Making sociolegal research more social by design:
Anglo-German roots, rewards and risks

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Abstract

A central theme motivating the 2019 workshop on 'Socio-Legal Studies in Germany and the UK: Theory and methods' from which this paper emerged was 'how academic traditions and institutional contexts have influenced the development of socio-legal research in Germany and the UK'; and whether there exists a 'typical pathway into and through law and society research' in each jurisdiction. My current research explores the potential of design to help us to understand and enhance sociolegal research methods. A key insight arising from that research is that designerly ways have the potential to be more inherently 'social' than legal ways. Reflecting back on the workshop discussion two questions arise for me—one retrospective and inward-looking, one prospective and outward-looking—around which this paper is structured this paper. Firstly, what signs of Anglo-German life can I find in the literature and practice underpinning my current research into sociolegal research and design? Secondly, might design have a role to play in nurturing a sense of Anglo-German sociolegal community? The combined effect of Anglo-German scholarship and practice is to teach us that a 'sociological imagination' is essential if we are to fully understand possible synergies between design and sociolegal research, and the risks and rewards of activating them. At the time of writing, social relations of all kinds 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 relations, perhaps especially Anglo-German relations, arising from Brexit; and all in the context of the rise of other nationalistic movements across the world. We cannot know what sociolegal research will or ought to look like in the coming months and years. My own experience of pandemic-lockdowns-as-natural-experiment has made visible to me how important sociomaterial interaction with my sociolegal community is, and reinforced my conviction that we must pay more attention to designing those moments that we are lucky enough to share in person.

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Introduction

A central theme motivating the 2019 workshop on 'Socio-Legal Studies in Germany and the UK: Theory and methods' from which this special issue emerged was 'how academic traditions and institutional contexts have influenced the development of socio-legal research in Germany and the UK'; and whether there exists a 'typical pathway into and through law and society research' in each jurisdiction. During discussion, repeated note was made of a tendency among German academic institutions to be relatively structured or rigid—in their definitions and assessments of legal research, and in their expectations around publishing and career pathways—and it was argued that this impacts upon the inclination and ability of researchers to follow where their intellectual curiosity might lead. By contrast, it was observed, researchers in the UK benefit from a greater freedom to pursue the topics and methods of their choosing. As Stefan Machura details elsewhere in this special issue, this divergence manifests in the fact that, although German *Rechtssoziologie* began earlier, the UK variant, sociolegal studies, is stronger—a difference he attributes to the facts that sociolegal studies is defined more broadly, and there is a 'greater openness' to 'ideas from other disciplines oin the UK.[2] As a UK-based academic I can confirm that my personal experience (shaped, of course, by a particular constellation of factors such as time, place, economics and identity) has been one of freedom (and, recently, support) to go my own way. Most notably, I have been able to devote substantial time and research funds over the last 25 years to train in other disciplines; and my attempts to draw insights from those disciplines have generally been received as legitimate by the UK sociolegal research community. That curiosity-driven, somewhat 'serendipitous' (Figure 1) journey has led me to an ongoing project, *Doing Sociolegal Research in Design Mode*, which explores the potential of design to help us to understand and enhance sociolegal research methods.
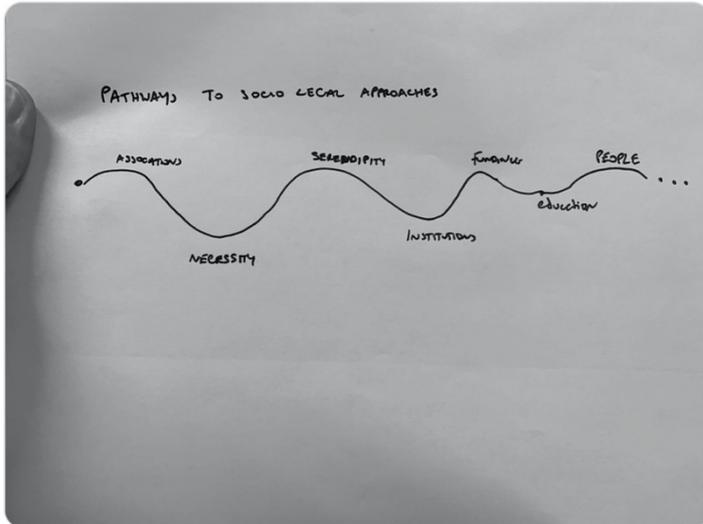
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Figure 1: Visual summary of discussion on pathways to sociolegal scholarship in the UK and Germany at 'Socio-Legal Studies in Germany and the UK: Theory and Methods'. Image © Amanda Perry-Kessaris, 2019

My interest in the intersections between law and design was triggered by frustration at the lack of communication between law, economics, sociology and development studies.[3] 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'—that is, the mindsets, tools and processes that are characteristic of design—are more inherently 'social' than legal ways. I began to investigate the potential of designerly ways to make sociolegal research more 'social'.[4]

Reflecting back on the workshop discussion two questions arise for me—one retrospective and inward-looking, one prospective and outward-looking—around which I will structure this paper. Firstly, what signs of Anglo-German life can I find in the literature and practice underpinning my current research into sociolegal research and design? Secondly, might design have a role to play in nurturing a sense of Anglo-German sociolegal community?

