

**INTERNATIONAL DEVELOPMENT RESEARCH
CENTRE**

**RESEARCH INFLUENCE ON PUBLIC POLICY:
Case Study of the *Instituto de Investigación para la Justicia*
(101107)**

(Final Report)

Prepared for:

**The IDRC Evaluation Unit
and
PanAmericas Programme Initiative**

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EXECUTIVE SUMMARY

This study is an evaluation of the influence that the project entitled “Internet, Privacy and the Judicial System in Latin America” (101107) has had on policies for publishing judicial information on the Internet in the supreme and provincial courts of Latin America. The project was carried out by the *Instituto de Investigaciones para la Justicia* (Research for Justice Institute) of Argentina with support from the IDRC. Case study methods were applied for the evaluation, using open interviews as the main data gathering technique. The project team, involved IDRC staff and the beneficiaries of the project were interviewed. Additionally, the project benefited from the evaluator’s participative observation of two forums in which the project’s results were presented, which also provided direct experience with the interest group management techniques used by the research team.

Although the project has not yet concluded, the evaluation shows that there has been significant impact on the policies for disseminating judicial information on the Internet of some supreme courts, such as in Costa Rica, and of some provincial courts, such as in Chubut, Argentina, and in Sinaloa and Zacatecas, Mexico. The project’s potential for future influence over other Latin American judicial systems is likewise significant, especially given the fact that the project promoted and led the way in establishing the Heredia Rules. These are a set of minimum guidelines for self-regulation in terms of publishing judicial information on the Internet. They establish a middle ground between North American and European positions on the subject, and is thus better adapted to Latin American culture and institutional development than previous attempts had been.

There are many factors that explain the project’s success at influencing public policy. One factor has been that of a context of emerging policies - one which is open to the discussion of ideas and that has not been previously biased by past political conditions and ideologies. Furthermore, the issue coincides with the problem of judicial transparency that has been gaining importance on the institutional agenda of a number of Latin American democracies. Also, since the beginning of the project, the research team has prioritised the design and implementation of a self-regulation strategy for regional courts and tribunals based on the use of conflict management and mediation techniques. Another important factor in the process has been the project director’s noteworthy ability to promote the creation of a community - through a network of regional judicial system contacts - that is centred on dissemination policies. Last of all, but certainly not least, the project set realistic goals, it established a concrete and well-focussed agenda, and it has revealed its results in participative ways that have stimulated those who make and enforce policies to appropriate the project results for themselves.

As a whole, the evaluation shows that this IDRC-supported project can directly and immediately influence a given set of public policies. Likewise, it illustrates that the process of influencing public policy is a complex one and that it is conditioned by multiple contextual and internal project factors, favourable or unfavourable.. That is why a case study for describing and analysing the complexity of the situation is perhaps the best method for evaluating the policy influence of a research project.

Acronyms

IDRC	International Development Research Centre
IIJusticia	Instituto de Investigaciones para la Justicia
LAC	Latin America and the Caribbean
OAS	Organization of American States
PO	Programme Official
ToR	Terms of Reference
UNO	United Nations Organisation

1 BACKGROUND

Since the beginning of 2001, the IDRC Evaluation Unit has been performing a strategic evaluation of “**Research Influence on Public Policy**”(100855), which has involved carrying out 22 case studies, including more than 60 projects in over 20 countries. This study seeks to contribute to strategic planning at the administrative level, and to project design and evaluation for programming staff. It is also culminating in a comparative case study. The strategic evaluation used case study method feed into the analysis with detailed accounts which have considered the local conditions and historical circumstances of each case.

Building on the basis of the methods applied to the strategic evaluation, the IDRC Evaluation Unit, in association with PanAmericas, selected the project “**Internet, Privacy and the Judicial System in Latin America**” (101107) to validate the case study methods as an appropriate focus for evaluating the impact that research has on public policy. Furthermore, this validation would allow the IDRC to determine whether it is appropriate to perform individual case studies to evaluate the influence of public policy research in contrast to employing a multiple case study, as in the previously mentioned strategic analysis. Thus, one of the hoped for results of this study is a body of suggestions for the evaluation unit and programme staff regarding future IDRC-supported evaluation of public policy influence.

1.1 AIMS

The aims of this study are the following:

- (i) To document the experiences of the *Instituto de Investigaciones para la Justicia* (II Justicia) arising from the PanAmericas-supported project “Internet, Privacy and the Judicial System in Latin America”;
 - (ii) To evaluate whether and how the results of the “Internet, Privacy and the Judicial System in Latin America” project have influenced public policy in terms of impacting upon judicial policy and changing the behaviour of members of the judiciary;
 - (iii) To test the aptness of case study methods for evaluating the influence of research on public policy, so as to deepen our current understanding of the variables that are specific to this process, such as context, relationships between stakeholders, etc;
- and
- (iv) To explore and examine the usefulness of performing individual case studies for evaluating the impact of research projects on public policy in comparison to multiple case studies..

1.2 THE CASE STUDY¹

Bearing the title “Internet, Privacy and the Judicial System”, the research project (Centre File 101107) began on the 22nd of March 2002. At the time of writing this report, the project is still in progress, with closing scheduled for September 2004. The IDRC has committed itself to a donation of \$CAD 246,600 for a period of 24 months. Counterpart funds equal to \$CAD 22,900 were contributed by IIJusticia, the National Judiciary School of the Dominican Republic, the Esquel Foundation of Ecuador, and the Foundation for Justice and Institutionality of the Dominican Republic.

IIJusticia originally contacted the IDRC in 2002 due to their participation in the Small Donations Challenge Fund administered by FLACSO-Ecuador, which was aimed at promoting new information technology research in LAC (Centre File 04439).² During the project’s final seminar, “Internet and Society in Latin America and the Caribbean”, IIJusticia presented a high quality study on the subject, which was one of the few dealing with the legal implications thereof. This study covered the problem of how Web publication practices in provincial and national courts in LAC were increasing judicial transparency, but at the same time affecting the privacy and intimacy of individuals. It was then evident that IIJusticia had inserted itself into a number of networks that were working with information technology and that it was seeking to have greater social impact in its work. This search coincided with the IDRC’s interest in promoting organised civil society’s influence on Internet-related public policy through its PanAmericas project, and thus IIJusticia brought the “Internet, Privacy and the Judicial System in Latin America” project into being with support from the IDRC.

