

Open Data for Open Justice:

A Case Study of the Judiciaries of Argentina, Brazil, Chile, Costa Rica, Mexico, Peru and Uruguay

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Abstract— The study focuses on the openness of judicial data and its emerging impacts in seven countries in Latin America. Judicial branches continue to be among the least willing institutions to implement policies on transparency and access to information, generally because of their conservative tradition and lack of accountability practices. The study adopted an exploratory design in order to analyze enabling country and judicial contexts for open data, as well as whether judicial data publication meets open data standards of accessibility, sustainability, re-usability and non-discrimination. The study ranks countries according to these categories. Study results show that even though access to judicial information is increasing and that there is also an increase in transparency policies for the judiciary, the publication of judicial data in open formats is still unusual. This research seeks to build a baseline for an initial measurement that can be compared with future measurements, so as to be able to evaluate progress made in Latin American judiciaries. The paper concludes with recommendations for judiciaries seeking to improve their open data policies.

I. INTRODUCTION

This research carried out by the Center for the Implementation of Public Policies Promoting Equity and Growth (CIPPEC) focuses on the openness of judicial data and its emerging impacts. Its starting assumption is **the idea that openness and judicial transparency improve the justice service delivery, and this positively affects people's daily lives.** Moreover, it can have a beneficial impact on judicial accountability, that is to say, the responsibility and the capacity to provide an effective response from judicial bodies to society and other Branches of State.

CIPPEC, through the Open Data in Developing Countries (ODDC) project, supported by IDRC and WWW Foundation, produced a paper on the publishing of data policies in the Judicial Branches of Argentina, Chile and

Uruguay in March 2014 [1]. A second research initiative using the same methodology added four countries to the analysis, Brazil, Costa Rica, Mexico and Peru. This second stage was supported by the Latin American Initiative of Open Data (ILDA) [2].

This paper starts developing a conceptual framework about the state of the Judicial Branch in terms of transparency and accountability, the new concept of open justice, and open data in the judiciaries; thereafter it explains the methodology for the research, then presenting the results of the analysis of the seven Judiciaries. It continues with a disaggregated study for each characteristic of the dimensions of open data. Results of a survey are then discussed on producers, intermediaries and users of judicial information. Finally, the paper presents conclusions and recommendations for public policy.

II. CONCEPTUAL APPROACH

A. Judiciary Context

The Judicial Branch is one of the state institutions that is least subjected to public scrutiny; there are no systemic strategies for promoting judicial accountability, nor efficient public policies to improve the quality of the justice service in Latin America.

Judicial Branches have been the most conservative, formal, and hierarchical in the republican system. This has been reinforced by multiple symbolic mechanisms that have resulted in Judiciaries becoming a conflict resolution mechanism, alienated from people's daily lives and problems. An authoritarian cultural framework has made possible the acceptance of judicial decisions among a non-defiant population.

Recently a generalized crisis of public confidence in state institutions has emerged, which has also reached the Judicial Branch. This is characterized by public distrust and lack of comprehension of judicial actions. Much of this crisis owes to the increasing flux of information enabled by ICT and, especially, the Web 2.0 which has transformed society as a whole into a potential information producer.

How can public respect for judicial institutions be restored? How can credibility in judges be rebuilt? By

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exhibiting, with total transparency, the institutional game in such way that it can be understood by all society. With these new tools people are now in better conditions to assess the type of judicial service delivery they need, to monitor judicial behavior and to evaluate performance of the justice system.

On other hand, societies are not any longer considered as big simplified blocks. And nor is the Judicial Branch homogeneous. In this way, it is not possible to sustain the assumption that “the law is known by everyone”, as it once was in the past. This assumption has to be replaced with consideration of the prevalence of unawareness, inequality and diversity in society. Judiciaries have to change; they have to provide services befitting of this diversity. This is why reversed discrimination policies emerged for those deemed less equal before the justice system, such as the case for gender. Such proactive policies, that provide special assistance for those who do not usually access justice, have given rise to the need for incorporating not only lawyers and administrative personnel to the justice system but also interdisciplinary teams to address knowledge gaps, distrust and fears. As a consequence, judicial systems already operate amid this increasing complexity, and must provide a creative answer.

Executive Branches in some countries have long since recognized this complexity and adopted new approaches in their relationship with citizens. Fourteen countries of Latin America have joined the Open Government Partnership (OGP). OGP was launched in 2011 to provide an international platform for domestic reformers committed to making their governments more open, accountable, and responsive to citizens. Since then, OGP has grown from 8 countries to the 65 participating countries indicated on the map below. In all of these countries, government and civil society are working together to develop and implement ambitious open government reforms [3].

The justice system still must face the challenge to change the way of conceiving itself and of how civil society perceives it. The correct implementation of politics of transparency, participation, collaboration and open data will allow judiciaries to increase their legitimacy, by promoting citizen participation mechanisms, improving judicial accountability, offering a high quality service delivery and strengthening Judicial Branch independence with undue influence of other public and private institutions.

For this, judicial information and data are indispensable instruments to materialize changes and improvements to enable justice modernization [4]. If reliable and complete information is not available, it is impossible to identify judicial failures and needs for improvement. The free flow of judicial information allows identifying problems and setting early alerts to achieve greater judicial accessibility.