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Anglo-German concepts and norms

Any approach to law can be categorised in terms of what, substantively, is approached—for example, legal text, context and/or subtext; how it is approached, both empirically and conceptually; and why it is approached—that is, motivated by what values and interests (Figure 2).[5] My wider project on 'doing sociolegal research in design mode' focuses on primarily on how designerly ways (mindsets, tools, processes) might enhance how (empirically, conceptually) we do sociolegal research; and in so doing to better promote whatever values and interests we may seek to promote through our research. Here I emphasise the Anglo-German influences on the conceptual (not empirical) dimensions of my work (how); and on my normative agenda (why).
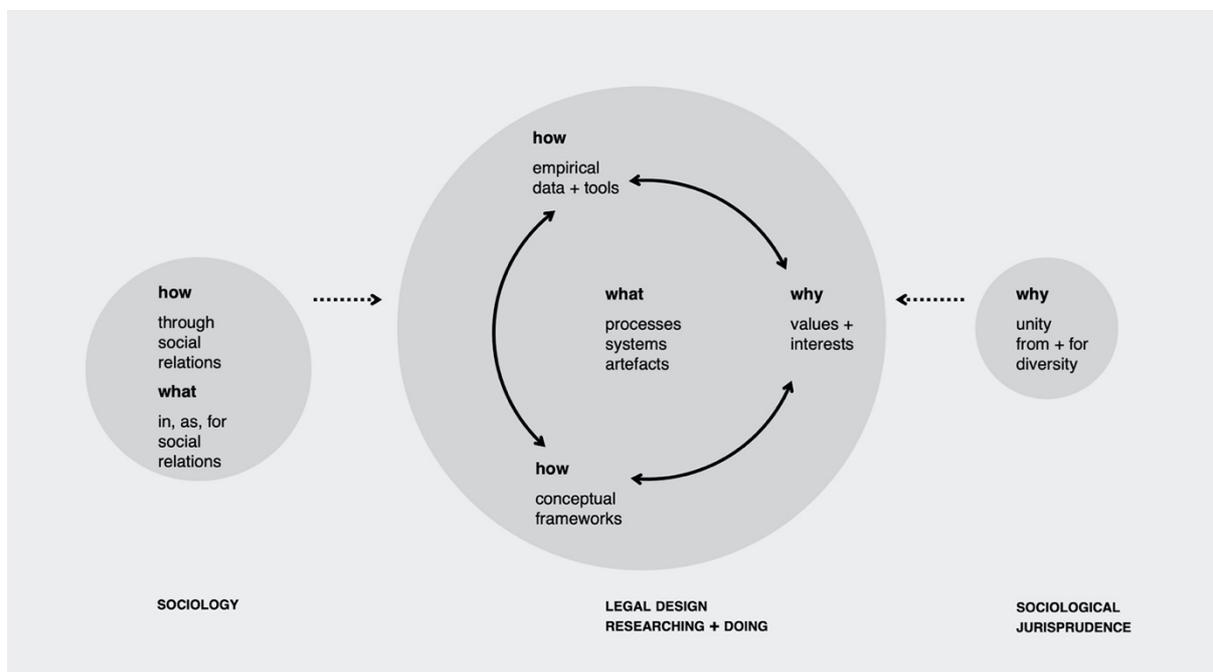
Figure 2: Excavating the Anglo-German roots of *Doing sociolegal research in design mode* © A. Perry-Kessaris 2020

Concepts

Sociolegal researchers conceptualise the world, including law, in terms of social relations and the values and interests that underpin or motivate them. Like many in the UK and beyond, I tend to think in terms of the typology proposed by German sociologist and Juriust 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.

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motivated by love) or 'traditional' (e.g. motivated by custom).[6] As populations have diversified and the complexities inherent in notions of national identity have been exposed, so it has become necessary to identify more flexible units of social analysis. Here I draw on UK sociologist and legal philosopher Roger Cotterrell, who has long argued that we ought to look less for 'society' and more for 'communal networks'--that is, for those patterns of relatively sustained and trusting interactions, centring on any of the values and interests identified by Weber, in which each of us is (typically multiply) engaged.[7] This is the lens through which I think about both the social life of law, especially law as a communal resource; and the sociolegal research process, especially sociolegal researchers as forming an (instrumental, but also potentially affective) communal network.

Values and interests

Why do we (or ought we to) do sociolegal research—what values and interests does it (ought it to) serve? What is its function? For me the most useful and meaningful answers to this question (at least in the English language) are to be found in Cotterrell's recent work on sociological jurisprudence which, like his earlier work on law's role as a communal resource, is built on German foundations.[8]

In *Sociological Jurisprudence* (2018), Roger Cotterrell celebrates the role of 'jurists' –that is, those[9] who, firstly, approach law as a 'practical', as opposed to purely abstract or technical, 'idea'; and, secondly, seek to protect and 'promote' its 'well-being', rather than to merely exploit, 'unmask or debunk it'. He argues that this juristic 'promotion of a value-oriented idea of law' which is 'adapted to the specific, varying conditions of law's sociohistorical existence is the most distinctive, perhaps ultimately the most difficult, form of legal expertise'; and that it requires a distinctly sociological—as opposed to a black-letter law, or law and social theory—orientation.[10] For me the unavoidable implication of Cotterrell's argument is that all sociolegal scholarship ought to be juristic. So how does such a juristic orientation translate into sociolegal practice?

First, a juristic orientation implies a focus on law as an empirical, real world, phenomenon. This aligns very easily with standard sociolegal practice which has for many decades, and thanks in large part to Max Weber, centred on systematic sociologically-informed studies of what I will call legal action—for example, of how police, judges, bureaucrats, activists and/or litigants use, abuse and avoid law. Second, a juristic orientation encourages the systematic,

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sociologically-informed study of 'legal ideas'—for example, what are the core 'values' present in law and society, where do they come, and what are their effects? Again, this aligns with standard sociolegal practice, which in turn owes much to the work of Max Weber.

