

BOOK REVIEW

LEGAL UPHEAVAL: A GUIDE TO CREATIVITY, COLLABORATION, AND INNOVATION IN LAW

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REVIEWED BOOK

*Founder and Content Curator of CEJ, Michele DeStefano recently published her new book *Legal Upheaval: A Guide to Creativity, Collaboration and Innovation in Law*, addressing the overthrow in the market for legal services and the associated challenges for the sector. Michele DeStefano is the founder and director of *LawWithoutWalls* and a Professor of Law at *Miami Law*. She is an expert in entrepreneurship in the law. Her scholarship focuses on the growing intersections between law and business and legal entrepreneurship.*

A few weeks ago, I was finally able to hold in my hands the book of my colleague, friend, and co-founder of the CEJ, Michele DeStefano. I read it almost from top to bottom in one go, with great pleasure and with the highest appreciation.

At a meeting in Berlin, Michele, still in the middle of her creative process, explained to me that her book was about the "innovation tournament"¹ in the legal consulting market. The result, if one wants to assign it to the established genres of legal literature, cannot fit into any category. The empirical core of the paper consists of over 100 quality interviews from "GCs and chief executives from large international organizations along with heads of innovations and law firm partners from around the world"². In terms of methodology, DeStefano builds on her previous papers³ and inductively develops statements regarding the self-perception and external perception of cooperation between law firms and their clients from industry and business. The result of such analyses is an innovative paper in the area of law and sociology regarding the legal professions and the demands placed on them by their corporate clients. However, the paper also gives specific recommendations regarding change management in the legal marketplace⁴ in the form of a "cookbook" and regarding the adaptation of products and the billing (pricing) of services provided by law firms to the changing needs of effective legal consulting.

DeStefano succeeds in combining scientific substance and practical relevance and presenting her findings in an exciting, intuitive narrative style. The paper breaks new ground with the question that is pursued and with the scientific approach, as the analysis regarding the compatibility of the services provided by law firms with the needs of their clients is grounded empirically for the first time, and the paper makes visible and documents the connections that were previously surmised and felt, but not scientifically structured and documented, by the actors on the legal market.

The theoretical frame of reference of the paper consists of a reconstruction of the social, legal, and economic environment of the legal market.⁵ Changes to this environment create a situation of pressure for law firms, rendering inevitable an adaptation and reorientation

¹ p. 20 et seq. page references here and below refer to MICHELE DESTEFANO, *LEGAL UPHEAVAL: A GUIDE TO CREATIVITY, COLLABORATION, AND INNOVATION IN LAW* (2018).

² p. 217.

³ Michele DeStefano, *Creating A Culture Of Compliance: Why Departmentalization May Not Be The Answer*, 10 (1) *HASTINGS BUSINESS LAW JOURNAL*, 71 et seq. (2014).

⁴ p. 157 et seq.

⁵ p. 3 et seq.

of legal advisory services, along with a redefinition of the relationship between the corporate client and the external law firm ("innovate or die"⁶). DeStefano identifies three factors of influence or forces that generate such pressure to innovate. Technology (for example, artificial intelligence, blockchain) means that certain standardizable services (drafting of a contract, prediction of the chances of success of proceedings, etc.) no longer have to be developed or worked out by attorneys "by hand"; rather, such technology may be available on demand within the framework of digital solutions. This changes the price structure of the products and the manner in which they are commissioned and called up. DeStefano illustrates this with the examples of copyright registrations and trademark filings⁷, which can be undertaken today more cost-effectively and more rapidly without an attorney through the services of specialized providers of technical solutions. This translates into a change in demand for traditional consulting and requires a differentiation between services that can be provided with the assistance of technology or solely through technology, and those that require personal legal consulting and problem solving. As the second driver of change, the author refers to socio-economic and demographic changes, which will not stop with the future clients of law firms. Digital natives will confront advisory law firms with requirements regarding communication, teamwork, technology, etc. that are different than those of the "workforce traditionalists" or "baby boomers" generations (p. 7). The third factor of influence is the evolution of legal material, which can be observed around the world and is of increasing importance, as legal issues often have references both to local law and to the law of other nations and legal cultures. The pitfalls that can occur in international internal investigations provide an example of this,⁸ because a variety of issues in areas of labor law, criminal law and data protection must be identified and managed ("globality and glocality"⁹).

