

# Designing the Courtroom of the Future

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## Introduction

- 1 In Franz Kafka's *The Trial*, a bewildered protagonist known simply as 'K' struggles to navigate the mysterious judicial system of a state under the laws of which he is alleged to have committed an unspecified offence. As the story unfolds, K becomes increasingly unsettled and desperate. Each encounter with the maze of tribunals, courtrooms, public galleries and private offices confounds and disorients him:

It was not so much finding court offices even here that shocked K, he was mainly shocked at himself, at his own naïvety in court matters. It seemed to him that one of the most basic rules governing how a defendant should behave was always to be prepared, never allow surprises, never to look, unsuspecting, to the right when the judge stood beside him to his left – and this was the very basic rule that he was continually violating. A long corridor extended in front of him, air blew in from it which, compared with the air in the studio, was refreshing. There were benches set along each side of the corridor just as in the waiting area for the office he went to himself. There seemed to be precise rules governing how offices should be equipped.<sup>1</sup>

- 2 For the distinguished members of this audience it might be difficult now to recall a time when you, too, experienced the unsettling sensation of being overwhelmed by the legal system's complexity. However it must not be forgotten that for many users of the court system today, Kafka's depiction would not be too far off the mark. Each day a multitude of self-represented litigants, first-time lawyers, lay witnesses and hapless spectators attempt to manoeuvre

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<sup>1</sup> Franz Kafka, *The Trial* (Courier, 2012) 118.

through what for them must surely be an inscrutable complex of courtrooms, registries and related bureaucracies. Should they chance upon the right venue, they must then contend with the equally inscrutable principles and procedures of the law itself.

3 When it comes to improving accessibility for such court users, much of the focus in the legal world – at least in Australia, where I have been a judicial officer for the past twelve years and an advocate for too many years before that – tends to be on what might be called legal aspects of accessibility.<sup>2</sup> Precious little debate centres on what might be called the physical aspects, such as courtroom design.<sup>3</sup> However there is no reason to think that this is any less important. Indeed, it was Winston Churchill who said, in relation to the interior design of a building housing another branch of government, the House of Commons, ‘We shape our buildings, and afterwards, our buildings shape us’.<sup>4</sup>

4 What are the principles to be considered whenever it is proposed to undertake the task of designing – or re-designing – a court building? There is no single and definitive answer, as those principles will differ from place to place. They reflect, as they should, the particular bedrock values that underpin each jurisdiction’s conceptualisation of the judiciary’s role within society. Not only differentiated by geography, those principles have also evolved significantly over time, and indeed in some countries the architectural consensus relating to the design of courtrooms has gone through many waves.

5 I propose to spend some time developing those two themes of geography and time, and then switch to a more forward-looking examination of how the received wisdom from the past can be applied to the task of designing the courtrooms of the future. Of course, some problems arising today cannot be answered simply by looking to the past: for example, the role of technology in courts continually poses fresh and interesting questions. But even there it is

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<sup>2</sup> For instance, through the development of principles relating to the right of a litigant to legal representation, or rules relating to the translation of legal process into the native language of a litigant.

<sup>3</sup> For instance, by ensuring accessibility for wheelchair court users through ramps and elevators, or for hearing-impaired court users through hearing loops.

<sup>4</sup> Winston Churchill (Speech delivered at the British House of Commons, 1943), quoted in American Bar Association, *Twenty Years of Courthouse Design Revisited* (1993) iv.

possible to look to those who are pioneering new approaches and to learn from them, and in that context I note that Singapore is one of the jurisdictions that has been the most active in pushing the envelope.

### **A brief and selective history of court design**

- 6 There can be no doubt that symbolism has a very significant role to play in court architecture and design. As Australian architect Paul Katsieris has noted:

A society looks to a law court, as well as other public buildings, to personify the community's state of being with respect to matters of justice. The institution is expected to uphold the law; to demonstrate a certain purity; and to manifest a symbolic weight...<sup>5</sup>

Traditional designs for courthouses have reflected the view held by the judiciary of the importance of courts, and their role in the administration of justice. One important aspect of this has been the perceived need to impress those subject to the court's jurisdiction with the power and authority of the court. Especially in Commonwealth jurisdictions, where the judiciary's authority historically derives from – and indeed, began life as an exercise of – the sovereign authority of the Crown, the aspiration has often been that court houses should reflect not only the authority, but even the majesty, of the law.<sup>6</sup> The prevailing view for centuries has been that a courthouse performs a symbolic function as the 'tangible locus of justice in a community',<sup>7</sup> and should inspire a sense of awe, and importantly, compliance from its subjects.

- 7 Yet despite the good sense behind these ideals, the record shows that they have not always been consistently put into practice or even articulated. For much of the history of the English legal system, court interiors appear to have been fairly rudimentary. Indeed, for many centuries there were no custom-built courthouses at all, only buildings which happened to

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<sup>5</sup> Paul Katsieris, 'Representations of Justice: A Photographic Essay in Two Parts (Part Two)' (1999, November) 1 *JoSCCI*.

<sup>6</sup> M E J Black AC, 'Representations of Justice: A Photographic Essay in Two Parts (Part One)' (1999, November) 1 *JoSCCI*.

<sup>7</sup> Richard Mohr, 'Building Courthouses for the Twenty-First Century' (2000) 9 *Journal of Judicial Administration* 123, 123.

host courts from time to time.<sup>8</sup> Trials would be held in buildings used for a multitude of purposes such as castles, churches, public houses, manor houses, assembly rooms and guildhalls.<sup>9</sup> Accommodation was makeshift even for the 'national' courts, such as the Court of King's Bench, which in its origin was more an assembly of advisers and courtiers – who, in the witenagemot tradition, followed the King as he travelled around the country, and aided His Majesty in the dispensation of justice – rather than a dedicated court of law. The Court of Common Pleas (another national court, although a purely civil one) appears to have been the exception, sitting in Westminster Hall from the 13<sup>th</sup> century onwards by reason of section 17 of the Magna Carta, which prescribed that 'ordinary lawsuits shall not follow the royal court around, but shall be held in a fixed place'.<sup>10</sup> It should be noted that Westminster Hall was not purpose-built to serve as a court.

