

Design for Dignity and Procedural Justice

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Abstract. The civil legal system exists to solve people's problems, like divorce, eviction, bankruptcy, and child custody disputes. But this system, in particular the courts, are difficult and frustrating to navigate, especially if a person does not have a lawyer. Our study reviews how people currently experience court Self Help Centers, and identifies opportunities to enhance them. It does this through a framework of Perceived Control, that considers how to give users greater understanding, options, and behavioral control over a difficult system.

Keywords: Human Factors · Human-systems Integration · Service Design for Legal System · Design for Dignity

1 Introduction

Design and law both concern people's experience of systems, and how they could be made better. Legal scholars and practitioners frame this concern in terms of procedural justice, asking whether people experience the legal system as fair and dignified, and thus have a sense that the procedures are just. Designers frame this concern in terms of user experience, asking whether a system is usable, useful, and meaningful to a person. Both approaches consider the same matter: how a person can best use a system to resolve a problem, with a recognition that the quality of a person's experience of the system is a crucial metric by which to judge the system. Whether a system seems to be fair, transparent, and dignified will impact a person's perception of the system -- and it is of concern to both the lawyer and the designer.

Courts' Self Help Centers are a ripe focus for a legal design approach. They are simultaneously a positive attempt by the legal system to provide support to lay people, while also a place where people's negative experiences with the legal system come to a head. Self Help Centers exist inside courts to give information and limited services to people without lawyers. People come to them as they try to decide what legal path to take, as they begin through complicated tasks, and as they prepare for hearings. Ideally, these Centers would ensure people prepare the person to do their best in their filings and appearances before the judge.

Our design research finds, though, that people have negative experiences in the Court, and that these Centers are not performing to their potential. Despite the services on offer, people struggle to use them effectively. They report being frustrated, lost, confused, and anxious during their court experience.

This paper documents an approach, mixing a legal focus on procedural justice with a design focus on perceived control and human-centered services, that aims to improve the legal system, and people's experience of it. Our hypothesis is that service design work, guided by an emphasis on increasing users' perceived control within a system, can improve users' experience of the legal system, and then also the procedural justice of the system. We used two design cycles with two different courts to test this approach, with one class taught at Stanford in partnership with California courts, and one hackathon at Harvard Law School with Massachusetts courts.

Our paper confirms the value of design-driven approach, grounded in the notion of perceived control, to uncover key opportunities for increasing the procedural justice of the court system. It also defines specific interventions that demonstrate how to increase users' perceived control and positive experiences within a complex, bureaucratic system like the courts.

2 The Problem of Courts' User Experience

Justice is a fundamental value of the civil legal system. It is the metric by which to judge whether the system is successful: is it just to the people who are using it to resolve their issue? But how justice is measured can take different forms. If we use the notion of **distributive justice**, our focus is on the final outcome of a court proceeding [17]. Was the official law applied fairly to these people's unique situation? The system is just when people get the 'correct' outcome, and this justice in turn assures their personal dignity.

But if we use the notion of **procedural justice**, our focus turns to the entire journey of a court proceeding, not only the outcome [17]. Here, the justice of the system and the dignity of the people using it depend on the people's many interactions with the system, beginning with when they seek out help for their issue, through the many procedural steps of filing forms, serving documents, and holding hearings, and ending with the resolution of their case. According to this metric, the system is just if it makes this lengthy procedure transparent, navigable, and efficient for people.

2.1 The problem of people in courts

Our work begins with the problem that people currently have very poor experiences in the legal system, particularly if they are attempting to go through a procedure without a lawyer. The user experience is poor, and their sense of procedural justice is low. We observe this both in large surveys conducted about people's relationship to courts, as

well as our own empirical design research into litigants' experiences attempting to navigate court procedures.

The overarching problem we observe is that the legitimacy of the civil court system is dropping, from the perspective of the public. According to recent studies, people do not expect the court to be efficient or effective in helping the public solve their issues [12]. In surveys conducted annually since 2012, the public reports that they receive poor customer service at the courts, that the courts are inefficient, and that they are not able to use technology or innovations well [13]. Additionally, they find that the courts are intimidating, and do not know how to effectively use technology to serve people.

