

Case Management and Reform in the Administration of Justice in Latin America

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I. INTRODUCTION

The negative aspects mentioned most frequently in diagnosing the systems of court administration in Latin America have been: delays, uncertainty, excessive complexity, inaccessibility, and a very high cost/benefit ratio. On the other hand, the solutions that have been proposed are almost always to increase the number of judges, administrators, and equipment, or to write new codes. Frequently, it is believed that these measures will automatically produce the expected results. Meanwhile, the size and structure of the Judicial Branch grows irrationally, creating new conflicts and new difficulties.

However, a great many of the problems are rooted in the existing models for managing and handling cases. Many of the changes that could resolve these problems could be generated from inside the Judicial Branch without increasing the budget substantially or resorting to legislative reform. To be able to design changes from within, it is necessary to have basic Statistical information available that can be analyzed jointly by judges and administrators, and be compared to experiences in other jurisdictions. The Judicial Branch should devise a means of constantly analyzing its administration, and look for a way of improving it, while imparting justice at the same time.

Increasing productivity and efficiency requires the redefinition of each one of the tasks, eliminating unnecessary procedures, and making technology, which is increasingly accessible, available to the administration of justice. It is also necessary to improve mechanisms of control, streamline judicial proceedings, and facilitate communication.

In many instances, the reform of judicial administration requires changing the judge's role in the process. These changes arise generally from new procedural norms, but in some cases it is also possible to change the frequency, intensity, impact, and the way judges can intervene, by modifying the guidelines on case management and the information flow in the judiciary, thereby achieving greater control of the process.

In this field, the concrete objectives of judicial reform aim at reducing delay and Case back-up, improving case management and follow-up, and identifying the problems or types of cases that occur most frequently so that special or automated procedures can be developed for them.

II. ASPECTS ADDRESSED BY REFORM PROJECTS IN LA TIN AMERICA

To respond to these problems of case management and disposition of cases, reform projects in the region concentrated on introducing computerization in the courts. Procedural reforms have also played a vital role in the region as opposed to reforms of judicial administration of cases. Programs to decrease delays or case back-up are isolated. In most cases, the solution has been to create new courts, to the detriment of analytical studies of the causes that are generating the problems.

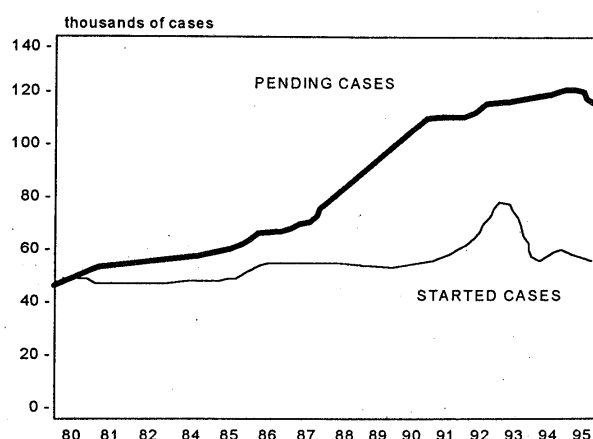
A. Case Back-Up

The solutions to the problem of case back-up in the judicial system generally include a coordinated set of measures to: (i) favor the alternative resolution of conflicts, in order to remove from the system cases that can be resolved without a judge's intervention; (ii)

procedural reforms, searching for faster, more transparent process; and (iii) administrative reforms.

For example, in the city of Buenos Aires, there has been an increasing back up of cases in the labor courts since 1985. which began to decrease in the last two years (see FIGURE I). The causes of the back-up seem to be basically external: it is possible to see that the number of settlements reached in labor disputes started to decline as the inflationary process became hyper-inflationary. That situation was supported by a decision of the Supreme Court in the case of López vs. Pesquera de la Patagonia ¹ which resulted in a reduction in the interest rate that was used to update labor loans. The recent decrease in the number of cases initiated could be explained in three ways: (i) the privatization process in state-owned companies resulted in a decrease in litigation; (ii) occupational accidents are now handled in civil courts because of legislative reform; and (iii) the increase in the unemployment rate, as well as an increase in the rate of people working without a contract.

