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Sustainability Unwrapped, a conversational podcast about responsibility, ethics, inequalities, climate change, and other challenges of our times. Where science meets practise to think about our world and how to make our society more sustainable, one podcast at a time.

Hi, everybody. And thank you for Hanken podcast. My name is Katri Nousiainen, I'm a doctorate at Hanken School of Economics at Department of Commercial Law and a visiting researcher at UC Berkeley Law School at the Centre of Law and Technology. I'm currently conducting empirical research on legal design and ethics in commercial contracts.

Today, I have the pleasure to have two great ladies joining me to talk about legal design. First, I have Viveca Fallenius, who is the founder of Gentle Group, a company focusing on legal design, law, impact, and yoga, driven by a desire to infuse more empathy and innovation in the legal sector and beyond.

Viveca is an international lawyer from Sweden with a law degree from Aix-Marseille, a Master too from Strasbourg, and an LL.M from Stanford Law School. She has worked 10 years in Brussels at the European Commission, at the law firm, and as a lobbyist. And three years as a tech lawyer and legal futurist in Sweden. She is passionate about leadership, sustainability, personal growth, yoga, and how design your life for well-being and purpose.

I also have Marie Potel-Savile is the founder and CEO of Amurabi. She was previously the vice precedent legal, EMEA at Estee Lauder Companies in Europe after three years, and as a legal manager in Europe at Chanel. As a private practise lawyer, she has worked about 12 years at Freshfields, Allen & Overy, at Creel and Garcia-Cuella, Aiza and Enriquez in London, Brussels, Paris, and Mexico City.

So we have a really international setting in here, professional and international. Thank you, already beforehand, for sharing your views with us on legal design.

In my work in process in the academic framework, I have defined legal design in action as follows. I have defined it as a tool and ongoing process that brings to an assess to efficiency and ethics of products, services, and processes. And at the assess, the total value of impact of design by using economic analysis of law based approach, design thinking approach, and empirical findings.

It also brings numerical and demonstratable data of the impact of design. And thereby improves evaluation, transparency, equality, efficiency, and the support of processes, decision, and policy making. An interdisciplinary approach with other fields of science, whether it be service design, law and technology, behaviour economics, psychology, neuroscience, and economics, just to name a few are used to support this human and user-centric visual, ethic, and empowering approach to law.

Legal design can be applied to services, products, and processes. It sounds like a really sharp definition in the academic framework, and undoubtedly, in the definition, there were quite a many advances of legal design that were mentioned. What about, Viveca, what advances do you see in using design thinking methods?

Yeah, hi. First of all, thank you so much for inviting me. I'm really honoured to be part of the podcast. And to return to the question, I think when I discovered design thinking at Stanford back in 2014, it really resonated with me. And I think there are mainly three advantages that I really want to emphasise.

So the first important advantage for me is the consistent focus on the user. So throughout the whole process, the focus is on the user. And, I think, maybe it sounds obvious. But in a lot of other contexts, we easily forget the user. So if you think of it, if we develop or improve a product or service, are we really keeping the user's feelings and needs in mind all the time? I don't think so.

So here, though, this idea of human-centric design makes sure that whatever solution we finally come up with is actually what we call desirable and meets a real need. So that means that all the time, all the money, all the effort we put in is going to be well-invested.

A second amazing advantage is the mindset. I really love this, because it's all about how we listen. How we empathise, collaborate, and embrace each other's ideas. It's about practicing out of the box thinking and being able to shift perspective. So this mindset is really useful in the design thinking process. But the skills you develop are actually also usable in pretty much any situation, like in your private life or at work.

So sometimes people call these skills soft skills. But knowing what the world looks like today, I think they're really power skills. And it's what the world desperately needs more of. So I think practicing this mindset will also make you a better leader. And again, better leadership is something that the world really needs right now. So for me, contributing to this shift in mindset is one of the reasons why I find it so meaningful, and why I love to spread this line of thinking to individuals and companies.