The main aim of the project has been to “identify the characteristics of and promote a balance between the advantages of information and communications technology in the publication of judicial information (i.e. transparency, equality under the law, public scrutiny) and the risks to individuals’ rights to intimacy and privacy or information that could be the cause of discrimination against vulnerable groups” (IIJusticia 2002, p:8) To achieve this goal, it was suggested that a research-action method be used that would create bonds between the research team and the target group of judges and court website administrators from the beginning. The project proposed to work in direct association with the provincial and supreme courts of five LAC countries — Argentina (Chubut Province), Ecuador, the Dominican Republic, El Salvador and Costa Rica. A training workshop was proposed for the courts and tribunals of other LAC countries. In order to reach a larger group of users, it was further proposed that the results of the project be published on line.

For the first phase, the research team performed an analysis to identify vulnerable groups, users groups and uses of judicial information. They also diagnosed the characteristics of the websites and any protective features included therein, judicial statistics and any citizen participation mechanisms available on court websites. Based on these studies, the project sought to promote self-regulation within the sector via the proposal of minimum rules or recommendations for dealing with the dissemination of judicial information. Initially, it was thought that these rules would be mutually agreed upon among those judicial powers that were associated with the project. It was later proposed that a seminar or workshop with academic specialists should be given. The purpose for this was to present a possible solution

¹ This information was obtained or processed from the Project Appraisal, the Project Proposal and interviews held with Gilles Cliche, IDRC programme official, and Carlos Gregorio, project director.

² PAN-LAC Small-Grant Programme on ICT Research Issues.

to the academic community and to gain the greatest possible amount of judicial sector support for the actions proposed for protecting personal information. In its final phase, the project sought to influence judiciatures that had created websites with search engines that permitted access to personal information, as is the case in Brazil, Bolivia, Chile, Peru and Venezuela. In the same way, the project would seek to reach the international organisations and regional structures of LAC supreme court presidents.

1.3 METHODOLOGY

The evaluation was performed using a descriptive case study approach. Lindquist's (2001) analytical framework that informed the strategic study on the impact that IDRC-supported research has had on public policy was also used as the descriptive theory³ to discipline the analysis. . This study sought to validate the use of this framework, or descriptive theory, as a complementary methodological tool in performing individual case studies when the Evaluation Unit or POs need to evaluate the influence that IDRC-supported projects have on given public policies.

Open interview was the main research technique employed. In order to minimise any bias that could result from the interviewee's natural inclination to present their point of view in a favourable light, interviews were carried out with IDRC staff that were either directly or indirectly involved in the project, members of the research team, project beneficiaries and third parties that may have been affected by the project.⁴ All existing IDRC project documentation was also reviewed, including the research proposal, the project appraisal report, and the project mid-term report. In addition, a sampling of selected LAC court websites were visited in order to compare the types of information published on sites that seemed to have been at least partially influenced by the project with those sites that apparently had not. Finally, the study benefited from the evaluator's participative observation of two forums⁵ in which the project's results were presented, and which gave the consultant first-hand experience in the interest group management techniques used by the research team.

The main limitation faced by the study was that of evaluating its contribution to the existing body of literature, since at the time that the evaluation was being carried out, the book that is to present the main contributions of the project was still being written. As the consultant is not a specialist in the field, it would have been of little use to read the draft versions of that document. In order to partially compensate for this limitation, the officials from the beneficiary courts and other key stakeholders in the project were interviewed using specific questions related to the knowledge that each believed the project had contributed to the field. A summary of these findings is presented in [section 3.2](#) of this document.

³ See Yin R., (2003), who defined the framework of a descriptive case study as "descriptive theory".

⁴ The consultant wishes to recognise and thank Dr. Carlos Gregorio of IIJusticia and Guillermo Consentino of the Chubut Superior Court of Justice for their kind help in organising the scheduling of interviews in the cities of Montevideo, Rawson and Buenos Aires. Additional thanks to all those interviewed for their friendliness and openness to discussing the topics proposed by the consultant. A list of the interviewed parties is included in Annex 1.

⁵ From the 26th to the 29th of April 2004 the author had the opportunity of participating in two forums on "Access to Public Information and Judicial Power in Latin America" that took place in Culiacán, state of Sinaloa and in Villa Hermosa, state of Tabasco, Mexico.

1.4 PRESENTATION OF THE EVALUATION RESULTS

With respect to the terms of reference of this consultancy, the results of the evaluation are presented in two reports. In this report, the influence of the “Internet, Privacy and the Judicial System in Latin America” project on Latin American judicial system policies regarding the publication of information is analysed and documented⁶. Sections 2 and 3 below deal with this issue in terms of the challenges faced by the project and the results obtained up to the moment - with the project still in execution. Additionally, the strategy used by the research team to influence the information access policies of Latin American courts is presented and analysed. Section 4 is an attempt to compile the main lessons learned regarding the referential theoretical framework used. It also poses some questions that may be of use to the IDRC Evaluation Unit or POs when designing projects so that they can maximise their potential to influence related public policies. Therefore, the results presented in this report relate to aims (i), (ii) and (iii) presented in [section 1.1](#).

In a brief complementary report entitled “Assessment of the Methodology for Evaluating Policy Influence of IDRC-Supported Research”, the results related to aim (iv) of this report are presented. Based on the experiences arising from this study and others performed by the author in the area of strategic evaluation of the public policy influence of IDRC-supported research (Loayza, F., 2003), the pertinence of employing case studies in this type of evaluation is discussed. Moreover, it concludes that individual case studies which use an enhanced version of Lindquist’s analytical framework are an appropriate methodological strategy to assess the policy influence of IDRC sponsored research.

2 ACHIEVEMENTS AND CHALLENGES

2.1 THE HEREDIA RULES

In Heredia, Costa Rica, on the 8th and 9th of July 2003, judicial powers, civil society organisations and academics from Argentina, Brazil, Canada, Colombia, Costa Rica, Ecuador, El Salvador, Mexico, the Dominican Republic and Uruguay gathered in order to reach a consensus on and approve a minimum set of rules for publishing judicial information on the Internet. These rules, better known as the Heredia Rules, constitute the first organised attempt in LAC to strike a balance between the dissemination and publication of judicial information on the Internet and the protection of individual privacy and intimacy.

Using the same logic that informed the preparatory phase of the Convention on Children’s Rights – which was virtually adopted by full consensus of the United Nations member states – the Heredia Rules were adopted voluntarily, without involving any formal procedures for personal or institutional adherence. Their authority therefore originates in the soundness of their precepts and the effectiveness of their achievements.

⁶ The author acknowledges and thanks Jordan Leaver for the translation into English of this report originally written in Spanish.

