

ROUTLEDGE FOCUS

DOING SOCIOLEGAL
RESEARCH IN DESIGN
MODE

Amanda Perry-Kessaris

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Doing Sociolegal Research in Design Mode

This book is the first to explore what design can do for sociolegal research.

It argues that designerly ways—mindsets that are practical, critical and imaginative, experimental processes and visible and tangible communication strategies—can be combined to generate potentially enabling ecosystems, and that within these ecosystems the abilities of a researcher to make meaningful contributions and engage in meaningful research relations, both within our research community and in the wider world, can be enhanced. It is grounded in richly illustrated examples of sociolegal researchers working in design mode, including original individual and collaborative experiments involving a total of over 200 researchers and experts from subfields such as social design, policy design and speculative design working on issues of sociolegal concern. It closes with an opening—a set of accessible sociolegal design briefs on which the impatient can make an immediate start.

Written by an experienced sociolegal researcher with formal training in graphic design, the book is primarily focused on what the sociolegal research community can take from design, but it also offers lessons to designers, especially those who work with law.

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1 Towards a proposition

I am going to do what I can to show you how I arrived at this opinion ... I am going to develop in your presence as fully and freely as I can the train of thought which led me to think this.

(Virginia Woolf)

This book explores the proposition that sociolegal researchers can and ought to draw on design to enhance their ability to understand and meet the methodological challenges they face.

Design is a varied and shifting field of practice and scholarship which, like sociolegal research, resists precise definition. When I use the term ‘design’ I mean the planning and making by humans of tangibles and intangibles including images, objects, places, activities, policies and systems. Designing is a core human activity—we all do it every day (Simon [1969] 1996, 111). However, I will reserve the term ‘designer’ for those who have ‘had training or extensive practical experience in a discipline such as architecture, product design, graphic design, or interaction design’ (Zimmermann et al. 2007, 493). And I will use the term ‘designerly ways’ (Cross 2001) to refer to mindsets, strategies and processes that, albeit not necessarily individually exclusive to, are together characteristic of, design methodologies—that is, how designers work and why. When experts in other fields of practice, such as sociolegal researchers, take up these designerly ways I will refer to them as approaching their work ‘in design mode’ (Manzini 2015).

Many before me have explored how design can enhance expert practices in other fields across the private, public and civil society sectors. Industry leaders such as the Design Council, IDEO and Stanford’s d.school have for several decades promoted the export of designerly ways, often under the banner of ‘design thinking’, for use in a wide range of commercial and policy contexts (see, for example, Dorst et al. 2016; Kimbell 2011), while the subfield of Legal Design¹ emerged out of efforts to apply

2 *Towards a proposition*

information design techniques to make individual contracts more accessible (Brunschwig 2001; Haapio and Passera 2013) and then to apply service design techniques to make legal systems more ‘usable, useful and engaging’ (Hagan 2017). Today, designerly mindsets, strategies and processes are applied across the legal spheres of practice, activism and policy making (Perry-Kessaris 2019). And some have investigated how designerly ways might contribute to scholarly research beyond design (see Julier and Kimbell 2016). But there exists no sustained introduction to what it might mean to do non-design research in design mode, and what might be the risks and rewards. This volume addresses these questions through the example of sociolegal research. In so doing, it lays the foundations for the same to be done in relation to other disciplines.

Many before me have explored sociolegal research methods—that is, how we (ought to) use conceptual and empirical strategies to approach our substantive field of inquiry (see Banakar and Travers 2005; Creutzfeldt et al. 2019). But these treatments tend to be in the form of case studies and edited collections rather than sustained accounts. Importantly, there exists no generally agreed methodological narrative that integrates consideration of how individual research strategies (ought to) fit into wider processes, and how these (ought to) fit with deeper, norm-infused mindsets that (ought to) motivate and sustain our sociolegal research. It is also noteworthy that, despite concerns around training having circulated within the sociolegal community for well over a decade (Genn et al. 2006; Adler 2007), there are few sustained conversations about how we (ought to) teach research methods or why. We are not alone here: A recent study found deep pedagogical thoughtfulness, but limited systematic knowledge, among those delivering training across the social sciences in the UK and beyond (Nind and Lewthwaite 2019).

