

How and Why Do Courts Tweet? An Explorative Study of Latin American High Courts

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1. Introduction

Today, many state institutions use social media to present their work to a broader audience. Latin American constitutional and supreme courts are no exemption in this regard. Most of them tweet very frequently about different aspects of their activities or broader law topics. In this article, I explore how Latin American high courts use X, former Twitter,¹ and propose potential explanations for their different communication strategies.

At the global level, some Latin American high courts, such as the Argentine and the Mexican Supreme Court or the Brazilian Supreme Federal Court can be considered pioneers in the use of social media. With its YouTube account starting in 2005, the Brazilian Supreme Federal Court was the first among Latin American courts to experiment with social media. Shortly afterwards, the Argentine Supreme Court started an extensive communication strategy, including the use of social media, “with the explicit goal of improving the Supreme Court’s legitimacy and public image and fortifying its authority vis-à-vis other political actors” (Scribner 2017, 14). Most courts in the region started to use at least one social media network around 2010.

From a theoretical point of view, the incentives for courts for using social networks are high: they may be using social media as a vehicle to improve levels of public trust, to generate strategic support when their power is contested by the other branches of government, or simply to disseminate information about their work and decisions. In addition, the use of social media requires low financial investment and little personnel (Llanos and Tibi Weber 2020).

1 Throughout the article, I will refer to the platform as “Twitter”, because during the time under investigation (2019-2020), this was its official name.

Twitter is the most relevant social media network for sociopolitical discussions and for elite discourses, so it is very important for politicians or non-governmental organizations (NGOs) representatives to engage for their aims. Further, among social media, it is the most important source of information for journalists (Saldana *et al.* 2016) who in turn have a large influence on public opinion about the court. Thereby, Twitter is highly relevant for its multiplying characteristic. This makes it a central platform for courts to present themselves to the public and to influence the kind of information the public receives about their work. Because of these considerations, I decided to investigate the way the courts act and perform in Twitter and to explore their motivations for their engagement in this platform. I identify three possible purposes for the courts' use of Twitter: an informational, an educational and a self-promotional one.

In the following section 2, I discuss theoretical assumptions developed from the judicial politics literature about the use of Twitter by high courts. In section 3, I present some general statistics about the role of Latin American courts in Twitter. My empirical strategy is presented in section 4. Using a sample of 1500 tweets by 15 Latin American constitutional and supreme courts, I conducted a qualitative content analysis. The period of analysis is one year, from March 1st 2019 to February 29th 2020. Section 5 shows the preliminary results from my analysis and section 6 concludes.

2. Courts and their Relationship with the Public

Why do courts tweet? To understand their motivations, I revisit the judicial politics literature. It offers issues connected to institutional legitimacy, strategic action as well as ideational perspectives as explanations for the motivations of courts to use Twitter.

Apart from the interest to increase or to maintain their institutional legitimacy, I see three further motivations for the use of Twitter by courts (see also Taras 2017; Llanos and Tibi Weber 2020): The first would be to disseminate information about the work of the court with the aim of institutional transparency, I call this the informational purpose. The second purpose would be to educate the public about rights and how to claim them, I term this the educational purpose. The third purpose would be to generate strategic support when the court's power is contested by the elected branches, which can be described as the self-promotional purpose.

2.1. Institutional Legitimacy

The first motivation of courts to use social media could be to increase or maintain their institutional legitimacy or diffuse public support (Easton 1975).² As most courts are not accountable to the general public through elections, the generation of such support tends to be more difficult for them in comparison to the executive or the legislature (Wells 2007). Studies on the legitimacy of the US Supreme Court as well as other high courts in developed democracies indicate that knowledge about the court has a positive impact on its legitimacy (Caldeira and Gibson 1992; Gibson, Caldeira and Baird 1998). However, this relationship seems to be reversed for developing democracies: Salzman and Ramsey show that, “[i]ndividuals in Latin America with more political knowledge will recognize the inadequacies of their judiciaries, which will cause lower levels of confidence in that institution” (2013, 76). But courts do not refrain from communicating. They instead may tend to present a rosy image to their work, for which the social media are highly attractive, and they target their audiences—particularly people with a higher educational level because these are the most skeptical—, for which Twitter is an interesting venue.

