

This is an electronic reprint of the original article. This reprint may differ from the original in pagination and typographic detail.

Please cite the original version: J. Linna (2019) STORYTELLING AND POETRY IN LEGAL DESIGN EDUCATION, *ICERI2019 Proceedings*, pp. 6711-6716.

DOI: [10.21125/iceri.2019.1603](https://doi.org/10.21125/iceri.2019.1603)

STORYTELLING AND POETRY IN LEGAL DESIGN EDUCATION

Jukka Linna

Laurea University of Applied Sciences (FINLAND)

Abstract

This paper aims to tell about the possibilities of using storytelling, fairy tales, and poems in Legal Design and the teaching of law.

Justice is difficult to access on many levels with geographical, economic, cultural and linguistic barriers. The law speaks in its language to its actors. In addition, the complexity of the modern world is creating increasingly complex law, often requiring special expertise in a particular legal field.

The legal system decides what is legal and what is illegal. Its function is to provide sufficient assurance of the legal consequences of one's deeds. In a way, it prepares us to face the inevitable disappointments. However, justice cannot effectively fulfill this important role in society if one cannot access the law.

Laurea University of Applied Sciences has a Master's Degree Program in Legal Design and Legal Expertise, which started at the beginning of 2019. We study above all the methods of Service Design in making legal services and texts more accessible and understandable. It is essential to acquire user understanding and develop legal services with users. The means are the design of user paths, different visual solutions as well as the disassembly of legalese into understandable, clear text.

Some practices are not immediately recognized as methods of Legal Design: storytelling and poetry. Few of us have read the statute book or familiarized ourselves with existing laws in an official online database. In fact, we have learned much of the content of justice through stories.

The first, and in many respects, essential stories are the stories heard and read in our childhood: fairy tales. Storybooks impressively combine the touching magic of fairy tales, universal legal and moral principles, and the visual expression supporting them. However, we do not leave the stories behind when we grow up. We hear and read stories constantly.

One student team decided to redesign the municipal debt counseling services. One of the results was a story titled "This could happen to you". I will discuss the methods students used in their development process. There will also be a description of the story itself.

At best, poems are as impressive as fairy tales and stories. They have also worked in many cultures as a form of collective memory and communication.

We wrote a series of poems based on Finnish legislation. Poetry exercises help to understand the content of the legal text. At the same time, complex sentence structures are dismantled into simple, striking verses without any decrease in legally important information. As an example, I will discuss some of the results of such an exercise.

When we planned the program, we used systems theory as a theoretical basis, especially in the form developed by Niklas Luhmann. It identifies different functional systems in our modern society, which, in turn, manage their specific functions. These systems include the economy, politics, justice, education, science, and art. The systems cannot communicate directly with each other but require structural and operational couplings. For example, the legal system can use the elements of art to carry out the function of law – as may happen in the case of Legal Design. In our master's program, some dimensions reach all these systems. Some explanatory viewpoints of this theoretical basis are presented in the article.

Keywords: storytelling, poetry, legal design, systems theory.

1 INTRODUCTION

"Francis the Fox has great plans for the future. Leaving his den behind, he marches to the city in his shiny boots to meet the mayor, William the Wolf.

When the old wolf mayor goes on a fishing trip on a deserted island, Francis talks him into letting Francis serve as substitute mayor. But Francis's greed for power and actions quickly make city residents uneasy. There is something suspicious going on in the library attic, and the city's carrier pigeons have disappeared mysteriously.

Will Francis ruin the upcoming soccer match with a rival team? And will it be a friendly match as always before?" [1]

This is a teaser of a story, a fairy tale to be exact, written by Tuula Pere, a children's book author and Doctor of Law. She read the whole story out loud to my students, my colleagues and me last January. It was a story of lust for power, abuse of office and corruption. When we heard the happy end, one-third of the students were wondering what this has to do with our legal studies and Legal Design. The rest of us were crying.

The stories about real and imagined life tell us about ethical codes. Secondly, when we create these stories, we learn to imagine different, even unexpected versions of events. [2] Finally, the stories have the power to touch us emotionally. We might even change our point of view.

Lawyers are storytellers by nature. They aspire to convince the jury (or whoever it might be) by telling their client's story in a form that the recipient accepts. This kind of storytelling is taught in many universities with success. [3] This is not our mission.

Laurea University of Applied Sciences has a Master's Degree Program in Legal Design and Legal Expertise. It started at the beginning of 2019. There are 28 students with different bachelor or master level university degrees and, after graduating, at least three years of work experience.