What makes a juristic orientation distinctive is that is can shed light on what legal values *ought* to be. This is controversial because sociology and, therefore, sociolegal scholarship, is traditionally directed to 'understanding facts' rather than 'applying values'.[11] Specifically, Cotterrell argues, a juristic orientation gives an overarching, normative, purpose for sociolegal scholarship—namely, unity. Drawing on the work of German legal philosopher Gustav Radbruch (1878-1949), Cotterrell proposes that we conceptualise law as 'triangle' composed of 'three central values'. Of these, two are basic technical values that fall within even the thinnest of conceptions of law: namely order ('or security or certainty') and justice (or 'equal treatment'). But the third value, law's '(fitness for) purpose', is dynamic and contingent. Its 'content'—including 'who and what are to be considered equal … and how justice is to be measured and realised' is derived from, and so changes with, 'sociohistorical place and time'.[12] The distinctive duty of the jurist who, by definition, seeks to promote the well-being of law as a practical idea, is to actively work to 'hold' that 'justice-order-purpose triangle of law together'. They must do this by conceptualising law in ways that accommodate and promote diversity by 'integrating as equally valuable subjects of law…*all* those living within the jurisdiction of a legal system'.[13] More specifically, the social function of law is to express the values and interests that hold us together, coordinate the differences that keep us apart, and encourage participation in social life.[14]

The upshot for sociolegal researchers is that we have a juristic duty to promote social and legal unity from and for social and legal diversity. In my view that duty applies to us both in our capacities as members of sociolegal research communities; and in relation to the impact that our research might have communal networks beyond academia. At the heart of this duty is, I argue, a tension between unity/structure on the one hand and diversity/freedom on the other:

> 'On the one hand, a commitment to the well-being of law requires a commitment to "law's unity" as a coherent "structure of values". On the other hand, a commitment to law as a practical idea, one that is socially meaningful, requires a commitment to ensuring that it accommodates, and actively nurtures, diversity. Law achieves this objective, which Cotterrell terms "social unity", by "facilitat[ing] communication" about

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the "need" for "respect" for "all"; as well as by enforcing that need by challenging inequality and bias.'[15]

This need to navigate the tension between structure and freedom, and this emphasis on law as a communicator, are clear points of contact between law and design. Furthermore, a juristic commitment to the well-being of law as a practical idea calls for skills, knowledge and attitudes that are at once practical, critical and imaginative; and, as will be seen below, this constitutes the third point of contact between law and design. What I did not fully appreciate before the opportunity presented by the workshop is that it is in large part thanks to 19th and 20th Century Anglo-German efforts to organise design into socially-attuned practice that these points of contact exist.

Design as socially-attuned field of practice

Generations of sociological thinking render it is common-sensical for a sociolegal researcher to see law and design, and therefore, legal design, as fundamentally social phenomena— that is, 'concerned with the mutual relations of human beings or classes of human beings', especially with 'society' and 'its organization'; and shaping and shaped by human 'interdependence', including the 'need for companionship' and cooperation.[16] Perhaps more surprising to the sociolegal researcher, and indeed for some contemporary design enthusiasts, is that the discipline of design was at its Anglo-German origins, remarkably socially-attuned. By this I mean that design was seen *as* a form of social relations, as playing a role *in* social relations, and as have a role to play in working *for* certain forms of social relations.

The story begins with 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.[17] 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.[18]

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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',[19] most visibly in the 1962 Conference on Design Methods in London. Designers have since periodically pushed back against the normative agenda of 'design methodology'.[20] 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 legacy.[21] 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'.[22] 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'.[23]

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.'[24] 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. Under course leader Josef Albers, students were asked to complete a series of experiments--'practical, concrete exercises'—that emphasised 'process' and 'learning through doing' (Figure 3).[25]

The outcomes of these regular experiments were brought together into a shared space and assessed. Although they were intended to function as mere drafts or prototypes, such examples as still exist—even the names and specifications of the experiments—are today, 100 years later, treated as artistic works and are exhibited in major art galleries around the world either in their original state, or reproduced in larger form. But it is rare to see them as they were intended—as a collection of experiments on a common theme that generated a sense of community (Exhibition notes. Figure 4).

Figure 3: Assessment of work from Albers's Preliminary Course, 1928-1929 Photo by Umbo (Otto Umbehr) © The Joseph and Anni Albers Foundation _ VG Bild-Kunst, Bonn and DACS, London 2007. Image reproduced with permission.

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Figure 4: *Vorkurs* exercises celebrated (a) as a list and (b) in large scale, high quality reproduction. Original Bauhaus. Exhibition. Berlinischen Galerie. 6 July 2019 – 27 January 2020. Image © A. Perry-Kessaris 2019.

Design in and for social relations

Members of the Arts and Crafts movement and later the Bauhaus understood design(s) normatively, as tools for shaping social relations. They pursued a, then radical, agenda of making 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?'.[26] 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 Bauhaus work / the summation of all life-forming forces / to the harmonious arrangement of our society."'[27] Relatedly, both the Arts and Crafts movement and the Bauhaus were committed to the practical idea that above all designs must function.
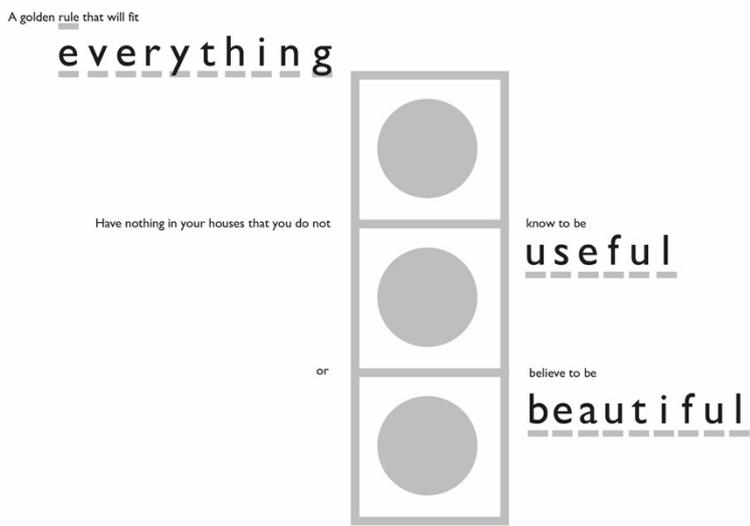
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For example, Morris exhorted his followers to 'have nothing in your houses that you do not know to be useful or believe to be beautiful'[28] (Figure 5)—a sentiment since summarised in the maxim 'form follows function', which is widely associated with the Bauhaus.[29]

