Management Innovation in the Judiciary System. The Case of the Brazilian Superior Tribunal of Justice

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ABSTRACT

The paper describes a management innovation at the Brazilian Superior Tribunal of Justice. The theoretical framework is supported by the innovation and organizational capability literature. The data were collected in 2008 through the analysis of documents, interviews with twenty-four staff members at the Tribunal and direct observation. Content analysis was the main technique for analyzing the data. Results suggest that: (1) the division of work at the Tribunal can be metaphorically depicted as an archipelago, in which each judge is an island; (2) the innovation has been instrumental in promoting the adoption of a systemic focus that reduces the fragmenting effects of this division of work; (3) the court has made use of information technology, which has streamlined the processing of cases and disclosure, thereby increasing transparency; (4) the innovation was, in 2008, in the stage of institutionalization and its effects were being noticed by other courts in Brazil, resulting in mimetic movement whereby the Tribunal is viewed as a management paradigm; (5) two dynamic capabilities have been developed as a result of the innovation studied: Electronic Court Management and Project Management. Different levels of commitment to the innovation studied have been identified at the court. The article closes with recommendations for research and practice.

1. Introduction

The purpose of this paper is to describe a management innovation process at the Brazilian Superior Tribunal of Justice (STJ), the role of information technology in this process, the results that have been achieved, the positive aspects and constraints, and the development of capabilities at the court linked to this process. The innovation referred to in this text is the adoption by the court of a management model supported by strategic planning techniques and project management.

The Superior Tribunal of Justice is Brazil’s highest appellate court for infra-constitutional cases (BRASIL, 2007). It judges appeals from all over the country and from all non-specialized jurisdictional levels: civil, penal, commercial, fiscal and administrative. The court hears appeals against the decisions of Brazilian state courts, as well as against those of the five regional federal courts. It also falls to the court to judge ordinary crimes perpetrated by the governors of states, High Court judges and court officials from the state Audit Offices, members of federal, regional, electoral and labor courts.

This study is important as it sheds light on a subject that has received little research attention in the national and international literature: management of the judiciary. In April 2009 a search was made in the ABI/Inform Global and the Scientific Electronic Library Online (Scielo) databases for the terms Court Management or Management Innovation or Organizational Change linking to the terms Judiciary System or Justice System in full texts published in academic peer-reviewed periodicals from January, 2004 to April, 2009. No matches were found. The study is also important because its results can subsidize the movement to reform the Brazilian judiciary system.

It appears to be consensual among judges, politicians, managers and scholars that the two main problems with judiciary systems, in general, are access and delay (BANCO MUNDIAL, 2004). In Brazil, consensus on the need for a more rapid and effective judiciary resulted in a “State Pact for a More Rapid and Republican Judiciary” (BRASIL, 2004). This
pact establishes eleven commitments for court management in the broadest sense, ranging from the reform of the judiciary system to incentives for resorting to alternative punishments, modification of civil laws and the penal code, changes in appellate courts and procedures, as well as the computerization and production of data and statistical indicators.

Judiciary organizations in many respects resemble the Machine Bureaucracy and Professional Bureaucracy configurations proposed by Mintzberg (1979). These organizations are characterized by: (1) high levels of standardization and formalization of management activities; (2) a highly specialized professional team that has the knowledge and power required to achieve its aims; (3) stable conduct and little flexibility for change; (4) high levels of autonomy for the teams of professionals in carrying out their target activities; (5) clear separation of primary activities (judiciary) and support activities (administrative); (6) difficulty in coordination of the primary activity professionals because there is no clear hierarchy in this group.

Friesen (1971) suggested over three decades ago that judiciary organizations form a complex type of organization, the main characteristics of which are: (1) conflict between the assumption that the judiciary is independent and its dependence on the executive and legislative branches of government when it comes to defining resources; (2) judges tend to act autonomously and are refractory to management; (3) court management is generally carried out by judges who have been selected by their peers on the basis of criteria that do not usually take management skills into consideration; (4) there is influence from politicians and political parties in the selection of judges, especially of those at the highest levels of the judicial hierarchy; (5) the way judicial work is divided, involving hierarchical levels of courts, jurisdictions and specialized fields, hinders joint action by judges with different specializations.

