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The case for sociologically-informed approaches to researching and doing legal design

Amanda Perry-Kessaris¹

Abstract

In this moment of ‘social distancing’ the need for sociologically-informed approaches to understanding, responding to and shaping our changing world has never been clearer. This paper makes the case for a sociologically-informed approaches to legal design. It argues, firstly, that sociologically-informed approaches allow us to conceptualise legal design as a form of social relations, and that this opens the door to understanding the roles of legal design *in* social relations, and the potential of legal design to work *for* particular forms of social relations. Secondly, it argues that sociologically-informed approaches emphasise the social dimensions of doing legal design, focusing on one emergent field of legal design—that is, the application of designerly ways in a sociolegal research context.

Introduction

This paper makes the case for a sociologically-informed approach to legal design.² Legal design is an emergent field of study and practice which centres on how ‘designerly ways’³—that is, the mindsets, processes and tools that are characteristic of design—can and ought to be deployed in relation to legal matters.⁴

Legal design is part of a wider designerly turn, which has, over the last decade or so, seen the application of designerly ways across a wide range of private, public and civil society contexts to create or enhance not only ‘physical products’ but also ‘services, strategies and policies’.⁵ An ever-growing collection of frameworks⁶ —variously described as systems, toolkits, guides and so on—now seek to facilitate the application of what is often referred to by the, misleadingly partial, moniker of ‘design thinking’.⁷ Although the terminology used across these frameworks is inconsistent, they share the same basic components, namely

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they are composed of mindsets, processes and tools with broadly similar content. For example, global non-profit design studio IDEO specifies seven designerly mindsets: empathy, optimism, iteration, creative confidence, making, embracing ambiguity, and learning from failure.⁸ The Design Council, which is an independent charity and adviser to the UK Government on design, specifies four phases in design processes: discover, define, develop and deliver.⁹ Finally, the (largely German) team of independent designers behind the *This is Service Design Thinking* project specify three types of designerly tools: personas, maps and prototypes.¹⁰

Initial attempts to deploy designerly ways in the legal sphere focused on tools, especially the visualisation of legal instruments such as contracts,¹¹ before eventually broadening to deploy designerly mindsets and processes, for example, to generate and share ‘reusable models of a solution to a commonly occurring problem’,¹² and to use technology for legal empowerment.¹³¹⁴ Today examples of what is now known as ‘legal design’ can be found across all legal domains including legal practice, legal activism, policy making,¹⁵ teaching and research.¹⁶

In a 2019 review of the field, I argued that the rise of legal design can be both explained and justified by the existence of important ‘points of contact’ between ‘lawyerly concerns’ and ‘designerly ways’. Drawing on sociologist and legal theorist Roger Cotterrell, I highlighted three lawyerly concerns: the need to communicate; the need to balance structure/unity and freedom/diversity; and the need to be at once practical, critical, and imaginative. Drawing on social designer Ezio Manzini, I argued that lawyers are and/or ought to be drawn to designerly ways (especially the designerly emphasis on communication, experimentation, and making things visible and tangible) because these can both improve lawyerly communication, and generate new spaces of ‘structured freedom’ in which lawyers can be simultaneously practical, critical, and imaginative.¹⁷ Furthermore, I argued that legal design ought to be defined more broadly to include activities taking place not only legal practice, but also in the spheres of activism, public policy, and, crucially, research.

In this paper I take a step back to make the case for a sociologically-informed approach to legal design as a whole. By this I mean that, when we are engaging in legal design (in the

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context of legal practice, policy, activism, teaching or research) and when are conducting research into legal design, we ought to incorporate conceptual frames, empirical insights and normative agendas from sociology—that is, the study of social relations. The rationale for taking a sociologically-informed approach to legal design is that both law and design, and therefore, legal design, are fundamentally social phenomena, in the sense that they are ‘concerned with the mutual relations of human beings or classes of human beings’, especially with ‘society’ and ‘its organization’; and they all shape and are shaped by human ‘interdependence’, including the ‘need for companionship’ and cooperation.¹⁸

I begin by exploring what it means to take a sociologically-informed approach to researching the field of legal design (Section 1). I argue that a sociologically-informed approach allows us to conceptualise legal design *as* a form of social relations, and that this opens the door to understanding the roles of legal design *in* social relations, and the potential of legal design to work *for* particular forms of social relations. Next, I explore what it means to take a sociologically-informed approach to doing legal design (Section 2) focusing in particular on an emergent field of legal design practice—that is, the application of designerly ways in a sociolegal research context (Section 3). Throughout I take the welcome opportunity offered by the 2019 workshop on ‘Socio-Legal Studies in Germany and the UK: Theory and methods’ from which this special issue emerges to celebrate the Anglo-German origins of some of the literature and practice that underpin my arguments.

Sociologically-informed approaches to researching legal design

We can think of any disciplinary approach as comprising of conceptual, empirical and normative elements that determine what is approached, as well as how and why it is approached. The *conceptual* components of an approach are the concepts and relationships through which it organises the field of study. The *empirical* components of an approach include the facts and methods that may be used to confirm the real-life existence and impact of those concepts and relationships. The *normative* components of an approach are the values and interests that it foregrounds or privileges (Figure 1). What would a sociologically-informed approach to researching legal design look like conceptually, empirically, and normatively?

