

CASE STUDY  
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## Emerging Impacts in Open Data in the Judiciary Branches in Argentina, Chile and Uruguay

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# 1. Introduction

In recent years, numerous initiatives have been undertaken around the world for open government, access to information, and transparency, based on the fact that transparency and information make it possible to take better decisions. Latin America has been no exception, and a number of valuable initiatives have been developed in the region, particularly within the framework of the executive and legislative branches.

Nevertheless, Latin American judiciary branches continue to be among the least willing to implement such policies, generally because of their conservative tradition and the absence of any account-rendering culture. There has however been some progress towards openness and transparency.

This study focuses on the openness of judiciary branch data and its impact. It is grounded on the assumption that openness and transparency in the judiciary should be standard practices, as the judiciary provides a public service that affects people's daily lives, and it must respond to society as well as the remaining branches of State.

Furthermore, judiciary branch information and statistics are fundamental and essential instruments to "materialize change, improve and modernize justice" (Pastor, 2005). Indeed, policies for openness and use of data not only improve accountability, they can also improve the efficiency of the system of justice. Information makes it possible to identify problems and respond to alerts, contributes data for the design of judiciary policy based on evidence, and also enables follow-up, monitoring and evaluation of its implementation and impact. Experience has shown that at present the use of the data generated by judiciary branches is limited, and no impact studies on the matter are known.

The design and implementation of an open data policy is fundamental for the judiciary branches for at least three reasons: (i) access to information is a human right, recognized by Constitutions, international treaties and laws, as well as by the Inter-American Court of Human Rights and the European Court of Human Rights, and open data is a useful tool for the publication of information; (ii) access to data allows citizens to monitor the judiciary branch and encourages accountability by the judiciary; and (iii) from the point of view of the performance of the judiciary and policy design, the generation, compilation and availability of data in a format that can be used and re-used enables decisions to be taken to improve the design of public policies for the judiciary based on evidence.

The purpose of this project is to obtain evidence and methods of approach to contribute to informed debate among decision-makers (Davies, 2013) and, in the not too distant future, to enable actions to be taken based on evidence. The funds for its execution, as well as the methodological guidelines, were provided by the research project under the title of 'Exploring the Emerging Impacts of Open Data in Developing Countries' carried out by the World Wide Web Foundation,

which in turn was supported by the Canadian International Development Research Centre (web.idrc.ca) through grant 107075.

The first section of this paper presents definitions of the **terminology**, the features of open data, and the information to be surveyed. The section analyzes the sources of information, in this instance the various judiciary branches, and their technical features and standards.

The second section analyzes the **context** and configuration of governance in general terms in Latin America and in particular in the countries included in the study. Consideration was given to the relevant characteristics and actions on the matter adopted by the executive and legislative branches, and in particular the political and governance context of the judiciary in each of the countries studied.

In addition, a chart of the stakeholders was drawn up that helps to illustrate the type of information produced, and its interrelationship with **users and intermediaries**.

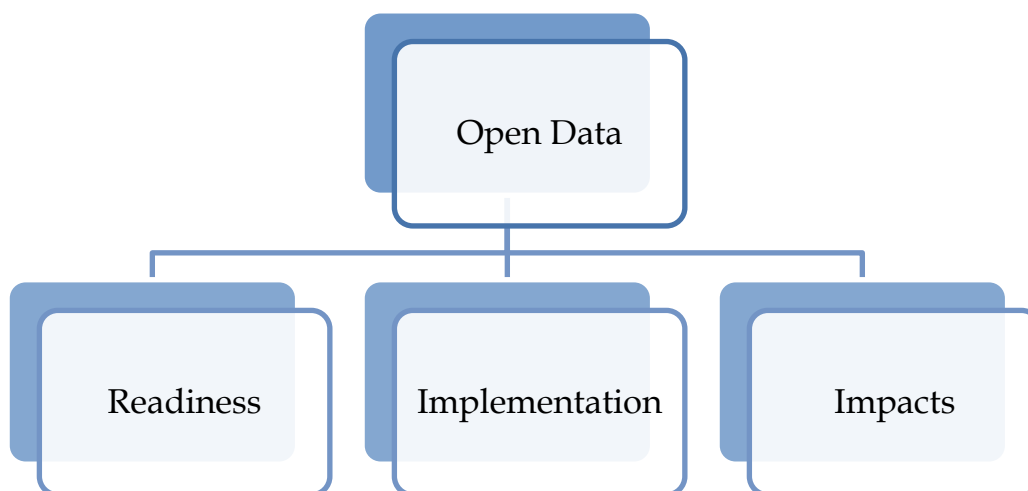
The third section includes an analysis of the results of the research based on the survey, the evaluation matrix, and the interviews with key stakeholders, by means of which it has been possible to determine not only the characteristics of the context and governance favourable for the implementation of open data policies, but also the concrete actions and **contributions** from the publicizing and use of data. At this stage of open data implementation it is not yet possible to properly identify the impacts achieved.

Lastly, the findings of the project and a series of recommendations are presented for the development of an open data policy in the Judiciary.

## 2. Conceptual approach of the research

According to the conceptual framework (Davies, 2013) proposed by ODDC (Open Data in Developing Countries), the study of open data can be classified into three groups.

**Figure 1. Approaches to the Study of Open Data**



**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.

**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.

**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.

**For the project proposed to ODDC, it was decided to develop a study combining analysis of the existing conditions for an open data policy and the current status of implementation of an open data policy. At the same time, in an exploratory manner, an attempt was made to identify the impacts arising from the initiatives in each of the countries.**

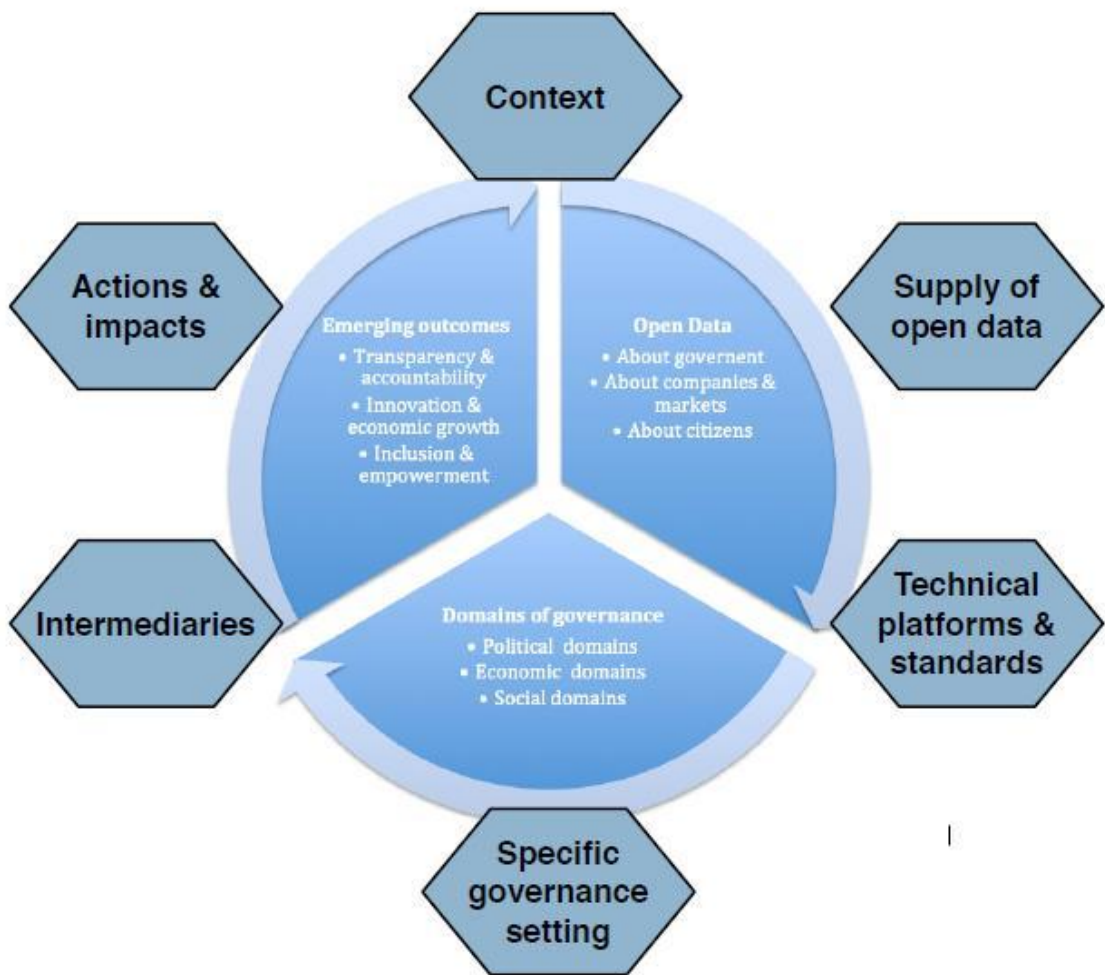
Based on this panorama, three reasons guided this project: (i) little attention had been paid to data policies in the judiciary, (ii) the openness policies of countries in Latin America are at different stages of development; and (iii) there has been no systematic comparative analysis of open data initiatives within the judiciary.

To determine whether or not there are open data policies in the judiciary, CIPPEC has developed a measurement matrix based on the distinctive features of open data that takes into account the context of the country and its judicial branch. This investigation seeks to build a baseline for an initial measurement that can be compared with future measurements, so as to be able to evaluate the progress made in Latin America.

Case studies need to consider different types of data, such as matters of governance and emerging results or contributions, and must respond to local policies and practices. According to the conceptual framework adopted by ODDC, the areas that need to be present at the time of preparing a case study are: context, sources, technology platforms, governance, intermediaries and impact.

Figure 2 illustrates the six areas and the way they relate to each other.

Figure 2. Case Study Components



Source: ODDC conceptual framework, "Researching the emerging impacts of open data"

The presentation of the results of the case study takes this analysis structure as a reference.

## 2.1. Standards and comments on terminology

Some clarifications of terminology.

*Data* is understood as all types of information or recordings, including documents, databases, transcriptions and audiovisual recordings<sup>1</sup>.

The **open publication of data** is “(1) proactive publication of information; (2) Internet being the main medium used for dissemination; (3) availability of information for access and re-use without charge; and (4) the availability of information in machine legible format to facilitate re-use by means of computers.”

The right to **access public information** is a fundamental human right recognised in numerous international treaties, and has as its purpose the access, knowledge and transfer of information generated by the State. Exercise of this right strengthens the development of civil rights, transparency and the accountability of government officials, and encourages informed public debate to prevent corruption and abuse by the branches of government.

**Data publishers** are those who generate the information. They are key elements in all matters related to the publicising of information, because it first needs to exist before it can be published.

**Intermediaries** are those users who use the data and recycle, share or transform it, generating a new communication with that information. Examples include organisations of civil society, the media, and universities.

**Users** are those who use the information but do not necessarily recycle, share or transform it. For example, justice ministries, legislative branches and ordinary citizens.

