

The Open Gov Guide

2024

Open
Government
Partnership



Justice



In Argentina, particularly in Buenos Aires, open government advocates are increasing public accountability and access to the justice system, such as by simplifying legal texts through the JusLab initiative. Pictured: The University of Buenos Aires School of Law.

Open Justice

Open justice reforms can create a transparent, publicly accountable justice system to ensure people receive equal protections, benefits, and rights under the law. Opening up justice is not just about reforming courts. Many actors play a part in making the justice system fairer and more impartial, including police, prosecutors, legal aid providers, and corrections services. Open government approaches offer solutions to improve how these actors contribute to such a system.

Open Gov Challenge Justice

With OGP's [2023-2028 Strategy](#), OGP members are set to work toward a number of aspirational thematic reforms through the [Open Gov Challenge](#). This section of the *Open Gov Guide* addresses Justice.

Challenge prompt: Advance people-centered justice reforms.

Actions may include:

- Ensuring that everyone has access to legal services.
- Ensuring that justice institutions across the public sector are independent, transparent, responsive to the public, and inclusive.
- Ensuring that there is accountability for policy-making through appropriate redress mechanisms that involve the public.

Key Terms

- **Justice system:** The justice system is a network of actors and institutions tasked with ensuring that justice is upheld. At a minimum, the justice system includes courts, judicial officials, prosecutors, public defenders, and police. However, in most countries, the justice system also includes administrative tribunals and organizations around them—whether dealing with tax, immigration, or other issues. In some places, traditional or religious leaders can be part of the justice system, as well as [informal or alternative](#) models to deliver justice.
- **Open justice:** This concept seeks to make judicial institutions more transparent, participatory, accountable, and inclusive, all of which are open government values. These principles are not only important for courts, but also for the many other actors that play a role in the delivery of [people-centered justice services](#).

The Evidence

Applying open government approaches to the justice system can ensure that the rule of law is upheld, particularly by increasing the public's access to information. Opening information related to the justice system can improve outcomes in several areas.

- Open justice supports equitable growth and development by [helping](#) curb corruption, limiting abuses of power, and guaranteeing access to key public services.
- The use of more peaceful and reliable justice mechanisms can resolve conflict, which also helps increase the perceived legitimacy of the justice system.
- Channels of public accountability and oversight in the justice system uphold the rule of law.
- Increasing [access to justice](#) and [justice for accountability](#) protects human rights, which allows the public to request the enforcement of rights or a remedy for damages, especially for marginalized groups.

Reform Guidance

Recommended Reforms

The recommendations below represent reforms that national and local governments, representatives of civil society organizations, and others can consider for their action plans and the [Open Gov Challenge](#). The reforms are categorized according to OGP's principal values: transparency, civic participation, and public accountability. Reforms should be adapted to fit the domestic context, and involve and coordinate with other levels and branches of government.

Reforms across policy areas are also tagged by the estimated degree of difficulty in implementation. Though progress is often not linear, the recommendations have been categorized using these labels to give the reader a sense of how different reforms can work together to raise the ambition of open government approaches.

- **Foundational:** This tag is used for reforms that are the essential building blocks of a policy area. "Foundational" does not mean low ambition or low impact. These recommendations often establish basic legal and institutional structures.
- **Intermediate:** This tag is used for reforms that are more complex and often involve more coordination and outreach, such as with the public, between branches, agencies, and levels of government, or between countries.
- **Advanced:** This tag is used for reforms that close important loopholes to make existing work more effective and impactful. They are often about linking multiple databases or ensuring that oversight authorities can receive complaints from members of the public.

COURTS AND JUDICIAL OFFICIALS

- Require data collection:** Ensure standards include a [comprehensive](#) data collection and evaluation process to assess court systems, provisions to publish self-evaluations (based on examples set by the [United Nations Office of Drugs and Crime](#) or the [International Consortium for Court Excellence](#)), and a set of public [disciplinary measures](#).
- Publish judicial decisions:** [Publish](#) judicial decisions to ensure that they are free and easily accessible to the public.
- Use [plain language](#) in judicial decisions and documents to the extent possible.
 - Ensure the balance of right to information and protection of privacy and personal data within national and regional regulations in all data disclosed.
- Establish and enforce the right to access information in the judicial branch.** Pass or amend legislation or create regulations to establish and enforce the [right to access information](#) in the judicial branch. This would also apply to other justice actors, such as prosecutors and police.

