

PUBLIC DOMAIN RESOURCES IN LEGAL RESEARCH

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1. Introduction

The rapid evolution of knowledge societies continue to provide new means for achieving progress in all sectors of work and life through the increasing use of information and communication technologies (ICTs) such as computers and networks. While ICTs have greatly facilitated the movement and handling of data, the process of generating and validating information and knowledge remains essentially one of human creativity.¹ Tony Laidig (2007) explains public domain as the body of knowledge and innovation (especially creative works such as writing, art, music, and inventions) in relation to which no person or other legal entity can establish or maintain proprietary interests. This body of information and creativity is considered to be part of the common cultural and intellectual heritage of humanity, which in general anyone may use or exploit. If an item is not in the public domain, this may be the result of a proprietary interest as represented by a copyright or patent. The extent to which members of the public may use or exploit an item in relation to which proprietary interests exist is generally limited. However, when copyright or patent restrictions expire, works will enter the public domain and may be used for any purpose by anyone.²

2. Status of Legal Research in India

Research is an attempt to generalize new knowledge including studies that aim to generate hypothesis as well as studies that aim to test them. The New Chamber Dictionary defines research as a careful search and systematic investigation towards increasing the sum of knowledge. Legal Research is an art of findings, analysing and compiling of legal information for presenting point-of-view of researchers in support of research. Legal Research is a multi-dimensional process requires a vast knowledge of information resources with methods and procedures of its applicability to conclude general to particular logic in support of accurate and most relevant findings. Development of legal research is supported by a number of research institutes in India. Indian Law Institute established in 1956 publishes reputed publications along with two regular publications i.e. Journal of Indian Law Institute and Annual Survey of India Law.

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Indian Society of International Law is another major institution established in 1959 and supports legal research especially in International Law.

3. Origin & Development of Public Domain Resources

Development of open access started in the USA and initially carried by the Department of Education's Office of Educational Research and Improvement and the National Library of Education launched Educational Resources Information Center (ERIC) in 1966. Advanced Research Projects Agency Network (ARPANET) was launched by the U.S. Department of Defence on August 30, 1969. Online Book page containing full text books in .pdf or HTML format was launched in 1993 by John Mark Ockerbloom.³ Project Gutenberg-DE was launched by Gunter Hille in 1994. Various free online databases providing leading articles were also launched.⁴ Social Science Research Network was introduced by Wayne Marr and Michael Jensen in October 1994 covering more than a million articles with a sound search engine.⁵ Internet Achieves project was founded in 1996 facilitating scanned copy of books and other materials. Open Archive Initiatives was launched in 1999. A major step towards open access movement is the launching of Wikipedia by Jimmy Wales in 2001.⁶ HP-MIT released DSpace in 2002 OAI-compliant open-source software for archiving e-prints and other academic content. The Directory of Open Access Journals was launched by Lund University financed by Open Society Institute in 2003, covering list of almost all academic and research journals available full text for open access all over the world.⁷ In 2004 Google launched Google Print, Google Publisher and Google Library programmes providing scanned copy of books with the consent of publishers. In the same year Google launched Google Scholars covering scholarly articles published in esteemed journals. In 2006 Informatics India launched Open J-gate with search facilities of open access journals.⁸ In 2006 Microsoft launched Live Academic Search. In 2007 WorldSciNet established open access to its all 133 journals.⁹

India's National Knowledge Commission, a high level advisory body to the Prime Minister of India, constituted a Working Group on open access and open educational resources in 2006 with a view to enhance students' access to previously inaccessible information as well as the knowledge on how to access global educational resources. The Working Group has been formed with the objective to provide free and open digital publications of high quality materials organized as courses that include lectures, related reading materials, snapshots of discussions, assignments, evaluations, etc. "The Report of National Knowledge Commission on Libraries¹⁰" states that primary responsibilities to generate digital publications must be assigned to subject specialists related to courses over all universities. The National Program on Technology Enhanced Learning (NPTEL) at IIT Bombay has been launched entitled 'Eklavya'.¹¹ IIT Bombay has also developed an Open Source Educational Resources Animation Repository (OSCAR). OSCAR provides web-based interactive animations for teaching various concepts and technologies. E-Grid is another programme supported by

Ministry of HRD & IIT Kerala launching subject based content development in digital format especially in science and technology. The working group of National Knowledge Commission in its report has also recommended launching a national e-content and curriculum initiative.