**Emerging outcomes** are understood as the changes that open data policies generate to improve a country's political, economic and social reality. The conceptual framework of the ODDC recognises three categories in which the use of open data can have an impact: transparency and accountability, innovation and economic growth, and inclusion and empowerment.

### Features of open data

Based on the definition of the Open Data Handbook and Open Definition (Open Knowledge Foundation, 2012), 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.

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<sup>1</sup><http://sunlightfoundation.com/opendataguidelines/>

- **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.

To prepare the study a definition was made of the type of information that should be found on the web site of the Judiciary Branch. These elements are considered as basic indicators. In the words of Santos Pastor (2005) “Indicators serve to inform, and in doing so they make it possible to obtain a more exact awareness of the size of problems; they help in the formulation of grounded proposals, their adoption, monitoring and assessment of the results they generate”<sup>2</sup>.

#### **Why do we focus on information from the Judiciary?**

Information and statistics on the judiciary are essential tools if changes and improvements are to be made, and to enable the modernizing of justice (Pastor, 2005). If there is no reliable and complete information, it will not be possible to identify flaws or matters for improvement. Information makes it possible to identify problems and be on the alert, to reach viable solutions that can resolve the conflicts that have been identified.

In turn, such information serves as a basis for the design of new policies, makes it possible to monitor the development of the decisions that have been taken, and to make adjustments where failings are detected, as well as to strengthen sound practices. It is essential to be able to identify processes that are working correctly, understand the factors influencing them, and how to replicate them in other systems.

Access to information on the performance of courts, their resources and rulings allows society to see how they operate. This contact with society through information has two fundamental consequences: on the one hand, an informed citizenship can perform a social control role, and on the other, it brings the judiciary closer to society, that is to say, it allows people to learn how it works, the actions it is taking, and increases understanding and confidence in the way it functions.

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Pastor, S. (2005). *Cifrar y Descifrar Volumen 1: Manual para generar, recopilar, difundir y homologar estadísticas e indicadores judiciales*, page 13. Chile: CEJA.

As a result, encouragement of the proactive publication of information on the judiciary will have numerous consequences that will contribute to accountability and the promotion of greater citizen participation by increasing the level of credibility among the population.

**Minimum level of information to be published on the website of the Judiciary.**

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

- **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.
- **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 all the necessary information in relation to the dimensions making up a sound system of justice, or negatively, those that deal with the problems suffered by judicial systems. Among others, indicators to be included are cases brought annually, cases resolved annually, caseload of each judge (cases recorded plus those pending at the start of the period) recorded case growth rate (year-on-year, six-monthly, quarterly, etc.) distribution of items recorded by type of matter (or type of procedure), congestion rate (cases recorded during the year plus those pending at the start of the period, divided by the number of cases resolved during the year).
- **Budgetary and administrative information.** All information related to the budget allocation for the Judiciary and its execution. This category also includes all matters in relation to tenders for procurement and contracting.

## **2.2. Benefits of open data**

The recent development of open data in the practices of various countries has shown that the implementation of policies of this kind gives rise to great benefits that have been systematized by various authors.

The availability of information in accessible, reusable formats helps to ensure citizens are more informed. This has a series of benefits that range from the economic to the promotion of transparency. At the same time, however, it helps governments to be more effective, taking advantage of the knowledge and capabilities of their citizens to strengthen public policies that achieve their objectives at a lower cost.

Innovation is strengthened when access to information is opened up to all. Information is a “public good” and can be used as input for various activities and projects that go well beyond what the government foresaw when it released the information. One important factor to bear in mind is that

information is not exhausted by the use given to it by a single person, as it can be used again and again by others<sup>3</sup>.

In turn, access to data in open formats can increase the credibility of institutions, transparency, and lead to greater accountability. Citizens can learn about the processes that lead to the taking of decisions, and those factors that influence conflict resolution; in other words, citizens are integrated during the process and not just at its final resolution. This increases the legitimacy of the actions and raises compliance levels<sup>4</sup>.

Open data boosts confidence in the government; knowledge of processes means that citizens trust the decisions that are made and are consequently more willing to pay taxes or support measures adopted by their government.

Ensuring that everyone can access information means that people can participate on an equal footing in the formulating of public policies, eliminating barriers to their participation.

Publication of information makes a huge contribution to the development of transparency and the reduction of corruption. It enables citizen control. It provides publicity to aspects that tend to remain unknown, preventing citizens from knowing how public administration evolves.

Another benefit can be seen in the possibility of increasing the value of projects developed by universities, research centres and companies, among others, which can be nourished by public information accessible to all.

Open data also acts as a source of employment in the so-called digital content industry. Not just within government, but also in the case of people and organizations that seek to generate innovative solutions for the comparison of data from different public databases, to facilitate the understanding of information using simple, accessible databases, or to present information in a dynamic manner, among many other options.

It is important to stress that for all these benefits to become a reality, it is essential to train society in the importance of public information and to promote coordinated efforts with the main information intermediaries (organisations of civil society, communications media, etc.). In this regard “(... it is necessary to take into account that the mere opening up of data is not sufficient. At the same time there should be a process of awareness, training and encouragement for the various stakeholders involved in the use of such data, these actors being individuals, other public institutions, and the private sector.”<sup>5</sup>

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<sup>3</sup><http://opengovdata.io/2012-02/page/1/big-data-meets-open-government>

<sup>4</sup>Datos abiertos: Un nuevo desafío para los gobiernos de la región Gastón Concha Alejandra Naser, ECLAC page: 15.

<sup>5</sup> Datos abiertos: Un nuevo desafío para los gobiernos de la región Gastón Concha Alejandra Naser, ECLAC Page: 32

### **3. Research methodology**

For the design of the evaluation it was proposed to identify the impacts arising from the open data initiatives in the Judiciaries of the three countries analysed.

Our research was based on a theoretical approach in the understanding that the evaluation should be a process of systematic assessment with the aim of generating learning with regard to the intervention of a project, program or policy, to improve decision-making and provide actions with greater transparency. Furthermore, our approach to evaluation is based on awareness that people are central to the process of transformation and change. Priority was therefore assigned to direct contact with users and producers of the data and the stakeholders involved in the process, building up extensive knowledge of their visions through our field work (in situ visits and interviews).

Therefore, the findings and recommendations are associated with a learning process with the aim of spreading and communicating the lessons learned, strengthening networks and promoting cooperation among the various stakeholders involved.

It was decided to adopt an exploratory design, with triangulation between qualitative and quantitative methods and the combining of various sources of information. The methodological strategy was structured in four layers:

- 1) Descriptive: Quantitative and qualitative data was compiled and systematised in relation to the transparency initiatives in the countries analysed, to place the situation of governance in the region in context. Also included were a timeline and a map of actors to complete the context.
- 2) Diagnostic: It was determined whether the results detected represent open data (non-discriminatory, accessible, sustainable and reusable) , and comparison was made of progress in the different scenarios. At this point, results were detailed by country based on the tool developed as an evaluation matrix.
- 3) 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 judiciary in Argentina, Chile and Uruguay constitutes open data.
- 4) Prospective: Recommendations were made based on the challenges and opportunities for the strengthening of the open data focus according to actual development contexts.

#### **3.1. Evaluation matrix**

To collect information and build a baseline it was decided to create an evaluation matrix. This tool was used to analyse the dimensions attributed to open data in relation to judicial information considered to be relevant (court rulings, statistics, budget and administrative information), which should be published for it to be possible to compare the situation in the various countries.

The matrix used for this research has been based on a tool designed by CIPPEC to evaluate the level of compliance with principles for active transparency, data production, ethical principles, administration of human resources, transparency in public tendering processes and citizen participation. This tool was presented in **Public Policy Document 113: “Impartial, but not Invisible: Justice, Transparency and Open Government”**<sup>6</sup>.

This tool was used for the first time to analyse the National Judiciary Branch, the National Public Prosecutor’s Office and the Public Defence Service in Argentina. The results were presented in traffic-light format: red for non-compliance, amber for partial compliance, and green for compliance. The analysis was published in **Public Policy Analysis Document 118: Access to Information and Transparency in the Justice System: A Road that is Just Beginning**.<sup>7</sup>The tool as applied to the judiciary branches in Argentina, Chile and Uruguay can be found in **Appendix III**.

In turn, to develop the matrix, the document prepared for the *Exploring the Emerging Impacts of Open Data in Developing Countries Project* for the evaluation of data submitted was taken as a reference. This tool helps identify whether the databases are published and if they can be considered to be open. To achieve this objective, the tool has been focused on the publication format. **Appendix III** shows the results regarding the form in which the information is published.

On the basis of the two tools, a matrix was prepared that was used to take the first measurement of the status of open data in the Judiciary. It consists of 7 components:

- 2 on the general context of the country and the Judiciary,
- 4 in relation to the characteristics of the open formats, and
- 1 on the relevance of information published.

**Appendix II** presents the tool and its corresponding clarifications.

The results obtained by each country in each of the categories receive a grade. The scale of possible results starts at 0, and the maximum score is 120.5. Given that the study is aimed at analysing open data, it was decided to give a different weight to the intrinsic dimensions of such open data: accessibility, non-discrimination, reusability and sustainability. These were given a weighting of 1.75, whereas the categories of relevance, country context and Judiciary context were weighted by a factor of 1.

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6 Elena, S. and Pichón Rivière, A. (October 2012). Imparcial, pero no invisible: justicia, transparencia y gobierno abierto. Documento de Políticas Públicas / Análisis N°113. Buenos Aires: CIPPEC, [http://www.cippec.org/documents/10179/51825/113+DPP+\[I%2C%20Imparcial+pero+no+invisible%2C%20Elena+y+Pichon+Riviere%2C%202012.pdf/664d2d8f-e843-4f7c-8336-c3b8f65894a9](http://www.cippec.org/documents/10179/51825/113+DPP+[I%2C%20Imparcial+pero+no+invisible%2C%20Elena+y+Pichon+Riviere%2C%202012.pdf/664d2d8f-e843-4f7c-8336-c3b8f65894a9)

7 Elena, S. and Pichón Rivière, A. (March 2013). Acceso a la información y transparencia de la justicia: un recorrido que recién comienza. Documento de Políticas Públicas/ Análisis N°118. Buenos Aires: CIPPEC. [http://www.cippec.org/documents/10179/51825/118+DPP+\[usticia.pdf/f6cd270e-7f2f-47e5-8b1e-73c6a616e398](http://www.cippec.org/documents/10179/51825/118+DPP+[usticia.pdf/f6cd270e-7f2f-47e5-8b1e-73c6a616e398)

### 3.2. Field study

The study combined a) review of the information available on the three countries, b) the collection of information by means of visits to the web pages of the Judiciary Branches, and c) the design of interview guidelines for key stakeholders, including officials of the various judiciary branches and users of public information on the judiciary<sup>8</sup>. Interviews were performed to complement the quantitative analysis arising from the evaluation matrix with a qualitative analysis that facilitates understanding of the phenomena from the viewpoint of the stakeholders involved. Some of the findings of an explanatory nature are based on the results of the interviews.