2.2. Institutional Transparency and Citizen Education

The use of social media may result from a change of ideas at the court that stress the importance of institutional transparency. Concepts about the role of the court and its judges may change through ideas brought to the court by newly appointed judges or if judges participate in international exchanges with other courts (Taras 2017, 5). Since more than a decade, judicial networks in the region are aware of the necessity for courts to be transparent in order to ensure that “[a] través de una amplia circulación de la información los ciudadanos pueden ejercer sus derechos, y se permite una adecuada rendición de cuentas de los gobiernos y el control de la corrupción” (CEJA 2022).

Courts that use social media with the foremost aim to increase their legitimacy may tweet mainly information about the genuine work of the court: relevant cases, court decisions, and the functions of the court in

2 The literature review and theoretical arguments are based on those developed in Llanos and Tibi Weber (2020).

general. Apart from this informative interest, a court may want to educate the general public about their rights and the possibilities to claim for them before the court.

2.3. Strategic Self-promotion

Judges act in an interdependent context where they attend and often adapt to the preferences and possible reactions of other actors, in particular elected officials and the public (Epstein and Knight 1998). Two aspects explain the importance of public opinion for courts (Bricker 2016): First, as courts do not have the power to enforce compliance of their decisions, a government will be more likely to comply with the decisions of a court with high public support than with those of a less popular one. Second, public support is an important protection against governmental attacks or interferences with the judiciary. The Colombian Constitutional Court, for instance, was able to defend against court-curbing as well as court-packing initiatives by former President Uribe (2002-2010) with the help of support groups from civil society (Landau 2015).

Staton shows that judges in developing democracies strategically decide to promote specific decisions. He observes “a tension between the goals of building transparency and legitimacy” (2010, 7): if their institutional independence is not contested by the elected branches, courts can decide to be completely transparent about their decisions. In contrast, if their independence is contested by political actors, courts may decide against transparency in cases that indicate their lack of impartiality and, therefore, call their legitimacy into question. Consequently, in such cases, a court may choose to tweet especially contents that present a positive image of the court.

Building on these theoretical insights, I develop two expectations about the behavior of courts in Twitter:

1. Courts that are less concerned with their legitimacy or that are not so highly contested by the elected branches will prioritize informational or educational contents, thereby tackling the challenge of instructing the population on the institution and its tasks.
2. Courts facing low institutional legitimacy or being confronted with attacks by the elected branches will be more inclined to self-promotional publications.

The relationship between institutional legitimacy, court-elected branches relations and the way the courts present themselves in Twitter, however,

will not be studied in this article but is a task for future research. Instead, this article provides the first step for such an analysis by exploring how different motivations or purposes behind the use of Twitter can be detected through a qualitative content analysis of the courts' tweets.

3. Exploring the Role of Latin American Courts in Twitter

Why may Twitter be a useful social media network for Latin American courts? On average, 10.8% of the population of LA countries are using Twitter (Latinobarómetro 2018). It is a highly relevant source of information for Latin American journalists with, according to a survey, 82 per cent of them using Twitter (Saldana *et al.* 2016, 11). Most Latin American courts already have been using Twitter for a considerable time span of between eight and twelve years. Therefore, they have each developed a characteristic strategy of its use. Most courts tweet more than once a day. Some have high daily averages of tweets, as indicated by the following Figure 1.

