

Sandra Taal

Working separately together: A quantitative study into the knowledge sharing behaviour of judges

The following article is a summary of a PhD thesis titled «Working separately together: A quantitative study into the knowledge sharing behaviour of judges». This study was part of a large-scale interdisciplinary research project on court management («Grundlagen guten Justizmanagements in der Schweiz») led by the Kompetenzzentrum für Public Management (University of Bern).

Beitragsarten: Science

Zitiervorschlag: Sandra Taal, Working separately together: A quantitative study into the knowledge sharing behaviour of judges, in: «Justice - Justiz - Giustizia» 2016/4

Contents

1. Background
2. Research question
3. Research model
4. Data collection
5. Main results and recommendations
6. Final remarks

1. Background

[Rz 1] Key to the professional success of judges is the ability to use their intellectual capital to deliver high quality judicial services to court users. It is therefore essential that – beyond the initial training and education of judges – judges keep their knowledge up-to-date. Lifelong learning is an undisputed necessity in the ever-changing legal context in which judges have to perform on a daily basis. But, it is also important to realise that in-house training programmes, conferences, symposia and case law meetings are not the only solution to update and sharpen the knowledge of individual judges. This PhD thesis is based on the idea that the main organisational challenge is not to educate judges by offering them specific training opportunities, but instead, the organisational challenge is to make optimal use of the already available knowledge in the organisation. Whereas large parts of the knowledge available in the organisation is personally kept (i.e. stored in the heads of individuals), judges need to actively collaborate with each other (and other knowledge holders in the court, such as judicial assistants) in order to be able to benefit from each other's knowledge.

[Rz 2] Every judge has a unique combination of legal, practical legal and practical non-legal knowledge. With this knowledge – which is partially developed through years of experience – judges are able to deal with the complexities of their job. Possible complex undertakings for judges are: (1) ensuring an uniform interpretation of the law (which is part of a juridical ideology but should also not be rigidly applied), (2) discovering potential conflicts underlying the legal dispute and (3) dealing with emotional outbursts in the courtroom. Participation in knowledge exchanges can help judges to cope with the difficulties in their work and the different types of knowledge required for doing their job well. Collegial knowledge sharing is not only an effective way to discuss legal issues, but also to exchange professional experiences and practical know-how with colleagues. In this PhD thesis two functions of knowledge sharing were focused upon: (1) bridging interdependencies (primarily related to the idea of stimulating consistent judicial decision-making) and (2) exchanging best practices (primarily related to the idea of exchanging practical know-how).

[Rz 3] Another relevant point to consider is that judges are strictly bound to the law. The independent status of judges is constitutionally protected through the principle of judicial independence. As a consequence, judges have a large degree of professional autonomy. This puts some restrictions on the extent to which this group of professionals can be managed. Managing knowledge sharing is therefore a complex, but also an interesting issue to consider in this context.

[Rz 4] In this PhD thesis the focus lied on the group of professional administrative law judges. Professional judges can be distinguished from the more diverse group of non-professional judges. Administrative law judges represent a subset of professional judges. By focusing on this demarcated group of judges, this study can serve as a building block for future studies on prosocial workplace behaviours of judges working in different legal fields.

[Rz 5] Switzerland was the starting point of this study; Germany¹ and the Netherlands were selected as interesting cases for comparison. By analysing knowledge sharing in a cross-national setting, it was possible to (1) subject the research model to robust testing and (2) check for potential differences between the countries.

2. Research question

[Rz 6] What factors influence the knowledge sharing behaviour of professional administrative law judges in Switzerland, Germany and the Netherlands, and what is the impact of this knowledge sharing behaviour on the (self-rated) overall job performance of judges?

3. Research model

[Rz 7] In order to answer the main research question, a research model was developed. The recent literature on knowledge management and knowledge sharing behaviour was reviewed. As a result, four categories of knowledge sharing enablers were identified: technological, managerial, social and motivational factors. The following variables were selected: ICT support, management support, social network², social trust, shared goals, enjoyment in helping others, knowledge self-efficacy and professional image. One knowledge sharing barrier (role overload) and one knowledge sharing outcome (overall job performance) were also included in the research model. In total, 17 hypotheses were formulated. After testing the hypotheses, additional analyses were performed to test for possible alternative explanations.

[Rz 8] In this study, the bi-directional perspective on knowledge sharing is adopted. This means that in this study the participation in knowledge exchanges consists of two active processes: donating knowledge and collecting knowledge.³ In contrast to the unidirectional perspective on knowledge sharing – in which the focus lies on the transfer of knowledge from the knowledge provider to the knowledge recipient – the bi-directional perspective is based on the idea that successful knowledge exchanges depend on the active participation of both the knowledge provider and the knowledge recipient.⁴

[Rz 9] Figure 1 shows a graphical presentation of the research model.