B. Open Justice

The notion of open government implies a two way relationship between citizens and government. This is facilitated by the availability and implementation of new ICT which permits multiple interactions between social and governmental actors, and translates into more transparent,

participative and collaborative relations [5].

Open government initiatives focus on the same basic principles: transparency, participation, collaboration and openness of data. These are the new challenges and principles to develop within the context of the judicial systems, too. A Judicial Branch that responds to these principles will improve its legitimacy, augment the participation of civil society in its processes, improve its accountability, deliver services of higher quality, and strengthen its independence [6].

Therefore, the question to answer is what does it mean to implement the principles of open government in the Judicial Branch? It means to increase judicial access, provide more effective justice service delivery, implement transparency policies, and promote a more open and closer-to-citizen institution [7].

Open Government needs to be specifically applied in the judiciaries. The following paragraphs outline some preliminary ideas on what open judicial government would look like:

- Transparency and Access to Judicial Information

Access to information is a fundamental human right. It is a precondition for the recognition of other civil rights, such as health and education. It is included in the majority of constitutions, international treaties and laws, and it has been recognized by the Inter-American court and European of Civil Rights [8]

One of the major challenges of the transparency principle is that the implementation of these kinds of initiative must overcome the resistance of the same Judicial Branch: it is necessary to remove the veil that has covered this governmental institution for so many years. Political will and strong judicial leadership from Supreme Courts and Judicial Councils are key to success.

It is also necessary to adapt or create offices in charge of collecting, processing and publishing information. These offices should ensure that all public information in the hands of the Judicial Branch is accessible to the public. Both administrative type of information (i. e. rules on selection and removal of judges, allocation and execution of budget, staff selection, creation of new courts, judicial statistics, etc.) and jurisdictional information (i.e. resolutions and judgments) are equally important [9].

The publication of judicial information and statistics are essential tools to enable the modernizing of justice [10]. If there is no reliable and complete information, it is not possible to identify flaws or issues for improvement. Information makes it possible to identify problems and be on the alert, to reach viable solutions that can resolve conflicts.

The openness of judicial information has two immediate effects: the distance between the judiciaries and the citizenship narrows allowing the latter to participate in addressing problems, solutions, and challenges faced by the former. It also promotes accountability by allowing people to monitor and exert control over the judiciary [11].

- Features of open data in the judiciary

Even though the concept of Open Justice is new, it is possible to apply some general principles of Open Government and adjust them to the justice sector [12].

Based on the definition of the Open Data Handbook and Open Definition [13] the distinctive features of an open format include:

- **Accessibility.** The information generated by the Judiciary must be available as a whole, at a reasonable reproduction cost, preferably available for downloading over the internet.
- **Non-discrimination.** There should be no discrimination against fields of endeavour or against persons or groups in the use, reuse and redistribution of information. Access to information must not be restricted to certain purposes or subject to copyright.
- **Reusability.** Data must be in formats that enable reuse, redistribution and intermixing with other datasets, to enable interactive use of the information.
- **Sustainability.** It is of particular significance to consider whether the benefits of an activity or programme are able to be extended into the future regardless of who implements them. Web page data must be kept updated; a frequency should be set for the loading of data, and there should be standardised processes for the forms and timing of the publication of the information.
- Furthermore, a fifth aspect that is considered important for the purpose of assessing the integrity of open data is its **relevance**. A policy is relevant when the objectives are consistent with the judicial policies of publicity and access to data.

- Participation in the Judicial System

The notion of Participatory Justice consists of a model to conflict resolution where the parties actively participate in the search of a solution. It is not just a judge deciding a matter by his or her own, but a negotiation in which parties, victims and defendants make their contributions and bring their points of view to the table. This model includes methods oriented to reinforce the collaboration, the consensus, and conflicts prevention. It is considered, in general, less expensive, faster, and as efficient as the traditional model [14].

Traditional approaches such as mediation, conciliation and arbitration help this model take form. There are also other formal measures although not as traditional as the previous; the implementation of public hearings improve civil participation, a successful example being the *Riachuelo Case* in Argentina, where the Supreme Court convened all interested parties to provide their opinion on the case [15]. Another tool is the *amicus curiae*, through which the Judicial Branch requests individuals and institutions with professional expertise to opine on a given matter.

In addition to these legal tools, modern justice systems are

using electronic government tools to capture users' opinion, run consultations, and for the completion of processes on-line. These tools, even though they mark an important step forward in communication, can only be considered engagement tools when they are bi-directional, that is to say, when communication flows between both parties and is not just formal. Users' support offices and judicial information mechanisms also promote participation in the justice system.

- Collaboration between the Judicial Branch and civil society

Citizens' collaboration with the courts is still unusual in Latin American judiciaries. It consists of an innovative form of design and implementation of judicial public policy by both judicial authorities and citizens. Priorities and courses of action are set in a collaborative way. Collaborative public policy design requires a participative design and allocation of judicial budgets. It also requires an evaluation system co-organized by judiciaries and civil society.

