

Opportunities and challenges to free access to law in a changing world: a case of Zimbabwe Legal Information Institute (ZimLII)

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Abstract. The wave of free access to law movement hit Zimbabwe leading to the establishment of the Zimbabwe Legal Information Institute (ZimLII). This was started with the help of African Legal Information Institute (AfricanLII) which sourced funds to kick start the project and then held training workshops to equip the people who will be working with the administrator. There is a steering committee which comprises of academics, lawyers, publishers, information technologists and librarians from various organisations. This board is chaired by the Director of Legal Resources Foundation. This led to the creation of a website and content has been uploaded to populate the site. The website is up and running and an administrator was employed to oversee the day to day running of the website and its maintenance. This paper is an account of the opportunities and challenges that has been faced by the institute. The major challenge was the issue of sustainability in terms of unavailability of funds to continuously support the project. The ZimLII project can be regarded as one of the successful initiative towards the availability of legal information to the general public since there are plans to make it a one stop shop for those looking for such information.

Keywords: Zimbabwe Legal Information Institute, ZimLII, Free access to law - Zimbabwe

1. Introduction

A free access to law initiative must publish via the internet public legal information originating from more than one public body, provide free and anonymous public access to that information and not impede others from obtaining public legal information from its sources and publishing it (Montreal Declaration, 2002). The changing world made the accessibility of judgements and other legal documents easy leading to improved dissemination of law in Zimbabwe. This has increased efficiency in accessing the law by reducing the costs associated and enriching the quality

of justice obtained in the country. The Zimbabwe Legal Information Institute (ZimLII) has been spear headed by legal information professionals including Law Librarians at University Libraries, Lawyers and Non-Governmental Organisations dealing with legal information such as Legal Resources Foundation (LRF). These people comprise the ZimLII steering committee and they work together with the ZimLII administrator in running the project.

2. Access to law in Zimbabwe

The general public had very limited access to law due to the difficulties that has been faced since most documents were treated with confidentiality instead of being treated as public documents. The general public is not aware of the laws that govern them because of the bureaucratic nature of government offices that deal with these records. It was not easy before the advent of technology and the internet for an ordinary person to go and get a judgment or any legal document from the legal offices.

The situation in the courts prior to the advent of technology was that judge secretaries were responsible for preparing unreported judgements while the Legal Resources Foundation prepared reported judgements. A hard copy was then printed for the judge's file and parties in the case and the soft copy was deleted. The LRF collected soft copies on floppy disks and there were various gaps within the collected judgements because of lack of organisation and arrangements of the judgements due to lack of computer skills within the courts (Minutes of meeting: 2006).

There was no assurance that the collected reports were the final versions and staff movement within the judge secretaries contributed to the problems encountered. There were also scarce resources since the courts were not able to buy toner due to budgetary constraints. This was also caused by the fact that courts did not consider decision files they were preparing as documents for public consumption. People would scan paper versions of legal documents to prepare them for electronic publishing and there was a challenge of distribution issues since a network had to be developed for distribution to the users (Minutes of meeting: 2006).

3. Changing world and impact

The advent of ICTs led to easy access to the legislation of Zimbabwe since there is wider circulation and dissemination of national laws. Previously, legal documents were collected by individual organisations that use them such as Faculties of Law, Lawyers and other private institutions. These publications were treated with confidentiality although they were regarded as public documents. The advent of ICTs has made access and dissemination to legal information easier due to a wider circulation. All those who are connected to the internet are able to access the legal information free of charge. This had made it easier not only for the intellectuals but for the general public as a whole since they are now able to access legal information with a click of a button.

4. Free access to law initiatives worldwide

The free access to law movement began in 1992 at Cornell University with the creation of the Cornell Law School Legal information Institute. The name LII has been widely adopted by other projects and is usually prefixed by a country or region identifier. (Cornell University Law School: 2003). Members of the free access to law movement subscribe to the declaration on free access to law whereby the World Legal Information Institute (WorldLII) is the umbrella project for other LIIs. All legal information institutes are encouraged to participate in regional or global free access to law networks. There are 54 members of the free access to law movement according to the Free Access to Law Movement website (falm.info).

5. ZimLII

ZimLII is an organisation that works with legal resources that are accessible free of charge and available to all including the general public. Locals based in universities, government departments and NGOs identify what should be published and which sources are able to supply necessary documents. The resources available include primary sources of law such as legislative texts, case law and treaties, and all the documents that are produced by the government and that the government has a duty to make public. Secondary materials of good quality such as law journals,

commentaries and jurisprudence work will also be added to the collection as it will be growing.

It is an independent organisation hosting an online repository of legal information in Zimbabwe and a member of the global Free Access to Law Movement and it works closely with other national and regional Legal Information Institutes (LIIs) to promote justice and rule of law by maximising access at no cost to public legal information. The steering committee is responsible for this initiative and they did an environmental scan to understand the political, social, economic and technological environment in which the free access to law movement is operating. (ZimLII pamphlet: 2013). The website address for the organisation is www.zimlil.org.

6. What ZimLII does

ZimLII provides a digital platform for sharing public legal information with free, full anonymous online access. It administers electronic tools that store and share legal materials which has been archived in hard copy in Zimbabwe. Thus, ZimLII supports collaboration between and amongst lawyers, students, researchers, social advocates, government officials and policy makers through online communities and discussion forums. Through these efforts, ZimLII aims to advance the quality of legal research, judicial accountability, decision making and legal education.

