OF LAW, LAWYERS, GLOBALISATION AND MILLENNIA

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The world is largely run by a select group of suited professionals: bankers, economists, accountants and lawyers. Not only do they dominate the private world, but these professionals have permeated governments and contribute significantly to formulating and controlling public policy.

This paper is about a small subgroup of these professionals: the law, lawyers, and what their role will likely be in the globalised world of the 21st century. It starts by taking a brief look at general demographic changes that have occurred in the last few decades and specific changes to the legal profession in selected countries around the world. It then highlights a few areas in which these changes will be felt within a post-contemporary world, and what this signifies for the legal profession, lawyers and the future relationship between law and business.

I SOME STATISTICS ON LAWYERS AND LAWYERING

The world has been legalised. This is not a normative statement; there are both good and bad fall-outs from this. The positives include traditional ideas such as the rule of law, which has developed and strengthened democratic ideology in the latter part of this century. Legalisation has also brought about ideas of equity and fairness in business and commerce, and a host of controls over administrative and discretionary excess. But at the same time, there are negatives: fears of a legal explosion, of excessive litigation and other general disadvantages ranging from fragmentation of community to loss of spontaneity and dignity.[1]

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[1] See generally John Barton 'Beyond the Legal Explosion' (1975) 27 *Stanford Law Review* 567 (an issue even in the 1970s!); Walter K Olson, *The Litigation Explosion: What Happened When America Unleashed the Lawsuit* (1991); John G Fleming, *The American Tort Process* (1988); and Michael McHugh, 'The Growth of Legislation and Litigation' (1995) 69 *Australian Law Journal* 37.

According to Marc Galanter the last few decades have witnessed a huge change in scale of five aspects of the legal world, showing up as increases in: (i) the amount and complexity of legal regulation; (ii) the frequency of litigation; (iii) the amount of authoritative legal material; (iv) the number and productivity of lawyers and other legal actors; and (v) the amount of information about law and its speed of distribution.[2] There are a number of reasons for this, and a sampling of disparate, but mainly common law, countries is examined below to illustrate the main ones.

A *The Sociopolitical Landscape*

Takin the US, Canada, the UK and Australia as examples, the population has grown since the 1960s, at the same time becoming more educated, and more diverse. Individual incomes have also, on average, increased; life expectancy has improved; social services have almost doubled. The economy too has undergone dramatic changes as the nature of work has shifted towards service-oriented jobs and workforce participation has increased due, in large part, to an increase in the numbers of female employees and greater availability of part-time work.[3] There has also been an incredible internationalisation of the economy, as outside markets and foreign investments were deregulated in the 1980s.

The numbers of practising lawyers has increased out of all proportion to the above. In 1960 there were 285,933 lawyers in the US. In 1985 that had increased to 655,191—a change of 129 per cent (compared to a population change of 32 per cent).[4] In Australia, the number of registered lawyers in 1961 was 6,636; this increased to 21,640 in 1985 and to 35,340 in 1999.[5] In China it has been estimated that 7,000 registered lawyers were practising in 1977, 20,000 in 1988, and this is expected to reach 150,000 before the end of this century.[6] In Hong Kong, there were 750 lawyers registered with the Law Society in 1978; in 20 years this has swollen to more than 4,000.[7] Similar increases have occurred in the UK and Canada.

The composition of lawyers has also changed. There has been a dramatic increase in law graduates in the last ten years, which has translated into a higher proportion of younger lawyers practising. As well, the numbers of female lawyers in the US, Canada, the UK and Australia has increased dramatically. From an average of about

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[2] See Marc Galanter, 'Law Abounding: Legalisation Around the North Atlantic' (1992) 55 *Modern Law Review* 1.

[3] Ibid for the US, Canada and the UK. For Australian statistics see *Year Book Australia*, Australian Bureau of Statistics, Commonwealth of Australia, 1998.

[4] Galanter, above n 2, 4.

