



Legal Design for the Common Good

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Legal Design for the Common Good:

Proactive Legal Care by Design*

Helena Haapioⁱ, Thomas D Bartonⁱⁱ & Marcelo Corrales Compagnucciⁱⁱⁱ

Abstract *Many legal problems are caused by misunderstandings. People do not read complex documents. Even if they do, they may not find what they look for or understand what they find. This chapter shows how proactive legal care can help, not only to deal with challenges of complex legal information, but also to improve access to justice and prevent unnecessary problems. Enhancing clients' self-care by promoting their legal literacy is a central strategy for this purpose. Changing how documents are framed and presented is another. We propose a new mindset for lawyers, with a focus on the users and on using the law for the advancement of the common good. With this mindset, it becomes natural to look for skills and tools to present legal information in more engaging and actionable ways. Design patterns offer a way to identify and share such tools, for the benefit of lawyers and clients alike.*

Keywords Design patterns, information design, legal health, legal literacy, Proactive/Preventive Law, self-care

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1 Introduction

For a long time, doctors and lawyers were viewed as professionals serving an *ex post* function: you get sick, you see a doctor. You have a legal problem, you see a lawyer. The need for such services continues, but reactive care is no longer the only possibility. Instead of working reactively, many health care and legal professionals now work proactively, *ex ante*. Lawyers might work as part of a team, planning or building legal protection or clarity, promoting clients' chances of success, and preventing unnecessary problems. In Europe, this is known as practicing Proactive Law¹; in the US, Preventive Law². On both sides of the Atlantic, it can also be framed as practicing Legal Design³.

Although Legal Design was only recently added to scholars' and practitioners' vocabulary,⁴ proactive and preventive lawyering are not new: Preventive Law originates from the 1950s and Proactive Law from the 1990s.⁵ Lawyers have long been working with problem prevention as trusted advisors, planners, and coaches. Preventive law, proactive law, collaborative law, and similar disciplines can be viewed as part of a larger movement in law.⁶ These approaches differ from conventional legal research and practice, which focus mainly on the past – their focus is on the future. They do not merely look back to resolve problems that have already occurred. Instead, they look forward to enable desirable outcomes and prevent the causes of problems from arising. They look beyond legal rules, rights and obligations and focus on goals, needs and relationships, seeking to increase awareness, engagement and clarity as to rights and obligations.⁷

For decades, forward-looking scholars and practitioners have called for improved legal communication, services and solutions, with the goal of making these more functional, useful and usable. In essence, they have sought what designers have always done in other contexts. Before the advent of Legal Design, designers and lawyers lacked access to each others' mindsets, tools and methods. When design met law,⁸ reform-minded legal thinkers and designers became natural allies. Scholars and practitioners built bridges between the legal system and other societal systems; in doing so, lawyers and designers became increasingly drawn into each others' competencies.⁹ Mindsets,

¹ See, eg, Helena Haapio, 'Introduction to Proactive Law: A Business Lawyer's View' in Peter Wahlgren (ed), *A Proactive Approach* (Scandinavian Studies in Law vol 49, Stockholm Institute for Scandinavian Law 2006); George J Siedel and Helena Haapio, 'Using Proactive Law for Competitive Advantage' (2010) 47 *American Business Law Journal* 641; George Siedel and Helena Haapio, *Proactive Law for Managers: A Hidden Source of Competitive Advantage* (Gower 2011); Gerlinde Berger-Walliser, 'The Past and Future of Proactive Law: An Overview of the Development of the Proactive Law Movement' in Gerlinde Berger-Walliser and Kim Østergaard (eds), *Proactive Law in a Business Environment* (DJØF Publishing 2012).

² See, eg, Louis M Brown, *Preventive Law* (Prentice-Hall 1950); Louis M Brown, *Lawyering through Life – The Origin of Preventive Law* (Fred B Rothman & Co 1986); Thomas D Barton, *Problem Solving and Preventive Law: Lawyering for the Future* (Vandeplas Publishing 2009).

³ 'Legal Design Alliance' <www.legaldesignalliance.org> accessed 18 March 2020.

⁴ See, eg, Gerlinde Berger-Walliser, Thomas D Barton and Helena Haapio, 'From Visualization to Legal Design: A Collaborative and Creative Process' (2017) 54 *American Business Law Journal* 347; Colette R Brunschwig, *Visualisierung von Rechtsnormen – Legal Design* (Schulthess Juristische Medien 2001).

⁵ For the origins of the approaches, see the resources mentioned in notes 1 and 2.

⁶ See Susan Daicoff, 'Law as a Healing Profession: The "Comprehensive Law Movement"' (2005) 6 *Pepperdine Dispute Resolution Law Journal* 1. Daicoff views approaches such as collaborative law; creative problem solving; holistic justice; preventive law; procedural justice; restorative justice; therapeutic jurisprudence; and transformative mediation as 'vectors' of a movement she calls 'comprehensive law'.

⁷ Susan Daicoff, 'Law as a Healing Profession' (n 6). See also Susan Daicoff, 'The Comprehensive Law Movement: An Emerging Approach to Legal Problems' in Peter Wahlgren (ed), *A Proactive Approach* (Scandinavian Studies in Law vol 49, Stockholm Institute for Scandinavian Law 2006).

⁸ See Arianna Rossi and others, 'When Design Met Law: Design Patterns for Information Transparency' (2019) (122–123) *Droit de la Consommation – Consumentenrecht DCCR* 79. See also Helena Haapio and Stefania Passera, 'Visual Law: What Lawyers Need to Learn from Information Designers' (*VoxPopuLII*, 15 May 2013) <<http://blog.law.cornell.edu/voxpath/2013/05/15/visual-law-what-lawyers-need-to-learn-from-information-designers>> accessed 14 April 2020.

⁹ For the developments, opportunities and dangers, see Amanda Perry-Kessaris, 'Legal Design for Practice, Activism, Policy, and Research' (2019) 46 *Journal of Law and Society* 185.

tools and processes from design, such as visualization and prototyping, started to be adopted across legal fields, from practice to activism to policy-making.¹⁰

In many of the chapters in this work, Legal Design is seen as part of legal system innovation and better access to justice. This chapter contributes to the same agenda by focusing on the role of design in using the law to promote the *common good*¹¹, arguing that even when it comes to justice, prevention is better than cure. Prevention and proactive goal achievement are likely the most efficient, the most relationship-promoting, and most easily achieved forms of legal justice.

