Free Access to Law – Is It Here to Stay?”

Global study on the sustainability of Free Access to Law initiatives

- IDRC Final Technical Report -

"Free Access to Law – Is it Here to Stay?" Research Team

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Abstract

This final report summarises the activities led over the course of the 2 year study entitled "Free Access to Law – Is it Here to Stay". This project produced eleven case studies of different Free Access to Law initiatives with a goal to better understand what the initiatives do and how they do it best. A Good Practices Handbook was prepared based on the findings of these case studies. Although the project experienced a number of hurdles as much to do with challenges within the research team as with external factors related to accessing interview subjects, the project as a whole came out successful in accomplishing all the objectives the team had originally set out for itself. Further, the project was successful in accomplishing larger development goals such as capacity building and building a community of cross-continent researchers, at least in the field of access to legal information. This report offers a few recommendations which hope to serve similar projects in the future, in particular with regards to ensuring a high quality research output when working with a team located all over the world.

The project outputs are available at:

www.informationjuridique.ca/cij/acces-libre-au-droit/resultats

Research problem

The primary research problem was to determine what factors contribute to a FAL initiative's sustainability.

The research explored the relationship between two central concepts: (1) success and (2) sustainability. We delineated two sides to this success definition as each portion of success must be studied with different methods and indicators: internal success and external success. On the one hand, success was understood internally on an operational basis, as "the ability of the FAL project to effectively fulfill its goals and objectives". This portion was measured in terms of organisational capacity, for example, the capacity of the FAL project to retain staff, access information and expertise and govern itself effectively as to fulfill its mission. It was also measured in terms of quantity and quality of outputs produced: what it the project creating?

Success could also be external. External success was first evaluated in terms of use: "the ability of a FAL project to provide a service that results in positive outcomes of its users". This could include changes in legal research habits, access to a greater variety of sources, increased reference to national law, for example. External success was also evaluated in terms of outcomes derived by use: "the ability of a free access to law project to provide a service to its users which in turn positively impacts various spheres of society". In this case, examples include enhanced legal education, reinforcement of the rule of law, strengthening of democracy, greater investment or development in general.

Consequently, secondary questions include:

- What practices have been adopted by FAL projects that have been successful and by those that have not?
- What have been the impacts of FAL projects on their users?
- What have been the positive societal impacts of free access to law projects?

The research hypothesis was that we expected to see that organizational success leads to production of quality outputs. It's expected that production of quality outputs leads in turn to positive outcomes for its users. This research suggested that positive outcomes for FAL users lead to positive societal outcomes. Success in each step leads to greater sustainability of FAL projects. (*See* the sustainability chain depicted in the Methodology Guide developed as part of this project)

As a whole, the hypothesis proved to be accurate. FAL initiatives unable to achieve sufficient success in one of the above described steps to move onto the next, proved to experience difficulty in securing sustainability. The Good Practices handbook elaborates on these and other case study findings.

Objectives

The overall objective of the project is to respond to a need to study what free access to law initiatives do and how they do it best. The project aims to understand the positive effects they have on society generally and on their target audiences and stakeholders in particular, and to explore the factors determining their sustainability.

Specific Research Objectives are:

- To develop quantitative and qualitative methods to verify the assumptions regarding the outcomes of free access to law;

- To understand and document factors that have an impact on the sustainability of free access to law initiatives;

- To promote access to knowledge and lessons learned from free access to law initiatives in the research countries, and to identify models that could be used by free access to law initiatives to ensure the sustainability of current or future programs;

- To help future free access to law initiatives adopt practices which increase chances of success and sustainability and maximize the benefits these initiatives can bring to their users and society as a whole;

- To promote the research results through a number of means to a wide range of stakeholders

Project Methods and Research Methodology

The research methodology was extensively described in the Local Researcher's Methodology Guide developed as part of this project.

For the purpose of this report, the methodology described will be brief and schematic and look into organisational factors which are not described in the methodology guide.