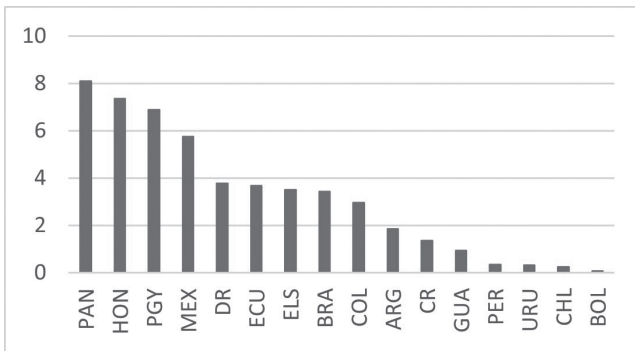


Figure 1. Average number of tweets per day of Latin American courts. Source: Llanos and Tibi Weber (2020). Period under review November 21, 2018 – November 20, 2019.

Compared to other courts worldwide and taking into account the respective size of each country's population, most Latin American courts reach considerable audiences in Twitter (see Figure 2). Some of the most famous courts worldwide, as the US Supreme Court and the German Federal Constitutional Court have far less followers in relation to their countries' population sizes than all Latin American courts. This indicates that the Latin Americans courts are quite successful with their social media strategies.

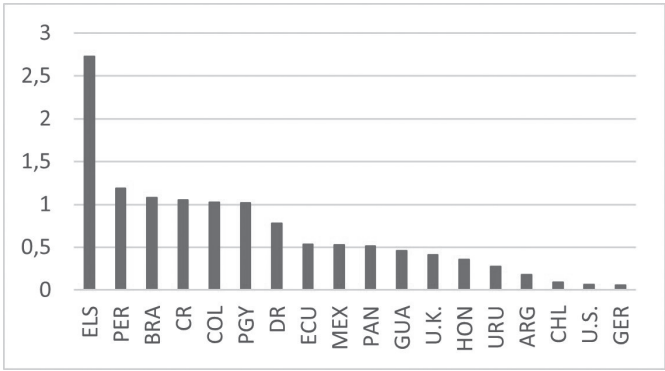


Figure 2. High courts' Twitter followers as % of population. Source: no. of followers – own compilation, as of December 2019; population data, World Bank 2019.

However, having a high number of followers does not automatically imply that these are actually taking notice of the tweets published in an account. The attention of the audience of each account can be assessed by reviewing the reactions of that audience in form of the numbers of favorites and retweets. Figure 3 indicates the average number of favorites per tweet. Some of the courts' accounts, for instance, the Mexican, Brazilian and Colombian courts, have quite high average numbers of favorites, which indicates that a considerable number of followers reads their contents. Other courts, as those of Honduras, Panama and Paraguay, have low numbers of favorites, although they tweet a lot. Their efforts to present themselves are not so much valued by the audience. A similar pattern emerges when revising the average numbers of retweets (Figure 4).

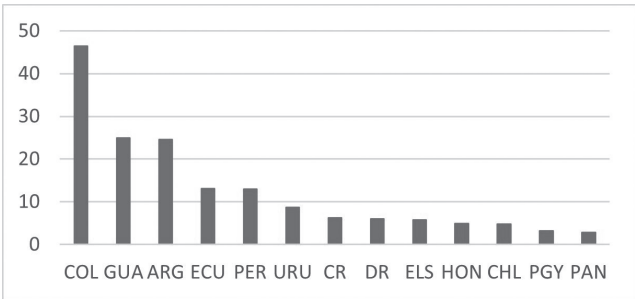


Figure 3. Average no. of favorites per tweet, MEX and BRA excluded. Note: MEX average no. of favorites: 220.4, BRA 210.8. Source: own compilation, based on data from Llanos and Tibi Weber (2020). Period under review: November 21, 2018 – November 20, 2019.

