

Achieving e-Democracy in Africa: A Role for Pan-African Electronic Legal Materials?

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Abstract

The principle that those who are subject to the law should have access to legal information is as old as *Hammurabi's Code* which was openly displayed for all to see. This reinforced the principle that no man could plead ignorance of the law as an excuse. There was, however a catch. Few people could read, so it was left to the scribes to interpret. The French Code Civil went further by ensuring that the Code was in a simple form and published using mass printing technology to be made available to every citizen.

The contemporary story of law in Africa has parallels. Few people can read legal texts, but the law has not even been readily available even for the contemporary scribes –the lawyers. There are two reasons for this. Firstly, undoubtedly underdevelopment, debt burdens and ineffective structural adjustment programmes in most African countries, particularly sub-saharan bears a great responsibility. Secondly, respect for legality and the rule of law left much to be desired, and in the circumstances the law was not worth spending time and money on.

The apparent promise of information technology is that it can provide, technologically and socially, the most effective vehicle for access to free legal information to all. But this faces failure because of digital divides.

The paper explores the following:

- a. The main political, technical, and legal issues towards securing datasets and free and effective access to public information.
- b. The role of electronic legal information in securing effective access to legal information.
- c. Enabling open access to legal information: Ways of developing and securing an effective organizational system that is supportive of main principles and practices of access to legal information in the judicial and legislative domains. This will involve an analysis of commercial and open access systems being currently developed in Africa, in particular the Akoma Ntoso and Bungeni systems and the Commonwealth Legal Information Institute and the Southern African Legal Information Institute.
- d. Making open access to legal information sustainable: The cost implications in the production and delivery of legal information and development of principles of sustainability for effective provision.