

Romance of Public Domain in Legal Research: An Awareness Study about Free Access to Legal Resources among Users of Select Law Libraries in Delhi

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Abstract

The advent of the internet resulted in availability of open access of literary information. Governments and NGOs played a greater role to provide their respective research outcomes through their web portals. The paper analyses awareness using public legal information popularly known as Public Domain Resources by the law library users. A number of international and national initiatives have been performed to support free access to law generated by government and public funded organizations. It is right time to educate legal researchers regarding the use of public domain resources for optimum use of free, fast and easy access of public domain resources

Keywords: Open Access Resources, Law Libraries

1. Introduction

Public domain is conceptualized as works not protected by copyright, or for which copyright has expired, which may be printed for distribution and sale, quoted, excerpted, reproduced, and made available online to the public without infringement, for example, a government document over which an agency decides not to exercise copyright in order to make its content widely known. After invention of internet technology for uploading and browsing of information the word public domain was came into the term of information which was not in the sphere of copyright laws. The term 'Public Domain' refers to creative materials that are not protected by intellectual property laws such as copyright, trademark or patent laws. The public owns these works, not an individual author or artist. Anyone can use a public domain work without obtaining permission, but no one can ever own it.

United State Copyright act explains public domain as any work for which the copyright has expired, and not been renewed, any work that was published prior to 1923, works produced by the United States Government and other specific Governments, Work that is donated to the public domain, or any other work that has no laws that restrict its use by the public. Hence, there are four common ways that works arrive in the public domain:

- a. Expiration of copyright: Where the copyright has expired.
- b. Failure to renew copyright: Where the owner failed to follow copyright renewal rules.
- c. Dedication: Where the owner deliberately places it in the public domain.
- d. No copyright protection available: Where copyright law does not protect this type of work.

Public domain information is that which does not have any copyright by virtue of expiration of primary rights or voluntary contribution of authors. James Boyle and William Neal Reynolds (2005) state that preserving the balance between intellectual property and the public domain is not an attack on intellectual property; rather, it's about preserving a living ecosystem between intellectual property and the public domain.

2. UNESCO Initiative towards Governmental Public Domain Information

UNESCO has recommended for promotion and use of universal access of governmental information to general public through web portals. The document "Policy Guidelines for the Development and Promotion of Governmental Public Domain Information" has been formulated and circulated among member countries. UNESCO insists on establishing a public information system supported by governmental agencies. Guidelines issued by UNESCO suggest that there must be legislation to establish an authority in this regard. The main purpose of these guidelines is to encourage Information and Communication Technologies (ICT) to facilitate public information system free of cost and establish a countrywide information system which may be accessed through internet by the whole world.

3. Objective of the Study

The present study has the following objectives.

- ◆ To know about the awareness of public domain resources among law library users.
- ◆ To find about facilitation of user orientation programmes for public domain resources.
- ◆ To identify methods of using public domain resources by law researchers.
- ◆ To analyze awareness about the availability and use of public domain resources in law.
- ◆ To suggest strategies imparting awareness about public domain resources on the part of library professional.

4. Public Domain and Open Access Initiatives: Literature Review

The developmental aspects of Public Domain Resources in law initiated by establishing of Legal Information Institutes during Montreal Declaration in 2002 under the pioneering flagship of Cornell University. A number of studies have been done to evaluate developmental aspects over free access to law movement around the world.

Daniel Paulin (2004) explains the concept of free access, accessibility and distribution of legal information and new emerging information and communication technologies. The author further elaborates the achievements of legal information Institutes and its contribution for the distribution and usage of national, region and international resources in one platform to promote rule of law through open access. Olufunmilayo B. Arewa (2006) made a study on electronic legal information in open access and commercial databases like Lexis and Westlaw. The author further examines the significance of public domain resources and web

portals like social science research network, DOAJ and other initiatives over commercial legal services providers. He further discusses the necessity of proper structuring and designing of electronic legal database as per the requirements of law students, teachers, lawyers Judges.

Michael W. Carroll (2006) demonstrates the current situation towards open access movement and free distribution of law and legal literature over internet. He further outlines and focuses on the growth of increased access of primary materials. The author concludes that this is the benign of new era to join the movement for open access to law and still more work should be done to provide the legal scholarly literature for lawyers and other readers. Stephanie L. Plotin (2009) explains the basic characteristics of digital revolution and how electronic publishing culture has influenced scholarly communication and publication in law by creating a complicated web of interactions and connecting a community of scholars. He further highlights the open access movement and its influence on various form of legal scholarship particularly law reviews and other legal blogs.

