

LEGAL PROCESS AUTOMATION AS A TOOL FOR ACCESS  
TO JUSTICE: A PROPOSAL TO RESTRUCTURE FIRST  
CONTACT INTERVIEWS IN THE FEDERAL  
INSTITUTE OF PUBLIC DEFENDERS

Patricia VILLA BERGER\*

*ABSTRACT: This article argues that digitalization (which includes legal process automation) is a tool for bridging the gap of access to justice and improving operational performance through features that are scalable, standardized, asynchronous and accessible. Firstly, the article provides an introduction to digital justice and technology use in legal services, including subsections about the countries that are leading the way in digital justice. This article also develops an implementation proposal, using Mexico and the first-contact interview of the Federal Institute of Public Defenders (FIPD) as a possible example of legal process automation. Thus, the third section offers background information on access to justice in Mexico and the FIPD, as well as some ideas on the complexities of a first contact interview, and what elements should be taken into account when automating this process (software, databases, plain language and design). The final section presents the interview prototype through which the principles and ideas discussed in the previous sections are put into practice, ultimately demonstrating the feasibility of the proposal.*

**KEYWORDS:** *Legal process automation, access to justice.*

**RESUMEN:** *Este artículo argumenta que la digitalización (la cual incluye, la automatización de procesos legales) es un medio para cerrar la brecha del acceso a la justicia y mejorar el desempeño operativo a través de herramientas que son escalables, estandarizadas, asíncronas y accesibles. En primer lugar, el artículo proporciona una introducción a la justicia digital y al uso de tecnología en los servicios legales, incluyendo subsecciones específicas sobre los países líderes en justicia digital. El artículo también presenta una propuesta de implementación,*

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*usando México y la entrevista de primer contacto del Instituto Federal de la Defensoría Pública (IFDP) como ejemplo posible de automatización de un proceso legal. En consecuencia, la tercera sección ofrece información contextual sobre el acceso a la justicia en México y el IFDP, así como algunas ideas sobre la complejidad de una entrevista de primer contacto y qué elementos se deben tomar en cuenta al automatizar ese proceso (software, bases de datos, lenguaje accesible y diseño). La última sección presenta el prototipo de entrevista, a través del cual los principios e ideas discutidos en las secciones previas son puestos en práctica, demostrando la factibilidad de la propuesta.*

PALABRAS CLAVE: *Automatización de procesos judiciales, acceso a la justicia.*

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## I. INTRODUCTION

The COVID-19 pandemic has been a loud wake-up call for legal professionals around the world. Indeed, justice reform in many countries was long overdue before the pandemic. However, the stress on justice systems derived from long lockdowns during most of 2020 has magnified problems related to backlogs, delays, and access barriers. Mexico is certainly one of those cases in which the pandemic crippled for the most part the government's capacity to continue delivering public services, including justice and other public legal services.

With that context in mind, this article argues that technological improvements can further access to justice through legal process automation and digitalization, which will translate into more efficiency, better data and better user experience. The first part analyzes the experience, promises and perils of technology implementation in the provision of public legal services, including three case studies on best practices. The second part hashes out the situation of access to justice in Mexico and the mandate, structure and resources of the Federal Institute of Public Defenders (hereinafter, FIPD), which is the institution selected for prototype development. The third part explains the importance of first contact interviews as the best moment to execute an efficient and effective triage because they are the first contact with users/citizenry and the welcome point for users. The fourth part explains step by step how an automated interview would look like, along with an internal triage proposal.

Although this article focuses on the FIPD for purposes of exemplification, the ideas put forward are useful and relevant for any organization that provides legal services. Overall, the point is that well implemented technological improvements are a way not only of guaranteeing the continuity and innovation of public services, but also a way of helping crystallize access to justice, to legal counsel, and to the realization of human rights and liberties in general.

## II. PROCESS AUTOMATION AND TECHNOLOGY IN PUBLIC LEGAL SERVICES

Most things in life are a process. On a daily basis, we have to follow a series of steps to achieve different results from everyday tasks (like getting to work or school, grocery shopping, ordering take-out) to more sophisticated endeavors (like coding software, performing a surgery). The law is not that much different in this regard, as it is full of procedures and procedural rules that are necessary to achieve results (like signing a contract, filing a suit, getting evidence admitted), but lawyers are not used to see them from a performance perspective and how they can be digitalized for better service delivery.<sup>1</sup>

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<sup>1</sup> Deborah Rhode & Scott L. Cummings, *Access to Justice: Looking Back, Thinking Ahead*, 30

Thus, this section starts with some introductory ideas on digital justice and legal process automation to understand the logic behind proposing this solution as a means for access to justice. Secondly, it will elaborate on specific countries that are leading the way in justice digitalization in order to demonstrate that these are changes being successfully implemented in different jurisdictions.

### 1. *Introduction to Digital Justice*

Digital technology has improved our lives considerably, although the legal sector has been a late adopter of digitalization compared to other sectors. There is, however, a silver lining to the extent that technology adoption in the legal industry is continually increasing and bringing clear benefits.

In private practice, tech adoption was sparked in the aftermath of the 2008 financial crisis as corporate clients demanded more efficiency, predictability, and alternative fee arrangements from law firms.<sup>2</sup> This forced lawyers to view the delivery of legal services from a more operational perspective, developing a field known as legal operations.<sup>3</sup> In this evolution, the publication of the seminal paper by Clifford Chance on the application of continuous improvement to the delivery of high-end legal services was a pivotal moment.<sup>4</sup> Using process improvement methodologies, digitalizing, measuring and monitoring legal processes brings value and allows to further innovate. Nowadays, there is a growing market on legal tech that is expected to keep growing considerably.<sup>5</sup>

These developments had made little impact in the realm of public law or public legal services. As Hartung et al. bluntly state it: “Courts try to manage 21st-century complexity with 19th-century tools such as paper file keeping.”<sup>6</sup>

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THE GEORGETOWN JOURNAL OF LEGAL ETHICS 485-500, 488, (2017), <https://papers.ssrn.com/abstract=3045369> (last visited Aug 10, 2022).

<sup>2</sup> Gibson Dunn, *How the global financial crisis changed the legal profession*, THE LAWYER (2017), <https://www.thelawyer.com/global-financial-crisis-changed-legal-profession/> (last visited Jul 22, 2022); Braun, Amanda, *Law-Gile™ an Evolution*, PROJECT MANAGEMENT INSTITUTE (2015), <https://www.pmi.org/learning/library/law-offices-choosing-agile-approach-9925> (last visited Mar 25, 2022).

<sup>3</sup> What is Legal Ops, CLOC, (2020), <https://cloc.org/what-is-legal-ops/> (last visited Mar 23, 2022); ACC Legal Operations Maturity Model 2.0, ASSOCIATION OF CORPORATE COUNSEL, <https://www.acc.com/maturity> (last visited Mar 23, 2022).

<sup>4</sup> CLIFFORD CHANCE, APPLYING CONTINUOUS IMPROVEMENT TO HIGH-END LEGAL SERVICES, 10 (2014), [https://www.cliffordchance.com/content/dam/cliffordchance/About\\_us/Continuous\\_Improvement\\_White\\_Paper.pdf](https://www.cliffordchance.com/content/dam/cliffordchance/About_us/Continuous_Improvement_White_Paper.pdf) (last visited Aug 14, 2022).

<sup>5</sup> Flaherty, Casey & Um, Jae, *Legal Technology: Why the Legal Tech Boom is Just Getting Started*, NASDAQ (2021), <https://www.nasdaq.com/articles/legal-technology%3A-why-the-legal-tech-boom-is-just-getting-started-2021-10-11> (last visited Jul 22, 2022).

<sup>6</sup> HARTUNG, DIRK ET AL., THE FUTURE OF DIGITAL JUSTICE 30, at 4, (2022), <https://legaltech.center.de/en/studies.html> (last visited Aug 1, 2022).

Susskind made a similar argument that not only courts, but that more broadly the legal profession and education are stuck in the 19th and 20th centuries, totally ill-equipped for the needs and challenges of our century.<sup>7</sup> Arguably, these statements are applicable to the whole justice system and public services in general.

The Covid-19 pandemic has been the catalyst to modernize, improve and digitalize public services in the same way that the financial crisis did for the private sector.<sup>8</sup> Undeniably, courts worldwide are jumping into remote hearings and different versions of digitalization.<sup>9</sup> Digitalization and legal process automation are necessary stepping stones for implementing more sophisticated technology, like analytics, document assembly or even artificial intelligence (AI), in the legal sector. It is impossible to evolve from paper trail and spreadsheets to AI without improving data and processes.<sup>10</sup>

The main logic behind offering online justice stems from both the lack of access to justice that billions of people face around the world, but also from the inefficiencies and costs related to the way courts and tribunals around the world currently work.<sup>11</sup> According to the Commission on Legal Empowerment of the Poor, 4 billion people are excluded from the rule of law, perpetuating and exacerbating poorness and vulnerabilities.<sup>12</sup> Later, the World Justice Project estimated that 5.1 billion people face at least one of the following justice issues: they cannot obtain access to functioning justice institutions; they lack legal tools to protect their assets or access economic opportunities or public services; or they live in extreme conditions of injustice.<sup>13</sup>

In the Commission's opinion, legal empowerment is a key component of the solution to poverty, but one that is frequently overlooked,<sup>14</sup> and access to justice is one aspect of it, to the extent that it is a way to protect rights and interests.<sup>15</sup> In this regard, the 2030 Agenda for Sustainable Development,

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<sup>7</sup> RICHARD E. SUSSKIND, *ONLINE COURTS AND THE FUTURE OF JUSTICE* 14 (First Edition ed. 2019).

<sup>8</sup> HARTUNG, DIRK ET AL., *supra* note 7 at 10.

<sup>9</sup> Remote Courts, <https://remotecourts.org/> (last visited Jul 22, 2022).

<sup>10</sup> HARTUNG, DIRK ET AL., *supra* note 7.

<sup>11</sup> William Roberts, *Digital Justice*, 34 WASH. LAW. 18-23 (2019-2020).

<sup>12</sup> MAKING THE LAW WORK FOR EVERYONE. REPORT OF THE COMMISSION ON LEGAL EMPOWERMENT OF THE POOR, 19-20 (Commission on Legal Empowerment of the Poor & United Nations Development Programme eds., 2008), <https://www.un.org/ruleoflaw/blog/document/making-the-law-work-for-everyone-vol-1-report-of-the-commission-on-legal-empowerment-of-the-poor/> (last visited Aug 10, 2022).

<sup>13</sup> WORLD JUSTICE PROJECT, *MEASURING THE JUSTICE GAP. A PEOPLE-CENTERED ASSESSMENT OF UNMET JUSTICE NEEDS AROUND THE WORLD* 45, 4-5, (2019), <https://worldjusticeproject.org/our-work/research-and-data/access-justice/measuring-justice-gap> (last visited Aug 10, 2022).

<sup>14</sup> MAKING THE LAW WORK FOR EVERYONE. REPORT OF THE COMMISSION ON LEGAL EMPOWERMENT OF THE POOR, *supra* note 13 at 21-22.

<sup>15</sup> *Id.* at 26.

through Goal 16.3, recognizes the importance of rule of law and access to justice for development and for the fulfillment of other goals.<sup>16</sup>

Complementary to these facts, Katsh and Rabinovich also argue that to the extent that innovation and entrepreneurship bring new products and services, disputes around them will also increase.<sup>17</sup> Some of these disputes can be solved with the existing law, case law and legal doctrines, but some are in themselves creating new areas of law (for instance, personal data protection, cyberspace or cybersecurity) or even new avenues for dispute resolution.<sup>18</sup> Regardless of the substantive law, our legal processes and their execution to get justice done in this century are quite divorced from the speed and complexity of current technology and social interactions in general;<sup>19</sup> in other words, our processes and institutions are mostly outdated. In this context, digitalization (which includes process automation) is an avenue for solving problems to prevent, anticipate and solve disputes in a way that is equitable and accessible.<sup>20</sup> Gillian Hadfield also argues the many instances in which the law (substantive and procedural) is insufficient to address the challenges of the 21st century.<sup>21</sup>

Given the extent of the issue, Tashea's proposal on the scope of access to justice is right on point: "To foster access to justice means building connections to the justice system's physical infrastructure, like courts and prisons; its services, like legal aid or social benefits; or a remedy, including formal and informal resolution, like mediation."<sup>22</sup> This author proposes that justice should be conceptualized as a platform where state and citizens converge for exchanging information and getting services.<sup>23</sup> This view of justice beyond the physical space has also been extensively argued by Richard Susskind.<sup>24</sup>

Valid concerns exist that digitalization of public services will become a barrier for users that are not tech savvy or that lack stable connectivity or any connectivity at all, magnifying existing access gaps between the haves and not-haves. If telecommunication infrastructure is not good enough, it would make legal services haphazard and less accessible overall. These are very valid concerns when thinking how to innovate in the public service landscape,

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<sup>16</sup> Naciones Unidas México, SUSTAINABLE DEVELOPMENT GOAL 16: PAZ, JUSTICIA E INSTITUCIONES SÓLIDAS, <https://mexico.un.org/es/sdgs/16> (last visited Aug 10, 2022).

