



Designing for Trust: Role and Benefits of Human-Centered Design in the Legal System

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ACADEMIC ARTICLE



ABSTRACT

For laypeople, the experience of courts can be confusing, intimidating or even aggravating. Court users are often overwhelmed because their needs are secondary to procedural or organizational needs. This perception is even more acute for court users with special or additional needs, such as those with past trauma, cognitive impairment or socio-cultural barriers. As a result, with trust in organizations potentially diminished, the effectiveness of the legal system can be undermined. This research seeks to advance our understanding of the nature and role of human-centered design as an approach to innovation, supporting change in the legal system while creating or maintaining trustworthy environments. Human-centered design prioritizes human needs by enabling meaningful interactions in legal environments across the entire user journey, not just in the courtroom. We identify five levers and two levels of design which enable human-centered design to improve court environments and ultimately help build trust of court users within the legal system.

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KEYWORDS:

Trust; human-centered design; legal design; legal system; designing for trust; design thinking

TO CITE THIS ARTICLE:

Ingo Oswald Karpen and Melis Senova, 'Designing for Trust: Role and Benefits of Human-Centered Design in the Legal System' (2021) 12(3) *International Journal for Court Administration* 7. DOI: <https://doi.org/10.36745/ijca.422>

“The entire fabric of our day-to-day living, of our social world, rests on trust (...) almost all our decisions involve trusting someone else.”¹

1 INTRODUCTION

Court user experiences, including those of private citizens, play a central role in an effective legal system. For example, individuals' experiences at court can influence their disposition to engage and participate in legal procedures, as well as influence their ability to process information or accept the legal outcome. Perceptions of procedural justice and fairness can shape court users' evaluation of legal processes and decisions,² and erode or enhance trust in the legal system. Accordingly, in recent years we have witnessed increasing attention on the emotional, visceral, and psychological aspects of legal settings. For example, non-adversarial approaches to justice and therapeutic jurisprudence have emerged that place greater emphasis on human feelings and the well-being of court users.³ With a greater focus on human experiences comes an opportunity for more trustworthy legal contexts; the premise of this article.

While we acknowledge the positive and important role of non-adversarial approaches to justice, these approaches largely unfold in the courtroom and during hearings. For instance, non-adversarial justice might play out through less formal procedures, a greater focus on the needs of court users, less aggressive argument and a more collaborative 'culture' inside the courtroom. It can also manifest in the monitoring of progress of those before the court so that judicial officers act more like a “coach” rather than an ‘arbiter’.”⁴ However, the court user experience extends significantly beyond the courtroom and includes any ‘touchpoint’ where court users interact with the legal environment. Consider, for example, the often significant amount of time spent in the waiting area of the courthouse, an experience that differs markedly depending on the specific court. During this waiting experience, court users encounter significant levels of noise and tension (e.g., PA announcements, public arguments among litigants), and they can be confused by signage or general court operations, particularly for first-time users. The court user experience is like a journey. It stretches beyond the courthouse to the interactions of those within it, including before and after their arrival as well as across physical and non-physical (digital, phone) touchpoints.

Every single experience provides a moment of truth in the court user's journey: a moment of truth for trust. Every interaction or encounter in this journey can either erode or enhance trust. In this article, we conceive of trust as the “*psychological state comprising the intention to accept vulnerability based upon the positive expectations of the intentions or behavior of another.*”⁵ Despite many definitions and dimensions of trust across disciplines, a common denominator is a person's ‘willingness to rely’

1 J. B. Rotter, Generalized Expectancies for Interpersonal Trust, *American Psychologist* (1970) 26 p. 443.

2 e.g. T. R. Tyler, What is Procedural Justice?: Criteria Used by Citizens to Assess the Fairness of Legal Procedures (1988), *Law and Society Review* 22(1) pp. 103–135; and T. R. Tyler, Psychological Perspectives on Legitimacy and Legitimation, *Annual Review of Psychology* (2006) 57 pp. 375–400.

3 M. S. King, Restorative Justice, Therapeutic Jurisprudence and the Rise of Emotionally Intelligent Justice, *Melbourne University Law Review* (2008) 32(3) pp. 1096–1126.

4 A. Olijnyk, Review Essay: Non-adversarial Justice and The Remaking of the Courts, *University of New South Wales Law Journal* (2015) 38(3) p. 1101.

5 D. M. Rousseau, S. B. Sitkin, R. S. Burt, C. Camerer, Not So Different After All: A Cross-discipline View of Trust, *Academy of Management Review* (1998) 23(3) p. 395.

on other people⁶ and having confidence in their future actions.⁷ With an expectation of people acting in their mutually beneficial interest to overcome uncertainty, trust has been argued to be a “lubricant for social systems”.⁸ Similarly, we argue that trust is a central lubricant for legal systems. In this paper, we focus on trust in legal organizations where court users rely on fair procedures and believe in dependable court environments. The absence of trust challenges court users’ confidence in legal processes and outcomes with potential ramifications for the individuals (e.g., not accepting court decisions) and the larger system they are embedded in (e.g., erosion of courts as societal pillars).

Legal systems thus have an inherent need to build trust among their constituents by taking a more holistic perspective. But the question emerges of how courts can achieve this, particularly beyond the boundaries of the courtroom. This is where human-centered design becomes a valuable framework, approach and toolkit. With this article, we seek to clarify the role human-centered design can play in supporting the emergence and consolidation of trust in legal organizations. The aim is to extend the emerging dialogue of human-centered design in the legal context to explore ‘designing for trust’. Trust then is the ingredient and outcome of a meaningfully designed court environment. This paper advances our understanding of human-centered design in a legal context, part of an emerging practice and research domain of ‘legal design’.⁹ While focusing on lay people as private citizens and court users, we seek to demonstrate why human-centered design is appropriate and useful in facilitating the court user’s experience of trust.

