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Open access to law in developing countries

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Abstract

Securing a widespread and, whenever possible, free, access to legal information has become important everywhere. *Open access* has higher stakes in developing countries where access to law is often difficult. In this particular context, free access to statutes and case law could significantly contribute to a better establishment of the rule of law and an overall consolidation of national legal institutions.

Never before have better conditions existed for a wider circulation of law. The Internet and related technologies have dramatically revolutionized the possibilities of cheaply providing high–quality, low–cost access to national legal documentation. In this article, elements of a strategy aimed at developing open access to law in developing countries are put forth.

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1. Introduction

The modernization and reform of the law and legal systems found in developing countries constitute a vast field of study. These issues are addressed here in a limited manner, since only the issues involving the circulation of legal documentation, namely their publication, will be brought forth. More specifically, the emphasis will be placed on ensuring free and public access to the law to make it available for the citizens, legal institutions, and businesses of a nation. Nonetheless, despite the seemingly narrow focus, this outline is hardly insignificant.

Acccording to an often quoted adage, ignorance of the law excuses no one. Consequently, access to law, namely to the texts in which it is contained, becomes an essential component to any modern legal system. The possibility of immediately knowing appliable laws simultaneously constitutes one of the basic tenets of a state governed by the rule of law and is an essential element of legal security. With regards to case law in particular, further reasons lie behind the motivation to its widespread distribution. More specifically, the accessibility of decisions greatly contributes to the transparency and the openness essential to the sound functioning of the judicial system. In fact, the possibility of identifying who has been judged, by whom, and according to which laws contributes to ensuring the integrity of any judicial institution.

In economically advanced countries, the advent of new information technology has indeed facilitated such accessibility to law. In this article, such access will be referred to as *open access to law* — the free and open access to State–produced statutory material and courts' judgements. In France,

Canada, and Australia, basic legal texts are now freely accessible to anyone via the Internet. Such open access to law, however, has not yet been implemented in the vast majority of developing countries, where sometimes even accessing basic legislative texts is difficult. Greater obstacles are also frequently encountered when consulting judicial decisions. Such situations are not without consequence as they undoubtedly undermine the rule of law.

The most effective means of ensuring open access to official legal texts, especially those available as a result of new information technologies, is the main premise of this article. Then, identifying opportunities and strategies for those already endeavouring towards open access will be mentioned.

First, any course of action should take into account the stakes related to the dissemination of law. These stakes have to do with upholding national law and democracy, as well as with the development of a national law publishing industry and economic development. Second, the current technological context must be taken into consideration. To that end, the Internet, open standards, and open source software have all paved the way to new opportunities. Third, the projected direction is based upon prior achievements of the movement for open access to law. Web resources associated to this movement were put into place by professors and legal researchers in the hopes of using the Internet in a manner similar to their colleagues in scientific or engineering domains. The resulting achievements and successes of pioneers in the field of free distribution of law provide extremely useful working models of reference for those interested in improving the distribution of law in developing countries.

In this article, Section Two analyzes the stakes involved, Section Three assesses the new technological environment to enable open access, and Section Four is an overview of the open access to law movement. Then, Section Five and Section Six recommends the orientation of disseminating open access to law in developing countries, stressing issues respectively at the local and the global level.

A sense of urgency underlies the need to take action in the open access to law. Many states are at a crossroads with regards to distributing their law. Indeed, many international organisations have been investing highly in the improvement of governing practices, while other projects have been aimed at reforming and modernizing legal systems in developing countries. Unfortunately, the open distribution of law does not always find the place it deserves in these projects. Delays to the promotion of the public nature of official legal texts and ensuring free public access to law could entail considerable political and economic costs. In many under–developed countries, development setbacks could also result, should the only means of access to law be via a commercial market.

2. Stakes involved in the distribution of legal information

The stakes involved in the dissemination of legal information are high. The very foundation of democracy comes into play, since accessibility to law upholds a rule of law government and the democratic nature of our societies. In this first section, the different relationships between open access and legal systems will be addressed.

The rule of law and democracy

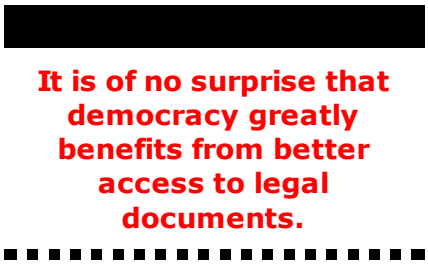
The free dissemination of legal information contributes to the rule of law and the overall ideals of democracy in many ways. Four primary benefits come to mind, dealing with:

1. the possibility of knowledge of the applicable rule of law;
2. the State's compliance to its law;
3. the creation of conditions necessary to the equality and fairness of a legal system; and,
4. the improvement of the functioning of democratic institutions.

Ignorance of the law excuses no one, therefore citizens have the right to know of the laws governing their conduct. The State has an obligation to put forth legal knowledge by enabling access to the law using all available and reasonable mediums. To achieve minimal access, commercial publishing is insufficient. In fact, as demonstated by the experiences of many economically advanced countries, although commercial publishing can serve the needs of legal professionals, such services only indirectly benefit the general public. New forms of dissemination, such as Internet distribution, however, have made it possible to reach large segments of the population, even if information must be conveyed by intermediaries before reaching its final recipient: the citizen.

According to the rule of law, the State itself must abide by the laws put forth and actively subject

itself to principles of legality. Enacted legislation should conform to higher level standards, and, in particular, to the national constitution. In this context, open access to legal texts provides leverage to those questionning the actions of the State or defending their rights against the State.



Free public access to law contributes to equality before the law. Everyone has the means to gain knowledge of the law, which in turn makes legal systems more fair. In some environments where legislation is difficult to access and where case law is even harder to find, discrepancies between available resources from one party to another are exacerbated. As a result, a citizen with little means, subject to a legal proceeding, could neither alone, nor with a lawyer, bring up appropriate legal arguments relevant to a case. A wealthier party, however, could have access to better information sources, whether such sources are commercial or personal. Obviously, such situations undermine an ideal of equality.

With the rule of law being one of the principal characteristics of democratic societies, it is of no surprise that democracy greatly benefits from better access to legal documents. When open access is put into place, statutes, the main end results of the democratic process, are accessible. Consequently, citizens can learn about and understand laws adopted by their representatives, thereby allowing for a better appreciation of the final results of legislative work. Moreover, this knowledge could contribute to increasing the political involvement of citizens, since better informed citizens can participate more actively in democratic life. In many developing countries, wealthy upper classes and lobby groups have much better access to legislative texts, which means many citizens do not have equal opportunity to partake in the democratic process. Open access to legislation, however, could level everyone's access and contribute to upholding a more non–discriminatory democratic life. Ultimately, sustaining the rule of law and democracy also benefit from the reinforcement of judicial institutions.

