

Indian initiative to provide free access to authentic legal information

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Abstract:

A need was felt to introduce information technology in the judiciary for providing easy access to court related information. As a first step towards this initiative, in the year 1990, the National Informatics Centre, a wing of the Ministry of Information Technology, Government of India was entrusted with the work of computerisation of applications, orders, judgments, statutes etc. for providing an easy access of information to the litigants and lawyers. The project included the Supreme Court and twenty-four High Courts of India. In the year 2005, a National Policy and Action Plan to implement ICT in courts across India with web-based interlinking was formulated. An E-Committee formed in the Supreme Court is the apex body at the national level for implementing the action plan. This paper will cover the projects undertaken by the courts and the government departments to provide free access to authentic legal information along with the various free legal sources which are available online.

Keywords: Legal information, Indian Laws, Indian Legal Sources, Government Information

Introduction

India, the world's largest democracy with the longest written Constitution guarantees fundamental rights to its citizens including the right to information. Efforts are being made and steps are being taken by the Government of India to provide its citizens free access to official information.

Right to Information

It would be pertinent to mention about the Right to Information Act, 2005 which was enacted to guarantee provision of effective access to information for citizens making the Government and its functionaries more accountable and responsible. Section 4 of the Act deals with *Obligations of public authorities*, and Subsection 1(a) clearly mentions that every public authority shall maintain all its records duly catalogued and indexed in a manner and the form which facilitates the right to information under this Act and ensure that all records that are appropriate to be computerized, within a reasonable time and subject to availability of resources are computerized and connected through a

network all over the country on different systems so that access to such records are facilitated. This is an important step towards free access to authentic official information by the Government to the citizens.

The Supreme Court of India has considered the right to information as fundamental right in the judgment of *'People's Union for Civil Liberties v. Union of India, (2004) 2 SCC 476*, at page 494, the Honourable Court has said - ***Right of information is a facet of the freedom of "speech and expression" as contained in Article 19(1)(a) of the Constitution of India. Right of information, thus, indisputably is a fundamental right which involves the people's right to know.***

Copyright Act, 1957

Government of India can make all the data and information available through open access to its citizens. As per the Copyright Act, the Government is the first owner and the copyright shall subsist for sixty years from the beginning of the calendar year next following the year in which the work is first published (Section 28). It is also the owner of all works produced by the government employees (Section 17(d)) and "Government work" as explained in section 2(k) includes all materials produced by the legislature and the judiciary.

In Section 52 of the said legislation **certain acts are listed which are not to be considered as infringement of copyright:**

Section 52(q) reads that the reproduction or publication of-

- i. any matter which has been published in any Official Gazette except an Act of a Legislature;
- ii. any Act of a Legislature subject to the condition that such Act is reproduced or published together with any commentary thereon or any other original matter;
- iii. the report of any committee, commission, council, board or other like body appointed by the Government if such report has been laid on the Table of the Legislature, unless the reproduction or publication of such report is prohibited by the Government;
- iv. any judgement or order of a court, tribunal or other judicial authority, unless the reproduction or publication of such judgment or order is prohibited by the court, the tribunal or other judicial authority, as the case may be;

Section 52(r) reads as the production or publication of a translation in any Indian language of an Act of a Legislature and of any rules or orders made there under-

- i. if no translation of such Act or rules or orders in that language has previously been produced or published by the Government; or
- ii. where a translation of such Act or rules or orders in that language has been produced or published by the Government, if the translation is not available for sale to the public:

Provided that such translation contains a statement at a prominent place to the effect that the translation has not been authorised or accepted as authentic by the Government;

National Data Sharing and Accessibility Policy (NDSAP), 2012 - The government gazette notification available at http://www.dst.gov.in/nsdi_gazette.pdf

In early 2012, the Government of India had taken initiative and issued the NDSAP policy to facilitate access to Government of India owned data and information through a network for national planning and development. The policy allows the data collected by *'access to data generated from public funding should be easy, timely, user-friendly and web-based without any process of registration /authorization'*. Access to data under this policy will not be in violation of any Acts and rules of the Government of India in force. Legal framework of this policy will be aligned with various Acts and rules covering the data.

It is expected that this National Policy will increase the accessibility and sharing of non-sensitive data amongst the registered users and their availability for scientific, economic and social development. The organisation holding the data will be re-classifying their data and prepare a negative list of sensitive data, keeping in view, the broad guidelines delineated in the RTI Act 2005. The said list will be periodically reviewed to check whether the data should continue to remain in the restricted category or not.

There is a plan to have three types of accesses to the government data viz. open, registered and restricted access:

Open access will be allowed to all the sharable data which are not covered under the nature and scope of negative and sensitive list and will be web-based without any process of registration / authorization

Registered access will be available to the recognized institutions / organizations / public users, through a prescribed process of registration and authorization by respective departments/ organizations for accessing the data.