These elements were used to complete the evaluation matrix. The information that has been compiled and analysed explores the characteristics of existing open data initiatives, their relationship with global initiatives, the context and structure of the judicial system in which they are developed, and an analysis of their outcomes, paying special attention to the factors and elements to encourage transparency and accountability.

The study took place between May and November 2013.

## 4. Governance context in Latin America and countries studied

Latin America is a region that records great political, economic and social diversity. It is the region with the greatest social inequality: acute income concentration makes it the region with the worst inequality indicators, with 10 percent of the population holding 40 percent of total income. This also implies an unequal development of institutions. Rising social inequality is closely related to the deterioration in institutional quality recorded by Latin American democracies over the last two decades, although some signs of improvement have recently begun to be seen in several countries.

Countries in Latin America show differing levels of implementation of open government and transparency policies. Significantly, most Latin American countries have signed up for the Open Government Partnership, including the three countries on which this analysis has focused. Coincidentally, the countries that have not yet done so are those that recorded the worst results on international institutional quality indicators, such as Bolivia and Venezuela<sup>9</sup>.

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<sup>8</sup>**Appendix I** includes a list of those interviewed for this study in the three countries.

<sup>9</sup>According to the Rule of Law Index developed by the World Justice Project for Bolivia, with a score of 0.39 Bolivia ranks 15<sup>th</sup> of the 16 countries surveyed, while Venezuela comes last in the region, with a total score of 0.31.

The countries analysed in this project achieved better scores, with Uruguay leading the region with 0.69, Chile second with a score of 0.68, and Argentina sixth with a total score of 0.50.

To complete the context, we present below certain economic, social and institutional data for the countries included in the survey:

- **Argentina** records human development<sup>10</sup> and per capita income levels that are among the highest in the region. Per capita GDP is USD11,572. Life expectancy at birth is 76 years and the urban population is in excess of 93% of the country's total population. The unemployment rate has been declining gradually until a level of 7.3% in 2012. The Internet penetration rate for Argentina totals 67% of the population, the highest in Latin America. At institutional level, according to Transparency International it is in 106<sup>th</sup> place out of a total of 177 countries surveyed, with a score of 34/100 on the Perception of Corruption Index<sup>11</sup>.
- **Chile** is considered to be a mid to high income country. Its quality of life, economic growth, human development and globalisation indicators are among the highest in Latin America. Per capita GDP is USD15,424 and life expectancy at birth is 79 years. The unemployment rate in 2012 was 6.4% of the economically active population. A total of 11% of the country's total population is below the poverty line. The Internet penetration rate is 59% of the population. On the matter of perception of corruption, Chile records a score of 71/100, ranking 22<sup>nd</sup> among the 177 countries surveyed.
- **Uruguay** shows very good results on quality of life, economic growth, human development and globalisation indicators, and is positioned as one of the countries with the highest standards of living in the region. Per capita GDP is USD14,706. Life expectancy at birth is 77 years, and the literacy rate is in excess of 98%. The unemployment rate in 2011 was 6.2%, and the poverty rate was 6.5%, with 1.1% of the population recorded as being below the indigence level. The percentage of the population with access to internet is 56%. On the corruption index, with a score of 72/100 it is 19<sup>th</sup> out of the 177 countries surveyed.

#### 4.1 Principal milestones over a timeline

For a thorough understanding of the context in which open data processes are being carried out in each of the countries that have been selected, it should be stressed that in the last ten years there has been significant progress in the countries studied in relation to the incorporation of open government and open data policies. The principal aim of these policies has been to make public information accessible to ordinary citizens, on the grounds that both information and its access are a human right.

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<sup>10</sup>The IDB's Human Development Index measures development by means of a combination of indicators on life expectancy, level of education and income. The education component contains two indicators: years of schooling laid down, and average actual years of schooling. The income component is measures on the basis of per capita GNI (in dollars).

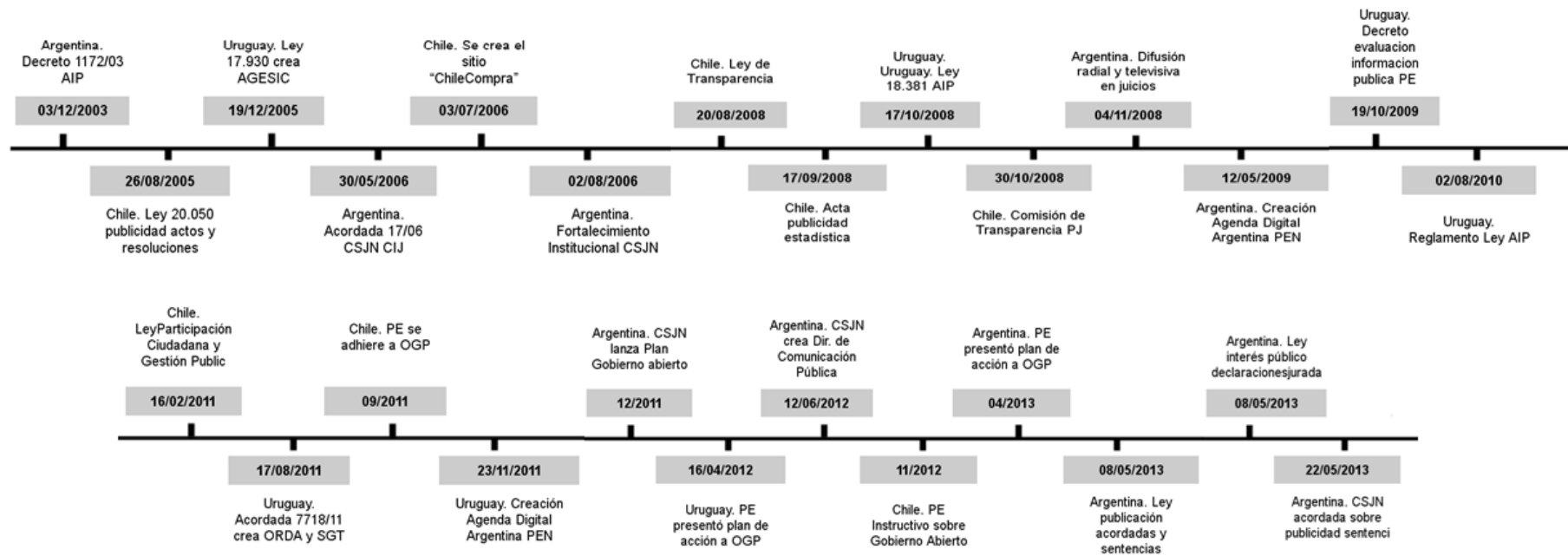
<sup>11</sup><http://cpi.transparency.org/cpi2013/>

On the matter of the publicity given to data, transparency and access to public information in the three branches of Government, the situation differs in the three countries:

- In **Chile**, publication and transparency policy is mainly promoted by the Executive Branch, and the various laws on this point are linked to a policy of transparency developed by the Judiciary Branch. Following the passing of the law on access to public information, the Transparency Council was set up, a public data portal was launched, and the country joined the Open Government Partnership. The Judiciary Branch follows the same line promoted from the Executive and Legislative branches, and specific regulations have been issued for it on data publicity and the way that data should be published. As is the case within the area of the Executive, it is equipped with a Transparency Committee as the body that ensures compliance with the law on access to information.
- In **Uruguay** the Legislative and Executive branches promote transparency policy. There is a national law on access to public information in place, it has a public data portal, and it has joined the Open Government Partnership. Directives are promoted within all government bodies, but the Judiciary Branch has not adopted a specific policy on transparency and data publication.
- In **Argentina**, promotion of access to information and data publicity takes place unevenly, although in recent years some efforts have been made, such as those carried out by the Digital Agenda Forum, which deals with topics such as public data, free software, open government and interoperability, among others. These efforts do not as yet constitute a uniform public policy, and even less do they represent the practice of government bodies. In the last year Argentina has submitted its action plan to the Open Government Partnership, and has launched a public data website. In an innovative move, the Judiciary Branch launched its open government portal in 2011 to promote a policy for access to information on the Judiciary.

The most relevant developments on this matter have been the laws, decrees and resolutions of the executive branches – such as adherence to the OGP- affecting the Judiciary in relation to data transparency, access and publicity. Below is a timeline that illustrates the most relevant milestones, for an understanding of the context in which these processes are taking place in each of the countries selected.

Figure 3. Timeline



Source: CIPPEC

## 4.2. Chart of key stakeholders

The chart of stakeholders is a tool that enables analysis of the relationships that are generated around a given study topic, and is useful in helping understand the influences and relationships in play.

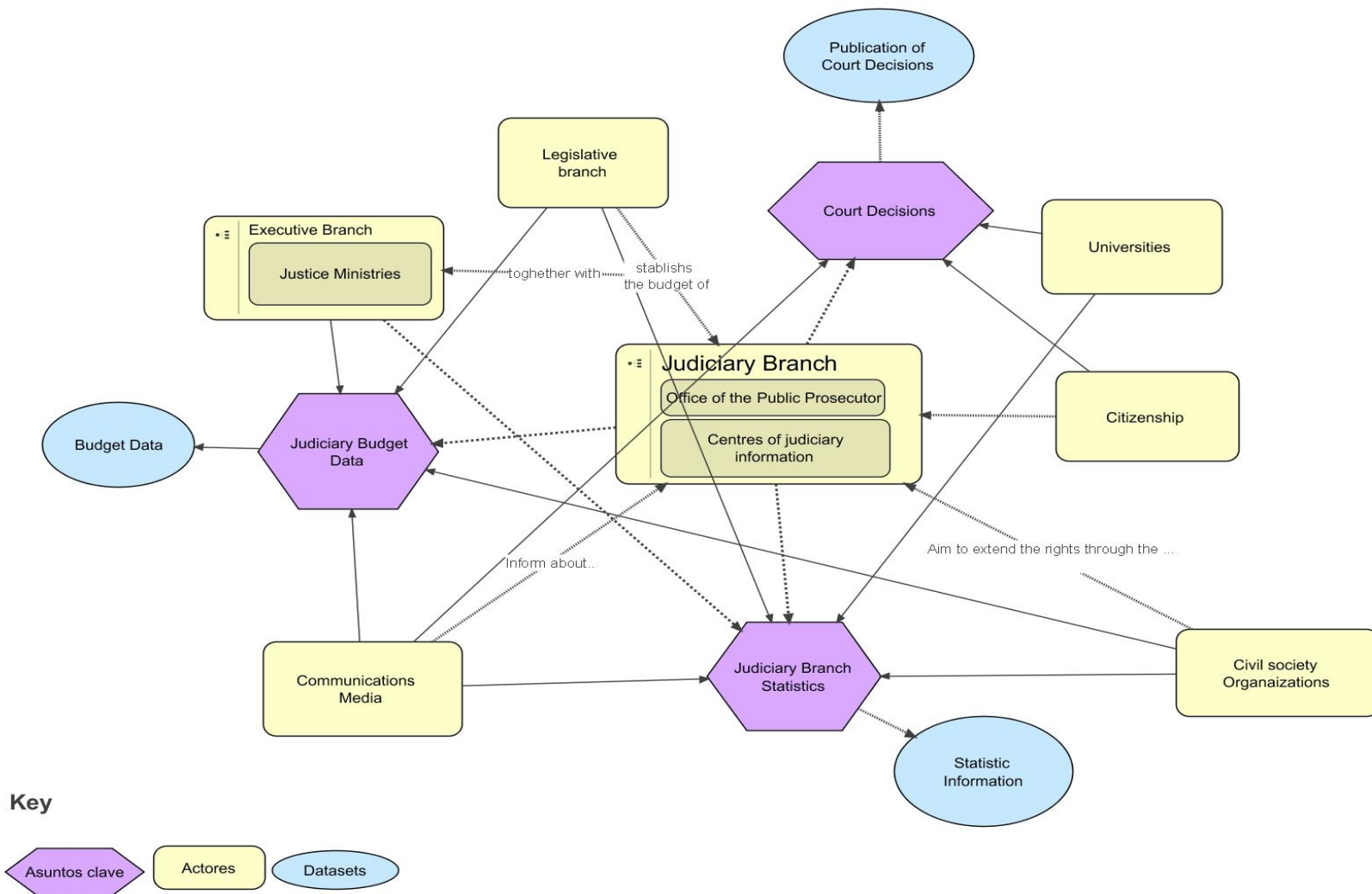
In order to design it, a selection was made first of the minimum information on the Judiciary that needs to be published: **court decisions, statistics, and budget and administrative information..** Second, identification was made of the stakeholders connected with those elements, whether as producers or users of the information. Third, interaction between these stakeholders and the information was mapped, to analyse the relationship generated between them.

