

AND NOW FOR SOMETHING COMPLETELY DIFFERENT – AN OVERVIEW OF AN UNUSUAL SPECIAL EDITION OF THE UWA LAW REVIEW AND AN UNUSUAL CONFERENCE

CAMILLA ANDERSEN*

Just over a year ago, as part of the celebrations for the UWA Law School's 90th Anniversary, a unique event was held here at UWA, signalling a change in the legal profession towards a willingness to innovate contracts.

On the 7th and 8th Dec 2017 we hosted the Comic & Creative Contracts conference,¹ showcasing many of the newest developments in contract design and innovation. We heard from the people at the forefront of innovation in rethinking what contracts look like, feel like and how we interact with them. At that time, we had a handful of projects to showcase, including the completed employment contracts which the UWA Law School team had worked on for Aurecon,². We also heard from Robert de Roys thriving comic contract practice in South Africa,³ and we learned about contract design innovation in Scandinavia, as well as mind mapping and innovations in valued based (conscious) contracting, changing the foundations of modern contracting.

Since then, the movement for changes in contracting has prompted even more traction in this growing field, and new projects and ideas have emerged. We have collected enough material to share a special edition of the UWA Journal, but as the title of this introduction suggests, get ready for something completely different. This edition of the Law Journal holds illustrations, cartoons, and interview transcripts. Innovators think outside the box, not just in what they do but how they present it. So we embrace illustrations to demonstrate the power of visuals and the potential it holds for law and contracting.

The reasons for the sudden strong shift of gear in the legal profession to embrace innovation hinges on a number of factors. Perhaps, most importantly, law is ceasing to become insular as we realise the overall benefits of interacting

* Prof Camilla Baasch Andersen, UWA Law School, Orcid id <https://orcid.org/0000-0002-8231-7057>, see website at <https://research-repository.uwa.edu.au/en/persons/camilla-andersen>

¹ See, <https://www.comicbookcontracts.com/the-2017-conference> for a full account of the conference proceedings, and more information on the project.

² Subscribers to the Financial Review can click here for an article about the contract, by David Marin-Guzman, naming the illustrated approach the “Future of Works”.

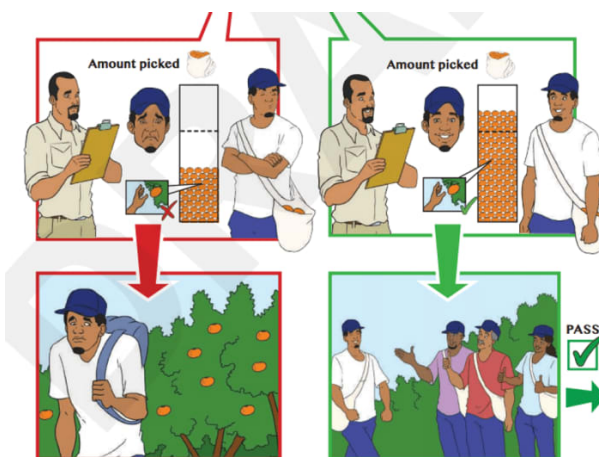
³ Robert's work can be found at <https://creative-contracts.com/>.

constructively with other professions and mixing skillsets for better results. Comic Contracting is one product of such innovation, demonstrating how illustrated contracts can lead to better understanding as well as better results. On the whole, research confirms that well designed contracts that are drafted to be read and understood lead to better engagement and less disputes. Empirical studies, currently underway, are also demonstrating that visual contracts lead to better professional relationships and more insight into expectations. Visual contracts can help change contracts from being (primarily) punitive instruments to becoming useful tools for managing relationships. In the case of Robert de Rooy's work, they ensure that even the illiterate can engage with the meaning and understand their obligations. For the more commercial contracts we have been working on at UWA, the contracts ensure a friendlier spirit, and a higher likelihood of people wanting to engage with them. Illiterate or not, a plethora of research confirms that many of us choose NOT to read our contracts. But, as the interview with Robert Sikoryak reveals, illustrations can make people absorb even the most tedious of contract terms.

