



BRAZIL: Coaching in the Judiciary: An Inside Look

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Abstract

We have, as Judiciary Power, tried to win our challenges by investing in courses for the juridical field. We should go beyond our system and look for training in self-development for our judges and servants. Coaching is a tool that is much used by companies to train its leaders, and the Judiciary Power can, as well, extract benefits from their experiences. The Regional Federal Court of the 4th Region has a pioneering experience in this direction. We realized that the judges are special learners and learn easily if the teaching comes from a peers who are magistrates, and face the same routine problems. Coaching of judges can contribute to keep them motivated, while maintaining awareness of our moral duty to deliver justice to society..

Keywords: Coaching, Judicial Power, Regional Federal Court of the 4th Region.

1. Introduction

I have been working in the Judiciary for twenty-four years, seven years as an officer and seventeen as a federal judge. I have always been very enthusiastic about the noble task that we have, to deliver to society this supreme value called Justice. However, for some years now I have noticed a growing lack of motivation among judges and employees, because of high workloads, remuneration issues, among others. The highest court sets the goals and demands periodic reports. We have to render our service to claimants, lawyers, prosecutors and the higher courts, always efficiently and expeditiously, in compliance with Article 37 of the Magna Carta. Those who work here have a high technical professional level; appointment contests get to choose only the most qualified. The institution, in turn, is providing numerous qualification processes and training courses in the legal field. However, is that enough? Shall we overcome our challenges only by means of legal knowledge?

I think there is the need of something else. Private companies have discovered this and have invested heavily in their human resources, with intensive courses and coaching for all superiors. Coaching, in fact, has been the most used tool in terms of human resources development today.

I intend to explain here what the process of coaching really is and how the judiciary can benefit from this process. Still, I will relate the pioneering experience of the Regional Federal Court of the 4th Region and I will outline some future prospects.

2. What Coaching is

The term *coaching* comes from the verb in English *to coach*, which means training, representing the person of the team coach, the person whose role it is to encourage and help the athlete to develop skills to increase his performance. Therefore, *coaching* is the process itself, *coach* is the professional who leads the process and *coachee* is the person who is the target of the process.

Coaching is based on a series of sessions or meaningful conversations with powerful questions, following the Socratic Maieutic method, which guides us to build the life we desire. According to Marcia Luz, "*coaching* is a structured process in which the *coach* has a mission to help his *coachee* to achieve goals that are agreed upon at the beginning of the process". As a rule, at the beginning there is a longer session, in which an assessment is made of the current situation, the goal to be achieved is defined and the steps needed to get there are decided upon. Weekly meetings are scheduled to execute the plan. We assume that the *coachee* has all the personal (mental and intellectual) resources he needs to achieve his goals. It is up to the *coach* to give the *coachee* the infrastructure necessary for him to unearth these potentials and to progress.²

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² LUZ, Márcia. *Coach Palestrante: torne-se um profissional 5 estrelas*, p. 08.

It is a training and communication process based on a productive dialogue and on a relationship between *coach* and *coachee*, aiming to guide and support him to develop his true potential, in order to achieve his goals and, if necessary, to make important changes in his life. *Coaching*, with its powerful questions, begins with self-analysis by the *coachee* and seeks to motivate us to find the responsibility, which generates commitment; therefore, we can choose the best or most productive option or action reorienting us to the right direction.³

The so-called powerful questions try to impact on our neuronal system, so that the solution is found. According to Anthony Robbins⁴, the questions result in three specific things: they cause changes to what we focus on and, consequently, how we feel; they change what we suppress and they change the resources at our disposal. So, if we ask the *coachee*: “How can you be so depressed?” or “Why does nobody like you?” he will certainly look for references to feel depressed and rejected. On the other hand, if the *coach* asks “How can you change your state in order to feel happy and be loved?” the *coachee* will focus on solutions. Even if the brain responds, at first, that there is nothing that can be done, if the *coach* insists with these questions he will get the answers the *coachee* needs, and make him feel better, changing his emotional state. The questions, rather than just cheering him up, provide concrete reasons to trigger emotions, as we can influence how we feel by changing the focus. Through coaching, it is possible to make the *coachee* become aware of what he wants and discover his former limiting standards.