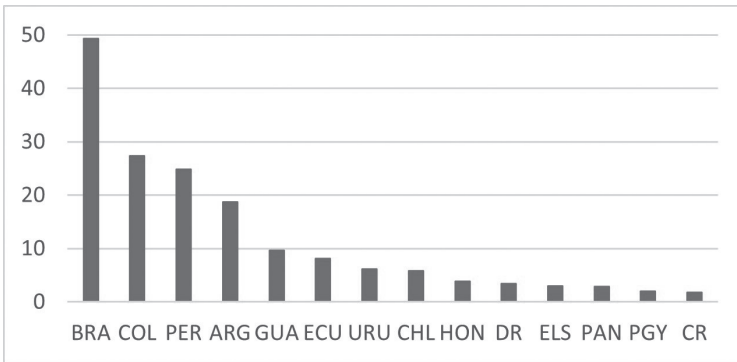


Figure 4. Average no. of retweets per tweet, MEX excluded. Note: MEX average no. of retweets: 195.7. Source: own compilation, based on data from Llanos and Tibi Weber (2020). Period under review: : November 21, 2018 – November 20, 2019.

4. Empirical strategy

To develop comprehensive knowledge on what and how Latin American high courts tweet, I undertook a comparative content analysis of recent Twitter publications by constitutional and supreme courts of 15 countries: Argentina, Brazil, Chile, Colombia, Costa Rica, Ecuador, El Salvador, Guatemala, Honduras, Mexico, Panama, Paraguay, Peru, the Dominican Republic, and Uruguay. I considered for the analysis the high courts of the countries that have been defined as at least “partially free” in the 2018 Freedom House index (Freedom House 2023). The Bolivian Plurinational Constitutional Tribunal has an active account but too few tweets for comparative analysis (only seven for the period under review). Nicaragua has also been defined as “partly free” then, however, as the Twitter account of its Supreme Court has been inactive since 2017, it is not included in the sample. All constitutional courts as well as the Mexican Supreme Court have their own accounts, whereas the other supreme courts are represented through accounts of the whole judiciary that are, however, directed by the supreme courts. I accessed Twitter through its Application Programming Interfaces (API). I used R software and the *rtweet* package (Kearney 2019) to collect data on the current number of followers as well as the allowed number of tweets from each account.³

³ Twitter allows the download of the most recent 3200 tweets of an account.

My initial plan was to conduct a quantitative content analysis. However, when comparing the tweets of different courts, I realized that the categorization of publications could not be done according to simple code words because the topics differed considerably among the 15 courts. Instead, the whole content of the tweets needed to be considered for the comparative exercise. The respective political background of each tweet matters as well as the court's relation with the executive and legislative. In many tweets, links are included that provide more information that is relevant for evaluating the content of the tweet. It is not possible to include these aspects adequately in a quantitative computational analysis. Accordingly, I decided to analyze 100 randomly selected tweets of each court, which means that I coded a total of 1500 tweets.⁴ In order to keep context conditions for the role of social media in politics and society relatively constant, I took the random samples from the tweets published after March 1, 2019. Further, the current situation under COVID-19 is an exceptional situation for institutions and, consequently, I decided to limit the samples to publications before March 1, 2020. As some courts tweet more than others, the number of tweets from which the sample of 100 tweets is taken, varies among the courts.⁵ Before creating the samples, I excluded the retweets and replies and maintained only the original tweets, because these directly represent the communication strategy of the respective court.

In Section 2, I argued that courts may pursue different purposes while using social media. I found examples for three purposes when collecting the tweets. First, courts often simply inform the reader about case proceedings, decisions or events at the court. Second, they sometimes aim to “educate” their audience about rights and how to claim for them, or about the functions of the court. For instance, the Mexican Supreme Court frequently uses Twitter to explain the meaning of basic constitutional rights or important court decisions in an easy language. Third, courts use a positive and self-promotional tone in their tweets, for example, they disseminate information about judges participating in

4 Other authors that study the use of Twitter by courts also code the tweets by hand, as Mattan, Puddister and Small (2020) in their investigation of Canadian courts' presence in Twitter.

