

Public International Law Research

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I. Introduction

This research guide will provide you with a starting point for conducting research in public international law. Public international law concerns the rules and principles dealing with the conduct of states and international organizations, as well as some of their relations with natural or legal persons.¹ Sources of public international law are customary law, international agreements, and, as supplementary rules where appropriate, general principles common to the major legal systems of the world.² Evidence that a rule has become international law can be derived from international judicial and arbitral decisions, national judicial decisions, scholarly writings, and pronouncements by states.³

Private international law, often called conflict of laws in the United States, concerns the rules which govern jurisdiction, choice of law, and enforcement of judgments in private disputes involving more than one jurisdiction.⁴ Private international law will not be covered in this research guide.

II. Secondary Sources

If you are unfamiliar with international legal materials, look first to secondary sources. Research guides, journal articles, treatises, dictionaries and encyclopedias provide general background information on the subject. They will direct you to primary materials such as treaties and cases and help you put these sources in context.

A. Research Guides

Research guides provide a basic overview of the different types of primary and secondary sources on a topic and may offer guidance on the research process. They appear in both electronic and print formats. To find a research guide use portal sites (see Section III), search engines, websites of law libraries that have a strong international law collection and the library catalog of the Gordon D. Schaber Law Library.

To locate a print research guide on public international law, perform a subject search with the library catalog (GoCat) for the topic "international law legal research." To see what is available

¹ RESTATEMENT (THIRD) OF THE FOREIGN RELATIONS OF THE UNITED STATES §101 (1987).

² *Id.* §102.

³ *Id.* §103.

⁴ *See, e.g.,* Yahoo, Inc. v. La Ligue Contre Le Racisme Et L'Antisemitisme, 433 F.3d 1199 (9th Cir. 2006). Yahoo was ordered by a French court to block French access to Nazi material offered for sale on Yahoo's United States site. The issues raised in this case include jurisdiction, enforcement of judgments, and the conflict between French law and the First Amendment.

on the internet on a particular topic use a search engine such as Google. A search for “research guide international treaties,” for example, retrieves many relevant titles.

1. Web Versions of International Law Research Guides

GlobaLex contains a collection of research guides on foreign, international and comparative law.

Site: <http://www.nyulawglobal.org/globalex>

International Legal Research Tutorial. This tutorial provides an introduction to the topics of public and private international law.

Site: <http://www.law.duke.edu/ilrt/index-2.html>

World Legal Information Institute (WorldLII) is a global legal research site. It provides links to websites on the topics of foreign, international and comparative law.

Site: <http://www.worldlii.org>

2. Print Versions of International Law Research Guides

Contemporary Practice of Public International Law. Ellen G. Schaffer & Randall J. Snyder.

Location: Reference Call no. JZ1234 .C66 1997

Germain's Transnational Law Research: A Guide for Attorneys. Claire M. Germain.

Location: Reference Call no. K85 .G47 1991

Guide to International Legal Research. George Washington University Journal of International Law and Economics.

Location: Reference & Treatise Call no. KZ1234 .G85

B. Treatises

Treatises provide a scholarly, in depth approach to legal topics. References to treatise titles may be found in research guides, bibliographies or journals. Check the online library catalog (GoCat) to determine whether the library owns a particular treatise. If you do not have the name of a specific title or author and want to know what is available in the library on a certain topic, perform a keyword search. A keyword search retrieves records that contain the search terms anywhere within a record. If you find a relevant title, look at the subject terms assigned to the record. Clicking on a subject term will take you to the records of all materials that have been assigned that subject.

An Introduction to International Law. Mark W. Janis. 4th ed.

Location: Reserve Call no. KZ3140 .J36 A35 2003

The Law of Nations: An Introduction to the International Law of Peace. J.L. Brierly. 6th ed.

Location: Reserve Call no. JX3225 .B75 1963

Principles of Public International Law. Ian Brownlie. 6th ed.

Location: Reserve Call no. KZ3225 .B76 A37 2003

Understanding International Law. Stephen C. McCaffrey.

Location: Reserve Call no. KZ3900 .M38 2006

C. Dictionaries and Encyclopedias

Dictionaries and encyclopedias provide the researcher with definitions of terms, summaries of cases and treaties, biographical information, and information on international organizations.

