

Law Schools' Access to Legislation and Decisions: Current Trends and Suggested Outlets

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Introduction

Legislations enacted by the different organs of the regional and federal states and precedents (interpretation of law given by the Federal Supreme Court Cassation Division and the decision of the House of Federation on constitutional issues) comprise the sources of law in Ethiopia. These materials should be easily accessible to the public¹ to let it guide its behavior in accordance with the law.² In addition, access to law paves the way for the establishment of the rule of law.³

There is, however, a serious problem of accessing legislations and decisions in Ethiopian law schools. The lack of access is often caused by many factors, namely, lack of commitment, poor attention, financial constraints, bureaucratic acquisition process, lack of regular publication and distribution, geographical limitations, etc. Law schools being the naissance of lawyers, have the most compelling need of accessing these documents. Unlike ignorance of law by ordinary citizen that affect that individual alone, ignorance of a lawyer (who will eventually become a judge, attorney, or a prosecutor) endangers the public. Legislations and decisions, moreover, are periodic in a sense that upon their issuance, they might repeal or suspend earlier laws or decisions. This nature of the documents, in turn, requires their prompt communication to law schools and the public in general to make them effective.

This article tries to assess the challenges and possible outlets regarding the accessibility of these documents by law schools. To address these issues, the writer has used a combination of methodologies. Most of the data for the research gathered through interview and

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¹ By 'public' we mean all sections of society including ordinary citizens, professional groups or institutions such as the judiciary, the prosecutorial service, legal professionals, legal aid providers, legal right activists, and/or media—all of whom require access to law in different degrees and for different purposes.

² Takato Natsui, *Issues Arising From Free Access To Legal Information - A Japanese Perspective: Law via the Internet 2003*, [Natsui Draft] Professor at Meiji University, and Practicing Lawyer at Asuka-Kyowa Law Firm, Tokyo, Japan. at 3. available at, www.bakercyberlawcentre.org/2003/Privacy_Conf/.../Natsui.pdf/ [last visited on March 23, 2010] Natsui further argued that to continue and maintain the democratic social basis, all information on rules which consist of basic social rules, including laws, court cases and administrative ordinances, shall be made available to everybody who is a member of such a society.

³ Daniel Poulin, *Open Access to Law in Developing Countries*. Canada: Public Law Research Centre, University of Montreal, 2003. In addition, the availability of free public access to law contributes toward equality before the law, government to operate openly, enhances economic development by creating a transparent and consistent legal environment for business, trade and commerce, and legal certainty, ensure effective judicial and prosecutorial system, help in applying and setting judicial precedents, restore people's faith and confidence in the justice system by improving the public image and transparency of the judicial and prosecutorial systems. See, Dr. Tureen Afroz, *Access to Law: The Bangladesh Perspective, Strengthening the Criminal Justice System*, at 63-64, available at www.adb.org/.../Strengthening-Criminal-Justice-system/default.asp/ last visited on March 23, 2010.

questionnaires from different law schools. Literature review has also been made to appreciate the necessity of these legal documents, effect of poor access to the legal education and observe the lessons of foreign law schools. In addition, documents like legislation have also been consulted wherever found necessary.

The article is divided in to three chapters. It starts with an introduction followed by the first chapter addressing three more points: history of publication of legal documents in the world and Ethiopia, the kinds of documents statutorily required to be published in Ethiopia together with the responsible organs, and laws schools' attachment to these documents. The Second chapter is devoted for assessing the means used by law schools to access these legal materials, and the effect of poor access on the legal education. The tasks we ought to do to enhance accessibility of documents to best support the legal education is dealt in the third chapter. And, finally, the conclusion follows.

1. Some Background Issues

Three things will be covered under this chapter: the history of publication of legal documents, types of legal documents that are required to be published, the responsible organ for publicizing, and the necessity of these documents for law schools.

1.1. History of Publication of Legal Documents

The modalities of publicizing laws have not always been the same. Before paper works and printing appeared in the human history,⁴ the earliest human societies used mechanisms other than printing to publicize laws to their subjects. More than 3500 years ago the rulers of Babylonians⁵ for instance carved the Code of Hammurabi⁶ on a huge rock column and displayed it in public.⁷ Likewise, Romans scripted the XII Tables- a very popular law adopted around 450 BC- in twelve bronze tables and exhibited them in the Roman Forum.⁸ These earliest experiences have given a significant lesson for the development of the civil Law tradition in the latter centuries. Hence, technological advancement facilitated the distribution to the public of printed laws such as, Corpus Juris Civili of 534 AD, Napoleon Code of 1804 and others.

⁴ In China the art of printing from a single wooden block was known by the 6th century AD, and movable type was being used by the 11th century. In Europe printing was unknown for another three centuries, and it was only in the 15th century that movable type was reinvented, traditionally by Johannes Gutenberg in Germany. From there printing spread to Italy, France, and England, where it was introduced by William Caxton. Hutchinson Encyclopedia, <http://encyclopedia.farlex.com/Printing+works/>

⁵ Robert Francis Harper, The Code of Hammurabi, King of Babylon, (1904), 17 Harvard Law Review 506 (Book Review), 1904.

⁶ The code contained approximately two hundred and seventy-five law provisions (sections) and an Epilogue and Prologue. See, Martha T. Roth, Mesopotamia Legal Traditions and the Laws of Hammurabi, 71 Chicago-Kent L. Rev. 13, 1995.

⁷ Muradu Abdo, Course Material for Legal History and Traditions – Part I, Unpublished (JLSRI 2008) at 49, and see also *Id.*

⁸ Richard A. Pacia, Esq., Raymond A. Pacia, Roman Contributions to American Civil Jurisprudence, 49 Rhode Island Bar Journal5 (2001), See also Muradu Abdo I, supra note 7.

Similarly, in England reporting court decisions was started early in the 13th century,⁹ whereas the first state and federal reports in USA were published under the reporter's name in the 18th century.¹⁰ This is because principles formulated by judges in the bulks of court decisions¹¹ require a high degree of communication to all other courts and the public.¹²

Likewise, laws (regulation, decree or order) enacted by Ethiopian rulers and local governors had been publicized to the public by hitting *Negarit*, a traditional instrument like drum which produces loud sound when hit, followed by a brief statement of the nature of the law.¹³ In addition, the earliest known laws of Ethiopia which came into force in the mid of 15th century – *Fewuse Menfesawi and Fetha Negest* – were written and, at least theoretically, available for the public in most churches and public offices.¹⁴ What is more, *Fetha Negest* was taught as a separate subject in Ethiopian Traditional Clerical Schools.¹⁵

Printing and publication of laws were expanded by Menelik II,¹⁶ but the tradition of blowing the *Negarit*, however, continued together with publication of laws in printed form for some more decades.¹⁷ In 1942 the official law report – *Negarit Gazeta* – was established by Proclamation No 1/1942 that made publication of laws mandatory. Right now, the federal government has Federal *Negarit Gazeta* and states have their own official law gazettes to publicize their laws.

⁹ See, *Ibid.* From 13th to 16th century it was called as Year Books, and from 1537 to 1865 case reports were published under the name of reporters themselves. However, starting from 1865 the Law Reports were established as a semi-official organ. Currently, all decisions of the highest English appellate court, i.e. the House of Lords, are reported, but decisions of other courts of appeals are reported only if they reveal a new principle or application of law and comparatively few decisions of lower courts are reported.

¹⁰ *Ibid*

¹¹ Lee J. Strang, An Originalist Theory of Precedent: Originalism, Nonoriginalist Precedent, and the Common Good, 36 New Mexico Law Review 419, 2006.

¹² Lee Faircloth Peoples, Controlling the Common Law: A Comparative Analysis of no-citation Rules and Publication Practices in England and the United States, 17 Indiana International and Comparative Law Review 307, 2007, and see also ‘Law Report’, Encyclopædia Britannica. Ultimate Reference Suite. Chicago: Encyclopædia Britannica, 2009.

¹³ Aberra Jemberre, Legal History of Ethiopian – 1434 – 1974: Some Aspects of substantive and Procedural Laws, Rotterdam: Erasmus Universiteit and Leiden: Afrika-Srudiecentrum, 1998, at 18.

¹⁴ *Ibid*, at 119

¹⁵ *Ibid*, at 35 Ethiopian Traditional Clerical Schools called ‘*Ye Abnet/Yekolo Timhirt Bet*’ are the first law schools of the nation, as to the opinion of the writer, and teaches *Fetha Negest* and graduates are known by the honorary title ‘*Lique*’, which literally mean ‘*scholar*’ or ‘*authority in the subject*’. The clerical school can be a model for modern law schools or universities in all respects, like administration, and Bahir Dar University has taken one of these schools, ‘*Wa Shera*’, as a model for its BPR study.

¹⁶ For instance, newspapers like “*Le Semeur d’Ethiopie*” (printed in Dire Dawa) and “*Aemro*” (printed in Addis Ababa) published pieces of legislations. Examples of early enactments include the 1908 Laws that Defined the Powers and Duties of the Ministers, which established Ethiopian Cabinet for the first time and the Law of Addis Ababa City. Aberra Jembere, *supra* note 13, at 18, 98-99.

¹⁷ *Ibid*, at 18

Regarding publication of case reports, there were two instances in 1908 and 1950 where earliest decisions had been compiled for different purposes.¹⁸ Since then, case reports have been prepared and published by the Federal/Supreme Court, Addis Ababa University, other government offices and individual practitioners in an irregular manner.