Strengthening national judicial systems

Openness and transparency form the essential elements of a proper functioning of the judicial system. For Bentham, "publicity is the very soul of justice":

> "In the darkness of secrecy, sinister interest and evil in every shape have full swing. Only with publicity in place, can any of the checks applicable to judicial injustice operate. Where there is no publicity, there is no justice. Publicity is the very soul of justice. It is the keenest spur to exertion and the surest of all guards against improbity. It keeps the judge himself while trying under trial." [1]

The possibility for citizens to know who judged what case, what facts were taken into consideration, and what conclusion was reached obliges all participants to ensure not only that justice has been applied, but also that its application has taken place in an obvious and convincing manner. Transparency favors impartiality. In turn, impartiality contributes to gaining litigants' confidence in their judicial institutions, but this is not the only advantage to making judgements accessible.

Alongside issues of equity and justice, open access to case law contributes to the efficacy of legal processes. The possibility of knowing how similar cases have been resolved could open the way for litigants to more actively seek a compromise, whereas uncertainty associated to poor access tends to increase litigation brought before courts and tribunals. It is therefore possible to assert that legal insecurity resulting from the lack of case law accessibility favours extraneous court actions. Such uncertainty also increases the difficulty of rendering judgements in a timely manner, since judges themselves might find it difficult to locate relevant case law that could assist in their own decision–making process.

An ultimate benefit to efficacy results from the active use of the product of judicial activity by litigants and their representatives. In default of case law access, a lawyer must prepare a case without the benefit of relying on prior work done by other judges and lawyers. Consequently, legal research and analysis must constantly be started anew. An improved dissemination of law can increase efficiency, reduce costs and expand access to law, while also enriching the quality of justice obtained.

Ensuring a wider dissememination of national laws

The free dissemination of national laws on the Internet not only makes local usage possible, but also allows for the regional and international availability of the national laws in question. For many countries, such an endeavour means that for the first time, their contribution to global legal knowledge can be distributed and accessed abroad. In turn, wider availability contributes to creating new points of reference wherein legal solutions would not be limited to what American, Canadian, or French legal systems have to offer. As a result, various legislators, specialists, and researchers could locate and understand different types of legal solutions. This would be especially advantageous on a regional level where similar conditions and common cultural context sometimes welcome searching for applicable legal solutions from neighbouring jurisdictions. The distribution of law from developing countries could thus improve the possibility of beneficial regional legal exchanges.

Furthermore, without access to one's own national law on the Internet, students searching on the Internet might only be able to locate or refer to more accessible foreign laws, which could result in undermining the foundations of one's own national legal system, as well as overlooking its distinctiveness.

Diverse traditions and different languages

To date, English–speaking countries have been more proactive with regards to the dissemination of their law. In comparison, French speakers, Spanish speakers, and jurists from other linguistic groups have remained rather passive in this regard. Radically amending this situation is of the utmost importance to offer the non–English speaking world better access to law.

The prevalence of the law of English–speaking countries on the Web also means that Anglo–Saxon common law tradition has been made much more accessible. Should this dominance prevail, the manner in which statutes are drafted, the construction of legal arguments, and the overall spirit of the common law will become the only model available for purposes of consultation for those who want to compare and improve their own legal systems.

Hence, to avoid a unilingual, single–tradition legal context, a better dissemination of the law from countries with civil law traditions should be promoted. Better access to law from French–speaking countries could create a shared network where these similar legal systems can mutually influence each other. The same ideals can be applied to other linguistic spheres and legal traditions, which to date have rarely been distributed or consulted.

Furthermore, if open access national sites are complemented by a regional or, in broader terms, by a civil law portal, more benefits can be gained. Gathering and archiving legal texts from similar legal traditions, similar national legal systems, or from a shared language obviously enhances open access. Such resources could constitute an indispensible site for jurists working in various languages by increasing the possibilities to study the muliplicity of existing legal systems.

Economic development and legal security

The impact of the open access to law is not limited to legal and political benefits gained by the citizens of the nation, since modes of access to law can either deter or stimulate economic development. At present, it is very difficult to access legislation and case law in many developing countries. Companies seeking future investment possibilities could view such inaccessibility as a significant source of legal insecurity. The difficulty or impossibility of identifying applicable laws in some countries hinders foreign investments, which in turn affects to the overall proper functioning of international commerce.

Specific projects aimed at the open access of business law further encourage economic development. Various initiatives of this sort have already demonstrated the Internet's potential for greatly stimulating the advancement of developing countries. Such projects include Juris International (www.jurisint.org), the Trade Law Centre for South Africa (TRALAC) (www.Tralac.org), and OHADA.com (www.ohada.com). L'Organisation pour l'harmonisation en Afrique du droit des affaires (OHADA) project is especially relevant, as it relates to the standardization of business laws for all of West Africa.

Technological issues facing developing countries

Putting legal information online allows anyone to access the law, especially in economically advanced countries with higher levels of education. What remains to be seen, however, is whether this assertion holds true in countries with poor telecommunication infrastructures where many citizens face extreme hardship satisfying their basic needs.

The achievement of the ideals of democracy and justice primarily require access to education. Radical economic disparities and extreme poverty do not favor a peaceful functioning of the rule of law, democracy, and legal institutions. Regardless, and despite such conditions, taking the necessary measures to make law available on the Internet seems appropriate.

Open access via Internet dissemination remains the course of action to take for numerous reasons. First, electronic distribution is the least expensive means of publishing, especially when current technological advances are taken into account. Today, even in countries where the capital is only sporadically powered by electricity and where Internet use is very expensive, electronic publishing must be considered for various economic reasons. Using a low–end computer suffices to make Web site development possible. It is even possible to envision developing a self–standing Web site on an isolated computer in a court, at the Department of Justice, or in an office of the local bar association. Though such a site would only be locally accessible and available when the electricity is on, the documents it offers could still be printed out. If deemed pertinent, the content of such a site could not only be disseminated through a neighbouring country's site, but could also be burned on CD–ROMs which can contain over 100,000 pages of information at a reproduction cost of only US$1 per CD.

Over time, when local conditions and technological infrastructures improve, making the deployment of small local area networks at Departments of Justice or Supreme Courts possible, personnel in these organizations can then access the local Web site from any computer in the local area network. Later, when Internet use becomes more widespread, the work of making this content available on the network could be undertaken by the institution responsible for preparing the material or by other interested stakeholders. Step by step, the information can then be made available to a larger number of users at considerably lower costs than those incurred by the preparation of traditional printed materials.

The biggest challenges to the implementation and eventual sucess of this strategy have to do with the development of local skills and knowledge necessary to electronic publishing of law and, obviously, to maintaining the proper functioning of the computer systems. Fortunately, these skills are being acquired globally even in countries facing extreme economic difficulties.

Effective access to electronically published legal documents by citizens should also be taken into consideration. Implementing actual access to written law means that a high literacy rate and high levels of education must exist. Consequently, in a number of countries, if not in all countries, the route taken by the legal information passed on to a less educated clientele requires an intermediary presence. Such intermediaries could be legal professionals or activists from non–governmental organizations who can more easily make use of available electronic resources to locate documents that were formerly difficult to access and to interpret these documents for the concerned parties.

Finally, with regards to the Internet, developing public access to law of developing countries also matters since the information highway should run in both directions. Legal norms culturally related to societal life should be reflected equally on the Internet in order to maintain a balance between the flow of information and traditions.