To facilitate an understanding of the differences between the various stakeholders, two types of relationship have been established:

- An unbroken line represents continuous interaction between those involved.
- The dotted arrow represents a direct relationship that is not continuous.

For example, the judiciary branches generate statistics on the judiciary; the media and universities are direct users of that information, whereas the justice ministries are non-continuous users, as they use it to design *some* policies. To show the relationship between the stakeholders involved, a detail was included of the action generating the relationship. Lastly, identification was made of significant information related to the central points of the analysis. The result is included in **Figure 4.**

Figure 4. Chart of Stakeholders



Source: CIPPEC.

This chart has been based on three types of information: **decisions, the budget, and statistics.**

The **Judiciary Branches** were identified as the principal **generators** of information.

**Intermediaries** –users of the data that recycle, share or transform it, generating a new communication using that information – include **organisations of civil society, the communications media, and universities.**

**Users** –that is to say, those who make use of the information but do not necessarily recycle, share or transform it – include **ministries of justice, legislative branches, and citizens.**

The various judiciary branches were identified as the main producers of information on the judiciary. Included within this category is the Office of the Public Prosecutor and the centres that gather information on the judiciary as producers of the justice system.

On this basis, the main relationships generated were identified in relation to judicial information between the judiciary and the various branches of government.

One example of the need for information can be found in the process of preparation of the budget for the body, its procurement plans and their execution. Statistical information makes it possible to determine the true situation of the Judiciary Branch, and on that basis, to design a budget for the judiciary according to the real needs of the justice service.

Information from the judiciary should not just be available to those whose cases are being processed by it. There should be broad availability of the information. Both individual users (experts, academics or activists) and intermediaries (the media, research centres) should be able to gain access to it and reuse it freely.

It is important to highlight the role of information intermediaries:

- Universities not only educate the future professionals who will be a part of the judiciary system, they also function as centres for research, debate on the promotion of judicial reform, and are major users of jurisprudence.
- The media play an essential role in keeping society informed. To do so, they take the information available in the Judiciary Branch and give it form, simplifying access to it. Both traditional journalism and investigative journalism use the judiciary branch as a source of information.
- The associations of civil society have different aims guiding their work. There are those concentrating on strategic litigation, others that focus on research and analysis, and others dedicated to the monitoring of the system of justice. All make use of the system of justice and its information in the manner best suited to their needs.

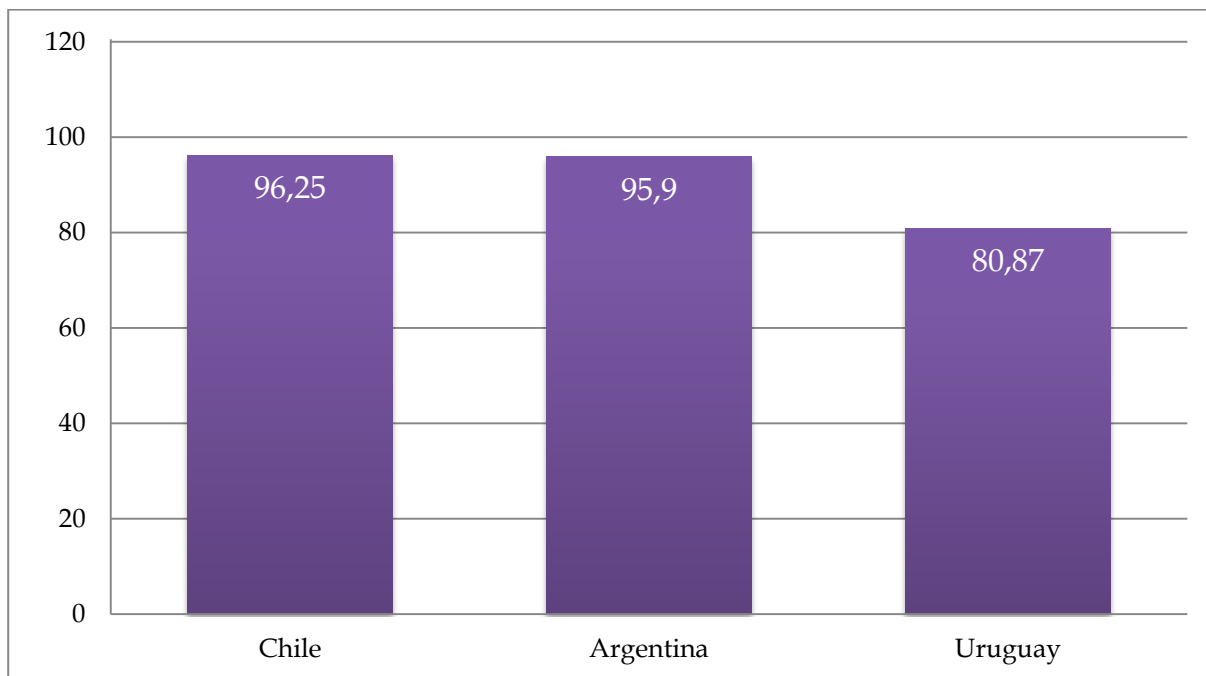
## 5. Results of the survey

The results obtained present valuable comparative information that reveals the differences and similarities in the implementation of transparency and open data policies in each of the judiciary branches.

As a result, it was possible to arrive at conclusions in relation to the importance of the **will** of the judicial branches to implement these measures, notwithstanding the developments at other levels of government. In this regard, in Chile the transparency policy implemented by the judiciary branch is in line with an overall policy at all levels of government, which includes standards for access to public information, mechanisms for their implementation, and a declared vocation for transparency and accessibility. Uruguay, on the other hand, possesses a law on access, a public data portal, and a policy for transparency at national level; nevertheless, the Judiciary Branch records a low score when it comes to the publication of information. On the contrary, Argentina has no law on access to public information, but the Judiciary Branch has developed a policy for the publication of information and open government.

The following chart illustrates the aggregate results achieved by each country. These results show the weighted value of the results obtained in each of the 7 categories analysed for each of the three types of information available.

**Figure 5. Open Data in the Judiciary Branch – Results by Country**



Source: CIPPEC.

## 5.1. Chile

Chile came out in first place in the survey, with a score of 96.25/120.5 points.

Chile promotes a state policy on transparency and the publishing of information, and has a law on access to information that includes penalty mechanisms and a body responsible for its implementation. The Judiciary Branch is no exception, having adopted various measures to increase its transparency; 100% of its officials and users consider that recent years have been positive as regards information published and the development of a transparency policy.

Decisions, budgetary information and statistics are published. As in Argentina, the formats used are not freely adaptable, and it is necessary to possess the appropriate software (generally Microsoft Office licences). Statistical information is limited; only the information regarding new case numbers, pending cases and cases concluded by jurisdiction, type of court and instance is published. Data is available on spreadsheets, in small datasets. If of interest to the Judiciary Branch or an individual, **it is possible to generate a database of new cases entered and cases concluded by year** (for 2012 and 2013), which can be exported to an Excel document.

Rulings are published in Word or PDF documents, and information can be extracted from them, but there are no pre-established databases. The requirement to publish rulings once they are handed down is met.

Chile suffers from a limitation in the case of the reusability of the information, as the Administrative Corporation for the Chilean Judiciary Branch authorises users to employ, print, reproduce and store the information contained on the site **exclusively for personal or academic purposes, which excludes the possibility of it being used for commercial purposes**, among other uses.

Chilean officials show a greater knowledge of the open data concept than their Argentina and Uruguayan peers. **100% of officials declared they were familiar with it, and considered that the information published complied with the necessary requirements to be considered as open. On the other hand, while 100% of users were aware of the open data concept, they did not consider that the information published fell within this concept.**

## 5.2. Argentina

Argentina took second place with a score of 95.9/120.5. This score is high, and was recorded despite the fact that in the “Country Context” category it received the lowest grade, as it has no law on access to public information. Nevertheless, in an effort to improve transparency, the Judiciary Branch has increased the publication of information in reusable, accessible formats.

This change was highlighted by the officials interviewed in the context of the project, who considered that in recent years **efforts had been made to increase transparency**, and these actions were unanimously assessed as positive. Nevertheless, **100% of users and 75% of officials** (the

remaining 25% decided not to answer the question) **consider that the judiciary branch should produce more information** than it currently does, including the publishing of judge's statements of worth in an orderly and systematised manner, information on the length of court processes, the curricula vitae of judges, the filming of competitions for appointments, etc. There is also a need for greater level of detail and categories used to prepare the statistics – by type, number of parts, length of trials, etc.

Information is published in formats requiring paid licences, and is not free, in the sense that it is in Excel and PDF formats that require the user to have a software licence to be able to access the information. Another defect of the publishing of the information on budgets and rulings in PDF format is that it hinders reuse. This was a common complaint by **users**, who feel that **there is a need to improve the publication format**, eliminating for example PDF or scanned formats and increasing the use of open formats and spreadsheets.