Proactive and Preventive Law enable attitudes, tools, and skills to promote what is desirable and prevent what is not. Pursuing and promoting justice require better awareness of one's rights and responsibilities, with or without the help of lawyers. Information design is an essential ingredient in addressing access-to-justice opportunities and challenges. This chapter illustrates how design mindsets, tools and techniques can be merged with the proactive approach to strengthen such better awareness and support people's self-care. Merging future-oriented legal approaches with design can advance the law's and lawyers' potentials as agents of positive change. We call this way of working *proactive legal care*.¹²

In some contexts, proactive legal care may require a major change in lawyers' mentalities and methods. In other contexts, however, this is not so. Many lawyers work as liaisons between client and legal communities, tailoring solutions to the individual and business needs and goals of the client. In the corporate arena, for example, proactive legal care is what many internal corporate lawyers do – often intuitively, as a natural part of good lawyering.¹³ They may consider themselves as transaction planners and architects, even designers. Most, however, have lacked access to skills and formal training in design methods and tools. Legal Design in general, and legal information design in particular, now offer them the tools and processes they need to create functional, inclusive and transparent legal documents, services and systems. By design these can become more human-centric and engaging for those whom they are intended to serve.¹⁴ Legal Design promises to bring lawyers new perspectives and tools through collaboration with a multidisciplinary community of allies such as designers, coders, communicators and behavioral scientists.¹⁵ Together, they can improve the law and access to justice.

Section 2 begins by describing the relation of proactive legal care to access to justice and Legal Design, proposing to extend our view beyond access to less costly ways of resolving legal disputes in the courts. Using the medical analogy of health promotion, Section 3 calls for a promotive focus on the legal health and wellness of both people and business, in order to realize the common good. To illustrate the integration of proactive legal care with Legal Design, Section 4 addresses some of the challenges of communicating complex legal information and then offers examples from different contexts showing how design initiatives have responded to the challenges. Section 5 concludes.

¹⁰ *ibid.* See also Amanda Perry-Kessaris, 'Work in Progress: Doing Socio-Legal Research in Design Mode' (*Approaching Law*, 28 November 2019) <<https://amandaperrykessaris.org/2019/11/28/work-in-progress-doing-socio-legal-research-in-design-mode/>> accessed 29 January 2020.

¹¹ For the concept of 'common good', see generally Jean Tirole, *Economics for the Common Good* (Steven Rendall tr, Princeton University Press 2019). According to Tirole, 'The quest for the common good ... involves constructing institutions to reconcile, as far as possible, the interests of the individual with the general interest' Tirole (n 11) 3, and 'Economics ... does not seek to usurp society's role in defining the common good' Tirole (n 11) 5.

¹² We use the concept of 'proactive legal care' here in the way it is used in the field of Proactive Law: to refer to both promotive and preventive legal care. See also Arianna Rossi and Helena Haapio, 'Proactive Legal Design: Embedding Values in the Design of Legal Artefacts' in Erich Schweighofer, Franz Kummer and Ahti Saarenpää (eds), *Internet of Things. Proceedings of the 22nd International Legal Informatics Symposium IRIS 2019* (Editions Weblaw 2019).

¹³ Haapio, 'Introduction to Proactive Law' (n 1). See also Thomas D Barton, 'Re-Designing Law and Lawyering for the Information Age' (2016) 30 *Notre Dame Journal of Law, Ethics & Public Policy* 1. Similarly also Z Jill Barclift, 'Preventive Law: A Strategy for Internal Corporate Lawyers to Advise Managers of Their Ethical Obligations' (2008) 33 *Journal of the Legal Profession* 31, 31, arguing that internal corporate law practice is Preventive Law practice.

¹⁴ Legal Design Alliance, 'Legal Design Manifesto' (v2) <www.legaldesignalliance.org/#v2> accessed 4 February 2020.

¹⁵ *ibid.*

2 The Relation of Proactive Legal Care to Access to Justice and Legal Design

The concept of access to justice is often conceived rather narrowly, with a focus on the resolution of disputes or providing legal assistance to low-income persons. These goals remain important, but the proponents of Proactive and Preventive Law have long advocated a broader view.¹⁶ While technology can provide speed and efficiency and enable access to quicker and cheaper dispute resolution and legal services, something more is needed. In the words of then Attorney General Robert F Kennedy, ‘(...) we have to make law less complex and more workable. Lawyers have been paid, and paid well, to proliferate subtleties and complexities. It is about time we brought our intellectual resources to bear on eliminating some of those intricacies.’¹⁷

Despite the availability of new technology, the situation has not improved since Kennedy’s days – in fact it seems to have gotten worse. Technology alone cannot solve the complexity built into our current legal system.¹⁸ Law and technology analyst Richard Susskind argues that the concept of access to justice should embrace four elements: 1) dispute resolution, 2) dispute containment, 3) dispute avoidance, and 4) legal health promotion.¹⁹ In his recent book, he notes:

when I talk of improving access to justice, I am referring to much more than providing access to quicker, cheaper, and less combative mechanisms for resolving disputes. I am also speaking of the introduction of techniques that deeply empower all members of society – to contain disputes that have arisen, to avoid disputes in the first place and, more, to have greater insight into the benefits that the law can confer. Today, even very capable people can feel disempowered when involved in legal processes. Tomorrow, we should want citizens to own and manage many of their own legal issues.²⁰

Richard Susskind’s arguments are well aligned with the foundational thinking of Proactive and Preventive Law. While all four elements on Susskind’s list are part of the Proactive / Preventive Law agenda, we will here focus on the third and fourth elements, known as the preventive and promotive dimensions of the proactive approach. These dimensions are grounded in psychological theory²¹ and have borrowed concepts from medicine and healthcare.

In the context of practicing law, the idea of prevention was first introduced by Louis M. Brown, a US attorney and law professor. One of his fundamental premises was that in traditional ‘curative’ law it is essential for the lawyer to predict what a *court* will do, while in Preventive Law it is essential to predict what *people* will do.²² In his ground-breaking treatise *Preventive Law* published in 1950, he notes a simple, but profound and enduring truth: ‘It usually costs less to avoid getting into trouble than to pay for getting out of trouble.’²³

¹⁶ See, eg, the resources mentioned in notes 12 and 13.

¹⁷ Robert F Kennedy, ‘Address’ (University of Chicago Law School, Chicago IL, Law Day 1 May 1964) 5 <www.justice.gov/sites/default/files/ag/legacy/2011/01/20/05-01-1964.pdf> accessed 4 February 2020.

¹⁸ See, eg, James J Sandman, in a speech delivered on 15 January 2020 at the Legal Services Corporation’s Innovations in Technology conference in Portland (OR) cited in Robert J Ambrogi, ‘Jim Sandmans’s Five Requirements for Tech to Improve Access to Justice’ (*LawSites*, 20 January 2020) <www.lawsitesblog.com/2020/01/jim-sandmans-five-requirements-for-tech-to-improve-access-to-justice.html> accessed 4 February 2020.

¹⁹ Richard Susskind, *Online Courts and the Future of Justice* (Oxford University Press 2019) 66–70.

²⁰ *ibid* 70.