To modify this pattern it would be interesting to ask the *coachee* “If you do not change it, what is the final price? What will it cost you in the long term? How would your life be transformed if you did that now?” In order to make the *coachee* improve his status, the following empowering questions can be asked: “What is wonderful in your life today? What makes you feel sincerely grateful for?” The questions, on the other hand, also change what a person suppresses, that is, if he feels sad it is because he is suppressing the reasons that might make him feel good and if he feels good, it is because he is removing all the bad things he could be focusing on.

Therefore, it is important that the *coach* asks the *coachee* “How can you learn from this problem to ensure that it will never happen again?” This question resolves the current problem and finds resources that can prevent the *coachee* from feeling the repetition of that pain in the future. Likewise, the questions may have the power to change the resources at our disposal. If the *coachee* faces a problem that appears to be difficult to solve, the *coach* can ask: “How can you change the situation?” or “How can you add even more value and help more people with your work?”. The questions thus can shape our perception of who we are, what we can do and what we are willing to do to achieve our dreams.

It is important to differentiate guided coaching from unguided coaching. In unguided coaching, unlike the consultant and mentor, the *coach* does not need to have knowledge of the client’s profession, business or area, using as his main tool the powerful questions. Guided coaching combines the role of a *coach* and a mentor. Here, the professional, in addition to mastering the techniques of coaching, can also give suggestions on attitudes and skills to be developed, considering he has been for the longest time with the company and knows exactly what is required in the workplace or in specific professional circumstances.⁵ We think of the concept of the trainer judge, who has the longest tenure and accompanies the newly appointed judge, adopted by our Regional Federal Court of the 4th Region, as far as I know is very similar to the guided coaching process.

It is precisely this model –guided coaching - that we believe is best suited for the Judiciary. The senior judge or officer with coaching knowledge becomes a *coach* leader and plays the roles of:

- strategic partner, providing what is missing for their peers to achieve their goals and offering solutions to complex problems, his being the mission of removing barriers, so his team can show all its potential;
- paradigm transformer, as the leader is someone who helps his team to get out of monotonous routine and to stop being a victim of self-restraining views;
- stimulator of interpersonal development, because high-potential people who do not progress in their career have as an obstacle more often the lack of interpersonal competence rather than the lack of technical professional knowledge. The mission, however, is not simple. The leader suffers the pressures of the institution, which demands results and answers to challenges and which includes people who are not always willing to offer their best.⁶

The main coaching tool is questioning. The *coach* asks: “What do you want? How can you achieve this? What can stop you? How will you know you already got it?”. On the other hand, the *coachee* will ask himself: “What can I learn? What have I done that has not worked out? What could I do better next time? What have I done right?”.

It is important for the *coach* to develop certain communication skills, such as great sensitivity or ability to observe, listen, understand, learn and guide.⁷ The ability to listen, by the way, is often reported by many *coachees* as an acquired skill after the coaching sessions.

3 SOLAR, Suryavan. *Coaching Express*, p. 33.

4 ROBBINS, Anthony. *Desperte seu gigante interior*. pp. 227- 235.

5 SOLAR, Suryavan. *Op. cit.*, p. 36.

6 LUZ, Márcia. *Op. cit.*, p. 9.

7 SOLAR, Suryavan. *Op. cit.*, p. 39.

The one who leads the coaching process should base his confidence on good intentions, in the progress of humanity, in the ability of human beings to be supportive, peaceful, loving and compassionate. Although the human being is full of defects, difficulties and limits, it is necessary to make an alliance with his best and most enlightened portion.⁸ The *coach* must believe in the ability of his *coachee* to extract the best parts of himself.