The research team was composed of a regional coordinator who coordinated the Asia portion of the study in addition to collaborating in the production of the Methodology Guide and the Good Practices Handbook, a project coordinator based in Montreal who coordinated the project as a whole in addition to being responsible for the West African and East African team, and a coordinator in South Africa who looked after South Africa and Malawi case studies and collaborated in the production of the Methodology Guide and Good Practices Handbook as well.

Local researchers were identified by the coordinators. There were 9 local researchers with the research in Malawi and South Africa conducted by the coordinator. Local researchers were students, academics and practitioners.

The entire research team never met as a whole (the next section describes the activities in greater detail) but met as regional groups on a number of occasions.

Each local researcher was responsible for identifying a Free Access to Law initiative in their assigned country according to the specifications of the Methodology Guide and conducting the case study on that project. This meant identifying interview subjects including FAL initiative leaders, users and non-users, and stakeholders.

The case studies were supervised and edited by the coordinators before their publication. The case studies also served as the basis for developing the Good Practices Handbook which is built according to the conclusions of the different case studies.

In parallel to the Methodology Guide, case studies and Good Practices Handbook, a Free Access to Law electronic library was developed to provide a space to access documentation on the topic. References and documents can be easily added to this library through a user friendly interface ensuring the content can continue to be updated past the end of this project.

Project Activities and Outputs

First Team meeting

In April 2009, the initial team meeting was held. At that time, the composition of the team was quite different. The research director and project leader from LexUM (now the Chair in Legal Information) were present along with partners from CIS and SAFLII. The meeting discussed the country selection and began to discuss the research methodology.

In the months that followed the meeting, a new research coordinator joined the project. The country selection was being conducted for Asia and the coordinators began working on the Methodology Guide.

- ✓ *Corresponding objective: To develop quantitative and qualitative methods to verify the assumptions regarding the outcomes of free access to law*

Country selection in Asia

The country selection in Asia changed a few times, based on potential FAL initiatives available for study, and also the availability of local researchers capable of conducting the case study. In December 2009, the potential countries were India, Indonesia, Malaysia and Thailand. The coordinator eventually selected India, Indonesia, the Philippines and Hong Kong where qualified researchers and initiatives could be identified.

Kenya pilot project

A preliminary methodology guide and questionnaires were prepared for the pilot study led in Kenya. The local researcher in Kenya interviewed managers and users of Kenya Law Reports and conducted a document review. The pilot study presented preliminary findings which were used to perfect the methodology and shape the project hypothesis. (see the first interim report submitted to IDRC for more details on this pilot project's preliminary results)

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Scientific meeting in Durban

During the 2009 Law via the Internet Conference, the team took the opportunity to hold its scientific meeting. The pilot project's preliminary results were discussed in Durban, South Africa, in November 2009. Present were the research director, research coordinator and project leader from LexUM along with the coordinator from CIS, representatives from SAFLII, the local researcher from Kenya, the Free Access to Law Consultant, IDRC's Program Officer, along with other individuals from the conference invited by the team to contribute.

Team members defined the components of the sustainability chain which would serve as the basis of the Methodology Guide's hypothesis and as a founding part of the project as a whole.

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Methodology Guide

The following months were spent developing the Methodology Guide and its questionnaires. The coordinators from LexUM (Montreal) and SAFLII (South Africa) co-wrote the paper through

Google docs. The paper was then reviewed by the coordinator for Asia, the research director and project leader at Lexum and the Free Access to Law Consultant.

By March 2010, the Guide was distributed to all team members and made available online for public access.

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Methodology meeting in Bangalore
The same month, CIS held a methodology meeting in Bangalore where local researchers convened with the regional coordinator as to better discuss and understand the Methodology Guide and steps to be undertaken for the completion of their case studies.

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Methodology meeting in Bangalore

Changes in the team
As is often the case with projects running over a number of years and through a number of countries, considerable changes occurred within the team from the start to the finish of the project.

The first change was a change in personnel within LexUM, in October 2009 which led to a new research coordinator joining the team.

The next change was major and had to do with SAFLII. The Constitutional Court Trust, under which SAFLII operates, laid off personnel as a result of budgetary constraints.

One of the staff that was let go was the regional coordinator for the *Free Access to Law – Is it Here to Stay* project. There was a period of uncertainty (the 2nd interim report was submitted to