

Role Stress in Judges

Subjects: Public Administration

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Judges are the central actors in the organization and functioning of the judicial system. The judges' role has undergone changes, with the role of manager entering into the scenario of a classic and formerly unique role to apply the law.

Keywords: judges ; calling orientation ; role conflict ; role ambiguity

1. Introduction

Courts, as any other organization, operate in social contexts. Despite being institutionally legitimized and constitutionally independent organizations, the judiciary is not immune to social perceptions, international rankings, criticisms, and recommendations ([Guimarães et al. 2020](#)). Faced with deeply institutionalized organizations, uncertainties between the organizational structures and the efficiency of the institution can generate conflicts at various levels. The uncertainties and incompatibilities caused by a deep institutionalization are a source of tensions, conflicts, and ambiguities within institutions ([Garcia 2015](#)).

The European Commission for the Efficiency of Justice (CEPEJ) was created to monitor and establish European rankings. Comprised of specialists, it is the only body at the European level that assesses the efficiency and qualities of the justice sector ([Correia and Videira 2016](#)). The publication of evaluation reports of European judicial systems has been a common practice since 2006, with 28 studies already published. The most recent assessment was published in the 2020 Efficiency and Quality of Justice in Europe report, referring to 2018 data. In the latest assessment, Portugal is slightly below the European medians: 1.98 pending cases per 100 inhabitants, in a European median of 1 pending case per 100 inhabitants; a resolution rate corresponding to 109.2%, in a European median of 100.7%; and the precise time to finish all pending cases (disposition time) is 229 days, in a European median of 194 days ([CEPEJ 2021](#)). Thus, the use of statistics can work as an ally ([Pereira and Correia 2021](#)). As Romão and Correia stated: "statistics are not only a public good, but furthermore they present themselves as a central tool for planning and monitoring justice policies" ([Romão and Correia 2021, p. 2](#)).

These assessments prove that the functioning of the courts is heterogeneous ([CEPEJ 2020](#)). Even with similar structures, there are several factors that dictate the good or bad functioning of the judicial system. The literature on court inefficiencies has focused on the problems felt, from the institutional habitat ([Staszak 2018](#)) and autonomy ([Zoettl 2018](#)), perception of social justice ([Cardoso and Breda-Vázquez 2007](#); [Abril et al. 2020](#)), political context ([Stoleroff 2016](#)), legal content ([Hanretty 2012](#)), maturity of institutions ([Ginsburg and Garoupa 2009](#)), solidity of the rule of law ([Bi 2017](#); [Staszak 2018](#)), the dynamic between courts and society ([Zoettl 2016](#); [Basto-Pereira et al. 2018](#)), interdependence between judicial governance and legitimacy ([Guimarães et al. 2020](#)), and budget allocated to the courts and the relationship between the judicial workforce and workload ([Gomes et al. 2016b](#)).

The psychological pressures and resignations of inside-system legal professionals have become a concern ([Bi 2017](#)). Judges are the central actors in the organization and functioning of the judicial system. The most recent figures from the Portuguese justice department indicate that there were 2012 judicial magistrates and 1419 public prosecution magistrates ([Directorate-General for Justice Policy 2021](#)). It is in this professional group that citizens place a "reservoir of loyalty" ([Brody 2008](#)) for the resolution of their conflicts ([Silva et al. 2019](#)). The judiciary is socially legitimated through the autonomy and independence of the judges. Entry into and promotion during the judicial career involves several factors, including specialized training, rotativity, and performance evaluation ([Grajzl and Silwal 2020](#)).

