

Implications of the New Public Management paradigm on judicial governance in Zimbabwe

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Abstract

This study explores how the New Public Management (NPM) has shaped the way the judicial sector of Zimbabwe has been governed since the enactment of the new constitutional order ushered in by the Constitution of Zimbabwe 2013. It further examines how the sector must respond to the new management systems going forward. Contemporary public management paradigms have affected every facet of governance the world over. In the Zimbabwean context, the NPM model was embraced as shown by the demand for accountability, transparency, efficiency, and sensitivity in all aspects of public policy formulation, implementation, monitoring and evaluation. The study employed a qualitative case study that used in-depth interviews, documentary research and questionnaires to collect data from judicial officers. The study found that the operations of the judicial sector had to be reconfigured, in line with the NPM paradigm, through the implementation of digitalisation, introduction and entrenchment of accountability mechanisms through regular reports to Parliament and instituting the electronic case management system, expanded access to justice through the setting up of additional court stations, and transparency through public interviews in the appointment of judicial officers. It was also found that training of judicial officers and supporting staff, engagements with internal and external partners, electronic filing and service of court documents, public broadcasting of high-profile cases on television and virtual court hearings promoted the NPM in the judicial sector. The study concludes by the NPM has improved judicial governance and delivery system. It is recommended that the use of ICTs be expedited to ensure speedy management of cases. Furthermore, funds must be availed to enable smooth operations of the judicial system.

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I. Introduction

The field and practice of administration underwent fundamental metamorphosis ever since the theoretical and practical discrediting of the traditional public administration (TPA) in the mid-1980s (Hughes 2003:1). For the past four decades, the public sectors of global economies have been reshaped and remodelled by clusters of reforms under various paradigms. None amongst these paradigms however has had far-reaching and cross-cutting impact than those under the umbrella term of New Public Management (NPM) (Pollitt and Dan 2011:3; Hughes 2003:2; Hood 1990:2). Visser et al (2019:40) argue that NPM paradigm to public management replaced the traditional public administration which was characteristically hierarchical and Weberian and partly replaced it with result-oriented public organisations as well as profit-oriented private firms and Non-Governmental Organisations (NGOs). In addition, the NPM paradigm also replaced the TPA with the

marketisation of the state itself (Ferdous 2016:26; Hood 1995:95). Thus, Dunleavy and Hood (1994:11) postulated that reforms under the NPM banner implied two main visible changes – the importation of private sector practices to the internal workings of public administrations and the external organisation of public administrations as quasi-markets.

The NPM paradigm was pioneered by various statesmen in Anglo-Saxon nations including United Kingdom's Margaret Thatcher, United States' Ronald Reagan, as well as in New Zealand (Hughes 2003:4-5). It is however important to note that the reforms quickly spread all over the world but most prominently in advanced democracies (Visser, et al., 2019:41; Clifton and Díaz-Fuentes, 2011:4). The extent, and implementation modalities were however remarkably different across the countries (Visser, et al., 2019:41; Pollitt and Bouckaert, 2017:10).

In most African nations, the NPM reforms were adopted through the influence of international financial institutions such as the World Bank (WB) and International Monetary Fund (IMF) (Rubakula 2014:87; Pollitt 20:4; Hughes 2003:5). Central to this move was the need to reform African economies which were ailing due to income inequality; huge debt traps; massive poverty; massive disease and instability; corruption; wars and political crisis; inefficiency; collapsing infrastructures; and lack of employment (Visser, et al., 2019:41).

Zimbabwe, just like any other African economy, was confronted by such socio-economic problems and thus it ultimately agreed to adopt NPM-styled Economic Structural Adjustment Programmes (ESAPs) in 1991 (Sibanda and Makwata, 2018:35; Nyoni, 2018:28). Overall, the rationale behind the introduction of NPM reform initiatives was to ensure that public-sector organisations become more efficient and effective in their delivery of public services; and more transparent and accountable in their administrative processes; and more specifically that they increase their ability to detect and correct societal problems, and thus improving the quality and quantity of public services delivery (Visser et al 2019:40; Osborne et al. 2015:426; Hughes 2003:1-3).

While literature is replete with research on the implications of NPM on service delivery in both the developed and developing world in the general context of public administration, there is limited research on the link between NPM and judicial governance especially in the developing country context. The judiciary (magistrate courts, high courts, supreme court, and the constitutional court) has always occupied a special position (Visser, et al., 2019:41).

De Santis and Emery (2017:80) argue that traditionally, the entities of the judicial system have been shielded from unnecessary intervention by the executive and parliament due to their independent position. Thus, courts have over the years remained insulated from public and political demands for more effectiveness, efficiency, and transparency (Vissert et al 2019:41; Holvast and Doornbos, 2015:51). That as it may, changed when, in the late 1980s and early 1990s, courts in many Western countries were confronted with increasing caseloads, while a concomitant economic recession necessitated budget cuts, which prompted a renewed interest in court delay and litigation costs (Visser et al 2019:41). Coincidentally, this happened at the same time there was the rise of movements such as "Reinventing Government" (Osborne and Gaebler 1992) and "New Public Management" (NPM) (Diefenbach 2009; Hood 1995), according to which public sector organisations were supposed to become more "business-like," efficient, and transparent.