Developing national legal information industries

Free and public access to law is compatible with the development of a national legal publishing industry. At the very least, the electronic dissemination of official legal texts offers an immediate solution to one of the major problems faced by any actual or potential publishers by allowing for access to primary source materials, that is, the raw or original versions of legal documents put out by the State and its various bodies. The availability of files containing laws and case law also allows for the preparation of legal commentaries, law reports, and other annotated texts needed by the legal community.

The potential development of national legal publishers must be analysed when taking into account the needs of a well–functioning legal system. Although the primary sources of law are important, value added commercial products are equally so. In this context, the more reasonable course of action would be to promote both open access resources and commercial valuel–added resources simultaneously.

Public access to law hardly undermines the importance of private legal publishing, since a free resource not only acts as a supplier, but also facilitates commercial legal publishing. Moreover, the implementation of a strategy based on training local and regional legal publishing experts further encourages parties interested in the industry. The development of commercial law publishers thus becomes an additional benefit to an open access based strategy.

3. New information and communication technologies

The trends toward reforming judicial and legal systems favoring good governance and development began towards the end of the 1980s with projects being undertaken by international development

organisations. Such projects produced many different and important outcomes, and, as such, the analysis of *all* the data obtained from these undertakings is far beyond the scope of this article. Much effort was invested in projects as ambitious and diverse as assisting with the establishment of new legal frameworks, including: the preparation of new constitutions; the creation of new legal institutions and law faculties, courts, tribunals; the modernization of legislative bodies, the amendment or reformulation of certain laws; and, the development of judiciary infrastructures, including the construction of entirely new buildings.

Considerable sums of money were spent with regards to the dissemination of law being considered here. Often these projects did not sufficiently take the impact of new information technologies into account. This is mosty due to the fact that over the course of the past fifteen years, technological conditions allowing for the dissemination of legal information have indeed been radically transformed.

With the growth of the Internet and associated Web technologies, the cost of disseminating legal information was enormously reduced. Lower material costs, as well as the emergence and development of open source software, diminished the necessary investment of resources for dissemination and reproduction, as well as costs related to the preparation and management of legal documents. Now, maximizing the use of legal information also relies on the recent advent of open standards, such as HTML and XML documents. Using open standards could prevent participants from being locked into expensive commercial solutions.

Data processing procedures have also evolved. In fact, towards the mid–1990s, a complex thesaurus–based approach was gradually replaced by automatic indexing methods that allowed for the easier and cheaper creation of information systems. This movement equally allowed for a simplified strategy for the management and dissemination of law. Furthermore, since the majority of official legal documents were being put together with word processing programs, the preparation of legal information systems was greatly facilitated. As a result of these new conditions, a new potential for the dissemination of law emerged, thereby making public access an extremely worthwhile endeavour in any development oriented program.

The Internet and new information and communication technologies

Obviously, there is no need to expand upon the nature of the Internet and its various applications. The subject at hand is to view how the advent of the Internet and the ensuing technological revolution brought about a re–examination of the choices to be made regarding the preparation and dissemination of legal information.

Critera to be evaluated when deciding between hard copies and electronic versions of information has considerably changed over the course of the past ten years. Prior to 1992, organizations putting legal information online had to anticipate expenses in the million dollar investment range before being able to concretely publish even one legal document. Moreover, particularly in developing countries, the use of personal computers had yet to be adapted to a legal domain. The use of an electronic means of distribution meant acquiring then costly computers and other equipment to scan paper versions of legal documents to prepare them for electronic publishing. Such procedures entailed high start–up costs and, upon making these investments, distribution issues were far from being resolved since a network had to be developed for distribution of the material to all the primary cities of the targeted market. Given this situation, the high costs of subscribing to legal database services in the 1980s and 1990s are understandable.

Since then though, the legal publishing environment has radically changed. Today, Internet publication costs entail expenditures of only a few thousand dollars. Micro–computer processing of official legal documents has now become systematic in all economically developed countries, and is growing, if it has not yet been implemented around the world. The wide reach of the Internet means that the development of specialized networks for data transmission is no longer necessary. In addition, networks are no longer limited to a handful of economically developed countries, but have continually expanded to reach most mid–sized cities around the world. Internet cafes, which appeared in the beginning stages of the Internet, do provide particularly suitable Internet access points on many continents. Now, Internet cafes provide particularly suitable Internet access points on many continents. As a result of these advances, the technical infrastucture that completely transformed the possibilities of disseminating law emerged in less than fifteen years.

Open source software

Open source software involves computer programs distributed at no charge under licenses designed to protect the public domain character of the software. Open source software is distributed with the source code for users to access, modify, and redistribute this software. Licenses given for this software allow for redistribution, with the condition that the same free distribution licenses accompany the newly modified software upon re–release. Furthermore, today, open source software is really becoming mainstream with thousands of high–quality programs distributed free of charge, not only in their compiled and immediately usable format, but also in code form.

As such, all the software required for establishing public access to law is now available at no charge. Therefore, the collection, management, and dissemination of law are possible using only free of charge and readily accessible software. Hopefully, in return, the open access to law movement will be able to further develop such software and offer their own contribution to the wider open source community.

Open source software, despite its non–commercial distribution, is definitely not of second–rate quality. Attesting to the reliability and quality of these software programs is the official Justice Canada Web site that offers access to federal laws and regulations in Canada [2]. The CanLII [3] Web site provides another example of the use of open source software in the dissemination of law.

Open vs. proprietary standards

In an ideal world, setting up a information system would not mean being locked forever into specific or, worse yet, proprietary technologies. With no such lock–ins, it would be possible to only have to renew hardware, without taking software into account. Replacing software without having to reformat data or change hardware would also be possible. Such promising prospects begin to become reality when developers adopt open standards.

The Internet itself exemplifies the benefits of using open source software. The main network protocols are open for anyone to use and produce compatible software. Within this context, there are many programs available for any function, some open and free while others are commercial. For instance, in a Web site project, a commercial Web server may be used at the beginning and can then be changed later using an open source alternative, like Apache.

On the other hand, some technological choices can render an organization extremely dependent on its suppliers, who will inevitably at some point attempt to exploit their client's technological lock–in. Some companies initially either sell software at a loss or even give it away to develop their user base. In this fairly common business model, initial losses are easily recouped in the future because the customer cannot easily adopt other solutions. As a result, users have to pay premium prices for new versions of software along with high annual licensing costs for proprietary technology.

In many cases, using both open and commercial software side by side is needed to meet practical needs associated with publishing law. In the end, the most important factor when choosing technological tools is to ensure that these tools make use of data formats exploitable with alternative tools and that are based as much as possible on open standards. In conclusion, the best course of action is to favour using open standards over proprietary ones.

Cataloguing and indexing methods

The traditional means of managing and cataloguing collections of legal documents depends heavily on human intervention for the construction and use of thorough content indexation. These approaches remain highly respected and appreciated by legal professionals. This form of indexing, however, requires a large, well–trained, and knowledgeable staff. For commercial publishers, the costs related to enlisting the staff necessary to this process, and the resulting added value, command and allow for a high market price. This type of approach is also unavoidable for printed legal material. In fact, without manual indexing and the insertion of case summaries, hardcopy users would have to actually read decisions before being able to assess their relevance for the matter at hand, thereby making efficient legal research almost impossible.