1.2. Types legal materials to be publicized

In this section we will consult some proclamations with the view to answering the question ‘which documents need to be publicized, and by whom?’ The newly enacted Mass Media and Access to Information law requires each state body to publish “its directives, regulations, guidelines”.¹⁹ But, this provision of the proclamation is suspended for at least a year as per article 48(2) of the same proclamation.

Article 2(1) of Proclamation No 3/1995 establishes the ‘*Federal Negarit Gazeta*’-an official Federal Law Gazette-²⁰ which is to be published under the auspices of the House of Peoples’ Representatives [HPR hereafter].²¹ This statutory obligation of publication of laws extends to “All laws of the Federal Government”. Understanding the full meaning of this provision requires determination of documents which are covered by the definition of ‘laws’. The earliest definition given to the term ‘law’ under Proclamation No 14/1995 was too misleading.²² However, the proclamation has been repealed²³ and it is Proclamation No 251/2001 which now defines the term law. Article 2(2) of this proclamation reads: “*Law shall mean proclamation issued by the Federal and States legislative organs, and regulations and directives issued by the Federal and States government institutions and it shall also include international agreements that have been ratified by Ethiopia.*”²⁴

If this definition is of some help, we may say that proclamations issued by the HPR, and regulations and directives issued by the Council of Ministers and individual Ministries, and sometimes by federal agencies, are federal laws under the Ethiopian context. The practice,

¹⁸ The 1908 compilation of earliest judgments “was made for the purpose of enhancing predictability in the legal system of the country” and the 1950s “was made with the view to giving information to the drafters of the six codes” and “was to give a very brief ...or the essential features of earlier decisions”. See, Muradu Abdo, *Course Material for Legal History and Traditions – Part II*, Unpublished (JLSRI 2008) at 187

¹⁹ Federal Negarit Gazeta, 14th Year No 64, Freedom of the Mass Media and Access to Information Proclamation No 590/2008, Addis Ababa, 4th December, 2008. Article 13(1)(g).

²⁰ This is almost a uniform practice all over the world where new legislations would be published and informed via the Law Book or Gazettes. The National Gazette in Japan and US Codes and Federal Register in USA are examples where paper copies and digital copies on Web are published for public knowledge. See, Natsui, supra note 2, at 4.

²¹ Federal Negarit Gazeta, 1st Year No 3 “Federal Negarit Gazeta Establishment Proclamation No 3/1995”, Addis Ababa, 22nd August, 1995, Article 2.

²² Federal Negarit Gazeta, 2nd year No 2 House of Peoples’ Representatives Legislative Procedure Proclamation No 14/1995, Addis Ababa, 26th August, 1995. Article 2(1) defined law as“.... proclamations, regulations or directives that come in to force up on approval by the House Peoples’ Representatives and subsequent publication in the Federal Negarit Gazeta, under the signature of the President in accordance with the procedure laid down herein.”

²³ Proclamation No 14/1995 has been repealed by Proclamation No 271/2002 which, in turn, is repealed by the late Proclamation No 470/2005. But the later proclamations do not define the term unlike the former.

²⁴ Federal Negarit Gazeta, 8th Year No 41, Consolidation of the House of Federation and the Definition of its Powers and Responsibilities Proclamation No 251/2001, Addis Ababa, 6th July, 2001.

nevertheless, demonstrates that it is only proclamations and regulations that are published in the Federal Negarit Gazeta. The non-publication of directives in the Federal Negarit Gazeta, and the status of other bylaws like circulars and guidelines issued by agencies whose effect is not limited to regulating the behavior of the agency's staff but the general public are points of controversy.

Brihanena Selam Printing Press, a state owned enterprise, publishes the Gazette. The distribution, nevertheless, is very limited and confined into its three sale shops in Addis Ababa. It is noted that the proclamation does not say anything about the Gazette's distribution.

In addition, Article 23(13) of Proclamation No 471/2005 empowered the Ministry of Justice to "...[C]arry out the codification and consolidation of federal laws; collect regional State laws and consolidate same as necessary".²⁵ There is ample evidence to show that the ministry has compiled Federal Legislation so far, but not any of state laws.

On the other hand, proclamations No 25/1996 and No 454/2005 authorized publication of case reports by Federal Supreme Court.²⁶ The former authorized the president of the Federal Supreme Court to cause "the publication of law journals of the Federal Supreme Court", and "the selection and publication of instructive judgments and decisions of the year".²⁷ In addition, the latter proclamation, that gave binding nature to interpretation of law given by Cassation Division of the Federal Supreme Court,²⁸ authorize the Federal Supreme Court to "publish and distribute decisions of the Cassation Division".

The other important legislation that authorizes publication of laws is Proclamation No 251/2001. This proclamation provides the powers, responsibilities and working procedures of the House of Federation, the organ empowered to interpret the Constitution, and constitutionality of laws or acts of the government.²⁹ Such interpretation is binding on every

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It is noted that this provision is similar with article 23(15) of Proclamation No 4/1995 which reads as "the Ministry shall have the duty to carry out the codification and consolidation of laws; collect laws of Regional Governments and consolidate same as necessary". But this proclamation has been repealed by the later though the consolidation done by the ministry in 1988EC has been done by the authorization of the earlier proclamation.

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Federal Negarit Gazeta, 2nd Year No 13, Federal Courts Proclamation No 25/1996, Addis Ababa, 15th February, 1996 and Federal Negarit Gazeta, 11th Year No 42 Federal Courts Proclamation Reamendment Proclamation No 454/2005, Addis Ababa, 14th June, 2005. Publication of official case books is commonly practiced in most nations which will be accomplished by Supreme Courts of the country, and in some countries (eg. Finland) by the Ministry of Justice. Though it is not yet tried in Ethiopia commercial based case books and commentaries have also filled the gaps of official publication elsewhere. *See*, Natsui, supra note 2, at 5.

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Ibid, Articles 16(2) (d) and (i) of Proclamation No 25/96.

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Article 2(1) Proclamation No454/2005. Proclamation No 195/1955 EC which came after the Criminal Procedure Code of 1954 EC but before the Civil Procedure Code of 1958 EC in its Article 15 has the same notion and stipulated that the decision given by higher courts on question of law are binding for the lower courts. The English version of Proclamation No 454/2005 seems to have spelling errors as the term 'low' has been used instead of 'law' and the term 'council' has been used instead of 'courts', which in fact is very clear in the Amharic version of the same and subsequent articles.

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Federal Negarit Gazeta, 1st Year No 1 "The Constitution of Federal Democratic Republic of Ethiopia Proclamation No 1/1995", Addis Ababa, 21st August, 1995, Arts 62, 48 etc, and Arts 3(1), 4(1), 5, 12 etc of Proclamation No 251/2001 supra note 24.

natural and juridical person including the organs of the government and “shall have applicability on similar constitutional matters that may arise in the future”.³⁰

The House is also required to “publicize the decisions [constitutional interpretations] in a special publication to be issued for this purpose” and to communicate the same to parties and concerned institutions.³¹ However, who are within the range of ‘concerned institutions’ is not clear to the detriment of the means and scope of distribution. The writer’s effort to ascertain the existence of the-said ‘special publication’ or any arrangement whereby the House publishes and distributes its constitutional interpretation did not bear fruit. It is noted that law schools, and other practitioners are in dire need of it and the House should work harder in discharging the statutory responsibility of making it available for all.

1.3. The Value of Legislations and Decisions for Law Schools

The effectiveness of the legal system of a nation depends substantially on the strength of its law schools that educate lawyers. The establishments of law schools, well administration of legal education and emergence of law professors have played a significant role in the 19th and 20th century America’s legal system development.³² In Ethiopia, many public and private law schools have been established in the last few years. Nevertheless, number alone will not improve the legal system unless accompanied by a good work on quality. This includes rich library system and law professors who know the legal system of the nation very well.

In a way the problem of access to legislations and decisions has a lot to do with the situation of law libraries. Law libraries seldom have these materials to the required level. “[L]ibrary is an indispensable component of a faculty that must teach law. Not just a library, but a good law library is required. Good and up to date law reports and text books are indispensable materials for training of lawyers.”³³

The higher institution law does not clearly put library standards. It only says that the ‘university’ shall have “...teaching materials, class rooms, libraries, laboratories and other service-rendering facilities necessary and that match its standard”.³⁴ The observations made in three public (Dilla University, Debre Markos University and Haramaya University) and one private (Alpha University College) law libraries, which are part of the main library, demonstrate the very poor library profiles.

³⁰ Article 11(1) of Proclamation No 251/2000, supra note 24. In addition, Article 16(1) stipulated that “the decision of the House on constitutional interpretation will come in to effect as of the date of the passing of the decision”. However, if a law is found to be unconstitutional, the enactor of that specific law will be given an opportunity to correct it before a final decision being rendered against it.

³¹ *Ibid*, Art 11(2) and Art 14(3).

³² Kenneth M. Rosen, Lessons on Lawyers, Democracy, and Professional Responsibility, Geo Journal of Legal Ethics 155, 2006, and Gene R. Shreve, Law School: Legal Education in America from the 1850s to the 1980s, 97 Harvard Law Review 597, 1983.

³³ Jegede, O., Law Libraries With out Legal Books. 1992, NIALS, Lagos. Cited in R. Aduche Wokocha, The Challenges of Legal Education in Nigeria: The Way Forward, 3 Web Journal of Current Legal Issues, 2008.

