

# Open Data: How Free Access to Law Fits In?

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# Open Data: How Free Access to Law Fits In?

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- ▶ Free access to law
- ▶ Open data, open government, open knowledge
- ▶ Opportunities





# Free Access to Law

# What Do Legal Information Institutes Want?

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- ▶ **Public legal information ...**
  - ▶ Is part of the common heritage ...
  - ▶ Its access promotes justice and the rule of law
- ▶ **Public legal information should be accessible to all on a non-profit basis and free of charge**
- ▶ **Government bodies should provide access so that public legal information can be published by other parties**



# What Do LIIs Do?

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- ▶ Support the Montreal Declaration on Free Access to Law
- ▶ Publish legal information from more than one source
- ▶ Provide free and anonymous access to that information
- ▶ Do not impede others from obtaining public legal information
- ▶ Provide clear information concerning re-use



# Montreal Declaration on FAL

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- ▶ **Origins**
- ▶ **Politically and socially motivated**
- ▶ **Objectives and duties**
  - ▶ publish for free
  - ▶ act as aggregators
  - ▶ avoid controlling
- ▶ **Funding**
  - ▶ Governments, charities, or businesses?



# FAL Movement

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- ▶ 54 organizations joined FALM over time
- ▶ 45 are active today
- ▶ 28 from economically developed countries
- ▶ 17 from developing countries, 10 from Africa
- ▶ 2 sites are claiming comprehensiveness



# FAL Movement

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<b>Actors (45)</b>	<b>Dev. Economy (28)</b>	<b>Developing (17)</b>
<b>Academia</b>	<b>21</b>	<b>6</b>
<b>NGO</b>	<b>3</b>	<b>5</b>
<b>Government</b>	<b>2</b>	<b>6</b>
<b>Business</b>	<b>2</b>	





# FAL Beyond the Movement

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- ▶ In economically developed countries
  - ▶ Hundreds of governments publish their legislation
  - ▶ Even more courts and tribunals are publishing their decisions
- ▶ At inception, FALM played a role to encourage that evolution
- ▶ Today, policies are inspired by the Open Government Data approaches





# Open Government

# Open Government

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- ▶ Enactment, from the 1960s, of *Freedom of Information* and *Access to Information* legislations in many countries
  - ▶ Access to otherwise undisclosed government information
  - ▶ To favor accountability and transparency
- ▶ Production of the “Open Government Directive” (US, 2009)
  - ▶ Instructing agencies to “publish in an open format at least three high-value datasets”
  - ▶ Datasets must serve
    - ▶ Transparency and accountability; or
    - ▶ “improve public knowledge of the agency and its operations”
    - ▶ “create economic opportunity.”



# Open Government Partnership

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- ▶ OGP was established in 2011 by 8 countries
  - ▶ Brazil, Indonesia, Mexico, Norway, the Philippines, South Africa, the United Kingdom and the United States
- ▶ A multilateral initiative that aims to secure concrete commitments from governments to promote transparency, empower citizens, fight corruption and harness new technologies to strengthen governance.
- ▶ Today, 62 countries adhere to OGP

