

LEGAL COLLECTION MANAGEMENT FOR EFFECTIVE LEGAL RESEARCH IN THE PHILIPPINES

by

Milagros Santos-Ong (www.milasantosong.info)
Director, Supreme Court of the Philippines Library

Legal collection management in the Philippines adopts the basic collection management policy which entails the following: 1) define what one needs 2) acquire these materials 3) maximize the access to these materials and maintain and preserve them. Adopting all of these in legal collection management is important for legal research in all types of law libraries and special libraries with a sizeable legal collection such as those for banks, corporations, etc. and all those who are in continuous search for legal information.

Legal collection can be classified into two: 1) primary or prescribed legal information, the sources of law and 2). Secondary materials are Annotations, commentaries and treatises of Philippine laws and special materials. The first category, the primary or prescribed or the sources of law are required in all law libraries and special libraries with a sizeable legal collection. As far as the second materials is concerned, the thrust of the collection may differ depending on the mission/vision of a law library. In academic law libraries, the legal research are for school or academic purposes while law firms are for the needs of their lawyers and their clients. Even the collection of law firms may differ depending on the type of practice that it does. Some law firms accept only corporate while others are on criminal and here in the Philippines we even have for the poor litigants. Legal collection of the legislature is needed for law making function while for the Court it is for decision making and the administration of justice functions. Thus a good collection effective legal research varies but all of the law libraries MUST have the essential or prescribed legal information or the sources of law. Due to the limited time constraint, this paper will discuss solely the first category - essential or prescribed legal information, the sources of law

People from all walks of life are in continuous search for legal information, specially those which affect their daily life. These people at times learn the existence of laws affecting them through the television (News), radio, newspapers or through their community. Most of the information they get varies depending on the newspapers they read or the interpretation of the commentators in the television shows. Traditionally, they still have to go to law libraries to see the full text. People go to government libraries such as the Supreme Court to get the legal information that they need be it a law or a decision. Issues affecting the public are such issues like: Can an informal settler or what we in the Philippines call “squatters,” be removed from the land that they occupy without the owners’ permission? Is the land private or government? Who suspends classes when there is a typhoon? Is a helmet required for people using motorcycles?

Is the use of plastic allowed in supermarkets? Majority of the younger generation now go embraced a new technology by going directly to the internet (www.yahoo.com.ph and www.google.com.ph) to get the full-text and or find related materials on their concerns. Now Another new mode is though social networking like the facebook, twitter, etc.. In the past, they needed the desktops. Now the latest electronic gadgets such as the iphone, ipads, kindle, tablets, etc. Even some of public buses in the Philippines have internet facilities and the new mode mobile broadband sticks for internet. The Supreme court is now distributing these mobile broadband sticks to the appellate justices and lower court judges throughout the Philippines in order for them to access the SC E-Library for their research needs in decision making.

J. Myron Jacobstein in “ *Fundamentals of Legal Research*”, 8th ed. (2002) p. 1., stated that legal research vary according to country and the legal system. This is indeed true to the Philippines for it has unique legal system for it is a blend of civil law (Roman), common law (Anglo-American), muslim law (Islamic) and indigenous law (<http://www.nyulawglobal.org/globalex/Philippines1.htm> AND it has unique conditions which affects its legal collection, more particularly the primary sources of legal information, the sources of law. These two sources of law :1). Statues and 2) jurisprudence or case law, from 1900 to present remain in effect or in force until they are appealed or amended. Existing penal law, the ***Revised Penal Code*** (Act No. 3815) as amended, was promulgated in 1930. The case of ***Tecson v. Commission on Elections*** (G.R. No. 161434, March 3, 2004) involves the citizenship of a presidential candidate. Although the case was decided in 2004, the laws that were cited went as far back as the Spanish Civil Code which is referred to in several Supreme Court decisions as the Old Civil Code. It also used the present civil code (promulgated in 1940) and the Family code (1987).