Various developments in the judicial systems of economies across the globe can be used to substantiate this paradigmatic shift in the operations of judicial systems. As a result of these ever-changing dynamics, the United States of America, through the National Centre for State Courts and the Department of Justice created the Trial Court Performance System (TCPS), later CourTools, development which is applauded on various pages of Osborne and Gaebler's influential book titled 'Reinventing Government' (Visser et al 2019:39; Fox et al 2014:89; Schauffler 2007:113). In a similar development, the European Commission for the Efficiency of Justice (CEPEJ) introduced a comparable policy stream which was directed at improving judicial accountability both for the provision of a fair trial under the rule of law as well as for the provision good quality judicial services and an efficient and effective administrative organization of trial capacity and services (Ng et al 2008:58; Piana 2017:758). This led to a change in the way judges were being viewed since they were no longer exclusively viewed as independent decision-makers but were also perceived to be essential actors with an important role to play as part of a public organisation delivering services to the public (Visser, et al., 2019:40; Contini and Mohr, 2007:30).

Overall, NPM has in some instances shaped and reconfigured the structure and general characteristics of judiciary systems across the globe. In essence, NPM had an impact on the organisation, control, and governance of the judicial system through increasing the scale and professionalisation of the court organisation, introduction of fully integrated management structures; changing the division of labour within the courts; shifting of emphasis from judicial quality to court quality; transitioning from input budgeting to output budgeting; among others (Visser et al 2019:40).

The Zimbabwean judicial system has over the years been reformed in line with the ever-ending dynamics of the country's developmental agenda. As such, it is imperative to inquire into the extent to which the changes in the Zimbabwean judicial governance system have been informed by the emerging NPM paradigm in the public administration space. Specifically, this study was guided by the following research objectives:

- to identify the various aspects of NPM that have been adopted in the Zimbabwean judicial system.
- to interrogate the extent to which NPM as an emerging public administration paradigm has impacted judicial governance frameworks in Zimbabwe,
- to identify the various challenges and opportunities presented by the emerging public administration paradigms to Zimbabwe's judiciary system,

Theoretical Framework

The introduction of NPM practices within the public sector has been conceptualised and justified along various theoretical footings. While NPM has been viewed as a theory and approach for institutional management and governance, this study goes beyond using the NPM and appreciates the various underlying theoretical arguments from neo-classical economic theories. Overall, these theories will be appraised to bring into light their significance within the NPM and public sector governance discourse.

New Public Management (NPM) as a theory

This study is informed by the general framework of New Public Management (NPM) as propounded by various scholars. According to Dunleavy, et al., (2006:470), NPM can be viewed as a strongly developed and coherent theory of managerial change based on importing into the public sector central concepts from modern business practices and public choice-influenced theory. The NPM framework has been given various names since its emergence in the 1980s and 1990s. According to Hughes (2003:4), the framework was referred to as 'managerialism' by Pollit (1993); 'market-based public administration'; 'post-bureaucratic paradigm' by Barzelay (2000); 'entrepreneurial government' by Osborne and Gaebler (1992) among other names. The rise of the NPM body of knowledge can be viewed as being centred on re-inventing and re-engineering government systems and processes to meet the standards of private-for-profit organizations (Visser, et al., 2019:39; Hughes 2003:4; Osborne and Gaebler, 1992). Pollit and Dan (2011) argued that the central emergence of the NPM paradigm was due to the need to implant a new approach into traditional public administration.

The NPM framework is premised on three themes namely disaggregation, competition and incentivisation (Dunleavy, et al., 2006:471). According to Dunleavy, et al., (2006:471) disaggregation entails the splitting up of large public sector hierarchies in the same way that large private corporations earlier moved from U-form to M-form (multi-firm) structures; achieving wider, flatter hierarchies internally; and re-specifying information and managerial systems to facilitate this different pattern of control. On the other hand, competition included the introduction of purchaser/provider separation into public structures to allow multiple forms of provision to be developed and to create increased competition among potential providers. Dunleavy, et al., (2006:471) posit that incentivisation include the shift from involving managers and staffs and rewarding performance in terms of a diffuse public service or professional ethos and moving instead toward a greater emphasis on pecuniary-based, specific performance incentives.

In Hood's (1991:4-5) conceptualisation, the NPM paradigm has six key doctrinal components namely hands-on professional management; explicit standards and measures of performance; greater emphasis on output controls; disaggregation of units in the public sector; greater competition in the public sector; private sector styles of management practice; and greater discipline and parsimony in resource use. From these arguments, it can be observed that the NPM framework was premised on the need to transfer the best practices of management from the private sector to public sector institutions.

Islam (2015:143) argues that the reforms under the NPM framework were aimed at improving the quality of public services, saving public expenditure, increasing the efficiency of governmental operations, and making policy implementation more effective. Thus, this study explores the extent to which the principles and doctrinal components of NPM as propounded by Hood (1991:4-5) and Dunleavy, et al., (2006:141), among others; have been embraced in Zimbabwe's judicial governance systems. While the NPM can be viewed as a stand-alone theory, its underpinning theoretical arguments are grounded in the central economic theories of Public Choice, and the Principal/Agent Theory. The next section briefly discusses the economic theory underpinning the NPM.