The Heredia Rules have already affected the actions of judicial powers in several LAC countries. This is due in large part to the flexibility of the Rules for adaptation to different LAC cultures and judicial traditions. For example, the Supreme Court of Costa Rica, which hosted the conference in Heredia, has achieved a greater balance between the publication of judicial information and the protection of individuals' rights to privacy and intimacy.⁷ The judicial powers of Nayarit, Mexico⁸ observe the Heredia Rules in the publication of their findings and decisions. The Labour Tribunals of Río Grande, Brazil may also have withdrawn information from their website that could jeopardise some people's eligibility on the job market. Others, such as the Chubut Superior Court of Justice, are gradually becoming adjusted to the Heredia Rules. Likewise, the judicial powers of Colombia, Uruguay and the Mexican States of Sinaloa and Zacatecas are also working towards making judicial information transparent, while at the same time protecting the intimacy and privacy of individuals.

Contrary to what one might think, the process that culminated in establishing the Heredia Rules was not promoted by any one or number of LAC states, governments or judicial powers, although many were involved in the process. Nor was it motivated by any international or multilateral organisation; the Heredia Rules were primarily the result of a research project financed by IDRC and carried out by the *Instituto de Investigación para la Justicia* (IIJusticia) of Argentina, as described in [section 1.2](#).

2.2 TRANSPARENCY AND PRIVACY

The broadcasting and publishing of court rulings is a recent practice in LAC whose purpose is to give more transparency to judicial action. In this way, society has a sort of control mechanism over the justice system, and the system has become enriched from the experiences it has accumulated over time regarding the administration of justice and jurisprudence. With the advent of the Internet, this reality has undergone extraordinary changes, since it allows for the extensive publication of practically all legal processes at minimal or marginal cost. Moreover, the Internet allows those involved in the judicial process such as attorneys, litigants, judges, etc, to be immediately informed of the different phases that any cases may be going through, significantly reducing the costs involved in accessing such valuable information. Thus, many LAC court websites offer easy-to-access information regarding case processing, as well as the rulings themselves. There is no doubt that this new access technology has brought about significant improvements in the transparency and public scrutiny of judicial power.

Nevertheless, the access to information granted through widespread publication of legal processes on the Internet may produce a number of undesirable effects, especially in terms of invasion of privacy and intimacy. For example, large databases can be created using people's court records. Without the consent of those concerned, risk profiles can be created and information regarding their sexual preferences, race, political affiliations, family relationships, etc, may be published. This is information that could be abused and put to work for very different purposes from those for which the publication of court findings and rulings were originally intended: the transparent administration of justice. Such is the case with credit bureaus that use this information to establish one's credit risk profile, as well as with legal

⁷ Personal communiqué from Sonia Navarro. See list of interviewed people in Annex 1.

⁸ Prior to the project, the Nayarit Court of Justice had already developed a website that protected the privacy of individuals and did not include a general information search engine. The project rationalised this experience and applied it in developing the Heredia Rules.

investigation bureaus that offer individual or corporate legal histories, “*because credit history is not enough!*”⁹

“One of the most delicate issues surrounding these information systems is their impact on access to jobs. During this last year, the Constitutional Hall of the Supreme Court of Costa Rica has received numerous labour suits... in which people have been fired or not hired for having been witnesses or victims of crimes, or because of their families’ credit ratings. The problem lies in the fact that the employee is not informed of these report requests and can be discriminated against without knowing. The issue is even more critical when a job candidate is discriminated against for having taken past legal action against an employer... because of the Internet availability of court rulings on labour cases.”¹⁰

In several cases, due to existing legal or regulatory voids regarding Internet usage, the rights of people may end up being violated. For example, the provision of incomplete information which is exclusively related to the initiation of proceedings tends to affect the trustworthiness or integrity of the defendants even if the final ruling finds them free of all guilt, thus violating the presumption of their innocence. In other cases, people can be included in financial risk databases even though they have indeed fulfilled their financial obligations, but have done so using alternative payment methods to those prescribed.

On the whole, “indiscriminate provision of judicial information via the Internet: (1) creates a situation of greater vulnerability for witnesses and victims of crime, or for people who have simply accessed the justice system (e.g. participants in labour suits); (2) aggravates situations of social isolation for people who belong to vulnerable groups (e.g. HIV carriers, handicapped persons and their families, children in risk situations); and (3) serves as a basis for unfair discrimination due to sexual preference, political or religious beliefs, illness or lesions, ethnic group or family situation.”¹¹

The Heredia Rules are a body of minimum standards intended to confront this problem (see Annex 2). These rules are a possible answer, acceptable to the different persons and entities that have established them, to striking a balance between the “advantages of information and communications technology in disseminating judicial information and the risks to our right to privacy and intimacy that could result in discrimination against vulnerable groups.”¹² From another point of view, the Heredia Rules constitute LAC’s first attempt at accommodating North American and European positions on this issue. While the former, which is based on a tradition of complete transparency and a solid judicial system of protecting individual liberties, favours wide and unrestricted availability of judicial information, the latter prioritises the protection of individual privacy and intimacy, partly as a reaction against abuses committed by some states in the use of public records for racial and ethnic discrimination and persecution.¹³

Thus, the Heredia Rules take the principle of sensitive information from the European tradition, in which personal information must be suppressed, anonymised or initialised in any of the following cases:¹⁴

⁹ www.bil.com.mx

¹⁰ Gregorio C. (2004), p. 19.

¹¹ IIJusticia (2002), p.7

¹² Ibid, p. 8

¹³ Gregorio C. (2004)

¹⁴ Rule 5 of the Heredia Rules.

- When dealing with children, adolescents or the handicapped;
- In the case of family affairs and victims of sexual or domestic violence;
- If there is any revelation of an individual's racial or ethnic origin, union membership, political opinion or religious or philosophical convictions; or
- If information relating to health or sexuality is revealed.

In line with the North American tradition, the Heredia Rules establish the principle of information about public figures, so that the names of persons who have become public in character are maintained in the publication of judicial information.¹⁵

A third category has also been established, for the remaining case types in which personal names and information are preserved in public files, but under the condition that they cannot be accessed or identified by Internet search engines.¹⁶ The adoption of these rules will help to avoid or make it much more difficult to create databases built from judicial research on natural persons or legal entities. At the same time, the full transparency of the legal criteria used in sentencing will be maintained – without need for personal information pertaining to the involved parties.

¹⁵ Rule 6 of the Heredia Rules.

¹⁶ Rule 7 of the Heredia Rules.

2.3 THE STAKEHOLDERS

The stakeholders who have participated in and contributed to the creation of the Heredia Rules are many and can be divided into four groups: (i) the research team; (ii) the policy makers; (iii) the project partners; and (iv) other members of the community who are linked to the issue, such as IT specialists, academics and credit bureau representatives. At the time of this project, this community is still very scattered, unconsolidated and of a typically emerging nature in LAC. One of the project results has been to contribute to their consolidation by promoting transparency and privacy protection in the publication of judicial information.

