19. A design thinking perspective on human rights

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Abstract

Human rights can be formalised in laws and legislation, but can also be operationalised on a more informal, practical level, like when interacting with people, products, services, local or organisational policies or the arts. It is here where the proper implementation of human rights is context-defined and where human rights might conflict with each other. A design thinking perspective helps to resolve these issues. Applying a design thinking perspective might also facilitate social innovation. That is because design thinking is a positive, constructive approach in which solutions are designed and tested for their effectiveness. Within a design thinking perspective on human rights – not to be confused with a human rights perspective on design – an artefact is created that enables human beings to pursue a good life.

Key concepts

► Design thinking is an optimistic, constructive and experiential approach to investigating and creating solutions.
► Social innovation is the design and implementation of solutions that contribute to societal well-being and prosperity.
► Value sensitive design is the proactive consideration of human values throughout the design process.

19.1 Introduction

Human rights are not accidently present. They are designed and recorded in agreements and legislation. But on a more practical level human rights form an aspect of everyday life. On this practical level human rights can assume a

less explicit role and therefore are not considered a design. That doesn't mean that the implementation of human rights can't be designed. Also on a practical level, one can explicitly design the role of human rights in everyday life.

design   To design is to change. To design is 'to c*onsider a situation, imagine a better situation, and act to create that improved situation*' (Dorst, 2015: vii). This design process comes with a responsibility. Or as Tim Brown, one of the big names in the field of design thinking, says: design *'is not 'the invisible hand'; it is intentional*' (Brown, 2019: 4). Designers are more and more aware of this responsibility, and therefore the field of Value Sensitive Design (VSD) is growing rapidly. As will become clear in this chapter, VSD is only one perspective on the intersection of human rights and design thinking. The other perspective flips the coin: not integrating human rights into the design, but designing the artefacts that help to implement human rights. This chapter looks at this last perspective.

human rights   A design-based perspective on human rights is not common. In general there are multiple ways to approach a situation or a problem. These ways can be summarised in two streams: analysing and designing. When analysing a situation, one is systematically trying to understand a situation, searching for patterns or correlations and trying to identify bottlenecks or success factors. When one is designing a situation or a solution to a problem, one is actively trying to change something so that a problem gets solved. In other words, there are scholars studying problems and scholars studying solutions. Most literature on human rights follows the approach of analysing. In this chapter the approach of designing is explained. The design approach creates a proactive and energising perspective on human rights, resulting in social innovation.

19.2 About the intersection of human rights and design thinking

There is a conceptual confusion about the intersection of human rights and design and design thinking and definitions vary (Gauri and Gloppen, 2012). One the one hand there is a human rights perspective on design, on the other there is a design (thinking) perspective on human rights. Because both perspectives often use the same words and concepts, the distinction is sometimes hard to grasp. This phenomenon also occurs in other disciplines. For example, in the related discipline of inclusive design, two discrete areas are distinguished: (1) the understanding of end users from numerous perspectives, and (2) the understanding of the information needs of designers (Dong *et al.,* 2015). But also in a non-related discipline like marketing, there is the marketing perspective on design (how to market the designs?) and the design perspective on marketing (how to design a value for customers?).

If you have a human rights perspective on design, the design is the final goal. In the process of achieving that goal, you should be aware of and actively thinking about human rights. A designer would say that the human rights are the design principles or design criteria behind his design. This approach is totally different from a libertarian perspective on design. In a libertarian perspective everything is possible; in a human rights perspective not everything is possible. The design is only possible when human rights are somehow taken into account. Examples of the human rights perspective on design are genetic engineering (Liao, 2019) or artificial intelligence (Aizenberg and Van den Hoven, 2020).

libertarian perspective

Value Sensitive Design (VSD)

The human rights perspective on design falls under the big umbrella of Value Sensitive Design (VSD), which can be defined as the proactive consideration of human values throughout the design process (Davis and Nathan, 2015). VSD is a growing domain since '*designers themselves are increasingly shifting their perspective toward one in which moral, social, and personal values are to be included in the requirements and in which designers develop products, utilities, and buildings that realize these values*' (Van den Hoven *et al.,* 2015: 2).

