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## ***The Pursuit of High Performance***

**By:**

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The Framework summarized in this article reflects valuable input and advice from colleagues at the NCSC including Tom Clarke, Richard Schaufler, and Dan Hall. In addition, a fifteen member group of expert judges and court managers offered constructive criticism and suggestions for future developments. Shannon Roth ably assisted in the preparation of this essay and the Framework. Finally, the article benefitted greatly from the comments of an anonymous reviewer. We appreciate all of these efforts although we are responsible for the final product.

### **Introduction**

A common focal point of conversation when judges from different countries meet is how their respective legal processes are different. Certainly true distinctions exist among the range of legal systems extant in the world. Civil law, common law, religious law, customary law, Sharia, and their combinations exhibit real and substantial alternatives in how, why and when court business is conducted. Yet, underneath this variation, there are striking similarities.

In virtually all countries, regardless of their legal system, there are courts of first instance or trial courts. Perhaps more importantly, being a judge or tribunal in these bodies of original jurisdiction involves four important common working conditions, experiences and roles.<sup>1</sup>

First, courts of first instance tend to handle similar types of cases, typically involving some range of civil, criminal, and family matters. In addition, responsibility for resolving these cases typically resides with a single judge (rather than a multi-judge panel). While precise jurisdiction varies, there are common patterns in degrees of complexity, difficulty and seriousness of the cases handled in these courts. Relatively routine cases; two parties, single issues, settled areas of law and relatively uncomplicated facts outnumber those with complex issues, very serious criminal charges, or large amounts of money in controversy.

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<sup>1</sup> Court administration focuses on improving practices in both courts of first instance and courts of appeal. The concepts developed in this article are likely applicable for all levels of court. However, for expository purposes, the focus here is on courts of first instance to alleviate the need for separate discussions of the same issue simply to take into account differences between courts of first instance and courts of appeal.

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Second, because these first instance courts tend to handle the bulk of a country's caseload, high volume calendars are not uncommon. While certain specific case types might be dominant in some courts and absent in others, the similarities in the distribution of relatively routine and complex cases are more striking than are the differences. As a result, many judges intuitively understand that they need some method for handling routine cases efficiently to avoid being overwhelmed or handicapped in having enough time for more time for complex matters.

Third, the position of first instance judges is alike as well. They are final arbiters in fact, if not in theory, because most of their cases are not reviewed on the merits by appellate courts. Consequently, they share a similar consciousness about their critical responsibilities.

Four, judges must come to terms with having to deal with the demands and pressures associated with cases in the first instance. They are familiar with the hurly burly of trial court proceedings and the centrality of their role in resolving all manner of human conflict. Yet, to one degree or another, they also recognize they must do more than decide cases—they must manage a host of interrelated people before, during and after every proceeding. The work setting requires management and this introduces a secondary administrative role for trial court judges. How to meld the fundamental adjudicative responsibilities with the administrative tasks is an issue judge's share.

Basic similarities in the scope and nature of the work handled in courts of first instance means that there are also similarities in the challenges these courts face in providing efficient and effective case resolution. The quality of court outcomes reflects not only the character of the judge's decision, but the administration of the legal process. Such elements as how participants are treated, the way judges allocate time and attention to cases, the introduction of innovative practices, and how judges interact with their colleagues are central to determining the success of court operations and how people view the work of the court.

Serious efforts to improve the quality of administrative practices will seek to create a dynamic process geared to helping court leaders think critically and creatively about alternative ways to solve problems. Of course, putting such a problem solving process in play can be a challenge in any court. In support of the search for workable strategies to improve court administration, the purpose of this article is to share an effort developed by the National Center for State Courts in Williamsburg, Virginia to enhance the administrative performance of American state trial courts. This initiative is called the High Performance Court Framework<sup>2</sup>, with the full document available at [www.ncsc.org/hpc](http://www.ncsc.org/hpc).

In addition to the Framework's utility in the American system, we believe the Framework has relevance and applicability in encouraging high performance in other countries. Hence, after highlighting the Framework's essential aspects, the article's second objective is to discuss the Framework's implications for court improvement in other countries.

### **Overview of the High Performance Court Framework**

The Framework is intended to clarify what court leaders can do to guide their organizations in the direction of high quality administration and consists of five key concepts designed to improve the daily ongoing work of courts.

