新公正文化之推行指引

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即使排除司法層面可能造成的影響，在組織內建立公正文化(justice culture)可能仍然相當困難。以下提供一些可供參考的推行步驟。不過即使我們執行這些步驟，也不可能達到完全公正，我們只能妥協出一個可接受的結果。請考慮是否在你的企業內執行以下步驟，以協助獲得合理的妥協結果。

1.探討事件發生的原因而不是追究誰該負責

早在二十世紀四〇年代，人因工程專家及心理學家已開始探討錯誤形成的原因，而非追究誰該負責。人為因素的分析結果也顯示如果我們對人們的工作環境其關鍵特性有一定程度的瞭解，就會發現他們所採取的動作及所做的判斷相當合理。事實上人們的行為和工作內容及使用工具的特性有一定的系統性連結關係。其次；針對這些特性進行分析(為何會發生)也代表未來可以藉以進行相關學習、變動及改良的所有可能性。因此當意外事件或事故發生後初步徵詢當事人同儕、主管及其它利害關係人時，應著眼於發生的原因而不是追查誰是罪魁禍首。

2.將繁瑣的細節資訊與公正建立進行連結

捲入意外事件的相關當事人常常感到更挫折的是那些有權判斷對錯的人往往不會真的瞭解當事人的實際工作情況。這些有權力的人不明瞭事件可能牽扯到的繁瑣細節，或者缺乏適當的專業技術知識，誤解人們在組織、法令規章及多重限制的重重束縛下如何使工作仍能順利推動的細微巧門。這些進行判斷的人可能是公司主管、官方檢查人員、警察、法官或法院陪審團(譯者按：我國並無陪審團制度)，但很少由同一工作階層的人員進行所謂的”同儕判斷”。這些來自上層或外部的族群對於事件所涉及的工作內容有實際親身經歷知識，可能也會有動機想去架構一種對當事人不利的負面敘述。所以當意外事件發生後，請確保參與調查的人員對該事件繁瑣的細節有相當程度的瞭解，並且在其它人員眼中具有一定的公信力。

3.探討"回復性公正"的可能性

懲罰性公正(Retributive justice)著眼於個人的錯誤或違規行為，這種理論主張如果一項錯誤或違規(或可能的違規)可能危及他人，則其後續效應也可能造成傷害。組織內的其他人員可能會排斥承認組織內系統出錯的可能性，他們甚至可能會害怕當追查何種因素導致意外事件發生時，自己是否也會受連累。

相對地，回復性公正(Restorative justice)則主張，雖然一項錯誤或違規可能造成傷害，但其後續效會有正面的影響。回復性公正承認當詮釋事情為何會出錯(或如何把事件做對)時，可能存在許多的故事及不同的觀點。回復性公正相信人們不會存心將事情搞砸。事實上，即使在錯誤幾乎將發生的情況下大多數人仍願意用具建設性的方式來做事。回復性公正希望能鼓勵促成當事人與其周遭介面(例如同事)間的對話，而不是通過制裁和懲罰破壞彼此間的關係。

4.由逆向式究責改為前瞻性責任的思考方式

逆向式究責(backward accountability)是指將過去發生的事件歸咎于於個人，以“誰該負責”的思維來處理已經發生的事件。它意味著某種形式的懲罰、撤職或者是開除。這種處理方式除了可能造成人們焦慮不安，及處理時可能造成焦點轉移(如著眼於鼓勵其他人提供資訊)外，目前還不清楚誰會希望採用這種追溯式的究責方式。過去的

經驗則顯示，這種作法實際上並不可行，它只會使其它人對是否要提出報告和是否要提供資訊時更加猶豫謹慎。相對地；如果我們換一種思考方式，將個人的行為視為一種對於組織面、操作面、技術面、教育面或政治面問題的外部投射，此即為前瞻性責任(forward accountability)的思考模式。如此；我們面對的課題就變成了：該怎麼處理這個問題？誰應該負責執行改變，並評估其是否確實可行？

前瞻性責任制的觀念與一種新型的安全思維是一致的：問題不是如何去控制人的，而是人人都可以成為管理的解決方案。前瞻性責任制可以幫助人們專注於如何採取必要的行動以達到變革和改善，並因應組織和社會大眾的期望。

5.建立次級受害者支援機制

次級受害者(secondary victim)係指被一件造成(或可能造成)其它人員(如乘客或旁觀者)傷亡意外事件所牽連，而他們個人因此感到內疚的其它從業人員。對這些次級受害者提供強而有力的社會和組織支援系統(如第一時間的心理輔導、狀況簡述，或其後續行動)已證明於事件發生後；對於是否可有效抑制次級受害者產生後遺症(特別是各種形式的創後症候群)具有決定性的影響。實施及維持次級受害者支援系統的確將耗費寶貴的資源，但這項投資是值得的，它不僅有助於當事人心理復健及防止企業組織人才流失，也算是對於公義和安全的一種投資。推動公義可以由先承認這些當事人也算受害者(雖然只是次級受害者)開始，某些次級受害者也可以被授權，納為事件調查過程的成員。如果次級受害者有機會可以述說自己的第一手親身經歷，的確會具有療效，但前提是他們說的話被真的當回事，而不是被敷衍了事，而且不會因而造成曝光，以致受到報復或承受其它形式的風險。對企業組織而言，次級受害者的參與是在安全和學習的重要投資。畢竟事實上兩者(指次級受害者與企業本身)的復原能力會相互錯綜複雜地糾纏在一起。次級受害人的生活經驗代表一個寶貴的資料庫，可以告訴我們要如何達到安全及為何在企業組織的最深層核心中安全機制會失效。這些調查紀錄如果好好加以整合，將可以用以協助判斷個人和企業組織如何處理風險和安全課題。