Anand P. Singh and others (2010) finds and explains about the value of public domain resources in legal knowledge management. They explain about the birth of free access to law movement resulted out of Montreal Declaration 2002 during Law via Internet Conference in 2002. A brief overview of public domain legal resources available around the world including special highlight over Indian resources have been provided.

Priya Rai (2011) explains various international initiatives for open access to legal resources around the world and provides an overview of global efforts for free access to movement. In her paper she further discusses initiatives of government of India and NGOs efforts. She outlines various national and international initiatives like Budapest Open Access initiatives, Berlin Declaration for open access, U.N. World Summit of Information Society and UNESCO guidelines on the open access. Graham Greenleaf and others (2011) highlights another new addition in the family of LIIs known as Legal Information Institute of India. The paper explains the designing and developing strategies of LII of India with its basic features as value addition. The database is designed on basic of five pillars of law known as Legislation, case law, law reforms, treaties and legal scholarships.

Ranbir Singh and Others (2012) tracks the status of legal research in India in the increasing evolution of information and communication technologies. The development of legal research is supported by a number of research institutes in India. They highlight the legal public domain resources and related initiatives like free access to law movement, UNESCO's policy guidelines for the development and promotion of governmental public domain resources. They further explain the country based legal information institutes like Canada, US, UK and India.

Richard A. Danner (2012) focuses on the importance of free and open access to legal scholarship and commentary on the law. The paper discusses that full understanding of authoritative legal texts requires access to informed commentary as well as to the texts of the law themselves, and that free and open access

to legal commentary facilitates cross-border dialogue and foster international discourse in law. He further discusses the obligations of scholars and publishers of legal commentary to make their work as widely accessible as possible.

5. Research Methodology

A research study has been designed to know the awareness and utilization of public domain legal information by primary users of law libraries. Four groups of users i.e. Law Teachers, Legal Research Scholars, Lawyers/Advocates and Law Students have been taken as target respondents for collection of sample through survey method with the help of mixed questionnaire.

Research Law Libraries in Delhi: Indian Law Institute Library and Indian Society of International Law Library.

Law University/Department Libraries in Delhi: Law Libraries of University of Delhi, Guru Gobind Singh Indraprastha University, National Law University, Delhi and Jamia Milia University Law Department Library.

5.1 Data Collection & Analysis

260 questionnaires (86.66%) were received back for the respondents out of 300 questionnaires circulated. The outcome of the research is presented in the preceded sections. The following law libraries have been taken into consideration for collecting responses.

5.2 User Orientation Programmes for Public Domain Resources

Figure 1 shows the statistical presentation of responses of population for facilitating e-learning orientation for the use of public domain resources available free of cost beneficial for legal education and research. The figure shows that 86.9 per cent of total population has not attended e-learning orientation programme supporting public domain resources.