<sup>17</sup> Ethan Katsh & Orna Rabinovich-Einy, *Digital Justice: Introduction*, 3 *IJODR* 102-124, 105-107 (2016).

<sup>18</sup> *Id.*, at 109-112.

<sup>19</sup> *Id.*, at 117-120.

<sup>20</sup> *Id.*, at 105.

<sup>21</sup> GILLIAN K. HADFIELD, *RULES FOR A FLAT WORLD: WHY HUMANS INVENTED LAW AND HOW TO REINVENT IT FOR A COMPLEX GLOBAL ECONOMY* (2017).

<sup>22</sup> Jason Tashea, *Justice-as-a-Platform*, MIT COMPUTATIONAL LAW REPORT, 3, (2021), <https://law.mit.edu/pub/justiceasaplatform> (last visited Aug 3, 2022).

<sup>23</sup> *Id.*, at 6.

<sup>24</sup> SUSSKIND, *supra* note 8.

and sadly, there are good examples on how this is not a theoretical possibility, given how some roll outs have happened,<sup>25</sup> and considering that connectivity worldwide is far from universal.<sup>26</sup>

Addressing these concerns requires building a bridge between high-level vision and low-level implementation, so that the details and specifics of digitalization do not derail the quest for better access to justice. Decision-makers must take into account that correctly planning and designing digitalization initiatives, considering account users' needs, are paramount for success. That being said, this is not an "all or nothing" dilemma because incremental technological implementation can and should be done meanwhile, while or regardless of whether Internet infrastructure is improved.<sup>27</sup>

Additionally, in-person services can and should continue when they are necessary for accessibility or fairness reasons, but institutions must migrate to one workflow and one data-managing system instead of having two systems (digital and physical) coexisting.<sup>28</sup>

A final word of caution would be to choose wisely where to take the first steps towards digitalization and other tech initiatives. Experts agree that high volume and low stakes issues are the best place to start,<sup>29</sup> which means that criminal law or family law would be the last areas where innovation should disrupt. Furthermore, there are strong arguments avoiding virtual hearings in some cases or contexts where incommunicado detention and torture or mistreatment of detainees are rampant or prevalent.<sup>30</sup> Nevertheless, virtual hearings are just a small part of digitalization and tech in the justice system; some other aspects of digitalization could certainly be brought in, such as e-filing,

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<sup>25</sup> People & Power, *Online Justice*, ALJAZEERA, April 21, 2022, <https://www.aljazeera.com/program/people-power/2022/4/21/online-justice> (last visited Aug 10, 2022); Ramírez, Ramón, *En CdMx, abogados protestan contra sistema de citas en Poder Judicial*, TELEDIARIO: COMUNIDAD, February 17, 2022, <https://www.telediario.mx/comunidad/cdmx-abogados-protestan-sistema-citas-judicial> (last visited Feb 21, 2022); Gómez Flores, Laura, *Protestan en el Poder Judicial de la CDMX por lentitud en resolución de casos*, LA JORNADA: CAPITAL, February 14, 2022, <https://www.jornada.com.mx/notas/2022/02/14/capital/protestan-en-el-poder-judicial-de-por-acuerdo-que-obstaculiza-los-casos/> (last visited Feb 21, 2022).

<sup>26</sup> Dann Okith, *New report suggests shocking state of global internet connectivity*, WORLD ECO. FORUM, (2022), <https://www.weforum.org/agenda/2022/03/reliable-internet-unavailable-poorest-global-population/> (last visited Aug 10, 2022); ADVANCING MEANINGFUL CONNECTIVITY: TOWARDS ACTIVE AND PARTICIPATORY DIGITAL SOCIETIES, A4AI (2022), <https://a4ai.org/research/advancing-meaningful-connectivity-towards-active-and-participatory-digital-societies/> (last visited Aug 10, 2022).

<sup>27</sup> RICHARD E. SUSSKIND, *ONLINE COURTS AND THE FUTURE OF JUSTICE* 215-221 (First Edition (reprint) ed. 2021).

<sup>28</sup> *Id.*, at 219.

<sup>29</sup> SUSSKIND, *supra* note 8 at 105, 202; Roberts, *supra* note 12 at 21; Daily Matters, *Shannon Salter, Chair at Civil Resolution Tribunal*, <https://www.clio.com/podcast/shannon-salter/> (last visited Apr 7, 2021).

<sup>30</sup> ONLINE JUSTICE, *supra* note 26.

electronic case management, process automation, dashboards, performance monitoring, document assembly, and so on.

## 2. *Legal Process Automation*

For digitalization to fulfill its promise of better and more efficient public legal services, institutions must be aware of the different layers and aspects that technological implementation entail. At the high-level, institutions must develop a strategy that allows to set goals, priorities, technology solutions, and a path to get there. At a low-level, digitalization entails dissecting specific processes to quantify them, improve them, and then automate them; processes that are not correctly documented and cleaned up will most likely migrate their defects, bottlenecks and inefficiencies to their digital versions, hampering the benefits and return on investment of technology.<sup>31</sup> This piece focuses more on the low-level concerns towards digitalization and automation (using as example, an intake form), as will be explained in the following sections.

Legal processes can be studied as services, and under that perspective they can be analyzed, designed, redesigned and improved based on specific “business goals”, just as any other service like hospitality, marketing or banking.<sup>32</sup> Different approaches are useful for process improvement, such as design thinking, lean, agile and six sigma, and their principles and methodologies can all be applied in the improvement of the design and implementation of the law. There are three reasons why improving legal services through the use of methodologies should be part of the discussion on digital justice and access to justice:

1. Process improvement and design thinking forces to think about legal processes from customer-centered or human-centered perspective, and when it comes to public services, we all benefit from that mindset.<sup>33</sup>

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<sup>31</sup> SHANNON SALTER: CHAIR, CIVIL RESOLUTION TRIBUNAL, CANADA - ACCESS TO JUSTICE AND TECHNOLOGY SUMMIT, (2019), <https://www.youtube.com/watch?v=1YWMlgpueDIM&list=PLCcQWZN2g5voDDJyGpwwKTMePEXZItW5O&index=6> (last visited Mar 5, 2021); ROBERTS, *supra* note 12 at 22.

<sup>32</sup> CATHERINE ALMAN MACDONAGH, LEAN SIX SIGMA FOR LAW FIRMS, (2014); Linna, Daniel & Stephen Poor, *Ingrained Innovation: Creating a Resilient, Efficient Law Firm*, <https://legal-talknetwork.com/podcasts/law-technology-now/2019/07/ingrained-innovation-creating-a-resilient-efficient-law-firm/> (last visited Mar 25, 2022); Hagan, Margaret, *Six Sigma as Law Redesign*, OPEN LAW LAB (2013), <https://www.openlawlab.com/2013/06/18/six-sigma-as-law-redesign/> (last visited Mar 24, 2022); You're Not Out of Order! Applying Lean Six Sigma To Law Firms, (2017), <https://www.sixsigmadaily.com/applying-lean-six-sigma-law-firms/> (last visited Mar 24, 2022).

<sup>33</sup> Shannon Salter & Darin Thompson, *Public-Centered Civil Justice Redesign: A Case Study of the British Columbia Civil Resolution Tribunal*, 3 MCGILL J. DISP. RESOL. 113-153 (2016-2017); SHANNON SALTER, *supra* note 32; Ronald W Staudt, *All the Wild Possibilities: Technology that Attacks*



This encompasses tools for project scoping, listening to customers and users, gathering information to address their needs and experiences, and piloting solutions before roll-out. Some complementary ideas on human-centered design will be developed on section 4, regarding plain language and interview structure.

2. Quantitative-oriented methodologies require establishing baselines and to define what data is required for monitoring and continuous improvement. This will be further discussed in section 4.1, regarding software and databases.

The documentation of a process and its improvement are the stepping stones for digitalizing and automating, which in combination allow to offer scalable, standardized, asynchronous and accessible services that benefit both overwhelmed legal aid institutions, and stressed users in the following aspects:

- 1) *Scalability*: Resources are always limited, and for most institutions significantly expanding personnel is prohibitive.<sup>34</sup> Public institutions and non-profits should look for solutions that allow them to reach the largest number of users with the least resources possible. The only way to scale up first contact interviews or intake is through digitalization and web-based services.
- 2) *Standardization*: Though most legal aid organizations may have a list of issues or questions to address during a first contact interview, fully standardizing first contact interviews make it possible to retrieve critical information in order to triage their cases (which is why forms are created in the first place).<sup>35</sup> Standardizing information is the first step towards building more robust data sets that allow further analysis for strategic planning, based on user demographics and case characteristics. Ideally, creating web-based solutions should also be coupled with creating more appropriate databases, rather than having fractured information in different hands, formats and sources.

Electronic databases make centralization easier, instead of taking handwritten notes or even filling out separate electronic documents (like Word documents or PDFs) that remain scattered in local drives or paper files. This is also the only way of to generate a trove of data and meta-data that would lead to the creation of deeper performance intelligence, as well as information for decision-making and smarter resource allocation, as will be explained later when the paper touches upon software

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*Barriers to Access to Justice*, 42 LOY. L.A. L. REV. 1117-1145, 1129-1130 (2009), <https://digitalcommons.lmu.edu/llr/vol42/iss4/9/>.

<sup>34</sup> Mexico is a good example on this as budget and personnel for public institutions have been drastically reduced in the past years.

<sup>35</sup> STAUDT, *supra* note 34 at 1127-1128.

and data bases (sections 4.1 and 4.2). In sum, tackling variability is a crucial aspect of service and process improvement.

- 3) *Asynchrony*: Already under pre-pandemic circumstances, requesting legal aid entailed an investment of time and resources for users that is hardly justified. People would need to ask permission to skip work (in some of these cases, absorbing income loss), plan for childcare, pay for transportation, and invest at least a couple of hours to request legal aid in person.<sup>36</sup> Phone lines can certainly cut down some of those obstacles, but they still rely on fix service hours and on having personnel available to carry out a first contact interview.<sup>37</sup>

Transitioning to a web-based automated interview cuts down most hurdles for users, with the added value of letting them contact legal aid organization whenever it is feasible. Individuals facing the challenges of the pandemic (homeschooling, home office, providing care for other relatives, running a household, and generally making ends meet) have even more limited availability for a first contact interview, and allowing them to request legal aid whenever it is most convenient for them will increase user engagement and satisfaction.

From an institutional perspective, this also saves time for personnel (arguably, facing the same pandemic challenges in their households as the average citizen) that would not need to type down information from the user, spend precious time on menial administrative tasks (like photocopying or physically moving documents around), or even waste time waiting for walk-ins to arrive. Hopefully, this would allow them to work in more substantial tasks like legal analysis, case preparation and follow-up, communication with users, research, and the like.

- 4) *Accessibility*: Web-based options, for some of the reasons cited above, make services more accessible for individuals with schedule constraints, but they also do so for individuals who face mobility challenges due to sickness, age or location, and for individuals with disabilities. Designing services that fit the needs of those individuals, who are already vulnerable, is a testament to a true commitment on access to justice. If legal aid services are available for the widest array of cases and circumstances, access gaps start to close slowly. Indeed, phone lines and in-person assistance should always remain available, but web-based services allow to relief pressure from contact points that require human involvement, so

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<sup>36</sup> ROBERTS, *supra* note 12.

<sup>37</sup> Phone lines and offices should always remain available for users that lack internet connection, are illiterate, cannot read or speak Spanish, are not tech savvy, or have any kind of disability that makes it impossible for them to use an automated web-based interview. In any case, personnel at call centers or offices should follow the same interview or script, feeding it to the same data base through a web session. This is what Richard Susskind calls the “two door” option, instead of running two parallel services (SUSSKIND, *supra* note 8 at 219).

that they can serve better those who, for whatever reason, cannot access a website.

Digitalization and automation also reduce the costs of filing: keeping physical archives is actually pretty expensive because of the paper and equipment needed for printing, the space needed to keep a physical archive, and the added infrastructure that comes with it (temperature, humidity and light must be constantly controlled to keep paper in good state). In this regard, Mexico's General Law on Archives (article 2, section IV) establishes as a goal to "promote the use of information technologies to improve archive management,"<sup>38</sup> and recognizes as "archive" all documents produced by the authorities, regardless of the means or place in which they are saved or stored<sup>39</sup> (this includes digital interfaces); this law has also a special chapter on electronic archives.<sup>40</sup>

### 3. *International Best Practices*

This section will briefly address three specific examples on best practices regarding digitalization and digital justice, strengthening the point that technology (thoughtfully implemented) can really improve access to justice. These case studies are just a handful of examples, but numerous countries are implementing innovative initiatives to be noted.<sup>41</sup>

#### A. *Canada*<sup>42</sup>

Canada (British Columbia) is at the forefront of digital justice thanks to its Civil Resolution Tribunal (CRT), which has become an international reference for online justice and user-centered design.<sup>43</sup> Thus, this section only elaborates on this specific tribunal, not the Canadian justice system at large,

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<sup>38</sup> LEY GENERAL DE ARCHIVOS [L.G.A] [GENERAL LAW ON ARCHIVES], as amended on April 5, 2022, art. 2-IV, Diario Oficial de la Federación [D.O.], 2022), <https://www.diputados.gob.mx/LeyesBiblio/ref/lga.htm> (last visited Sep 15, 2022).