The roles that each of these actors assumes are well defined in national and international studies and reports. As defined by Tsai and Chan, "Judges and procurators are legal officers authorized by the state to promote and uphold justice. To this end, judges and procurators are entrusted with the task of extracting the truth from conflicting sources of information and cross-examining suspects as well as plaintiffs and defendants each day" ([Tsai and Chan 2009, p. 133](#)). The judge is the central individual who has the high responsibility of rendering or taking part in a judicial decision in a case, assuming the

role of administering justice on behalf of the people (Pastor et al. 2014). In the European context, the judge is defined as the person who renders decisions according to the law, in an organized process, on any matter within his competence. On the other hand, public prosecutors, representatives of the State, also called prosecutors, are public authorities that, in the public interest, must ensure the application of the law (CEPEJ 2020). Judges and public prosecutors are supported by justice officials, responsible for administrative and management tasks of the courts, contributing to an efficient functioning in the organization (^[1] 2016b). In 2020, the Portuguese judicial system consisted of 7547 Justice Officials (Directorate-General for Justice Policy 2021).

2. Theoretical Framework

2.1. Institutional Theory

Institutional theory until the beginning of the 21st century was studied through different strands, from Weberian rationalization studies to comparative studies of institutions. This theory has become increasingly dominant and institutionalized as a legitimizing structure for organizations (Alvesson and Spicer 2019).

Institutional theory or institutionalism finds its origins in the 19th century and in the conception of a group of classical thinkers in the social sciences who considered the observation of institutions a fundamental exercise for development (^[2] 2011). Comprising several axes, depending on the sphere of knowledge in question (whether economics, sociology, organizational theory, or political science, among others), different conceptions of institutionalism observe the same reality with different analytical orientations. In a myriad of definitions, generically, the concepts of institution and institution process lean towards a firm construction in the interaction and establishment of interpretations, communications, and standards classified through a set of rules, values, and routines (Ferreira et al. 2001).

A social structure is defined as the patterns of interaction between two or more elements. For Ostrom (2007), institutions are the rules, norms, and strategies that guide the various individuals in societies. The definitions of institution are different, varying according to the authors (Cardinale 2018); however, in all definitions the idea of social structure is present. This is where the study of institutionalism is based: on social structures (Garcia 2015).

Institutional theory has three major currents: historical institutionalism, rational choice theory, and sociological institutionalism, which together form the so-called new institutionalism or neo-institutionalism (Garcia 2015). This is currently one of the most prominent schools of thought in organizational studies. The theory of the new institutionalism offers a set of contributions with regard to the link between the individual organizational sphere and the social environment (Alvesson and Spicer 2019).

In the scientific field of human resources management, a scientific area allied to law, institutional theory has been explored around five major themes that are worth mentioning (Lewis et al. 2019): (i) restrictions on resource-management-practices human resources; that is, the institutional environment limits the management of human resources, and normative, mimetic, and coercive forces promote isomorphism in the management of human resources that share similar social structures; (ii) institutionalization of human resources management practices; that is, practices become an acquired and unquestionable fact; (iii) transnational differences in human resource management practices, as each country has its own specificities, with different organizational environments; consequently, human resource management practices differ from country to country; (iv) strategic use of human resources management to gain legitimacy; and finally (v) use of human resources management as a diffusion mechanism; that is, human resources management structures serve as a mechanism for normative, mimetic, and coercive isomorphism.

2.2. Role Stress: Role Conflicts and Role Ambiguities

Organizations are composed of a standardized set of behaviors formalizing a system of roles in a given organization. This role system, defined by rules and conduct, differentiates positions in a social structure. The term role can be analyzed at the psychological level and at the behavioral/organizational level. The first (the psychological level) concerns the pattern of behavior expected of the individual who occupies a certain position. The behavioral or organizational level considers what is expected of a certain position. Here, the concept of role does not belong to a particular person, being indifferent to the characteristics of each one. What matters is the position occupied in a social construction, which produces expectations under a certain position. This provides a more beneficial social interaction for the actors, allowing a certain prediction of the behavior of others in the organization (Ferreira et al. 2001).

In organizations with pluralistic leadership structures, where the limits of roles are not clearly defined between the organization's leaders and other members, role conflict and consequently role stress may arise (Ebberts and Wijnberg

2017). Role stress is a factor requiring reflection in organizations, as the output of individuals may be compromised when they perform more than one specific function, and therefore the organization may be negatively impacted due to poor role-stress management. Role stress in organizations manifests itself in two ways: role conflict and role ambiguity ([Huang et al. 2020](#)).