Information published includes the rulings<sup>12</sup> of the National Supreme Court, the courts of appeals, and in PDF format, that of the tribunals and courts of first instance in the various jurisdictions. Not only is this format not open as indicated above, but in certain circumstance it is impossible to reuse it. **Publication of scanned paper originals hinders use, something that would be resolved by digitalisation.**

In the case of the **officials** interviewed, **75% were not familiar with the open data concept, while 25% said that they were familiar with it but only partly.** As a result, they were unable to assess whether the data published fell into the category of open data. On the other hand, **100% of Argentine users declared that they were aware of the open data concept**, and 80% agreed that the information published by the Judiciary Branch does not fall within the concept; the remaining 20% maintained that it complied in part, as the information can be reused.

### 5.3. Uruguay

Uruguay obtained the lowest score in the survey, 80.87/120.5. It should be noted that it came last despite having a transparency policy at national level that includes a law on access to public information and enables information searches to be carried out using a public data portal, among other important factors identified when analysing transparency initiatives in the country context. The results lead to the opinion that the Judiciary Branch is lagging behind the overall context, and still needs to adhere to an initiative for transparency and openness of its information.

Although **100% of users and officials interviewed considered that the judiciary should produce more data than it currently does, they all felt that in recent years there had been a positive change in the way that the Judiciary made its data available.**

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<sup>12</sup> In the case of Argentina, the National Judiciary Branch was taken as a reference, and not the 24 judiciary branches that exist at provincial level.

Both statistics and budget information are published in PDF format. This hinders its export, and this its reuse. Rulings and other significant decrees are published in PDF format, but they are generally an image scanned from the file, which does not allow a direct export of the information and further hinders reuse. In the cases of Argentina and Chile, court statistics are published on spreadsheets making up small datasets, divided by jurisdiction, year and instance. This is not the case in Uruguay.

One interesting factor with regard to the analysis of the situation in Uruguay is that **users interviewed were not familiarised with the open data concept**. 66% of those interviewed said they were unaware of it, the remaining 33% said they were only partly familiar with it, and did not consider that the information that was published fell within the concept. In the case of officials, 50% said they were unaware of it, and the remainder, although having an idea of what it involved, were not capable of defining it.

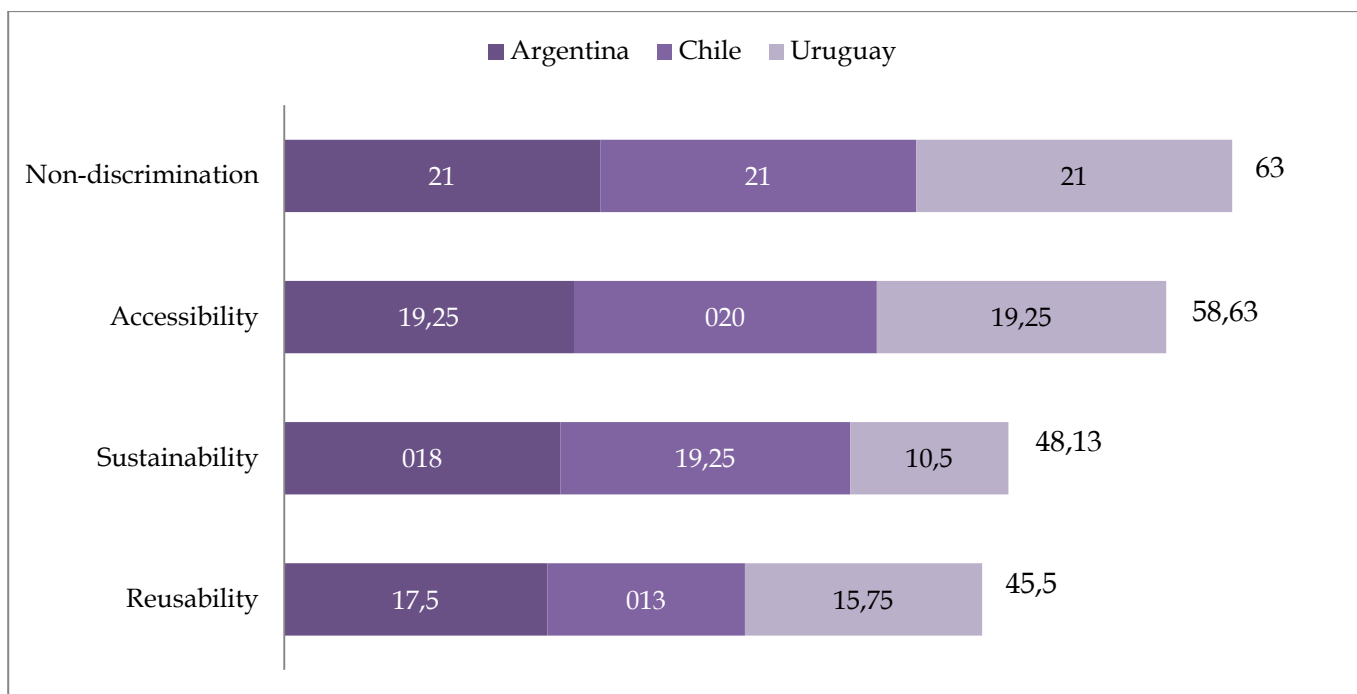
## **6. Analysis according to dimension of open data in Chile, Argentina and Uruguay**

### **6.1. Does the information published constitute open data?**

It can be determined whether the information published by the judiciary branches falls within the scope of open data by contrasting the information/data gathered with the standards characterising open data: non-discrimination, accessibility, sustainability and reusability.

**Figure 6** shows the aggregate values obtained by each of the three countries in the different dimensions. This analysis is relevant in determining in which dimension the countries obtained the best results, and in which they encounter the greatest problems.

**Figure 6. Results for the Three Countries by Dimension**



Source: CIPPEC.

In the case of **reusability**, Argentina recorded the top score, followed by Uruguay and then Chile. The main difficulties lie in the formats in which the information is published, which do not allow it to be easily exported. Note should also be taken of the limitation we have mentioned in Chile, where use of the information is authorised only for personal or academic purposes. In the case of Argentina, the information is subject to copyright, but no limitation or scope is imposed on reuse. In the case of Uruguay, no specific information was found on user licences.

Another positive result is that the three countries provide updated information, with an aging of one year at most, indicating a trend towards the **sustainability** of this policy. The best scores in this area were for Chile and Argentina, with similar results, and Uruguay a considerable way behind. The aspect giving rise to the greater difference between the three countries is that Uruguay does not have specific legislation regulating the publication of data. Such norms are essential, because they represent progress towards the systematisation of the methods developed and greater permanence for transparency policies.

On the matter of **accessibility**, the three countries obtained a similar score, very close to the maximum possible. This result is encouraging, as it demonstrates that the judiciary branches of the three countries tend to publish information on line so that it can be accessed by all.

In relation to the **non-discrimination** standard, results were positive for the three countries. The only failing shown in this aspect refers to the licences for the use of IT programs needed to be able

to access the information. This situation is moderated in Chile and Argentina, where the statistics are also published on the site as an image. They are accessible to everyone, but they cannot be exported and reused.

As to the **relevance** standard, Argentina and Chile have a policy for the publication of information consistent with a policy for judiciary branch transparency, expressed in speeches by magistrates and a joint effort to increase the quantity and quality of the information that is published. One example of this willingness can be found in Decree 14 issued by the Argentine Supreme Court (2013) that promotes the use of new technologies to improve the service provided by the system of justice: “Within the process of change and modernisation of the service provided by the system of justice being carried out within the framework of the Program for the Institutional Strengthening of the National Judiciary, the Supreme Court of Justice of the Nation proposes to establish and implement the use of management tools applying information technology” (PJN Argentina, 2014). Although Uruguay has made progress, it still does not have a transparency policy for the judiciary branch.

Based on the analysis of the different dimensions and countries, it can be seen that **although the judiciary branches publish information on rulings, budgets and statistics, it does not meet the requirements for consideration as open data.** This is because it is not in formats that are fully accessible and free of licences that allow indiscriminate access by all citizens. Nevertheless, **it is important to highlight the proactive effort being made to publish the information, and to make it accessible to all.** This has been demonstrated by the result of the non-discrimination dimension, which gained the highest score in the weighting of all the dimensions for the three countries, followed by accessibility. There is a need for judiciary branches to evaluate their transparency and information publicity policies to boost their usefulness, discovering new data that should be published and analysing the most appropriate formats by means of which to do so.

## **6.2. Data use from the point of view of the stakeholders.**

### **Use of data according to officials and users interviewed**

Based on the chart of stakeholders drawn up, the different types of players have been identified: producers, users and intermediaries, and these were contacted to be interviewed in each country. Some of the results of these conversations were presented in the detailed country by country analysis. The results of these interviews are however essential for the understanding the use given to the data published.

### **Chile**

In Chile, 100% of users and officials stated that they use the information that is published, which has become essential input for analysis of the implementation of various laws and resolutions, to be able to know how they are put into effect, and what impact they have had in practice. In turn, Chilean officials considered that the information is essential in proposing bills based on experience and those that serve to improve the functioning of the courts.

In the Chilean case, officials and users agree that to reinforce the use of the information, it should be provided with a greater degree of analysis and breakdown, to facilitate understanding.

As to the use of the information to improve the functioning of the organisation of the judiciary, 100% of Chilean officials indicated that the response was positive and that the information was used to improve the performance of the courts. Chilean officials consider that on the basis of the judicial information generated and published, legislative reforms were achieved that improved the situation of the Chilean judiciary.

As in Argentina, officials and users consider that the judiciary must generate more information than it does at present. In turn, users believe that not all the information held by the judiciary is made public.

### **Argentina**

In the case of Argentina, 100% of officials and users stated that they make use of the information generated by the Judiciary Branch in their daily work. Users outside the Judiciary use judiciary information as input for the development of desk study research and for analysis of the current situation in Argentina.

In turn, internal users make intensive use of the information produced by the courts, and information from each individual court. For example, for analysis of gender policies, use was made of a gender chart and other visual aids developed by the Office for Women of the Supreme Court of Justice, which among other data, dealt with the internal composition of the courts.

Nevertheless, there was no evidence to confirm that the information from the judiciary was specifically planned for systematic use in the design of justice policies. For example, there was no evidence of data on the productivity of courts that might be used to improve the quality, quantity and duration of court processes. In this instance, an inclination by information users to overstate its use was detected.

Users agreed that it would be useful to be able to access the curricula vitae of judges, film of competitions for appointments, and for statements of wealth to be published in an orderly, systematised manner.

There was no unanimous opinion among officials in the judiciary regarding the use of the information; 50% consider that there are no systematic mechanisms for use of the information in the design of judiciary policy. On the other hand, the remaining 50% consider that there are control mechanisms that imply analysis of current policies, using as an example Decree 14, which establishes mandatory use of the Judiciary Management Information System (SGJ) in all the courts, tribunals and offices of the National Judiciary Branch for all actions in connection with the processing of cases.

Lastly, both users and officials consider that more information should be generated than is being provided at present. In turn, users believe that the judiciary branch holds information that it does not publish that should be made available to all.