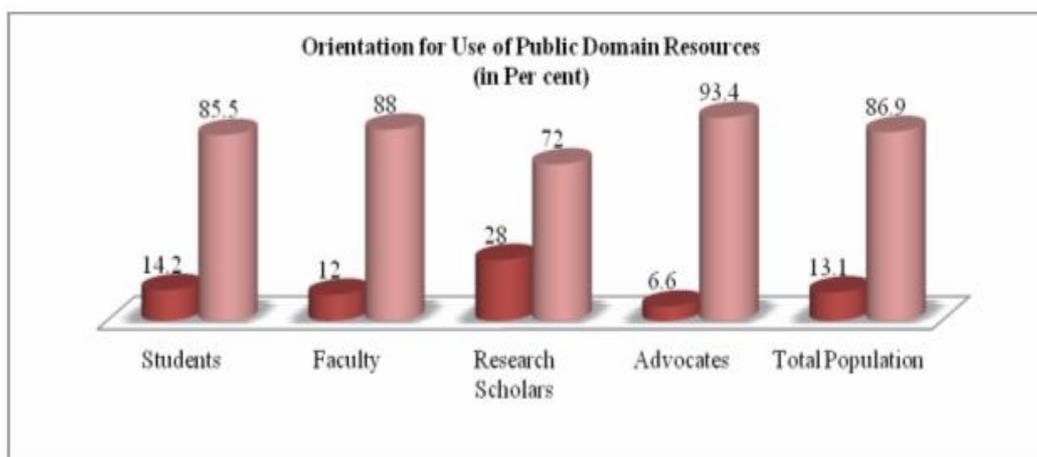


Figure 1: E-learning Orientation for Using Public Domain Resources

93.4 per cent advocates, 88 per cent faculty, 85.5 per cent users and 72 per cent of research scholars have responded for not attending e-learning orientation for educating library users about public domain resources. However 28 per cent Research Scholars have given their consent about attending such types of orientation supporting public domain resources.

5.3 Awareness about Public Domain Resources by Law Professionals

The section evaluates the means and techniques chosen by the user population to reach and find public domain resources. Four options i.e. open search through Google, government websites, institutional websites and NGO Websites have been provided to sample population. Figure 2 shows that 87.7 per cent of total population find public domain resources with the help of open search through Google or any other search engines. 73.1 per cent of total population directly goes to government websites. However 69.6 per cent population knows about web resources provided by NGOs. On the basis of individual responses, 92 per cent research scholars take help of open search engines like Google.

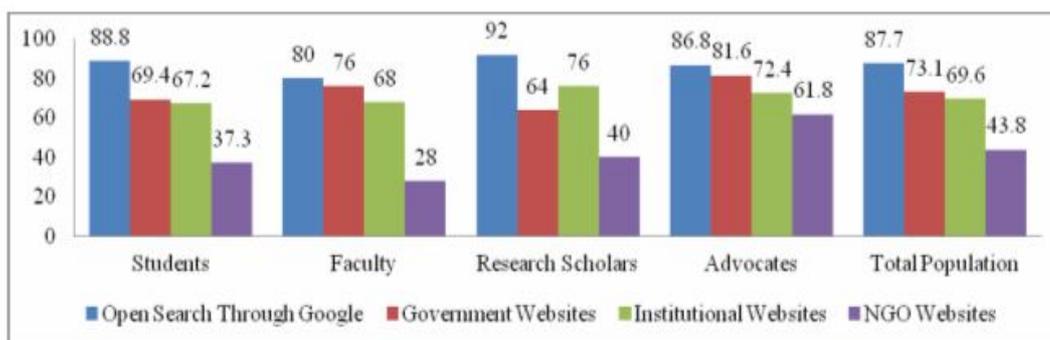


Figure 2: Awareness about Public Domain Resources

5.4 Awareness about the Use of Public Domain Resources

This section gives user survey responses accessing five types of basic legal information in the form of Case Laws of Apex Courts of the Countries, Legislation, Case Laws of International Courts, Legislations, and Reports of the Commissions & Committees, and open access journals published within and outside India. Links of websites containing legal research material have been distributed among user population to know about the frequency of usage of public domain legal information.

5.4.1 Awareness about Case Laws in Public Domain

The section has been divided in two parts presenting responses regarding cases laws provided by the websites of apex courts of six countries in first section and the websites of three international courts i.e. International Court of Justice, European Court of Justice and European Court of Human Rights in second section.

5.4.1.1 Awareness about Case Laws of Select Countries in Public domain

The following web links of apex courts of six countries were circulated among sample population to know about the usage in routine legal education and research work of law professionals.

- ◆ Australia High Court Judgments www.austlii.edu.au/au/cases/cth/HCA
- ◆ Canada Supreme Court Judgments www.canlii.org/en/ca/scc/index.html
- ◆ South Africa Constitutional of Court <http://www.constitutionalcourt.org.za/site/judgments/judgments.htm>
- ◆ Supreme Court of Indian and Indian High Court Judgment www.judis.nic.in/
- ◆ Supreme Court of India and Indian High Court Judgment www.judis.nic.in/
- ◆ Supreme Court of United Kingdom www.supremecourt.gov.uk/decided-cases/index.html
- ◆ US Supreme Court Judgments www.supremecourtus.gov/opinions/opinions.html

Figure 3 show that 76.9 per cent of total population has never used Australian High Court Website. Canadian Supreme Court Website containing complete judgments of the court has never referred by 76.5 per cent of the total population. The condition is almost same in reference of the website of South Africa Supreme Court, United Kingdom Supreme Court and United States Supreme Court. The responses of using Indian websites containing and facilitating judgments of Supreme Court of India and High Courts are 73.8 per cent for www.indiancourt.nic.in.

