

Global Index Gives Low Marks to Access to Information in Puerto Rico ^[1]

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Toby Mendel

After an analysis of the new Access to Information and Open Data Laws, the Global Right to Information Rating (RTI) would place Puerto Rico in 87th place out of 128 countries

San Juan, Puerto Rico (Wednesday, May 6, 2020) — Today the “Red de Transparencia” made public a report that reveals that Puerto Rico would rank 87th when compared to the 128 countries included in the Global Index of the Right to Information (RTI Ratings) of the Centre for Law and Democracy (CLD). In the report the Centre for Law and Democracy analyzes the Transparency and Open Data Laws, enacted in Puerto Rico last year. It points to the strengths, as well as to the shortcomings of said laws and makes recommendations on the areas that need attention.

According to the report that was presented by Toby Mendel, Executive Director of the CLD, the two Puerto Rican laws earned a score of 73 out of a possible 150 points on the RTI Rating scale, putting Puerto Rico in the lowest third of the rankings when its laws are compared to those of 128 other nations on the basis of the international parameters used by the CLD.

“Puerto Rico needs stronger rules guaranteeing the right to information if it truly aspires to adequately implement this constitutionally guaranteed right,” Mendel said. “Its current laws are much weaker than most national laws adopted in the Americas,” the CLD director went on.

Mendel is an international authority on transparency. His biography on the UNESCO website notes that he “has collaborated extensively with inter-governmental actors. . . — including the World Bank, UNESCO, the OSCE and the Council of Europe – as well as numerous governments and NGOs in countries all over the world. His work spans a range of areas, including legal reform and analysis, training, advocacy and capacity building. He has published extensively on a range of freedom of expression, right to information, communication rights and refugee issues.”

The RTI Rating was developed by the CLD in Canada and its counterpart in Europe, Access Info Europe. It was first published on Right to Know Day, September 28, 2011, and has been continuously updated since that time to include all national RTI laws. This Index’s parameters constitute the only authoritative methodology evaluating the solidity of the legal frameworks protecting this right on an international level. The instrument has been recognized by such entities as UNESCO and the World Bank.

Mendel explained that the RTI Rating measures the strengths of countries’ laws enabling access to public information on the basis of 61 indicators divided into seven major categories: right of access, scope, requesting procedures, exceptions and refusals, appeals, sanctions and protections, and promotional measures. He stressed that the index measures the legal framework, not enforcement of the laws.

Among the key weaknesses identified in the Puerto Rican laws governing access to information were the following:

- Important gaps in procedures for lodging requests for information and responding to them.
- The exception regimen is too broad, so that only 23% of the possible points were given this item in the RTI Rating.
- There is no independent administrative body for appeals.
- The protections and sanctions system is very limited.
- There are few dissemination measurements to support good implementation.

The analysis of the legal framework for access to information in Puerto Rico was conducted by the CLD at the request of the “Red de Transparencia” (Transparency Network), a group of diverse Puerto Rican organizations and individuals that promote the free flow of information and transparency in Puerto Rico. In this initiative, the Network recognized the team work led by Espacios Abiertos, the Center for Investigative Journalism and Sembrando Sentido.

Despite warnings from local experts that the two legislative bills (Law 141, Transparency, and Law 122, Open Data) would actually limit access to information, they were signed into law by Ricardo Rosselló just hours before he left office as governor in August of 2019.

“We wanted an independent entity with an international reputation like RTI Rating to analyze the two laws, approved less than a year ago. The report in fact confirms what has been long denounced by local organizations that due to the shortcomings of the laws, they limit, rather than guarantee, the citizens’ of Puerto Rico constitutional right to access to information,” said Issel Masses, spokesperson for the Red de Transparencia and founder of Sembrando Sentido.

Given Puerto Rico's situation today, and the results and recommendations of this study, Masses urged the Governor and the Legislature to correct the limitations on access to information created by the two laws passed less than a year ago; they should be amended, she said, before the end of the current legislative session. The RTI report,” she went on, “gives detailed suggestions for the needed amendments, along with justifications for them, and can be used as a clear guide to best practices in government transparency. An open government is possible in Puerto Rico.”

Content Categories:

- [Undergraduates](#) [3]
- [Graduates](#) [4]
- [Faculty](#) [5]

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