There are not many examples on a global scale of a judicial policy designed entirely this way, but mechanisms do exist that seek to facilitate collaboration in the design of a particular judicial policy. Communities of practice are a good example of these tools. Members of a community of practice essentially seek to develop their skills in practice selected by building, exchanging and sharing of a repertoire of resources. The identity and autonomy are essential for each member to define themselves in relation to their environment and all members of the community, allowing the atmosphere to generate shared behaviors [16].

C. Kind of information to be published on the website of the Judiciary

It is considered that the Judiciary should publish at least the following information: [17]

- Court Rulings. All rulings should be published. Rulings are the decisions by the court that bring cases to an end. Other court resolutions ending processes or that are relevant to their resolution, and those ordering their dismissal, should also be published. Ideally, judiciaries should public court decisions of all instances: district courts, courts of appeals and Supreme Courts.

- Statistics. Sets of quantitative data that describe the structure and activity of the courts, and specifically reflect their performance. Statistics on the judiciary should provide information related to judicial performance. Among others, indicators to be included are caseload, cases solved, caseload, congestion rate disaggregated by type of case, type of court, judge, etc.

- Budgetary and administrative information. Information related to budget allocation and its execution. This category also includes information related to procurement and contracting, human resources and infrastructure, among others.

III. METHODOLOGY

This study focuses on one of the four components of open

judicial government: the existence of open data within the judiciaries. Therefore, the questions that oriented this research are whether the seven judiciaries publish data, and whether this data is published according to standards of open data. Two additional questions are considered in an exploratory manner: who are the users of this data, and what are the uses of the judicial data.

According to the ODDC framework, there are three different ways to approach the study of open data: by its readiness, implementation or its impact: (a) "Readiness studies analyze the conditions in a country, city or sector to see if open data initiatives are likely to be successful, at the same time as they seek out suitable areas and identify the challenges that may exist when implementing such policies." (b) "Implementation studies investigate whether the conditions exist for the implementation of an open data policy, or whether an open data policy already exists. This approach could include an analysis of the availability of datasets, their quality, and the existence of appropriate regulation and legislation for the implementation of open data policies, among other aspects", and (c) "Impact studies ask whether open data has led to any type of change. To date there have been no rigorous large-scale studies of this nature, only case studies and sound practice reports" [18].

This research uses all three approaches; it includes the study of the existing conditions for an open data policy and the current status of its implementation. At the same time, in an exploratory manner, it includes an attempt to identify the emerging impacts of these initiatives in each of the countries. The research takes into consideration three types of data produced by the judiciaries: judgments, administrative and budgetary information and statistics. Data is analyzed taking into account its context, sources, technology platforms, governance matters, intermediaries and impact.

Moreover, the country case studies have considered additional information, such as political, social and economic factors impacting on the adoption of open data policies. According to the conceptual framework adopted by ODDC, the following are the matters to be taken into account to build an open data case study: context, sources, technology platforms, governance, intermediaries and impact.

This research adopts an exploratory design, with triangulation between qualitative and quantitative methods and the combination of various sources of information. The methodological strategy was structured in four layers:

A. Descriptive

Quantitative and qualitative data was compiled and systematized in relation to transparency initiatives in the analyzed countries to place the situation of governance in the region in context. Also a timeline and a map of actors were included to complete the context.

B. Diagnostic

It was determined whether the results detected represent open data (non-discriminatory, accessible, sustainable and reusable). An evaluation matrix compiled all collected information in seven components sub-divided in 44 variables. [19]

C. Analytical

Findings were systematized in an aggregate manner to be able to respond to the question as to whether or not the current state of published information by the judiciaries of the seven countries constitutes open data.

D. Prospective

This study also provides recommendations taking into account challenges and opportunities for the strengthening of open data policies according to actual development contexts.

The study combines a) a review of the information available on the seven countries, b) the collection of information by means of visits to the web pages of the Judiciary, and c) the design of interview guidelines for key players, including officials of the various judiciary branches and intermediaries and users of judicial information.

As said, information and data was collected through an evaluation matrix. This tool includes data related to the three groups of judicial information (court rulings, statistics, budget and administrative information) for the seven countries. The information was disaggregated in 7 components, 2 on the general context of the country and the Judiciary, 4 in relation to the characteristics of open data, and 1 on the relevance of information published. These seven components have been divided into 44 variables that measure concrete aspects of judicial information such as the use of free formats, easiness of information search, use of licenses, among others. The matrix considers and measures information related to each of the three categories defined in the conceptual framework: judicial decisions, statistics, administrative and budgetary data.

To make comparisons among countries, results obtained by each country in each of the categories receive a score. The scale of possible results starts at 0, and the maximum score is 120.5. Given that the study is aimed at analyzing open data, components directly linked to this concept obtained a higher weight of the total score. The accessibility, non-discrimination, reusability and sustainability components were weighted 1.75, whereas the categories of relevance, country context and judicial context were weighted 1.

Finally, interviews and on-line surveys were performed to complement the quantitative analysis with a qualitative one. This provides an additional understanding of the issues from the perspective of key stakeholders. Some of the findings of an explanatory nature are based on the results of the interviews. [20]

IV. GENERAL RESULTS FOR EACH COUNTRY

The following graphic shows the results of the seven countries related to the state of open judicial data. The score range starts at 0, with a maximum possible score of 120.5.

