Why Interdisciplinarity Is Key To Designing The Future Of Law

By **Jennifer Leonard** (November 17, 2022)

During the early months of the COVID-19 pandemic, the legal media was abuzz about how innovative we lawyers had become.

We were counseling clients online, presiding over hearings on Zoom and teaching law school classes in a virtual format. Look how much we'd progressed.

But I watched the pandemic unfold as someone who has had the opportunity to study innovation efforts in other disciplines in the years before the pandemic hit. And our overnight transition to virtual work and school struck me not as innovation but as a technology-enabled reaction to a cataclysmic event no one saw coming.

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We were lucky to have Zoom licenses and laptops at the ready, but we had yet to take other, more significant steps to drive change in the profession.

True innovation is an intentional and structured process that establishes bounds within which creativity, ideation, experimentation, trial and learning can unfold.

It requires a shift in cultural mindsets, whether that shift is limited to the innovation team or a single unit in an organization or a more global change to the entire institution's approach to delivering services.

The good news is that we have shown that lawyers can change. The question for us now is how we carry that adaptability forward and build upon this jarring experience.

The even better news is that other industries have extensive experience practicing, teaching and incorporating innovation into their core business and service models. And lawyers have compelling reasons to partner with those fields to learn how to innovate well.

The scope and urgency of the problem are too large to rely upon lawyer upskilling alone.

The legal profession faces massive challenges that urgently demand new solutions.

According to various estimates from the Legal Services Corporation, up to 80% of American civil legal needs go unmet each year, a catastrophic failure of the systems that form the heart of the public's confidence in the rule of law.

And the widely cited 2016 Hazelden Betty Ford Foundation study of American lawyers and subsequent efforts by the National Task Force on Lawyer Well-Being and the Institute for Well-Being in Law show that attorneys are at heightened risk of anxiety, depression and other mental health maladies related to entrenched dynamics in our learning and practice models and environments.

And our industry is among the last to make significant progress on promoting diversity — though creative new projects led by organizations like Diversity Lab prove how intentional innovation that promotes better incentive structures and more quantifiable metrics can drive

change at scale.

Even if we could ensure that every American lawyer and law student learns the art and science of innovation frameworks, those lawyers and students still only have so much time to dedicate to the transformation of the legal system.

After all, their primary job is to learn the law and deliver legal counsel to their clients, not to reimagine legal service delivery mechanisms.

We need more resources to meet the challenges of our time with the requisite speed to make real change. A helpful analogy to this challenge might be the application of pro bono hours to respond to the civil justice crisis, a laudable way to leverage existing skills that also falls woefully short of responding to the scale of the problem.

And upskilling lawyers at scale would require coordinating changes to the governing rules issued by state boards of bar examiners, continuing legal education providers, the American Bar Association, law schools and professional development leaders.

The misalignment and disconnectedness of these stakeholders already create perplexing issues around how to support the lifelong development of lawyers in a world defined by increasingly accelerating change.

To say that infusing a whole new and unfamiliar body of knowledge taught by lawyers to lawyers would take significant time and political dexterity is a gross understatement. That much requisite change in a system designed to move deliberately could take decades, putting lawyers even further behind in developing new solutions.

And that generation-sized delay could affect how attractive the field is to ascending professionals looking for progressive and exciting opportunities for responding to complex social challenges.

Lawyers alone cannot solve problems of this magnitude. We desperately need peers from other fields to teach us, partner on new endeavors, and fill new roles in legal spaces that invite them to apply their knowledge and skills more directly to the problems in legal.

Other fields have developed better methods to measure the effectiveness of new solutions.

Michigan Supreme Court Chief Justice Bridget Mary McCormack, strategic adviser to the University of Pennsylvania Carey Law School's Future of the Profession Initiative, has spoken compellingly of lawyers' and judges' seeming disinterest in evidence about the efficacy of the systems they have designed despite the profession's demand that those who appear before courts produce evidence to prove the assertion of their claims.

Justice McCormack's observation aligns with my conversations with lawyers and judges about changing how we teach, practice or preside over courts.

Lawyers, professors and judges frequently base their work on a measure of gut thinking — that they know on some level incapable of being measured or tested that the way they teach, practice or govern their courtroom is the best method available.

Of course, forward-thinking professors, lawyers and judges seek quantitative and qualitative data to test those assumptions and adjust. But the profession overall enjoys a stunning lack

of pressure to validate and test these assumptions and prove the merit of different approaches.

For example, Organizing4Innovation CEO Floor Blindenbach-Driessen asserts in her research that law firms consistently overestimate the success rates of their innovation projects by wild margins.[1]

She notes that in more scientifically rooted industries like chemical engineering, in which she was trained, innovation projects fail much more than they succeed.

Moreover, leaders terminate them much sooner because they are more accustomed to assessing these projects with an innovation mindset, which accepts the high likelihood of failure as part of the process.