1. *Administrative Principles* define high performance. They indicate the kind of administrative processes judges and managers consider important and care about.
2. *Managerial Culture* is the way judges and managers believe work gets done. Building culture committed to high quality service is key to achieving high performance.
3. *Performance Measurement* describes a court's ability to assess how successfully it is completing and following through on the goals it seeks to accomplish.

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<sup>2</sup> Brian J. Ostrom and Roger A. Hanson. (2010) *Achieving High Performance Courts: A Framework for Courts*. Williamsburg, VA: National Center for State Courts. The complete Framework is laid out in *Achieving High Performance: A Framework for Courts* (2010). The document is available on the NCSC website at: [www.ncsc.org/hpc](http://www.ncsc.org/hpc)

4. *Performance Management* concerns how court leaders respond to performance results and how the court develops its creative capacity to refine and improve administrative practices.
5. *The Quality Cycle* is a dynamic, iterative process that links the four preceding concepts into chain of action supporting ever-improving performance.

### **Administrative Principles**

Raising the concept of quality court administration implies some agreement on what court managers are trying to accomplish and that administrative practices can vary from better to worse. The Framework suggests that the character of quality administration derives from fundamental values and desired behaviors widely shared among judges and court managers, although they might not articulate them explicitly or discuss them frequently. These values and corresponding behaviors define effective court administration; that is, they lay out elements to look for in a well-run court.<sup>3</sup> Among these elements are a series of administrative principles including the following: (1) giving every case individual attention, (2) treating cases proportionately, (3) demonstrating procedural justice, and (4) exercising judicial control over the legal process.

*Every Case Receives Individual Attention.* Giving individual attention to cases has direct implications for administrative performance because it connotes a tension between each individual case and a judge's case load as a whole and in fact an entire court's case load. Judges and court managers do not want decisions in any case to be a foregone conclusion or the product of inattention. No one wants to regret an outcome where additional time would have led to a more correct legal decision. Stated more positively, judges know an appropriate amount of time is necessary to allow them to gain requisite information to make the most correct decisions possible. Effective procedures allow contending parties and attorneys to provide all relevant information to the court, to present their respective sides of the case and to respond to any questioning by a judge.

*Individual Attention Is Proportional To Need.* Whereas the first administrative principle suggests judges focus on each individual case, the second one looks at each case's relationship to all others. Judges and court managers must balance the desire to give every case appropriate attention and the concurrent responsibility to honor this desire in a world of substantial case loads and finite time and resources. One way to reconcile the conflict between "individualized" attention and case load imperatives is to apply the proportionality proposition, which states that every case should receive individual attention in direct proportion to what it warrants. More complicated, more difficult and more serious cases should receive more time than the less complex, less difficult and less serious cases. The idea of proportionality is intended to maintain equality and due process in the treatment of cases, but also to acknowledge the reality that available work time and resources are limited.<sup>4</sup>

*Decisions Demonstrate Procedural Justice.* Many assume that winning or losing is what matters most to people when dealing with the courts. However, research consistently shows positive experiences are shaped more by court users' evaluations of how they are treated and whether the process of making decisions seems fair. The administrative principle of procedural justice is the concept that deals with the perception of fairness regarding court procedures and outcomes. This principle is of fundamental importance to the institutional legitimacy of a court and to the degree of trust placed in it by participants in the legal process, policy makers, and members of the public. In turn, perceptions that procedures are

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<sup>3</sup> For additional perspective on principles of good court administration beyond that contained in *Achieving High Performance: A Framework for Courts* (op.cit. 2) see, for example, Brian J. Ostrom and Roger A. Hanson (1999). *Efficiency, Timeliness, and Quality*. Williamsburg, VA.: National Center for State Courts. Robert W. Tobin (1997). *An Overview of Court Administration in the United States*. Williamsburg, VA.: National Center for State Courts; Trial Court Performance Standards Commission (1990). *Trial Court Performance Standards, with Commentary*. Williamsburg, VA.: National Center for State Courts.

