

# Say goodbye to the one-trick pony | Law trends 2023

 By [Koos Benadie](#)

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Being 'creatures of instruction', the international legal fraternity was - pre-Covid - blissfully content to splash about in the shallow waters of its potential response to the fourth industrial revolution. A casual interest in LegalTech gimmicks, the setting up of 2.0 committees, and comments like "we should make an app," had pockmarked law firm attitudes in the lead up to the 2020s, particularly in South Africa.



Koos Benadie, Director and Head of Commercial Law at Barnard

At the height of the global pandemic, it took a tsunami of challenges such as technological readiness, changes in client relationships, employee way-of-work demands, high-profile data breaches, a looming recession, an energy crisis, and political instability to spark an existential crisis in the legal industry. It came as no surprise then, that 60% of respondents in the 2021/22 LexisNexis Legal Tech Report said the pandemic "grossly impacted" their legal practice.

## Clean up on aisle 5!

The silver lining is that the challenges have resulted in an industry 'clean-up package' that can focus on a more purposeful and client-centric approach, improved efficiencies, lower costs, and a change to the way lawyers work – through greater collaboration, augmentation and innovation.

## BizLawTrend # 1 – Regulatory workflow innovations

Appropriately managing regulatory frameworks and maintaining legal compliance is becoming a significant requirement, and law firms are developing solutions to client pain points through customised regulatory workflow solutions. By incorporating the legal professional's knowledge and expertise with workflow automation technology, firms can help clients navigate new challenges and regulatory obligations. The easy-to-use workflow solutions for privacy, regulatory reporting, data subject access, and freedom of information requests will embed the law firm into their client's business operations, securing long-term, mutually beneficial relationships.

Examples of this trend include the development of compliance workflow platforms for the management of POPI Act

compliance in South Africa. In Australia, the law firm, Gadens introduced a digital workflow tool to help organisations navigate legal obligations during a cyber-attack.

## **BizLawTrend # 2 – Client SuperPortals**

Client collaboration tools – or portals – are not a new concept, but the processes, capabilities and functionality of these tools are improving significantly. The new generation of collaborative workspaces are evolving beyond file sharing and one-way invoice communication towards real-time collaboration, project management, budget communication, customised reporting, and more.

In addition to providing greater transparency and facilitating more effective communication and collaboration processes, some welcome side-effects of secure collaboration workspaces include modernising and enhancing the client experience.

For in-house counsel or corporate legal departments that are increasingly seeking greater detail from law firms on how they are managing resources for their matters, SuperPortals can provide regular updates, connected to streamlined workflows.

## **BizLawTrend # 3 – Pricing and spend management**

Law firms that have an innovative approach to practice have begun moving away from a model simply based on monitoring billable hours and embraced workflow automation.

This means that spend management practices will need to focus on the entire process of managing a matter, not just interrogating the costs after the work is completed. This requires ensuring that activities can be broken down into phases of work if appropriate. Thus, technology will become a powerful enabler to streamline and provide the structure for this.

This change is being driven by corporate and government legal departments who are increasingly turning to technology to compare and select preferred law firms based on defined criteria such as price, experience, and project management.

An innovative approach to spend management allows law firms to demonstrate value whilst reducing waste and increasing efficiencies. Importantly, precise, repeatable, and structured frameworks for allocating budget expenditure will ensure accountability, strengthen relationships and deliver better legal outcomes.

## **BizLawTrend # 4 – Hiring for skills not potential**

According to the World Economic Forum, the current post-pandemic economic climate has necessitated a general shift in company strategy to produce short- to medium-term results. This is causing businesses, including law firms, to increasingly hire for skills, rather than potential. This in turn drives an increase in salaries and leads to poaching of skilled legal services by competitors and corporates.

Medium-sized law firms will more and more focus on providing specialised services rather than the more traditional “one-

size-fits-all” – approach. A downside of this is that foreign jurisdictions with stronger financial markets will pose an increasing risk to the African- and South African legal fraternity, with big overseas firms making more and more offers to some of our most talented specialised attorneys that just cannot be refused.

## **BizLawTrend # 5 – Hybrid work**

The recent changes in the employment landscape have seen employees taking a bigger stand because of the change in their expectations. A consequence of this is the phenomenon called the “The Great Resignation”, which saw record numbers of employees worldwide leave their jobs post-pandemic.

One of the trends identified by the World Economic Forum is that these resignations are highest among mid-career employees. The question arose whether this trend also took hold in South Africa with its high unemployment rates. Chris Blair, CEO of 21st Century, answers this question in the affirmative, and states the reason that South Africa’s ‘great resignation’ is ring-fenced in the professional and specialist roles that are scarce skills in the market, where more than 70% of employees now resign “for a better work-life balance, flexibility, career development, and a healthier culture and leadership”, rather than for better pay as was seen traditionally.

Employers will need to pay attention to standpoints from employees, such as that they are more productive working from home, as confirmed by the article *Surprising Working from Home Productivity Statistics (2022)*. The view is that, because of the specific nature of personal service delivery required, the legal industry will lean more towards hybrid-systems, where legal practitioners are allowed to work one or two days per week from home. Face-to-face personal meetings just cannot be replaced for effectivity and should remain an important part of a legal practitioner’s service delivery.

## **The Barnard Crystal Ball | Advice to businesses in 2023**

If the only way you can predict the future is to build it, then businesses will surely have a responsibility to ensure that their future is assured by adopting best practices in compliance and reporting. It will be more important than ever to maintain a close relationship with legal experts who can assist in defining risks and assist in planning for the challenges ahead. Some of the challenges businesses can expect to encounter in 2023 include:

- New employment regulations relating to equity.
- The ending of Zimbabwe Exemption Permits.
- An increase in social volatility in the run-up to the 2024 general elections.
- Continued loadshedding, interest rate and fuel price challenges.
- A focus on graft and financial practices considering the possible greylisting of SA’s economy.
- Increase in fines by the Information Regulator for breaches of the Protection of Personal Information Act (POPI).
- Focus on the intellectual property implications of NFTs and the metaverse.
- Interrogation by authorities on the new subscription model for motoring that continues to gain ground – a concept where car companies offer a variety of high-end features as optional extras.

## **ABOUT KOOS BENADIE**

Koos is an experienced Corporate and Commercial Law practitioner with law firm Barnard. He specialises in company law, law of insolvency, business rescue, restructure and other corporate legal matters from inception to conclusion, including any litigation, which may arise in respect of those matters. Koos has acted for a diverse range of corporate clients and has also provided legal services to financial institutions and large retail operations.

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