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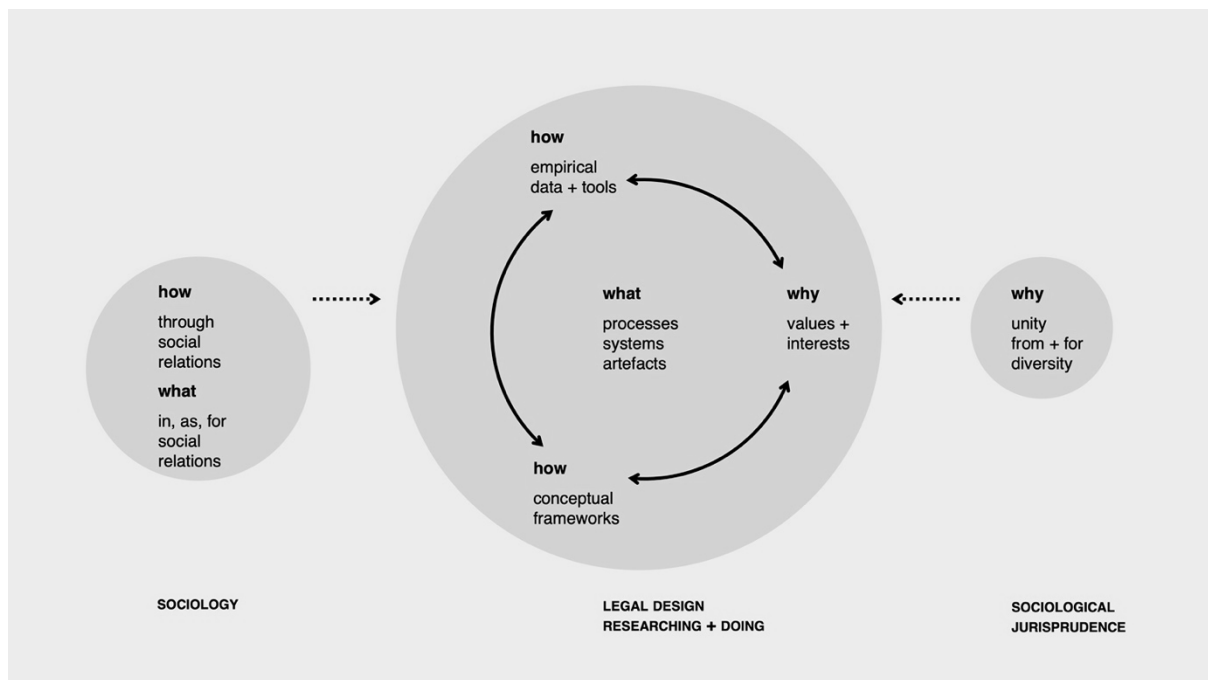


Figure 1: Sociologically-informed approaches to researching legal design © A. Perry-Kessaris 2020

...conceptually

Sociologists conceptualise the world in terms of social relations. For example, socio-legal or sociologically-informed approaches to law are distinguished by a commitment to ‘consistently and permanently... reinterpret’ law as ‘a social phenomenon’.¹⁹ This means that they do not approach law as a set of abstract and technical rules. Rather, they conceptualise law *as* a dimension or field of social relations; and they undertake empirical investigations of its roles *in* wider social relations; and, sometimes, advocate in favour of law’s deployment *for* particular forms of social relations.

Different sociologists use different concepts, and assert different relationships between them. For the present purposes we can say that they tend to see social relations as operating at different, mutually constitutive, levels; and we can refer to these levels as actions, interactions, systems and rationalities. Working from the bottom up, sociologists tend to conceptualise actions and interactions in terms of the values and interests that

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underpin or motivate them. For example, they may use the typology proposed by German sociologist and jurist Max Weber to distinguish between values and interests that are ‘instrumental’ (e.g. motivated by a purpose or task), ‘belief-based’ (e.g. motivated by religion), ‘affective’ (e.g. motivated by love) or ‘traditional’ (e.g. motivated by custom).²⁰ When actors engage in a pattern of relatively sustained and trusting interactions, underpinned by shared values and interests, sociologists tend to conceptualise them as members of a social system—for example as a ‘network of community’, following British sociologist and legal philosopher Roger Cotterrell. Working from the top down, sociologists tend to focus on rationalities or shared modes of reasoning that shape social systems, and thereby the context within which actions and interactions take place. For example, Weber identified four such modes of reasoning: ‘practical’—that is, looking for what works here and now; ‘theoretical’—that is, using abstract disciplinary or political frameworks, such as law or Marxism, to hypothesise about what is or ought to be; ‘substantive’—that is, working from values, such as freedom or justice; and formal—that is, reasoning within a system formally designed for a particular social context or purpose, such as a legal system.²¹

Furthermore, the ongoing ‘material turn’ has seen sociological approaches to the world increasingly emphasised the need to conceptualise the social and the material as mutually constitutive—that is, ‘sociomaterial’. The material world is formed of human bodies; of human-made things and spaces; and of nature, such as animals, plants, wind, rocks and rivers. Each of these elements of the material world can be seen as potentially constitutive of social relations—of being traded between, swum in or referred to by, humans; and being constituted by those social relations. Such relationships between the material and social worlds are the focus of whole sociological sub-fields such as environmental sociology, animal sociology and the sociology of material culture.²² The traditional ‘division of labour between the disciplines that deal, on the one hand, with the human mind and its manifold linguistic, social and cultural products, and on the other, with the structures and composition of the material world’ is breaking down.²³ Specifically there is a muddying of the dualism—between the immaterial mind or soul and the material body, and between the interior self and the exterior environment. This breakdown manifests in the substantive focus of research (what),²⁴ to research methodologies (how) and to research agendas (why).

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So, a sociologically-informed approach would prompt and facilitate those researching legal design to think systematically about the relationships between the full spectrum of actors and objects that are entangled in legal design; and to investigate the values and interests that motivate those relations; and the shared rationalities through which those social relations are perceived and performed; and other systems that construct and are constructed by their social relations²⁵

...empirically

Sociologists search across and between the above sociomaterial levels and dimensions for systematic empirical evidence. To do this they use qualitative methods such as interviews, focus groups and ethnographic observation; and quantitative methods. Many of sociological methods are familiar to design and legal design but have a longer, more stable and systematic history in sociology.

Empirically, a sociologically-informed approach would prompt and facilitate an understanding of legal design as a real world, as opposed to abstract and theoretical, field of thinking and practice; especially the ways in which legal design constructs and is constructed by the social relations of diverse peoples; and the impacts this has on diverse, including non-dominant perceptions, expectations and experiences (for example, as shaped by post-coloniality, dis-ability, race, gender and sexuality, inequality, exclusion). Furthermore, it would prompt and facilitate investigations of pressing questions such as: Who are legal designers; and their users? What socio-legal factors determine where, when and how they interact and to what socio-legal effect? What types of legal systems tend to produce what types of legal design problem situations? What factors determine whether a situation is classified as a legal design problem?

...normatively

Opinions have always differed as to the role of normativity in sociology—specifically, as to whether sociologist should work for particular social outcomes. For example, mainstream sociologists such as Weber saw their talents as best directed towards describing, predicting and explaining rather than choosing; while, at the periphery, feminist sociologist Harriet

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Martineau (1802-1876) chose to transform her observations of nurseries, boudoirs and kitchens into activism on behalf of enslaved people and of women. Like some of their sociologist counterparts, many sociologically-informed lawyers (scholars, practitioners) aim primarily to describe, predict and explain how law constructs and is constructed by wider social life. They see law as a normative force that shapes social relations, but are reticent to advocate in favour of specific social outcomes. But sociologist and legal philosopher Roger Cotterrell demands instead that lawyers make a normative commitment to the protect and promote the 'wellbeing of law' as a 'practical idea'. He argues that the wellbeing of law as a practical idea is dependent both on its 'unity' as a coherent 'structure of values', and on its ability to accommodate and nurture diversity.²⁶ So we can say that in researching legal design we ought ourselves to promote, and also to assess whether legal designers promote, *social and legal unity from and for social and legal diversity*.