- 8 One reason for the lack of evidence of clear and consistent principles in the selection and design of courts in England is that until the late 19<sup>th</sup> century, there existed a number of parallel court systems, administered by a plethora of bodies such as the chancery, boroughs, manors and churches, all of which at various times were responsible for the funding and construction of court houses (or the buildings that were intended to serve that function).<sup>11</sup> Only very slowly did oversight of design become bureaucratized, and this only occurred after the various legal systems had been consolidated and centralised. For this reason Linda Mulcahy argues that for much of the history of English courtroom design, underlying principles were 'implied rather than openly stated, and in the absence of in-depth research or public debate, they remain largely mysterious'.<sup>12</sup>

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<sup>8</sup> Linda Mulcahy, 'Architects of Justice: The Politics of Courtroom Design' (2007) 16(3) *Social & Legal Studies* 383, 388, citing C Graham, 'A History of Law Court Architecture in England and Wales' in SAVE Britain's Heritage (ed., *Silence in Court: The Future of the UK's Historic Law Courts* (SAVE Britain's Heritage, 2004) 36–47.

<sup>9</sup> Ibid.

<sup>10</sup> British Library, 'English Translation of Magna Carta' (website) <[www.bl.uk/magna-carta/articles/magna-carta-english-translation](http://www.bl.uk/magna-carta/articles/magna-carta-english-translation)>.

<sup>11</sup> Linda Mulcahy, 'Architects of Justice: The Politics of Courtroom Design' (2007) 16(3) *Social & Legal Studies* 383, 387.

<sup>12</sup> Ibid, 388.

9 As for my home jurisdiction, a similar lack of coherence and intentionality can be seen in the early courthouses of the Australian colonies, although for different reasons; in particular, the uniquely penal purpose of the convict colonies, and the scarcity of resources. The first buildings of the settlement of New South Wales, for example, were improvised, fragile and uncouth, and 'it was not until the 1820s that a standard of architectural competence and craftsmanship approaching that of England became at all common'.<sup>13</sup> Indeed, the earliest recorded court sitting was held in Sydney Cove on 11 February 1788 (very shortly after the arrival of the First Fleet), and the first bench of magistrates was convened eight days later on board the *Sirius*. Subsequent sittings were held on shore, in the open air, in tents, and ultimately in the houses of the magistrates themselves.<sup>14</sup>

10 Although it had been widely accepted for many years that English settlements overseas should be governed by English laws, and although the principle of separation of powers was at that time accepted (and mostly observed) in England, the officials responsible for drawing up the rules under which the new colony was to be governed did not consider that principle to be either applicable or practicable in a community where three-quarters of the inhabitants were convicts. Rather, they imposed an autocratic system that remained virtually unchanged until 1823, when the proclamation of the Third Charter of Justice brought about an entirely new legal system more closely modelled on English practice, and established the Supreme Court of New South Wales.

11 Early attempts to construct a purpose-built court house were abortive. The first known attempt, in 1796, is recorded in the journal of David Collins, the Judge-Advocate:

At Sydney, the bricklayers' gang was employed during this month in erecting a temporary court-house of lath and plaster, as it was uncertain when one to be built of bricks could be begun; and great inconvenience was felt by the judge-advocate and other magistrates in being obliged to transact business at their own houses.<sup>15</sup>

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<sup>13</sup> Peter Bridges, *Historic Court Houses of New South Wales* (Southwood Press, 1986) 19.

<sup>14</sup> *Ibid.*

<sup>15</sup> *Ibid.*

- 12 The life of such buildings was apparently short, and a second attempt was made in 1805, as recorded in a notice in the *Sydney Gazette* of 3 February:

To be Erected at Sydney by Contract.

A Court House of the following dimensions viz. 60 feet long by 26 in the Clear, and the Wall 12 feet high from the ground floor; 4 windows in front, 2 at the back, and a fire place and one window at the end; the floor of the lower room to be boarded, and a room above of the same dimensions; no partition wall either in the lower or upper rooms: A Varando in front, with a small room at each end. The Bricks, Iron-work, and nails to be furnished by the Government, and the Timber carried to the pits at Government expence.

Any eligible Bricklayer and Carpenter, willing to treat for erecting the above Building on the Ground where the Guard House now stands, to deliver sealed tenders, together with their plan, on Thursday the 7<sup>th</sup> of February, to me at Sydney, for the purpose of laying the same before the Gaol Committee...<sup>16</sup>

- 13 That building, too, was never constructed. The last paragraph offers an insight into the building processes of the time. Given that the government had a limited capacity to undertake any building works, it required those who wished to tender for the contract to draw up their own plans: an early manifestation of a 'design and construct' contract. A later collaboration between Governor Macquarie and Sydney's first trained architect, Daniel Dering Mathew, also fell flat following a poor public response. In the meantime, makeshift structures continued to buckle and strain under the growing pressures placed upon them not only to house the administration of justice, but to serve other functions too. For instance, on 22 November 1816, a meeting of leading citizens were held in the Judge-Advocate's Chambers to establish the Bank of New South Wales, while at a second meeting held in the courtroom itself, directors were elected and a constitution was adopted. There is evidence too that court buildings were used for religious purposes, such as to hold a meeting establishing the Auxiliary Bible Society, the aim of which was 'to further the beneficent and improving influence of the Protestant religion in the lives of the lower orders'.<sup>17</sup>

- 14 Ultimately it was not until 1827, some thirty-nine years after the establishment of the colony of New South Wales, that a proper court house, designed by Francis Greenway, was built on King Street. Greenway, and Governor Lachlan Macquarie who stood behind him, shared a

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<sup>16</sup> Ibid, 20.

<sup>17</sup> Ibid, 34.

grand vision that this structure would be an 'elegant commodious court house two storeys high', with its main entrance 'under a recessed colonnade of the Gothic order, up a grand flight of steps extending from one wing to the other, [with] two wings projecting for offices', 'a portico entrance to the criminal court', and a 'façade of Doric columns and [an] entablature'. Sadly, much of that vision never came to pass, on account of poor workmanship which resulted in a substantial last-minute scaling back of the design by the Government.<sup>18</sup> It is thought that Greenway was the author of a poorly disguised anonymous article appearing in the *Australian Almanack* some years later, which criticised the Government for having 'magnanimously destroyed' some of the courthouse's finest features.<sup>19</sup> In an ironic turn, a Gothic extension to the court complex was indeed built two decades after Greenway's death.

