



Unlocking Innovation Culture in Judicial Environment. A conceptual analysis & framework[▪]

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Abstract

Purpose. The purpose of this paper is to identify the critical factors to foster a culture of innovation in judicial environment (tribunals) in order to achieve service excellence.

Methodology. This paper relies on a literature review and a benchmarking analysis with the International Framework for Court Excellence (IFCE) to develop a conceptual model for innovation culture in judicial environment.

Findings. The results reveal that a culture of innovation is positively related to service excellence. Further, they comprise a model that incorporates indicators and insights on how innovation culture can best be characterized in the tribunals. In order to achieve service excellence the tribunals should promote a culture oriented to openness and flexibility.

Research implications. The results allow as well getting some insights with respect to the implications of innovation culture for judicial services.

Originality/Value. Court managers and administrators may use these findings to enhance the cultural attributes that are particularly associated with excellence in courts, in particular understanding of the role of innovation culture in promoting excellence in tribunals.

Keywords

culture, innovation, judicial, service, excellence

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1. Introduction

Addressing the challenges of innovation in any business sector requires multidisciplinary and interdisciplinary approaches. In judicial environment (tribunals), innovation can be defined as the process of generating new ideas and implementing them to create value for society either through new or improved processes or services.

At organizational level, Innovation Culture is defined as the behaviors, values, and beliefs with regard to innovation that are shared by a firm's personnel (Oslo Manual 2018). A supportive innovation culture aimed at excellent public results – in terms of efficiency, effectiveness, user and employee satisfaction – includes communication, collaboration, tolerance & learning from failure, and willingness to change.

Numerous business capabilities – including knowledge, competencies and resources – and practices can potentially support [...] the development of business process innovations and the economic impact of these innovations (OECD/Eurostat, 2018). And unlocking innovation culture represents both an opportunity of public sector capability building and a challenge in innovation management.

The ultimate scope of this paper is to identify the critical factors to foster a culture of innovation in judicial environment (tribunals) in order to achieve service excellence.

To develop a conceptual model for innovation culture in judicial environment is also an important goal of this work. A conceptual model as representation of a system, shows the key concepts, variables, relationships, and assumptions involved (LinkedIn, 2023). The stated goal was achieved starting from a conceptual analysis of the IFCE, which as a conceptual model and framework has provided a more structured and comprehensive view of the topic.

2. Theoretical Background

2.1 *Organizational culture*

Culture is described as both a powerful force operating in organizations and a socially constructed method of deriving organizational stability and control to direct and motivate behaviour (Schein, 1990; Pfeffer, 1997). Values and norms are considered core layers of culture (Rousseau, 1990). Value is attached to practices if they are consistent with organizational goals, norms and values (Kostova and Roth, 2002).

It is generally agreed that organizational culture is a socially-constructed and emergent concept involving shared meaning that can be learned by organizational members and passed on to others (Schein, 1992). Organizational culture is the set of beliefs, shared values, and norms that affect the way employees feel, think, and behave in the place of work (Schein, 2010). Organizational culture is an important element that influences achievement of excellence (Peters and Waterman, 2004) in service organizations.

2.2 *Organisational Culture and Innovation*

Organisational culture influence various outcomes related to the employees and organisations. Organisational culture affect employee behaviour, learning and development (Bollinger & Smith, 2001; Saeed & Hassan, 2000), creativity and innovation (Ahmed, 1998; Martins & Terblache, 2003; Martins & Martins, 2002; Mclean, 2005; Vincent, Bharadwaj & Challagalla, 2004), knowledge management (Tseng, 2010), and performance (Oparanna, 2010; Saeed & Hassan, 2000; Tseng, 2010; Zain, Ihsak & Ghani, 2009). The link between culture and innovation has been well documented in literature based on production organisations (Kanter, 1983; Brannen, 1991; Ahmed, 1998; McLean, 2005). Several characteristics of culture can

serve to enhance or inhibit the tendency to innovate in organisations (Ahmed 1998; McLean, 2005) (Kariyapperuma, 2014).

Ahmed (1998) argued that culture is the primary determinant of innovation and possession of positive cultural characteristics provides the organisation with necessary ingredients to innovate (Ahmed, 1998). Organisational culture can stimulate innovative behavior among the members of an organisation since it can lead them to accept innovation as a basic value of the organization and can foster commitment to it (Hartmann, 2006). Edwards, Kumar and Ranjan (2002) reflected that the organization culture with values, norms and beliefs is an invaluable enabler of innovation (Edwards et al., 2002). Martins and Terblanche (2003) argued that organisational culture appears to have an influence on the degree to which creativity and innovation are stimulated in an organisation. Values, beliefs and norms affect innovation positively or negatively depending on how they impact employees and groups in an organisation (Martins and Terblanche, 2003).