[5] Australian Bureau of Statistics Census Figures, 1911, 1961; *Year Book Australia*, above n 3; Law Council of Australia, *Australian Legal Directory*, 1999. See also, Sumitra Vignaendra, *Australian Law Graduates' Career Destinations*, Centre for Legal Education (1998).

[6] See 'New Minister of Justice on Legal Services', *Xinhua General Overseas News Service* (Beijing, China), 14 April 1988 (Lexis); 'Chinese Lawyers Seek to Work in Japan', *The Daily Yomiuri* (Tokyo, Japan), 15 April 1994, 2; George Wehrfritz, 'Rulers are the Law' *Newsweek, Atlantic Edition* (29 September 1977) 47 [Lexis].

[7] See 'Staff Leave Law Firms Amid Economic Turmoil', *South China Morning Post*, (Hong Kong, China), 18 August 1998, 6.

three per cent women lawyers in 1960, most of these countries now have at least 20 per cent women lawyers.[8] These changes continue: as an example, in Australia in 1991, 6504 female lawyers were members of the various State law councils (20.3 per cent of the total); in 1998 this became 11,064, or 30.7 per cent.[9] In New South Wales in 1984, 199 of 557 students completing the College of Law required course for practising solicitors were women. In 1993, 363 (or very nearly 50 per cent) out of the 727 graduates were women—an increase of 14.2 per cent. These kinds of changes show up most markedly in overall statistics: in New South Wales there were 1,979 female solicitors out of 9,808 practising (equivalent to 20.2 per cent) in 1988; in 1998 the figures rose to 4,457 out of 13,871 for a percentage of 32.1.[10]

The nature and setting of legal work has also changed. The number of lawyers working in large firms has increased—as an example, in 1960 in the US there were fewer than 3,000 lawyers in firms with more than 50 lawyers. More recent estimates place the number at 35,000 lawyers in 115 firms of more than 200 lawyers.[11] The larger firms have been growing faster than the profession as a whole and take a larger proportion of the total fees generated on legal work in the US.[12]

More dollars are spent on law now than ever before, and more of this is by business rather than individuals. In the US, the only country for which statistics of this type are readily available, the amount of GNP derived from legal services more than doubled from 1960 to 1985.[13]

Not surprisingly, the growth in the number of lawyers has led to increased litigation. In the UK, for example, the number of proceedings in the county courts went from 1,521,594 to 2,285,125 over the period 1963 to 1988. In the High Courts, the same period saw the number of cases grow from 140,003 to 262,761. There has been a similar growth in the use of administrative tribunals over the last few decades.

While there is no single reason for the increased litigation, one constant among each of the countries has been the rise in business litigation, particularly in contractual and intellectual property cases. In the US, for example, over the period 1960 – 88, contract case filings increased from 13,268 to 44,027, a change of 232 per cent. As Galanter notes:

> It has become acceptable for corporations to be plaintiffs and sue other corporations; there is an increased use of litigation as part of business strategy. A

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[8] See Galanter, above n 2; *Australian Legal Directory*, above n 5.
[9] Private correspondence from Bruce Timbs, Director of Corporate and Finance, Law Council of Australia, 6 September 1999 (on file with author).
[10] *Report on Gender Bias in the Legal Profession*, Ministry for the Status and Advancement of Women, New South Wales, 1995 (*'Gender Bias Report'*) and Law Society of New South Wales, *Profile of the Solicitors of New South Wales*, Research Report No. 2 (1998) 8.
[11] Steven Brill, 'The Law Business in the Year 2000' (1989) 6 *American Lawyer* 10.
[12] Statistics obtained from Galanter, above n 2.
[13] Ibid.

> significant portion of this larger total of litigation is more complex and involves higher stakes, calling forth larger amounts of lawyering.[14]

The growth in litigation has also been made possible by the availability of new forums for resolving disputes. Alternative dispute resolution has become one of the key growth areas in a number of countries, with courts taking a leading role in promoting settlement via mediation, or arbitration. In Australia, for example, the Australian Commercial Dispute Centre in Sydney resolves commercial disputes through means other than court litigation.

