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Visiting legal systems using S-D logic lens: the impact on operations

Ana Lúcia Martins (*almartins@iscte.pt*)
*Instituto Universitário de Lisboa (ISCTE-IUL), Business Research Unit (BRU-IUL),
Lisboa, Portugal*

Abstract

Service-Dominant logic supports that value is not created by the supplier, that value is co-created. The judicial system is conservative and its output is traditionally seen as the solving of disputes. This paper aims at analyzing the adjustments required in the traditional conceptual logic of legal service systems to perceive it in the lens of service-dominant logic. The European Small Claims Procedure is used as a discussion case. Service-Dominant logic is visited and interpretation in the legal system is attempted. A new conceptualization of the traditional input-process/experience-output perspective in public services, specifically in the legal systems, is provided.

Keywords: service-dominant logic, judicial system, conceptual paper

Introduction

Service-Dominant (S-D) logic has gained ground in terms of service literature. Based on prior research in the services area, it emerged in 2004 (Vargo and Lusch, 2004) and has been developing to offer an alternative perspective to service science. Although initially focused on clarifying its theoretical foundations (Vargo *et al.*, 2008), this framework evolved to provide new opportunities where to ground service provision (Vargo and Lusch, 2008a; 2014; 2016). This new logic eliminates the consumer-oriented perspective and replaces it with the concept of beneficiaries of service provision (Vargo and Lusch, 2014). It also proposes a change from the perspective of service providers to actors that make value propositions available (Vargo and Lusch, 2014).

This logic is not without criticisms (see, for instance, Achrol and Kotler (2006) or Olexova and Kubickova (2014)), and researchers have agreed that it needs stronger empirical research to assure practical assessment of its premises. Nonetheless, the focus is on the marketing perspective, disregarding the fact that processes are the basis of service provision and that the way operations management is approached should also be considered. Ng *et al.* (2012) attempt service provision at a traditionally perceived goods company from a S-D logic and conclude that this new logic improved not only process design and supply chain management, but has impacts even at the level of equipment design. This shades a different light into the traditional input-process/experience-output perspective.

The judicial system has traditionally been seen as an arena to solve disputes, and not as a service for the benefit of others. Even being close to a pure service, perceiving it from an S-D logic perspective might present itself as complex. Does the output of the

judicial system expire as it is produced or does it remain in time and continues to produce results (and co-create value) through time? Does it always generate benefits or are there entities that do not recognise those benefits and even fight them? Should the process experience, involving several entities, be more focussed on creating more value to some of them then to others?

The S-D logic debate is still under development and besides Martins and Carvalho (2015) very light approach, the legal services have not yet been approached from a S-D logic perspective. The purpose of this research is to overcome this gap in literature by analyzing the adjustments required in the traditional conceptual logic of legal service systems to perceive it in the lens of service-dominant logic and to assess its impacts on the operations management perspective of the service process. This research has two main objectives. The first objective is to perceive the premises and rhetorical perspective of S-D logic in the legal systems to develop an integrated process of legal value co-creation. The second objective is to identify the adjustments required in the traditional service process approach to address the desired benefits.

To illustrate the debate in the legal systems the European Small Claims Procedure will be used as it is a European process. As a conceptual paper it starts with an analysis of the fundamental conceptual arguments of S-D logic and Service Operations Management. A brief description of the European Small Claims Procedure is provided as ground for the following discussion. Finally, suggestions for the adjustment of how legal service provision should be perceived from an operations perspective are provided.

Theoretical background

A new logic: service-dominant

The traditional perspective is that a producer will produce and deliver goods and services and that a customer will consume or use those goods and services. This assumes a perspective of value offered by the producer in its output and the reception of that value by the customer. The existence of these two distinctive perspectives (producer vs consumer) is the basis of the so called goods-dominant (G-D) logic.