### **Uruguay**

In the case of Uruguay, all those interviewed stated that they use the information generated by the Judiciary Branch. It is used to keep up-to-date with the latest jurisprudence and trends, and for the development of various judicial tasks. As in the Argentine and Chilean cases, those interviewed consider that the judiciary should produce more information than it currently does. They showed agreement on certain areas where there is an information vacuum, such as the length of processes broken down into stages, number of hearings held and failed, publication of the curricula vitae of judges and the development of their career within the judiciary, among other aspects.

In turn, 100% of the officials agreed that the information was used to improve court performance. Officials consider that the Supreme Court makes use of the information on the judiciary when considering sanctions and promotions. It is also felt that the information is useful when it comes to planning the opening of new court locations.

Both users and officials indicated that the judiciary needed to produce more information than it does at present. Users stated that information was generated, but it was not published, which was essential if transparency is to be improved.

### **Role of intermediaries**

In the three countries studied, mediators represent a fundamental link in the use and communication of data on the judiciary. In general, there are three types of intermediary in the three countries: the media, organisations of civil society, and academics and experts (both within and outside the Judiciary Branch).

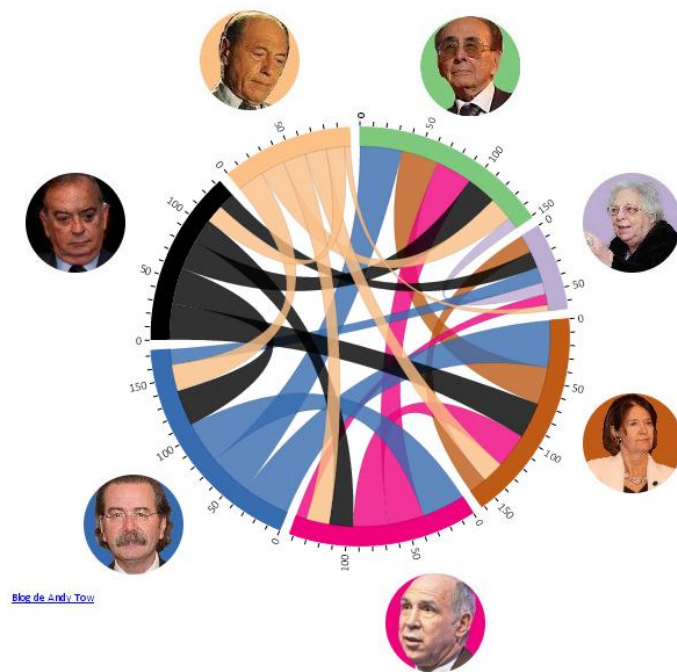
Through the investigations carried out by the media using information from the judiciary, the media has the ability to widely broadcast information on the judiciary. Although investigations based on data are not common, it has been possible to detect a growing trend towards the publication of analysis based on such information.

Below are two examples of expert or academic intermediaries that use, reuse and distribute data on the judiciary. One consists of a chart developed by Andy Tow<sup>13</sup> that shows the concurring votes of justices on the Supreme Court of Justice.

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<sup>13</sup> Link: <http://www.andytow.com/>

**Figure 7. Visualising Votes by the Judiciary: Concurrence of Justices on the National Supreme Court.**



Source: Andy Tow Blog, 2014.

Another is “Knowledge of Laws is not Knowledge of Justice” by Gustavo Arballo<sup>14</sup>, which shows uses of judiciary data, such as a detailed analysis of homicide rates in Argentina, that challenge both aggregate national data and widespread beliefs on the matter.

An important group of intermediaries in the three countries consists of not-for-profit organisations and thinktanks (Tauberer, 2012). By means of their research and analysis capabilities, their social networks, contacts and ability to influence, they keep society informed about complex policy matters.

Over the years, civil society has adopted numerous new initiatives to promote citizen control and increase transparency of the state. This new role of “opening up” data does not just imply the publication of data not available on the web pages, but also the presentation of data that is available, but is not easily understandable or accessible. In this regard, **civil society fulfils a role in placing information before the population in a simple and accessible manner**, providing the information with greater clarity and reducing the need for technical knowledge for its comprehension. Increasing use is being made of new information visualisation tools to present data in the most dynamic manner possible.

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<sup>14</sup> Link: <http://www.saberderecho.com/>

These organisations have adopted various forms for the use of the data, that is to say, for the instigation of change through their use: hackathons, investigative journalism, best practice publications, etc.

By making use of these new technologies, civil society itself seeks to strengthen an informed population that is aware of the importance of State information in democratic societies.

We describe below some success stories showing the influence of organisations of civil society on the opening up of public data.

In Argentina, the recent **ruling by the Supreme Court of Justice** in the case of **CIPPEC c/ E.N-M. Desarrollo Social- Dto. 1172/03 re Law 16.986** was an important step for recognition of the right to access public information.

Faced by a refusal to provide information on the subsidies granted by the Ministry for Social Development, **CIPPEC** brought legal action to obtain the requested database. After a lengthy court process, on 26 March 2014 the National Supreme Court of Justice ruled in favour of this organisation and ordered the Ministry to authorise access to the databases that had been refused. In this ruling the Supreme Court of Justice stressed the importance of access to information and the need for Congress to enact a national law to regulate this right. As a result of the ruling, government and opposition together initiated a new process for discussion, treatment and enacting of a law for access to public data. This example shows how an impact strategy begun by an organisation of civil society, added to proactive leadership by the judicial body, can have an impact on the public agenda on a topic such as access to information.

Another of the roles that organisations of civil society can play to promote greater citizen participation is to facilitate citizen access to information. One clear example of this is the *¿Qué hacemos? [What do we do?]* portal, developed by **Data Uruguay**, which allows anyone to **submit requests for access to information** from all state entities using a web form. Once the request form has been completed, the organisation takes charge of processing the information and sending the reply to the interested party, who has the possibility of considering it to be insufficient and repeating the request for access to the information.

Another core function for the democratic development of institutions is **investigative journalism**. In pursuing investigations, the intention is to reveal the truth about some controversial matter. One example of this function are the projects carried out in Chile by the Journalistic Research Centre (**CIPER**). This centre seeks to become a communications medium that contributes to improving democracy, promoting quality public policies, ensuring greater transparency, improving the quality of life of the population and reducing corruption. All its reports and investigations are published on its website.

The above represent three different ways of impacting on reality, the first through litigation, the second through citizen participation, and the third through the providing of information.

Although it is still not possible to objectively measure the impact from the use of public data, it is possible to state that it contributes to an improvement in citizen participation and transparency. At the moment there have been only a few case studies or best practice reports, but it is important to recognise their benefits at micro level in contributing to macro impact studies. Growth in the supply of open data is justified thanks to those contributions and on the basis of the potential for open data to stimulate innovation and economic growth, providing support for transparency and accountability, and encouraging citizen inclusion and empowerment (Davies, 2013).

## 7. Findings

Although no open data policy exists in the judiciary branches studied, in all three cases broad-ranging information publishing policies have been implemented, the main features of which are **accessibility and non-discrimination**. Despite the fact that in the case of reusability none of the countries use licence-free formats, data is published on commonly-used formats that enable reuse by users.

Therefore, the judiciary branches of the countries analysed have information-publicising format that differ among them, although **offering a suitable environment for the development of an open data policy**.

Some of the overall findings of the survey have been as follows:

1. **All three countries have created a suitable environment for the development of an open data policy. Nevertheless, the information does not yet comply with all the requirements for consideration as open data.** Among other reasons, this is because an open data policy in the Judiciary cannot take place on a “trickle-down” basis as a consequence of the adoption of such policies within the area of the executive branches. Although the existence of an open data policy in other branches improves the possibilities for its existence, the conviction and will of players in the judiciary will be the force behind the most profound improvements in the availability of data.
2. The investigation has also shown that of the three categories impacted by the use of open data (transparency and accountability, innovation and economic development, and inclusion and empowerment), outcomes were only achieved in the case of transparency. On the other hand, results of the investigation did not reveal the existence of any impact on innovation, or the performance of justice or its access. This has been due in part to the fact that proactive data publication took place because of a belief in the obligation to make the justice service more transparent, rather than for reasons of efficiency. This leads to data not being used systematically for the design of quality judicial policies, and there is no public accountability in relation to such policies.

3. Judiciary branches publish data, but the publication of data per se – whether in open or closed formats – does not ensure that the information meets the necessary quality, volume and frequency standards. This means that despite the efforts made, there is still a lack of balance between the supply and demand of judiciary data.

## **8. Recommendations for implementation of an open data policy in the judiciary**

Below we detail recommendations according to levels for the design and implementation of an open data policy in the Judiciary Branch.

### **1. Increasing awareness among stakeholders in the judiciary and users**

Supreme courts, judicial councils and transparency bodies should:

- Encourage a cultural change in the Judiciary Branch with the aim of ensuring openness and transparency in their actions. This can be achieved by means of clear leadership from the highest authority, training of human resources, and separation of court administrative and jurisdictional functions, among others.
- Create joint work spaces for the Judiciary Branch and civil society so that they can together design policies for access to information and open data. One of the distinctive aspects of open government and open data is the real participation of civil society in policy design and implementation. For this reason it should be included from the outset in the decision-making process.
- Promote debate on open data laws. These laws provide an opportunity to update and improve access to information that is already being published, and make it possible to specify those new datasets and records that should be published (Sunlight, 2014).
- Complement open data policies with existing systems for publication of information. Building on the basis of these precedents can help to strengthen open data policies and identify new niches where such policies can be developed.
- Incorporate to judiciary training programmes courses on open data and access to public information, stressing their contribution to the building of democracy and citizen empowerment.
- Promote working groups involving the three branches of State, to work together on processes for open data, public data portals, etc.

### **2. Implementation of open data policies**

- Define scheduled publication of information on open formats. It is not necessary for all the information and data sets to be published at the same time. It is recommended that the start to the process should be gradual, beginning with the smallest and simplest sets, evolving into a constant, innovative process that includes openness of existing data as well as of the new information as it is created.

- Generate regular working spaces with potential data users and intermediaries for an in-depth knowledge of the data and formats that are considered to be most useful. Contact with intermediaries is essential, as a large amount of data will not reach end users directly but through these intermediaries, which include, for example, the media, NGOs specialising in justice matters and/or data openness, and universities, among other stakeholders.<sup>15</sup>
- The Judiciary Branch should organise workshops for debate with civil society users and intermediaries so that discussion can take place together with technical personnel from the judiciary branch on the data to be published, level of detail and frequency, and formats. These workshops should also be attended by officials with sufficient authority to take decisions.

### **3. Monitoring and evaluation of open data policies**

- Strategic planning mechanisms should be designed that include methodologies for planning, monitoring and evaluation, key tools for analysis that nourish the decision-making process for the improvement of judiciary performance.
- Performance monitoring methods should be implemented for the various aspects to be able to compare development. Indicators should be prepared to enable comparison over time. The most relevant dimensions for the construction of a system of performance indicators are: activities, results delivered, and the effect and impact of open data policies.
- A long-term evaluation policy should be developed with the intention of generating information for the taking of decisions on key aspects such as the usefulness of the data published, policies to improve transparency, and the rendering of accounts.