B *The Legal Landscape*

The volume of law has also increased. Primary sources such as case law, legislation and regulation have all undergone large increases in the common law countries. This has led to an equivalent increase in the number of secondary sources of law. At the same time, the method of delivering this information has drastically altered.

In Canada, the number of volumes of the *Revised Statutes of Canada* increased from 9 in 1970 to 13 in 1985. The average number of pages added annually to the statute book in the UK rose from 745 pages in the 1950s to 1,525 pages in the early 1980s.[15] In Australia, it is the density of current statutes that is more telling: in 1973, 221 Commonwealth Acts were passed taking up 1,624 pages of text; only 216 Acts were passed in 1991, but these took up a staggering 6,905 pages.[16] A perusal of the printed pages of Victorian Acts shows that in 1977 there were 728 pages; in 1997 this had quintupled to 3851 pages.[17]

The pattern is mirrored in the number of judicial opinions delivered. In 1974, three volumes of the Australian Law Reports were published to cover the important decisions from various courts throughout Australia. In 1998, this had increased to nine. Again, the density has also increased: in 1970 the *Commonwealth Law Reports* reported only two High Court cases that were longer than 50 pages, compared to 12 in 1995; the longest case in 1970 was 58 pages, while in 1995 it was 128. And this is just the published reports. The total number of decisions available has increased exponentially with the advent of electronic databases adding unpublished decisions from virtually every level of court.

Alongside the proliferation in case law and legislation has been an explosion in the amount of legal commentary and secondary material. There are now about 40 law journals in Australia and an unknown number of legal newsletters and pamphlets, compared to about 25 journals and probably no newsletters in 1980.

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[14] Ibid 10.

[15] Sir George Engle, 'The Legislative Process Today' (1987) *Statute Law Review* 71.

[16] See McHugh, above n 1, 38.

[17] Thanks to Eamonn Moran QC, Chief Parliamentary Counsel, Victoria, who provided me with this information.

Vast changes in the way that law is delivered have also occurred. Technology has brought about the introduction of computer-based legal education, web-based government and research sites with access to up-to-date case law and legislation, and electronic libraries allowing access to millions of documents world-wide all via simple individual word searching.

In many ways this has meant a different approach to both the practice of law and law teaching. Some have argued that the new electronic universe means that law itself has been democratised, as it is now available to anyone who can operate a computer and read, not just a select few who have had specialised training.[18] As a result, clients have become more sophisticated and knowledgeable. At the same time, the complexity has provided new challenges and created new problems as legal issues transgress boundaries and become global issues, and legal arguments from one jurisdiction are imported much more quickly and effortlessly into another.

Law has also been affected by globalisation. There has been a large increase in the production of law from international bodies, including treaties, conventions and trade agreements, to decisions rendered by international courts. The number and spread of international law firms has exploded. From virtually zero in 1965, to an estimated 5,000 in 1995, international law firms developed as corporate clients began showing a preference for dealing with the same firm in a number of jurisdictions, and economies of scale warranted their creation.[19] Even more recent developments, such as environmental degradation, the internet and electronic commerce, have necessitated global responses to what would once have been thought of as national problems.

Finally, law is more pervasive than ever before. A few decades ago, much of government activity was outside of the scrutiny of the courts. In a short time, all common law countries have developed a whole new area of law entitled administrative law. As well, the law now reaches into areas such as policing, prisons and juvenile justice, schools, welfare agencies, hospitals, the environment, occupational health and safety, and employment opportunity and discrimination. But it is not just public law that has grown—the private sector is subject to the growing tentacles of law as well. Think about regulatory aspects relating to corporate governance, the enlargement of equitable doctrines such as fiduciary obligations, unconscionability and estoppel, and the development of a new body of law known as restitution. Other industries such as entertainment and culture have become more legalised: moral rights in arts and tribunal rulings in sports are two small examples.