Economic theory

The reform initiatives under the NPM paradigm have also been understood within the theoretical arguments of the Economic thought specifically through the public choice theorists, the principle-agent theory, and the transaction cost theory. As argued by Hughes (2003:10) the rise of NPM principles can be understood through the arguments by the conservative economists of the late 1970s and early 1980s who argued that

government was the economic problem restricting economic growth and freedom. Islam (2015:143) argues that the proponents of the NPM believed that less government would improve aggregate welfare by improving economic efficiency. Thus, it becomes imperative to analyse these various economic theories and understand how they informed the rise of NPM as well as informing this study.

Public choice theory

The public choice theory has been one of the most important and most referenced theories applied to the bureaucracy, especially on justifying the adoption of NPM principles (Hughes 2003:10). According to Islam (2015:143), the public choice theorists criticised the Weberian bureaucratic model as lacking cost-consciousness because of the weak links between costs and outputs. This is also supported by arguments by Larbi (2003:4). This perceived criticism against the bureaucratic model gave public choice theorists a plausible weapon to support their views that government is too big and inefficient, and offered a sharp contrast to the traditional model of public administration (Islam 2015:143; Larbi 2003:4). The central argument of the public choice theory is that instead of being motivated by the public interest (as assumed in the traditional public administration), bureaucrats are assumed to be motivated by their own selfish interest. Thus, the public choice theory provided alternatives, the most obvious being to allow competition and choice and to return as many activities as possible to the private sector (Islam 2015:143; Hughes 2003:11). Hence, this study examined how the introduction of NPM principles in the judicial governance systems dealt away with the perceived ills of bureaucracy as well as promoting a selfless and impartial judicial system.

Principal/agent theory

This economic theory has also been used in justifying and explaining the dynamics behind the proliferation of NPM principles. According to Islam (2015:143), the principal/agent theory has been applied to the public sector especially when it comes to issues of accountability. Originally, the principal/agent theory was developed for the private sector to explain the divergence often found between the goals of managers (agents) in private firms and shareholders (principals) (Hughes 2003:11). The theory is based on the argument that, if left uncontrolled and with no proper frameworks, the agents might pursue their own interests which might be detrimental to the overall objectives of their principals. In the private sector, shareholders seek maximum profits, while managers, their agents, might want long-term growth and higher salaries for themselves (Hughes 2003:11).

Within the public sector, the principals (the owners) of the public service are the entire public and thus the agents (public managers) are expected to fulfil the needs of these members of the public. The central aim of the theory is therefore to try and attempt to find incentive schemes for agents to act in the best interests of principals (Islam 2015:143; Hughes 2003:11). As such, the activities of agents need to be monitored by shareholders (Islam 2015:143). Within the context of the private sector, this can be done through the possibility of takeovers or bankruptcy while the presence of a non-executive board may help in attenuating the discretion of management (Hughes 2003:11).

Furthermore, in addition to ensuring that their behaviour complies with the wishes of the principals, agents should also have contracts that specify their obligations and rights. Thus, in line with this theory, this study explored the extent to which NPM mechanisms have been put within the judicial governance system to ensure that the agents (judiciary officials) perform their duties in a way that satisfy the principals (the public). In essence, the central aim will be to interrogate the extent to which the justice services are delivered in an effective, transparent, and efficient manner.

II. Literature Review

The New Public Management (NPM) paradigm and judicial governance frameworks

The emergency of the doctrine of the New Public Management has had positive effects in the wider public management discourse in general, and to the auspices of the judiciary in particular. As noted earlier, the reasons for the incorporation of the NPM school of thought in the judicial system at the global arena is to address the ills presented by the rule-based administration coupled with extensive meritocracy, division, or roles, hierarchy, and among others, impersonality (Peters 1996:64).

Significantly, the ills of public administration were totally blamed on the hand of bureaucracy which is on record for causing poor public sector performance and the annoyances of red tape, corruption, and poor services (Hughes 2003:2). Islam (2015:142) supports this by noting that the old administrative models have been under immense attack due to its inability to deliver public goods and services to the people in an effective and efficient manner. Therefore, the emergence of the NPM doctrine, in general, and its adoption into the judicial governance systems was because of the inequities of the traditional public administration of the 1980s and 1980s.

In line with the above, the judicial governance frameworks have been aligned to the NPM discourse over the years. According to Rhee (2008:192), since the second half of the 21st century, court caseloads have risen in all jurisdictions and most governments are not willing to invest appropriately in upgrading the court system to be aligned to the NPM. Implied is that this anomaly creates challenges to the entire judicial system as the dockets of most courts are overloaded. In addition, due to an array of the judicial politicization, governments saw it fit to review judicial governance frameworks while aligning them to the dictates of the NPM (Ng 2007: 253). Therefore, to orchestrate an effective judicial governance, governments created several frameworks as the first step towards adopting the NPM.

