

**E-NABLING SUSTAINABLE DEVELOPMENT:
LESSONS FROM E-JUSTICE PROGRAMMING IN
KYRGYZSTAN**



LESSONS LEARNED PROGRAM

As part of IDLO's pledge to continuously enhance the impact of its work and be at the forefront of thinking on how change occurs and can be fostered in the rule of law field, the IDLO Lessons Learned Program analyzes priority themes from select IDLO programs in combination with international theory and practice. The aim is to learn what types of interventions can lead to positive change, under what conditions, and how such change can be sustained. To share good practices both internally as well as with the broader rule of law community, findings are compiled in a series of Briefs, intended to support program design and implementation and to influence and innovate rule of law policy and advocacy.

Front cover image: IDLO

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1. INTRODUCTION

E-nabling Sustainable Development: Lessons from e-Justice Programming in Kyrgyzstan explores the power of electronic justice (“e-justice”) to enhance judicial independence and integrity and access to justice, contributing to broader rule of law goals. This includes Sustainable Development Goal (SDG) 16 of the 2030 Agenda for Sustainable Development, dedicated to the promotion of peaceful and inclusive societies, the provision of access to justice for all, and the advancement of effective, accountable and inclusive institutions at all levels.¹

E-justice programming’s potential to improve access to justice and, by extension, to further the SDGs is increasingly recognized. The World Bank’s *World Development Report 2016*, for example, asserted that “The internet largely, but not entirely, reinforces rather than replaces pre-existing relationships of accountability between governments and citizens, and it complements rather than substitutes for existing government capabilities.”²

With the right conditions, e-justice makes a valuable contribution to wider processes of institutional transformation and rule of law strengthening. By using digital technology to enhance information management and communication, e-justice helps litigants, judges, prosecutors, lawyers and other observers access information that is otherwise hidden, obscured or obstructed. By making laws, regulations, judicial decisions, procedural information and other materials more widely available, e-justice helps parties litigate and resolve disputes on a more even playing field. E-justice also facilitates faster delivery of justice outcomes and advances the publication of judicial information, including performance rates of courts and tribunals.

Since 2004, the International Development Law Organization (IDLO) has been working closely with the Government of Kyrgyzstan to strengthen the rule of law and access to justice. Drawing on IDLO’s experience in Kyrgyzstan and international literature and practice, this *Lessons Learned Brief* considers the challenges and successes of IDLO’s e-justice programming within the broader international context of e-justice interventions, testing the sustainability of approaches and analyzing ways in which e-justice can support the overall administration of justice.³

IDLO in Kyrgyzstan: Leveraging e-justice for strengthened judicial performance

During a period of heightened instability in 2011, IDLO partnered with the United States Agency for

International Development (USAID) and the Government of Kyrgyzstan to implement a Judicial Strengthening Program designed to

- support reforms towards judicial independence;
- increase human resource capacity in the judiciary; and
- restore judicial integrity.

In pursuing these objectives with national stakeholders, IDLO leveraged the power of information and communications technology (ICT) to realize measured but tangible progress in inducing reform within Kyrgyzstan’s judiciary. This positive experience prompted wider reflection on the use of technology, information management and communications to enhance the transparency, accountability and effectiveness of the judiciary, while contributing to broader development goals.

While e-justice efforts have been successfully advanced in a number of countries around the world, e-justice initiatives implemented within the development context have often failed, including for reasons of a lack of detailed planning during program design and failure to ensure sustainability. Often, insufficient attention is given to the non-technical aspects of e-justice programming such as the threat that e-justice may pose to the established order and to individuals who have vested interests in maintaining the status quo or to the value of stakeholder ownership.

Somewhat counter-intuitively, successful e-justice implementation requires a humanistic approach that accounts for national politics, history and socioeconomic conditions. Studying IDLO’s programming reveals the need for adequate time to understand the bureaucratic and cultural norms of justice institutions and the people and incentives that support them. This holistic assessment must be accompanied by a willingness to simplify and retrace steps to ensure all stakeholders feel a sense of ownership. Additionally, technical and political preconditions may be necessary for the potential of e-justice interventions to be fully realized. Factors such as public support, political will, local ownership and some degree of judicial independence also play major determining roles in whether e-justice initiatives are successful.

In many ways, the Kyrgyz judiciary is an atypical exemplar for the effective use of e-justice. Documented problems include corruption, nepotism, bias, long procedural delays, unclear and conflicting laws,

underqualified judges, and lack of cooperation between the courts and other institutions.⁴ Importantly, the Kyrgyz Constitution sets rules for the organization and functioning of the judiciary and comprehensive judicial reforms have been enacted with strong levels of public support; yet, trust in the judicial system remains low and many Kyrgyz express skepticism of a lasting impact.⁵ Addressing ingrained problems requires a multi-pronged approach, in conjunction with key technological fixes such as e-justice.⁶

To explore these themes more deeply, *Part II* begins with a summary of the key definitions, activities and

documented shortcomings of e-justice programming. *Part III* reviews how justice institutions can support broader development goals and the common challenges to judicial institutions in transitional and fragile settings. *Part IV* explores how e-justice programming can improve access to information and judicial capacity and accountability in support of access to justice. *Part V* details lessons and recommendations for designing effective e-justice programming. Finally, *Part VI* concludes with overall reflections and areas for further research.

2. CONCEPTUALIZING E-JUSTICE

E-government: a tool to achieve better government

E-justice is considered a sub-sector of the larger e-government field of programming, defined by the Organization of Economic Development and Cooperation (OECD) as the “use of information and communications technologies, and particularly the Internet, as a tool to achieve better government”.⁷ E-government is said to promote and improve stakeholder participation in national and community development and to deepen the governance process.⁸

The e-government field has grown in tandem with the explosive increase in communication system bandwidth and the wider availability of computers and mobile electronic devices. For many people, modern access to digital technologies brings greater access to information and convenience. Importantly, access to the internet provides opportunities for engagement with the government and civil society that may previously have been out of reach for marginalized groups. Firms as well as the public sector can boost their efficiency and governments and firms are able to provide more information to more people at less cost.⁹

Structural considerations impacting e-government programming

E-government projects enjoy higher rates of success in countries with strong institutions,¹⁰ which has important implications for projects designed to help strengthen institutions by rolling out e-initiatives. Implementation can take a long time and must confront short election cycles and political reprioritization.¹¹ Documented challenges to the implementation of e-government projects include: lack of reliable electricity and networks; poor communication and language issues; lack of coordination with different levels of government or institutions; weak methods for evaluating performance; poor quality assurance and sustainability; and lack of public awareness of the benefits of e-government.¹²

The 2016 edition of the United Nations' global e-government survey indicated that countries across the world were utilizing ICT as a tool to support legitimacy and to promote accountable and transparent institutions through access to information, open data and participatory decision-making.¹³ Their reasons for doing so were remarkably similar and focused primarily on enhancing public participation and strengthening institutional integrity.

As noted in a widely cited OECD policy brief:

ICT can help build trust by enabling citizen engagement in the policy process, promoting open and accountable government and helping to prevent corruption. Furthermore, it can help an individual's voice to be heard in a broad debate, harnessing ICT to encourage citizens to think constructively about public issues and assessing the impact of applying technology to open up the policy process.¹⁴

These goals echo e-justice programming objectives.¹⁵ E-justice promotes open and accountable justice institutions through increased transparency, which in turn helps to prevent corruption. The use of ICT can empower citizens and enable them to more clearly identify injustices and raise their voices against them. As

explored in more detail below, e-justice can also have a marked impact on levels of access to justice for marginalized groups. Lastly, the use of ICT can encourage the public to participate in debates about justice, laws, regulations and policies, promoting constructive engagement and enhancing state legitimacy.¹⁶

E-Justice: a tool to improve justice institutions and access to justice

E-justice is the use of technology, information and communications to improve access to justice and effective judicial action.¹⁷ More specifically, e-justice leverages digital technology to improve access to justice, to strengthen the justice system by increasing cooperation between legal authorities such as judges, court staff, prosecutors, police, prison staff, and lawyers, and to strengthen legal institutions and improve the overall administration of justice.

Programming initiatives under the e-justice banner vary considerably. Initiatives may involve developing portals for users to access laws and regulations, instituting electronic communication systems linking litigants and the courts, or connecting legal authorities to one another. Other initiatives may focus only on a discrete aspect of e-justice such as digital signatures. Program

variance correlates closely with locally identified needs, the degree of government support, and the direction of donor strategies.¹⁸

A snapshot of IDLO's experience in e-justice programming in Kyrgyzstan helps to illustrate the breadth and scope of activities that can constitute e-justice activities. Under the USAID-funded Judicial Strengthening Program, e-justice achievements include:

- adoption of an Information Technology Strategy for the Kyrgyz Judiciary 2015–2018;
- introduction of automated case distribution for three collegia¹⁹ of the Supreme Court;
- implementation of document workflow by the Constitutional Chamber of the Supreme Court;
- publication of judicial decisions on a dedicated website (www.sot.kg) with a de-personification system that anonymizes sensitive personal data.²⁰
- design of a web portal for the Supreme Court's High Justice Training Centre allowing online sign-up for courses for judicial personnel; and
- creation of a dedicated ICT entity, Adilet Sot, for the maintenance and expansion of the implemented e-justice systems.

Complementing these efforts, in 2014 IDLO began working as part of a consortium implementing a European Union-funded program focused on promotion of the rule of law. Notable combined achievements include:

- development of a user-friendly court information management system for first instance courts;
- adoption of case management software for use in three first instance courts;
- integration of software to randomize allocation of cases to first instance judges; and
- adoption of supporting rules and procedures.

E-justice programming has been well recognized for its contribution to increasing transparency and accountability of justice institutions, and thereby strengthening judicial independence and integrity, access to justice, and institutional capacity. IDLO's experience reflects that e-justice programming can be an essential component of efforts to strengthen the rule of law, provided e-justice implementation is approached thoughtfully, methodically and with long-term outcomes in mind.

E-failures

Despite well-intentioned and ambitious goals, there is persistent skepticism of e-government and e-justice initiatives due to a poor rate of past delivery.²¹ According to *The Economist*:

Whereas e-commerce has been a spectacular success, transforming industries as diverse as travel and book retailing, e-government has yet to transform public administration. Indeed, its most conspicuous feature has been a colossal waste of taxpayers' money on big computer systems, poorly thought out and overpriced.²²

Skeptics also note that 60 per cent of the world's people are still unable to access the internet and thus cannot access e-government services.²³ In Kyrgyzstan, despite the high mobile penetration rate and although internet penetration continues to expand, the percentage of the population with internet access is still low by global standards (34.5 per cent).²⁴ E-justice efforts are therefore constrained by structural factors, namely persistent digital divides across gender, geography, age and income dimensions within each country.²⁵

Furthermore, while most developed countries have nearly two decades of experience in designing and implementing e-government strategies for various agencies, justice institutions have remained stubbornly out of reach or uncooperative.²⁶ Judiciaries tend to express a reluctance to innovate, as the work of justice is often entrenched in laws, regulations and consolidated practices.²⁷ This gap between the pace of technology and legal change has stymied progress.²⁸ There has also been a conspicuous absence in the justice sector of many countries of a culture of evaluation and of instruments dedicated to measuring client satisfaction.²⁹

And yet, despite the relatively high potential for failure, as demonstrated by the implementation of programming in Kyrgyzstan, these challenges can be overcome. As discussed in the following sections, the benefits of e-justice programming are many. The use of digital technologies is among the most promising methods of facilitating greater levels of integrity and capacity in the judiciary, driving greater access to justice for all, a key means of furthering national development goals.