Restricted access – Sometimes the Government of India declares certain data as restricted by Government of India policies. These data will be accessible only through and under authorization of the Government.

NDSAP will apply to all data created, generated and archived using public funds provided by Government of India directly or through any authorised agencies by various ministries/departments/agencies/autonomous bodies. Even though all the sharable data will be available for free access, some data may have pricing. The data owners as per the government policies will fix the pricing and the pricing policy will be uploaded by the Ministries/ Departments under registered and restricted access within three months of the notification of the policy.

The National Informatics Centre was directed to set up a data portal for India to provide a platform to the government departments to publish their datasets online in open formats. The Beta version of the Data Portal can be accessed at <http://data.gov.in>. This portal will only have the metadata and data itself will be accessed from the portals of the departments/ministries through the links from data portal. The implementation guidelines were issued in April-May 2013 and can be accessed from http://data.gov.in/sites/default/files/NDSAP_Implementation_Guidelines-2.1.pdfhttp://data.gov.in/sites/default/files/NDSAP_Implementation_Guidelines-2.1.pdf

Government Websites and Open Access

The websites of the ministries and government departments are providing free access to information, The information available in the Government websites are official and some have watermark in them to show their authenticity. Some government websites providing official and authentic legal information are:

1. **Ministry of Law and Justice**
The website of Ministry of Law and Justice has links to information relating to legal affairs, law and justice. (<http://lawmin.nic.in/>)
2. **Constituent Assembly Debates-** <http://parliamentofindia.nic.in/ls/debates/debates.htm> All the proceedings of the Constituent Assembly from 9 December 1946 to 24 January 1950 are available.
3. **Constitution of India-** <http://lawmin.nic.in/coi/coiason29july08.pdf> - available in Law Ministry website.

4. **Constitution (Amendment) Acts** <http://indiacode.nic.in/coiweb/coifiles/amendment.htm> - all the amendment Acts till the Ninety Seventh Amendment are available with Statement of Objects and Reasons
5. **Bills and Legislation**
The Parliament of India website has links to the bills and legislations introduced and passed by Lok Sabha and Rajya Sabha. <http://www.parliamentofindia.nic.in/> . The Parliament website also has link to all the proceedings of the Constituent Assembly.
6. **Law Reforms**
The Law Commission of India website has all the two hundred and thirty four reports submitted by nineteen law commissions till date. (<http://lawcommissionofindia.nic.in/>)
7. **Indian Government Gazette**
The Government of India gazette is now available online in <http://egazette.nic.in/Searchmenu1.aspx> - search is available for weekly gazette and extra ordinary gazette
8. **Copyright Office**
All information about copyright in India can be accessed from <http://copyright.gov.in/>
9. **National Portal Of India-** <http://india.gov.in> – links are given by Topic, Services, **My Government** and Latest News.
Under My Government – links relating to legal information can be found -
Acts and Rules - <http://india.gov.in/my-government/actsrules>
Schemes - <http://india.gov.in/my-government/schemes>
Gazetteer Information <http://india.gov.in/my-government/documents/gazetteer-notification>
10. **Government of India Web Directory-** <http://goirectory.nic.in/index.php> - links are given to government websites including parliament, legislature, ministries and judiciary.

The official language of the Union of India as per the Constitution of India is Hindi with devanagiri script. As per the Eight Schedule of the Constitution of India twenty-two languages are given official status. The State Government Websites have official information in English as well as the official regional language of the State.

Judiciary and Information Technology

The computerization of courts in India started two decades ago. The National Informatics Centre, a wing of the Ministry of Information Technology, Government of India was given the project of computerisation of the Courts. In 1990 some processes in the Supreme Court were computerised like generation of cause lists, computerised filing, case status and judgements. In the later part of the 1990's the High Courts and some District Courts were covered in this project.

Ongoing Project of ICT Enablement in the Judiciary

In 2004 a need for re-structuring the system was felt and an E-Committee was constituted in the Supreme Court of India by the Ministry of Law and Justice (Department of Justice), Government of India. The basic objectives were to enhance transparency and accountability in providing speedy, qualitative and cost- effective justice to the people. As the first step the E-committee framed a National Policy & Action Plan for implementation of Information and Communication Technology in Indian Judiciary. The E-Committee will try to achieve the objectives by effective use of ICT through its implementation in a phased manner over a period of five years from the date of its commencement. A web portal – <http://indianjudiciary.in> with the links to information relating to Supreme Court, State Judiciary, Legal information, Judicial Academies, E-Committee and Data Center has been created.