In sum, our larger and more complex populations have multiplied the need for law and lawyers. As human society becomes more interconnected but individual rela-

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[18] See Ethan Katsh, *Law in a Digital World* (1994); for a critique of this view, see Richard Haigh, 'What Shall I Wear to the Computer Revolution? Some Thoughts on Electronic Researching in Law' (1997) 89 *Law Library Journal* 245.

[19] See Roman Tomasic, 'Globalization and the Transformation of Commercial and Legal Practice in the Asia Pacific: Opportunities and Challenges for Australian Commercial Lawyers and Their Clients' (1997) 10 *Corporate and Business Law Journal* 69 and David Weisbrot, *Australian Lawyers* (1990).

tionships more atomised, and as the general level of knowledge and information increases, it naturally follows that law will play a greater role. We use law more today both as a prophylactic (in the form of regulation and legislation) and in hindsight (as litigation, mediation and arbitration). What will these changes mean for global businesses in the 21st century? The next part points out a number of observations regarding law's future relationship with business.

II LAW AND BUSINESS: REFLECTIONS ON A CHANGING PARTNERSHIP

The growth of legislation and litigation, and the lawyering that is part and parcel of that, has led to much analysis. Justice Michael McHugh has predicted that these changes will result in the increased litigation and decreased accessibility to law, at the same time requiring lawyers to develop better skills in statutory interpretation and to become more specialised.[20] Marc Galanter has predicted a wholesale change in the way legal information is divulged and obtained, creating a transformation in the nature of law itself, as the boundaries between legal authority and other institutional practices become blurry and diffuse. And as the costs of using the law increase, the character of law and litigation changes, creating a division between 'super' litigants and an underclass of actors operating outside previous formal controls.[21]

The increased ubiquity of law and lawyers will also affect the relationship between law and business, especially as the nature of business itself undergoes vast changes. A quick scan of a recent issue of *Asian Lawyer* reveals some of these concerns in concrete form. Articles include: survey results showing law clients prefer the influx of multiple-disciplinary law firms;[22] cyber lawyers and legal advice;[23] the provision of virtual advice to clients;[24] and the growth of multinational and foreign law firms into Asia.[25] These exemplify the kinds of effects that will intensify in the next century. I have classified them into five separate categories: regulatory minefields, educational imperatives, declining legal quality, law and lawlessness and national trading incentives.

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[20] McHugh, above n 1, 39-44.
[21] Galanter, above n 2, 17-21.
[22] 'Give us MDPs, say Corporates' (1999) 4(9) *Asian Lawyer* 1; 'PwC Pushes into Australian Legal Market' (1999) 4(9) *Asian Lawyer* 4.
[23] 'Lawyers Online Lure Clients with Lower Rates' (1999) 4(9) *Asian Lawyer* 2.
[24] 'Law Firm to Offer Virtual Advice' (1999) 4(9) *Asian Lawyer* 2.
[25] 'Malaysia Opens up to Foreign Lawyers' (1999) 4(9) *Asian Lawyer* 3; 'PRC Breakthrough for Australian Hopefuls' (1999) 4(9) *Asian Lawyer* 3.

A *Regulatory Minefields*

The proliferation of domestic regulation in areas recently immune from the reaches of the law has changed legal practice in business and will continue to do so. As noted, the overwhelming trend in the last 20 years has been towards increasing governmental and international regulation in diverse areas. Legal initiatives such as environmental protection, health and safety laws, consumer transactions, and industrial relationships (including anti-discrimination and preference laws), are now very often covered by both domestic legislation and international treaties or conventions. Although these forms of regulation are not all new, and multinational corporations have never been unaware of the need for compliance, the continued regulatory growth may change the nature of the relationship between lawyers and business.