³⁴ Federal Negarit Gazeta, 9th Year No 72, Higher Education Proclamation No 351/2003, Addis Ababa, 3rd July, 2003, Article 18 (5).

For instance, currently, around 260 students are enrolled in Dilla University Law School.³⁵ In the library which they share it with other departments, one can get only the 1995/96 compiled legislation and no case digest at all. What is more, there is chronic dearth of computer and internet accesses, though the law professors have computer in their office and internet in the main campus just four kilo meters from their office. Moreover, the staffs have access to the CD³⁶ wherefrom some have duplicated the laws related to the courses they offer. Yet, the law school did not subscribe to any of legal data bases at the time this research was done.

One aspect of legal education is the communication of laws and important decisions to students. The graduates who are expected to join different parts of the nation's activity as judges, public prosecutors, law professor, attorneys, legal advisors, etc, need to access laws and decisions. These legal professionals provide professional service to clients and conduct legal researches. Unless they are acquainted with skills of finding the right law, identifying the outdated from the updated laws, relating statute law with precedent, etc, their services would not be effective.³⁷ In addition, it is in the way that the graduates have been crafted (designed) in the law schools that they will develop their professional quality in the future. Thus, it is not only the subject matter we teach them that affects their future career but also the means and the courage we show to them.³⁸

Then again, the very purpose of establishing law school is kith and kin to the enforcement of law and aiding justice in different respects. Higher institutions have the objective of laying down problem-solving education and institutional system that enables to utilize potential resources of the country, undertake study and research, and provide higher education and social services that are compatible with the needs and developments of the country.³⁹ Law schools as an integral part of higher institutions are responsible for the provision of legal education to the people that enables them solve their problems, deliver social service to the needy and conduct problem solving research and study. Hence, such legal education, community service and legal research, will not be realized without the use of the basic source material like legislation, decisions and opinions of the judiciary and quasi-judiciary organs of the government.

Legal research, which is a process of problem solving, whether done in books or electronic databases involves a careful examination of facts and an understanding and familiarity with the nature and tools of the resources.⁴⁰ Besides, legal research has been fundamentally

³⁵ An interview with the Head of Law Department, Zelalem Tesfaye and my own observation of the library made on April 3, 2009. The Law school in Dilla University started admitting students two years ago soon after the University's expansion from health and teachers college to a university.

³⁶ See Section 2.1 IV above.

³⁷ See, Tureen Afroz, *supra* note 3.

³⁸ In this matter Ramsden argued that "the way in which anyone goes about learning is a relation between the person and the material being learned" which helps to create 'deep approach to learning'. Ramsden, P. Learning to Teach in Higher Education London: Routledge, 1992.

³⁹ Article 6, of Proclamation No 351/2003, *supra* note 34.

⁴⁰ Vicki Lawal, Legal Research And Legal Education In Africa: The Challenge For Information Literacy, Paper Presented At The Starr International Workshop, Cornell Law Library, Ithaca New York, 7th – 11th October 2007, at 3. See also National Knowledge Commission, Report Of The Working Group On Legal Education, Working Group on Legal Education, March 5, 2007, India, at 3, available at www.knowledgecommission.gov.in/downloads/.../wg_legal.pdf/ last visited on March 20, 2010.

transformed by the information technology era creating a challenge for the researcher and requiring reliable resources.⁴¹In Ethiopia the basic challenge for practicing law and legal research is the underdevelopment of information technology that exacerbates the inaccessibility of laws and decisions.⁴²

According to Professor Madhava Menon, legal education involves learning (i) the whole body of substantive and procedural laws and related aspects of social control of human behavior (ii) fundamental skills (iii) the fundamental profession values and ethics and finally (iv) the right attitudes conducive to the dignity of the profession and the majesty of law and justice.⁴³ The attributes we expect from our graduates, after such process, are knowledge base, skill, critical mindset and values.⁴⁴ Yet, the means and methodologies we utilize in the process determine the attribute we would get from our graduates. Certainly, the input - kinds of teaching material, library profile, quality of the legal documents etc - in turn determines the means we have to employ in the process. A large majority of lawyers perceive critical gaps between what they are taught in law schools and the attributes they need in the workplace, and it seems that appropriate resources are not being used to help close this gap.⁴⁵ Legislation issued by different levels and decision rendered by judicial and quasi – judicial organs are indispensable component of the teaching resources that enable us to get the expected attributes.

One of the long debates between law schools and the stakeholders in Ethiopia has been the quality of graduates to apprehend practice.⁴⁶ The practitioners condemn law schools' failure to teach skills and values, whereas law schools criticize practitioners for their creation of judicial custom deviated from the law.⁴⁷ Teaching skills require a broader comprehension of the environment in which the legal system operates and close relation between law schools

⁴¹ Hanson, A. From Key Numbers to Keywords: How Automation has Transformed the Law. 2002. [Online. Available: <http://www.aall.net.org/products/2002-36.pdf/>.

⁴² Vicki Lawal, *supra* note 40, at 4.

⁴³ Prof. (Dr.) N.R. Madhava Menon, Legal Education and Training in Bangladesh, Strengthening the Criminal Justice System, at 78, available at www.adb.org/.../Strengthening-Criminal-Justice-system/default.asp/ last visited on March 20, 2010.

⁴⁴ Michael Coper, Legal Knowledge, the Responsibility of Lawyers, and the Task of Law Schools, 39 *University of Toledo Law Review*, 2007/08, at 255-256.

⁴⁵ Berkman Center for Internet & Society at Harvard Law School, New Skills, New Learning: Legal Education and The Promise Of Technology, 2008, at 1. <http://cyber.law.harvard.edu/LegalEd/>

⁴⁶ It is generally argued that “Legal education must equip the student with the necessary theoretical and practical skills to deal with the diverse and expanding world of legal practice. For example, the law graduate must be able to deal with and respond to a range of complex legal issues and problems he must possess basic “legal” skills including negotiation, advocacy, drafting, counseling and research skills; must be in a position to identify, analyze, and synthesize a vast array of legal materials and present it in a concise and logical manner; must be sufficiently acquainted with the procedural aspects of the legal system so as to be in a position to give practical advice to clients; he must be trained to respond to new/novel problems that call for practical solutions; he must be able to contribute creatively to the range of social problems and challenges that face the nation; he must be trained to research independently so that he/she can contribute to the total pool of legal ideas through research publications; he must be able to read and analyze judicial decisions that are typically long, verbose, complex and difficult to understand, and should possess an ability to skim through passages, understand the relationship between the parts of the passage and also read between the lines — all of which are integral to a lawyer's tasks; he must also be grounded in ethical issues governing the legal profession.” *National Knowledge Commission*, *supra* note 40, at 7.

⁴⁷ FDRE, Reform on Legal Education and Training In Ethiopia (Draft), June 2006 (Unpub.), at 15-18 and 46.

and the practice. Specially, decisions are indispensable source for teaching legal skills. Thus, law schools would be of no purpose without understanding the decisions which furnish the jurisprudence.

2. Law Schools' Access to Legislation and Decisions

In this section the writer will review the means used by law schools to access legislations and decisions in Ethiopia. The writer has used empirical data collected by interviews and questionnaires from law instructors of different public and private higher institutions⁴⁸ for the analysis of the section.

2.1. The Means of Accessing Legislations and Decisions

There exists many means commonly used by law professors and students across different law schools in Ethiopia. The following are the major ones.

I. Purchase and Donations

Purchase is the widely used means for many and the only for some law schools to access the documents. Access via purchase can be viewed into two: purchase by the schools and purchase by individual professors or students. The effectiveness of purchase by schools is subject to factors like the financial capacity of the university or law schools, financial and administrative autonomy of law schools, accessibility of the legal materials for purchase, and the regularity and frequency of the purchase. In addition, some legislation and decisions found in some libraries are donated to the law school making donation one means of access. The writer's experience in Haramaya University is that, there were few legislations of the Somali Regional Government in the faculty which were donated by the regional government.

According to the above mentioned survey, law professors are highly dependent on their library profiles to access the documents though they are highly disappointed with their library profiles. On the average, out of professors contacted for this research only three per cent are satisfied with the legislation, and seven per cent with court decisions available in their libraries.⁴⁹

When university libraries are found disappointing, students as well as professors will be forced to get the required document by private purchase, especially recent legislation. A good number of legislation and decisions have been purchased by individual professors for their private use. However, privately purchased legislations and decisions will be confined in the hands of the purchaser and remain inaccessible to others.

II. Visiting Older Libraries Predominantly Found in Addis

Relatively speaking older law schools or libraries, e.g. Addis Ababa University, Ethiopian Civil Service College, Ministry of Justice and Justice and Legal System Research Institute, have better legislative and decision profile than others. So many students, especially during

⁴⁸ The questionnaire covered 30 law professors coming from eleven different public and private higher institutions - Ethiopian Civil Service College, Haramaya, Bahir Dar, Wello, Gonder, Jimma, Mekele, Adama, Jijiga, Debre Markos and Hawassa Universities, St. Marry University College and Alpha University College. The service year of the professors' range from a minimum of one semester to a maximum of eleven (11) years.