6.結論

即使實施上述步驟，組織內的公正文化之旅永遠不會結束。畢竟所謂的公正是屬於那種即使最理性的人們彼此

間意見也不會一致的議題，對某人是對的事情在別人眼中可能是錯的。但按照上面的步驟，你可以創造一種誠實、關懷、公平和願意學習的氣氛。如果你真的做到這一點，公正可能會自然達到。

譯自Hindsight 18

A new Just Culture algorithm

Sidney Dekker

Creating a just culture in your own organisation can be hard enough – even before you worry about the influence of the judiciary. Here are some steps that you might consider. As you do so, always remember that justice can never be imposed. It can only be bargained. See if you can implement the following "algorithm" of steps that help in such bargaining:

1.Don't ask who is responsible, ask what is responsible.

In the 1940's, human factors engineers and psychologists started asking what is responsible for errors, not who is responsible. Human factors showed that people's actions and assessments make sense once we understand critical features of the world in which they work. People's actions are systematically connected to features of their tools and tasks. Targeting those features (the what) is an action that contains all the potential for learning, change and improvement. Therefore,the first response to an incident or accident – by peers, managers and other stakeholders – should be to ask what is responsible, not who is responsible.

2. Link knowledge of the messy details with the creation of justice

One of the more frustrating experiences by practitioners involved in an incident, is that those who judge them often do not really know what their work is like. They do not know the messy details, they lack technical knowledge, misunderstand the subtleties of what it takes to get the job done despite the organisation, the rules, the multiple constraints. Whether this is a supervisor, an inspector, the police, a judge, a jury – these are rarely "juries of peers." These groups do not have the same intimate knowledge of the work they are judging, and they may also have incentives to build a narrative that puts the practitioner at a disadvantage. So make sure you have people involved in the aftermath of an incident who know the messy details, and who have credibility in the eyes of other practitioners.

3. Explore the potential for "restorative justice"

Retributive justice focuses on the errors or violations of individuals. It suggests that if the error or violation (potentially) hurt someone, then the response should hurt as well. Others in the organisation might have a desire to deny systemic causes, they might even fear being implicated in creating the conditions for the incident.

Restorative justice, on the other hand, suggests that if the error or violation (potentially) hurt, then the response should heal. Restorative justice acknowledges the existence of multiple stories and points of view about how things could have gone wrong (and how they normally go right). Restorative justice takes the view that people do not come to work to do a bad job. Indeed, most people are willing to work constructively after a near miss has occurred. Restorative justice fosters dialogue between the actor and the surrounding

community (e.g. of colleagues), rather than a break in relationships through sanction and punishment.

4.Go from backward to forwardlooking accountability

Backward-looking accountability means blaming people for past events. The idea of "holding someone accountable" is used for events that have already happened. It implies some sort of sanction, removal or dismissal. It is not clear what people hope to achieve with this sort of retrospective accountability, other than perhaps instilling a sense of anxiety and focus in others (pour encourager les autres). But this does not work: experience shows that it only motivates others to be more careful with reporting and disclosure. If, instead, we see somebody's act as a representation of an organisational, operational, technical, educational or political issue, then accountability can become forward-looking. The question becomes: what should we do about the problem and who should be accountable for implementing those changes and assessing whether they work? Forward-looking accountability is consistent with a new type of safety thinking. People are not a problem to control, but a solution to harness. Forward-looking accountability can help people focus on the work necessary for change and improvement, and connects organisational and community expectations to such work.

5. Put secondary victim support in place

Secondary victims are practitioners who have been involved in an incident that (potentially) hurt or killed someone else (e.g. passengers, bystanders) and for which they feel personally responsible. Strong social and organisational support systems for secondary victims (psychological first aid, debriefings, follow-up), have proved critical to contain the negative consequences (particularly post-traumatic stress in all its forms). Implementing and maintaining support systems takes resources, but it is an investment not only in worker health and retention. It is an investment in justice and safety too. Justice can come from acknowledging that

the practitioner is a victim too – a secondary victim. For some it can be empowering to be part of an investigation process. The opportunity to recount experiences first-hand can be healing – if these are taken seriously and do not expose the secondary victim to potential retribution or other forms of jeopardy. Such involvement of secondary victims is an important organisational investment in safety and learning. The resilience of second victims and the organisation are intricately intertwined, after all. The lived experience of a secondary victim represents a 'treasure trove' of data about how safety is made and broken at the very heart of the organisation. Those accounts can be integrated into how an individual and an organisation handle their risk and safety.

Your organisation's journey to a just culture will never be fi nished, even if you implement the algorithm above. Justice, after all, is one of those categories about which even reasonable people may disagree. What is just to one is unjust to another. But by following the steps above, you can help create a climate of honesty, of care, of fairness and of a willingness to learn. If you do that, justice may just come around by itself.

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