4. Data collection

[Rz 10] In this study, the knowledge sharing behaviour of judges has been extensively analysed. A survey was developed for the specific purpose of this study. During the first half year of 2014, 447 professional administrative law judges from Switzerland, Germany and the Netherlands kindly

¹ Three of the bigger German states (population-wise) were selected: Baden-Württemberg, Lower Saxony and North Rhine-Westphalia.

² Due to the low reliability of the social network scale (a Cronbach's alpha of 0.59), collegial closeness was used as a single item (instead of the original three-item scale) for further analyses.

³ Van den Hooff, Bart/Huysman, Marleen

⁴ Ibid.

participated in the online survey. The response rate was 39 per cent in Switzerland (92 out of 236 judges)⁵, 30 per cent in Germany (235 out of 781 judges) and 37 per cent in the Netherlands (120 out of 324 judges).

5. Main results and recommendations

[Rz 11] Based on this study's empirical results, there are several interesting points to discuss. First of all, the results indicated that collegial knowledge sharing cannot be directly steered, but only indirectly managed. It seems that judges are not susceptible to directions or suggestions given by the head of their work unit when it comes to their knowledge sharing behaviour.⁶ Also, the implementation of IT facilities seemed to have a very limited direct impact on the knowledge sharing behaviour of judges. This finding shows the need for addressing the specific needs and/or wishes of the end users (in this case: the group of professional administrative law judges) when designing a new knowledge management system for court organisations.

⁵ Participating courts in Switzerland: Verwaltungsgericht (Aargau), Obergericht (Appenzell Ausserrhoden), Sozialversicherungsgericht (Basel-Stadt), Verwaltungsgericht (Bern), Kantonsgericht (Fribourg), Cour de droit public de la Cour de Justice (Geneva), Verwaltungsgericht (Glarus), Verwaltungsgericht (Graubünden), Tribunal Cantonal (Jura), Kantonsgericht (Luzern), Tribunal Cantonal (Neuchâtel), Obergericht (Solothurn), Verwaltungsgericht (St. Gallen), Verwaltungsgericht (Thurgau), Tribunal Cantonal (Vaud), Verwaltungsgericht (Zug), Steuerrekursgericht (Zurich), Sozialversicherungsgericht (Zurich), Verwaltungsgericht (Zurich), Bundesverwaltungsgericht.

⁶ The hypothesis «judges who experience higher levels of management support are more inclined to engage in knowledge sharing processes» was not supported.