15 As many court buildings eventually do, the King Street court complex soon proved unequal to the task of dealing with the growing volume of cases that came through its doors. In 1842, Justice Alfred Stephen, later to become the State's third Chief Justice, complained of the building's leaking roof, smoking fireplaces, bad lighting and poor acoustics. The ventilation, he said, was unequal to the task of dispersing the effluvia which arose 'from the mass of rags and filth, the fumes of rum, tobacco and garlic, with an admixture of other odours [which the] shirtless and shoeless brought to the criminal sittings'.<sup>20</sup> Nonetheless, that building remains even today an active courthouse in the heart of the Sydney CBD (although it is no longer the only purpose-built courthouse in the city, nor do its users still have to endure the assault of noxious aromas).

16 Soon, the colonies of Australia began to expand and branch out into new and emerging regional centres. For instance, a Court House was commissioned for Berrima (some 125km from Sydney) in 1836, and completed in 1841. Berrima was intended to serve as an important country centre on the road to Goulburn and the southern districts. The courthouse reflected those ideals in the Greek Revival style – courthouses of this period still had no distinctive

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<sup>18</sup> Ibid, 26–7.

<sup>19</sup> Ibid.

<sup>20</sup> Ibid, 28.

Australian style<sup>21</sup> – complete with an attic portico supported by four stately Doric columns.<sup>22</sup> However when the railway was built in 1867, it bypassed the town. Berrima declined. The courthouse was eventually closed, and overtaken in size by some persistent trees growing alongside it.<sup>23</sup> It serves today not only as a poignant reminder of some of the unrealised aspirations of the colonial Government of that period, but also as an example of a secondary purpose often evident in the construction of courts – particularly so in the American context to which I will turn now – and that is to put burgeoning regional settlements on the map.

- 17 The notion that courthouses were essential to demonstrating a town's success and viability as a regional centre is a very American idea which was neatly captured by a very American author, William Faulkner:

[T]here was no town until there was a courthouse, and no courthouse until (like some insentient unweaned creature torn violently from the dug of its dam) the floorless lean-to rabbit-hutch housing the iron chest was reft from the log flank of the jail and transmogrified into a by-neo-Greek-out-of-Georgian-England edifice set in the center of what in time would be the town square...<sup>24</sup>

- 18 Indeed, exorbitant amounts of money were often expended by American colonial town planners in attempting to construct the largest and most awe-inspiring courthouses, in their bid to earn for their town the all-important status of county seat, and to demonstrate the 'pride and resourcefulness of the community'.<sup>25</sup> These ambitions can still be seen in American courthouses today, which are usually positioned 'in a square in the middle of town or occupying the highest eminence, and often crowned by a tower which rises above its surroundings'.<sup>26</sup> The hotly contested battle for the role of county seat was often all or nothing

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<sup>21</sup> M E J Black AC, 'Representations of Justice: A Photographic Essay in Two Parts (Part One)' (1999, November) 1 *JoSCCI*.

<sup>22</sup> Berrima Court House, 'The History' (website) <<http://www.berrimacourthouse.org.au/about>>.

<sup>23</sup> Peter Bridges, *Historic Court Houses of New South Wales* (Southwood Press, 1986) 51.

<sup>24</sup> William Faulkner, *Requiem for a Nun* (2015, Penguin Random House) 187.

<sup>25</sup> Phyllis Lambert, *Court House: A Photographic Document* (1978, Horizon Press) 8

<sup>26</sup> *Ibid.*



– if earned, it would bring the town considerable distinction and the desired prize of greater commercial activity – if lost, the result was often significant public debt.<sup>27</sup>

19 Of course, just as courts in Sydney were used to hold bank meetings and promote religious activity, so too were American courthouses used for almost every purpose under the sun. Phyllis Lambert, in her landmark photographic chronicle of over 1,000 court houses in the United States, provides the following charming snapshot of how American courthouses were once used:

The court house, from the very beginning of each community, has been an integral part of the life of every settlement as it evolved into a county. It was there that celebrations were held and emergencies brought to the attention of the populace. Court houses provided mustering places during the War of Independence and the Civil War, and victories and reverses were first announced by bulletins posted on their doors. Because they were often completed before the local churches, they frequently served as meeting places – for religious services, dances and Masonic gatherings – as well as fulfilling their primary functions, the dispensation of justice. Court days were times of great activity in the county seat, and the population, as it does even now in the more rural parts of the country, would gather to hear the trials and exchange the news.<sup>28</sup>

20 Something of the community's character is always preserved in a court's design. Often it might be no more than the particular aspirations of the government that built it, as reflected through the choice of architectural style and the quality of the build. However, in the case of some American courthouses, particularly those on the Western frontier of the then expanding United States, where many historical buildings have still not been overlaid or replaced, much more remains visible today. Many such courthouses contain plaques commemorating the dead, rolls of honour in the halls and corridors, memorials and busts of famous citizens peppered around the greens outside, and even symbols of the local industry or produce. Today such flourishes would not normally be considered a valid function – or at least not a primary function – of court buildings. And yet, they are significant: an architectural archaeology that speaks to us today and will continue to speak to generations to come, telling

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<sup>27</sup> Ibid.

<sup>28</sup> Ibid, 7.

of the variety of uses to which these early courthouses were put, and of the close and enduring relationships between the courts and the communities they serve.<sup>29</sup>

21 When Americans sought to encapsulate their civic ambitions in architectural form, one style persistently recommended itself to them with more persuasion than all the rest: Classicism. The symbolism of this style was coherent and powerful. The classical language of architecture has, at least since the Renaissance, come to symbolise order, stability and tradition. Even in ancient times, through its association with public and religious institutions, Classicism was seen to embody the gravitas and decorum essential to the expression of civic virtue. Despite the myriad transformations and permutations that the Classical language of architecture has undergone since, it has never entirely lost this ability to stand for and communicate authority.<sup>30</sup> I note, in passing, that Singapore's Old Supreme Court Building is a magnificent example of this (I have not yet had the pleasure of visiting the splendid and thoroughly modern New Supreme Court Building).

22 However pervasive and closely associated with American legal institutions the Classical (or Neo-Classical) style is today, it did not in fact emerge in earnest in America until the mid-19<sup>th</sup> Century. Initially, and in a manner not unlike England's haphazard appropriation of town buildings for judicial uses, American trials occurred in whatever public spaces were available, including townhouses, state buildings, public squares and taverns.<sup>31</sup> As the colonies developed further though, purpose-built courts started to appear, and a neat, restrained Georgian style prevailed which differed little from houses of the period. What regal quality they had was expressed in the throne-like quality of the judge's chair rather than any features

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<sup>29</sup> Ibid, 7–8.