FIGURE 1. Cases initiated and pending in
The labor courts in Buenos Aires.



Some action was also taken to reduce the level of back up. In 1994 eleven new courts were created solely for sentencing. Those courts handle cases that have been held up, and have a minimum number of personnel.

In El Salvador between August and October 1993 a census was taken of active cases. The results showed 136,791 pending cases, 90% of which were in courts of first instance. Fifty percent of the pending cases were in the courts of the city of San Salvador. Fifty percent of the cases were more than three years old, and 26% were more than 6 years old. In 57% of the criminal cases, more than a year had gone by since the last proceedings, and in civil cases the percentage was somewhat higher -66% -because the movement of these cases depends on the litigants. ²

¹ Decision of the Supreme Court of Justice of June 10, 1992, cfr. 1992-E "La Ley" ("The Law") (1992) 48-50.

² "La Realidad de la Justicia Salvadoreña: análisis del censo de juicios activos". (The Reality of Salvadorean Justice: analysis of the census of active cases.) (1994) 35 pp. SUPREME COURT OF JUSTICE, TECHNICAL EXECUTORY UNIT AND PROJECT II FOR JUDICIAL REFORM.

This situation was confronted with various actions. The main elements of the experience included: weeding out cases that were at a standstill; improving case management; designing and implementing automated Systems, most importantly in the criminal courts of San Salvador and Santa Tecla; a pilot system for follow-up of sentenced prisoners, which was installed in Santa Tecla and recently in San Salvador; a plan for organizing and filing judicial files; and the establishment of a court administrator in charge of coordinating the assignment of cases and centralizing the management of other non-judicial tasks. All of these actions were supported with training.³

B. Delay Reduction

The duration of the process was initially viewed as an indicator of the efficiency of the court administration system. However, in many cases delays become intolerable and may hinder the possibility of obtaining a fair solution to the conflict.

Most of the actions taken in the region to reduce delays have been aimed at modifying procedural norms. For example, procedural reform in Uruguay began in November 1989 by changing written civil proceedings - Civil Process Code -to hearings or proceedings held in court-General Process Code.⁴

As a result of the reform there was an important decrease in procedural time (see FIGURE 2). A sample study carried out by the Judicial Reform Project made it possible to establish that the duration of the proceedings has been reduced by one-half. On the other hand, the success of the system of holding court hearings, which has undeniable advantages, depends on the right ratio between the number of judges and the number of cases. That is why, at the same time that the General Process Code became effective, the number of existing courts was modified, which meant approximately doubling the number of courts in the city of Montevideo. The existence of the new court system and the duplication of the number of courts makes it difficult to explain the reduction observed in the duration of proceedings. However, one factor may help clear up this point. It is a fact that the courts that hear litigious-administrative matters were not duplicated until 1991. Nevertheless, the reduction in the duration of the proceedings in litigious-administrative cases is similar to all the other civil, family and labor courts. Therefore, it is reasonable to attribute this reduction in the duration of cases to the characteristics of the new procedure.

The evaluation of procedural reform in Uruguay not only indicates a marked reduction in the duration of the proceedings. It also indicates achievement of the basic objectives of immediacy, concentration, publicity, simplicity (by limiting the number of procedural types to the essential minimum), etc.⁵

³ Steve URIST & Robert LOVATO, "Evaluation of Pitot Courts". USAID/El Salvador Judicial Reform Project II, (1966) 42 pp.