This poor public impression can be linked to a legitimacy crisis of the courts, in which fewer people are filing cases or using the courts to resolve civil disputes [14]. For those that do use the courts, they have poor experiences. These problems of poor service and reduced usage of the courts is a longer term problem. The courts are a branch of government meant to serve the public, and create transparent, consistent rule of law. When people have poor experiences in they system, and begin stop using it, courts can lose funding from the legislature, and the service can deteriorate further. Their fundamental role in society is undermined.

Our preliminary qualitative research at courts affirms that people are dissatisfied with the services and feel that the system is overly complex, burdensome, and unresponsive to their needs. We conducted a class in Spring 2016 that conducted empirical, qualitative user research with people attempting to navigate procedures like divorce, child custody, child support, or evictions by using the local county court system.¹ This was further supplemented by a similar class taught in Autumn 2016, focused on people without lawyers attempting to use Boston-area housing courts to avoid eviction.² We used on-site focus groups, service safaris, over-the-shoulder observation, and interviews with court professionals and litigants.

From this design research, combined with a literature review of others interested in improving courts, we identified several core problems in the current user experience of the civil courts, that affect the procedural justice and legitimacy of the legal system.

2.2 The promise and problems of Court Self Help Centers

Self Help Centers have been a major innovation in the civil court system, to help people who cannot afford lawyers (or who otherwise are reluctant to hire a lawyer) to understand how the court system works, and to carry through the tasks necessary to

¹ This research was conducted in the Spring 2016 class Prototyping Access to Justice, at Stanford Law School.

² In Autumn 2016, we taught Access to Justice By Design at Northeastern Law School, in partnership with Boston Housing Court.

use it strategically [8].³ Yet despite the advantages they offer as a free and central location for legal help, the user experience of lay people using the Self Help Centers, and the civil court system more generally, has many problems. People come to the Self Help Center to learn what their options are, and what to do in order to protect their interests and get to their preferred outcome. However, often they are stymied by long wait lines, confusing buildings, a lack of privacy, jargon-filled forms, labyrinthine procedures, and cold referrals to other service providers.

Despite the best efforts of service-providers, litigants can leave the Center without a clear action plan to follow, and without information that they can understand. Oftentimes, they are not able to follow the instructions given to them, or to fill out the forms correctly, and thus suffer hindrances to their process in the form of delays, missed deadlines, or incorrect filings. We observe negative experiential outcomes in the scenario, with emotion ranging from frustration around being lost or ignored, to feelings of anger, powerlessness, and injustice. People suffer from a dignity problem in the court as a whole, and they are not able to use the system to effectively get their legal tasks done or to have a positive experience.

2.3 The current approach to services

Courts have attempted to improve Self Help Center experiences through information-deep-dives and technology-first solutions. They provide walls of handouts and forms, and sometimes, banks of computers to help people find legal resources. The hypothesis is that providing all of the information will help people serve themselves, do so privately, and will improve efficiency.

This approach comes from the assuming of understanding justice as distributive justice. Justice is seen as fair distribution of infrastructure and resource to support dignity as basic right. It therefore focuses on the end result of justice -- whether people get the 'correct' allocation as the outcome of the system. This view also aligns the “functional quality” [6] or “outcome quality” [4] of service that focuses on the end result and efficiency.

But in practice these resource-walls and computer banks in the Self Help Centers go relatively untouched, and people seek face-to-face help instead. These tools seem to fail because they are not centered around the human experience of people who go through the service. They offer deep-dive resources for specific tasks without giving transparency to an overall process. People feel lost and powerless because they do not have a larger view of the system they're in. Additionally, the technology-first solutions do not provide an empathetic exchange that people are seeking. In our interviews with users and court professionals, we heard repeatedly that court users

³ Note that in other jurisdictions, this type of free, court-based legal help center are called by other terms. For instance, in Massachusetts, they are called Court Service Centers.

want interactions with people to listen to their stories, acknowledge the frustration, anger, and other emotions they were experiencing, and give reassurance about what path to pursue.