²¹ E Tory Higgins, a Professor of Management at the Columbia Business School and also Professor of Psychology, has developed a psychological theory called the Regulatory Focus Theory that focuses on motivations and how people attempt to achieve their goals. The Regulatory Focus Theory posits two self-regulatory orientations: prevention and promotion. See HigginsLab, ‘Regulatory Focus’ <<https://web.archive.org/web/20160402210735/http://www.columbia.edu/cu/psychology/higgins/research.html#rfocu>> accessed 4 February 2020. For the application of the theory in the context of contracting, see Siedel and Haapio, *Proactive Law for Managers* (n 1); Helena Haapio and George J Siedel, *A Short Guide to Contract Risk* (Gower 2013) 24–29.

²² See, eg, Louis M Brown, ‘The Law Office. A Preventive Law Laboratory’ (1956) 104(7) *University of Pennsylvania Law Review* 940. See also Siedel and Haapio, *Proactive Law for Managers* (n 1) 12.

²³ Brown, *Preventive Law* (n 2) 3.

The basic thinking of Preventive Law is depicted in the pyramid diagram in Figure 1, borrowed from preventive medicine. The Figure shows the three domains of prevention: first, prevent the cause from arising; second, prevent the cause from doing harm; and third, if harm occurs, limit the damage.

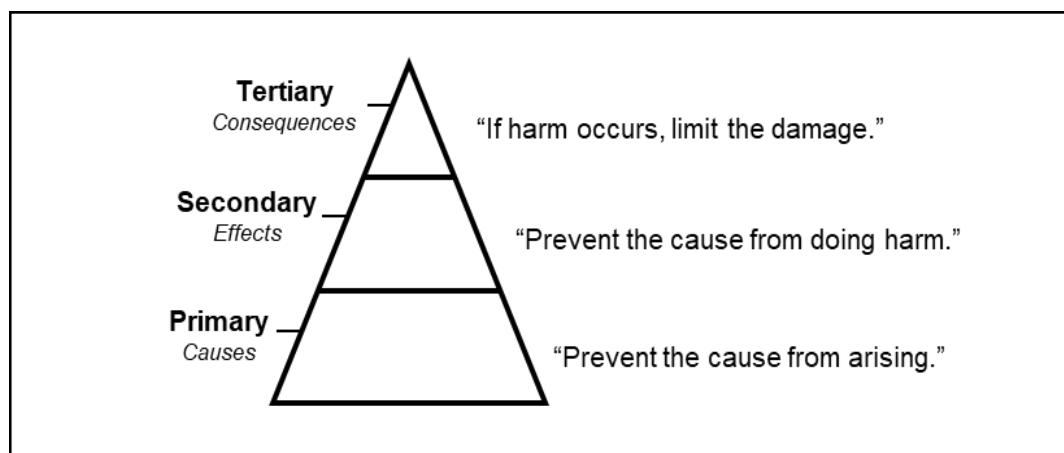


Figure 1. The three domains of prevention ²⁴

The steps to applying preventive legal thinking are clear, at least in theory: minimize friction and keep causes of risk and problems from arising (level one); seek early intervention to prevent causes of risk from doing harm and problems from becoming conflicts or disputes (level two); and mitigate risks and resolve conflicts to limit losses and expense (level three).²⁵ These measures are intertwined, and success requires working at all three levels. The need for client-lawyer collaboration can be illustrated through an example used by Edward A Dauer:

Work in the primary domain keeps the causes of illness from arising. Mosquitoes carry malaria, so to avoid malaria, we drain swamps to prevent mosquitoes. Work in the secondary domain keeps unavoidable causes from having effects. We can't drain every swamp, so we develop netting. And work in the tertiary domain keeps unavoidable consequences from being harmful. We get out the quinine. The beginning of the process is locating the cause. The core of the process is determining how it can be managed. And the objective is not avoiding losses, but avoiding causes first and results second, and losses only third.

Applied to what we do, this approach takes lawyers into somewhat unfamiliar terrain. ... 'That's not the law,' we might say. 'That's the client's business.' And therein lies the problem. Trained by our law schools only accidentally if at all in the arts of transactions, and trained nowhere in the systematic application of preventive lawyering, we see the boundary between us and our client right here. The client designs the widgets, the corporate culture, the environmental integrity. We practice the law. That, however, is not a boundary preventive law respects.²⁶

The origin of Proactive Law was contracting in the business-to-business context. For lawyers working in this arena, legal issues and business issues are almost always heavily intertwined.²⁷ The proactive approach soon expanded beyond private lawmaking: the Opinion of the European

²⁴ Image by Helena Haapio. Used with permission.

²⁵ Haapio and Siedel (n 21) 26.

²⁶ Edward A Dauer, 'Developing Preventive Law: From Lawyering to Quality' *Leadership and Management Directions Newsletter* (American Bar Association, Section of Law Practice Management, Law Practice Division, Summer 1998).

²⁷ See, eg, Helena Haapio, 'Business Success and Problem Prevention through Proactive Contracting' in Peter Wahlgren (ed), *A Proactive Approach* (Scandinavian Studies in Law vol 49, Stockholm Institute for Scandinavian Law 2006); Siedel and Haapio, 'Using Proactive Law for Competitive Advantage' (n 1); Barton, 'Re-Designing Law and Lawyering for the Information Age' (n 13).

Economic and Social Committee (EESC)²⁸ explores the ways in which the Proactive Law approach can act as a step towards better public lawmaking and, at the same time, serve as a means of avoiding over-detailed and unnecessary regulation.²⁹ In the Opinion, the EESC makes reference to the work of the Nordic School of Proactive Law³⁰ and urges a paradigm shift in EU law, stating:

The time has come to give up the centuries-old reactive approach to law and to adopt a proactive approach. It is time to look at law in a different way: to look forward rather than back, to focus on how the law is used and operates in everyday life and how it is received in the community it seeks to regulate. While responding to and resolving problems remain important, preventing causes of problems is vital, along with serving the needs and facilitating the productive interaction of citizens and businesses.³¹

After referring to one of the basic notions of the Proactive Law approach, namely the importance of reaching desired objectives, the Opinion states a principle that holds true in many contexts: ‘[t]o set the desired goals and to secure the most appropriate mix of means to achieve them requires involving stakeholders early, aligning objectives, creating a shared vision, and building support and guidance for successful implementation from early on.’³² The Opinion goes on to state:

When drafting laws, the legislator should thus be concerned about producing operationally efficient rules that reflect real-life needs and are implemented in a manner that the ultimate objectives of those rules are accomplished.