<sup>39</sup> *Id.*, art. 4-III.

<sup>40</sup> *Id.*, arts. 41-49.

<sup>41</sup> TASHEA, *supra* note 23; REMOTE COURTS, *supra* note 10.

<sup>42</sup> This section is based on the author's doctoral dissertation (Patricia Villa Berger, *A Primer for Lawyers on Technological Implementation in the Legal Sector* [Unpublished doctoral dissertation], 2022).

<sup>43</sup> SUSSKIND, *supra* note 8 at 98, 168; LAWYERIST PODCAST, *Online Dispute Resolution & Public Interest Design with Shannon Salter*, <https://legaltalknetwork.com/podcasts/lawyerist-podcast/2018/01/157-online-dispute-resolution-public-interest-design/> (last visited Apr 7, 2021); CLIO, *supra* note 30; SHANNON SALTER, *supra* note 32.

but it is worth mentioning that Canada has the 12th place (from 139 countries) in the WJP Rule of Law Index.<sup>44</sup>

The CRT, launched in 2016, is “an independent, quasi-judicial tribunal operating under the authority of the *Civil Resolution Tribunal Act*... [it is] Canada’s first online tribunal, currently providing end-to-end dispute resolution services for strata property<sup>45</sup> disputes of any amount, small claims up to \$5 000, motor vehicle personal injury disputes under \$50 000, disputes with the government auto insurer regarding no-fault accident benefits, disputes with the government auto insurer regarding no-fault accident benefits, and disputes involving incorporated societies and cooperative associations.”<sup>46</sup>

The CRT was envisioned from the outset as an online dispute resolution service,<sup>47</sup> taking inspiration from online dispute resolution mechanisms in the private sector, namely from PayPal and eBay.<sup>48</sup> It was designed from scratch, and that is sometimes easier than adapting a pre-existing system into a digital version. This does not mean that getting a new justice system up and running is an easy task: the CRT worked for five years in setting up its service before it opened its doors.<sup>49</sup>

The CRT offers three stages of service and information for its users, namely self-help tools, negotiation and mediation, before adjudication of cases by the tribunal members for a final decision. All materials (website, forms, letters,

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<sup>44</sup> WORLD JUSTICE PROJECT ET AL., THE WORLD JUSTICE PROJECT: RULE OF LAW INDEX 2021. 62, (2021), <https://worldjusticeproject.org/sites/default/files/documents/WJP-IND-EX-21.pdf>.

<sup>45</sup> In British Columbia, strata property includes condominiums, but also other kinds of property can be strata too, such as single-family homes in bare land strata, marinas, stables, hotels, duplexes, townhouses, restaurants, retail spaces, and others. A property is not strata because of its type or looks, but rather by the way it is legally created. See Office of Housing and Construction Standards, *Strata Glossary - Province of British Columbia*, <https://www2.gov.bc.ca/gov/content/housing-tenancy/strata-housing/more-help-and-support/glossary#:~:text=Condominium%20is%20the%20word%20used%20for%20strata%20properties,homes%20in%20bare%20land%20strata%20corporations%20%28%22strata%20subdivisions%22%29>. (last visited Mar 17, 2022); Office of Housing and Construction Standards, *Different kinds of stratas - Province of British Columbia*, <https://www2.gov.bc.ca/gov/content/housing-tenancy/strata-housing/understanding-stratas/kinds-of-stratas> (last visited Mar 17, 2022).

<sup>46</sup> CIVIL RESOLUTION TRIBUNAL, *2019-2020 Annual Report*, 37 1, <https://civilresolutionbc.ca/wp-content/uploads/CRT-Annual-Report-2019-2020.pdf>; Vehicle Accident Disputes, <https://civilresolutionbc.ca/how-the-crt-works/getting-started/motor-vehicle-accidents-and-injuries/> (last visited Mar 17, 2022).

<sup>47</sup> CIVIL RESOLUTION TRIBUNAL ACT, [SBC 2012] CHAPTER 25, (2012), [https://www.bclaws.gov.bc.ca/civix/document/id/complete/statreg/12025\\_01#part1](https://www.bclaws.gov.bc.ca/civix/document/id/complete/statreg/12025_01#part1) (last visited Apr 7, 2021).

<sup>48</sup> CLIO, *supra* note 30.

<sup>49</sup> LAWYERIST PODCAST, *supra* note 44; Deep Dive Interview with Richard Rogers (Executive Director of Operations) into CRT’s operations, (2021).

brochures, emails and even decisions) are written in plain language, based on the average reading level in Canada, which makes the substantive and procedural informational accessible for everyone.<sup>50</sup> In this respect, human-centered design is a toolbox that includes both online and offline tools, each solving specific problems and meeting users where they are.<sup>51</sup>

Regarding the back end, the CRT manages its workflow with Salesforce, which is a cloud-based software for customer relationship management, that was customized to fit the needs of the CRT, and other tribunals in British Columbia.<sup>52</sup> This decision was initially controversial, but ultimately the management of legal cases and the storage of that information is not fundamentally that different from other service relationships in the business context.<sup>53</sup>

One of the most important aspects of the CRT is offering asynchronous services, which allows individuals to take care of their cases at times that suit them, within fix deadlines to still guarantee speedy resolution,<sup>54</sup> instead of congregating on a fixed date with all the logistical challenges that this entails for the average citizen (such as commuting, loss of income, missing work or school, anticipating for child care).<sup>55</sup> Asynchrony is also promoted by Susskind, who considers that this feature should be an integral component of justice in the future when it comes to civil disputes, particularly low value ones, to bridge gaps in access to justice and the huge backlogs around the world.<sup>56</sup>

As part of its continuous improvement and transparency, the CRT reports the aggregate survey results in its annual report,<sup>57</sup> as well as monthly reports that include selected comments from users on what they liked and what could be improved.<sup>58</sup> While limited or imperfect, surveys produce much more information than what traditional courts or most legal services providers do to gather users' insights on their experience.

Satisfaction is slightly variable over time, but so far the figures are encouraging: 96% of users considers the staff to be professional, 94% agreed that CRT provides information for dispute resolution, 91% found the process accessible or easy to understand, 88% felt they were treated fairly.<sup>59</sup> How many

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<sup>50</sup> SALTER AND THOMPSON, *supra* note 34 at 124.

<sup>51</sup> DAILY MATTERS, *supra* note 30.

<sup>52</sup> LAWYERIST PODCAST, *supra* note 44; Rogers, Richard, *RE: [Ext] RE: Follow-up*, (2021).

<sup>53</sup> LAWYERIST PODCAST, *supra* note 44.

<sup>54</sup> CIVIL RESOLUTION TRIBUNAL, *Rules of the Civil Resolution Tribunal (effective May 1, 2021)*, 39 (2021), <https://civilresolutionbc.ca/wp-content/uploads/CRT-Rules-in-force-May-1-2021.pdf>.

<sup>55</sup> CLIO, *supra* note 30; LAWYERIST PODCAST, *supra* note 44.

<sup>56</sup> SUSSKIND, *supra* note 8.

<sup>57</sup> CIVIL RESOLUTION TRIBUNAL, *supra* note 47 at 29-30.

<sup>58</sup> Participant Satisfaction Survey - April 2021, (2021), <https://civilresolutionbc.ca/participant-satisfaction-survey-april-2021/> (last visited May 27, 2021).

<sup>59</sup> *Id.*

courts or tribunals around the world can report satisfaction rates this high or satisfaction rates at all? Not most of them today, but hopefully all of them in the future.

### B. *United Kingdom*

The United Kingdom (UK), which has the 16th place (from 139 countries) in the WJP Rule of Law Index,<sup>60</sup> is a great example on investing in an ambitious and expansive vision of justice digitalization. Since 2016, it has invested more than a billion pounds into more than 50 projects aimed towards more efficiency and access to justice, involving 16,100 full-time staff, 341 courts and tribunal centers, and 4.4 million cases annually.<sup>61</sup>

To that end, *Her Majesty's Courts and Tribunals Service* is the agency of the Ministry of Justice that developed the reform program and it is also in charge of coordinating and reporting on the reform's progress.<sup>62</sup> More specifically, the reform program includes the following elements: automation of case management, widespread videoconferencing, new facilities for parties to file applications and upload documents, workforce changes, among others.<sup>63</sup>

Experts note three important elements in the UK's justice reform project:

- 1) Public discussions, public reporting and engagement of stakeholders (academia, legal professionals, civil society and lawtech, as well as internal ones), which help to foster buy-in and to get valuable input for the projects.<sup>64</sup>
- 2) Independent evaluation to ensure the reform actually improves access to justice.<sup>65</sup>
- 3) Data on court operations and consequences for the economy, by means of collecting performance data through a unified digital case management system for continuous improvement. Data collection is viewed as a cornerstone of success in this reform.<sup>66</sup> According to Hartung et al., the system "has led to a deeper understanding of stakeholder needs, enables a more efficient organization of administrative matters, and shortened average case durations. It functions as an important pillar of

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<sup>60</sup> WORLD JUSTICE PROJECT ET AL., *supra* note 45 at 170.

<sup>61</sup> ROBERTS, *supra* note 12 at 20; NATALIE BYROM, DIGITAL JUSTICE: HMCTS DATA STRATEGY AND DELIVERING ACCESS TO JUSTICE 48, 2 (2019), <https://research.thelegaleducationfoundation.org/wp-content/uploads/2019/09/DigitalJusticeFINAL.pdf> (last visited Aug 3, 2022); HARTUNG, DIRK ET AL., *supra* note 7 at 15.

<sup>62</sup> HARTUNG, DIRK ET AL., *supra* note 7 at 15-16.

<sup>63</sup> BYROM, *supra* note 62 at 14.

<sup>64</sup> *Id.*, at 14-30; HARTUNG, DIRK ET AL., *supra* note 7 at 16.

<sup>65</sup> BYROM, *supra* note 62 at 18-22; HARTUNG, DIRK ET AL., *supra* note 7 at 16.

<sup>66</sup> BYROM, *supra* note 62 at 11-13.

future reform, providing reliable and accurate data as a basis for management decisions.”<sup>67</sup>

One of the most important lessons from this case study is that technological innovation is not at odds with a deliberative process, legal compliance or fairness. The UK is making great efforts in doing extensive consultations with experts and stakeholders (which will certainly translate in better design and implementation). The collection and use of data are carefully reviewed to measure vulnerabilities while complying with GDPR and other privacy standards. And finally, the reform program is invested in measuring access to justice in four components, namely access to the legal system, access to a fair and effective hearing, access to a determination and access to a remedy.

### C. Singapore

Singapore is an island-state of roughly 5.5 million people that follows the common law tradition. It has the 17th place (from 139 countries) in the WJP Rule of Law Index.<sup>68</sup> Some scholars consider this country as the global leader in justice digitalization,<sup>69</sup> but it must be noted that this accomplishment is the result of larger national strategies (adopted since the early 1980s) towards innovation and technology adoption in the broader public sector, as well as education and industry.<sup>70</sup>

In the high-level aspect mentioned in section 2.2, a taskforce on the courts of the future created a plan in 2016 to adopt online dispute resolution (ODR) and artificial intelligence.<sup>71</sup> An initial ODR component was rolled in 2017 for e-negotiation between parties, while the court is developing and testing an outcome simulator for claimants in personal injury claims.<sup>72</sup>

Since 2000, courts mandated e-filing for all civil cases, giving no option to litigators to continue physical filing.<sup>73</sup> If we break down what e-filing entails, it is evident that documenting and identifying inefficiencies is paramount to successfully digitalize that specific legal process. Providing a stable interface

<sup>67</sup> HARTUNG, DIRK ET AL., *supra* note 7 at 16.

<sup>68</sup> WORLD JUSTICE PROJECT ET AL., *supra* note 45 at 149.

<sup>69</sup> HARTUNG, DIRK ET AL., *supra* note 7 at 11-12; SUSSKIND, *supra* note 28 at 171.

<sup>70</sup> ITU, *Singapore's Data Strategy Targets Regional Growth*, (2018), <https://news.itu.int/singapore-data-strategy-targets-regional-growth/> (last visited Jul 26, 2021); Singapore's big ambitions for big data in 2019, (2018), <http://www.edb.gov.sg/en/business-insights/insights/singapore-s-big-ambitions-for-big-data-in-2019.html> (last visited Jul 26, 2021); Smart Nation Singapore, (2022), <https://www.smartnation.gov.sg/> (last visited Aug 3, 2022).

<sup>71</sup> SUSSKIND, *supra* note 28 at 171.

<sup>72</sup> *Id.*, at 171-172.