The challenge, then, is how to support people's sense of dignity in their experience of the system. This is related to the "process quality"[6] of service, in how people feel they are being treated and how fair the system is, as well as to the "outcome quality" that will vary based on how well the person can participate in the system.

3 Hypothesis: A Perceived Control and Dignity Approach

We argue that in order to improve the services of a system like the courts, we need to use an approach that prioritizes procedural justice, dignity of the individual person, and their perceived control within the system. This argument is grounded in the notion that a person's dignity is defined by their autonomy and agency. When a system, like the legal one, is overly complex and difficult to use, then it lessens the person's agency, harms their sense of dignity, and diminishes procedural justice.

A philosophical survey reveals that the basis of dignity is autonomy: the capacity of an agent to act in accordance with free will rather than external pressure [10]. The Roman notion of *dignitas*, as defined by Cicero, was a social virtue gained from fulfilling duty [5]. In the time of Renaissance, dignity was more focused on an individual's capacity of choice [3], and the dignity of the Enlightenment, as proposed by Kant, was to act in accordance with ethical reason [9]. All of these definitions highlight autonomy as the central condition of dignity. Autonomy comes from self-control, freedom of creation, or right action according to self-imposed law [10].

We argue that in order to improve the legal system, we need to shift the focus from distributional justice to "procedural justice" to support this notion of dignity. To better design a legal system that is fair and legitimate, we must prioritize people's subjective experiences of the court and identify ways to enhance their autonomy and dignity.

Legal scholars who have studied litigants' experience of procedural justice in courts have identified four key variables by which to enhance procedural justice: their voice in expressing their views; the feeling of neutral application of law; individual's sense of respect; and their trust that authorities are sincerely trying to help them[11]. Of these factors, we find the common theme to be 'dignity'. A system that is procedurally just will give its users a sense of dignity, that their voice matters, they are being treated fairly, they are respected, and that they can trust the authorities.

Our starting proposition is that design interventions that focus on improving litigants' experience of court procedure can enhance their sense of dignity in the legal system, and the procedural justice of it. If we craft new resources and tools with this mandate to enhance dignity and autonomy, we will improve people's ability to

navigate processes easily, and thus also improve the fairness, justice, and legitimacy of the public legal system.

Our second proposition is that the concept of “perceived control” can be a central frame to guide both design research and interventions to lead to greater justice and dignity. Perceived control is defined as “the belief that one can determine one’s own internal states and behavior, influence one’s environment, and/or bring about desired outcomes” [18]. Psychological studies suggest that a person’s subjective beliefs about her control over a situation has been found to be more effective than the actual coping mechanisms themselves at dealing with stressful situations [1, 15]. Customers’ perceived control is an important determinant of service quality, especially in relation to service delivery failure and recovery situations [2, 7].

This is a crucial idea for service designers to understand, as control beliefs are key to quality service experiences. Our goal is to give people a sense of perceived control in order to prevent problematic states, like poor user experience, confusion about the process, or inability to correctly follow the process. The purpose of the study is to refine this framework into more particular design strategies to use, in order to provide court users with perceived control, and thus a more dignified user experience. We use the design work to evaluate the validity of the framework, and to help refine it as a tool to improve litigant experience and legitimacy of the system.

4 Method

Our study uses the notion of Perceived Control, in combination with Design Research experiments and evaluation, in order to explore how giving autonomy to people in the legal system can enhance their sense of dignity and procedural justice. We conducted a 10-week class at Stanford Law School and Institute of Design (d.school), in combination with a one-day design sprint at Harvard Law School. Each of these events focused on how to use human-centered design to create and vet new service design concepts for Self Help Centers in courts.