The project team was made up of IIJusticia members. IIJusticia is an Argentinean organisation that was created in 1987 by a group of teachers, judges and researchers who were interested in the problem of uncertainty which characterised legal decisions regarding the awarding of damages. At present, their new lines of research are focussing on the legal, social and economic dynamic of the volatility generated within the judicial system and the utilisation of case law. All of the team members have had experience as mediators. Many of them are linked to the Libra Foundation, an Argentinean institution with international renown in the application of conflict resolution techniques (www.fundacionlibra.org.ar). The members of the research team are interested in seeing that the research has practical applications or some sort of concrete influence on reality.

Project director Carlos Gregorio is a Doctor of Law and Political Sciences, as well as possessing a bachelor's degree in mathematical sciences. Gregorio has broad international teaching and consulting experience in the area of justice system reforms in LAC. This has allowed him to acquire a deep knowledge of legal regulations and procedures in LAC and to develop a vast network of contacts throughout the numerous courts of law in the region, which, as will be explained below, have proven to be key to the project's success. Further more, Gregorio is a recognised Latin American specialist in new information technologies and the judicial system, and is held in high esteem by his colleagues.

Since its design phase, the project has possessed a contact network amongst the emerging community of policy makers in the area of judicial information and the Internet, such as the Supreme Court of the Dominican Republic, the Supreme Court of Costa Rica, the Supreme Court of Justice of El Salvador, Constitutional Tribunal of Ecuador, the Superior Court of Justice of the Province of Chubut, the Judicial Power of the State of Nayarit, the LexUM Group of the University of Montreal, the National Judiciary School of the Dominican Republic, the Esquel Foundation of Ecuador, and the Foundation for Justice and Institutionality of the Dominican Republic.¹⁷ These contacts consisted of magistrates, directors of legal information and documentation centres, and academics who shared the project's concerns and objectives. Thus several of these contacts became voluntary project partners and co-operated significantly therein, as was the case with magistrate Vargas Benavides of the Supreme Court of Costa Rica, who was the key agent in terms of the court hosting the conference in Heredia. Likewise, attorney Guillermo Consentino, secretary of legal information of the Superior Court of Justice of the Province of Chubut, had been working with the University of Trelew in Chubut on developing software for encrypting the names included in sentencing reports well before the project began. These ideas were later taken on and developed by the project team.

¹⁷ IIJusticia (2002)

The contacts developed by the project made it possible to approach and influence court policy makers, especially court presidents and webmasters, before, during and after the meeting at Heredia. This led to the project director being invited to speak at various LAC court seminars and workshops, informing and alerting policy makers to the implications of diffusing legal information on the Web and the need to possess guidelines for handling this matter in an appropriate way. For example, Gregorio gave a conference on the Heredia Rules at the Annual Meeting of the Technical Commission on Information Areas for the Courts and Tribunals of the Argentinean Provinces.¹⁸ These invitations were due in part to lobbying made by these contacts and the project partners.

2.4 PERSPECTIVES ON THE PROCESS SET IN MOTION BY THE PROJECT

The project has created greater understanding within the legal community of judges, magistrates and IT specialists linked to LAC judicial powers. Thanks to the project, there is a greater awareness of the risks and benefits that accompany the broad dissemination of judicial information on the Internet. More so, the Heredia Rules have highlighted Latin America's urgent need to strike an appropriate balance between the publication of judicial information and the protection of individual's rights to privacy and intimacy. In some cases, such as the Costa Rican judicial power, this deeper understanding has spanned a range of organisational levels, from the decision-making authorities of the courts to mid-ranking court officials. This has led to a more efficient and consistent application of the underlying principles of the Heredia Rules

At present, the project is in the dissemination phase and is seeking to formalise the Heredia Rules. In this respect, negotiations are in process to obtain some sort of declaration from the Supreme Court Presidents of Latin America and Spain Summit, which is to take place in June of 2004. It is hoped that this pronouncement will recognise the importance of the issue and recognise the Heredia Rules as a first step in the right direction towards regulating the Internet publication of information on court proceedings in LAC. If this goal is achieved, the project will clearly and definitely influence regional policies governing the dissemination of judicial information.

Moreover, the project has the potential for expanding its results from the area of managing judicial information on the Internet to the handling of public sector information via Internet as well. Guillermo Consentino of the Chubut Superior Court of Justice is of the opinion that the state is a vast reservoir of information in LAC, which, thanks to the Internet and new information technologies, seems to be becoming gradually more transparent. Within this process, the teachings and experiences gained from the project could be extremely useful. In discussions with the project research team, the idea was also mentioned that a Data Ombudsman should be established at either national or Latin American level, reviewing the French experience, which would pioneer this field. This Data Ombudsman would be an institution for protecting citizens against the wrongful or discriminatory use of their personal information that may exist in public archives. It can thus be concluded that the project has opened a fertile breach in the field of applied research on policies governing Internet, transparency of public information and individuals' rights to privacy and intimacy.

¹⁸ Meeting in Puerto Madryn, province of Chubut, 11 - 12 September 2003.

3 THE STRATEGY

Although the “Internet, Privacy and the Judicial System” project is still in progress, it can already demonstrate that one of its most important results so far has been its influence on certain public policies. In part, this has been due to the project’s putting into practice of well-focussed, concrete action in the specific field of public policy. This section shows that, to a large extent, the project has impacted on public policy because it has possessed and applied a deliberate strategy for doing so throughout its life cycle – a strategy that has been successful to date.

3.1 REALISTIC GOALS

From the design phase, the research team sought to influence policies governing the handling of information within LAC judicial systems. In order to reach this strategic goal, two possible alternative courses of action were identified. One was through promoting the dictation of norms, laws or regulations that could be issued from any one of the three state powers: the Executive, Legislative and Judicial. This possibility, however, was quickly discarded due to the difficulty that was implied in adopting new legislation in more than 20 countries. The other option was to promote the establishment of a set of minimum guidelines or recommendations to be based within a group of motivated courts. This nucleus would then become a launcher of processes that would, in time, tend to crystallise into regional norms to be adopted by consensus or by a broad majority of countries. In this case, the tactical objective was to trigger the process through the setting up of minimum guidelines or recommendations on the subject through a motivated group of courts. . This was the option adopted by the research project.