⁴⁹ Id

summer time, and law professors have been using these libraries, especially to refer old legislation which otherwise will be unavailable. One can easily understand, nevertheless, the hardship of accessing these libraries due to different factors – bureaucracy of the institutions, limited holding capacity, location problem (all are in Addis Ababa) etc. As a result, on the average more than 65 per cent of law professors have not visited any of these libraries, and even from those who have visited it, only around 10 per cent are satisfied of what they found there.⁵⁰

III. Electronic and Online Resources.

Here two types of instruments can come to mind: A soft copy of legislations and an online cyber space where all legal materials can be accessed from. In respect to the former, a CD prepared by Digital Ethiopian Plc in 2005 plays a very important pace in the distribution of legislations. Some law professors are dependent on the CD. This is not the only good thing about the CD. It is user friendly in the sense that, it can be easily printed or reproduced enabling distribution to students very easy and inexpensive.

Yet, it is not sufficient by itself for it requires some IT resource and periodical updating to include newer legislations.⁵¹ Recently, however, efforts are underway by different institutes – e.g. Harari Regional Government State Council and Federal Judicial Training Centre – to develop CD covering latest federal and states legislation. Incredibly, only around 50 per cent of law professors have used this valuable CD and only 10 per cent of them found it very satisfactory and 60 per cent of them fairly satisfactory.⁵²

In addition to the CD access to legal materials in Ethiopia is supported by some online sources. Among the different local and international web pages providing access to Ethiopian legislation and decisions, official sites of three federal government organs⁵³ and few others are assessed for the purpose of this paper.

The official site of the HPR provides access to some legislations.⁵⁴ Owing to different factors – technology, lack of awareness etc – out of the assessed professors 54 per cent never used the site, and none of the professors that have used it are satisfied with the data available therein. When we observe the website of the House of Federation, one will get full texts of only three legislation⁵⁵ and four old decisions on constitutional interpretation.⁵⁶ This site

⁵⁰ Id.

⁵¹ The CD contains HPs proclamations of the years 1995 to 2005, Council of Ministers Regulations of the years 1995 to 2005 and recent Federal Supreme Court Decisions of three volumes.

⁵² Questionnaire, supra note 48.

⁵³ House of Peoples Representatives (HPR) (<http://www.ethiopar.net>), House of Federation (<http://www.hofethiopia.org>) and Federal Supreme Court (<http://www.fsc.gov.et>) (last visited on January 22, 2009)

⁵⁴ The FDRE Constitution, the Powers and Duties of the HPR, descriptions of the structure of the House, the Committees under it, working procedures of the house, and members code of conduct are some of the legal documents available on the front page of the site of HPR. In addition, under the column ‘Lists of Bills Adopted’, there are only lists and texts of 33 Bills adopted by the House, the latest being Proclamation No 602/2008 (issued on 25th of August 2008) and the earliest is Proclamation No 470/2005. In the news column one can assess the names of Bills the House discussed put together with other news.

⁵⁵ In addition to Constitutional decisions, there are the full texts of the FDRE Constitution, its Code of Conduct and Proclamation No 251/2001 – which regulate the powers, responsibilities and administration of the House.

seems to be the least known among the three and 70 per cents of the professors never visited it. In addition, only few of the professors who have used the web so far found it fairly satisfactory.

The third and relatively more comprehensive one is the official site of the Federal Supreme Court that contains HPR legislation, regulation, and codes.⁵⁷ In addition to legislation, this site enclosed so many decisions of the Federal Supreme Court under three categories – decision of the Cassation Division, decisions of the Federal Supreme Court in its appellate jurisdiction and first instance jurisdiction.⁵⁸ This is the most visited website among the three and only 20 per cent of the professors never used it so far though only 15 per cent of users are highly satisfied of it.⁵⁹

It is worth noting that there are WebPages developed by other local government agencies⁶⁰ and international institutions that provide access to Ethiopian legislation, though few.⁶¹ The survey made demonstrate that these websites are not well known and more than 60 per cent of the surveyed professors never used any international web pages.⁶²

The observations made so far show us that legislation enacted before 1995, recent legislation, regional documents and laws below the rank of regulations – directives and other bylaws – are hardly accessible. Lack of directory/index/catalogue to get the appropriate document one

⁵⁶ These decisions are; Constitutional Inquiry Raised Regarding promulgation of Family law and Decision of The House of the Federation (April 2000); decision of the House of the Federation Regarding Resolution of claim For Identity(April 2001); decision Given on/for the constitutional demand towards the right to elect and be elected in the Benishangul Gumuz Region; and Appeal of Mrs. Kedija Beshir Against Being Judged By Sheria Court and Decision of the House of Federation by which Decision of 3rd Naiba Court repealed(May 2004)

⁵⁷ On the front page of this site, one can easily find the jurisdiction of federal courts – a comprehensive text taken from different legislations and procedures before courts. Moreover, different legislations are available categorized as the FDRE Constitution; HPR Proclamations; Council of Ministers Regulations; The Eight codes adopted so far (including the revised family code and the new criminal code); Regulation issued by FDRE Electoral Board and; FDRE Custom Authority Custom Tariffs (Vol. I and II). HPR Proclamation category consist all proclamations issued by the HPR between the years 1995 (Proclamation No 1/1995) and 20th of January 2006 (Proclamation No 485/2006). Similarly, Council of Ministers Regulation category holds all the regulation issued by the Council from the year 13th of February 1996 (Regulation No 1/1996), to 23rd of January 2006 (Regulation No 120/2006).

⁵⁸ In the cassation and appeal section, you will find cases divided in to three broader matters – civil, labour and criminal, each of them being further divided in to specific subject matters. In the first instance section division has been made n the web in to two – corruption and offences against the constitutional established organs of the government. But there is only one cases loaded there for the corruption column, and none in the other column.

⁵⁹ Questionnaire, supra note 48.

⁶⁰ See for instance, Addis Ababa Chamber of Commerce (<http://www.addischamber.com>) and the link to Federal Inland Revenue Authority from Ethiopian Market (<http://www.ethiomarket.com/fira>) have some tax and business related legislations, Civil Service Agency – Civil service proclamation and working of the tribunal, Ministry of Labour and Social Affairs, Ministry of Information (No more ministry office after 2001 EC) Last visited on January, 2009.

⁶¹ Mention can be made about www.glin.gov, www.worldii.org, www.law.cornell.edu, www.lexadin.nl. Last visited on January 2009. Some have loaded electronic copy of the legislations in their site and some others have linkage to one of the above mentioned official sites of government organs.

⁶² Questionnaire, supra note 48.

needs, lack of references (Bill Tracking) to get amendments or repeals entertained to the pre-existing bill and poor ICT access make the problem worst.

IV. Other Non Official Local Publications and Medias

Media play a significant role in the dissemination of information whatsoever and creating informed citizenry.⁶³ In its different columns newspapers, for instance ‘*Addis Neger*’ and ‘*Fortune*’,⁶⁴ and magazines are writing brief notes about court hearings, final decisions and newly enacted legislation. Moreover, like many other nations, the national ETV presents the deliberation of the HPR every week, in addition to its brief news every day when the house is on session.⁶⁵ Yet, notwithstanding their imperative role in the justice system,⁶⁶ these do not give us the details of the decisions or legislation to make use of them in research or lectures. Hence more than 30 per cent of the professors on no account used them as a means, and none out of the remaining 70 per cent who have used the means are satisfied of the result.⁶⁷

V. Visiting Courts and Agencies Documentation

The other alternative for accessing the documents is visiting the specific agency’s office under whose authority the directives or other bylaws are issued. It is remembered that currently directives, other bylaws and regional documents are not widely published. Regarding court decisions, most courts are very cooperative to law schools in letting students and professors inspect their final decisions. Students in their final years are encouraged or sometimes obliged to access courts – hearing and documentations – as a means of balancing the theory with the practice.⁶⁸

VI. Asking Senior Instructors and Other Practitioners

⁶³ In addition to the communication of judicial proceedings and laws, the organized media, undoubtedly plays vital role by ensuring that information about different kinds of governmental action, is easily available to ordinary citizens. Thereby deepens the functioning of democratic institutions. Justice K.G. Balakrishnan, Chief Justice of India, Regional Workshop on ‘Reporting of Court proceedings by Media and Administration of Justice’, at the High Court of Maharashtra and Goa, Mumbai (October 19, 2008) at 1 and 2, available at www.supremecourtindia.nic.in/...2008/19%5B1%5D.10.08_Media_workshop_Bombay_HC.pdf/ last visited on March 23, 2010.

⁶⁴ ‘*Fortune*’ is a weekly news paper published in English every Sunday, while ‘*Addis Neger*’ is also a weekly Amharic news paper published every Saturday before its cessation.

⁶⁵ Natsui, supra note 2, at 4. Airing parliamentary deliberation is not a unique practice in Ethiopia alone but evident in most nations of the world, and discussions in the National Diet is aired in TV, radio and internet, in addition to publication of the proceedings in Japan.

⁶⁶ Susan Bandes vigorously argues on the role of media, perhaps strong media, not only as transmitters of legal norms but also source of a rule. She is of the opinion that media has become our culture’s principal storyteller, educator, and shaper of the popular imagination. Hence, according to her, “We are constantly constructing and interpreting our notions of law and justice based on what we know, or what we think we know. Relatively few people have direct experience with the criminal justice system, and so much of what we know, or think we know, comes from media coverage. We should focus on media’s limitations, their potential, and their particular grammar and logic, because these have important implications for our ability to articulate, construct, and even deliver justice.” Susan Bandes, Fear Factor: The Role of Media in Covering and Shaping the Death Penalty, *Ohio State Journal Of Criminal Law* [Vol 1:585], at 585.

⁶⁷ Questionnaire, supra note 48.

⁶⁸ Practical Attachment course in the old and many more courses in the new national LLB curriculum, like Externship are designed to introduce students with the life of the law in courts and other legal institutions.

