

# Introduction

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This book is an introduction to the new field of legal design and a primer on both the application and theory of legal design that has developed so far in a decade of exploration and experimentation. We have assembled case studies of pioneering efforts from around the world, collected examples of methods and perspectives just now coming into focus, and offer a handful of proscriptions for the future. Bookending those three subject areas are both individual and collective articulations of these editors' frames of reference and influence in our work together – dignity, law, and radical imagination.

Our collective frame for this volume is relentlessly optimistic. We believe that the new field of legal design provides a promising intervention for challenging the harmful systems, structures, methodologies, and outcomes that currently define legal systems, and designing systems that actually embody and effectuate the full promise of the rule of law – a just, peaceful, and equitable world for everyone. Our optimism is fueled by a fierce urgency that derives from both our growing concern with large-scale threats to the rule of law and our growing frustration with a world stubbornly blind to the human pain and suffering caused by existing legal systems. This book therefore ends with a manifesto of sorts – a call to further and quickly unite the worlds of design, law, and radical imagination to collectivize as the inventors, ambassadors, revolutionaries, and foot soldiers in the work to come.

This brief introduction serves as your road map for accessing the ideas contained in *Legal Design: Dignifying People in Legal Systems*. We start with a summary description of legal design for the unfamiliar, followed by our articulation of what we think this book adds to the mix. We then summarize each substantive section and super-summarize the chapters therein.

## 1.1 WHAT IS LEGAL DESIGN?

Legal design is a burgeoning field that is already significantly impacting legal systems around the world. Practitioners in the space have spent the better part of the last ten years focusing ideas and human resources on radically improving what

the design world calls the “user experience” for those navigating and operating our legal systems. (They are still working to unlock the financial resources that many in the field believe can accelerate the movement and multiply the outcomes.) Academics have established successful legal design outposts around the world in a variety of educational systems and a variety of forms such as laboratories, studios, and courses, and the papers, conferences, symposia, and books (like this one) are proliferating. Inspiringly, legal design has become a beacon, attracting a diverse range of professionals. Designers, lawyers, activists, and artists are finding common ground in the remaking of society’s core structures. It’s not just these sectors, however. Scholars from varied disciplines – such as sociology, anthropology, computer science, and more – are also being drawn to legal design. They’re bringing their unique perspectives, methodologies, and insights to the table, providing an enriching cross-disciplinary approach.

Even more encouragingly, we’re witnessing a cross-sector convergence around legal design. Corporate leaders, government officials, nonprofit advocates, and educators are all rallying around these ideas and organizations, seeing them as catalysts for change. They’re showing up at conferences and meetings, eager to participate in the creative reinvention of societal norms. All these varied participants see in legal design a potent avenue for driving transformation in the world we inhabit. Why? They desire to creatively reimagine and reshape society’s core architecture and, by extension, our collective future. Their involvement underscores the power and potential of this interdisciplinary and cross-sector collaboration in achieving meaningful change.

Legal design at its core involves applying various design principles to the rule of law, laws, and legal systems and institutions, with the goal of making them more accessible, affordable, understandable, human-centered, and user-friendly. Design, at its core, is an act of creation, manifested by a designer (person, people, collaborative), to accomplish a goal or goals, where the outcome enhances a certain aspect of human life, and the creation is subject to certain contexts or constraints. As a matter of both practice and theory then, legal design is about people using established humanistic approaches and creative methods such as user research, codesign, and visualization and modeling to develop innovative ways of delivering law to themselves and other people. At its most concrete, legal design happens when court staff and judges work with access-to-justice commissions and organizations to simplify court forms. At its most abstract, legal design can envision speculative environments that promote future change by critiquing current systems with daring alternatives that expose systemic flaws.

The most important thing to understand about legal design for purposes of the introduction to this volume is that it is incredibly new, having been preliminarily articulated as the specific thing it has become in only 2013. Those ten years have been productive years, however, and the trajectory for the field is promising in terms of outcomes so far. Legal design is ready for a more rigorous development of

principle, method, and theory from the practices underway around the world as it begins to scale out beyond early proof of concept to tackle bigger and more complex justice system challenges.