The need to attend to unity/diversity is increasingly understood by the wider design community. For example, social designer Cassie Robinson argues that some forms of 'human-centred design' betray fundamentally anti-social tendencies: 'Zooming in on user needs to design around "what's happening to this individual in this moment" is problematic when you need a broader and aggregate input'. User-centred, 'individualised' approaches to design which aim 'to be "delightful"' or to produce 'frictionless experiences' do not offer 'a helpful model when considering longer-term consequences and cumulative effects' that extend 'beyond the individual.'²⁷ Likewise, Cameron Tonkinwise has joined his fellow sustainability-focused design theorist Tony Fry in dismissing human-centred design as promoting a 'timid' 'version' of the 'human' as preoccupied 'with consumer desires and instrumental rationality'.²⁸ Furthermore, anthropologist Arturo Escobar problematises design's 'embeddedness' in, and its designing of, a particular social and political history. Design emerged as 'an aspect of every day' during the Industrial Revolution because mechanisation focused attention on making, and because European societies became 'pervaded by expert knowledge and discourses'. Over time, Euro-centric conceptions of design was exported as part and parcel of the 'universalizing ontology of dominant forms of modernity'. So, he argues, if design is to play a role in meaningful social change in non-European, especially post-colonial, contexts it must first 'be creatively reappropriated by

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subaltern communities'.²⁹ A commitment to Cotterrell's normative, sociologically-inspired, objective would prompt and facilitate researchers to critically investigate, and expose and where necessary, challenge, such instances of individualism and a-historicity.

Sociologically-informed approaches to doing legal design

Proponents of 'design thinking' tend to present design as 'a cognitive style' that can serve as a 'resource for organizations'.³⁰ For example, it is customary to begin a review of 'design thinking' with a reference to the 1969 observation of American economist, political scientist and cognitive psychologist Herbert A. Simon that '[e]veryone designs who devises courses of action aimed at changing existing situations into preferred ones'.³¹ This conceptualisation of design is popular first, because it defines design broadly as a 'problem solving, process-oriented activity', with infinite applicability beyond the mere production of physical artefacts; and second, because it is associated with Simon's wider effort to elaborate a 'science of design' as part of a 'broader project of unifying the social sciences with problem solving as the glue'.³² But a 'significant reorientation' is underway in contemporary design away from 'functionalist, rationalistic, and industrial traditions' and towards mindset, tools and processes that acknowledge and work within the '*relational* dimension of life'. At the heart of this reorientation is a shift from a 'functional and semiotic emphasis to questions of experience and meaning'.³³

For example, sociologically-informed approaches conceptualise design not as a way of thinking but as a practice. A 'practice' is a 'routinized . . . behavior' including bodily and mental activities, "things" and their use, 'background knowledge', know-how, emotion and motivation. Seen as a practice, design comprises not merely the thoughts and actions of individuals, but rather 'dynamic configurations of minds, bodies, objects, discourses, knowledge, structures / processes and agency'. Lucy Kimbell proposes a pair of concepts to help us to hold in mind these relational and, more specifically, sociomaterial dimensions of design: design-as-practice and designs-in-practice.³⁴ Furthermore, Anne-Marie Willis has observed that: 'we design our world'—that is, 'we deliberate, plan and scheme in ways which prefigure our actions and makings'; and 'our world acts back on', and 'designs', 'us'. We are both 'designed by our designing' processes and also, 'through our interactions with the

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structural and material specificities of our environments', designed 'by that which we have designed'. So, she argues, we must approach design 'ontologically' both by exploring how designers conceptualise and investigate the world; and in the (normative) sense that we ought to work with the fact that 'design designs' to advance particular objectives.³⁵

The roots of such sociologically-attuned approaches are as old as design itself. In the global North they be traced to the Arts and Crafts movement and its leading light, English designer and social activist William Morris (1834-1896). 'Born of thinkers and practitioners in Victorian England who despaired of the ornate clutter which seemed to be pervading architecture and design' this was a 'movement about integrity. It was about respecting your materials, and the way you used them', about 'the maker and the process of making as much as the object made'. In so doing it 'produced works of extraordinary vibrancy and intellectual rigour'. Although the Arts and Crafts movement 'came to an end shortly after the First World War', its already global influence endured.³⁶ Crucial to that endurance was the fact that architect Walter Gropius was directly influenced by Morris in writing the Manifesto and Programme for Germany's famous Bauhaus school of art and design in 1919.³⁷ Although the Bauhaus itself was short-lived, its practices were secured in its curriculum and carried by its members as they scattered across the globe in the wake of its 1933 closure by the Gestapo. Much of the Bauhaus agenda was later picked up and extended at the Ulm School of Design (Hochschule für Gestaltung, HfG, 1953-1968). From Ulm, 'research into design methods crossed the channel and found its advocates in Britain' in 'the "design methods movement" of the 1960s',³⁸ most visibly in the 1962 Conference on Design Methods in London. Designers have since periodically pushed back against the normative agenda of 'design methodology'.³⁹ But the Bauhaus approach continues to exert global influence right through to the contemporary teaching and practice of design.

Design as social relations

The Arts and Crafts movement and the Bauhaus school both demonstrated a keen awareness of, and willingness to exploit, the relational dimensions of design. The Bauhaus Preliminary Course (*Vorkurs*) was the first, at least in the global North, to systematise the teaching (and therefore practice) of design, and remains perhaps its most influential

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legacy.⁴⁰ The course ‘emulated Arts and Crafts practices’ not only in its ‘promotion of the applied arts and integrated design’ but also in its communal ‘workshop-based system’.⁴¹ Although ‘its character changed significantly’ with each lead instructor—Johannes Itten, László Moholy-Nagy, and Josef Albers—it nevertheless ‘served as a unifying experience for students and a common ground from which all began their studies,’ because all ‘students, be they joiner, bookbinder, potter, weaver or stage designer received the same instruction’.⁴²

More specifically, and in today’s terminology, we can say that they understood design as a form of *sociomaterial* relations. Course leaders at the Bauhaus echoed the Arts and Crafts movement’s determination that designers and users alike should fulfil their ‘psychological and sensory needs’ by ‘the acts of creating, using, touching, and perceiving.’⁴³ For example, Johannes Itten saw experimentation as a way to ‘unlock students’ creative potential’, which he sought to do using ‘several unorthodox techniques including rhythmic and improvisatory drawing’, ‘gymnastics’ and ‘other body-based, meditative’ practices which were conducted communally (Figure 2). And under course leader Josef Albers, experimentation consisted of ‘practical, concrete exercises’ to emphasise ‘process’, and to facilitate what John Dewey had termed ‘learning through doing’ (Figure 3).⁴⁴

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Figure 2: Warming up with Johannes Itten at Bauhaus, 1931. Image permissions TBC.