Institutional and legal judicial frameworks

Islam (2015: 113) argues that the politics of judicial governance interrogates the question such as who must manage what and how the judicial responsibilities must be formulated? Langbroek (2010: 82) posits that in the institutional framework it is the governments, through their ministries of the justice, Judicial Management Commissions, Judiciary Councils, and/or through a mixed model. It is imperative to note that the courts, as public entities, draw their powers of existence from the national constitutions globally. Constitutions are the supreme laws of the land, and all other pieces of legislation emanate from them.

Pollit and (2011) propounded that the formal constitution of the state should in principle provide the ultimate legal framework through which rational to legal behaviour is defined and is not to be used as a punitive measure against citizens. Thus, it is the constitutions that govern the positions of judges and the role and or positions of courts (Islam, 2015). For instance, Chapter 8 of the Zimbabwean Constitution of 2013 stipulates on how the Courts and the judiciary should operate, including the court system, that is, the Constitutional Court, the Supreme Court, the High Court, the Labour Court. Similarly, South Africa, Nigeria, the United Kingdom, the United States of America, and most other countries have both institutional and legal judicial frameworks that govern the modus operandi of the justice system (Zimmer, 2011:134).

A link between the judicial governance system and the New Public Management paradigm is key in guaranteeing effective judicial systems worldwide. According to Zimmer (2011:134), the initiatives that demand delegation of authority are important to guarantee self-governance as judicial leadership acknowledges the judiciary's unique role in the framework of government; accepts full responsibility for executing that role; and establishes and enforces, in coordination with the legislative power, the standards and deadlines necessary to ensure that such execution is timely, professional, and reflects the highest standards of judicial objectivity, proficiency, and competency.

In addition, even though the judicial function is identified in constitutions and other legislations that supplements constitutions provides independence of a self-governance framework, there are no guarantees that the judiciary will perpetually retain its hard-won institutional independence. Therefore, the existence of larger institutional and political frameworks of government and contexts within the judiciary, with the existence of erratic cycles of irrationality, the results may undermine, threaten, and or demand for the repeal of declarations of judicial self-governance. This is however the reason why the global judicial systems are forced to adopt the NPM doctrine.

Governance challenges within judicial systems

There is a wide range of judicial governance challenges at the global arena. The existence of the rule of law is built on the belief that the citizenry must have trust in the judiciary. According to Krisch and Kingsbury (2006:2), the challenges that hinder the practice of governance within the judicial system comprises the problem of governance and financing of the judiciary (how it is financed), personal or judicial capture by politicians, and the process of appointing judges and other court personnel. Rotner (2016:153) posits that some of the major challenges to the judicial governance system are a lack of judicial independence, incompetence, and corruption. The lack of judicial independence gives pressure to the judges and hence disrupts them from upholding the law through impartial decisions while incompetence and corruption makes it impossible for the entire judicial system to reap the benefits of the principles of the NPM doctrine.

In addition, Gramckow (2005:20) avers that, every judicial system in the world has issues with independence, including the United States of America. In China, the judicial system does not have formal structurally independent judiciary while Bulgaria, Haiti, most Latin American countries have challenges with judicial independence as judges are susceptible to pressure from politicians despite the official separation of the judiciary (Peerenboom, 2009:3; Dupre 2003:331). Therefore, lack of judicial governance has serious repercussions to the very existence of the rule of law. This is so because the challenge of unprecedented attacks on the judiciary by politicians depict a case whereby judicial governance and the rule of law is under threats.

Measures to enhance judicial governance

Judicial governance is a critical component of global court systems as it maintains the court's integrity. To avoid the prevalence of judicial politics, all forms of corruption, and mere incompetence, the governance discourse is key. Von Danwitz (2010:5) placed the judiciary as the guardian of good governance and fundamental rights, while posing the question "who is supervising the supervisors?" Accountability challenges, according to Krisch and Kingsbury (2006: 2), can be addressed through enhancing transparency and accountability in rulemaking, and through discovering new avenues of judicial review. This means that every stakeholder in the rule of law fraternity is charged to take steps to protect and preserve their independence at all costs, while following the auspices of the constitutions and supplementary laws.

Given the emergent of NPM, judicial governance can be improved by reaping the benefits of technologies as it is the linear catalyst of administrative and organisational transformation (Cordella et al. 2020:16). Thus, the use of information communication technologies (ICTs) in the public sector, including the judiciary, have far reaching benefits in improving the governance systems and structures of the judiciary systems within and beyond transnational boundaries.

Moreover, the introduction of e-justice system enhances judicial governance through bringing court processes to a more transparent manner as users and office workflows are made public (Cordella, et al., 2020:18). In line with the above, processes such as e-filing of court papers and or the creation of interoperability platform of the justice system where all the processes and procedures are done in transparent manner. This criterion enhances judicial governance because if corruption, incompetence, and all forms of bad governance happens, the public and other professionals in the law fraternity will notice because of the availability of information to the consumption by anyone.

Most governments, Zimbabwe included, continue introducing new ICT mechanisms as a measure to keep improving on the reliance of ICT within the entire judicial system. Moreover, the African Peer Review Mechanism (APRM) and the African Governance Architecture (AGA) (2019: 10) propound that, strategies to improve judicial governance always guarantee public access to justice through the establishment of legal aid schemes, informal and formal dispute resolution mechanisms, public interest litigation, small court claims, public defenders, and the incorporation of the use of information and communication technology (ICT).