## 1.2 WHAT THIS VOLUME CONTRIBUTES TO LEGAL DESIGN

*Legal Design: Dignifying People in Legal Systems* rests on the premise that law is one of the fundamental architectures of human society, and that legal design holds the promise of improving how people experience law and, by extension, society. We choose dignity as our benchmark frame for this volume because dignity as a concept has evolved to encompass the idea that all humans, simply by virtue of their humanity, are entitled to a certain measure of individual personal rights, group political rights, and the protection of shared common cultural bonds. Those core conditions for dignity overlap neatly with many of the outcomes promised by the rule of law. Because our evolving understanding of inalienable rights protected by the rule of law mirrors our conception of what a dignified society should be, it follows that enhanced human dignity can (and should) be a goal and a requirement of any legal design intervention. We therefore see one outcome of successful legal design interventions as the enhancement of dignity for people moving through a particular legal system or institution, and we offer this volume as a measuring stick of sorts for understanding legal design, its potential to unlock change, and one way to start to evaluate it.

In assembling this volume of legal design case studies and methods around the concept of human dignity, we seek to make a number of contributions to our shared nascent field. First, by intentionally decoupling the human dignity that legal design seeks to achieve from the concept's ancient Roman origins of social and political status (which served as one of the forces behind our legal system) we add legal design to the schools of thought that push for the continued evolution of dignity as something to which we are all entitled by mere virtue of our shared humanity. This aligns our corner of the legal design world with universalist principles of human dignity and seeks to include the rule of law as something, like dignity, to which we are all equally entitled. It also squarely engages the legal design movement with the rise of legal empowerment and movement lawyering.

Second, we seek to illuminate certain paradoxes of the legal system by viewing the system in tandem with the paradox of dignity. In this regard, we see legal design as an opportunity to critique our legal institutions and the power structures supporting them while at the same time building momentum for reform within those same power structures. We do so by restating the narrative of what law can and should be. Simple fairness – a touchstone of dignity – is our opening salvo. Law is ostensibly premised on the proposition that all people are entitled to equality of treatment, if not outcomes. Yet, more often than not, law has historically been deployed as a means of oppression – of asserting the will of certain political groups over others.

While capable by virtue of its structure and power of protecting human dignity, in reality law often creates conditions that de-dignify the human experience. Often intentionally.

In this regard, we are speaking directly to changemakers inside and outside of our legal systems and institutions, present and future. This call to action seeks to confront the injustice that has been historically embedded within our legal system. Legal design provides us with a unique vantage point, ready to address this complex challenge. It propels a more optimistic vision of justice, distinctly contrasting with the current reality many face today. Moreover, it requires the imaginative involvement of every stakeholder in the justice system – giving rise to a collective force for change. Importantly, this means even the most change-averse must actively contribute to the development and execution of the very reforms we urgently need.

Finally, and perhaps most importantly for legal design *as* legal design,<sup>1</sup> with this volume we are beginning to establish some core theoretical foundations for the field. As we do so, we have a handful of goals. First, we think it is time for more legal designers to spend more time thinking about and communicating those theoretical foundations if we expect the discipline to advance. Fortunately, the field has matured sufficiently that there is already a small cadre of legal design *elders* these days, so designated perhaps only by virtue of tenacity (or stubbornness). Regardless, this group can ramp up the work of pulling together conversations for developing, debating, deliberating over, and communicating foundational theories, values, and positions. Most of us olds would probably estimate that their initial legal design “think-and-do tanks” spent 10% of their time thinking and 90% doing. How exciting that there are now enough people, experience, ideas, initiatives, and institutional support to do a lot of both doing and thinking. This book helps get us going in one of the many directions that can and must manifest in the coming years.