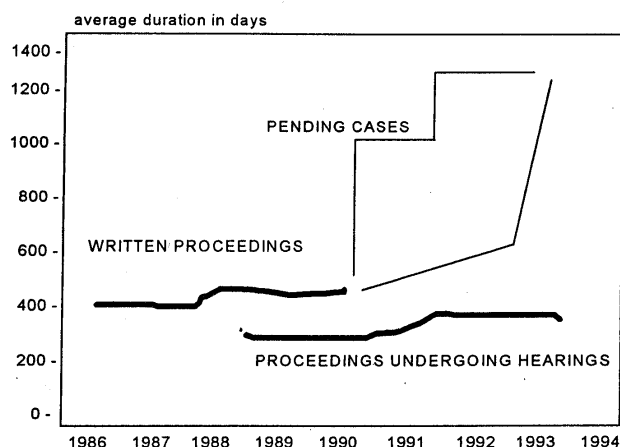
⁴ Luis TORELLO, "Lineamientos generales de la Reforma Procesal civil y el caso concreto de la reforma en el Uruguay" ("General lines of the Civil Procesal Reform and the concrete case of reform in Uruguay"), in "Reformas Procesales en América Latina" ("Procesal Reforms in Latin America"), CPU, Santiago de Chile, 1993.

⁵ Enrique VESCOVI & María del Carmen RUECO, "Los primeros resultados de la reforma de la justicia en Uruguay: a balance eighteen months after the General Process Code entered into effect") Ed. Idea. Montevideo, 1991.

C. Unusual Ends to Proceedings

When analyzing the path that each case follows until its termination, one can see that not all of them end with a definite sentence. i.e. a decision that resolves the basic question relevant to the conflict. Many times the process concludes in an unusual or extraordinary way: due to expiration, settlement, abandonment of the right, abandonment of the action, acceptance of the claim by the defendant, etc. When the number of cases that do not end in the usual manner is significant, the effort of the system of judicial administration is wasted, because the conflict is resolved independently of the judicial system. Every reform project that tries to deal with case back-up and reduce delays should investigate what proportion of cases end without a sentence, why this happens, and how that number could be reduced to reasonable levels.

FIGURE 2. Average duration of the proceedings in civil, Family, labor, and litigious-administrative Courts of Montevideo.



At the end of 1992 an investigation was carried out in the courts of all matters of the cit)- of Buenos Aires to evaluate the duration of the proceedings. The investigation included a calculation of the number of each one of the possible ways a case might end. The study included courts of first instance and appeal, and the moment in the proceedings when the unusual end occurred.⁶

In 1995 according to Law 24,573 an obligatory instance of mediation in all non-criminal cases was established in Argentina's national and federal justice systems. Before adopting this decision a pilot experiment in mediation was implemented with participation of the civil courts (estate and family). The results showed an agreement level of 59% in estate cases and 51% in family cases. In cases where agreement was reached, the average duration of the mediation process was 55 days. In all of the cases it was found that the most auspicious time for the case to be mediated was between the answer to the complaint and the trial proper.

⁶ Carlos G. GREGORIO, "Investigación sobre demora en el proceso judicial" ("Research on delay in the judicial process"), Centro de Estudios Judiciales de la República Argentina CEJURA, 1995.

D. Accessibility of Judicial Information

The information systems should allow the sponsoring attorneys, public defenders or defense attorneys, prosecutors, or others, to ask for information about their cases, and to find out directly the stage at which they are, being able to access the data base that contains the information. A great number of needs for information will be satisfied in this manner without the intervention of personnel, making optimal use of time and space.

The current trend in the systems is for the attorneys to ask about their cases from their own offices, through a system of communications that is outside the judicial information system, which gives them partial access to the necessary information.

The most interesting experience in this area is the one that has taken place in the Judicial Branch in Chile. Consultation systems provide information about the initiation, termination and procedural status of cases that are heard in the Courts of Appeals in Santiago. It is also possible to get this information via remote consultation of the data banks in the civil and labor courts. The public service of "Judicial Self-consultation" makes it possible to find out the status of civil cases from a distance and obtain printed information with different levels of detail, for example, daily status, texts of resolutions, movements of a case, etc. Access is available through terminals installed on the first floor of the building that houses all of the civil courts of Santiago.