The Philippines is rich by the number and the variety of statutes passed and case law promulgated. Statutes are categorize as follows: 1. Constitution, 2. Legislative enactments and 3) Executive/Presidential and other issuances of the different government agencies including government owned and controlled corporations. There has already been six (6) Constitution of the Philippines: Malolos (1898), 1935, 1943 (Japanese), 1973, 1986, and 1987. Both Houses of Congress would like to change again the 1987 Constitution, specially those affecting the economy of the Philippines. There have been more than 18,169 legislative enactments passed since 1900. Each legislative enactment bears different names depending upon the different period in Philippine history: a) Acts or Public Acts (1900-1935) passed during the American period b) Commonwealth Acts (1935-1945) enacted during the Commonwealth period c) Republic Acts (1946-1972, 1987-present) are those passed after the independence of the Philippines and continued after the 3rd Philippine Republic d). Presidential Decrees (1972-1981) were promulgated during Martial Rule e) Batas Pambansa (1981-1985) were passed by the Philippine Parliament f) Executive Orders (1986-1987) during the early part of the term of President Corazon Aquino when Congress was not yet established. Complete compilation legislative enactments, Presidential/ Executive issuances, and regulations of the different Departments of government are not available in print. Laws passed during the Japanese occupation, including the 1943 Constitution are no longer in effect ever since the liberation of the Philippines from the Japanese forces in 1945.

Jurisprudence or case law are decisions of the Supreme Court, the three Appellate courts (Court of Appeals, Court of Tax Appeals and the Sandiganbayan) and those of the first and Second Level Courts. This present hierarchy of the Judiciary (Annex A, (<http://www.nyulawglobal.org/globalex/Philippines1.htm>) is a result of the Judiciary Reorganization Act (Batas Pambansa Blg. 129) of 1980. There are more than 63,000 decisions promulgated by the Philippine Supreme Court from 1901 to present. Complete compilation in printed format and in soft copy through the different websites and CD Rom compilations is limited. Compilation of decisions of the three (3) Appellate Courts and the lower courts are not available in print. Unlike statutes, decision of the Supreme Court during the Japanese occupation still form part of our legal system and are found in the *Philippine Reports*, volumes 74 and 75.

Aside from the great number of legal information to consider, another major problem is the access and where these information can be obtained. Section 2, Republic Act No. 386 (Civil Code of the Philippines), as amended provided that laws shall take effect after 15 days of publication in the *Official Gazette*, a weekly publication of government documents and issuances. The case of *Tanada v. Tuvera* (G.R. No. 63915, December 29, 1983) was filed for lack of publication of some Presidential Decrees and other laws during Martial law. While the case was pending, some of the unpublished Presidential Decrees and other issuances surprisingly came out in a series of *Supplement to the Official Gazette*. The date of publication could not be determined for the date of the *Supplement* is the same as the date of the regular issues where the missing Presidential Decrees were supposed to be published. The decision of the Supreme court in 1983 required the publication of all laws as provided for in Republic Act 386. However in the *Tanada v. Tuvera* G.R. No. 63915, April 24, 1985, there were still Presidential Decrees and other issuances that remained unpublished. The Supreme Court order in 1985 mandated that all laws must be published in order to take effect. To solve the publication of laws problem, Section 2, Republic Act No. 386 was amended by Executive Order No. 200 (1987) which provided that the publication of laws and other issuances may be made in the Official Gazette or two newspaper of general circulation.

Retrieval and access to the sources of Philippine laws is another problem for 1) lack of complete compilation of sources of printed/published statues and jurisprudence; 2) lack of updated indexes or search tools <http://www.nyulawglobal.org/globalex/Philippines1.htm> part 2 and 3) slow publication, specially the primary sources. The Philippines is left with no recourse but to explore and utilize the best of the 21st century modern practice in order to be able to acquire and or compile, retrieve and access all of these legal information in full-text. There are probably less than ten (10) libraries with the complete compilation of printed laws from 1900 to present and one for the digitized or online version, the Supreme Court E-Library. The primary and the only source of complete Supreme Court decisions from 1901-1960, the *Philippine Reports*, is out of print .