III. Materials and Methods

Research design

To obtain the empirical data for this study, a descriptive case study research design was adopted to check on whether the New Public Management (NPM) paradigm had an implication on the judicial governance system in Zimbabwe. A case study research design entails an in-depth investigation of a problem in one or more real-life problem in its natural settings (Saunders, Thornhill and Lewis, 2016). Therefore, it gives a focused analysis of a specific area or phenomena under study. Saunders, et al (2016) further argue that the descriptive case study design gives an accurate view of phenomena, that is, events or situations and persons. Therefore, this chosen research design aids in ensuring that the research objectives were adequately addressed, by specifically focusing on the NPM paradigm and judicial governance in Zimbabwe.

Target population

To have a holistic understanding of the implications of NPM paradigms on governance of the judicial system in Zimbabwe, both middle-level and top-level bureaucrats were engaged. The study targeted members of the judicial system in Zimbabwe, that is judges and supporting administrative staff including those who fall under the JSC, as well as other independent entities like the Law Society of Zimbabwe (LSZ), and Veritas Zimbabwe.

Sample and sampling procedures

The study interviewed 8 officials from the key institutions, that is the JSC, LSZ, the High Court, Veritas Zimbabwe, and public policy analysts and academics to obtain their views, opinions and perceptions on how the NPM paradigm has impacted Zimbabwe's judicial governance systems and frameworks. Given the target population, purposive sampling methods were used to select units of observation from the JSC, LSZ and Veritas Zimbabwe. Purposive sampling was chosen as it ensured that the participants were selected based on their special skills or knowledge that cannot be acquired elsewhere thereby harnessing as much information as possible from their knowledge on the NPM and its implications on governance of the judicial system in Zimbabwe.

Data collection and research instruments

In-depth interviews were employed in this study to collect data from key informants. Interviews allow the acquisition of data through the interaction between the interviewer and the interviewee for the purpose of

answering research demands (Easterby-Smith, et al., 2015:34). Thus, middle and top-level employees at the government and non-governmental organisations that deal with judicial management and oversight were interviewed. The most important benefit that was obtained from using in-depth interviews in this study was that there was room to further probe participants which brought out information the researchers was not aware of. The issue of flexibility is also essential, given the fact that in-depth interviews can be done online.

Documentary search was also used to collect data in this study. Documentary search is defined by Mogalakwe (2006:221) as the analysis of documents that contain information about phenomenon one wishes to study. It is a technique used to categorise, investigate, interpret, and identify the limitations of physical sources, most commonly, written documents whether in the private or public domain. In this study, this technique was used to collect data from secondary sources like newspaper articles, internet sources, among others to infer and analyse the implications of NPM on Zimbabwe's judicial governance.

Data presentation and analysis

Since this study employed a qualitative research approach, thematic and content analysis techniques were used to interpret and analyse the themes emerging during the data gathering exercise. According to Hitesh (2020), content analysis determines a specific pattern of concepts and words obtained in the form of text. Thematic analysis, on the other hand, is a method of describing, analysing, identifying, and reporting themes within forms of data (Easterby-Smith, et al., 2015). To understand the implications of emerging public management paradigms of the judicial governance in Zimbabwe, data will be grouped into themes and according to content.

Ethical considerations

Issues of ethics are important in every research endeavour. Given the interpretative nature of this study, ethical principles such as do no harm, consent, voluntary participation, anonymity and confidentiality, and beneficence especially within the judicial field, were observed. Before going into the field for the data gathering exercise, the researchers sought permission from the responsible authorities that is the JSC, LSZ, and Veritas Zimbabwe.

Findings of the study

The study explored how the New Public Management (NPM) has shaped the way the judicial sector of Zimbabwe has been governed since the enactment of the new constitutional order ushered in by the Constitution of Zimbabwe 2013. It further examined how the sector must respond to the new management systems going forward. The findings of the study are presented in themes drawn from responses from participants.

NPM aspects that have been adopted in the Zimbabwean judicial system

The study sought to identify the various aspects of the NPM paradigm that have been adopted into judicial governance system in Zimbabwe. Through a combination of in-depth interviews, open-ended questionnaires and extensive documentary review, the study revealed that Zimbabwe's judicial governance systems and frameworks have embraced the NPM paradigm, just like all the other sectors of the economy. The most notable features that were identified include performance management; judicial service financial management reforms; disaggregation; competition; and introduction of ICT initiatives; among others. The study noted that these reforms can be understood within the greater judicial reform trajectory that has been evidenced over the years. This will be reflected in the presentation of findings on the major tenets below.

Performance management

The study observed that performance management has been one of the tenets of the NPM paradigm that has been embraced within the judicial system. Data collected through in-depth interviews and documentary search revealed that the Zimbabwean judicial system increasingly moved towards performance management and being result-oriented. One move which was observed reflecting the efforts for measuring and improving performance is the design and review of the Judicial Service Commission (JSC) Strategic Plans. Documentary review indicated that to date, there has been three JSC Strategic Plans in Zimbabwe (2012-2016; 2016-2020; and 2021-2025) since 2012. The significance of these strategic plans in spearheading the performance management drive was also stressed during the various interviews that were conducted. In an interview, one respondent (A4) argued that;

...generally, these strategic plans and the overall medium-term planning processes sets the foundation and tone for performance management...If you are to look closely at the strategic plans for the JSC, for example the 2021-2025 you will see that it has specific sections of Key Result Areas (KRAs) and Strategic priorities. These therefore acts as clear descriptions of the changes needed to positively impact the indicators....and overall, strategic plans answer why changes are important...