If we want to know what design can do for sociolegal research these questions are unavoidable. So, in exploring the proposition that we can and ought to do sociolegal research in design mode, this volume necessarily goes beyond introducing shiny new methods. It also confronts deeper questions around what sociolegal research is or ought to be and how we (ought to) do it, as well as why and for whom.

This chapter begins with an account of the intensive and curiosity-driven process of learning-by-doing through which I, a sociolegal researcher, came to hunt for methodological intersections between design and sociolegal research. It then identifies three challenges that face all sociolegal researchers—working with indeterminacy, generating meaningful change and engaging in meaningful relations, and three designerly ways that might enhance our ability to meet them—mindsets that are simultaneously practical-critical-imaginative, experimental processes and strategies that make

things visible and tangible. The chapter ends with the proposition that together these designerly ways can contribute to the generation of enabling ecosystems that can enhance our ability to understand and meet sociolegal research challenges.

From visual communication to research through design

It requires ‘little courage or originality ... to point out that a problem or issue can be addressed only in an interdisciplinary manner’. The challenge is to realize the aspiration, especially in ‘institutional settings’ (Klein 1996, 209). My own interest in design arose out of a frustration with what I perceived as ineffective communication among researchers working on questions of law and development—that is, how law shapes and is shaped by economic life, especially in relatively poor countries. For example, I argued that although ‘approaches to law and development need not be uniform’, they must at least ‘take note of, place themselves in relation to, and build upon, each other’, so we ought to try harder to ‘pool the concepts, facts, and values that are characteristic of law, economics, and sociology to produce a connected, econo-sociolegal, approach’ (Perry-Kessaris 2014a, 197). For those who specialize in epistemology and the history of knowledge, this is not a novel observation. For they know contemporary academia to be ‘a house in which the inhabitants are leaning out of ... many open windows’—some ‘happily chatting’, others ‘arguing’ and still ‘others have fallen out the windows’ altogether; while inside the building, ‘[m]any doors remain closed’ and others ‘have been broken down’, and just down the street, ‘entirely new buildings have been constructed’ (Klein 1996, 19). But it ought to be a source of continuous concern to sociolegal researchers as they go about their fundamentally interdisciplinary work.

It seemed to me that visual methods might help to transcend disciplinary boundaries by making concepts, facts and values more, or at least differently, accessible, and by placing multiple perspectives in shared spaces. I decided to explore what graphic design, which is about visual communication, can do for law. I chose to do so as a participant-observer not only because I wanted to acquire expert visual communication skills, but also because I wanted to access the dramatic shifts of perspective that can (only?) be gained by immersion in a new disciplinary ecosystem that I had previously experienced as a part-time student of economics. So I completed a few short courses, assembled a basic portfolio of designs and gained entry to a part-time postgraduate certificate in Design for Visual Communication at London College of Communication.

Over the course of an exhilarating and humbling year, I learned through looking—at typefaces, buildings, people, signage and posters—and through