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Figure 3: Assessment of work by Joseph Albers at Bauhaus, 1928. Photo by Umbo (Otto Umbehr) © The Joseph and Anni Albers Foundation / VG Bild-Kunst, Bonn and DACS, London 2007 [Image distorted awaiting permissions]

Design in and for social relations

Members of the Arts and Crafts movement and the Bauhaus understood design, and designs, as actually/potentially shaping social relations; and pursued clear normative agendas for design and designs. Perhaps most importantly, they aimed to make design relevant appealing, affordable, even transformative to all, including the relatively poor. For example, Morris asked in 1883 ‘What business have we with art at all unless all can share it?’.⁴⁵ Likewise, ‘[u]niting all of [the Bauhaus] multiple tendencies and impulses was an attempt to put art and architecture to use as social regeneration for the world’s working classes.’ But it took some time to get there: Gropius originally wrote in his 1919 manifesto that ‘The ultimate aim of all artistic activity is building!’ and “The ultimate, if distant, aim of the Bauhaus is the unified work of art’. But in 1929 then director of the Bauhaus Hannes Meyer ‘consciously revised the statement, in poetic form, no less: “thus the ultimate aim of all

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Bauhaus work / the summation of all life-forming forces / to the harmonious arrangement of our society.”⁴⁶ Relatedly, both the Arts and Crafts movement and the Bauhaus were committed to the practical idea that above all designs must function. For example, Morris exhorted his followers to ‘have nothing in your houses that you do not know to be useful or believe to be beautiful’⁴⁷ (Figure 4)—a sentiment since summarised in the maxim ‘form follows function’, which is widely associated with the Bauhaus.⁴⁸

‘Conventional discipline-based design education cannot contribute to substantial change unless students are inducted into understanding theories of power, social structure and social change, and the like.’⁴⁹ So, at the Ulm school of design, Bauhaus graduate Max Bill sought⁵⁰ ‘to make the design process more readily accessible and easy to understand’, and thereby ‘to facilitate cross-disciplinary work, for example with anthropology and psychology’ (Figure 5). Since then, designers have regularly highlighted the political nature of design, for example by launching manifestos calling on their peers to take more responsibility for their practice, to address ‘environmental, social and cultural crises’.⁵¹

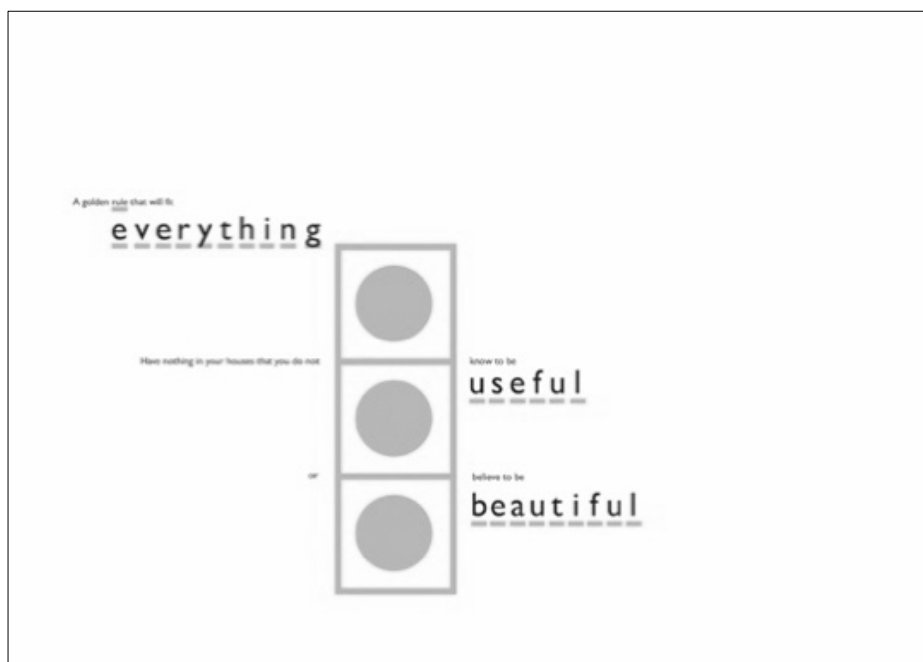


Figure 4: William Morris’ 1880 exhortation for useful, beautiful design

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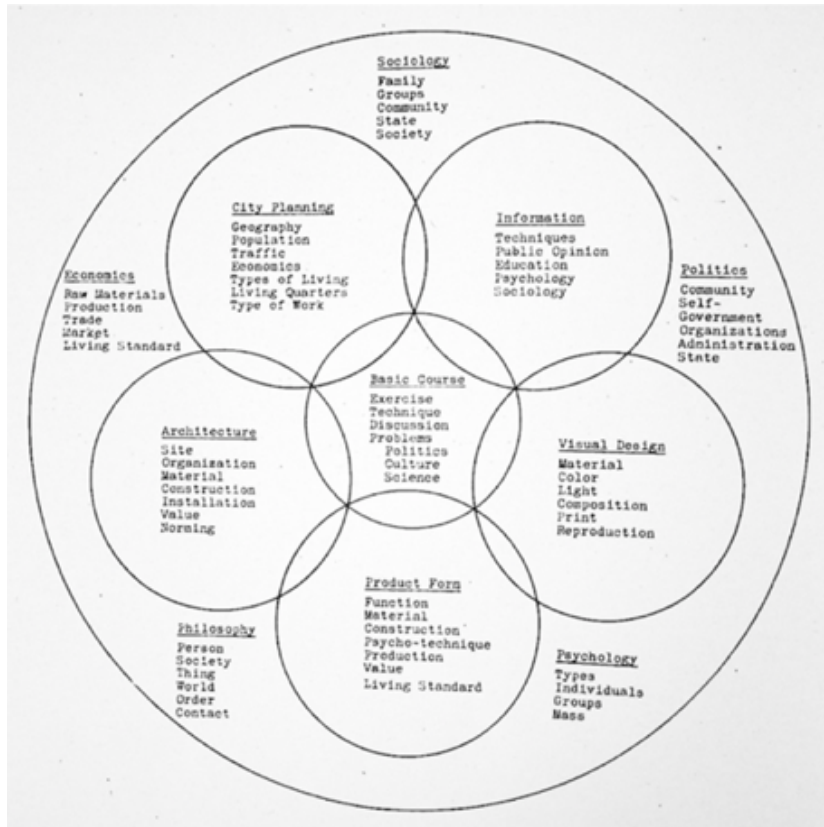


Figure 5: Diagram of the Ulm 'basic course' by Scholl and Aicher (1951) Reproduced in Oswald 2012. Image permissions TBC.