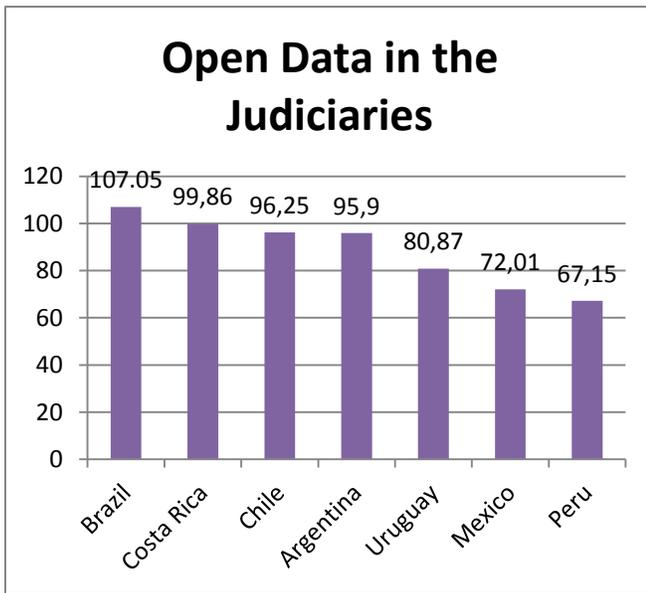


Figure 1. Open Data in the Judiciaries. Source CIPPEC.

A. Brazil

Brazil was ranked first in the research with a score of 107.5/120.5. This country has a law on access to public information since 2011 that includes sanctions in case of non-compliance, and guarantees the publication of data on budget, projects and activities of the three branches of government (Legislative, Judicial, and Executive).

Brazil implemented an open data portal which allows users to freely access information. However, the Judicial Branch is a step behind the Executive; it is still necessary to centralize and publish all available data in a single web page.

Information on budget, judgments and statistics are free of use of licenses; this allows data to be exported and facilitates its reusability.

Brazil has a systematic judicial policy on open data. It has a specific regulation for the collection and publication of data. There are rules for the publication of Supreme Court judgments and judges' meeting registries. Unfortunately, this is not the case in the courts of appeals; some resolutions and the registries are not available. It is the only country that has a judicial officer designated exclusively to reply inquiries from people working with data.

All the above are considerable facts that show efforts to increase transparency in the Brazilian Judiciary Branch; nevertheless the information still needs to be centralized, completed and available on a single website.

B. Costa Rica

Costa Rica was ranked second with a score of 99.86/120.5. Although the country does not have a law on access to information, there are many regulations on the subject that are working properly. Even if there are not specific sanctions for not providing access to information, government officials

and in particular judicial ones, are keen to provide public access.

Costa Rica implemented an Inter-Institutional Transparency Network that includes the judiciary making efforts to ensure easy and free flow of information. The Judicial Branch through its organic law establishes that information should be accessible to the public.

Budgetary information, judgments and statistics are published and are accessible on-line. Data is in general terms complete and able to be reused and exported. The information can also be downloaded without any authorization and is not restrained by copyright.

Costa Rica publishes Supreme Court and courts of appeal rulings as well as their judges' meeting registries, but does not publish judgments of first instance courts and those tribunals' registries. It only publishes statistical data of filed cases. This data is disaggregated only by instances and not by jurisdiction. Owing to this, Costa Rica does not obtain a good score in terms of statistics.

To keep information updated, there are two offices in place, the financing-accounting office, in charge of the Judicial Branch budget, and the judicial investigation bureau that focuses on publishing different types of information from this Branch.

Costa Rica has a web-page for the Judicial Branch with complete information about budgets, an organizational chart, and legal rulings, amongst other data. The page has an internal search option, with several sections. It also has a tool to adapt users' profiles to make their inquiries easier to find.

C. Chile

Chile was ranked third with a score of 96.25/120.5. This country promotes a state policy on transparency and the publishing of information, and has a law on access to information that includes disciplinary mechanisms and a body responsible for its implementation.

The Judiciary is not an exception. It has adopted significant measures to increase its transparency. It has in place a Transparency Committee, a body that ensures compliance with the law on access to information.

Decisions, budgetary information and statistics are published, although the formats are not free, and it is necessary to have licensed software (generally Microsoft Office licenses).

Statistical information is limited; only the information regarding new filed cases, pending cases and cases solved by jurisdiction, type of court and instance are published. Data is available on spreadsheets, in small datasets. It is possible to generate a database of filed cases and solved cases by year (for 2012 and 2013), which can be exported to an Excel document.

Chile suffers from a limitation on the reusability of the information; the Administrative Corporation for the Chilean Judiciary Branch authorizes users to use, print, reproduce and store the information on its website exclusively for personal or academic purposes, which excludes the possibility of commercial use, among other uses.

D. Argentina

Argentina came fourth with a score of 95.9/120.5. This score is comparatively high, and was obtained despite the fact that in the “Country Context” category it received the lowest grade because of the absence of an access to information law. Nevertheless, in an effort to improve transparency, the Judiciary Branch has increased the publication of information in reusable and accessible formats.

In Argentina, there is not a systematic strategy for promotion of access to information and data publication. Nevertheless, the Executive Branch implemented the Digital Agenda Forum, which promotes open data, free software, open government and interoperability. These efforts do not constitute a uniform public policy, and has not yet permeated the actual practice of government bodies. It does not include the judiciary.