Given these characteristics, how can innovation be successfully introduced in court management? This study attempts to cast some light on this important question.

2. Theoretical Framework

Innovation has been considered an essential factor for social and economic development and for raising the level of competitiveness of firms (TIDD; BESSANT; PAVITT, 1999). According to Guimaraes (2000), innovations in the public sector are faced with the challenge of transforming bureaucratic structures with a tendency to insulation into flexible organizations that can achieve results efficiently. In fact, the role of innovations is not only to help provide more efficient services and improve organizational efficacy, but to introduce greater interaction with the environment, as well. These innovations have been associated with organizational rationalization processes and the adoption, by governmental organizations, of management models that are generally used by private companies, with necessary adaptations for the public sector (FERLIE; PETTIGREW; ASHBURNER; FITZGERALD, 1996; BRESSER-PEREIRA; SPINK, 1998).

Management innovation, also known as organizational innovation, generally has to do with changes in planning methodologies, monitoring and evaluating the work processes necessary for the organization to achieve its goals (LAM, 2005). The innovation reported in this article involves the introduction of a new management model at the STJ based on the Balanced Scorecard (BSC), a methodology defined by Birkinshaw; Hamel and Mol (2008) as management innovation.

According to Lam (2005) organizational innovation is a multifaceted concept that admits different interpretations and terms, such as: ‘innovation or innovative behavior in
organizations’, ‘adoption of organizational innovations’, ‘new combinations of previously unrelated organizational structures and processes’, ‘organizational change or development’. Powell (1995) suggests that this kind of innovation includes management systems for integrating management processes.

Dosi and Coriat (2002) suggest that organizational capability fills the gap between intention and result. To innovate and achieve results, organizations need “to be capable of” or “have the capability to” integrate and coordinate the development of activities of people and groups so that knowledge, skills, motivations and attitudes for action, both different and complementary, can produce results. In this sense, organizational resources and capabilities involve cognition, learning and changes in behaviors, attitudes and structures, instrumental to the success of innovation initiatives.

Resources can be broadly defined as organizational assets, tangible or intangible, specific or not, used to produce goods and services. Capabilities are organizational resources, but the opposite is not necessarily the case. Makadok (2001) suggests two key characteristics that distinguish a capability from a resource. The first is that a capability is specific to the organization and is embedded in its processes, whereas a resource is not. Resources are transportable. They can be bought and sold. Capabilities, in general, can only be acquired together with the entire organization or part of the organization where the capability is embedded. The second characteristic is that the main function of a capability is to enhance and drive the productivity of other organizational resources. According to Javidan (1998, p. 62) resources are the “building blocks of competencies”, at the bottom of a hierarchy consisting of resources, capabilities and competencies. Every organization has its blocks of resources. What varies from one organization to another is how they are combined and used. For this author, capability is the ability of the organization to exploit its resources, combining them and embedding them in the processes that transform them into products and services.

It can be inferred, then, that capabilities contribute positively to organizational results by increasing the productivity of other organizational resources. The development of organizational capabilities involves learning, as is emphasized by Dosi and Coriat (2002, p. 299), to whom “when acquiring and adapting their competencies/capabilities for certain periods of time, organizations are doing something that could reasonably be called organizational learning”. According to Crossan et al., (1999, p. 522) organizational learning “may be conceived of as the principal means for an organization to achieve strategic renovation”. For Levitt and March (1988), organizations learn through their own experience, from the experience of other organizations and through the development of conceptual structures and paradigms necessary for the interpretation of these experiences.