. The Supreme Court tried to solve the problem of the lack of index of the *Official Gazette* by publishing “A *Subject Index to the Official Gazette* from 1946-1985 After this said date, the index is already electronic. The best solution to this problems is the online version of the *Official Gazette* (www.gov.ph) published by the Presidential Commission Development and Strategic Planning Office (created by Executive Order No.4 s. 2010) of the Office of the

President. It was launched by President Benigno S. Aquino III in his first State of the Nation Address (SONA) on July 26, 2010 for it contained the full-text of these documents and not just an index. However, they have to work on the backlog from 1901-2010. This online version differs in format and style than the printed version.

The problem of the availability of full text and access of laws and jurisprudence in printed form from the official or government sources resulted in the commercial publications and most recently electronic sources, both commercial and open access. The *Philippine Reports*, the official source of Supreme Court decisions from 1901, published by the National Printing Office was delayed for years and as a result: 1) publication was taken over by the Supreme Court in 1983 due to need of an official source of jurisprudence 2) Central Book Supply, Inc. in 1961 started to publish the complete compilation of Supreme Court decisions with the title *Supreme Court Reports Annotated (SCRA)*. This secondary source is preferred rather than the *Philippine Reports* because it is complete and more up-to-date. *Philippine Reports* from vols. 1-130 are out of print. Central Books Supply with the use of a new printing technology called Print on Demand can up with the *Philippine Reports Annotated* to cover the out of print volumes. With this new technology in printing, all the books published by Central Book Supply can readily be made available.

Traditionally, the basic rule in the Philippines is to cite the primary sources, published by the government agency issuing it. Secondary or commercial sources are used only if there is no primary source available. Primary materials and secondary materials like annotations, commentaries and treatises on these laws and jurisprudence written by authors are traditionally published in book form and form part of the collection of law libraries. Some are now available in soft copy in CDs and online. E-books for law has just started in the Philippines. In addition to Philippine legal information, the legal collection in the Philippines includes foreign legal information. These foreign legal information are used for persuasive effect if there are no existing Philippine legal laws and jurisprudence. Foreign reference sources in book or printed or electronic form. The two online foreign legal databases, *Lexis/Nexis* (www.lexis.com) and *Westlaw* (www.westlaw.com) can be found in major Philippine law libraries.

The Supreme Court Library Services can best illustrate the model law library as far as Philippine legal collection management. Adjudged in 2001 as one of the "Model Law Libraries in the Philippines," it can be classified as a traditional law library which has embraced the latest technology of the 21st century in order to be able to complete its collection for an effective, faster and wider dissemination of legal information and for an effective legal research in its decision making function. It is a traditional library and archives with a printed book collection of almost a hundred thousand (100,000) volumes of books and bound periodicals as of December 2011. The book collection of the library is continuously updated both for Philippine and foreign law and law related materials. Starting January 1998, the Supreme Court can be classified as a depository library, pursuant to the provisions of Republic Act No. 8293 (Intellectual Property Code), Chapter IX, sec. 191. The Republic Act No. 8293, section 176.1 provided conditions with regards to exploitation of works of the government which are not subject to copyright. The Supreme Court in A.M. No. 04-7-06-SC provided likewise conditions on the

commercial exploitation of Supreme Court decisions in line with section 176. One of the conditions requires deposit to the Supreme Court Library and I quote “The person compiling and selling the decisions shall provide the Supreme Court Library twenty (20) free copies of the compiled decisions in the format the compilation is sold to the public.”

It is a virtual library and archives of primary Philippine legal materials in its *Supreme Court E-Library* and the subscription to the Westlaw which was replaced by *Lexis/Nexis* in 2012. As part of the judicial making function of the Supreme Court, access to foreign laws and jurisprudence is needed for 1). Cases where there are no available Philippine laws and/or jurisprudence. One such instance was during the impeachment of a former President in 2001. 2). Those which cover foreign applications such as maritime cases, commercial laws, etc. 3) to verify citations in the pleadings of both parties 4). Other foreign researches.

