

Judicial transparency furthering public accountability for new judiciaries

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Abstract

Modern – or so-called 'new' - judiciaries are more active in the field of law-making than they used to be. It is argued that this calls for new checks and balances. New forms of public, social accountability are warranted to enable public scrutiny. This contribution discusses and analyses the efforts of some judiciaries in Europe and the US to open up and work more transparently and thus further so-called soft public accountability. To this end, the paper looks into the different legal regimes of access to information pertaining to information held and produced by courts and the law on public hearing and public pronouncement of judgments. The paper does not stop at an inventory of the different legal regimes but it compares and analyses the way in which judiciaries in different countries tackle the demand for information about cases, case-related or court-related issues (i.e. the information-provision policies) as well. From these policies on information provision we may read how different courts themselves cope with the demand for public accountability. In conclusion the question is tackled whether and to what extent these information-provision policies, as methods of soft accountability, contribute to the legitimacy of the judiciary.

Keywords

judicial transparency; access to information; information provision by courts; new judiciary; public accountability; legitimacy of the judiciary; hard and soft accountability; social accountability; public hearing; closed-door sessions; publicity; press rules; public pronouncement; privacy; access to court records

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