2 HUMAN-CENTERED DESIGN IN THE LEGAL CONTEXT

Before explaining the role of human-centered design in creating trust-grounded interactions, it is helpful to anchor its principles in familiar territory. The principles of human-centered design have been established in design and service research,¹⁰ and can be seen as different yet complementary to those that may inform legal contexts. For instance, **Table 1** summarizes human-centered design principles and complements them with principles reflected in court or tribunal environments. These ‘legal principles’ are commonly described in the literature,¹¹ and are illustrative rather than a definitive and exhaustive list. While we acknowledge that specialized courts (e.g., Family Courts, Children Courts) may embrace slightly different perspectives guiding their day-to-day operations, mapping these general principles helps build mutual understanding across the design and law disciplines.

6 P. M. Doney, J. P. Cannon, M. R. Mullan, Understanding the Influence of National Culture on the Development of Trust, *Academy of Management Review* (1998), 23(3) pp. 601–620.

7 R. L. Lewicki, D. J. McAllister, R. J. Bies, Trust and Distrust: New Relationships and Realities, *Academy of Management Review* (1998) 23(3) pp. 438–458.

8 K. Arrow, *The Limits of Organization*, W.W. Norton, New York 1974, p. 23.

9 M. Hagan, Legal Design as a Thing: A Theory of Change and a Set of Methods to Craft a Human-Centered Legal System, *Design Issues* (2020) 36(3) pp. 3–15.

10 I. O. Karpen, G. Gemser, G. Calabretta, A Multilevel Consideration of Service Design Conditions, *Journal of Service Theory and Practice* (2017) 27(2) pp. 384–407.

11 For example, King, *supra* note 3, p. 1119: “... court processes have focused on fact-finding, determination of the law, applying the law to the facts via rules of evidence, court procedure, statutory interpretation and case law. These are regarded as essential to a court’s proper functioning, but the emotional implications are not.”

COMMON WAYS OF WORKING IN DESIGN CONTEXT	COMMON WAYS OF WORKING IN LEGAL CONTEXT
1) Human-driven: focus on people and the meaning of their individual and collective experiences, over process or technology.	1) Process-driven: focus on legal frameworks and procedures, derived through legislation and directions.
2) Cocreation-driven: focus on cooperation and participation with curiosity for multiple truths, empowering multiple stakeholders.	2) Competition-driven: focus on winning and dominating, ingrained in legal culture and adversarialism.
3) Transformation-driven: focus on purposeful and significant change that may question the boundaries of the system and the journey individuals experience.	3) Risk-driven: focus on enabling change through law-reform, with incremental changes through case law or policy.
4) Experimentation-driven: focus on iterative learning by continuous questioning and testing of assumptions and solutions, until meaningful outcomes can be achieved.	4) Doctrine-driven: focus on traditional culture of conservatism, predictability and certainty. Little tolerance for ambiguity with the assumption of finding ‘the right decision’.
5) Visualization-driven: focus on visually bringing meaning to problems and solutions, embedded in multimodal and multidirectional artefacts and narratives.	5) Text-driven: focus on giving effect to legal frameworks through the written word. Complexity in rules and language are assumed to be acceptable.
6) System-driven: focus on the holistic, systemic nature of circumstances, to find interconnected solutions to the problems uncovered.	6) Focus on decisions that are made pursuant to legal precedent, within bounds of time and resource constraints.

Table 1 Common ways of working as guiding principles.

Despite their differences, both human-centered design and legal ways of working share a common purpose: to be of service to people and the community. As mentioned previously, the emerging field of ‘legal design’ is “the marriage of a human-centered design approach to the challenges and structures of the legal system”, in order to “develop a human-centered, participatory approach to reforming the legal system” so as to “make the legal system work better for people”.¹² Given the complementary ways of working across design and legal contexts, we argue there are significant opportunities for the legal system to benefit from a human-centered design perspective.

We will now examine each of the six principles summarized in the table above in greater detail and provide examples of their application to the legal context, in order to investigate the role of human-centered design in facilitating and enhancing trust.

3 THEORETICAL BACKGROUND: FUNDAMENTALS OF HUMAN-CENTERED DESIGN

Human-centered design has recently attracted significant attention across disciplines. This interest is grounded in an assumption that this approach is particularly effective for innovation which can make a positive difference to people and the systems they are embedded within. Accordingly, we view human-centered design as *a systematic approach to problem-solving and innovation, centering on human experiences to advance their overall well-being and alternate system-realities*.¹³

¹² Hagan, *supra* note 9, p. 4.

¹³ M. Senova, *This Human: How to Be the Person Designing for Other People*, BIS Publishers, Amsterdam, The Netherlands 2017.

As we have shown, several principles underpin human-centered design.¹⁴ The first principle highlights human beings at the heart of the design process, giving primacy to their needs and experiences through empathy and compassion. Rather than putting procedures and technology first, human-centered design prioritizes the experience of people and sees procedures, technologies and systems as enablers in the service of people. Many systems today are designed in an inverse manner, driven by legislative, procedural, technological or system needs with human beings often playing a secondary role or treated as an afterthought, potentially even a ‘neverthought’, when creating the focal solution. Many court environments and operations are designed to suit the needs of procedure, authority, or legacy, and court users need to comply with those conditions. Yet, alternative designs of these environments that give primacy to human and community needs are emerging, while respecting legal and procedural needs. For example, alternative courtroom designs can create more empathic and collaborative atmospheres (e.g. lower or eliminated benches; u-shaped seating arrangements) for more participatory and less-intimidating courtroom experiences.¹⁵

The second principle of human-centered design highlights the participatory and inclusive nature of ‘designerly’ ways of thinking and working.¹⁶ That is, human-centered design stresses the need to involve relevant stakeholders and stakeholder groups in the need- and solution-finding process. Rather than engaging in a closed and potentially internally driven process, human-centered design uses ‘cocreation’ or ‘codesign’. This invites a multi-disciplinary approach that acknowledges different experiences and perspectives to help find meaningful solutions to complex challenges. Governments and businesses are recognizing the benefits of leveraging insights and ideas from the community via this approach. The aim is to harness valuable contributions from the people we are designing with and for, so that the solutions are more meaningful. This approach is in contrast to ways of working in legal contexts, which are often hierarchical, independent and separate, where professionals make decisions that impact others without broader stakeholder consultation.