<sup>4</sup> For additional discussions of the proportionality proposition, see Brian J. Ostrom and Roger A. Hanson. (1999) *Efficiency, Timeliness, and Quality*. Williamsburg, VA.: National Center State Courts; Harry Woolf (1996) *The Right Honourable The Lord Woolf "Access to Justice"*. Report to the Lord Chancellor's Office. London: HMSO; Joy A. Chapper and Roger A. Hanson. (1983)"The Attorney Time Savings/Litigant Cost Savings Hypothesis: Does Time Equal Money?" *Justice System Journal*, 8, p. 258.

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fair and understandable influence a host of outcome variables, including satisfaction with the process, respect for the court, and willingness to comply with court rulings and orders—even if individuals don't like the outcome.<sup>5</sup>

*Judges Control The Legal Process.* A key development over the past 40 years is application of management concepts to the movement of cases in a court house. Case flow management has come to mean the blend of processes, techniques and resources necessary to move a case effectively and efficiently from the date of filing to resolution. At the center of successful case flow management is the recognition that judges, with the assistance of court administration, must make a commitment to manage and control the flow of cases through the court. While this responsibility by judges and court managers should be tempered by continuing consultation with attorneys and others on the best means for improvement, a court must lead the effort if it is to succeed. A substantial benefit of greater court control over the case flow process is that it can lead directly to more effective (and cost-effective) advocacy for all litigants. By implementing and using effective case flow management policies, the court sets clear expectations for what is expected of attorneys at each event and what a judge will do if the expectations are not met.<sup>6</sup>

These administrative principles offer guidance on how court management can support the effective adjudication of disputes. Although they describe a vision of what a well-run court wants to achieve, actual application of the principles will vary from court to court. The central court management issue is how to put principles into practice.

### **Managerial Culture**

Administrative principles underlie how judges and managers define high performance. High performance occurs when the principles and the practices correspond with each other. A key challenge for courts, of course, is creating a managerial culture that is conducive to making high performance an administrative reality.

The study of court culture enhances the understanding of what drives courts to handle cases and treat participants in the legal process in particular ways. Moreover, because culture can change, it can be molded to support administrative reform.

The NCSC provides a method for understanding court culture and a set of tools and techniques for diagnosing, and when appropriate, changing court culture.<sup>7</sup> Following the methodology used successfully to understand managerial culture in the private sector,<sup>8</sup> the NCSC research defines court culture as the beliefs and expectations judges and managers have about the way and the degree to which they individually and collectively affect and shape the legal process. A key finding is that these beliefs are ordered sufficiently to fall along two “dimensions.” The first dimension, called solidarity, is the wide spectrum of beliefs on the extent to which it is important for judges and managers to work toward common ends. The second dimension, called sociability, concerns the wide range of beliefs as to whether it is important for judges and managers to work cooperatively with one another. Solidarity refers to the degree to which a court has clearly understood shared goals, mutual interests, and common tasks. Sociability refers to the degree to which court personnel acknowledge, communicate, and interact with one another in a cordial fashion.

The NCSC approach constructs a classification scheme that systematically produces four distinguishable types of cultures: (1) communal, (2) networked, (3) autonomous and (4) hierarchical. Each of the four cultures is a particular combination of solidarity and sociability, as shown below.