The advent of the computer and the first full–text search systems of the 1960s and their growing use over the course of the 1970s and the 1980s changed the field of legal research considerably. Manual indexing systems did not disappear, but new research tools were designed and implemented in order to make full use of large collections of documents without having to fall back on expensive classification systems. In the mid–90s, the use of these search tools became ubiquitous, enabling automated searches everywhere.

This paradigm shift involved a great adjustment period before being accepted by proponents of manual indexing systems. Many of these proponents were, and still remain, reluctant as to any reliance on new automated searching mechanisms, even when former indexing methods became difficult to implement and maintain for cost reasons. Manual indexing, despite its high cost and time–consuming nature, continues to be, for some, the only means of designing a useful legal information system.

In the meantime, an incredibly vast informational space began appearing on the Web, which today consists of billions of documents. The possibilty of making such a colossal mass of uncatalogued documents useful, a feat once deemed impossible, was slowly beginning to take shape. In fact, today's Internet users understand this universe of documents as not only being practical, but also extremely convenient, despite the fact that these documents have not been classified using manual indexing techniques.

Hence, the most feasible approach to disseminate law for free would be firmly technology–based. It

might be assumed that a new project taking advantage of new information technologies while also endeavouring to use traditional document classification would most likely fail.

Promoting an approach using search tools for implementing public access to law does not mean that keywords or other traditional systems would be irrelevant. The World Wide Web Consortium Semantic Web project is the most recent initiative to draw on traditional and keyword–based methods (World Wide Web Consortium, 2004). Whether or not this initiative will be better received than other projects remains to be seen. To date, content publishers on the Internet have been reluctant to systematically catalog their pages largely for cost reasons.

As a final note on cataloging, the manner in which legal documents are prepared offers many of possibilities for the automatic identification of certain useful classification data. For instance, when judgments are prepared in a standardized format, the most important elements of identification — such as the date, the file number, the judge's name and, occasionally, the names of the parties involved — can be automatically located and extracted to form the basic framework for a modest cataloging system at low cost to Web publishers. Open access to law proponents and international development agencies interested in modernizing legal systems should promote these types of standardized approaches in the preparation of legal documents.

4. Open access to law movement

In the field of law, the Hermes Project at Case Western Reserve University, in collaboration with the U.S. Supreme Court, was the first pioneering project to make use of the Internet. Starting in May 1990, this project allowed for some *avant–garde* network users interested in law to access decisions rendered in the highest American court.

Using Hermes was rather difficult. Due to the lack of search engines, users had to know the site's address prior to use and had also to understand anonymous FTP. Once connected, the directory structure and the file number of the judgement they wanted to consult (*i.e.,* 90–1168) also had to be known.

Upon locating the judgement needed, users then had to download each of the files containing separate elements of the judgement, such as the file containing the header, the files containing the reasons of the decision and so on. After having downloaded all the files involved with a single decision, the files had to then be put together for consultation purposes. In retrospect, the Hermes Project was more of an interesting initial attempt at using the Internet for the redistribution of legal information rather than being a successful system to reach the general public.

To be fair, there was little content designated for the general public on the Internet in 1990. Moreover, courts did not consider decision files they were preparing as documents for public consultation. Therefore, in many appellate courts, the reasons for judgements given by different judges in a case were offered to publishers as separate files. The preparation of final copy to appear in reports was a task left to private publishers. With the arrival of new Internet protocols and other electronic media for mass publication, new publishing models for law appeared.

For those interested in the dissemination of law in developing countries, the most relevant model to have been created is now associated with the accronym "LII," or the Legal Information Institute, a project that began at Cornell University. This innovative use of the Internet soon inspired similar projects in Canada and Australia as well. In 2002, eight such *LIIs* or Institutes signed the Montreal Declaration, formalizing the goals of this movement (Montreal, 2003). These eight Institutes are actually only the visible part of a much larger movement wherein government departments, court organisations, Bar associations and other interested parties have taken charge of a vision to provide access to legal information for free.

The Cornell Legal Information Institute

Professors Tom Bruce and Peter Martin at Cornell University were among the first academics to fully understand the potential of the Internet to disseminate law to the public. In 1992, Professors Bruce and Martin put Gopher and Web servers online to achieve open access to law, thereby creating the original Legal Information Institute (Bruce, 1995; Martin, 1995). When they first appeared online, LII servers relayed information made available by the U.S. Supreme Court on the Case Western Reserve University (CWRU) FTP site. However, from a user's point of view, a great discrepancy between the CWRU FTP service and the more efficient Cornell LII site appeared. Though the Supreme Court decisions displayed on the Cornell site were taken directly from the CWRU site, Cornell's LII software assembled the various components of decision files and made them searchable on the Web. Furthermore, full text searches were also available on the Cornell site.

Due to the enormous structure of the American legal system, which consists of over fifty legislatures and thousands of courts and tribunals, the LII designers did not attempt to put together complete collections from all sources of American law. Instead, Professors Bruce and Martin chose to offer well–constructed and thorough collections with limited coverage. In order to achieve comprehensive collections, Professors Bruce and Martin decided to favor collaboration based on open standards with other legal publishers interested in offering free access to law.

The main LII statutory law collections include the U.S. Code, the Code of Federal Regulations, and a variety of compilations consisting of other federal legal documents. In terms of case law, Cornell's LII offers U.S. Supreme Court decisions and New York Appellate Court decisions. Though these collections are limited, they are of extreme high quality. All material published electronically by Cornell undergoes "careful automatic handling." As a result, the electronic versions of the U.S. Code and the collection of U.S. Supreme Court decisions have become model illustrations of electronic legal text dissemination. These collections have been designed to be conveniently used; the reuse of these collections by those involved in other legal publishing projects on the Internet is facilitated by, among other things, highly standardized file–naming conventions.

The LII also offers a "Law About" resource as a very basic encyclopedic presentation of American law. With the "Law About" resource, users can locate summaries relating to dozens of subjects of interest from *Administrative Law* to *Workplace Safety.* For each of these subjects, a brief outline of the chosen subject is offered with links towards relevant Web resources, whether these resources are federal or from various states. Maintaining this sort of resource obviously involves much time and work for the preparation and the periodic revision of short summaries, the compilation of Web based information relevant to each category, the identification of all the relevant pieces of legislation from the federal government or states, and the maintenance of indexing software for Supreme Court decisions and decisions from the circuit courts.

Professors Bruce and Martin also developed the rationale behind the open distribution of primary legal material. In three papers published in 2000, the original designers of the first LII outlined various issues involved in the development of public legal information institutes. Martin turned his attention to the responsability of public bodies producing legal documents. He described the resistance impeding the better use of new information technologies available that could make law accessible to the general public. As hindering factors, Martin identified habits taken during the time of paper–based publication, when publishing delays left room for small corrections. There was also the occasional desire to continue to acquire revenue from the private sector, which secured original data from courts and government agencies (Martin, 2000). Professor Bruce examinined the economic underpinings of public dissemination of law, issues surrounding the emergence of creators as providers, and the importance of technical standards in order to achieve a coherent public space based on decentralization (Bruce, 2000a; Bruce, 2000b)

Cornell's LII still remains one of the best examples of a well–managed Web site that provides open access to law. Although many of the LII collections have become freely available elsewhere, the Cornell site remains a legal Internet landmark. Cornell's LII, however, is no longer the only LII in existence. Other free public access to law sites with different aims have since been created.