<sup>30</sup> G A Bremner, 'Supreme and High Court Architecture in the Common-Law Tradition: An International Perspective' in Chris Miele (ed), *The Supreme Court of the United Kingdom* (2010, Merrell Publishers) 176.

<sup>31</sup> Norman W Spaulding, 'The Enclosure of Justice: Courthouse Architecture, Due Process, and the Dead Metaphor of Trial' (2013) 24(1) *Yale Journal of Law & The Humanities* 311, 319–20.

of the building itself. Again, this reflects a certain lack of distinctive vision for courthouses which was also evident in the early courts of the United Kingdom and Australia.<sup>32</sup>

23 Classicism came in vogue in the mid-19<sup>th</sup> Century as town planners started to take an interest in Classical ideas and architecture. Many of the courthouses of that period were formal and elegant, featuring a front portico, although typically only contained one courtroom and a couple of auxiliary rooms. Further construction was put on hold by the outbreak of the American Civil War in 1861. In the period of Reconstruction following, the approach to design took a markedly different course, with larger and more ornate buildings becoming the new norm. In that period, art and sculpture were commonly integrated into the exterior and interior designs, with many major buildings featuring murals, stained glass sky-lights, statues, mosaics, paintings and carve details.<sup>33</sup> The courtrooms themselves often took on a more formidable appearance compared to those of the pre-War period, perhaps emphasised by the signature dark colour treatment of the interior wood panelling.<sup>34</sup>

24 Finally though, in the early 20<sup>th</sup> century, styles reverted to a more restrained neo-Classicism that endured for some forty years. It is perhaps these buildings that most directly coincide with the public imagination of American courthouses today,<sup>35</sup> with their smooth stone exteriors, monumental columns at the entrance, and a universal symmetry often bordering on the impractical.<sup>36</sup> That style too went through permutations of its own, and acquired an especially practical and pared back flavour in the 1930s through the New Deal works programmes,

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<sup>32</sup> The American Bar Association, *The American Courthouse: Planning and Design for the Judicial Process* (1973, Edwards) 227.

<sup>33</sup> *Ibid.*

<sup>34</sup> *Ibid.*

<sup>35</sup> Norman W Spaulding, 'The Enclosure of Justice: Courthouse Architecture, Due Process, and the Dead Metaphor of Trial' (2013) 24(1) *Yale Journal of Law & The Humanities* 311, 323–4.

<sup>36</sup> The American Bar Association, *The American Courthouse: Planning and Design for the Judicial Process* (1973, Edwards) 227.

when courthouses were often lumped into 'hybrid' facilities along with the local postal services.<sup>37</sup>

## Lessons of the past

- 25 Considering collectively the three jurisdictions to which I have referred, it is no simple task to extract any overarching themes or principles of courthouse design, except at a high level of generality. Part of the reason for this, as we have seen, is that much of the design of courthouses over the past five centuries has been ad hoc, constrained by the resources at hand and often with very little planning or consultation with legal professionals. Where such constraints have not existed though, for instance during times of economic expansion, the principles and aspirations underlying each building are more readily seen. Some courthouses were symbols of state pride, others of federal authority.<sup>38</sup> Many strove to convey a sense of the dignity and supremacy of law. I venture the opinion that when one does pause to consider the underlying principles of the past five centuries of court design in these English-speaking jurisdictions, the emphasis until very recently has been on the expression of civic virtue and authority, rather than on what might today be called the 'user experience'.
- 26 At a broader level of generality still, one theme that has continually re-appeared in courts across the various common law jurisdictions is that the underlying values of the legal systems that court buildings are intended to serve be reflected and encapsulated in the buildings themselves. One such value is that the court is an institution vested with absolute authority to decide controversies that come before it between any citizens, even those who themselves hold high office, and between citizens and the state. For that reason, and as has been seen in several of the examples I have already mentioned, many courts have historically been designed to reflect that authority.

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<sup>37</sup> Keith T Fentress, 'Long-Range Facility Planning for Federal Courts' (2009) 9 *Journal of Judicial Administration* 134, 135.

<sup>38</sup> Gerald Thacker, *Federal Courthouse: Overview* (Whole Building Design Guide, online, 2011).

- 27 Another value is the doctrine of separation of powers, which splits the functions of government into three mutually distinct and independent branches: the legislature, the executive and the judiciary. Broadly speaking, the legislature makes the laws; the executive puts the laws into operation; and the judiciary interprets the laws. The concept in turn springs from the democratic principles underpinning the Westminster system, the origin of the various legal systems found throughout the Commonwealth today. That doctrine is often expressed by the various locations of the key government buildings. In Brisbane, for example, at one end of George Street, the city's 'colonial civic axis', lies the House of Parliament, while the other end contains the Supreme Court (and the District Court). The Executive Offices of Government sit in the centre. The symmetry and alignment of these buildings is intended to reflect the conceptual equality of each of the branches of power within the separation of powers paradigm; while the distance between them – spread out across the full length of a street spanning several blocks – emphasises their separateness from one another.<sup>39</sup>
- 28 A similar symbolism is manifested in my own city, where the Parliament and the Supreme Court are located on what was intended to be the city's premier street: Macquarie Street. In the 19<sup>th</sup> century, when the colony's needs were less demanding, the principal Executive offices were located further along Macquarie Street.
- 29 Conversely, in Canberra, the High Court of Australia sits in the Parliamentary Triangle in which most of the capital's most important civic buildings are contained. Importantly, however, it sits just off to the side of two of the primary axes which have as their centre the Parliament of Australia. Again, this emphasises the institutional separation of the judiciary from the legislature, all the while suggesting that there is some proximity between their functions. Indeed, the High Court building is notable for its solitariness: from whichever vantage point you look at it, it stands clearly apart from all its neighbours as a singular and formidable presence rising above the shores of Lake Burley Griffin.

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<sup>39</sup> John Hockings, 'Brisbane Supreme and District Court' (ArchitectureAU, September 2009) <<http://architectureau.com/articles/brisbane-supreme-and-district-court/>>.

