

# FREE ACCESS TO LAW MOVEMENT: INDIAN PERSPECTIVES

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## Abstract

*Globalization is the process of integrating nations and people – politically, economically and culturally – into a larger community. The Internet is the key factor leading to globalization and information revolution as well. The Internet also led to the information overload and simultaneously speedy and free access to information. Free access to law contributes to equality before law and access to public legal information supports the rule of law. RTI Act felicitated to access general as well as public legal information. Open access to law is a key for providing universal access to legal literature. The FALM is an affiliation of 40 LIIs under Montreal Declaration. LII of India, JUDIS, Indiacode, Indiakanoon and IndLII are Indian players in this movement directly or indirectly. Almost all the law schools and old law department of various universities and BCI publishing their scholarly journals in print formant out of which only two have online presence at DOAJ. India is lagging behind in the field of online publishing and free access to legal scholarly publications. The law schools are in the best position to steward this movement because they have the obligation and also necessary technical resources. The paper concludes that LII should be developed to be the better alternative of the commercial websites then only it would serve the public in real sense.*

## Introduction

Globalization has been defined as the process of integrating nations and people – politically, economically and culturally – into a larger community. The focus is not on nations but on the entire globe. This complex, controversial and synergistic process combines technology in communication and transportation with the deregulation of markets and open borders to lead to vastly expanded flows of people, money, goods, services and information. The Internet is the key factor leading to globalization and information revolution as well (Germain). The Internet also led to the information overload and simultaneously speedy access to information. The globalization has had a deep impact on the legal profession, legal education, and turn on the law librarian profession and the legal literature (Germain).

Traditionally legal information resources are available in printed format but “the advent of the Internet as a viable information source has signaled the rejection of book-based legal research by contemporary law students and lawyers. Even though studies indicate that lawyers are not especially adept at computer assisted legal research, the trend towards computers, and away from

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books appears to be irreversible” (Gallacher) in America. The trend in India is not changing very fast but it is expected to be fast when the new generation of lawyers, who will be well versed with the online legal research, will come in the profession. Still the trends of legal research in law firms are much forward than the traditional courts.

The expenses of buying and maintaining physical libraries has lead many law firms to rely solely on computer assisted legal research, keeping a few law books more as three-dimensional wallpaper rather than as reference tools (Gallacher).

The cost of printing books is increasing day by day everywhere in the world. A study conducted in law schools in the USA shows that “academic law libraries of all sizes are feeling the squeeze in acquisition funds. Despite the range of acquisitions expenditures reported by the responding libraries, a good number of libraries had already taken action by ceasing to update or cancelling some of their print material, and even more have considered cancellations” (Runyon). It is difficult to predict the situation of law schools in India without a study but it is my personal observation that most of the law libraries have print materials duplicated by electronic resources.

#### **Need for Free Access to Law**

Free access to law contribute to equality before law (Poulin) and access to public legal information supports the rule of law (Poulin, Mowbra and Lemyre). Since independence in 1947, India has taken long strides towards achieving an environment of access to information including legal information. The Supreme Court has periodically affirmed both the individual rights to know as well as a more general right to information of citizens (Iyengar). The Right to Information Act, 2005 was the result of endeavors towards the getting access to public information in India. Right to Information Act felicitated to access general as well as public legal information.

Everyone has right to know the law of the land free of cost (Singh). Apart from being able to access domestic laws, there is also increasingly a need to access law from other jurisdiction. Business operates on an international basis. Corporations need to be aware of international regulatory requirements and countries need to make their legal systems transparent to encourage international investment and trade. Particularly in the case of developing countries there is a major need for access to international laws to assist with law reform and development (Poulin, Mowbra and Lemyre).

In developing countries, like India, besides the rapidly growing cost of printed legal material it is also difficult for lawyers who represent low-income clients and general public to access the online database like westlaw, lexisnexis, manupatra, SCC Online, AIR database because of the cost factor. Although the Judicial Information System (JUDIS) is open to all to access the judgments of various High Courts and Supreme Court but “except few websites, like those for

the Supreme Court, Delhi High Court and Bombay High Court, other websites, for most of the High Courts are not regularly updated" (Singh). There are limited search options, "there is no subject classification of judgments and one can only search judgments on the basis of the names of the parties, name of judge, date of decision or the number of the case" (Singh). Keyword search have been added to the JUDIS recently.