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<sup>15</sup>Intermediaries are those persons and institutions that take data and transform it so that it is presented in a simpler, more attractive manner. (Open Knowledge Foundation, 2012).

## Appendix I - Persons interviewed:

1. Martín Gershanik. Researcher. Argentina. User.
2. Mónica Sánchez. CIPER. Chile. User and intermediary.
3. Cristián Riego. CEJA. Chile. User and intermediary.
4. Santiago Pereira. Researcher. Uruguay. User.
5. José Busquets. Researcher. Uruguay. User and intermediary.
6. Agustina López. Researcher. Uruguay. User.
7. Oscar Sarlo. Researcher. Uruguay. User.
8. Juan Ortiz Freuler. ACIJ. Argentina. User and intermediary.
9. Andrés Nápoli. FARN. Argentina. User and intermediary.
10. Milena Ricci. Unidos por la Justicia Asociación Civil. Argentina. User.
11. Héctor Chayer. Researcher. User and intermediary.
12. Graciela Caccuri. Judiciary. Argentina. Generator.
13. Eduardo Parody. Judiciary. Argentina. Generator and user.
14. Flavia Gómez. Judiciary. Argentina. Generator and user.
15. Nidia Massero. Judiciary. Argentina. Generator and user.
16. Paloma Domínguez, Loreto Neuman and Humberto Canessa. Ministry of Justice. Chile. Generator and user.
17. César Augusto Moya. Judiciary. Chile. Generator and user.
18. Constanza Ballarte. Judiciary. Chile. Generator and user.
19. Elbio Méndez. Judiciary. Uruguay. Generator and user.
20. Luz Gomet. Judiciary. Uruguay. Generator and user.
21. Raúl Oxandabarat. Judiciary. Uruguay. Generator and user.

## Appendix II – Comparison of transparency and open governance in the Judiciary in Argentina, Chile and Uruguay <sup>16</sup>

	Argentina	Chile	Uruguay
<b>1. Active Transparency</b>			
Is the organic law on the Judiciary published on the official website?			
Are rules for its operation and administration published on the official website?			
Is information on budget allocation published?			
Is information on budget execution published on the official website?			
Is budget information up-to-date?			
Is the Judiciary organisation chart published?			
Are the statements of wealth of judges published?			
Is information centralised on a single website?			
<b>2. Data Generation</b>			
Is there an office responsible for publishing statistics?			
Are statistics published on the official site?			
Is this data available in digital form?			
Is data available in a form that facilitates analysis? Are they reusable?			
Is it possible to access a large volume of data, or is it disaggregated?			
Is access to this information free?			
Is the information subject to licences or author's rights?			
Is the information up-to-date?			
Is the information updated regularly?			
Was it easy to find the information that is published?			
Are there links to other sites with official statistics?			
Is the public information complete?			
Are clarifications and complementary information published so that the published data is understandable?			
Are annual reports on performance published?			
<b>3. Publicity and Access to Jurisdictional Activity</b>			
Are rulings from all court instances published on the official site?			
Are resolutions and decrees published?			
Is information published on cases of public interest that are in progress?			
Is information published on hearings?			
Is information published on the summons and development of public hearings?			

<sup>16</sup> For a definition of each of the categories analysed, see Elena, S. and Pichón Rivière, A. (October 2012). Imparcial, pero no invisible: justicia, transparencia y gobierno abierto. **Documento de Políticas Públicas / Análisis N°113**. Buenos Aires: CIPPEC.

Is information published on public oral proceedings?			
Is there a transparent and equitable mechanism for the assigning of cases?			
Is there a computerised system for case assignment?			
Is the case assignment system uniform in all jurisdictions?			
Is the procedure for case assignment published on the official website?			
<b>4. Selection and Removal of Magistrates</b>			
Are the rules for the magistrate selection process published?			
Are the rules for the magistrate removal process published?			
Are public calls for competitive appointment published when vacancies become available?			
Are there rules for competitive appointment?			
Is the examination methodology public?			
Is information on the examination methodology publicly available?			
Is information on the status of the selection process published?			
Are evaluation instances published in detail?			
Are challenges made during the competitive process available to the public?			
Are reports of poor performance by magistrates published?			
Is information published at the start of processes for the investigation of poor performance?			
Is information published on the status of processes for the investigation of poor performance?			
Are the results of processes for poor performance published?			
<b>5. Personnel Hiring and Administration</b>			
Is the personnel structure published on the official site?			
Are actual staffing details published?			
Are vacancies published?			
Are new positions created published?			
If there are procedures or mechanisms for appointments, are they public?			
Is information on salaries published?			
Is there a system for the recording and control of leaves of absence?			
Are their systems for promotions?			
If there are systems for promotions, are they public?			
Are periodic appraisals performed?			
<b>6. Code of Ethics</b>			
Is there an approved code of ethics?			
Does it apply to judges, officials and employees?			
Is it provided in printed form, or digitally?			
Is it published on the web page?			
Does it include a judge profile?			

Is there an office responsible for controlling compliance with the terms of the code?			
Are there effective sanctions when the code provisions are breached?			
<b>7. Training Strategies</b>			
Are there mandatory training programmes for all employees?			
Are they published on the web page?			
Are there programmes on professional ethics awareness?			
Are there specialised programmes for the different components of the Judiciary?			
Are their programmes for training in new technologies?			
Are there programmes for training on indicators and statistics?			
Are there programmes for training on transparency or open government?			
<b>8. Control Systems</b>			
Are there effective mechanisms for internal control?			
Are there effective mechanisms for external control?			
Are annual reports published on performance?			
Is there a mechanism for control of budget execution?			
<b>9. Procurement</b>			
Is procurement planned and executed annually?			
Is there a centralised purchasing system?			
Are there rules to prevent splitting up contract awards?			
Are all stages of the procurement process open to the public?			
Are the bid documents published on the website?			
Are questions, replies and challenges published on the website?			
Is there true equality in the treatment of bidders?			
Is the bid scoring system public?			
Is there a procedures manual for procurement?			
If so, does it include international best practices on the matter?			
Is analysis made of failures to comply with purchasing regulations in specific instances?			
Are there citizen control instances in public procurement processes?			
<b>10. Citizen Participation</b>			
Are there institutionalised channels for participation?			
If so, are they given publicity and easy to access?			
Does civil society participate in the process of design, implementation and evaluation of judiciary policy?			
Are there indications of active collaboration between the organisations of civil society and the justice system?			
Are their instances available so that civil society can make its opinion known on certain matters?			
If such instances exist, are they published on the website?			

Are there mechanisms for an efficient response to requests for access to information?



## Appendix III – Evaluation Matrix on Open Data in the Judiciary

Checklist on Open Data in the Judiciary			
<i>Initial Diagnosis</i>			
	Score <sup>17</sup>		
	Argentina	Chile	Uruguay
<i>Country Context</i>			
1. There is a law on access to public information	0.5 <sup>18</sup>	1	1
2. There are mechanisms to sanction breaches of the Law on Access to Information.	0	1	1
3. There is an independent body responsible for ensuring compliance with the law on access to public information.	0	1	1
4. There is an initiative in the country on open data led by the National Executive Branch.	1	1	1
5. There is a public data portal.	1	1	1
6. The State is a member of the Open Government Alliance (OGP)	1	1	1
	<b>3.5</b>	<b>6</b>	<b>6</b>
<i>Judiciary Context</i>			
7. The Judiciary has web page	1	1	1
8. The Judiciary web page has an internal search engine	1	0	1
9. It contains up to 7 sections <sup>19</sup>	0	1	0
10. The Judiciary website has links to other relevant sites	1	1	1
11. There are rules in the Judiciary that regulate the publicising of information.	0.5 <sup>20</sup>	1 <sup>21</sup>	0 <sup>22</sup>

<sup>17</sup> Answers code: Exists: 1; Exists, Information Partial 0.5– the matter has been raised, but is not yet complete; None, or No Information: 0.

<sup>18</sup> Argentina is partly compliant, as there is a decree that does not include the Judiciary, but no national law.

<sup>19</sup> There is a consensus that sections should be as few as possible, to focus user actions on a few areas, and to facilitate maintenance (in both costs and contents). It will be assessed whether there are between 5 and 7 sections. See National Index of Municipal Web Pages. Methodological Aspects. CIPPEC and Universidad de San Andrés. 2008.

<sup>20</sup> Partly compliant, as there is no comprehensive regulation on the publicising of information. There are rules for some matters such as rulings and statistics..

<sup>21</sup> Acts 72, 205, and 221.

<sup>22</sup> No information.

12. There is an office or body responsible for publishing the information.	1 <sup>23</sup>			1 <sup>24</sup>			0 <sup>25</sup>		
13. There is a systematic open data policy in the judiciary	0			0			0		
14. Supreme Court rulings are published	1 <sup>26</sup>			1			0.5 <sup>27</sup>		
15. Court of appeals rulings are published	1			1			0.5 <sup>28</sup>		
16. Rulings of courts of first instance are published	1			1			0.5 <sup>29</sup>		
17. The Supreme Court case agenda is published	0			1 <sup>30</sup>			0		
18. The case agenda of ordinary courts is published	0			1 <sup>31</sup>			0		
19. Statistical data is published on incoming caseload	1			1			1		
20. Statistical data is published on pending caseload	1			0			0.5 <sup>32</sup>		
21. Statistical data is published on cases cleared	1			1			1		
22. Information is presented broken down by jurisdiction	1			1			1		
23. Information is presented broken down by instance	1			1			1		
24. Indicators are published based on the information	1			0			1		
25. Budget information is published on the Judiciary	1			1			1		
	14.5			15			11		
<i>Accessibility</i>	<i>Rulings</i>	<i>Statistics</i>	<i>Budget Data</i>	<i>Rulings</i>	<i>Statistics</i>	<i>Budget Data</i>	<i>Rulings</i>	<i>Statistics</i>	<i>Budget Data</i>
26. Information is available online	1	1	1	1	1	1	1	1	1
27. Information is complete/comprehensive	1	1	1	1	0.5	1	0.5	0.5	1

<sup>23</sup> Office of Statistics of the National Judicial Council, the CIJ and the CSJN.

<sup>24</sup>The Office of Transparency and Access to Information is responsible for related matters, but does not specify the publication of information.

<sup>25</sup> No information.

<sup>26</sup>Published on the National Supreme Court website <http://www.csjn.gov.ar/jurisprudencia.html>

<sup>27</sup> Some rulings are published on the website home page, but not all the rulings at this instance.

<sup>28</sup> Some rulings are published on the website home page, but not all the rulings at this instance.

<sup>29</sup> Some rulings are published on the website home page, but not all the rulings at this instance.