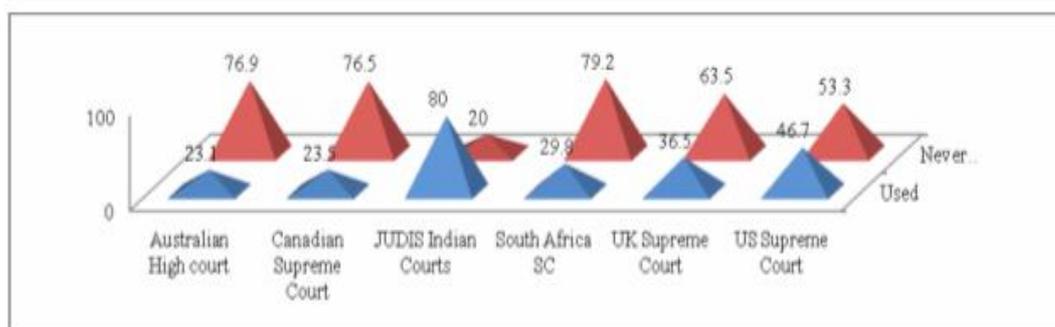


Figure 3: Use of Foreign Apex Court Judgments Websites

5.4.1.2 Awareness of Case Laws of International Courts in Public domain

Users were asked about the awareness about the availability of case laws of international courts on the websites of concerned courts given as under:

- ◆ International Court of Justice www.icj-cij.org/docket/index.php?p1=3&p2=2
- ◆ European Court of Human Rights <http://cmiskp.echr.coe.int/tkp197/search.asp?skin=hudoc-en>
- ◆ European Court of Justice http://curia.europa.eu/jcms/jcms/j_6/

Figure 4 show that 57.3 per cent users have never used the website of European Court of Human Rights. 61.2 per cent users do not know about the availability of case laws of European Court of Justice on its website. However 58.1 per cent sample population agree about the browsing of website of International Court of Justice for referring judgments.

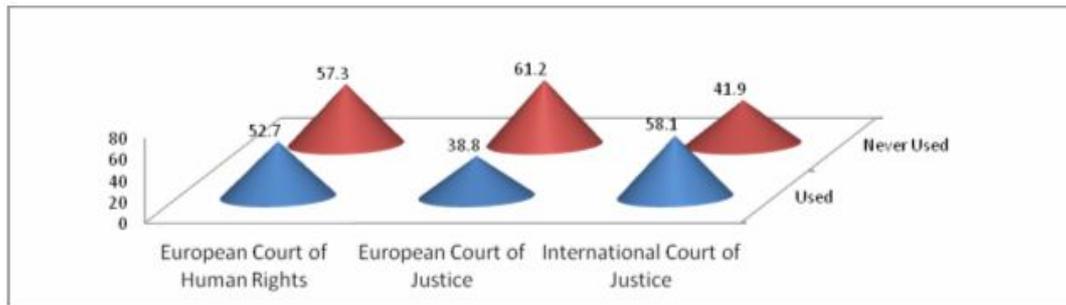


Figure 4: Usage of Websites of International Courts Judgments

5.4.2 Legislation in Public Domain

Legislation of the five major countries mentioned below was circulated among users.

- ◆ Commonwealth of Australia Consolidated Act www.austlii.ed.au/au/legis/cth/consol/act/
- ◆ Consolidated Statute of Canada www.canlii.org/en/
- ◆ India Code Text Base www.indiacode.nic.in
- ◆ UK Statute www.statutelaw.gov.uk
- ◆ United States Code <http://www.gpoaccess.gov/uscode/browse.html>

Figure 5 presents that 81.5 per cent of total population has never used legislative websites of Austria. 81.9 per cent has never used legislative website of Canada. 63.8 per cent have not referred United Kingdom Legislative website. 70.4 per cent have never used United State Code. India Code is responded by 59.6 per cent users to use in their legal education and research.