This tactical focus was inspired by the system used in adopting the United Nations Convention on Children’s Rights. According to the project director, this was to be the UN Convention ratified by the highest number of member countries. Its passage, almost by pure consensus, came about by following a procedure which is uncommon in this international organism. With the support of UNO, prior approval of the Convention, two guidelines were approved in succession: the Beijing Rules and the Riyadh Rules, aimed at guiding nations on how to deal with children’s rights. Lacking any obligatory nature, the Beijing Rules were gradually adopted by various nations. Later, as a beneficial consequence of their application, these rules were perfected and subsequently gave place to the Riyadh Rules, thus opening the way for their legal formalisation, without the usual traumas and tensions of UN Conventions. As will be explained below, IJusticia applied a very similar logic in the execution of the project.

3.2 FOCUSED RESEARCH

The strategy developed by IIJusticia was based on two interrelated components: the research component itself, and a component of interest group management revolving around the tactical aims of the project. Both components have been essential to the success achieved by the project so far.

Regarding research and knowledge development, the project deepened the analysis of the underlying principles involved in the subjects of transparency and dissemination of judicial information and the protection of personal privacy and intimacy. This issue, in conjunction with the threats and opportunities presented by the Internet, is a novel and little explored problem. Consequentially, detailing its components and basic principles was a pre-requisite to formulating the minimum guidelines. The project director's opinion was that this effort helped the research team realise that the issue had two opposing trends: (i) that which promoted unrestricted transparency, as in the North American position, and (ii) the European position that favoured protecting personal privacy and intimacy¹⁹. As discussed in [section 2.2](#) of this study, the project proposed an intermediate stance for LAC, which was adopted at Heredia, and which includes three categories of personal information: information on public figures, sensitive information and non-sensitive information.

For this proposal to be applicable it was necessary to develop a specific software solution for encrypting non-sensitive judicial information for publication over the Internet. In essence, this is an encryption program that blocks the search engines employed on the Internet and on judicial sites that could trace names or other personal data, such as a person's state of health. While this data remains within the published judicial information, the project's real contribution is in avoiding or significantly impeding their tracing through the Web. This is achieved via a software solution that applies random principles in encoding words and making them undetectable to search engines. Furthermore, their decoding is extremely costly, which would dissuade specialists from engaging in this area, unless the return on an investment of that size were to compensate for the effort. This means that the encryptor developed by the project, although eventually vulnerable, has the merit of significantly magnifying the costs involved in accessing private, non-sensitive information. Thus, the project's development of this software was a necessary condition for establishing the Heredia Rules.²⁰

¹⁹ The main result of research in this area of the project is presented in an article by Gregorio C., (2004)

²⁰ As mentioned in [section 2.3](#), the encryption program was originally an idea that the project took from its contact with Dr. Consentino of the Chubut Superior Court of Justice.

3.3 INTEREST GROUP MANAGEMENT

Establishing the Heredia Rules also required the careful handling of the interest groups and stakeholders linked to the issue. The first challenge was to identify a group of countries whose courts, especially supreme courts, were interested in the problem, and for whom the adoption of a set of minimum standards would not represent a significant change in their information provision policies and practices. It was feared, and rightly so, that countries that were not in this situation would naturally tend to oppose the tactical and strategic goals of the project. After a meticulous inspection of the websites of LAC courts, the Supreme Courts of Costa Rica, El Salvador, the Dominican Republic and Ecuador, along with the provincial or state courts of Chubut (Argentina) and Nayarit (Mexico), were chosen to sign the agreement and take the project forward.

The second was that, from this group of countries, one with internationally recognised prestige and a desire to lead the region had to be elected. The first condition was necessary to lend credibility to the minimum guidelines, while the second condition sought to promote the guidelines throughout the region via a given judicial power. The court that met both conditions was the Costa Rica Supreme Court.

Next, the project tried to persuade the Court to serve as host of the international meeting that was planned for establishing the rules. Although the Court deliberated for 6 months before accepting the offer, there was full court approval for hosting the meeting in the city of Heredia, near San José, Costa Rica. The Heredia meeting was called to order on the 8th and 9th of July 2003, with a broad agenda revolving around the theme “The Internet and The Judicial Systems of Latin America and the Caribbean.” Academics, representatives of judicial powers, and court IT specialists were in attendance.

The consideration and approval of the Heredia Rules were left for last, as part of the conclusions of the workshop. When the meeting was called, the guests knew that they would be asked to consider a set of minimum guidelines for disseminating information on judicial processes via the Internet, but their attendance was never conditioned on that approval. In addition to having put these standards forward for the approval (or not) of the audience, they were completely open for revision and changes from the attendees. To this effect, a panel was formed of mediators from Argentina, Brazil and Costa Rica – none of which had been part of the IIJusticia research team – and this was led by Guillermo Consentino, one of the project’s voluntary partners. In his words, the Heredia Rules are “eleven proposals fused into one,” drawing from the various suggestions received until reaching a consensus version.

According to the project director, another key element in the success of the Heredia meeting was the silent but effective work of the research team. Elena Highton, a well known, prestigious Argentinean jurist, provided brilliant legal support to the proposal, with Silvia Vecchi and Silvana Greco performing minutely detailed work with each participant in order to identify, to the greatest degree possible, all of the tendencies and positions held within the group. This process fed the discussion and debate processes, and aided in making the necessary adjustments to reach consensus, appropriately applying the mediation methods and alternative conflict resolution techniques that the group was so widely experienced in.²¹

²¹ All members of the team have had experience as mediators, particularly but not exclusively with the Libra Foundation, to which they have all had ties.

These methods and techniques were crucial from the outset of the project. From the selection of the country courts to be directly linked to the project, to the choosing of institutional and individual project partners, each was profiled for inclusion as part of the project's strategic nucleus. This profiling identified: (i) the individual and institutional interests and motivations of those involved, which aided in establishing common objectives and potential points of future conflict in putting together an agreement; and (ii) the effective leadership capacities of those involved, so that they could contribute effectively - first to the adoption of the Heredia Rules and then to promoting them throughout the region and in their workplaces. Thus the project helped to organise a network of institutions and individuals around the problem of publishing judicial information on the Internet and its impact on private lives in the region. The Heredia Rules are nothing less than a first, very significant effect of the existence of such a network.

