

DEMOCRATIZING ACCESS TO JUSTICE: THE COMIC CONTRACT AS INTERSEMIOTIC TRANSLATION

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ABSTRACT: Traditionally, legal documents such as contracts are verbally drafted by lawyers for other lawyers to read. However, it is highly desirable that the clients also understand their contents. The verbal format may be problematic if the parties do not have a common language or if they are unable to understand the legal jargon. For this reason, advocates of legal design have suggested that the contents of conventional legal documents could be presented in visual format. This paper aims to introduce one example of legal design, the comic contract, in which the verbal and visual modes interact. It discusses the process of transforming traditional legal documents into comics, which can be considered a kind of intersemiotic translation, and asks whether this format in fact improves the intelligibility and accessibility of legal documents.

KEYWORDS: Accessibility, Comics, Comic Contract, Intersemiotic Translation, Access to Justice

1. Introduction

Comics are no longer regarded as mere products of popular culture. They have been increasingly used as a legitimate method of visual communication in various fields of practice, such as medicine and law (for graphic medicine, see Botes, 2017; Farthing and Priego, 2016; for graphic justice, see Giddens, 2016). Comics have also been used in technical communication to give instructions, as well as in educational materials, health or risk communication, and even political propaganda (Yu, 2015). In the field of labour law, *comic contracts* – a term coined by de Rooy (2016) – have improved employees' and employers' mutual understanding of their rights and duties (Andersen, 2018; Haapio, Plewe and de Rooy, 2017; Keating and Andersen, 2016; Vitasek, 2017; Waller, Haapio and Passera, 2017).

Traditional contracts are verbally drafted by lawyers who “seek to protect their clients in case of a dispute” (Haapio, Plewe and de Rooy, 2017, p. 3). As contracts regulate the rights and duties of the signing parties, it is essential that their contents are expressed clearly enough to be accessible to the user. However, this may become problematic if the signatories do not share a common language, or if one of them is not able to understand the legal jargon. The result may be conflicts or other problems, something that has been recognized by various campaigns for simplified language.¹

A few years ago, Robert de Rooy, a South African lawyer, took up the matter of accessibility and developed an employment contract in visual form for his client, South African fruit company ClemenGold. The aim was to address the needs of employees who either cannot read well or have difficulties understanding the language in which the

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¹ Examples include the Plain English movement (<http://www.plainenglish.co.uk>), the Português Claro initiative (<https://claro.pt>) and The Finnish Centre for Easy to Read (<https://selkokeskus.fi/in-english>).

contract is written, calling it a *comic contract*. His comic employment contract, which is legally binding, was adopted in the spring of 2016, and by 2017 had been signed by more than 200 fruit pickers (Haapio, Plewe and de Rooy, 2017, pp. 412-413, 416). The format has now been taken up by other employers for various target groups in South Africa (de Rooy, 2016) and in Australia (Andersen, 2018; Aurecon, 2018).

Translational processes are fundamental to this kind of legal design, as it involves reworking a traditional, verbally drafted document into visual form. In terms of Roman Jakobson's (1966) definition, it implies not only intersemiotic translation, but also intralingual translation, as will be demonstrated later. The main aim of our paper is to study whether the visual language of comics improves the accessibility of legal documents. We will examine South African and Australian comic contracts from an interdisciplinary viewpoint – legal dogma and Translation Studies – and discuss how comic contracts travel from one jurisdiction to another or, in our case, into Finnish jurisdiction.

In the following sections we will discuss the difficulties involved in understanding written legal documents, the characteristics of comics in general, and how an employment contract from South Africa came to be translated into comic book form. We will also examine if a comic contract increases accessibility, whether it could also be legally binding in other countries, such as Finland, what the visual form could add to the traditional written form, and what should be taken into consideration when translating contracts into comics.

2. Access to justice

From the perspective of legal research, our article is connected to the ongoing discussion about citizens' *access to justice*. Research in this area focuses on how people can access their rights, as having formal rights is not enough; rights should also materialize in practice (Ervasti, 2011; Garth and Cappelletti, 1978). However, the debate usually revolves around access to courts or to legal remedies *after* the legal problem has occurred, rather than focus on how people can exercise their rights before there is a decision to appeal or a contract breach is brought to court. This paper emphasizes the possibilities of accessing rights *before* problems arise.² This is closely linked to proactive legal thinking, which seeks to ensure that goals are met to avoid long and daunting legal processes (Haapio and Haavisto, 2005).