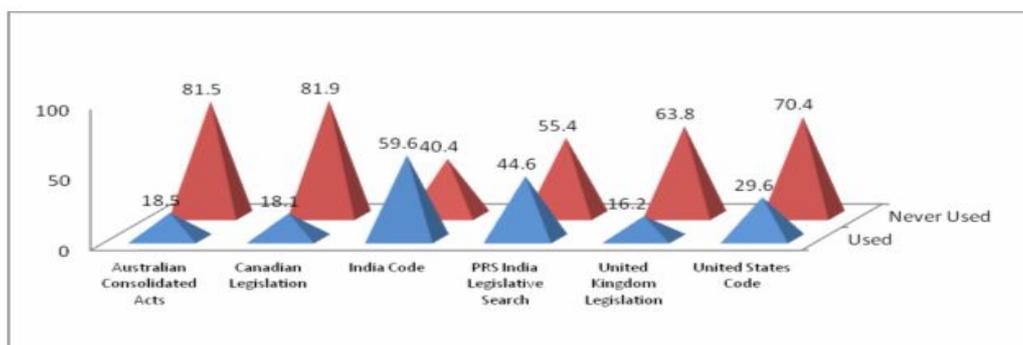


Figure 5: Usage of Websites for Legislative Search

5.4.3 Access of Committee & Commissions

This section gives graphical and analytical presentation of awareness of web portals containing law reform reports and human right commission reports of major countries. The comparative analysis of the usage of such web resources have been covered under this section. The section is further divided in two sub-sections.

5.4.3.1 Law Reforms Commissions around the World

Users were provided the following website links of the various Law Reform Commissions around the World.

- ◆ International Law Commission <http://www.un.org/law/ilc/index.htm>
- ◆ Law Commission of India <http://www.lawcommissionofindia.nic.in/>
- ◆ Law Commission of United Kingdom <http://www.lawcom.gov.uk/>
- ◆ Law Commission of New Zealand <http://www.lawcom.govt.nz/>
- ◆ Australian Law Reforms Commission <http://www.alrc.gov.au/>

Figure 6 shows that the law reform commission reports of Australia, New Zealand and United Kingdom have never been accessed by 84.6 per cent, 84.6 per cent and 75.8 per cent of total population respectively. Law Commission of India Reports is taken into research consideration by 84.6 per cent of user population. However, the reports of International Law Commission are also being used by 57.7 per cent of the users.



Figure 6: Usage of Law Reform Reports Websites

5.4.3.2 Human Rights Commissions

Under the section users were evaluated to know about the usage of following websites disseminating human right commission reports of number of countries and international organizations.

- ◆ Asian Human Rights Commission <http://ahrchk.net/>
- ◆ Canadian Human Rights Commission (CHCR) <http://www.chrc-ccdp.ca/>
- ◆ Human Rights And Equal Opportunity Commission (Australia) <http://www.hreoc.gov.au/>

- ◆ National Human Rights Commission (India) <http://nhrc.nic.in/>
- ◆ United Nations High Commissioner for Human Rights (UNHCHR) <http://www.ohchr.org/english/>

Figure 7 shows that the Reports of National Human Rights Commission are referred from the websites of the Institution by 83.5 per cent of users. However 84.2 per cent of user population does not know about the reports available on the website of Human Rights & Equal Opportunity Commission.

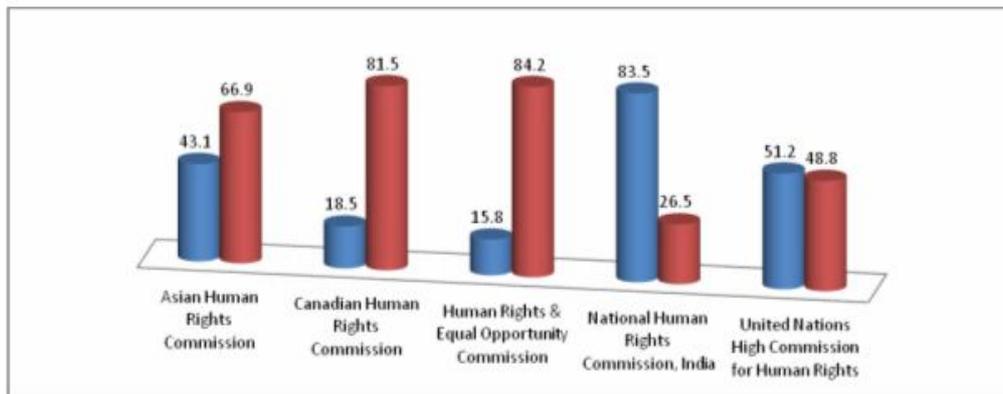


Figure 7: Usage of Human Right Commission Report Websites

81.5 per cent have never browse Canadian Human Rights Commission Reports from its website. 43.1 per cent know about the reports available on the websites of Asian Human Rights Commission. 51.2 per cent browse the reports of United Nationals High Commission for Human Rights through web portal of the Institution.