The *Supreme Court E-Library* is an online database that covers all of the previously enumerate Philippine legal information as reflected in the Homepage: *Jurisprudence, Laws, Executive, Court Issuances, Justices* and *References*. *Court Issuances* are rules and regulations issued by the Supreme Court such as amendments to the Rules of Court, *Writ of Amparo*, etc. *Justices* are the bio-data of all of the Chief Justices, Associate Justices and their photograph. It is like a “One-Stop Shop” for all the legal information that the legal profession may need. It is the best example for legal collection management embracing the 21st century modern technology.

Knowing that laws and jurisprudence do exist is not enough. In the Philippines we have to know WHERE laws and jurisprudence may be obtained. To make sure that the *Supreme Court E-Library* will contain all complete and up-to-date official source of ALL Supreme Court decisions, Laws, Presidential Issuances, Rules and Regulations of Government Agencies, the Supreme Court searched for several institutions in the Philippines and the United States for Supreme court decisions and has formally entered into cooperative endeavors through Memorandum of Agreements with government agencies where these materials originate and which are not available in print or in their websites.

One of the aftermath of the World War II is the destruction of the original records of the decisions of the Supreme Court from 1901-1945. The *Philippine Reports* in several of its volumes for these years have listed down almost 6,000 decisions where the full text are not available. The Supreme Court with the *SC E-Library*, was able to obtain almost 2,000 decisions from the United States National Archives in Maryland, collection of Chief Justice Ramon Avancena, George Malcom (Justice of the SC who became a Dean of the University of the Philippines College of Law and the University of Santo Tomas Library which is considered as the oldest university.

Memorandum of Agreements or a formal cooperative agreement is necessary for its complete implementation and for continuity. There is no complete publication of treaties entered into the Philippines and there is no office which has the complete collection. Even at the Department of Foreign Affairs, the treaties collection is found in different offices such as

Library, Legal or Treaties Division, depending on whether they are bilateral or multilateral. A Memorandum of Agreement with the Department of Foreign Affairs was signed in June 13, 2008 where all the treaties entered into by the Philippines from 1946-2010 were given to the Supreme Court Library who digitized them. In turn, the Supreme Court provided the Department of Foreign Affairs a CD compilation of these treaties for its embassies all over the world and for the DFA database (www.dfa.gov.ph) and allowed the Department of Foreign Affairs officials to access the *Supreme Court E-Library*. These treaties can also be accessed in the *Supreme Court E-Library*.

The University of the Philippines Law Center receives three (3) certified copies of all rules and regulations of government agencies including government owned and controlled corporations as provided for the 1987 *Revised Administrative Code of the Philippines*. In turn they must publish all these rules and regulations in the publication entitled the *National Administrative Register*. It is in this regard that a Memorandum of Agreement was also reached on November 19, 2004 to be able to continuously receive all of these materials which are now in the SC E-Library database,

The last legal information that is needed to complete the *SC E-Library* database are Presidential and Executive Issuances. The Presidential Issuances uploaded in the *Supreme Court E-Library database* were taken from the printed *Official Gazette*. Not all of these issuances are published in the *Official Gazette*. In as much as the online version of the *Official Gazette* (www.gov.ph) has started and is in the process of being completed from the latest to the oldest, the Supreme Court entered into a Memorandum of Agreement with the Presidential Commission Development and Strategic Planning Office of the Office of the President, on July 20, 2012 to facilitate the digitization of the Presidential Issuances and the printed *Official Gazette* from 1901. With the complete implementation of this project, it can be rightfully claimed that *Supreme Court E-Library database* is complete or has a complete collection of all the primary legal information of the Philippines.

Access to these information is maximized by choosing the appropriate software suited to its primary clientele. It was designed to be a user friendly database in order to encourage members of the Judiciary to use it, especially to those who are not yet familiar on how to use computers. It may be classified as an open access for full text laws and jurisprudence may be obtained from its database BUT the search mode is limited to the members of the Philippine Judiciary, Law Schools and government agencies or government partners. A demonstration will best illustrate this online government legal database.