Most professors responded that tips from colleagues are the other means being used now days. It is not uncommon to ask senior law professor about the course material he had been using while teaching the course assigned to a new instructor. The risk involved in this way of accessing the documents is the reliability of the information found unless you got a copy of the documents. So far it has been used by more than 70 per cent of the professors but few – 10 per cent - are satisfied of it.⁶⁹

The above mentioned problems and limitations are severe if one is looking for decisions of House of Federations, directives and regional government documents. The survey made reveals that university professors are employing different techniques to have a getaway to these documents. After employing all these means, 97 per cent of professors were not able to get House of Federation's decisions, 40 per cent, directives and 27 per cent, regional documents they wanted.⁷⁰

As we can observe from the above discussion, there are some common shortcomings of all these means: problem in reliability of the data and accessing the right document at the right time; lack of accessing the most recent and oldest documents; and inaccessibility for all individually due to geographical location, IT development, library facility and lack of sufficient copies of the documents.

2.2. Effect of Poor Access

The above discussion demonstrates the poor access law schools have to legislations and decisions. Most professors and students face various problems in the teaching learning process which ultimately affect the quality of education and reliability of researches.⁷¹ For instance, a master's thesis⁷² was written by an Ethiopian in the University of Pretoria based on the 'House of Peoples' Representatives Legislative Procedure Proclamation No 14/1995' very long after the proclamation was repealed by Proclamation No 271/2002.⁷³

⁶⁹ Questionnaire, supra note 48.

⁷⁰ Id.

⁷¹ My own little experience of teaching in law schools is an example, though not a perfect one. While I was teaching Labor Law for our undergraduate program in the year 2007, months after my graduation, and advising senior thesis on the same, I have been referring two of the most important proclamations in the subject matter – Proclamation No 262/2002 'Federal Civil Service Proclamation' and Proclamation No 377/2003 'Labor Proclamation'. But after the completion of the class, I came to know that Proclamation No 262/2002 has been replaced by a new one, i.e. Proclamation No 515/2007. Similarly, my colleague was writing an article on Administrative Law, which he taught it for three years. In his article, he made a discussion about the organization and working of 'Tax Appeal Tribunal' by referring 'Federal Tax Appeal Tribunal Establishment Proclamation No 233/2001'. Incidentally, but after long way in his article, while talking with friends he came to know that the above mentioned proclamation has been repealed by 'Income Tax proclamation No 286/2002' resulting significant structural and procedural change on the organ.

⁷² Yoseph Mulugeta Badwaza, "Public Interest Litigation as Practiced by South African Human Rights NGOs: Any Lesson for Ethiopia?" Faculty of Law, Centre for Human Rights, University of Pretoria, 31 October 2005.

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⁷³ Proclamation No 271/2002 has repealed two earliest legislations, namely Proclamation No 14/1995 and Proclamation 33/1996 (which amends some provisions of the former without repealing the whole legislation). In turn, the latest (as to the experience of the writer) Proclamation No 470/2005 has repealed Proclamation No 271/2002.

Such and other awful effects of poor access to legislation and decisions of all level are well felt by law professors. Below the writer summarizes what he heard from the words of many interviewees about the effects of poor access;⁷⁴

“Divorce from the real practice by students and professors”

“As a federal state the students are expected to have comprehensive knowledge of laws with possible variation from one region to the other. This will not be possible without access to relevant laws”

“Teaching law without sufficient, updated and reliable information is entirely an embarrassment to the system in general and to the one who claim to have such (lecturing) position. Meaning, you can only provide out dated information as opposed to normative requirements to any given audience who grasp a wrong attitude in the final analysis.”

“It causes instructors to rely too much on foreign sources and commentaries. The general result is less ineffective legal education.”

3. Suggested Solutions for Problems of Accessing Legislations and Decisions

To enhance access to legislation and decisions efforts has to be made by different groups, namely, universities, law schools, legislative bodies, House of Federation, printing organization like Birhanena Selam, courts, government agencies, private stakeholders, law professors and others. Some law professors suggested the following on the matter;⁷⁵

“Mandatory links between various government organs and higher institutions should be created. Government organs may be required to send their directives, regulations etc to higher institutions”

“Maintaining easy access to those documents through any method requires stakeholders’ commitment to the cause. Administrative measures requiring court officers to leave open documents to the public are also another means that can partially help expose court decision.”

“Since there are not many law schools in Ethiopia, why not arrange for copies of all laws and case decisions to be sent to all law schools? It is too expensive to send paper copies; perhaps CDs could be mailed out with the legislation and case decisions on them.”

⁷⁴ These are only few of the opinions gathered by questionnaire and interview made with more than 30 law professors of the country. The other survey results are integrated with the analysis in this and coming section.

⁷⁵ These are only few of the solutions suggested by the professors reached through interviews and questionnaires, but substantial part of their opinion has been made part of the analysis. James Krugher, Haramaya University Faculty of Law, Asst Prof; Tsegaye Berhe, Mekele University College of Law and Governance, Lecturer; and Shume Alemu, St Marry’s University College Faculty of Law, interviewed on January 23-25, 2009.

Moreover, the other suggestions drawn from the survey are summarized in the following discussion with a much emphasis on the law schools duty, and to some extent on government agencies and other stakeholders.

3.1. Law Schools

The primary obligation of changing the situation lies on law schools (universities generally). Here are some suggestions which require attention of law schools:⁷⁶

I. Developing Direct and Regular Purchase:- Laws from HPR and the executive and case reports from the judiciary come in a non-regular basis. On the other hand, most law schools purchase materials not very frequently and mostly once a year enhancing the risk for a newly issued legislation or case report to reach law schools twelve months after its publication. Hence, periodic purchase on regular basis at least four times a year would enhance the communication of new decisions and legislation to law schools.

II. Signing Long Term Supply Agreement between Law Schools and Concerned Government Agencies:- Making law schools' purchase of these documents more systematic, faster and cost effective is the other suggested way outs by surveyed professors. That is, instead of going through long purchasing process, arrangement can be made between the respective university/law school and the publisher or the authorized government organ of the needed document, i.e. HPR, Birhanena Selam Printing Press, Federal Supreme Court or House of Federation. The arrangement enables the latter to send copies of new documents to law schools by mail with a corresponding responsibility of universities/law schools to receive the documents and effect the payment to the organs.

III. Enhance the Purchase of Combined Legislation and Case Report Books: - In 1962 Emperor Haile Sillassie I pointed out two reasons for the publication of consolidated old legislation: help to understand the spirit of new legislation, and make all legislation available to all libraries in a single document.⁷⁷ Later, Ato Mahteme Solomon, the then Minister of the Ministry of Justice, accentuated the same and said that consolidation of legislations enable the society to know the law; to determine rights and responsibilities of citizens they have created while they were in force, if they are repealed; to provide the original documents of Negarit Gazeta than depending on secondary sources; and to serve as resource for researchers on the country's history.⁷⁸

Likewise, regarding case reports Ato Tilahun Teshome wrote that:

“It is needless to underscore the importance of case or law Reports for the development of jurisprudence and for law – reform purposes. Without the aid of these, the first is highly unlikely and the second can hardly be a success story. Its importance in both the teaching and learning process cannot be

⁷⁶ It is noted, however, that some of the activities discussed below can also be done by several other government agencies and private sectors and the classification is not accurate. Though the discussion under this sub section is about responsibilities of law schools' in changing the situation, mentions have been made about the participation required by private sectors in each of the tasks discussed below.

⁷⁷ The Empire of Ethiopia, “*Mets'hafe Higigat Abeyit*”, Birhanena Selam Pr. Press, 1962 EC, Preface (translation by the writer)

⁷⁸ Ministry of Justice, ‘*Consolidated Laws*’, 1988 EC, preface (translation by the writer)

*over- emphasized as, in particular, Case Reports provide good opportunity to students to relate theory to practice*⁷⁹

Moreover, case reports help to develop the transparency and accountability of courts and enhance predictability in the legal system.⁸⁰

So far a successful task has been done by different organs in compiling legislation and cases even dating back to the late 19th century. In addition to the 1908 and 1950 case digests,⁸¹ compiling case reports has been continued by the Supreme Court and Addis Ababa University. In the 2000 Addis Ababa University Law Faculty published a digest covering more than 30 years of judgments of the three regimes.⁸² Likewise, the Supreme Court has issued compiled case reports in 1982, 1996 and very recently.⁸³

Regarding publication of consolidated legislation, starting from “*Mets’hafe Higigat Abeyit*”, one of the earliest consolidated legislation of Ethiopia prepared and published in the early 1962 by the will of the Emperor,⁸⁴ so many came during the Imperial and Derg administrations.⁸⁵ Later on, after three decades of interruption, the Ministry of Justice came up with a huge body of Consolidated Legislation in 1988 EC.⁸⁶ The difficulty in the

⁷⁹ Addis Ababa University, Selected Judgments of Supreme Court of Ethiopia, AAU, Law Faculty, March 2000, page IV preface, Ato Tilahun Teshome, Associate Professor and Dean of the Law Faculty at that time.

⁸⁰ Ato Kemal Bediri, who was president of the Federal Supreme Court, has also accentuated the necessity of issuing case reports in the Preface of untitled Case Reports of the Federal Supreme Court.

⁸¹ Digest of Ethiopian Case Law, AAU, Law Faculty (Unpublished) - contains 7,290 cases in four volumes, which later were converted in to twelve volume English texts.