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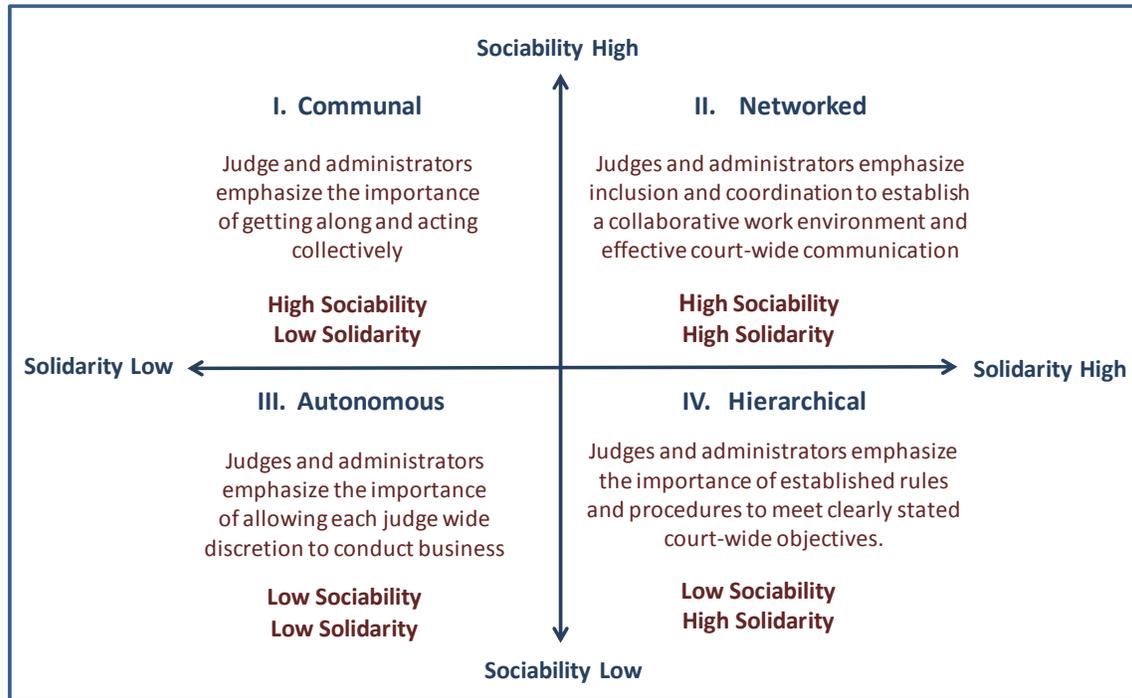
<sup>5</sup> Kevin Burke and Steve Leban. (2007) “Procedural Fairness: A Key Ingredient in Public Satisfaction: A White Paper of the American Judges Association”. *Court Review*. p. 4. See also: <http://aja.ncsc.dni.us/htdocs/AJAWhitePaper9-26-07.pdf>

<sup>6</sup> Ernest C. Friesen, Jr. (1984) “Cures for Court Congestion”, *The Judge’s Journal*, 23, p. 4; Brian J. Ostrom and Roger A. Hanson. (1999) *Efficiency, Timeliness, and Quality*. Williamsburg, VA.: National Center State Courts.

<sup>7</sup> Brian J. Ostrom, Charles W. Ostrom, Roger A. Hanson, and Matthew Kleiman. (2007) *Trial Courts as Organizations*. Philadelphia, PA: Temple University Press.

<sup>8</sup> Robert E. Quinn. (1988) *Beyond Rational Management*. San Francisco, CA: Jossey-Bass; Robert E. Quinn and John Rohrbaugh. (1983) “A Spatial Model of Effectiveness Criteria: Towards a Competing Values Approach to Organizational Analysis”, *Management Science*, 29, pp. 363-377; Robert E. Quinn and Gretchen M. Spreitzer. (1991) “The Psychometrics of the Competing Values Culture Instrument and an Analysis of the Impact of Organizational Culture on Quality of Life”, *In Research in Organizational Change and Development*, 5, pp. 115-142. (Eds.) Richard W. Woodman and William A. Passmore. Greenwich, CT: JAI Press.

## Court Culture Classifications



An essential lesson from field research in the US is that a high degree of solidarity is necessary to support performance initiatives. Hence, a challenge for court leaders is to encourage and facilitate collective decision making among individual judges on what is best for the court as a whole. As a result, by focusing on solidarity and building consensus, a court can reduce the level of fragmentation and isolation, enabling it to more effectively apply the administrative principles.

### Performance Measurement and Management

Knowing whether and to what degree a court is high performing is a matter of results. A high performance court is evidence-based in establishing success in meeting the needs and expectations of their constituents.

A court culture supporting a common understanding and commitment to sound administrative principles will seek to generate practices that lead to demonstrably high performance. Administrative principles help define a set of performance outcomes linked to gauging a court's achievements in providing fair, timely, and cost-effective case resolution. The primary goal of court management is to refine administrative practices until desired objectives are achieved. For this reason, an objective of the High Performance Court framework is to offer a method of gathering information directly on performance and to suggest ways courts can use the information to adjust practices.

An initial definition of performance is that it is the consequences of a court's efforts to achieve and sustain fundamental values, such as those represented by the four administrative principles. More specifically, performance-relevant consequences refer to the qualities of the products and services received by an individual or groups of individuals. Hence, the higher quality of service delivery is to the individual(s), the higher the level of performance. Yet, this definition is only one part of performance.