Transparency
Public Accountability
Legislature Foundational

Transparency
Executive
Foundational

Transparency
Executive Legislature
Intermediate

OPEN JUSTICE

- Pass legislation to publish court data:** Create or [strengthen](#) legislation to require the publication of open court data. This [includes](#) the publication of [basic court data](#) (such as court decisions, case registers, and filed document records) and [documentation](#) at the individual case level, especially for post-case filings and decisions still in proceedings. Such data collection and publication are critical to identifying and remedying [inequality](#) in the court system, especially when data is [disaggregated](#) by categories such as gender, socio-economic status, age, and disability.
 - Collect and disclose information that [measures](#) judicial officials' performance, such as data on how quickly they process cases, how frequently their rulings are overturned on appeal, and the use of [algorithmic decision-making](#) in court.
 - Consider collecting and disclosing administrative court data, such as information on court personnel, budgets, salaries, appointments, and promotions.
 - Add court data to an open data portal or create a centralized portal for court data and allow bulk data downloads to enable access to all court data from a single source.
 - [Ensure](#) that courts in different jurisdictions and at different levels of the judicial system standardize the content and format of datasets to make them interoperable.
- Train non-state actors on how to use court data:** Train non-state actors, such as journalists and civil society organizations (CSOs), on how to use published data to monitor courts.
- Conduct audits of court performance:** Conduct audits of court performance to evaluate the quantity and quality of court decisions made. The results of audits should be made public.
- Increase civic participation in court proceedings:** Create or strengthen avenues to increase civic participation in court proceedings, such as hosting public hearings and streamlining the process to file amicus curiae briefs.
- Test new court technology with users:** [Test](#) court data technology with the public during development to verify whether the system meets a wide range of accessibility standards, such as those for users with disabilities.
 - Provide comprehensive training for court officials on how to use new technologies, such as case management software, virtual tools to broadcast court hearings remotely, and [automated decision-making tools](#).
 - Monitor the effectiveness of court technology through indicators (like backlog reduction metrics) and court user surveys.
- Publish a judicial code of conduct:** Write and publish public [codes of conduct](#) that support an [independent and impartial](#) judiciary, including measures to encourage [continued learning](#), and mechanisms to enforce these standards. Involve judicial officers in the creation of standards.

Transparency

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Inclusion

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Transparency

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Civic Participation

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Civic Participation

Inclusion

Intermediate

Transparency

Public Accountability

Foundational

Require transparency in judicial appointments and disciplinary

processes: [Create](#) a transparent process to vet judicial appointees (such as publishing clear standards, making nominations public, and requiring [asset and interest disclosures](#)) and to discipline judicial officials for misconduct.

For example, a judicial vetting process in [Albania](#), which included an assessment of asset disclosures, led to the dismissal or resignation of over 100 magistrates between 2017 and 2020 due to misconduct.

The appointment process should [ensure](#) that:

- qualifications and examination standards are published in advance and are gender and ethno-culturally neutral;
- appointments include transparent term limits;
- nomination details are made public;
- efforts are undertaken to diversify the pool of judicial officers in recruitment, retention, and training to reflect the gender and social balance of a given context; and
- members of the public (including CSOs) can submit [formal comments](#) related to high-level judicial appointments.

- Transparency
- Legislature
- Inclusion
- Foundational

Increase civic participation in court policy-making and oversight: Involve the public in the formulation and oversight of judicial policies and court performance. The public can also provide input on the types of court data to prioritize for publication.

Mechanisms for public input include public consultation sessions, online platforms for citizen feedback, and civic monitoring bodies for policy implementation.

- Civic Participation
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POLICE

Create or strengthen regulations for the police: Work with relevant non-state actors (like CSOs) to develop police procedures, including for special events (such as [assemblies](#)), if none exist.

- Civic Participation
- Executive
- Foundational

Publish police procedures: Make police operating procedures public, especially around practices such as use of force, search and seizure, surveillance, and control of [protests](#).

- Transparency
- Executive
- Intermediate

Publish police data: Create or strengthen legislation to require the publication of police data, especially on topics of great concern such as use of force, search and seizure, surveillance, and control of [protests](#). [Convene](#) law enforcement, public officials, CSOs, and the public to identify priority data to collect and disclose.

- Transparency
- Civic Participation
- Executive
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- Inclusion
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Consider how data is presented to ensure it can be easily digested. For one, making sure data adheres to open data principles allows for easier analysis. For another, considering user needs when presenting data (such as the design of a data portal) can ensure the data is easy to understand.