We study above all the methods of Service Design in making legal services and texts more accessible and understandable. It is essential to acquire user understanding and develop legal services with users. The methods are the creating of user or customer profiles, design of user paths, different visual solutions as well as the disassembly of legalese into understandable, clear text.

2 MODERN SOCIETY, LAW, AND LEGAL DESIGN

There is a basic principle that the law should be the same for all the people. However, because of different reasons the law is often difficult to access. There are geographical, economic, cultural and linguistic barriers. The law speaks in its own special language to its actors. Moreover, the complexity of the modern world is creating increasingly complex law, often requiring special expertise in a particular legal field.

When we planned the program, we used systems theory as a theoretical basis, especially in the form developed by Niklas Luhmann. It identifies different functional systems in our modern society. These systems include the economy, politics, justice, education, science, and art. This differentiation is precisely what explains both the high performance of society and its unprecedented complexity [4].

Differentiation is functional. Every subsystem fills some special function for society. The systemic differentiation that started in the late middle ages is always a significant historical occasion, and there is, in any case, a limited number of these functional systems. [5]

The legal system decides what is legal and what is illegal. Its function is to provide sufficient assurance of the legal consequences of one's deeds. In a way, it prepares us to face the inevitable disappointments. However, justice cannot effectively fulfill this important role in society if one cannot access the law.

For the function system, other systems of society are within the society's internal environment. Each system interprets and redraws this seemingly chaotic environment, reducing external complexity into internal order. The system is a whole society for itself. No direct information is transmitted from one system to the other, only an irritation or noise that needs to be changed to the system's own binary code-based communication. Thus, the systems can react to other events of the other functional systems only in their structure and by following their code. This is called resonance in Luhmann's systems theory.

The systems cannot communicate directly with each other but require structural (permanent) and operational (situational) couplings. For example, the legal system can use the elements of art to carry out the function of law – as may happen in the case of Legal Design. We are using and narrative methods when we are clarifying the content of the law and visual elements when we are developing

user-friendly, accessible, and engaging legal documents and legal services. The teaching of law combines legal and educational systems. In our master's program, some dimensions reach all systems mentioned.

3 LANGUAGE, WRITING, AND EMPATHY

Language solves some problems of comprehensibility. We will carefully work with the language. We help people with their native language. We explain difficult terms if we are forced to use them. Esthetics, beauty, help the individual to understand complexity.

To solve the problem of accessibility, various channels are utilised, such as magazines and books, radio, television and the Internet. All of these also allow or even require visual enhancement.

For the same reason, there has historically evolved symbolically generalized media, such as truth, love, money, power, and law. We pick up some extra media. Listening, understanding, empathy, co-creation are all well-proven tools in design.

We do not recognize some practices immediately as methods of Legal Design: storytelling and poetry. Few people have read the statute book or familiarized themselves with existing laws in an official online database. In fact, we have learned much of the content of justice through stories.

The first, and in many respects, essential stories are the stories heard and read in our childhood: the fairy tales. Storybooks impressively combine the touching magic of fairy tales, the universal legal and moral principles, and the visual expression supporting them. However, we do not leave the stories behind when we grow up. We hear and read stories constantly.

The law is complicated with reason. However, it must be useful; it must solve the functions assigned to it. It is not possible to be prepared for the unavoidable disappointments if the noise of the law is not resonating in the minds of individuals and the operations of organizations. We need user interfaces, structural and operational couplings.

4 STORYTELLING AND POETRY

4.1 Case 1: Stories

In our Legal Design study unit, the students were divided into teams based on their own developing interests. One of the student teams decided to redesign the municipal debt counselling services. One of the results was a story titled "This could happen to you".

The project team consisted of three members, Hanna Aspegren, Aino Hasan and Maarit Salo. Their partner organization was the regional Legal Aid Office. In the first phase, students gathered a knowledge base on legal design and became familiar with the rules, organizations, and practices of debt counselling. The project followed a double diamond process model introduced by the British Design Council.

In the first diamond, the discovery phase helps us to understand, rather than only assume, what the real problem is. It involves spending time with people who are dealing with the issues, often observing and interviewing them. The data collected and the insight gathered from this phase help us to define the challenge and development target anew. The second diamond encourages us to look for inspiration from new sources and co-designing with people not like us. Delivery includes testing out different solutions or prototypes quickly, putting aside those that are not working and refining the ones that are. [8]

The project started with the formation of a project team and the selection of the main topic, followed by the selection of a specific development target. Together with the partner organization, the team selected for development target the preparation material for a client in need of debt counselling.

The student team collected and analysed the research material following the written data collection plan. They interviewed debt-counselling clients, debt counsellors and social workers and drew up user profiles (personas) and user paths (Discover and Define phases). Design solutions, prototypes, and testing were done and a service concept description was created, which was implemented as a Service Blueprint (Develop and Deliver phases). Based on the feedback received, the prototype was improved.