⁸² See Selected Judgments of Supreme Court of Ethiopia, supra note 102. This is issued in four different books – three volumes of civil matters and one criminal matter. It has been said in the preface that the compilation.

⁸³ Supreme Court, “Supreme Court Law reports I”, 1982 EC, Commercial Printing Enterprises - which contains 34 civil and 20 criminal decisions out of its cases decided in 1980 and 1981 EC. Federal Supreme Court, “Selected Judgments”, Commercial Printing Enterprises, 1996 - published in different volumes by the Federal Supreme Court research department. The latest reports are compiled by subject matter, i.e. Cassation, Family, Procedure, Tax, Execution, Succession, Contract, Tort, Property, Criminal etc, which make reference much easier than the others.

⁸⁴ See *Mest’hafe Higigat Abeyit*, supra note 100. This book entitled with ‘*Mets’hafe Higigat Abeyit*’, literally mean ‘the main law books’, published in 1962 was divided in to 17 different sections according to subject matters of law. Repealed and new legislations of the time like the 1899 EC Order of Menelik II for the Abolition of Slavery from the nation, the 1923EC and 1955 GC Constitutions of the Empire, the 1923 EC Penal Code, all six codes of the 1950’s and 60’s and the like was included. This is unique in its kind enabling researchers to find out the old legislations of the nation. “

⁸⁵ During the Emperor in 1965 EC two volumes of ‘Consolidated Legislations’ was published by the initiation of the Prime Ministry Office in collaboration with Haile Sillassie I University Law Faculty containing legislations issued before Puagume 5, 1961 EC (H/S/I/U, Law School, Consolidated Legislations, Central Printing, 1965 EC). In addition, there was also three volume consolidated legislations published in 1957 EC covering legislations of the years 1934 to 1957 EC. During the Derg regime, has also published another consolidation in the name of the National University Law Faculty in the year 1967 EC which was not significantly different from the earliest consolidations except its name which said that it is a “gap filing” consolidation and inclusion of few recent and new legislations of the regime.

⁸⁶ These consolidations covered legislations issued in between 1934 and 1987 EC prepared and published in 11 volumes. Some of these legislations have been already made part of the earliest consolidations, but a lot more are unique for this latest consolidation. Currently, Brihanena Selam Printing Press is compiling legislations – proclamations and regulations issued after 1987EC - of each year in a separate volume.

consolidated legislation is that they are chronologically arranged according to the year of enactment. Therefore, finding laws regulating similar subject matter and identifying the repealed law from the ones in force is difficult. The compilations of Case Reports are better arranged according to subject matter than the year of legislation. In regional level, Oromia and Amhara regional governments have compiled their legislation issued before 1996 EC in two volumes each.⁸⁷

IV. Developing Catalogue of Legislation and Decisions in Law Schools:- Most law schools have legislation and case report compiled or in a piece meal in libraries or book stores. To make these resources more accessible for students' and professors' inspection, preparing index/catalogue of legislation and decisions found under its possession and updating it as soon as a new document came is helpful until a comprehensive legal directory is issued.

V. Establish a Link between Law Schools and Regional Institutions: - The relation between regional government organs and law schools around them need to be redesigned in a way which benefits both and the public. Many things have not been done in helping regional government organs to communicate its laws and decisions to the students, other than letting students inspect courts and other legal institutions. Hence, integrating the law school with the local administration should be accomplished.

VI. Developing ICT System and ICT Library in Law Schools :- In his critics against the traditional model of legal education and advocating for interactive information and communications technology (ICT) supported process, Butler argued as follows: "For a generation which is intuitively comfortable with exponential change – and which perhaps has studied nanotechnology and been exposed to be exciting and interesting teaching experiences at school – higher education using traditional methods ['chalk and talk' lecturing and tutorials] must seem like stepping back to the 20th century."⁸⁸ Hence, in the 21st century where the lives of this generation "are characterized by ubiquitous information, merged technologies, blurred social-study-work boundaries, multitasking and hyperlinked online interactions,"⁸⁹ higher education must embrace change and seize the opportunities that advance in ICT.⁹⁰

Establishing ICT library where very important CDs, internet and subscribed databases are available for the use of students and professors is already underway in some universities.⁹¹ Law schools can develop their own systems with that library, or establish a separate one, prepare and feed to computers soft copy of very important legal documents, which is now

⁸⁷ Amhara Regional Government Justice Office, Compilation of Amhara Regional Government Legislations, St. Gebriel Printing Enterprise, Bahir Dar, 1997 EC, Oromia Regional Government Justice Office, Compilation of Oromia Regional Government Legislations, Birhanena Selam, Ginbot 1998 EC.

⁸⁸ Butler, D. ICT in Legal Education: A Challenge but an Opportunity, in Enhancing Higher Education, Theory and Scholarship, *Proceedings of the 30th HERDSA Annual Conference, Adelaide, 8-11 July 2007*: Higher Education Research and Development Society of Australasia, Inc, 2007, at 11, available at www.herdsa.org.au/wp-content/uploads/conference/2007/papers/p139.pdf/ last visited on March 23, 2010.

⁸⁹ Nelson, K., Kift, S., & Harper W. First Portal in a Storm: A Virtual Space for Transition Students. In ASCILITE 2005: Balance, Fidelity, Mobility: Maintaining the Momentum?, QUT, Brisbane, 2005

⁹⁰ Butler, supra note 88, at 2.

⁹¹ Haramaya University had a separate IT library room with in the main library system holding more than 400 hundreds of very important CDs, but was permitted only for postgraduate students years ago.

available in personal Notebooks or office computers. This, which can be administered and updated by research coordinators or assistant deans,⁹² can accommodate bulks of legal documents in addition to legislation and decisions, which is cost effective and have sustained reuse and reapplication, and present authentic learning experiences for students.⁹³ To improve the use of ICT, law schools at least should take these five steps: (1) recognizing the importance of information to law schools; (2) creating an ICT structure that encourages the free flow of information; (3) requiring a base level of computer literacy; (4) providing adequate training and learning opportunities; and (5) rewarding use of ICT.⁹⁴

VII. Developing the Quality, Quantity and Distribution of Legal Periodicals:- It is promissory to see that public and private law schools have got the audacity and funding to publish legal journals⁹⁵ and some inter – disciplinary journals.⁹⁶ It would be better if these journals include important case briefs and descriptions of new legislation issued in any levels of the government. In addition, their distribution should be enhanced and each law schools should work to catch up with other law schools by its publication. In addition to legal journal, someone has to take the initiative to publish regular legal news paper like other specialized news paper for sport, medical matters, politics, love affairs, modeling etc.⁹⁷ Infant law schools can start by issuing news papers twice or more times a year and later develop it to journal.⁹⁸

3.2. Governmental Agencies

Government agencies like the legislative, the executive (e.g. Ministry of Education, Ministry of Justice, and JLSRI) and judiciary arms, and printing presses should exert efforts in helping the system in the following way:

⁹² This helps to avoid what David Shenk coined as “information obesity” which creates the greatest challenge to lawyers of today in a world oversaturated with data. Moreover, unless they knew how to filter, assess and act upon good and up to dated information, younger professionals who cannot discern valuable information from useless data, or convert information into actionable knowledge, will be at a distinct disadvantage in today’s legal workplace. *See*, Berkman, *supra* note 45, at 3.

⁹³ *See*, Butler, *supra* note 88, at 2.

⁹⁴ Masters, Elmer R., Five Steps Toward Improving the Use of Information Technology in the Law School, *Journal of Law School Computing* 1, no. 1 (1999), at www.cali.org/jlsc/masters.html.

⁹⁵ St. Marry’s University College, Jimma University, Addis Ababa University (Journal of Ethiopia Law resume its regular publication very recently), JLSRI, and Civil Service College has issued publications so far at least once.

⁹⁶ Unity University has started this task in the year 1999 EC by publishing journal not exclusively of legal but together with other disciplines like business (the late Ato Danie Halie’s, dean of the law faculty and ex-dean of AAU Law School, speech on public meeting in the summer of 1999EC)

⁹⁷ There was a legal news paper called ‘*Awde Fith*’ published in Amharic but vanished years ago of unknown reason.

⁹⁸ Tsegaye Regassa, lecturer at Civil Service College and Addis Ababa University, has been advocating this idea in every opportunity he got. About the purposes of newspapers Mahatma Gandhi said that “*One of the objects of a newspaper is to understand the popular feeling and give expression to it, another is to arouse among the people certain desirable sentiments; the third is fearlessly to expose popular defects.*” This holds true for legal matters as well. Lal Babu Yadav, Role of Media in Promoting Good Governance, Paper presented by the author at a Telegraph Weekly/FES national level media seminar on December 20, 2001 in Kathmandu-Chief editor, at 1.