5 For the year under review, the number of tweets per court varies between 3 130 tweets by the Panamanian Órgano Judicial and 104 tweets by the Chilean Tribunal Constitucional.

social activities with people with a lower socioeconomic status or taking part in academic events. Sometimes they publish many tweets on rights issues, which can be interpreted as an intent to stress the court's role as a potential defender of rights. With my qualitative content analysis, I will explore how these three purposes can be found in the courts' communication strategies.

I used three categories for the coding of tweets: 1) type of communication, 2) subject, and 3) form of communication, listed in Table 1.

	Type of communication	Subject of communication	Form of communication
Options	Notice Statement from outside the court Statement by the court or its members	Rights Decisions Specific case Court procedures General court issues Law in general Relation with other institutions Events Modernization	Link to decision Link to court website Video on Twitter Photo on Twitter Pdf/infographic Link to YouTube or Facebook Video streaming

Table 1. Categories of tweets.

The three categories allow me to interpret the main purpose a court pursues with its presence in Twitter. In the category "type of communication" I categorize, among others, if the tweets present positions of the court itself or its individual members. This could be both an informational or self-promotional purpose, depending on the content. If perspectives from outside the court are included, this could hint to a self-promotional purpose: When the court presents itself as open to external positions, it shows that it is actively interacting with other societal actors.

The category "content of communication" is the most important for the analysis carried out, as it indicates the topics the court wants to communicate to its audience. If the court tweets a lot about the genuine work of the court, it can be regarded as having a high interest in transparency about its work, following an informational purpose. If it tweets a lot about

rights in general, an educational purpose can be assumed, that is, the court may aim at creating knowledge about existing rights and how to claim them. However, it has also a self-promotional element because it presents the court as a potential defender of rights. In the case that the court tweets a lot about events (conferences, formal meetings with other institutions or institutional visits) and not very much about cases or decisions, this does not inform a lot about the genuine work of the court. It could be interpreted as a strategy of deflection from the actual performance in its genuine tasks and can be understood as self-promotion.

When interpreting the “form of communication”, I focused, among others, on the following aspects: If the court includes in its tweets links to court decisions or detailed information about other aspects of the court’s work on the court website, this may indicate an informational purpose. If it frequently includes additional sources of information in an easy language, for instance through videos or infographics that explain rights or the tasks of the court, this can be interpreted as an educational purpose. In the case of the inclusion of photos in the tweets, the interpretation depends on what the photos show and how this relates to the subject of the tweet.

5. Results

For a first overview about the content of tweets, I present the category “subject of communication” for two groups: First, the results for the accounts that represent only the court itself (Figure 5) and second, the results for the accounts that represent the whole judiciary but are directed by the court (Figure 6).

The courts with individual accounts highlight different subjects with their tweets: some, as the Brazilian Supreme Federal Court, tweet a lot on decisions or court procedures, hence, the genuine work of the court. Others, as the Guatemalan Constitutional Court, tweet more about events and less about the genuine work of the court.