Today we see concerted and sustained efforts to use design for particular social outcomes represented in multiple distinct sub-fields such as transition design, social design, innovation design and human-centred design. For example, social design aims to address social issues such as ageing, loneliness, violence, nutrition, entertainment or infrastructure whilst/through creating 'new social relationships or collaborations'.⁵² As social designer Ezio Manzini explains, social designers provoke and facilitate us ('diffuse designers') to work collaboratively for social change by approaching our own field of expertise or life in 'design mode'.⁵³ The intended users of the social design output—which may be, for example, an artefact, environment, service or event—become 'co-researchers and co-designers exploring and defining the issue, and generating and prototyping ideas'.⁵⁴ Social design processes emphasise the sociomaterial in the sense that they rely heavily on 'making things visible and tangible', for example in the form of prototypes. So what distinguishes

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contemporary social design in the context of this article is that social design understands design simultaneously (albeit not quite explicitly) *as* social relations, *in* social relations and *for* social relations. It is this combination of characteristics that inspired me to use insights from social design to develop an emergent field of legal design practice: the application of designerly ways in a sociolegal research context. The following section focuses on this field of legal design *as* social relations. It explores how one designerly way—namely, model-making—has been used to make sociolegal research processes more social.

Sociolegal model-making

My interest in the actual/potential deployment of designerly ways by legal researchers arose out of personal experience. In response to two decades of frustration at the lack of communication between law, economics, sociology and development studies⁵⁵ I became a part time student of visual communication and then graphic design at the University of the Arts, London (2012-2017). A key insight I took from those years spent as a student of design is that designerly ways are more inherently ‘social’ than legal ways. I began to investigate the potential of designerly ways to make sociolegal research more social.⁵⁶

In 2016 I began running a series of experiments that eventually included around 100 researchers and focused on how we might make sociolegal ideas ‘visible and tangible’, and how that might impact upon the social dimensions of sociolegal research. Participant researchers engaged in individual and collaborative model-making in relation to their ongoing projects. The primary outcome of those experiments was an open-access *Sociolegal Model-Making Project*, which included three primary artefacts, designed to be downloaded and printed in lo-fi fashion on A4 paper and used by sociolegal researchers: *A Proposition*, in which a call is made to sociolegal researchers to engage in model-making and *A Guide*, in which three forms of sociolegal model-making are explained. *A Space* is an optional luxury artefact on which to place sociolegal models, designed to be downloaded and printed at large scale on canvas (Figure 6). Finally, there are two longer publications designed to be viewed on-screen or printed on A4: *A Context*, in which the theory and practice informing the project are introduced; and *A Portfolio*, in which the project design process is visualised.⁵⁷ The three forms of sociolegal model-making I specified were:

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‘modular’ model-making, in which systems such as LEGO are used primarily for the practical purpose of explaining; ‘found’ model-making, in which stumbled-upon or curated items are used primarily for the critical purpose of generating new perspectives; and ‘bespoke’ model making, in which artefacts are made, for example, from clay, primarily for the imaginative purpose of speculating about new possibilities.

Participant feedback on those experiments regularly emphasised that model-making not only helps them to better understand (practically, critically, imaginatively) their research, but also reminds them of the need to ‘discuss our projects more, to learn more from each other’. The following sections offer two illustrations of how model-making can be used to enhance community-building.

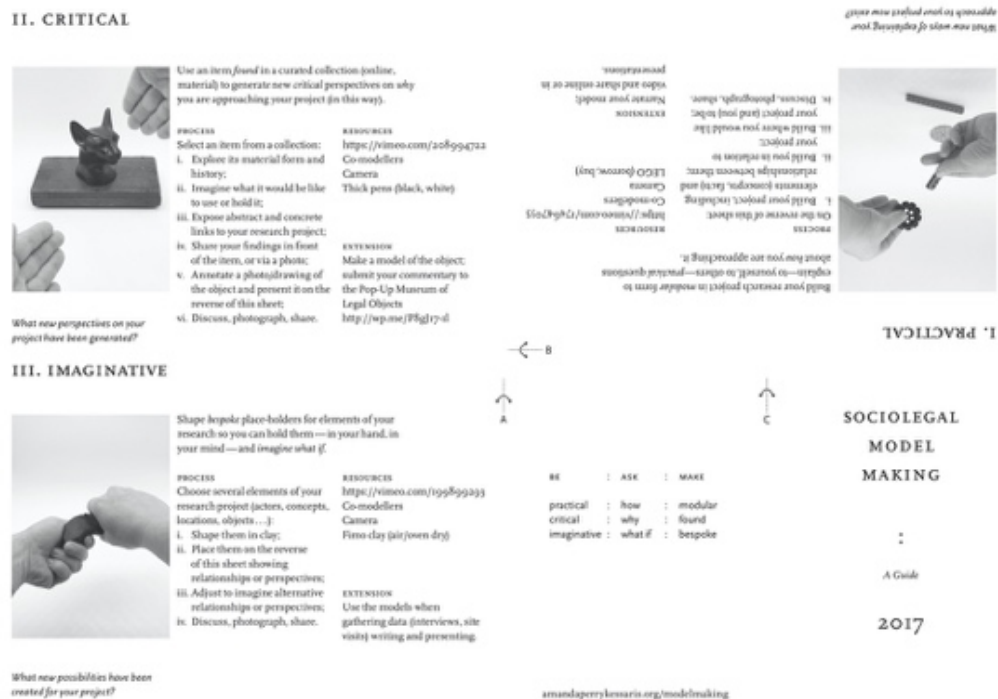


Figure 6: Sociolegal model making: A Guide. Image © A. Perry-Kessaris 2017

IEL Collective Pop-up collection

The IEL Collective is formed of academics and practitioners who aim to work inclusively and collaboratively to ‘stimulate conversations about plurality, representation and criticality’ in the