It is also a question of *procedural justice* that people are prone to accept legal solutions that have been achieved via measures people themselves regard as legitimate and fair (Haavisto, 2007; Koulu, 2016, p. 170; Lind and Tyler, 1988). The degree to which people commit to the outcome of a legal process is tightly related to the actual process by which the outcome is achieved. Processes that are easy for people to commit to are characterized by transparency and clarity. The only way for a person to truly commit to a process outcome – a contract, for instance – is to genuinely understand what is being agreed on, what kind of consequences the contract will produce, and what type of actions are expected of the client as a result of the contract.

² See, however, Harvard Law School's Access to Justice Lab. Available at: <https://a2jlab.org> (Accessed: 15 May 2019).

Though the difficulty of understanding legal documents often derives from the fact that the law itself may be viewed as remote and arcane by ordinary people, problems also stem from the language used. Legal documents are full of terms and notions unfamiliar to laymen. The need for accuracy often outweighs intelligibility, as the target reader of the document is often implicitly understood to be the lawyer rather than the signing parties (Haapio, Plewe and de Rooy, 2016, 2017). Yet an accurate but obscure legal document does not provide justice. For instance, signing parties who do not understand the contract cannot make use of the possibilities offered in it, let alone act according to it. Such misunderstandings cause unnecessary complaints, disputes and court cases – thus resulting in unnecessary costs, loss of time and feelings of unfairness.

Lately, legal documents have been examined from the regular user's point of view. It does not seem to be enough to seek legal certainty and prepare for possible court cases by trying to make sure that all the risks are borne by the opposing party. The goal of negotiations should be a common, usable, flexible and fair tool. A goal such as this can be attained if all parties understand their commitments and recognize that a legal document serves all those involved. Legal design tries to help in this regard. At its best, it does not consist of mere illustrations, but a fusion of ideas of law and design (Berger-Walliser, Barton and Haapio, 2015, pp. 6, 12-13; Haapio, Plewe and de Rooy, 2017; Waller, Haapio and Passera, 2017).

In spite of these emerging new ideas, most legal documents are still written documents. At most, there might be a map of a real estate sales document or a diagram of the time frame of a renovation plan attached in an appendix. Until now, visual formats have mainly been used as a way of presenting evidence in court, though there have also been attempts to visualize legal documents used in business. It is recognized that simple diagrams, figures, charts, tables and schedules can help prevent misunderstandings (Berger-Walliser, Barton and Haapio, 2015, pp. 5, 38; Passera et al, 2013.) Would a comic contract help people access their rights? In the following section, we will discuss what constitutes a comic contract.

3. Characteristics of comics

Comics are a multi-leveled and multipurpose art form which have been defined in various ways. There has been a lively debate among researchers as to whether they should be considered a medium, a language or a semiotic system. For Cohn (2013, pp. 2, 13), they combine two semiotic systems as they are written in two languages: verbal and visual. This feature makes them a multimodal text (Tuominen et al, 2016).

However, different genres can be expressed through the visual language of comics. This has led to comics being referred to as multiple genres rather than a single one. This sequential art form can be categorized as comic strips, short graphic novellas or graphic books, depending on the length of a given work, or as entertaining, instructional or educational, according to their primary function (Zanettin, 2008, pp. 5-6). Comics can also be subclassified by their literary genre (e.g. journalistic, horror or autobiographical) or by

indicating the contents of the narration (e.g. superhero comics, war comics or erotic comics) (Bramlett, Cook and Meskin, 2016; Oittinen and Pitkäsalo, 2018).

Even if there is no all-embracing definition, it is undeniable that comics are a multimodal entity in which the verbal and visual contents can be combined in several ways, creating a narrative whole. Sequential art researcher Scott McCloud (1994, pp. 153-155) offers seven categories of word-image combination: word-specific, picture-specific, duo-specific, additive, parallel, montage and interdependent combination. Juha Herkman (1998, p. 59) simplifies McCloud's categorization by dividing word-image combinations into four functions. According to him, in word-specific comics the image fulfils only a complementary role, acting as an illustration rather than as an essential element of the meaning-making process. Picture-specific comics may be based on image only (silent comics), or the verbal elements may be present only in the form of sound effect. The verbal and the visual may also be combined in several ways: the image can strengthen and clarify the verbal contents of the comics or vice versa: the words can bring further meanings to the visual contents. The same contents can also be told twice (see McCloud's duo-specific combination) or even three times, with the help of visual and verbal means. In addition, the image and the written text can be incommensurate, which means that visual and verbal contents can tell different stories, or the visual contents may stand in controversy with the verbal message. In this case, the image and the words depend on each other even more than is usual in multimodal texts, and the reader can understand the whole meaning of the story only if the verbal and visual contents intertwine (Herkman, 1998, p. 59).

