

# Introduction to International Legal Research

Advanced Legal Research  
Spring 2003

## I. Challenge of International Legal Research

### A. Why?

Custody battles where someone has taken children out of the U.S.  
Human rights questions in immigration cases.  
Businesses who trade or do business abroad.  
Tax consequences of working abroad.  
Suing a multinational company for a products liability action.

### B. Approach. Why international legal research is challenging:

International legal research materials are not organized like our federal or state legal materials. They are not used in the same way. There are not statutes, regulations, and cases organized in a comprehensive way to present a full statement of the law.

## II. The Statute of the International Court of Justice lists the four sources of international law:

- international conventions (treaties), establishing rules expressly recognized by the contesting states;
- international custom as evidence of a general practice accepted as law;
- general principles of law recognized by civilized nations;
- in certain circumstances, judicial decisions and the teachings of the most highly qualified publicists of the various nations, as subsidiary means for the determinations of the law.

## III. Foreign Law, Comparative Law, and International Law

### A. What's the difference?

International law does not include everything having to do with law other than in the United States.

B. What International Law is not:

It is not Foreign Law.

Foreign law is concerned only with the local laws of another country, for example be the civil code of Spain or the commercial code of Switzerland.

It is not Comparative Law.

Comparative law is concerned with a comparison of two separate national legal systems, for example, a comparison of the Dutch and German criminal codes. Usually, comparative law is an academic discipline.

C. International Law

Public international law is concerned with the relationship between two or more countries, a shared or common jurisprudence. For example, a system of laws, regulations, and case law that affects trade among a group of countries would be in the arena of international law.

Private international law governs the relationships between private parties, including corporations and individuals, by applying domestic law in areas such as business, torts, and property. Conflicts of law principles are frequently involved, both in determining which country's courts should hear disputes and which country's laws should be applied. Private international law is sometimes referred to as transnational law.

IV. Getting Started

A. Background material

You have seen throughout this course how useful secondary sources can be, particularly when researching in an area of law that is new to you. Useful titles for background information include:

Buergenthal, *Public International Law in a Nutshell*, KZ3092 .B84 2002, reserve;  
Janis, *Introduction to International Law*, JX3140 .J34 1993, reserve;  
*Guide to International Legal Research* / compiled by George Washington University School of Law, KZ1234 .G85 2002, reference;  
Degan, *Sources of International Law*, JX3091 .D44 1997.

Fox, *Dictionary of International and Comparative Law*, KZ1161 .F69 1997, reference;  
*Encyclopedia of Public International Law*, KZ1160 .E53 1992 reference.

B. Tip:

Don't forget about traditional sources you have already come to know and love. There is a lot of useful information to be learned from *Legal Research Illustrated*, *Bieber's Dictionary of Legal Abbreviations*, and *The Bluebook*. You can find sections in most American legal research handbooks on how to do international legal research. *The Bluebook* now includes a lot more information on citing to international legal sources and what the abbreviations for international sources mean.

C. Other research tips:

Start small, then expand. As with other types of legal research, the more discreet the source of information is, the less time consuming the research will be. Starting small is always a good idea.

For example, suppose you need to find a citation for a treaty dealing with transportation of toxic substances in Europe. It might be best to begin with a source such as *International Environment Reporter*, K 3581.2 .157, a legal looseleaf service published by BNA (Bureau of National Affairs) dealing with international environmental issues and information sources. If you are unable to find the material you seek in this reporter, you may want to examine the European law sources, such as the case reporters or regulations promulgated by the European Union. If you still are unsuccessful, then you will have to expand your research sources to include a compilation of treaties of the world.

V. Treaty research

Treaties are defined as agreements between nation states and intergovernmental organizations governed by international law. They can be one of the best ways to begin your international legal research. A few hints about researching treaties before you begin.

A. Often treaties are not referred to as "treaties".

They are sometimes called agreements, pacts, covenants, charters, protocols or conventions. So if you are looking for the international protocol on ozone depletion, remember that it is actually a treaty and therefore should be available in a treaty compilation. On the other hand, if you are doing online research for a treaty on the ozone, and not having any luck, try omitting "treaty" as a search term.

Some terms: a state's consent to be bound by a treaty can be expressed by signature, ratification, or accession.

States sometimes sign or adhere to treaties with unilateral statements purporting to exclude or to modify the legal effect of certain provisions of the treaty in their application to that state. They may be labeled reservations, declarations, understandings, clarifications, etc.

B. Use a treaty index to find the treaty.

In order to know which index to use, you must first try to determine the threshold issue: Is the United States a party to the treaty or not.

1. If the United States is a party, consult *Treaties in Force: A List of Treaties and Other International Agreements of the United States in Force on January 1, . . .*, KZ235 .T73, reference. This is an annual index published by the U.S. Department of State listing all the treaties to which the U.S. is a party. *Treaties in Force* is located in our library in the Reference section on the third floor.