Service-dominant (S-D) logic arguments that producers do not create value, value is co-created (Vargo and Lusch, 2004). Under this logic, the traditional difference between goods and services materialized in the IHIP characteristics (Zeithaml *et al.*, 1985; Lovelock and Gummesson, 2004) (services as an intangible product) makes no sense as there is only *service*, i.e. “the application of specialized competences (knowledge and skills) through deeds, processes, and performances for the benefit of another entity or the entity itself” (Vargo and Lusch, 2004:2). This logic is focused on the process that occurs between parties and not on the output of the transformation process.

Processes require resources, but these can be of different nature. In the traditional logic (G-D logic) resources were used in processes as inputs to produce a specific outcome. These inputs to the transformation process could be classified as transforming resources (the ones that generate transformation) or transformed resources (those on which the acts were performed and would experience change) (see, for instance, Slack *et al.* (2013). These resources are of no use unless they are used or transformed during the process. S-D logic uses the classification of operant and operand resources. Operant resources are the knowledge and skills used to produce effects (Vargo and Lusch, 2004). These are used to act on the operand (or other operant) resources. Operand resources are the resources on which the transformation is performed, are the target of transformation. It is also true that these operand resources can latter become operant resources if used to act on an operand resource. Customers can be both operant and operand resources in the service process (Vargo, 2008) depending on their role.

According to S-D logic firms do not deliver value: “value is benefit, an increase of the well-being of a particular actor” (Vargo and Lusch, 2006:57). It is to say that companies only offer value propositions, which may or may not be accepted. Value-in-use is then aligned with S-D logic, rather than value-in-exchange, even if the value-in-use is not provided directly (Vargo and Lusch, 2008b). Only when the value propositions are used there is in fact value creation. This also means that value is always co-created (Gronroos and Voima, 2013) as the resources from multiple sources were integrated in the proposition, and will always require the beneficiary to create the value as it does not exist before its use (Vargo *et al.*, 2008). The extent of that value is always determined by the beneficiary as it an experiential concept (Lusch and Vargo, 2014).

The beneficiary should not be perceived as synonymous of “customer” (from the G-D logic perspective) as the so called “supplier” will also benefit from the relationship. In this sense, there are multiple beneficiaries. According to Vargo and Lusch (2010), resource integrators come together to co-create value in a complex net of value-creating relationships. It is through the relationship that value is co-created.

Extending this approach to the full network that comes together to define value propositions, it is possible to perceive the supply chain of actors involved in value co-creation. Throughout this network it is possible to find situations of coproduction of service offerings, exchange of service offering and even co-creation of value (Lusch, 2011). Extending this concept, Vargo and Lusch (2016) defined service ecosystems as “relatively self-contained, self-adjusting systems(s) of resource-integrating actors connected by shared institutional arrangements and mutual value creation through service exchange”. It is the exchange of operant resources through the ecosystem that allows value to be co-created through the network and influenced by that network (at it is phenomenologically determined by the beneficiary).

Although Vargo and Lusch (2004) initially based S-D logic on eight fundamental premises (FPs), these were adjusted and further developed. Currently S-D logic is grounded on eleven fundamental premises (FPs), five on them considered Axioms (A) (Vargo and Lusch, 2016). Table 1 shows the current FPs status, taking into account the actor-to-actor perspective of the logic, i.e. there are no pre-defined roles for the entities (producers, consumers, customers), there is simply the recognition of different actors that integrate resources and are engaged in service exchange (Vargo and Lusch, 2011).

Table 1 – Fundamental premises (FPs) and Axioms (A)

FP / A	Statement
FP1 (A)	Service is the fundamental basis of exchange.
FP2	Indirect exchange masks the fundamental basis of exchange.
FP3	Goods are distribution mechanisms for service provision.
FP4	Operant resources are the fundamental source of strategic benefit.
FP5	All economies are service economies.
FP6 (A)	Value is co-created by multiple actors, always including the beneficiary.
FP7	Actors cannot deliver value but can participate in the creation and offering of value propositions.
FP8	A service-centred view is inherently beneficiary oriented and relational.
FP9 (A)	All social and economic actors are resource integrators.
FP10 (A)	Value is always uniquely and phenomenologically determined by the beneficiary.
FP11 (A)	Value co-creation is coordinated through actor-generated institutions and institutional arrangements.

