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Doing Sociolegal Research in Design Mode

AMANDA PERRY-KESSARIS

London: Routledge, 2021, 154 pp., £44.99

Think back to when you were starting out on your current research trajectory. How did you begin, and where? How did you identify your research question, your target audience, and your methodology? Was there an element of gut instinct? And have you revisited these questions since? While there are comprehensive methodology primers available for socio-legal researchers, none offer what Amanda Perry-Kessariss sets out in *Doing Sociolegal Research in Design Mode*.¹ By contrast, this is an accessible synthesis of years of research into what tools (conceptual and linguistic) and methods ‘design mode’ might offer socio-legal researchers (p. 1).² Nevertheless, as lawyers – even as socio-legal scholars – we may have an inbuilt aversion to risky approaches like this. Performance art, graphic design, and modular play do not come naturally to most academics. In mapping out design mode, Perry-Kessariss shows how we can harness the intrinsic value of ‘designerly ways’ (p. 1). Her approach is sound: empirically grounded, theoretically informed, methodologically rigorous, and based on her own study and extensive experience of applying these techniques and observing what works, as well as what does not. Design mode, then, can build communicative, collaborative bridges with other academics, stakeholders, and the communities about which we write. It can do so sensibly and sensitively, avoiding the natural aversion that might follow the production of a box of Lego in a high-level stakeholder roundtable.

Readers familiar with Perry-Kessariss’ work in the field of international economic law will be familiar with her structure and clarity of thought, as well as her careful definitions and taxonomies, and *Doing Sociolegal Research in Design Mode* is no different. In presenting ‘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’ (p. 1), Chapter 1 introduces us to the richness of cultures, traditions, and methodologies that the field of design can offer. Designerly ways, explored more fully in Chapter 2, are those ‘mindsets, strategies, and processes that ... are characteristic of design methodologies – that is, how designers work and why’ (p. 1). In turn,

¹ We might think of, *inter alia*, A. Bryman, *Social Research Methods* (2021, 6th edn); P. Alasuutari et al., *The SAGE Handbook of Research Methods* (2008). Chapter 3 of Bryman’s book sets out the narrower concept of ‘research designs’, or the ‘framework for the collection and analysis of data’.

² While Perry-Kessariss refers to ‘sociolegal’ research, in this review I follow Sally Wheeler’s observation that we research ‘in the hyphen-space’, and refer to ‘socio-legal’ research: S Wheeler, ‘Socio-Legal Studies in 2020’ (2020) 47 *J. of Law and Society* S209, at 217–218.

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when non-designers take up these methods, transplanting them to their own fields of expertise, they are said to be working ‘in design mode’ (p. 1).

Crucially, while the author has formal training in graphic design, she is at pains to point out that she does not call herself a ‘designer’. That term, she explains, is reserved for those who have ‘had training or extensive practical experience in a discipline such as architecture, product design, graphic design, or interaction design’ (p. 1).³ This is an important point, and recognizes the unease with which designers regard areas such as legal design, whereby the tools and methods of a distinct and structured field are applied, sometimes haphazardly, to other fields of human interaction. Designers’ criticisms about the appropriation of their tools by lawyers have been robust at legal design events, but nothing more than we might expect from lawyers if designers were to suddenly call themselves socio-legal researchers. In straddling two disciplines, especially two that do not have a long history of synergies and interface, particular problems arise about borders, boundaries, and appropriation, and the author is careful to set out her own territory deferentially, suggesting that those who read and engage with this book, while working in design mode, are most certainly not ‘designers’. This humility of tone reflects the author’s desire not to overstate her case, and it remains for designers to weigh in and help to co-construct the boundaries here. However, just as economics is too important to be left to economists⁴ (and, similarly, law is too important to be left to lawyers), design is too important to be left to designers alone.⁵ Besides, as lawyers, we already engage in design. Law demands creativity, be this in thinking through a sphere of social regulation, or in drawing up a complex contract or trust. *Doing Sociolegal Research in Design Mode* invites us to become more aware of these processes, consciously harnessing the tools that designerly ways can offer.