4. Legal Public Domain Resources Initiatives

4.1 Free Access to Law Movement

The Declaration on Free Access to Law defines “Public legal information to be legal information produced by public bodies that have a duty to produce law and make it public. It includes primary sources of law, such as legislation, case law and treaties, as well as various secondary (interpretative) public sources, such as reports on preparatory work and law reform, and resulting from boards of inquiry. It also includes legal documents created as a result of public funding.¹² Cornell University of United States took pioneering efforts towards facilitating free access to law. Legal information institutes of the world, meeting in Montreal,¹³ declare that: a) Public legal information from all countries and international institutions is part of the common heritage of humanity. Maximizing access to this information promotes justice and the rule of law; b) Public legal information is digital common property and should be accessible to all on a non-profit basis and free of charge & c) Organizations such as legal information institutes have the right to publish public legal information and the government bodies that create or control that information should provide access to it so that it can be published by other parties.

4.2 Unesco and Public Domain Information Recommendations

In a major step towards recommendations of public domain information resources, Unesco issued a “Policy Guidelines for the Development and Promotion of Governmental Public Domain Information” Unesco’s recommendations on promotion and Use of Multilingualism and Universal Access to Cyberspace explained Public Domain Information specified the following:

“Public domain information refers to publicly accessible information, the use of which does not infringe any legal right, or any obligation of confidentiality. It thus refers on the one hand to the realm of all works or objects of related rights, which can be exploited by everybody without any authorization, for instance because protection is not granted under national or international law, or because of the expiration of the term of protection. It refers on the other hand to public data and official information produced and voluntarily made available by governments or international organizations.”

The Unesco movement towards setting of public domain guidelines supports the availability of free public access to law. Legal information like Case Law, Legislations and other Government Documents performs a greater role in awareness of duties and responsibilities to the citizens. If law is accessible to all,

there is comparatively less chance to be a victim of fraud and corruption especially among developing countries.

4.3 Role of International Organization in Free Access to Law Movement

Unesco database contains 120000 free downloadable documents in six official languages covering all Unesco fields of competence since 1945. The Unesco Library provides reference and information services, including research, to the Organization as a whole, as well as to the general public with an interest in Unesco's fields of competence. Unesco portal also presents the Archives, which document the Organization's history and provides access to all official correspondence, documents, publications, multimedia and electronic records.

The **International Court of Justice** website disseminates free proceedings including judgments, advisory opinions and orders; pleadings, oral arguments, documents, act and documents, yearbook and bibliography.

The **International Criminal Court** (ICC) portal provides information regarding structure of court, situations and cases, hearing schedule, referrals and communications, press and media, court reports and statements, annual reports and activities.

Since the establishment of the **Court of Justice of the European Union** www.curia.europa.eu/jcms/j_6/ in 1952, approximately 15000 judgments have been delivered by the three courts. The Reports of Cases are published in the official Community languages and are the only authentic source for citations of decisions of the Court of Justice and the Court of First Instance.

The Web portal of **United Nation** www.un.org facilitates current news, in focus, conference meeting events, global issues and resources and services. Resources and services part provides information in sub divisions like documents, library, maps, publications, employment, bookshops, procurement, internships, stamps, databases etc.

5. Countries Based Legal Information Resources

With the birth of Free Access to Movement declaration and Unesco's recommendations for maintaining and facilitating legal and law related public information, most of the countries have started to make it available governmental information through its official web portals.

5.1 Australia

The **High Court of Australia** is the highest court in the Australian judicial system. The Publication section contains annual reports, High Court Bulletin, Judgement Summaries, Speeches, Judgements, Transcripts, Special Leave Dispositions and other brochures in various formats including HTML, pdf etc.

ComLaw is the website as well as the software and databases that contain complete legislative summaries of Australian Government. ComLaw content is

sourced from more than 70 separate agencies. ComLaw is a collection of information including historical and current constitution of Australia, acts, legislative instruments, bills and other legislative instruments. Australian Consolidated Acts can also be retrieved through **Australian Legal Information Institute** portal maintained by AUSTAD. Legislations are arranged alphabetically as well as year wise. Advance search engine has also been created to search pinpointed legislation through title, text, year of introduction etc.