3. Literature Review

A number of studies and published papers have discussed the keys to organizational excellence and its critical success factors. Organizational excellence as a concept is based on total quality management principles. Dr. Joseph Juran defined total quality management as “meeting and exceeding the customer’s expectations by continuously improving all processes, goods and services through creative involvement of all staff” (Hawkes, 1992). Companies that have adopted business excellence usually have done so by using initiatives, tools, and techniques to achieve the desired results (Adebanjo, 2001). Traditionally, companies evaluated their performance in terms of quantifiable measures such as return on investment, net profit, and turnover. In last few decades, however, there has been a growing understanding that companies should also consider quality-related characteristics while setting their business goals and performance measures. Therefore, total quality management has become a principal strategy for improving performance and later business excellence (Zairi and Alsughayir, 2011).

Studying the relationship between organizational culture and performance took place recently comparing with the researches that covered various definitions of culture (Reichers, and Schneider, 1990).

According to Reichers and Schneider (1990), less researches have been donated to culture and performance. One cause for this was the challenges faced researchers in operationalizing the culture concept.

The level of cultural strength needed to ensure a company’s success is still debated in the literature. Some of the authors support the idea that a robust culture leads to higher performance (Barnes et al., 2006). Others support a contingency theory where the needed level of cultural strength is linked with the environment of the business where the company operates (Cameron and Quinn, 2005). Kotter and Heskett (1992) stated that companies that have a robust culture, emphasize their stakeholders, and adjust to their environments will attain better levels of performance. Moreover, it has recognized (Kassem et al., 2016) that culture is one of the critical success factors to successfully implement total quality management in organizations (Shibani, Soetanto, Ganjian, Sago and Gherbal, 2012), and it is crucial in organizational behavior and excellent performance (Peters and Waterman, 2004).

A definition of excellence in courts was structured using the IFCE, a quality management scheme designed to help courts improve their performance (Kassem et al., 2017). The framework outlines an all-inclusive approach to court excellence and it embeds a set of criteria as guidelines and a roadmap towards excellence, and also a self-assessment questionnaire to be used by courts and tribunals.

The IFCE was formed in 2007 by founding members with expertise in court and judicial administration (IFCE). The founding member organisations are the Australasian Institute of Judicial Administration, the Federal Judicial Center, the National Center for State Courts, and the State Courts of Singapore. Working with the founding members, resource persons from the European Commission for the Efficiency of Justice, the World Bank and SPRING Singapore (now known as Enterprise Singapore), brought significant experience in the application of court quality management models (Ibid.). The goal of the Consortium is to develop a framework of values, concepts and tools for courts and tribunals, with the ultimate aim of improving the quality of justice and judicial administration (Ibid.).

The IFCE takes a holistic approach to assessing a court's performance - through seven Areas of Court Excellence - and provides guidance for courts to improve their performance on a continuous basis (Ibid.). The quality improvement approach reflected in the Framework has been specifically developed to meet the needs and unique roles and functions of courts (Ibid.).

Creating a court culture that is supportive of reform, service improvement and innovation is a critical first step in moving towards court excellence (International Consortium for Court Excellence, 2020).

4. Method

Following the literature review, this paper relies on a benchmarking analysis with the IFCE to develop a conceptual model for innovation culture in judicial environment.

Management practices were also investigated for the purpose of this paper.

Benchmarking is a relatively old management technique, it has been over 25 years since the publication of the first book on benchmarking by Dr Robert Camp (1989). The success of benchmarking projects depends on the ability to adopt a robust and suitable approach (Jarrar and Zairi, 2001). Benchmarking is a versatile approach that has become a necessity for organizations to compete internationally and for the public service to meet the demands of its citizens (Mann et al., 2021).

According to Taschner and Taschner (2016), benchmarking has been widely adopted to identify gaps and underpin process improvement and has been defined as a structured process to enable improvement in organizational performance by adopting superior practices from organizations that have successfully deployed them (Moffett et al., 2008). For the public sector, it has long been recognized the importance of benchmarking to maximize value for money for the public (Raymond, 2008). Benchmarking is also relevant as a technique to control the costs of the procedure in the judiciary. Observing and understanding what is most effective and efficient for one type of business or tribunal must enable everyone to improve their performance (Martin, 1999).