3. PROSPECTS AND CHALLENGES - THE ROLE OF THE JUDICIARY IN PROMOTING SUSTAINABLE DEVELOPMENT

The importance of justice institutions for sustainable development

Recognizing three pillars – economic, social, and environmental – sustainable development has been defined as an effort to “[meet] the needs of the present

without compromising the ability of future generations to meet their own needs”.³⁰ As captured in the 2030 Agenda, access to information and legitimate, responsive institutions is fundamental for ensuring that progress and prosperity are widely shared and that individuals can claim and exercise their rights, now and in the future.

The 2030 Agenda and the Sustainable Development Goals

The 2030 Agenda recognizes that “the rule of law, as well as an enabling environment at national and international levels, [is] essential for sustainable development, including sustained and inclusive economic growth, social development, environmental protection and the eradication of poverty and hunger”.³¹

The 2030 Agenda calls on Member States to “build peaceful, just and inclusive societies that provide equal access to justice and that are based on respect for human rights, on effective rule of law and good governance at all levels and on transparent, effective and accountable institutions”.³² SDG 16, in particular, is dedicated to the promotion of peaceful and inclusive societies, the provision of access to justice for all, and building effective, accountable and inclusive institutions at all levels.³³

Justice institutions are a principal means by which disputes are settled and through which the terms of reconciliation are expressed and recorded.³⁴ As such, justice institutions can be understood as information repositories, hosting vast quantities of material which form the basis of individual relationships to one another and to the State.³⁵

Justice institutions play a particularly critical role in realizing sustainable development objectives, as they empower citizens to hold governments accountable for providing a host of economic and social rights and commitments, including to health care, education, human security, clean water and livelihoods.³⁶

There are strong linkages between levels of access to justice and gains in sustainable development.³⁷ Courts and other justice mechanisms contribute significantly to the fulfillment of people’s socioeconomic potential. They protect private property and encourage capital investments, leading to job growth and tax revenues to support transportation, health and energy infrastructure, among other areas.³⁸

Further, effective and efficient adjudication can dramatically alter the circumstances of cases fundamental to people’s lives – inheritance, divorce, custody, alimony and gender-based violence, as well as housing, labor and other important legal issues.

The judiciary’s role in ensuring equitable sustainable development is particularly clear when the economic and social rights of the underprivileged and the poor challenge elite interests. In some countries, the justice sector plays an important role in motivating a reluctant executive branch to produce development outcomes and to recognize international rights obligations.³⁹ Justice institutions are also key to resolving disputes that might otherwise lead to violent conflict and thereby reverse development gains.⁴⁰ In order to achieve these benefits, however, judiciaries must exhibit sufficient independence, transparency, integrity and capacity.

High standards for the judiciary

As an ultimate arbiter of disputes, judiciaries face a level of public scrutiny that other institutions do not.⁴¹ Judges must be committed to non-discrimination and due process, unbiased and consistent in their judgments, and coherent and accessible in argument. Importantly, judges must be accountable for their decisions and legal reasoning through processes of appellate review and the principle of an open court.⁴²

Indeed, courts must be driven by the demands of equity and equal treatment if they are to live up to their institutional mandate.⁴³ Greater integrity, access and capacity are also essential to enhancing citizens' trust and confidence in the justice system and, by extension, in the State itself. This trust is particularly important in conflict-affected and transitional contexts in which confidence in collective efforts is often particularly low.

Despite or perhaps because of their central role in achieving sustainable development results, justice institutions are often imperfect. Corrupt practices and a lack of institutional independence from the executive and legislative branches deeply undermine the justice sector's ability to provide effective services, including those that would further sustainable development. Along with insufficient budgets and entrenched cultural norms, these imperfections can undermine the judiciary's ability to contribute to development goals.

Challenges faced by judiciaries in transitional contexts

Individual and institutional corruption

Surveys indicate that the judiciary and police are viewed globally as the world's two most corrupt institutions.⁴⁴ Specific examples vary by context, however entry points for corruption increase considerably in less developed or transitional countries, where judicial systems are often paper-based.

Opportunities for corruption in justice systems are many and can affect every stage of judicial proceedings, from pre-trial hearings to trial to the enforcement of decisions by court bailiffs.⁴⁵ A judge may allow or exclude evidence to acquit a guilty defendant of high political or social status; judges or court staff may manipulate trial dates to favor one party over another; judges may inaccurately summarize court proceedings or distort witness testimony before delivering a verdict that has been purchased by one of the parties in the case; or court personnel may "lose" a file to benefit one party over another.

Nepotism is also a problem in some contexts. Judges may hire family members to staff their courts or offices

or ensure contracts for court buildings and equipment go to relatives or friends. Corruption and nepotism threaten access to justice and undermine the integrity and impartiality of the entire legal system.⁴⁶ Given the courts' role in delineating right from wrong and enforcing individuals' rights, judicial misconduct creates strong levels of distrust and antipathy that are not easily reversed.

Insufficient budget allocations

In many countries, budgets allocated to the judiciary are lower than recommended by international standards. Limited budgets may induce judges to supplement their low salaries through petty corruption. Small budgets may also allow politicians to gain leverage over judges; those whose decisions favor the politically connected are recompensed with modern office equipment, higher quality housing, and other material rewards.⁴⁷ Overall, insufficient judicial resources create incentives for corruption, hinder the judiciary's ability to meet its obligations, and may provide avenues for interference with judicial independence.

Interference with judicial independence

The independence of judges and court staff can also be undermined by threats and intimidation and by the manipulation of judicial appointments, salaries and conditions of service.⁴⁸ Parliament or executive branch offices and ministries may have the power to appoint and promote judges without the constraint of transparent and objective selection procedures. Particularly in contexts in which qualification requirements are vaguely defined or appointments are made by political actors, judges are sometimes compelled to respond positively to the demands of their benefactors or to comply with requests for favorable rulings. A persistent pattern of favoritism, particularly when combined with allegations of corruption, can entrench negative societal views of the judiciary, its integrity and its role.

Entrenched cultural norms and perceptions

In addition to overt corruption, judiciaries can be undermined by popular opinion, values and expectations. In some countries, entrenched thinking impacts the behavior of judges and litigants alike.⁴⁹ Stakeholders may not view judicial integrity as a virtue but rather view paying for a favorable judicial outcome as a common and accepted practice.

For example, in Kyrgyzstan and other former Soviet republics, there is a widespread belief that people choose to work in the judiciary for improper purposes, particularly the potential to earn money through bribery.⁵⁰ Moreover, the public frequently accuses the judiciary of corruption or incompetence following an

unpopular ruling, at times without any legal or factual foundation. Poor knowledge of both the law and court procedures can lead to undue criticism of justice institutions. Perceptions of judicial integrity frequently lag behind actual progress and widespread accusations of corruption may disincentivize positive change. This challenge is compounded by the widespread acceptance in Central Asian countries that the judiciary is unlikely ever to be independent of the executive branch, an unfortunate historical legacy.⁵¹ Overcoming these norms and expectations is among the most significant challenges for rule of law reform, including e-justice initiatives.⁵²

Although no panacea for all the shortcomings of judicial integrity, e-justice initiatives combined with budgetary and legislative reform are an important contribution to rooting out corruption, nepotism and attacks on judicial independence. As will be explored in greater detail below, e-justice makes an important contribution to helping judiciaries and other justice sector institutions address these challenges in order to achieve SDG 16.

4. ACCOUNTABILITY AND EFFICIENCY - THE ROLE OF E-JUSTICE IN STRENGTHENING ACCESS TO JUSTICE

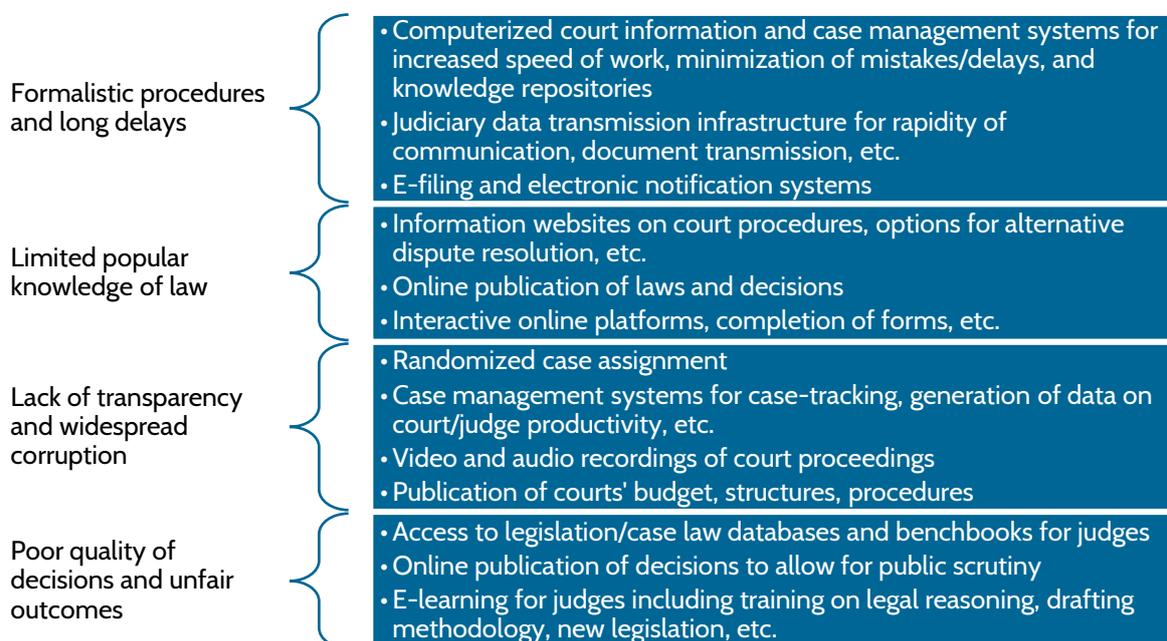
There is no universally agreed definition of access to justice, although it is generally understood to involve an individual's access to justice mechanisms, to the information necessary to pursue resolution through those mechanisms, and to obtain just and equitable legal and judicial outcomes.⁵³

As outlined in the previous section, ensuring equitable access to justice has important implications for sustainable development. However, courts can be geographically or linguistically inaccessible, inefficient and chronically under-resourced. Cases can take years to proceed to trial and the cost of proceedings can be difficult for parties to bear. Furthermore, information and procedures may be inaccessible or difficult to understand, rendering courts unapproachable. As detailed above, the individual decision-making

autonomy of judges may also be undermined by internal and external pressures, reducing judicial integrity.⁵⁴

As shown in *Figure 1*, e-justice programming can address several barriers to access to justice. For example, digital technology can reduce the need for direct contact between disputing parties and the court administration and can simplify and unify procedures through electronic forms. Relevant methods include e-filing, e-notification and e-payment systems, all of which allow litigants to file court documents from their home computer, internet café, or lawyer's office. E-notification tools lead to fewer adjournments of court hearings for failure of one or more litigants to appear.