(Source: Vargo and Lusch, 2016)

Traditional Operations Management perspective of service provision

Services were traditionally seen a less relevant part of a product, or even as less important product, an intangible one. The difference between goods and services has long been focus of attention. Fitzsimmons *et al.* (2013) mention distinctive characteristics of service operations: customer participation, simultaneity, perishability, intangibility, heterogeneity, non-transferable ownership. These influence service provision and customer experience.

The participation of the customer in the process allows customization but at the same time can lead to disruption in process flow and loss of efficiency; the customer influences the process with information, regardless he is present or not. Being able to receive written information from the customers allows reduction of disruptions as there is more time to react, which improves the ability to manage capacity installed. At the same time, capacity available in services, once not used is lost forever; in services that are not supplied in the presence of the customer it is possible to have improved efficiency in the use of the resources available, seek for economies of scale, and reduce the impact of heterogeneity. Intangibility can lead to difficulties, from the customer's perspective, in fully understanding what is on offer and sometimes even what is received; this can be a source of disruption in the process and even rework.

Many companies design processes and provide services based on internal constraints and mind-sets, i.e. base their processes on what they consider to be relevant for the customer. If the market is missread, it will be spread through the service process (Lee, 1997). As a consequence, the service process might end up based on activities that are not relevant to the customer and lead to outcomes that are not the required ones.

According to Ding *et al.* (2011), customers base their perception of the service both on the experience during service process and on the outcome of the process (Johnston *et al.*, 2012). The experience is the customers' "internal and subjective response" to a contact with the service provider (Meyer and Schwager, 2007). During the total service process several service moments may occur, which allow interaction between the service provider and the customer and provide an opportunity for process adjustment. Not all of these moments have the same relevance for the customer (Meyer and Schwager, 2007) and some of them, depending on the service provided, may be considered as fundamental to the service received.

The service experience, according to Sandstrom *et al.* (2008), is an overall use and value is perceived by the customer, during and after service provision. These two perspectives have to be considered: the activities and the experience during service provision, as means to an end, and also the outcomes of that process (Fliess *et al.*, 2014). Value emerges from both the process experience and the outcome of that process (Gronross, 2008). This way the service process is a co-creative process that aims at delivering value (Moeller *et al.*, 2013) through the participation of the customer in the process and with the outcome of that process. Service provision should then focus also on the process and not only on its outcome.

According to Gronross (2008), the service provider should act as a value enabler and support customers' participation in value creation. The same author posits that the service provider can influence (in a positive or negative way) the customers' participation in value creation activities.

The legal service system

The legal system was conceptualised by Martins and Carvalho (2004) as a supply chain in which dynamic entities support the flow of cases from initial submission to the

production of a final decision, based on predefined legal rules and assessment standards. The entities in this system are the courts, the police, the prosecutors, the lawyers, the parties involved in the case, specialists, among others that contribute to the outcome of the legal system. All these entities come together to provide enough proof / information so that a final decision is produced at the court, i.e. under the traditional logic, to allow the judge the proper information to produce the outcome of the system (judgement).

In legal procedures, the overall service process is pre-defined. Nonetheless there is always discretionary assessment by the service provider, which, according to Gronross (2008), can influence the value produced. At the same time, there are several customers involved in the process, each with a specific interpretation of value and of what a valuable outcome is, and their actions and participation in the process aim at influencing the judge decision in their favour. Beside the customers, the other entities also influence the outcome in terms of the scope of information provided, the time required to provide their outcomes, among other inputs to the process that will influence the timing and the contents of the final decision

Under this logic, value is also produced inside the legal system by the many entities that are part of the system. The outcome of the overall process may or may not be recognised as valuable by the customers. According to Martins *et al.* (2016), the court sets its main aim at the correctness of the procedure and the quality of the decisions produced. Nonetheless, the speed of the cases through the process could also be pointed out as relevant goals, as research from Hines *et al.* (2008), Pekkanen *et al.* (2009) and de Block *et al.* (2014) show the interest of some legal stakeholders in this benefit.