These design cycles were used, first, to assess our approach’s relevance. We could see how often notions of dignity, autonomy, and perceived control arose as key factors of litigants’ user experience of the legal system. We could also observe how useful the design teams found these notions as foundational principles for good design interventions. Secondly, they were used to generate new concepts to give greater perceived control to users of the court system and to improve their user experience. By examining the various design teams’ prototypes and rationales for them, we could discern what designs best enhance perceived control, dignity, and procedural justice.

4.1 The Perceived control framework

To operationalize the notion of Perceived Control, we defined a framework that could guide our design work. This framework was used to direct design teams about what

they should aim to create with their new concept proposals, as well as how they could evaluate the status quo of the court's service design.

We presented the Perceived Control as a central value and heuristic of service design, particularly in regard to complex, bureaucratic services like the legal system. To assess and improve Perceived Control, we use three main factors [16].

1. **Behavioral control:** Do users of the service have opportunity to act and directly impact the events it entails?
2. **Cognitive control:** Do the users have enough information to understand what is happening in the service, and interpret it to their specific situation?
3. **Decisional control:** Do the users have choices and alternatives laid out clearly?

Having introduced these factors to participants as a guiding framework, we also used it as a heuristic with which to evaluate the concepts they proposed.

4.2 Prototyping Access to Justice course

In the Winter 2017 Stanford class Prototyping Access to Justice, we had six design teams working to craft new interventions for people in the courts without a lawyer. The class specifically focused on a person who was beginning their journey through filing for divorce or resolving a child custody or child support case.

Each team was given a different design brief, focused on a different key moment in a litigant's initiation of a case in the state court. For example, a team was focused on how to prepare a person before they came to the court the first time, another on the arrival at the court building, another while waiting in line to be served, another while working with volunteers to diagnose their issue and fill in forms, and another as they left court and planned for next steps. During the class, each team mapped out the status quo of how the legal system provided service to users around their specific scenario. They conducted service safaris, user interviews, expert interviews, and secondary research of other proposed interventions. The teams cycled through three rounds of creating prototypes and testing them with court experts, designers, and litigants.

Throughout their design process, we introduced the Perceived Control framework to them, and then regularly asked them to reflect what types of control issues they observed as problems in the situation they were researching, and what types of control issues arose in their proposed design interventions. We had class discussions with the student teams, the partners from the courts, and the expert coaches about how the perceived control framework related to the challenges of court service. In addition, we used the framework to evaluate the ideas proposed by the students using the framework. This allowed us to observe how useful the framework is in understanding the legal system and crafting new solutions that enhance justice and dignity in it.

We also observed in our user research and feedback sessions, as well as our reviews by legal and design experts, how much reference was made to the ideas contained in the perceived control framework. Even if the concept or not phrased

identically to those in the framework, we were observant of when people made reference to control, or a sense of oversight and confidence and using the system. In addition, we made questions about perceived control central to the feedback sessions, in which we were asking people about their experience of the legal system and whether our proposed interventions would be of value to them.

4.3 Harvard A2J Lab Hackathon

The other design cycle to evaluate our approach was at Harvard Law School's Access to Justice Lab. In February 2017, the Lab hosted an interdisciplinary, one-day sprint to evaluate how people without lawyers currently use a particular legal process, and to determine what could serve them better. The focus of the hackathon was on the legal process of "service of process in a guardianship", in which a person who is applying for custody over a child or an adult have to notify all other potentially related people about their proposed guardianship. The goal of the session was to document the main failpoints in litigants' attempts to "serve process," and to identify ways to make it easier for a person to follow through on this process without a lawyer.

At the hackathon, there was a mixed set of participants, including litigants, legal aid lawyers, court specialists, web developers, user experience designers, and research scientists. The teams identified what the litigants' experience was around taking care of this particularly hard part of getting a guardianship. The participants asked the litigants to define the steps they took in the legal process, and what the emotional valence was of these different steps, as well as what they got legally right or wrong when trying to complete them. This helped to define the main points of frustration, confusion, relief, and failure, and then led to concept brainstorming for new designs. We used the hackathon to test whether our approach corresponded to litigants' and court professionals' experience of the system, and to examine what types of insights and prototypes emerge from a focus on dignity, control, and procedural justice.