Figure 1: Barriers to access to justice and e-justice solutions



Safeguarding access to information and improving accountability

Reducing barriers to access

Access to information is a human right,⁵⁵ a definitional component of access to justice and a core focus of e-justice initiatives. In many countries, judges, the legal profession and members of the public do not have ready access to current laws and their amendments, creating difficulties for the administration of justice. Systematic publication of laws and amendments online in a timely manner is foundational to effectiveness of the justice system. Legal resource portals, often maintained by the judiciary, provide legislation and jurisprudence to the public and copies of relevant case documents to litigants. Information and data examples include court documents like petitions, motions, trial exhibits, recordings and transcripts, settlements, opinions and dockets (lists of cases awaiting action in court).

By facilitating open access, e-justice allows legal professionals to analyze previous decisions on similar cases to prepare for hearings or look for information on dates and locations of court proceedings. The media, university students, researchers and the public also benefit from the ability to find legislation and cases online, which is simpler and faster than having to request paper copies. In Kyrgyzstan, before act.sot.kg started publishing information, litigants reported having to make difficult journeys to collect simple information from their nearest courthouse.

Easy access to court documents is particularly helpful for detainees in pre-trial detention centers or people living in rural or remote areas for whom traveling to courts can be costly or complicated by lack of reliable transportation infrastructure. Through online publication, parties can find useful information on cases concerning them, such as hearings dates, previous decisions on similar cases, and rulings by higher courts, and are thus enabled to understand charges, which laws apply, and reasoning to better predict outcomes.

Increasing transparency and integrity through judicial decisions

In addition to providing access to information, digital databases of jurisprudence are central instruments for increasing judicial capacity, independence and integrity. Judges in capital and provincial courts and urban and remote jurisdictions can quickly reference legislation, jurisprudence and scholarly legal reviews, strengthening their professional capabilities and ability to deliver reasoned decisions. Publication of judicial decisions on digital databases enables justice authorities to access case decisions faster and with greater ease. Newly appointed judges can read decisions made by more experienced judges. Inconsistency in decisions between courts will be on display, generating inquiry into uniformity in judicial practice and interpretation of the law. In Kyrgyzstan, for instance, punishments for the same crime can vary significantly in different courts or regions, leading to both legal uncertainty and perceptions of unfairness. In tandem to safeguarding access to information, efforts may also be required to enhance the capacity of judges and justice institutions to deliver justice services.

Monitoring judicial decisions

As part of IDLO's programming in Kyrgyzstan, national experts were engaged to summarize and analyze decisions regarding land rights and debtor–creditor lawsuits. Through this monitoring analysis, a range of correctable practices were identified, including: non-uniform decision-making where similar facts and applicable law were in issue; inadequately presented legal reasoning; and lack of reference to and knowledge about relevant laws.

This monitoring exercise resulted in the drafting of practical recommendations for issuance by the Supreme Court and specific training for judges. With the endorsement of the Supreme Court, groups of experts continue to review additional types of common or resonant cases, to similarly produce specific recommendations and practical actions to improve and unify inconsistent practices of judges throughout the country.

Making decisions available online also protects judges from undue or unfair public criticism. Publication on web portals can demonstrate the legal grounds of an individual decision. In the aggregate, open data can strengthen societal perceptions of judicial independence and capacity. Over time, this transparency can serve to ameliorate cultural norms around justice delivery and improve expectations of the conduct and integrity of the courts. During the first quarter of 2018, Kyrgyz courts published 15,506 uploads, already exceeding 40 per cent of the 37,187 decisions published in 2017.

Providing judges with a platform to publish decisions and to display their judicial reasoning and motivation also contributes to their independence and integrity. If a party to a dispute knows that all judicial information will be shared with the public, he or she is less likely to use political pressure, bribery and other kinds of illegal interference, for fear of being caught. It is simply more difficult to influence a case when facts and reasoning are open to scrutiny.⁵⁶

Access to court decisions encourages public engagement in judicial decisions and legislation by providing the conditions for analysis, scrutiny and accountability. An informed public is more likely to insist on reasoned legal decisions which conform to recognized laws and to advocate for changes to outdated or misguided law. In recent years, act.sot.kg was among the most visited sites in Kyrgyzstan at 86 out of over 1,000 ranked websites and the Ministry of Justice website ranked as the forty-second most visited in the country.⁵⁷ In many ways, access to information is a prerequisite for accountability.

Connecting public awareness and judicial accountability

To effectively promote accountability, available information must reach key actors, particularly those most affected by its contents. To borrow a phrase from the World Bank, “Publicity thus activates the potential power of transparency.”⁵⁸ In Kyrgyzstan, information sessions, competitions and legal clinics were organized to generate awareness and use of increasingly available justice sector information among multiple stakeholders. This included the media, who are a conduit for connecting the public with critical information.

Digital technology can provide information on the selection of judges, court budgets and personnel, including a summary of judges’ experience, salaries, prior disciplinary actions and personal finances, including the size of any personal debts or investments in particular projects or companies. Other relevant information can include contracts for construction and maintenance of courts and purchase of office supplies. As an example, in Kyrgyzstan, the government’s public procurement agency website publishes tenders’ names, including information about winners, costs and procurement of goods and services.⁵⁹ Local media have been proactive in uncovering information on loopholes, misplaced funds or disproportionate expenses.⁶⁰

Transparent access to information is an essential element in promoting judicial integrity and allowing people to better understand governmental processes, including institutional function, decision-making and fund allocation.⁶¹

Addressing corruption and improving efficiency

Reducing opportunities for corruption and bribery

Case management systems are a critical e-justice tool to minimize bias and undue influence in the outcome of a case. If cases are allocated at the discretion of a chief judge or authoritative figure, that individual can influence the outcome of a case by assigning a compliant judge.⁶² Case management software that

distributes cases randomly to judges addresses this avenue of influence. Indeed, automatic case distribution is considered a first line of defense against improper allocation. Importantly, e-justice software can help manage procedural integrity and delineate division of tasks among judicial office staff.

Additionally, such systems have the ability to produce task event reports on system users to determine if work is being completed by the assigned person on schedule. This information can be automatically reported to staff or superiors. Other forms of case management software allow attorneys and litigants to track cases, trace any changes done to the file and monitor time requirements.⁶³ These software offerings deter interference as they clearly identify unnecessary or improper changes and highlight delays in processing times.

In Kyrgyzstan, court information and case management systems were introduced to provide document and information access relevant to the user’s role. The software records information on access to and modifications of court documents, including author, date and time. Any unlawful change to or intentional “loss” of a document to delay a case can be traced to the responsible individual. This considerably reduced entry points for external pressure and illegal practices.⁶⁴

Monitoring and improving efficiency through data collection

Digital technologies can also be harnessed to increase courts’ capacity to deliver justice efficiently through routine data collection to provide real-time assessments of performance and diagnose potential bottlenecks and problems. E-justice allows for the extraction of data and acquisition of knowledge from correlations between different data. These capabilities should be known and understood by relevant professionals to foster a culture of accountability and, over time, refine analysis, which may include data mining.⁶⁵

Data mining against indicators may also reveal the results of policies and legal reforms, such as changes in the procedural codes or incentives for the use of conciliation and mediation mechanisms. E-justice tools can also strengthen statistical information on patterns such as the use of the justice system by women, minorities, and private or state-owned enterprises. Improving access to this type of information can help inform policies, track performance and contribute to effective and equitable access to justice.⁶⁶

In some countries, data mining techniques have been used to evaluate and compare the performance of different branches of the judiciary as well as single courts, based on concrete numbers related to: the number and duration of proceedings; the rate of system congestion and workload of judges; and progress in the use of ICT.⁶⁷ Courts can thus hold individual judges accountable for lapses in management and use data to support changes to structures and standards, including budget management. IDLO's program in Kyrgyzstan is working towards making this type of information available to users, as the court's automated information system is rolled out and gradually implemented within all courts, based upon the e-system developed and in use in pilot courts.

Collecting data on the judiciary through ICT and disseminating this information provides a valuable contribution to a culture of strategic planning and management in the justice sector, creating a basis for building management policies and assessing the need to create jobs and functions. In the long term, improving institutions by monitoring and reporting on their efficiency has benefits for their overall function. In turn, disputes may be adjudicated more quickly and with more finality. Increasing predictability can lead to greater foreign direct investment in support of other development goals.

Monitoring to assess justice services

Examples of legalistic approaches to monitoring include court registries, the publication of judgments, and appeals. These practices are present in many justice systems; however, use is often limited to ensuring the correct application of the law rather than assessing services rendered by an institution.⁶⁸ Building an ethos for reform and self-reflection in the justice sector is critical as public opinion polls in evaluations of justice systems are commonly identified as "research without consequences".

Monitoring practices to assess services are evolving. Surveying court users is considered an effective method, as system users can supply detailed information, having formed their opinions through lived experience of the court system, as opposed to having a portrayal of courts shaped by media or other sources.⁶⁹ Other methods include dialogues, where court users are asked to provide feedback directly to their local court organizations;⁷⁰ "mirror meetings", where court users discuss their experiences with the judicial system while judges and court staff listen from an adjacent room;⁷¹ and committees where court users help identify and implement reforms with justice officials.⁷²

There are also ways to create a body of data that analyzes numbers combined with qualitative feedback. For instance, several measurable factors have been distilled into the following categories to gauge judicial demand and efficiency: cases filed per judge; cases resolved per judge; clearance rate;⁷³ number of pending cases; caseload per judge; congestion rate (caseload divided by number of resolved cases); time to resolve a case; and cost per case.⁷⁴

Overall this section highlights that e-justice initiatives can deliver many important benefits, including: better justice sector monitoring for increased efficiency and understanding of costing; locating and reducing improper treatment and corruption; and providing access to information and greater public awareness of justice processes.

These benefits hold the judiciary to account and increase transparency, offering ways to address limited judicial independence and public distrust, including through more efficient service delivery. In sum, e-justice efforts can improve the reliability, quality and sustainability of the justice system overall. To realize all of these benefits, however, the programmatic approach to e-justice must carefully account for social, political and economic factors and confront the potential barriers to successful implementation.