The third principle of human-centered design is the desire to make a significant positive difference to the people and context we are designing within. This ‘betterment and transformation-oriented principle’¹⁷ is based on Nobel Laureate Herbert Simon, who argued that design is about the “transformation of existing conditions into preferred ones.”¹⁸ Human-centered design seeks to be a catalyst for positive change, often going beyond marginal improvement and incremental innovation projects. Based upon its exploratory and often qualitative findings, human-centered design enables us to question fundamental elements of a system to have greater material impact for the benefit of the people and system(s). This does not necessarily mean radical change as an outcome of every project. It does however mean there is a need to question relevant and potentially long-held assumptions, and to consider how they might hinder desired progress, while facilitating a pathway to a more meaningful shared future.

¹⁴ Karpen et al., *supra* note 10, pp. 384–407.

¹⁵ M. Halsey and M. de Vel-Palumbo, *Courts as Empathic Spaces: Reflections on the Melbourne Neighbourhood Justice Centre*, *Griffith Law Review* (2018) 27(2) pp. 182–201.

¹⁶ Karpen et al., *supra* note 10, pp. 384–407.

¹⁷ *Ibid.*

¹⁸ H. Simon, *The Sciences of The Artificial*, MIT Press, Cambridge, MA 1969, p. 4.

The fourth principle of human-centered design establishes its emergent and experimental nature.¹⁹ As part of an iterative process, human-centered design engages in several rounds of testing assumptions and concepts to learn what does and does not work within the design context. This also highlights the empirical and non-linear nature of human-centered design, seeking actual data points from which to gain insights and inform next steps. Ultimately, the aim is to engage in experimental steps (e.g., field experiments, simulations) to come closer to meaningful solutions. Thereby, the exploration of assumptions and concepts, as well as iterative changes and final solutions, are intentional. In a court context, this might mean setting up pilots and field experiments in courts after in-depth research and participatory solution finding, and then to keep improving the experiences of court users as a continuous cycle of innovation.

The fifth human-centered design principle revolves around the notion of being explicative and explicit, particularly through visualization.²⁰ Given the bounded rationality of human beings,²¹ human-centered design seeks to help people engage with relevant information by making that information more concrete and tangible. As an essential and preliminary step, the act of design helps elicit thoughts from the minds of those engaging with the work, making those thoughts available as information for others to work with. Furthermore, rather than leaving ideas in the form of written text or spoken word, designers typically prepare visual representations of those ideas. These representations might be sketches, blueprints or other lo-fi models or mock-ups that enable people to better understand and anticipate how a proposed solution might work. The act of moving something from thought to form stimulates critical debate that may otherwise not be accessible to a group. This activity then encourages ideas and reinforces the emergent nature of human-centered design for highly complex operating environments.

The final principle of human-centered design is its holistic and systemic nature.²² That is, the approach considers not only a multitude of relevant stakeholders, but also the consequences of both problems and solutions for these stakeholders. Rather than focusing on a relatively narrow problem, human-centered design takes a broader perspective and revisits a focal problem and its constituents in context. This results in a more integrative perspective which enables systemic solutions. For instance, human-centered design might seek to improve court processes by involving various stakeholders, such as private court users, judicial officers, lawyers, registry staff, government department staff, and so on, to better understand the problem(s) in context, and to widen the potential solution and its impact. In doing so, human-centered design anticipates potential challenges and positive or negative ripple-effects. While other methods also include broad stakeholder consultation, the frame for consultation is different in human-centered design. Many management consulting techniques use this form of consultation to describe the system from multiple valuable perspectives. In human-centered design the very act of stakeholder consultation is generative and collaborative and moves us closer to a co-designed solution.

To give effect to the above principles, human-centered design draws on many design practices (e.g., tools and methods for obtaining insights and generating solutions),

¹⁹ Karpen et al., *supra* note 10, pp. 384–407.

²⁰ *Ibid.*

²¹ H. Simon, *Models of Man*, New York: John Wiley, New York 1957.

²² Karpen et al., *supra* note 10, pp. 384–407.

embedded in an overall design process specifically tailored to suit the focal context. We have focused on generic human-centered design principles for illustrative purposes—rather than discussing specific tools—as general guiding and coordinating mechanisms independent of context.

4 DESIGNING FOR TRUST

Trust as a cornerstone of human interaction has been defined variously across different research domains. Notably, trust has been significantly studied in service contexts and public settings, both from a user perspective²³ as well as public management perspective.²⁴ Despite differences in conceptualization, an acceptance of vulnerability and an expectation of future behavior are common to its definition as outlined earlier. A trusting person has confidence in a reference object (e.g., person or organization) and predicts that their behavior will be reliable and that they will live up to obligations or expectations.²⁵ Despite a risk of loss or exploitation, a trusting person assumes the other party will be doing the right thing. Trust thus reduces uncertainty in interdependent relationships that, for example, stem from unfamiliarity or complexity. Trust can also be discussed with regard to different reference objects, such as trust between people (interpersonal), between organizations (inter-organizational), and between people and organizations (organizational). For instance, court users will experience more or less trustworthy encounters at court which will either increase or decrease their willingness to trust other people who are part of the court system (e.g. legal officers, legal practitioners, support service staff) or the court as an organization (e.g. court operations and culture).