On the other hand, lawyers continue to invest more resources into projects with little promise. Why? It could be a combination of:

- A desire to demonstrate success by pointing to a high percentage of continuing projects;

- A need for more facility and experience with measuring innovation efforts; and

- A lack of accountability to clients and the public.

But innovation requires that most new approaches will fail.

We can only know how promising a new solution is by trying it, learning what doesn't work and trying again. And experts who have backgrounds in the hard sciences and other professions can bring that expertise to legal.

Another example of an interdisciplinary approach to innovation in law firms is Reed Smith LLP's recent appointment of Madeline Boyer, an expert whose background is not in law but in anthropology and human-centric design, as director of the firm's new Innovation Lab.

This anthropologist's lens will allow Boyer to infuse Reed Smith's innovation efforts with a new approach to understanding the role of human behavior in change management, an element commonly missing in purely tech-focused innovation efforts.

New perspectives lead to new solutions.

The curse of knowledge is a cognitive bias whereby once we understand the world in a certain way, it becomes difficult to imagine a world that doesn't conform to that understanding.

We also struggle to describe something we know well to someone encountering it for the first time because we find it difficult to remember what it was like not to know.

The law might be particularly susceptible to the curse of knowledge because it is so firmly rooted in rules, procedures and precedential decision making. So not only is it difficult from a psychological standpoint to imagine a system differently once we know it so well — but lawyers have also baked that difficulty into the system.

And the representation of lawyers and judges in popular culture reinforces certain constructs, including the wardrobes lawyers should wear, the use of legal terms of art and jargon rather than using language most people understand, and the portrayal of lawyers as tough adversaries rather than collaborative problem-solvers.

These enduring images make it difficult even for others who haven't undergone the training required to become a lawyer to imagine the profession differently. And it becomes difficult to imagine an alternative.

In his epic documentary "The Beatles: Get Back," director Peter Jackson highlights how the members of the most famous rock group in history didn't know how to read sheet music.

In interviews, the Fab Four describe how this lack of knowledge freed them to create music in new ways. They posit that they wouldn't have been able to make some of the most amazing music of the 20th century if they had known they were violating the rules.

In other words, their creative genius was directly attributable to their not being cursed with knowledge.

In a legal analogy, Philadelphia Court of Common Pleas Judge Stella Tsai recently welcomed a team of design students to study the history of courtroom design and apply principles of human-centric design — a framework for generating new products, services and spaces that places the human user at the heart of the design process to reimagine the space.

The students learned that the rules proscribe very few elements of the physical trial court structure. Still, courtrooms are remarkably uniform across jurisdictions, partly because lawyers' and judges' experiences and expectations over centuries contribute to a curse of knowledge.

We expect a courtroom to look and feel a certain way. As a result, we continue to construct courts the same way we always have without questioning the wisdom of our design choices.

Indeed, we aren't even making design choices so much as replicating the same design over and over with very little underlying thought about the experience of the humans who will occupy it. The design students took a fresh look, imagining what the courtroom could look like if the litigants and jury were centered rather than the judge and the lawyers.

They suggested changes as simple as installing plants to create a more soothing and inviting atmosphere and replacing portraiture that typically elevates past leaders from the legal profession rather than the individuals courts serve with art that creates inclusive spaces for the whole community.[2]

Other disciplines are in a more mature phase of innovation.

Even if the industry could change its governing structures, incentives, curricular requirements, continuing legal education and regulations to incentivize change and could dedicate significant resources to scaling the impact of change, lawyers still need to gain the knowledge and experience to teach innovation at scale.

Other industries, from business to engineering to health care, have deep expertise in human-centered design, community-led co-design,[3] innovation tournament construction,[4] techniques for idea generation, entrepreneurial and innovation mindset assessments, leading effective innovation strategies, and methods to assess innovation

projects.

In legal, we are beginning to understand the need for greater creativity and idea generation. We're also starting to focus more on the human-centered design of legal services to expand access to legal services and develop legal interfaces that don't require lawyers at all.

One example of this model is Upsolve Inc., the online personal bankruptcy platform that works much like TurboTax and allows individuals who can't afford a lawyer to generate populated forms they can file directly with the court.

Upsolve responds to the maddening reality that individuals applying for bankruptcy are unlikely to have the money needed to secure legal services that would avail them of the very protection created to address their problem. And every day, we see more creative approaches to lower-cost, human-centric legal services, from LegalZoom.com to Hello Divorce.

But other fields, like health care, found themselves at our industry's state of maturity decades ago. For this reason, health care innovation leaders like Penn Medicine Chief Innovation Officer Roy Rosin and Penn Medicine Center for Health Care Innovation Executive Director David Asch have advocated in recent years for health care to move into a phase that focuses less on idea generation and more on outcomes assessment and refinement, the next era in innovation maturity.