The life cycle of a piece of legislation does not begin with the drafting of a proposal or end when it has been formally adopted. A piece of legislation is not the goal; its successful implementation is. Nor does implementation merely mean enforcement by institutions; it also means adoption, acceptance and, where necessary, a change of behaviour on the part of the intended individuals and organisations.³³

In both private and public contexts, in addition to focusing on prevention, a *promotion* focus is required, along with an implementation mindset and strong user engagement. Planning and designing future things or actions requires a close connection with their context, which may vary from society and policy to individuals’ and clients’ business matters. A lawyer working in a proactive legal care mode must collaborate closely with people from different backgrounds, professions and disciplines. To succeed, the lawyer’s advice, questions and answers must be presented in a way that everyone understands. Focusing on risks and issues alone does not suffice, when the goal is to impact, guide and support decisions and actions and increase the likelihood of successful outcomes. The client’s self-care becomes crucial - so fundamental that, without it, proactive legal care cannot succeed.³⁴

Improved legal self-care and related tools and support should lead to a more distributively just society in the same way that medical self-care and its support lead to a healthier community.³⁵ For a long time, the key question for proactive legal care has been *how*: how do we bring this approach to practice and turn the vision into action? How do we effectively encourage and support self-care and

²⁸ Opinion of the European Economic and Social Committee on ‘The Proactive Law Approach: A Further Step towards Better Regulation at EU Level’ [2009] Official Journal of the European Union C175/26. The Opinion is available in all EU languages at <www.eesc.europa.eu/en/our-work/opinions-information-reports/opinions/proactive-law-approach>.

The Rapporteur was Jorge Pegado Liz, and one of the Authors of this chapter acted as the Expert for the Rapporteur.

²⁹ In the EU, the European Commission, the European Parliament, and the EESC have long promoted and argued for better regulation, simplification and communication as main policy objectives. See also European Economic and Social Committee, ‘Foreword’ <www.eesc.europa.eu/?i=portal.en.self-and-co-regulation-foreword> accessed 29 January 2020.

³⁰ <www.juridicum.su.se/proactivelaw/main>.

³¹ See Opinion of the European Economic and Social Committee (n 28) art 1.4.

³² Opinion of the European Economic and Social Committee (n 28) art 1.6.

³³ Opinion of the European Economic and Social Committee (n 28) arts 2.4–2.5.

³⁴ Haapio, ‘Business Success and Problem Prevention through Proactive Contracting’ (n 27).

³⁵ Similarly, eg, Susskind (n 19) 68, talking about immunization.

put legal know-how at the fingertips of people and businesses? With the advent of Legal Design, we finally have some answers.

Legal Design is actually well suited to the mindsets of the proactive approach. First, it is *human-centered*, creating information, services, and systems with the community based on their needs and abilities. Second, Legal Design's attitudes include *proactivity*: driving desirable outcomes, rather than just dealing with the consequences of failure or punishment. Third is its concern for *prevention*: preventing problems rather than only intervening to resolve conflicts that have arisen.³⁶ In sum, Legal Design offers tools and methods that can strengthen *proactive legal care*. Together, they can encourage the emerging spirit of legal reform, looking for ways in which the law and lawyers can not only prevent and resolve problems, but also enable people and businesses to realize their commercial and personal goals.

We suggested above that technology alone cannot solve the complexity and other challenges embedded in our current legal system. However, as shown in this and other chapters of this book, Legal Design can help, and be helped by, technology. With the increasing use of automation, analytics, and artificial intelligence (AI) tools, the importance of proactive legal care is likely to grow. Analyzing today's technology and the legal documents and contracts produced by it reveals their user *uncenteredness* – and their focus on reaction rather than proactive action and promotion. For AI and automation, the quality of the output depends on the quality of the input. Trained with bad data, such as current documents that many would classify as user-*unfriendly*, AI will produce undesirable results.³⁷ Proactive legal care is needed to learn and make adjustments that make the applications, especially their user interfaces, input and output, better. This is where we propose a new focus and attention to human-led redesign and reframing *before* automating document generation.

3 Advancing Legal Health and Wellness for Access to Justice

Just as physical health is not merely about the absence of disease,³⁸ legal health is not merely about the absence of legal problems. There is more to it. Health is defined by the World Health Organization (WHO) as a positive concept emphasizing social and personal resources, as well as physical capacities.³⁹ Wellness, in turn, is defined as the optimal state of health of individuals and groups.⁴⁰ By analogy, these WHO definitions can be applied to legal health and legal wellness.

Even though the law is often thought to provide prohibitions, obligations, punishments and remedies, much of the law is in fact enabling and empowering: it gives people rights, entitlements and benefits, allows them to get married, inherit and transfer assets and allows companies to employ people, engage suppliers, make contracts, and so on. The law does not just impose duties – it confers powers, too.⁴¹ Contracts, for example, can enable their makers to achieve benefits, provide

³⁶ 'Legal Design Alliance' (n 3).

³⁷ See, eg, Daniel W Linna Jr, 'Evaluating Legal Services: The Need for a Quality Movement and Standard Measures of Quality and Value' in Ronald Vogl (ed), *Research Handbook on Big Data Law* (Edward Elgar, forthcoming). For strengthening legal methods through new tools and the positive and negative effects of AI, see also Thomas D Barton, 'Artificial Intelligence and Probability: Designing a Legal System to Prevent and Resolve Legal Problems' in Kai Jacobs, Dierk Schindler and Roger Strathausen (eds), *Liquid Legal II: Designing Tomorrow's Legal – A Common Legal Platform* (Springer, forthcoming).

³⁸ World Health Organization (WHO), 'Constitution of the World Health Organization' (1948) <<http://apps.who.int/gb/bd/PDF/bd47/EN/constitution-en.pdf>> accessed 19 February 2020.

³⁹ World Health Organization (WHO), 'The Ottawa Charter for Health Promotion' <www.who.int/healthpromotion/conferences/previous/ottawa/en/> accessed 19 February 2020.

⁴⁰ Ben J Smith, Kwok Cho Tang and Don Nutbeam, 'WHO Health Promotion Glossary: New Terms' (2006) 21 *Health Promotion International* 340, 344.

⁴¹ See Herbert L A Hart, *The Concept of Law* (Oxford University Press 2012) ch V; Susskind (n 19) 69.

predictability, balance risk and reward, and seek enforcement if needed. The law offers contracting parties the freedom of contract – even freedom from contract, if that is what they prefer.⁴²

In the world of software, the ‘happy path’ refers to the desired software execution path where everything goes as expected.⁴³ Until recently, outside the domains of Proactive Law and legal technology, legal scholarship has not been particularly interested in detailing the happy path. Instead, the legal academy has focused largely on the ‘unhappy path’.⁴⁴ Yet if people and businesses know how, they typically seek to avoid the *ex post* intervention of the legal system. Merging proactive legal care with Legal Design can assure that people and businesses enter and stay on the happy path, stay in good legal health, and avoid pitfalls. The following table (Table 1) illustrates the shift of mindset and focus by the proponents of Proactive Law:

Table 1. Proactive law: Shifting focus from prevention to promotion⁴⁵

Focus not just on	Focus also on
<ul style="list-style-type: none"> • rules, legal tools: helping the parties to comply with the rules • minimizing risks, problems, disputes, losses • preventing causes of failure and negative effects • lawyers as advisors, practicing preventive law; the law office as a preventive law laboratory⁴⁶ 	<ul style="list-style-type: none"> • goals, managerial tools: enabling the parties to reach their objectives • maximizing opportunities, desired outcomes, benefits • promoting drivers of success and positive effects • lawyers as designers and coaches, working with clients as part of cross-professional teams

Louis M Brown’s work on Preventive Law was targeted towards lawyers. While influenced by his work, the proponents of Proactive Law have taken it further by emphasizing the importance of the role of the client and collaboration between legal professionals and other functions and disciplines. In the words of Soile Pohjonen, ‘[Preventive Law] favors the lawyer’s viewpoint, i.e., the prevention of legal risks and problems. In Proactive Law, the emphasis is on achieving the desired goal in particular circumstances where legal expertise works in collaboration with the other types of expertise involved. In Proactive Law, the need for dialogue between different understandings is emphasized.’⁴⁷

The end result, ideally, enables people and businesses to reach clarity and shared understanding, make better decisions faster, and achieve better results.⁴⁸ Legal information is often needed to make

⁴² The parties have the freedom to make or not to make a contract and to choose their terms. They also have freedom to choose which of the terms, if any, they intend to be binding. See also Stewart Macaulay, ‘Freedom from Contract: Solutions in Search of a Problem’ [2004] *Wisconsin Law Review* 777.

⁴³ The notion of ‘happy path’ comes from software testing. Happy path testing is an element of a larger and more comprehensive testing strategy. See, eg, Linda Levine and William E Novak, ‘Acquisition Archetypes: Happy Path Testing’ (Software Engineering Institute, Carnegie Mellon University 2009) <<https://resources.sei.cmu.edu/library/asset-view.cfm?assetid=29002>> accessed 10 March 2020.

⁴⁴ Mark D Flood and Oliver R Goodenough introduce the concept in ‘Contract as Automaton: The Computational Representation of Financial Agreements’ (2017) Office of Financial Research Working Paper 15-04 <http://financialresearch.gov/working-papers/files/OFRwp-2015-04_Contract-as-Automaton-The-Computational-Representation-of-Financial-Agreements.pdf> accessed 29 January 2020. The authors refer to the desired execution sequence under a contractual relationship as the ‘happy path’. See Flood and Goodenough (n 47) 8.

⁴⁵ Helena Haapio, *Next Generation Contracts: A Paradigm Shift* (Lexpert Ltd 2013) 41. Table used with permission.

⁴⁶ See Brown, ‘The Law Office’ (n 22).

⁴⁷ Soile Pohjonen, ‘Proactive Law in the Field of Law’ in Peter Wahlgren (ed), *A Proactive Approach* (Scandinavian Studies in Law vol 49, Stockholm Institute for Scandinavian Law 2006) 53–54. See also Soile Pohjonen, ‘Law and Business – Successful Business Contracting, Corporate Social Responsibility and Legal Thinking’ (2009) 145 *JFT – Tidskrift utgiven av Juridiska Föreningen i Finland* 470, 477.

⁴⁸ Haapio, *Next Generation Contracts* (n 45) 80.

good decisions and produce good outcomes. The role of law and lawyers then becomes to develop tools that contribute to achieving the common good by helping people understand and solve the relevant issues. Here promoting their self-care and legal literacy become crucial.

4 Harnessing Law for the Common Good by Design: Promoting Self-Care and Legal Literacy

Health promotion is not just the responsibility of the health care sector; it is also about enabling people to increase control over, and to improve, their health.⁴⁹ Legal health promotion, too, goes beyond the conventional legal care sector. As with physical, mental and social health, people cannot achieve their *fullest* (legal) health potential unless they are able to take control of those things which determine their (legal) health.⁵⁰ What, then, are those things and how can we enable people to take control of them? Many of those factors are covered in other chapters of this book. Here we are mainly concerned with factors impacting people's awareness of their rights and responsibilities and the role of information as an essential ingredient in addressing and managing legal health.

The shift in emphasis toward health self-care gives food for thought for possible future developments in law and lawyering. The Industrial Age map of health care was divided into primary, secondary and tertiary care; self-care was basically left off the map.⁵¹ But in the Information Age map, individuals and families, as well as professionals, are much better informed and knowledgeable about health care issues, thanks to the availability of a variety of consumer health information systems.⁵² Self-care apps and solutions put patients in the center of their own health and wellbeing. In acquiring self-care skills, people are able to participate more actively in the decisions and conditions that influence their health.⁵³ According to the WHO Health Promotion Glossary:

Health literacy implies the achievement of a level of knowledge, personal skills and confidence to take action to improve personal and community health by changing personal *lifestyles* and *living conditions*. Thus, health literacy means more than being able to read pamphlets and make appointments. By improving people's access to health information, and their capacity to use it effectively, health literacy is critical to *empowerment*.⁵⁴

In medicine, academics discovered self-care in the 1970s: self-care had 'always been with us', but it had not been deemed worthy of scientific interest.⁵⁵ The same may well be true for legal self-care: tools and solutions seeking to secure the happy path, reach and maintain good legal health and prevent problems have been off the radar for mainstream legal scholarship. Legal Design and proactive legal care can help them to be discovered, shared, and developed further.

⁴⁹ WHO, 'Health Promotion Glossary' (1998) 1

<www.who.int/healthpromotion/about/HPR%20Glossary%201998.pdf> accessed 14 April 2020; WHO, 'The Ottawa Charter for Health Promotion' (n 39).

⁵⁰ WHO, 'The Ottawa Charter for Health Promotion' (n 39)

⁵¹ See, eg, Health Canada, 'Supporting Self-Care: The Contribution of Nurses and Physicians. An Exploratory Study' (Minister of Public Works and Government Services Canada 1997). The same is true for the original Preventive Law map (see Figure 1). With the advent of Proactive Law, self-care was added to the map; see, eg, Helena Haapio, 'Introduction to Proactive Law' (n 1) 25.

⁵² *Supporting Self-Care: a Shared Initiative 1999–2002* (Canadian Nurses Association 2002) <https://cna-aiic.ca/~media/cna/page-content/pdf-en/supporting_selfcare_e.pdf> accessed 14 April 2020.

⁵³ See, eg, National Health Service (NHS) England, 'Involving People in Their Own Health and Care: Statutory Guidance for Clinical Commissioning Groups and NHS England' <www.england.nhs.uk/wp-content/uploads/2017/04/ppp-involving-people-health-care-guidance.pdf> accessed 10 March 2020.

⁵⁴ WHO, 'Health Promotion Glossary' (n 49) 10. Empowerment for health, in turn, is defined as 'a process through which people gain greater control over decisions and actions affecting their health', and enabling means 'taking action in partnership with individuals or groups to empower them, through the mobilization of human and material resources, to promote and protect their health. WHO, 'Health Promotion Glossary' (n 49) 6.