Overall, trust is fundamental to the smooth functioning of legal systems. Such systems typically exhibit significant power imbalances and interdependence, due to hierarchical and positional structures as well as knowledge and language structures. Consequently, court users can struggle to navigate and make sense of complex court environments. Court users may feel intimidated or overwhelmed by their lack of understanding of court procedures or dynamics, or by the lack of privacy and perceived personal protection (e.g. by having to sit with the opposing party in the same waiting area). As a result, many legal systems can be perceived as uncertain or high risk for court users, creating a significant need for trust as a counterbalance. This need is further exacerbated for people with psychologically, socially or economically disadvantaged backgrounds. For instance, people who have experienced domestic violence, who are part of a cultural group that experiences discrimination, or who live with disabilities, may have heightened sensitivities and, hence, an increased need for trust in a court environment. Trust thus functions as an invisible lubricant for social and legal interactions,²⁶ as trust helps reduce feelings of uncertainty, risk and hesitation. The legal system as a whole benefits if court users trust the court, and if its

²³ e.g. I. O. Karpen, L. Bove, B. A., Lukas, M. J. Zyphur, Service-Dominant Orientation: Measurement and Impact on Performance Outcomes, *Journal of Retailing* (2015) 91(1) pp. 89–108.

²⁴ e.g. H. Getha-Taylor, M. J. Grayer, R. J. Kempf, R. O'Leary, Collaborating in the Absence of Trust? What Collaborative Governance Theory and Practice Can Learn from the Literatures of Conflict Resolution, Psychology, and Law, *American Review of Public Administration* (2019) 49(1) pp. 51–64.

²⁵ e.g. C. Moorman, G. Zaltman, R. Deshpande, Relationships between Providers and Users of Market Research: The Dynamics of Trust within and between Organizations, *Journal of Marketing Research* (1992) 29(3) pp. 314–328.

²⁶ cf. Arrow, *supra* note 8, p. 23.

staff and associated service providers are dependable, which reduces the risk to users of personal loss, despite them being in a vulnerable position. Enabling trust in the legal system requires intentional design. In order to describe how to support intentional design for trust, we first identify and explain available levers for design.

4.1 LEVERS FOR DESIGN

With its holistic or systemic perspective, human-centered design seeks to enable court-related experiences that build confidence in the focal legal organization (and legal system) and a willingness to accept vulnerability. To achieve this trusting state, human-centered design carefully considers various objects of design that constitute the court environment. These function as **levers for design** and include *place* (the space and artefacts experienced), *process* (the interaction), *people* (the human beings involved), *purpose* (reasons for being), *planet* (implications) and *profit* (finances).²⁷ There are systemic models of design published showing similar levers that encourage the practice of human-centered design to be holistic and not too focused on just user outcomes.²⁸ We have chosen to name planet and profit specifically for separate reasons. We name planet as a lever to ensure the future is considered as a stakeholder in any design effort, and to draw attention to that explicitly. We name profit as it can play an important role in the motivations behind interactions that influence the experience of trust within the legal system. In the ensuing discussion however, we focus on the first five levers, as there is less of a profit motivation from the perspective of the court. At the end of each of the following sections explaining the levers, we will progressively build a story of a court user to show the applicability of these levers to their experience (or lack thereof) of trust.

4.1.1 Place

The court environment is made up of many of contact points (touchpoints), which include any point at which the court and the court users interact.²⁹ Under ‘place’ we specifically refer to the entirety of non-human touchpoints in the court environment that constitute and evoke (intended) experiences as part of the court user journey, and their physical or digital attributes and arrangements. This comprises the courthouse entrance, security screening tools, wayfinding signage, registration desks, waiting areas, information screens, meeting facilities, bathrooms, courtrooms, and the court website to name just a few. We also include digital interfaces and their backend infrastructure, as these come with user interfaces and need to be intentionally designed. Previous literature has highlighted the importance of place in view of access to, participation in, and a feeling of security about, justice.³⁰ We contend that the

²⁷ cf. J. Vink, K. Koskela-Huotari, B. Tronvoll, B. Edvardsson, K. Wetter-Edman, Service Ecosystem Design: Propositions, Process Model, and Future Research Agenda, *Journal of Service Research* (2021) 4(2) pp. 168–186.

²⁸ e.g., E. Blomkamp, Systemic Design Practice for Participatory Policymaking, *Policy Design and Practice* (2021), ahead-of-print, <https://doi.org/10.1080/25741292.2021.1887576>; *ibid.*

²⁹ cf. Halsey and de Vel-Palumbo, *supra* note 15.

³⁰ e.g. E. Rowden, Distributed Courts and Legitimacy: What Do We Lose When We Lose the Courthouse? *Law, Culture and Humanities* (2018) 14(2) pp. 263–281; E. Rowden and D. Jones, Design, Dignity and Due Process: The Construction of the Coffs Harbour Courthouse, *Law, Culture and Humanities* (2018) 14(2) pp. 317–336; L. Mulcahy, *Legal Architecture: Justice, Due Process, and the Place of Law*, Routledge, London 2011; J. Resnik and T. Tait, Glass Cages in the Dock: Presenting the Defendant to the Jury, *Chicago Kent Law Review* (2011) 86(2) pp. 467–95.

scope of space widens the socio-emotional spectrum of the justice experience. Every touchpoint represents an object to be designed, carrying a specific meaning for court users as part of their experience. We view meaning here as the subjective impressions that can trigger any type of mental, emotional, visceral, spiritual or behavioral response among users. Human-centered design aims to carefully and empathically construct these touchpoints and interfaces to better serve court users, especially given their often deeply challenging experience and the potentially life-changing outcomes of court adjudication. It aims to do this across the court user journey, avoiding user confusion, intimidation, anxiety and fear in order to reduce the experience of distrust.³¹

A person's experience with the court does not start on the day their matter is heard. It starts much earlier with the receipt of a letter, or a digital interaction or a phone call from a representative of the court. Then, upon arriving at the court building, the aesthetic (whether it is, for example, a foreboding prison-like architecture or a calm authoritative building) establishes an expectation of what is going to happen within its walls.³² Thinking from a human-centered design lens enables us to make decisions about the design of these touchpoints, consider conciliatory symbolism while taking into account the holistic human experience. This ensures we make decisions deliberately to enhance the likelihood of a constructive and trust-enhancing encounter taking place within its walls.