On the other hand, the Supreme Court implemented some policies to promote access to information and open data. Argentina has a policy for publication of information consistent with a judicial transparency policy. Supreme Court decision 14/2004 promotes the use of new technologies to improve justice service delivery: “Within the process of change and modernization of services provided by the system of justice... the Supreme Court of Justice of the Nation proposes to establish and implement the use of management tools applying information technology” [20] The Supreme Court also created the Center of Judicial Information (CIJ), a web-page devoted to the dissemination of judicial information. Information and data is updated and well presented at the CIJ. [21]

Published information includes the rulings of the National Supreme Court, courts of appeals and some trial courts in PDF format, sometimes as scanned images. Not only is not this format open, but it also prevents the reuse of documents. Data is published in formats that require paid licenses (Excel, PDF, Word).

E. Uruguay

Uruguay obtained the fourth place with 80.87/120.5 points. In Uruguay there is an explicit transparency policy led by the Legislative and Executive branches. Uruguay has joined the Open Government Partnership. There is a national law on access to information in place and a public data portal. The Executive Branch has an aggressive open data policy, too. But the Judiciary is a step behind. It has not adopted a specific policy on transparency and data publication. At the time of collecting data, early 2014, most judicial officers did not know the concept of open data and were too concern and over protective about realizing judicial data.

Both statistics and budget information are published in PDF format. This prevents its reuse. Rulings and other significant decrees are also published in PDF format as scanned images so they cannot be exported.

The judiciary made some significant progress in the publication of data following the requests of civil society organizations working on specific agendas, i. e. gender security.

F. Mexico

Mexico was ranked sixth with a score of 72.1/120.5. Whilst a relatively low result, it is worth mentioning that this country obtained the maximum score in one of the evaluated categories: “country context”.

Mexico has implemented transparency policies at a national level that include a freedom of information law and the creation of a data portal. The *Instituto Federal de Acceso a la Información Pública y Protección de Datos* (IFAI) is the best known body for the protection of access to information in Latin America. It has responsibility for enforcing the access to information law. However, the IFAI does not have jurisdiction over the judiciary.

The publication of judgments of district and appeals courts is limited. Statistical data is not complete. The information is not presented in a desagregated way by jurisdiction or instance. However, the publication of the judicial budgetary information is complete.

Even though there is an entity in charge of publishing information there are not existing regulations on the publication of judicial information.

On the other hand, a factor hindering the re-use of data is that even though the information can be downloaded without requiring authorization of any type, it is not free of copyrights or licenses.

G. Peru

Peru is ranked last with a score of 67.15. In 2011, the government of Peru joined the Open Government Partnership, committing to increase transparency over the three branches of government.

The Judicial Branch does not have a specific regulation for the publication of information and does not have an office responsible for judicial data. Nevertheless, the judiciary publishes information including a directory of officials and on laws, rulings, and other legal dispositions on the Transparency Portal run by the Government.

Budgetary information is not published in the Judicial Branch Official Site; though, it is possible to find some budget figures in the Transparency Portal.

The judiciary publishes judgments from courts of appeals and the Supreme Court, but not those from first instance courts. The registries of the Supreme Court are on-line. Statistics are not available on-line; Peru had the least score on the dimension of “accessibility” related to statistics.

V. RESULTS BY DIMENSIONS OF OPEN DATA

The study assesses whether the data published in each country complies with standards of open data: no discrimination, accessibility, sustainability and, reusability.

This analysis helps identify which dimensions of open data are stronger, and conversely where countries experience difficulties. In general terms, the dimensions of sustainability and no discrimination show higher scores compared with the dimensions of reusability and accessibility.

A. Sustainability

This dimension considers whether the benefits of an activity or program can be extended into the future regardless of who implements them. In this case, it assesses whether open data policies are likely to be kept over time. In particular, this dimension evaluates whether published data is updated, the frequency for loading of data, and the existence of standardized processes for the formats and timing for the publication of the information.

This dimension includes five variables; if data is regularly updated (the most recent data was no more than one year old), if there is a rule that specified the way data should be gathered and published, if there are rules on data publication policy, if there is an office responsible for collecting and publishing data, and if there is was a person responsible for responding to users' inquiries.

Brazil got the best score for this category. The substantial difference between this country and the others is that Brazil is the only one that has a public office with the specific mandate to respond to inquiries and claims related to data.

Brazil, Mexico and Chile have an information publication policy accompanied by a transparency policy in the Judicial Branch outlined in laws and judicial regulations. Peru has made advances in this area, though still lacks a specific transparency policy for the Judicial Branch.