When flipping the coin to a design (thinking) perspective on human rights, the human rights situation forms the final goal. In the process of achieving that goal, the perspective or the practice of a designer is included. So the difference with the human rights perspective on design (thinking) is that here you want to design artefacts to improve the situation of human beings regarding human rights, whereas with a human rights approach to design (thinking) you want to improve the design or the design process based on the inclusion of a human rights perspective. It is necessary to distinguish here between design and design thinking. Focusing on design, you can use design to stimulate a discussion, reflection or dialogue on human rights. An example is the 'Letter to Europe' project of Foundation We Are as was shown during Dutch Design Week 2019 (https://foundationweare.org/works/letter-to-europe). Focusing on a design thinking perspective means using the approach of a designer to come up with solutions for a given situation (see also Chapter 9). This forms the perspective of this chapter.

When you have a design thinking perspective on human rights you are always designing some kind of intervention. One of the problems at the intersection of human rights and design thinking is that the word intervention also causes conceptual confusion. There are authors that see it as a clear intervention (Gauri and Gloppen, 2012), but there are also authors who don't agree with the focus on intervention (Breakey, 2015). The reason behind that discussion lies in the meaning of the word 'intervention': do you see an intervention as a simple act of changing something, or do you see intervention as a military

intervention? To steer away from that discussion we hereby introduce the term 'artefact' as used in design science. The word artefact stems from Latin, in which 'arte' (i.e. using art) is combined with 'factum' (i.e. something made). An artefact is something you design (an intervention, a prototype, a plan, a concept, etc.) in order to change something.

19.3 The essence of design thinking

One of the first people to discuss the possibilities of a design-oriented approach to fields that are not specifically design oriented, and who stated that this design-oriented approach could just as equally be scientific, was Nobel Laureate Herbert Simon. In his famous work 'The sciences of the artificial', Simon defines the designer as someone '*who is concerned with how things ought to be, how they ought to be in order to attain goals and to function*' (Simon, 1996: 5). The design-oriented perspective on science and practice was adopted by many scholars and practitioners. It was Tim Brown, CEO of the innovation company IDEO, who pushed the term 'design thinking' around the globe. At this point in time design thinking is one of the dominant approaches taught in business schools.

possibilism

Design thinking is an optimistic, constructive and experiential approach to investigating and creating solutions (Brown and Wyatt, 2010). Creating solutions is only possible if you see possibilities and workarounds. Design thinking therefore finds a philosophical companion in possibilism, as Hans Rosling posited. This approach is particularly relevant in the context of 'wicked problems' and social innovation (Brown and Wyatt, 2010; Buchanan, 1992; Rittel and Webber, 1973). That is because design thinking is specifically useful in situations where there are many stakeholders involved and their perspectives on the problem to be solved are quite volatile (Von Thienen *et al.*, 2014).

five steps

Design thinking is normally presented as a process of five steps – empathise, define, ideate, prototype and test – but the execution of these five steps is not linear. It is better to see these steps as 'spheres' through which the design thinker can step back and forth. The spheres differ in their approach and alternate in being divergent or convergent. The empathise and ideate spheres are divergent spheres, whereas the define, prototype and test spheres are convergent.

A design thinking approach can be identified by the way in which the problem statement is formulated (although a design thinker would not call it a problem statement, but rather a design challenge), namely by a 'How might we ...?' question. Design thinkers study solutions, not problems, so therefore they will always formulate their main research question in such a way that it will lead to an inquiry about possible solutions. Furthermore, design thinkers focus on solutions that actually work. It does not have to be a perfect solution, but it

should be a solution that works. Therefore, design thinkers are always testing their solutions with the target group for which the solution is designed. Ideally the researchers and/or designers work together with people from this target group and co-create (participatory design). One of the core principles of design thinking therefore is to put the user, consumer or inhabitant centre stage. Some other core principles are to learn by trying (experiential learning), to work in a short-cycle manner, to make visual what can be made visible, and to always be aware of the role of the context (Van Zeeland, 2023). It is important to realise that in most cases there are no universal solutions; solutions are almost always context dependent. A design thinker will therefore always start by creating an understanding of the context, before designing and implementing a solution.