4.1.2 Process

We recognize process as the second second lever that functions as a design object for intentional court user experiences. Process comprises the performance of individual activities, and this combined activity flows to achieve a desired result. From a design perspective, this can also be referred to as 'jobs to be done',³³ or the tasks court users engage in, their order and cadence, and when and with whom they need to be performed. The process lever has a significant degree of interdependence, as court users will often rely on inputs such as information or forms to complete required tasks. Elements of process can include, for instance, the unfolding of the security screening, steps for registration, meetings with legal practitioners, or other specific court procedures or rituals such as how to enter a court room, where to sit and what to do during proceedings. Given the potential complexity and unfamiliarity with court processes, court users can easily become lost. Human-centered design seeks to intentionally reconfigure these processes and their elements to minimize the negative effects of navigating all this complexity and unfamiliarity. The ideal effect is to reduce the waste of emotional or psychological energy. This in turn requires court design to be more intuitive and informative, by understanding and designing for court user needs. The more these processes support smooth and supportive experiences, the more court users can trust in the underlying philosophy that the court is looking after and caring for court users.

Let us pick up our court user mentioned in the previous section from their first encounter with security. They are most likely looking around to work out where to

³¹ See Halsey and de Vel-Palumbo, *supra* note 15 for an elaboration for empathic design in court environments.

³² K. Dovey, and J. Fitzgerald, *Open Court: Transparency and Legitimation in the Courthouse* in: K. Dovey, *Becoming Places: Urbanism/Architecture/Identity/Power*, Routledge, London 2010, pp. 125–138.

³³ C. M. Christensen, T. Hall, K. Dillon, D. S. Duncan, *Know Your Customers' "Jobs to Be Done"*, *Harvard Business Review* (2016) 94(9) pp. 54–60.

go next. They may or may not know where to find a registration desk to let people know they are there. They may encounter many different professionals throughout the day who ask for mostly the same, but slightly different, information, requiring them to explain their situation multiple times. Or, this person might be waiting for a final decision after many prior visits, only to realize that the paperwork was not completed or has not arrived in time, and so their matter is adjourned, forcing them to come back a further time. The tendency for these inefficiencies to occur is due to multiple complex organizations (e.g., government departments, legal support service providers, social support service providers) converging at a single point in time in a single destination. Many of these individual processes have been designed from their respective organizational viewpoint, created around the information each specific organization needs to do their job. And as a result, the human who is at the point of convergence of many and varied organizational processes is the one who experiences the inconvenience. Beginning with the human experience in mind and using these levers as a way to think holistically about the experience, organizations need to cooperate and collaborate to ensure that stress experienced by (all) court users is minimized on the day.

4.1.3 People

The third design lever represents the people associated with the court, who serve court users, and builds on the design principle of putting people first. Any human being within the court environment can have an impact on the court user experience. Each interaction court users have with judicial officers, registry staff, legal practitioners, government department staff, police and security staff, support services staff or other court stakeholders, can have either a detrimental or beneficial effect on their trust in the organization. While human-centered design can directly configure place and process components, the design of the people lever obviously needs to take an alternative form. Human-centered design can play an important role in scripting desired behaviors, attitudes or demeanors of professional court users (such as court staff) that can positively influence social outcomes and day-to-day interactions. Furthermore, human-centered design can also inform human resources policies and practices to shape job and candidate profiles. This, for example, can make a significant difference in the experience of being welcomed by staff at the registration desk or during security screening. While we acknowledge the role of judicial independence and court craft, judicial officers can equally and constructively impact the court user experience independent of the legal decision being made. This tension between the express role of the court and the very human needs of care and compassion is a perfect context for the application of human-centered design. Its power is in finding the ‘and’ scenarios: looking for the nexus points where both seemingly opposing constraints are fulfilled, rather than opting automatically for the ‘or’ scenario, which often happens in organizations employing a trade-off mindset.

Continuing the earlier narrative, during the many encounters our illustrative court user has had with people seeking information about various aspects of that user’s life, they come across many different faces with different levels of experience and expertise. Some professionals have transactional attitudes, and are task and information oriented, while others have relational attitudes, and are human experience and well-being oriented. Regardless of the professional’s personal style, it is possible to make the intended experience of court users an explicit and shared concern. Human-centered design achieves this by informing tangible outputs like hiring guidelines,

practice directives, or standards of service. Human-centered design can be a helpful approach in overcoming complex and significant challenges relating to the demand of specific services and the supply of appropriately qualified professionals, through creative solutions that otherwise would not be open to us.