An essential characteristic of performance is utility. Knowledge of performance results must be put into practice. In other words, performance's consequences refer not only to observable measures of how well practices promote values or desired goals. They also refer to the use of performance results to improve administrative practices. The gathering of information on performance and the usage of the results are two distinct, but related, aspects of performance: Performance Measurement and Performance Management.

*Performance measurement* clarifies the meaning of values and makes them relevant by providing the essential element of information on where a court's service delivery stands in relationship to recognizable criteria. Gauging an institution's effort in meeting expectations establishes its location relative to the past and present; it points out where it has come from and where it is now. Knowledge of what has been accomplished to date allows a court to husband its limited resources, set priorities, and target its attention at where it is most needed.

In support of such efforts, the NCSC working with a group of leading court practitioners released *CourTools*<sup>9</sup>, a common set of ten indicators and methods to measure performance in a meaningful and manageable way.

The 10 *CourTools* Measures

Measure	Definition
1 Access and Fairness Survey	Ratings of court users on the court's accessibility and its treatment of customers in terms of fairness, equality, and respect.
2 Clearance Rates	The number of outgoing cases as a percentage of the number of incoming cases.
3 Time to Disposition	The percentage of cases disposed or otherwise resolved within established time frames.
4 Age of Active Pending Caseload	The age of the active cases pending before the court.
5 Trial Date Certainty	The number of times cases disposed by trial are scheduled for trial.
6 Reliability and Integrity of Court Files	The percentage of files that are complete, accurate, and can be retrieved within established time standards.
7 Collection of Monetary Penalties	Payments collected and distributed within established timelines.
8 Effective Use of Jurors	Examines court processes for selecting and using prospective jurors.
9 Court Employee Satisfaction	Ratings of court employees assessing the quality of the work environment.
10 Cost Per Case	The average cost of processing a single case, by case type.

<sup>9</sup> Ostrom, Brian J., Daniel J. Hall, Richard Y. Schauffler, and Neal B. Kauder (2005). *CourTools: Trial Court Performance Measures*. Williamsburg, VA.: National Center for State Courts.

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The choice and formulation of the ten *CourTools* measures are shaped by three interrelated criteria: (1) drawing on fundamental administrative principles, (2) providing a balanced perspective, and (3) offering feasibility and sustainability in application.

*Principles.* The measures are aligned with the four administrative principles and help courts evaluate success in key areas such as providing access to justice, reducing delay, and ensuring fairness. *CourTools* also includes other indicators relevant to all public institutions and linked to management effectiveness, such as fiscal responsibility, client-customer satisfaction, and the effectiveness and efficiency of internal processes. For a complete description, methods of calculation, and possible interpretations, see *CourTools* at [www.courttools.org](http://www.courttools.org).

*Balance.* Achieving a balanced perspective means core performance measures should cover the most important dimensions of court performance and offer meaningful indicators of success in each area. Many court managers recognize the need for measurement in appraising current practices and procedures, but may not view performance measurement as essential beyond the arena of case processing. The management approach associated with a “balanced scorecard” entails both the idea of “balance” (e.g., unifying traditional case processing measures like time-to-disposition with measures of access, procedural fairness, effective use of jurors, and court employee opinion) and regularly scoring performance. The balanced approach allows the court to consider all the important measures at the same time, highlighting whether improvements in one area are coming at the expense of another.

*Feasibility.* Integrating performance measurement into daily operations requires measures that are limited in number, readily interpretable, and durable over time. *CourTools* constitutes a set of ten vital indicators of court performance that can be applied in a regular and ongoing fashion.

However, performance is not just a grade on a report card. Identifying and making use of performance results is a logical next step.

*Performance management* relates to how a court responds to performance results and refines, updates and adopts new practices in conjunction with both its evolving priorities and changing circumstances. Therefore, a high performing court is an “administratively activist” body because it considers the consequences of its administrative practices and adjusts them in light of what it learns.

### **Quality Cycle**

With respect to performance management, the Framework suggests a series of flexible steps a court can take to integrate and implement performance improvement into its ongoing operations. In fact, the pieces of the Framework form a functional system that can be called a “quality cycle.” The court administration quality cycle consists of five main steps: determining the scope and content of a problem, information gathering, analysis, taking action, and evaluating the results.