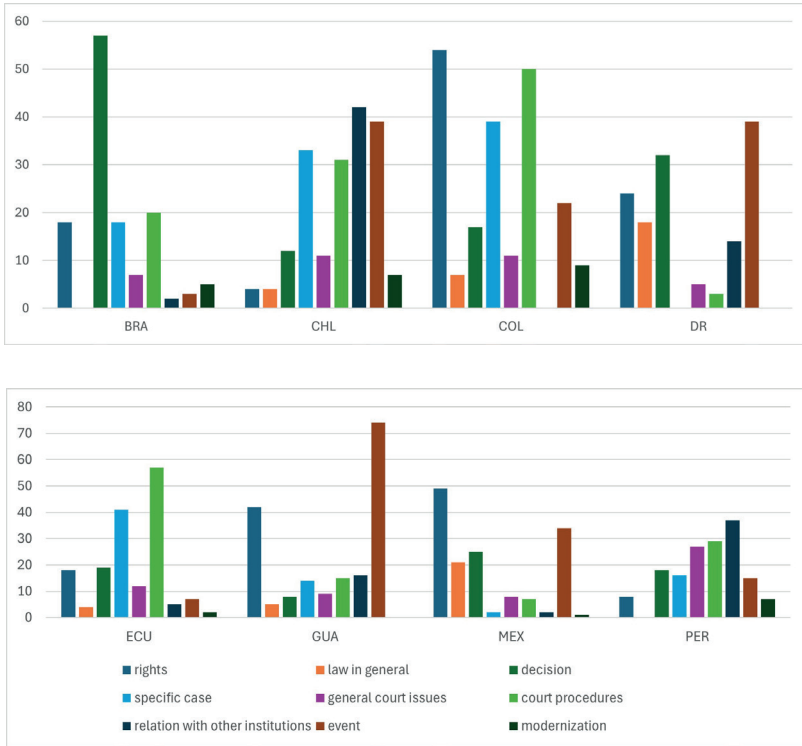


Figure 5a and 5b. Subject of communication, individual courts' accounts, in % of tweets. Source: own elaboration. Note: categories are not exclusive (one tweet can contain several subjects).

All accounts that represent the whole judiciary tweet a lot about general court issues—these mainly inform about issues of the whole judiciary. It would have made sense during the coding process to first select all the tweets that inform directly about the respective supreme court and then create the sample for analysis out of these. However, this would have been an extremely time-costly process as the differentiation of tweets could only be realized by hand. However, at least for the Argentinean and Costa Rican Supreme Courts, Figure 6 shows that they have a significant number of tweets about court procedures and decisions and, so, inform about the genuine work of the court.

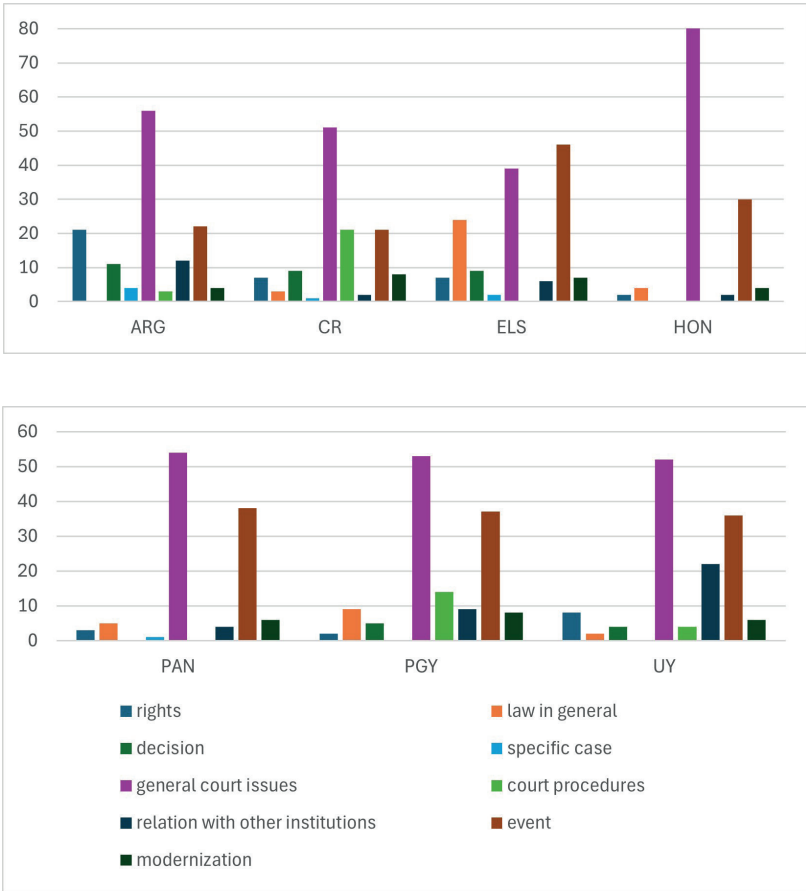


Figure 6a and 6b. Subject of communication, accounts representing the whole judiciary, in % of tweets. Source: own elaboration. Note: categories are not exclusive.

