

International Conference

African Legal Resources:

Challenges and
Opportunities
of Legislative
Informatics



21-21 March 2007
Abuja – Nigeria

Legal Informatics for E-Governance

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Hammurabi's Code

- Openly Displayed for All to See
- Therefore No One Could Plead Ignorance of the Law as an Excuse
- *However, only Scribes could read !*
- **Cf. French Code Civil – A pocketbook for every citizen**



Plan

- Principles of access to legal information: a historical perspective
- What are the main political, technical, and legal issues towards securing datasets and free and effective access to public information.
- Enabling open access to legal information: how do you develop and secure an effective organizational system?
- Making open access sustainable: cost implications of guaranteeing effective public access to reliable, up-to-date, searchable consolidated legislation.



History of African Access to Legal Information

- Few can read, but the law not available even to Lawyers
- Reasons:
 - Underdevelopment
 - Lack of respect for legality and the rule of law
 - Donor insistence on wrong sustainability
- Yet, in the colonial and post-colonial times, Africa was not without innovative legal resources.
 - Loose-Leaf Collections of Laws
 - Post-Colonial innovative Draftsmen eg Thornoton, Bennion
 - High Court Digests innovated at University of Dar es Salaam



The Promise of Information Technology: Kofi Annan

- *The swift emergence of a global “information society” is changing the way people live, learn, work and relate. An explosion in the free flow of information and ideas has brought knowledge and its myriad applications to many millions of people, creating new choices and opportunities in some of the most vital realms of human endeavour.*
- *Yet too many of the world's people remain untouched by this revolution. A “digital divide” threatens to exacerbate already-wide gaps between rich and poor, within and among countries. The stakes are high indeed. Timely access to news and information can promote trade, education, employment, health and wealth. One of the hallmarks of the information society – openness -- is a crucial ingredient of democracy and good governance. Information and knowledge are also at the heart of efforts to strengthen tolerance, mutual understanding and respect for diversity.*



Failure of ideology of Commercialisation

- Global Datasets eg LEXIS, Westlaw too expensive for Africans
- Do not contain sufficient African information
- Even Governments affected and forced to make money
 - Eg UK Statutes in Force
 - Malawi

Free & Open Access

- Information as “public goods”.
 - *Minimal additional unit costs for mass distribution*
- Democratic e-governance
 - *Require free flow of information & transparency*
- Network Information Society/Economy promotes social networking and non-market production
 - *Open and free access not only desirable but deliverable*
 - *Decentralised non-commercial production*
 - *Eg Creative Commons,*
 - *Cornell’s Legal Information Institute*
 - *Australasian Legal Information Institute www.austlii.edu.au*
 - *Droit Francophone <http://droit.francophonie.org/>*
 - *World Legal Information Institute www.worldlii.org*



Issues in effective and free access

- Africa has been served poorly by electronic information.
 - absence of a market – little material on LEXIS/Westlaw
 - South African based JUTA main provider – good on South Africa, weak on other states.
 - Kenya Law trying to establish currently.

Free Law Datasets

- Rosier Situation
- WorldLII family – CommonLII, SAFLII.
- Droit Francophone
- Cornell LII
- Great Lakes (Swiss)
- Nigerian Legal Information
(International Centre for Nigerian Law)
 - *Law firm site, but advertises other services*



Issues in Establishing Datasets

- Who Owns Material?
 - Ensuring free permission
- Gathering Material – AustLII, **AKOMANTOSO**
 - Wordprocessing
 - Uniform formats
 - Technical criteria
 - Smooth delivery system to dataset publisher
- Editorial controls – ensuring accuracy
 - Clear communication between source eg Parliament and dataset publisher



Issues in Establishing Datasets

- Technical Production
 - Form which will be understood by users
 - Search Engines
 - Ensuring that uptodate view of legislation eg in force, amendments, repeals: the value of AKOMANTOSO
- Effective Distribution
 - Getting over the problem of internet access
 - Are CDs a better solution?

Achieving Sustainability

- Government to make information available free and with proper preparation
 - Right of access to public information
- Funding by Key Stakeholders
- Subscription, Voluntary or Negotiated?
 - Government and judiciary
 - Private Legal Professions
 - Accountants
 - Global legal professions
 - International Organisations
 - State Donors



Achieving Sustainability

- Where Located?
 - Independent Quango or Academic Institution supervised by stakeholders?
 - Independence
 - Expertise – legal and IT
 - Infrastructure savings
 - Use of Students