<sup>73</sup> *Id.*, at 171.

to users is also crucial, which can only be achieved through good planning, designing, and a great deal of testing.

In 2013, Singapore went beyond the simple digitalization and automation of this process by implementing interactive online forms that can ensure filings actually follow court rules.<sup>74</sup> This has evolved into an end-to-end case management system for all jurisdictions and parties that includes analytics, key performance indicators, identity and payment systems, scheduling tools, virtual hearing app, caseload analysis and prediction.<sup>75</sup> This is an example on how high-level vision must be executed on the low-level processes, and basically how both pillars feedback each other, as well as how an initial endeavor becomes the stepping stone for future tech developments.

Singapore has been investing in their digital justice strategy for at least 20 years, which proves that there are really no quick fixes for improving justice. The most important accomplishments of Singapore's digital justice strategy is achieving full integration of their justice systems.<sup>76</sup> This is no small feat, as frequently institutions work in a siloed manner not only between them, but sometimes within them, and sustaining a long-term vision is quite challenging. Finally, Singapore's discipline to commit itself to a long term vision of what the justice of the future should look like is a key piece for its success.

### III. CONTEXT

In order to frame the case study better, this section focuses first on the situation of access to justice in Mexico, and secondly, on explaining the FIPD as an organization (mandate, resources, services, etc.).

#### 1. *Access to Justice in Mexico*

Access to justice in Mexico, as in most jurisdictions worldwide, is a huge problem. According to the World Justice Project (WJP), 49% of Mexicans have experienced legal problems in the past 2 years, but only 23% of them got expert advice or help.<sup>77</sup> A large part of those legal issues do not even make it to courts or other formal dispute resolution mechanisms.<sup>78</sup> From the 23% that actually looked for some kind of advice, the breakdown on the type of advice is the following:

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<sup>74</sup> *Id.*

<sup>75</sup> HARTUNG, DIRK ET AL., *supra* note 7 at 12.

<sup>76</sup> *Id.*

<sup>77</sup> Half of Mexicans Experience Legal Problems, Only 1 in 4 Get Help, (2018), <https://worldjusticeproject.mx/access-to-justice-problems/> (last visited Nov 25, 2020).

<sup>78</sup> *Id.*



<i>Type of advice</i>	<i>Proportion</i>
Lawyers	36%
Relatives, friends or acquaintances	27%
Government legal aid	11%

The WJP's Rule of Law Index ranks countries by scoring 7 factors (being civil and criminal justice two of them) and several sub-factors.<sup>79</sup> The scale ranges from 0 to 1, where 1 indicates the strongest adherence to rule of law. For 2021, Mexico's overall national average is 0.43, and notably, civil justice and criminal justice have national averages of 0.37 and 0.29, respectively.<sup>80</sup>

The WJP, based on its global index, has created a rule of law index tailored to Mexico that ranks its states and provides a national average.<sup>81</sup> Although the scores between the global and Mexican indexes are similar, they are neither exactly the same nor comparable.<sup>82</sup> Specifically for civil justice, the Mexican index redistributes measurements "to give more weight and specificity to the concept of accessibility."<sup>83</sup> Regarding criminal justice, the Mexican index includes the protection of victims.<sup>84</sup>

According to the Mexican index, the national averages for civil and criminal justice are 0.37 in both cases.<sup>85</sup> The scores for the most relevant sub-factors on civil and criminal justice for purposes of this piece are the following:<sup>86</sup>

<i>Civil justice</i>	<i>National average score 2020</i>	<i>National average score 2021</i>
1. Access to information and affordable quality legal counsel.	0.39	0.39
2. People can easily solve their legal problems without high costs and bureaucratic processes.	0.30	0.30

<sup>79</sup> WORLD JUSTICE PROJECT ET AL., *supra* note 45 at 18-19.

<sup>80</sup> *Id.*, at 23-35.

<sup>81</sup> MEXICO STATES RULE OF LAW INDEX 2020-2021, 101 (2021), [https://worldjusticeproject.mx/wp-content/uploads/2021/04/2\\_msi-2020-2021-ENG.pdf](https://worldjusticeproject.mx/wp-content/uploads/2021/04/2_msi-2020-2021-ENG.pdf).

<sup>82</sup> *Id.*, at 63-65.

<sup>83</sup> *Id.*, at 64.

<sup>84</sup> *Id.*, at 65.

<sup>85</sup> *Id.*, at 17.

<sup>86</sup> WORLD JUSTICE PROJECT, THE WORLD JUSTICE PROJECT: MEXICO STATES RULE OF LAW INDEX 2018. PERCEPTIONS AND EXPERIENCES IN 32 STATES, (2018), <https://worldjusticeproject.org/our-work/publications/country-reports/wjp-mexico-states-rule-law-index-2018> (last visited Aug 1, 2022) at 27; MEXICO STATES RULE OF LAW INDEX 2020-2021, *supra* note 82.

<i>Civil justice</i>	<i>National average score 2020</i>	<i>National average score 2021</i>
3. Whether civil justice system guarantees a quality process.	0.37	0.39
4. Civil justice system conducts procedures promptly and without unreasonable delays.	0.30	0.30

<i>Criminal justice</i>	<i>National average score 2020</i>	<i>National average score 2021</i>
1. Due process of the law for the accused is effectively guaranteed (this includes the right to adequate defense).	0.46	0.34
2. Victim's rights are effectively guaranteed (this includes legal counsel).	0.44	0.44
3. Timely and effective criminal adjudication system.	0.37	0.36

Mexico has major shortcomings regarding rule of law and access of justice. But beyond that self-evident fact, the most interesting finding from analyzing these data points is that the highest ranked sub-factors from the preceding tables are the ones in which access to legal counsel or representation are embedded (although they are not highly scored by any measure).

Costs, bureaucratic hurdles and delays seem to be more important barriers for access to justice, which is not so self-evident at all. Arguably, these barriers are more related to process design, resource allocation (including human resources), and time-consuming practices that create a lot of friction for users. Traditionally, the legal sector tackles many issues by increasing personnel,<sup>87</sup> instead of critically approaching its structure and process design. Yet, as it can be appreciated from these scores, other aspects of access to justice should not be overlooked. Finding an integral and sustainable solution to the problem of access to justice goes beyond increasing personnel, as important as this may be in many instances.

According to the global Rule of Law Index, Covid-19 pandemic has impacted access to justice around the world. Mexico is not an exception: it dropped one position in the global Rule of Law Index, ranking 113 out of

<sup>87</sup> Rhode, Deborah L. & Cummings, Scott L., *Access to Justice: Looking Back, Thinking Ahead*, 30 GEO. J. LEGAL ETHICS 485, 489, (2017).

139 countries, 27 out of 32 for Latin America and Caribbean region, and 37 out of 40 among upper-middle income countries, with significant delays in civil and criminal justice.<sup>88</sup>

Services have generally been less available due to work place and mobility restrictions. In-person intake or other old-fashion practices that rely on making users be physically present, paper trail requirements, fix services hours, and deficient digitalization will certainly keep straining even more the provision of legal counsel and representation in Mexico. In the context of a global pandemic, a lot of these practices have proven to be extremely inefficient, and legal aid organizations that rely on them are scrambling to adjust their services to those circumstances, and to process the backlog (both historic and exacerbated by lockdowns).

Regarding Internet access, although Mexico has a clear rural-urban divide in Internet usage (50.4% versus 78.3%, respectively), 72% of the population older than 6 uses the web (that is 84 million individuals).<sup>89</sup> Similarly, 66.3 million individuals use smartphones with Internet connection,<sup>90</sup> and 95.3% of Internet users access the web through a smartphone.<sup>91</sup> Also, more people are accessing government services through the internet, as this means of communication increased 9.6 percentage points between 2019 and 2021, while in-person service decreased by 10.9 percentage points.<sup>92</sup>

## 2. Background Information. Understanding the FIPD

Most literature on technology and justice is focused on dispute resolution, whether that is alternative dispute resolution (public or private) and court modernization. However, very little has been said in this context about modernization of public defense, and the chain of justice is as strong as its weakest link. If courts take the whole spotlight, with the effect of neglecting other public services connected to the justice system, the benefits of digitalization will be marginal, if any. Accordingly, this piece is also an opportunity to re-

<sup>88</sup> WORLD JUSTICE PROJECT ET AL., *supra* note 45; World Justice Project, *Mexico ranked 113 out of 139 countries on rule of law, dropping one position - Country Press Release*, (2021), [https://world-justiceproject.org/sites/default/files/documents/Mexico\\_2021%20WJP%20Rule%20of%20Law%20Index%20Country%20Press%20Release.pdf](https://world-justiceproject.org/sites/default/files/documents/Mexico_2021%20WJP%20Rule%20of%20Law%20Index%20Country%20Press%20Release.pdf).

<sup>89</sup> INEGI, *Usuarios de tecnologías de la información en áreas urbano rural, 2020*, (2020), <https://www.inegi.org.mx/programas/dutih/2020/#Tabulados> (last visited Feb 24, 2022).

<sup>90</sup> INEGI, *Usuarios de teléfono celular inteligente con conexión móvil a internet, según condición, 2015 a 2020*, (2020), <https://www.inegi.org.mx/programas/dutih/2020/#Tabulados> (last visited Feb 24, 2022).

<sup>91</sup> Secretaría de Comunicaciones y Transportes, *¿Cuántos usuarios de internet somos en México?*, (2020), <http://www.gob.mx/sct/articulos/cuantos-usuarios-de-internet-somos-en-mexico> (last visited Feb 24, 2022).

<sup>92</sup> INEGI, *Encuesta Nacional de Calidad e Impacto Gubernamental (ENCIG) 2021*, (2021), <https://www.inegi.org.mx/programas/encig/2021/> (last visited Aug 15, 2022).

flect on how to bring digitalization to other key (but often overlooked) actors of the justice system.

Hence, this paper proposes a solution towards intake or first contact interview that is standardized, scalable and asynchronous. The prototype focuses on the FIPD; however, the ideas on this piece are equally applicable and adjustable to other government legal aid services (whether at federal, state, or municipal levels), the judiciary (federal and local), public services in general, and even non-profits that provide similar services.

The FIPD, created in 1922, is an independent organ of the Federal Judiciary,<sup>93</sup> which means its budget and resources are managed through the budget of the Federal Judiciary.<sup>94</sup> The FIPD has offices in all states across Mexico. Its mission is to “guarantee the right to legal defense in criminal and labor matters, *amparo* in family matters as well as to guarantee access to justice through counseling, orientation and legal representation in other matters according to the rules set by the law.”<sup>95</sup> All services provided by the FIPD are free by law. From a merely philosophical perspective of access to justice, offering free legal counsel on such a wide array of areas of the law is quite commendable, but in practice there is a lot of strain in its resources and capacity to provide a high-quality and timely service.

The FIPD provides legal representation for all federal criminal cases upon request,<sup>96</sup> but also in other subject matters (such as civil, administrative, tax, *amparo*,<sup>97</sup> migration, labor). Accordingly, the Law on Public Defenders estab-

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<sup>93</sup> LEY FEDERAL DE DEFENSORÍA PÚBLICA [L.F.D.P.], [FEDERAL LAW OF PUBLIC DEFENSE], art. 3, Diario Oficial de la Federación [D.O.], 18 de mayo de 2022 (Mex.), <http://www.diputados.gob.mx/LeyesBiblio/pdf/LFDefP.pdf> (last visited Aug 10, 2022).

<sup>94</sup> *Id.*, art. 1 and 2. The FIPD is ascribed to the Council for the Federal Judiciary, which is in charge of drawing judicial circuits, managing judicial promotions and training, performing oversight and discipline procedures, and managing resources for the federal judiciary (except for the Supreme Court and the Electoral Tribunal). It has 5 auxiliary entities, being the FIPD one of them.

<sup>95</sup> *Id.*, art. 1.

<sup>96</sup> Pursuant to article 20, section B, num. VIII of the Federal Constitution, in a criminal trial everyone is entitled to an adequate defense provided by a lawyer. If the defendant does not or cannot appoint a lawyer, a judge will appoint a public defender. See: CONSTITUCIÓN POLÍTICA DE LOS ESTADOS UNIDOS MEXICANOS, [Const.], as amended, Diario Oficial de la Federación [D.O.], 28 de mayo de 2021 (Mex.), <http://www.diputados.gob.mx/LeyesBiblio/ref/cpeum.htm> (last visited Aug 15, 2022). Some federal courts have even interpreted that crime victims also have a right to adequate counsel or defense, which at some point expanded the scope of the FIPD until a specialized federal agency for crime victims was created. However, some cases of crime victim representation remain in the FIPD docket as they were taken in before the specialized agency was inaugurated.