<http://www.opengovpartnership.org/>



# OGP Membership Requirements

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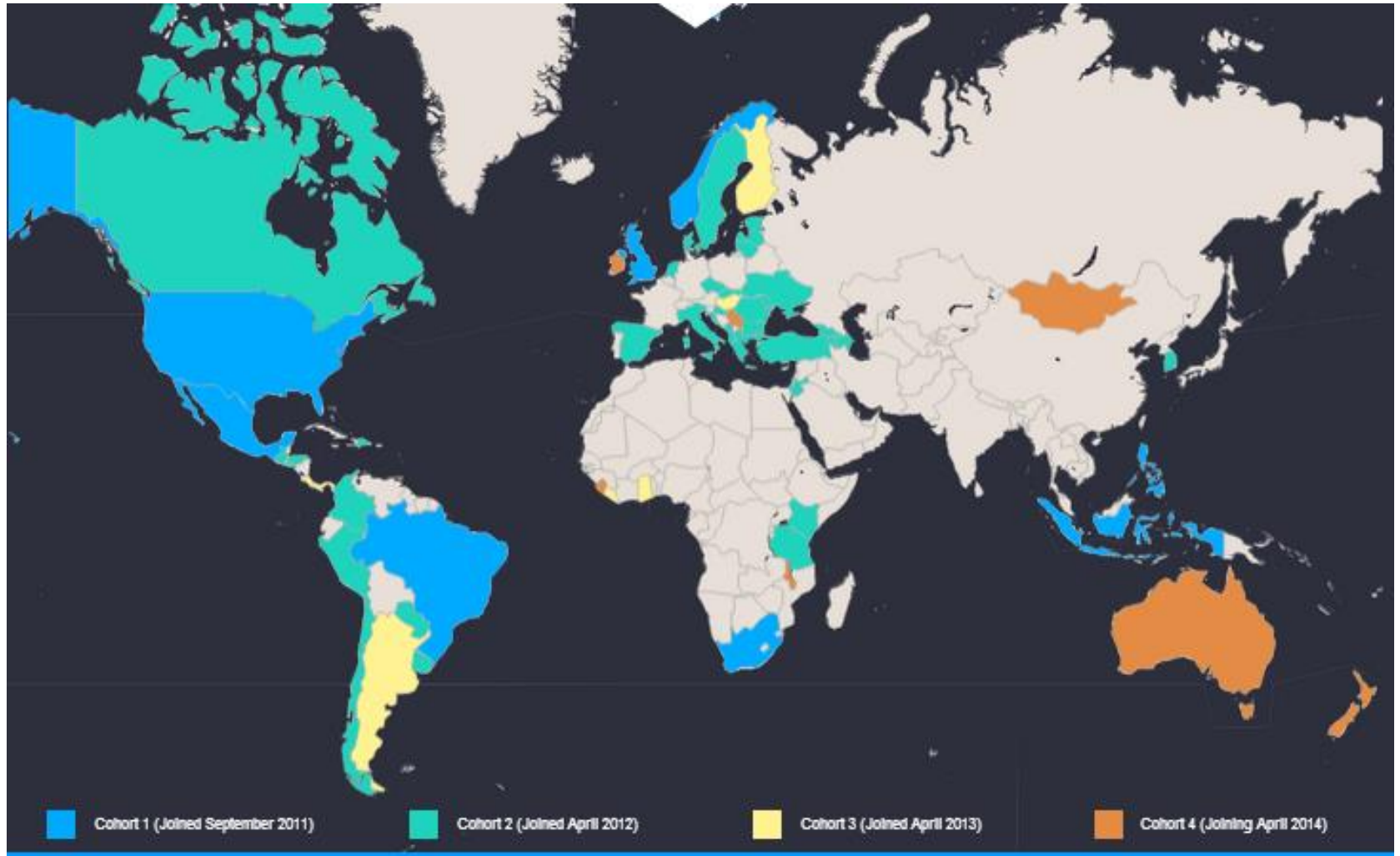
- ▶ Work with civil society to develop an OGP plan
- ▶ Implement OGP commitments
- ▶ Prepare an annual self-assessment report
- ▶ Participate in the Independent Reporting Mechanism
- ▶ Contribute to peer learning

<http://www.opengovpartnership.org/>



# OGP 2013

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# National OG Initiatives

The image displays three overlapping browser windows showcasing national open government initiatives:

- data.gov (Left):** An official website of the United States Government. It features a navigation menu with 'HOME', 'ABOUT', 'DATA', 'METRICS', and 'OPEN'. A prominent banner reads 'Baby Names National since 1879' with a photo of a baby. Below, a 'DATA AND TOOLS' section lists 91,101 datasets, 349 citizen-developed apps, 137 mobile apps, 175 agencies and subagencies, 87 galleries, 409 Government APIs, and a 'Suggest a dataset' link.
- data.gov.uk (Middle):** A website titled 'DATA.GOV.UK Beta Opening up Government'. It includes a search bar for datasets and filters for 'Published datasets (12286)', 'Unpublished datasets (4175)', and 'NII DATASETS'. It also lists 'LICENCE' options (Open Government Licence, Unpublished dataset, Non-Open Government Licence) and 'THEME' categories like Geography, Government Spending, Health, Society, and Government.
- opendata.go.ke (Right):** A website titled 'KENYA openData'. It features a navigation menu and a main section 'Introducing the Kenya Open Data Initiative: The bigger picture'. A word cloud contains terms like 'Open', 'kama', 'data', 'mpango', 'kenya', 'Serikali', 'kwa', 'Data', 'maendeleo'. Below are four featured charts: 'Health Facility Chart', 'KCPE Exam Scores', 'GoK shared services', and 'Counties'. A 'Developer? Click here!' button is also present.

# OG: Benefits

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- ▶ **Government**
  - ▶ Efficiency, quality, transparency, and legitimacy
- ▶ **Citizens**
  - ▶ Social engagement, innovative services, more informed personal choices
- ▶ **Civil society**
  - ▶ Increased transparency, and improved service delivery
- ▶ **Private sector and public services market**
  - ▶ More competition, more innovation

OCDE, 2013: Ubaldi, B. (2013), “Open Government Data: Towards Empirical Analysis of Open Government Data Initiatives”, OECD Working Papers on Public Governance, No. 22, OECD, source: <http://dx.doi.org/10.1787/5k46bj4f03s7-en>





# OGD ambiguities

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- ▶ Open government data could mean
  - ▶ “Open government” data
  - ▶ Government “open data”
- ▶ "Open government" and "open data" exist independantly

[Yu and Robinson 2012]





# Open Data

# Open Data (OD)

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- ▶ **Open:** “A piece of data or content is open **if anyone is free to use, reuse, and redistribute it** — subject only, at most, to the requirement to attribute and/or share-alike.”  
[[opendefinition.org](http://opendefinition.org)]
- ▶ **Open data** is “the idea that certain data should be freely available to everyone to use and republish as they wish, without restrictions from copyright, patents or other mechanisms of control”  
[Wikipedia/Open data]



# Key features of OD

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- ▶ Availability and access
- ▶ Reuse and redistribution
- ▶ Universal participation

[Open Knowledge Foundation, [okfn.org/opendata/](http://okfn.org/opendata/)]

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# Some differences – OD and FAL

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## Open Data

- ▶ **Access**
  - ▶ Available as a whole – no limitation
- ▶ **Reuse and machine readable**
- ▶ **Universal participation**
  - ▶ Anyone, any use
- ▶ **Privacy**
  - ▶ No personal data

## Free Access to Law

- ▶ **Access**
  - ▶ Free to use and consult
- ▶ **Reuse and machine readable**
  - ▶ Adverse to bulk downloading
  - ▶ Reuse by end-user permitted
- ▶ **Universal participation**
  - ▶ Restrictions
- ▶ **Privacy**
  - ▶ Significant issues



# Public Legal Information ≠ OD

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- ▶ Legal information sit at the margin of OD
  - ▶ Privacy interests are major
  - ▶ Reuse is always subject to terms
  - ▶ Documents requiring work instead of ready to use data
- ▶ Nevertheless, a legal information constitutes a dataset with a lot of traction
  - ▶ USA Fedsys: "Federal court opinions are one of the most heavily used collections on FDsys, with millions of retrievals each month."
  - ▶ 64 participating courts, 800 000 decisions



# Actors

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- ▶ Governments
- ▶ Academia
- ▶ Hackers and hackathons
- ▶ NGOs
- ▶ Private corporations



# Hackathons and Solutionism

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- ▶ Solutionism: The belief that all difficulties have benign solutions, often of a technocratic nature.