A great deficiency of JUDIS is that it is not providing citation search and also not have its own standard citation system. Although the citation (citation from printed reporters like AIR, SCC etc.) search is available on the Supreme Court website but not for recent cases because AIR, SCC citations are based on their printed version and it takes few months to make available the printed reporters and citations.

Open access to law is a key for providing universal access to legal literature. It will allow the users to freely read, download, copy, print, distribute, search, link, transfer to the full text of any judgment or law journal article. Although this is not a complete solution for all types of users but can fulfill the needs of those who are unable to access legal documents otherwise.

#### **Free Access to Law Movement**

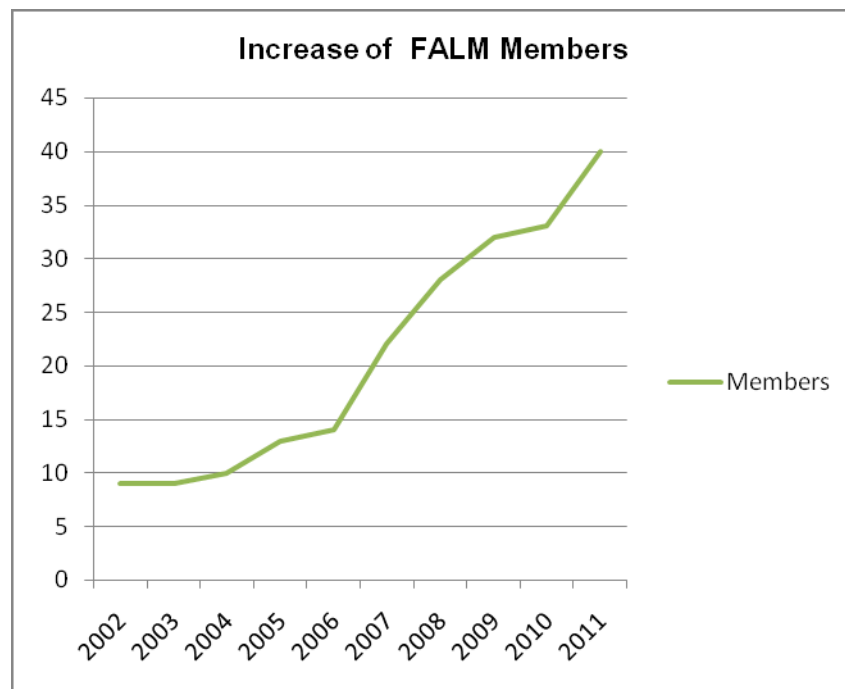
The web technology provided the key elements required for free public access and have potential to provide low cost efficient options (Lal). Open access provides the means to maximize the visibility, and thus the uptake and use of Indian research output. Open access is the immediate (upon or before publication), online, free availability of research outputs without any of the restrictions on use commonly imposed by the publisher copyrights agreements (Swan). Open access to legal information concerns the output of the government as well as judiciary, journal articles, conference proceedings, commentaries, treatise, other legal reference sources and database related to international laws and many more.

In many countries the first attempt to exploit the advantages of the web for providing legal information came from the academic sector rather than government, and did so with an explicit ideology of free access provision. Within a few years of the formation of the first legal information institute in 1992, the first group of such organizations became known collectively as 'Legal Information Institute' or 'LIIs' and those expressions became synonymous with free access to legal information, though in fact they have a narrower meaning (Greenleaf).

The Free Access to Law Movement (FALM) is a loose affiliation of legal information institutes. It meets annually if possible during the 'Law via Internet' Conference, and by e-mail between conferences. The first sustained attempt to build some form of international network took place at the LII Workshop on Emerging Global Public Legal Information Standards hosted by LII (Cornell) in July 2000, involving participants from the US, Canada, Australia and South

Africa. The Expression 'World LII' was first used there to describe a collaborative LII portal. The FALM was then formed at the 2002 'Law via Internet' Conference in Montreal, and adopted the declaration on free access to law, sometimes called the 'Montreal Declaration' (Greenleaf, Legal information institute and the free access to law movement).