Emerging from these sentiments is that the short-term goals and indicators of performance used for results-based management can be obtained from the overall strategic plans.

A review of the JSC Strategic Plan (2021-2025) reveals that there are sections which outline the vision, mission, key result areas, strategic priorities, and the specific goals and objective to be achieved by 2025. Existing literature on public management in Zimbabwe indicates that emphasis on strategic planning and the need for visions, mission statements and overall strategic plans for government institution became more popular during the second decade of independence (1990-1999) after the introduction of Structural Adjustment Programmes (SAPs). For example, Zungura (2014:249) argued that the introduction of performance management in Zimbabwe in the 1990s came because of NPM reforms and the second phase of performance management was inaugurated in 1997/8 when it was made mandatory for Ministries and government agencies to develop visions, mission statements, organisational goals, corporate strategic plans, and client charters. Hence, strategic plans are an NPM-inspired performance management tool being utilised within Zimbabwe’s judicial system.

In addition to strategic plans, the study also revealed that there have been strides in implementing performance management and results-based management within Zimbabwe’s judicial system, with specific reference to the actual performance of the various courts and individual judges. Documentary search revealed that the judicial system keeps annual records of court cases and is therefore able to compare and manage the courts’ performances through comparing annual backlogs. Table 4.1 below indicates National scenario in 2018 in terms of the performance of superior courts in dealing with cases brought before them.

Table 1: Superior courts performance (national scenario)

	Cases brought forward as at 01/01/2018 (2017 backlog)	New cases (in 2018)	Total cases (in 2018)	Total cases finalized	Backlog status as at 31/12/2018 (2018 backlog)
Constitutional court	68	59	127	85	42
Supreme court	459	914	1373	935	439
High Court civil	3115	11900	15015	12858	2157
High court criminal	1481	10230	11711	10439	1272
Labour Court	856	2787	3643	3199	444
Admin court	8	66	74	66	8
TOTAL	5987	25956	31943	27582	4361

Source: Judicial Service Commission of Zimbabwe (JSC) annual report (2018)

In addition to the general performance of courts, the JSC is also able to track and compare the annual performance of the Office of the Sheriff. The performance and comparison for the period between 2017 and 2018 is presented in Table 2 below.

Table 2: Office of the Sheriff High Court

Processes	Received - 2017	Received – 2018	Difference	Percentage change
Writs	1826	2320	-494	-27%
Summons	6467	7527	-1060	-16%
Court orders	228	332	-104	-46%
Court notices	466	451	15	3%
Court application	392	455	-63%	-16%
Urgent chamber	70	89	-17	-27%
Removals	1185	1086	99	8%
Notices of set down	9589	11301	-1712	-18%
Total	20223	23561	-3338	-17%

Source: Judicial Service Commission of Zimbabwe (JSC) annual report (2018)

As can be observed from the two tables above, the JSC is able to track and compare the annual performance of the courts and the other key offices and staff which therefore makes it able in setting annual performance targets, specifically in the form of reduction of the annual backlog. In-depth interviews also indicate that there are efforts in implementing performance management within the judicial systems, specifically on the performance of individual judges. One respondent (A2) argued that;

...if we are to use performance management as a measure of how this NPM has been embraced within the (Zimbabwean) judicial system, then we can safely say it (NPM) has been fully adopted. If you are to look at the performance of judges, you will realize that currently their performance is constantly being assessed though comparing the workload versus the clearance rate, meaning that individual judges must clear their workloads within reasonable times. An important example to note here is that of the recent dismissal of Justice (Erica)

Ndewere. If you are to follow the issues closely you will notice that one of the reasons for the dismissal was that the honourable judge 'failed to clear her workload in reasonable time'.... (Researchers' emphasis)

Emerging from these sentiments is that the element of performance management is currently evident in Zimbabwe's judicial system as indicated by the tracking of individual judges' performance and the subsequent disciplinary proceedings instituted when one fails to deliver according to the set targets and performance.

Disaggregation

The study found that there has been increasing efforts to decentralise and disaggregate the judicial services in Zimbabwe. Data collected through documentary search and in-depth interviews revealed that there have been various developments aimed at devolution and deconcentrating of judicial services. Some of the notable issues that were observed include the establishment of new court infrastructures (for example, high courts and magistrate courts); separation of judicial services provincial offices; establishment of special courts; among others, which enabled the decentralisation and decongesting drive of the country's judicial for easy of access. Documentary review indicates that;

...on the 7th of May 2018; a new High Court Station was opened in Mutare becoming the fourth High Court station in the country after Harare, Bulawayo and Masvingo. This went a long way in reducing the distances travelled by litigants in Manicaland and some parts of Masvingo and Mashonaland East to access the services of the High Court.... (JSC Annual Report 2018).