Over time it became clear that this socially-attuned quest for user-centred functionality ought to begin further upstream, with design theory and pedagogy. So, at the Ulm school of design, Bauhaus graduate Max Bill sought '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'.[30]

Thereafter, as design was ever-more associated with consumerism, designers across the world have pushed back with regular attempts to highlight its ever-present political dimensions. Perhaps most famously, UK-based designer Ken Garland (1964) launched First Things First, a rather Arts and Craft-y/Bauhaus-y 'manifesto' calling on designers to take more responsibility for their practice. It was restated in broader terms in 2000 and 2014 calls to address 'environmental, social and cultural crises.'[31]

A golden rule that will fit
everything

Have nothing in your houses that you do not ... know to be **useful**

or ... believe to be **beautiful**

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Figure 5: William Morris' 1880 exhortation for useful, beautiful design

© Amanda Perry-Kessaris 2015

In recent years, design has come to be applied 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'.[32] This movement towards what is often referred to by the, misleadingly partial, moniker of 'design thinking'[33] has been especially pronounced in countries such as the UK and Germany that are home to well-developed design sectors. For example, globally, Germany and the UK rank 4th and 5th respectively for their per capita design-related exports in 2015. While the UK 'has the largest design sector' in Europe and its government was 'one of the first to recognise the power of design' in the private and public policy sectors;[34] the Policy Lab of the German Federal Ministry of Labour and Social Affairs uses 'design thinking labs' to promote 'cooperative thinking'[35] Anglo-German influence over design thinking discourse is to be found in an ever-growing collection of frameworks[36] —variously described as systems, toolkits, guides and so on. For example, the Design Council, which is an independent charity and adviser to the UK Government on design, produced in 2004 a globally influential Double Diamond visualising four phases in design processes: discover, define, develop and deliver.[37] Likewise, a largely German team of independent designers was behind the globally influential *This is Service Design Thinking* project, which centres on three designerly tools: personas, maps and prototypes.[38]

Proponents 'design thinking' see it as 'a cognitive style' that can serve as a 'resource for organizations'.[39] However, as the pioneers of the Arts and Crafts movement and the Bauhaus always already new, design is much more than a way of thinking. It is a sociomaterial practice—that is, a 'routinized…behavior' including bodily and mental activities, '"things" and their use', 'background knowledge', know-how, emotion and motivation. Seen as a practice, comprises not merely the thoughts and actions of individuals, but rather 'dynamic configurations of minds, bodies, objects, discourses, knowledge, structures / processes and agency'.[40] So it makes more sense to think in terms of sociomaterial 'designerly ways.'[41]

Since at least 2001 there has been an increasingly concerted and global effort to apply design (more often 'design thinking' than 'designerly ways') in the legal sphere.[42] Initially the focus was on visualising legal instruments such as contracts,[43] while recent efforts have addressed more strategic and systemic concerns[44] As I have argued elsewhere, the rise of

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what we now call 'legal design'[45] can be both explained and justified by the existence of important 'points of contact' between 'lawyerly concerns' and 'designerly ways'. On the one hand, drawing on Roger Cotterrell, I argue that lawyers need to communicate; they need to balance structure/unity and freedom/diversity; and they need to be at once practical, critical, and imaginative. On the other hand, drawing on social designer Ezio Manzini, I argue that designerly ways (especially the emphasis on communication, experimentation, and making things visible and tangible) can improve communication, and generate new spaces of 'structured freedom' in which lawyers can be simultaneously practical, critical, and imaginative.[46] Given these synergies, I argued that attention ought also to be paid to the potential of design to enhance legal, especially sociolegal, research.

Designerly ways for sociolegal community?

A key insight emerging from my research into the potential of design to help us understand and enhance sociolegal research methodology is that designerly ways can help us productively to navigate the tension between structure and freedom that is inherent in sociolegal research. That tension manifests not only in laws (in)ability to promote social unity from and for diversity; but also in scholarly (in)ability to promote conceptual unity from and for diversity and, relatedly, the (in)ability of academic communities to promote social unity from and for diversity among their members. For example, in his presentation at the Berlin workshop underpinning this special issue, Timur Bocharov explored one specific difference between the two jurisdictions (Figure 6)—namely, a lack of conceptual agreement around 'legal culture' in sociolegal scholarship coming from the UK; and, in stark contrast, a clear consensus among German scholars around the concept of '*Recht als Kultur*' that is founded in the home-grown classical sociology of Max Weber and Georg Simmel.[47] And this divergence may be symptomatic of the fact as noted above that German sociolegal culture is perceived to be relatively structured and UK sociolegal culture is perceived to be relatively free. What might be the impact of any difference in general aversion/adherence to canon, or in divergence in the content of said canon, have on the possibility of future Anglo-German collaboration on sociolegal research? And might it be overcome with the aid of design?
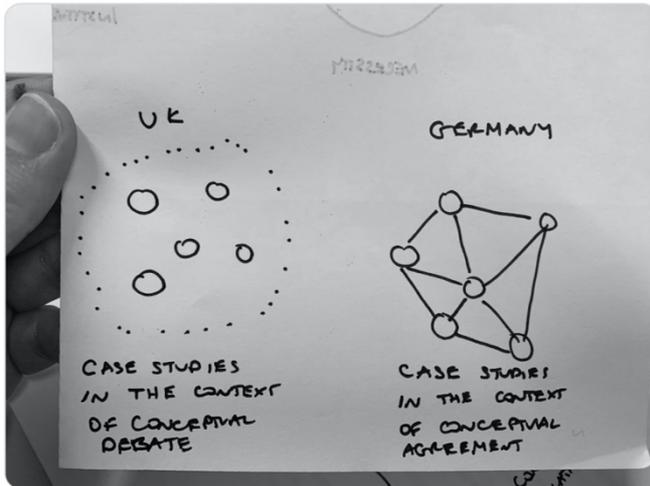
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Figure 6: Live-tweeted visual summary of presentation by Timur Bocharov on 'Legal Culture v. Recht als Kultur: the UK and German Approaches to Law and Culture' at 'Socio-Legal Studies in Germany and the UK: Theory and Methods'. Image © Amanda Perry-Kessaris, 2019.