7. Opportunities

In its endeavour to meet its aim of improving free access to law in Zimbabwe, there are a lot of opportunities that can be utilised by ZimLII. Improved communication infrastructure i.e. electronic distribution is the least expensive means of publishing especially when current technological advances are taken into consideration. The widespread use of the internet, i.e. almost everyone in Zimbabwe is able to access the Internet due to the availability of smart phones, wifi, laptops and dongles. If people are aware of ZimLII they can easily make use of the legal information available so that they know the laws that govern them. There is a high literacy rate in Zimbabwe since the majority of the people are able to read and write.

The advent of open source software make the collection, management and dissemination of law possible using only free of charge and readily accessible software. This in turn would save on cost of software acquisition and avoid risking the long-term viability of the resource. This is a cost cutting measure considering how expensive commercial software is. The availability of training from AfricanLII and other local organisations would be a necessary resource for helping the ZimLII Administrator on how to systematically gather, process and organise legal documents leading to a better understanding of how to work with legal documentation using the open source software. An information technology (IT) person was recruited as the Administrator who is able to give his best in web development and maintenance to ensure that the user interface is easy to use and the information is as current and up to date as possible.

The legal publishing environment is conducive since commercial law publishers in Zimbabwe are not publishing. The content is already available and what is needed is organisation, and if ZimLII takes advantage of this environment, the project would be viable. The approach that was taken of publishing the documents as the project is being built upon would also be an added advantage with regard to the legal publishing environment. The collection started from the top of the judiciary hierarchy and is being worked down to more local tribunals. Legal documents of great interest to the public are being published such as the recently amended Constitution of Zimbabwe. There are paper based documents which can be scanned and uploaded, for example, the University of Zimbabwe Library is a rich source of pre and post independent legal documents. The Parliament of Zimbabwe Library, Supreme and High Court libraries and the Legal Resources Foundation Library are also sources of legal information which would add on to the already uploaded information on the website.

8. Challenges

Local skills and knowledge necessary for electronic publishing of the law is a necessity in advocating for free access to law in a developing country like Zimbabwe. There is need for document preparation and the development of documentary standards for legal texts. As a result, software has to be implemented to track the documents from reception to publication to ensure

that conversion and page generation takes place automatically. Therefore, more technical knowhow is needed and the human resources should be paid as well. There is need to identify the local experts who are willing to work with ZimLII in the development of documentary standards for legal texts.

Buy in from local legal experts is still a challenge since most of the hands on people shun the project during its initiation stage but their involvement is necessary to organise the legal information system using a structure that reflects Zimbabwe's legal system. This is because there is need to know the appropriate knowledge of national legal systems and their workings. To deal with this problem, the Administrator was trained on legal citation and the legal system of Zimbabwe. However, more legal knowledge and expertise is still needed to speed up the process of preparing the documents for uploading on to the site.

Access to judicial information is restricted leading to lack of completeness and this is experienced when the courts officials are not willing to release the judgements from their offices due to bureaucracy. Court judgements are not easily or readily available but ZimLII needs to collect the content despite the fact that acquisition of legal documents in Zimbabwe is a challenge. ZimLII identified the audience to know the documents most useful to them i.e. judgements and statutes. The project was then started with uploading these legal materials on the site and so as to convince the project's early supporters and rally the support needed for the continued development of the site.

Funding to support the operation of an open access to law project is another challenge that is being faced in Zimbabwe. This would then lead to sustainability issues. Financial sustainability refers to a project's ability to generate resources from a variety of sources, which will, over time, reduce its dependency on development assistance funds. Organisational sustainability refers to the capacity of organisational arrangements to continue to provide a framework through which benefits to the poor can be delivered over time. Finally, benefit sustainability refers to the continuing availability or otherwise of benefits such as services beyond the life of the project, even if these are provided from other sources such as the state or the private sector. (Poulin 2003, p.213).

Money is needed for web hosting, salaries, and other day to day operations that take place in running the project. Initially, there was financial support from AfricanLII to start the project. There is need to fund raise for the project to ensure that it will continue to be operational even after the money that is currently available is finished. Therefore, the issue of governance is crucial to make sure that all the stakeholders are incorporated and encouraged to contribute towards the development of the ZimLII project.

9. Way forward

In light of the above, the ZimLII administrator and the steering committee members are working hard to market and advocate for the project so that there is full government support and buy in from local legal experts. The marketing of the project will lead to its success since it will have a greater chance of securing funds and ensure its sustainability. The issues of privacy, completeness and integrity should be taken care of. The website is being re-designed to have a sleeker look, more features and functionality. Uploading content is an ongoing activity and it is one of the mandate of the project coordinators i.e. the steering committee and the administrator to ensure that the content is up to date. Therefore, the importance of networking cannot be overlooked, as a way of establishing relationships with other organisations and professionals dealing with legal information. These would be providers of the legal documents both in hard and soft copies and the professionals would be responsible for giving guidance in the design, development, content creation and the direction that can be taken by ZimLII for it to be successful and sustainable.

10. Conclusion

In view of the above opportunities and challenges, it has been observed that the success and sustainability of free access to law in a changing world depends on the legal environment, national legal and policy framework, relationship of free access to law initiative with data sources, and access to technology. Some of the factors that affect the viability are outside the organisation's control and there is need to have measures in place to deal with the problems encountered to make the project a success.

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