⁵⁵ Ilona Kickbusch, 'Self-Care in Health Promotion' (1989) 29 *Social Science & Medicine* 125.

Against this backdrop, it becomes obvious that access to justice, too, requires legal empowerment and self-care. Legal care providers can promote informed decision making and facilitate actions designed to improve personal control over factors that determine health and healthy outcomes. Promoting legal literacy becomes a central strategy for improving self-management in legal health.

4.1 The Challenge of Communicating Complex Information

The challenge is familiar from many contexts: how to translate complex information into simple-to-follow, actionable, motivating instructions for the people who are impacted or expected to comply. Even if the information is provided in the plainest language possible, if people do not read it, how can they be expected to know the contents?

If we want people to own and manage their own medical or legal issues, we need to pay attention to how information and advice are communicated. Legal information has often been accused of being written ‘*by lawyers for lawyers*’.⁵⁶ A tension is sometimes perceived among legal-friendly, business-friendly, and user-friendly approaches.⁵⁷ A balance needs to be found between functionality and precision, and between precision and ease of use.

Demand is growing to transform what was *drafted* ‘by lawyers for lawyers’ to instead be that which is *designed* to be understandable for the people impacted.⁵⁸ In this context, Legal Design in general and legal information design in particular offer tools and techniques to bring human-centered design to legal information, products, and services. This requires a new mindset, shifting lawyers from being *unconscious* designers - creating contracts, notices, policies, and manuals in conventional ways - to *conscious* designers, working in a design mode and with a focus on the users and their needs for more useful and usable guidance.⁵⁹ With this new mindset, it becomes natural to look for tools to present legal products and information in more engaging and actionable ways. Design patterns offer a promising new option to learn from and share design solutions.

4.2 Responding to the Challenge: Design Patterns to Overcome Recurring Communication Problems

In recent years, on several continents, researchers and practitioners have started to explore new ways of presenting complex legal information, whether contracts,⁶⁰ privacy communication⁶¹ or other

⁵⁶ See, eg, Gerlinde Berger-Walliser, Robert C Bird and Helena Haapio, ‘Promoting Business Success through Contract Visualization’ (2011) 17 *Journal of Law, Business & Ethics* 55, 56 (emphasis added). See also Helena Haapio and Thomas D Barton, ‘Business-Friendly Contracting: How Simplification and Visualization Can Help Bring It to Practice’ in Kai Jacob, Dierk Schindler and Roger Strathausen (eds), *Liquid Legal: Transforming Legal into a Business Savvy, Information Enabled and Performance Driven Industry* (Springer International 2017).

⁵⁷ In the context of commercial contracts and related guidance, see, eg, Haapio and Barton (n 56); Stefania Passera, *Beyond the Wall of Contract Text: Visualizing Contracts to Foster Understanding and Collaboration within and across Organizations* (Aalto University 2017).

⁵⁸ Thomas D Barton and others, ‘Successful Contracts: Integrating Design and Technology’ in Marcelo Corrales Compagnucci, Mark Fenwick and Helena Haapio (eds), *Legal Tech, Smart Contracts and Blockchain* (Springer 2019).

⁵⁹ Helena Haapio, ‘Legal Design in Action: From Text-Only Guidebooks to Digital, Visual Playbooks’ in Erich Schweighofer, Franz Kummer and Ahti Saarenpää (eds), *Internet of Things. Proceedings of the 22nd International Legal Informatics Symposium IRIS 2019* (Editions Weblaw 2019). Similarly Margaret Hagan, ‘Law by Design’ <www.lawbydesign.co> accessed 14 April 2020.

⁶⁰ See, generally, Berger-Walliser, Bird and Haapio (n 56), Helena Haapio, *Next Generation Contracts* (n 45); Thomas D Barton, Gerlinde Berger-Walliser and Helena Haapio, ‘Contracting for Innovation and Innovating Contracts: An Overview and Introduction to the Special Issue’ (2016) 2 *Journal of Strategic Contracting and Negotiation* 3; Haapio and Barton (n 56); Passera (n 57); Helena Haapio, Robert De Rooy and Thomas D Barton, ‘New Contract Genres’ in Erich Schweighofer and others (eds), *Data Protection / LegalTech. Proceedings of the 21th International Legal Informatics Symposium IRIS 2018* (Editions Weblaw 2018).

⁶¹ See, generally, Rossi and others (n 8).

contexts where such information should be more accessible and actionable.⁶² Design patterns and pattern libraries offer a systematic way to identify, collect, and share good practices. In essence, design patterns are reusable solutions to a commonly occurring problem—something that practitioners can develop, collect, and share. The original idea stems from Christopher Alexander and others,⁶³ who collected reusable architectural and design solutions. The idea was later applied to the digital world and gained widespread acceptance with Erich Gamma and others.⁶⁴ Since then, design patterns have been extensively used in many other fields, including computer science and interface and user experience (UX) design. Over the last few years, they have even made their way to contract design,⁶⁵ privacy design,⁶⁶ and legal design.⁶⁷

When the goal is to impact, guide and support decisions and actions, a genre shift from legal documents to user guides can help. User guides are organised around practical tasks, to support action. *User guide format* is one of the design patterns included in the IACCM Contract Design Pattern Library.⁶⁸ Good user guides often apply other design patterns included in the Pattern Library as well, for example clear layout, skimmable headings, numbered steps, companion icons, icon systems and other visualisations.⁶⁹ With the help of technology, static user guides can be turned to apps, playbooks, and interactive self-help solutions.⁷⁰

⁶² Margaret Hagan, the Director of the Legal Design Lab at Stanford Law School, has collected different models to present complex legal information, see section ‘Examples of Legal Communication Designs’ in Stanford Legal Design Lab, ‘Legal Communication Design’ <www.legaltechdesign.com/communication-design> accessed 25 March 2020, and generally, Hagan (n 59). For the role of visualization as an aspect of legal design in the availability and use of legislation and as an aid for the law to guide human behaviour, see Michael Doherty, ‘Comprehensibility as a Rule of Law Requirement: The Role of Legal Design in Delivering Access to Law’ (2020) 8(1) *Journal of Open Access to Law* <<https://ojs.law.cornell.edu/index.php/joal/article/view/100/98>> accessed 28 April 2020.

⁶³ Christopher Alexander and others, *A Pattern Language: Towns, Buildings, Construction* (Oxford University Press 1977).

⁶⁴ Erich Gamma and others, *Design Patterns: Elements of Reusable Object-Oriented Software* (Pearson Education India 1995).