LexUM/CanLII: The Canadian Legal Information Institute

In 1993, following the implementation of Cornell's LII, a professor at the University of Montreal's Law Faculty decided to follow suit and to start publishing the law for free. The University of Montreal's project benefited greatly from being in collaboration with the Supreme Court of Canada from the very beginning, thereby paving the way to the Supreme Court of Canada's judgements being made available on the Internet. A Gopher site was initially put into place in 1993, and then replaced in 1994 by a Web site. Despite this early start, two major obstacles had to be overcome to realize the vision of open access to Canadian law.

The first obstacle related to Canadian policies regarding Crown Copyright. By the mid–90s, most Canadian jurisdictions were claiming intellectual property rights on their statutes and judgements, with many in the habit of making money from selling licenses to publish documents to commercial legal publishers. Hence, obtaining legal documents that could be freely disseminated was not easy. It put an end to a nice cottage industry that helped some government bodies with making ends meet. These policies deterring open access to the law gradually disappeared due to pressure from Canadian law societies and promoters of open access to law. The turning point for open access was the Canadian Federal Government's adoption of Reproduction of Federal Law Order in 1996, which authorized the reproduction and dissemination of legal documents without having to obtain any prior permission. Other Canadian provincial and territorial jurisdictions eventually followed suit.

The second obstacle, which is not limited to just a Canadian context, is the difficulty of securing long–term financing to support the operation of an open access to law project. For years, LexUM had to limit its activities as a free distributor by only offering a few collections, while undertaking many other free publication projects from various legal institutions to finance its own operations. Despite these efforts during the 1990s, open access to law in Canada was only slowly progressing.

In 1999, LexUM and the umbrella organization of fourteen Canadian bar associations, the Federation of Law Societies in Canada (the Federation), both highly interested in open access to law, eventually joined forces to achieve their common goal. LexUM had the expertise and the necessary infrastructure, while the Federation had the capacity to help with the funding. In the summer of 2000, the Federation and LexUM finally agreed to establish a "Legal Information Institute" with the common goal of creating a legal resource that would be free of charge and available to all, including the general public. The Federation would own the Canadian Legal Information Institute (CanLII/IIJCan), which would be put together, implemented, and maintained by LexUM (Poulin, 2004).

In 2004, the CanLII Web site offers over seventy legislative and case law collections. Recent decisions from all Superior and Provincial Courts are equally available on the site, free of charge. Eleven complete collections of legislative and regulatory texts are also online. Over the course of its four–year existence, CanLII has put over 200,000 decisions and over 60,000 legislative texts online. These collections equal 11 gigabytes of information.

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Public access to law does not only consist of dissemination; document preparation is also very important. To that end, LexUM has been actively involved with the Canadian legal community in developing documentary standards for Canadian legal texts. LexUM team members have significantly contributed to the elaboration of two standards related to case law citation and the preparation of judgements. Both standards have since been adoped by the Canadian Judicial Council (Canadian Citation Committee, 1999; Canadian Citation Committee, 2002).

LexUM team members have also participated in public access projects abroad, such as Juris International, which offers collections of international commerce law online, and the *Portail du droit Francophone,* an Internet portal of legal resources for 50 states [4]. Such global involvement is a trademark of the more established institutes, since the Cornell professors went to Zambia to help found a local LII, while an Australian team has been even more active in their outreach efforts.

Australasian Legal Information Institute (AustLII)

The Australasian Legal Information Institute (AustLII) was the first LII to realize the full potential of the ideas put forth by the Cornell team. AustLII became the first Legal Information Institute to offer comprehensive national legal collections open accessible to all. The size and the comprehensiveness of these collections make AustLII one of the most important public and free law centres.

AustLII was founded in 1995 by Professors Graham Greenleaf and Andrew Mowbray, respectively from the Law Faculties of New South Wales University and the University of Technology in Sydney (Greenleaf *et al.,* 1995). Professors Greenleaf and Mowbray's project was launched following a successful approach with the High Court of Australia.

The prototype presented to the Chief Justice generated so much interest at the Court that he quickly decided to authorise the use of decision files, meaning that the Court allowed AustLII to publish its decisions for free on the Internet. Subsequently, with unremitting effort, Greenleaf and Mowbray convinced all Australian courts and main tribunals to contribute their documents for the AustLII project. They also managed to convince the authorities of all Australian states to publish their legislative collections on AustLII.

While restlessly lobbying for open access, Andrew Mowbray also found the time to design and implement the SINO (**S**ize **I**s **N**o **O**bject) search engine. SINO is characterized by its quick indexing, good searching performance, and is available at no charge to those providing open access to legal information. Together, these qualities make SINO particularly well-adapted for LIIs and their large legal collections. Today, the SINO search engine is used on many open access sites: AustLII, WorldLII, BaiLII, PacLII, HKLII, and, until recently, on CanLII. This sort of resource sharing illustrates the spirit of collaboration within the open access movement.

In 1997, the main technical tools producing the features which were to become the trademark of

AustLII were already available: a solid search engine, various programs creating the massive hypertext linking, and spidering tools used to index distant Web sites (Greenleaf, *et al.,* 1997). In mid–1999, Professors Mowbray and Greenleaf announced with great pride that AustLII had succeeded in obtaining access to all of the main sources of Australian law and that henceforth AustLII was going to offer open access to all Australian law.

The Australian team, however, did not slow down its activities once it achieved local success. Sinced 1997, Mowbray, Greenleaf, and Philip Chung, the executive director of AustLII, have undertaken a mission of promoting the model of LII to different continents. As such, they assisted with the initial implementation of BaiLII, an open access to law Web site for Great Britain and Ireland. With Robynne Blake, they created PacLII for countries and territories in the South Pacific. HKLII for China and Hong Kong was also launched with the collaboration of colleagues from the University of Hong Kong (Greenleaf *et al.,* 1999).

Mowbray, Greenleaf, and Chung's long–term objective is to consolidate all legal open access resources on yet another site called WorldLII [5] (Greenleaf *et al.,* 2002). As the most ambitious and far–reaching of all their undertakings, WorldLII is already in the process of becoming a success. This Web site offers access to all the documents available on the various LIIs and to many other catalogued and indexed documents. This initiative underwent an important development in Montreal on 3 October 2002 when it was endorsed by all the existing LII teams: the British and Irish Legal Information Institute (BaiLII), LexUM/Canadian Legal Information Institute (CanLII), the Hong Kong Legal Information Institute (HKLII), the Legal Information Institute (Cornell), the Pacific Islands Legal Information Institute (PacLII), the Wits Law School, and the Portail du droit Francophone.