Martins and Carvalho (2015) argue that, for the customers, and based on G-D logic, the value produced by the legal system is mostly based on the quality of the decisions and the assurance of justice, but also on the time needed to reach a final decision.

The two views (system's and customers') show disconnection, which is relevant to discuss as the focus of both perspectives is the same: the service process and the results of that process. The participation of the different actors in the legal process influence value co-production and co-creation. Besides Martins and Carvalho (2015) there is yet no approach to the legal system from a service-dominant logic, and even those authors only refer to it indirectly and in a very explorative way. Aiming to contribute to fill these gaps in literature (both from the service provision perspective and the mismatch between the system's and customers' perspectives of value from the legal system), the main research question pursued in this research is:

- *To what extent can the legal system be perceived from a service-dominant logic and which issues should be addressed first in service provision in order to improve value co-creation?*

The European Small Claims Procedure

Cross-country disputes traditionally involved complex, long and expensive procedures as language and geographical barriers added time and activities to the procedures. Small claims usually had to go through processes that were developed for more complex cases leading to an inefficient use of the resources available. To overcome these difficulties the European Parliament and the European Council developed the European Small Claims Procedure (ESCP) (set by Regulation (EC) No 861/2007).

This procedure aims at claims up to 2000 euros that involve parties from different European countries. It is an alternative to the national procedures, not a substitute. It is a written procedure that uses standard forms and an online information exchange. This procedure allows the cases to flow faster through the procedure while reducing procedural costs. Information technology is a relevant input to the process as it supports

the flows between the entities involved in the procedure. Parties in dispute are not obliged to have a legal representative in the ESCP.

Based on G-D logic, the additional value provided by this procedure is the reduction of complexity in cross-border disputes, and all its consequences. Parties involved in these cases benefit from a least expensive and faster procedure, while fairness is assured. For the judges, work analysis is facilitated as standard forms are used (more standardization). Accordingly, the value proposition of the ESCP could be stated as the recognition of a debt in cross-border disputes in a faster and least expensive procedure.

The procedure has three sequential phases: Commencement, Conduct, and Conclusion. The process experience starts with an initial form from the claimant. This claim is analysed to assess if all the information needed is available and if the case is in the scope of the regulation. Only if both these conditions are fulfilled the case can continue to the second procedural phase. Storsjo *et al.* (2015) and Martins *et al.* (2016) provide systematised diagrams with the flow of the procedure. The Conduct phase aims at clarification of the nature and contents of the claim and the definition of the arguments of the parties involved. Inputs from both parties are requested. It is still possible to add clarification to the case in the final phase of the procedure, if required by the court, and a conclusion is reached by the judge by issuing judgement.

The outcome is built over a certain period of time; it is not an immediate consequence of the initial input. During process experience service is built as a consequence of the interaction between the judge and the parties involved through a sequence of process touch points. Through this process the parties are not operant resources; the information they provide are operand resources analysed the judge (operand resource). Along with the judge, specialists called to the cases can be considered operant resources. The customer direct experience of the process occurs only when (and if) a hearing takes place. Besides this specific activity, the customer experience of the process is limited to providing and receiving information from the process. The process is basically a back office one which, according to Johnston *et al.* (2012), allows opportunity to improve efficiency.

The output of the process, the judgement, according to G-D logic, defines an end to service provision at that level of the judicial system. An appeal can take place but it is analysed at a higher level in the judicial system. If that final decision produces effects or not is already out of scope of the procedure and the court that produced it.