I. Developing Official and Non - Official WebPages:- The evolution of internet and databases has created enormous opportunity for easy access of government information, an indispensable tool for promoting democratic initiatives, mechanism for promoting digital literacy and the dissemination of knowledge (e-learning).⁹⁹ Data entered in the webpage can be accessed by any one from anywhere; it can be converted into CD and loaded to computers to avail it for students; can be printed and distributed in class rooms; bulks of documents can be entered with a relatively less cost and up dated quickly. Late alone using electronic references, in the early 1990s US law schools have started using online teaching (e-learning), online contact with professors, online moot court, online simulation and offer online doctoral program.¹⁰⁰

The official sites¹⁰¹ of the HPR, House of Federations, Federal Supreme Court and agencies should be checked against the quality and quantity of information they have. Old legislation issued before 1995 should be entered as some of them are still enforceable, and make 'bill tracking' and the study of historical developments of principles and legal institutions much easier. The executive branch, e.g. the Council of Ministers and Ministry of Justice, and regional government organs need to establish their own databases. Though it is less than a year since its establishment, the newly established 'Government Communication Affairs Office' is duty bound to "provide government website service".¹⁰² Law schools should also work to use of the websites of their respective universities until each law schools develop their own.¹⁰³

The room is not closed for the participation of private individuals and other stakeholders to establish commercial legal websites.¹⁰⁴ A comprehensive webpage containing legislation and decisions, legal opinions, legal articles, briefs, government reports, legal forms like wills, pleas etc, and legal news, can be produced. The cost of administering the site might be covered from sponsors, promotion or selling access codes to users. More importantly, subscribing to online electronic legal resources is too expensive for most law schools in

⁹⁹ European Parliament Report: 2004-2009 Session Document, Committee on Civil Liberties, Justice and Home Affairs, with a proposal for a European Parliament recommendation to the Council on strengthening security and fundamental freedoms on the Internet (2008/2160(INI)), 2009

¹⁰⁰ Pearl Goldman, *Legal Education and Technology: An Annotated Bibliography*, *Law Library Journal*, Vol 93:3, 2001[423-467], at 424.

¹⁰¹ The distinction between 'Official' and 'Unofficial' is made to distinguish the owner of the site and the owner's authority to publicize and administer the information available there under. HPR web site is the Official site for legislations, Federal Supreme Courts site is an official site for its decisions, but may not be official site of the legislations found there under unless the HPR recognize it as 'Official'..

¹⁰² Federal Negarit Gazeta, 15th Year No 13, "Government Communication Affairs Office Establishment Council of Ministers Regulation No 158/2008", Addis Ababa, 1st January, 2009, Article 5(10). Its predecessor, the Ministry of Information, has maintained only its own official site throughout its existence. As a result, it might be unrealistic to think for the new office to establish website whereby all government information, including agency rules adopted, will posed.

¹⁰³ See <http://www.telecom.net.et/~bdu/> (Bahir Dar University), www.mu.edu.et/ (Mekele University), www.haramaya.edu.et/ (Haramaya University), www.aau.edu.et/ (Addis Ababa University), www.adama-university.net/ (Adama University), www.arbaminch-univ.com/ (Arba Minch University), www.ugondar.edu.et/ (Gonder University), www.uuc.edu.et/ (Unity University).

¹⁰⁴ In the American experience Westlaw and Nexus Lexis are commercial sites, but reliable, comprehensive, frequently visited and trusted sites all over the world irrespective of the fact that it is too expensive to pay the fees. As a result, most of the law schools will buy access code for their students which will be calculated in their tuition fee.

Ethiopia and does not bring much local materials into hand, and developing more relevant local legal resources is irresistible.¹⁰⁵

II. Converting Decisions and Legislation in to CD/ Soft Copy: - The other less costly but most effective means would be developing CD copies of consolidated legislation and decisions by incorporating the lessons of earlier attempts. Accordingly, the existing consolidated laws and case reports, the oldest legislation issued before the 1940s, Fetha Negest and case digests of the 1908 and 1950s¹⁰⁶ can be turned into CD and distributed to each law schools. According to the surveyed professors these should be done by one of the responsible government organs though it could also be done by private individuals in collaboration with the concerned government organs.¹⁰⁷

III. Developing Comprehensive Legal Directory: - Legal directory is an index or catalogue that contains very important lists which helps to find out or understand the legal system of the nation or part of it. It is a statutory requirement in US for agencies to prepare index which shows the lists of information or document they have issued and possessed.¹⁰⁸ The following has been said about how difficult understanding the Ethiopian legal system is without legal directory and agencies indexes;

*To find more or less comprehensive information about the legal norms, the legal institutions, the legal actors and the legal process in Ethiopia was hardly possible. One had to go through a maze of massive information in order to find out what the legal system or a part of it looks like. This state of affairs presented tremendous difficulty to the public who seek access to the system...*¹⁰⁹

Legal directories that contain indexes of legislations and decisions can be a very useful device. Such directories should contain serial numbers of legislation categorized into different subject matters with their status (whether it is repealed or still in force) and guide to decisions made by courts, House of Federations and other tribunals. It can also accommodate brief description of the legal system, addresses of different legal institutions, guide to legal journals and books published, and available researches. These enable 'bill tracking', i.e. finding the right legislation easier together with its predecessor and changes to it, if any.

There are two directories prepared so far: the 2003/04 'Ethiopian Legal Directory'¹¹⁰ and "*Yeethiopia Higoch Ma'ucha*," literally mean 'Ethiopian Legislative Directory' prepared by South Nations and Nationalities Peoples (S/N/N/P) Supreme Court. Ethiopian Legal directory was a big start. It contained much of the elements we have discussed above and made a momentous contribution. It, however, covered only legislation issued in between

¹⁰⁵ See, Vicki Lawal, supra note 40, at 6.

¹⁰⁶ See the discussion under Section 3.1 III above.

¹⁰⁷ Ministry of Justice, Ministry Education, Ministry of Capacity Building, especially Justice and Legal System Research Institute, Federal Supreme Court or the respective regional bureaus are the responsible organs to enhance the legal education and they should initiate the task.

¹⁰⁸ Freedom of Information Act (FOIA), 5 U.S.C. as amended in 2007, s 552, (a)(2) reads that 'Each agency in accordance with published rules, shall make available for ;' *inter alia*, '(E) a general index of all records referred under subparagraph (D)'. The lists of records under D cover 'copies of all records' of the agency.

¹⁰⁹ Professional Information Service, Ethiopian Legal Directory", 2003/04, at 4.

¹¹⁰ *Ibid.*

1995 and 2003, no decisions and regional documents were incorporated; only undergraduate thesis of AAU and Civil Service Colleges and only articles from the Journal of Ethiopian Law. In addition to its non-comprehensiveness, its distribution was not widespread enough to reach most practitioners, institutions and new law schools. The latter contains only lists of more than 2300 laws/legislation published in the Negarit (Federal) Gazeta from the year 1934 to 1993 EC and laws issued by S/N/N/P in between 1987 and 1994 EC. Their limited distributions, inadequacy to cover recent legislations and exclusion of regional documents from their reach are common constraints of the directories.

Hence, preparing a very comprehensive legal directory that help understand the system, locate the right legal material quickly with minimum cost, encourage research, avoid citation of repealed legislation, and help build strong jurisprudence from cases would be the duty of federal and regional institutions, law schools and stakeholders.

IV. Establishing Central (Local) Resource Center or Legal Information Center:-

Establishing a national resource or legal information centre is helpful in two ways - first anyone can use the available legal materials as a library, and second the centre will collect new and old publications and sale it to customers.¹¹¹ This will make purchasing legal materials a '*one window shopping*' and accommodate the needs of readers and researchers. On the other hand, some universities like Addis Ababa and Haramaya have their own book centers where they sale books of any kind. Law schools should deal with appropriate authorities to make legislation, case reports, journals and other legal materials sold there, in addition to codes.

V. Establishing Government Printing Office and Central Depository:- Government printing office (GPO), in the USA model, is an organ that will take care of publishing important government documents, including legislation and case reports, while Central Depository will do deposition and distribution tasks.¹¹² The importance under Ethiopian perspective, as has been underlined in a certain workshop,¹¹³ is that it will coordinate publication of different legal documents making access to these documents much easier and '*one window shopping*'. This in turn, facilitates the favorable condition for document to reach law schools with a possible arrangement with this office and timely publication of the documents.¹¹⁴

VI. Timely Publication of Legislation and Decisions:- Currently, Birhanena Selam Printing Press is the basic outlet to access proclamations and regulations, in addition to few online searches. Hence, it has to publish legislation as soon as possible after the approval of the legislation in the respective organ. The suggestion holds true for other responsible organs, like the Supreme Court and House of Federation regarding their respective documents.

¹¹¹ See, Tureen Afroz, supra note 3, at 70-71.

¹¹² United States General Accounting Office, Government Printing Office: Actions to Strengthen and Sustain GPO's Transformation, Report To Congressional Addressees, June 2004, at 5-6, available at www.gao.gov/new.items/d04830.pdf/ last visited on March 23, 2010.

¹¹³ A workshop organized by JLSRI held in Adama in January 2009 bringing together participants from different law schools and stakeholders.

¹¹⁴ Disseminate the government publication to all libraries in the country through the depository library system, avail for public purchase and disseminate it through the web are the other responsibilities of GPO under USA system.

3.3. Other Stakeholders

Though the primary focus of this Article is to assess the responsibilities of law schools and other government agencies, the role to be played by other private and public stakeholders is not insignificant. Developing commercial legal WebPages like the American West and Lexis, preparation of legal directory and CD copy of legislation and case digests, publication of legal periodic or legal column under non-legal periodic, are only few of them.

Conclusions

Irrespective of the long history of publication of legal documents in Ethiopia, access to it by the public has remained very poor. Even after the establishment of different law schools, the matter has not got significant attention except few and insufficient attempts by different individuals and institutions.

The means we have been using to access legislation and decisions have been very inefficient and unreliable. Students are required to do research with a dearth of legislation and decisions in the library. We have been teaching the experience of other nations but unable to get the Ethiopian jurisprudence and tend to take more time on the foreign practice and underemphasize the Ethiopian aspect. Poor access has caused inability to identify repealed laws and laws in force, giving rise to problems among others, of using repealed laws; lack of confidence on the professor on the status of such laws, etc.