Other open access projects

This presentation of open access initiatives cannot just be limited to LII projects. The publication initiatives taken up by various governments and state institutions, such as courts and tribunals, to offer to their citizens public and free access to the law should also be considered. Among these projects, Legifrance [6], implemented by the Secrétariat Général du Gouvernement in France, provides an excellent example how a state can make its own laws more accessible. A closer examination of all these efforts would be necessary to paint a complete picture of the current state of public access to the law.

5. Local strategies for open access

In this section, attention will be brought to the essential facets of an open access initiative for the developing world. A better understanding of what open access to law means is in order to offer a clear description of the goal to all parties. Then, on this basis, various methodological and technical considerations are examined to help local promoters to make appropriate choices.

Goal definition

Open access to law must be specifically defined. Up to now, the concept has been broadly described as basically involving the publication of official legal documents free of charge. This definition requires some precision.

First, open access publication usually takes place on the Internet. While the idea of free circulation of law does not oppose paper publication, only new Web–based technologies make free access truly possible (at least to those with a computer and an Internet connection). Free publication of law therefore often, for pragmatic reasons, translates into a freely accessible Web site.

Next, though our definition covers all government Web sites, even those offering legal documents, free of charge on the condition they not be copied or republished, the specific meaning of "open" here refers to a more open–ended form of publication. In order to be truly open, publication must not be restricted by any conditions with regards to the subsequent use or republication of documents, except those conditions that ensure the accuracy of information available for open access Web site users.

Third, because free publication involves the possibility of republication, many stakeholders are often involved. Generally, an open access to law space results from various initiatives put forth by university research groups, commercial and non–profit organizations, courts, and government agencies. Far from being counterproductive, the multiplicity of participants makes it possible for one participant to improve materials provided by others.

Finally, the actual content to be published has to be clearly specified. Greenleaf suggests that a

definition of the set of documents should be made available (Greenleaf *et al.,* 2002). Among these documents, primary sources of law (*i.e.,* legislative texts, case law, and treaties) should be published first. These primary sources of law are produced by the government, form the foundation of the entire legal system, and therefore constitute the starting point of the publication effort.

Next, other documents of a more interpretative nature prepared by or for the government, such as preparatory work, documents concerning law reforms, and inquiry commission findings, should also be available for free. In short, free publication targets all documents produced by the government and that the government has a duty to make public. Then, any secondary material of good quality, law journals, commentaries and jurisprudence work for which publication rights may be secured could constitute highly relevant additions to open access to law collections.

Basically, any open access to law strategy must attempt to guarantee free access without republication limits. Publication must include all government–produced legal documents and take place under the best conditions possible, generally using new information technologies.

Decentralization and sustainability

The suggested strategy is not based on the creation of a mega–legal publication centre in Paris, Washington, or Montreal. On the contrary, local and regional initiatives are favoured. The work done by the Internet Society (ISOC, www.isoc.org) and l'Institut des technologies des télécommunication et de la formation of the Agence intergouvernementale de la Francophonie (INTIF, agence.francophonie.org) in French speaking countries of Africa to support the development of local Internet infrastructure and open source software users offer a good example of a decentralized approach that supports the development of local expertise. The large collaborative effort behind the creation and operation of the Africa Network Operators' Group (AfNOG, www.afnog.org) is also an inspiration.

In Burkina Fasso and in Tunisia, much like in Canada, nothing useful can be developed without the will and actions of local stakeholders interested in improving approaches to their own access to their law.

In Burkina Faso and in Tunisia, much like in Canada, nothing useful can be developed without the will and actions of local stakeholders interested in improving approaches to their own access to their law. Consequently, open access to law efforts must also rely on the initiative and the talent of local legal communities.

Favouring local action means that the major stakeholders in a given country or region must possess or acquire the expertise necessary to achieve open access. In addition, locals, whether based in universities, associations, or governments, are best able to identify what should be published and which sources are able to supply necessary documents. This also means that the technical expertise must be local, if not from get–go, then, at least as soon as possible. Finally, the Web site will be locally based. For instance, a local university or Internet service provider could host these law publishing projects. Indeed, to date, universities have provided the foundations for most open access projects.

In many cases, cooperation with colleagues who have already implemented free and publicly accessible Web sites could play roles in starting a given project. Individuals involved in the LII movement could also provide some expertise acquired through their own experiences. Furthermore, decentralization does not inhibit the establishment of a loosely based overriding central structure designed to provide support to those involved in local publication of law.

Methodology

The goal, namely the public access to law, determines the methods to be used. The point is not to make everyone a *legal publisher* in the traditional sense, but to convey the basics of what modern publication involves. Since the approach must be pragmatic, innumerable classification fields and thesauri need not come into play. Much like the manner in which an immense quantity of information has become readily available on the Internet without resorting to complex procedures and methods, an open access for law strategy must be both simple and effective.

The experience gained over the course of the open access to law movement is very relevant because it demonstrates the manner in which small teams can publish thousands of documents from dozens of institutional sources. At this point, two basic scenarios will be outlined.

In the simplest scenario, with the prime objective of beginning the process of putting legal texts online, collection sizes will necessarily be limited. With a restricted scope, publishers need not implement a search engine or even to try to automate publication. To achieve a basic objective — to demonstrate the value of public access to law — very few tools are required. In fact, the whole publishing process can be kept very simple. The legal documents received would only have to be converted to HTML with the most convenient tool and then published on an already established Web server.

In this scenario, publishers only need require a basic word processor, possibly an HTML editor, and FTP software (assuming maintenance of the Web site is performed by an Internet service provider or a hosting institution). In such projects, basic Web technologies must not be conflated with more specialized and necessary technological tools only essential for more comprehensive open access ventures. Basic technologies enable the management and establishment of a minimal, yet useful, law Web site. Despite the simplicity of the tools, well defined methods and approaches exist and must be followed to ensure the publication of high–quality resources. The legal context does not lend itself to approximate results. For instance, even at an early stage, open access promoters should foster exactitude and coherency, meaning that they will prepare their index pages with great care. The content, titles and citations of documents should be doubleh–checked for accuracy.

While projects of this kind should not be discounted, open access to law methods are often much more technically sophisticated. Thus, in most situations, a more ambitious publication project should be envisioned from the start.

More ambitious scenarios involve, for instance, the creation of a legal information portal for a given country or region. Such an approach, which is recommended, requires additional software and expertise. This scenario would require the installation of software specific to the project on the host server and eventually, whenever possible, to set up a server dedicated to the project.

At that point, an infrastructure has to be established, preferably using open source software, like Linux and Apache for reasons already mentioned. A full–text search engine is also required to provide users with text retrieval facilities. In this respect, SINO (from AustLII) or Lucene may be considered. A programming or a scripting environment using Java, Python, Perl, or PHP is also necessary. Depending on the circumstances, a relational database management system (RDBMS) such as PosgreSQL or MySOL could be added. Using database management software is practically compulsory if the collection is multilingual or includes many thousands of documents.

At the level of thousands documents that have to be published each month, if not automated, processes need to be at least largely supported by software tools. For instance, AustLII used to request RTF formatted documents via e–mail where specialized scripts received and treated these documents. At CanLII, more diverse arrangements have been made with document providers; with the most frequent being the provision of word processor files by e–mail. Upon receipt, each document undergoes a specific, clear–cut procedure. From their reception to their publication, all CanLII documents are tracked by various in–house developed pieces of software. Furthermore, older LIIs have all implemented various software to ensure that conversion and page generation take place automatically. These methods and software are available to those interested in expanding access to legal publications.