The growth of regulation focuses power on lawyers (and others with professional and technical skills), creating a greater dependence on them. Two possible outcomes arise from this, either greater respect for the lawyer or increased resentment. In either case, the law itself loses some of its meaning and becomes 'a contingency which must be met. ... [O]rganisations [will] find it necessary to gain or increase control over legal resources if only to neutralise law as a weapon which an opponent might use.'[26]

Thus, the original ideology of laws can easily become lost in a game-like struggle to gain superiority. Coupled with this is a growing body of literature suggesting that increased regulation can, by itself, create a demand for ever more complex and excessive regulation. Public choice theory and the idea of regulatory capture both attempt to explain government policy by examining individual motivations of the actors. Under them, those most familiar with the workings of regulation are at one and the same time the most likely to gain from it, and the most likely to be persuaded to overlook specific offences. As a result, the actors themselves create the need for additional regulation.[27]

Based on the growth of regulation in the past 15 years (despite the philosophies of many pro-business governments), there is a likelihood that the demand for legal services amongst multinational corporations will continue, while at the same time, the respect given their legal advisors will decrease as it is believed that lawyers are simply involved a program of their own devising. This may have serious repercussions for both lawyers and their business clients.

B *Educational Imperatives*

Legal education will need to change to accommodate changes occurring elsewhere, including the globalisation of business in the next century. While the last few dec-

[26] Roger Cotterell, *The Sociology of Law:An Introduction* (1984) 306.
[27] See Daniel A Farber and Philip P Frickey, *Law and Public Choice: A Critical Introduction* (1991).

ades have seen a marked increase in the speed with which legal information is disseminated, and the growth of an internationally oriented legal profession, legal education has neither kept up with this pace, nor addressed some of the collateral problems that have arisen. There are four areas of note.

Firstly, the law school curriculum at a common law university still looks much the same as it did 50 years ago, especially in the compulsory units for the first year or two. Contracts, torts, criminal law, procedure and property still form the backbone of the degree. Yet, as discussed, the nature of law has changed considerably in the last few decades. Statutory law (both national and international) makes up the bulk of the law in common law countries—the differences between civil law systems and common law systems has lessened. There is a growing chorus of concern that today's curriculum, coupled with the push to drive ever more graduates through the system, has led to declining standards in legal ability.[28] This is a serious problem that needs to be addressed quickly. Law schools (and legal councils which often set the educational agenda) should reflect on these changes to the nature of law and redesign legal curricula to fit.

Secondly, globalisation has necessitated the need to develop educational exchanges and cooperative agreements between universities. China has been one of the leaders in this regard, having promoted strong educational links with, to my knowledge, the US and Australia, and probably others as well. Examples such as East China University's training of more than 700 American lawyers and law students since 1986, and the joint graduate programs that exist between China University of Political Science and Law and Temple University, are quite common, and there are other examples of this kind of cooperation.[29] While some may lament it, it must be remembered that universities are now multinational businesses as well, and need to be just as aware of globalising effects as do corporations. Students are much more mobile today.

A third cause for concern for both educators and corporations is the growth of company lawyers and in-house counsel. Many years ago, shipping was probably the only multinational industry: a ship may have been built in England, financed in the US and Japan, crewed by Indian and Spanish crewmen and sent to deliver goods to South America. Now, multinational businesses exist in virtually every area of human enterprise. Company lawyers will need to understand how different laws operate and the interaction between them in many diverse industries.

This means that lawyers of the future should be educated more broadly, in areas such as trade law, public law, finance and labour law—all with an international focus—or, alternatively, multinational firms will need to cast their hiring net more broadly and hire lawyers and law students from a greater diversity of countries.

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[28] See 'Raising standards', *South China Morning Post* (Hong Kong, China), 22 March 1999, 18; Roman Tomasic, 'The Challenges of Legal Education for the 21st Century: Reflections from Beijing' (Paper delivered at the International Law School Deans' Conference on Legal Education for the 21st Century, Beijing, 25-27 May 1999). See also discussion at Part II.D below.

[29] See 'China, US See Increasing Legal Cooperation', *Xinhua* (Beijing, China), 27 July 1998 (Lexis).

Moreover, it will be important to take into account non-legal skills of this nature, such as language and political and cultural savvy, that before might not have seemed important.