Established in 1975, the **Australian Law Reform Commission** facilitates public access to its work and all final reports and recent consultation papers available for free download. Publication sub section contains alphabetical list of its publication and reports for browsing search. Search option through searching box is also provided for searching exact phrase or word.

5.2 Canada

The **Supreme Court of Canada** is Canada's final court of appeal, the last judicial resort for all litigants, whether individuals or governments. Information like judgments, news releases, cases, electronic filing library, act and rules of court can easily be browsed on the web page i.e. <http://www.scc-csc.gc.ca/home-accueil/index-eng.asp> . The first case reported, published in 1877, was for an appeal heard in 1876 from the Supreme Court of Judicature of Prince Edward Island.

Consolidated Statute or Legislation of Canada is freely accessible by the efforts of Canadian Government through its web portal **Law Site** at <http://laws-lois.justice.gc.ca/eng/index.html> . Law Site especially designed to search Canadian Laws and Regulations facilitates point-in-time access to all consolidated acts and regulations. The web page has four sub sections i.e. Laws, Search, Resources and Help. i.e. <http://www.canlii.org/en/>.

5.3 United States of America

The **official portal of United States Government** supports the public to get U.S. government information and services on the web. The web portal has four major parts viz. Get Services, Explore Topic, Find Government Agencies, Contact Government. The first part provides information regarding basic services like passport, personal records etc. The second part i.e. Explore Topics provides intensive information related to vast subject areas as shown in the figure.

The third and most important part i.e. "Find Government Agencies" are explored for law and legal related information. It facilitates A-Z details of all government agencies and departments of United States. It connects to the sub portals of various branches of government like Executive branch, Judicial Branch and Legislative Branch. A Researcher can also access **US Supreme Court Judgments** Bound Volumes according to number through <http://www.supremecourtus.gov/opinions/boundvolumes.html>.

The **United States Code** is the codification by subject matter of the general and permanent laws of the United States based on what is printed in the Statutes at Large. It is divided by broad subjects into 50 titles and published by the Office of the Law Revision Counsel of the U.S. House of Representatives. GPO Access an official web portal @ <http://www.gpoaccess.gov/uscode/> contains the 2006, 2000, and 1994 editions of the U.S. Code, plus annual supplements. The information contained in the U.S. Code on GPO Access has been provided to GPO by the Office of the Law Revision Counsel of the U.S. House of Representatives.

The **Constitution of the United States** comprises the primary law of the U.S. Federal Government. It also describes the three chief branches of the Federal Government and their jurisdictions. Files are available in ASCII text and Adobe Portable Document Format (PDF) through the official web portal known as Government Printing Office Access which is official portal of Government of United States. <http://www.gpoaccess.gov/constitution>.

5.4 United Kingdom

In October 2009, the **Supreme Court of United Kingdom** replaced the Appellate authority of the House of Lords as the highest court in the United Kingdom. The cases decided by Supreme Court are available full text at its portal i.e. <http://www.supremecourt.gov.uk/index.html>.

Before establishment of U.K. Supreme Court, **House of Lords** was the Appellate Court in United Kingdom. House of Lords Judgments since 1996 to 2009 in HTML format as well as printable format i.e. pdf are readily available for reference to general public on the web portal of House of Lords i.e. <http://www.publications.parliament.uk/pa/ld/ldjudgmt.htm>. Access to judgments prior to 1996 can be browsed through the Parliamentary Archives. The Archives holds appeal cases and other records of the House of Lords acting in its judicial capacity, dating from 1621.

The web portal of **Legislative Branch** @ www.legislative.gov.uk is managed by The National Archives on behalf of HMSO Government. Publishing all UK legislation is a core part of the remit of **Her Majesty's Stationery Office** (HMSO), part of The National Archives, and the Office of the Queen's Printer for Scotland. The Office of the Queen's Printer for Scotland (OQPS) provides access to Acts of the Scottish Parliament, Scottish statutory instruments and a range of other legislation applying to Scotland.

The **Law Commission** is the statutory independent body created by the Law Commissions Act 1965 to keep the law under review and to recommend reform where it is needed. The Commission publishes a law reform report at the conclusion of each project, usually include a draft Bill that, if implemented, would enact recommended reforms. Researchers can browse law reform reports, statute law reports, programmes of law reform, scoping discussion and subject papers, corporate and other miscellaneous documents.