In comics, the panels follow each other according to the order chosen by the artist, and build up transitions in the narration. They can be transitions from moment to moment, action to action, subject to subject, scene to scene, aspect to aspect, or they can be *non sequitur* transitions (McCloud, 1994, pp. 70-72). As regards their structure, comics are a versatile art form that combines techniques from literary genres and visual arts. They consist of consecutive panels including images, sound effects and other effects, pictorial symbols and possibly written text attached to the images in various ways. They are an inherently sequential art, in that the basic story is told across a sequence of panels. In fact, readers are crucial in this form of storytelling: they fill in the gaps between the panels, completing the missing parts of the story according to their expectations and previous world knowledge. This gap-filling task is guided by the visual and the verbal hints given in the panels. It is fair to say that the story is created in the mind of the reader, even if the artist leads the reading process by choosing the order and the contents of panels (McCloud, 1994, pp. 68, 70-72; Zanettin, 2008, p. 13).

4. Comics as employment contracts

Comics can also be analyzed from the perspective of translation. According to Jakobson's (1966) typology, translation can be divided into three types: interlingual, intralingual and intersemiotic. Comics themselves might better be categorized as multimodal documents since they involve verbal material as well as images, but the process of transforming the

employment contract into a comic contract may be classified as intersemiotic translation because it implies a transposition from a written to a visual code. Intralingual translation is involved as well, of course, because the verbal contents of the original employment contract are transformed in a new, clearer form.

The sample contract given in Figure 1 is a comic contract in use in a fruit plantation in South Africa. It was developed by de Rooy and artists working for a company called Jincom, for his client, ClemenGold. The contract's visual dimension is not mere illustration, but an essential part of a legally binding document. It was developed because fruit pickers had been having problems with understanding the traditional contracts in written form, and unnecessary disputes had arisen from the misunderstandings (Fresh Plaza, 2016; Vitasek, 2017). Subsequently, the visual contract was tested by a small group, and when the feedback verified that the redesigned form was working, the comic contract was launched in the spring of 2016.

Today, hundreds of fruit pickers have already signed the comic contract developed by de Rooy (Haapio, Plewe and de Rooy, 2017, p. 6). Figure 1 shows some pages taken from the sample contract. It is a visual document, but is it possible to read it as a comic book?

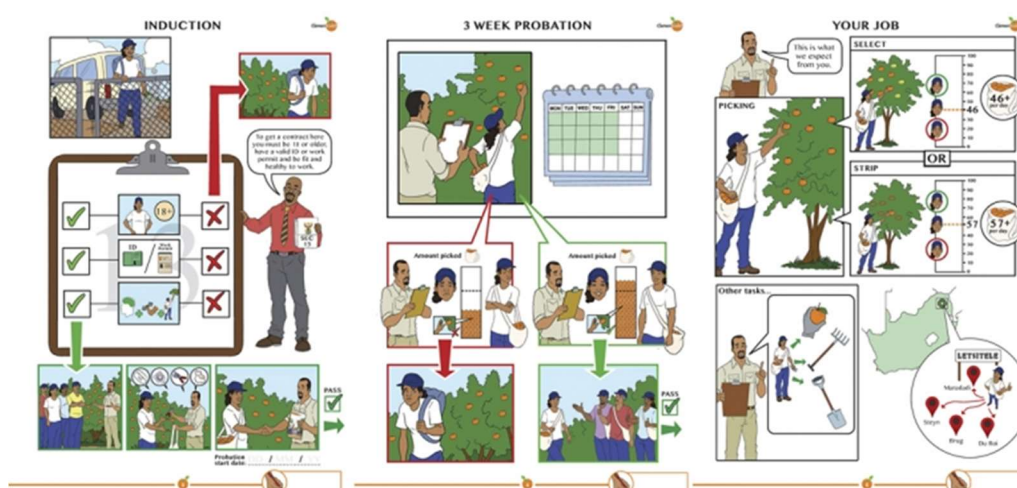


Figure 1. Three pages of the comic contract developed by Robert de Rooy (Creative Contracts, no date).