19.4 A design thinking perspective on human rights

Why is it necessary to have a design thinking perspective on human rights? There are three main reasons for this: (1) it specifically helps when human rights are in conflict (which is often the case), (2) because of the context dependency of the successful realisation of human rights, and (3) to spur social innovation. First, these three reasons are discussed, and then we will address the question of how a design thinking perspective can be shaped.

In practice, different human rights can clash. For example, in the case of the music stream drill rap, the right to freedom of expression and the right to protection of public safety collide (see Chapter 18, and Case 19.1). As discussed earlier, design thinking is specifically useful in situations where numerous stakeholders are involved and where perspectives on the problem differ or clash. The conflicts that arise because of that, in the case of human rights, often create moral dilemmas. The solution to these moral dilemmas will depend on the context. A design orientation is always context-bound. Every context, every situation will demand a different approach. Van de Poel (2015) offers an overview of different methods to solve the situation of conflicting values. In the case of colliding human rights, a design thinking perspective is even more advisable.

Case 19.1. Sit down with drillers?

You could sit together with drill rappers (i.e. participatory design) and ask them 'how might drill rap promote the freedom of expression while not hurting the safety of others?' For example, the inclusion of guns and knives in drill rap videos is something that is implicitly designed by an individual and copied by others, but is

> not necessary to perform drill rap; so it can also be explicitly redesigned by or with the drill rap scene. When (re)designing situations in such a way that they promote the realisation of human rights, social innovation occurs.

Social innovation occurs when new solutions are developed that address unmet social needs (Mulgan *et al.,* 2007). It is argued that design thinking is an effective method for spurring social innovation (Brown and Wyatt, 2010).

As explained in the introduction, human rights can be discussed at the formal, legal level or at the informal, practical level. Human rights exist, whether formally recognised by law or not. In this section the focus is laid on more practical or informal practices regarding human rights. On this more practical level there is much more room for a design orientation, specifically regarding the 'how' of implementation. Therefore, we add a fifth perspective to the four perspectives of Dembour (2006): (1) human rights as given, (2) human rights as agreed, (3) human rights as fought for, (4) human rights as talked about, and (5) human rights as designed and implemented. The adding of 'implemented' might seem common sense; however, with respect to human rights we '*can agree that there may be few if any* realized *human rights in a practical sense*' (Grover, 2011: 6). In this section, the five spheres of design thinking – empathise, define, ideate, prototype and test – will therefore be made explicit for the case of human rights.

human rights as designed and implemented

empathise

The goal of the empathise sphere is twofold: to get an understanding of (1) the perspective of the most important stakeholders, and (2) the relevant contextual factors. With respect to the first element, it is important to note that every human being is different. The way people perceive their own human rights is therefore also different. A normative perspective to human rights is always lurking. However, design thinkers are not normative; they build artefacts that closely consider the opinion of the human beings for whom the artefacts are made. This is important to be aware of, since in the human rights literature it is debated whether or not regional point of views (for example, Western point of views) can be considered as universal point of views. As Gauri and Gloppen state: '*Another way of putting this question is to ask whether human rights are intersubjectively rooted in shared social practices*' (Gauri and Gloppen, 2012: 496).

This possible difference between points of view applies not only to cultures or nations, but also to generations. One example is the rights of children, and the lack of representation of children in the COVID-19 policy decisions (see also Chapter 7). When taking a design thinking perspective on policy design, this means that one has to start by empathising with the most important

stakeholders; in this case, the children. Within the empathise phase the stakeholders have an active voice in the design process (which is not the same as a legal voice).