The E-Courts project aims at ICT enablement of lower courts. The District and Taluka (County) Courts are provided hardware and software to facilitate their daily functioning. In the first phase Case Information System (CIS), a comprehensive & integrated customised software application for the entire judicial system with regional languages support is being provided to all the courts. In the second phase, E-Filing facility will be introduced in all the courts. And the third phase would be creating of information gateways between courts & public agencies & departments. A Project Progress Monitoring System has been developed by the National Informatics Center to manage the nation wide project (<http://ecourts.nic.in>). There is a proposal to develop a database of all statute laws including both Central and State laws with easy search facility which will be made available online for free access on the internet. The networking of courts and their libraries is also in their agenda.

Some Government websites providing information relating to the Judiciary are:

1. **Indian Courts**- a website <http://indiancourts.nic.in> was created to list the cause lists of various courts. This database contains details of fresh cases filed as well as the disposed off and pending cases. Computerised filing was introduced in all the courts to file new cases.
2. **Courtnic** (www.courtnic.nic.in) a database of case information was generated to provide the status of the pending cases to the litigants and advocates. This service was welcomed by the litigants and the advocates as it saved their time. The daily orders can also be accessed from this website.
3. **JUDIS**: Judgement Information System (www.judis.nic.in) – A need was felt to provide free access to court judgments for the litigants, advocates and general public, the National Informatics Centre started with provision of full text of all reported Supreme Court of India judgments from 1950 till date, later all the High Court judgments were included, recently the orders of the District Courts and Tribunal are also provided.
4. **Open Judis** (<http://judis.openarchive.in/>)- is free search engine/repository of Indian Supreme Court cases from 1950-2007 and provides free unrestricted access to complete texts of over 23,000 Supreme Court Cases.
5. **India Code** (<http://indiacode.nic.in>) - a database of the Acts of Parliament from the year 1836 onwards. The Constitution of India is available in English as well as in Hindi <http://indiacode.nic.in/coiweb/welcome.html>
6. **National Legal Services Authority** - <http://nalsa.gov.in/> - all information relating to free legal aid to weaker section of the society with the related Acts, Rules and Schemes are available in this site.
7. **National Judicial Academy** <http://www.nja.gov.in/> - information relating training of judges is available.
8. **National Human Rights Commission** - <http://nhrc.nic.in/> all information about human rights are available here.

LII of India - <http://liiofindia.org/>

This is not a government project but is a non-profit private initiative by four National Law Schools of India, IIT- Kharagpur and Rajiv Gandhi School of Intellectual Property Law to provide comprehensive online collection of Indian legal information with a good search option.

Conclusion

The Government of India had taken and is continuing to take initiative to provide free access to official and authentic legal information. It is expected that with the National Data Sharing and Accessibility Policy, 2012 there would be further improvement in the access of government information in open format. The initiative of the E-Committee of the Supreme Court of India to restructure the judiciary with enablement of Information Communication Technology will further facilitate easy storage and access to judicial information. A National Legal Repository of India with links to all types of legal information may come true in the near future.

References

1. Germain, Claire M., "Worldwide Access to Foreign Law: International & National Developments Toward Digital Authentication" (2012). *Working Papers*. Paper 1. <http://scholarship.law.ufl.edu/working/1> accessed on 1 May 2013
2. G Greenleaf, VC Vivekanandan, P Chung, R Singh and A Mowbray, "Challenges for Free Access to Law in a Multi-Jurisdictional Developing Country: Building the Legal Information Institute of India", (2011) 8:3 *SCRIPTed* 292 <http://script-ed.org/?p=90> accessed on 30 May 2013
3. Indian Copyright Act, 1957 <http://copyright.gov.in/Documents/CopyrightRules1957.pdf> accessed on 30 May 2013
4. Iyengar ,Prashant Free Access to Law in India- Is it Here to Stay? (July 30, 2010). Available at SSRN: <http://ssrn.com/abstract=1778820> accessed on 29 May, 10 & 20 June 2013
5. National Data Sharing and Accessibility Policy (NDSAP). <http://ogpl.gov.in/NDSAP/NDSAP-30Jan2012.pdf> accessed on 1 June 2013
6. National Policy and Action Plan of E-Committee of Supreme of India <http://supremecourtindia.nic.in/ecommittee/action-plan-ecourt.pdf> last accessed on 10 June 2013
7. People's Union for Civil Liberties v. Union of India, (2004) 2 SCC 476 also available online in JUDIS website at <http://164.100.9.38/judis/bitstream/123456789/18838/1/25760.pdf> last accessed on 10 June 2013
8. Principles & Core Values Concerning Public Information on Government Websites <http://www.aallnet.org/main-menu/Advocacy/access/aeliccorevalues.pdf> last accessed on 15 June 2013
9. Right to Information Act, 2005 <http://rti.gov.in/rti-act.pdf> last accessed on 25 May 2013.