30 Another value often sought to be emphasised is that the court should be open and transparent in all that it does, reflecting the principle of open justice, which in turn is a fundamental incident of the rule of law. Again in Brisbane, the new Supreme and District Court building has given physical form to this value by moving its courtrooms to the edges of the building, with a fully transparent glass wall bringing the proceedings entirely into the public view.<sup>40</sup> Similar goals have been achieved by the multi-storey atria of the Adelaide Commonwealth Law Courts and the Melbourne Commonwealth Court Building, each of which contains at least one fully glazed façade. Inside, courtrooms as a general rule will operate with their door open throughout the proceedings. It should not be thought that such features reflect an arid symbolism, only displayed for its own sake; rather, they have a practical outworking. Those, whether versed in the law or not, who would come to use the courts, must immediately appreciate that they have entered a building which seeks to be seen as transparent and accessible – even therapeutic through its use of natural light – and will therefore intuit that the proceedings that take place within are open to scrutiny, for all to see.

### **Modern court design**

31 The language of court design today contains more vocabulary than ever before. It is now considered foolhardy for a modern court in a developed country to be constructed without a thorough consideration of circulation paths, court security, environmental factors, technology integration, and a mind-boggling array of other requirements. A guide to courtroom design produced by the United States Judicial Conference in 1991 contained prescriptions for spatial relationships, sightlines, accessibility, circulation, floor plans, furniture placement, finishes, acoustics and reverberation, mechanics and electrics, thermal-atmospherics, automation and ventilation.<sup>41</sup> Even an apparently straightforward element like lighting is subdivided into

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<sup>40</sup> Silvia Michelli and Antony Moulis, 'Brisbane Supreme and District Courts' (ArchitectureAU, 13 June 2013).

<sup>41</sup> R D Nicholson, 'Design Guidelines: Their Value and Development' (2000) 9 *Journal of Judicial Administration* 127, 128.

daylighting, artificial lighting, brightness balance, luminance, contrast, diffusion, illumination levels and shadowing.<sup>42</sup>

32 I do not propose to explore that litany of factors in any exhaustive way. Nor do I think that court design should, at least in the early planning stages, be approached in such a technical fashion, divorced from the questions of symbolism that so animated our forefathers. I will look at just three issues – court security, reconciliation, and emotional management – with a view to demonstrating the diversity of the approaches that have been adopted in recent times.

33 The first of those issues, court security, is a matter of no small importance. In the 1980s, court security took centre stage in Australia after a series of horrific crimes rattled the nation. First, there was the assassination of accused criminal Chuck Bennett at the old Melbourne Magistrates' Court in November 1979. Then, a double killing at Melbourne's Supreme Court in May 1980. Finally, the assassination of a Family Court judge at his home in Sydney in June 1980.<sup>43</sup> A new security consciousness quickly developed as a result of these crimes, which resulted in entrance screening, remote monitoring, duress alarms in courtrooms, separate circulation zones for different participants and a range of other measures designed to cope with possible threats.<sup>44</sup> Other countries have taken court security more seriously still, with one prominent example being Germany's High Security Courthouse in Düsseldorf, which boasts a helipad for protected witnesses, a bomb-resistant roof, and surveillance over the surrounding countryside. That courthouse has been used for some of Germany's highest-profile terrorism trials, including one of an al-Qaeda cell; so the measures would appear to be justified.<sup>45</sup>

34 Yet court security is not an unqualified good. Quite apart from the cost required to maintain systems of the complexity just described, the conspicuous presence of security infrastructure and personnel can have a constricting effect on court participants, and thereby impact upon

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<sup>42</sup> The American Bar Association, *The American Courthouse: Planning and Design for the Judicial Process* (1973, Edwards) 177.

<sup>43</sup> Australian Research Council, 'Fortress or Sanctuary?: Enhancing Court Safety by Managing People, Places and Processes' (December 2014) 74.

<sup>44</sup> *Ibid*, 28.

<sup>45</sup> *Ibid*, 13.

some of the court's core functions, such as facilitating the free and untrammelled flow of evidence. A recent publication dealing with this theme characterises the choice for court planners as between either 'impregnable strongholds, impervious to external attack', or 'place[s] of refuge, [providing] shelter for those who need the law to protect them against violent partners or unfair business dealings'.<sup>46</sup> A similar point was made 40 years earlier, in an American publication:

Even when security is most essential, the development of adequate provisions does not mean that the court facility will or should look like a prison. A humane and unabrasive environment for court proceedings is the sine qua non of the system's successful operation. The proper degree of restraint may be achieved by the formality of the particular proceedings, the demeanour of the judge or the solemnity of the setting. Separation and segregation of circulation routes used by staff members, defendants, and the general public can afford a great deal of unobtrusive protection while contributing to efficiency of operation. Perfect security is impossible but flexibility in design, imaginatively introduced, will tend to provide better security without significantly impairing achievement of the system's other goals.<sup>47</sup>

35 In fact there is evidence that overly conspicuous security controls in courtrooms can run counter to the purposes that the court is designed to fulfil. For instance, a recent Australian study has found that juries are more than twice as likely to convict a person seated inside a high security glass dock compared to one seated in a normal dock.<sup>48</sup> A 2005 United States Supreme Court decision acknowledged this perception bias when it held that any form of visible constraint violates the presumption of innocence. For that reason American accuseds are often now surreptitiously restrained with a stun belt or ties which, while providing necessary security, cannot be seen by the jury and therefore cannot prejudice the outcome.<sup>49</sup>

36 A second issue in court design – reconciliation – is of special importance to countries that have mixed populations, most commonly (but not exclusively) countries where a European nation colonises land once inhabited exclusively by Indigenous peoples. In such contexts, tension often justifiably arises where the original inhabitants of the land feel that the new order, with its legal systems and traditions transplanted from a foreign land, threatens to

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<sup>46</sup> Ibid, 12.

<sup>47</sup> The American Bar Association, *The American Courthouse: Planning and Design for the Judicial Process* (1973, Edwards) 219.

<sup>48</sup> Andrew Davies and Anita Barraud, 'How Courtroom Design Influences Juries' (16 December 2014), *Al-Jazeera* (online).

<sup>49</sup> Ibid.



efface their own long-observed local methods of administering justice. Reconciliation in this context refers to the process of striving towards a mutually respectful and understanding co-existence between Indigenous and non-Indigenous peoples.