Finally, formal legal education is likely to come under increasing attack from the shadow legal system. The profession of law in common law countries developed from the guild system, which meant that it was always somewhat protected. Professional licensing still acts as a monopoly over the practice of law, restricting access to certain information, and erecting minimum standards for the transmission of knowledge through university degrees and professional practising certificates. This edifice is now beginning to crack. In most common law countries, paralegals and quasi-professionals, who do not command such high fees as lawyers, have made inroads into what was formerly the domain of the lawyer. It is likely that over the next few decades, businesses will rely increasingly on paralegals to perform the straightforward legal tasks that once were left to lawyers. This may bring about some competitive advantages, but at what cost?

Of even greater concern to those worried about falling standards are technological changes wrought by the internet. Self-help legal remedies may become a real problem where, for example, companies lacking sophistication or an understanding of the benefits brought by a skilled lawyer, attempt to work out legal problems themselves. In the past, the arcana of legal knowledge was protected as much (or probably more) by its inaccessibility as by its inherent difficulty. Very few people had the time or inclination to find a law library and wade through cases or statutes, and even fewer could say, with confidence, that they had not missed an important case, or left out a recent statutory amendment. With the internet and other electronic resources, that problem has largely disappeared. A simple electronic search can provide all the cases on topic and the most recent legislation. This may be incentive enough for some to avoid relying on lawyers. Thus, it will be important for future legal educators to stress to their students that knowing the law, and understanding its nuances, is not simply a matter of finding the best case and applicable legislation.

C *Declining Legal Quality*

The changing nature of law, especially its increasing complexity, has led to concerns over the quality of current legal practice. This can have serious repercussions for multinational businesses intent on maintaining integrity and lawfulness.

There are a number of possible reasons for the decline: increases in the number of persons qualifying to practice law from an expanding number of programmes;[30] outdated legal curriculum and at best haphazard approaches to issues such as legal

[30] It is interesting to compare Australia with Canada in this regard. Since 1988 the number of law schools in Australia has doubled such that there are currently 29 universities with law schools, graduating about 2,800 LLB students per year, in a population of about 18 million. In contrast, there are 18 Canadian universities with law schools, graduating about 2,000 LLBs annually, in a population of 28 million—see Vignaendra, above n 5 and David Stager and Harry Arthurs, *Lawyers in Canada* (1992).

ethics and general language ability; poor or non-existent programmes of continuing education; and an overly complex legal environment.[31] We may never know the real reason; however, some steps can be taken now to avoid greater problems later.

Governing legal bodies need to be more aware that legal training is a life-long process, and that the profession cannot simply place the entire educational burden on university law faculties. Many law students are under 20 years old, with little life experience and even less wisdom and judgment, and when they graduate, are only slightly older and wiser. This is brought home to me each year when time has to be taken out during a lecture on unconscionability and bank guarantees to explain how a basic mortgage works. Businesses have been one of the first groups to recognise this, generally by delaying hiring company lawyers until they have at least a few years of experience in practise. But the legal profession itself needs to show more concern over the problem and develop compulsory programmes of continuing education.

Moreover, both businesses and universities should reconsider methods for selecting lawyers and law students. Despite a plethora of research showing a tenuous correlation between results in law school and later capabilities as lawyers, companies and law firms continue to privilege those students with the highest law school grades. Universities, similarly, tend to admit only a very select group of incoming students into their law programmes, based almost exclusively on previous scholastic records or results from admissions tests. Neither are very accurate indicators of scholastic performance or legal ability.

D *Law and Lawlessness*

Closely aligned with the discussion above is the increase, in the past 10 years or so, of cases involving breaches of corporate ethics. Lawyers have been at the forefront of many of these cases, both in advising clients initially, and in prosecuting them ex ante. Again, the trend is a disturbing one that is likely to increase. A good Australian example is the series of tax avoidance schemes prosecuted between 1982-84. Known as the 'bottom of the harbour' cases, these involved complex tax transactions based on a number of analogous rulings by the High Court. Many lawyers were involved as advisors to these tax schemes and were asked to render opinions based on the state of the law pronounced by the High Court. The cases gave rise to a vigorous debate as to what is the proper role of a business lawyer.[32] More recently, four separate Australian cases have solidified the need to ensure solicitor's practising standards are of the highest order.[33]

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[31] See Anthony Kronman, *The Lost Lawyer: Failing Ideals of the Legal Profession* (1993).