Second, we underscore the importance of developing core theoretical foundations, values, and principles if we expect legal design to advance as a field of practice and thought. And here we want to swing for the fences (recall we are relentlessly optimistic on this subject). The intellectual, political, spiritual, and scientific movements that have transformed our world are those that developed and secured strong foundational ideas for themselves. Consider the centrality of “free and fair elections” to “representative democracy.” Or early feminism without challenging gender stratification and sexual violence. We see legal design as holding the potential for as transformational a role in our world and collective humanity as those two socio-political movements. (No pressure, legal designers.) We therefore think we need to aim high as we identify and critique emerging ideas and modes of practice. It is

<sup>1</sup> In legal speak shorthand, “legal design as legal design” would be stated “legal design qua legal design.” It means taking positions about legal design as the very thing we are trying to create with our creative energies: in other words, not legal design ideas applied onto a problem set that needs addressing, but legal design ideas applied to legal design as a discipline and community of practice.

therefore incumbent upon everyone who participates in legal design to spend some time and energy thinking about these core values.

It is also incumbent upon all of us that we continue to deploy radical kindness in the idea exchange that awaits us. Although the very early manifestations of legal design were perhaps centered around neoliberal objectives, more recently the field has moved toward such kindness as a distinguishing feature. We must preserve that value so that our collective grows under a larger and larger tent that incorporates more and more ideas, people, disciplines, and collectives. The changes we envision legal design effectuating will, in many instances, require popular action. Such things require political movements by people – lots of people. Such people need ideas to inspire and motivate them. That is the work ahead of all of us, and to which we hope this volume contributes.

Finally, an important note on what this volume is not, at least as it relates to dignity and how that term has been deployed in constitutional systems and examined by judges. While the concept of dignity has certainly played a significant role in constitutional law models globally, it has had limited success as a bedrock principle or as an interpretive guide for securing more specific rights and protections. While some countries such as Germany and South Africa have enshrined the idea and the word itself into their constitutions, the ambiguities of the meaning of “dignity” have left the concept vulnerable to its rejection by jurists and legal scholars as vague, which can be a death knell in constitutional analysis. This is certainly the case in the United States, where dignity’s deployment as a framework for establishing or enhancing protections for marginalized groups has had limited success.

This book is therefore not about dignity as that term is applied or analyzed by systems of law and jurisprudence. This book is instead about deploying dignity as a central design choice as we remake the systems of law themselves. In this volume, dignity is not a position to take for purposes of arguing one’s case, or a concept that is contained within a penumbra surrounding other core rights; it is what we propose designing the system for. Let’s now turn to how we can do so and why we should.

### I.3 THE CASE STUDIES, METHODS, AND FUTURES CONTAINED IN THIS VOLUME

The substance of this volume is divided into four sections: why legal design, what legal design can do, how legal design works, and where legal design goes. Part I, “Why Legal Design: A Theoretical Value Proposition,” contains individual chapters from the three coeditors. Miso Kim frames dignity for us with “Dignifying Law in Design,” which introduces philosophical conceptions of dignity as a framework for the interdisciplinary collaboration between design and law and as a way to promote human and social values in everyday lives. Dan Jackson follows with “Dignifying Design in Law,” in which he argues that legal design fits squarely into the traditions and values of law and the rule of law, and makes the case for the further embrace of

legal design by our social, political, and legal systems in order to advance desperately needed reforms. Jules Rochielle Sievert wraps up the section with “Dignifying Imagination in Legal Education,” a call for new methods to develop students’ imaginations in educational institutions and shift narratives and power structures in the legal system and beyond.

Part II offers “What Legal Design Can Do: Case Studies Across Sectors,” and is clustered into two groups of studies. The first focuses on dignifying narratives of agency. Jennifer Leitch offers compelling observations and ideas from self-representation in Canada’s civil justice system in “Dignity in the Courtroom: Judges and Self-Represented Litigants.” Robert de Rooy thoughtfully challenges some traditional frames of the law of contracts with “Contracts for Dignity.” Morgan A. Wilson then carefully details one law school clinic’s experience in “Dignifying the Experience of Domestic Violence Survivors Seeking Legal Services,” which is followed by Dan Jackson and Sanea Lamas’s “More Than a Building,” summarizing a successful 2018 intervention by local architecture and law students in Boston Housing Court that was led by architect Marilyn Moedinger.