In Argentina there have been recent pilot experiments in the civil courts of Buenos Aires that implement consultation about the status of causes from a distance via modem.

E. Improvement in Judicial Statistics

Judicial statistics play a fundamental role in the design and optimization of case management and case-flow systems. In recent years the quality of statistical information on the administration of justice has improved significantly in Latin America. However, it does not seem to have taken advantage of the computerization process to increase the quality of the data provided, or to use it in decision-making. Most of the data that is obtained, and especially the data that is published, describes caseloads. In this sense, it seems necessary to give a new boost to case management and case-flow systems to obtain basic global information that may not be very relevant to the courts in carrying out their tasks, but will be very important in research studies to optimize administration procedures.

Presently, the statistics on judicial administration in Costa Rica seems to be one of the positive examples of how the Judicial Branch should inform the community about its operations. Important results have also been achieved on judicial statistics in Argentina, Colombia, Chile and Uruguay.

F. Characteristics of Information Systems

One of the reforms in judicial administration consists of replacing manual record systems with computerized systems for handling information. In almost all of the countries in the region this process has been a gradual one. The processes of computerizing judicial administration began with producing sentences (word processor), and followed with mechanisms for record-keeping and case flow management that replaced the court's files and books.

In almost all of the countries in the region there are computerized processes. Today, as a corollary to these experiences, the primary objectives of these systems are:

- providing information to facilitate decision-making by the judge and his assistants, as well as the parties, their attorneys or any other person who participates in a process;
- Permitting the generation of basic information for statistical analysis, evaluation, streamlining, and optimization of the system and for decision-making by those who act as court administrators or define judicial policy.

G. Purpose and Quality of the Information

Court information that is generated or processed may have a different entity and value. Nevertheless, the information that is normally included in computer systems could be classified in the following manner:

Statistical: when data is included in a computer system to be used in preparing statistics, research or monitoring, it is not necessary to identify the name of the parties (perhaps except for the State itself or parties that have multiple cases). The most important consequence is that only the information that is included for these purposes may be protected under the "statistical secret".

Referential: information contained in the system facilitates access to data or the process of identification of documents or people necessary for management.

Documentary: information that has documentary value furnishes the means for rational decision-making. If the parties, for example, can inform themselves of a judge's decision or a notification by consulting the computer system, that data should have documentary value. There should be a guarantee that all of the data classified as documentary can not be modified or, if it is, there should be a record of the previous content, who modified it, and when.

Record-keeping: the most important characteristic is that including information in the record produces legal consequences. Thoroughness is also essential; in a record-keeping system the absence of pertinent information has documentary value.

In the planning process it is necessary to establish what scope (statistical, referential, documentary, record-keeping) each unit of information will have in the computerized data system, how it will evolve in the future, and what information flows are compatible with other computer systems, now and in the future. This aspect will perhaps be relevant in future developments or in reviewing current computer systems. A careful evaluation of information needs should probably be made -or should be improved if one has already been done.

In many of the systems developed in the region, especially during the initial stages, the inclusion or exclusion of information was not a result of a process of identifying needs, nor were the purpose or minimum quality standards established for each type of data. One of the problems that has arisen is that the use of computer systems is not mandatory for the judge and his assistants, which leads to incomplete computerized information. The use of literal fields has also been generalized to the detriment of codified fields and, in some cases, it has been left up to each judge to establish his own code tables. Not taking precautions in this sense leads to a lower quality of information that, although, it does not affect the work of the

court in principle, it does become relevant when computerized data is used in the future to conduct global studies and analyze the operation of the whole judicial system.

Information from a judicial source influences many people's decision-making process, and improvements in the quality and accessibility of that information make it possible to modify those factors radically. On the other hand, the purpose of some computer systems may be to optimize or support some particular types of cases either for differential management or to provide information about context.