Socio-legal model making

Multiple sub-fields such as transition design and social innovation design have seen designers collaborating with communities through design for more or less radical social change.[48] For example, social innovation 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'.[49] Here 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.'[50]

In 2016-2017 I drew on these practices to run a series of experiments in the UK that eventually included around 100 researchers and focused on how we might make sociolegal

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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 guide introducing three forms of sociolegal model-making (Figure 7): '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.[51]

II. CRITICAL

Use an item *found* in a curated collection (online, material) to generate new *critical* perspectives on *why* you are approaching your project (in this way).

PROCESS
Select an item from a collection:
i.   Explore its material form and history;
ii. Imagine what it would be like to use or hold it;
iii. Expose abstract and concrete links to your research project;
iv. Share your findings in front of the item, or via a photo;
v.   Annotate a photo/drawing of the object and present it on the reverse of this sheet;
vi. Discuss, photograph, share.

RESOURCES
https://vimeo.com/208994722
Co-modellers
Camera
Thick pens (black, white)

EXTENSION
Make a model of the object; submit your commentary to the Pop-Up Museum of Legal Objects
http://wp.me/P8gJ17-1l

What new perspectives on your project have been generated?

III. IMAGINATIVE

Shape *bespoke* place-holders for elements of your research so you can hold them — in your hand, in your mind — and *imagine what if.*

PROCESS
Choose several elements of your research project (actors, concepts, locations...):
i.   Shape them in clay;
ii. Place them on the reverse of this sheet showing relationships or perspectives;
iii. Adjust to imagine alternative relationships or perspectives;
iv. Discuss, photograph, share.

RESOURCES
https://vimeo.com/199899293
Co-modellers
Camera
Fimo clay (air/oven dry)

EXTENSION
Use the models when gathering data (interviews, site visits) writing and presenting.

What new possibilities have been created for your project?

What new ways of explaining your approach to your project now exist?

iv. Discuss, photograph, share.
Narrate your model: video and share online or in presentations.
EXTENSION

iii. Build where you would like your project (and you) to be;
ii. Build you in relation to relationships between them;
i.   Build your project, including elements (concepts, facts) and
On the reverse of this sheet:
PROCESS

LEGO (borrow, buy)
Camera
Co-modellers
https://vimeo.com/174647035
RESOURCES

Build your research project in *modular* form to explain — to yourself, to others — *practical* questions about how you are approaching it.

I. PRACTICAL

B

A   C

SOCIOLEGAL
MODEL
MAKING

BE	:	ASK	:	MAKE
practical	:	how	:	modular
critical	:	why	:	found
imaginative	:	what if	:	bespoke

A Guide

2017

amandaperrykessaris.org/modelmaking

Figure 7: A guide to sociolegal model making designed to be downloaded and folded into a booklet. Image © A. Perry-Kessaris 2017

The most potentially significant of these instances of sociolegal model making occurred during the compulsory postgraduate Research Methods in Law module at Kent Law School, which became distinctly more social, more communal as a result. The module runs for autumn and spring terms. A model-making session is held towards the end of the first term.

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The session is based around an A3 landscape printed worksheet on which participants from all over the world are asked to use the a LEGO set to complete three builds relating to their research project:[52] 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. Feedback reveals that model-making not only helps participants to better understand their research, but also reminds them of the need to 'discuss our projects more, to learn more from each other'. They provoked and facilitated to form trusting relationships with each other, and to engage in depth with each other's projects, and these relationships extend beyond their cohort. A sociomaterial community of practice is formed (Figure 8).

It is particularly gratifying, and relevant to the present context, that students such as Steve Crawford have transferred sociolegal design skills learned at Kent Law School to other postgraduate and faculty in the UK and elsewhere in Europe,[53] including to postgraduate researchers Lisa Hahn and Siddharth de Souza, who have in turn introduced it to the postgraduate research community at Humboldt University in Berlin via their vibrant Socio-Legal Lab, on which more below.

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Figure 8: Postgraduate research students modelling their projects at Kent Law School.
Image © A. Perry-Kessaris 2018

Making Anglo-German sociolegal research community?

The question that arises then is whether designerly ways might be especially well suited to facilitating Anglo-German cooperation around sociolegal research. Visual summaries of the kind that I live-tweeted during the workshop (See Figures 1 and 6) are one simple example. But what if, for example, by collaboratively making our ideas visible and tangible, in material models or even virtually, we might generate a sense of community among UK and German sociolegal researchers.