And then the third advantage that I would raise is the flexibility of the method. So you can apply design thinking by the book, like with a really big team, diverse and everything. And do it step by step and reach amazing results. But you can also just start out small exploits and use the process and mindset on your own. And that can also have really huge effects and take you unexpected places. So I think that's one of the strengths that we can all start to apply it immediately.

I couldn't be agreeing more what you're saying. What about you, Marie? What advantage do you see in using design thinking methods?

Hi, Catherine. And thanks a lot for the invitation. I'm very happy to be able to share views with you and Viveca. It's an amazing floor. So thanks for that. I'm like you, Katri, I couldn't agree more with everything that Viveca said. If I can maybe add maybe a slightly different perspective.

I didn't train at the D school, I trained at a design school, which is called ENSCI, in Paris. And it's a very complementary approach, because obviously it focuses more on design itself than design thinking. And they taught us something quite interesting in terms of the etymology of the word design. It comes from [SPEAKING LATIN], which means both drawing and purpose.

And in practise, it means that, before creating any object, say, for example, you ask a designer to design a chair. Well, a designer would first question the very purpose of this chair. Is it a chair to work? Is it to eat? Is it just to step by? Is it to dream? You might have in mind the famous lounge chair by Charlotte Perriand, wrongly attributed to Le Corbusier, by the way.

But anyway, that that's a complementary definition that we can add to what you previously said. And it's only after having defined the purpose for the user that a designer would be able to find the form of the object that would enable the function of the object. So it's obviously a reference to Sullivan's famous quote "form follows function."

So in itself, design has this amazing potential, this amazing depth and richness from graphic design, where if you only focus on typography, if it is well-chosen, you can already send a very clear message. But it also covers, obviously, UX design, but also service and strategy design. So the point about design, whether you call it design thinking, because you tend to apply it more to services and strategy, or simply design as an approach to create objects and services.

Obviously, it leverages the same user centrality that Viveca mentioned very clearly. And I think that the real point about this user centrality is that the law lacks usability. That's obvious to everyone. You can ask in-house lawyers, you can ask citizens, you can ask even private practise lawyers. Legal

documents and legal processes simply are not meant to be really used other than by other lawyers or judges.

And what's really interesting, and very powerful, about design is that it's obsessed with usability. So the main advantage, I would say, of designing the law is to ensure that all these legal documents, the contracts, the compliance programmes, and all the legal processes are not going to stay in a cupboard. But on the contrary, will empower the users to first, easily access, second, understand, and three, know what to do with these legal documents or processes.

So essentially, it empowers the law to become a tool for action. And in my view, usability of the law is absolutely critical for the world. If you consider that, ultimately, the purpose of the law is to enable men to live with one another. So obviously, we need to be able to use the law to enable a just life in society.

That is so true. And you are both working on this. You both are working with legal design within your own practicing. So you are actually bringing this legal design in action. So Marie, you are working as a founder of Amurabi in France, whereas Viveca is working as a founder of Gentle Group in Stockholm. But what about, Marie, what impact do you see that legal design has on commercial practise when you do it on your everyday work? What do you think?

Well, I have to confess that I'm slightly obsessed with KPIs. So I've been measuring our impact since day one, since I founded Amurabi in 2018. So I think, to talk about any impact-- and I know that this is your daily work, Katri-- it has to go beyond talking. It's about evidence and measurement--

Oh, yeah. It's what I prove, too.

--and methodology of measurement. So let me just give you a concrete example. In a contractual process redesign for Renault, we enabled the in-house lawyers at Renault to save two and a half hours per person per week. What's really interesting about this project, and it goes back to what Viveca was saying as well, about the big projects, but also the small steps that each and every one of us can do. What's interesting about this project is that the process was quite short. Limited amount of time and with a limited budget.