In many courts, the road to high performance begins with a collegial willingness to see how the four administrative principles are working out in practice and using data to gauge what “working out” means. In other words, when a court’s culture supports a commitment to high quality service, there is ongoing attention to identifying and resolving administrative problems. A clear statement of a specific problem is the first step in organizing a court’s resources to effectively address it.

Collecting relevant data is the next key element of the quality cycle. The scope of assessment is a matter of local option. A court can begin by consulting the Framework’s proposed set of performance areas and accompanying measures to gauge whether reality is consistent with expectations. For example, consider a court that is concerned that the backlog of family law cases is growing. They decide to proceed by compiling data on time to disposition and age of the active pending caseload in family law, while also conducting an access and fairness survey with all litigants involved in family law case.

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The third step in the cycle is examining and interpreting the results from the data collection and drawing out their implications. Bringing data to bear help judges, management and staff more clearly identify the real causes of the problem(s) and what actions might be taken to solve the problem(s). For example, time to disposition data shows that family cases fail to meet the benchmarks for timely case processing. Further investigation shows that many self-represented litigants are not clear on what actions are required to move their cases forward, leading them to feel ill-treated by the court. The result is family cases are taking longer and backlogs are increasing, while litigant (customer) satisfaction is declining.

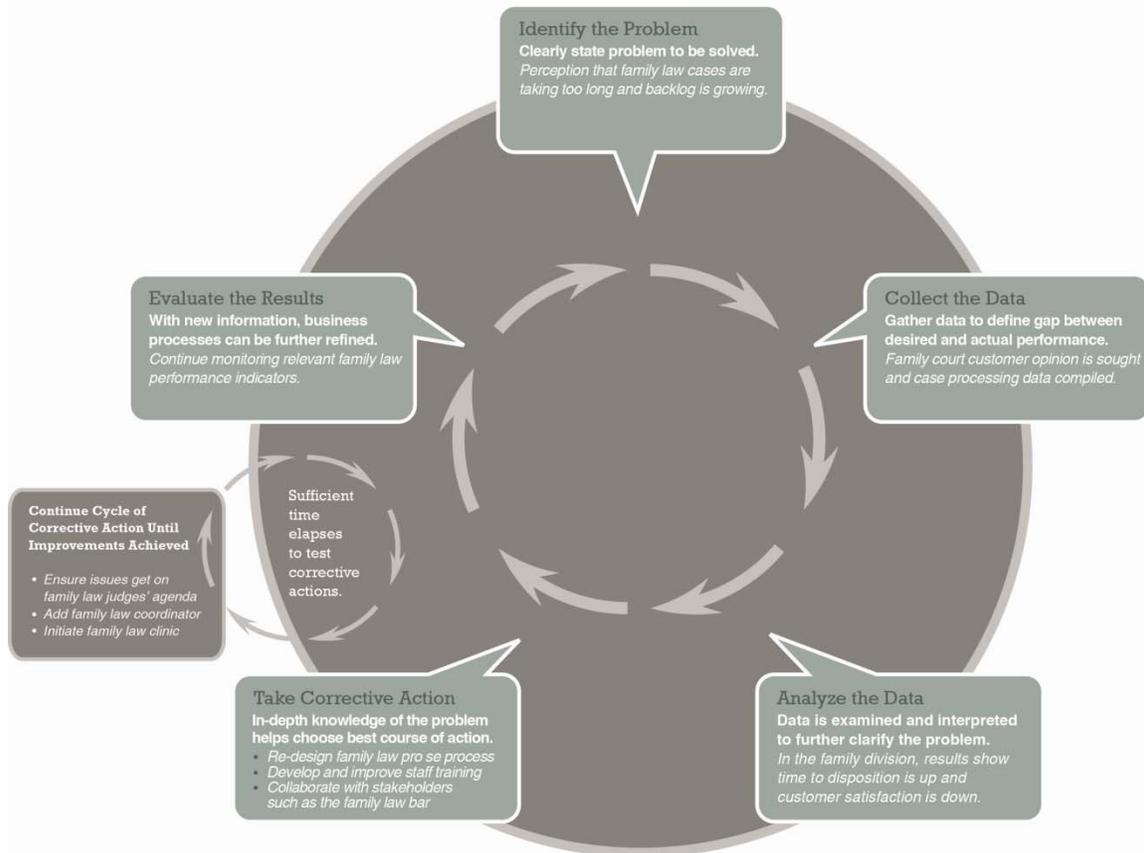
This step in the quality cycle is clearly iterative. Once the basic character of a problem is identified, additional information can be gathered to further narrow and refine the problem. Continuing with the family law example, court staff might examine data on the number of continuances in family cases, distinguishing whether or not litigants are pro se, and also soliciting input from family court judges. Such additional information might allow the problem to be more succinctly stated as “family cases involving pro se litigants are continued at a greater rate, delaying these cases and increasing the workload of judges and staff.”