An experiment was carried out in the civil courts of Buenos Aires to study the following phenomena: (i) the majority of the number of cases were generated by traffic accidents; and (ii) it was observed that the amounts of compensation granted in those cases differed significantly from one court to another, even when the cases were relatively similar. The installation of a data base with the amounts granted by the Court of Appeals, which enables the user to recover cases with a final judgment by means of the data of the victim or the claimants, helped resolve this problem to a significant degree. It was also discovered that the system is very useful in supporting the mediation process.⁷

H. Case Distribution

In many cases the installation of computerized information systems makes it possible to administer the distribution and assignment of cases among the courts in a pseudo-random and fair way, according to the difficulty and urgency with which they must be resolved (e.g. protection action).

For example, there have been case distribution systems in: Buenos Aires, in the civil courts since 1981, in labor courts since 1987, and, recently, in commercial courts; Santiago de Chile in civil and labor courts since 1989; Montevideo in civil, family, labor, and litigious-administrative courts since 1992.

An important fact associated with automated case distribution systems is to have coding tables with the objects of litigation, matters, type of case, object of the process (gathering the synonymy used in some countries in the region). The preliminary classification of the case is proposed by the attorney who presents the demand, which permits more efficient control of the cases, initiated and more homogeneous distribution of cases. It is necessary to review the tables of options periodically, bearing in mind the needs of statistical studies and information systems. It is advisable to calculate how frequently ~h one of the options has appeared in recent years to analyze the advantages of eliminating, adding, or distinguishing new options, with statistical or judicial criteria. The tables used in Buenos Aires, Santiago de Chile and Montevideo, for example, are substantially different. One of the reasons is the different substantive legal frameworks, but there are also other elements or specific customs regarding litigation. For example on the coding tables of civil and labor courts, there is a difficulty that seems to generate different solutions, which is the concurrence on those tables of descriptions of facts, rights or actions. The tables of crimes seem to be much more homogeneous.

⁷ Gladys S. ALVAREZ, "El enfoque empírico: un sistema de ayuda a la decisión judicial", (The empiric focus: a system to aid judicial decision), in R. GUIBOURG (ed.) "Informática Jurídica Decisoria (Decisive Juridical Information) (1991) 191-210, Astrea, Buenos Aires.

Distribution systems make it possible to generate common files for all the courts or appeals courts on the same matter. Only in a few cases are they connected via network to the courts' management systems, which permits more effective control, and makes it possible to identify related cases.

I. Case management and Follow-Up

There are several systems in use in the region; some were developed by the technical teams of the Judicial Branch and others by companies or external consultants. In all of the cases control and direct follow-up of the projects by the authorities of the Judicial Branch was shown to be favorable.

The most important object of IANUS, the system of Criminal Case Follow-up of Bolivia, is the proceeding. The process is considered to be a chain of proceedings. The technical modules consist of: reception of the case, distribution of the case to courts, administration and storage of means of proof, administration of the file, handling of the Judges' agenda, control of notifications, and control of the conviction. The system makes it possible to generate different statistics at the court level.

The criminal courts of El Salvador (in San Salvador and Santa Tecla) use a system of case management of criminal cases in the First Instance. The system makes it possible to record personal data about the defendant, government and defense attorneys, place of the commission of the crime, names of the victims, etc. They also record the dates associated with all of the events, procedural stages, and ways the case may end. A screen containing the history makes it possible to display all of the events related to the case in an orderly manner. Another system has been developed for the management of the cases of convicted prisoners that is currently operating in the criminal courts of Santa Tecla. The system makes it possible to control: preventive detention, stay of proceedings, execution of the sentences, and ensuring that the sentences are served. In the module of Execution of Sentences, it is possible to record payments made for civil liability and the objects attached.