So I guess what I'm trying to say is that this methodology is so powerful. Truly focusing on the users with empathy is so powerful that you don't have to launch a huge project with a large budget and a very, very large team. In that particular case, the contractual process concerned a sales team, which was relatively junior. And this sales team had to negotiate on their own with more seasoned buyers at

the other end.

And we found out, during the workshops with the users, that they ended up calling the legal division from their car a couple of minutes before the meeting, asking, oh my god, what do I have to say to sound legal? And we found about these pain points in only a two hour-- well, in two various two hours working sessions with lawyers and users. I mean, it's a fairly limited amount of investment, right? It's only two hours sessions.

So from there, the solution was relatively obvious. We had to provide the sales team with a full overview of the process at a glance. So that they could check it easily in their car, because that's what the user journey taught us. It obviously had to be phrased and drafted in business terms which were familiar to them, so they could easily identify to the situation. And very quickly find the relevant situation compared to their own.

Obviously, they had to easily access the document on their mobile phone. And then all they had to do was to click on their particular stage of negotiation. And they could not just access the right agreement template, but also the arguments they could use in their negotiation. The key negotiation arguments, the fact that they wanted to push their own templates and not have to work with the other parties' template. And also, we provided some clear fallback options and no-gos.

I think this is an interesting example in terms of impact. Because, again, the investment is fairly limited. And the efficiencies were obvious. And the way we did it was also by leveraging neuroscience experts, with whom we collaborate quite closely. And neuroscience studies that provide very efficient tool, when you design, to maximise engagement on legal documents, and maximise understanding.

So, for example, if you think compliance programmes, anti-corruption, anti-money laundering, data protection, you name it. It's usually users are quite reluctant to engage with these documents. Well, if thanks to neuroscience, you can actually double the engagement and measure it accurately, then it's absolutely key in terms of risk management, which is essentially a lawyer's job.

Beyond KPIs themselves, I'd like to mention something else that I've seen. And I'm happy to share that and have your views. On our projects, we've seen another type of impact happening. It's a bit less measurable. But it seems to me that it's very valuable as well.

Legal design tends to change the way clients look at lawyers. So basically, as a lawyer, you're no longer the fun-stopping police. You know, the ones that says no all the time and that no one wants to listen to. The legal division can actually be revealed as a driver for innovation. Which is absolutely key

in this in these troubled times, let's say.

And in turn, this change of perception significantly increased lawyers' own satisfaction at work. And therefore they're themselves even more engaged in their work.

That sounds really lovely, because, I think, one of the reasons our lawyers can get a bit stressed, for example, or unhappy is this distance we create with our language that nobody understands. So just by speaking the same language, we connect more easily to people around us.

That sounds really fascinating.

And I think we're seeing a paradigm shift, just like Marie explains, and Katri. And I think, in a way, it's ironic, and it's sad, and it's, to be honest, unacceptable that, today, when we enter a contract, whether it's downloading an app, or getting an insurance, or renting a bike, we're actually doing it without fully understand the terms. So even without reading the terms.

So imagine that all of a sudden, there's a company that actually wants you to understand the terms and the small prints, and makes an effort to present to you in a comprehensible way. I would just be like, wow, I already love that company. I think customers will trust not only the product and the service, but the company as a whole.

Because, I think, just being transparent sends the message that you have nothing to hide, and that the terms are fair. So this leads to customers becoming more loyal. And I think there are studies showing this. But it's also common sense. So do you want to do business with somebody who's not telling you everything, who's not showing all their cards? Just the thought of that makes me want to run away.

So again, I think it's a paradigm shift, where some companies have already realised this. And it's making me feel really optimistic. And this will become the new normal. And I think it's a movement where you don't want to be late for the party.

And apart from that, I think when we know our rights and obligations, we're also more likely to behave in accordance with them. So that goes without saying. But I think if we use legal design and commercial contrast, there will be a lot fewer disputes concerning the implementation of the contract. So that means fewer calls to the support team, a lot fewer angry, frustrated customers. I think we're all familiar with that feeling of being a frustrated customer.