For a transnational precedent we can look to the inaugural conference of 'The IEL Collective'—a collaboration of academics and practitioners from across the world who aim to work inclusively to 'stimulate conversations about plurality, representation and criticality' in the field of International Economic Law.[54] Like any possible future effort at promoting Anglo-German sociolegal community, the Collective can be framed as a 'prefigurative' endeavour

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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'.[55] Returning to the normative agenda 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 though 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.[56]

The Pop-Up Collection was designed to make unity from and for diversity, visibly and tangibly, and in prefigurative spirit. Delegates from across the world 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 9). 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. For example, Figure 10 shows delegates handling and discussing an artefact made by Gamze Erdem Turkelli to represent International Economic Law as a black box. On opening we find plain notes representing the international economic activities (trade, investment, aid) and elaborate bejewelled notes representing the promised benefits of engaging in such activities—for example, prosperity. Eventually, we realise that the box contains another hidden layer full of decentred concerns such as climate change, colonialism and gender. The collection grew, shrank, grew again and shifted to a new venue over the course of the two days, a quiet shifting presence. The impact of the Collection, and of the event, was extended through video tweets of such discussions.[57] This 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

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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 is there to be reactivated at future events, and deepened via an online collection of commentaries.[58]
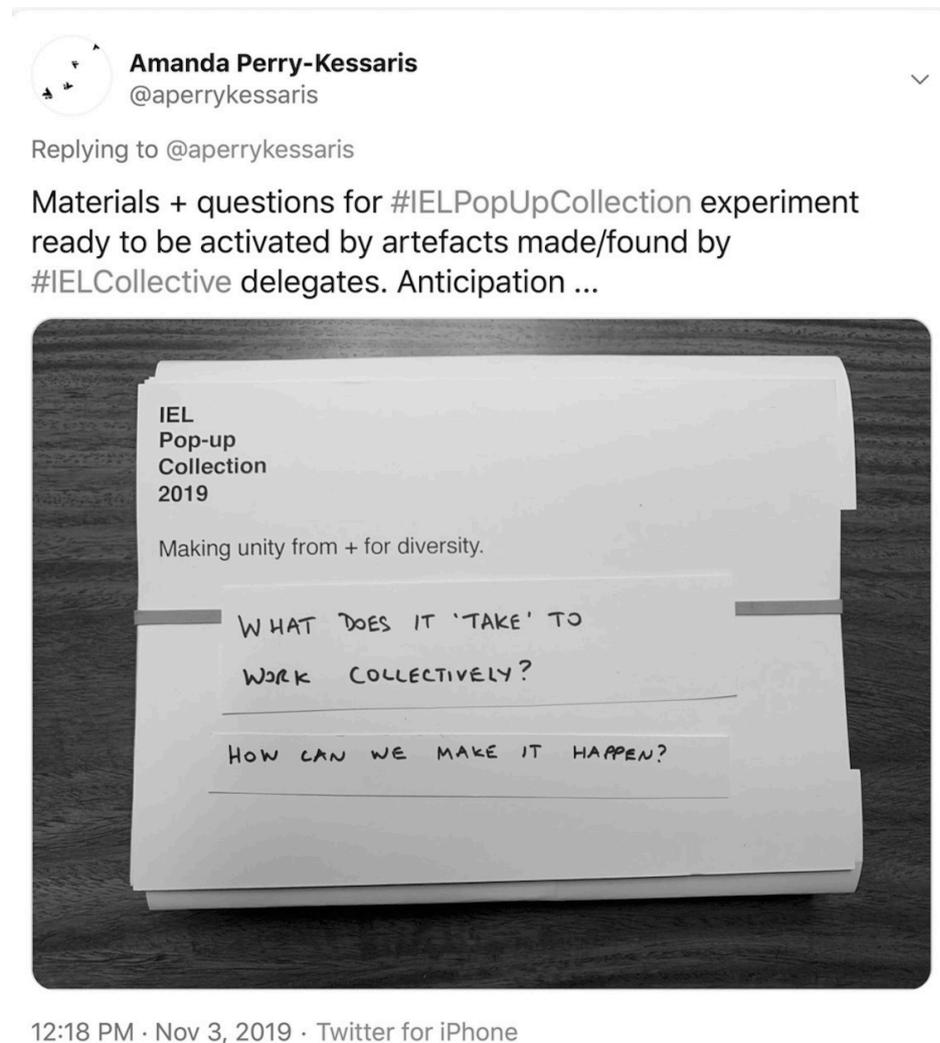

Figure 9: IEL Pop-Up Collection display cards as social media prompt. Image © 2019 A. Perry-Kessaris.

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Figure 10: Delegates interacting with models at the IEL Collective inaugural conference in Warwick. Image © 2019 A. Perry-Kessaris.

What evidence is there that it might be possible and productive to conduct an Anglo-German Sociolegal Studies variant of this experiment? One reason for hope it the Socio-Legal Lab at Humboldt, which seeks:

> 'to create an environment that facilitates collaboration in research, to provide a communication space that is open and safe for wide-ranging discussions, and to create communities of support for researchers such that they feel empowered to voice their anxieties and to test and incubate new ideas.'[59]

It can be seen as designerly in the sense that it promotes experimentation—both with different methods and with 'different ways of communicating research', including visualisation (Figure 11)—to determine 'what works best in conversation and cooperation with others'. Although it is explicitly disruptive in orientation, it has been supported by institutions such as the Law and Society Institute Berlin and the Berliner Arbeitskreis Rechtswirklichkeit (Berlin Working Group on Sociolegal Studies, BAR) and attracted participants from across Germany.[60] So it is safe to predict that at least some of its innovations will be absorbed into the German mainstream.