⁶⁵ Helena Haapio and Margaret Hagan, ‘Design Patterns for Contracts’ in Erich Schweighofer and others (eds), *Networks. Proceedings of the 19th International Legal Informatics Symposium IRIS 2016* (Österreichische Computer Gesellschaft OCG / books@ocg.at 2016); Rob Waller and others, ‘Cooperation Through Clarity: Designing Simplified Contracts’ (2016) 2 *Journal of Strategic Contracting and Negotiation* 48, 64–65; Helena Haapio and Stefania Passera, ‘Contracts as Interfaces: Exploring Visual Representation Patterns in Contract Design’ in Daniel M Katz, Michael Bommarito and Ron Dolin (eds), *Legal Informatics* (Cambridge University Press, forthcoming). See also International Association for Contract & Commercial Management (IACCM), Stefania Passera and Helena Haapio, ‘IACCM Contract Design Pattern Library’ <<https://contract-design.iaccm.com>> accessed 25 March 2020; and Stanford Legal Design Lab, ‘Contract Design Pattern Library’ <www.legaltechdesign.com/communication-design/legal-design-pattern-libraries/contracts/> accessed 25 March 2020.

⁶⁶ Helena Haapio and others, ‘Legal Design Patterns for Privacy’ in Erich Schweighofer and others (eds), *Data Protection/LegalTech. Proceedings of the 21th International Legal Informatics Symposium IRIS 2018* (Editions Weblaw 2018); Arianna Rossi and Gabriele Lenzini, ‘Transparency by Design in Data-Informed Research: A Collection of Information Design Patterns’ (2020) 37:105402 *Computer Law & Security Review* <<https://doi.org/10.1016/j.clsr.2020.105402>> accessed 6 April 2020. See also Stanford Legal Design Lab, ‘Privacy Design Pattern Library’ <www.legaltechdesign.com/communication-design/legal-design-pattern-libraries/privacy-design-pattern-library/> accessed 25 March 2020.

⁶⁷ For an overview of legal design patterns, see eg Rossi and others (n 8). See also Stanford Legal Design Lab, ‘Legal Design Pattern Libraries’ <www.legaltechdesign.com/communication-design/legal-design-pattern-libraries/> accessed 25 March 2020.

⁶⁸ See IACCM, Stefania Passera and Helena Haapio, ‘User Guide Format’ (*IACCM Contract Design Pattern Library*) <<https://contract-design.iaccm.com/user-guide-format/>> accessed 6 April 2020.

⁶⁹ See IACCM, Stefania Passera and Helena Haapio, ‘Pattern Families’ (*IACCM Contract Design Pattern Library*) <<https://contract-design.iaccm.com/families-overview/>> accessed 24 March 2020. The IACCM Contract Design Pattern Library (n 65), even though focusing on contracts, is useful for other purposes as well, especially as it shows real-life examples of different design patterns. Examples and success stories help to show the art of the possible. The Library currently contains examples of ten different ‘families’ of design patterns, including *Emphasis*: Giving visual prominence to crucial information so readers don’t miss it; *Explainers*: Ways to clarify the meaning of a clause or a contract; and *Layering*: Ways to give more relevance to key points and less to extra details. (Some of the patterns are for IACCM members only.)

⁷⁰ See, eg, Haapio, ‘Legal Design in Action’ (n 59).

4.3 Examples of Using Design to Promote Self-Care and Legal Literacy

Legal Design builds on the vision of a legal system that is more straightforward, more engaging, and more user-friendly. This includes how information is presented, how processes are set up, and how policies have been established. The goal is to improve how lawyers communicate, deliver services, and make rules and policies—all with the aim of enhancing the experience, comprehension, and empowerment of the users.⁷¹

The ultimate goal of information design is clear communication and enabling users to interact with the information. Technology can maximize efficiency and increase the number of users served. The selection of tools and methods needs to be based on what is suited to express the particular information to the particular user group in a particular context. If we take the goal of better legal literacy and self-care seriously, the focus changes from *drafting* clear and concise documents to *designing communication* with and for multiple user groups. This also involves responding to and balancing different needs and requirements. The following examples illustrate how this can be and has been done, using insights from design.

4.3.1 Designing for Self-Help in Action: Supporting Housing Justice and Empowering People

JustFix.nyc⁷² is a non-profit that builds free tools in support of New York City's housing movement. Tenants can use their free web-app to notify their landlord of repair issues or to navigate the process for starting a case in Housing Court. Eviction Free NYC⁷³ is an online resource they built for tenants in New York City facing eviction. In their chapter in this volume, Ashley Treni and Georges Clement describe the model and process through which they engaged tenants and community advocates in co-design to build user-friendly tools that help tenants gather housing evidence, send notices to landlords, and navigate a complex legal process.⁷⁴ They also illustrate how they conducted usability tests with tenants at housing court, to understand from *their perspective* and in *their immediate context* what information would be most valuable to them throughout the eviction process.⁷⁵

A further example of using design to demystify complex legal issues so that more individuals can better participate in shaping their communities is offered by the Center for Urban Pedagogy (CUP) and their Making Policy Public poster series. CUP's posters use visual explanations to break down complex issues, in order to make policy accessible and interesting to non-experts; they aim to make information on policy truly *public*: accessible, meaningful, and shared.⁷⁶ 'Vendor Power!'⁷⁷, a work carried out by a collaboration of CUP, the designer Candy Chang, and the advocacy organization the Street Vendor Project, is a visual Street Vendor Guide that presents key information using short sentences in five languages, along with diagrams illustrating vendors' rights and the rules that are most commonly violated.⁷⁸

⁷¹ 'Legal Design Alliance' (n 3).

⁷² 'JustFix.nyc' <www.justfix.nyc> accessed 14 April 2020.

⁷³ 'Eviction Free NYC!' <www.evictionfreenyc.org> accessed 14 April 2020. See also Dan Kass, 'Eviction Free NYC: A New Resource for Tenants in the City!' (*Medium*, 25 April 2018) <<https://medium.com/justfixnyc/eviction-free-nyc-a-new-resource-for-tenants-in-the-city-84176ee4bd0d>> accessed 14 April 2020.

⁷⁴ See Ashley Treni and Georges Clement, 'Co-designing Digital Tools for 21st Century Tenant Organizing' in Marcelo Corrales Compagnucci and others (eds), *Legal Design: Integrating Business, Design and Legal Thinking with Technology* (Edward Elgar, forthcoming).

⁷⁵ *ibid.*

⁷⁶ Center for Urban Pedagogy (CUP), 'Making Policy Public' <<http://welcometocup.org/Projects/MakingPolicyPublic>> accessed 14 April 2020.

⁷⁷ Center for Urban Pedagogy (CUP), 'Vendor Power' <<http://welcometocup.org/Projects/MakingPolicyPublic/VendorPower>> accessed 14 April 2020.

⁷⁸ Candy Chang, 'Street Vendor Guide' <<http://candychang.com/work/street-vendor-guide/>> accessed 14 April 2020. See also Haapio and Passera, 'Visual Law' (n 8).