Dictionary of International and Comparative Law. James R. Fox. 3rd ed.
Location: Reference Call no. JX1226 .F69 2003

Encyclopedia of Public International Law. Published under the auspices of the Max Planck Institute for Comparative Public Law and International Law.
Location: Reserve JX1226 .E5 1992

Parry and Grant Encyclopaedic Dictionary of International Law. John Grant & J. Craig Barker. 2nd ed.
Location: Reference Call no. JX1226 .P34 2004

D. Periodical Articles

Journal and law review articles are a good source of background information on international law and of scholarly writings that may elucidate international legal norms. Researchers will find articles on international law in both foreign and domestic periodical literature. Articles can be located by searching under relevant terms in an index or by searching a full-text database such as HeinOnline, Westlaw or Lexis. In addition to the standard journal indexes (*Index to Legal Periodicals & Books*, *Index to Legal Periodicals Retrospective* and *LegalTrac*) the library offers two indexes that focus on international publications.

Index to Foreign Legal Periodicals.

This is an index to worldwide periodical literature covering all forms of foreign, non-Anglo-American law. The subjects covered include comparative law, international law, and transnational commercial law. Selected international law yearbooks are indexed as well. Coverage in the electronic version begins in 1985. The paper format covers the years 1960-2002.

Location: Reference Call no. K33 .I55, GoCat (keyword iflp) and the library homepage under databases.

Legal Journals Index.

This indexes legal periodicals published in the United Kingdom and Europe as well as journals covering topics pertaining to the laws of the European Community and its member states. International law yearbooks are indexed in this publication. Coverage begins in 1986.

Location: Available on Westlaw (LJI)

Westlaw and Lexis offer full-text searching of periodical literature. In Westlaw use the *Journals & Law Reviews* database at this path: All Databases > Law Reviews, Bar Journals & Legal Periodicals > Law Reviews & Bar Journals. In Lexis follow this path: Legal > Secondary Legal > Law Reviews & Journals.

III. Portal Sites

Portal sites aggregate and organize selected websites on a particular topic. They may include references to primary as well as secondary sources.

EISIL, Electronic Information System for International Law, was developed by the American Society of International Law and provides links to primary materials, authoritative web sites and research guides on international law.

Site: <http://www.asil.org/system/eisil.htm>

Foreign and International Law on the Internet. Cornell University Law Library.

Site: <http://library2.lawschool.cornell.edu/ForeignLawGuide>

Intute is a collection of websites managed by universities and organizations in the United Kingdom.

Site: <http://www.intute.ac.uk/>

IV. International Treaties

A treaty is a written agreement concluded between two or more states that is binding under international law.⁵ While treaties involving the United States can serve as a source of international law, this guide will focus on locating treaties that do not necessarily include the United States as a party. More detailed information on treaties to which the United States is a party can be found in the library research guide titled *United States Treaty Research*.

A treaty text may be located by using an index, a full-text database such as Westlaw or Lexis, or a website of an international organization that maintains a database of treaties related to the organization's purpose. Because there is no comprehensive collection of all the treaties of the world, the researcher will have to use a flexible approach to treaty research. If the treaty is between two countries that are members of the United Nations, it may be available in the *United Nations Treaty Series*. A treatise may include the full text or excerpts of treaties, or citations to treaties on a particular subject.⁶ Treaties may be published in topical collections such as *Tax Analysts Worldwide Tax Treaties*, available on Lexis. Topical research guides may contain references to print or electronic treaty collections on a subject.⁷ Some countries publish treaties in official gazettes or as part of a treaty series.⁸ An increasing number of governments make some of their treaties available on the internet.⁹

A number of actions may occur that affect a treaty's status. For example, a treaty may be amended or a new party may be added. Sometimes information on treaty status can be found in the same place that the treaty text is found. The status of multilateral treaties, for which the United Nations serves as a depositary, can be found in the *United Nations Treaty Collection* database under the

⁵ A treaty may be referred to by many different names such as agreement, protocol, pact, accord or covenant. In general, these different names have no legal significance in international law.

⁶ See, e.g., DAVID KENNETH LEARY, *INTERNATIONAL LAW AND THE GENETIC RESOURCES OF THE SEA* (2007). The author discusses treaties relevant to his subject, reprints excerpts of some treaties, and provides citations so that a researcher can locate the full text of a treaty.

⁷ The University of Washington School of Law, for example, publishes a research guide on international environmental law that contains information on locating treaties on that topic.

⁸ See *SOURCES OF STATE PRACTICE IN INTERNATIONAL LAW* (Ralph Gaebler & Maria Smolka-Day eds.). This work lists the treaty collections published by sixteen European or English-speaking countries.