- 37 Various approaches to this issue have been taken. In the Canadian territory of the Yukon, Judge Barry Stuart famously kickstarted what is now known as the 'restorative justice movement' by re-organising his courtroom into a circle to decide the sentence of Philip Moses in 1992. Under Judge Stuart's procedure, everyone in the community is invited to attend and participate, with usually between 15 and 50 people taking up the invitation. Chairs are arranged in a circle and the session is chaired either by a respected member of the community, sometimes called 'the keeper of the circle', or by the judge. The proceedings are conversational and often stray into areas that are not strictly relevant to the offence being tried. After what may be two to eight hours of discussion, an appropriate punishment is agreed by consensus of the group members, and the judge then imposes a final sentence incorporating the recommendations of the circle. The circle is premised on three principles that are also part of the culture of Yukon's Aboriginal people:

Firstly, that a criminal offence represents a breach of the relationship between the offender and the victim as well as the offender and the community, and secondly, that the stability of the community is dependent on healing these breaches. The third premise is that the community is better positioned to address the causes of crime, which are often rooted in the economic or social fabric of the community.<sup>50</sup>

- 38 In Australia, similar initiatives have gained momentum, as Magistrates Courts have engaged with Indigenous communities to collaboratively design Indigenous sentencing courts. Again, two common features of these courts are their less formal atmosphere, and the situating of participants around a table rather than according to the usual Western arrangement.<sup>51</sup> The accommodation of Indigenous elements into court design is becoming more common not only in Indigenous sentencing courts, but also in superior national courts. At a conference in 1988, the then Chief Justice of the Federal Court of Australia said that the key principle of court

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<sup>50</sup> Heino Lilles, 'Circle Sentencing: Part of the Restorative Justice Continuum' (Speech delivered at the Third International Conference on Conferencing, Circles and Other Restorative Practices, Minneapolis, 8 August 2002).

<sup>51</sup> The Australian Institute of Judicial Administration, 'Indigenous Issues and Indigenous Sentencing Courts'.

design should now be reconciliation, rather than authority.<sup>52</sup> Increasingly, colours for courtroom furnishings began to be borrowed from the local landscape, while prominently displayed artworks paid homage to Aboriginal heritage. New Zealand has taken this one step further with its Supreme Court, which sits in an ovoid courtroom with a copper-panelled exterior and beech-panelled interior, arranged in such a way as to emulate the form and texture of the cone of a kauri tree.<sup>53</sup>

39 A third issue that contemporary court planners have to grapple with is how to manage the emotions of participants. People who come to court bring a range of emotions – grief, anger, fear, hope, anxiety, a desire for revenge – and court procedures often only intensify that emotional climate.<sup>54</sup> For example, it has been argued that large and imposing courtrooms, in which witnesses can be made to tell highly personal stories normally reserved for close and intimate contexts, contribute to a ceremonial stripping of dignity.<sup>55</sup>

40 Since courthouses are one of the principal places that conflicts are resolved in most societies, it is incumbent upon court designers to find ways to keep these emotions in check, and to provide, as much as possible, a calm and ordered environment within which the administration of justice can occur. Many court planners have sought to achieve this through the use of nature, often by allowing in as much natural light as possible, or offering views over natural landscapes. The central forecourt of the Manukau Court in South Auckland is dominated by a magnificent Pohutakawa tree, providing participants with a calm environment to which they can retreat and relax during adjournments.<sup>56</sup> Another approach is to provide spaces that are specifically dedicated to reflection and contemplation. French courts contain a

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<sup>52</sup> Australian Research Council, 'Fortress or Sanctuary?: Enhancing Court Safety by Managing People, Places and Processes' (December 2014) 27.

<sup>53</sup> Courts of New Zealand, 'The Design of the New Building' (website) <<https://www.courtsofnz.govt.nz/about/supreme/the-supreme-court-complex/the-design-of-the-new-building>>.

<sup>54</sup> Australian Research Council, 'Fortress or Sanctuary?: Enhancing Court Safety by Managing People, Places and Processes' (December 2014) 127.

<sup>55</sup> Linda Mulcahy, 'Architects of Justice: The Politics of Courtroom Design' (2007) 16(3) *Social & Legal Studies* 383, 387.

<sup>56</sup> Australian Research Council, 'Fortress or Sanctuary?: Enhancing Court Safety by Managing People, Places and Processes' (December 2014) 77.

*salle des pas perdus* (a hall of lost steps), a waiting hall where people can wait, think, confer, or as one French architect suggested, 'simply go to weep'.<sup>57</sup>

41 It might be thought that making courts too 'friendly' risks compromising the sense of majesty and sovereignty they are supposed to embody. Court participants ought not be too relaxed, lest they become unruly, confrontational, indifferent or overly familiar. This indeed is one of the reasons why court planners have for so long sought to impress court users with a sense of the high seriousness and power of the courts, so as to make clear that what is being approached is a forum set apart from the outside rough and tumble. Back in the United Kingdom, the Gothic Revival architecture of the Royal Courts of Justice in the Strand or at the Victoria Law Courts in Birmingham make this point clearly,<sup>58</sup> as indeed does the recently established Supreme Court which is housed in the very ornate and also Gothic Revival Middlesex Guildhall.<sup>59</sup>

42 Nonetheless there are other ways of ensuring compliance than simply instilling shock and awe in all those who would come before the court. For example, Japanese courtrooms and courthouses are not designed to reflect symbols of justice nor to emphasise hierarchies of power. Instead, they take a more modest approach, with both exteriors and interiors emphasising simplicity and eschewing unnecessary ornamentation, in reflection of the Japanese idea that courts are little more than buildings designed to punish defendants for their wrongdoings and integrate quickly them back into society.<sup>60</sup> Once again, then, we see this pattern whereby domestic conceptualisations of the role of courts in society directly inform their design.

### **The future of court design**

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<sup>57</sup> Ibid.

<sup>58</sup> Linda Mulcahy, 'Architects of Justice: The Politics of Courtroom Design' (2007) 16(3) *Social & Legal Studies* 383, 387.

<sup>59</sup> Jeremy Musson, "'A Dainty Piece of Ornament": The Architecture of the Former Middlesex Guildhall', in Chris Miele (ed), *The Supreme Court of the United Kingdom* (2010, Merrell Publishers) 75.

<sup>60</sup> Ashley Hanson, 'Scales of Justice: How Courtroom Architecture in the United States and Japan Influences and Reflects the Politics of their Legal Systems' (Ruth & Ted Brian Awards for Writing Excellence).