OPEN JUSTICE

- Standardize police data in open, interoperable formats:** Systematically collect and retain standardized policing data, including on budgets.
 - Establish routine procedures that ensure various agencies use common terminology, categorization, and collection practices for data.
 - Organize data to ensure it can be downloaded in bulk, searched, and machine-read.
- Train non-state actors on how to use police data:** Train non-state actors, such as journalists and CSOs, on how to use published data to monitor the police.
- Create public accountability and oversight mechanisms:** Create [independent oversight bodies](#) with a clear mandate and funding, training to ensure responsibilities can be carried out, and a clear set of criteria for the selection of members.
 - Complaint tools and ombudsperson offices can also improve how individuals or groups seek corrective action for mistreatment by police.
- Encourage participatory budgeting:** Include communities [most affected](#) by policing in efforts to undertake [participatory budgeting](#). Budgeting processes are an increasingly important tool to address issues related to crime, policing, housing, and mental health.

Transparency

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Advanced

Civic Participation

Executive

Intermediate

Public Accountability

Legislature

Intermediate

Civic Participation

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Advanced

PROSECUTORS AND PUBLIC DEFENSE

- Create an independent, professional oversight body:** [Establish](#) an independent, professional body with the power to examine cases for prosecutorial misconduct, wrongful conviction, unjust sentencing, or possible disparities in charging patterns based on particular areas or the demographics of the individuals being charged, such as ethnicity. Allow the body to also review prosecutors' decisions for adherence to internal guidelines.
- Create a civilian oversight body:** [Implement](#) a civilian oversight body to ensure direct accountability to the community, such as a civilian advisory board within the professional oversight office or an external civilian review board.
- Publish prosecutorial and public defense policies:** Create prosecutor policies and make them available to the public, [especially](#) on training, internal oversight and discipline, ethics compliance, and due process rights.
 - Prohibit elected prosecutors from accepting donations or endorsements from interested parties (including police unions), where relevant.
- Consult the public in setting prosecution priorities:** Allow communities to have a say in the types of crime prosecutors prioritize.

Public Accountability

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Intermediate

Public Accountability

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Civic Participation

Executive

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LEGAL AID

- Create an oversight body for legal aid:** Create an independent [legal aid authority](#) that can establish, fund, staff, regulate, and evaluate the [legal aid scheme](#) in a given context.
 - Consider a multi-stakeholder approach, bringing in legal professionals, civil society, and representatives from underserved communities.
 - Establish a body with the legal aid authority that can impartially investigate complaints against legal aid providers and put in place a suitable mechanism for evaluating and improving the quality of services.

- Publish minimum requirements for legal aid service providers:** Establish and publicly disclose minimum requirements for training and practical experience that legal aid service providers must meet. Establish clear disciplinary procedures for violations of these codes.
 - Develop all procedures in consultation with legal aid providers and publish them in advance of their use.

- Publish criteria for legal aid eligibility:** Publish criteria to determine eligibility for legal aid for criminal and civil cases. Persons who are denied services should have the right to appeal the decision.

- Increase access to legal aid:** Increase access to civil and criminal legal aid through training and funding to [ensure](#) that all communities, particularly the most marginalized, have access to quality legal aid.
 - Fund and launch training programs for legal aid lawyers, paralegals, and pro bono volunteers to improve their legal skills and knowledge to better understand the needs of low-income and underserved individuals. Providers should be trained on their professional obligations and relevant codes of conduct.
 - Increase funding to existing legal aid services, and establish new offices and services to reach isolated or underserved communities.
 - This may include identifying communities or areas with disproportionate legal needs or that traditionally lack access to legal aid, expanding the provision of legal aid for problems that might not have adequate funding, and developing partnerships with CSOs offering legal assistance.
 - Budgets should be made publicly available down to the individual program level. Expand and diversify financing for legal assistance at national and subnational levels, including public sector partnerships.

Public Accountability

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OPEN JUSTICE

- Evaluate legal aid services:** Use surveys, multi-stakeholder working groups, and other evaluation tools to [identify](#) legal reforms needed to improve justice delivery systems through legal assistance and the courts.
 - Collect and publish data such as how many people go unrepresented each year at all levels, how many people qualify for legal aid, and what percentage actually receive legal aid services.
 - Conduct and report the results of client satisfaction surveys to assess overall quality.
 - Strengthen and institutionalize partnerships—such as between the judicial system, legal aid providers, CSOs, academia, social services, and law enforcement—to better serve marginalized communities.