Second, the relevant contextual factors should be mapped. For each type of human right these contextual factors will be different. Contextual factors could be either endogenous or exogenous (Wang and Yang, 2020). Possible contextual factors could be for example (organisational) culture, socio-cultural factors, political dimensions, historic key moments, economic factors, the level of emancipation or the structure and activity of human rights networks.

define

Human rights should enable human beings to pursue a good life (Liao, 2019). 'Enabling' comes on a scale; it is something you can do more or less. The design challenge therefore is to define 'how might we … in such a way that we better enable human beings to pursue a good life?'. What the dots represent depends on the empathise phase and is the core issue for which you try to find a solution. You could say that what the dots represent reflects the 'root causes' (Marks, 2011) turned around into a possibilist perspective. Remember, design thinking is all about changing an existing situation into a preferred one (Simon, 1996).

ideate

In the ideate phase, one explores different ways to design the artefact and improve the situation of human beings. Some ways are already mentioned in the literature. For example, Gauri and Gloppen (2012) identify four different approaches: (1) global compliance, (2) programming, (3) rights talk and (4) legal mobilisation. Since the Ideate sphere is divergent by nature, it is important to capture as many ways as possible. In the words of Nobel Laureate Linus Pauling: '*If you want to have good ideas, you must have many ideas. Most of them will be wrong, and what you have to learn is which ones to throw away*' (Pauling, as quoted by Francis Crick (1995) in his presentation 'The impact of Linus Pauling on Molecular Biology').

In general there are two sides of the Ideation coin in the context of human rights: you can do something yourself or you can make others aware so they start to do something. A nice example of that second side of the coin is the French Revolution, which was rooted in a rights talk approach in order to create rights consciousness among the French people whose rights were violated (Gauri and Gloppen, 2012). From both perspectives it is important to keep the results from the Empathise sphere in mind and not become normative. Remember, design thinkers are not creating solutions for themselves but for others, so the interests and needs of those others should always be up front.

prototype & test   '*Solutions are not correct or false – they just meet the user's needs more or less well*' (Von Thienen *et al.,* 2014: 100). Within the convergent prototype and test spheres, one or two possible solutions are transformed into a sketch or prototype and the artefact is tested for its effectiveness to resolve the problem within the target group. This is the moment to test whether the solution is helping all stakeholders to pursue a good life. In some cases a solution facilitates one group of stakeholders but hurts another group of stakeholders. Many iterations and workarounds often take place, just to find the right angle from which a solution can in some way be beneficial or acceptable for everybody.

19.5 Discussion and conclusion

'*Under certain circumstances, human rights-based strategies can make a difference*' (Gauri and Gloppen, 2012: 502). To make a difference – that's the purpose of this contribution. Making a difference is not something that can be done by magic, but by hard work. A methodology to streamline that hard work is design thinking. A design thinking perspective on human rights has not been made explicit before in the literature. A design thinking perspective on human rights, specifically in a more practical, bottom-up context, is therefore innovative. Not only is the approach innovative, but the outcome will lead to social innovation, and that is the goal of this disquisition.

People who are not familiar with design thinking might have a reluctant attitude towards the approach. That is because design thinking leads to another type of knowledge, a type that most people are not acquainted with. Most scholars are familiar with either deduction or induction. Design thinking is based on an abductive logic. To understand the difference between deduction, induction and abduction, the intuitive explanation by Peirce, who introduced abduction, is helpful: deduction proves something must be, induction proves something actually is and abduction proves something may be (Peirce, 1934). When something may be, it may also be different. This generates a feeling of inconvenience in some people. It is important to realise, however, that for design thinking it *can* only be 'may be', since designs are always context dependent. So what may work for one context, may not work or may work less well for another context. This might feel inconvenient, but it is how society works. And since our society is changing rapidly and we are searching for a new status quo – as Pope Francis remarked during a speech in Florence in 2015: '*We are not living in an era of change, but in a change of era*' – we need to rethink and redesign a lot. The different context of a different era requires new applications and viewpoints. A design thinking approach to human rights might help create solutions on the basis of which a new status quo can be found that helps human beings to pursue a good life.