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field of International Economic Law.⁵⁸ It can be framed as a ‘prefigurative’ endeavour in the sense that its participants seek to ‘perform present-day life in the terms that are wished-for’, both in order ‘to experience’ a ‘better’ present, and ‘to advance’ future ‘change’.⁵⁹ Returning to the sociologically-informed mission outlined above, we can see that for the IEL Collective collaboratively to protect promote the ‘wellbeing’ of international economic law as a ‘practical idea’ requires unified-yet-diverse thinking. It is only by bringing diverse conceptual frames, empirical examples and normative agendas into the same space that we can really respect, understand and use them in practical, critical and imaginative ways. Collaborative mindsets, tools and processes are not part of traditional legal scholarship and practice. Might they be introduced through model-making? This was the question that motivated me to propose the co-production of an IEL Pop Up Collection as part of the IEL Collective inaugural conference held at Warwick Law School in November 2019.⁶⁰

The Pop-Up Collection was designed to make unity from and for diversity, visibly and tangibly, and in prefigurative spirit. Delegates were invited to bring with them to the conference ‘an artefact (object or image) that they felt was relevant to their approach to, or understanding of, International Economic Law, that was either found or made, and that would fit on an A5 page. Most delegates had never met, and were unlikely to have engaged in such an activity in the past, but these barriers to engagement were offset by the context—that is, the warm, inclusive and non-hierarchical approach of the people at the heart of the Collective; and via specific social media prompts (Figure 7). During the conference the artefacts were placed on designed A5 cards in the form of a grid. Arrows printed on the cards indicated possible points of contact or influence between the artefacts, and the approaches to or understandings of IEL that delegates intended them to represent. The collection grew, shrank, grew again and shifted to a new venue over the course of the two days, a quiet shifting presence. Delegates were encouraged to handle and discuss the artefacts (Figure 8). The impact of the Collection, and indeed of the event, was extended through video tweets of such discussions.⁶¹

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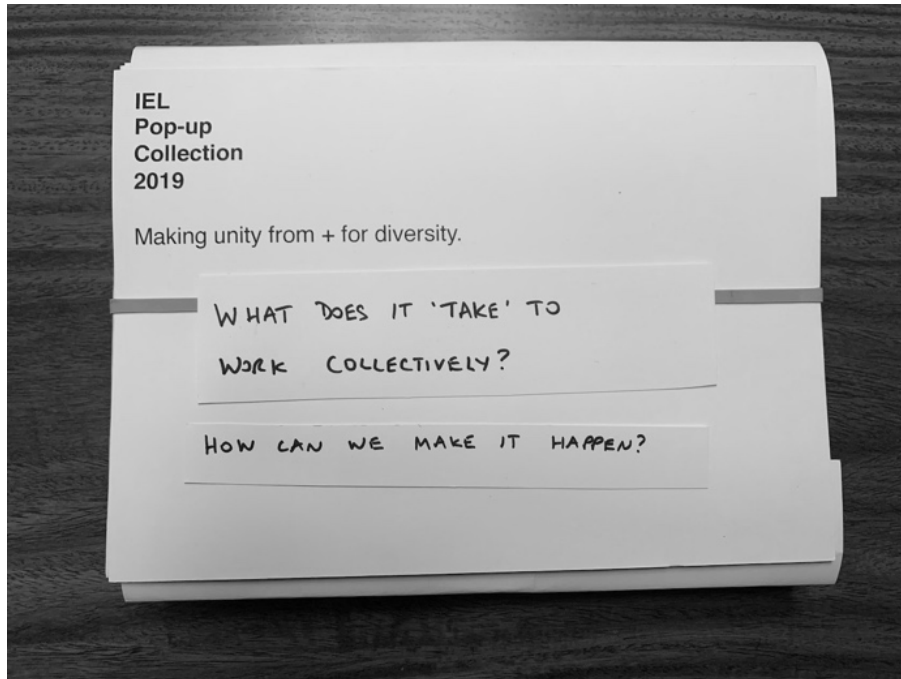


Figure 7: IEL Pop-Up Collection display cards and social media prompts. Image © 2019 A. Perry-Kessarais.



Figure 8: Delegates interacting with models at the IEL Collective inaugural conference in Warwick. Image © 2019 A. Perry-Kessarais.

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The IEL Pop-Up Collection experiment was successful in generating a 'structured-yet-free' prefigurative space for practical, critical and imaginative thinking, both individual and collective. That space was necessarily limited by the usual constraints of time and attention, all the more so in the context of the heady and transformative atmosphere of the wider IEL Collective conference. But it can be reactivated in the memories of delegates, in its online traces and at future IEL Collective events. And there is space for wider contemplation as those interested in the IEL Collective, whether or not they were able to attend the IEL Collective conference, are invited to contribute their artefacts, together with a 500 word commentary, to an online collection similar to the Pop-Up Museum of Legal Objects.⁶²

Post-graduate research communities

Making the PhD experience more social has been one of my key aims in introducing model-making to postgraduate researchers through a redesign of the compulsory postgraduate Research Methods in Law module at Kent Law School, as well as through ad hoc training sessions in the UK and elsewhere. The Research Methods in Law module runs for autumn and spring terms and is compulsory for all first-year postgraduate research students. A model-making session is held towards the end of the first term. The session is based around an A3 landscape printed worksheet on which participants are asked to use the Kent Law School LEGO set to complete three builds relating to their research project:⁶³ first, they build a representation of their project, focusing on key concepts, actors and relationships; second, they add in a representation of themselves in relation to the representation of the project; third they build a representation of what they hope their project will be in the future. More experienced student researchers attend the session to act as mentors. Participants are encouraged to video or photograph the process throughout to remind themselves of how their build progressed; to explain their model to their other participants, especially mentors; to ask each other questions about the models of others, and to offer critical feedback. Participant feedback reveals the impact of the session to be wide-ranging and substantial. Of particular relevance to the present context is that students are provoked and facilitated to form trusting relationships with each other, and to engage in depth with each other's projects, and that these relationships extend beyond their cohort. A sociomaterial community is formed (Figure 9). KLS students such as Steve Crawford have since gone on to train other

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postgraduate and faculty in the UK and elsewhere in Europe.⁶⁴ In the process they have passed sociolegal model-making on to postgraduate researchers Lisa Hahn and Siddharth de Souza, who have introduced via their Socio-Legal Lab to the postgraduate research community at Humboldt University in Berlin.⁶⁵



Figure 9: Postgraduate research students modelling their projects at Kent Law School.
Image © A. Perry-Kessaris 2018

Conclusion

The application of a ‘sociological imagination’⁶⁶ is essential if we are to fully understand both the synergies between design and law, and the risks and rewards of activating them. At the time of writing, social relations are being strained, broken, deepened and reinvented to accommodate the material threats posed by a global pandemic; and all on the back of sustained pressure arising from Brexit and other nationalistic movements across the world. We cannot know what researching and doing legal design will or ought to look like in the

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coming months and years. But the social dimensions of every aspect of human life are foregrounded now as never before, as is the need for sociologically-informed approaches to understanding, responding to and shaping our changing world.