[32] See Yuri Grbich and Mark M Liebler, 'Should the Law Institute of Victoria Take a Public Stand Against Artificial and Contrived Tax Avoidance Schemes—A Debate?' (1980) 54 *Law Institute Journal* 560.

[33] See *Astley v Austrust Limited* (1999) 161 ALR 155; *Flower & Hart (a firm) v White Industries (Qld) Pty Ltd* (1999) 87 FCR 134; *NRMA Ltd v Morgan* (1999) NSWC 407 (13 May) available on Austlii at <www.austlii.edu.au>; *Yates Property Corporation v Boland* (1998) 85 FCR 84.

What lessons can we draw from events such as these, and what predictions for the future? The complexity of modern society coupled with a rampant corporatist drive creates an internal conflict for businesses: on the one hand there is a need to understand and conform to myriad legislative controls, on the other there is a desire to use legal knowledge to subvert these same legislative controls in order to gain commercial advantage. It is lawyers who are being asked to perform these contradictory roles.

This will only accelerate in the future. As corporate work grows globally, more agreements and contracts will be drawn up, and more and different laws will come into play. At the same time, competition between corporations is likely to become fiercer. Lawyers will be asked to advise on riskier and riskier projects.

Although standardisation of certain aspects of private international law (through trade protocols such as the Geneva Convention on the Sale of Goods, etc.) may control some of the more egregious schemes, at best international laws provide general recommendations and controls. It will still remain largely up to individual corporations and their legal advisors to ensure ethical standards are maintained.

E *National Trading Incentives*

One only needs to open a newspaper to see growing numbers of trade agreements between countries. Most of these are negotiated at high government levels, but in their implementation, usually involve distinct private corporations. A recent Australian example was Chinese President Jiang Zemin's visit to Sydney where he announced that China would lower tariffs by up to 25 per cent to attract foreign investment into its markets.[34]

While these types of bilateral and multilateral trading announcements are common, and obviously aimed at boosting business relationships, all have legal effects as well. Firstly, each statement or agreement must be entrenched in some form of legislation, regulation or contract. Secondly, businesses must then become familiar with any special rules or requirements created by these new arrangements. As these grow in number, the complexity of the legal rules will grow exponentially, thereby requiring greater and more specialised legal knowledge. Finally, the likelihood of disputes increases as international points of contact grow, leading to further pressure on the legal system. There has been little research done on the effects of these agreements on the internationalisation of law, and further study is warranted.

CONCLUSION

The world, and its laws, are becoming more and more complex. It may be counter-intuitive, but this increased complexity can bring about increased freedom and

[34] See Paul Robinson, 'China Set to Lower Barriers', *The Age* (Melbourne), 9 September 1999, 2.

opportunity, even within the boundaries of the law. The corporate lawyer of tomorrow may be able to do things that were unthinkable a few years ago, simply by relying on the complexity and abstruseness of the law:

> The increase in the number and variety of legal actors, in the number of decisionmakers, in the amount of authoritative material, in the span of legal theory, in the amount of available information, in expenditures for legal services and the consequent intensity of lawyer work—all of these multiply the opportunities for unforeseen juxtaposition and the incentives for innovative enterprise to undermine established theories, rules and practices... [L]aw becomes more contingent.[35]

Herein lies the real chance for multinational businesses in the next century.

Although there will be some profound changes in the nature of lawyering, those businesses (and their legal advisors) that better understand them will prosper. This means realising that an increased complexity in law can allow for more creativity or innovation. It means understanding the role that legal education and ethics can play in ensuring multinational corporations become exemplary corporate citizens. Those businesses that fail to grasp legal changes, that lament the proliferation of rules and regulations and misconstrue the changing landscape of law will, conversely, find it difficult. In the end, it will all depend on one's point of view.

[35] Galanter, above n 2, 14.