5.4.4.1 International Journals & Scholarships

The websites of the following ten journals were circulated among user population.

- ◆ California Law Review <http://www.californialawreview.org/issues>
- ◆ Cornell International Law Journal <http://organizations.lawschool.cornell.edu/ilj/>
- ◆ Duke Law Journal <http://www.law.duke.edu/journals/dlj/index>
- ◆ Harvard Human Rights Journal <http://harvardhrj.com/>
- ◆ Harvard International Review <http://www.hg.org/redir.asp?url=http://www.hir.harvard.edu/>
- ◆ Harvard Law Review <http://www.harvardlawreview.org/index.php>
- ◆ Law and Contemporary Problems <http://www.law.duke.edu/journals/lcp/>
- ◆ Texas Law Review <http://www.texasrev.com/>
- ◆ Washburn Law Journal <http://washburnlaw.edu/wlj/>
- ◆ Yale Law Journal <http://www.yalelawjournal.org/current-issue.html>

Figure 8 provides 80 per cent of the total user population has never used Duke Law Journal through its website. 53.1 per cent know about the availability of Harvard Law Review in public domain, preceded by Yale Law Journals known by 50.4 per cent of total population.

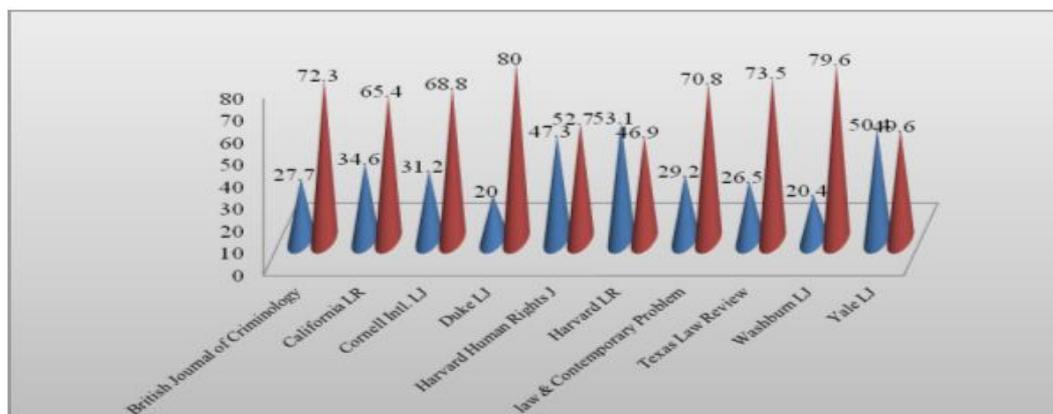


Figure 8: Usage of International Open Access Legal Journals

5.4.4.2 Indian Journals & Scholarships

The web portals of following ten Indian journals related to law were circulated among user population.

- ◆ ILI Law Review <http://www.ili.ac.in/lawreview.htm/>
- ◆ Indian Journal of Constitutional Law <http://www.liiofindia.org/in/journals/INJConLaw/>
- ◆ Indian Journal of Intellectual Property Rights <http://www.liiofindia.org/in/journals/INJIPLaw/>
- ◆ Indian Journal of Law & Technology <http://www.liiofindia.org/in/journals/INJILawTech/>
- ◆ Journal of Intellectual Property Rights <http://nopr.niscair.res.in/handle/123456789/45>
- ◆ Mainstream Weekly www.mainstreamweekly.net/
- ◆ NALSAR Law Review <http://www.liiofindia.org/in/journals/NALSARLawRw/>
- ◆ NALSAR Students Law Review <http://www.nalsarstudentlawreview.com/>
- ◆ NUJS Law Review <http://www.nujslawreview.org/law-review-journal.html>
- ◆ Seminar <http://www.india-seminar.com/>

Figure 9 shows that ILI Law Review is accessed by 71.5 per cent of total population. However, Indian Journal of Constitutional Law is browsed by 67.3 per cent of total population.