A CD version for Supreme court decisions of the *SC E-Library* is distributed quarterly to all the courts in the Philippines from the Supreme Court down to the lower courts and Sharia courts. As of June 1, 2012, the On line version covers decision, laws from 1901-present (April 2012 and Rep. Act No. 10167), Court issuances from 1973 to present and Treaties 1946-2010 and Executive Issuances (those published in the *Official Gazette* and in its website), the *National Administrative Register* which contains the rules and regulations of government agencies. Also included in the database with categorized the *LAWS* are the deliberations of the 1935 and 1987 Constitution. Deliberations of the legislative enactments are not included for

they can be found in the websites of both Houses of Congress, Senate (www.senate.gov.ph) and the House of Representatives (www.congress.gov.ph).

SC E-Library's mission/vision is to "Puts all laws, decisions and rules and regulations in the Judge's fingertips." Every judge in the Philippines must have at his fingertips all the decisions of the Supreme Court, all laws passed by Congress and all rules and regulations of the government from 1901 to present. Serves as the primary research tool needed in the speedy and effective administration of justice. The online version which was launched on November 19, 2005 is gaining support and can be illustrated from the statistics of use (Annex B).

It has gone beyond said mission for it is no longer exclusive to the members of the judiciary. Law schools were provided access through their law libraries as a support to legal education and government partners are provided access. The problem at present is that not all of the 119 laws schools in the Philippines (List of law schools [<http://www.nyulawglobal.org/globalex/Philippines1.htm>]) have internet access.

The SC E-Library has the policy that in case of conflict between the digitized and the printed primary/official sources, then later prevails. The hard copy of all the materials found in the *SC E-Library* are kept and forms part of the collection of the Supreme Court Library Services. This may best illustrate that the Supreme Court Library Services is a traditional library whose collection and services employ the traditional and embraces the 21st modern practice

The proliferation of Philippine legal databases, both on open access and by subscription is the best evidence to show that the Philippines needs or has to embrace the latest technology to facilitate legal research and access to the primary Philippine legal collection. **CD Asia Technologies Online** applications – *Jurisprudence* and *Laws* (www.cdasiaonline) and *eSCRA* (www.central.com.ph/escra) are two legal databases on subscription. The subscription to these two databases are expensive and corporations, institutions and big law offices are those who can afford it. *eSCRA* is a legal database for Supreme Court decisions from 1901 to present while the online version of CD Asia covers both laws and jurisprudence. Subscription can be made both or for either laws or jurisprudence.

CD Asia Technologies has also subscription for CD versions for Laws, Jurisprudence and other subjects (list found in their website) where there are no complete published materials such as the Securities and Exchange Commission, *Bangko Sentral* (Central Bank) rules and regulations and Department of Justice Opinions.

The open access databases are *Judiciary website or portal* (www.judiciary.gov.ph) and the *SC E-Library* (<http://elibrary.judiciary.gov.ph>), *Official Gazette online* (www.gov.ph), *Chan Robles* (www.chanrobles.com), the oldest legal database published online by a law office and *Lawphil* (www.lawphil.net), a database of the Arellano University Law Foundation and the

Senate of the Philippines (www.senate.gov.ph) and the House of Representatives (www.congress.gov.ph) websites.

The **Judiciary website or portal** (www.judiciary.gov.ph) contains the following databases: 1) Supreme Court 2. Appellate Courts namely the Court of Appeals, Court of Tax Appeals and the Sandiganbayan 3). Offices under the Supreme Court and 4) Research facilities. Supreme Court decisions may be accessed at the **Supreme Court website** (<http://sc.judiciary.gov.ph>) with use of google search. This **Judiciary website or portal** (www.judiciary.gov.ph) website is the only source for compilation of decisions of the Appellate Courts in the Philippines. Among the appellate courts, it is the Court of Appeals is the only one with printed case reports, **Court of Appeals Reports**, a compilation is selective Court of Appeals decisions from 1961-1980 (25 volumes).

Chan Robles (www.chanrobles.com) database contains Philippine and United States primary sources of law, world wide legal resources, and a separate Virtual Library. Philippine legal materials are categorized according to the eight (8) bar subjects and includes bar questions, list of lawyers, and other secondary materials. They also offer online review to the bar examination for a fee and conduct mandatory continuing legal education. They have started the publication of books. **Lawphil** (www.lawphil.net) has decisions of the decisions of the Philippine Supreme Court, laws, court issuances, executive issuances, treaties and legal links.