There are a few simple and concise take-aways from Chapters 1 and 2 – and indeed the book as a whole – that give us pause for thought. Designerly ways can offer ‘enabling ecosystems’ in which researchers can be at once ‘practical, critical, and imaginative’ (p. 22). This is a toolbox, then, that can ‘promote experimentation and strategies that emphasize visible and tangible communication’ (p. 23). Experimentalism is not particularly new; for example, the World Bank has been championing this as a development methodology for many years and other methodology texts introduce experimentalism in a narrower sense.⁶ Similarly, there has been a growth in visual methodologies throughout the social sciences that respond to the inherent limitations of language and seek ever more effective communication strategies and techniques. Yet, in combining these strategies and techniques and setting out pathways to apply them to our own research, and in asking us to remain curious, engaged, and creative, *Doing Sociolegal Research in Design Mode* realizes more than the sum of its parts.

Chapters 3 and 4 turn to the practical, exploring non-expert and expert applications of design mode respectively. Grounded in the author’s work on the division of Cyprus, we explore the benefits of model making as methodology, before delving into pop-up collections as methodology in the context of her research on international economic law. Finally, building on her work on hate crime, we see how designerly ways can bring together activists, stakeholders, researchers, and policy makers to effect tangible results through ‘a more communal and collaborative orientation’ (p. 69).

³ Citing J. Zimmerman et al., ‘Research through Design as a Method for Interaction Design Research in HCI’ (2007) *CHI 2007 Proceedings* 493.

⁴ J. Earle et al., *The Econocracy: On the Perils of Leaving Economics to the Experts* (2017).

⁵ Citing T. Brown, *Change by Design* (2009) 8.

⁶ Bryman, op. cit., n. 1, ch. 3.

The final chapter takes us into design mode, setting out 15 speculative ('what if') and pre-figurative ('as if') socio-legal design 'briefs', each with links to accompanying media. This is learning-through-doing, and the potential transfer to classroom activities is immediately obvious. Unfortunately, these media are not linked from the publisher's website or hyper-linked in the e-book and can take patience to find, despite the author's curation of a Vimeo list. Nevertheless, researchers embarking on a new project might benefit from the first set of briefs, which focus on prototyping. This is design jargon again, but Perry-Kessarlis makes clear that these tasks are to establish the 'what, how, why, and for whom' of a research project by various means, including outlining, proposing, 3D modelling, and constructing personas. Those interested in post-individualist or relational research that decentres the subject might be interested in the second set of briefs, under the heading 'Thinking through the material world' (p. 107), which invite us to consider explicitly our interaction with the world through materials, things, objects, and assemblages. Finally, those with an interest in communication techniques might be tempted by the third set of briefs, under the heading 'Thinking through the visual world' (p. 113), which invite us to look at 'Text as image' (p. 114, emphasis added), 'Text and image' (p. 116, emphasis added), 'Text and image into object' (p. 117), and 'Observation' (p. 118). Briefs can be completed in our own head, our office, the classroom, a roundtable, and so on, either as solitary exercises or, as advised, in collaborative contexts.

From experience, having played around with several of the briefs, their value emerges through doing. As generative processes, the briefs take the researcher on a journey, with views along the way. Sometimes, these views offer fresh insights into the empirical, analytical, and normative aspects of the research itself; sometimes, the views are more personal and invite the researcher to (re)consider their relationship with their research; and sometimes, the views relate to relationships with stakeholders and other researchers. In repeating a brief, though, the insights vary, meaning that methods can be applied at different stages of a project to refresh engagement.

Doing Sociolegal Research in Design Mode does not shy away from considering the many caveats not only of exploring designerly ways, but of even setting out to consider them at all. Here, the author's humility once again keeps the propositions grounded without undermining their potential. In reaching the place on the map marked 'Here Be Dragons', we are guided through the ontological and epistemological limitations of design as an adjunct to law, sociology, and socio-legal research. There are pitfalls (might we end up universalizing Eurocentric, hegemonic forms?), swamps (how can we make meaningful rather than superficial contributions?), and storms (what is the visual literacy of our audience?) to navigate. As the author notes, 'we need to keep each other honest' (p. 46), and performative design – designerly ways that do not make a meaningful contribution yet bring into play all of the same pitfalls and caveats – is to be avoided at all costs. Furthermore, 'design is not magic' (p. 45). On the contrary, it is 'wonderfully horribly human', and not a panacea for all of the ills that we see around us, and when used without due care and attention 'can embed and reproduce exclusionary ideologies' in the same way as any other methodology (p. 45). Nevertheless, in calling for socio-legal researchers to develop 'a degree of visual and material literacy' (p. 46), this book recognizes that real change can only happen when we communicate effectively – not only with other academics and scholars at a conference once a year, but with the people whose lives we think and write about. While designerly ways can structure our research inputs, we are urged to consider how we use these skills and tools to engage, reflect on, and effect change within the real world.