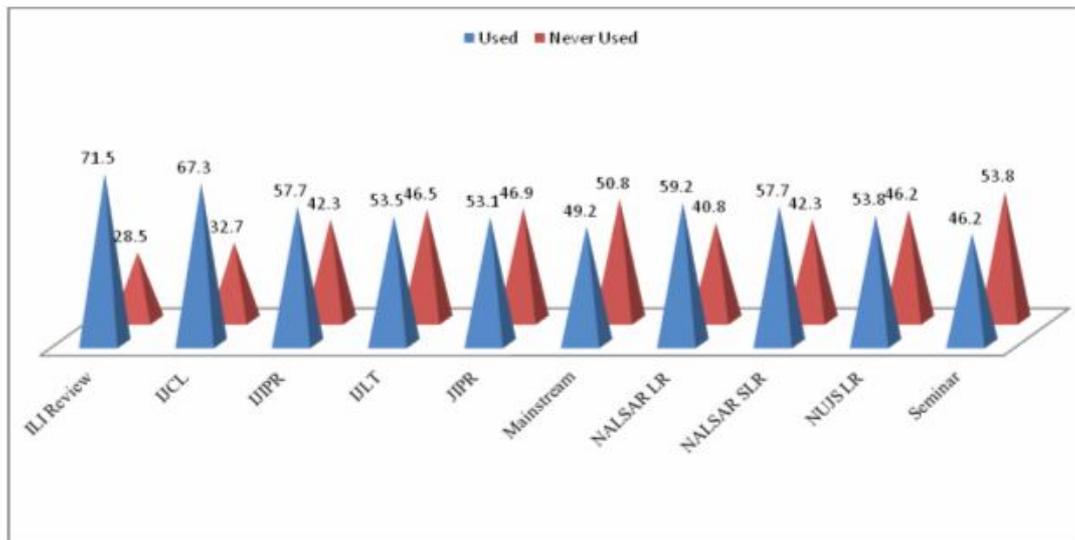


Figure 9: Usage of Indian Open Access Legal Journals

Indian Journal of Intellectual Property Rights website is used by 57.7 per cent of total population. 53.5 per cent know about the availability of Indian Journal of Law & Technology in open access. 53.1 per cent use Journal of Intellectual Property Rights open access journal. Mainstream Weekly is used by 49.2 per cent of the total population. NALSAR Law Review and NALSAR Student Law Review are access in open domain by 59.2 and 57.7 per cent of total population respectively. However NUJS Law Review is accessed by 53.8 per cent. The lowest i.e. 46.2 per cent users know about the availability of Seminar in open access domain.

5.4.5 Databases for Journals & Scholarships

This section accesses the usage of select open access databases available containing legal journal and scholarship designed especially for supporting open access to law movement around the world. The following three websites has been circulated among user population.

- ◆ Social Science Research Network <http://www.ssrn.com>
- ◆ Global Legal Information Network <http://www.glin.gov/search.action>
- ◆ Find Law <http://www.findlaw.com/>

Figure 10 shows about the awareness and non awareness of three free available databases i.e. FindLaw, Global Legal Information Network (GLIN) and Social Science Research Network (SSRN). 55 per cent users do not access Find Law databases. 59.6 per cent users have not access the website of Global Legal Information Network. Social Science Research Network is accessed by 47.7 per cent of the user population.

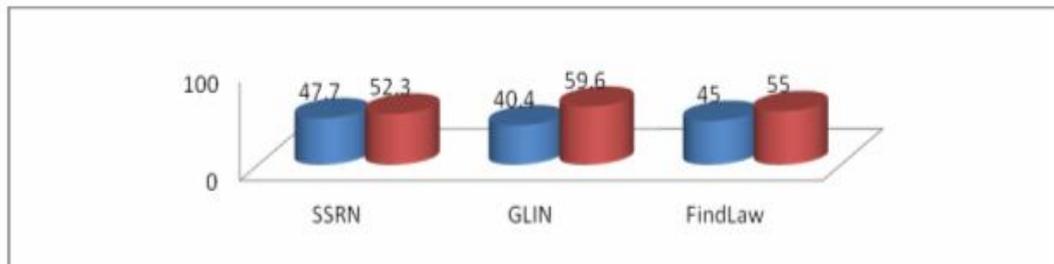


Figure 10: Usage of Open Access Databases

5.5 Suggestions and Feedback of Respondents about the Use of Public Domain Resources for Legal Research

The comments of the respondents have been divided in two paragraphs viz. one for supportive comments and second for non supportive comments.