43 I would like to conclude by exploring some of the questions by which court planners are currently, and undoubtedly will continue to be, challenged. One significant matter in the 21<sup>st</sup> century is that the methods of dispute resolution are multiplying. Traditionally, courts have restrained themselves to hearing and deciding cases brought before them. Increasingly, however, courts are offering other facilities: court-annexed mediation being but one example. Court planners must design structures that can respond flexibly to these changes, just as courts themselves must be prepared to adapt.<sup>61</sup> As former Chief Justice Rehnquist of the United States has said:

In the long run, however, planning must focus not simply on facilities expansion but also on innovative alternative methods of dispensing justice. Increased use of alternative dispute resolution services may change the future design needs and lead us to build justice centres instead of the familiar courthouses of the present.<sup>62</sup>

44 His Honour's predecessor, Chief Justice Burger, may have assisted in planting the seed of that idea. He said some 14 years earlier:

We should get away from the idea that a court is the only place in which to settle disputes. People with claims are likely people with pains. They want relief and results and they don't care whether it's in a courtroom with lawyers and judges or somewhere else.<sup>63</sup>

45 One way that court procedures are changing (and will continue to change) comes from the advent of new technologies. While these initially emerged in the form of case-specific hardware brought into the courtroom for a single case and later removed – think laptops, bulky projectors and tripod-mounted expandable screens – lately such technologies have been more seamlessly integrated.<sup>64</sup> It is a common characteristic of high-tech courtrooms today to be able to present evidence electronically, with each court participant having the ability to toggle back and forth between either the public version of a document or their own

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<sup>61</sup> Australian Research Council, 'Fortress or Sanctuary?: Enhancing Court Safety by Managing People, Places and Processes' (December 2014) 21; see also Keith T Fentress, 'Long-Range Facility Planning for Federal Courts' (2009) 9 *Journal of Judicial Administration* 134, 140.

<sup>62</sup> Chief Justice Rehnquist, 'Welcoming Remarks', (Speech delivered to the First International Conference on Courthouse Design, Washington DC, 7–9 October 1992).

<sup>63</sup> Chief Justice Burger, 'Address' (Speech delivered to the American Bar Association, New Orleans 1978).

<sup>64</sup> Frederic I Lederer, 'The Road to the Virtual Courtroom? A Consideration of Today's – And Tomorrow's – High-Technology Courtrooms' (1999) 50 *South Carolina Law Review* 799, 801.

private version which they can highlight and annotate. While not yet obsolete,<sup>65</sup> paper is increasingly thought of as a cumbersome and wasteful medium, at least for litigation of any real magnitude. Other staples of the modern technology-enhanced court include electronic filing, digital court reporting, video-conferencing, hearing loops, real-time transcripts and live streaming.<sup>66</sup> Some would even consider a court of the 21<sup>st</sup> Century to be out of step if it did not have a social media account, and indeed, some courts in Australia have been known to compete for the highest number of hits on their Twitter and Facebook profiles.

46 Virtual reality is another technology that is finding its feet in the courtroom context. As a way of displaying evidence, it involves something called 360 degree filming, where for instance, a crime scene or other place of relevance is captured in a series of photographs by specialised cameras, so that, when the photos are combined, a 3D virtual picture is created which users can then interact with. A physics engine can then be used to simulate events, such as a car accident. Much of course depends on the assumptions upon which the simulation is programmed – the speed of the car for instance, would be relevant – but in this way versions of events can be compared and tested. All of this may be viewed through virtual reality goggles, or alternatively through a hologram which is viewed by everybody at once. The technology is already being trialled in some courts in France, while back in my jurisdiction the Australian Federal Police have been using it for some time.<sup>67</sup>

47 Another technology-enabled innovation in court usage has been what is known as the ‘virtual courtroom’, in which the essential idea is that some or all of the participants appear remotely via videolink.<sup>68</sup> Judges in NSW and Victoria, for instance, sometimes go on ‘virtual’ circuit for civil matters, appearing via videolink from chambers rather than physically travelling to the

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<sup>65</sup> The American Bar Association, *The American Courthouse: Planning and Design for the Judicial Process* (1973, Edwards) 207.

<sup>66</sup> Marilyn Warren, ‘Embracing Technology: The Way Forward for the Courts’ (2014) 24 *Journal of Judicial Administration* 227.

<sup>67</sup> *Ibid*, 230.

<sup>68</sup> Justice Richard Refshauge, ‘Foreword’ in Emma Rowden, Anne Wallace, David Tait, Mark Hanson and Diane Jones, *Gateways to Justice: Design and Operational Guidelines for Remote Participation in Court Proceedings* (2013, University of Western Sydney).

circuit locations.<sup>69</sup> For all the benefits this confers – such as security of protected witnesses, the ability to conduct hearings involving multiple participants in dispersed locations at reduced expense, and the saving of space – videolink technology still has teething problems, often transmitting footage sluggishly or dropping out altogether.<sup>70</sup> Additionally, there are risks that users appearing remotely may be too disinhibited, or may feel isolated from the ‘real trial’.<sup>71</sup> A modified version of the virtual courtroom concept – the ‘distributed courtroom’ – seeks to account for this. In that version, distributed court participants each attend specified courtroom-like locations, and appear on life-sized screens placed around a real courtroom according to their traditional roles, with the cameras and screens positioned in such a way as to enable proper sightlines between each participant. A demonstration was conducted at the Australian Institute for Judicial Administration Conference in Brisbane in July 2015.<sup>72</sup>

48 Finally, some forms of dispute resolution have made a wholesale move to the online environment. Online Dispute Resolution, or ‘ODR’, has existed in some form or another since the University of Massachusetts created the Online Ombuds Office (OOO) for the resolution of eBay disputes in 1999.<sup>73</sup> Since then a host of other service providers have entered the fray, with snappy names like SquareTrade, CyberSettle, Chargebacks and Modria. Most of these services centre around consensus-based dispute resolution, but online forms of arbitration are increasingly well-recognised. For example, ICANN’s Uniform Domain-Name Dispute Resolution is the primary arbitration forum for domain name disputes.<sup>74</sup> All of this amounts to progress and should be welcomed. Just as the merchants of the medieval trade fairs once

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<sup>69</sup> Marilyn Warren, ‘Embracing Technology: The Way Forward for the Courts’ (2014) 24 *Journal of Judicial Administration* 227, 231.

<sup>70</sup> *Ibid*, 231.

<sup>71</sup> Justice Richard Refshauge, ‘Foreword’ in Emma Rowden, Anne Wallace, David Tait, Mark Hanson and Diane Jones, *Gateways to Justice: Design and Operational Guidelines for Remote Participation in Court Proceedings* (2013, University of Western Sydney).