5. E-NABLING LESSONS FOR E-JUSTICE PROGRAMMING

As demonstrated in the previous section, e-justice programming can enhance the judiciary's efficiency, transparency and accountability and improve access to justice, leading to more just outcomes and sustainable development. However, the implementation of new ICT systems by justice institutions and other highly regulated organizations often leads to new challenges:⁷⁵

There are several recurring themes in the uneven track record of e-justice programming. In many cases, ICT initiatives are spearheaded without proper attention to contextual limitations or sufficient recognition of the importance of national ownership and buy-in, capacity shortcomings and legislative gaps. Sustainability costs are sometimes omitted, including the need to maintain and upgrade software, to provide ongoing ICT training to staff, and to monitor usage and compliance.⁷⁶ Instead, there are manifold examples of countries adopting ready-made ICT national strategies, often proposed by outside experts, who lack appropriate levels of understanding of these challenges.⁷⁷

In its e-justice programming, IDLO focused on enriching the enabling environment to ensure a sustainable roll-out. In some cases, this involved advocacy for appropriate budgets and for in-house ICT capacity. In other cases, this required bringing stakeholders together for consultations on other institutional needs normally outside the remit of e-justice programming. Significantly, IDLO embraced a more political approach towards programming by looking closely at incentives for buy-in, which in turn gave considerable leverage when introducing more controversial e-justice program components.

Overall, IDLO's experience in Kyrgyzstan yielded five essential steps for success in future programs: (1) analyze and amend existing legal frameworks; (2) identify justice sector needs and incentives; (3) encourage local ownership of e-justice programming; (4) adopt a flexible and iterative approach to adapt to new information and challenges; and (5) cultivate a supportive environment for e-justice. In essence, success in e-justice programming requires a systemic and holistic approach, covering areas including legislative, budgetary and technical issues.

Lesson 1: Analyze and amend existing legal frameworks

Contextualizing e-justice programming requires a thorough review of the existing legislative landscape and the introduction of facilitating laws and policies.⁷⁸ For

example, governments may need to establish formal legal equivalence and standing between existing paper processes and electronic filing. A successful e-justice program will also require laws and policies to ensure the security and compatibility of the new systems and the maintenance of information integrity and privacy. In Kyrgyzstan, IDLO reviewed the legislative enabling environment before and during program implementation, revealing and then addressing gaps at the constitutional and procedural law levels. Importantly, these efforts at reform included strong participation of affected parties and embedded incentives for buy-in for a large class of stakeholders.

Legislative reform should focus specifically on facilitating success in e-justice programming, which may require a broader approach. In Kyrgyzstan, this was done by introducing legal reforms to: (1) strengthen judicial training and ICT support (with particular focus on budget); (2) standardize good judicial practices; and (3) support judicial independence.

Support judicial training and ICT longevity

In close consultation with national partners, amendments were crafted to ensure sustainability and the effective use of e-justice mechanisms. For instance, amendments to the Law on the Supreme Court of the Kyrgyz Republic and Local Courts allowed the judicial training center to become a self-sustaining academy. Similarly, legislative changes permitted Adilet Sot to receive budget support and to evolve into the judiciary's formal ICT support entity, ensuring its longevity and the sustainability of the e-justice program. The development of the ICT support entity within the judiciary enjoyed widespread support and helped ensure attention to other legislative reform initiatives proposed by IDLO.

Standardize good judicial practices

IDLO programming included close participation with a high-level expert Working Group created by the President's Department on Judicial Reform and Legality, chaired by the Deputy Chief Justice of the Supreme Court. The Working Group developed and approved draft laws on a range of topics geared toward standardizing judicial decision-making and practices, to increase workflow and ease administrative burdens.⁷⁹

Through IDLO's advocacy and support of the judiciary's ownership of reforms, measures were adopted to regulate the publication of judicial decisions, including prohibitions for sensitive cases and anonymization of

sensitive information through the Law on Access to Information. This included mandatory publication of judicial decisions within 10 days for first instance courts and 15 days for higher courts. Additionally, the law established a hierarchy of responsibility for uniform application of the law, placing primary responsibility for the publication of decisions by all judges in each court on individual judges and chairpersons, thereby creating leading figures to drive and monitor the publication process. In tandem, efforts focused on improving the process for judicial discipline and introducing a new law to strengthen court security in the adjudication of high-profile cases.

This more holistic approach was widely appreciated and overall, these reforms were instrumental in supporting the functionality of e-justice initiatives while also cultivating a broad base of support among judiciary staff. Judges overloaded with paperwork were more inclined to contribute to e-justice activities when their ongoing complaints such as security and judicial discipline were being addressed.

Strengthen judicial independence

IDLO was also engaged in a participatory effort to assist the Kyrgyz Government in drafting and adopting a package of laws aimed at entrenching the independence of the judiciary, and improving rules concerning judicial selection, advancement and discipline. These efforts focused on developing and adopting a series of laws related to increasing judicial responsibility and transparency through a Working Group formed under the Council on Judicial Reforms.

As IDLO anticipated, legislative reforms were not immediately entrenched without further efforts. While technical assistance dedicated to draft laws and reform proposals remained important, consulting directly with members of the judiciary contributed significantly to subsequent acceptance and ongoing implementation. As detailed below, civil society organizations, law professors and other legal professionals from Kyrgyzstan also participated in the law-making process to ensure the quality of new laws and compatibility with an overall legal framework and vision for strengthening the judicial sector.

Lesson 2: Identify justice sector needs and incentives

Ensuring the sustainability of e-justice programming requires support from justice sector stakeholders. To encourage acceptance, IDLO focused on addressing other justice sector needs by securing sufficient budget allocations, developing goodwill and trust with key actors, and acknowledging the disruption to existing power structures inherent in e-justice programming.

Strengthen judicial independence

As noted above, insufficient budgets and low salaries create opportunities for external pressure through resource allocation and overt bribery. In order to address these concerns in Kyrgyzstan, IDLO worked with partners to develop a National Target Program for Judicial System Development, with the purpose of advancing the President's priority to create a more independent judiciary that would earn the trust of the population.⁸⁰ Importantly, the National Target Program led to a higher budgetary allocation for the judiciary, with specific allocations supporting e-justice, making further reforms possible.⁸¹ As an example, 3 per cent of the Court Department's budget has been dedicated to supporting Adilet Sot's efforts underlying the creation and implementation of ICT systems.

In Kyrgyzstan, justice sector salaries, particularly those of court clerks and assistants,⁸² remain extremely low. Salaries for ICT staff are also not competitive with the private sector. Arguably, these remuneration levels make it difficult for justice institutions to both resist corruption and attract the most qualified people, creating challenges for the effective administration of justice. Efforts to achieve new budget levels in support of the judiciary in line with international standards has reduced but not eliminated incentives for judicial corruption. Achievements to date have been to secure enough funding to ensure sustainability, and garner significant levels of goodwill and drive for reform from the highest levels of the judiciary. Though not every issue has been fully addressed, the attention judicial partners and IDLO paid to staff needs and concerns, including budgetary requirements, ensured fewer objections to the introduction of more controversial and disruptive e-programming priorities.

Build trust within the judicial sector

The goodwill earned among judicial stakeholders was particularly helpful when a new legislative framework was introduced that mandated publication of judicial decisions. Among the many objections, judges were reluctant to publish private information on parties to proceedings, given the value placed on privacy, particularly in family law matters. There were also significant differences of opinion between judges and staff working in different courts on the appropriate way to classify cases.

In response, IDLO worked with the Supreme Court, providing technical assistance and hosting consultations with judicial staff to overcome concerns. Consultations and participatory workshops allowed compromises to be reached as well as agreement on terminology and specific software features, thus facilitating progress towards the creation of a standardized national e-justice system. The anonymization of certain pieces of data

through de-personification software prior to publication proved necessary to foster the judicial decision publication process.

Focusing efforts on a comprehensive review of and consultation on programmatic activities related to ICT implementation and the administration of justice more broadly fostered strong ownership, support for reforms, and trust in IDLO's partnership approach. Investing in efforts to build trust and goodwill was key to the successful adoption of legislative and other measures that were required to ensure the acceptance and use of e-justice. It was also crucial to acknowledge the power dynamics in the judiciary, including identifying leading figures driving the e-justice process and sanctioning mechanisms for underperforming judges.

Acknowledge the disruptive potential of digital technology

Recent research has shown that ICT innovation in the justice sector involves a complex interplay of technological, institutional, organizational and normative components. Successful e-justice systems must not only be technically functional, but also institutionally, organizationally and normatively compatible with judicial operations.⁸³

This reality highlights the power of e-justice to disrupt settled power equilibria within justice systems. E-justice programming can suddenly place established professionals in the judiciary, who benefited from the "old way" of doing things, on an equal footing or even at a disadvantage with newer entrants to the profession. Younger judges may feel much more comfortable with digital technology and in fact see online publishing as a way to further their careers. More established judges, on the other hand, may feel vulnerable to criticism for publishing poorly written decisions, having been in a habit of doing so for some time without consequence.

Furthermore, judges may feel exposed to threats for revealing issues between parties that were assumed to be private in nature. For these reasons, judges and staff may not feel compelled – in fact, may feel repelled – by the e-justice system introduced.

Suspicion and mistrust often accompanies the introduction of ICT tools among some judges and can result in low uptake of electronic systems, especially when incentives for compliance are insufficiently grounded.⁸⁴ Another important barrier to the successful functioning of e-justice is the potential reluctance by the judiciary and public to learn necessary technological skills, particularly if there is a high risk of committing errors and no obvious economic gain.⁸⁵ In some circumstances, judges may simply not authorize decisions to be published online, or they may fail to properly follow software procedures and later abandon e-justice tools altogether.⁸⁶

To increase the likelihood of successful implementation, e-justice programs must carefully consider these context-specific dynamics and build capacity, including infrastructure capacity, where necessary. Stakeholder concerns and reluctance should be incorporated into the programming approach to increase the likelihood of uptake. Making publication mandatory by a law applicable to all judges was identified as the best way to proceed in Kyrgyzstan. Following an initial phase of voluntarily publication, a law was adopted with support of the President and the Chair of the Supreme Court, which considerably increased the publication rate. Encouraging participation and dialogue with judges and key stakeholders early in the process also increased the likelihood of long-term success.

Lesson 3: Encourage local ownership of e-justice programming

Judicial reforms will only gain traction if judges are convinced of the need to change and to reorient themselves towards public service. Building this culture of openness and engagement requires a strong sense of ownership over the e-justice effort and its direction. This, in turn, necessitates meaningful participation.⁸⁷

Identify the stakeholders with interest and influence

Building in-country strategic partnerships with justice sector institutions and identifying charismatic leaders helps strengthen users' ownership and drives the implementation process forward. As noted, the Supreme Court proved a pivotal partner in Kyrgyzstan. In the words of one judge:

At the start, judges were very negative towards e-justice, arguing that decisions should be accessed only by parties to the cases. The Supreme Court adopted a multi-pronged strategy to increase judges' support and uptake. Several consultations with judges were held and included explanations of the benefits of e-justice and comparisons with developed countries' best practices. In addition, the Supreme Court adopted a leadership role by issuing specific instructions compelling judges to publish decisions. The Supreme Court itself also achieved third place in the classification of courts by number of published decisions.