Detailed below is a blow-by-blow account of each day of the conference.⁴

I DAY ONE

The picture on the right forms part of an employment contract designed by Robert De Rooy highlighting how visualisation helps employees better understand their obligations. The photo shows how much fruit is expected from a fruit picker as part of their employment. Robert De Rooy's employment contract also visualises employees other duties and entitlements. One issue Robert mentioned was that employees were unaware that they had particular duties or that they were unaware they had to inform their employer when they were taking leave. This was due to both cultural and



Taken from:
https://res.cloudinary.com/hrscyvw4p/image/upload/c_limit,fl_lossy,h_1440,w_720,f_auto,q_auto/v1/1252507/Robert_De_Rooy_kqigzv.png

⁴ taken from www.comicbookcontracts.com.

language barriers which prevented the employees from fully grasping their obligations. Visualised contracts seek to cut through these barriers and show what every individual understands: actions and emotion.

John McGuire, Chief Innovation Officer at Aurecon introduced the new visual contracts being used for new employees at Aurecon. In addition to showing the amazing, user friendly interface and intuitive visual



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contract, John McGuire described the complexities involved in designing a visual contract. He described the vast amount of thought and consideration that went into the selection of every image. For example, the photo on the left shows the welcome screen for a new Aurecon employee. The thought that went into the image of a lightbulb was simply enormous. McGuire stated how that the image of the lightbulb was deliberately chosen to highlight the great value that Aurecon placed into their employees. They are viewed as bright individuals with plenty of ideas and their own identity. Other interesting topics that arose during McGuire's talk included the limitations involved with creating the Aurecon visual contract. Aurecon had an amazing idea to let individuals choose their own avatar and how they want to represent themselves. However, this was thwarted by the immense amount of combinations (in the 10,000's!) and programming time this would require.

This segment was followed by another panel discussion headlined by Helena Haapio and Thomas Barton.

In this discussion Thomas Barton mentioned how services such as Fizzy, a flight insurance product,⁵ is aimed to simplify the difficulties involved with flight insurance claims. It offers an absolute promise and is designed to be transparent with no legal complexities. Contract innovators can learn from this and design contracts in much the same form – a product or service that appeals to its users by how it relieves the difficulties normally associated with contract law.

⁵ see, https://www.youtube.com/watch?v=xJZulZ_-CMI.

Helena Haapio followed by introducing how she is doing just that with her team at [Lexpert](#).⁶ Haapio discussed the impact of how simple contract design can greatly impact upon its readability by users. In designing contracts it is important to consider visual aspects such as font size, spacing and placement as well as the use of certain graphical elements such as tables. No one wants to read a giant slab of text line after line *but* they are more likely to read text of varying font types, sizes which are organised in a visually appealing manner. While not discussing the use of images in contracts, Helena's talk highlighted how text itself can be presented in a more visually appealing manner that draws users.

One company that aims to reduce obscurity and in contract and legal documents is Adobe. Adobe's legal department have made their style guide public to increase transparency and communication in their legal documents. Their legal style guide⁷ shows the template that the Adobe legal team themselves use when drafting documents. It is a very valuable tool that shows how the legal team format their documents and the reasoning behind it.

After lunch, J. Kim Wright talked on the importance of 'paradigm shifts.' J. Kim Wright discussed how it is the responsibility of current and future legal professionals to advocate for changes in the legal profession. Wright's talk highlighted how the traditional, old-fashioned approach and values in law have meant that lawyers and legal professionals are used to practicing and approaching the law through one perspective. This means that they are not able to employ creative problem solving strategies that would ease the burdens associated with the law for lay people who have little knowledge of it. As such, a shift in perspective is needed.

What do you see on the right here? A frog? Try turn your head and maybe you can see more than one answer!

Next, in true innovative form, Robert Sikoryak joined the conference live via video link to talk about his book, *"iTunes Terms and Conditions: The Graphic Novel"*.⁸ The book is a comic book styled representation of Apple iTunes'



⁶ Lexpert is the authoritative source for the latest news and information on the business of law. See, <https://www.lexpert.ca/about-us>.

⁷ See, <https://files.acrobat.com/a/preview/049e2224-211f-4efa-b236-2a91ee9c1463>.