<sup>97</sup> *Amparo* is a special federal process to challenge the constitutionality of a specific authority act (whether from a federal or local authority). This constitutional relief is solved exclusively by federal judges, hence becoming a federal matter. Consequently, the FIPD could eventually provide legal representation in those cases, despite the fact that the act of authority may be originally from local jurisdiction.

lishes 8 circumstances that make individuals eligible for legal counseling or representation in non-criminal cases,<sup>98</sup> namely:

- 1) Unemployed individuals and those not receiving any income.
- 2) Retirees and their spouses.
- 3) Temporary employees or underemployed individuals.
- 4) Having a monthly income lower than 12 times of either the daily minimum wage in Mexico City or of the Unit of Measurement and Update.<sup>99</sup>
- 5) Belonging to an indigenous community.
- 6) Individuals with a disability.
- 7) Specific labor cases determined by federal courts.

Generally speaking, the FIPD will conduct a socio-economic assessment to verify that, the user fulfills the conditions to receive the counseling or representation in non-criminal cases, unless the case or situation is urgent. In this circumstance, the FIPD will provide the service once without having the results of the socio-economic assessment for the sake of preserving the rights or standing of the user in those cases.<sup>100</sup>

The FIPD has 2 812 employees, from which 1 078 are lawyers either representing users in criminal cases (855), or representing and advising users in non-criminal cases (262).<sup>101</sup> These lawyers rely on 1 256 legal assistants and 38 administrative assistants.<sup>102</sup> This ultimately means that at least 87.7% of the personnel (2 372 employees) is actually operative, rather than administrative.

During 2020-2021, the FIPD represented 50 910 individuals in criminal cases.<sup>103</sup> This number adds for representation in the inquisitorial and accu-

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<sup>98</sup> LEY FEDERAL DE DEFENSORÍA PÚBLICA, *supra* note 94, arts. 15 and 16; Junta Directiva del Instituto Federal de Defensoría Pública, *Bases Generales de Organización y Funcionamiento del Instituto Federal de Defensoría Pública*, art. 44, Diario Oficial de la Federación [D.O.] 19 de marzo de 2020, [https://www.ifdp.cjf.gob.mx/resources/documentos/2020/basesGeneralesIFDPVigentes\\_19032020.pdf](https://www.ifdp.cjf.gob.mx/resources/documentos/2020/basesGeneralesIFDPVigentes_19032020.pdf) (last visited Nov 16, 2020).

<sup>99</sup> This is equivalent to something between \$2,074.44 and \$2,925.09, which is equivalent to roughly USD96.94 and USD136.70. See: Junta Directiva del Instituto Federal de Defensoría Pública, *supra* note 99; Comisión Nacional de los Salarios Mínimos, *Incremento a los Salarios Mínimos para 2022*, (2021), <http://www.gob.mx/conasami/articulos/incremento-a-los-salarios-minimos-para-2022?idiom=es> (last visited Mar 8, 2022); INEGI, *Unidad de Medida y Actualización (UMA)*, <https://www.inegi.org.mx/temas/uma/> (last visited Oct 30, 2019).

<sup>100</sup> Junta Directiva del Instituto Federal de Defensoría Pública, *supra* note 99, arts. 41 and 45.

<sup>101</sup> INSTITUTO FEDERAL DE LA DEFENSORÍA PÚBLICA, *Informe Anual de Labores 2020 - 2021*, 124 160 (2021), [https://www.ifdp.cjf.gob.mx/resources/informeAnual/informeAnual\\_2020\\_2021-v2.pdf](https://www.ifdp.cjf.gob.mx/resources/informeAnual/informeAnual_2020_2021-v2.pdf) (last visited Aug 2, 2022).

<sup>102</sup> *Id.*

<sup>103</sup> *Id.*, at 8, 14, 28.

satory systems, as well as minors, and it roughly means that in average each public defender represented 59 individuals in that period.<sup>104</sup>

For non-criminal cases,<sup>105</sup> the FIPD provided the following services:

<i>Type of service</i>	<i>Description</i>	<i>Number of cases (2020-2021)</i>
Orientation	General opinion on a case, in which the FIPD is incompetent, that helps redirect the user to the competent authority.	4 060
Advice	The FIPD issues a legal opinion for a case for which it is competent, but the individual requesting the service is not eligible or there is not a legal action to undertake.	2 094
Representation	The FIPD legally represents an individual throughout the process because it is competent and the user is eligible.	15 894
TOTAL		22 048

If we divide the total of non-criminal service requests between the lawyers ascribed to this area (262), it roughly means that each lawyer handled 84 cases or requests during 2020-2021. Evidently, each of the three services requires a significantly different time investment, being representation the one that entails a longer-term relationship, more resource commitment, and more in-depth legal analysis and planning.

From these numbers, a natural conclusion is that lawyers within the FIPD are overwhelmed with cases, and this potentially compromises the quality of the service they can offer to their users.

The FIPD does not carry out satisfaction surveys, so it is impossible to know what is the actual experience of users. Implementing these surveys would certainly generate valuable information for continuous improvement within the FIPD. Public service providers are increasingly more invested in gathering data from user experience to improve and control their processes; for example, the Civil Resolution Tribunal of British Columbia surveys all their users to monitor for service quality.<sup>106</sup>

<sup>104</sup> This figure should also include the number of represented individuals in execution of criminal sentences (*ejecución penal*). However, the FIPD annual report for 2020-2021 does not mention the number of users for this specific procedure as it does with the other criminal procedures.

<sup>105</sup> INSTITUTO FEDERAL DE LA DEFENSORÍA PÚBLICA, *supra* note 102 at 46.

<sup>106</sup> CIVIL RESOLUTION TRIBUNAL, *supra* note 47 at 29-30.

Though solving problems on over-burdened staff and quality service would require a larger analysis of internal processes, budget constraints, and resource allocation, we argue that having a clear intake triage strategy based on an automated first-contact interview would contribute to a better user experience, and also to a better internal organization, thus ultimately leading to a better service.

A first contact interview is the moment to evaluate a request for legal services. The FIPD lawyers undertaking such interviews need to understand whether there is competence to take the case, whether the user is eligible, and if there are urgent actions or deadlines to comply with. In practice, when it comes to criminal cases, most of the intake happens directly at the district attorneys' offices, police stations or at court, either because the defendant directly requests a lawyer, or because he/she does not have a lawyer and gets one appointed by the court. That being said, a very slim part of criminal cases may get to the FIPD differently, for instance, requested by a relative of the defendant or substituting a private attorney at some point of the process. In non-criminal cases, on the other hand, users contact the FIPD via phone or by showing up in any of the offices.

The FIPD has not released information on how much time each interview takes or how many they carry out, but it has established a maximum of 15 minutes during first contact interviews in order to determine whether it has competence in a given case.<sup>107</sup> Nevertheless, there is no accurate information publicly available on the duration and the amount of first contact interviews, except for the FIPD's vague assertion that waiting times have been reduced during the 2020-2021 period.<sup>108</sup> In practice, however, first contact interviews can probably last more than that; users in many cases may want to vent about situations that are affecting them or they may have a hard time conveying the relevant information to the lawyer carrying out the interview.

Intake forms of criminal cases are different from forms of non-criminal cases. Different areas of the FIPD handle each area of service, thus each one of them has tailored a form to its needs or practice. While this may be justified for practical reasons, this paper does not analyze this point but rather proposes a unified online interview to intake and triage all cases that the FIPD receives, as will be explained in the following section. If the FIPD wanted to implement a project of this kind, all forms necessary can be easily programmed.

A final word about training is necessary. Being a FIPD lawyer requires a deep knowledge of the law to guide and represent users, and at the same time a very wide breadth of knowledge on auxiliary subjects (such as forensics, migration, gender perspective, administrative tasks, and the like), and within this

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<sup>107</sup> JUNTA DIRECTIVA DEL INSTITUTO FEDERAL DE DEFENSORÍA PÚBLICA, *supra* note 99, art. 29; INSTITUTO FEDERAL DE LA DEFENSORÍA PÚBLICA, *supra* note 102 at 205.

<sup>108</sup> INSTITUTO FEDERAL DE LA DEFENSORÍA PÚBLICA, *supra* note 102 at 205.

toolkit training in soft skills should not be overlooked. Some basic training on how to conduct interviews, how to communicate more effectively with users, or how to contain difficult situations in a sensitive manner definitely contributes to a more successful engagement. Ultimately, the effectiveness and efficiency of intake, triage and processing do not lie exclusively on automation and web interfaces, but on setting a goal of improving communication, which entails both human and technological aspects.

#### IV. PROTOTYPE SOLUTION

This section develops the prototype solution for a first-contact interview to offer evidence on the short-term viability of automating this process (or any other for that matter). Developing this prototype has the goal to exemplify how to connect high-level vision and principles of technology for access to justice with a low-level application. Ultimately, making this connection translates into the long-term viability of these initiatives.

However, before explaining how the automated first-contact interview would work, it is important to develop some foundational elements for a correct implementation and user friendliness, namely: software (including databases) and plain language. Lawyers, though not expected to be experts or substitute software engineers, must become conversant with these technical issues,<sup>109</sup> and not doing so is a driver for slow and deficient technological adoption in the legal sector.<sup>110</sup> Increasingly, solutions to the delivery of legal services and access to justice are framed as a multi-disciplinary problem, which is why lawyers need to engage more effectively with other professional communities, particularly the computer science community.

In order to frame a proposal for a standardized and automated first contact interview, we used the FIPD form for non-criminal cases as a blueprint, but incorporating some changes for users' ease. The main purpose is to demonstrate how a form that may be daunting for users and time-consuming for lawyers to fill out by hand could be presented in a friendlier way for both internal and external users.

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<sup>109</sup> Mark A. Cohen, *Skills And Education For Legal Professionals In The 2020's*, (2020), <https://www.forbes.com/sites/markcohen1/2020/07/01/skills-and-education-for-legal-professionals-in-the-2020s/> (last visited Apr 8, 2022); NUEVOS PERFILES JURÍDICOS DERIVADOS DE LA INNOVACIÓN, (2018), <https://www.youtube.com/watch?v=IAa8szTq0Ms> (last visited May 26, 2022); Peter Connor, *The T Shaped Lawyer*, (2017), <https://www.legalbusinessworld.com/post/2017/12/22/the-t-shaped-lawyer> (last visited Aug 3, 2022); The T-shaped lawyer: The new skills every future lawyers needs to succeed, (2019), <https://www.ie.edu/law-school/news-events/news/t-shaped-lawyers-taking-legal-industry/> (last visited Aug 3, 2022); RICHARD E. SUSSKIND, *TOMORROW'S LAWYERS: AN INTRODUCTION TO YOUR FUTURE* (2013).

<sup>110</sup> HARTUNG, DIRK ET AL., *supra* note 7 at 7-10; Rhode, DEBORAH L. AND CUMMINGS, SCOTT L., *supra* note 88 at 492, 499-500.



### 1. *Software (and Databases)*

For the software component, A2J Author<sup>111</sup> was the tool selected to create this basic prototype, but this could be implemented through other off-the-shelf solutions<sup>112</sup> or a bespoke web application, according to the needs, resources available, and other administrative constraints.

In any case, organizations should take their time to analyze how to best approach digitalization to avoid important pitfalls, such as: buying different types of software that cannot be interconnected, spending too much money in a buying frenzy, avoiding a process and culture analysis before going digital, buying some tech solution that does not respond to the users' needs,<sup>113</sup> disregarding the human resources needed to support an in-house development or the resources needed for a third party to do this, disregarding the need to train personnel in the use of new solutions, imposing solutions without consulting with the final user or other relevant stakeholders, poor planning, among many others.<sup>114</sup> Evidently, these issues are even more important when dealing with public services and public budget, because there is a constitutional and legal obligation to spend wisely, to provide public services in an effective and efficient fashion, and to be held accountable for such actions.<sup>115</sup>

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<sup>111</sup> A2J Author is a cloud based software tool that allows non-technical users to build and implement web-based guided interviews, document assembly projects for non-commercial use (that is for legal aid organizations, government entities, courts, non-profits, universities). This software was created in 2004 through a partnership between Chicago-Kent College of Law's Center for Access to Justice and Technology and the Center for Computer-Assisted Legal Instruction. Recent upgrades also allow for e-filing in some local USA jurisdictions. See: A2J Author, <https://www.a2jauthor.org/> (last visited Nov 27, 2020); Staudt, *supra* note 34.

<sup>112</sup> For example, the Civil Resolution Tribunal of British Columbia (Canada) created its digital workflow with Salesforce, a customer relation management service (CRM) more typically used by private companies for customer service processes. Nowadays, there is a wide range of vendors that provide CRM solutions for small, medium and large organizations that can be adapted for public and private organizations that provide legal services. For a non-promotional list of vendor examples, please Jose Maria Delos Santos, *Best CRM for Small Business 2022, Project-Management*, (2021), <https://project-management.com/crm-for-small-business/> (last visited Jan 27, 2022); Andrei, Ioana, *Best CRM software for 2022*, (2022), <https://www.techradar.com/best/the-best-crm-software> (last visited Jan 27, 2022).

<sup>113</sup> AVOIDING TECH FIRST FAILURES WHEN IMPROVING LEGAL WORKFLOWS & PROCESSES WITH CASEY FLAHERTY (LEX FUSION), <https://tlpodcast.com/avoiding-tech-first-failures-when-improving-legal-processes-with-casey-flaherty-lex-fusion/> (last visited Jan 27, 2022); Flaherty, Casey, *Tech-First Failures - Value Storytelling (#6)*, (2021), <https://www.geeklawblog.com/2021/12/tech-first-failures-value-storytelling-6.html> (last visited Jan 27, 2022).