In the civil and labor courts of Santiago de Chile, the Case-Flow and Procedural Control System records the initiation, procedures, termination and file of each case and a record of all the procedural actions arranged according to the type of procedure (ordinary, executive, precognition, etc.) associated with each type of case and can verify the time allowed by law for action before a court for each stage of the procedure. It also provides tools to facilitate administrative tasks and the generation of rosters, lists and statistics. The physical follow-up of files, certified the copies, rotary letters or documents is also possible. It also makes it possible to record the movements in the court's checking account.⁸

In Buenos Aires a management system is in operation for labor courts that was developed externally. The Supreme Court's technical teams also developed a management system that is operating in the criminal and civil courts.

In Uruguay a system is used that was developed by the Computer center of the Judicial Branch. It is currently in use in civil, labor, family and contentious-administrative courts in Montevideo, and in multiple jurisdiction courts (non-criminal) in the cities of Las Piedras, Maldonado, Pando, Paysandú and Salto.

⁸ Juan E. VARGAS & Jorge CORREA, *Diagnóstico del Sistema Judicial Chileno* (Diagnosis of the Chilean Judicial System), CPU, 1995.

The first management systems that were developed in the region, to operate with procedural codes with written procedures, were aimed at finding out *where the file was* to facilitate the writing of the sentence (word processors). On the other hand, if procedural activity focus on oral hearings, management systems will be more oriented toward management of the calendar and the agenda. Although these were the first needs that were identified, today experience accumulated in the use of computer technology indicates that the management system is a fundamental tool to improve effective control of the progress of the case by the judge and his assistants.

According to the experiences analyzed, management systems can be developed with different levels of involvement with procedural norms. In some cases, an attempt has been made to produce a management system that can practically be adapted to any type of procedural code; in other cases, systems have been developed ad hoc for a particular code. The experiences that have been developed looking for an intermediate alternative leave it up to the user to include information related to procedural norms; in that way, the procedural steps or stages are included as tables that the user can modify. Without proper coordination, this way of working tends to generate information that is not comparable.

It has been observed that a management system can suffer from a certain degree of inertia or can introduce procedures by non-legislative means, which in some cases have kept alive institutes or procedures that were abolished when a procedural code was reformed. It is advisable to differentiate clearly, when planning the inclusion of each piece of data, table or classification, whether or not it fits in accurately with the procedural norms in effect. Not all the procedural norms should be referred to or recorded in the system, just the ones that are considered necessary. The development of this activity requires the participation of a group of specialists in judicial procedures, court administration, and computer services. The design and modifications in case management and case-flow systems should respond to needs that have been identified previously. If the structure of the management systems in the region is taken as a point of reference, in principle, the basic characteristics of the system should:

- have a sole system of case identification for the entire Judicial Branch;
- maintain a visual interface and consistent language for all types of court, procedures and cases, if possible; the different versions should have the same logical pattern and be variations of equivalent procedures;
- be flexible, be adaptable to new modalities;
- operate with adequate inter-relation to the procedural code in effect. If there is a change in the procedural code, the new cases and the ones that are processed according to the old code should coexist temporarily in the same system;
- replace the systems for recording case-flow (books or files);
- include subsystems for differential management for some types of cases;
- have indices that facilitate access to all or part of the information on the case, by different entries (the procedure should include alphaphonetic searches). The recovered information should be accessible for modification;
- include applications to carry out the functions of recording procedural steps and stages, notifications, bonds, arrests, changes in interested parties, effects attached, calculation of judicial rates, fees, etc.;
- record dates and times of all the interventions;

- include specific applications for oral procedures, especially for management of the court's agenda. The system should include a calendar and the possibility of knowing about and recording the events planned for each day, and the estimated duration of each one of them;
- whenever possible, include automation elements;
- contain a specific word processor and tools to generate standard documents or routine correspondence, insert quotations of jurisprudence or the names of the people involved, access the data bases, use dictionaries, protect the name of minors, etc.;
- automatically alert the advisor of minors about the presence of minors in a case, to protect their interests;
- assist the judge, his assistants, and court personnel, in scheduling hearings within a determined period of time;
- use internal reference tables and tables with modifiable options;
- contain information on calendars (holidays), availability and reservation of hearing rooms;
- tools to arrange information by date, alphabetically or numerically;
- select data through Boolean operators;
- carry out arithmetical operations, etc.;
- produce various types of internal statistical reports of the court (cases being processed and started, in court, in the jurisdiction, the previous year, delays, month by month, oldest cases, etc.) and present them jointly with global indicators of the same types of courts.