Discussion

The S-D logic of legal systems: the resources

Legal systems are composed of many different actors (including the parties) that come together to produce the evidence required to issue the judgment, therefore co-creating value (Axiom 2). Many different specialized actors interact through the process all contributing with their knowledge and skills to service.

S-D logic stresses the difference between operant and operand resources. In the legal context, there are many resources used through the process. Most of these resources are in fact contributing to produce the final effect of the legal system (some contributions are translated in decisions, others in other skills such as evidence gathering, research, movement of resources, among others). The ESCP is a civil process, so the resources can be: courts, police, lawyers, prosecutors, parties, experts, IT suppliers, among others. All of these can be classified as operant resources.

Throughout the process documents are produced and continuously adjusted. These documents can be considered operand resources as they are the resources on which the operant resources will act upon. The judgement is a document that, from the court

system perspective is an operand resource, but once issued, due to its contents, will produce effects on other actors (parties involved in the case and superior levels of court – this last actor only if there is an appeal). Although initially considered an operand resource, the judgment, once issued, transforms itself in an operand resource.

The S-D logic of legal systems: the actors and the eco-system perspective

S-D logic makes no difference between producers and customers. According to this logic there are only actors in the service systems, each one of them integrating resources from other actors so that service emerges. These actors are coordinated by the court that manages the relationships in this network of actors (Axiom 5). These constitute a supply chain (Martins and Carvalho, 2004) with close relationships between its actors.

The ESCP, based on forms and internet information exchange, links several entities (resource integrators) to jointly, and aggregating the service from other actors in the system, produce service offerings while exchanging service offerings between them (Axiom 3) according to the coordination from the court. It is the interaction of these actors that allow reaching judgment and its effects, i.e. co-creation of value (Axiom 2). This way it is possible to state that the ESCP supply chain is, according to S-D logic, an eco-system of actors that exchange service between them (Axiom 1).

Throughout the ESCP eco-system there are continuous situation of value co-creation and co-production as the service is phenomenologically determined by the beneficiary (Axiom 4), i.e. by each of the actors involved in the system. Each actor, based on the service from other actors, will make its own service available, i.e. its own value proposition (Axiom 3). Consequently the service process is not generating a single outcome; there are multiple outcomes produced through the network of actors, each with the potential to co-create value with the immediate beneficiary and to influence the final decision (axiom 4).

Every time the judge receives a form from the parties, he is are integrating in their own service the knowledge and skills of those actors who provided the service that lies in that form. The parties involved in the cases are not waiting for a final decision, as an active actor through the process they are continuously trying to influence the service process (by providing arguments, counterclaims, evidence, additional information) to assure that the final decision is favourable to them, therefore with ability to co-create value, from their perspective, once it produces results (Axiom 4).

The S-D logic of legal systems: value proposition and value co-creation

The actors in the legal system make value propositions available which can be of benefit to other entities. The court is the final actor (resource integrator) in the legal system and simultaneously the actor that coordinates the role of the different actors during service building. This actor, representing the aggregation of all previous actors in the eco-system, makes the final value proposition available (Axiom 5). Although the ESCP is predefined, it is not rigid and the exact sequence of activities is only known once each case reaches a final decision. The value proposition of the court as the final resource aggregator of the service is not related to the use of a sequence of activities but defined in terms of the outcome of the process (the judgement and its consequences). That outcome can be pre-announced as “justice”, nonetheless its specific interpretation can differ depending on the actor that is defining it, i.e. depending on the benefits each actor is aiming for when involved in a legal case (Axiom 4).

The current G-D logic view of the system is based on the accurate application of the legal procedures, i.e. to produce “justice”, “fairness” and “equity”. The customers’ view of the benefit of the system is of something that fills their specific interest (a judgement

that is positive for them). The benefit for the other party involved does not have to be interpreted the same way; in fact it can be the opposite. Under the ESCP one of the parties will request the recognition of a debt and aims at a fast and favourable outcome and the other party might aim at delaying the outcome or even not having to pay, i.e. the value is individually determined by each of the beneficiaries involved (Axiom 4).