Building on this leadership approach, IDLO created opportunities for participation and discussion to help overcome lack of understanding, fear of transparency, cultural barriers or other concerns, thereby minimizing delays once concerns were addressed and legislation adopted. Examples of similar activities included validation workshops with judges and a round table between judges and program representatives for amendments to the Law on Access to Justice.

Further, it was necessary to assemble multi-expertise program teams, including respected insiders, to ensure in-depth understanding of the context. This allowed for a home-grown e-justice system, tested and piloted through an incremental and adaptive approach involving working groups composed of both program staff (judicial advisors or ICT specialists) and representatives of judicial institutions (judges and court staff) offering space for meaningful feedback and input, which was fundamental to engaging key influential stakeholders.

Motivate judicial participation

Building ownership of e-justice mechanisms requires the creation of an institutional culture for e-justice. This could mean establishing informal reward mechanisms for e-justice champions within courts, such as awards or public praise by chairpersons, and disciplinary measures for underperformers. For this purpose, tools and criteria for assessing the performance of judges can be developed, as well as “naming and shaming” systems for judges with the lowest performance.

Initiatives undertaken by individual courts in Kyrgyzstan contributed to increasing judicial publication rates. These included public charts classifying judges based on the number of published decisions or case information online. Civil society was instrumental, monitoring and evaluating the publication of court decisions. For instance, the Kyrgyz Lawyer’s Association as well as several civil society organizations reviewed and published reports on judicial decision publication rates.

The public also has a role in motivating judicial compliance with e-justice mandates and by providing open access to information, e-justice tools lower the cost to individuals of holding judges accountable. IDLO supported the expanded use of both the Supreme Court’s judicial information portal and the separate portal for publishing judicial decisions and docket information to reach a wider audience. Having a public, easily accessible portal resulted in more visibility and better communications, changing interaction with the judiciary. Knowing their decisions would be widely available, judges were more careful. A growing awareness that all proceedings could be reviewed by outside observers encouraged judges to ensure their decisions were consistent with jurisprudence and legislation and were not subject to undue influence or bias.

Tailor training and supportive activities to local needs and capacities

E-justice programming should focus on a range of targeted activities that include training, but go beyond it to encompass organizational work processes, resource mobilization and sectorial coordination. Capacity building in e-justice must be accompanied by a shift in institutional norms and values that encourage staff to think more creatively. Over time, these interconnected efforts better enable the justice sector and its constituent actors to deliver timely, transparent and fair outcomes to meet the needs of justice seekers. They should be customized to the types of services to be provided, the obstacles encountered and should include additional actions to strengthen long-term impact.⁸⁸

Transitional countries often experience institutional overhaul and substantial staff turnover and capacity gaps in their justice institutions, and struggle to keep up in an e-government era. In Kyrgyzstan, when IDLO began its program, judges were inexperienced and lacked sufficient legal skills and exposure to ICT in work settings. With little or no prior experience of working in a court, and faced with competing priorities, many judges were not readily prepared to handle e-justice tools and all the innovations they entail. IDLO therefore undertook a range of activities from facilitating connection to the internet for local courts to providing computer equipment to targeted ICT capacity building for judicial staff.

E-justice programs must account for limitations in judicial skills as well as judges’ and court staff’s lack of exposure to ICT. The digital divide exists inside judicial chambers as well as outside.⁸⁹ One solution is to design multiple strategies that provide tailored channels of interaction with e-justice geared toward certain categories of ICT users such as repetitive, inexperienced, non-repetitive, and other potential groupings.⁹⁰ This strategy creates additional work compared to implementing a simple one-size-fits-all program, but maximizes participation.

Judicial training in Kyrgyzstan

Judges receive training through the Kyrgyz High Justice Training Center, where trainers are current or former judges, allowing for interaction between new and more experienced counterparts. In addition to training modules aimed at strengthening judicial reasoning skills, the Comprehensive Training Program for First-Time Judges also comprises modules on the Legal Status of Judges and Ethical Standards of Judges' Professional Behavior, addressing judicial transparency and publication of judicial decisions.

In addition to the Comprehensive Training Program – which all judges must undergo – other flexible thematic programs are taught in accordance with the needs and requests of participants. Feedback is regularly sought and leads to active modifications and additions to curricula. Specific attention is devoted to levels of digital literacy, which vary according to age and region. E-justice training modules were adapted to different levels of computer literacy (i.e. experienced/inexperienced) and made responsive to the needs of each category of users.

Providing adequate support to judges to bridge the digital divide often means taking a holistic approach to capacity development, designing e-justice training to complement and intersect with other forms of training on judicial reasoning and professionalism, and linked to the social and cultural context in which judges are working. IDLO engaged in preliminary discussions and analysis involving court officials and personnel to better understand the level of basic judicial reasoning and drafting skills of Kyrgyz judges and considered their level of ICT literacy. This was aligned to their assessed capacity for improvement and learning, as well as their expressed areas of interest.

Further, encouraging local ownership and participation in software program design and implementation helped tailor IDLO's e-justice offerings to local needs. In addition, engaging effectively with key stakeholders allowed for the identification of new challenges, quick adaptation and effective response.

Lesson 4: Adopt a flexible and iterative approach to adapt to new information and challenges

The effective use of ICT to serve citizens through online portals and other digital means poses challenges for governments of countries in all stages of development. This is due, in part, to the complexity of managing information along the lines of interdependent organizational procedures common to all judiciaries. These problems are compounded by the diversity of attitudes of individuals vis-à-vis court procedures and technology more generally. Flexibility in implementation ensures programming caters to local needs and expectations and improves the sustainability of the approach.

Allow a flexible approach to e-justice programming

In Kyrgyzstan, following a consistent increase in the number of published court decisions after the roll-out of act.sot.kg in early 2013, there was a notable decline in the rate of publication between 2014 and 2015. In response, IDLO conducted an informal assessment and uncovered a disconnect between staff and e-justice programming implementation. Court staff, already burdened with a heavy judicial workload, expressed a lack of ownership or understanding of the software and its related processes, nor did they appreciate the benefits of act.sot.kg, which provided public access to judicial decisions.

Based on feedback and reflection, IDLO reconsidered its planning and opted for a “back-to-basics” approach, which appreciated that programming was asking too much too soon from too few actors.⁹¹ Further, it was necessary to look at legislative frameworks and software more carefully and bring stakeholders on board through more meaningful consultation processes. The result was adaptation, allowing for a more incremental, flexible, implementation process starting with the design and testing of a few basic components in a limited number of courts, and later expanding progressively in terms of complexity of the system and number of recipient courts.

Tailored and flexible approaches towards e-justice programming produce better results than imported “best practice” and over-planned models. Working iteratively allows practitioners to capture and secure sustainable change. An incremental adaptive approach also permits e-justice interventions to be more strongly connected and adapted to the context, by which programming should be constantly informed. This approach requires a flexible program structure, sufficient funding allocation, the capability to adapt to evolving sociopolitical contexts, and strategic partnerships with national stakeholders. Most importantly, it requires that donors take a step back to allow primary ownership to lie with national stakeholders.

Adapt software development and ICT roll-out to local needs and circumstances

In e-justice programming, adapting technologies to local needs is crucial. In Kyrgyzstan, a prior attempt to introduce e-justice failed and it was fundamental to promote a home-grown approach with an internal ICT entity. Developing software that is responsive to user needs and streamlined to include the procedures applicable to daily court proceedings mitigates the risk of rejection of e-justice initiatives.

To further mitigate risk of failure, IDLO also adopted an incremental approach: both act.sot.kg and the court information and case management systems were designed and developed in a centralized, scalable manner to enable a unique ICT entity to take over the administration and expansion of all systems. Planning for several iterations to improve the software was also required, allowing for an incremental and adaptive approach. This also allowed the pace of change to be altered to meet existing capacities and new mechanisms to cater to the specific needs of users.

In IDLO's experience, when users were involved in the process of designing e-justice software at its earliest stage and throughout the whole implementation phase,

ownership and absorption capacity grew in tandem. In particular, working groups for the design and testing of the e-justice system should include both software developers and targeted categories of users, allowing for regular consultation and opportunities for input and feedback.

For example, several specificities of the Kyrgyz court system were revealed for the first time during working group discussions. These included a significant number of procedural deadlines that needed to be addressed and informed prioritization. Civil law cases were selected for design and testing of the case management system, as civil procedures necessitate less paperwork in Kyrgyzstan, thus making initial implementation simpler and progressive digitalization smoother.

Similarly, criteria for the selection of pilot courts included proximity, availability of a stable connection to the internet, relevance of the court's jurisprudence and variety of workload and specialization. Frequent consultations and exchanges with users allowed the work to be creative and conducive to shared and standardized solutions tailored for the specific context and pool of users. Including stakeholders in software program development and ICT roll-out further encouraged the acceptance and use of e-justice tools.

Anonymizing court documents in response to judicial concerns

A major impediment to the publication of judicial decisions in Kyrgyzstan was concern over the disclosure of personal data. Judges referenced constitutional protection of personal data and noted that publication might expose personal interests, harm relations between disputants or with third parties, or cause anguish to participants, deterring litigation. Anonymizing sensitive information or personal details of parties and judges prior to the publication of each decision was crucial.

Tackling this challenge at scale meant automation of the anonymization process for simplification and time-saving. The de-personification software developed suggested categories of data to render anonymous, such as names of parties, addresses and passport numbers, and used machine learning to reduce mistakes and recognize sensitive data with increasing precision as the number of users grew. Ultimately, this resulted in an automatic de-personification system with minimal time requirements.

Lesson 5: Cultivate a supportive environment for e-justice

In order for e-justice initiatives to succeed, the broader environment must be conducive to rule of law and access to justice. As noted above, efforts can include amending existing legal frameworks, but must also go further and cultivate a supportive environment. This must be a key element of programming to ensure long-term sustainability and meaningful change.

Instill an expectation of judicial independence

As discussed above, one of the challenges facing judiciaries in transitional societies is the entrenched societal expectation that courts are inherently biased or corrupt. While providing open access to court documents and encouraging public accountability can serve to ameliorate these views, attention must also be given to instilling an expectation of independence. Increasing expectations towards judicial independence is multifaceted, involving the judiciary, the government, as well as civil society and the media. Ultimately these efforts require careful monitoring of opportunities and windows of engagement for championing and elevating judicial independence.

For instance, cooperation with universities encourages law students and researchers to visit and use e-justice tools. Law student competitions and legal clinics can involve the use of e-justice resources and analysis. Similarly, civil society actors may use e-justice systems to monitor the performance of the judiciary, share information with the public and acknowledge champions of reform.