<sup>114</sup> SUSSKIND, *supra* note 8 at 243-250.

<sup>115</sup> CONSTITUCIÓN POLÍTICA DE LOS ESTADOS UNIDOS MEXICANOS, *supra* note 97, article 134; LEY FEDERAL DE PRESUPUESTO Y RESPONSABILIDAD HACENDARIA [L.F.P.R.H.], [FEDERAL LAW ON BUDGET AND FISCAL RESPONSIBILITY], arts. 3 and 4, Diario Oficial de la Federación [D.O] 27 de

Database design is the cornerstone of any technological project that intends to automate processes and create critical mass for more sophisticated initiatives, such as artificial intelligence for predictive purposes or natural language processing. Without a clear understanding of data through all of its stages (production, usage, storage, flow and security), no institution is able to step up its game into the digital reality of the 21st century.<sup>116</sup> It is no exaggeration to say that data has become a critical component of any organizational strategy that allows to better organize internal processes, service delivery, and knowledge management. The following list provides some guiding principles on databases for organizations that provide legal services:

- 1) *Centralization*: Managing data that is scattered in a nonsensical way is nearly impossible. In order to create institutional intelligence and data management capabilities, data must be centralized. Migrating to centralization requires a heavy investment in time and resources, especially when organizations have different data standards and sources, but the pay off will surely be worth it down the road. Centralizing data does not mean that everyone should access everything; different credentials have to be created to adapt to different users, depending on what information they can look at and what they can do with it, even inside the same area or team. In this case, for example, FIPD criminal lawyers should not be able to look at civil cases or even at other criminal cases, they are not handling (except maybe to run a conflict of interest review). This is one aspect of what Hartung et al. have named as “enabler technologies”, which should be part of tech infrastructure.<sup>117</sup>
- 2) *Ownership and stewardship*: If an organization decides to hire a vendor to procure software or IT services, data ownership and management should be a part of the negotiation. In this regard, ownership must remain with the hiring organization, and this entails an obligation from the vendor to adapt to the data standards and requirements of the hiring party, and an easy exit strategy in case the organization wants to switch vendors. Digitalizing legal services should never translate in ending up kidnapped by one or a handful of vendors because a contract was poorly negotiated or drafted.<sup>118</sup> Ideally, open data standards should be part of this equation to allow for users and other institutions to interact with the processes of the organization, regardless of the software they operate with.<sup>119</sup> This makes it possible for services to remain acces-

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febrero de 2002 (Mex.), <http://www.diputados.gob.mx/LeyesBiblio/ref/lfprh.htm> (last visited Aug 15, 2022).

<sup>116</sup> HARTUNG, DIRK ET AL., *supra* note 7 at 8; Tashea, *supra* note 23 at 9-10.

<sup>117</sup> HARTUNG, DIRK ET AL., *supra* note 7 at 7-8.

<sup>118</sup> Colarusso, David & Rickard, Erika J., *Speaking the Same Language: Data Standards and Disruptive Technologies in the Administration of Justice*, 50 SUFFOLK U. L. REV. 387, 403 (2017).

<sup>119</sup> *Id.*, at 403-404.

sible for everyone, as well as avoiding tech monopolies in the justice system. Colarusso and Rickard, explaining this issue around courts, have brilliantly stated: “Yet when a court mistakenly conflates the need for a common vendor with the need for common standards, it distorts incentives. It moves the center of power towards vendors, distancing it from user-centered interests and exacerbating the justice gap by prioritizing the preferences of third-party vendors over litigants.”<sup>120</sup>

Whether an organization decides to procure software from a third-party vendor or develop it in-house, stewardship in the highest hierarchical level is paramount. Managing data cannot be the sole responsibility of the IT department, but it rather needs to be part of an organizational strategy in order to reap the benefits of the digital revolution, while handling data carefully and securely. In other words, buy-in, political will and involvement at all levels of the organization are necessary to bring changes in data strategy.

- 3) *Strengthening know-how and internal expertise*: Centralized databases create a trove of data and metadata that can be further analyzed to better know the dynamics of legal services for purposes of operational excellence. Beyond easing the retrieval of some outcomes for reporting, data analysis allows to dissect the full pipeline of an organization, which makes easier to identify bottlenecks and frictions in order to improve the delivery of a legal service. Enough granularity in the data allows to zoom in into the performance of specific areas and even individual collaborators. Likewise, a well planned data strategy can result in better knowledge management, saving lots of time in the provision of a legal services. In this example, the FIPD could focus its current efforts into creating a library for retrieving information on cases that helps other lawyers on their own research, instead of having everyone working in isolation or depending on a small network of good-willed colleagues; or it could create an interface for document assembly.
- 4) *Security*: With great power comes great responsibility, and data management is no exception. An organization that creates, stores and uses a larger quantity of data (including personal data) is legally compelled to implement safeguards around it to protect the data subjects. To the extent that an organization digitalizes its legal services, it must create a structure that establishes governance, access, and security rules for data processing.<sup>121</sup> When it comes to security, any organization going digital must create a cybersecurity strategy,<sup>122</sup> implementing at the outset some basic measures such as two-factor authentication, online and offli-

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<sup>120</sup> *Id.*, at 404.

<sup>121</sup> TASHEA, *supra* note 23 at 10-12; HARTUNG, DIRK ET AL., *supra* note 7 at 7-8.

<sup>122</sup> National Institute of Standards and Technology, *Cybersecurity Framework*, (2013), <https://www.nist.gov/cyberframework> (last visited Mar 25, 2022).

ne backups, check-list of very simple dos and don'ts for personnel, and ideally a plan of response and recovery for cyber incidents.<sup>123</sup>

## 2. Plain Language

As was mentioned before, granular information on the interaction of FIPD personnel and users during first contact interviews is not available. However, one of two options is possible: either the first contact lawyer asks questions and fills out the form while talking to the user, or the user may fill out the form on his/her own.

Though in times of high demand, it may save some time to hand out the form and make users fill them out, transferring that responsibility to users may not always be advisable. In the most extreme case, some users may be illiterate or may not have enough language skills to understand the form; in less extreme cases, we must face the fact that forms may be daunting to a large part of the public.

Coming back to the aspect of design, forms are usually thought as an instrument for the institution providing a service, and are rarely designed with final users in mind. This is true not only for the aspect of the form, but also for the language and terminology they may have. Laypeople do not understand legal terms such as competence, deadlines, subject matters, representation, legal processes, statute of limitations, and the list goes on. Institutions like the FIPD are responsible for conveying all those technicalities in a comprehensible way, and that starts from the very first contact with users.

Making legal services accessible is not only about making them available, but also conveying information in plain language. All technical fields, legal being no exception, tend to communicate and gravitate around their own lexicon, leaving outside anyone who does not share that specialized knowledge. From a perspective of access to justice, abusing technical language becomes a barrier for users, as they cannot confidently navigate the justice system.<sup>124</sup> Arguably, legalese needs a translator as much as a foreign language for everyone who is not a lawyer,<sup>125</sup> and while there are good reasons to use technical

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<sup>123</sup> Organizations may suffer cyber incidents that are targeted or an overspill from another incident. The conflict between Russia and Ukraine offers good examples on how hostilities at the other side of the world effects in jurisdictions can have that are not directly involved. See Andy Greenberg, *The Untold Story of NotPetya, the Most Devastating Cyberattack in History*, WIRED, <https://www.wired.com/story/notpetya-cyberattack-ukraine-russia-code-crashed-the-world/> (last visited Jun 14, 2020); David E. Sanger, Julian E. Barnes & Kate Conger, *Los tanques entraron a Ucrania y también los programas de "malware." Entonces Microsoft se involucró en la guerra*, THE NEW YORK TIMES: EN ESPAÑOL, March 1, 2022, <https://www.nytimes.com/es/2022/03/01/espanol/rusia-ucrania-microsoft.html> (last visited Mar 2, 2022).

<sup>124</sup> BYROM, *supra* note 62 at 29.

<sup>125</sup> Feito Torrez, María Victoria, *Plain language as a requisite for an effective access to justice*, EDITO-

language to protect the clients' interests,<sup>126</sup> and to properly regulate the complexity of certain social phenomena, there is also a professional obligation from lawyers and public institutions to convey ideas clearly enough for all users to comprehend them.

The Federal Constitution and the human rights treaties ratified by Mexico contain a legal basis for the obligation of using plain language. Firstly, article 20 section B-III establishes the right of the accused to be informed about the accusation and their rights, while section C-I enshrines the right to inform the victims about their rights.<sup>127</sup> Secondly, article 8.2 of the American Convention on Human Rights recognizes the right to an interpreter and prior notification of charges, which are ultimately guarantees around communication.<sup>128</sup> Articles 9.2 and 14.3 of the ICCPR have equivalent provisions.<sup>129</sup> For these guarantees to be meaningful, the authorities should inform the accused in a language, he or she comprehends, and that includes conveying technical details in a comprehensible manner; otherwise, communication in the context of a legal procedure becomes a mere formality devoid of real protection. Mexico's Supreme Court has addressed the importance of plain language around the rights of children and the mentally disabled,<sup>130</sup> which also signals the importance of adding additional safeguards for vulnerable populations.

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RIAL ASTREA 15, (2020), [https://www.academia.edu/45539750/Plain\\_Language\\_as\\_a\\_Requisite\\_for\\_an\\_Effective\\_Access\\_to\\_Justice?email\\_work\\_card=abstract-read-more](https://www.academia.edu/45539750/Plain_Language_as_a_Requisite_for_an_Effective_Access_to_Justice?email_work_card=abstract-read-more).

<sup>126</sup> Bo Bingham, *Lawyers speak 'legalese' for a reason*, <https://www.thespectrum.com/story/life/features/mesquite/2015/10/06/lawyers-speak-legalese-reason/73460860/> (last visited Feb 2, 2022).

<sup>127</sup> CONSTITUCIÓN POLÍTICA DE LOS ESTADOS UNIDOS MEXICANOS, *supra* note 97, art. 20, sections B-III and C-I.

<sup>128</sup> Organización de Estados Americanos, *Convención Americana sobre Derechos Humanos, suscrita en la Conferencia Especializada Interamericana sobre Derechos Humanos (B.32)*, art. 8.2, (1969), [http://www.oas.org/dil/esp/tratados\\_B-32\\_Convencion\\_Americana\\_sobre\\_Derechos\\_Humanos.htm](http://www.oas.org/dil/esp/tratados_B-32_Convencion_Americana_sobre_Derechos_Humanos.htm) (last visited Jun 3, 2022).

<sup>129</sup> PACTO INTERNACIONAL DE DERECHOS CIVILES Y POLÍTICOS, arts. 9.2 and 14.3, (1976), <https://www.ohchr.org/es/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights> (last visited Jun 3, 2022).

<sup>130</sup> DERECHO DE LOS MENORES DE EDAD A PARTICIPAR EN LOS PROCEDIMIENTOS JURISDICCIONALES QUE AFECTEN SU ESFERA JURÍDICA. LINEAMIENTOS PARA SU EJERCICIO. Primera Sala de la Suprema Corte de Justicia [S.C.J.N.] [Supreme Court], *Semanario Judicial de la Federación y su Gaceta, Décima Época, Libro 40, Marzo de 2017, Tomo I, página 288, Tesis 1a./J. 12/2017 (10a.) - registro 2013952 (Mex.)*, <https://sjf2.scjn.gob.mx/detalle/tesis/2013952> (last visited Feb 2, 2022); JUSTICIA PARA MENORES. LA LEY RELATIVA DEL ESTADO DE SAN LUIS POTOSÍ NO TRANSGREDE LA GARANTÍA DE DEBIDO PROCESO LEGAL (PERIÓDICO OFICIAL DE LA ENTIDAD DEL 5 DE SEPTIEMBRE DE 2006). Pleno de la Suprema Corte de Justicia [S.C.J.N.] [Supreme Court], *Semanario Judicial de la Federación y su Gaceta. Tomo XXVIII, Septiembre de 2008, página 596, Tesis P./J. 83/2008 - Registro 168883*, <https://sjf2.scjn.gob.mx/detalle/tesis/168883> (last visited Feb 2, 2022); ESTADO DE INTERDICCIÓN. DURANTE EL PROCEDIMIENTO RESPECTIVO, EL JUEZ DEBERÁ SOSTENER UNA SERIE DE PLÁTICAS CON LA PERSONA CON DISCAPACIDAD, Y SI ÉSTA ASÍ LO DESEA, PODRÁ ELEGIR A UNA PERSONA DE SU CONFIANZA QUE LE ASISTA EN TALES DILIGENCIAS (INTER-

The Federal Law on Public Defense stipulates as obligations of public defenders and counselors to inform the defendants, their families or trusted persons about the status of their case and the next steps to be followed.<sup>131</sup> In the same vein, the FIPD's Protocol on Assistance to Users establishes as a performance rule for lawyers to explain in a simple manner the services the FIPD offers, what the FIPD can and cannot do for the user, the status of the case, and to solve any questions, while avoiding the use of technical terminology as much as possible or, at least, explain it clearly.<sup>132</sup>

Finally, the argument can also be constructed around the prohibition to discriminate, which is enshrined in human rights treaties and democratic constitutions around the world, including Mexico's,<sup>133</sup> and has been declared a norm of *ius cogens*.<sup>134</sup> To the extent that public services are made unavailable due to language constraints, authorities are discriminating (even if inadvertently), based on language, age, national or social origin, gender, or economic status. Discrimination that stems from language inaccessibility affects foreigners, indigenous communities, illiterate individuals, under-educated individuals, minors, people with some disabilities, the poor, and very frequently women who tend to be more affected by a lack of access to education. Accordingly, the use of plain language is a requirement of non-discrimination to make justice and legal services accessible.