2. If the United States is not a party to the treaty, you will have to consult another treaty index, published annually by the United Nations. This index includes the text of all declarations and reservations attached to a treaty when a member nation signs it. This index also gives the current status of a treaty. *Multilateral Treaties Deposited with the Secretary-General*, KZ171 .M86.

C. Where to find the full text of treaties.

1. If the United States is a party, the text of the treaty will ultimately be published in *United States Treaties and Other International Agreements (1950- )* (aka *Treaties, etc.; UST*), KZ235.3 .U5. This is the official publication of treaties to which the U.S. is a party. It is published by the U.S. government, but it is very slow in publication. Currently the UST in print is running about 17 years behind. The law library subscribes to the microfiche, which is only about 5 years behind.

2. Valuable treaty information is also published in the U.S. Department of State *Dispatch*, JX232 .U83. Since December 1999, the *Dispatch* has only been available through the Department of State's web page.

3. A good source of texts of older treaties is *U.S. Statutes at Large*, KF 50 .U52. This set published the treaty texts until 1952, approximately when the official treaty compilation began.

4. A very good publication which often publishes treaties soon after they are signed is the periodical *International Legal Materials (ILM)*, KZ64 .I58. This publication is produced by the American Society of International Law and is also available online through LEXIS and WESTLAW. It's a very convenient source of international legal materials.

5. If the United States is not a party to a treaty, the most inclusive source for the text of multilateral treaties is *United Nations Treaty Series (1947- ) (UNTS)*, KZ 172 .U5543. The law library has the print version through approximately 1983. The law library also subscribes to the microfiche, which is current to within approximately 2 years.

## VI. Other International Legal Research Materials

### A. International Documents

1. *International Legal Materials*. This is the GREATEST source of international legal materials. It is published bimonthly by the American Society of International Law. It provides access to recent treaties, significant judicial decisions and documents, domestic legislation and regulations, and general policy statements concerning international affairs. It frequently provides the first access to such documents, and all documents in ILM are in English!

### 2. Judicial Opinions

International Court of Justice.

*Reports of Judgments, Advisory Opinions and Orders / International Court of Justice*, JX 1971.6 .A2.

European Union.

*Reports of Cases Before the Court of Justice and the Court of First Instance*, KJE 924.5 .R47.

European Court of Human Rights.

*Reports of Judgments and Decisions*, KJC5138 .A5 E86

### 3. Yearbooks

*Yearbook of the European Convention on Human Rights*, KJC 5132.A52D63.

Yearbooks can be found on a variety of topics in international law. They provide an excellent way to research the major legal developments in an area.

### 4. Topical sets

*International Environment Reporter*, K3581.2 .I57.

This is a terrific set for all types of documents dealing with international environmental legal issues. You can find treaties, regulations, case law, etc.

### B. Legal Periodicals

There is very little going on in the world of international law that is not covered in some way by law reviews, journals and other periodicals.

1. *Current Law Index*, K 33 .C87.

2. *Index to Legal Periodicals*, K 33 .I52.

3. *Index to Foreign Legal Periodicals*, K 33 .I38.

## VII. Miscellaneous Remarks about International Legal Research

## A. Foreign Law

You may find yourself in a position where you have to do some research in the laws, cases or regulations of a foreign country. If so, I recommend two sources:

The quickest and dirtiest source for a bird's eye view of foreign law is published in a very unlikely source: *Martindale-Hubbell International Law Digest*, KF 190 .M372, reserve. This volume presents digests of the laws of foreign countries prepared by reputable law firms in the countries. If all you need is to know what the statute of limitations is on a contract action in Portugal, this may be the answer to your question.

The other title is for the much more sophisticated foreign law researcher. This fabulous set presents in looseleaf format much you will need to know regarding foreign law. Each volume is geared toward a certain geographical area, and each country is divided up into sources of law and subjects covered. It is comprehensive, and will provide information about the titles of the legal materials you will have to consult to do your research. Reynolds and Flores, *Foreign Law : Current Sources of Codes and Basic Legislation in Jurisdictions of the World*, K 38 .R49 1989, reference.

## B. Using online sources.

A few of my favorite online sources for international legal research:

1. LEXIS/NEXIS has a good collection of European Union documents, and provides access to the laws of most of the Commonwealth jurisdictions. It also provides access to many foreign periodicals which can be essential for tracing legal information. Periodicals such as the *Financial Times* and the *Times of London* are excellent for identifying current legal developments both in Great Britain and in the European Union.
2. WESTLAW also has some international legal materials. The decisions of the International Court of Justice are available on WESTLAW.
3. World Wide Web. There are now more than ever web pages offering excellent access to the legal documents of many foreign countries and international bodies such as the United Nations and the European Union.

## VIII. Conclusion

International legal research is now easier than it's ever been. Explore the variety of information sources available, stay creative with your approach, and always remember to have a good time.