6. Law Journals and Scholarships under Public Domain

Social Science Research Network (SSRN) <http://www.ssrn.com/> is devoted to the rapid worldwide dissemination of social science research and is composed of a number of specialized research networks in each of the social sciences. SSRN have hundreds of journals, publishers, and institutions in partners in publishing that provide working papers for distribution through SSRN's eLibrary and abstracts for publication in SSRN's electronic journals. The SSRN eLibrary consists of two parts: an Abstract Database and an Electronic Paper Collection containing full text documents in Adobe Acrobat pdf format.

Sl. No.	Subject	Number of paper submitted
	Accounting Research Networking	17082
	Cognitive Science	5245
	Economic Research	243780
	Corporate Governance	13663
	Entrepreneurship Research & Policy	19403
	Financial Economics	92357
	Health Economics	5404
	Legal Scholarship	124462
41467	Management Research	41467
	Political Science	37872
	Social Insurance Research	5352
	Humanities	19196

Table 1: Number of Papers submitted as on 20/01/2012.

The **Global Legal Information Network (GLIN)** <http://www.glin.gov/search.action> is a public database of official texts of laws, regulations, judicial decisions, and other complementary legal sources contributed by governmental agencies and international organizations. The GLIN members contribute the full texts of their published documents to the database in their original languages. Each document is accompanied by a summary in English and, in many cases in additional languages, plus subject terms selected from the multilingual index to GLIN.

Launched on January 9, 1996, **FindLaw.com** <http://www.findlaw.com/cascode/supreme.html> soon offered a mix of cases,

statutes, legal news, a lawyer directory, an online career center and community-oriented tools such as mailing lists and message boards. The Web site rapidly developed into the leading legal information site on the Internet.

DOAJ is a directory of open access journals. At the First Nordic Conference on Scholarly Communication in Lund/Copenhagen in 2002, the idea of creating a comprehensive directory of Open Access Journals was discussed. The conference with the objective to facilitate a valuable service for the global research and education community was formulaized. Open Society Institute (OSI) supported the initial project work and at present more than 110 countries is supporting the movement permitting their online journal contents accessible through this database. It contains around 135 journals of legal sphere.

7. Free Access to Law Movement in India

Various government and non-governmental agencies are involved in for free access to legal and law related information in India. The pioneering efforts were made by National Informatics Centre (NIC) (<http://www.nic.in/>) during launching various sites providing online legal information like JUDIS, INDIACODE, Law Commission of India, ministerial websites and various high courts. In pursuance various independent private initiatives are taken like **Legal Services India**, **Indian Kanoon**, and **PRS Legislative Search**. The Government agencies and departments have established its web portals at national and state level to provide digitized legal information for public awareness and free distribution of law and law related information to the public.

7.1 Government Initiatives

All government ministries are maintaining their websites through National Informatics Centre, which provide rules, regulations and legislation past regarding functions of their works. E governance has been adopted by a number of states to facilitate their local laws including judgments, state legislative debates, state legislations and other committees and commissions reports. If anyone wants to refer any law related to any particular ministry, a simple mouse click may provide the complete full text gazette notified scanned copy or html format of the same within no time. The web portal of Parliament of India has three subsections i.e. President of India, Lokh Sabha and Rajya Sabha. Government of India has adopted a complete e-governance agenda since 1990s. The official portal of Government of India i.e. www.india.gov.in provides almost all information including legal information like Constitution of India, Acts & Legislations, Law & Orders, Parliament of India, Rules etc. The other official websites of India, a Government of India Directory www.goidirectory.gov.in provides an index of central government and its departments, state legislators and state departments, judiciary i.e. Supreme Court of India and High Courts established in the states.

7.1.1 Parliamentary Procedures and Debates

The website of the Parliament www.parliamentofindia.nic.in of India provides all activities and procedures of the both houses of the parliament along with President of India official records. The website has three sub sections i.e. www.presidentofindia.nic.in , www.rajyasabha.nic.in and www.loksabha.nic.in . The website of Rajya Sabha provides business hour information, question hour and debates in the Rajya Sabha along with committees reports etc. The website of Lok Sabha also provides business, question, debates, legislations, committees, conference and secretariat level information.