Transparency

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Public Accountability

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CORRECTIONS

- Require justification for pretrial detention:** Require judicial officials or magistrates to publicly justify pretrial detention in a timely manner.
- Open prison and other correctional facility data:** Create or strengthen legislation for the publication of pretrial detention and general prison-related data. [Convene](#) prison institutions, CSOs, and the public to identify priority data to collect and disclose in a centralized place. Governments can also [require](#) the publication of data on prison management, budgets, policies, living conditions, prisoner demographic information, conviction information, and prisoner outcomes.
 - Provide [regularly updated information](#) on the number of and reasons for arrests; the number of people charged and the nature of their charges; the number of people in pretrial detention (in absolute terms and as a percentage of the overall prison population); the duration of pretrial detention, disaggregated by offense; the number of pretrial detainees receiving legal advice and representation; and the ratio of charged individuals held pretrial as compared to the number released.
 - Provide a public, anonymized record of the charges for which individuals are detained (disaggregated by offense) and the justification for their pretrial detention. Allow exceptions for juvenile detainees and individuals who have received expungements.
 - Disclose demographic, anonymized information about pretrial detainees. This includes information about prisoners' gender, age, race, ethnicity, disabilities, and any mental and physical healthcare needs.
 - Standardize data across jurisdictions to allow for comparison, and include private prisons and immigration detention centers in data collection.
- Train non-state actors on how to use corrections data:** Train non-state actors, such as journalists and CSOs, on how to use published data to monitor pretrial detention and the prison system broadly.

Transparency

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- Create public accountability and oversight mechanisms:** Allow oversight institutions to identify cases of discrimination in the use of [pretrial detention](#) and to evaluate [prison conditions](#).
- Publish clear limits on the duration and conditions of detention.
 - Ensure that an independent body can inspect facilities on demand and unannounced, access prison information and data, and interview detainees privately. This body should also publish its findings and recommendations, which are to serve as the basis for constructive dialogue.
 - Establish clear complaint mechanisms that are accessible to detainees, their families, and legal representatives. This also includes whistleblower protections to allow confidential complaints without reprisal.
 - Conduct regular [reviews](#) of pretrial detainees by court authorities to evaluate alleged offenders regularly throughout the course of their case to determine whether continued detention is necessary. Reviews should be held in the presence of a detained person and their legal counsel.
 - Require a public response from prison officials and relevant ministries following the publication of inspection findings on their response to the report and progress made to date.

Transparency

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Examples of Reforms from OGP and Beyond

The following examples are commitments previously made within or beyond OGP that demonstrate elements of the recommendations made above. On average, justice commitments are equally well-designed and implemented as other OGP commitments, with roughly two-thirds being completed and about a quarter showing early results.

- **Buenos Aires, Argentina Criminal Courts Publish Decisions:** [Piloted](#) the [publication](#) of all decisions in an anonymized, open data [repository](#) written in plain language. Opened hearings to the public and published a schedule of hearings in advance.
- **Colombia Improved Court Transparency:** [Began publishing](#) court data on decisions, officials, agendas, and procedure manuals to increase transparency and public awareness of court processes.
- **Costa Rica Online Platform to Monitor Judicial System:** [Developed](#) an online [judicial oversight system](#), which enables citizens to monitor how long open cases take until they are concluded.
- **Slovak Republic Transparency and Accountability of Prosecutors:** [Began publishing](#) a regularly updated list of prosecutors in 2016 and analyzed their [selection and disciplinary procedures](#) in 2017.
- **Ukraine Training for Law Enforcement Officers:** [Trained](#) law enforcement officers in community policing practices, created online resources for police-community coordination, and implemented a “schools and police” project.

OPEN JUSTICE

- **United States Centralized Database for Police Data:** [Published](#) 295 police datasets (representing 135 jurisdictions) by the end of 2017 in a centralized database under the Police Data Initiative.
- **Uruguay Increased Access to Public Hearings and Data:** [Began](#) publishing statistical information from the judicial branch and [video recordings](#) of all public hearings over two action plans.

BEYOND OGP ACTION PLANS

- **Mexico Assessment Tool for Open Justice:** [Launched](#) the first edition of a tool to assess the openness of the justice system in over 200 federal and state justice authorities, such as courts, human rights centers, prosecutors, and prisons.
- **Philadelphia, United States Public Dashboard for Justice Data:** Launched a new [public dashboard](#) for criminal justice data created through multi-stakeholder consultation, which is updated daily and presents data on [key outcomes](#) in the criminal justice system.
- **United Kingdom Call for Feedback on Open Justice:** [Opened](#) a Call for Evidence for a diverse set of actors (such as judicial officers, lawyers, journalists, and court users) to provide feedback on how the government can strengthen and uphold open justice.

The Role of Local Governments

Most basic legal processes are carried out first (and often exclusively) at the local level. Below are examples of the many roles local governments play in determining the openness of the justice system.