The fourth step in the cycle is a fusion of performance measurement and management. Clearly specifying the problem allows court managers to identify the particular business processes involved. As new information emerges, potential business process refinements and staff capability improvements will naturally evolve. For example, with respect to pro se family law cases, the court may redesign services to provide improved self-help resources in the law library; add a family law coordinator; build up staff training for those working with pro se family law litigants; ensure the issue is on the meeting agenda for the family law bench; and collaborate with the local family law bar to develop a legal clinic staffed by pro bono attorneys.

The fifth step involves checking to see whether the solutions have had the intended result. By gathering input from appropriate judges, court staff and court customers and monitoring the relevant performance indicators, the court can determine if the problem is really fixed. The goal is not to temporarily change performance numbers, but to achieve real and continuing improvements in the process and in customer satisfaction. For example, a court that has implemented a range of possible solutions for improving family case processing will want to determine if updated performance measure data show the problem has been resolved. If data show performance is still unacceptable (not meeting bench marks), another round of problem assessment is required.

A virtue of viewing the Framework in terms of the dynamic quality cycle is that it encourages courts to move back and forth between performance areas in creating a composite picture of performance. There is no one aspect of performance that must be every court’s entry point; rather, the performance measurement scheme provides a balanced and comprehensive set of areas that courts can address from the position of their particular needs and circumstances with the aim of ultimately filling in all of the blanks.

## Quality Cycle: Family Law Case Example



### The Framework in International Context

A holistic approach to the study and practice of high performance is advantageous. Operating from a comprehensive framework clarifies the interconnections among principles, managerial culture, the development of appropriate performance indicators, and management of the change process. Without a framework, it is very difficult to predict which change efforts will work, to see how new programs might conflict, or to anticipate potential trade-offs among performance areas. A framework helps make clear how performance results can be used by courts to reshape their day-to-day operations and strengthen their institutional performance.

While the current conceptualization of administrative principles, court culture and performance measurement were designed for application in US trial courts, the ideas and logic of the Framework are applicable as a road map for the design, reform, and improvement of courts elsewhere in the world. One defining characteristic of the Framework is that it does not offer up "best practices" or one size fits all solutions, but instead provides a robust set of ideas and a rational approach to guide courts towards higher performance. The Framework provides both a methodology to assess performance and a set of strategies for quality improvement that remains sensitive to the historical, cultural, and contextual foundations that undergird courts in different settings.

A promising set of lenses through which to look at the similarities and differences among trial courts worldwide is the distinction made by scholars in the parallel field of democratic development and the nature of governmental institutions.<sup>10</sup>

<sup>10</sup> Juan J. Linz and Alfred C. Stepan. (1996) "Toward Consolidated Democracies," *Journal of Democracy*, 7 (2), pp. 14-33; Scott Mainwaring. (1992) "Transitions to Democracy and Democratic Consolidation: Theoretical and Comparative Issues." In Scott Mainwaring, Guillermo O'Donnell, and J. Samuel Valenzuela, eds., *Issues in Democratic Consolidation: The New South American Democracies in Comparative Perspective*. Notre Dame: University of Notre Dame Press/Kellogg Institute, pp. 294-341; Guillermo A. O'Donnell. (1996) "Illusions About Consolidation," *Journal of Democracy*, 7 (2), pp. 34-51; Philippe C. Schmitter and Terry Lynn Karl. (1991) "What Democracy Is ... and Is Not," *Journal of Democracy* 2 (3) pp. 75-88.