Teece, Pisano and Schuen (1997) associate innovation with the dynamic capabilities of the organization. They define dynamic capability as the ability of the organization to find innovative alternatives with a competitive edge, capable of integrating and reconfiguring external and internal competencies in order to keep up with rapid environmental changes. Zollo and Winter (2002, p. 603) suggest that: “a dynamic capability is a known and stable pattern of collective activities through which the organization systematically generates and modifies its operational routines in order to increase its effectiveness.” A dynamic capability differs from an organizational routine precisely in terms of its innovative nature and purpose. Whereas a routine involves the execution of known procedures to obtain organizational results in the present, dynamic capability provides for the systematic, on-going generation of changes in existing routines that stimulates future results.
Zollo and Winter (2002) recognize that the relationships between innovation, capability development and learning in organizations are an interdependent and recursive movement. In other words, innovation requires and means development of capabilities and generates learning in a process of reciprocal and recurring two-way influences. The interdependence of these processes is represented by reciprocal influences between ‘exploration of new opportunities’ and ‘appropriation of the learning, resulting from the development of innovation’, thereby opening channels for new movements of innovation, training and learning.

The development and introduction of management innovations require, among other things, structural arrangements that facilitate this process, such as the adoption of management models based on projects so that the innovation can be implemented until it becomes routine. Project management includes a set of planning, organizing and monitoring activities to achieve goals with a specific deadline. It also makes use of a horizontal workflow perspective and generally means that the organization will adopt typically matrix structures in which projects are managed and, at the same time, the hierarchical structure responsible for the routine functions of the organization are maintained.

3. Methods and Techniques

This study, exploratory and descriptive in nature, was conducted between January and April, 2008. Data were collected by means of documental analysis, individual in-depth interviews and observation of the daily workings of the organization.

Documental analysis involved reading and analyzing documents such as: (1) legislation concerning the Superior Tribunal of Justice (STJ); (2) internal documents of the STJ concerning strategic management, including those pertaining to public service entrance examinations and good management practice; (3) inaugural addresses by the presidents of the court elected, respectively, for the periods of 2002-2004, 2004-2006 and 2006-2008, and speeches by other judges at the STJ; (4) management plans and work projects for 2004-2006 and 2006-2008. Documents were accessed in printed form or on the STJ Intranet. Informal contacts with staff members at the Strategic Management Assistance office of the court – the office responsible for implementing the management innovation studied--were important to understanding the history and background of the innovation. In addition, the documental analysis served as the basis for developing the scripts for the interviews conducted.

For the interviews, three different scripts were used, one for each of the following groups: staff of the General Directorate and Strategic Management Assistance offices of the court; strategic project managers; and staff members of the organization in general. Twenty-four interviews were conducted: four with individuals from the first group, ten from the second group and ten from the third. The interviewees of the first group include approximately 70% of the team responsible for the management innovation being studied. The interviewees of the second and third groups were selected by staff members of the Strategic Management team, at the request of the authors of this study, so that all projects, organizational units and posts at the court might be represented. Interviews were conducted in the workplace of the interviewees. All interviews were recorded and transcribed to a Word for Windows document for analysis.

The daily workings of the organization were observed simultaneously with the documental analysis and interviews, when the authors had the opportunity to examine symbols, artifacts, ceremonies and the specific language used by the people who work at the
court. Notes were kept on these observations, which were extremely useful in the interpretation of the data collected from the documents and interviews.

Data analysis was carried out using content analysis techniques, with the intention of identifying trends, similarities and possible differences between documents, interviews and the viewpoints of the interviewees. In order to preserve the anonymity of the interviewees, all references to them in this text are made using letters and numbers. The letters AE indicate that the interviewee belonged to the first group, GP is used for the second group and TG for the third group. The numbers indicate the order in which that member was interviewed.

4. Results and Discussion

Based on evidence from the documental analysis and observations of the daily working at the STJ, activities at that Court are classified in two categories: primary (judiciary) and support (administrative) activities. The primary activity is divided in accordance with legal specialization, and support activities on the basis of administrative functions. At the same time, the organization as a whole has overall goals that require the organization to be managed as a system in which the tasks of each person or team affect the tasks of the others in a recursive relationship. This results in the need for mechanisms that strengthen the systemic vision so that common goals are shared by all, both judges and staff members. The innovation process at the court is working towards this.

Passing judgment, the primary activity of a judiciary organization, is a task exclusive to the judges. The judge is a professional with specialized knowledge and represents the State when making decisions. The judge’s role can be broadly characterized as follows: (1) the power of the judge cannot be delegated; (2) the judge has autonomy to judge and decide; (3) when passing judgment, whether making an individual decision or casting a vote in a joint decision, the judge interprets the law in accordance with his/her specialized knowledge, view of the world, values and conscience. Judicial autonomy is thus a marked characteristic of the court’s activity.