Doing Sociolegal Research in Design Mode appears at a curious inflection point in the United Kingdom (UK) research context: at the end of one Research Excellence Framework (REF) cycle and as we collectively embark on the next. It also enters an academic research landscape that

faces myriad uncertainties. It is reasonable to assume that UK-based funders will continue to expect both impact and interdisciplinarity. In packaging up tools from an arts-based discipline and showing how they can be applied, add value, and build collaborative and communicative partnerships in the social sciences, *Doing Sociolegal Research in Design Mode* cleverly responds to these core requirements of the UK funding landscape. Furthermore, in expanding the socio-legal research toolbox, the book surfs a zeitgeist wave within socio-legal academia that acknowledges the importance of visual literacy. Whether or not you are willing to test out all of the ideas – and the assumption is to treat the book as a buffet rather than as a five-course, sit-down meal – the need for alternative methodologies that can enhance the communication of and engagement with socio-legal research is particularly timely.

Yet, in offering these tools, *Doing Sociolegal Research in Design Mode* normalizes the indeterminacy of socio-legal research. This does not mean accepting uncertainty, but appreciating that by engaging in research, we necessarily engage with questions that generate further questions, leaving us potentially at odds with the needs of time-poor policy makers in search of clear answers to complex social dilemmas. Academia sits squarely on the front line of the so-called ‘culture wars’, and while we need to communicate our own value (and values), we are simultaneously in need of tools that can enable the creation of spaces of ‘structured freedom’ in which complex dialogues can be played out that might not be well served by our current vocabularies and grammars (p. 22). This goes beyond simply challenging ubiquitous examples of neoliberal design that can entrench bias and inequality (think, for example, of the pulse oximeters that had never been tested on those with darker skin prior to the pandemic). In directing these challenges towards the realm of socio-legal research, this book does not offer easy solutions, but it does give us the tools to pause and reflect on the discomfort that arises from such indeterminacies. It also equips us with the ability to communicate valuable insights to stakeholders and publics who may not be comfortable with the grey areas so often generated by socio-legal research.

In responding to some of these challenges, design mode gives us the option of building bridges with diverse publics that enhance communicative relationships. Our linguistic tools, where they are available, can have limitations and drawbacks, and visual and kinaesthetic approaches can compensate for some of the deficiencies inherent in language. However, design mode need not be visual, and it certainly does not demand artistic skills. Instead, it asks that we recognize the creativity intrinsic to socio-legal research. Additionally, it draws out questions of the particularly distinctive nature of socio-legal research, while maintaining a close eye on the health and wellbeing of the discipline itself.

There are plenty of supplementary materials on the author’s website that expand and extend the propositions, suggestions, and methods set out in the book, but these can be jargon heavy (for example, we can ‘embrace indeterminacy with proactive provisionality, rather than reactive uncertainty’).⁷ Nevertheless, the net result is a collection of conceptual and methodological tools that create spaces in which we can have different kinds of conversations, hear different views, evaluate different interests, and contrast different values. These are tools that can bring about different ways of thinking and different perspectives, at a time when fresh approaches have never been more necessary. Plus they can also bring researchers together; let us not forget that in trying something new, we might even have fun. However, unless you are interested in the developing theory of legal design, this is not a book that will enlighten you until you put it into practice. In other words, it needs to be applied to what you are doing (researching or teaching) to begin to

⁷ A. Perry-Kessaris, ‘Doing Sociolegal Research in Design Mode: A Short Monograph’ amandaperrykessaris.org, 10 May 2021, at <<https://amandaperrykessaris.org/2021/05/10/forthcoming-doing-sociolegal-research-in-design-mode/>>.

generate insights and revelations. It is a primer, then – a manual or toolbox for exploring how we do socio-legal research, and how we can do it better, with an audience in mind. But this will not jump out at you from a cursory first read. Therefore, my recommendation is not to *read* this book, but to *do* this book.

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