One of the most valuable states that the head of an organization can achieve with the assistants is trust and harmony. If they know they are cared for, they will work harder and better. However, if the bond of trust has not been formed, there will be no effort by the employees. A means of establishing such trust is to be attentive to the different needs of various people.⁹

It is necessary to take an attentive and respectful look at others. Dulce Magalhães claims the following about our employees and coaches¹⁰:

Looking is the opposite of alienating. Looking is being there and not alienating. The word respect comes from *respicere* in Latin, which means look again or intently, staring. Respect comes from a deep look at the other, their aspirations, their fears, their desires. It is about recognizing this universe that is face to face with us.

The *coach* often assists his *coachee* to learn how to see his reality with a new vision, to understand who he is, what he wants and what he needs. The coach helps to define and organize clearly the *coachee's* dream, his projects and his objectives, to discover and to define his priorities, to eliminate distractions, to concentrate and focus on the positive, motivating him to do what he loves most without excuses or delay. Also, the *coach* helps the *coachee* to learn how to grow personally and professionally, improving in the areas of prosperity, happiness, culture and freedom, to learn to listen more to people, to have more self-esteem, confidence and trust, identifying and respecting his values in life and to understand his immense strength, reaching his goals based on a model of action, learning to measure progress and to celebrate advances.¹¹

Coaching currently has several branches, best known are the Life Coaching or Personal Coaching, Sports Coaching, Business Coaching. There is not, so far, to our knowledge, any news about the application of coaching specifically for the Judiciary. Given this gap and being aware of the growing demand regarding management of human resources in the judiciary, this is what we propose.

3. How the Judiciary can extract benefits from this process.

We propose here the application of coaching to the Judiciary with a twist: the inner look. That is, the *coach* is not someone from outside the institution, but a judge or officer who combines knowledge of the coaching process with his own experience of the reality experienced by his *coachees*. In this respect, there will be more empathy and more understanding regarding the unique challenges faced by those who work in the judiciary.

We understand that coaching can be introduced as one of the tools of judicial education focused on staff management in the judiciary. In this sense, Professor Livingston Armytage, a jurist with experience of over 25 years directing or acting as a consultant in judicial education programs, in both systems, Common Law and Civil Law, confirms this idea that judges are special learners and learn better with their own peers. According to Armytage¹², the judge represents the adult learner, he is characterized by his autonomy and self-direction; by his preference for acquiring knowledge based on his own experience; by his expectation to realize the importance of learning for its immediate applicability; by his objective nature, by his orientation focused on troubleshooting. Empathy between a *coach* judge and a *coachee* judge can be a facilitator of learning. This is because, as explained by the jurist above, members of a particular professional class share the same basic human processes such as motivation, cognition and emotions. Like other adults, they belong to a professional class but, as no other group, belong to a particular category. In tracing the first two guiding principles of judicial education, Armytage states:

“1. Judicial ownership - There is a doctrinal imperative for judicial education to be judge-led and court-owned, if it is to be successful in strengthening an independent and professional judicial system. This is best attained by securing the endorsement and support of the Chief Justice and Supreme Court from the outset.

2. Faculty development—Training of judges should wherever possible be by judges themselves to ensure authenticity. This will require an ongoing program of faculty development and train-the-trainer.”

This way, the judge receiving coaching from another judge will have his learning process facilitated, transmitted more efficiently, and applicable to the reality of the fellow judge rather than if the coaching were transmitted by another professional from outside the judiciary, such as a psychologist or administrative professional.

8 Magalhães, Dulce. O foco define a sorte: a forma como enxergamos o mundo faz o mundo que enxergamos, p. 99.

9 ANTHONY, Robbins. Poder sem limites: o caminho do sucesso pessoal pela programação neurolinguística.

10 Magalhães, Dulce. Op.cit., p. 118.

11 SOLAR, Suryavan. Op. cit., p. 43/44.

12 ARMYTAGE, Livingston. Leadership for Judicial Educators Vision for Reform. Available at: <http://www.iojt-dc2013.org/~media/Microsites/Files/IOJT/11042013-Leadership-for-Judicial-Educators-other.ashx> (accessed October 06,2017).