The autonomous character of the primary activity was underlined by the evidence of the interviews, where it was repeatedly suggested that there are as many STJs as the number of judges at the court. The STJ was metaphorically depicted by several interviewees as an archipelago made up of different islands: “the day-to-day understanding is that each judge in chambers is an island (...). One speaks Greek, the other Trojan” (TG10); “each island thinks differently. And when a judge takes over the presidency, he ends up focusing on a certain segment” (TG09); “each person works on their own little island and nobody knows everything that goes on” (TG06). The word ‘entity’ was used by one of the interviewees (AS02) to characterize each of the judges at the court. With these metaphors (island and entity), interviewees made clear not only the division of work that exists but also the autonomy judges have in carrying out their work.

A strong demarcation, between primary and support activity was evidenced by direct observation, reinforcing the characterization of judicial autonomy and permitting identification of certain characteristic and suggestive liturgies and formalities. For example, the judges’ physical space is separated from that reserved for carrying out support activities. Access to the trial chambers involves rituals that include wearing certain types of clothing (robes, for example) and using identification tags. Judges are referred to by staff members in a distant and ceremonial manner: they are referred to and addressed as ‘sir’ or ‘madam’, ‘his/her honour’ followed by the word ‘minister’ and their name. When a judge refers to a
colleague he, too, usually uses ceremonial terms such as ‘your/his honour’ and ‘doctor’. The judges also employ language, especially when writing, that is very specific to the field of law, the meaning of which is not common knowledge to the vast majority of citizens. These usages reinforce the isolation or distance between judges and staff members and even, to a certain extent, among the judges themselves.

The work of a judge consists of analyzing and ruling on cases where there are disagreements between two or more parties. This can include questioning the parties involved, in addition to reading and interpreting their arguments and counter arguments and hearing witnesses in order to arrive at impersonal and impartial decisions. The need for impartiality and impersonality on the part of the judge requires him to distance himself from the litigants in order not to allow his emotions to interfere with his judgment. Ceremonial relationships, in this context, may be a way of ensuring that judges remain distant and impartial to all parties involved.

It is important to emphasize that the organizational and professional characteristics identified at the court by no means signify an absence of authority and hierarchy. Although the relationships among judges can be characterized as peer relationships in which hierarchy is not clearly observable, these relationships do reflect recognition of merit and authority. As stated by interviewee GP02: “the judges have a great deal of respect for the President [of the court]”.

These characteristics are congruent with machine and professional bureaucracy configurations (Mintzberg, 1979) and make it difficult to acquire a systemic vision within the organization, justifying the archipelago metaphor the interviewees used when referring to the structure of the court.

### 4.1. Management Innovation at the Superior Tribunal of Justice

The term ‘management innovation’, as used in this study, includes a set of changes in working processes, routines and management behaviors. The term is also used here to mean ‘innovation process’, ‘planning process’, management model’, or simply ‘innovation’, according to the context. According to those interviewed, this innovation process began in the late 1990s, when a STJ management team sought to introduce total quality management (TQM) techniques at the Court. One of these initiatives was to reward the innovative idea of a staff member who proposed adopting the management performance model known as the Balanced Scorecard (BSC). This model seeks to translate the vision and strategy of the organization into an integrated set of goals and performance indicators that form the basis for a strategic management and communication system. It is composed of a strategic map, strategic objectives, goals and initiatives (STJ, 2006).

The Court began introducing this management model in the early 2000s. This has involved changes in work processes, the introduction of new routines, new behaviors and new relationship patterns among staff members. The process is managed through specific projects with a horizontal flow perspective rather than a vertical perspective of activities. In addition to increased efficiency and effectiveness, the innovation has the intention of integrating management processes in such a way that the objectives and goals of the STJ will become known and be shared by all staff members.