Moreover, conducting cross-sectorial interactions involving judges, journalists, lawyers, human rights activists and others on the use of e-justice tools can improve the understanding of e-justice systems by external stakeholders and foster a culture of openness.⁹² In Kyrgyzstan, through such an initiative, by getting acquainted with legal terminology and ways to use act.sot.kg as a source of data, journalists are now able to access and share accurate information on cases, thereby helping the judiciary regain the trust of the public. Impact can further be strengthened if coupled with effective marketing and outreach campaigns.⁹³

Ways to increase the availability of reliable information – such as generating evidence on the performance of judges and increasing the accessibility of that

information or strengthening the capacity of media outlets to report on the justice sector accurately – proved to be initial steps toward promoting greater accountability of justice institutions and instilling higher expectations towards judicial independence. Openly assessing judicial performance enforced an expectation of integrity which reinforced independence.

Creating avenues for interactions between judges and the public can help cultivate a sense of accountability that strengthens the integrity of judges and reinforces their impartiality. Mandating the disclosure of judicial decisions similarly demonstrates the government's commitment to independence and integrity. In tandem, actors in civil society and the media can play a key role in both fostering policies that strengthen transparency and independence and in disseminating information.⁹⁴

While transparency is an essential element of ensuring judicial independence, there must also be a formal mechanism for accountability for members of the judiciary. This mechanism may include both recognition for publication of decisions and demonstrating independence as well as consequences for accepting bribes, catering to political influence, or generally acting unprofessionally. In Kyrgyzstan, for example, the newly formed Council of Judicial Selection has begun using decision publication as one criterion during individual review at the end of a judge's initial five years of service, which determines whether the judge is recommended to the President for retention. Additionally, the Supreme Court has requested disciplinary measures for 13 judges who failed to publish their decisions.

Apply an e-government lens to connect sectors

At the earliest possible stage, e-justice programming should also account for the opportunity of connecting with other public institutions in the future, within and beyond the justice sector. For this purpose, e-justice software design should be compatible with existing or anticipated e-government systems in related institutions.

Given the challenge of overcoming both technological barriers and institutional distrust between justice sector actors and others, a full sector-wide approach may not always be possible, nor desirable. In fact, it may be premature, which can compromise the legitimacy of reform and capability building.⁹⁵

Intra-governmental data exchange in Kyrgyzstan

In November 2017, Kyrgyzstan joined the Open Government Partnership which commits governments to be “more open, accountable, and responsive to citizens”. IDLO is now closely engaged in a process to provide advice to the Supreme Court and Adilet Sot on creating and implementing relevant strategies. Additionally, within the framework of the Government’s national e-government strategy, Taza Koom, Kyrgyzstan was granted access to use the Estonian “X-Road” system for its own e-government initiatives.⁹⁶ While Kyrgyzstan is at an early phase of creating and implementing X-Road, this is promising as the system enables justice sector institutions to use X-Road services in their own electronic systems and offer their e-services via the X-Road. Digital certificates are used for both encryptions of all communications and assuring that only authorized organizations have access to services. Further anticipated e-initiatives in Kyrgyzstan include online registration of legal entities, an e-notary system and a debtor database to improve enforcement of judgments by bailiffs.

An appreciation for vertical and horizontal linkages between justice institutions and the long-term ability to efficiently collaborate and share information within the sector can remain a guiding principle for the successful implementation of e-justice systems, and for the efficiency and fairness of justice delivery.⁹⁷ Different ways of implementing ICT should have the possibility of integrating information from other justice institutions, and ultimately building a holistic national e-justice system, supportive of overarching e-governance principles.

Establish a dedicated ICT team

In Kyrgyzstan, development and maintenance of an earlier automated case management system was entrusted to an external ICT company, leaving maintenance of the system entirely dependent on an external actor’s availability and commitment. Once the ICT company’s contract had expired, the system proved to be too complex to sustain from inside the judiciary and was gradually abandoned.

Without a dedicated ICT entity, managing e-justice can be an impossible task for the judiciary. A fundamental component of IDLO programming was the creation of a public ICT enterprise under the judicial branch to address ICT issues. This also eased issues of trust between the judiciary and an outside entity and supported the creation of a fit-for-purpose entity capable of planning and addressing effectively and efficiently the judiciary’s ICT needs. A significant task was also hiring sophisticated IT personnel from the private sector, providing salaries competitive with the private sector, but within a government entity. Adilet Sot was created as a governmental institution, with staff who are compensated at competitive levels approved by the Council of Judges within the judicial branch.

Importantly, the ICT entity was provided with a unique mandate for supervision, updating and maintenance of e-justice systems, including through training of ICT focal points in each court. The goal is to facilitate the progressive unification of the different components implemented into one platform,⁹⁸ and to guarantee full ownership of the e-justice system by the Kyrgyz judiciary. By integrating long-term ICT support through

creative means into e-justice programming, post-program sustainability and more effective administration of justice overall is better assured.

Develop communications strategies to increase public trust and understanding of e-justice reforms

Developing a communications and marketing strategy can be crucial for contextualizing the information related to e-justice implementation. Well-informed communications can shape public opinion, improve trust in courts and their personnel, and lead to different usage patterns.

Where it takes a proactive approach towards media engagement and opens channels of communication with the public, the judiciary may be perceived as less distant or aloof. This can improve people’s knowledge about the functioning of the justice system and provide a more accurate portrayal of judges’ work and role in society.

International experience shows that an increase of public confidence in the justice system is often the result of efforts to intensify communication about the progress of cases of public interest and of the justice system in general. Additionally, public support is increased where there are well-developed court communication strategies and dedicated communication focal points in justice institutions tasked with improving their image and credibility.⁹⁹

Noted strategies to engage the wider public include open court days, outreach programs on TV, radio and in print, as well as the establishment of legal and judicial information centers or call centers within justice institutions for users to seek information, formulate complaints or evaluate services.¹⁰⁰ In the lead-up to the creation of the act.sot.kg portal, IDLO efforts focused on developing public awareness materials for courtrooms, such as banners in court buildings and public presentations.

In addition to traditional lines of communication, an online strategy may involve a presence on different social media platforms and channels, which presents a modern image to a wider, younger audience.¹⁰¹ In recent

years, use of social media by justice institutions and by high courts in particular has spread.¹⁰² Social media can be accessed online through both desktop and mobile devices and allows governments to reach constituents, including disadvantaged and marginalized groups. Compared to other channels, it requires no high investment cost, as it typically relies on consumer and non-governmental platforms.¹⁰³ Characterized by short, accessible texts and extensive use of pictures or humorous images such as memes, social media spreads information to a wide and varied audience.¹⁰⁴

IDLO's programming in Kyrgyzstan continues to build on strategic partnerships with a growing number and range of influential "social intermediaries" (such as civil society and the media), that support transparency and accountability initiatives, particularly using new modes of communication (mobile phones, internet and social media).¹⁰⁵

The Kyrgyz Government has also established positions dedicated to administering its website and Facebook page. The latter has become a major source of information for journalists and civil society activists, as it allows them to request and access updated information, including infographics, pictures and videos, without having to undergo official request procedures.¹⁰⁶ Among the advantages identified is the active communication allowed by social media and higher usage by the public and media compared to specific institutional websites.

Additionally, the creation and subsequent broadcast of court TV programs on a Kyrgyz national station aimed at increasing public awareness. These programs introduced a Kyrgyz audience (in the Kyrgyz language) to real-life disputes, best practices and dispute resolution. Announcements were placed in mass print media, distributed through social media, and in movie theaters nationwide.¹⁰⁷ The initiative was aimed at increasing public understanding and awareness of the role of the judiciary in conflict resolution. Popularized media such as radio and television allowed IDLO to reach wider audiences and increase demand for e-justice tools beyond the legal profession.

Safeguard equitable benefit from e-justice programming

The potential for digital technology to widen already existing capacity gaps between privileged and underprivileged groups is a concern in e-justice programming.¹⁰⁸ Access and understanding of digital technology may put urban and well-off parties at a distinct advantage over poor and disadvantaged people. State-owned utility companies, financial firms or other enterprises may gain an advantage over defendants in rural areas in civil suits in allegations of outstanding payments. Furthermore, courts in rural areas may also lack access to the internet and modern computer equipment and may have less familiarity with ICT tools due to remoteness and logistical or transport difficulties.

In Kyrgyzstan, support was provided in rural areas for internet connectivity and computer equipment. Telecommunication and internet infrastructure is somewhat undeveloped, with only 7 fixed telephone line subscriptions per 100 inhabitants, and just 34.5 per cent of the population with access to the internet, according to a July 2016 estimate.¹⁰⁹ However, mobile phone usage is much more widespread, with an estimated 132 mobile subscriptions per 100 inhabitants,¹¹⁰ and recent data shows that 97 per cent of the population have TV sets at home, and overall 59 per cent of the population use the internet.¹¹¹

This has interesting implications for the development of mobile phone-based e-governance tools, including applications to access court information. In Kyrgyzstan, IDLO supported the optimization of act.sot.kg for mobile devices. For this purpose, an adaptive interface, automatically set for different types of screens portal was developed and several improvements were introduced to improve website ergonomics. Ensuring e-justice tools are also accessible and affordable for marginalized groups supports a broader increase in access to justice and better encourages a supportive environment for e-justice programming.

6. CONCLUSION

IDLO's experience with e-justice programming demonstrates the important but often underappreciated role e-justice can play in strengthening judicial independence and integrity, access to justice, and institutional capacity. The results from seven years of e-justice programming with the judiciary point to important, if measured, progress:

- Adoption of new legal standards for e-justice implementation, including budgetary needs and other requirements of an independent judiciary;
- Acceptance and implementation of controversial reforms involving digital technology;
- Ownership of changes and a strong grasp by the judiciary of the purpose and functioning of the e-justice system; and
- Reaching a judicial decision publication rate in excess of 50 per cent of all decisions.

As illustrated by IDLO programming in Kyrgyzstan, e-justice can be a central component of efforts to strengthen the rule of law, provided programming is implemented thoughtfully and methodically, allowing room for adaptation and with long-term outcomes in mind. Building the capability of justice actors, strengthening the enabling environment, implementing legal reform to meet technological needs, and supporting judicial independence are all necessary preconditions for an e-justice system to meet its objectives. In addition, developing internal capacity for ICT maintenance and operation is crucial to the long-term sustainability of e-justice programs.

International practice indicates that judicial adoption of ICT systems is most successful when driven by leading figures who encourage and monitor compliance. IDLO has learned that fostering local ownership of e-justice reforms requires that judges and court staff be directly involved in the design and development of digital technology tools, and any related capacity development programs. Effective implementation further requires the judiciary's involvement in the legislative process to ensure e-justice reforms are fully realized.

As highlighted in this *Lessons Learned Brief*, e-justice programs are best implemented through a flexible approach based on context, prioritization and scalability. Programs should start by building the simplest and most necessary components of the system and progressively expand to a holistic e-justice system. This iterative process allows for monitoring of use and adaptation to unforeseen challenges.