In addition to High Court stations being commissioned as part of the decongesting drive, the study also found that in 2018 various circuit courts were accorded resident magistrates' court status (for example, Mutasa in Manicaland and Concession in Mashonaland Central). In addition, documentary search also reveals that during the same time in 2018; circular courts at Chipinge, Plumtree, Karoi, Beitbridge and Guruve were all upgraded to permanent regional courts. Furthermore, the study also revealed that, in the spirit of devolution and to enhance effective administration of justice, Matabeleland North and Bulawayo provinces were also separated into two magisterial provinces (JSC 2018 annual report).

Another move which was observed is the decentralisation of the Master of High Court and the Office of the Sheriff services which were traditionally found in Harare and Bulawayo. The study also observed that the establishment of the commercial division of High Court is also part of the decentralisation exercise. These developments therefore reflect the efforts to decongest major towns and cities through ensuring that judicial services are closer to the people. With decentralisation being a central pillar of the NPM paradigm, it can therefore be observed that the paradigm has had far-reaching impact in Zimbabwe's judicial system.

Information Communication Technology (ICT)

The introduction of ICT within judicial systems has been one of the most striking changes brought by the NPM paradigm. The study therefore considered it important to understand the extent of ICT usage in the delivery of judicial services in Zimbabwe. With a specific focus on the High Court of Zimbabwe, the checklist on Table 4.3 was provided to establish the extent of ICT adoption in Zimbabwe's judicial systems.

Table 3: ICT usage checklist

Does the High Court have the following?	
Functional basic technologies	Internal and external emails for judges
	Desktop computers
	Word processors
	Multiple websites with information
Functional applications to support administrative personnel of the courts	Automated registers
	Case management systems
	Court management tools
Technologies supporting the activities of judges	Legal/Law electronic library
	Case law electronic library
	Sentencing support system

Source: Survey data, 2021

This checklist was filled through an in-depth interview. One key informant (A5), with adequate knowledge about the structures and operations of the high court gave the following insights to the checklist.

With regards to the availability of basic functional basic technologies within the High Court, the key informant argued that;

...All judges have email addresses...they have personal and official emails provided by the Judicial Service Commission; Every Judge has a desktop and a laptop, fully equipped with all the accessories, including a word processor and printer; and Judges have facilities which enable them to access different websites which contain information such as law reports and cases from other jurisdictions, articles, journals, and textbooks.

Thus, the study findings reveal that the basic functional technologies are present in Zimbabwe's judicial system. In addition, with regards to the availability of functional applications to support administrative personnel of the courts; the key informant (A5) pointed out that;

...there is electronic filing of all documents filed with the registrar of the High Court as well as electronic case management which enables a person to monitor electronically the stage at which any case has reached including the judge to whom it has been allocated. One can also access electronically information on what each Judge is doing on a particular day. But judges cannot access this information from their chair Chambers.

Thus, it was found that, while the technologies to support administrative staff were present, there were some loopholes and deficiencies. However, it was noted that ICT as a tenet of the NPM paradigm was embraced within the Zimbabwean judicial system. In addition, regarding technologies supporting the activities, a key informant (A5) in an interview argued that;

...All local law reports are available in electronic form to all the judges. However, there's no one electronic library to which all the judges have access from the comfort of their chambers. Subscription to some library providers such as LexusNexus; Juta etc. which would give access to law reports from other countries is not guaranteed. There is access to SAFLII which gives access to South Africans Law Reports. As for the sentencing supporting system, there's only case law from this jurisdiction and from other jurisdiction showing the sentencing trends. Some of the case law can be accessed electronically. However, there is no subscription to some internationally acclaimed publishers such as Juta, LexusNexus. Access to some texts, journals and articles from the developed world which requires subscription is not readily available.

Thus, it was found that strides were being made in ensuring that judges fully utilise ICTs. Hence, despite the various challenges and loophole in its implementation, ICT can be viewed as one of the elements of NPM that have been embraced by Zimbabwe's judicial governance system.

The impact of the NPM paradigm on judicial governance frameworks in Zimbabwe

The study sought to interrogate the implications of introducing NPM principles and elements within the judicial governance frameworks. Through a combination of in-depth interviews and documentary review, the study found out that the introduction of NPM principles within the judicial system has had far-reaching positive implications. Some of the notable implications include increased access to justice, improved transparency, accountability, professionalization of the judicial system, financial prudence, value for money in the delivery of judicial services, among others. Below is a presentation of the data from the field regarding how the NPM paradigm has impacted on judicial governance systems and frameworks.

Access to justice

Data collected from the field revealed that the adoption of NPM principles within the judicial system has brought positive change through facilitating and promoting access to justice especially for the once marginalized members of society. A key informant (12) in an interview pointed out that,

...I think NPM can be associated with the recent quest to bring justice services to the people. Trends, especially for the post-2010 period indicates that there have been massive efforts to promote de-concentration of judicial services as indicated by the establishment of more high court stations and more magistrates' courts...

These sentiments can be buttressed by data collected through documentary review which indicates that a new High Court Station was opened in Mutare becoming the fourth High Court station in the country after Harare, Bulawayo and Masvingo. In addition, circular courts at Chipinge, Plumtree, Karoi, Beitbridge and Guruve were all upgraded to permanent regional courts. All these are part of the decentralisation drive (which is part of the NPM principles).