To explore the explanatory value of my content analysis, in the following, I analyse in more detail the tweets by three courts with different focuses in the subjects of communication: the Brazilian Supreme Federal Court, the Colombian Constitutional Court and the Mexican Supreme Court. These courts also have a comparatively high intensity of use and a considerable degree of influence in Twitter. The exploration of their performances in Twitter in Section 3 has shown that these courts have high numbers of

followers, and that their audiences are paying attention to what they tweet. Figure 7 indicates the results for the category “types of communication”.

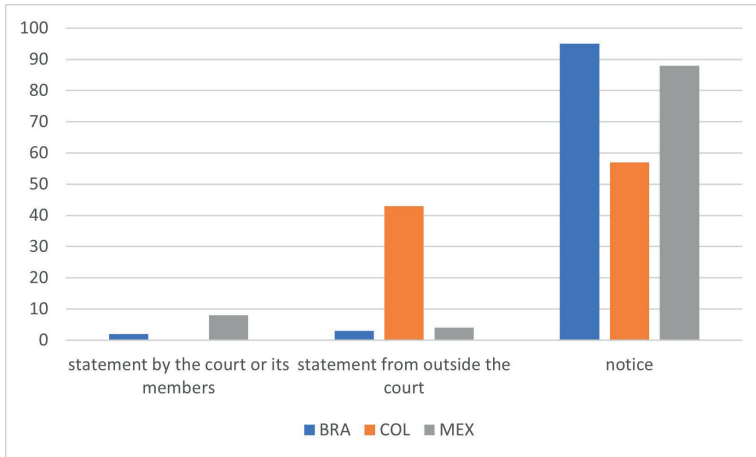


Figure 7. Type of Communication, in % of tweets. Source: own elaboration. Note: categories are exclusive.

The figure shows that the Brazilian Supreme Federal Court and the Mexican Supreme Court mainly tweet notices, a kind of neutral information, whereas the Colombian Constitutional Court presents a considerable number of statements from outside the court. These tweets all document statements of participants during public audiences held at the court. Public audiences are realized in salient cases of high socio-political relevance and allow, among others, representatives from NGOs or other stakeholder groups to present their opinion. With such a high percentage of presenting positions from outside the court, the court stresses its openness to different societal groups. This links to the findings by Landau (2015), that the court has built up strong support by certain civil society groups and middle-class sectors. With its way of tweeting, the court continues stressing this connection. This could be interpreted as a self-promotional purpose. The following figure 8 presents the results for the subject of communication.

The Brazilian Supreme Federal Court is the court that most tweets about decisions, with almost 60 % of its sample tweets. This includes all kinds of decisions: on corruption cases, crimes, rights, or other state institutions. It, therefore, informs a lot about the genuine work of the court.

This way of tweeting reveals a high interest of being transparent and hints to an informational purpose. The courts of Colombia and Mexico have a strong focus on rights in their tweets: First, by focusing on rights, the courts present themselves in a progressive tone, presenting themselves as defenders of rights. Second, they stress their relevance for parts of civil society, which could act as a defender of the court when attacked by the government. I interpret this as mainly self-promotional. However, the Mexican Supreme Court also seems to pursue an educational interest as many tweets inform in an easy language about rights and how to claim for them. Importantly, I found that the court’s motivation to use Twitter can not only be seen in the subjects, instead, the form of communication also matters. Figure 9 indicates the different forms of communication used by the courts.