Our second cluster of case studies focus on dignifying human experience in law and policymaking, kicked off by Purvi Shah, Meena Jagannath, and Alana Greer’s inspiring “Movement Lawyering: Legal Strategies to Build People Power.” It is followed by Natalicia R. Tracy’s deep dive into “Deploying Art and Design to Highlight the Dignity of Domestic Workers in Their Struggle for Labor Rights.” Alexander Nally then offers inspiration with “The Massachusetts Commission on LGBTQ Youth,” an examination of how the design and evolution of the Massachusetts Commission on LGBTQ Youth elevated respect for the lived experience of queer youth in setting policies that impact their lives. This cluster, and all of Section Two, concludes with Leon Cruickshank and Mirian Calvo’s “My Mainway: Designing in Dignity for Policy Making,” which chronicles what happened when the Lancaster City Council, in the northwest of England, United Kingdom, set up an inclusive process to determine the future of a run-down housing estate known as “Mainway.”

Part III pivots away from case studies to offer detail on “How Legal Design Works: Approaches, Methods, and Perspectives.” Three concepts structure these chapters. We lead off with examinations of dignifying design in legal education, which first offers the perspective of this volume’s three coeditors in “Designers, Lawyers, and Students: A Decade of NuLawLab Experience,” which focuses on external project work, and “Teaching the Legal Inventors of the Future,” which addresses our pedagogy. Margaret Hagan and Kürşat Özenç round out the grouping with the pioneering history and experience of “The Stanford Legal Design Lab.” The next conceptual subgroup tackles dignifying experimentation in legal design. It commences with the position of Kanan Dhru and Kelly Dhru in “Graphically Novel: The Role of Visuals in the Legal Design Movement” – that legal design must retain the ability to visualize law in order to achieve the movement’s goal of making

law available at scale. Next up is Steven Geoffrey's masterful rejection of an exclusively skills-forward approach to incorporating technology into law pedagogy and practice in "Building Technology With(out) People." Sofia Stolk then unpacks and repacks the opportunities, challenges, and alternatives to international law through a critique of the design of the International Criminal Court and the architecture's relationships with its surroundings and visitors in "International Courts and Design." We close this focus on experimentation with Phoebe Walton's powerful demonstration of why such an approach is essential in "*James v Bimmann*: The Potential of Critical Design for Examining Legal Issues."

Our final conceptual cluster of Section Three's musings on methods and approaches covers dignifying the field of legal design itself. Here we initially detail some personal reflections on two efforts that informed legal design's earliest days. Renee Knake Jefferson revisits her work establishing and running Michigan State University's ReInvent Law in "The ReInvent Law Archive." Margaret Hagan then offers us an insider's look at her personal journey to articulate the promise for design in the legal space with "The Open Law Lab Blog." We close this group and all of Section Three with Michael Doherty's skillful "Disciplinarity and the Modes of Legal Design," which examines the emerging field of legal design through a critical reflection on the literature on academic disciplines and disciplinarity and argues that legal design meets the criteria for recognition as an academic subdiscipline.

Having detailed what legal designers have done and how legal design works, Part IV focuses on the future. "Where Legal Design Goes: Building a Field Across Disciplines" contains five chapters intended to offer some guideposts for the next ten years of legal design's trajectory. Amanda Perry-Kessaris compellingly argues that "Legal Design Could and Should be More Sociolegal," pointing to the benefits that could flow to legal design, cross-disciplinary research, and to the wider world from such an approach. Katri Nousiainen and Joonas Keski-Rahkonen's "Navigating in a Post-Quantum Legal Design Landscape" ambitiously presents a pragmatic road map through an uncharted legal design landscape that will be transformed by quantum computing. Tiana Yom raises awareness for legal design evaluation and introduces existing theoretical evaluation frameworks that can be used in "Evaluation Capacity Building in Legal Design." Gabriel H. Teninbaum then helpfully provides some reflections and notes of caution for educators and professionals in "The Peril and Promise of Certificates and Degree Programs in Legal Design." We close this section on a high note for the future, with Antonio M. Coronado's passionate "Repair and Resistance: Law Students as Leaders of the Legal Design Movement."

This volume ends with a brief concluding chapter in which we attempt to synthesize the collective wisdom of these chapters, offer some reflections on how we are enacting that wisdom ourselves, and reiterate the fierce urgency we feel motivating many in the field. Thank you for reading some (or all) of this collection.