And so using legal design, I think you'd just have happier, more loyal customers, and way few

disappointed customers calling support. So I can't wait for this to happen.

But that sounds perfect. Because it seems that what Marie is saying, and what are you, Viveca, saying, that, actually, when we are applying this approach, we can see that there will be diminished transaction cost, diminished administrative cost. And also, we can work on the risk management. Because I think it was really nice case, what Marie was bringing on the table about Renault. Like if you are able to reduce hours even two or two and a half hours per worker per week.

Per week.

That means that there's a lot of savings. So it sounds like an incredible approach to law. And as, Viveca, as you were mentioning, the transparency, it has such a wide reflection for the whole operations of company, whether it be as recording reputation. Or as you were saying, that of course if you can understand the contracts, and if the communication is more transparent, it actually creates trust. And you are probably then more willing to support this kind of a firm also in the bad times, like now what we are confronting now. So it sounds like a win-win situation for everybody.

Definitely.

And I would definitely love to see legal design to become mainstream, the new mainstream. I wish that I will see it in all the fields of society, whether it be law, economics. Whether it be practitioners, or just different communities, or society as a whole. And I think that we definitely need to have more empowering approach to law. How about you, Marie? You have any possible calls made before action for the future?

Yes, sure. But what you just said made me think about Dan Jackson at the Legal Design Summit last year. I don't know if you attended, it was in Helsinki. But you might have seen it on the network. So Dan reminded us that a couple of years ago, when legal design started, so as Viveca said, it was 2014 at Stanford. And Viveca, you were so lucky to be there when it happened. You'll have to tell all about it.

But anyway, so Dan was reminding us that at the time, when legal design emerged, when people used to talk about it, most people would look at them as if they had three heads. I mean, it was completely weird and crazy, and even ridiculous. And only a couple of years later, so that was 2019, the Legal Design Summit, well most major law firm had sent their senior associates to attend the brain factory before the summit for at least what was it four or five days.

So definitely things are changing at a fairly rapid pace. So what seemed completely weird and crazy

is almost becoming the new normal, indeed. And as far as I'm concerned, I'm already seeing a clear trend towards a deep transformation of legal documents and processes. But also mindset, as Viveca pointed out. Mindset is absolutely critical. And I was so happy to see judges embracing legal design, for example.

We've been working since a couple of month with the French National School for judges, the ENM, to apply legal design in judges' continuous education training. So this is a major shift in terms of mindset. It's not just some funny stuff for funny people. This is quite institutional. The ENM is fairly innovative, but also they hold the fort. So I see a clear shift, a structural shift, in that respect.

We've also designed written submissions for litigation cases, especially class actions. And as we speak, actually, this afternoon, after this podcast, I'm going to the French Data Protection Authority, that CNIL, to facilitate a workshop with minors, various age groups.

Universities.

The CNIL wants to help designers creating interfaces which are more respectful of minors' rights. It's a very ambitious project, very difficult to implement as well. What does a child understand, for example, and how can you explain him or her his or her rights, and trigger action. When legal capacity

[INAUDIBLE]

Sorry?

It's a really high social impact project. So it has a high--

Yes, exactly.

--social impact. So it's really important.

It's a very high social impact. Yes. Yes, exactly. So it will be delivered by the 15th of December, and everything will be shared on Creative Commons. So it's really for the greater good. But as we speak, we're also redesigning a life insurance contract for a major global bank, which keeps amazing me, honestly. I feel so lucky to have this client, because they're deeply transforming all of their customer-facing contracts throughout Asia.

So they have a whole panel of legal designers. Because obviously, they need more than one agency to do that, it's extremely ambitious. But they simply want to entirely get rid of legal jargon, and apply

plain language and accessible design, to gain a competitive advantage. And they start with Asia, because this is where their headquarters are. But then it's going to be Europe and the rest of the world, obviously.