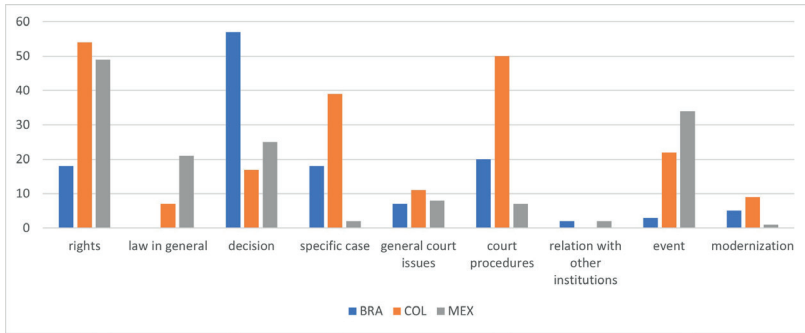


Figure 8: Subject of communication, in % of tweets. Source: own elaboration. Note: categories are not exclusive.

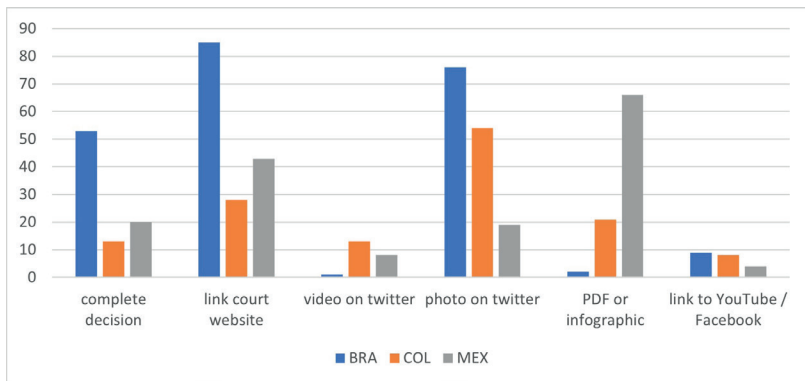


Figure 9. Form of Communication. Source: own elaboration. Note: categories are not exclusive.

Among the three courts, the Brazilian Supreme Federal Court focuses most on providing a lot of information—its account frequently includes in its tweets links to a summary of the decision as well as links to the court website with detailed information on cases or other relevant aspects of the Tribunal’s work. However, when the tweets include photos, these often show individual judges, thereby personalising justice. This could be interpreted as self-promotion. The Colombian Constitutional Court provides the fewest additional information through links among the three courts. It includes many photos that were taken during public audiences, showing NGO representatives or other persons from outside the court—again stressing its openness to positions from relevant stakeholders and highlighting this form of interchange with society. The Mexican supreme court includes many infographics in its tweets that explain rights or judicial terms—this again indicates an educational purpose.

Building on the insights from my categorization of tweets, I characterize the strategy of Twitter use by the Brazilian Supreme Federal Court as mostly informational with some elements of self-promotion, the strategy of the Mexican Supreme Court with a strong educational purpose but also an informational interest, and the strategy of the Colombian Constitutional Court with a mixed purpose of both informational and self-promotional interests.

6. Conclusion

This explorative study is the first, to my knowledge, that compares the role of Latin American high courts in Twitter through a content analysis of their tweets. The qualitative content analysis has shown that the courts have different focuses in their communication strategies on Twitter. Some of them use Twitter mainly for informational purposes and tweet a lot about key aspects of their work—judicial decision-making and related issues. Others use Twitter primarily to educate the public about the role of the court and about rights. A third group of courts seems to be more interested in promoting themselves through this social media network.

Twitter is an important source of information for journalists. Due to their role as multipliers in societies, the decision about the kind of information the courts present on Twitter and how they do it can be very important for courts, because this can influence their level of public support.

Future research may explore factors that explain the different communication strategies of courts in Twitter: the contestation of the court's independence through the elected branches of government, ideational factors or the level of public support a court enjoys.

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