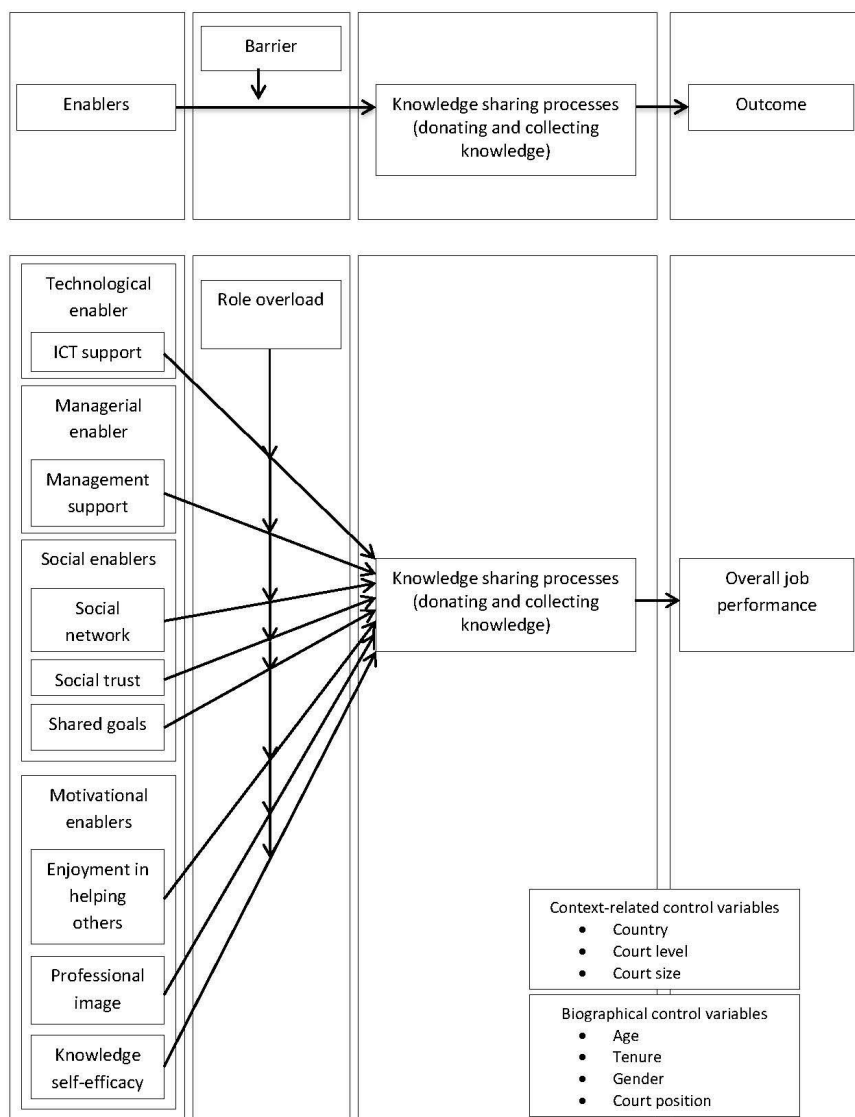


Figure 1: Research model

[Rz 12] Based on the statistical results, it can also be argued that in order to foster the remote collaboration of judges (i.e. exchanging knowledge regardless of place and time), additional organisational efforts are required. It is not sufficient to solely implement technological solutions that make the remote collaboration between judges *technically* possible.⁷ It is also important to make (remote) knowledge sharing *socially* possible.

⁷ The hypothesis «judges who experience higher levels of ICT support are more inclined to engage in knowledge sharing processes» was not supported.

[Rz 13] Apart from the three social factors (social trust, collegial closeness and shared goals), two motivational factors (enjoyment in helping others and knowledge self-efficacy) also have a direct impact on the knowledge sharing behaviour of judges. This outcome strengthens the argument that collegial knowledge sharing can only be facilitated and not compelled. Creating an environment conducive to knowledge sharing is a gradual process that cannot be rushed. For instance, creating a workplace design that enhances face-to-face interaction on the work floor can be seen as a structural incentive to foster collegial knowledge sharing. It is important to remember that managing knowledge sharing is a long-term project that requires patience and endurance.

[Rz 14] Interestingly, role overload does not have a negative impact on the relationships between the eight knowledge sharing enablers and the dependent variable in the research model: the engagement of judges in knowledge sharing processes (i.e. donating and collecting knowledge). This is a remarkable finding. But although we should not completely dismiss role overload as a workplace stressor in the judicial context, it can be concluded that role overload is not «strong» enough to weaken the influence of the main enabling factors on the knowledge sharing behaviour of judges.

[Rz 15] Another interesting result is that the overall job performance of judges is not directly affected or changed by the level of engagement in knowledge sharing processes. However, it should be mentioned that judges rated themselves relatively high on the job performance scale.⁸ It is plausible to assume that the engagement of judges in knowledge sharing processes does not contribute to their overall job performance, but that it does contribute to more specific aspects of their job performance (such as innovating thinking).

[Rz 16] The statistical results further indicated that female judges are, on average, more inclined to engage in knowledge sharing than male judges. This outcome highlights the necessity to take gender differences into account when studying the knowledge sharing behaviour of judges (and other workplace behaviours in this context). Additionally it was analysed whether social trust (the most important knowledge sharing enabler) was equally important for male and female judges with respect to their engagement in knowledge sharing processes. The statistical results showed that social trust lowers the barrier to engage in knowledge sharing processes for both male and female judges.

[Rz 17] This study also showed that the differences between Swiss, German and Dutch judges, and between first and higher instance judges are rather small. After focusing on the cross-national empirical findings of this study, it can be convincingly stated that the judges of the participating countries and the two court levels (first instance courts and higher instance courts) are more similar than different from each other. This has led to the conclusion that the lessons learned from this study are not limited to a specific court level or national context.

⁸ A mean score of 7.2 on a 1–10 scale.

6. Final remarks

[Rz 18] In this PhD thesis⁹, interesting patterns have been revealed. However, further research on the knowledge sharing behaviour of judges is required to get a more detailed picture of how knowledge sharing behaviour works and how it can be fostered.

Dr. MPhil. SANDRA TAAL, Junior consultant public information management and Board member of the Dutch/Flemish Sociology of Law Association (VSR).

⁹ TAAL, SANDRA (2016). Working separately together: A quantitative study into the knowledge sharing behaviour of judges. Bern: Stämpfli Verlag AG.