Overall, e-justice programs must abandon a one-size-fits-all mentality and seek technologically innovative approaches, narrowly tailored to the contours of the country within which a system is implemented. The specific priorities for each system must be based on the primary needs of the particular end users and citizens concerned. Understanding the overall political, technological and cultural landscape of the target country is thus crucial to building a sustainable e-justice platform.

Areas for future research

While e-justice mechanisms can promote rule of law by creating transparency and accountability within judicial systems, little research has been undertaken on whether these tools have indeed been effective from the vantage point of the general public. Attempts to use e-justice to evaluate court performance are still confined to select examples, are generally fragmented or limited to single aspects of judicial administration and often do not attain wide adherence. Most of the information on the efficacy of e-justice tools comes from qualitative data collected from court users or judicial personnel. Further research on ways to enhance accountability of justice institutions through a fuller spectrum of e-justice tools would be beneficial.

The prospects presented by e-justice for enhanced access to justice and stronger institutions encourages sustained investment and interest in this area. Additional areas for further research include good practices for engaging the public and justice seekers more concretely and for using data mining and social media platforms to generate and publicize content, especially when traditional media channels may have limited freedom.

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The views expressed in this publication are the views of the authors and do not necessarily reflect the views or policies of IDLO or its Member Parties.

7. END NOTES

- ¹ Transforming our World: the 2030 Agenda for Sustainable Development, UN General Assembly, A/RES/70/1, p. 9, para. 35.
- ² World Bank, *World Development Report 2016: Digital Dividends* (Washington, D.C.), p. 177.
- ³ Lessons are presented from international white and grey literature and data from IDLO's programming. Data from Kyrgyzstan includes information collected via a desk review, stakeholder interviews in-country, and observation of a roundtable on implementation of the *Law on Access to Information* organized by the Supreme Court of Kyrgyzstan and IDLO.
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- ⁵ Chris Rickleton, "Kyrgyzstan: Unpopular Judiciary Difficult to Reform", *Eurasianet*, 10 April 2012. Available at <http://www.eurasianet.org/node/65246>. See also Transparency International, "Global Corruption Barometer 2013: Kyrgyzstan". Available at <http://www.transparency.org/gcb2013/country/?country=kyrgyzstan> (accessed 12 July 2018).
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- ¹² Joao Rosa, Cláudio Teixeira and Joaquim Sousa Pinto, "Risk Factors in E-Justice Information Systems", *Government Information Quarterly*, vol. 30, No. 3 (July 2013), p. 250.
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- ¹⁴ OECD, *The e-Government Imperative* (Paris, 2003), pp. 12–13.
- ¹⁵ Marco Velicogna and Francesco Contini, "Assemblage-in-the-making: Developing the e-services for the Justice of the Peace Office in Italy", in *ICT and Innovation in the Public Sector*, Francesco Contini and Giovan Francesco Lanzara, eds. (London, U.K., Palgrave MacMillan, 2009), pp. 211–243.
- ¹⁶ Jacques Barrot, Vice-President of the European Commission and Commissioner responsible for Justice, Freedom and Security (from 2004 to 2010), "Towards a European strategy on e-Justice", EU Press Release, 30 May 2008. Available at http://europa.eu/rapid/press-release_IP-08-821_en.htm.
- ¹⁷ European Union, Commission to the European Communities, *Towards a European e-Justice Strategy* (Brussels, 30 May 2008), p. 3. See also Federico Bueno de Mata, "E-justicia: Hacia una nueva forma de entender la justicia", in *Revista Internacional de Estudios de Derecho Procesal Y Arbitraje*, No. 1 (2010), p. 1; Joao Rosa, Cláudio Teixeira and Joaquim Sousa Pinto, "Risk Factors in E-Justice Information Systems", *Government Information Quarterly*, vol. 30, No. 3 (July 2013), p. 241.
- ¹⁸ Joao Rosa, Cláudio Teixeira and Joaquim Sousa Pinto, "Risk Factors in E-Justice Information Systems", *Government Information Quarterly*, vol. 30, No. 3 (July 2013).
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- ²⁰ The original website address, www.sot.kg, has changed to act.sot.kg, which is used throughout the remainder of this report.
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- ²⁴ See Freedom House, "Freedom on the Net 2017: Kyrgyzstan country profile". Available at <https://freedomhouse.org/report/freedom-net/2017/kyrgyzstan>
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- ³² Transforming our World: the 2030 Agenda for Sustainable Development, UN General Assembly, A/RES/70/1, p. 9, para. 35.
- ³³ Transforming our World: the 2030 Agenda for Sustainable Development, UN General Assembly, A/RES/70/1, p. 9.
- ³⁴ J. J. Fernández Rodríguez, "Gobierno electrónico: posibilidades en el ámbito judicial (a propósito de la ley española 10/2011)", *Revista Mexicana de Análisis Político y Administración Pública*, vol. 1, No. 2, (Universidad de Guanajuato, 2012), pp. 73–93. See also Marco Velicogna, "Justice Systems and ICT: What can be learned from Europe?", *Utrecht Law Review*, vol. 3, No. 1 (June 2007), p. 129.

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- ³⁶ Irene Khan, "Shifting the Paradigm: Rule of Law and the 2030 Agenda for Sustainable Development", in *World Bank Legal Review, Volume 7: Financing and Implementing the Post-2015 Development Agenda*, Frank Fariello, Laurence Boisson de Chazournes and Kevin E. Davis, eds. (Washington, D.C., World Bank, 2016); and Avocats Sans Frontières, *The Obstacles People Living in Extreme Poverty Face in Accessing Justice* (Brussels, 2012), p. 7: "People living in extreme poverty live in a state of disempowerment in which their most basic human rights, such as the right to the highest attainable standard of health, education, food, water and sanitation, housing and an adequate standard of living are nearly impossible to realise. Without the benefit of these rights, accessing legal mechanisms, and thus justice to vindicate their rights, also becomes nearly impossible."
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- ⁴⁸ Report of the Special Rapporteur on the independence of judges and lawyers, 5 April 2016, UN Doc. A/HRC/32/34, p. 3.
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- ⁶⁴ In particular, by minimizing space for human arbitrary action. Indeed, entry points for corruption are increased by the human factor, for example, court staff may omit to enter data or intentionally enter incorrect data.
- ⁶⁵ Data mining is "the process of discovering meaningful correlations, patterns and trends by sifting through large amounts of data stored in repositories." Gartner, "IT Glossary: Data Mining". Available at <https://www.gartner.com/it-glossary/data-mining> (accessed 12 July 2018). See also Ian H. Witten and Eibe Frank, *Data Mining: Practical Machine Learning Tools and Techniques*, 2nd ed. (San Francisco, Elsevier Inc., 2005), p. XXIII.

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⁶⁸ As observed by Francesco Contini and Richard Mohr, appeal courts exist to review the decisions of courts of first instance; chancelleries or registries keep track of every single procedural event, so the regularity of operations can be checked. These approaches are based on the control of the actions and decisions made at the level of individual cases or decisions. The problem of resources is not covered nor contemplated by such mechanisms. With regard to the problematic relationship between evaluation and independence of the judiciary, it is often referenced by judges as one of the reasons that assessment in judicial systems complex. See Francesco Contini and Richard Mohr, *Judicial Evaluation: Traditions, innovations and proposals for measuring the quality of court performance* (Saarbrücken, VDM, 2008); Gar Yein Ng, "Quality of judicial organisation and checks and balances", Doctoral thesis, Intersentia; METRO; Maastricht Institute for Transnational Legal Research (Antwerp; Maastricht, 2007); and Cristina Dallara, "Il cambiamento nelle politiche giudiziarie? Un bilancio su qualità, accountability e tecnologie dall'Europa all'Italia", Conference Paper, Società Italiana di Scienza Politica, University of Venice (2010).

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⁷² IDLO, "Enhancing Access to Justice Through Alternative Dispute Resolution in Kenya", 20 April 2018. Available at <https://www.idlo.int/news/highlights/enhancing-access-justice-through-alternative-dispute-resolution-kenya>.

⁷³ Noting, this rate is low even in efficient systems.

⁷⁴ Maria Dakolias, "Court Performance Around the World: A Comparative Perspective", *Yale Human Rights and Development Law Journal*, vol. 2, No. 1 (1999), pp. 98–106.

⁷⁵ See Marco Velicogna, "Justice Systems and ICT: What can be learned from Europe?", *Utrecht Law Review*, vol. 3, No. 1 (June 2007).

⁷⁶ Marco Velicogna, "Justice Systems and ICT: What can be learned from Europe?", *Utrecht Law Review*, vol. 3, No. 1 (June 2007), p. 130. According to Velicogna, "High failure rate is a result of the fact that 'the complexity of ICT solutions has grown rapidly and that existing Software Engineering and Information Systems Design methodologies do not tackle this adequately'".

⁷⁷ Studies in the Netherlands (Henning and Ng, 2009; Langbroek and Tjaden, 2009), Italy (Contini and Cordella, 2007) and France (Velicogna et al., 2011) reported many challenges encountered in the design and implementation of e-justice systems. In particular, they highlighted that the true obstacles relate to the organizational culture of justice institutions and to organizational aspects. Indeed, "[c]ourts protect judicial independence rigorously, and this is reflected in the organizational culture of judges. [...] The old work practices, which have been established during the pre-ICT era, are hard to change, while adopting new work practices could be the key to collecting maximum benefits from ICT, or taking the provided ICT into use at all." See I. Aaltonen, J. Laarni and K. Tammela, "Envisioning e-Justice for Criminal Justice Chain in Finland", *The Electronic Journal of e-Government*, vol. 13, Issue 1 (2015), pp. 56–66, at 56–57. Available at www.ejeg.com. On challenges specific to different e-justice tools, see B. Walsh, "E-Justice Projects – Distinguishing Myths from Realities (World Bank, 2011). Available at <http://www.ijusticia.org/docs/Barry.pdf>

⁷⁸ Although the first step in creating an e-justice system is to ensure there is active legislation expressing a right to public access, subsequently ensuring this right is enforced in regular practice is one of the biggest hurdles facing the sustainability of e-justice systems. See Paul Byfield and Olya Kroytor, "Accessibility of Judicial Decisions in the EBRD's Countries of Operations: A Comparative Review", *Law in Transition Online*, 2015. Available at <http://2015.lit-ebd.com/articles/article1.html>.

⁷⁹ The draft laws included: (i) the introduction of a Plenum in the Supreme Court to help standardize judicial decision-making and practices; (ii) amendments and additions to the Law on the Supreme Court of the Kyrgyz Republic and Local Courts (including provisions on raising the status of the judicial training center into a High Academy of Justice); (iii) the Civil Procedure Code; (iv) the Criminal Procedure Code; (v) the Law on Jurors in the Courts of the Kyrgyz Republic; (vi) the Law on the Council on the Selection of Judges of the Kyrgyz Republic; and (vii) the Law on Court System.