In this way, via ‘strategic projects’ selected by the Strategic Management team and approved by the court president according to their potential impact on the primary organizational activity and objectives, the management model of the STJ seeks to introduce among both judges and staff members a systemic vision of the work of the organization. One
of the characteristics of these projects is the clear delimitation of objectives, resources, goals and results, with an established deadline. As a general rule, a project seeks to implement an improvement or change in the organization.

The systemic vision principle at the STJ can be viewed from different perspectives. Among the judges, this principle means the adoption of strategies and processes that will allow exchange of information in order to obtain greater uniformity in the interpretation of the law, leading to rulings that result in fewer appeals. One of the strategic projects at the court seeks to achieve this, by collecting, organizing and disseminating to the judges different interpretations and rulings that have been made on the same question. The objectives of this project are to encourage greater consensus and common understanding among judges and to permit comparison of the decisions of the STJ to those of the Brazilian Supreme Court.

For those in charge of support activities, the objective of inculcating systemic vision is to provide each individual with a clear understanding of the influence of his work on the work of others and vice versa and of how each person’s work contributes to the achievement of wider organizational goals.

When the court began to introduce this management model, Brazil was undergoing a process of reform in federal public administration. This reform, although restricted to the executive branch, seems to have encouraged mimetic isomorphism at the STJ. According to one of the interviewees (AE01) “...at that time we heard a lot about the organization needing to develop better management methods”. In the words of this interviewee, the increasing demands on the court showed the need for the organization to adopt a planning mechanism for a more rational use of resources:

The demand (...) was heavy and resources were scarce. (...). Our planning experience was more operational (...). We needed planning with a clear focus on innovation (...). The proposal [to implement the new planning model] was accepted and we began with very clear and defined goals, indicators and aims. We formed a group that had had a great deal of experience in the organization (...). We were motivated by this need for planning but it was also the idea that a civil servant could be rewarded that inspired us to come up with better ideas. (AE01).

The BSC was introduced by a STJ staff team, with the support of its president. The process followed the main steps suggested by strategic planning literature, i.e. analysis of internal and external environments of the STJ, identification of strong and weak points and definition of mission, vision of the future, values, directives and strategic projects. According to the STJ (date unavailable) the directives of the court for the period of 2006-2008 encompass four perspectives, in conformance with BSC methodology, each targeting a set of objectives: (1) Society: offer quality services; increase socio-environmental responsibility; (2) Internal Processes: increase the number of rulings; maintain the reputation of the court at a high level in the eyes of Brazilian society; streamline processes; (3) Learning and Growth: help modernize the judiciary system; develop competences; improve the organizational climate; (4) Budget: secure and manage budget and financial resources. According to the STJ (date unavailable) the court established twenty goals for the period from 2006 to 2008.

These goals prioritize aspects such as: user (mainly lawyers’) satisfaction; reduction in the number of internal appeals processes after rulings; reduction in the number of modifications to rulings; increased numbers of cases concluded; reduced backlog of cases to be judged; reduction in the time needed to judge a case; reduction in the cost of cases at the court; reduced consumption of paper, electricity, and water; adequate treatment of refuse and waste; increased action to inform members of the public about their civil rights; promotion of a more positive external image of the court; increase in the number of citizens who know about the court; increased availability of information about the court that other organizations
can share and use; integration of information of the STJ with that of other Brazilian courts; streamlining, in collaboration with the legislative branch, of approval of legislation important to the court and to the justice system; implantation in the area of personnel management of a model for management of competences; increased average time spent on annual staff training; internal perception of improved organizational climate; greater economy in the use of budget resources; full execution of annual budgets; more resources for capital investment.

The objectives of this planning process at the court seem clear to the interviewees. All viewed it as an organizational change having the purpose of: (1) contributing to increased levels of efficiency in the organization; (2) making the court better known to the general public; (3) increasing the STJ’s level of transparency; and (4) more rational use of the resources of the organization. They also perceived that the success of this process requires the involvement and commitment of both judges and staff members to the objectives established and that it is necessary to overcome internal resistance. In short, they see the purpose of innovation under study as rationalizing the management process in order to introduce a culture that values results and improved efficiency.