5. Findings

5.1 Court management and specificity of the judicial sector

Court management may be defined as the administration inside the court and outside the case. It is inside the courts, so court management does not concern the general administration of justice (which is within the purview of the Ministry of Justice, judicial councils, etc.) (Jeuland, E., 2018). It is outside the cases, so court management does not deal with the administration of cases, the so-called case management (Jeuland, 2018). These three fields are embedded in the judicial management area.

According to Rizzo (2020), “the pursuit for tribunals of the objective of guaranteeing an overall efficient and effective service covers three areas in which action must be developed: case management, court management and accountability:

- *case management*, functional agenda handling by the judge
- *court management*: management of the structure through the widest involvement of all actors, nurturing a sense of pride in contributing to the efficiency of an administration that is strategic for the well-being of a community.
- *accountability*: transparency and greater responsabilisation.”

He argues that “efficiency in the field of court management is the optimization of resources” and that “effectiveness is an inherent notion in the evaluation of results and in the field of justice the result is connoted by timeliness” (Brunetti et al., 2020).

Moreover, the business-Justice system suffers from a structural excess of demand (Brunetti, 2020).

Court management deals with multiple aspects, such as: leadership inside a court, the relationship between the judges and court staff, the allocation of cases, court budget, specific planning, the security of the court infrastructure.

Court management is of great concern everywhere in the world as part of the effort to avoid backlog, unreasonable duration of proceedings and costly litigation. It appears that the tasks of management are more and more handed over to a specialized clerk, while the leading role is in the hands of the head of the court.

Can the courts be managed in the same way as a business? In reality, the specificity of justice has an impact on the kind of management implemented.

The court belongs to a very specific type of organization, one which involves three categories: judge, staff and the public. This type of organization has the following structure: a high intellectual level of the actors, an undefined chain of command, necessity of discussion and negotiation, grey zones of hierarchy and unpredictable alliances, and changes in public expectations. All of which becomes uncertain management. One disadvantage of this is that when faced with difficulty it protects itself from political power or media scrutiny by closing in on itself.

Inside this organization the “product” implies the independence of judges. In addition, the procedure to get a judgment involves respect of the fundamental principles specifics to the justice sector. All of this specificity has to be considered in the field of court management.

5.2 *The analysis of the Framework*

The analysis of the Framework has enabled an understanding of the importance of the core values that the courts apply in carrying out their role. The key values to the successful functioning of the courts are: fairness, impartiality, independence of decision-making, competence, integrity, transparency, accessibility, timeliness, certainty (IFCE). These core values ensure due process and equal protection under the law to all those who have business before the courts (Ibid.). These core values set the court culture and provide direction for all judges and staff for a proper functioning court (Ibid.). Court values and the performance of a court are strictly linked.

The analysis of the Framework has also led to an understanding of the specificity of the judicial sector and the need for an approach that renews itself over time.

For most courts, the most challenging part of the journey to court excellence is at the beginning when there is a need to adopt a new way of viewing the court’s performance and adopting a new culture of innovation, involvement and accountability (Ibid.). More often than not, a court’s initial challenge is dealing with backlogs and delays, with additional resources being seen to be the only way to address the problem (Ibid.). The Framework provides the

methodology for a court to develop a new culture embracing innovation, collaboration and measurement to approach these problems from a different perspective (Ibid.).

Reviewing and perfecting the court's approach lead to ongoing progress toward excellence. According to the International Framework for Court Excellence (p.28):

“Innovation enables a court to improve its existing processes in a way that will benefit court users. Whilst innovation may take place in a wide range of areas, the process of innovation must be guided by the court's vision, mission, and core values. This is so that the innovative ideas are focused and achieve the court's objectives. Courts can support and facilitate innovation by putting in place a process that encourages and allows judges and court staff to suggest improvements to court processes. Suitable training could be provided to equip the court workforce with skills to innovate and encourage a mindset and culture of innovation.”

Finally, this conceptual analysis has provided insight into what courts and tribunals should have at the structural level and perform at the operational and procedural level. In particular, they should:

- have a policy and procedure in place to generate, gather and screen innovative ideas;
- evaluate and improve the court innovation process on a regular basis;
- engage, train and recognize judges and court staff for their court innovation efforts;
- monitor performance of other courts to identify improvements and initiatives which are suitable to its court;
- exchange knowledge and best practices with other courts to promote learning and innovation. (IFCE, p.26).