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Key propositions contained in this work include the idea that countries can be placed on a continuum ranging from nascent democracies (or “transitional”) at one end to established and sustainable democracies (or “consolidated”) at the other. What separates the two types of democracies is the manner of resolution of conflict and disputes. In transitional systems, force and violence often settle disputes while consolidated systems seek to resolve contentious disputes in designated institutions. A second proposition is that the nature of institutions matters considerably in whether democracy takes hold and that institutions shape sustainability.

Building on and extending these ideas to the issue at hand, transitional court systems (Afghanistan, Kosovo, Nigeria) have newly emerging judiciaries, institutional independence is an aspiration, and the judicial role is not well established. In contrast, in consolidated court systems (Argentina, Canada, Italy, Philippines, Singapore) there is a tradition of judges adjudicating disputes, some degree of judicial independence exists although it is variable across countries, and the public has trust and confidence in the ability of the judiciary to be fair and impartial. Viewed in this manner, possible connections between the Framework and courts in different countries will vary among transitional and consolidated systems. What is relevant (or good) for Albania and Romania is not necessarily the same (or the best) for Australia and New Zealand.

For transitional judiciaries the Framework provides guidance for reformers on both the design of the court system and the education and training of the judiciary. The Framework encourages court leaders to articulate their vision for what the court system will look like, what courts as organizations are intended to achieve, and the values that will sustain them over time.

The Framework advises keeping the talk about courts and what they are expected to do at level of “working” values; values that can be manifested in concrete policies, procedures and practices. Without subscribing to the precise substance of the Framework’s principles and culture typology, transitional systems can benefit from designing their courts around one or more of the five concepts. By thinking about principles and culture in the design process provides a clearer and stronger ground for transitioning to a viable institution and the future introduction of management plans, case management information systems, and performance reports.

Furthermore, transitional court systems can profitably integrate aspects of the Framework into the recruitment and training of judges and staff members. The seed of the idea that courts are organizations should be sown early in the development of a judiciary. Judges are more than just individual arbiters. An important lesson to teach is that their impact and legacy are greater if they think they are part of a judiciary and they make decisions collectively in how their institutions operate. A parallel effort is warranted in the training of all staff members with a particular emphasis placed on promoting the adoption of performance measurement and performance management principles.

For consolidated court systems, the Framework’s utility seems more direct. No consolidated court system should take the Framework so literally that they must adopt it in toto. However, other systems should have convincing arguments for departing from the Framework’s concepts. For example, if every case is not deemed worthy of individual attention, this precept should not be dispatched for light and transient reasons. Yet, despite the potential appeal of the aspects of the framework, what is its applicability elsewhere?

The Framework’s applicability hinges on whether other court systems operate under conditions similar to those on which the Framework rests. Specifically, three conditions in descending order of importance are (1) the opportunity for collegial discussion among judges and staff members exists, (2) judges and staff members have some say over the design and implementation of court administration policies and practices, and (3) the judge with official leadership responsibilities has an interest in high performance. The more vibrant the collegial discussion, the more aware judges are that their administrative decisions have independent consequences and the greater the interest of administrative leaders, the greater the Framework’s applicability.

To foster these conditions, the formation of a cadre of judges and staff members focused on high performance is a workable strategy. A cadre can have a leavening influence on the entire court. Solidarity among a select group is sufficient to promote collegial discussion on a court-wide basis, to organize ideas and concrete proposals for improving court

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performance and to mobilize support for a chief judge intent on making a court as best as it can be. Assuming the cadre is sufficiently cooperative to put its proposed ideas on the table for all judges to consider, it averts the charges of elitism and dismissive treatment of tradition.

In summary, the Framework invites court leaders in both transitional and consolidated systems to consider the benefits of a structured approach to the design and operation of key court functions. Both transitional and consolidated courts benefit from knowing why and how they should respond to calls for accountability. The Framework orients both types of courts to appreciating why its institutional performance matters. Additionally, it supports the efforts of courts generally to anticipate problems, prevent small problems from becoming big ones and learn from its failures. Finally, both transitional and consolidated courts can profit from a better understanding of how to use available resources skillfully and minimize the challenges of resource deficits.