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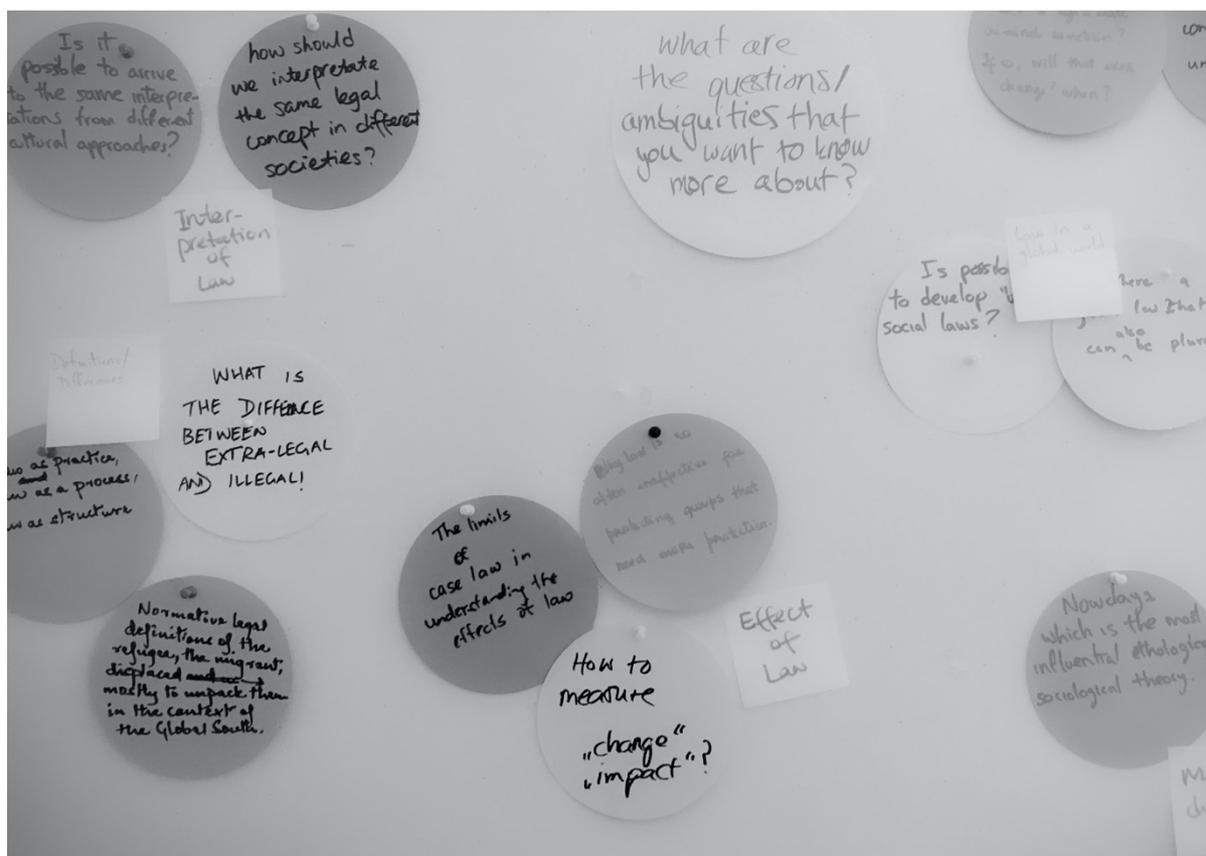
Figure 11: Brainstorming the inter-relations between law and society. Image © L. Hahn and S. De Souza, 2020. Image reproduced with permission.

Lest we forget, the UK and Germany share darker histories too, not least a propensity for empire-building. Much remains to be done in both jurisdictions to face the past, present and future effects of those histories. For example, Philipp Dann has observed a 'contemporary amnesia' both regarding the pursuit by the German state of empire outside Europe (1875-1919) and within Europe (1939-1945), and regarding East and West German scholarly critiques of empire-building by the 'other side' during the Cold War.[61] This shared imperial history is relevant here because mainstream visions of design are (like law) infused with a particular social and political history. Design began to emerge 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 were exported, no least via empire, as part and parcel of the 'universalizing ontology of dominant forms of modernity'. So, argues Arturo Escobar, if design is to play a role in meaningful social change, especially in non-European and post-colonial, contexts it must first 'be creatively reappropriated'.[62] Any proposal to use

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designerly ways to promote Anglo-German sociolegal community, must be open—proactively inclusive of all, especially those stakeholders whose perceptions, expectations and experiences might otherwise be ignored.

Conclusion

My initial workshop preparation strategy was to look for signs of Anglo-German life in my niche field of study. This led me to questions that I would never otherwise have considered, and to answers that are both surprising and reassuring to me as a UK-based transnationalist in Brexity times. In particular, the design communities the UK and Germany can both lay substantial and roughly equal claim to establishing design as a socially-attuned discipline; and while I have been initiating the systematic exploration of design's potential for sociolegal research, early career researchers have been early adopters and innovators in Germany. Long may this story of mutual Anglo-German provocation and appreciation continue.

The combined effect of Anglo-German scholarship and practice is to teach us that a 'sociological imagination'[63] is essential if we are to fully understand possible synergies between design and sociolegal research, and the risks and rewards of activating them. At the time of writing, social relations of all kinds 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 relations, perhaps especially Anglo-German relations, arising from Brexit; and all in the context of the rise of other nationalistic movements across the world. We cannot know what sociolegal research will or ought to look like in the coming months and years. My own experience of pandemic-lockdowns-as-natural-experiment has made visible to me how important sociomaterial interaction with my sociolegal community is, and reinforced my conviction that we must pay more attention to designing those moments that we are lucky enough to share in person.