¹ Professor of Law, Kent Law School. a.perry-kessararis@kent.ac.uk. I am grateful to the Socio-Legal Studies Association and the Leverhulme Trust for financial support; as well as for intellectual leadership and inspiration from Jen Hendry, Naomi Creutzfeldt and Christian Boulanger who organised the SLSA seminar Socio-Legal Studies in Germany and the UK: Theory and methods held at Humboldt University in September 2019, and from Rossana Ducato and Alain Strowel who organised the Legal Design Methodology Roundtable hosted remotely from Brussels in April 2020.

² A consensus is building around the Legal Design Alliance definition of legal design as ‘an interdisciplinary approach to apply human-centred design to prevent or solve legal problems’. Legal Design Alliance (LeDA) 2018 Manifesto <https://www.legaldesignalliance.org>.

³ Nigel Cross (2001) ‘Designerly ways of knowing: design discipline versus design science’ 17:3 *Design Issues* 49.

⁴ Here I have borrowed ‘mindsets’, ‘processes’ and ‘tools’ from IDEO (2009), which itself uses other terms in the same report: IDEO (2019) *Field Guide to Human-Centred Design*. In the past I have referred to designerly ways in terms of ‘skills, knowledge and attitudes’: Amanda Perry-Kessararis (2019) ‘Legal design for practice, activism, policy and research’ 46:2 *Journal of Law and Society* 185-210.

⁵ Lucy Kimbell (2015) *Applying design approaches to policy making: Discovering PolicyLab* Brighton: Brighton University; Christian Bason (2014) *Design for Policy* Routledge.

⁶ See for example the collection of toolkits curated on the Toolbox website <https://www.toolboxtoolbox.com>.

⁷ Lucy Kimbell (2011) ‘Rethinking design thinking: Part I’ 3(3) *Design and Culture*, 285-306.

⁸ IDEO (2009) *Field Guide to Human-Centred Design*, p. 10.

⁹ Design Council (2015) The design process: what is the Double Diamond? <http://www.designcouncil.org.uk/news-opinion/design-process-what-double-diamond>

¹⁰ Marc Stickdorn, Adam Lawrence, Markus Edgar Hormness and Jakob Schenider (2018) *This is Service Design Doing* Sebastopol: O’Reilly Media.

¹¹ See Collette R. Brunshwig (2019) Contract Comics and the visualisation, audio-visualisation and multisensorialization of law’ 46:2 *University of Western Australia Law Review* 191; Collette R. Brunshwig (2001) Visualisierung von Rechtsnormen: Legal Design [Visualization of Legal Norms: Legal Design] Schulthess.

¹² Helena Haapio and Margaret Hagan, ‘Design patterns for contracts’ in Erich Schweighofer, Franz Kummer, Walter Hötendorfer, Georg Borges eds. *Networks Proceedings of the 19th International Legal Informatics Symposium* (2016) 381 at p. 383.

¹³ For a recent review of the global explosion of such initiatives see The Engine Room (2018) *Technology for Legal Empowerment: A global review* <https://theengineroom.org>

¹⁴ Margaret Hagan (Undated) *Law by Design*. <http://www.lawbydesign.co/en/home/>; Stefania Passera (2017) *Beyond the wall of contract text: visualizing contracts to foster understanding and collaboration within and across organizations*. PhD Thesis. Aalto University, Espoo, Finland.

¹⁵ For a global directory of policy labs see <https://apolitical.co/government-innovation-lab-directory/>

¹⁶ For example, Amanda Perry-Kessararis (2017a) ‘The re-co-construction of legitimacy of/through the Doing Business indicators’ 13:4 *International Journal of Law in Context* 498-51;

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- Amanda Perry-Kessaris (2017b) 'The pop-up museum of legal objects project: an experiment in "sociological design"' 68(3) *Northern Ireland Legal Quarterly* pp. 225-244.
- ¹⁷ Perry-Kessaris 2019.
- ¹⁸ Oxford English Dictionary.
- ¹⁹ Roger M. B. Cotterrell (1998) 'Why must legal ideas be interpreted sociologically?' 25:2 *Journal of Law and Society* 171-92, p.183.
- ²⁰ Roger M. B. Cotterrell 1997. A legal concept of community. 12(2) *Can. J. Law Soc.* 75–91, pp. 80–82
- ²¹ Stephen Kalberg (1980) 'Max Weber's types of rationality: cornerstones for the analysis of rationalization processes in history'. *Am. J. Sociol.* 85(5):1145–79; Max Rheinstein (1954) Introduction. In *Max Weber on Law in Economy and Society*, ed. Max Rheinstein, transl. EA Shills. Cambridge: Harvard Univ. Press. 2nd ed., p. I.
- ²² William R. Catton and Riley E. Dunlap (1978) 'Environmental Sociology: A New Paradigm', *The American Sociologist* 13(1): 41–9; Richard York and Stefano B. Longo (2017) 'Animals in the world: A materialist approach to sociological animal studies' 51:3 *Journal of Sociology* 32-46; Tim Dant (1999) *Material culture in the social world* Open University Press.
- ²³ Tim Ingold (2000) *The perception of the environment: Essays on livelihood, dwelling and skill*. Routledge: London
- ²⁴ For example, sociological scholarship has increasingly addressed the materialisation of law in architecture, emblems, judicial dress and portraiture and so on: Linda Mulcahy (2017) 'Eyes of the law: A visual turn in socio-legal studies?' 44:1 *Journal of Law and Society* S111-S128; Andrea Philippopoulos-Mihalopoulos (2014) *Spatial Justice: Body Lawscape Atmosphere* (London and New York: Routledge).
- ²⁵ Sabine Frerichs, 'Re-embedding neo-liberal constitutionalism: a Polanyian case for the economic sociology of law'. In Christan Joerges, Josef Falke eds. *Karl Polanyi, Globalisation and the Potential of Law in Transnational Markets*, ed. pp. 65–84. (Hart 2011), p. 68.
- ²⁶ Roger M. B. Cotterrell (2018) *Sociological Jurisprudence: Juristic thought and social inquiry*. Routledge, pp. 31, 33 and 170
- ²⁷ Cassie Robinson (2018) 'Beyond human-centred design, to?' Medium 26.12.18. Available at <https://medium.com/@cassierobinson/beyond-human-centred-design-to-501a994f3123>
- ²⁸ Cameron Tonkinwise (2014). Review of *Becoming Human by Design* by Tony Fry (London/New York: Berg, 2012) 30:2 *Design Issues* p.118-120
- ²⁹ Arturo Escobar (2017) *Designs for the pluriverse: Radical interdependence, autonomy and the making of worlds* Duke University Press pp. xi, 19, 32 and 66.
- ³⁰ Lucy Kimbell (2012) Rethinking Design Thinking: Part II 4(2) *Design and Culture* 129-148, p. 142.
- ³¹ Herbert A. Simon (1996) *The Sciences of the Artificial*, 3rd ed. Cambridge, MA: MIT Press, p. 111
- ³² DJ Huppertz (2015) 'Revisiting Herbert Simon's "Science of Design"' 31:2 *Design Issues* 29, p. 29.
- ³³ Escobar 2017, p. x and 36.
- ³⁴ Kimbell 2012 pp. 134-6 and 142.
- ³⁵ Anne-Marie Willis (2006) 'Ontological designing: laying the ground' 3 *Design Philosophy Papers Collection*.
- ³⁶ Rosalind P. Blakesley (2006) *The Arts and Crafts Movement* Phaidon pp. 1 and 9.
- ³⁷ Lauren S. Weingarden (1985) 'Aesthetics politicized: William Morris to the Bauhaus' 38:3 *Journal of Architectural Education* (Spring 1985) 8-13, p. 12.
- ³⁸ Helen Charman (2010) 'Designerly learning: workshops for schools at the Design Museum' 15:30 *Design and Technology Education: An International Journal* 28. p. 29.