It seems a high time to overtake the challenge and build an effective, long lasting, reliable and trustworthy means accessing legislation and decisions of all levels. Hence, only the combined efforts of law schools, governmental and non- governmental institutions, individual citizens and other stakeholders would make this happen. Building a good legal website, developing consolidated legislation and case reports of all levels, producing a legal directory and preparing soft copy of all these documents and distributing them to all law schools are some of the solutions. Constructing a central and/or local resource centers and government printing office, much quicker purchase system and enhancing the relation between law schools and regional institutions will also be much helpful. Moreover, publishing legal documents quickly, using legal periodic and journals to communicate legislation and decisions and preparing catalogue in each law school will also help.

Annex I: Questionnaire to Assess the Viability of Means Used for Accessing Legislations and Decisions

First of all I would like to thank you all for your willingness to fill this questionnaire and thereby make yourself party of the research which looks forward enhancement of legal education.

Objective: The legal educations in the nation demands communication of new and up to dated information, at least, to law professors and students. For academicians and students, among the new information and resources that affects the quality of legal educations are decisions (Courts of any level, House of Federation and other tribunals) and legislations. The means we are using to access these materials are believed to be very weak and unreliable. This questionnaire aims at assessing the available means, its nature and reliability, the degree of satisfaction, and the difficulties we are facing.

Higher Institution You came from: _____
 Service Year as a Law Professor: _____
 Courses you were Teaching: _____

1. How do you evaluate the necessity of having access to decisions and legislation for legal education? (A)Very Essential (B) Sometimes Necessary (C) Not Necessary
2. How often are you using the following means to access legislations issued before 1995?

No	Means	Very Often	Some times	Rarely	None at All	Degree of Satisfaction (satisfied, fair or dissatisfied)
1.	Your University Libraries – purchase or donation					
2.	Private purchase					
3.	From news and publications – radio, magazines, journal etc					
4.	From internet - Online					
5.	From a CD prepared by Digital Ethiopian Plc					
6.	Libraries other than Your University					
	A. Addis Ababa University					
	B. Ethiopian Civil Service College					
	C. Ministry of Justice					
	D. Justice and Legal S. R. I.					
	E. Others (Mention them)					
7.	By asking senior lawyers – professors and other practitioners					
8.	Others (mention)					

3. How do you evaluate your access for the decisions of House of Federation on legal matters
 (A) Full Access (B) Fair Access (C) None at All
4. What means have you employed to access for House of Federation decisions on legal matters _____

5. How do you evaluate the access you have to the following WebPages that have some electronic copies of decisions and legislations? _____

No	Means	Very Often	Sometimes	Rarely	None at All	Degree of Satisfaction (satisfied, fair or dissatisfied)
1.	www.ethiopar.net – House of Peoples Representatives official site					
2.	www.hofethiopia.org – House of Federation Official site					
3.	www.fsc.gov.et – Federal Supreme Court official site					
4.	Other local site (Mention)					
5.	International site					
	A. www.lexadin.nl					
	B. www.glin.gov					
	C. www.worldii.org					
	D. Others (mention)					

6. Which of the following means have you used to access court decisions?

No	Means	Very Often	Sometimes	Rarely	None at All	Degree of Satisfaction (satisfied, fair or dissatisfied)
1.	Your University Libraries – purchase or donation					
2.	Private purchase					
3.	From news and publications – radio, magazines, journal etc					
4.	From internet - Online					
5.	From a CD prepared by Digital Ethiopian Plc					
6.	Libraries other than Your University					
	A. Addis Ababa University					
	B. Ethiopian Civil Service College					
	C. Ministry of Justice					
	D. Justice and Legal S. R. I.					
	E. Others (Mention them)					
7.	By asking senior lawyers – professors and other practitioners					
8.	By visiting Courts					
9.	Others (mention)					

7. Which of the following means have you employed to access legislations of the federal government issued after 1995?

No	Means	Very Often	Sometimes	Rarely	None at All	Degree of Satisfaction (satisfied, or fairly s. or dissatisfied)
1.	Your University Libraries – purchase or					

	donation					
2.	Private purchase					
3.	From news and publications – radio, magazines, journal etc					
4.	From internet - Online					
5.	From a CD prepared by Digital Ethiopian Plc					
6.	Libraries other than Your University					
	A. Addis Ababa University					
	B. Ethiopian Civil Service College					
	C. Ministry of Justice					
	D. Justice and Legal S. R. I.					
	E. Others (Mention them)					
7.	By asking senior lawyers – professors and other practitioners					
8.	Others (mention)					

8. What means have you been using to access directives and other by laws issued by different government agencies? _____
9. What means you have employed so far to access court decisions and legislations of regional governments? _____ -
10. What is the effect of lack of full access to decisions and legislations on the quality of legal education? _____
11. What measures would you suggest to upgrade access to decisions and legislation of any kind? _____

Many Thanks!!!!!!!
Mulugeta Getu

Annex II. Results of Survey Conducted by Questionnaire on Instructors of Ethiopian Law Schools *

Table A. The Means Used To Access Legislations Issued Before 1995, Frequency of Using the Means and Its Reliability

No	Means	Frequency of Using the Means (%)				Degree of Satisfaction by Such a Means (%)		
		Very Often	Some Times	Rarely	None at All	Satisfied	Fairly satisfied	Dissatisfied
1.	Your University Libraries – purchase or donation	43	33	10	14	3	36	33
2.	Private purchase	27	33	20	20	10	30	20
3.	From news and publications – radio, magazines, journal etc	-	27	40	33	-	20	33
4.	From internet – Online	3	47	36	14	-	20	40
5.	From a CD distributed	27	26	14	33	-	36	14
6.	Libraries other than Your University							
	A. Addis Ababa University	14	23	27	30	-	20	23
	B. Ethiopian Civil Service College	-	14	23	63	-	10	17
	C. Ministry of Justice	3	7	17	70	3	7	23
	D. Justice and Legal S. R. I.	14	20	20	44	-	30	10
7.	By asking senior lawyers – professors or other practitioners	10	30	30	23	7	17	27

Table B. The Means Used To Access Legislations Issued After 1995, Frequency of Using the Means and Its Reliability

No	Means	Frequency of Using the Means (%)				Degree of Satisfaction by Such a Means (%)		
		Very Often	Some Times	Rarely	None at All	Satisfied	Fair	Dissatisfied
1.	Your University Libraries – purchase or donation	30	43	10	14	3	23	23
2.	Private purchase	30	33	23	14	10	23	17

* The questionnaire covered 30 law professors teaching in eleven different public and private law schools - Ethiopian Civil Service College, Haramaya, Bahir Dar, Wello, Gonder, Jimma, Mekele, Adama, Jijiga, Debre Markos and Hawassa universities, St. Marry University College and Alpha University College. The service year of the professors' range from the minimum of one semester to the maximum of eleven (11) years.

3.	From news and publications – radio, magazines, journal etc	17	30	14	40	-	14	20
4.	From internet – Online	10	17	33	33	3	17	7
5.	From a CD distributed	23	23	3	43	3	20	3
6.	Libraries other than Your University							
	A. Addis Ababa University	14	14	3	60	-	7	14
	B. Ethiopian Civil Service College	3	3	7	77	-	-	7
	C. Ministry of Justice	-	10	3	77	3	-	10
	D. Justice and Legal S. R. I.	3	17	3	57	-	-	7
7.	By asking senior lawyers – professors or other practitioners	3	33	20	40	-	17	10

Table C. The Means Used To Access Court Decisions, Frequency of Using the Means and Its Reliability.

No	Means	Frequency of Using the Means (%)				Degree of Satisfaction by Such a Means (%)		
		Very Often	Some Times	Rarely	None at All	Satisfied	Fair	Dissatisfied
1.	Your University Libraries – purchase or donation	36	23	14	30	7	23	23
2.	Private purchase	14	40	10	36	-	33	14
3.	From news and publications – radio, magazines, journal etc	17	30	20	33	-	17	33
4.	From internet – Online	10	23	30	36	-	20	33
5.	From a CD distributed by	14	10	3	73	3	14	7
6.	Libraries other than Your University							
	A. Addis Ababa University	23	17	10	44	3	20	20
	B. Ethiopian Civil Service College	3	3	10	73	-	7	20
	C. Ministry of Justice	-	7	14	73	3	3	14
	D. Justice and Legal S. R. I.	17	10	7	60	-	3	17
7.	By asking senior lawyers – professors or other practitioners	14	36	10	36	-	30	14
8.	By visiting Courts	33	23	14	23	7	10	30

Table D. WebPages (Decisions and Legislations), Frequency of Visit and Degree of Satisfaction

No		Frequency of Using the Means (%)	Degree of Satisfaction by Such a
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	Means					Means (%)		
		Very Often	Some Times	Rarely	None at All	Satisfied	Fair	Dissatisfied
1.	Local Site							
	A. www.ethiobar.net – House of Peoples Representatives	-	14	30	54	-	14	23
	B. www.hofethiopia.org – House of Federation	-	3	23	70	-	10	14
	C. www.fsc.gov.et – Federal Supreme Court	14	44	20	20	7	30	27
2.	International Sites							
	A. www.lexadin.nl	7	10	14	63	-	17	14
	B. www.glin.gov	-	10	20	63	-	14	10
	C. www.worldii.org	3	10	27	57	3	14	14