The pages are from the first part of the employment contract, representing the starting phases of the recruitment process. The sample contract apparently meets the criteria of comics, as the way in which the verbal and visual contents vary in these pages is characteristic of this form, and the panels are mainly picture-specific. However, on the first page, the important parts are emphasized twofold, through the layout and by doubling the contents. Firstly, the main information is presented in the middle of the page, in the form of a folder with three images showing the requirements for the job. Secondly, having the criteria in both visual and verbal form highlights the importance of the zoomed contents, i.e. the contents of the three images are also explained in words in the bubble indicating the employer's speech.

The first page can be read as a linear narrative, one of the characteristics of comics. The reader builds a story with the help of visual and verbal hints represented by filling in the gaps between the panels: in this case, a job applicant comes to the farm and the employer checks that the job requirements are met (the applicant must be at least 18 years old, healthy, and have a valid ID or work permit). If the requirements are fulfilled, the applicant will be briefed, and he/she can start working. However, if the requirements are not fulfilled, the applicant must leave the farm.

Two kinds of transitions between the panels on the first page depict the development of the narration. At the top of the page, the aspect shifts from applicant to employer (aspect-to-aspect transition, according to McCloud's taxonomy), while at the bottom of the page the panels depict what McCloud calls moment-to-moment transition. In the first panel, the employer meets the new employees, while the second shows the details of the briefing and the third depicts the moment when the briefing is over and the employer and employee shake hands. Although the sequence of the panels on the first page does not follow the conventional Western reading direction of the comics, understanding the course of events does not cause difficulties because there are arrows directing the reading process.

The second page consists of information about the three-week probationary period and the provisions employees must fulfil in order to stay employed after this period. Again the arrows direct the reading process. However, the contents of the third page require closer examination. This originates mainly from the fact that even though the reading direction is led by the arrows, the reader does not necessarily understand at first glance how the different fruit-gathering methods ("picking", "selecting", "stripping") actually differ from each other, or how they take their stand in chronological order. A closer reading shows that selecting and stripping are methods of fruit picking, because the quadrangles indicating the amounts of the selected or stripped fruits are, in fact, speech bubbles. The contents of the last panel need closer attention as well, because the two panels at the bottom of the page are not distinctly in connection with each other. However, the meaning of the panels becomes clear for the reader through context.

These panels can be read as a story which is told using two modes, visual and verbal. Here image and words complement each other. This and the remarks above indicate that the comic contract under analysis meets the criteria of comics. Additionally, it is worth noting that, even if the visualization of a legal document belongs primarily to the category of intersemiotic translation, the visual language occurs in conjunction with written language, frequently rewritten in plain language. This "bilingualism" makes the contract's multimodal form problematic from the viewpoint of Jakobson's typology, because translating the comic contract fits into two categories: partly into intersemiotic and partly into intralingual translation. The overlap between these categories in multimodal texts shows the incompleteness of the typology, while making the translation of a multimodal text into another language even more complicated, since the translator needs to be conscious not only of the labour law of the source and target cultures, but also of the cultural

meanings of the visual contents depicted. In some cases, the translator must even touch up the image in order to create an equivalent target text, as shown below.

5. Does a comic contract increase accessibility?

It is clear that a contract in visual form must also be legally binding. If the comic contract is only an attachment offering extra material that helps the contracting parties understand its content, there may be uncertainty about which material is decisive. The examined contract (Figure 1) is a legally binding employment contract in South Africa and would, most likely, be binding in other jurisdictions. For example, in Finland there are no legal obstacles for an employment contract to be legally binding if it includes images or even if it is designed entirely in images. The Employment Contracts Act (55/2001) simply states that “an employment contract may be oral, written or electronic” (Section 1:3.1), not providing any further guidance as to its appearance or form. However, it stipulates that there should always be two copies of the contract – one for the employee and one for the employer. The only requirement is that the employment contract provides information on the following:

1. the domicile or business location of the employer and the employee;
2. the date of commencement of the work;
3. the date or estimated date of termination of the fixed-term contract and the justification for specifying a fixed term;
4. the probationary period;
5. the place where the work is to be performed or, if the employee has no primary workplace, an explanation of the principles according to which the employee will work in various work locations;
6. the employee’s principal duties;
7. the collective agreement applicable to the work;
8. the grounds for the determination of pay and other remuneration, and the pay period;
9. the regular working hours;
10. the manner of determining annual holiday;
11. the period of notice or the grounds for determining it. (Hietala et al, 2016, pp. 59, 161-166)

Such legal provisions may well be fulfilled by the comic contract, but there is a need for quite a lot of information in written form. From a lawyer’s viewpoint, it is hard to see how all of the required information could be told visually. This way of thinking is based on the fact that the legal basis of a contract lies in written material – legislation, collective agreements, codes of conduct – and that, up to now, legal design has generally referred to a form of legal text in which images are only illustrations or, at most, complementary to the verbal text.