Law Juan is a free apps in the Ipad for the Philippine Constitutions and the Rules of Court. However, there is a subscription of \$10 for it statutes database.

As far back in 1980s, the need for computer in legal collection management was recognized and was my thesis for my Master of Arts at the University of Sheffield, England was entitled “*Factors Affecting the Design of a National Information Service for the Philippines.*” In those days, computers (mainframes, micro and minis) were expensive and non-affordable and the available software then were limited. Since then, the development of hardware, software and the latest technology is a big blessing for legal collection management in the Philippines now and in the future. In embracing the modern practices, we need to value traditions in 1) preserving the hard copy of original and/or the primary sources 2). Preserving the documents or data flow on how the sources of legal information were formulated 3). Maintaining the process in handling these legal information wherein transparency and confidentiality are considered in providing access to legal information. Legal information are classified to determine which of these information must be readily provided to the public and which information must be accessible to specific group of people. The choice of the type of digitization will further show the value of tradition in handling legal information.

Legal collection management, whether it be in the form of the traditional book collection or a virtual library has to be carefully and meticulously designed, implemented and maintained to be effective for all. At present a great majority of the law libraries in the Philippines cannot yet afford to embrace the fully modern type of a virtual library for lack of funds, and resources to implement them. Librarians and information professionals are however available in the event funds and resources are made available.