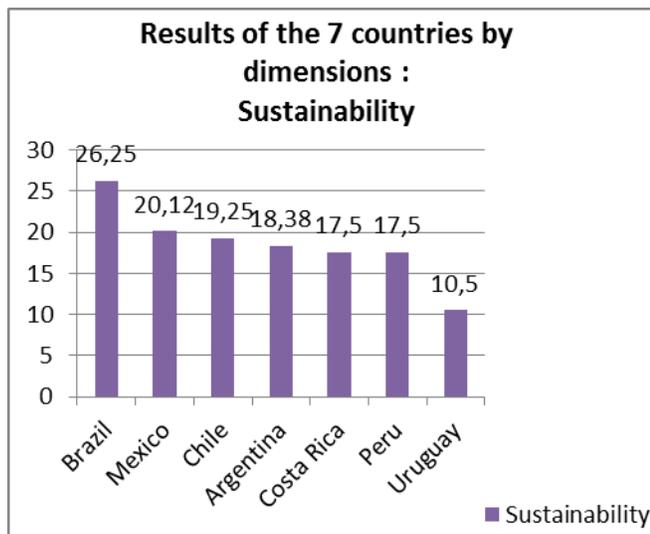


Figure 2: Results of the 7 countries by dimensions: Sustainability. Source CIPPEC

B. No discrimination

Access to information must not be restricted to certain purposes or be subject to copyright. There should be no discrimination against uses of data or against persons or groups in the use, reuse and redistribution of information.

This dimension includes five variables; if data could be accessed with no need to request authorization of any kind; whether access to data is without registration or mandatory provision of personal information; if data access is easy (requiring only basic computer knowledge); if information is restricted by copyright, and if software is free of license requirements for use.

The aggregated score for the seven countries is higher compared with the scores of the other three dimensions. The most important hindrance in this dimension is the need for licenses for the software required to access the information.

Mexico and Peru score lowest because of copyrights protecting the information which prevents data reusability. Chile has a specific restriction on the use of data for business purposes which constitutes a discriminatory measure.

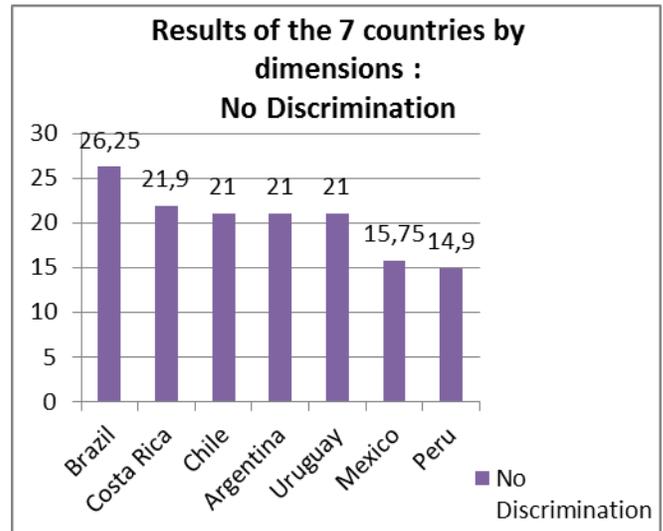


Figure 3: Results of the 7 countries by dimensions: No Discrimination. Source CIPPEC.

C. Accessibility

The degree of accessibility assesses whether the information produced by the Judiciary is available as a whole, at a reasonable reproduction cost, and available for downloading over the internet.

This dimension includes four variables; if information is available online, if information is complete and comprehensive, if the content could be found in less than three clicks, and if data is accessible without monetary payment.

Judiciaries scored lower in this dimension due to the poor quality and quantity of information on-line. In particular, Mexico and Peru do not publish or publish very little information on-line regarding judicial statistics and court rulings.

On the other hand, no country with the exception of Peru requests paying any fee to obtain judicial information.

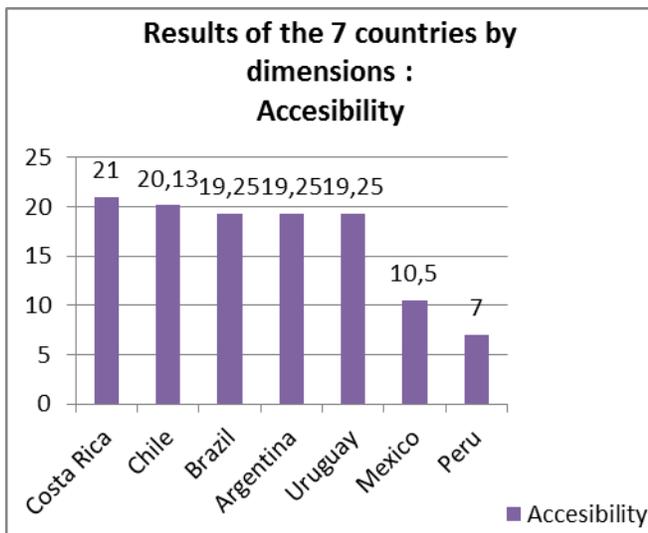


Figure 4: Results of the 7 countries by dimensions: Accesibility. Source CIPPEC.

D. Reusability

This dimension assesses if data is published in formats that enable reuse, redistribution and interoperability with other datasets and allow interactive use of the information.

This dimension includes four variables; if there is no restrictions on data reproduction (for example restrictions on commercial use), if data is published in a computer-readable format (not as a scanned image, for example), if data could be exported, and if information is available in bulk (if it could be obtained with a single request).

Costa Rica is the best performer, closely followed by Brazil and Argentina. In Costa Rica and Brazil data from rulings as well as statistic and budgetary information can be easily exported, downloaded and is accessible on-line.