So in a couple of years, intelligible, accessible, and engaging legal documents will, indeed, be the new normal. Because once you will have seen-- once most citizens, or customers, or even professionals will have seen a plain language complex contract that is made clear and accessible, you won't go back to the previous old, impossible to understand template.

So my call is to lawyers to make the first step. Start saying what if, maybe, instead of but. And my call is also to designers to make the complexity of the law accessible as a new playing field. And ultimately, I truly, deeply believe that the clarity and accessibility of the law is a constitutional principle. That's not a belief, that's a fact.

But it's also a matter of the type of democracy we want to live in. Do we want a democracy which gets dissolved, in a way, into the blind-signing habits? Especially when it comes to online privacy policies, where citizens no longer believe in the law, because they so often tick the box I Agree, but without reading, without even thinking, actually.

Or do we want to foster a system in which we bet on people's intelligence and empower all citizens to understand and act upon their rights? So this is really the time to transform the law.

Wow, I love it. I love it. So inspiring. It's true, it has to do with people's trust in law. And it's a part of the democracy. And it's so weird that we have lost touch of that completely. So I also think it's really time to just reinvent the legal documents. To look at them with new eyes. And I think when we, as lawyers, write terms and conditions, for example, it's only with this legal perspective in mind. Making sure we comply with the law, and we're limiting the liability of the company we work for, or our clients. So that's how we're trained.

And I've also been one of those lawyers. And I wouldn't say I've ever been very concerned. Or when I was working in a law firm, concerned with whether or not the user, the reader, sorry, would understand the text. So quite the opposite. It was never the role of a lawyer. So we're only taking care of the legal stuff. And I think, what if we consider those legal documents part of the user experience instead? Because, in reality, they are.

So many companies want to have a cool, user-friendly app or a fancy website. But they totally forget about the legal document. So that's the call for action. If you are a company that has nothing to hide,

then let us know. Be transparent, let us know what are you doing with our data. How are you operating?

Put your values into action and empower and respect the user. Because the GDPR even tells us that the privacy policy needs to be understandable. It's illegal if not. So I think it's particularly important today, when there's so much information about us collected and stored in the cloud. And as a woman, I track my period, my health on my smartphone. I even have my therapist online. So that's really sensitive stuff.

And I want to know what happens with my data. Are you sharing it with somebody? Are you selling it to somebody? Or is this call recorded? So these are really relevant concerns. And I think here's a call for action, to empathise with and respect the users. And then, another call for action that I have is for us all to just stop and reflect a bit more.

So I think when we're constantly keeping ourselves busy, we don't have time to take a step back, and just see the broader picture. So in this case, what's the point of a contract in the first place? And Marie touched upon this question. And I think it's for two parties to agree on something so they know how to behave. But how can you agree on something when you don't-- you can't even read the text?

So I think this is just an example of how we lost touch with what matters. How we stop respecting each other. And so it's a call for action, to reflect a bit more, care a little bit more. And hopefully that shift in how we think will also affect other parts of your life. And maybe that will lead to a gentle revolution.

And then I want to finish off by saying that my dream is to see design sign thinking used more widely [AUDIO OUT] takes in our society. What if we can design a political system that actually gives our governments and our leaders the incentives to tackle all the global issues we see right now? I think that's something really urgent and super important. And we have the tools. We just need action. The activist is talking.

But I hear in that, I think the really high legalese, boilerplate contract services and products, they should really watch out. Because it sounds that legal design is really coming. It's already in practise, but I mean, hopefully we will soon see it as a mainstream as well. Well, thank you so much for sharing your views on legal design today with us in the Hanken podcast for sustainability.

And I sincerely wish that our shared dream to see legal design to be used more and more in our society will become reality soon. That we will be seeing it as more as Viveca was saying, whether it be

in our politics or more general. I think we are heeding there. And as Marie said, the time is now.

Yeah. I love it. Thank you so much.

Thank you much.

Thank you.

Thank you.

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