7.1.2 Legislations

The Indian parliament legislations are available at a number of government portals like www.parliamentofindia.nic.in and www.indiacode.nic.in . India Code maintained by National Information Centre provides information about all legislations passed by the Indian parliament along with non repealed act of British Parliament established for India since 1836. The Centre for Policy Research initiated a most valuable web portal project entitled Parliament Research Studies India i.e. PRS India with financial support from the Ford Foundation and the Google Foundation in 2005. The web portal under the address www.prsindia.org facilitates legislative bills with its summary, debates on other issues of national importance and reports of commissions and committees over any bill introduced in either or both sessions of the Parliament of India.

7.1.3 Cases Decided in Courts

The other part of law is cases decided in the courts known as case law. Further National Informatics Centre (NIC) on behalf of the Government of India maintains a website called Judgement Information System JUDIS i.e. www.judis.nic.in which provides all judgments of Supreme Court of India since inception in full text, along with judgments of various High Courts and other subordinate courts of the states. Tribunals and regulatory authorities' cases are also available at this web portal. The other website www.indiancourts.nic.in also provides an index to Indian courts along with cases of the respective courts at subordinate level and tribunals.

7.1.4 Commission & Committee Reports:

Other ingredient of Indian law is Commissions & Committee reports of government of India. Indian Government provides almost all commission & Committees report on respective websites. National Human Rights Commission a permanent commission provides its reports and other legal documents through its website www.nhrc.nic.in . The other State Human Right Commission reports are also available at respective State Human Right Commission websites. Law Commission of India, another permanent commission, reports may be referred through its official website i.e. www.lawcommissionofindia.nic.in since first

report in full text. Besides parliamentary committee reports are also available on parliament of India website. One time commission reports are also available on respective governmental department's web portals.

7.2 Legal Information Institute of India

Legal Information Institute of India (LII of India) has been recently launched in February 2011 by AUSTAD, an NGO associated with Cornell University, USA and Australian Legal Information Institute. LII of India provides almost all law related information of India through its portal www.liiofindia.org officially inaugurated on 1st May 2011 at Vigyan Bhawan by National Law University, Delhi. Till now, LIIofIndia contains more than 150 databases as compared to 50 databases at the time of its launch. The Home page contains news and database additions along with bifurcation of resources in five pillar of law i.e. Cases, Legislation, Journals and Scholarship, Law Reforms and Treaties. The Resources have been arranged by territories i.e. Central Government Resources and law resources of State governments.

The LII of India supports in dissemination cases decided by the Supreme Court of India since its inception. More than one lakh cases since 1950 have been digitized and available to search by various options like nominal search, chronological search, citation search etc. The following charts explain extent of cases coverage in the Supreme Court of India database.

Year	Number of Cases	Year	Number of Cases
1950	44	1981	210
1951	63	1982	103
1952	83	1983	207
1953	90	1984	241
1954	126	1985	259
1955	81	1986	286
1956	86	1987	386
1957	115	1988	371
1958	139	1989	396
1959	159	1990	403
1960	303	1991	314
1961	369	1992	238
1962	382	1993	534
1963	263	1994	700

1964	300	1995	856
1965	307	1996	1664
1966	271	1997	953
1967	304	1998	635
1968	324	1999	431
1969	343	2000	679
1970	258	2001	656
1971	351	2002	588
1972	312	2003	682
1973	258	2004	780
1974	282	2005	704
1975	355	2006	976
1976	338	2007	1312
1977	242	2008	2254
1978	264	2009	1846
1979	276	2010	1329
1980	239	2011	1214

Table 2: Number of Supreme Court of India Cases covered in LII of India

LII of India is extending its coverage towards judgements of High Courts of India. In its efforts, judgements of around 21 high courts, 9 district courts and 6 tribunals are in the process. Till date it has extended its coverage for cases decided in years according to following tables.

High Courts	Years
Andhra Pradesh High Court	11
Chattishgarh High Court	5
Delhi High Court	8
Gujarat High Court	2
Jharkhand High Court	2
Allahabad High Court	18

Guhati High Court	6
Patna High Court	2
Bombay High Court at Goa	8
Himachal Pradesh High Court	2
Jammu & Kashmir High Court	2
Kerala High Court	6
Orissa High Court	20
Rajasthan High Court	4
Madras High Court	6
Uttarakhand High Court	4
Karnataka	2
Bombay	4
Calcutta	12
Madhya Pradesh	2
Punjab & Haryana	9

Table 3: Number of Years of Cases of High Courts covered in LII of India

Name of District Courts	Years
Kamrup District Court	3
District Court of Chandigarh	2
District Court of Delhi	4
District Court of Bhopal	2
District Court of Ranchi	1
District Court of Jodhpur	2
District Court of Allahabad	2
District Court of Nainital	2