If the publisher, a government department or an official agency such as a Queen’s Printer or a *Journal Officiel,* is responsible for publishing official versions of legal documents, it definitely requires more know–how and technology. Even though open access to law methods and strategies may benefit such an organization, its particular responsibilities call for more specific expertise and tools. To describe these technical requirements is beyond the scope of this article.

Software and tools

Obviously, in an economically developed country, financial considerations are very different from those encountered in developing countries. In Canada, for example, a secretary’s monthly salary far exceeds the cost of a personal computer. In other countries, the opposite is true. What is perceived as being affordable software in Montreal or Paris may be considered rather expensive in Bamako. For richer markets, computer software companies offer tools that are costly to acquire and even more expensive to operate in the long run since one has to renew maintenance licenses yearly to ensure that the software is updated. The inherent danger of such business models, often transposed only slightly modified in the developing world, is that they could lead to an extremely onerous technological dependence. For these reasons, open source software is especially valuable for developing open access legal information infrastructures. Open access publishers do not only save cost of software acquisition, but more importantly, they avoid risking the long–term viability of the resource.

Altogether, the Linux operating system, PosgreSQL or MySOL, Apache Web server, PHP–type tools and open source search engines like Lucene constitute the basic toolbox for implementing all aspects of a legal information institute. Most importantly, all these tools are available free of charge.

Training

Potential publishers must gain knowledge of two essential skills. First, the local team should know how to set up a Web site and second, understand how to systematically gather, process, and organize legal documents. The first set of skills relates to computers and technical knowledge, while the second consists of a good understanding of legal documentation.

Since the technological knowledge required for setting up a Web site is becoming more widespread, it will not be addressed in detail here. This is not to say that the technical dimension of establishing a LII has become mundane. However, setting up a Web site in Tunis or San Salvador somewhat resembles setting one up in Montreal or Sydney, therefore this type of know–how is easily transferable. Moreover, quality computer experts are now found everywhere around the world. What remains to be done is setting up the time needed for the training and knowledge sharing between would–be Webmasters and more experienced ones.

Two more comments are in order with regards to technical expertise. Even though the technical contribution has been somewhat minimized in the preceding paragraph, it might not be a good idea to attempt sparing the effort of mobilizing a technical person in a nascent LII project. Experience has demonstrated that this is definitely the manner in which remaining dependant on "foreign experts," or to state it otherwise, on friendly colleagues from other LIIs. The second comment has to do with the fact that in LIIs, from the initial LII at Cornell, technical excellence has always been an important goal. Part of the idea of publishing the law for free is to show what new information technologies can do for law.

With regards to the management and the editing of legal information, the goal is not to set up an overly complex classification infrastructure. There has been a tendency among open access sites to favour simple index pages listing documents using their obvious basic identifying elements. For instance, when publishing case law, the name of the case, its date, and its docket number are used to create lists, and, from these lists, navigation pages are created. Within that limited framework, the publisher’s objective becomes the achievement of a high–quality and accurate processing method within a limited editing project.

To be useful, a legal information system must be organized using a structure that reflects a given country’s legal system. Since orderly publication of law requires an appropriate knowledge of national legal systems and their workings, none other than local experts can actually design a resource faithful to their own legal systems. Training and knowledge sharing is important, but the involvement of local experts will largely determine the quality of resources produced. Subsequently, respecting the usual manner of presenting legal information in a specific country cannot be underestimated. Presenting judgments in a country with a common law tradition only using their docket number and date would be quite bizarre. Not doing so in many places more influenced by the French tradition would reveal the ignorance of their system. Similar remarks can be made for legislative texts.

While publishing case law, other issues related to privacy, completeness, integrity are also involved. For a nascent open access to law project, the establishment of proper procedures with regards to the aforementioned issues is highly significant. The training and knowledge sharing with more experienced LIIs on these questions is, for a start–up project, of paramount importance.

Acquisition of legal documents

Potential publishers must obviously first obtain the documents to be published. In many cases, local publishers should develop their own strategies to do so. Here are some suggestions on how to proceed.

On the whole, establishing a prototype, according to the simple scenario described earlier is often a good first approach. In doing so, it is vital to determine which clientele should be given priority. Understanding your audience will help to subsequently identify the most useful documents to them. These documents could immediately be put online to convince the project’s early supporters and rally the support needed for the continued development of the site. Alternatively, the most practical course of action could be to begin by publishing documents already available on electronic media. In any case, it is more sensible to limit the number of documents to what is required to quickly best demonstrate the full value of the approach.

The opposite course of action, that is, maintaining a somewhat secretive preparation for months while planning for a large launch might prove to be risky in this field. If the results take too much time to appear, those who have added among their daily tasks some more chores to the support of the project may lose faith, while those who may have business interests in continuing with traditional means of distribution might decide to speak out in an attempt to demonstrate that the whole

initiative of publishing the law for free is unrealistic and futile.

Another practical consideration is that it is reasonable to start at the top of the judicial hierarchy and working down to more local tribunals. Doing so often provides the most beneficial gains, especially since decisions from lower courts generally interest a smaller audience. Additionally, there are usually fewer decisions rendered at higher judicial levels, which allows for an easier and quicker publication. In turn, having these decisions online offers convincing examples that could later be presented to courts further down the judicial hierarchy.

A similar situation applies to legislative texts. Starting with the publication of the national constitution or statutes of great interest will probably generate more interest than the publication of local municipal rules. A prestigious publication more easily establishes the value of the idea and concretely illustrates the project's practicality.

However, if major obstacles are encountered at the top of this hierarchy, publishing the decisions from a lower court or less significant pieces of legislation can still be a point of departure.

Finally, there are cases in which legal documents are only available in a paper format. Converting them may contribute to their preservation, especially when the ensuing digital reproductions can then be archived on properly managed sites. Though LIIs have acquired some experience in digitalizing legal legacies; for obvious reasons, starting with paper–based documents is usually not the most practical starting point for an open access project.

Local legal information industry development

Open access to law projects usually create new opportunities for commercial publishers. Indeed, it is also possible to promote open access because it could provide a point of departure for local legal publishing houses.

Since open access consists of free access with liberal republication rights, LIIs must limit themselves to what they can offer for free. It comes as no surprise therefore that potential legal publishers envision interesting opportunities. They obtain access to primary material and from there; they can practice their trade, enrich the material, and then sell it to those who have the means to pay for any added value.

Through this arrangement though, entrepreneurs would have to really add value to the documents coming out of the collections published free of charge if they want to sell them. In this scenario, everyone could win. Those who use the free publications would not lose anything, and those with the financial means to acquire value–added products would have access to the information tools that meet their specific needs.

However, commercial development, no matter how desirable it may be, should never threaten the availability of a free resource. The establishment of global archives an international level can play a crucial role in this respect. The managers of these archives could reserve the right to publish free content taken from collections which used to be openly accessible, either on their own or with new national partners, if ever the free content disappeared from the Web. Ultimately, the establishment of a private legal publishing house could nicely complement a local open access to law infrastructure.

