

**1st Seminar of Juridical Information Management in Digital Environments
Brasilia, February 2007**

**Closing Remarks
Rubens Medina**

To start I want to express my gratitude to the organizers for having given me the opportunity to participate in this most interesting seminar. I also want to recognize Justice Ellen Gracie Northfleet as being the source of inspiration for this exercise. As I understand, it was her statement concerning the necessity to provide the citizens effective access to the service of justice that prompted the organizers to bring us together. This was of no surprise to me. It was Justice Northfleet who contributed with her presence and wisdom to the original design and test of concept of what it is today the Global Legal Information Network, or GLIN. An initiative of the U.S. Law Library of Congress, GLIN is a cooperative effort through which governments of participating countries contribute laws, regulations, jurisprudence, and other complementary legal sources from official texts to a database accessible via Internet. It is based on my experience with GLIN as well as with managing the largest law library in the world, that I offer my comments today. I am an attorney. I have worked in a library for over 30 years, but I am not a professional librarian or an expert in information technology so my area of competence is in content and it is from this point of view that I offer my comments today.

We were invited to this seminar to share our thoughts and experiences on a topic of common interest: Juridical Information Management in Digital Environment. It is

therefore important, I believe, that we start by reminding ourselves of what are the more salient features of legal information. Additionally, perhaps as a result of digitization, we should not ignore the impact globalization has on our discipline as mentioned by several of our presenters in this seminar.

Sources of juridical information may be divided into two broad categories: primary and secondary. Primary sources consist of formally issued enforceable rules while secondary sources consist of materials that explain, clarify, or interpret primary source materials. Primary sources are the product of formally established legislative, regulatory, and judicial processes and they are assigned a hierarchical ranking. Secondary sources such as legislative records and scholarly studies play a secondary or supportive role.

In most countries, the legislative and judicial processes that create the primary sources are prescribed and, more often than not, they are clearly set forth in national constitutions. Laws, regulations and judicial decisions, are the result of established procedures even in countries that may not have officially set forth these procedures in a constitution or similar document. In the latter cases, the processes are rooted in traditions that have been consistently accepted and validated by the respective judiciaries. My point is to emphasize that legal information is special in that it is generated through a formalized set of procedures and made available through officially designated sources. We cannot, therefore, be casual in its treatment.

Most primary legal sources are in the public domain, a category excluded from the protection of intellectual property rights and therefore accessible to the citizens who are bound to comply with them. This is widely considered as a duty of governments. The public domain character of primary legal sources is consistent with the rather universal legal principle that ignorance of the law is not an acceptable excuse or defense. It is therefore very important that those national governments that still are in the business of selling the text of primary sources of law be reminded of such duty.

Once the character of legal information sources is understood and the duty of national governments to provide open access is accepted and established, the next step is to discuss, decide and implement the manner in which legal information is delivered.

We know what has been done and what continues to be done with these sources when print is the medium used. As stated before, the common practice is to formally designate a specific publication to be the carrier of such sources. These publications may be referred to generically as official gazettes. A formal designation of the official character of the source is the common standard. Within this context, it is important to keep in mind that not all government publications are therefore official sources. This is particularly true as we consider digital sources. There is a tendency for many people to assume that information available on government websites is

official; however, most government websites still include disclaimers stating that official texts of laws are found only in the print sources. Some countries have moved more decisively into the digital age by declaring an official online version of their laws as well. The Government of Canada is just one example. I would argue that there is no legal impediment to formally designating both official print and online versions of laws and I believe we should encourage countries to move in that direction. As we heard from one of our speakers, we need also to consider authentication in addition to the official designation by competent authorities. Nonetheless, I continue to harbor reservations about doing away with print altogether given the uncertainty surrounding long-term archiving of digital materials.

The topic of this conference acknowledges the fact that we have crossed the threshold into the Digital Age. Science and technology have developed and made available devices capable of capturing, processing, and disseminating information at unprecedented speed and volume. I dare to say that most of us are confronted by the challenges of the digital environment. In spite of these challenges, however, we all recognize the enormous opportunity that information technology offers. With respect to juridical information, this technology may allow us finally to make good on the promise to provide timely access to high-quality legal information to the citizens affected within nations as well as to the world. Yes - the world - for as I said before and as we heard from other colleagues during this seminar, we now live in a global community.