⁸ Robert Sikoryak, *iTunes Terms and Conditions: The Graphic Novel* (Drawn and Quarterly 2017).

infamously wordy terms and conditions. Robert has reproduced, word for word, every line of text in the terms and conditions and provided a comic-styled visual representation of Steve Jobs to accompany it! While appearing via live feed Robert talked about the inspiration behind producing the book. He mentions how it was not only to provide a challenge to himself but to also poke fun at the absurdly long wall of text that nearly every person is expected to read through when logging onto iTunes. Robert also discussed his future projects and how, if the inspiration hits him again, he may just tackle another big block of text!

The conference followed with a discussion by Professor Camilla Andersen and Doctor Colette Brunschwig (appearing via pre-recorded video). Doctor Brunschwig spoke about the Legal Visualisation Unit, part of the Legal Research Department in the University of Zurich. The Legal Visualisation Unit retains legal images and researches visualisation, audio-visualisation and 'multi-sensorization' in law. Doctor Brunschwig discussed how she was inspired to create the unit after discovering ancient Anglo-Saxon legal documents that had both text and images.

Following on, Doctor Brunschwig talked about how she sees the 'legal tech' movement, with innovation such as comic book contracts, being propelled into the future. Further, in an interesting discussion, Doctor Brunschwig along with Professor Andersen discussed why innovation has not happened sooner. Both discuss how educational legal institutions such as Law schools teach students that a 'verbo-centric' approach to studying and practicing law is the one and only way. Of course, with such a mindset instilled in students who are still learning the foundations of law, this becomes the only mode of thinking for them. Both Professor Andersen and Doctor Brunschwig talk about how it is now the responsibility of law schools to teach innovation in law. Already, law schools here in Australia such as the University of Western Australia and Monash University have implemented innovation in law into their curriculum. For example, UWA has introduced a Legal APPTitude unit, teaching legal application design in UWA, and contract law lectures now include discussion on innovation in contract design.

II DAY TWO

Day Two kicked off with a panel discussion featuring lawyer Robert De Rooy, Professors Adrian Keating and Camilla Andersen and illustrator Loui Silvestro! We heard from Professor Adrian Keating, a specialist in Mechanical

Engineering, about how he had requested the drafting of a Non-Disclosure Agreement. Throughout the drafting process Professor Keating simply wondered why it had to be so complex and wordy – couldn't it simply convey the simple message: 'don't talk about this project until it's done?'

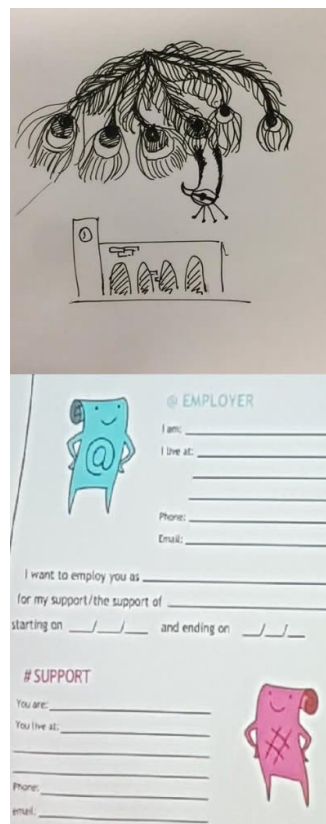
This prompted the panel to discuss why so much of contracts are designed to cover events that will most like never eventuate. While on one hand lawyers tend to be safe and take a cautious approach, clients themselves are cautious and worried to take on risk. As Robert De Rooy aptly mentioned, another hurdle of contract innovation is convincing the clients themselves that not every risk needs to be included in the contract.

Another interesting discussion arose when the panel considered the commercial realities surrounding visual contracts. The panel discussed the possibility of creating and curating a bank of images that clients and lawyers can both access and use. While such a venture would accelerate the reality of visual contracting by promoting consistency it would also introduce other difficulties.

Which image best depicts a happy, sad or angry person consistently across cultures? What image best depicts an agreement or a penalty consistently across cultures? This question and many more were considered in the workshops that followed.

Three workshops were held back to back dealing with three issues:

- First, the trouble with avatars: chaired by Professors Artur Lugmayer, Camilla Andersen and Illustrator Loui Silvestro;
- Second, specific considerations that may arise in visual contracting when regarding contracts for vulnerable groups: chaired by Lawyer Robert De Rooy, Co-CEO of WA's Individualised Services (WAIS) Su-Hsien Lee and Professor Camilla Andersen; and
- And third, multicultural Discussions regarding visual contracting: an entire group discussion.