<sup>30</sup> [http://www.poderjudicial.cl/modulos/TribunalesPais/TRI\\_corte\\_suprema.php?opc\\_menu=2&opc\\_item=1](http://www.poderjudicial.cl/modulos/TribunalesPais/TRI_corte_suprema.php?opc_menu=2&opc_item=1)

<sup>31</sup> [http://www.poderjudicial.cl/modulos/TribunalesPais/TRI\\_tribunales\\_primera.php?opc\\_menu=2&opc\\_item=3](http://www.poderjudicial.cl/modulos/TribunalesPais/TRI_tribunales_primera.php?opc_menu=2&opc_item=3)

<sup>32</sup>The total number of pending criminal cases is published. Totals in progress at 31.12 by year according to court. 2012 Statistical Annual by Jurisdiction and CGP Cases in Progress.

28. Content can be found in less than three clicks <sup>33</sup>	1 <sup>34</sup>	1	0	1	1	1	1	1	1
29. Data is accessible with no type of monetary payment	1	1	1	1	1	1	1	1	1
	<b>4</b>	<b>4</b>	<b>3</b>	<b>4</b>	<b>3.5</b>	<b>4</b>	<b>3.5</b>	<b>3.5</b>	<b>4</b>
<i>Non-discrimination</i>	<i>Rulings</i>	<i>Statistics</i>	<i>Budget Data</i>	<i>Rulings</i>	<i>Statistics</i>	<i>Budget Data</i>	<i>Rulings</i>	<i>Statistics</i>	<i>Budget Data</i>
30. Data can be accessed with <b>no</b> need to request any authorisation of any kind.	1	1	1	1	1	1	1	1	1
31. To access data there is <b>no</b> need to register, giving personal information.	1	1	1	1	1	1	1	1	1
32. Data access is easy (requiring only basic computer knowledge) <sup>35</sup>	1	1	1	1	1	1	1	1	1
33. Information is not restricted by copyright <sup>36</sup>	1	1	1	1	1	1	1	1	1
34. IT programs used are free of licence requirements for use <sup>37</sup>	0	0	0	0	0	0	0	0	0 <sup>38</sup>
	<b>4</b>	<b>4</b>	<b>4</b>	<b>4</b>	<b>4</b>	<b>4</b>	<b>4</b>	<b>4</b>	<b>4</b>
<i>Reusability</i> <sup>39</sup>	<i>Rulings</i>	<i>Statistics</i>	<i>Budget Data</i>	<i>Rulings</i>	<i>Statistics</i>	<i>Budget Data</i>	<i>Rulings</i>	<i>Statistics</i>	<i>Budget Data</i>

<sup>33</sup>A web page should always try to ensure that the users is no more than three clicks from the content being searched for. For this reason no more than three levels of access should be created. See National Index of Municipal Web Pages. Methodological Aspects. CIPPEC and Universidad de San Andrés. 2008.

<sup>34</sup>Published in the CIJ not on the Judiciary webpage.

<sup>35</sup>See National Index of Municipal Web Pages. Methodological Aspects. CIPPEC and Universidad de San Andrés. 2008

<sup>36</sup>In non-proprietary formats not covered by licences that could restrict their use. See “What are Open Data?” <http://confdatosabiertos.uy/inicio/datos-abiertos/que+son+los+datos+abiertos> + When data or content is made available it is, by default, restricted in its use by intellectual property rights (or at least there is a strong possibility that it is restricted in this way). Thus, if you want to use that material, and especially if you want to reuse or redistribute it legally, you need to check the **licence** for that material and see what it allows and does not allow. Be aware that in many cases the site may not have a “licence” page or section but will have the conditions as part of the “terms of use” (or similarly named section). <http://okfn.org/opendata/glossary/>

<sup>37</sup>In non-proprietary formats not covered by licences that could restrict their use. See “What are Open Data?” <http://confdatosabiertos.uy/inicio/datos-abiertos/que+son+los+datos+abiertos> + When data or content is made available it is, by default, restricted in its use by intellectual property rights (or at least there is a strong possibility that it is restricted in this way). Thus, if you want to use that material, and especially if you want to reuse or redistribute it legally, you need to check the **licence** for that material and see what it allows and does not allow. Be aware that in many cases the site may not have a “licence” page or section but will have the conditions as part of the “terms of use” (or similarly named section). <http://okfn.org/opendata/glossary/>

<sup>38</sup>Information is published in formats that are not free from licence, such as Excel or PDF.

<sup>39</sup><http://opendefinition.org/od/>

35. There are no restrictions on data reproduction (for example restrictions on commercial use)	1	1	1	0	0 <sup>40</sup>	0	1	1	1
36. Data is presents in computer-readable format (not as a scanned image, for example)	0.5	1	0.5 <sup>41</sup>	1	1	1	1	1	1
37. Data can be exported	0.5 <sup>42</sup>	0.5 <sup>43</sup>	0.5 <sup>44</sup>	1	0.5	0	0	0	0 <sup>45</sup>
38. Information is available in bulk <sup>46</sup>	1	1	1	1	1	1	1	1	1
	<b>3</b>	<b>3.5</b>	<b>3.5</b>	<b>3</b>	<b>2.5</b>	<b>2</b>	<b>3</b>	<b>3</b>	<b>3</b>
<i>Sustainability</i>	<i>Rulings</i>	<i>Statistics</i>	<i>Budget Data</i>	<i>Rulings</i>	<i>Statistic s</i>	<i>Budget Data</i>	<i>Rulings</i>	<i>Statist ics</i>	<i>Budget Data</i>
39. Data is regularly updated (the most recent data is no more than one year old).	1	1	1	1	1	1	1	1	1
40. There is a rule that specifies the way data should be gathered and published	1	1	0 <sup>47</sup>	1	1	0 <sup>48</sup>	0 <sup>49</sup>	0	0
41. There are rules on the data publication policy	1	1	0	1	1	1	0	0	0

<sup>40</sup>The Administrative Corporation of the Judiciary authorises its users to use, print, reproduce and store the information contained on this site for personal or academic purposes.

<sup>41</sup>In PDF format that can be copied, but not easily reused.

<sup>42</sup>Rulings are published in PDF format.

<sup>43</sup>Some data is published in Excel, but much cannot be exported because it is published as an image on the web page.

<sup>44</sup>In PDF format that can be copied, but not easily reused.

<sup>45</sup>Both rulings and statistics and budget data are published in PDF format.

<sup>46</sup>Data is available in bulk if it can be obtained with a single (or very few) (machine-automatable) requests. For example, if the data is in bulk if it is in a single (or very few) easily downloadable files. Conversely, data is not in bulk if there is no quick, simple (and automatable) way to get it. For example, imagine that one can only obtain items from the dataset via a form on a website (this is frequently the case with, for example, company registers). In this case it would take many requests (perhaps millions if the dataset is large) to get the whole dataset. This would then be “non-bulk” provision of data. - <http://okfn.org/opendata/glossary/>

<sup>47</sup>Not shown on web page.

<sup>48</sup>No decree shown on web page.

<sup>49</sup>Information not found on web page.



## **Appendix IV –Comparison of the information on the websites of the judiciary branches in Argentina, Chile and Uruguay**

The Open Knowledge Foundation's Open Data Census and the World Wide Web Foundation's Web Index have developed a tool to measure whether a web portal is indeed an open data portal.

Making use of this novel tool, CIPPEC analysed the websites in the mentioned countries to determine their degree of openness and the amount of data published. To do so, the following scoring criterion was used: a dataset scores 1(one) point for each affirmative answer. For the dataset to be considered open according to the *Open Knowledge Definition*(OKD), it must have answered in the affirmative to each of the questions in the OKD column marked with an \*.

For the purpose of this survey, consideration was given to the presence of statistical data on the performance of the Judiciary, judicial rulings, and budget information.

	Argentina			Chile			Uruguay		
	Yes/No	OKD	Observations	Yes/No	OKD	Observations	Yes/No	OKD	Observations
Does the data exist?	Yes	*		Yes	*		Yes	*	
Is it available online [from the government] in digital format?	Yes			Yes			Yes		
Is the dataset supplied in formats that can be machine-read?	No	*	A few files can be copied on an Excel spreadsheet.	Yes	*	Some files can be copied on an Excel spreadsheet.	No	*	All files are PDF.
Is the data that can be read by a machine available without the need for processing?	Yes		Very disaggregated	Yes			Yes		
Are the datasets available free of charge?	Yes	*		Yes	*		Yes	*	
Is there an open data licence?	No	*	There is no statement of any kind regarding the manner in which data can be reused, either when downloading, in the website terms and conditions, or on other relevant pages where the dataset can be found. Copyright	No	*	The Administrative Corporation of the Judiciary authorises its users to use, print, reproduce and store the information contained on this site for personal or academic purposes.	No	*	There is no statement of any kind regarding the manner in which data can be reused, either when downloading, in the website terms and conditions, or on other relevant pages where the dataset can be found. © Copyright –all rights reserved

			© 2004 National Judiciary						
Is the dataset up-to-date?	Yes		2011 (Courts) 2012 (Budget)	Yes		2012 (Courts) 2013 (Budget)	Yes		2011 (Courts) 2011 (Budget)
Is the publication of this dataset sustainable?	No		Information is published annually.	Yes		Budget execution is updated monthly, as well are certain statistics.	No		Information is published annually.
Was it easy to find information on this dataset?	Yes			Yes			Yes		
Are URLs for related data provided for key components of the dataset?	No			No			No		
Total score	6			7			6		

## Bibliography

Davies, T. P. (July 2013). *Researching the emerging impacts of open data ODDC conceptual framework*. Obtained from [www.opendataresearch.org:  
http://www.opendataresearch.org/sites/default/files/posts/Researching%20the%20emerging%20impacts%20of%20open%20data.pdf](http://www.opendataresearch.org/sites/default/files/posts/Researching%20the%20emerging%20impacts%20of%20open%20data.pdf)

Pastor, S. (2005). *Cifrar y Descifrar Volumen 1: Manual para generar, recopilar, difundir y homologar estadísticas e indicadores judiciales*. Chile: CEJA.

PJN Argentina, P. J. (4 April 2014). Actividad procesal. Difusión. CSJN. . *Acordada N° 4/2014* . Buenos Aires, Argentina.

Tauberer, J. (2012). *opengovdata.io*. Recovered in 2014, from opengovdata.io: <http://opengovdata.io/2012-02/page/1/big-data-meets-open-government>

---

Open definition <http://opendefinition.org/od/>

Open Data Handbook. Open Knowledge Foundation. 2012

IDB. (2012). *Gobierno abierto y transparencia focalizada*. (N. D. Vieyra, Ed.)

Naser, A. (2012). Datos abiertos: Un nuevo desafío para los gobiernos de la región. *ECLAC*, 15.

OKF, O. K. (s.f.). *Open Knowledge Foundation*. Recovered in 2013, de <http://okfn.org/opendata>

Prince, A. (2013 ). *Las fuentes conceptuales del Gobierno Abierto y el Open Data*. Telos: Cuadernos de comunicación e innovación N°. 94.

Sunlight, F. (s.f.). *Sunlight Foundation*. Recovered in January 2014, from <http://sunlightfoundation.com/opendataguidelines/>

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