Regarding language structure, this proposal was drafted aiming at explaining everything in plain language. As previously described, not only this is necessary from a philosophical perspective on access to justice, but also it is the only way to guarantee its usability for a larger audience that would be requesting a public service on their own.

Throughout the interview prototype, multiple choice answers and drop-down choices are preferred as much as possible. This is not only simpler for the user while filling out the interview, but also for the institution as it avoids typos, misspelling errors, inconsistencies in the use of capital letters or syntax. If that data will later be analyzed for monitoring, evaluation and reporting, these initial design choices make further work down the pipeline considerably easier for everyone.

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PRETACIÓN DEL ARTÍCULO 904 DEL CÓDIGO DE PROCEDIMIENTOS CIVILES PARA EL DISTRITO FEDERAL). Primera Sala de la Suprema Corte de Justicia [S.C.J.N.] [Supreme Court], Gaceta del Semanario Judicial de la Federación. Libro 1, Diciembre de 2013, Tomo I, página 517, Tesis 1a. CCCL/2013 (10a.) - Registro 2005121, <https://sjf2.scjn.gob.mx/detalle/tesis/2005121> (last visited Feb 2, 2022).

<sup>131</sup> LEY FEDERAL DE DEFENSORÍA PÚBLICA, *supra* note 94, arts. 11-VI, 12-XIV, 12 Bis-III.

<sup>132</sup> Protocolo de Atención al Usuario, (2018), <https://www.ifdp.cjf.gob.mx/resources/documentos/2018/protocoloAtencionUsuario.pdf> (last visited Feb 3, 2022).

<sup>133</sup> CONSTITUCIÓN POLÍTICA DE LOS ESTADOS UNIDOS MEXICANOS, *supra* note 97, art. 1.

<sup>134</sup> Opinión Consultiva OC-18/03 sobre la Condición Jurídica y Derechos de los Migrantes Indocumentados, Inter-Am. Ct.H.R., at 97-101, 2003 [https://www.corteidh.or.cr/docs/opiniones/seriea\\_18\\_esp.pdf](https://www.corteidh.or.cr/docs/opiniones/seriea_18_esp.pdf) (last visited Aug 15, 2022).

Specifically, A2J Author has an analytic feature that grades each question and the overall interview with the Flesch-Kincaid grade level test, in order to determine to what U.S. grade level a passage corresponds.<sup>135</sup> The recommendation is to aim for a 5th grade reading level.<sup>136</sup> Here is an example on how the same questions may look differently for users depending on the language:

	<i>Option 1</i>	<i>Option 2</i>
1	Please provide the personal information of the individual(s) you are filling this interview for.	Please tell us more about the person(s) you are helping.
	Please provide the factual elements of your case.	Please describe your case.

Though both columns are roughly the same length, option 2 clearly avoids language that complicates the idea, such as “provide,” “personal information,” “individuals,” “factual,” “elements.” While questions in option 1 are graded for level 8.2 and 3.2, questions in option 2 are graded at 0.5 and -2.8. Getting to the same point in a more straightforward and comprehensible manner is a way of making justice and public services in general more inclusive and usable.

The prototype of automated interview designed for this proposal obtained an overall Flesch-Kincaid grade of 1.7 (less than 6 is good), which guarantees that a larger audience, from all walks of life, will understand the questions and can fill out the interview successfully.

Though the Flesch-Kincaid method does not have a Spanish version as such, some other scales are available to grade readability.<sup>137</sup> Thoroughly revising language accessibility is a time-consuming yet necessary step to guarantee the effectiveness of web-based applications for public services. The ultimate test for that, nonetheless, will always be piloting a solution with end users and gathering their feedback before roll out. This is the cornerstone of human-centered design: building services and systems around the community and users, rather than lawyers. Shannon Salter, former Chair of the Civil Resolution Tribunal of British Columbia, brilliantly delivers this idea as follows:

Nobody should feel like they’ve landed on Mars when they’re trying to engage with their own justice system, it belongs to them. It is a fundamental right of being a citizen or a resident in a democracy. And so you shouldn’t feel like you’re an alien. You shouldn’t feel stupid. You shouldn’t feel confused. It’s our

<sup>135</sup> PLAIN LANGUAGE, (2013), <https://www.youtube.com/watch?v=yP-1WTZ2cWs> (last visited Nov 28, 2020).

<sup>136</sup> *Id.*

<sup>137</sup> Alejandro Muñoz Fernández, *Analizador de legibilidad de texto*, (2016), <https://legible.es/> (last visited Jan 27, 2022).

responsibility as the public justice system to make sure that you feel that this is a process that is fair, one in which you were being heard and a process that ultimately confirms and hopefully builds on your confidence in the justice system.<sup>138</sup>

### 3. Interview structure

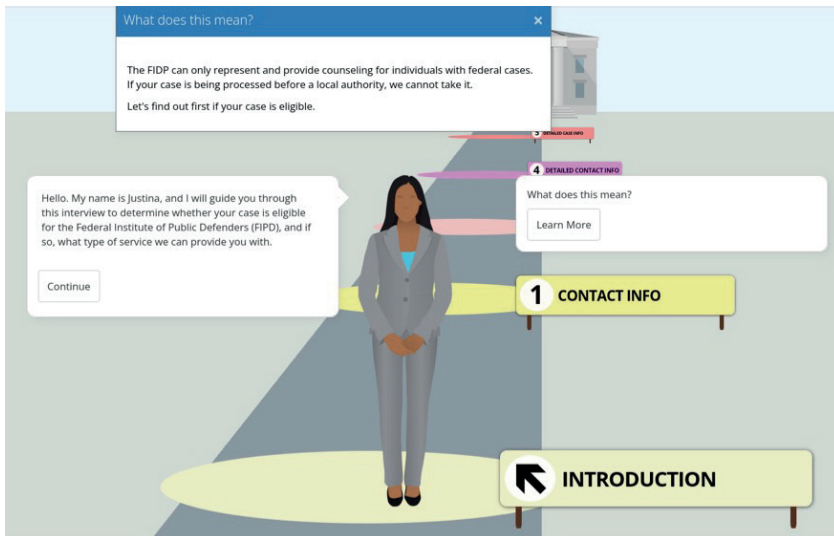
The automated interview prototype has six sections appearing in the following order: introduction, demographic information, case information, detailed contact information, detailed case information, and exit. The user only sees the sections on detailed contact information and detailed case information if the case is *prima facie* eligible.

Similarly, and in order to make the whole exercise easier for the users, some specific questions are only shown to them if necessary. For instance, the questions on translation are not shown if the user declares his/her first language is Spanish, or questions about data on represented individuals do not appear if the user declares to be filling out the interview only for himself or herself.

#### A. Introduction

The purpose of the interview is explained, and we ask the name of the user. A learn more banner is added to explain the user that the FIPD can only take in federal cases. A2J Author offers an avatar to resemble an in-person interview as much as possible.

FIGURE 1. MANAGING EXPECTATIONS FROM THE BEGINNING IS CRUCIAL FOR A GOOD COMMUNICATION



<sup>138</sup> CLIO, *supra* note 30.



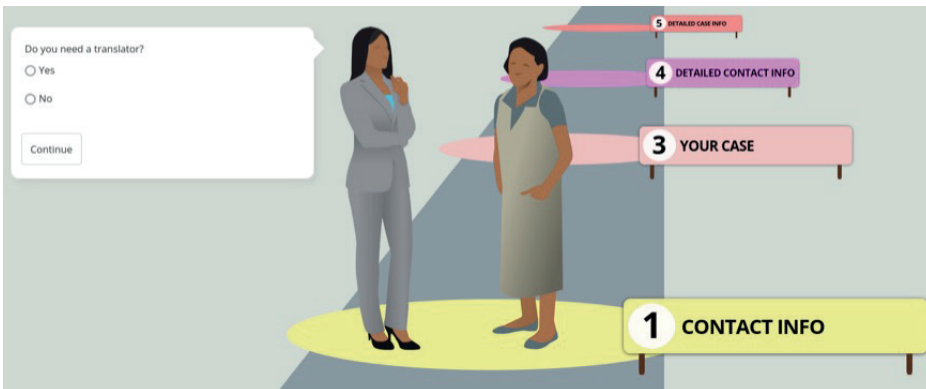
*B. Contact information*

The user provides e-mail and phone number, as well as demographic characteristics (sex, date of birth,<sup>139</sup> nationality, marital status, education level, state of residence) from drop-down menus for user ease and to simplify the handling of the information. In this section, the user also declares his/her proficiency in Spanish (in case a translator may be needed), and whether he/she belongs to any vulnerable group.

FIGURE 2. INPUTTING INFORMATION WITH CLICKS AND MENUS IS EASIER FOR THE USER AND THE ORGANIZATION



FIGURE 3. INPUTTING INFORMATION WITH CLICKS AND MENUS IS EASIER FOR THE USER AND THE ORGANIZATION



<sup>139</sup> In this interview prototype, the user is asked date of birth instead of age, so it can be automatically converted to an age. If an implementation project entailed a data base overhaul, it would be better to record dates of birth rather than ages because that allows to calculate age at any given moment, while age remains an immutable data point.

At this point of the interview, no further personal information is asked because the case could be either eligible or ineligible. From a user experience perspective, filling out all your personal information and then being told your case cannot be taken brings about a waste of time, and probably some disappointment. From an organizational perspective, personal data becomes information that needs to be stored and protected, although it ends up being of no practical use for non-eligible cases. Furthermore, Mexico's General Law on Data Protection by Obligated Subjects establishes principles for treatment of personal data by public entities, including the obligation to only process personal data that are adequate, relevant and strictly necessary.<sup>140</sup>

### C. Case information

The user picks the authority handling the case from a drop-down menu, and can be guided on how to figure out which authority to choose with the option of typing the name if the authority is not in the list:

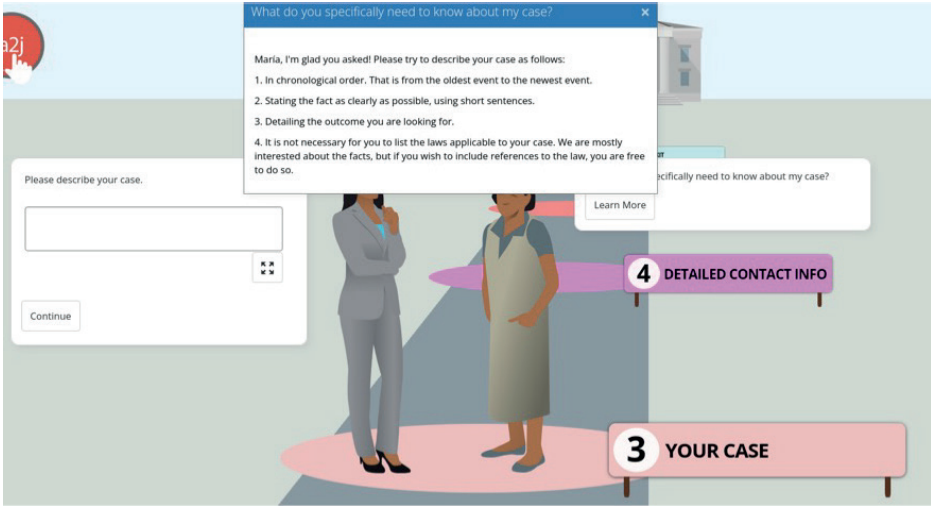
FIGURE 4. THE USER GETS TIPS ON HOW TO FIGURE OUT THE AUTHORITY HE OR SHE IS DEALING WITH



The user then describes the case, and can get some tips on how to do it more efficiently:

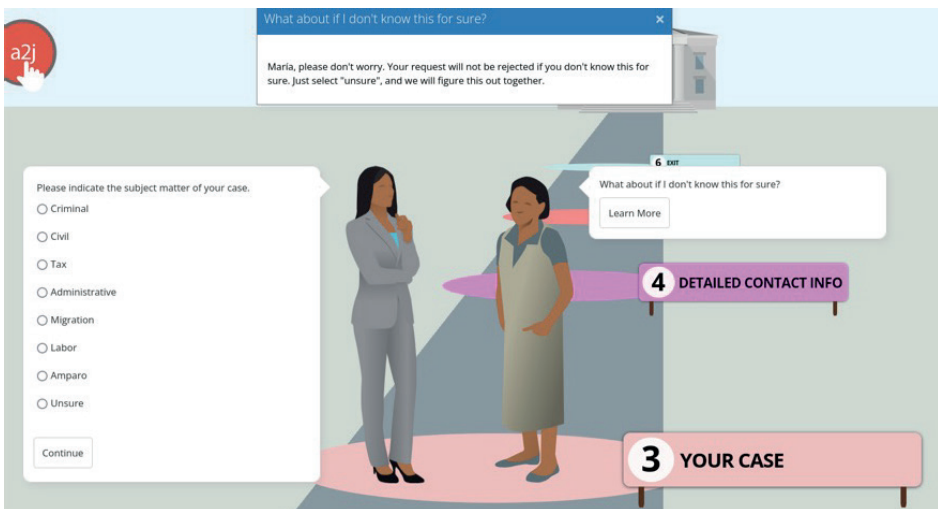
<sup>140</sup> LEY GENERAL DE PROTECCIÓN DE DATOS PERSONALES EN POSESIÓN DE SUJETOS OBLIGADOS [L.G.P.D.P.P.S.O], [GENERAL LAW ON DATA PROTECTION BY OBLIGED SUBJECTS], arts. 16 and 29, Diario Oficial de la Federación [D.O.], 26 de enero de 2017, <https://www.diputados.gob.mx/LeyesBiblio/pdf/LGPDPSO.pdf> (last visited Aug 15, 2022).