It has been my experience however, that applying technology to the management of juridical information requires some special considerations. The first major concern is that of communication between the content and technology specialists. The content specialists have an in-depth knowledge of the subject and must therefore prevail in the determination of the manner in which information on the subject should be accessed successfully. We have had the privilege during this seminar of hearing several expert presentations related to information technology covering various topics including information architecture, web semantics, open access, digital certificates, and network security. It is important that those in the legal field become aware of and knowledgeable about available technology and trends so that we can communicate our needs more effectively. Effective communication between these two expert protagonists is fundamental for the success of any application.

I am pleased to say that this seminar provided an opportunity to hear from individuals with expertise in different areas. I believe that a dialog began here, and I would like to offer a few comments on some of the lessons and issues that emerged:

I would like to begin with the words of the Honorable Justice Ellen Gracie Northfleet who said that “libraries are symbols of knowledge and accumulated knowledge fosters more knowledge.” This seminar is an excellent example of the passing of knowledge from one person to another.

The seminar opened with an examination of the topic of copyright. The novelty of the digital environment is demanding special attention and special answers to the emerging questions. There were several assertions that current law does not accommodate the current situation. I think we all agree as some of our speakers pointed out, there needs to be a balance between the rights of authors and the broader social need for access to information. I hope that the accumulated experience of many countries of the world will provide adequate solutions. I look forward to the recommendations that are expected to be made by the study group referred to by my colleague of the United States Library of Congress, Mary Beth Peters.

I must say that several common themes expressed during this seminar were very familiar to me and reflect many of the experiences I have had at the U.S. Library of Congress. Therefore, at this point I want to once more make specific reference to our digital experiences at the United States Law Library of Congress. The mission of this organization centers on the commitment to acquire, process, study, and disseminate juridical information not only from the United States of America but from all jurisdictions around the world. It has therefore a global or universal focus. There is no doubt that we are all members of a global society. Most of our concerns and issues are shared, and our interdependency is evident.

The second half of the last century witnessed a gradual increase in the demand for information and studies on foreign and comparative law. The interest in comparing

laws from different jurisdictions is of course not new, especially in higher levels of the judiciary, and among attorneys, but clearly also, the interest has spread to government agencies, business communities and the general public.

Consequently, the Law Library of Congress opted for a global approach to design and build a juridical information system. As I mentioned at the beginning, this system is known as the Global Legal Information Network, or GLIN. This system is intended to include all categories of juridical sources, on all subjects, from all jurisdictions or entities having the power to legislate. The content has been divided in categories that we believe represent the universe of juridical information: 1) Laws, regulations, and other statutory materials 2) Judicial decisions, 3) Juridical literature, and 4) legislative records.

The system is owned and operated by the members of the network comprising interested government agencies or their designees. It is therefore a cooperative organization in which each participating government or entity shares the rights and duties equally.

Members of the network agree that this cooperative strategy is one of the best approaches to meeting the need for timely access to juridical information. The fact that national juridical systems share most, if not all, structural and content elements facilitates greatly the application of information technology to the processing and

accessing of juridical information. It therefore represents a perfect condition to standardize the organization and management of multinational juridical material.

The fact that the GLIN system was designed to accommodate all juridical material on all subjects from all jurisdictions in all official languages does not preclude that the system is equally effective for processing and disseminating national juridical information. Jurisdictions that have not yet developed a digital system for the processing and dissemination of juridical information may very well find in GLIN an opportunity to benefit from a pre-existing system available to them at no cost with the sole condition of sharing their juridical information with the other members of the network. We see no legal, academic, or political risk in offering open access to juridical information that is in the public domain.

Based upon lessons I have learned from GLIN, I will submit to you that the time has come for us to accept the challenges of globalization in building juridical information systems. In doing so, we must focus on at least three responses:

- 1) International cooperation**
- 2) Mutual dependence**
- 3) Sharing**

In a global digital environment, international cooperation is the reflection of the recognition that the character of the information, law, in its format and content,

offers the benefit of a number of common elements that can be leveraged to manage this information. We must recognize the opportunity to cooperate in the development of common standards to exchange juridical information—something that was mentioned by several of our speakers. In doing so, we also establish a good foundation for networking.

Mutual dependence encourages compliance with these cooperatively developed standards. In any cooperative endeavor, partners must trust each other and acknowledge that they depend upon each other. Members of networks that recognize that they depend upon others to maintain juridical information that meets agreed upon standards for quality and reliability are most likely to comply with such standards as well.

As a result of cooperation, both the burden and the product of such efforts are shared. In the field of law particularly, where openness and transparency is inherent to the goal of justice, the need to work together should be obvious. By contributing toward a mutually agreed upon goal of timely access to juridical information, ultimately the citizens of the world will be the ones to reap the benefits.