The partner organization, the regional Legal Aid Office, made the preparation material available immediately for their clients. Possibly all the debt-counselling units in Finland will start using the material.

Finally, members of the team wrote an article and peer-reviewed an article from another project group.

We will now focus on some phases of the project. One of the team members is working as a debt counsellor. Based on the collected data and experience shared by this team member, the student team created three user personas.

Indebtedness of a capable person, Kimmo, is due to an external factor, such as a guaranteed debt or an error of solvency when taking consumer credit. Probably he has been too optimistic. However, Kimmo is systematic and has a workplace. He wants to get problems solved and move on.

The second persona is Anna. She is intended to represent an average person, who has a low income and unexpected life-changing expenses, such as inheritance taxes or business setbacks. A surprising and fast-paced situation may have led to several consumer credits and finally to indebtedness. Anna is likely to be employed. She feels fear or anxiety about the situation.

The reasons for the indebtedness of an incapable person, Valtteri, are unemployment, illness, and long lasting situation, where living expenses and bills have slowly accumulated. Valtteri does not work and may suffer from mental health or substance abuse issues. He has life management difficulties. He may be redirected to debt counselling by another social service. However, he has a vague desire to move forward.

The preparation material for the debt-counselling client was a great result of this development project. Nevertheless, perhaps the finest outcome was born as a by-product, almost by accident.

The student teams had to write an article based on their development work for the joint publication of the master's degree program. They had the option to choose their perspective. Members of the debt counselling team wrote a story called This Could Happen to You. The story covers more than five years of life.

“Matias and Mari are an ordinary Finnish couple. They live in the industrial town of Koskela, next to the provincial center. The family has two children, Leevi, who has just started his school, and five-year-old Liisa. Five years ago, Matias and Mari bought a house for their family in an idyllic detached house area with good transport connections. The school and kindergarten are within walking distance. The factory where Matias is working is only ten minutes' drive away. Mari works as a teacher in a downtown school. They can easily take care of the mortgage loan repayments especially now when the interest rates are low. Matias bought a new car recently. There were already some signs of rust in the old one, and their familiar car dealership offered a good financing deal. [9]

However, everything changes. Not immediately, but inevitably. Matias becomes unemployed, depressed, debts accumulate. Sometimes it looks better, debt counselling helps - but then there are new disasters and more debt. They have to sell the house. Matias and Mari are fighting constantly and eventually divorce. Mari moves to another city with the children.

The story headings illustrate well the turn of events, hope and despair.

Autumn and the winds of change

Winter and snow in the hut

The lightest time of the year full of worries

Gray and grim autumn

A glimmer of light in the middle of the dark

Cold ride

Hope awakens

The first spring of new life

Summer - things are going well

Matias eventually gets into debt settlement with help from debt counselling.

“Matias starts the payment scheme: for the first few months, he makes some payments. After that, he does not have to pay anything unless he gets a job. Unemployment continues and Matias decides to apply for a new profession. He gets to school; the school is going well. When the debt settlement ends, Matias is happier than ever. The payment difficulties lasted for almost seven years. At last, he has a fresh start.” [9]

We are moved by the story. We do not know what happens to the family relationships; the story does not tell. According to student profiles, Matias is an average person, like any of us. His family life is full of situations that we all know based on our own lives and those of our friends. You cannot anticipate those incidents. The family also faces unclear contracts, unfair economic practices, and confusing social services. While telling the story, the student team wonders whether Legal Design could have been at least a partial solution in these situations, possibly even preventing individual accidents.

“The story tells the reader how an ordinary person can get into an over-indebted situation and how to cope with it. Storytelling is one of the Legal Design methods that can make difficult and complex things understandable. As you can see from the story, there is a need for Legal Design in many contexts in everyday life. It is common knowledge that the contracts and documents offered are often difficult to understand. The parties do not always know what they are committing when concluding the contract. People accept silently the prevailing situation where documents are often unclear, written in a formal language and contain complicated contract terms in a small print.” [9]

Nevertheless, the strongest factor in this narrative form is its familiarity. We get emotionally involved, we empathically understand the experiences of our characters and sometimes we have to confront our own biases. At the same time, it shows the way out of difficulties and highlights the potential of legal and social aid and, in this case, debt counselling in particular. It has resonance in the legal system, in the educational system, and in our human minds. The students encoded legal information in story form. The story is educational but not moralizing at any level.

4.2 Case 2: Poems

At best, poems are as impressive as fairy tales and stories. They have also worked in many cultures as a means of memory and communication.