In the examples used in this article, the contract is partly in written form. However, the verbally represented sections have mostly been rewritten in plain language. During the translation process, the most important task of the translator is to take into consideration the reader of the target text along with the target context of the text. Therefore, a

functional relation between verbal and visual elements is bound by the purpose of the contract.

There is also a cultural dimension that needs to be taken into account when designing a comic contract. Readers need to know, for example, in what order the panels of comics should be read and what different symbols mean. As mentioned above, visual literacy does not only imply understanding the visual language of comics, but also an ability to recognize cultural meanings in images. Figure 2 shows the kinds of cultural and legal problems one may run into when working on an interlingual translation. The example is taken from the housework contract developed by de Rooy and drawn by Chip Snaddon.



Figure 2. Pages from a housework contract (Haapio, Plewe and de Rooy, 2016).

The first page of the contract is reserved for information about the contracting parties. The second page depicts work assignments, the third announces the job's starting date, daily working hours and breaks, while the fourth illustrates the right to maternity leave and days off for familial reasons. At first sight, this seems unambiguous and easy to understand. The most essential information is presented both verbally and visually and the symbols chosen for the panels do not leave room for misinterpretation (with icons symbolizing various work assignments, calendar, clock, grave, etc.). However, since comic contracts are made for a specific target audience, legal provisions such as daily working hours might differ in another employment contract. If a contract was used as a base for another employment contract, much of it would have to be redrawn and rewritten because the verbal content cannot contradict the visual content. Comic contracts are not always transferable to a new context, but then neither are purely written contracts.

A comic contract becomes even more complicated if it is translated into another language and culture. Legislation on, for example, daily working hours or breaks might differ dramatically; as a result, the icons used in the contract would have to be reworked. Moreover, emphasizing a funeral as a reason for family leave (instead of caring for a sick child, for instance) may seem surprising from an European viewpoint. Legal cultures differ, therefore a comic contract has to be localized to fit into each country's legislation and judicial system.

In addition, facial expressions, gestures and poses may be understood quite differently from one country to another, even though some expressions seem to be

universal. For example, a smile may mean either friendliness or insecurity, depending on the culture. Gestures may differ even more: a completely neutral gesture in one cultural environment may be offensive in another (Pitkäsalo, 2018; Schneller, 1992). As a result, there can be differences in interpreting a comic contract even within the same country (among immigrants and natives, for example).

The housework contract represented in Figure 2 is not as accessible as the employment contract in Figure 1 because it contains a considerable amount of written text, which requires language-related knowledge. Contracting parties who lack sufficient language skills may feel that the contract does not relate to them, since the character which is supposed to portray them is depicted talking in English.

Hence, a comic contract does not automatically improve accessibility. Cultural or other forms of visual literacy may compromise people's access to justice, i.e. to their legal rights and to fairness. An image may bring along new risks and add legal uncertainty if the visual information is more open to various interpretations than a verbal one. The visual form may also highlight matters that are not evident in a verbal one. For example, if employer and employee are represented with dark skin, the contract presupposes the colour of their skin. Employers and employees should, however, be presented as neutrally as possible. Such a solution was presented in an Australian contract (Figure 3), where people are depicted as "balls" or light bulbs (Aurecon, 2018). This might work also when localizing a comic contract to another lingual and cultural context. However, this might cause new problems if the readers cannot relate to these figures.