3.4 DISSEMINATION

Additionally, applying the principles of alternative conflict resolution to the project has given place to the self-sustainable dissemination of the Heredia Rules. This is due to the fact that, as explained previously, the Heredia Rules were not imposed from outside. Neither are they simply the result of a deep, cerebral study by a group of specialists and social scientists. They are the product of the participation of those institutions and people who were contacted at the beginning of the project and during its execution, as well as those contacted at the Heredia meeting itself. It is therefore foreseeable that the stakeholders in the process will assume authority in the process, since it allowed them such broad participation. To the extent that these stakeholders assume ownership of the Heredia Rules, they become protagonists in the dissemination of the Rules. Thus, project partners are active spreaders of the results and promote their adoption in the workplace. For example, the following clause has been included in the contracts with the publishers of sentences and court rulings for the Chubut Superior Court of Justice:

"This Tribunal adheres to and shares in the 'Minimum Rules for the Dissemination of Judicial Information on the Internet – the 'Heredia Rules' - regarding the publication of sentences and court rulings."²²

With the active participation of the project partners, the Heredia Rules are being widely distributed through forums (see Box 1), conferences, articles in trade journals and bulletins, Internet publications and the documents presented at the Heredia meeting (see www.iijusticia.edu.ar/Reglas_de_Heredia.htm), and through the publication of a book that will take place as part of the project's activities. With respect to the publication of articles, Mario Antonio Lobato de Paiva has published an article in the bulletin "*Revista*" (www.consulex.com.br) in "*Consulex*" which came out on the 30th of November 2003. Guillermo Consentino is also expected to write an article for the Argentinean legislation bulletin "*Lexis Nexis*".

²² Personal communiqué from the Legal Secretary, Judicial Information Systems, of the Chubut Superior Court of Justice.

***Box 1: Forum On Access to Public Information
and Judicial Power in Latin America***

From April 26th to 29th 2004, the author of this report had the opportunity to participate in two forums on Access to Public Information and Judicial Power in Latin America, which took place in Culiacán, state of Sinaloa, and Villa Hermosa, state of Tabasco, México. Also participating were the project director and other Heredia Meeting participants such as Sonia Navarro of Costa Rica and Guillermo Consentino of Argentina. A full audience of judges, court webmasters, academics, and judiciary officials, mainly from the Superior Courts of the States of Sinaloa and Tabasco, also participated in the forums. This was an opportunity for the author to gain a fuller appreciation of how the research results were disseminated, whose primary purpose, above that of demonstrating the project's achievements, was for the participants to assume ownership of those results for themselves. In this respect, schematically speaking, the forum was organised in the following fashion:

- Initially, the problem was presented through cases that would be rather shocking to the audience, such as the publication of names of people infected with AIDS, or the legal information provided by specialised companies like the Legal Information Bureau. Later, the group was presented with potential safeguards that could be used to reduce or eliminate these risks, which were in fact the results of the project.
- After that, the audience was divided into work groups to propose specific solutions or actions for dealing with the problem issue, and these ideas were in turn grouped in logical order. In essence, the groups worked with the previously presented issues, their responses and proposed solutions.
- The director and/or other members of the research team intervened at critical moments during the group work to clarify some specific issues or to guide the debate, but without undue insistence, leaving the participants to take the leading role in the forum.
- In general, what came out of the work groups was the ratification of the same or similar solutions or responses as those that were developed or presented by the research team at the start of the forum.

What is interesting about this 'circular' exercise is that although the resulting discussion does not necessarily lead to any new contributions to the problem at hand, it does lead to the participants taking on ownership of the concepts and ideas developed by the project. This stems from the fact that the work group participants themselves presented solutions to the problems under debate as their own contributions. In this process, the director and project team do not emphasise any authorship of the results, since what they are seeking is the collective appropriation of the main project ideas that have been put out to debate.

Source: Author's experience

Finally, with respect to achieving the project's strategic objective, as discussed in [section 2.4](#) of this report, IIJusticia is seeking to formalise the Heredia Rules to the greatest extent possible. So far, unsuccessful negotiations have been entered into with the OAS, who states that this is not a priority issue for them. At present, efforts are being made to obtain a declaration from the Supreme Court Presidents of Latin America and Spain Summit, which is to take place in June 2004.

4 ASPECTS OF THE PROJECT'S INFLUENCE ON PUBLIC POLICY

In this section, we will look at the project and its results in the light of E. Lindquist's (2001) analytical framework for a strategic evaluation of the influence of IDRC-supported research on public policy.

4.1 DIRECT OR INDIRECT INFLUENCE?

According to Lindquist, who is corroborated by Neilson (2001), social science research is generally of little direct and/or immediate use to policy makers. On the contrary, its influence is rather indirect and usually takes place after a long period of percolation of ideas and concepts that eventually lead to changes in the way policy makers perceive problems and their potential responses.²³ This is in clear contrast to research in the areas of physical, natural, pure or applied sciences, which ultimately seek to find direct answers to a given problem.

The research project analysed in this study not only challenges but also even contradicts this hypothesis. It shows that there are cases in which social science research impacts directly and immediately on public policy. Another study by the author (Loayza, 2003)²⁴ encountered another similar situation in another IDRC-financed project regarding the degradation of water resources by a mining company in Peru. This case also showed that a research project with social and natural science components can directly influence a society's public policy.

However, what is important is not whether one case or another validates a hypothesis. A valuable lesson left to us by these projects is that both of their executors sought to directly influence public policy from the outset. Therefore, they combined their research efforts with specific strategies to impact on certain policies. Furthermore, although each of these teams utilised completely opposite strategies – the mining project, LABOR²⁵ used confrontational tactics, while IIJusticia has used a combination of institutional mediation and alternative conflict resolution techniques – both teams see themselves as interested only in carrying out 'applied research'. For them, applied research is different from pure or basic research in that its results have a specific impact on social realities or on public policies. This is why both teams combined the studies of social phenomena with specific action in order to influence the

²³ This was originally put forward by Carol Weiss, who called this type of influence *Enlightenment*.

²⁴ "Impact of Copper Mining on Water Quality in Southern Peru" Centre File: 3-P-91-0041

²⁵ LABOR is the Peruvian NGO that performed the study.

behaviour of social agents and decision makers. LABOR sought out IDRC support in advancing their strategy's knowledge generation component, while IIJusticia received financing for the same component as well as for the interest group and stakeholder management component.

It is thus possible to conclude that at least part of the research financed by the IDRC has directly influenced public policy. Likewise, it could be suggested that a characteristic feature of this type of research is its combination of knowledge generation with deliberate, organised action for influencing the behaviour of decision makers and policy makers. It should not seem strange that the growing number of research initiatives that turn to the IDRC for support aim to have direct impact on social behaviour and/or public policy.

Finally, development means social transformation. Yet at the same time, the cases studied show that this type of research demands not only the ability to generate or disseminate knowledge, but also a sophisticated capacity to influence policy-making communities and networks. In this respect the IDRC should contemplate a double objective in its efforts to promote the accumulation of research capacities. On the one hand, it must elevate developing countries' capacity to use science and generate knowledge – which is an enormous challenge in itself - while on the other, it must create the capacity for managing processes across social and interest groups, policy-making networks and communities, which presents another sizeable challenge. All this must be achieved without discarding a context of institutional flexibility - one which recognises that indirect influences on policy and society, of the kind identified by Carol Weiss, can also be a powerful tool for social change and development.