Role conflict is defined in the literature as incompatibility or inconsistency of functions in the roles assumed by an individual ([Ebbers and Wijnberg 2017](#); [Çelik 2013](#)). It is also defined as a type of stress resulting from a conflicting or competing expectation on the part of managers with respect to a particular position or function in the organization. Prioritization conflicts also become apparent when there are double responsibilities ([Tarrant and Sabo 2010](#)). Role ambiguity is defined as uncertainty about the tasks and responsibilities involved when there are multiple roles to play ([Ebbers and Wijnberg 2017](#)). It thus occurs when an individual is not provided with the information necessary to correctly perform the functions required in a given position ([Tarrant and Sabo 2010](#)). Ambiguities arise due to a lack of communication on the part of the organization, meaning that the situation may be more easily clarified than in the case of role conflicts ([Guimarães et al. 2017](#)). For example, a study by [Tarrant and Sabo \(2010\)](#) on the health sector, which in the 1990s was the subject of management reforms focusing on cost and resource control and profit seeking, found that head nurses had experienced profound changes to their duties and responsibilities, which in turn led them to experience role-stress symptoms. In addition to the more traditional patient-care duties associated with the role of nurse, head nurses were also assigned a supervisory role and board-level responsibilities involving participation in budgetary decisions and strategic planning, policy development and implementation, program creation, financial-goal achievement, and project participation. This change required skilled management of new knowledge acquisition and existing knowledge development. Conflicts and ambiguities between traditional nursing duties and administrative functions resulted in role-stress symptoms.

2.3. Role Conflicts and Ambiguities among the Judiciary

Over the past three decades, the judiciary has experienced a complex phenomenon occurring in the judicial system ([Mak 2008](#); [Silva et al. 2019](#); [Grajzl and Silwal 2020](#)) that has its origins in reforms based on the “new public management” paradigm ([Mak 2008](#)), in which the role of the judge has changed ([Viapiana 2018](#)). In addition to playing the traditional, purely judicial, role of law enforcement, the judge is now also tasked with the role of court manager, a role that is coupled with new administrative activities. A multiple specialization has been introduced into the judge's life and profession: in addition to the specialization already inherent in the function of applying the law, judges now also assume the role of court-of-law judge-manager. This multiplicity of roles ([Dias 2017](#)) is the source of conflicts and ambiguities in the realization of the judiciary's work ([Gomes et al. 2016a](#)).

A recent study applied to Portuguese judges ([Guimarães et al. 2017](#)) described a typology of conflicts and ambiguities perceived by this professional group. Four incompatibilities were identified regarding the perceived conflicts ([Ebbers and Wijnberg 2017](#)), namely, (1) incompatibility between judicial activities and the administrative activities inherent in the new judge-manager role; (2) incompatibility between workload and workforce, due to the small number of justice officials in service; (3) incompatibility between the focus on productivity and the quality required of judicial work; and (4) incompatibility between the salary and the responsibility associated with judicial work. Ambiguities were evident in the form of four uncertainties ([Ebbers and Wijnberg 2017](#)), namely, (1) uncertainty regarding the hierarchical relationship between judges and justice officials, since the latter answer to the justice ministry; (2) uncertainty regarding judges' role in court planning, as the judge-manager role involves planning and management functions that are, however, not clearly defined, thereby indicating an unclear planning scenario; (3) uncertainty regarding criteria for distributing cases between judges, thereby giving rise to an imbalance in workloads; and (4) uncertainty regarding criteria for the evaluation of the judges' performance, which fail to consider all activities associated with the different roles, thereby leading to confusion in the prioritization of activities.

In their investigation into the meaning of work for judges, [Silva et al. \(2019\)](#) warn of judges' concerns regarding excessive court workloads. The authors emphasize that the combined demands of judicial work and the administrative tasks of the judge-manager may lead to excessive workloads, professional frustration, and lack of motivation.