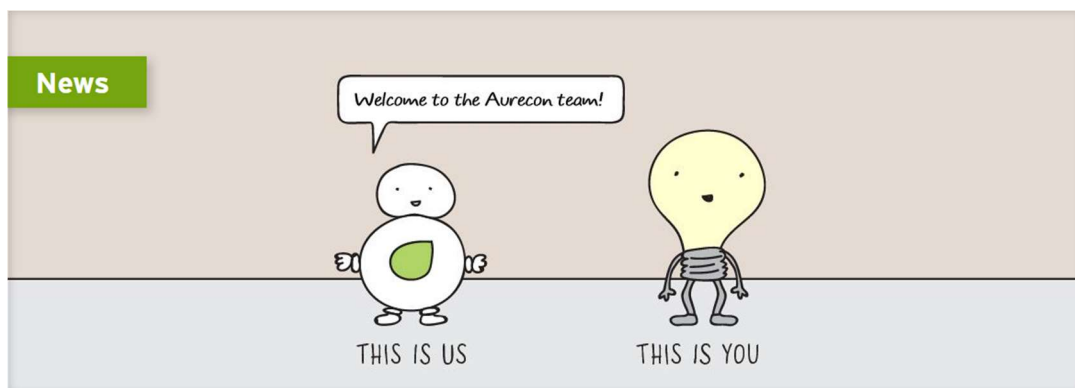


Figure 3. Representation of people in an Australian contract (Aurecon, 2018).

De Rooy intended to react to these problems in advance by developing the visual contents of the contract in as clear and univocal a form as possible. There is no point in translating a contract if it does not make it clearer, more understandable and more accessible. Researchers suggest co-creation, in that all the contracting parties are included in the drafting process (Berger-Walliser, Barton and Haapio, 2015, pp. 12-13; Haapio, Plewe and de Rooy, 2017).

Some people may argue that a comic contract can be viewed as childish or degrading to adults. However, results show quite the opposite. The signatories to de Rooy's employment contract did not perceive it as degrading or felt as though they were being

treated like children (Vitasek, 2017). Even if the visual format seems childish, researchers in legal design have found that people tend to be satisfied with clear information: clarity may be regarded as politeness (Waller, Haapio and Passera, 2017). Moreover, engineering and infrastructure advisory company Aurecon did not consider the visual form degrading either when it launched a visual employment contract for all its employees (Aurecon, 2018).

6. Conclusions

Transforming a written text into visual form is a multi-leveled task in any situation, but it becomes even more complicated in the domain of law. When a traditional legal document is reformed into a multimodal text, the artist and the lawyers must cooperate. The legal prerequisites have to be taken into account, but the rules of creating comics are also essential. The artist needs to consider, with the assistance of an attorney, what are the most important turning points to be depicted, and what moments or actions will be expressed in the panels in order to apply transitions of narration.

The starting point for visual legal design is the end user: the main question is, therefore, how a legal document could be made clear and understandable for all users, not just lawyers. If the contracting parties cannot understand the contract, the document needs to be rewritten. A comic book may, thus, be a useful and strategic tool to improve such understanding and a way to make sure that people can access their legal rights.

However, accessibility does not automatically improve by presenting a document in visual form. In comics, the verbal and visual elements form a whole that can only be understood if these elements intertwine in the reading process. Users of a comic contract may lack visual literacy, or readers from different cultures may not understand the symbols used. In this case, having a contract in visual form may compromise access to justice. However, traditional legal documents have similar problems when transferred from one legal culture to another, since they can be difficult to understand for a reader from a different (legal) culture.

An image may tell things one does not wish to tell or contradict the written text of the contract and confuse the user. Using images can also feel degrading to some people. On the other hand, images can bridge language and educational barriers and help people that are illiterate, dyslexic or unversed in a language to understand important legal documents and secure their legal rights. It is a fact that most people consider legal texts difficult to understand. In the duo-specific word-image combination, important information can be emphasized both visually and verbally; hence, by helping signing parties locate and identify important information easier, comic contracts may prove more reliable than traditional documents.

Both visual and verbal content can be understood in various ways. Traditional text-form contracts have conventions with which to tackle content uncertainty, while comic contracts have not yet developed these conventions. De Rooy (2016) has tried to prevent possible uncertainty by making the comic contract as clear and unambiguous as possible.

As mentioned above, drafting accessible legal documents needs to be developed together with users. Cooperation with the different users of a document helps in identifying the sections of traditional contracts that do not work in practice.

A comic contract as an official, legal document is a new and unconventional, possibly even a revolutionary, idea. Visualization of all employment contracts may not be necessary but, when a party's understanding of verbal text is insufficient, it may improve understanding. If the contracting party has any problems in understanding the contents of the contract, whether as a result of illiteracy, cognitive problems, illness or difficulty in textual conceptualization, a comic contract could ensure that people understand what they are committing themselves to. From an individual point of view, comic contracts may offer a tool for supporting an individual's agency, self-determination and participation, which together contribute to an overall sense of justice. Finding new and functional ways to communicate with citizens – and vulnerable groups in particular – will strengthen fundamental and human rights and social equality.

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