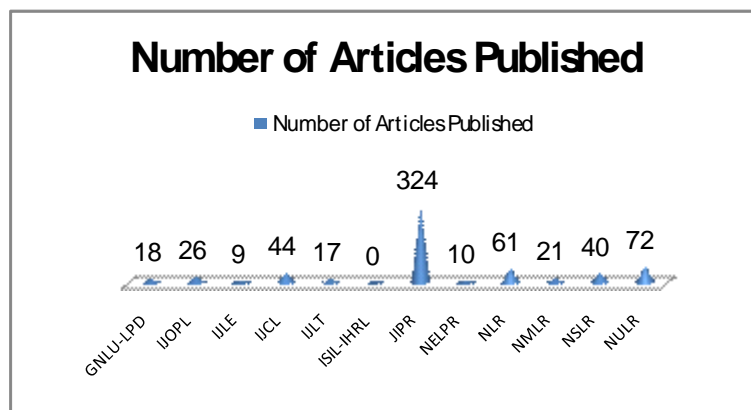
Table 3: Number of Years of Cases of District Courts covered in LII of India

The second pillar of LII India database is legislations. The database extends its jurisdiction to cover all central legislations since 1876 and selective state

legislations. Under the head of legislation, it provides regulations, schemes and acts of almost all states and central spheres.

The third and important pillar of the LII of India emphasizes over scholarly articles published in twelve journals from authoritative principal institutions as detailed below:

Sl. No.	Journal Title	Abbreviation	Coverage	No. of Articles
1	GNLU Journal of Law, Politics and Development	GNLU-LPD	2009	18
2	Indian Journal of Intellectual Property Law	IJOPL	2008 to 2010	26
3	Indian Journal of Law and Economics	IJLE	2010	9
4	Indian Journal of Constitutional Law	IJCL	2007 to 2010	44
5	Indian Journal of Law and Technology	IJLT	2005 to 2008	17
6	ISIL Year Book of International Humanitarian and Refugee Law	ISIL-IHRL	NA*	NA*
7	Journal of Intellectual Property Rights	JIPR	2002 to 2010	324
8	NALSAR Environmental Law and Practice Review	NELPR	2011	10
9	NALSAR Law Review	NLR	2003 to 2011	61
10	NALSAR Media Law Review	NMLR	2010 to 2011	21
11	NALSAR Student Law Review	NSLR	2005 to 2011	40
12	NUJS Law Review	NULR	2008 to 2009	72



Under the heading Law Reform as its fourth pillar, LII of India supports to access all Law Commission of India Reports published since 1999. The all reports since its inception will be available within a very short span. The fifth and the last pillar of LII of India contain Indian bilateral treaties based on data obtained from the Ministry of External Affairs. The database covers almost all treaties ratified with other countries since 1947 to 1980 and 2001 to 2009. The number of treaties covered is summed up in a graphical presentation as under.

7.3 Conclusion

The article discusses the free access to law by international and national organization including the country based legal information resources of Australia, Canada, USA, UK and India. There have been NGOs initiatives which have been explained. They are **LII of India, Indian Kanoon, Legal Services in India, Lawyers Collective, Legally India, India Together, Commonwealth Human Rights Initiatives** and **Vakil no.1**. It has discussed law journals and scholarships, the role of SSRN, Global Legal Information Network, Findlaw, and Legal Information Institutes.

Public domain e-resources are playing significant role. Its role is increasing day by day against the back drop of high cost of commercial databases. The Open Access Movement has to be vigorously taken by government and non-government agencies to keep up in view the limited budget of libraries. Moreover the message that knowledge is free for all or dissemination of information pushes the movement further. At present it is beginning, but after a decade or so, the movement of making legal information available free of cost to the users will catch up. The librarians will use public domain e-resources, and they should publicise public domain resources so that the use of these resources increase. The apex courts of different nations should also support them and cite their references considering them as standard legal resources. Thus in changing scenario of legal education in India, it will encourage such initiative of government or non-governmental agencies. Moreover it will be responsibility of academic law institutions to discourage costly commercial databases. Free Legal

information has to be percolated to the local level to that people know about how legal issues are dealt by various law institutions i.e. legislatures and judiciary.

Endnotes

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