6. Global strategies for open access

Although the main course of action would occur locally, some activities need to be planned on a more global scale. Coordinated, more global activity must first be oriented toward knowledge sharing and training, but must also encourage the creation of common technical standards. The development of international portal resources is necessary in order to provide easy access to thousands of local resources. These more global resources could also play a role in archiving locally published legal documents and ensuring their preservation as freely accessible documents. Finally, despite the existence of local financial resources everywhere on the planet, initial material support probably plays a considerable role in making the creation of new LIIs in some parts of the globe possible.

Knowledge sharing and training

The actualization of open access to law in developing countries welcomes various forms of expertise exchange between well established LIIs and those who are in their early stages. Hopefully, in the not too long term, these exchanges will evolve to become more regionally based.

To that end, to allow for the knowledge sharing and the training of national resources, expertise and models must first be collected; much of this information is currently located in more economically developed countries. Conceptual tools — for the preparation, gathering, organization, classification, and especially the publication of law — must be identified. Methodological guides, guidelines, and examples need to be put together.

Gathering expertise and tools also involves a large technological component. Even though they may start small and simple, in the long run Web sites that publish law have to use sound technology, sophisticated searching tools and must be well–organized in terms of user friendliness.

As the expertise is identified and collected, it would be useful to make it accessible right away on a specialized Web site and use it as much as possible to prepare training material and courses on how to develop open access. On top of the methodological resources collected and presented, the specialized Web site could offer, training programs, software, and even a software toolbox. At this point in time, the development of such a resource requires the participation of not only the more experienced open access to law institutes, but also other specialists in government agencies that have the expertise in authoritative legal document preparation and management.

International legal portals

WorldLII, an international effort put forward by the Australasian Legal Information Institute, sets the standard for international legal portals. Online since 2001, WorldLII provides links to thousands of legal resources from every country. WorldLII also offers extended search mechanisms. Though not solely restricted to English content, WorldLII remains essentially an English resource. The provisions already made for Chinese and the hope for larger involvement of the other LIIs may contribute to make WorldLII a more welcoming home for legal content expressed in other languages.

A recent project undertaken by the multilateral organisation of Francophone countries, in collaboration with LexUM, now provides a French language counterpart to WorldLII, Portail du droit Francophone (the Portail). The Portail involves indexing and cataloguing all resources offering French language legal content. The Portail enables the discovery of all resources related to law in Francophone countries and even offers a relevance ranking of the resources available. Its search tools relentlessly index legal documents from French speaking countries. Finally, both WorldLII and the Francophonie portal offer decentralized publishing resources to authorize local stakeholders to identify and add local law resources of interest to the portal.

According to current plans, in the near future, both the Portail and WorldLII will be better connected to each other in order to provide a more complete resource for legal research. Strong links between an English law portal and a French one are also essential for additional reason. English–speaking countries often have legal systems based on common law, whereas French–speaking countries usually share continental civil law traditions. Therefore, a well–designed integration of these two legal realms would create opportunities for enhanced communication. An ideal outcome would be for similar resources to be developed in order to serve all linguistic communities.

A final benefit related to the creation of global portal for the law relates to the preservation of the open access legal space. Indeed, global portals also provide candidate platforms for creating global archives of legal content published locally and regionally. Local and regional sites could be scanned regularly in order to index and save documents for preservation. To that end, however, the relative roles of portals and local initiatives must be well understood.

Archive sites should strive to preserve access to documents from their original local sources, rather than on a centralized international server. Archived copies should only be kept to avoid losses due to the disappearance of local copies. Otherwise, systematic centralization and publication through the portal would prove counterproductive, since it would discourage local initiatives that need as much support and visibility as possible.

Common technical standards

WorldLII and the Portail have begun to realize the potential of cataloguing and indexing isolated law-related Web sites. However, it seems highly improbable and inopportune that global publication of all legal content on the Web will result from the emergence of a sole mega–Web site. Instead, it seems much more plausible that the convergence and the coherency sought will result from the development and adoption of common technical standards.

The most obvious standards needed to achieve global open access to law relate to a universal scheme for the identification of resources, a resource description protocol, and a protocol for index sharing. The open access community has now reached a level of development and sophistication calling for such standards. If these standards are prepared, nothing will hinder the harmonious development of local initiatives, while building comprehensive access to the entirety of the law-related Internet.

Finally, it is important to consider the quality of resources produced. Free publication must never

become synonymous with sloppiness. Guides and standards based on the experience already gained in open access activities can help achieve sustainable high quality legal publishing.

Material support

In most cases, infrastructures will not be the main issue facing the start–up of open access to law projects in developing countries. These projects will be able to take advantage of the Internet infrastructures established in recent years in all countries. That said, all open access projects will definitely require minimal material investments, such as implementing a new server, buying additional computers, printers and scanners. More money will be necessary for paying for hosting or bandwidths. Overall, however, the starting investment costs in infrastructure remain relatively minimal.

Nevertheless, in Sydney and Montreal, as well as in Port–au–Prince and Ouagadougou, open access publishers still have to make ends meet and earn a living. As a result, various funding plans have been designed and they are being used by those who work for open access to law today. However, most open publication has always been done in economically developed countries; different solutions will have to be found for projects in developing countries. In many cases, development assistance projects could cover start–up costs, but in the long term, local financing will have to be found. As such, involving local bar associations, local businesses, NGOs, and governments agencies in the project, and viewing them as prospective funding partners might be necessary for the long–term viability and success of a given project.

Conclusion

There is much at stake in publishing the law of developing countries. Public and free access has the potential to uphold the rule of law and national legal institutions, while also raising the international profile of law developed in a rich variety of countries and their particular legal traditions. Access to law is a major factor in economic development because it reduces the level of legal insecurity that often becomes an obstacle to trade and investment.

The conditions required for wider circulation of law have never been as favourable as they are now. The Internet and new information technologies make it possible and affordable to provide free access to thousands, possibly millions of documents, to all those who have access to the network. Of course, many areas of the world still do not have reliable access to the Internet. Yet, even in these cases, the availability of official legal information on the Web could improve the present situation, where access is, for all practical purposes, impossible. This information can still be conveyed to citizens more easily, although some of them will have access only through intermediaries.

The open access to law movement emerged as the Internet was first developing to provide the legal field with a type of knowledge sharing that was, in 1994, the Internet's trademark. Ten years later, the original institutes built to make open access a reality are exapnding and in continual development. Moreover, numerous new centres for open access resources have appeared. Today, the lessons learned and the combined knowledge of these legal information institutes are available for those wanting to make the law of developing countries more accessible.

The open access to law approach was developed with minimal resources; it was as a result of collaboration that legal information institutes became well established. These values and these achievements now exist for those who now want to ensure more equality and more justice in any country.

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Notes

1. *Attorney General of Nova Scotia v. MacIntyre* [1982] 1 R.C.S. 175, quoting Bentham.

2. http://www.laws.justice.gc.ca.

3. http://www.canlii.org.

4. See http://droit.francophonie.org.

5. See http://www.worldlii.org.

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