Mexico got the lowest score as most of the judgments are scanned images difficult to reuse.

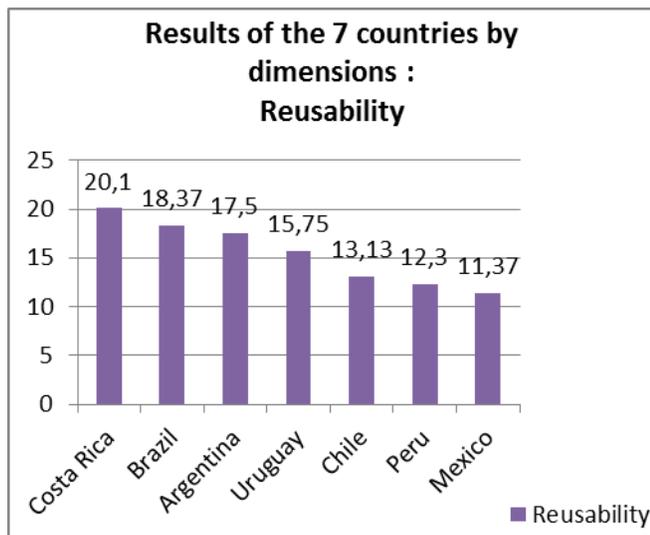


Figure 5: Results of the 7 countries by dimensions: Reusability. Source CIPPEC.

VI. RESULTS BY KIND OF JUDICIAL DATA PLAYERS

The chart of players is a tool that enables analysis of the relationships that are generated around a given topic of study. It helps understand the influences and relationships in play. The map identifies judicial system players and the flow of information and relationship among them [20].

The producers of information in this case are the judiciaries. This includes the Supreme and other courts, the Office of the Public Prosecutor and Defense, Judicial Councils, Ministries of Justice in particular through statistics offices and centers for judicial information.

The intermediaries are the users that recycle, share, or modify the information, generating a new communication from that information, “An open data intermediary is an agent positioned at some point in a data supply chain that incorporates an open dataset, is positioned between two agents in the supply chain, and facilitates the use of data that may otherwise not have been the case” [21]. Examples of intermediaries in the judicial system are civil society organizations (CSO’s) specialized in justice, gender, crime prevention, etc.; judicial data journalists, and political science and law schools; these three kinds of intermediaries play a substantive role disseminating judicial information among society.

The users are those that use the information, but not necessarily circulate, share, or modify it, for example, the Ministry of Justice, Parliaments, and citizens.

The interviews and surveys to producers, users and intermediaries were conducted in 2014 (Argentina, Chile and Uruguay) and from late 2014 to January 2015 (Brazil, Mexico, Costa Rica and Peru). They are a valuable piece of comparative information allowing for a more in-depth understanding and explanations concerning the rough data.

A. Producers of Information

Some judicial officers were unaware of the concept of open data. Others who knew about it considered it too alien to the judicial environment. Among those familiar with the open data concept, there is no consensus on whether the judicial information they produce meets the requirements to be considered as such. Almost half of the officials say their judiciaries publish data in open formats; almost another half say data is partially open, while the remaining minority does not consider data to meet requirements for openness. In particular, this minority corresponds to the Peruvian Judicial Branch.

All officials say they use the produced data in some way in their work. Also, 70% answered that the Judicial Branch uses the produced data to improve courts’ management. In Argentina, officials said the lack of communication among offices in charge of producing data and those in charge of designing judicial policy negatively impact on efficiency.

In the seven countries, officials affirmed that the most frequent users of information are: academic institutions, media, researchers and organizations. Secondary users are reported as governmental agencies and individuals.

Judicial officials consider that the use of datasets and even spreadsheets to publish data is not frequent although it is increasing. They say that the PDF format is still the rule, and paper copies are gradually being eliminated, although 10% of the information is still published in hard-copy.

As regards the quantity of information that the Judicial Branch produces, a minority of officials consider it sufficient. The vast majority, meanwhile, in particular officials from Argentina, Uruguay and Chile, believe that there is a need to produce more information; officials point out that there is still a need to publish information concerning intermediate judicial resolutions (hearings and notifications), costs of the judicial process, gender indicators, among others.

All seven countries agreed on the importance of open data to improve transparency and accountability. Producers cannot yet visualize any economic impact of judicial open data other than the reduction of judicial process costs.

B. Intermediaries and Users of Information

Almost all users and intermediaries of judicial data say they are aware of the concept of open data.

The most used format for judicial information according to users is PDF, while the second is Spreadsheets (XLS, XLSX, etc.).

All interviewees believe that there is data produced by the Judicial Branch that is not published. The majority also point to shortcomings in the updating of information.

Sixty per cent of users and intermediaries say they used judicial information more than ten times in the previous year. The other 40% used judicial information from 1 to 10 times in the same period.

Almost all users say they have also used data produced by other organizations or individuals that reused judicial information published by the judiciaries. As said, these intermediaries are mostly judicial centers of study, universities and judicial media.

Most users and intermediaries agree that the quality of information is very good or good, giving it a 4 out of 5 rating. They consider that quality and quantity have improved during last 3 years.

Regarding the quantity of published information, the scores are a bit lower with an average rating of 3 out of 5. Users in Peru, in particular, believe their judiciary needs to publish more information.