<sup>72</sup> ABC Radio National, ‘Distributed Courtrooms’ (28 July 2015) <<http://www.abc.net.au/radionational/programs/lawreport/distributed-courtrooms/6651446>>.

<sup>73</sup> Ethan Katsh, ‘Online Dispute Resolution: The Next Phase’ (2002) 7 *Lex Electronica* 2.

<sup>74</sup> *Ibid*.

resolved their disputes using their own bespoke arbitral processes, so too are today's online businesspeople resolving disputes in customised and contextually appropriate ways.<sup>75</sup>

49 I hope that I will not be thought a Luddite by saying that in the context of the justice system at large, these innovations can at best complement, rather than be a substitute for, traditional judicial processes. Part of the reason for this is the inherent limitations in the technologies themselves. For example, users surveyed as part of the 'Courtroom 21 Project', a demonstration hi-tech court facility in Williamsburg, Virginia, have frequently given the feedback that the preponderance of technology in these showrooms contributes to a perceived loss of humanity in the hearing itself.<sup>76</sup>

50 There is more than mere nostalgia behind the submission that the physicality of courtrooms is an essential feature. As a former Australian High Court judge, Michael Kirby, has said, 'the right to see in public a judicial decision-maker struggling conscientiously with the detail of a case is a feature of the court system which cannot be discarded, at least without risk to the acceptance by the people of courts as part of their form of governance.'<sup>77</sup> Equally, much of the persuasive force of good advocacy can only be felt when you are right there in front of it. Technology is of course an enabler of communication, but in some ways it can also be an impedier. Professor David Tait of Western Sydney University recounts the following anecdote:

A student was in a suburban magistrates' court in Melbourne carrying out an assignment for a research methods class, looking at judicial rituals: symbolism, organisation of space, the use of silence. The magistrate looked up from his computer screen and observed her taking notes. He asked if she had written about him. She said 'Yes'. So he asked her, in what she described as 'a very forceful tone', to read them out to the court.

She read out the following: "I found the Magistrate offhand, rarely having eye contact with anyone, especially defendants. He seems in a great hurry, rude, and very bored with dealing with other people's lives and their problems."

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<sup>75</sup> Ethan Katsh, Janet Rifkin, Alan Gattenby, 'E-Commerce, E-Disputes, and E-Dispute Resolution: In the Shadow of "eBay Law"' (2000) 15(3) *Ohio State Journal on Dispute Resolution* 705, 732–3.

<sup>76</sup> Frederic I Lederer, 'The Road to the Virtual Courtroom? A Consideration of Today's – And Tomorrow's – High-Technology Courtrooms' (1999) 50 *South Carolina Law Review* 799, 835.

<sup>77</sup> Michael Kirby, 'The Future of Courts – Do They Have One?' (Paper presented to the Bombay High Court, Mumbai 12 December 1999).

There was a silence, then the magistrate responded: “I don’t have time for eye contact, I have to work on this stupid computer”.<sup>78</sup>

Tait derives two morals from this story. One is that you should not ask people for their honest opinion of you in case they give it. The other is that the great communication tool of the age has ironically become an ‘icon of non-communication’ and a ‘barrier to effective communication’.<sup>79</sup>

51 In the 1980s, Michel Foucault claimed that physical spectacle as a key to legal power had been transcended, or at least amended, since the Enlightenment.<sup>80</sup> But in this digital age the reverse is true. The need to reclaim some of the visceral and physical aspects of the courtroom process is more pressing than ever. If a defendant receives a court summons by way of email or by Facebook – both of which can be done with the leave of the court in Australia – how is he or she to feel a sense of the gravity it entails? Or if a litigant watches court proceedings from behind a television screen, how is he or she to appreciate the ‘situated discourse’ that is naturally made evident by the clearly delineated zones and courtroom roles: the judge behind an elevated bench, the barristers at opposing sides of the bar table, and so on?<sup>81</sup> There is a language of symbolism and rituals that court users instinctively grasp when they enter a thoughtfully designed courtroom, and that symbolism, in turn, ideally will convey something of the underlying principles of the legal system.<sup>82</sup> Court planners should harness that language and symbolism in order to amplify the values they want their courts to embody.

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<sup>78</sup> David Tait, ‘Boundaries and Barriers: The Social Production of Space in Magistrates’ Courts and Guardianship Tribunals’ (1999, November) 1 *JoSCCI*.

<sup>79</sup> *Ibid.*

<sup>80</sup> John Brigham, ‘Architectures of Justice: The Private and the Privatised’ (1999, November) 1 *JoSCCI*.

<sup>81</sup> Richard Mohr, ‘In Between Power and Procedure: Where the Court Meets the Public Sphere’ (1999, November) 1 *JoSCCI*; Linda Mulcahy, ‘Architects of Justice: The Politics of Courtroom Design’ (2007) 16(3) *Social & Legal Studies* 383, 385–6.

<sup>82</sup> David Tait, ‘Boundaries and Barriers: The Social Production of Space in Magistrates’ Courts and Guardianship Tribunals’ (1999, November) 1 *JoSCCI*.



## Conclusion

52 Modern court rooms are no longer the dark awesome places described by Dickens, nor are they furnished in the lavish and majestic splendour of buildings such as the Palais de Justice in Paris.<sup>83</sup> Lawyers of today often have to perform in courts with low level strip lighting, squeezed into office buildings with little or no sense of arrival.<sup>84</sup> Yet it remains an essential attribute of the administration of justice that it should command public respect.<sup>85</sup> At the same time there must be a high regard for human dignity, so that all who come in contact with the system are treated not as subjects but as individuals worthy of courtesy and respect. Acoustics, technology, security, and all their other companions, are each crucial features of the quality of a court's design. At the end of the day, however, courts are an essential part of the fabric of a society. Their role is to resolve the conflicts in which, all too often, humans are caught up. An approach to design that ignores the social context of the essentially human issues that are the subject of the courts' daily work, cannot provide a proper setting for the administration of justice.

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<sup>83</sup> Piyel Haldar, 'Edifice Lex: The Logic and Function of Ornament in Court Buildings' (Speech delivered at Representing Justice Conference, Wollongong, 26 June 1998).

<sup>84</sup> Denis Harrison, 'Discretion, Pleasure and Symbolism through Planning' (Speech delivered at the Representing Justice conference, Wollongong, 26 June 1998).

<sup>85</sup> The American Bar Association, *The American Courthouse: Planning and Design for the Judicial Process* (1973, Edwards) 3.