Management Implications: the missing link in service process

Whatever the final decision, there might be co-creation of value for one party, for both parties or for none of them, depending on the benefit that each recognise in the final decision (the service for the legal system) and the possibility to enforce the decision (value co-creation is read differently by each of the parties if the decision is not enforced). On the other hand, from the perspective of the ecosystem that makes the value proposition available, which is based in formal rules and its application, benefits will always be recognised (by the courts, as one of the beneficiaries of the service) as long as “justice”, “fairness” and “equity” are achieved. Taking into consideration the S-D logic perspective and its Axiom 4, a mismatch between the two perspectives can be perceived as a gap the ESCP (as well as the remaining legal systems) should take into consideration and fill so that value co-creation is maximized. Following Ng *et al.* (2012) methodology proposal, specific value-creating activities in the legal system should be identified and the operations management perspective of the legal processes should be adjusted accordingly.

A comparison between a S-D logic approach and the traditional operations management approach shows that value co-creation is similar to value-in-use, that the beneficiary may or may not be part of the process experience and that the outcome is ultimately and continuously determined every time the value proposition is used/experienced/produces results. The traditional operations management input-process/experience-output perspective assumes the output of the process as the result of the processing of the resources through the transformation process and that that process creates value (contradicts Axiom 4). It is argued here that the output of the ESCP does not create value unless there are actors that enforce the decision produced. By itself the final decision does not create value instead it promotes re-establishing social equilibrium and assumes that the decision will produce results while in fact it might not. Unless it produces results, there is no value co-creation.

The judicial system needs actors that can be used to enforce/assure that the phenomena is produced. Some actors can benefit from it and for those actors value is co-created, but for some actors, those who do not agree with the decision or desired a different one, every time the decision produces effects there is value destruction. This is due to the possible antagonistic perspective of the parties in dispute. The judicial system has to assure that the process does not end with the production of a decision but that that decision actually produces results (otherwise it would just be a waste of resources).

The ESCP, based on which are the benefits for the different customers through the process, needs to perceive which resources are contributing the most to those benefits and manage them more closely to make sure these are not bottlenecks and that their management promote case flow. An S-D logic approach, focussed on value co-creation, promotes this perspective of benefits for the customers and enhances the flow of cases through the legal eco-system.

The operations management approach perceives services (from G-D logic) as perishable, i.e. once supplied they disappear. From an S-D logic approach, the results from the ESCP (identification of the amount of money one actor owns to another) and the enforcement of that result (the actual payment of the debt between parties) lasts in

time as the money involved will be used afterwards. Under this perspective, although services are perishable service is not as it lasts in time and the service eco-system assures its continuity.

Conclusion

This paper integrates an operations management approach to legal systems through the lens of S-D logic, in a conceptual approach. This was achieved by analyzing the legal systems in the scope of S-D logic and identifying the missing elements in service process management that would contribute to value enhancement. By doing so this paper contributes to fill a gap in S-D logic research, the application perspective, and to add to the body of knowledge in service operations management.

It was highlighted that there are conflicting benefits expected from different actors in the service system. Nonetheless, it was shown that the S-D logic perspective, based on value co-creation, is approachable in the ESCP. In fact, the value proposition from the ESCP can be enhanced if an S-D logic approach is used. Through the ESCP it is service that is exchanged between the different actors that are part of system and there is value co-creation throughout the procedure and not only with the use of its output. That continuous co-creation of value is coordinated by the institutions that are part of the system and by the arrangements between them.

The debate from this paper suggests that adjustment should be made in how the ESCP is conceptualized so that it increases the value in its value proposition as well as its potential to create value-in-use. This adjustment should focus the process in value creating activities and the benefits for the customer, as well as integrate actors to enforce the results of the legal final decision. Without mechanisms that enforce the decision, value co-creation is limited.

This article is focussed mostly on the ESCP and civil procedures, therefore further research is required to expand and/or adjust these findings to other legal areas.

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