The access to justice drive is also central in the JSC Strategic Plan (2021-2025) which among other things put its emphasis on promoting devolution and decentralisation by establishing more courts in all provinces and strengthening district court stations, and localising access, capacitation of customary/local courts with training and tools, establishment of more victim-friendly courts, reduction of infrastructural and physical barriers. In

addition, the research also noted the provision of access ramps for persons living with disability as one of the notable developments that have contributed to enhancing access to justice in Zimbabwe. With such developments, one can therefore argue that the introduction of NPM principles in the judicial system plays a critical role in promoting and facilitating accessibility of justice services.

Transparency and Accountability

Data collected from the field revealed that the adoption of NPM principles within Zimbabwe's judicial system has also had an impact of facilitating and promoting transparency and accountability in the delivery of judicial services. It was further found that there were various legal empowerment exercises aimed at capacitating citizens to actively use the law and shape it to their needs. Some of the examples of awareness-raising and legal education initiatives that were identified include those anchored in ICTs such as the use of television and radio talk shows to build links between the formal and informal justice systems; broadcasting documentaries on local television stations; online publications and presence of online platforms like SAFLII and ZIMLII; among others.

In addition, the study also identified other specific developments which promoted transparency and accountability in Zimbabwe's judicial system, for example, the JSC online help desk, the Miranda (Quarterly) magazine, and the JSC annual reports. In addition, one interviewee pointed out to the handling of the 2018 Constitutional Court proceedings challenging the Presidential elections results as a point of reference with regards to how ICT can be useful in facilitating transparency and accountability in the judicial system.

Value for money

The study also found that the introduction of NPM principles within the judicial governance system, specifically ICT has also had positive implications to the judiciary. One of the positive impacts that were pointed out in the field is increased efficiency in the delivery of judicial systems. One key informant pointed out that, *...given the workload and volumes of information and data in the judicial process, applying ICT has significantly helped in increasing efficiency, promoting easy research, and allowing for easier information retrieval. Interestingly, this has an impact of reducing stress and enhancing the health of judicial officers in the long run.*

Therefore, using ICT in the judicial process had an impact of reducing and eliminating inefficiency, inaccuracy, lack of transparency and integrity, and the major causes of delay in justice dispensation. In addition, the study also identified other factors which reflect the significance of ICTs, as an NPM doctrinal tool, in the judicial system. These include the introduction of court room technology as a means for putting evidence before everyone in the court room, introduction of integrated Case Management System (CMS) in case management, case tracking, court schedule and instant transcripts, deployment of court room technology through the use of court recording and transcribing system, and the introduction of electronic data/information exchange system (allowing lawyers to file documents electronically and also allowing evidence to be electronically presented). Overall, these had the impact of ensuring efficiency, minimising delays, engendering transparency and integrity in the judicial system.

IV. Conclusion and recommendations

The study concludes the NPM paradigm can have far-reaching implication to the governance and operations of the judicial system in a country. The study therefore identified various tenets of NPM that are visible in Zimbabwe's judicial system include disaggregation (devolution, decentralization and deconcentration), performance management, and introduction of ICTs. These had the impact of increasing access to justice, increasing transparency and accountability, professionalisation of the judicial system, promoting financial prudence, and enhancing value for money in the delivery of judicial services.

Based on the findings of the study, the following recommendations are made:

- There is need to ensure that effective performance management systems are put in place and are strengthened both for the performance of judges and the overall performance of the various courts. For judges, there is need to monitor the number of cases completed (for example monthly or annually), to track their judgments and assess the number of those upheld or overturned by appeal and tracking their judgments and assess whether they receive academic support or negative criticisms. In addition, for courts, there is need to publish the statistics of completed cases and backlogs, to interview members of the public about whether they are satisfied with the performance of the courts, among others. In addition, there is need to introduce electronic tracing mechanisms to ensure that people within the judicial system and those outside the judiciary can be able to trace the progress and developments around various cases which might be of interest to them. All these will help in promoting efficiency and transparency in the delivery of judicial services.
- There is need for the institutionalisation of continual judicial training through; establishment of a dedicated Judicial Training Institute (JIT); establishment and fully equipping a Special Committee for Judicial

Training to drive the establishment of the JTI; undertaking a skills audit or competence self-assessment to identify training needs; and produce a comprehensive five-year skills development plan for each member of the judicial service; reducing ad-hoc conference-type training.

- There is need to strengthen the system of review and scrutiny of decisions and case performance (Zimbabwe Law Reports/Cases confirmed on review/cases with adverse reviews/cases appealed and reversed), supported by appropriate digital technology; and to analyse performance at each court level. In addition, there is also need to institutionalise regular monitoring and evaluation of quality based on objective quality assessment mechanisms.
- There is need to institutionalise and promote the use of technology in the judicial system for example through developing and implementing interactive website and social media handles, implementing financial management systems, expanding the case management system to all court stations, procurement and implementation of integrated electronic case management system and communications, and provision of appropriate technology and tools of trade to members of the judicial service.

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