4.2. The Role of Information Technology (IT) in the Innovation of the STJ

The computerization of the judiciary process in Brazil was authorized in December, 2006, by Law 11.419, which permits the use of electronic support in the management of legal cases, communication of developments and the transmission of legal documents. The computerization of the judiciary in general and of the STJ in particular has been defended by judges at the court, in view of the potential this has to help reduce formalism and the consumption of paper, and make the justice system more rapid and transparent. Barros-Monteiro Filho (2006) perceives IT as the greatest ally of justice, contributing to convincing judges to change their habits and move away from their “reverence for bureaucratic practices, paper, rubber stamps and everything that represents administrative sluggishness.” The movement to introduce electronic management of legal processes in Brazil appears to be part of a worldwide movement to computerize tribunals. Bath (2005) observes that IT is a multidimensional resource that has been influencing the levels of efficiency and effectiveness in the management of justice in a number of countries.

Information technology (IT) provides important strategic support to the innovation process at the STJ, helping to streamline cases. It is an indispensable resource for controlling the flow of cases to be judged and also for storing, accessing and disseminating related information. According to the STJ (2008) on 31 December, 2007, there were 239,216 cases pending judgment, 313,364 cases were registered and 330,257 were judged during 2007 period. These numbers – which correspond to an average of more than 10,000 cases per judge per year – clearly show that it would not be possible to control this volume of work without the support of IT resources.

Vidigal (2001), a former judge and STJ president, suggested that digitalizing the legal process would save time and paper, which would also preserve forests and the environment. To this judge, processing cases through the various instances of the judiciary and from there to the Public Defender’s Office could readily be conducted through computer networks using IT. The parties involved in a case could be summoned by e-mail; decisions and rulings could be published online in the daily justice bulletins, and these judgments could be communicated and enforced immediately. Vidigal (2001) goes on to say that the decisions of judges could be “enhanced through discussions via intranet”. This would apply to cases of joint decisions, when the reporting judge would make his report available and his preliminary vote (with guaranteed confidentiality) to the other judges, who would give their opinions and suggest
changes. This could result in more consistent decisions and would reduce the number of reviews and appeals. Most of these predictions had become a reality at the STJ by 2008, as described below.

On its website STJ publishes information about its activities, management plans, organizational structure, ongoing projects, internal rules and procedures and accountability. In 2008 introduced the following on-line information mechanisms regarding its primary activity: (1) daily Justice Bulletin; (2) jurisprudence, with access to sentences, summula, rulings and bulletins about jurisprudence at the court; (3) information on cases, with access to the status and progress of cases and any decisions or rulings that have been made. A system that allows petitioning and electronic monitoring of cases has been in place at the STJ since April, 2007, as an optional service that allows the use of the internet for cases without the need for written petitions on paper. This option is available for every type of case that the court handles. There is a widespread feeling within the organization, summarized by interviewee TG02, that the court will have “a totally electronic process” in the future, doing away with paper, and that this will result in savings in terms of time, resources and staff, and improving the quality of the work of the court, in general.

According to interviewee AE04, an “electronic vote exchange” between judges is now operational on their internal computer network. According to this interviewee, the reporting judge can access the reports of the other judges of the court on his computer screen. The reporting judge has his vote and the others have their votes all ready. This makes things much easier. (...) If the judge has a doubt he includes it in the case (…) if he has no doubts it means that he agrees to vote with the reporting judge. When there is the ritual of a trial (for joint decisions), the judges start the proceedings by reading out ‘case number such and such’. If no one has anything to say, then let’s go with the reporting judge. Dozens of cases do not return. When the case involves a joint decision, it takes a bit longer, that’s only natural.

The documental analysis shows a considerable reduction in the backlog of cases. According to STJ (2008) the court handled 313,364 cases in 2007, 4.6 times more than the 68,576 in 1995. Over that period, the number of cases that were judged per year multiplied by 5.3, rising from 62,332 in 1995 to 330,257 in 2007. Pending cases fell from 13.65% in 1995 to 7.7% in 2007.