5 Findings and Analysis

In our design work, we gathered qualitative research about what approach has promise for crafting interventions in the legal system. The framework of Perceived Control resonated with court users' and professionals' experience of how the system currently has problems. This framework, along with the use of dignity and autonomy as a central heuristic, proved to be useful to the teams as they crafted new proposals for improvements to the legal system. Our research confirms that a core problem affecting procedural justice is people's lack of autonomy, and that interventions that prioritize litigants' control have great promise to enhance procedural justice.

5.1 A Lack of Cognitive Control, with high intimidation and lack of trust

In both design cycles, the themes of Perceived Control recurred as dominant ones in how the status quo court system provides poor user experience. Users who have gone

through family law procedures highlight the lack of autonomy, control, or oversight that they had in the process as a central reason that they had poor service experiences, as well as why they failed to complete the process correctly and efficiently.

Among the people coming to Self Help Centers for family law cases, the two dominant emotions we heard about were (1) the emotional stress of the family situation, often in the form of apprehension about what will happen and how painful or demanding it will be, mixed with (2) the intimidation of using the legal system to deal with this problem, because of how complicated the procedures are, how unfamiliar the language is, and how challenging it seems to be to get everything done 'right'. These emotions reinforced a lack of cognitive control.

In both the class and the hackathon, the theme of **lack of control** and overall understanding was a constant. Litigants expressed that they felt at a loss in the process, and that they didn't know what was happening to them. They get a huge amount of paperwork and tasks to do, but are unsure of how to do this correctly. They don't have a sense of the stages that they would have to do to get things correct. Litigants feel confused because there is too much information, too many forms, and too many things that can go wrong. One litigant at the hackathon mentioned "a lot of paperwork," the problem of "filling out the forms," and too many "damn forms."

Fear was another main emotion throughout the whole process. The stakes of the process are very high, in terms of a person's family arrangement, finances, and housing situations. People felt they had a lot to lose, and were stressed that they might screw something up and suffer. The fear of having kids taken away or losing one's home means that people are in a high-stress state, and they fear the power of the courts to take these 'punishing' actions against them if they make a mistake.

A complementary theme was that not only did the litigants feel they did not have personal control in the system, but that they also didn't trust the system to protect their interests. One litigant complained that some of the service-providers who helped her had actually "screwed" the process when she let them do the paperwork. These mistakes led her to miss a court date, and she had to start the process all over again which caused a 6-months delay. The person refused the suggested idea of online system because she needs face-to-face human communication which would give her the trust ("I need to know the face, who the heck you are") and sense of transparency. She expressed the need for "having more help from somebody to talk to."

5.2 A Desire for Behavioral and Decisional Control, to Be Strategic

Parallel to the lack of cognitive control, people also expressed the desire for more oversight of the system, combined with better ability to focus on one procedural step at a time. This insight emerged both from interviews as well as from testing of new concept designs. At the start of going through through the process, people want to see the big picture of the system. But then as they start doing tasks, they want a more

bordered, focused-in view. They don't want to be distracted, and they want to only see the tasks immediately at hand so that they know precisely what to do.

A recurrent request was for services to help people gain confidence and strategy. In the current system, people feel a lack of confidence in their ability to do the tasks correctly. They're fearful that they might get stuff wrong and then have to start over. We heard from one person, "I'm not a paperwork person. I have others do my taxes, I'm not good at this." Even if they begin to understand the cognitive model of the system, they need behavioral support to check their work and reassure them. They aspire to be in control, with a clear view and a gameplan, and reassurance that they are behaving wisely in this unfamiliar territory.

5.3 Design strategies to improve dignity and procedural justice

As the design teams gathered these insights about fear, confusion, and lack of trust, combined with a desire to be wise and in control, they developed new digital, paper, and service interventions to enhance people's experience at Self Help Centers. There were several guiding design principles that the teams used in their efforts.