5.3 Management practices

Practices from the Oslo Manual 2018 can be useful in developing a conceptual model for innovation culture, such as:

- communicating the importance of innovation, including the innovation vision and strategy;
- allowing time and resources for innovation activities and providing supporting tools and methods;
- recognizing innovators and innovation results;
- training employees on how to engage in innovation;
- assessing innovation performance using dedicated innovation indicators.

5.4 A Conceptual Model for innovation culture in judicial environment

Unlocking innovation culture requires for courts and tribunals structured and organized efforts, networking and the implementation of specific management practices.

The proposed model shows the practices supporting the organizational efforts and networking; it also propose:

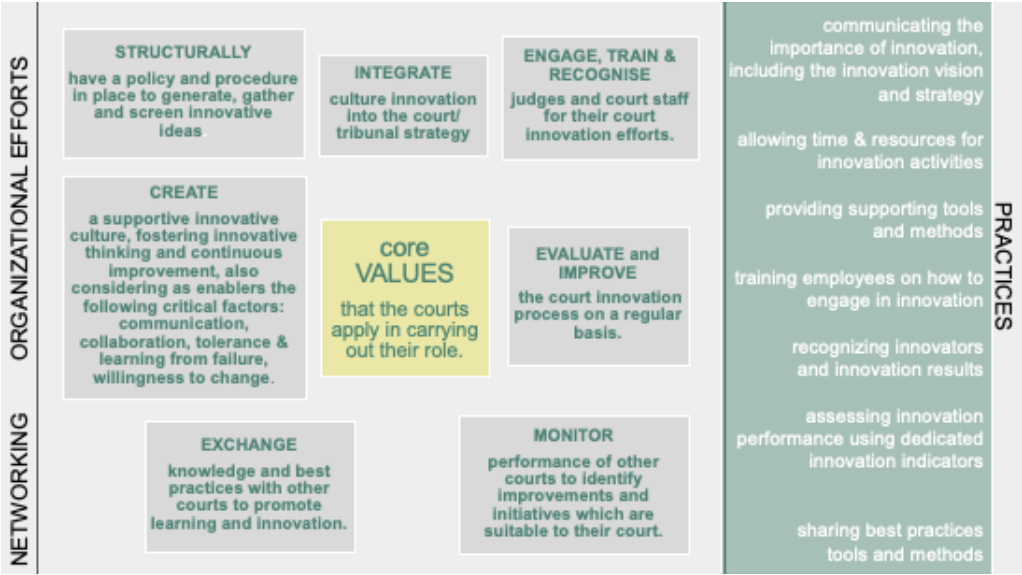
- to integrate cultural innovation into the court/ tribunal strategy, and
- to consider the critical factors highlighted here in creating a supportive innovation culture:

5.5 critical factors to foster a culture of innovation in judicial environment

To establish an environment that foster innovative thinking and continuous improvement is critical for a culture of innovation. In addition, a supportive innovation culture aimed at excellent public results – in terms of efficiency, effectiveness, user and employee satisfaction – includes: communication, collaboration, tolerance & learning from failure, and willingness to change.

Instilling the importance of these factors at all levels of the organisation is fundamental for unlocking innovation culture in judicial environment.

Figure 1: A Conceptual Model



6. Research implications

The results allow getting some insights with respect to the implications of innovation culture for judicial services. The extent of the impact of the innovation culture on the business innovation process is evident, where the latter is defined as “a new or improved business process for one or more business functions that differs significantly from the firm’s previous business processes and that has been brought into use by the firm” (Oslo Manual 2018, p.112).

On the other hand, “innovation management practices that demonstrate a commitment to innovation can contribute to the establishment and maintenance of an innovation culture” (Ibid.).

7. Conclusion

The results reveal that a culture of innovation is positively related to service excellence. Further, they comprise a model that incorporates indicators and insights on how innovation culture can best be characterized in the tribunals. In order to achieve service excellence the tribunals should promote a culture oriented to openness and flexibility.

Court managers and administrators may use these findings to enhance the cultural attributes that are particularly associated with excellence in courts, in particular understanding of the role of innovation culture in promoting excellence in tribunals.

8. Limitations and future research

As the present work is theoretical, empirical validation is expected. Future research may usefully draw on this study in order to also add critical factors to foster a culture of innovation in judicial environment, considering the contextual factors as variables.

The implementation of the IFCE deserves great attention and researches in the international context should also be widely conducted.

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