The research data do not permit inferring a direct association between the innovation studied and possible advances achieved by the STJ, such as shorter deadlines for rulings and a smaller backlog. For one thing, the innovation is still being implemented and, therefore, has not yet become totally institutionalized. It is also true that the slow speed of justice in Brazil goes far beyond the management of its organizations and depends on wider institutional reforms, especially of the statutes that permit multiple appeals and multiple instances of judiciary power. Nevertheless, IT support systems and the commitment of judges and staff at the court to the objective of streamlining rulings seem to be decisive factors when it comes to reducing the backlog of pending cases at the STJ.

4.3. The Institutionalization of Management Innovation at the STJ

The management innovation at the STJ can be analyzed from two perspectives: external and internal. From the external perspective, the innovation is part of the broader reform of the Brazilian judiciary system and is helping to speed the course of justice, facilitate the management of cases and increase the level of transparency at the court. In addition, it results in a so-called trickle-down effect, i.e., the influence of this innovation in other tribunals. The management model at the STJ has served as a benchmark for other courts, according to those interviewed. The staff members responsible for the planning function at the
STJ have been invited by other courts to give talks and report on their experiences in implementation of the court management model. This mimetic movement may help legitimize and institutionalize the new management model in the management of the judiciary.

From the internal perspective, the innovation has influenced the implantation of professional management at the court. It was evident, during the research, that some judges and staff at the STJ were truly committed to a work model based on objectives, goals and indicators. This could be seen as one of the stages towards the professionalization of management in organizations. To be sure, this commitment has yet to be adopted by everyone at the court. Most of the interviewees say that, in the organization, there is “resistance to working with indicators” and that there are “different cultures within the organization”. However, according to the interviews, there are judges who support the organizational innovation and this support is most apparent “when the judge undertakes a managerial task” such as heading a group of judges, or taking on the vice-presidency or presidency of the court. Likewise, in the units responsible for support activities, there are also different degrees of commitment to the new management model. As pointed out by interviewee GP02, some units “have already adhered to the change objectives, including a concern with people who use the courts, whereas others have a more individualistic view and do not have this systemic view”.

Identifying the best practices used by judges for the development of their tasks resulted in the conception of a ‘virtual model chambers’ with the following characteristics: specialized work teams; rationalization, organization and standardization of the flow of activities; training of teams within the new paradigms of jurisprudence; team management by results; use of IT tools; delegation of tasks (STJ, date unavailable). It is optional for a judge to adopt this model. According to the interviewees, the number of judges who have adhered to it has increased over time. At the time the research took place, one-fourth of the judges had adopted it.

The rotation of the upper management (presidency and vice-presidency) at the court was a point that interviewees emphasized as a possible obstacle to the institutionalization of the new management model. The president and vice president are chosen by their peers every two years. The criterion for this choice is usually seniority. Therefore, the line of succession is known beforehand and this leads to greater stability in management and avoids power struggles among the judges. It also means that all the judges can gain experience in the management of the court. On the other hand, every time there is a change in the presidency, according to interviewee TG06 there is “a sort of earthquake (...) the Tribunal is shaken by a new management that has different principles, different visions of what is strategic (...) teams are totally changed”. This can result in a lack of continuity, loss of information and wasted resources. From the view of this and other interviewees, the more that planning becomes part of an institutionalized policy at the STJ, irrespective of changes in management, the more projects will enjoy continuity and suffer fewer set-backs.

In this regard, it is relevant to note that the rotation of the presidency and vice-presidency is a common practice in all Brazilian courts. This leads, in turn, to a rotation between courts and with other branches of power of the managers who serve in staff positions in the courts. It is common to find professionals who have been managers in two or more courts or governmental organizations. This circular movement, although it can mean changes in the direction a management is taking and interrupt programs in progress, also means that practices developed in one court can be transferred to others, characterizing learning from other communities. The following observations illustrate this fact:

What I would like to emphasize is what I noticed in comparison with other institutions. You miss having some form of planning (...) [from] my own experience with the executive branch I
noticed that (...). At the STJ I saw that our planning made more sense (...). It has become a paradigm for public management. (GP02).