J. Privacy and Judicial Information

Computerizing court administration began by assisting in the writing of sentences (word processors), followed by case-flow mechanisms that replaced the courts files or ledgers. As computer systems grow and improve, central data bases are created for all of the same kind of courts in one jurisdiction. That is the time when people appear, who are not party to any case, but who are interested in having access to and using judicial information.

On the other hand, the administration of justice should be transparent; publicity about its actions and decisions is one of the pillars of the system. Knowledge of precedents is what ensures respect for the principle of equal justice.

The State in the past requested and collected data, which in many cases had no apparent usefulness. This was done without the aid of computers. Presently, computer science is an optimal resource for processing the data gathered. There have also been transformations in this processing, with a significant influence on human behavior and decision-making. The way that the data was altered, and the number of times the data was transferred have varied enormously, altering the relationship of the individual with his environment and his perception of the same.

Increases in accessibility, a result of the centralized systems of judicial information, have given way to new requirements. For example, in labor justice requests are received from companies that select personnel and who are interested in finding out if any labor suits have been initiated by a potential candidate for a position. Certainly the intention is to predict future conduct, believing that someone who exercised his rights in the past will not be afraid to initiate new actions in the future.

In the Court of Appeals in the Civil *Courts* of Buenos Aires, requests have been presented with the same characteristics; for example, to find out whether a person, a potential tenant, has been evicted in the past. Recently, the Civil Court, established by Agreement N° 922, of November 10, 1994, placed restrictions on access to judicial information, especially in the cases of family conflicts.

Aware, then, of the differences in opinion as whether to make the information collected in judicial actions public, and the certainty that the volume of information as well as facilities of access will continue to grow, the demand for information, with or without any legitimate interest, will also increase. It is considered highly recommendable to prepare legislation that takes into account the situations mentioned above, and basically defines general principles applicable during the development process of computer systems for the Judicial Branch.

This legislation should be compatible and complementary to the norms that determine the scopes of habeas data,⁹ because, in principle, publicity applies to all the information handled by the public administration. Nevertheless, guidelines should be established to protect the defenseless citizen against the way that information might be used. It will be necessary, then, to establish limits in the processes of collecting data through substantive norms that require previous identification of the need for the data and the purpose of its use, as well as limit who may request the information.

The creation of data processing systems should be transparent and accessible to all users. It is necessary for the government agencies that work with data banks to have contacts with independent institutions and non- governmental organizations that offer the services of their experts and represent the opinion of specific sectors. The risk factors, effects, and consequences that data processing systems may produce on society should be studied, as risk analysis.

The legislation should avoid the stored information's generating or permitting any form of discrimination or prejudice, for example, through gathering and keeping data on religious beliefs, political opinions, sexual attitudes, ethnic origin, disability, etc. Also, the time periods during which it is necessary to maintain the data should be identified and stipulated, defining the procedures by which it may be eliminated. Publicity does not protect the indiscriminate disclosure of data, nor does it mean converting the public administration into an information service. The legislation should determine when it would be appropriate to provide third parties with information referring to an individual.

Appropriate decisions are necessary then in this area, either to make the information in the Judicial Branch accessible to any user, and acknowledging the individual's right to petition privacy, or, on the contrary, restricting access only to those who have a legitimate interest that is duly accredited. Defining these issues is an important requirement for the development and efficiency of judicial computerization, as well as for public information services and national records, and especially for computerized statistics.