References

Aizenberg, E. and Van den Hoven, J., 2020. Designing for human rights in AI. Big Data and Society 7(2). https://doi.org/10.1177/2053951720949566

Breakey, H., 2015. What human rights aren't for: human rights function as moral, political and legal standards – but not as intervention-conditions. Research in Ethical Issues in Organizations 13: 41-59.

Brown, T., 2019. Change by design, revised and updated. How design thinking transforms organizations and inspires motivation. Harper Business, New York, NY, USA.

Brown, T. and Wyatt, J., 2010. Design thinking for social innovation. Stanford Social Innovation Review 8(1): 31-35. https://doi.org/10.48558/58Z7-3J85

Buchanan, R., 1992. Wicked problems in design thinking. Design Issues 8(2): 5-21.

Davis, J. and Nathan, L., 2015. Value sensitive design: applications, adaptations, and critiques. In: Van den Hoven, J., Vermaas, P. and Van der Poel, J. (eds.) Handbook of ethics, values and technological design; Sources, theory, values and application domains. Springer Science + Business Media, Dordrecht, the Netherlands, pp. 11-40.

Dembour, M., 2006. Who believes in human rights? Reflections on the European convention. Cambridge University Press, Cambridge, UK.

Dong, H., McGinley, C., Nickpour, F., Cifter, A. and The Inclusive Design Research Group, 2015. Designing for designers: insights into the knowledge users of inclusive design. Applied Ergonomics 46: 284-291.

Dorst, K., 2015. Frame innovation: create new thinking by design. MIT Press, Cambridge, MA, USA.

Gauri, V. and Gloppen, S., 2012. Human rights-based approaches to development: concepts, evidence, and policy. Polity 44(4): 485-503.

Grover, S., 2011. Young people's human rights and the politics of voting age. Springer Science + Business Media, Berlin, Germany.

Liao, S., 2019. Designing humans: a human rights approach. Bioethics 33: 98-104.

Marks, S., 2011. Human rights and root causes. Modern Law Review 74(1): 57-78.

Mulgan, G., Tucker, S., Ali, R. and Sanders, B., 2007. Social innovation: what it is, why it matters, and how it can be accelerated. Skoll Centre for Social Entrepreneurship, Oxford, UK.

Peirce, C., 1934. Collected papers of Charles Sanders Peirce, vol V. In: Hartshorne, C. and Weiss, P. (eds.) Harvard University Press, Cambridge, MA, USA.

Rittel, H. and Webber, M., 1973. Dilemmas in a general theory of planning. Policy Sciences 4: 155-169.

Simon, H., 1996. The sciences of the artificial, 3rd edition. MIT Press, Cambridge, MA, USA.

Van de Poel, I., 2015. Conflicting values in design for values. In: Van den Hoven, J., Vermaas, P. and Van der Poel, J. (eds.) Handbook of ethics, values and technological design; Sources, theory, values and application domains. Springer Science + Business Media, Dordrecht, the Netherlands, pp. 89-116.

Van den Hoven, J., Vermaas, P. and Van de Poel, P., 2015. Design for values: an introduction. In: Van den Hoven, J., Vermaas, P. and Van der Poel, J. (eds.) Handbook of ethics, values and technological design; Sources, theory, values and application domains. Springer Science + Business Media, Dordrecht, the Netherlands, pp. 1-10.

Van Zeeland, E., 2023. Getting started with design thinking. FLOOT, Amersfoort, the Netherlands.

Von Thienen, J., Meinel, C. and Nicolai, C., 2014. How design thinking tools help to solve wicked problems. In: Plattner, H. Meinel C. and Leifer, L. (eds.) Design thinking research: Building innovation eco-systems. Springer, Berlin, Germany, pp. 97-102.

Wang, R. and Yang, A., 2020. The structure and evolution of the international human rights network: unpacking the influences of countries' contextual factors and network configurations. International Interactions 46(2): 922-952.