4. Experiences of the Regional Federal Court of the 4th Region

With the encouragement of the Federal Regional Court of the 4th Region, after seeking training in coaching during the year 2014, we began the process with officers and judges of the Federal Court of Santa Catarina.

The program included 10 sessions of one hour each, by video conference or live, whenever possible. Initially the process was carried on by only two officers: one who officially holds the position of Director of Secretariat (management of Judicial Services and the staff) and another one who is his immediate substitute. During these pre-scheduled meetings, instruments filled by the *coachee* were applied, such as the wheel of life, which aims to determine the degree of individual satisfaction related to various areas of life (personal, physical, family, professional). The *coachee* also filled in some questionnaires and form 360 has been applied, which aims to determine how the individual is seen by the team (in this case it is the very team that provides answers to the questionnaire without identifying themselves. Basically, five points are covered over these 10 meetings: I. Who am I?; II. How do others see me?; III. Accept myself fully; IV. Show my best and V. Help others.

Firstly, the *coachee* is invited by the coach to make a dive in himself, in his history, in his virtues and his flaws. Not always, the way we see ourselves coincides with the way others see us. Therefore, in this search for a team feedback we become aware of which skills are not fully developed in the *coachee*. In order to improve, it is urgent that we know what we are not so good at. From that point, the focus of work is on increasing these skills that need to be improved. The *coachee* outlines goals related to each of these skills and answers the coach's questions.

By developing these skills that are currently least developed, the coach leads his *coachee* to an increase of his excellence. Strengthening his skills will have direct impact on his relationship with his staff, being extremely useful especially in cases where the individual holds a position of leadership, as he will be able to better motivate staff and achieve better results. However, also his personal and family sphere will benefit from coaching, as someone who knows more and strives to improve will be more balanced, tolerant and happier in family relationships.

Considering we are not having a bright side, *coachees* are encouraged also to accept their shadow side, as self-esteem exists only if one understands and accepts all his facets. The *coachee* is invited to complete the shadow questionnaire, to assess his degree of self-acceptance.

After each consultation session, the *coachee* writes his goal and gets the task of a concrete action within the staff or family, which can show the overcoming of his difficulties. For example, if the difficulty is communication, he gets a mission to try to express his ideas better to team members; if he is not an open person, he should try to greet colleagues of the court every day; if he is impatient, he shall seek to increase his limits of tolerance to daily-unforeseen issues.

Throughout the process, the mission of Santa Catarina Federal Justice "to ensure society a fast, affordable and effective jurisdictional service under the Federal Court of the 4th Region" is highlighted. Thus, the individual mission must always be in line with the mission of the institution, so that the human development of the judge or the officer happens in harmony with the institution.

Ramon Garcia, Director Secretariat who has gone through the coaching process, gave the following statement:

The experience of participating in this new activity, as a *coachee* was extremely productive and meaningful, both personally and professionally. The chance to hear and be heard on issues related to our life, our desires and anxieties, as well as the reflection of this in our professional life, proved to be of great value, particularly because we need to know ourselves better so we can understand who we are and what we really want. The big difference observed in this course / training lies mainly in the fact that the *coach* held theoretical knowledge and technical background to discuss the topics covered, but on the other hand, he was also a person who was aware of the reality of the professional environment in which we operate. Talking about yourself and about your practice with someone who understands, in theory and in practice, what afflicts, excites and motivates us most, constitutes a unique opportunity to feel understood - Ramon Paulo Garcia - Director of Secretariat of the 1st Federal Jurisdiction of Joaçaba, Santa Catarina State.