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- 39 Nigel Cross 2001, 'Designerly ways of knowing: design discipline versus design science' 17:3 *Design Issues* 49 p. 49-50.
- 40 Cross p. 49.
- 41 Blakesley 2006 p. 135.
- 42 Jeffrey Saletnik (2007) 'Josef Albers, Eva Hesse, and the imperative of teaching' *Tate Papers* Spring 2007.
- 43 Weingarden(1985) p. 12.
- 44 Saletnik 2007
- 45 William Morris letter to The Manchester Examiner, 1883.
- 46 Nikil Saval (2019) 'How Bauhaus redefined what design could do for society' 4 February 2019 *New York Times Style Magazine*
<https://www.nytimes.com/2019/02/04/t-magazine/bauhaus-school-architecture-history.html>.
- 47 Morris 1880.
- 48 The maxim originates with Modernist American architect Louis Sullivan who wrote 'It is the pervading law of all things organic and inorganic, of all things physical and metaphysical, of all things human and all things superhuman, of all true manifestations of the head, of the heart, of the soul, that the life is recognizable in its expression, that form ever follows function': Louis H. Sullivan (1896). 'The Tall Office Building Artistically Considered'. *Lippincott's Magazine* (March 1896): 403-409. See further an interview with Neville Brody in Jonathan Baldwin and Lucienne Roberts (2006) *Visual Communication: From theory to practice* Bloomsbury, p. 49.
- 49 Anne-Marie Willis 2015 Quoted in Escobar 2017 p. 49.
- 50 During the planning phase 'Bill succeeded in transforming the concept from a political school with integrated art, to a design school that integrated some political education': David Oswald (2012) 'The Information Department at the Ulm School of Design' in Priscilla Lena Farias, Anna Calvera, Marcos da Costa Braga and Zuleica Schincariol eds. (2012) *Design frontiers: territories, concepts, technologies* ICDHS 2012 - 8th Conference of the International Committee for Design History & Design Studies. São Paulo: Blucher. DOI 10.5151/design-icdhs-011, p. 68.
- 51 First Things First Manifesto (1963) drafted by Ken Garland and delivered at the Institute of Contemporary Arts Available at <http://kengarland.co.uk/KG-published-writing/first-things-first>; First Things First 2000 published by Adbusters, Eye Magazine, Émigré and others. Available at <http://www.eyemagazine.com/feature/article/first-things-first-manifesto-2000>; and First Things First 2014 initiated by Cole Peters Available at <http://firstthingsfirst2014.org> (Accessed 4 December 2018). See Ruben Pater (2016) *The politics of design: a (not so) global manual for visual communication*. Amsterdam: BIS.
- 52 Ezio Manzini (2015) *Design, When Everybody Designs* MIT Press p. 11; quoting Robin Murray, Julie Caulier-Grice and Geoff Mulgan (2010) *The open book of social innovation*. Young Foundation / NESTA, March 2010.
- 53 Manzini 2015 pp. 31 and 77.
- 54 Kimbell 2015 p. 64.
- 55 Amanda Perry-Kessaris (2014) 'The case for a visualized economic sociology of legal development' 67 *Current Legal Problems* 169-98.
- 56 For a discussion of how using designerly ways to make research more 'social' we can improve its meaningfulness to publics/stakeholders see Amanda Perry-Kessaris and Joanna Perry (forthcoming 2020) 'Enhancing participatory strategies with designerly ways for sociolegal impact: Lessons from research aimed at making hate crime visible in Europe' *Social and Legal Studies*; for a more detailed exploration of the risks and rewards of 'doing sociolegal research in design mode' see Amanda Perry-Kessaris (forthcoming 2020) *Doing sociolegal research in design mode* Routledge.
- 57 See Perry-Kessaris 2017b; Amanda Perry-Kessaris (2017c) Sociolegal Model Making project. <https://amandaperrykessaris.org/modelmaking> and Sociolegal Model Making video collection at <https://vimeo.com/album/4228144>.
- 58 IEL Collective <https://warwick.ac.uk/fac/soc/law/research/centres/globe/ielcollective/about/>
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- ⁵⁹ Davina Cooper (2017) 'Prefiguring the state' 49:2 *Antipode* 335.
- ⁶⁰ ([#IELCollective](#) and [#IELPopUpCollection](#)).
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- ⁶² Amanda Perry-Kessaris (2019) 'Pop-Up Museum of Legal Objects' <https://amandaperrykessaris.org/collections/pop-up-museum-of-legal-objects-2017/>
- ⁶³ The purchase was provoked by my attendance at a LEGO-based workshop on 'Exploring stuckness' run by Graham Barton, Academic Support Coordinator at Central St Martins, University of the Arts, London.
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