4.2 TYPE OF INFLUENCE ON POLICY

Following on from Lindquist's proposal (2001),²⁶ the "Internet, Privacy and the Judicial System" project has comprehensively influenced regional public policy by expanding policy capacities, broadening policy horizons and affecting policy regimes.

The project has helped to expand policy capacities among authorities that disseminate judicial information by raising their awareness of the risks to individual privacy and intimacy through the availability of information on court websites. For example, the project director relates how he showed one magistrate how easy it was to use a search engine and find information about the judicial processes he had been involved in, as well as information about him personally. This seems to have had a significant and beneficial impact on the magistrate as perceived by the research project director. On a less anecdotal level, the project has led to several conferences and presentations to various courts and the publication of articles on the subject of transparency and privacy. Additionally, it allowed IIJusticia and its related network to develop innovative ideas, which were later incorporated into the Heredia Rules (see [Section 2.1](#)).

Perhaps the project's most important type of influence on public policy has been through the broadening of policy horizons. The project has presented the opportunity for various regional professionals, authorities and court information systems administrators to create a network around the implications of using new information technologies within the judicial system.

²⁶ See figure 9, page 24

Although the system concentrates its attention on those involved in the publication of judicial information on the Internet and individual privacy and intimacy, in the foreseeable future this network could diversify in terms of its interests and concerns. The project has already led to the suggestion of other issues, such as policies linked to design and access to case law studies via the Internet, in order to avoid precedent saturation. The researchers' opinion is that the incredible ease of access to sentences and court findings tends to create an overwhelming excess of information: vast quantities that stop one from seeing the forest through the trees. This could be corrected by improving the way in which this information is presented and accessed on the Internet, with significant benefits to legal security and a decrease in the variability of judicial findings in terms of compensation and indemnities.

The project has also allowed for the broadening of policy horizons through elucidating upon how LAC judicial systems are being influenced by North American and European perspectives regarding transparency and the protection of individual privacy. This gives policy makers within the judicial system a greater understanding of the underlying political forces at work. It also shows them that they can have greater freedom in designing and implementing information dissemination policies that will be better suited to their traditions and needs. As mentioned in [section 2.2](#) of this report, the Heredia Rules represent the region's first attempt at profiling its own position, which is equidistant to those of Europe and North America. With this, the project has at least contributed to contextualising policy analysis and stimulating public debate on the issue.

Even before the project began, court policies on the publication of judicial information on the Internet developed, by default, under the principle of free access to information and free dissemination of judicial acts and publications. Respecting these principles, the Heredia Rules have introduced the categorisation of data into sensitive, non-sensitive and public, thus becoming a conceptual tool capable of remodelling existing policies and programmes in LAC. And this is what is happening to a greater or lesser extent within the courts that have voluntarily decided to follow the Heredia Rules regarding the dissemination of judicial information. If the project manages to obtain a favourable pronouncement from the Presidents of the Supreme Courts of Latin America and Spain Summit, it is probable that it will consolidate its impact on policies for the dissemination of judicial information via the Internet.

To summarise, the project's influence on public policy has been in the three areas identified by Lindquist: (i) expanding policy capacities, (ii) broadening policy horizons, and (iii) affecting policy regimes. It is interesting to observe that this potential would seem to be associated with one intrinsic factor of the project - the existence of a strategy to influence certain public policies – and one contextual factor – emerging policy and decision-making regimes.²⁷

The importance and role of the project's strategy to influence public policy has been discussed in detail in [Section 3](#) of this document. Lindquist characterises an emerging policy and decision regime as a system in which there is no consensus, a field which is open to the development of a broader-reaching vision and in which there is a relatively small number of stakeholders involved in the decision-making processes. This was precisely the case with the projects "Internet, Privacy and the Judicial System" and "Impact of Copper Mining on Water Quality in Southern Peru." The latter also encountered the three types of policy influence described by Lindquist, as mentioned in the previous paragraph.

²⁷ See section on "Decision Regimes and Policy Inquiry" in Lindquist, E. (2001) pp. 19-21.

These regimes, as can be inferred from the previously mentioned case studies, would seem to be ripe for investigation efforts that will have high potential for influencing public policy. However, the potential for failure may also be high, since the research team must be able to include the issue in the political agenda as well as in the public domain. This implies at minimum a sophisticated capacity for communicating and disseminating the issue. And, as shown in the case studies analysed, these projects must include a strategy that is specifically designed for this purpose, which may occupy a significant amount of the research team's time and resources.

So, beginning with the hypothesis that research projects on emerging policy and decision-regimes can have significant influence on public policy, the following questions are presented for the consideration of IDRC:

- Considering IDRC's interest in supporting research that impacts on public policy, to what extent would it be appropriate to focus its project portfolio on emerging policy and decision regimes?
- Given that research on emerging policy and decision regimes implies a considerable amount of risk in terms of failing to influence public policy, what features or qualities should be present in a research team and/or project director to warrant IDRC support of a research project in this area?
- Along the same lines, what minimum characteristics should be present in a project's strategy for influencing public policy, since the evidence seems to indicate that such a strategy is a necessary condition for the success of this type of project?

4.3 MODE OF INFLUENCING POLICY

Another factor that explains the project's success in influencing public policy is the method that was adopted for disseminating its results. This was not only carefully considered during the study's design phase (see [section 1.2](#)), but the research team proposed the transfer, rather than communication, of knowledge and practices. To facilitate the transferral process, from the outset the research team sought to keep the research results simple, easy to apply, and that the relationship between the problems and their solutions be direct, something which is validated by Rose's hypothesis on facilitating factors for policy transfer (Neilson, F. 2001; p: 37). This is why, in the first place, the main project results have been condensed into the Heredia Rules. It is also why, in the second, the encryptor for impeding search engine detection of personal information has been developed.

Nevertheless, it could be argued that regarding the dissemination of results and policy transfer, the most important lesson this study has to offer is in the importance that the receivers take ownership of the knowledge, policy tools, administrative techniques or institutions that are transferred to them. The project team has not only been conscious of this reality, but has also adapted mediation and conflict resolution techniques to this purpose (see [sections 3.3 and 3.4](#)). That is why, contrary to academic or western scientific tradition, the research results are presented without interest in highlighting authorship or the contributions made to a specific field of knowledge. On the contrary, the focus of these events is on presenting the problem as universal, without mentioning the problem dealt with by the project, and suggesting solutions that are rational and illustrated as far as possible with examples of good and bad practice, letting the audience debate and work together in groups to make their

own adjustments to the policies proposed by the project. While it would still be premature to evaluate the efficacy of the policy transfer method used by the project, IDRC's consideration of how the receivers of policy transfer appropriate this for themselves seems fundamental to optimising the influence of regional research projects on public policy.