Of the interviewees that have requested information that had not been published, around half tapped into non-official channels, such as a contact person within the judiciaries. This could be an indicator of the informality of access to information mechanisms in the judiciary.

Users and intermediaries usually present collected judicial data in narrative reports, data tables, and infographics. The use of judicial data to produce open data sets is still rare in the region.

Only 20% of the users say that they produce primary judicial information.

Users and intermediaries do not agree with producers of information in that judicial data is used to improve court

management or to design evidence-based judicial policy. This could indicate higher expectations around the use of data among users as compared with producers.

Finally, users and intermediaries consider that open judicial data may have a positive impact on court management efficiency, judicial monitoring and evaluation, transparency, and accountability. In particular, they believe that open data will help control judicial budget.

VII. FINDINGS

Although there are transparency and access to information initiatives in the seven countries, systematic open data policies are not frequent. With considerable variation among countries, none publishes all its judicial data in open formats. Most still publish data protected by copyright laws and with license-based software.

Regarding the three principal areas impacted on by open data (transparency and accountability, innovation and economic development, and inclusion and empowerment) only in transparency are emerging positive effects being noted. The increase of judicial information is commonly the result of policies to increase transparency but not to improve justice service delivery or accountability.

This was something concluded from our original research and now further evidenced through the extension of the study to further Latin American countries.

There are significant differences among country contexts regarding open government. Even though all the countries are members of the Open Government Partnership and five have access to information laws, the enforcement of openness, access to information and open data differs. It seems that the existence of enforcement bodies with disciplinary powers such as in Mexico and Brazil is key for compliance with access to information laws.

Even though enabling country contexts may have an impact on judiciaries, research results show that leadership within judicial branches is more important for judicial openness than country context. Mexico and Uruguay have a clear open access to information tradition but their judiciaries are lagging. On the contrary, the Argentine judiciary is moving towards openness faster than other branches of state.

Of the seven countries, only one, Costa Rica, appears systematically geared to developing an Open Judicial Government Action Plan. This plan includes commitments on open data.

The use of judicial data is still limited. Even though there has been anecdotal evidence of the use of data, this is not systematically drawn upon in designing evidence-based public policy or improving service delivery. The use of data by actors other than the same producers, the so called users and intermediaries, is also limited. The use of judicial data sets to improve life-quality is restricted to some crime maps, studies on gender violence and the like.

This study did not collect evidence on economic impact of open judicial data. As judicial data in open formats is still such a nascent concept we consider it too soon to assess such

impact, save through the highlighting of isolated case examples.

VIII. RECOMMENDATIONS

The following recommendations are proposed to design and implement an open data policy for judicial systems:

A. Promoting an enabling environment

Promote a cultural change in judicial systems towards openness and transparency. This can be accomplished through strong judicial leadership from justices of Supreme Courts and Members of Judicial Councils.

Generate collaborative work between the Judiciary and the other branches of government: develop joint action plans for OGP, a common digital agenda, a national transparency framework that includes the three branches of government.

Create communities of practice among the various actors of the judicial system (judges, prosecutors, CSOs members, users of the courts) by topic, sector and jurisdiction to find joint solutions for judicial problems.

Design a collaboration mechanism between judiciaries and civil society to jointly design access to information and open data policies. It is key for the adoption of open government and open data policies to have real participation of civil society in the design and implementation of judicial policies.

Promote a debate on open data laws and regulations that include the three branches of government. Judiciaries can play a key role interpreting existing regulations and setting new standards through judgments.

Initiate a debate within the judiciary and other stakeholders on the production, types, formats and quality of judicial information.

Implement active strategies of training on open data. Include open data training courses into judicial schools curricula and promote judicial actors to take on-line course on open data. Ideally, judiciaries have to organize specific open judicial data courses.

B. Implementation of open data policies

Define which data sets are going to be open and a timetable for releasing the information. There is no need for all the information and data sets to be released simultaneously. It is suggested to begin moderately, starting with the simplest and smallest sets and then moving towards a consistent and comprehensive process incorporating existing including newly released data.

Develop collaborative partnerships with data users and intermediaries that allow judiciaries to understand data needs and the most convenient format, disaggregation and periodicity. Intermediaries' perspective is fundamental because most data will not get to the users as raw data but only after being processed by intermediaries such as judicial data journalists, justice sector NGOs, political science and law schools, among others.

Promote wide use of data through judiciaries' web-pages. Teach users of the courts how they can capitalize on judicial data.

Use judicial open data to underpin an accountability mechanism for the judiciary to assess judges' conflicts or

interests, judicial corruption, judicial performance and efficiency of justice services delivery, among other issues.

C. Monitoring and Evaluation of open data policies

Design strategic planning mechanisms for open data policies that include: planning methodologies and monitoring and evaluation.

Implement an evaluation mechanism with detail on who will be responsible for carrying it out, what will be evaluated, and the uses of the results of the evaluation.

Draw up a set of open data monitoring indicators that allow for comparisons over time. The following dimensions are the most relevant to take into account in an indicator matrix: activities performed, results delivered to society and effects and impacts of open data policies.

Establish a long term open data evaluation mechanism geared to designing evidence-based judicial policy.

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