2.4. Role Stress and Occupational Burnout

Distinguishing between stress and burnout is an arduous task, as burnout is a multifaceted notion ([Çelik 2013](#)). Burnout can be defined as a prolonged response to chronic emotional and interpersonal stress arising during work ([Lian et al. 2021](#)). [Wu et al. \(2019\)](#) define burnout by relating it to the negative feelings experienced by individuals in their work environment. [Maslach and Leiter \(2008\)](#) analyze burnout by means of a model that places the experience of individual tension within the social context of the workplace. Their three-dimensional model comprises an emotional exhaustion

dimension, concerning the tension felt by the individual in the form of feelings of individual overload and exhaustion of both emotional and physical resources; a cynicism/depersonalization dimension, concerning the interpersonal context of burnout, in which a response that is negative, insensitive, and distant from the various work components is evident; and a professional ineffectiveness dimension, concerning feelings of incompetence and lack of achievement and productivity, thereby representing the self-evaluation aspect of burnout.

Role conflict and role ambiguity are types of stress that affect performance and can lead to occupational burnout ([Çelik 2013](#)). Consequently, individuals who deal with role conflict and role ambiguities may experience the above-mentioned dimensions of emotional exhaustion, depersonalization, and diminished personal success ([Karatepe and Uludag 2008](#)).

Various studies have already related burnout with distinct professions in which role conflicts and overload of duties are evident. In the case of head nurses, there is a fine line between nursing responsibilities and those of organizational management; in terms of task prioritization, role conflict and ambiguity between these double responsibilities has been found to exist at a still moderate and manageable level. However, high levels of stress in performing duties are linked in the long-term to negative consequences such as depression, and it is therefore essential that an individual dominates stress and manages it well; as long as it is not overwhelming, stress can even facilitate the development of required skills ([Tarrant and Sabo 2010](#)).

One of the current challenges is the psychological environment at work and the consequent psychosocial risks, recognized worldwide as a public health concern ([Rosário et al. 2017](#)). Psychosocial factors are defined as particularities associated with the conditions and organization of work that, through psychological and/or physiological actions, harm the health of individuals. Some examples of psychosocial risks are: workload, mental and physical work overload, monotony, lack of empowerment, burnout, moral harassment, violence, insecurity, and stress. These risks have a set of consequences: work accidents, absenteeism, anxiety, depression, stress, cardiovascular diseases, bad social environment at work, and decreased productivity and quality of work, among others.

One of the psychosocial risks is administrative overload/labor demands. According to [Kristensen et al. \(2005\)](#), labor requirements can be subdivided into a set of variables: (i) quantitative requirements; (ii) work rhythm; (iii) cognitive requirements; (iv) emotional demands; and (v) demands to hide emotions. The increase in labor demands brought about in recent decades have had negative effects on individuals and consequently on organizations ([Rosário et al. 2017](#)).

The combination of administrative overload, psychosocial consequences, and role stress has remained present in academia, drawing attention to the need to manage these constructs and find ways to devise solutions in an increasingly fast-paced and impatient world ([Orgambidez-Ramos et al. 2017](#); [Wu et al. 2019](#); [Huang et al. 2020](#)).

Other professional categories have also been the focus of studies relating role stress and burnout. Examples include early-career university professors ([Lian et al. 2021](#)), secondary school vice-principals ([Çelik 2013](#)), construction project managers ([Wu et al. 2019](#)), physicians ([Creed et al. 2014](#); [Zhang et al. 2020](#)), police officers ([Zhou et al. 2020](#)), and bankers ([Raza et al. 2017](#)).