Daniela De Bortoli Carli de Sa, Director of Substitute Secretariat of the 1st Federal Court from Joaçaba, assessed the coaching process:

For many people, delegating tasks can be a bigger challenge than running them. I had the opportunity to participate, in 2014, in the coaching program developed in the 1st Federal Court of Joaçaba, an experience that brought a big gain in quality of life, satisfaction, health, happiness and professional fulfillment. The realization of coaching by the judge of the Court contributed significantly to the success achieved. Being a person from inside the Court, my *coach* knew the internal dynamics of the work, system and culture of Judiciary, making it much easier to understand the difficulties and goals, in addition to ensuring effective feedback. The public sector has a very different institutional environment than the private sector, so that the *coach's* internal look facilitated the implementation of dynamics specifically related to my

institutional environment. I have worked on sector supervision for over 15 years and coaching helped develop a more receptive attitude to dialogue, flexibility and cooperation. Learning how to best use my potential assured me greater independence and confidence which by the way has already been reflected in my professional performance. In addition, I feel more motivated and confident in working with goals and doing self-analysis whenever necessary, focusing on what is most important.

With the judges, we applied, in addition to 10 sessions, a visualization technique with songs, recalling all the common experiences of us judges, from our childhood when we dreamed to be judges, through preparation for the contest and taking office as federal judges. This technique has also proved very effective; it is based on neurolinguistics, seeking to reach the visual, auditory and kinesthetic individuals. The judges felt more motivated and proud of the fabulous role they play to bring the high value of Justice to society.

Judge Claudia Dadico, after completing the 10 coaching sessions, put it this way:

The coaching process with colleague Ana Cristina Monteiro was a very rich and rewarding experience. Initially because she's a colleague, who feels the difficulties and dilemmas that surround the day-to-day of a judge, both regarding to the judicial activity and the managerial activity of the judicial unit for which she is responsible for. The experience of life of colleague Ana Cristina, combined with her competence and sensitivity, allowed the development of a keen and discerning view towards shaping the coaching tools for the specific field of the Judiciary, making this process more sincere, authentic and true, which would undoubtedly be less useful if applied by a professional from outside the ranks of the Judiciary. The benefits were observed not only in improving the management of people in the workplace, but also in the field of family relationships and personal development. The results were very positive. I strongly recommend the continuation of the project, with the expansion of the number of *coaches* and *coachees*. (Claudia Maria Dadico, Federal Judge of the Criminal Court of Florianópolis)

I also had the opportunity to be trainer judge of the colleague Tiago Fontoura, who took office in 2013. At request of the Justice Inspector of the Regional Federal Court of the 4th Region, I am also assisting him in coaching, and the experience is enriching and very rewarding. I often remember the teachings by the French judges to prioritize the active method. Judge Tiago Fontoura expressed his opinion:

Despite the high load of work that a judge has, Ana Cristina found time to introduce me in the practice of coaching. We have weekly meetings by video conference, at which she sets out the purpose of coaching, applies the dynamic for self-knowledge and recognition skills. I answered some questionnaires, seeking in myself the best I can offer to the institution. I am currently waiting for the team feedback, in order to improve my attitudes and working methods. I understand that coaching is an excellent tool for motivation of judges and officers, increasing the level of excellence of the public service provided by the Federal Court. And this should be recommended to other colleagues, multiplying this initiative within the Judiciary.

The truth is that we dedicate ourselves deeply to the juridical knowledge, but we don't know ourselves. What coaching aims at is precisely to fill this gap, by providing a greater understanding of ourselves, making us reflect on our acting as leaders of our teams, strengthening our more ethical and human side.