4.1.4 Purpose

The fourth design lever focuses on the purpose of the court environment; for example, the court's enduring reason for being. The purpose of an organization ideally guides all decision making and priority setting, where ultimately all actions should contribute to the organization's purpose. Courts are interesting organizations in that they pursue a public purpose of protecting and enforcing rights and due process under the law. Courts' responsibilities are commonly described, for instance, as pursuing justice, resolving disputes or upholding the rule of law. We would describe this as their mandate, rather than their purpose. In addition to this mandate, carried out by judicial officers dispensing justice, legal organizations have the option to fulfil this mandate within the context of an enduring purpose that informs the approach they take as an organization. For example, a court may develop a purpose related to serving the community, while maintaining and complementing its legislative mandate. Human-centered design can stimulate the intentional development and institutionalization of an organization's purpose. Based on the principle of collaborative design (e.g. co-design workshops with judicial and registry staff), human-centered designers might facilitate the creation of a new purpose statement and its implementation. Such a statement and subsequent court set-up can positively influence an individual's service orientation while still protecting and upholding the rule of law. Purpose can thus manifest in individuals' behavior, as well as in the care and support built into the system that court users interact with. The connection to trust becomes obvious when considering that a court's purpose can shape the mindsets and actions of both the judiciary and registry staff; that is, the way law is enforced, how people are served, and hence the degree to which people trust the court.

The purpose of the court can be tangibly felt in every other lever. If the purpose of a court is to put the human experience first while fulfilling their mandate, it will inform the decisions about building design and layout; it will alter website development and all other digital interactions; it will inform the behaviors which are tolerated and those which are not within the court environs; it will inform the disposition of the security staff, the registry staff and all other support staff. Purpose is not often conceived of as something that can be deliberately and meaningfully designed, and perhaps seen as a step in a strategy workshop. In well-established organizations such as the legal system, purpose and its deliberate design and implementation is a powerful mechanism for bringing about wholesale change to the experiences of all people in its orbit.

4.1.5 Planet

The final lever embraces the holistic and systemic nature of design, by way of intentionally factoring in the potentially long-term and far-reaching consequences of court operations. Human-centered design seeks to minimize the harm inflicted upon people and the planet while improving their conditions, so that the overall system's well-being is enhanced. Considering this lever automatically introduces the 'future' as a stakeholder. For example, commissioning a new courthouse might come with bigger questions such as how this organization will model ways of working that reduces our

dependence of fossil fuels. Specifically, the organization might use technology to eliminate the use of paper, thereby also minimizing laborious post-hearing data entry. When this lever is considered in the design it can affect the other levers also, such as recycling stations in the spaces, the use of natural light rather than electricity, and the focus on ethical products and services provided to the court. The methods and approaches of human-centered design can thus reveal opportunities which increase the net-positive impact of legal organizations across many dimensions, including environmental and social. The consideration of this lever in the context of protecting and preserving our future is a strong signal to users that the court as an organization cares and is actively participating in building a harmonious and sustainable society. In so doing, courts can set new standards of care that, while not necessarily immediately or consciously perceived by court users, will positively impact their perception of the court as a trustworthy organization. Trust by its very nature is a long-term and far-reaching notion which is perfectly congruent with this lever.

The practical application of this lever can be seen tangibly in the steps taken to protect society and the environment from the harm caused through the court's operations. This already sends a signal to court users about the conscientious nature of the organization. These signals can take the form of recycling stations, the choice of ethical suppliers of food and coffee, social enterprises providing auxiliary services and down to the type of content that is shared on screens and on waiting room coffee tables. But there is another aspect of this lever that can be felt directly by our exemplar user in the court: for those who interact with them to be thinking deliberately about their future not transactionally, but generationally. This lever reminds us to think about longer horizons of time. Doing so helps transform our thinking and problem solving from a 'band aid' solution that keeps people safe and secure, to broader, more creative ideas about how to support court users and their families into their future; ideally, addressing some of the multi-generational cycles that are so difficult to break.

4.2 LEVELS OF DESIGN

In addition to the levers for design that help us translate the court touchpoints into meaningful, trust-building experiences, human-centered design also challenges us to consider **levels of design** in a court context. In the following we distinguish between *interactional* and *institutional* levels of design. We make this distinction to discern between the tangible, directly experienced outputs of design activity (e.g. waiting area design) and the more subtle, often intangible, effects or outcomes of the design activity (e.g. cultural implications of design).

4.2.1 Interactional level

By the interactional level we mean the deliberate design of touchpoints and interactions as concrete design outputs that can be experienced with the five human senses of seeing, hearing, smelling, tasting and touching. The levers described above are a map for engaging in the deliberate design of interactions that build trust. Court environments are made up of hundreds, if not thousands, of different touchpoints that court experience and interact with. Human-centered design in this context aims to make each interaction informative, supportive and calm. These three words are examples of principles that guide decisions culminating in a user's experience through the court. The absence of this awareness, of knowing what we are actually designing and for whom, creates the conditions for out-of-context decision making and hence

suboptimal human interactions. These interactions either positively or negatively affect court users' ability to trust the touchpoint, be it information, a person, or a digital service.

4.2.2 Institutional level

Not all aspects of human-centered design are directly and/or consciously experienced. That is, there is deliberate design of interstitial aspects that comprise cultural elements (e.g., values, norms) or unseen taken-for-granted beliefs. Institutional theory refers to such elements literally as 'institutions', meaning the guiding mechanisms that coordinate interactions (rather than referring to institutions as a specific organization).³⁴ Culture and taken-for-granted beliefs as institutions function as the connective tissue of organizations. These elements often have a significant impact on day-to-day interactions; yet, while human-centered design is intentional and supportive of desired cultural and belief elements, often designing at this level does not necessarily result in specific outputs, but rather in ways of interacting that manifest or express the design intention. For example, a human-centered designer might work together with judicial officers or registry staff to expand their mental models to be more in line with a newly defined purpose; or the same people might become part of participatory design workshops to develop new rituals to enhance their shared culture.