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The workshops touched on issues that were raised and discussed previously: cultural and psychological issues regarding how some images were perceived. Additionally, the workshop chaired by WAIS Co-Ceo Su-Hsien Lee raised interesting discussion on the specialised nature of contracting between special-needs individuals and the employees that are hired to assist them. Considerations arose in the image and colours used to represent each party, as well as the descriptive nature of the text used to list the employment details of either party.

On the left are some of the images shown during the workshop. The first image shows two groups representations of what best encapsulates the University of Western Australia. While the first group connected best with the University's famous roaming Peacocks, the second group identified moreso with the iconic Winthrop Hall. See the issues with creating avatars?

The second image is one that is used by special-needs individuals to hire employees for assistance. Note how the contract is tailored to empower both the employer and employee; allowing the employer and employee to state what exactly is being asked from each other.

After lunch, lawyer and coach J. Kim Wright took to the stand once more to guide conference goers through the concept of conscious contracting. As explained by Wright, the idea behind conscious contracting is to align the legal documents prepared by businesses with the values they hold. In having long-winded contracts, covering every (sometimes impossible!) situation, trust and clarity goes missing.

J. Kim Wright organised the conference goers into small groups and gave them sheets of homework to complete where they listed their skills and values. Afterwards each group came together and played a board game, specially designed for this workshop where they discussed each other's values and created a small 'gift' for the other groups. What resulted was amazing. Each group had in-depth discussions about their values and goals and realised that although most of them had never met, had come from different industries and life paths, they all had a lot of similar values. Wright explained it is these common values that bring organisations together and those same values which must be seen throughout a contract.

The next workshop was held by trainer, coach and Mind Mapping extraordinaire Jennifer Goddard. Jennifer Goddard explained the concept of Mind Mapping: a powerful tool that helps visualise and organise our thoughts. Flowing from one central idea, a Mind Map allows an individual to hone in on specific ideas. Jennifer Goddard explained that Mind Mapping works so well

because it is a visual representation of how our brains actually process and store information. Conference goers were taught how to mind map; using only a simple idea central to expand into more than a hundred ideas!

As Goddard explained, Mind Maps are nothing new, they are used by individuals from all stages in life; from students wanting to complete assignments early to legal professionals preparing documents. Mind Mapping is useful for really tapping into a concept, regardless of what it is for.⁹

The final workshop was held by University of Western Australia Director of Student Experience, Andrew O'Brien, who delivered a talk explaining how visual images can create real results. Andrew talked about the use of images specifically in workplace departments and how these images can either promote or inhibit workplace growth. Essentially, positive visual representations promote positive workplace relations and negative representations inhibit positive relations.

The final day of the conference concluded with a talk by the former Chief Justice of the Australian High Court and the current Chancellor of the University of Western Australia; the Honourable Robert French AC. His Honour delivered an insightful talk on the complexities of contracting, but touched on an issue that was on everyone's mind: how will visual contracts will be approached by the courts in Australia?

To everyone's delight, the Honourable Robert French stated that, just like every other contract, if the Courts can interpret and give meaning to visual contracts, then they should be able to be approached like any other contract. You can just imagine what a wonderful end to the day and conference that was for everyone!

III THIS SPECIAL EDITION

This special edition hosts several papers given at the conference, some transcribed from the original and some updated with images. Michaela O'Dougherty also offers an account of the conference, in comic book style, to be found on p. 183 In addition to this, we have added content about recent projects and developments in visual law and legal design, and a visual insight into the work of our new "Applied Comics for Law" group, by Stuart Medley and Bruce Mutard. Kim Wright has offered a lovely insight into her Integrative Law movement, and Collette Brunschwig has written a piece which offers insight into

⁹ for further information on mind mapping and free resources, see <https://mindwerx.com/buzan-mind-mapping/>

her perspectives on the “multisensorization” of law, including audio-visualisation, and its relationship w comic contracts.

We hope you find this a breath of fresh air and food for thought regarding an innovative emerging practice in law, which is attracting increasing attention and awards.¹⁰

¹⁰ At the time of writing, the project has just been graced with a Golden Quill award for its work on the Aurecon Visual Contract, see <https://gq.iabc.com/2019-gold-quill-award-winners-1>