This court is a benchmark in terms of management. The court is avant-garde; I wouldn’t say it’s the best because the court is big and cumbersome, but there is a drive for more efficient management (...). I see this because I’ve already worked in other courts. The court has come a long way toward achieving its goals. (GP10)

4.4. The Development of Dynamic Capabilities at the STJ

The innovation at the STJ has laid the groundwork for the development of organizational capacity, highlighting two dynamic capabilities: Electronic Court Management and Project Management. They can be classified as capabilities because they are embedded mechanisms for coordination and integration of work processes, routines and other resources, and also because of their capacity for systemic influence in the organization as a whole and in the implementation of the management innovation in particular. These capabilities include a set of knowledge, technologies, routines, manuals, programs and equipment for planning, monitoring and control of activities. These embedded capabilities can be considered dynamic to the extent that they facilitate learning and the on-going generation of innovations.

Electronic Court Management includes mechanisms for reception, access, security and control of the flow of petitions and other documents from cases being judged at the court. It also makes information about rulings and jurisprudence available to the internal and external public. The learning involved in embedding this capability takes place in two complementary ways: through training, with short and medium-length and long-term courses, such as a Master’s Degree in computer science at the University of Brasilia for STJ professionals, and through the experience of technicians in the organization, what is known as ‘learning by doing’.

Project Management has been the means of introducing innovations at the Tribunal. It involves the use of matrix structures in which the functional units manage the routines and the project teams manage the innovations and provide support for them. The STJ has considerable experience with project management, including the conception of project, its differences in relation to routine activities, definition of the role of the project manager and knowledge of how to minimize struggles over power and authority between functional managers and project managers.

The learning for this capacity has essentially been ‘by doing’ and ‘by hiring’. In the early stages of the implantation of the new management model, the court offered around forty hours of training in project management to a team of approximately 20 staff members. Since then, the court’s own technicians have been learning through practice. The learning by hiring takes place by hiring a consulting firm that has provided diagnoses, analyses of routines and work processes and the building of indicators in order to maintain ongoing management improvements at the court.

The definition of strategic projects has led to the development and implementation of a number of projects at the court. As time goes by, these projects will become incorporated into the routine of the STJ. In other words, the adoption of this innovation has resulted in orienting actions and is helping introduce changes in organizational culture and processes.

5. Conclusions and Recommendations

The management innovation described in this article is part of a broader effort at modernization of the Brazilian judiciary system. Although the research data do not permit the
conclusion that there is a relationship between innovation and efficiency at the court, the evidence in this regard is suggestive.

The innovation appears to be contributing to the introduction of a systemic vision in the organization under study and to the reduction of the harmful effects of the rigid division of work. Moreover, the innovation has helped to establish management by results in the STJ with a planning model based on goals and indicators. The intensive use of information technology has helped to increase the level of transparency at the court, facilitating the access of lawyers who represent parties involved in litigation, streamlining rulings on cases and publication of these rulings and, consequently, has contributed to increasing the level of the organization’s accountability.

The following effects of the innovation under study also deserve to be mentioned: the development of two dynamic capabilities at the court: Electronic Court Management and Project Management. There is also the fact that the management model at the STJ is being used as a benchmark by other Brazilian courts. The introduction of these management innovations and the mimetic effect that the innovation has on other courts could be decisive for innovation to occur in court management nationwide.

On the other hand, there are obstacles to be overcome for the innovation to be institutionalized. The innovation has not yet been fully accepted by all the judges and there is resistance to adopting a management model based on results. Like every management innovation process, it is essential that those in charge of the court believe the innovation to be strategic for the organization and take the necessary actions to overcome resistance.

A research agenda involving transversal and longitudinal studies with internal and external publics is recommended, in order to analyze perceptions about and impacts of the innovations during and after completion of the innovation process. Further research would enable investigation of the relationships between results, and the innovation, that is to say the implantation of the management model at the court and the implications of this for court management in a wider sense.

Like all studies, this one has its limitations. The data provide only a snapshot of a moment in the innovation process. For this reason, we recommend the continuation of the study in order to accompany the evolution of the process and its impacts on the court. The other principal limitation is that interviews, although broadly representative of the different segments of the organization, reflect exclusively the viewpoint of staff members and do not include the viewpoint of the judges. To minimize the effects of this limitation, we utilized other methods such as documental analysis and direct observation in order to obtain a more complete and independent vision of the innovation under study.

References