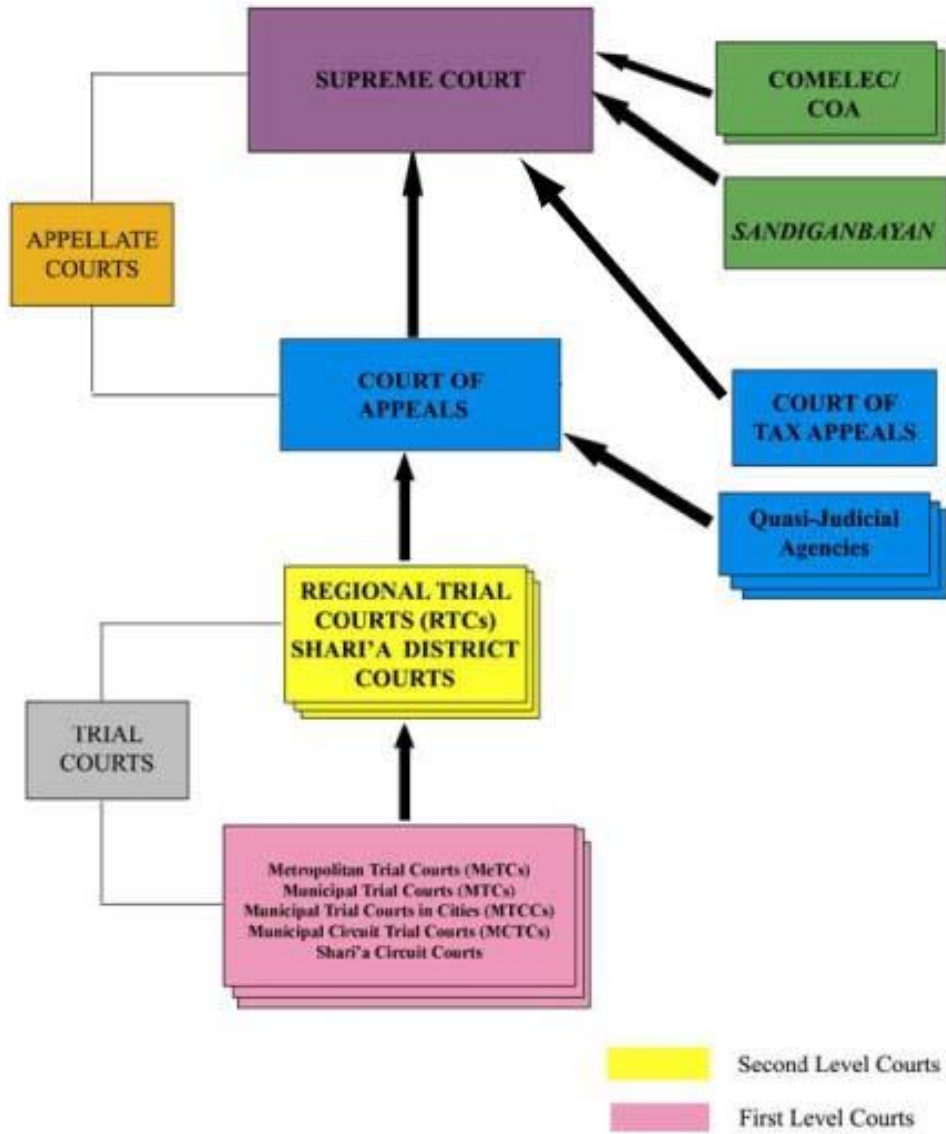


RESPECT THE PAST
EMBRACE THE FUTURE
ALLA 2012

I would like to end this lecture by saying that the Supreme Court Library Services respects tradition and has embraced the technology of the 21st century in collection management and the type of services that it renders for the speedy and effective dispensation of justice for the entire country.

ANNEX A

THE HIERARCHY OF COURTS IN THE PHILIPPINES
(Relationships between and among the courts in terms of jurisdiction)





RESPECT THE PAST
EMBRACE THE FUTURE
ALLA 2012

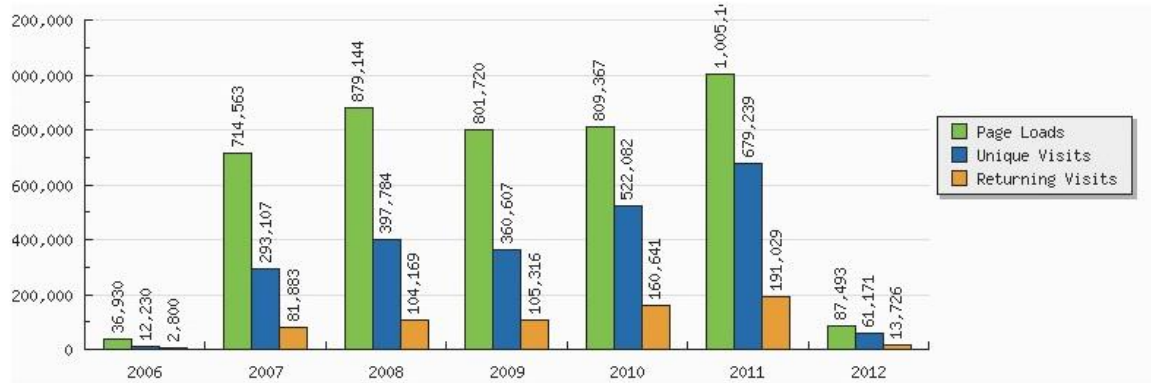


Supreme Court E-Library

11:28:45 26 January 2012

Summary Log: No Limit

Yearly



	Page Loads	Unique Visits	First Time Visits	Returning Visits
Total	4,334,357	2,326,220	1,666,656	659,564
Average	619,194	332,317	238,094	94,223

Year	Page Loads	Unique Visits	First Time Visits	Returning Visits
2012	87,493	61,171	47,445	13,726
2011	1,005,140	679,239	488,210	191,029
2010	809,367	522,082	361,441	160,641
2009	801,720	360,607	255,291	105,316
2008	879,144	397,784	293,615	104,169
2007	714,563	293,107	211,224	81,883
2006	36,930	12,230	9,430	2,800

Returning Visits - Based purely on a cookie, if this person is returning to your website for another visit an hour or more later

First Time Visits - Based purely on a cookie, if this person has no cookie then this is considered their first time at your website.

Unique Visitor - Based purely on a cookie, this is the total of the returning visits and first time visits - all your visitors.

Page Load - The number of times your page has been visited.