the legal community and our UK judges will be part of the solution by continuing to provide world class dispute resolution in the UK, and by becoming expert in the new technologies that will come to dominate national and international business – and as I have tried to say, the new technologies that will make ordinary lives easier.
18. We judges must, at the same time, maintain the integrity of the common law; we must remind the world of our USPs including the incorruptibility of our judges and our legal system; we must regulate legal and financial services intelligently so as to make the use of smart contracts, FinTech and LawTech emanating from the UK, and perhaps governed by English law, safe and secure. All this will be as much for the benefit of consumers as it will be for the benefit of businesses and financial service providers. We must make sure that that is the case.
19. If we do these things, we can produce post-Brexit legal systems that work for international business and benefits the UK's communities and the UK's economy.
20. One thing is certain, technology is here to stay. TheCityUK's report shows how vibrant and successful our legal services are as we leave the EU. I hope that we can all work together to ensure that we use technology to ensure that that success continues to grow.

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