FIGURE 5. IN JUST FOUR SIMPLE STEPS, THE FIPD CAN HELP THE USER DESCRIBE THE CASE BETTER



The user then chooses a subject matter, with an option of marking “un-sure”. Though it is helpful to know these data points at the outset, some users may not know or may even choose an option incorrectly. The FIPD personnel should always be able to corroborate that through a further call and correct that if needed.

FIGURE 6. IT IS IMPORTANT TO REASSURE USERS THAT NOT KNOWING THE LAW WILL NOT DERAILED THEIR REQUESTS



If the authority is not federal, the user will be escorted to the end of the interview, and that the case is not eligible, but that a lawyer of FIPD will reach out to further explain the situation.

#### D. Detailed contact information

If the case is federal, the user is directed to a screen where more personal information is retrieved, namely personal address, profession and income. As explained before, income is an important element to consider user eligibility in non-criminal cases. This information is usually asked with paper forms, regardless of whether the petition or request will move forward. Users can understandably get frustrated when asked to provide a great deal of information only to be ultimately rejected. While this may have been unavoidable with paper-based forms, well planned flows, web-based forms, and databases make possible to ask only relevant information, saving the citizenry hours of needless typing.

#### E. Detailed case information

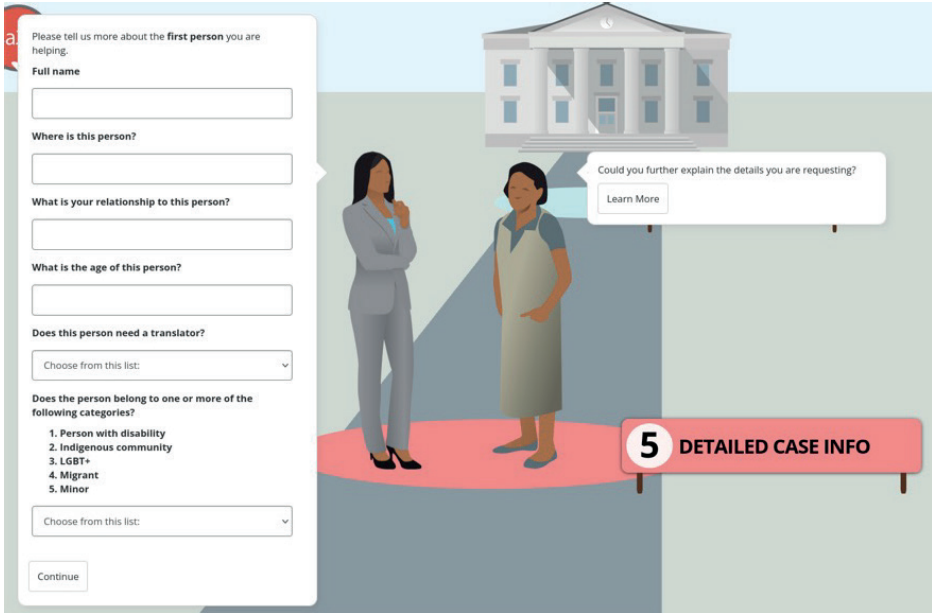
If the case is federal, the user is directed to a second section that goes deeper in case details, namely:

1) If the user is requesting the service for others or for oneself. If it is the former, then the user is directed to a screen that asks on behalf of how many individuals is the service being requested and details on them, such as name, location, age, fluency in Spanish, relationship to that person, and whether he/she/they belong to a vulnerable group.

FIGURE 7. EXPLAINING WHAT “ON BEHALF OF SOMEONE ELSE” MEANS

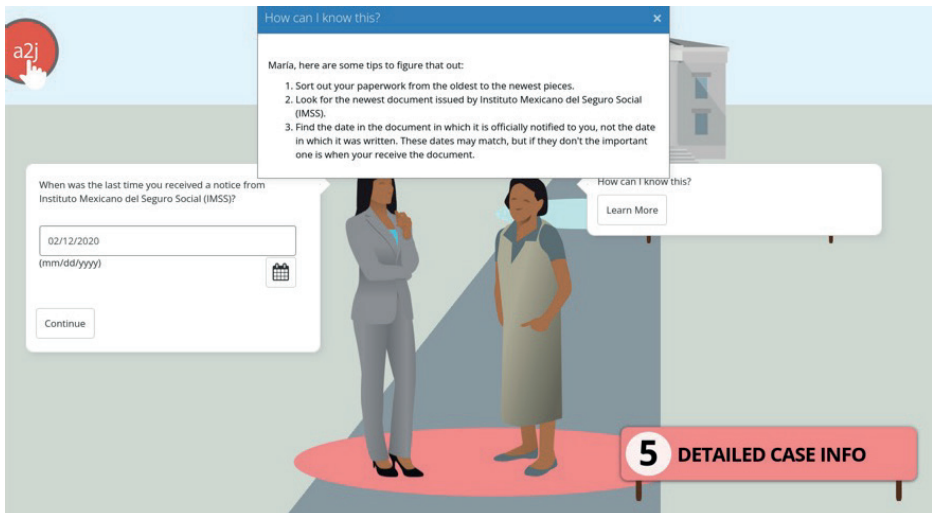


FIGURE 8. THE FORM ONLY DISPLAYS THIS WINDOW WHEN THE USER IS REQUESTING THE SERVICE ON BEHALF OF SOMEONE ELSE



2) Date of latest notice from the corresponding federal authority. This is important in order to determine whether there is a legal action to be taken and its urgency. The interview calculates the number of days since the notice took place until today, informing it to the user and including that in the generated form.

FIGURE 9. THE USER GETS TIPS TO FIGURE OUT THE DATE OF LATEST NOTICE



Though it would be ideal to inform the user on how many days he/she still has to act, the fact that the FIPD is competent in so many areas of the federal law makes this quite complicated for a prototype, but it is something that could be done for real roll-out with enough research, time and resources.

3) Response to such notice. In order to evaluate whether there is urgent action or deadlines ahead, the FIPD must know if the user responded to the latest notice, but the “unsure” option is also available as sometimes people may have a private lawyer or representative handling the case without keeping the user in the loop, or they may simply forget details of what they have done themselves.

FIGURE 10. THE FORM CAN BE PROGRAMMED TO CALCULATE DAYS AND DEADLINES

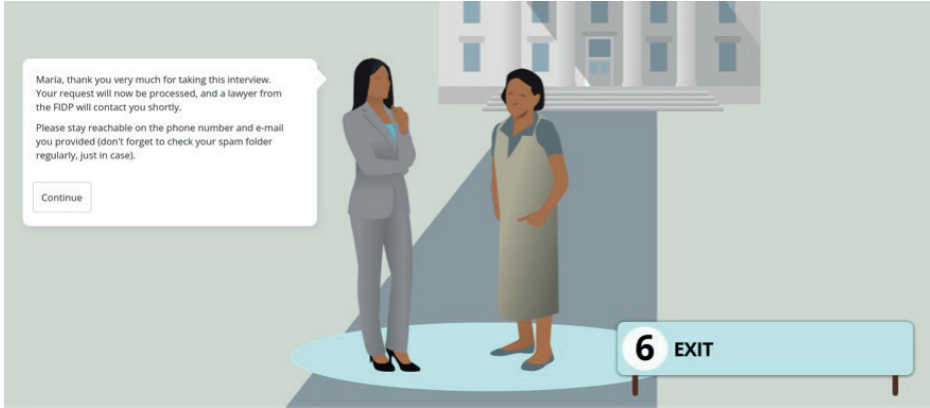


#### F. *Exit*

In this last screen, whether the FIPD is competent or incompetent, the users reads a message thanking for his/her patience, and reminding him/her to remain available because a FIPD lawyer will be in touch shortly.

If an automated interview is to be implemented, finishing the interview could generate an acknowledgment of receipt via email with a request number for future tracking and follow-up. The software could even generate a PDF for the users with the answers provided that would help them to keep their own records in order.

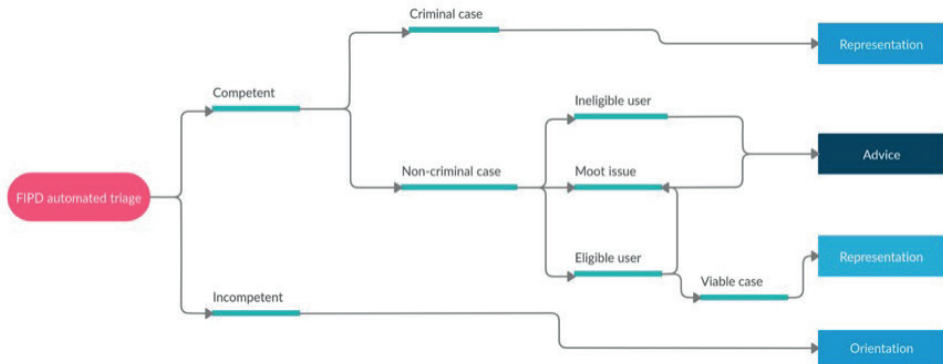
FIGURE 11. THE USER GETS INFORMATION ON HOW THE FIPD WILL BE IN TOUCH



4. *Triage*

This automated interview prototype allows to program if/then conditions that could be a stepping stone for further process automation within the FIPD based on users’ responses regarding jurisdiction, authority, subject matter, and personal circumstances. Personnel working in each service department would automatically receive the cases, in order to carry out the corresponding follow-up actions, which would save time and resources from this first contact stage. If well implemented, a solution of this kind would help more lawyers to work on substantive legal service, rather than intake. The case triage would look like this:

FIGURE 12. PROPOSAL OF AUTOMATED TRIAGE



Nonetheless, as has been mentioned throughout this piece, technology can only be a positive force in furthering access to justice and efficiency when it is thoughtfully implemented, and takes into consideration the complexities and challenges in each context. Sloppy implementations not only do not reap the promised benefits, but also become yet another source of dissatisfaction and frustration among stakeholders.<sup>141</sup>

## V. CONCLUSIONS

The Covid-19 pandemic was the catalyst for speeding up technological innovation in public legal services, although reforms regarding access to justice were long overdue. Bridging the access to justice gap requires thinking about goals and values at the high-level, but also on executing at the low-level.

In this latter aspect, solutions must be scalable, standardized, asynchronous and accessible. However, in order to do that institutions must use methodologies that allow them to correctly scope, plan, measure and improve legal processes around users' needs; in most cases, a database and data management overhauls may be needed too. Without these elements, efforts for legal process automation (or any other tech initiative for that matter) are most likely doomed to fail.

Today, there are sufficient best practices in several jurisdictions to argue that digitalization of justice is possible, and that it brings value to the justice system for both internal and external stakeholders. This paper offered only three examples (namely, Canada, United Kingdom and Singapore), but other success stories abound. That being said, failure cases are also numerous, and each jurisdiction should take into account its context and resources to plan and execute accordingly.

Through the prototype developed in this piece, it was demonstrated that digitalizing processes and forms is a doable endeavor, which allows automating and centralizing intake and triage with the characteristics developed throughout the paper (scalability, standardization, asynchrony, and accessibility).

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<sup>141</sup> A good example of this situation is the recent protest in Mexico City by hundreds of lawyers that blocked circulation around the different city courts for several days to demand more expediency in processing cases and stopping the use of the electronic appointment system. In their opinion, this system does not work, makes litigation even slower than what it was in pre-Covid times, and has not decreased corruption. See Gómez Flores, Laura, *supra* note 26; Ramírez, Ramón, *supra* note 26.