In the judicial system, [Bi \(2017\)](#) carried out an investigation that analyzed job burnout of inside-system legal professionals under the rule-of-law reform and its possible causes. To this end, he formulated six hypotheses, namely: “H1: The more elements of non-rule-of-law exist in practice, the less job burnout there is among inside-system legal professionals; H2: The stronger the ideal of rule of law among inside-system legal professionals, the lower the level of job burnout; H3: In the face of the practice of non-rule-of-law in daily work, the higher the ideal level of rule of law legal professionals have, the stronger the degree of job burnout; H4: Lack of confidence in the prospect of the construction of rule of law is related to a higher level of job burnout; H5: If the inside-system legal professionals have strong confidence in the prospect of the construction of the rule of law, but meanwhile there are many situations of non-rule-of-law in their daily work, their job burnout will be stronger; and finally: H6: Those subjects with weak ideals of the rule of law but strong confidence in the prospect for construction of the rule of law have lower levels of job burnout” ([Bi 2017](#), pp. 588–90).

2.5. The Calling Work Orientation

The course of most people's lives is shaped primarily by their work ([Wrzesniewski et al. 1997](#)). Work, as a subjective experience, does not mean the same for all individuals, and choosing a profession is not a linear process, as choices may be influenced by various factors, such as the economic rewards, the level of personal satisfaction, and the intrinsic individual and social meaning associated with a certain profession ([Pitacho et al. 2020](#)). A landmark book in this discussion is *Habits of the Heart* ([Bellah et al. 1985](#)), in which work orientation is conceptualized by means of a tripartite job-, career-, and calling-orientation model of the relationships with individuals as they develop with their professions.

Several years later, in their quantitative study, [Wrzesniewski et al. \(1997\)](#) called for further development of this model, believing it essential to expand on the way individuals differ in the subjective experiences of their professions. Based on the tripartite model of [Bellah et al. \(1985\)](#), they demonstrated that allocating oneself in one of the three orientations is a simple task for most people, as the particularities of each orientation guide individuals in their life purposes and provide them with meaning.

Job-oriented individuals are mostly concerned with monetary rewards, career-oriented individuals have progression and professional success as their central concern, while calling-oriented individuals focus on personal realization and the social importance of their work ([Dik and Shimizu 2019](#)). Complementing this tripartite profile model, a recent study ([Pitacho et al. 2019](#)) considers work-orientation profiles that combine the three dimensions; that is, in addition to the pure job, career, and calling profiles, the authors discuss the possible existence of mixed profiles, namely, “career-calling” and “career-job” profiles.

However, among the three pure profiles and the possible mixed profiles, the calling orientation is considered in the academic literature as having particular cultural importance ([Duffy and Dik 2013](#)). Aside from the tripartite model mentioned above, the idea of work as a calling is one of the oldest and most well-founded constructs in the study of work ([Thompson and Bunderson 2019](#)), with origins in the religious metaphors of vocation and inspiration ([Wu et al. 2019](#)). The multidimensional work-as-a-calling construct concerns the affective, motivational, and spiritual bonds between individuals and their professions ([Rosa et al. 2019](#)). The calling orientation is the most intense in terms of the meaning that work can give to an individual, and it is usually those who follow that calling who live a more professionally engaged and committed life linked to positive values for a set of variables concerning well-being at work, such as professional maturity, commitment to work, and meaning and satisfaction at work and in life ([Duffy and Dik 2013](#)).

Nevertheless, there is still no consensus in the literature regarding a clear definition of the work-as-a-calling construct. Considering the various definitions that have been made over the years, two perspectives are evident among scholars. On the one hand, there is the neoclassical perspective based on the religious origin of the notion of calling, which considers each individual to be born with a vocation for a particular type of work and motivated by a social desire to have a positive impact on the community, and in which this desire has transcendent origins or arises through a sense of destiny ([Dik and Shimizu 2019](#)). On the other hand, there is the modernist perspective, more aligned with today's modern and largely individualistic values, which focuses on self-expression, self-realization, and the intrinsic meaning of work. Calling, according to this perspective, is an expression of individual passions and interests, and is not driven by a sense of duty or social responsibility. Thus understood, calling is an individual choice and a form of personal expression, rather than representing a transcendent destiny waiting to be revealed ([Thompson and Bunderson 2019](#)).

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