1. **Convey a Mental Model through Visuals of the Process.** Give the court users a sense of what the legal process will be, to develop an accurate mental model of it. Ideally, this will be through a bird's eye view display that lays out pathways of discrete tasks to take a person from start to finish.
2. **Give them self-service opportunities,** in which they can accomplish tasks on their own. While people do not respond well to large amounts of information given to them, or a bank of computers offered to them, they do want a well-defined pathway to follow, with coordinated support from people and technology.
3. **Help them form strategies for their custom situation through modeling,** to understand how to apply the rules of the system to themselves. This entails conveying information through scenarios of other people, and then allowing the person to compare themselves, choose among these scenarios, and take learnings from them. People want to craft strategies through peer comparison, and to follow others' models of what is 'normal' and 'correct'.
4. **Give them clear options in the given scenario.** The litigants we spoke with requested visual, clear layouts of what paths were open to them, like in a board game, to figure out what they could do, the pros and cons, and what to expect.

These principles pointed the teams to interventions that can enhance people's sense of control, reduce negative emotions, and enable them to better navigate the system. Proposed paper-based tools include process maps of the legal procedure; eligibility flowcharts to help people identify the best options for them; cover sheets for all forms that explain when and how to use them; model packets that give 'correct' versions of completed paperwork; binders that lay out tasks step-by-step and keep focus on one at a time; photo storyboards that show a model person going through the process; and

checklists that provide guidance for steps. Proposed digital tools included online versions of the paper tools (like maps, checklists, and models); messages with reminders and coaching tips about the procedure; virtual check-ups that would scan the user's actions and see what best fits; and database screening to see what the person is eligible for and what options best suit them.

The design teams tested these tools with litigants and with court professionals, and received positive feedback about their value. Some of the prototypes that received the best reviews were of **process maps**, in the form of wall posters, booklets, mobile apps, or even business card-sized paper, that would give people a model of the system and let them follow along on their case. The maps received high reviews because of the sense of oversight it gave to users, to help them make sense of what was happening to them and feel like they were an 'insider' who saw how all the pieces worked together. The map is a central tool for perceived control, in that effectively conveys a model to the user and lets them plot a course along it.

Another intervention type that received very positive reviews was a **step-by-step coach**. Even if this was an automated bot or a paper-based packed, rather than a real person, the litigants said they would appreciate the sense of someone shepherding them through a maze, and that they wanted this coach-tool to tell them exactly what they were supposed to be doing or choosing from at points in the process. The reminders, hints, warnings, and instructions from the coach-tool would give a sense of behavioral and decisional control to the person. It would reduce the amount of information the person was expected to understand to just that needed for the given context, and it would serve this information up in a clear, bite-size display.

These principles and design patterns affirm the importance of Perceived Control in the system to a person's experience and their evaluation of how fair or trustworthy the courts are. If people are able to get a greater understanding of the system's model and how to do discrete tasks, they are able to get through the process more efficiently, with less corrections or stops-and-starts, and thus they have a greater sense that the system is fair. In this way, improved user experience can improve procedural justice.

6 Conclusion

In this paper, we explored the concept of Perceived Control as a framework to design a more dignified experience in the courts' Self-Help Center. We found that the framework helped the design teams to frame their research and craft new, promising interventions to enhance litigants' sense of control and dignity in the courts. Using the framework, our design teams were able to draft principles and patterns for new interventions in the legal system, that can make it easier for a person to navigate the complex procedures efficiently and with a positive emotional experience.

We established the insight that court user experience affects efficiency. Certain design patterns for legal resources can enhance procedural control, which in turn can

improve the speed and experience of a person going through the courts. Now that we have run initial qualitative testing of our new concept designs, our future work will involve more rigorous behavioral and quantitative testing of how working prototypes of maps, step-by-step coaches, and photo storyboard models fare in the field. This paper's design research lays the groundwork for further prototype work, pilots, and research that can study these interventions and their effect on perceived control, dignity, and procedural justice.

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