[2]   Stefan Machura (2020) 'Milestones and Directions: Socio-Legal Studies in Germany and the United Kingdom' 21 German Law Review INSERT PAGES.
[3]   Amanda Perry-Kessaris (2014) 'The case for a visualized economic sociology of legal development' 67 *Current Legal Problems* 169-98.

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4   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.

5   Perry-Kessaris 2015.

6   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. l.

7   Roger M. B. Cotterrell 1997. A legal concept of community. 12(2) Can. J. Law Soc. 75–91, pp. 80–82

8   Cotterrell 2018, 2008, 2006.

9   Although anyone who engages with law—journalists, private practitioners, policy makers—might take a juristic approach to the field, this paper focuses on sociolegal researchers.

10   Cotterrell 2018 pp. 31-3.

11   Cotterrell 2018, pp. xiii and 1.

12   Cotterrell 2018, p. 38.

13   Cotterrell 2018, pp. 31 and 38.

14   Roger M. B. Cotterrell 1997. A legal concept of community. 12(2) Can. J. Law Soc. 75–91, pp. 80–82; Amanda Perry-Kessaris (2008) Global Business, Local Law: The Indian Legal System as a Communal Resource in Foreign Investment Relations. Ashgate Publishing, Aldershot.

15   Perry-Kessaris 2019 quoting Cotterrell 2018 pp. 31, 33 and 170.

16   Oxford English Dictionary.

17   Rosalind P. Blakesley (2006) *The Arts and Crafts Movement* Phaidon pp. 1 and 9.

18   Lauren S. Weingarden (1985) 'Aesthetics politicized: William Morris to the Bauhaus' 38:3 *Journal of Architectural Education* (Spring 1985) 8-13, p. 12.

19   Helen Charman (2010) 'Designerly learning: workshops for schools at the Design Museum' 15:30 *Design and Technology Education: An International Journal* 28.
p. 29.

20   Nigel Cross 2001, 'Designerly ways of knowing: design discipline versus design science' 17:3 *Design Issues* 49 p. 49-50.

21   Cross p. 49.

22   Blakesley 2006 p. 135.

23   Jeffrey Saletnik (2007) 'Josef Albers, Eva Hesse, and the imperative of teaching' *Tate Papers* Spring 2007.

24   Weingarden(1985) p. 12.

25   Saletnik 2007

26   William Morris letter to The Manchester Examiner, 1883.

27   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.

28   Morris 1880.

29   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.

30   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.

31   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.

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

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

34   Design Council (2015) *The Design Economy* Design Council pp. 34-36. https://www.designcouncil.org.uk/resources/report/design-economy-2015-report

35   German Federal Ministry of Labour and Social Affairs https://www.denkfabrik-bmas.de/en/

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

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

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

39   Lucy Kimbell (2012) Rethinking Design Thinking: Part II 4(2) *Design and Culture* 129-148, p. 142.

40   Kimbell 2012 pp. 134-6 and 142.

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

42   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-Kessaris (2019) 'Legal design for practice, activism, policy and research' 46:2 *Journal of Law and* Society 185-210.

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

44   See for example, Helena Haapio and Margaret Hagan, 'Design patterns for contracts' in Erich Schweighofer, Franz Kummer, Walter Hötzendorfer, Georg Borges eds. *Networks* Proceedings of the 19th International Legal Informatics Symposium (2016) 381 at p. 383; 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.

45   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.

46   Perry-Kessaris 2019.

47   Timur Bocharov (2019) 'Legal Culture v. Recht als Kultur: the UK and German Approaches to Law and Culture'. Presentation. Socio-Legal Studies in Germany and the UK: Theory and Methods. Berlin. 24 September 2019.

48   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.

49   Manzini 2015 pp. 31 and 77.

50   Kimbell 2015 p. 64.

51   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.

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52   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.

53   Crawford, S. (undated) 'Reflection on socio-legal research methods' SLSA Blog. http://slsablog.co.uk/blog/blog-posts/reflection-on-socio-legal-research-methods/

54   IEL Collective https://warwick.ac.uk/fac/soc/law/research/centres/globe/ielcollective/about/

55   Davina Cooper (2017) 'Prefiguring the state' 49:2 *Antipode* 335.

56   (#IELCollective and #IELPopUpCollection).

57   See Amanda Perry-Kessaris (2019) 'Making unity from and for diversity: The IEL Pop-Up Collection'. Blog 09.11.19 https://amandaperrykessaris.org/2019/11/09/making-unity-from-and-for-diversity-the-iel-pop-up-collection/

58   Amanda Perry-Kessaris (2019) 'Pop-Up Museum of Legal Objects' https://amandaperrykessaris.org/collections/pop-up-museum-of-legal-objects-2017/

59   Lisa Hahn and Siddharth de Sousa (2020) 'Introduction to the blog symposium: The Socio-Legal Lab as a didactic format'. Rechtswirklichkeit Blog. 12 March 2020. https://barblog.hypotheses.org/3437

60   Siddharth De Souza. Personal communication. See also Lisa Hahn and Siddharth de Souza, Siddharth (2018) 'The socio-legal lab: beyond methods' Rechtswirklichkeit Blog. 29 May 2018. https://barblog.hypotheses.org/2047

61   Philipp Dann (2019) 'German histories of law and development'. Presentation. Law and Development Research Network Conference 2019, Humboldt University of Berlin. 25-27 September 2019.

62   Arturo Escobar (2017) *Designs for the pluriverse: Radical interdependence, autonomy and the making of worlds* Duke University Press pp. xi, 19, 32 and 66.

63   C. Wright Mills (1970 [1959]) *The Sociological Imagination* (Harmondsworth: Penguin)

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