- Provinces and municipalities establish laws, run courts, and run correctional facilities.
- In most OGP countries, law enforcement is also devolved to the local level.
- Public defenders and prosecutors (usually elected or appointed at the municipal or provincial level) are key actors in determining how well a justice system serves its people, such as by determining what goes to court, what the public sees, and just how fair trials may be.
- Local governments fund alternative justice providers—alternative justice models are often led through community-based centers or initiatives.

Active OGP Partners

The following organizations have recently worked on this issue in the context of OGP at the national or international level. They may have additional insights on the topic. Please note that this list is not exhaustive. If you are interested in national-level initiatives, please contact research@opengovpartnership.org.

- [International Development Law Organization](#)
- [International Open Justice Network](#) (Red Internacional de Justicia Abierta, or RIJA)
- [Organisation for Economic Co-operation and Development \(OECD\)—Office for Access to Justice](#)
- [Pathfinders for Peaceful, Just and Inclusive Societies](#)
- [Penal Reform International](#)
- [United Nations Office of Drugs and Crime \(UNODC\)](#)
 - The [Global Judicial Integrity Network](#) is part of the UNODC.
- [World Justice Project](#)

Benchmarking Data

The [OGP 2023-2028 Strategy](#) sets out the [Open Gov Challenge](#) and aims to provide clear benchmarks for performance through reliable data.

While benchmarks for individual countries and *Open Gov Guide* recommendations are not yet integrated, for this chapter, interested individuals may rely on the following data sets:

- The **World Justice Project's** [Rule of Law Index](#) analyzes different dimensions of governance in 140 countries and jurisdictions, with specific indicators related to access to civil and criminal justice.
- OGP commitments on this topic can be found on the [Data Dashboard](#).

Guidance and Standards

While the list below is not exhaustive, it aims to provide a range of recommendations, standards, and analysis to guide reform in this policy area.

- The **OGP Support Unit** provides a comprehensive review of recommendations, case studies, and standards in its publication [Justice Policy Series, Part II: Open Justice](#), part of the [Justice Policy Series](#).
- The principles of open justice are woven throughout international law and standards. For example, the right to due process is enshrined in [Article 14](#) of the **International Covenant on Civil and Political Rights** and [Articles 9–11](#) of the **Universal Declaration of Human Rights**.
- The **Pathfinders for Peaceful, Just and Inclusive Societies** launched the [Task Force on Justice](#) in 2018. The Task Force brings together UN member states, international organizations, civil society, and the private sector to build people-centered justice institutions and accelerate delivery of the SDG targets for peace, justice, and inclusion.

- The **UN Office on Drugs and Crime** (UNODC) sets international standards on a variety of justice system actors, including [policing](#), [judicial independence](#) and [conduct](#), [legal aid providers](#), and prison conditions, especially for [women](#) and [children](#). Through its [Global Judicial Integrity Network](#), UNODC also provides guidance on how judiciaries can improve and strengthen their systems for the management of courts and cases, maintenance of records, and transparency in the judicial system. Examples of guidance include an [implementation and evaluation guide](#) for the UN Convention against Corruption, a [resource guide](#) on judicial integrity and capacity, and [guidelines](#) on judges' use of social media.
- The **UN Development Programme** created a [guide](#) on using digital tools to close the justice gap, which provides recommendations based on an analysis of the opportunities and risks of using technology to modernize justice systems.
- The **European Commission for the Efficiency of Justice** (Council of Europe) created a [charter](#) for the ethical use of artificial intelligence (AI) in judicial systems. The principles in the charter explore how AI can be used to improve the efficiency in courts and other areas while also protecting human rights.
- In 2018, two US civil society organizations—the **National Center for State Courts** and **Measures for Justice**—partnered to create the National Open Courts Data Standard, or [NODS](#). The project seeks to provide standardized, case-level court data publicly available to improve court system transparency and improve public policy. NODS includes case-level reporting in areas such as case status and details, litigant and lawyer information, pleadings, motions, filings, orders, charges, judgments, and sanctions.
- **RIJA** and **Hivos** published a [joint report](#) on open data standards for judicial institutions. RIJA also maintains a [map](#) of open data portals related to justice in Latin America, created through its multi-stakeholder open data working group.
- The **World Justice Project's** [Rule of Law Index](#) evaluates countries on a variety of indicators, including on police and criminal and civil justice institutions. Additional special reports use survey data to analyze perceptions of criminal justice institutions, such as in [Afghanistan](#).
- **Namati** and its partners in the [Grassroots Justice Network](#) work to advance [access to information](#) about law and justice processes through grassroots legal empowerment. Namati has published relevant [guides](#), such as a guide on how to [provide legal services remotely](#) and a [participatory toolkit](#) on providing legal aid to address gender-based violence.