The Montreal Declaration was made by Legal Information Institutes meeting in Montreal in 2002 and amended three times, since its inception, at meetings in Sydney (2003), Paris (2004) and Montreal (2007). As on December 24, 2011, there are 40 members of the FALM. The following chart shows the increase in number of FALM member during first decade of its formation.



(Data Source: [www.fatlm.org](http://www.fatlm.org) accessed December 24, 2011).

### Legal Information Institute of India (LII of India)

The Legal Information Institute of India is an institute established in 2010 and launched in March 2011 to fulfill the aims and objectives of the Free Access to Law Movement. LII of India joined the FALM in 2010. It provides free online access to legal resources of India. Legislations of Central, State and Union Territories with case laws, treaties and academic legal resources (LIIofIndia).

LII of India, at present, has 151 database, including decisions from various Indian courts and tribunals, Indian legislations from 1836, over 800 bilateral treaties, law reform reports and full text journal articles from 12 law journals. The details of Indian Journals available on LII of India is as follows:

Sl. No.	Journal Title	Publisher	Coverage	Years	No. of Articles	Up-to-date
1	GNLU Journal of Law, Politics and Development	GNLU, Gandhinagar	2009	1	18	No
2	Indian Journal of Intellectual Property Law	NALSAR University of Law, Hyderabad	2008 to 2010	3	26	No
3	Indian Journal of Law and Economics	NALSAR University of Law, Hyderabad	2010	1	9	No
4	Indian Journal of Constitutional Law	NALSAR University of Law, Hyderabad	2007 to 2010	4	44	No
5	Indian Journal of Law and Technology	NLSIU, Bangalore	2005 to 2008	4	17	No
6	ISIL Year Book of International Humanitarian and Refugee Law	Indian Society of International Law, New Delhi	Not Available	Not Available	Not Available	
7	Journal of Intellectual Property Rights	NISCAIR, New Delhi	2002 to 2010	9	324	No
8	NALSAR Environmental Law and Practice Review	NALSAR University of Law, Hyderabad	2011	1	10	Yes
9	NALSAR Law Review	NALSAR University of Law, Hyderabad	2003 to 2011	9	61	Yes
10	NALSAR Media Law Review	NALSAR University of Law, Hyderabad	2010 to 2011	2	21	Yes
11	NALSAR Student Law Review	NALSAR University of Law, Hyderabad	2005 to 2011	7	40	Yes
12	NUJS Law Review	NUJS, Kolkata	2008 to 2009	2	72	No

(Data Source: <http://liiofindia.org/in/journals/> accessed December 24, 2011).

The table depicts that out of 12 Journal Database 7 are created by the NALSAR, Hyderabad alone. Other stakeholders should also follow the NALSAR in this movement. Here it is also noticed that only 1/3 of databases are up-to-date.

### Government of India Initiatives

Government of India has taken initiative to make available the legal information through Internet. National Informatics Centre (NIC) has developed few legal information systems based on the legal information generated by the Indian Judiciary.

**INDIAN COURTS:** The Indian Courts is a bouquet of Websites of the Supreme Court and all 21 High Courts and their Benches in India. It provides a single point access to information related to the Supreme Court and any High Court in India. The Website of the Supreme Court and High Courts provide litigant centric dynamic information like Judgments, Causelists, Case-status, etc. as well as static information such as History, Jurisdiction, Rules, past and present judges, etc. (India Courts)

**JUDIS:** The Judicial Information System consists of the full text judgments of the Supreme Court of India and several High Courts. In the case of Supreme Court all reported judgments which are published in SCR Journal, since its inception i.e. 1950 till date are available free of cost. The judgments reported in SCR till 1993 also have head-notes. The judgments reported in SCR in 1994 and later have only text of judgments without head-notes. The Cases may be searched by the name of petitioner or respondent. We can also search with name of judge, case number, date of judgment, act wise, held wise and citation of the following reporters: AIR, SCR, SCC, JT & SCALE. Alphabetical case indexing can also be done for a specified period with the name of petitioner or respondent to check the entries. (JUDIS)