According to the background information presented, the design of computer systems for the Judicial Branch should - while there are no explicit norms or policies - seek to maintain a balance between the:

⁹ The Constitution of Brazil of 1988 has established habeas data in article 5°, subsection LXXII. Equivalent prescriptions are in the Constitution of Colombia of 1991 (article 15), the Constitution of Perú of 1993 (article 200.3) and the Constitution of the Argentine Nation of 1994 (article 43).

- principle of publicizing judicial actions and decisions;
- and the most recent trends toward protection of personal information: ¹⁰
- principle of purpose (data will be recorded for specific and legitimate purposes, and it will not be used in any way that is inconsistent with those purposes);
 - principle of proportionality (the data should be appropriate, relevant and not excessive);
 - the data will be obtained treated fairly and legally;
 - right of access to information (viz. before starting any computerization, deciding what personal information is necessary, and how the information is going to be treated, recorded, and transferred to other people);
 - right to know to whom your personal data has been transferred;
 - right to oppose, for legitimate reasons, the subjecting of the information to data processing;
 - right to rectify information;
 - specific actions for guarantee of habeas data;
 - cancellation of records when they are no longer necessary or relevant;
 - statistical secret;
 - existence of an authority for protection of personal information.

III. CONCLUSION

Reform in the realm of case flow management has been characterized overwhelmingly by the introduction of computer equipment. Even accepting the fact that it is essential to equip court administration with all the technological advances, this is not all that needs to be, or can be, reformed.

There are several problems in this process: the complexity of new technologies and their own slang; the resistance to change; the traditional education of lawyers and judges, which does not include any knowledge of other fields, especially computer science, administration, decision-making, etc.; and pressures and commercial aspects that surround computerization, just to mention a few of the most important problems.

Nevertheless, the progress that has been made has been very important. The high degree of participation of the judges should be emphasized. In many cases they have committed themselves to pilot experiments and other kinds of evaluations.

At this moment in many judicial systems in the region, with different degrees of progress, there is computer equipment, which, in most cases, facilitates court administration. However, computer systems are just beginning to develop, which will make it possible to obtain global data. The more general systems designed to distribute cases only contain information about the existence of a case. But there are still many traditional problems that have been described, like delays and back-ups.

¹⁰ For example, Agreement 108 of the Council of Europe of January 28, 1981. cfr. Egbert J. AUSEMS, 'La protección de las personas frente al tratamiento automatizado de los datos personales en el marco del Convenio 108 del Consejo de Europa' (The protection of people in the face of automated treatment of personal data in the frame of Agreement 108 of the Council of Europe), in "Informática Judicial y Protección de Datos Personales" ("Judicial Information Systems and Protection of Personal Data") (1994) 15-27, Department of Justice, Basque Government.

On the other hand, the management of the justice system is increasingly becoming a subject of public debate. Although there is insufficient information, different interest groups conduct studies and reach different conclusions about the way justice is administered. The opinions and studies of the Judicial Branch, based on isolated data and keyed to sectorial interests, create in some cases the feeling that the system is out of control. These studies do influence decisions, but they usually create more of an uproar than provide information.

There are several reasons that each Judicial Branch should assemble all of the existing information on management systems and carry out its own studies. Among them, as a general framework, they should concentrate on systems corresponding to the processing of existing information in the Judicial Branch that make it possible:

- to improve sectorial planning capacity, based on reliable, sufficient and timely information, that improves the decision-making process;
- to improve the capacity of management analysis at the directive levels of each one of the public institutions, including the courts;
- to improve the knowledge of management in each one of the judicial offices, prosecutor's offices, defense attorneys' offices, etc. based on specific information and comparable guidelines;
- to consolidate a package of measurements and indicators that may be published in the community, as information about the performance of the judiciary and its evolution;
- to optimize the organization and administrative procedures;
- to improve statistics and make them part of the decision-making process;
- to respond to sectorial studies;
- to differentiate what is typical from what is inconsequential;
- to generalize and forecast.