Jarkko Tontti, a Finnish novelist and poet (and Doctor of Law) attended our class in February. He told us about Tade Ipadeola, a Nigerian poet and lawyer and his practice of communicating law through his poems [10].

On the spot, we decided to try a similar activity ourselves. We wrote a series of poems based on Finnish legislation during the meeting. Poetry exercises help to understand the content of the legal text. At the same time, complex sentence structures are dismantled into simple, striking verses without any decrease of legally important information.

One of the students, Rami Lindström, wrote this poem, based on the constitution of Finland. Half a year later Rami became the lawyer of Finland’s biggest parliamentary group. Probably we will see clearer legislation from now on.

“Finland is a sovereign republic / the state power belongs to the people / and people are equal before the law / but, where necessary, the law provides grounds for temporary derogations.”

Aino Hasan redesigned article 1 of the Finnish Income Tax Act into a new, vivid form.

“We are happy to pay taxes on earnings / to the state, the municipality / and the church / if we belong to it.”

Teija Felt put the whole idea and interpretation guidelines of the Child Custody and Access Rights Act in one touching poem:

Prosperity, safety, balanced development

The individual needs and wishes of the child

- What could be more important?

Positive and close relationships

Child and parents hand in hand

- It is a child's happiness and life

I can hear some elements of old Chinese poetry in these verses. Even some haikus were presented, but they are difficult to translate in a proper haiku form.

Even this spontaneous assignment reveals the power of poetry, its ability to rewrite and refresh legalese. In a way, poems help us to recolonize the language we have lost. And even more: "Poetry is language's excess: poetry is what in language cannot be reduced to information, and is not exchangeable, but gives way to a new common ground of understanding, of shared meaning." [11]

5 CONCLUSIONS

We are making the law better and more understandable by Legal Design. If individuals' opportunities to use the processes offered by different function systems reflect the degree of modernity of society, we are also defending modernity by Legal Design.

Language is the coupling between an individual's psyche, consciousness, and society. Language makes it possible to describe society and its subsystems. Using language-based communication the law can understand, extract and internally process what is said in society about justice; although the law cannot speak directly with society, the boundaries of the legal system are porous [12].

Legal storytelling and poetry can be seen as structural couplings between law, education and art – and human consciousness. The telling of individual stories and reciting of poems are operational couplings, when they give you some legal advice or information or tell you about the legal consequences of your deeds.

However, we do not know whether the system's theoretical interpretation of modern society hiding behind this story is true. Maybe it has, though, more explanatory power than our everyday thinking. At least it challenges us to learn, doubt, research, explore, develop, design – and to tell stories and write poems

REFERENCES

- [1] WickWick, *The Fox's City*. Accessed 18 September, 2019. Retrieved from <https://wickwick.fi/en/works/english>
- [2] N. Levit, "Legal Storytelling: The Theory and the Practice – Reflective Writing Across the Curriculum", in *Journal of the Legal Writing Institute*, Vol. 15, p. 283, 2009.
- [3] P. N. Meyer, *Storytelling for Lawyers*. New York: Oxford University Press, 2014
- [4] N. Luhmann, *Ekologinen kommunikaatio* (translated by S. Raiski), p. 74. Helsinki: Gaudeamus Kirja / Yliopistokustannus, 2004.
- [5] S. Raiski, "Foreword" in N. Luhmann, *Ekologinen kommunikaatio*, p. 21. Helsinki: Gaudeamus Kirja / Yliopistokustannus, 2004.
- [6] N. Luhmann, *Law as a social system* (translated by Klaus A Ziegert), p. 164. Oxford: Oxford University Press, 2004.
- [7] N. Luhmann, *Ekologinen kommunikaatio* (translated by S. Raiski), p. 52. Helsinki: Gaudeamus Kirja / Yliopistokustannus, 2004.
- [8] Design Council, *Design Council's evolved Double Diamond*. Accessed 18 September, 2019. Retrieved from <https://www.designcouncil.org.uk/news-opinion/what-framework-innovation-design-councils-evolved-double-diamond>
- [9] A. Hasan & M. Salo, *This Could Happen To You* (unpublished article). Vantaa: Laurea University of Applied Sciences, 2019.
- [10] Wikipedia, *Tade Ipadeola*. Accessed 18 September, 2019. Retrieved from <https://wickwick.fi/en/works/english>
- [11] F. "Bifo" Berardi, *The Uprising: On Poetry and Finance*. Los Angeles: Semiotext(e) / Intervention #14, 2012.
- [12] C. Borch, *Niklas Luhmann: [in defense of modernity]*, pp. 75-78. London: Routledge. 2011.