Research around comic contracts⁷⁹ tells a compelling story about the difference a new design can make in the context of employment agreements: it shows the power of comics to reduce, even eliminate, disputes and bring other benefits, including reducing employee on-boarding time. The new format has also introduced new value to employment relations: in addition to empowering employees and vulnerable people, it has empowered and enhanced the relationship between the employer and the employees.⁸⁰

4.3.2 Redesigning Advice Letters and Conventional Legal Writing

The traditional legal letter of advice offers a good target for viewing things with a designerly mindset: it is not necessarily easy for clients to use or understand. It may use language that does not engage or resonate with people without legal training. Even if plain language is used, the advice may not be actionable.

Corrs Chambers Westgarth (Corrs), an Australian law firm, in consultation with their clients, developed an innovative visual and modular advice template, which enables the production of advice that does not need repackaging or legal ‘translation’.⁸¹ Their Incisive Advice Template⁸² is designed to align the advice to the client’s business needs and give a short and straight answer – advice that a client can easily act upon. It has a front page summary that gives the answer and recommendation upfront and a ‘traffic light’ risk analysis table that identifies and rates legal risks on a scale from low to high. The design makes it easy to read: a significant shift away from the traditional long letter of advice which does not necessarily offer a definitive opinion. For those seeking short advice, the front page summary captures the question, answer, risk analysis and next steps. The clearly defined sections highlight the key issues. The main headings expressed as questions engage the reader; section summaries in bold at the start of each section give a brief answer to the question; and the numbered paragraphs make the advice navigable.

Creative Commons licenses⁸³ are another pioneering example of relying on layered information: first, simple and recognizable icons can be clicked on to reveal a plain-language version of the relevant text. If additional information is required, the full text is also available just one click away. The three layers – the so-called Legal Code layer (the ‘lawyer readable’ version, the full license), the Commons Deed (the ‘human readable’ version; a user-friendly interface to the Legal Code beneath), and the ‘machine readable’ version (a summary in a format that software systems, search engines, and other kinds of technology can understand), taken together, ‘ensure that the spectrum of rights isn’t just a legal concept. It’s something that the creators of works can understand, their users can understand, and even the Web itself can understand.’⁸⁴

These examples and those presented in other chapters of this work illustrate that to serve clients well, contracts and legal information must be *designed*, and not just *drafted*. Legal Design can help gain back creativity inherent to this discipline and help understand that law is not just a profession

⁷⁹ See Robert de Rooy and Camilla Baasch Andersen, ‘Employment Agreements in Comic Book Form - What a Difference Cartoons Make’ in Marcelo Corrales Compagnucci, Helena Haapio and Mark Fenwick (eds), *Research Handbook on Contract Design* (Edward Elgar, forthcoming) and Su-Hsien Lee and Camilla Baasch Andersen, ‘Facilitative Contracts with Visuals and Comics: Access to Justice and Steps for the Future’ in Marcelo Corrales Compagnucci, Helena Haapio and Mark Fenwick (eds), *Research Handbook on Contract Design* (Edward Elgar, forthcoming). The founder of Creative Contracts, Robert de Rooy, shares his story on how he developed and created the world’s first Comic Contract at Our Story <<https://creative-contracts.com/our-story>>.

⁸⁰ De Rooy and Baasch Andersen (n 79).

⁸¹ Adeline Cheok and Andrew Lumsden, ‘The New World of Legal Design’ (2019) 98(9) Michigan Bar Journal 42, 42.

⁸² The template can be found at Corrs’ website <<https://corrs.com.au/site-uploads/images/PDFs/Documents/Advice-template.pdf>>. Corrs’ template won a Design Award in the Business Service category at the Australian International Design Awards 2012. See ‘Corrs Incisive Advice Honoured at Australian International Design Awards’ (*Corrs*, 24 July 2012) <<http://corrs.com.au/news/corrs-incisive-advice-honoured-at-australian-international-design-awards>> accessed 14 April 2020.

⁸³ See Creative Commons, ‘About The Licenses’ <<http://creativecommons.org/licenses>> accessed 14 April 2020.

⁸⁴ *ibid.*

but a creative medium for expression and a means for common good.⁸⁵ If we prioritize the needs of clients, the time has come to welcome new communication genres that promote self-care and legal literacy.

5 Conclusion - What Will the Future Hold?

This chapter shows how proactive legal care can help improve access to justice by dealing with challenges of complex legal information. Merging proactive – both promotive and preventive – legal care with design, solutions can be built that improve people’s and businesses’ legal health and wellbeing. Enhancing clients’ self-care by promoting their legal literacy is a central strategy for this purpose. Changing how documents are framed and presented is another.

A number of design patterns already help engage and empower users of legal information. We anticipate more to come – not only patterns, but also reusable components which can be used in different patterns and contexts. Prototype kits and pattern libraries can contain code that will execute the desired instructions and produce the desired output, simplifying complex texts and enabling users to understand and act upon it. Often this means presenting information so that it can be read first at a summary level that gives an overall understanding, with additional information available if needed – a structure widely used in writing for the World Wide Web, where readers can click on a link to find more details. Information design merged with technology offers legal information providers new and better methods to serve their audiences.

We expect future changes in the roles of lawyers, toward working in a design mode and using design patterns and technology to define and frame problems and find and present solutions, both legal and non-legal. It will no longer be enough to know how to write well; one should also engage others in the process, by eliciting information and communicating effectively with stakeholders. We also expect regulatory intervention⁸⁶ and new avenues for research and practice. Automation and AI will change the space and call for a new approach, where lawyers work as part of cross-professional design teams.

We propose a new mindset for lawyers, with a focus on the users and on using the law for the advancement of the common good. With this mindset, it becomes natural to look for skills and tools to present legal information in more engaging and actionable ways. Design patterns offer a way to identify and share such tools, for the benefit of lawyers and clients alike. Our hope is that the chapter helps integrate design and drafting efforts with the values and mentality of proactive legal care, to enhance users’ legal literacy and self-care, thereby bringing about positive results: optimal human functioning, legal empowerment, and enhanced access to justice.

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⁸⁵ See Nóra Al Haider, ‘Legal Design Summit: Diving Beneath The Surface’ (*Legal Design and Innovation/Medium*, 20 April 2020) <<https://medium.com/legal-design-and-innovation/legal-design-summit-diving-beneath-the-surface-da2802578792>> accessed 28 April 2020, citing Dan Jackson, Executive Director of NuLawLab, Northeastern University School of Law.

⁸⁶ See, eg, European Commission, ‘Report on the Safety and Liability Implications of Artificial Intelligence, the Internet of Things and Robotics’ COM(2020) 64 final; European Commission, ‘White Paper on Artificial Intelligence: A European Approach to Excellence and Trust’ COM(2020) 65 final.

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