

Free access to the Law in Latin-America: Brasil, Argentina, México and Uruguay as examples

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Abstract. The paper presents, shortly, the state of the art on free access to the Law in four Latin-american representative countries. They are Brasil, Argentina, Mexico and Uruguay. The reason of the selection resides in the fact that Brasil, Argentina and Mexico, three big Latin-american countries in relation with the number of population, have experiences on the topic several years ago: the seventies. The experiences have different origin: initiatives of the legislative power in Brasil and initiatives of the executive power in Argentina and Mexico. The citizens of the three countries, also, speak different languages: Portuguese and Spanish. Uruguay is an example of small country that has began initiatives in recent times: the adopted solution is different and accommodated to the recent context. The paper makes a short presentation of their respective experiences and will conclude with an initial approach to go from the examples to a complementary ideal state of the art on free access to the Law in the Latin-american situation and in another countries, according to the today state of the technique and the democratic principles of the State of Law

Keywords: Legal documentation retrieval systems, Semantic Web, Democracy, Access to the juridical documentation

1. Introduction

The paper likes to expose, in exemplary and symbolic form, initially (section 2), the state of the question on the access to juridical documentation retrieval in Brazil, Argentina, Mexico and Uruguay. The objective is to show that in those countries, like it happens in another, there are several real initiatives that facilitate the free access to the juridical texts via Internet to all interested that, having the appropriate knowledge, want to retrieval this information.

The next section (3) will present the fact that the problem resides in that, the democratic ideal referred to that the citizens as co-authors of the law through their political representatives can consent to these texts, doesn't take place with the technical solutions developed until this moment. It is important to consider that this ideal is present, in an or another way, in the fundamental principles of the State of Law and the initiatives that promote the free access to the juridical texts via Internet.

The last section (4) will present an intent of solution of the problem by means of the proposal of mechanisms that would allow to increase, in

relation to concrete questions, the number of people that access to juridical documentation and their knowledge and understanding on the same

2. Free access

There are several initiatives in the history directed to facilitate the access to juridical texts to the citizens. It is a precedent, for example, the fact that in the European Middle Age (starting from the XI century in Bologna) was reimplanted the Roman Law as government's instrument of the new Emperor by means of the study in the Universities of the Corpus Juris Civilis of Justinianus. The lawyers ought help to the exercise of the Imperium by means of the exegesis and study of this juridical text (Lalinde, 1970). The measure also had for object to propitiate that the Emperor's citizens could hire the services of the experts in case they had conflicts with others in matters whose resolution was prescribed by this Law to the Emperor's judges.

It is easy to conclude that this is a limited precedent: the objective of the initiative was not to provide directly access to the juridical texts to the citizens, that they were servants of the Emperor or the King, but to intermediary people as the lawyers.

We won't continue this "archaeology" that would force us to extend profusely. It comes very good here, to help to expose the question, to remember with words of Rousseau why at the present time it is a basic and unquestionable principle of the State of Law the principle of facilitating the free access to juridical texts to all the citizens. Let us remember that Rousseau said that the social contract, government's origin form collected in the Constitutions, laws and institutions of the State of Law, is the solution to the following problem: "The problem is to find a form of association which will defend and protect with the whole common force the person and goods of each associate, and in which each, while uniting himself with all, may still obey himself alone, and remain as free as before." (Rousseau, 1975). These words have implicitly, without doubt, the idea that the citizen must can access freely to the juridical texts. It is necessary because to be obeyed itself it is indispensable to know the text of the laws and another juridical documentation that the social contract and his consequence: the State of Law through its three powers, settles down (Zippelius, 1994)

Starting from these principles, considered implicit in any basic juridical text of the democratic States, it is a logical consequence that from the moment in that instruments like Internet exist, that it allows, at least in theory, that the juridical texts of all type can be accessed by all the citizens, resources have been developed that facilitate freely this access. Free means

that the juridical texts (laws, regulations, sentences, customs...) can be accessed by all the citizens without necessity of paying for the access (Montreal, 2002)

Indeed there are numerous manifestations of this free access. Limiting the consideration to what happens in countries like Argentina, Brazil, Mexico or Uruguay, the free access to juridical texts happens in all countries, and it is referred to documents or juridical texts emitted by the three state powers: the legislative, the executive and the judicial.

It can be proven the reality of this statement considering the contents referred to legislative and reglamentary documentation (coming from the executive) starting from that settled down in the following web pages:

- Argentina
infoleg.mecon.gov.ar/
- Brazil
www.presidencia.gov.br/legislacao/
- Mexico
www.dof.gob.mx/
- Uruguay
www.presidencia.gub.uy/

With respect to judicial documentation, this is to the access to resolutions or sentences emitted by the instances that have the power conferred by the State to solve conflicts of judicial character, the following pages exist also:

- Argentina
www.csjn.gov.ar/
- Brazil
www.jf.jus.br/juris/
- México
www.cjf.gob.mx/
- Uruguay
www.poderjudicial.gub.uy/ (remote consult of judicial files only)

The consultation to these pages in all the cases (with the exception in Uruguay of the judicial files: the user needs to know previously the information on the basic characteristics of the judicial case stored in the file) allows to check that any citizen of one or another country that wants to access to juridical texts and that has a computer and access to Internet, can make it freely simply using the access mechanisms that are established in the pages of the mentioned web.

We must consider here these questions: Is it fulfilled the principle of free access to the juridical texts with the realization of these activities? Or, like we said above, are the citizens able to know and to understand all the retrieved juridical texts to effects to assume an obligation in relation to concrete problems as active part of the social contract? The following sections give answers to these questions.