Similarly, leaders in the field of design learned over the past few decades that poor design results when designers create products, services and environments for rather than with the humans who use and occupy them. Design pivoted to a co-design model, and the field has spent years learning from and honing that approach.

Indeed, the evolution of design's approach to innovation is a meta version of the iteration, refinement, incorporation of feedback and general nonlinear framework at the heart of human-centric design itself.

Law is not nearly as mature in its embrace, execution and evolution of innovation as these other fields.

But like nurses, health care workers, designers and business leaders, lawyers are natural problem-solvers — it's what good lawyers do for their clients daily. And we can fuel our approach to solving problems at scale by not starting at square one when others have so much to teach us.

We can trace the evolution of innovation in these other fields to understand the road ahead and integrate lessons learned in these disciplines to strengthen our approach. Lawyers focus so much on precedent, which we sometimes view as a deterrent to innovative thinking.

But in this case, we can apply the precedent from other fields to our innovation efforts by using the past lessons learned from health care leaders and designers to guide and strengthen our future efforts.

It's just so much fun.

Many lawyers are familiar with LawyerBrain LLC founder Larry Richard's research on lawyer personality.

Alternatively, they've just observed some common lawyer personality traits in colleagues like urgency, an affinity for autonomous work, a high degree of skepticism, low sociability, an innate drive to win and a focus on precision.

Legal training might strengthen these traits by focusing on developing the individual rather than evoking the collaborative promise of a group. Some have theorized that these personality traits and learning and practice components contribute to outcomes like the Harvard Business Review's study showing that law is the loneliest profession.[5]

Other professionals experience different training and practice techniques that elevate collaborative outputs. Experts in some fields prioritize systems-wide, community-driven thought because the best outcomes for those professionals, in terms of compensation, reputation and client service demand that approach.

In my experience, working with other professionals is a refreshing change that enhances my wellbeing.

For example, I recently had the opportunity to build and facilitate for a group of lawyers a master class in design thinking with my colleagues, Mike Avery, a lecturer with the University of Pennsylvania Stuart Weitzman School of Design, and Catherine Shi, senior project manager with University of Pennsylvania Health System. Working with them differed from many experiences I've had working with other lawyers.

We were time pressed and took our tasks seriously, but the mood in our planning meetings was light. We built upon new ideas and challenged novel concepts in a spirit that encouraged creativity and testing.

In the end, we were pleased with the workshop we created together and also found ways we could improve it in the future.

I have found that elusive state of flow that frequently aligns with professional satisfaction in my current interdisciplinary role, which forces me out of my lawyerly comfort zone and into the company of experts in other fields who bring out the best in me and our collective work.

Creating environments in which participants feel psychologically safe to take risks is essential to driving innovation. When participants feel they will suffer social stigma or judgment for offering new ideas, they will self-edit and present only ideas they think will appeal to others.

Trust is essential to the generation of the volume of ideas needed to surface potential solutions. Design thinking experts use various techniques to promote trust and reduce social inhibition, including extreme time compression and asking participants to share the worst possible way to solve a problem to lower inhibitions and explore what separates bad ideas from promising ideas.

Lawyers are rightly focused on precision and exceptional judgment in all other aspects of legal work. Switching to a mindset that encourages risk-taking, and generating novel and potentially irrelevant ideas that are intentionally imprecise takes practice.

But the experience can be both productive and enjoyable, providing a balance to the exactitude most lawyers have come to expect in their tasks.

The future will look less and less like our past.

Accelerating technology, increased globalization, widening opportunity gaps, generational shifts in expectations for careers and service consumption, and a world transformed by the Fourth Industrial Revolution demand that we find better and faster ways to change.

Taking an insular approach that assumes that lawyers can generate all the answers is doomed to fail. But other industries and the knowledge they contain are all around us.

If we embrace professional humility and continue to dissolve the boundaries that thwart our growth, we can truly innovate and live up to our profession's ideals.

Correction: Because of an editing error, a previous version of this article misstated which association would need to change rules in order to upskill lawyers at scale.

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[1] https://www.organizing4innovation.com/managing-innovation-law-firms/.

[2] You can read more about what the students learned and how they redesigned and tested new approaches at https://drive.google.com/file/d/1hpJUlCyRJ973nxh-ooWneh8qytubcIT9/view (on page 541) and at https://vimeo.com/765584413/a7d1c4123e.

[3] Co-Design is rooted in the concept of "radical democracy," in which social innovation efforts take place publicly and involve analyzing and synthesizing experiences of community members to generate new solutions. See, e.g., http://www.ncbi.nlm.nih.gov/pmc/articles/PMC9564664/.

[4] Based on Christian Terwiesch's and Karl Ulrich's book "Innovation Tournaments," this model surfaces raw and untested ideas from large groups of participants. Through multiple filters created through peer voting, tournaments advance the most promising ideas with a goal of producing one or two potential breakthrough innovations.

[5] https://hbr.org/2018/03/americas-loneliest-workers-according-to-research.