The responses of GCs, to which DeStefano refers in her section entitled "the lawyer skills delta," indicate that the needs of GCs in the companies seeking legal assistance are often not adequately met by the commissioned attorneys. The requirement profile consists of an "end-to-end solution." An interviewee¹⁰ describes this as "the optimal combination of people, process, tools and technology, and hybrid inside / outside sourcing models, to meet their client's business and legal challenges." Accordingly, profound legal expertise is merely a basic requirement to meet the requirements of clients. For this reason, the narrower sense, DeStefano does not even count such technical qualifications among the three levels, from the basis of satisfactory performance up to best practice with an "ecstatic client." In a legal environment that DeStefano rightly describes, in the style of Cold War

⁶ p. 133.

⁷ p. 12.

⁸ Hendrik Schneider, *The Enterprise in Testudo Formation*, 3(1) CEJ, 43 (2017); p. 50 et seq.

⁹ p. 8 et seq.

¹⁰ p. 34.

military terminology, as "VUCA" (volatile, uncertain, complex and ambiguous¹¹), the external legal adviser should offer solutions and directions, and not simply point out problems. Anyone who is already drowning in e-mails¹² does not need a paper mountain or "over the top legal advice"¹³; rather, such person needs a strategic partner with empathy and the right answers for the task to be accomplished together.

However, it must also be mentioned that this also depends on the specific task with regard to the depth of content and the scope of the consulting service. A "hedged report" that legally assesses a particular transaction and is intended to serve as argumentative substantiation in (future) criminal or civil proceedings follows premises different than legal advice within the framework of an in-house process, such as advising an e-health start-up, which collects data in compliance with the law and wants to bring to market innovative medical devices for smart diagnostics around the world.

Furthermore, the qualitative interviews make it very understandable that the differentiation of the legal material often compels cooperation in a team of multiple specialists. This distinguishes GCs from their external consultants. While the former are often legal generalists, who have broad basic knowledge in various legal matters, external expertise is acquired on special issues. In an interview with a law firm based in New York, one partner says "I know a whole lot of a tiny area of law"¹⁴. This depth of knowledge is required to provide the desired legal information quickly, confidently and accurately. However, constructive cooperation with other experts within and outside the consulting firm is required to successfully manage the entire project. As such, in the innovation tournament, only a person who has expertise in "collaborative creative problem finding and solving" can assert himself or herself¹⁵.

The author is aware that it is not only the case that such expertise is often neither reflected nor promoted in the workplace; it is also neglected in traditional legal education. With the worldwide university program LawWithoutWalls,¹⁶ as she brings it to life, she has succeeded in closing this gap, occupying the interface between law, business and technology, and supporting students in building up the key interdisciplinary qualifications necessary to support the drive to innovate ("building collaborative relationships"). DeStefano successfully applies the know-how gained in this process in the design of the innovation process ("regardless of the size or location of your firm or legal department"¹⁷).

¹¹ p. 10.

¹² p. 39.

¹³ p. 50.

¹⁴ p. 10.

¹⁵ p. 49.

¹⁶ see Appendix B, p. 214 et seq.

¹⁷ p. VI.

The entire paper is so motivating and full of inspiration and new ideas that it is immediately contagious. The reader will want to put into effect what Michele DeStefano describes and teaches, both at the university and in the practice of legal consulting. Congrats, Michele, particularly for the many quotes and examples that will stay in my mind and surely the minds of other readers - from the "Man in the Mirror"¹⁸ to "Mr. Wolf" in "Pulp Fiction"¹⁹.

¹⁸ p. 56.

¹⁹ p. 64.