3. Problems

If we study the interfase of communication of the mentioned web pages that allow to access freely to juridical texts, we can conclude immediately that the answers to give to the questions of the previous section must be negative.

The fundamental reasons of the negative answers reside in that or the formulation of the consultation to the stored juridical texts requires the use of juridical knowledge of those that the citizen lacks normally, or when the use of the free text is allowed (it is necessary to carry out the question in natural language) the documentation retrieval becomes impossible, once the answer gives such a quantity of information that no user can have the minimum security on which it is the juridical text that can be precise to solve the problem for which the consultation is made.

Let us observe shortly in the requirements of use of the considered systems and their answer. We take as reference consults made to, for example: www.jf.jus.br/juris/ and www.cjf.gob.mx/

All the systems offer a mechanism that uses a of similar interface. This is: it is possible to carry out questions in free text, that is the use of words (isolated or in combination with other), or to execute categories of indexation of the juridical documents as: norm type, dates of the norm (promulgation or publication), authority that emits it, title (total or partial) of the norm, jurisdiction type, presenter, number of identification of the norm in the consulted collection, place of emission of the norm...

In the case of the consultations in free text the answers related with a single term or word are so numerous that it is impossible the handling of the documentation that result as answer. The same thing comes to happen when the consultation is made using several words unless the consultant person has articulated it foreseeing the result: or what is the same thing knowing the characteristics of the problem to ask.

The consultation that requires to keep in mind the indexation categories, advanced consult is the denomination in many occasions, requires inevitably to know the meaning of the categories, that is to say to have knowledge and instruction of juridical character.

This takes us to consider that the access systems to juridical texts that exist provide help to the experts in Law more than to the citizens, once the jurists have enough technical knowledge to formulate the question using several words in the modality free text, or responding to the interrogation categories in the advanced modality. They also know the reasons for those that is necessary to gather documentation: the juridical problem for which they ask the question.

All this has the signification that each juridical database becomes to be in the practice a new "Corpus" with which the jurists aid to the establishment of the empire of the States, the exercise of the three powers and to approach, as middlemen, their operation to the citizens. The conclusion is that the responsible participation and aware of the citizens in the government of the State of Law is not possible, when they can not be able to access to the juridical texts.

Is this the only possibility to access to juridical texts? We will answer to the question in the following section

4. Solution

There is some intents to solve the problem. Let us notice that the solution has to do with initiatives of the XVIII century as those of Diderot and D'Alambert in the Encyclopedia.

These authors summarized their object in the following words: "L'Ouvrage ...a deux objets: comme Encyclopédie, il doit exposer autant qu'il est possible, l'ordre & l'enchaînement des connoissances humaines: comme Dictionnaire raisonné des Sciences, des Arts & des Métiers, il doit contenir sur chaque Science & sur chaque Art, soit libéral, soit mécanique, les principes généraux qui en sont la base, & les détails les plus essentiels, qui en font le corps & la substance. Ces deux points de vùe, d'Encyclopédie & de Dictionnaire raisonné, formeront donc le plan & la division de notre Discours préliminaire. Nous allons les envisager, les suivre l'un après l'autre, & rendre compte des moyens par lesquels on a tâché de satisfaire à ce double objet" (Encyclopédie, 1751)

The solution would be centered in our case to offer to the users of access systems to juridical texts, basic juridical knowledge existent on a matter or problem in comprehensible terms, as it is made by the Encyclopedia, for citizens interested in consulting juridical documentation. This solution would be the articulation of access mechanisms to documentation that were not reduced or to use formal categories, characteristic of experts, or to use words or texts without context. The proposed solution would be to make consults on concrete problems exposed by people that didn't have juridical formation and whose interest is limited to know and to understand

juridical texts. This proposal is connected with the possible technical solutions that are bound to the development of the “semantic web” (Casanovas, 2007)

The proposed solution is developing, by way of example, from some years, in the context of knowledge referred to Law and Technologies of the Communication and the Information (to see: www.lefis.org and courses.lefis.unizar.es). The example, finally, has to provide juridical documentation to university students that learn several disciplines in the following environments: juridical, technological, management, economy, business administration and documentation. An example of the initial development is in: www.lefis.org/index.php?option=com_wrapper&Itemid=464. The interface can be seen in Figure 1



Figure 1. The interface in development

The example consists on the design of a digital library integrated by documentation on the matter Law&ICT and whose content is accessible by means of the use of these systems:

1. Brief definitions of basic concepts on the matter
2. A classification of the stored knowledge using systems of documental classification accepted universally

The brief definitions of basic concepts on the matter are constituted by definitions carried out by students of the different imparted disciplines.

The list of basic concepts has been established by experts in the matter . The list is located in: www.lefis.org/app/vcampus/outcomes/concepts_facets/concepts.xls.

The knowledge classification has been elaborated using universal systems of documentation classification: facets, and the inclusion in the same of the concepts settled down by experts on the matter. The list of facets is in: www.lefis.org/app/vcampus/outcomes/concepts_facets/facets.pdf

The virtue of the example resides, therefore, in that the consultation categories are being elaborated in plural or collaborative form: by experts on the matter and by non experts.

The results of the tests, when the system is fully elaborated, will prove if it is possible to aid to the citizens in the moment to access to juridical documentation, and the modifications that must be developed. It must consider that the system is open to the participation in its construction of interested citizens: have or not juridical knowledge

5. Conclusion

The work has shown that in Latin-america countries, like it happens in another countries, it is not closed the possibility to design access systems to juridical documentation open to the citizens that with it, like Rousseau said, allow them to be free and to participate in the established government by means of the setting in practice of the principles of the social contract, increasing practically in the pointed out form the grade of the citizens' digital inclusion

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