⁸⁰ Pursuant to a Presidential Decree of 8 August 2012, a court reform commission with broad representation of judicial and other branches of government was struck to implement the reforms endorsed by the Government. The Decree emphasized the need for: increased budget and improved budget allocation practices; improved ethics and disciplinary procedures; an appropriately funded and organized judicial training institution; comprehensive (and mandatory) judicial training; and changes to improve transparency as part of curbing corruption. Under the Judicial Strengthening Program, IDLO adopted a participatory approach to facilitate the process of judicial strategy development and supporting the judiciary in drafting the National Target Program. Through support by IDLO, a strong advocacy campaign was then carried out by the judiciary with the Government of the Kyrgyz Republic for its adoption. The target program was eventually adopted by the Parliament in June 2014. IDLO is currently supporting the development of the follow-up plan under the new USAID-funded Increasing Public Trust in the Judiciary Program.

⁸¹ By adopting the National Target Program, submitted jointly by the Government and representatives of the judiciary, the Parliament required increased financing of the judiciary from the budget to about 0.8 per cent for 2015 and about 1.2 per cent for 2016. Budgeting, as well as other efforts, although incomplete, have generally been consistent with the plan so far.

⁸² According to stakeholders interviewed, court staff salaries, including those of judicial assistants, clerks and IT consultants, do not exceed 100 USD per month, causing a high turnover in administrative staff at the expense of efficient functioning of courts and tribunals.

⁸³ Francesco Contini and Giovan Francesco Lanzara, eds., *ICT and Innovation in the Public Sector* (London, U.K., Palgrave MacMillan, 2009); and Marco Fabri, ed., *Information and Communication Technologies for the Public Prosecutor's Office* (Bologna, Culeb, 2007).

⁸⁴ Marco Velicogna, "Electronic Access to Justice: From Theory to Practice and Back", *Droit et Cultures*, vol. 61, No. 1 (2011).

⁸⁵ Marco Velicogna, "In Search of Smartness: The EU e-Justice Challenge", *Informatics*, vol. 4, No. 4 (2017), p. 2.

⁸⁶ Failure to publish decisions is not always due to disinterest or dislike of new technologies. A 2015 European Bank for Reconstruction and Development (EBRD) assessment in Eastern Europe and Central Asia found multiple reasons for lack of public access to court decisions, despite laws explicitly mandating the practice. Paul Byfield and Olya Kroytor, "Accessibility of Judicial Decisions in the EBRD's Countries of Operations: A Comparative Review", *Law in Transition Online*, 2015. Available at <http://2015.lit-ebd.com/articles/article1.html>.

⁸⁷ Nagy K. Hanna, *Transforming Government and Building the Information Society: Challenges and Opportunities for the Developing World* (New York, Springer, 2011).

⁸⁸ Nagy K. Hanna, *Transforming Government and Building the Information Society: Challenges and Opportunities for the Developing World* (New York, Springer, 2011).

⁸⁹ “The lives of the majority of the world’s people remain largely untouched by the digital revolution. Only around 15 per cent can afford access to broadband internet. Mobile phones, reaching almost four-fifths of the world’s people, provide the main form of internet access in developing countries. But even then, nearly 2 billion people do not own a mobile phone, and nearly 60 per cent of the world’s population has no access to the internet.” World Bank, *World Development Report 2016: Digital Dividends* (Washington, D.C.), p. 6.

⁹⁰ Marco Velicogna, “In Search of Smartness: The EU e-Justice Challenge”, *Informatics*, vol. 4, No. 4 (2017).

⁹¹ See M. Andrews, L. Pritchett and M. Woolcock, *Building State Capability: Evidence, Analysis, Action* (New York, Oxford University Press, 2017), pp. 53–76.

⁹² In September 2016, the Judicial Strengthening Program signed a Memorandum of Understanding with the Association of Legal Clinics in Kyrgyzstan, outlining future cooperation. This will include a competition among students on analysis of judicial decisions, using the Judicial Strengthening Program’s previously developed Methodology for Analysis of Judicial Decisions.

⁹³ C. A. Serbena and M. Dalri Timm do Valle, “An Overview on the Computerization and Evaluation of the Brazilian Judicial System”, in *E-Justice and Governance – Collected Studies*, C. A. Serbena, ed. (2015), p. 32.

⁹⁴ World Bank, *World Development Report 2017: Governance and Law* (Washington, D.C., 2017), p. 24.

⁹⁵ Under a sector-wide approach, communication, cooperation and coordination between institutions adds value to service delivery within a sector. Applying a sector-wide approach means relevant institutions – including the judiciary, the Ministry of Justice, the General Prosecutor’s Office, the police force, the prison service, and relevant selection and disciplinary bodies, among others – should jointly plan and budget in an effort to rationalize and maximize service delivery. This is valuable also for e-justice, in order to improve service delivery and appropriate collaboration through the use of ICT. Programming should always consider and anticipate potential opportunities for sectoral cooperation and the importance of e-justice within a broader framework of e-government overall. See also M. Andrews, L. Pritchett and M. Woolcock, *Building State Capability: Evidence, Analysis, Action* (New York, Oxford University Press, 2017), p. 54.

⁹⁶ X-Road is a peer-to-peer system allowing multiple organizations to exchange data through centrally distributed software funded and managed by the Government of Estonia, which has prioritized clear ownership rules around citizen-related data and established that all government agencies must use X-Road. The upkeep of this database is also centrally managed by a dedicated IT team and the system allows public and private sector enterprises to connect their information systems with X-Road. See also *Rule of Law Partnership in Uzbekistan, Review on the Advanced International Experience and Practices for Implementing e-Justice and Proposals for the Further Development of ‘E-SUD’ Information System in Uzbekistan* (UNDP; USAID, May–July 2015), p. 57. Available at http://www.undp.org/content/uzbekistan/en/home/library/democratic_governance/review-of-the-advanced-international-experience-and-practices-in.html.

⁹⁷ Fredrick Edward Kitoogo and Constantine Bitwayiki, “e-Justice Implementation at a National Scale: The Ugandan Case”, in *E-Infrastructures and E-Services on Developing Countries*, Adolfo Villafiorita, Regis Saint-Paul and Alessandro Zorer, eds. (AFRICOM, 2009), p. 46.

⁹⁸ More specifically, the court information and case management systems have a unique data center to which all courts will be connected, making maintenance of the system by an IT entity easier. When fully functional, the system will publish decisions automatically to act.sot.kg, ensuring linked capability so that judges and assistants will not have to type decisions or information on cases and activities from scratch, saving considerable time.

⁹⁹ N. Peršak, “Procedural Justice Elements of Judicial Legitimacy and their Contemporary Challenges”, *Oñati Socio-legal Series* [online], vol. 6, No. 3 (2016), pp. 749–770, at 759. Available at <http://ssrn.com/abstract=2731546>.

¹⁰⁰ See Kuralay K. Raikhanova, Gulzira T. Baizhanova and Olzhas N. Ramashov, “Theory and Practice of Formation of Electronic Documents in the Public Administration and the Courts of the Republic of Kyrgyzstan”, *Education & Science Without Borders*, vol. 8, No. 15 (2017), pp. 35–36. See also World Bank, “Project Paper on a Proposed Additional Credit in the Amount of SDR 5.8 Million and a Proposed Additional Loan in the Amount of US\$24.2 Million to the Republic of Azerbaijan for a Judicial Modernization Project”, Report No. 60775-AZ (Washington, D.C., 2011), p. 22.

¹⁰¹ OECD, “E-government: Reforming through information and communication technologies”, in *Reaping the Benefits of ICTs in Spain: Strategic Study on Communication Infrastructure and Paperless Administration* (2013), p. 98.

¹⁰² According to the National Center for State Courts, 34 U.S. states along with Guam, Puerto Rico and the District of Columbia use some form of social media to share information. This includes 30 courts that use Twitter. In a 2012 survey by the Conference of Court Public Information Officers, 46.1 per cent of responding judges stated they use social media profile sites. In recent years, use of social media by justice institutions, and high courts in particular, is spreading among developing countries: the Brazilian Superior Court of Justice, the Constitutional Court of Argentina, the Constitutional Court of Colombia and the Constitutional Court of Peru have Facebook accounts. The Supreme People’s Court of the Republic of China also has an official Weibo account, a social network similar to Twitter and very popular in China. See Brian McLaughlin, “U.S. Judicial Branch Embraces Open Government”, *PA Times*, 25 January 2015. Available at <http://patimes.org/u-s-judicial-branch-embraces-opengovernment>; and R. A. Ferreira Zanatta and M. R. Oliveira de Souza, “Courts in Social Networks: setting a research agenda for socio-legal studies”, in *E-Justice and Governance – Collected Studies*, C. A. Serbena, ed. (2015), pp. 39–53.

¹⁰³ United Nations Department of Economic and Social Affairs, “E-Government for the Future We Want”, United Nations E-Government Survey (New York, 2014), p. 104.

¹⁰⁴ See Facebook, “Superior Tribunal de Justicia (STJ)”. Available at <https://www.facebook.com/stjnoticias/?fref=ts> (accessed 12 July 2018).

¹⁰⁵ World Bank, *World Development Report 2017: Governance and Law* (Washington, D.C., 2017), pp. xiii, 247.

¹⁰⁶ See Kyrgyz Republic, “Ministry of Justice”. Available at <http://minjust.gov.kg/> (accessed 12 July 2018); and Facebook, “Ministry of Justice of the Kyrgyz Republic”. Available at <https://www.facebook.com/minjustKR/?fref=ts> (accessed 12 July 2018).

¹⁰⁷ Targeted audiences through: Manas Cinema – 40,964 people; print media – 552,000; social media – 1 million; and TV – over 3 million. A total of 199 comments were received from the public on the program, 1,298 likes were tabulated on social media, and 26,720 persons followed the links to view the preview clips on social media.

¹⁰⁸ See Outcome document of the high-level meeting of the General Assembly on the overall review of the implementation of the outcomes of the World Summit on the Information Society, UN Doc. A/RES/70/125, paras. 21–27. Available at <http://workspace.unpan.org/sites/Internet/Documents/UNPAN96078.pdf>.

¹⁰⁹ United States Central Intelligence Agency, “Kyrgyzstan”, *The World Factbook*, 20 June 2018. Available at <https://www.cia.gov/library/publications/the-world-factbook/geos/kg.html> (accessed 18 July 2018).

¹¹⁰ It is common for this ratio to be greater than 1:1. See United States Central Intelligence Agency, “Kyrgyzstan”, *The World Factbook*, 20 June 2018. Available at <https://www.cia.gov/library/publications/the-world-factbook/geos/kg.html> (accessed 8 July 2018).

¹¹¹ See <http://bizdin.kg/static/media/pdf/Otchet-media-issledovaniia-rynka-media-KR-2017.pdf>

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