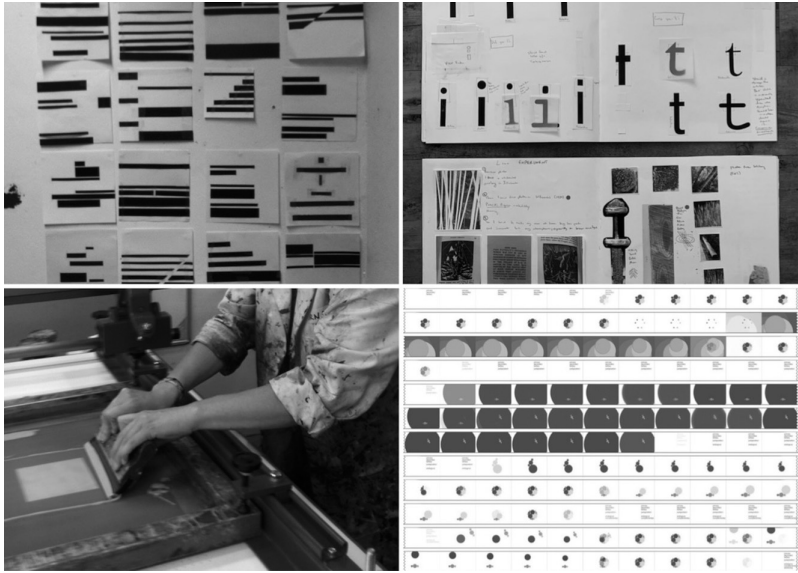


Figure 1.1 Scenes from a Postgraduate Certificate in Visual Communication, London College of Communication, 2014. Clockwise from top left: Displaying visual grammar tests, sketchbook entries documenting visual research into typographic and organic and inorganic shapes, screen printing and detail of a storyboard for a video on colour theory. Images: Amanda Perry-Kessarlis.

making, with printing presses, binding twine, paper, scissors, pencils, clay, ink, glue, sticky notes, bodies, digital editing software and programming code, as well as through showing works in progress (Figure 1.1). As I completed weekly hands-on tasks, I learned how the principles of visual grammar, colour theory and semiotics impact the communication of legal messages; that an indirect benefit of designing visual communications is that we are forced to pay unusually close attention to exactly what we want to communicate, and to whom; and that visual communication can be as exclusionary and disabling as any other medium when designers fail to anticipate and accommodate a potential user's perceptions, expectations and experiences. An example of the impact of these insights on my socio-legal practice was *What can graphic design reveal about law?* An online interactive exhibit of my own designs, each expressing a perception or expectation of law, using just the word itself, and intended to provoke and facilitate conversation within academia and beyond about law, design and

law and design.² But the deepest insight afforded to me by these experiences was that designers do things differently. I noticed an explicit emphasis on experimentation, which was entirely new to me; and that the emphasis on communication which initially drew me to graphic design also leads to an enrichment in interpersonal relations, especially through processes of continuous communal critique of visible and tangible work in progress.

These first forays into design left me as much chastened as emboldened and, therefore, ready for more. I went on to complete a part-time master's degree in Graphic Media Design—a programme with a curriculum aimed at exploring 'the use of graphic design as a critical tool to investigate the complexities of contemporary society'. In the terminology of Christopher Frayling (1993), my training in design for visual communication had left me with an appreciation for the idea of research *for* design—for example, exploring typefaces or paper stock to support the development of a new visual communication about law—and research *into* design, for example, exploring archives to understand how designs/ers work. This second round of training would focus my attention on how we can research *through* design. Over the ensuing two years, I responded to briefs inviting me to, for example, work collaboratively to 'edit/write, design and publish a short story' for a street market in east London, 'to be presented on-site'; 'formulate a critique and articulate a position' through a designed visual essay; design a digital commentary grounded in close engagement with an archival artefact; collaboratively interview a designer, and document it in a designed video; in relation to each brief, design a critical, visualized reflection on my process; and individually and collaboratively design exhibitions of works in progress and final outputs (Figure 1.2).³ These were, once again, exciting and unnerving times. I was 'frustrated', for example, 'by my shallow visual library' and 'inadequate' technical skills, as well as by the challenge of producing designs that were 'both visually and intellectually clear, ... widely useable but also meaningful'. More significantly, it took me some time to understand how my research programme had shifted. Now I was doing sociolegal research in design mode (Personal Fieldnotes).

Over time I began to widen my exploration of the potential risks and rewards of doing sociolegal research in design mode through a series of three types of activities—some individual, others participatory or collaborative—involving a total of over 200 predominantly sociolegal researchers. Each activity was grounded in the three designerly 'emphases' that I had identified during my studies in graphic design: Experimenting, communicating and relating. First, I mirrored my ongoing experience as a student of design by incrementally re-orienting the postgraduate Research Methods in Law module at Kent Law School around tasks, akin to design briefs, each of which invited students to experiment with different aspects