The motivation for distinguishing between interactional and institutional levels is informed by our experience of designing within complex contexts such as the legal system. Attention is more naturally given to visible or tangible aspects of design, where human experiences can be felt with our five senses, observed and directly measured, as is the case for interactional design. Because of their more subtle or invisible nature, institutional elements such as culture, values, rules and beliefs are more difficult to experience and measure directly. Yet, court environments are not only defined by their "objects (by the corporeal), but also by the ideas permitted and rules enforced within them" and these significantly shape court user experiences,³⁵ and hence both levels must be deliberately designed for.

4.3 CASE VIGNETTE

In the following, we will illustrate the role of human-centered design by way of a hypothetical yet entirely plausible scenario. The vignette serves to highlight potential court user experiences, without identifying or implying a specific court or court location.

Imagine a single, unrepresented parent coming to court for the first time in their life for a court hearing, relating to their rights and responsibilities in caring for their child. Given the potential implications of a court decision for the court user, such as losing their status as a primary carer, it is highly likely the person will be emotionally and psychologically tense well before arriving at the court building.

Indeed, the potential intimidation and anxiety induced by the court as an organization and the impending legal decision may inhibit the person's ability or willingness to fully engage or participate before coming to court. Feeling overwhelmed, the person may not be 'ready' for the hearing in the sense that their mental, emotional

³⁴ R. W. Scott, *Institutions and Organizations Ideas, Interests, and Identities*, SAGE Publications, Los Angeles, CA 2013.

³⁵ cf. Halsey and de Vel-Palumbo, *supra* note 15, p. 188.

and interactional self-regulation is compromised.³⁶ Without sufficient expectation management through clear and easy-to-understand communication from the court and other relevant stakeholders, this court user might experience heightened levels of risk: the risk of not knowing how to engage with the process, systems and people at the court. The court user may not know what to say, may feel the stress of not being able to navigate the environment, may feel confused about where to go and when, and will ultimately be at risk of losing care of their child. This multilayered perceived level of risk requires one important aspect to be present, and to enable the court user to be vulnerable, yet somewhat comfortable, in the court environment: trust.

What might this person experience at court? If an airport-style security screening is present, this a potentially intimidating initial experience on the day of the hearing. Assuming it is their first time at court, the person is likely to need significant time to work out where to go and what to do. This challenge could easily result in them feeling lost and overwhelmed. This feeling is then exacerbated by their reluctance to ask for help, given the intensity of the earlier security screening experience, with many people waiting in line to get into the courthouse. Having found their way through confusing or non-intuitive wayfinding or registration, the courthouse experience could then unfold to be largely a waiting experience. That is, even though the invitation letter for the court hearing might have stated a specific arrival time, the hearing might only proceed several hours later, if at all, on that day. Given the many unknowns and interdependencies on the day, court operation is a complex task. Managing court user expectations is thus paramount for trust to emerge and be sustained. For instance, let us assume the person would have to wait for another 3–4 hours until their hearing started. In this time, they might have been exposed to intense public arguments, lots of general noise due to the PA system and other sources, and increasingly feeling hungry as they were not prepared for a potentially long day at court. The perceived risk and vulnerability increase over time with every additional minute of emotional, psychological and visceral effort and intensity. If the person was already compromised in terms of their ‘court readiness’ at the beginning of the court day, by now that readiness will have further eroded. The ensuing courtroom experience might additionally challenge this particular court user. Unfamiliarity with court procedures, rules, forms and legal jargon can add to feeling inadequate, confused, overwhelmed and disrespected.

There is no need to continue playing the scenario. The legal decision does not matter for this case. What matters is the lived and felt experience of this court user, and also that of other differently impacted court users. Human-centered design seeks to improve and understand those experiences, with an empathic approach from different perspectives. Taking a systemic journey perspective, the approach can help identify challenges and solutions to those experiences faced throughout the day by the court user.

There is an opportunity to deliberately design the pre-court experience to alleviate as much confusion and anxiety as possible. Thinking of our five levers, we could for instance devise a simple *process* to share important information explained in plain language and a caring tone in a way that is easily accessible to the court user. We could ensure that the first point of contact is not a security screening but a friendly face to help them orient themselves for the day ahead. We might design the building as a *place* to have a pleasant waiting area to get bags and belongings ready to

36 I. Danatzis, I. O. Karpen, M. Kleinaltenkamp, Actor Ecosystem Readiness: Understanding the Nature and Role of Human Abilities and Motivation in a Service Ecosystem, *Journal of Service Research* (2021), ahead-of-print, <https://doi.org/10.1177/10946705211032275>.

experience a less stressful screening process. We might partner with ethically sourced sustainable food and beverage providers to alleviate hunger and thirst. Knowing the concerns people often have in the court environment, we could allay these concerns ahead of time with a conversation up front about those things, for example, worrying that they can't move their car because they'll miss their hearing announcement and what to do about it. The most important element to note here is the participatory nature of the human-centered design approach. We design with the people who will be either receiving or delivering the service. Their lived experience and their perceived concerns, needs, and desires directly inform the decisions made.

5 DISCUSSION AND CONCLUSION

Trust is an essential ingredient for effective public organizations and legal systems.³⁷ Without trust, court users can feel overwhelmed by the perceived risky and unpredictable nature of the court environment. This experience is further exacerbated for laypeople or unrepresented litigants as private citizens coming to court for the first time, or for court users compromised by emotional or psychological states as well as those facing language and cultural barriers.

With high levels of trust, court users are more likely to participate constructively and cooperatively in court environments, accepting vulnerabilities in both the wider court setting and in the courtroom.³⁸ The responsibility of court design is not only to legitimize authority and adjudication, but to enable and ensure empathy and dignity for users. Indeed, court design “plays a critical role in dignifying or degrading the legal process and the participants who are central to it.”³⁹ Courts and tribunals thus seek to establish trustworthy environments not just to maintain legitimacy in the community,⁴⁰ but actually to make a difference to the experience and well-being of individual court users, which can positively contribute to the compliance with legal sentencing and associated outcomes.