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Annex 1: People Interviewed

On the 12 December 2003 in La Paz, Bolivia; from 15 to 19 March in Montevideo, Uruguay, and in Rawson and Buenos Aires, Argentina; and from 26 to 29 April 2004 in Culiacán and Villa Hermosa, Mexico, the consultant interviewed project officials, IDRC executive staff, researchers, project participants and beneficiaries linked to the judicial powers in Argentina, Costa Rica and Mexico.

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Annex 2. Minimum Rules for the Dissemination of Judicial Information on the Internet*The Heredia Rules*

[Purpose]

Rule 1. The purpose of publishing sentences and judicial rulings on the Internet shall be to:

- (a) Share knowledge regarding case law information and to guarantee equality under the Law;
- (b) Achieve transparency in the administration of justice.

Rule 2. The purpose of publishing legal/procedural information on the Internet shall be to guarantee the involved parties or those who have a legitimate interest in the case immediate access to any movements, changes, summons, or notifications.

[Right to opposition of the interested party]

Rule 3. It shall be recognised that the interested party has the right -by request, free of charge, at any time and with legitimate reason related to his or her personal situation- to oppose the publication of any information that concerns him or her, unless otherwise stipulated by national legislation. In the case that it has been determined, officially or by petition of the interested party, that information regarding individuals or legal entities is being illegally disseminated, the relevant excision or correction must be made.

[Adaptation to the purpose]

Rule 4. For each case, the search engines available shall be adjusted to the scope and purpose for which the pertinent judicial information is being published.

[Balance between transparency and privacy]

Rule 5. The rights to privacy and intimacy shall prevail when dealing with personal information regarding: children, adolescents (minors), the handicapped, family matters, or information that reveals racial or ethnic background, political opinions, philosophical or religious convictions, and union membership. Also covered is the handling of information on: health, sexuality, whether the person has been the victim of sexual or domestic violence, or when dealing with sensitive information or information that is restricted from publication by current national legislation or that has been considered by case law issued by those authorities that have been entrusted with the protection of fundamental rights.

In such situations it is advisable to delete, 'anonymise' or initialise (use initials in the publication of) personal data pertaining to the involved parties, except by express request of the interested party, and only when this is in line with current legislation.

Rule 6. Transparency and the right to access public information shall prevail when the person concerned has voluntarily become a public figure and when the process is pertinent to the reasons for his or her fame or notoriety. However, family matters and those issues that are under specific legal protection are excluded.

In these cases, the names of the involved parties may be included in the publication of judicial information, but addresses and any other identifying factors shall be suppressed.

Rule 7. In all other cases, a balance shall be sought in order to guarantee both rights. This balance could be achieved through:

- (a) the use of search engines that are capable of ignoring names and personal data when searching sentence data bases;
- (b) the use of search engines that are capable of using only case number criteria when searching legal/process databases

The presentation of information in lists that are ordered by criteria other than case docket or ruling number, or by any other thematic descriptors shall be avoided.

Rule 8. Information relating to infractions, criminal sentencing or security measures may only be dealt with under the oversight of the pertinent public authority. Only a complete record of criminal sentences may be maintained under the control of the public authorities.

Rule 9. When judges issue their sentences or other acts and decisions, they will take pains to not mention any irrelevant, immaterial or third party acts, and will seek to mention only those facts and personal information that are necessary to establish the basis for their decisions, yet still attempting not to invade the private sphere of those mentioned. An exception to the previous rule would be the inclusion of some necessary information for strictly statistical purposes, as long as the rules for respecting privacy contained in this declaration are respected. It is likewise recommended that the inclusion of any details that could harm legal entities or bodies corporate (morals) or of excessive details regarding *modus operandi* that could encourage further crimes should be avoided. This rule is applicable to any information pertaining to judicial edicts.

Rule 10. When signing or entering into agreements with publishers of judicial and legal material, the preceding rules must be adhered to.

[Definitions]

Personal information: Information concerning a physical or moral person, identified or identifiable, capable of revealing information about their personalities, intimate relationships, ethnic or racial background, or information about their physical, moral or emotional characteristics, their family or emotional life, physical and electronic addresses, national identification numbers telephone numbers assets, political ideology and opinions, religious or philosophical beliefs and convictions, state of physical or mental health, sexual preferences, or any similar information that could affect their state of intimacy or their informative self-determination. This definition shall be interpreted within the context of local legislation governing this issue.

Search engine: These are the search functions included on Judicial Internet sites that

facilitate the location and retrieval of all documents included on their respective databases. They respond to logical parameters defined by the user that may consist of the inclusion or exclusion of given words or word families, dates, file sizes and all possible combinations made with Boolean operators.

Voluntary public figures: This refers to public officials (elective or hierarchical positions) or private persons that have voluntarily become involved in matters of public interest (in this case it is deemed necessary for the person to clearly show that they are ready to renounce a given amount of their privacy).

Anonymise: This refers to the treatment of all personal information in such a way as to ensure that once obtained it cannot be associated with or linked to any given person.

[scopes]

Scope 1. These rules constitute suggestions for limiting the publication of sentences or any other legal or procedural information via the Internet or any other electronic format. They therefore do not apply to accessing information in judicial offices nor in printed-paper editions.

Scope 2. These are minimum rules in the sense of protecting the right to intimacy and privacy. Therefore, judicial or private authorities, organisations or companies that publish judicial information via the Internet may use stricter protection procedures.

Scope 3. Although these rules are intended for the websites of Judicial Authorities, they are also intended to extend to – based on the information source – commercial providers of information on case law and judicial findings.

Scope 4. These rules do not include any formal procedures for personal or institutional application and their value is limited to the authority inherent in its foundations and achievements.

Scope 5. These rules are intended to be the best alternative or a point of departure for bringing about a balance between transparency, access to public information and the right to privacy and intimacy. Their future validity and authority may be conditioned by new technological developments or new regulatory frameworks.

Heredia, 9 July 2003

Recommendations approved during the Seminar on “Internet and the Judicial System” given in the city of Heredia, Costa Rica on the 8th and 9th of July, 2003. Participants included judicial authorities, civil society organisations and academics from Argentina, Brazil, Canada, Colombia, Costa Rica, Ecuador, El Salvador, Mexico, the Dominican Republic and Uruguay.