In my job as a tutor of the distance-learning course of Personnel Management in the Judiciary, I also successfully used this coaching tool. The course was developed asynchronously, i.e. tutor and participants do not need to be logged in at the same time. For each unit, a lecture on the topic of the week was offered: Leadership, Delegation, Communication and Performance. Leadership, according to Hunter,¹³ is "the ability to influence people to work enthusiastically aimed at achieving common goals, inspiring confidence through the power of character". Palma¹⁴ adds that the judge's leadership implies a particular ability to lead, organize and compromise. This ability must be exerted by the one with the power of decision. In fact, the leader encourages the team members in the task of changing, by listening to their proposals and promoting their initiatives. Over the course, some practical tasks are suggested to the students as, for example, leading an efficient meeting or receiving feedback from a collaborator about the way the judge has exerted the leadership in the group. There is also the encouragement of the exercise of the active listening (characterized by truly listening to the other, trying to see the world as the other sees it, silencing our inner voice), replacing nervous listening (behavior of interrupting the other's talk and listening while always thinking about something to reply). That way, we want students to reflect on their role as managers of their units and seek the best way to lead their teams.

We also provided excerpts of videos on the subject, in each unit, and after that, the student was asked to participate in the discussion forum. At this point, the student brought his/her experience related to the topic at stake, his/her problems and challenges, connecting them with the theoretical part of the unit. As a tutor, I answered each posting, always with new questions

13 Hunter, James C. Como se tornar um líder servidor. Os princípios de liderança de O monge e o executivo, p. 18.

14 PALMA, Luis Maria, Doctorado en Sociologia tesis Doctoral. Justicia y reforma en la Argentina Democrática. Available: <https://papers.ssrn.com/abstract=2901002>

and provocations, to encourage the student to leave his/her comfort zone using a transformative approach in order to improve his/her performance. I used, on this occasion, the technique of the “powerful questions”. If the student, for example, referred in the forum that he/she had difficulty exerting leadership with the team, I asked: “What strategy could you use to improve your leadership?”; “What could prevent you from achieving this new form of leading?”; “What are the consequences, for the judiciary and its team, of a human and productive leadership?” With those questions, the student begins to reflect from his/her own condition and reality, therefore making a critical judgment of himself and seeking the best solution. It is not following the tutor’s advice, for the advice is given from the daily experience of the one who gives it, without regarding the specific reality of the one who receives it. We could realize that the coaching technique of the powerful questions can, thus, be widely used in Judicial Training courses – either in face to face or distance-learning - always as a way of offering self-reflection and seeking new alternatives for the problems experienced by judges in terms of Personnel Management.

4. Future prospects

The coaching initiative with an inner look pioneered the Brazilian judiciary, as far as we know. The involvement of officers and judges, as well as the results achieved, were the highlight. The difficulties were to reconcile the agendas of *coach* and *coachees* and, at times, these difficulties arise from the formation, still basic, of the *coach*. However, I think that our Court and the whole judiciary can greatly benefit from adopting the coaching process that could also be extended to officers, with primacy of active methods.

The Brazilian Judiciary is seeking a deeper understanding of human resources management. We have all realized that technical legal knowledge is no longer enough to leverage the changes we desire, making our judiciary more human and more efficient. Many initiatives are being taken in this direction. Our courts have sought to meet this demand also from abroad, with people who have successful experiences. An example is the exchange with the French National Judiciary School, an institution recognized worldwide for training with excellence of their judges. We had the great opportunity to participate in both courses offered (basic and advanced). The experiences and lessons learned were the impetus for a change of culture in the judiciary, which is already ongoing and we are certain that it will have great results.

Indeed, people are our greatest resources. We need to have a sense of respect and recognition for them, because there is no lasting success without a good relationship among people, and the way to be successful is to form an experienced team working together. For one man alone, as brilliant as he may be, it will be very difficult to match the gathered talents of an effective team.¹⁵

5. Conclusion

1. *Coaching* is an excellent tool in human resources management and has been used in much of the private sector.
2. In the Judiciary, there is a significant demand of knowledge on management of people that can be met by the *coaching* process.
3. We propose a *coaching* process with an inner look, in other words, a process coordinated by members of the judiciary who already are aware of the institution’s problems and who command knowledge of the coaching process. Therefore, it is crucial that our judges and officers are ready to receive and multiply this knowledge and that the courts are sensitive to the importance of this initiative.

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¹⁵ Robbins, Anthony. Op. cit., p. 83/84.