Non-Invasive Neutral Approach (N.I.N.A.)

More effective Just Culture

"Changing the terms used in the just culture concept, such as 'human error' and 'equipment failure,' with terms such as judicial error and system failure can prevent a clean message in the investigation report to avoid confusing interpretation."

PART OF THE SOLUTION

To identify those terms that produce confusion in the accident report.

To replace them with terms taken from the judicial system to stress the point that ERROR is not the cause of the accident.

PRACTICAL EXAMPLE

"We find the action/inaction of the ATO to be a HUMAN ERROR"

"We find the action/inaction of the controller to be an ERROR OF FACT that was CONTINUOUS and INVINCIBLE"

ERROR OF FACT = Lack or incomplete information regarding the material reality it is a cause that removes the penal character of the deed

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Non-Invasive Neutral Approach (N.I.N.A.)
by Grama Alexandru

More effective Just Culture

"Changing thesms used in the just culture concept, such as <human error> and <gross negligence>, with thesms with judicial meaning in order to transmit a clear message in the investigation report to avoid wrong interpretation."

[Diagram of human error and just culture in aviation and judicial systems]
More effective Just Culture

"Changing the terms used in the just culture concept, such as <human error> and <gross negligence>, with terms with judicial meaning in order to transmit a clear message in the investigation report to avoid wrong interpretation."
Just Culture

Statements

"Under <Just Culture> conditions, individuals are not blamed for ‘honest errors’, but are held accountable for willful violations and gross negligence."

"Air transport must expect to be subject to the same legal process as any other activity."

"It is in the public interest that those responsible for the safety of air operations should be accountable for their actions."
Human error in various forms is a causal factor in the majority of aircraft accidents, incidents, and safety occurrences. Much of the error by professionally trained and licensed operators (Flight Crew, Air Traffic Controllers, and Aircraft/ATC Maintenance Technicians) arises from either the failure to apply standard operating procedures in the way intended or in the making of poor tactical judgements.
Gross Negligence

If somebody has been grossly negligent, that means they have fallen so far below the ordinary standard of care that one can expect.
Just Culture

Aviation

Judicial System

Just Culture & Aviation

Not mentioned.

Just Culture & Judicial System

Not mentioned.

Judicial System & Aviation

Statement:

From a legal perspective, culpability and blameworthiness in the commission of criminal offenses are different mental states: if the result occurs, the actor is held criminally liable.

Judicial System & Aviation

Not mentioned.
Judicial System

Statements

From a legal perspective, culpability describes the degree of one's blameworthiness in the commission of a crime or offense.

In strict liability crimes, the actor is responsible no matter what his mental state; if the result occurs, the actor is liable.

Knowing

A person causes a result if he/she knows that the act or omission involved is virtually certain to occur in the course of the action he/she undertakes.
Purposely

A person causes a result purposely if the result is his/her goal in doing the action that causes it.
Knowingly

A person causes a result knowingly if he/she knows that the result is virtually certain to occur from the action he/she undertakes.
Recklessly

person causes a result recklessly if he/she is aware of and disregards a substantial and unjustifiable risk of the result occurring from the action
Negligently

A person causes a result negligently if there is a substantial and unjustifiable risk he/she is unaware of but should be aware of.
Investigation of an incident/accident is not meant to identify personal or collective guilt but to identify the cause so that to avoid similar events in the future.
Position Duty

Identifies the obligations and the responsibilities of the person occupying a certain position
Procedures

Describes the way operations should be carried out in reference to the contextual conditions.
Regulations

General rules that have to be applied in both design of procedures and by operators in the active duty
Just Culture

Aviation

Judicial System
Incidents / Accidents
Aviation & Just Culture

People are less willing to inform the organization about their own errors and other safety problems or hazards if they are afraid of being punished or prosecuted. Such lack of trust of employees prevents the management from being properly informed of the actual risks. Managers are then unable to make the right decisions in order to improve safety.
Just Culture

Aviation

Judicial System

- Organizational culture that encourages learning from errors and near misses in order to improve safety.
- Employees are encouraged to report incidents and near misses without fear of blame.
- Management prioritizes prevention and improvement over blame and punishment.

- Aviation industry practices that focus on safety and continuous improvement.
- Judicial system treatments that focus on safety and mitigation of harm.

- Just Culture & Aviation: Focus on learning from errors and near misses.
- Judicial System: Focus on accountability and prevention.

- Aviation: Emphasizes safety culture and error reporting.
- Judicial System: Emphasizes accountability and prevention.

- Organizational culture that encourages learning from errors and near misses in order to improve safety.
Accident

Just Culture & Judicial System

NONE
Accident
Aviation & Judicial System

If an accident has happened someone has to be held accountable.

Prosecutor's Office has to put together all the evidence and to present the case to the Court.

The Prosecutor has to prove to the Court that the accused is guilty, where guilt can be by both action or inaction.
Evidence 1

Accident Report

"Human Error"
Evidence 2

Interviews
Evidence 3

Regulations & Procedures
Culpability

Negligent conduct
Accident
Aviation & Judicial System

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Culpability
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Accident
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Evidence 1
Accident Report
“Human Error”

Evidence 2
Interviews

Evidence 3
Regulations & Procedures

Culpability
Negligent conduct

Negligently
A person causes a result negligently if there is a substantial and unjustifiable risk her/his is unaware of but should be aware of.

From a legal perspective, blameworthiness in the context of accident and negligence:

In strict liability crimes, a mental state; if the result

Intent to identify personal
Statement
"The ATCO's error caused the accident"
FACT

Humans do make mistakes

99.9% with no mistake
FACT
Load
50 aircraft / day
FACT
Load over time
20 days
1000 aircraft
Result

1 accident / ATCO / 20 working days
FACT

Statistics

Accidents do NOT happen as often as 20 working days / ATCO
CONCLUSION

STATEMENT IS WRONG

FACT

Statistic
Statement
"The ATCO's error caused the accident"
TRAINING

"Do NOT expect people to perform better than the training that they get"
PROCEDURES

"Do NOT expect people to solve the problems of the procedures while on active duty"
"Do NOT expect people to overcome the technical difficulties that were proven to be contributing factors in incidents without means of bypassing them"
GENERAL RULES

"Do NOT expect to remove HUMAN ERROR from the context"

"The Contextual Factors that have proven to lead to an accident will happen over and over again until a change is made"

The saying: "Lightning doesn't strike twice in the same place" IS WRONG
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