5.5.1 Users' View in Support of Public Domain Legal Resources

- ◆ Public Domain Resources support easy access to the search in combination of case law or legal articles and it can be used from anywhere around the world.
- ◆ Public Domain Resources are good because they contain detailed information.
- ◆ Public Domain Resources are very much supportive to legal research and contain almost all sphere of legal information.
- ◆ Public Domain Resources contain much valuable information and links to various websites including articles and cases.
- ◆ The amount of information available from them is more than what is available in paid databases. Public Domain Resources contain valuable information and material is easily available.
- ◆ Public Domain Resources have an edge of easy to access. Though commercial databases offer more ease of access, the vast amount of Public Domain Resources are with hands down.

5.5.2 Users' View not Supporting Public Domain Legal Resources

- ◆ Public Domain Resources on internet are not sufficient and are not enough for academic purposes.
- ◆ Certain good and ground breaking articles are not available on free basis.
- ◆ It is very tedious process to search in Public Domain Resources and many databases available in Public Domain Resources are not freely or easily available.
- ◆ Public Domain Resources are carrying insufficient data compared to the commercial ones. They are sometimes unreliable also.

- ◆ Public Domain Resources are deficient due to no timely updation, no effective search options and sometimes difficult in downloading.
- ◆ Public Domain Resources are deficient in the extent of coverage but government websites provide authentic information for research.
- ◆ Public Domain Resources do not provide refined and qualitative research material. Public Domain Resources generally face a crunch of funds which hamper their growth and restrict the available materials.
- ◆ Public Domain Resources must be made available to educational and research purposes on a large scale. Public Domain Resources must be updated and disseminate among students. Public Domain Resources must be user-friendly.

5.6 Research Findings

The following findings have been found to facilitate better user education programmes to aware law library users for optimum utilization of public domain resources.

- ◆ Public domain resources are used by law professionals by various means including open access through search engines, governmental websites, institutional websites and NGOs web portals.
- ◆ Most of the total population (87.7 per cent) search public domain information by the help of open access search engines. 73.1 per cent of the total population knows about the availability of legal information on government websites which is a good response to encourage governmental bodies to provide more information on its web portals.
- ◆ Users are not much aware about the availability of case laws of apex courts of select countries. However, Majority of user population knows about the availability of case laws of Indian Supreme Court and High Courts through JUDIS Judgment Information system (80 per cent). The judgment of International Court of Justice is used by majority of user population (58.1 per cent) as compared to other international courts.
- ◆ Users know less about the availability of legislation of select countries in public domain through free access web portal. But it is also revealed that law professionals aware of text of Indian legislation with India Code (59.6 per cent).
- ◆ Majority of users (84.6 per cent) users know about the availability of full text report of Law Commission of India. However, reports of other law commissions are very much used and known by the sample law professionals. The reports available on the website of National Human Right Commission are known by 83.5 per cent of total user population.
- ◆ Majority of law professionals do not use free legal journals and scholarship published outside and within India. However, Harvard Law Review is used through open access portal of Harvard University by majority of law professionals (53.1 per cent). Out of Indian open access law journals, ILI Law Review is much popular among law professionals (71.5 per cent).

- ◆ Less than 50 per cent of the law professional use free accessible databases supporting legal journals and scholarship viz. Social Science Research Network, Global Legal Information Network and Find Law.

6. Conclusion

Public Domain Resources are alternatives of expensive databases and are very much useful for law school libraries to cope with budget constraints. It has been found that major legal information like case laws, legislations, constitutional documents, parliamentary proceedings, and law reform commission reports are generated out of governmental activities and majority of these information is available for public use through respective web portals of the governmental agencies. Legal Information Institutes established under the flagship of Cornell Law University and AUSTAD, an NGO based in Australia are rich sources providing legal information of almost all countries around the world through www.worldlii.org. The survey indicates that the users of law libraries are less aware about the availability of such resources. Librarians have to perform a greater responsibility to disseminate the presence of such free access resources. A well planned and information rich library orientation programme is the best way to inculcate information digging habits of the users from the universe of digital knowledge.

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