**INDIACODE:** The India Code Information System contains all Central Acts of Parliament right from 1834 onwards. Each Act includes: Short Title, Enactment Date, Sections, Schedules and also very significant foot-notes in every act. Besides this, Statement of Object Reasons, Table of contents and Status of an Act is also available. (India Code)

#### **India Legal Information Institute (IndLII)**

IndLII was established on November 25, 2006 to provide a platform where concrete efforts would be made to fulfill the objectives of providing free legal information to all. The mission statement of the Institute states that everyone has right to know the law of the land free of cost. To fulfill the aspiration, the institute undertakes to

- collect legal information about India from all available sources;
- publish the material on the Internet with free and full access;
- grant rights to the public to use the legal resources without any restriction;
- create awareness about the availability of free legal resources;
- remove hurdles coming in the way of providing free legal information;
- coordinate with other institutions of the world to explore sources and utilization of legal information

The aim of the institute is to provide all Central Acts, State Acts, Rules and Regulations on the Internet. Efforts are underway to provide all the Supreme Court judgments and 21 High Courts' judgments on this website with subject and Act/Section indices and to provide judgments of quasi judicial bodies like the Central Administrative Tribunal, National Consumer Redressal Commission and Copyright Board on this site (Singh). IndLII is a Charitable Not-For-Profit Trust and have no regular funding resource either from the Government or from the other stakeholder in the world (Singh). This website is not a formal member of the FALM but providing free access to legal information resources. The resources available on this website under various categories are not enough.

**Indian Kanoon (IK)**

Indian Kanoon was publicly announced on the 4<sup>th</sup> of January 2008 and began offering access to Indian Supreme Court cases and the text of central legislations. Its genesis was not in response to the need for easily access to legal information but the result of a Computer Science Doctoral Experiment designed by Sushant Sinha from Michigan University, who was researching ways in which data could be interrelated automatically (Iyengar). IK has grown exponentially and has become one of the most popular websites for accessing Indian legal material, hosting as over 1.2 million documents (as on July 2010) (Iyengar). IK is providing free access to the legal resources and its database are structured by "breaking law documents into smallest possible clause and by integrating law/statutes with court judgments. A tight integration of court judgments with laws and with themselves allows automatic determination of the most relevant clauses and court judgments." (Indiakanoon).

**Indian Open Access Journals and Law Schools**

The basic idea behind the open access is that "all scholarly work should be made available on the Internet for free, in a format that allows all to read it without restrictions" (Hunter). Almost all the law schools and old law department of various universities and Bar Council of India publishing their scholarly journals in printed form out of which online journals are only few. If we look at the Directory of Open Access Journals (DOAJ) only two Indian law journals are listed in this directory. The most popular journals like JILI, IBR, CULR, IJIL, IJCC, KULR etc. are not available online. Even some of the printed journals are not publishing their issues within due time or publishing annually instead of quarterly. The time has come for legal scholars and scholarly journals in India to join the movement for open access. India is lagging behind in this field. The law schools are in the best position to steward this movement because they have the obligation and also necessary technical resources.

**Conclusion**

Information reliability, authenticity, precision, accuracy, version control are the challenged posed by the digital environment besides these factors userfriendliness, searching interface, completeness, timely updation, format of information, citation and also the awareness about the free information resources are other factors to be considered in free access to law movement. Law librarians need to be considered as core participants in the mission of LII of India and law librarians also need a professional network to play a vital role in the free access to law revolution. The experience of law librarians can improve the efficiency of the LII of India.

All the law schools should develop a common digital repository of their scholarly publications instead of publishing their one or more journals separately. According to the special Committee on Open Access Applications for

Legal Information of the American Association of Law Libraries (Open Access Task Force) "Open access could provide greater exposure to faculty scholarship and might also provide greater exposure to less prestigious journals" (Paul). Instead of publishing printed journals, it is a good opportunity and time to start e-publishing to participate in this movement. Not only law schools but also the Bar Council of India as well as State Bar Councils and law firms should come forward to join this movement.

In the last it is proposed that the Legal Information Institute of India should be developed in such a way that it could be the better alternative of the commercial websites then only it would serve the public in real sense.

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