[[wiktionary/solutionism](http://wiktionary/solutionism)]

- ▶ *Nowhere, it seems to me, is solutionism in fuller force than at hackathons and app contests. Without contemplating the origins, causes, and effects of the social problems they seek to remedy, these two- or three-day events bring together designers and software developers to “hack” together elegant solutions to complex problems.*

[<http://davidsasaki.name/2012/12/on-hackathons-and-solutionism/>]

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# The Expanding Role of Private Actors

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- ▶ Non-profit or commercial (private) parties could deliver government information in innovative ways
- ▶ Governments should allow private parties to compete on equal terms
- ▶ Possibilities are numerous
  - ▶ Advanced search, RSS feeds, links to sources, cross indexing, and mash-ups with other data sources, automated content and data analysis, discussion forums and wikis, collaborative filtering and crowd sourcing analysis

OCDE, 2013: Ubaldi, B. (2013), "Open Government Data: Towards Empirical Analysis of Open Government Data Initiatives", OECD Working Papers on Public Governance, No. 22, OECD, source: <http://dx.doi.org/10.1787/5k46bj4f03s7-en>



# Open Data is not a Product

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- ▶ No direct consumers or users
- ▶ Benefits to everybody, but no one specifically
- ▶ Most often, no direct use of OD output
- ▶ OD enables, but “something” must happen outside the government to achieve benefits



# FAL is a Product

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- ▶ **Assets**
- ▶ **Functionalities**
- ▶ **Branding & market position**
- ▶ **Clientele**
- ▶ **CanLII**
  - ▶ 1,5 M documents, advanced functionalities
  - ▶ Two main clientele: general public and lawyers
  - ▶ A very strong brand today in Canada
  - ▶ 35,000 visits a day





# Perspectives

# FAL and OD

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- ▶ OGD and OD validate FAL
- ▶ FAL / Public legal information access
  - ▶ Serve OG principle
  - ▶ OGs are looking for partners
- ▶ Public legal information provides all types of OG benefits
  - ▶ Government: efficiency, quality, transparency, and legitimacy
  - ▶ Citizens: social engagement and more informed personal choices
  - ▶ Civil society: transparency and improved service delivery
  - ▶ Private and public sector service markets: no advantage from exclusivity, more innovation



# OG and OD Benefits

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- ▶ Increased government awareness about benefits
- ▶ Advocacy becomes less preeminent
- ▶ Improved access to public legal information
  - ▶ New availability of data
  - ▶ Open government inspired access modalities and conditions



# Virtue and Values are Not Enough

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- ▶ Requirements beyond “freeness”
  - ▶ Quality
  - ▶ Comprehensiveness
  - ▶ Timeliness
  - ▶ Sustainability
- ▶ Positioning, better identification of needs
- ▶ Identification of the clientele: SMEs, self-represented litigants, lawyers?
- ▶ Expansion in the services provided
  - ▶ FAL can be inspired by OD business models to achieve sustainability



# An Expanding Role for LIIs

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- ▶ Suppliers
- ▶ Aggregators
- ▶ Apps developers
- ▶ Enrichers
- ▶ Enablers

Deloitte Analytics (2013), —Open growth. Stimulating demand for open data in the UK,  
<http://www.deloitte.com/assets/Dcom-UnitedKingdom/Local%20Assets/Documents/Market%20insights/Deloitte%20Analytics/uk-da-open-growth.pdf>





# Funding Sources for FAL

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- ▶ Government support or operation
- ▶ Academic funds
- ▶ Research grants
- ▶ Charities and donations
- ▶ Publishers (sources of legal information)
- ▶ Users (lawyers)
- ▶ Pooling of users (law societies, companies)
- ▶ Development agencies



# Perspectives

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## ▶ In the past

- ▶ Shaming governments to do good
- ▶ Working hard for social good

## ▶ Today

- ▶ Working with governments to make them proactive in opening up access to legal information for social and economic benefits
- ▶ Exploring and combining OD business models
- ▶ Combining funding sources
- ▶ Opening up to commercial actors