With a greater acknowledgement and desire for trust comes a responsibility for better human court experiences. These court experiences are neither confined to the courtroom nor to fair or even-handed behavior of people in authority. Rather, trust is contingent upon all touchpoints and interactions associated with the court. Human-centered design is a meaningful approach that supports the interactions people have with each other, and the many touchpoints associated with the court. As outlined in this paper, human-centered design facilitates a more holistic and systemic understanding of court user experiences, across their entire journey, necessarily crossing organizational silos, boundaries and sometimes jurisdictions. In fact, we know that ‘reliance on hierarchy, command-and-control, and ‘silo’ problem solving often does not fit the challenge of addressing societal priorities that cross boundaries and jurisdictions (...).’⁴¹

³⁷ Compare Getha-Taylor et al., *supra* note 24.

³⁸ Compare M. Hough, J. Jackson, B. Bradford, *Trust in Justice and the Legitimacy of Legal Authorities*, in: S. Body-Gendrot, M. Hough, K. Kerezi, R. Lévy, and S. Snacken (eds.), *The Handbook of European Criminology*, Routledge, London 2013, pp. 243–265.

³⁹ Rowden and Jones, *supra* note 30, p. 319, with reference to Pat Carlen, *Magistrates’ Justice*, Martin Robertson & Co. Ltd, London 1976.

⁴⁰ Getha-Taylor et al., *supra* note 24.

⁴¹ *Ibid*, p. 51.

Exploring court user needs and wants in both problem and solution spaces can engender feelings of appreciation and control. The collaborative, experimental and visual nature of human-centered design complements common ways of working in the legal system. The approach is also particularly conducive to complex environments such as courts due to its ability to hold multiple perspectives of a variety of court users while considering a meaningful systemic solution.

An approach utilizing the levers of human-centered design presented here considers important objects of design that, as outputs, fundamentally shape court user experiences. Across place, process, people, purpose and planet, human-centered design builds intentionality into court environments. An intentionality of care and support for vulnerability; a care that manifests across all levers of design objects to avoid confusion, fear, agitation, intimidation, and other emotions that negatively interfere with legal processes and outcomes. However, the levers of design are insufficient to systemically ‘take care’ of the court user journey. Often the intangible and subtle implications of design efforts are equally (and in some cases more) important. Specifically, human-centered design encourages us to think through both the interactional and institutional levels of design, while factoring in both professional and private court user experiences. The perceived culture and taken-for-granted beliefs in a court environment may need to be ‘nudged’ in a desired direction, such as practices and procedures that are more conducive to building and maintaining trust.

Human-centered design helps ensure we overcome a potential fixation on the courtroom. Indeed, it encourages and enhances a rebalancing of the conventional perspective by widening its scope across the entire courthouse at every touchpoint.⁴² In many courts, the courtroom experience represents only a very brief episode of the court user’s day-long journey, yet receives significant attention because of its design and operation. Often court users spend considerably more time waiting for their hearing, consulting with professional service providers and registering their attendance, which, in combination, can significantly overshadow what happens in the courtroom. Human-centered design plays an important role in switching from a legal professional, to a layperson, or private court user’s perspective, building user readiness; that is, users’ ability and willingness to engage in a constructive way with and within the court environment.⁴³ We would like to encourage fellow researchers to further investigate the role that this pre-hearing experience across court touchpoints contributes to the actual hearing experience and legal outcome.

The benefits of human-centered design manifest in better court user experiences, which in turn can positively contribute to court users’ trust in the organization, and greater procedural justice. However, applying human-centered design in a legal context is not without its challenges. In particular, legacy effects such as historic and institutionalized ways of thinking and working have long-term impact, and can create hurdles for human-centered designers.⁴⁴ For example, established mental models around court craft and procedure, such as the role of sitting on an elevated bench,

⁴² J. A. Clarke, B. D. Borys, Usability is Free: Improving Efficiency by Making the Court More User Friendly (2011), in National Center for State Courts, Future Trends in State Courts. Available online: <<https://ncsc.contentdm.oclc.org/digital/collection/ctadmin/id/1844/>> [accessed 21 October 2021].

⁴³ Danatzis et al., *supra* note 36.

⁴⁴ S. Junginger, Organizational Design Legacies and Service Design, *The Design Journal* (2015) 18(2) pp. 209–226.

might require deliberate attention as part of a design and intervention initiative. More research needs to be undertaken to advance our understanding of barriers to human-centered design in a legal context. Further, while our focus in this paper is largely on private citizens as court users, given their important, yet often subordinate role, the term court user also embraces legal professionals and other stakeholders in the court environment. Indeed, there is significant power in unleashing human-centered design in complex environments like courts that seek to build trust among all its constituents. This will not only require the demonstration of trust by court users in the organization, but also requires courts and its stakeholders to trust court users and other key stakeholders in the process.

ACKNOWLEDGEMENTS

We would like to thank Tina Popa, Mark Wright and Oliva Dean for their comments on elements of earlier manuscript versions, as well as the people that seek to make a positive difference to court users in their daily work.

COMPETING INTERESTS

The authors have no competing interests to declare.

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Karpen and Senova
*International Journal
for Court Administration*
DOI: 10.36745/ijca.422

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TO CITE THIS ARTICLE:

Ingo Oswald Karpen and Melis Senova, 'Designing for Trust: Role and Benefits of Human-Centered Design in the Legal System' (2021) 12(3) *International Journal for Court Administration* 7. DOI: <https://doi.org/10.36745/ijca.422>

Published: 23 December 2021

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