⁹ The American Society of International Law publishes a research guide on treaties that lists websites of countries that make treaties available on the internet. The guide is available at <http://www.asil.org/resource/treaty1.htm#sect22>.

heading *Status of Multilateral Treaties Deposited with the Secretary-General*. International organizations that maintain treaty collections may also provide status information.¹⁰ Checking the status of a treaty is an important and necessary step in the treaty research process.

A. Treaty Indexes

Use an index to locate treaties in collections. An index may provide access to treaties by date, subject matter, country, or treaty number.

Multilateral Treaties: Index and Current Status. M.J. Bowman & D.J. Harris.

This is a very selective list, arranged chronologically with subject and keyword indexes covering multilateral treaties¹¹ from 1856-1994.

Location: Reference Call no. JX171 .M84

Multilateral Treaty Calendar, 1648-1995. Christian L. Wiktor.

This book consists of a chronological arrangement of over 6,000 multilateral treaties with a variety of access points. It is limited mainly to treaties in English and French.

Location: Reference Call no. KZ118 .W55 1998

United Nations Cumulative Treaty Index. Igor I. Kavass.

This index allows access to treaties registered with the U.N. by treaty number, date, country and subject. The most recent edition in the Gordon D. Schaber Library is 1999.

Location: Stack-1 Call no. JX170 .U56

United Nations Treaty Series Cumulative Index. (1946-)

One index volume covers approximately 50 volumes of the UNTS. This index is more current than the Kavass index listed above, but it is not as easy to use.

Location: Stack-1 Call no. JX170 .U55 T7

World Treaty Index. (1900-1980). Peter H. Rohn.

The goal is to index all treaties in the covered time period. About 44,000 treaties have been indexed.

Location: Reference Call no. JX171 .R63 1983

B. Treaty Texts

There are several major collections of treaties available in the Gordon D. Schaber Law Library. International organizations such as the World Intellectual Property Organization, the United Nations and Amnesty International may collect and provide access to treaties via their websites at no cost.

Consolidated Treaty Series. (1648-1918) Edited and annotated by Clive Parry.

Location: Stack-1 Call no. JX120 .C65

International Legal Materials. (1962-) American Society of International Law.

Location: Stack-1 Call no. K9 .N837, Hein Online, Lexis & Westlaw

¹⁰ See, e.g. Ecolex (<http://www.ecolex.org>), a website maintained by several environmental organizations that provides full text and status information of environmental treaties.

¹¹ A multilateral treaty involves three or more parties. A bilateral treaty involves two parties.

Treaties and International Agreements Online, published by Oceana, provides the full text of treaties, including many non-U.S. treaties, from 1783 and information on treaties back to the middle of the seventeenth century. Unratified treaties, proposed treaties and treaties no longer in force are also included.

Location: Access through the library catalog or database page.

Treaty Series: Publications of Treaties and International Engagements Registered with the Secretariat of the League. (League of Nations Treaty Series. 1920-1946)

Location: Stack-1 Call no. JX170 .L43

Treaty Series. (United Nations Treaty Series. 1946-)

Location: Stack-1 & Fiche Cab.A-Sec.06 Call no. JX170.U55 T7; Film Call no. JX170.U55;

Available in electronic format through the library database page and catalog. Also available at: <http://untreaty.un.org/English/access.asp>

Lexis provides access to treaties in its International Law library. Included under this topic are treaties from *International Legal Materials*, *Worldwide Tax Treaties* and *European Union Treaties*.

Westlaw's *Combined Treaties* database (CMB-TREATIES) provides full text access to treaties from the United Kingdom, European Union, Australia, the United States and other sources.

Westlaw also provides selected coverage of treaty texts that have appeared in *International Legal Materials* (ILM) since 1980.

V. Customary International Law

Customary international law derives from a general and consistent practice of states followed from a sense of legal obligation. To determine whether a practice has reached the level of customary international law, the researcher should look first to secondary sources and case law. If it cannot be determined from a survey of these sources that a practice constitutes customary law, it will be necessary to examine documents that exemplify state practice.¹² The following titles provide information on state practice. For locating evidence of state practice as reflected in a state's voting record in international organizations see Section VI of this guide.

A. General Sources

Sources of State Practice in International Law. Edited by Ralph Gaebler & Maria Smolka-Day. This book lists sources of treaties and diplomatic documents for 16 countries including the U.S. Location: Treatise Call no. KZ64 .S67 2002

B. Yearbooks and Digests

Yearbooks and digests may contain scholarly articles and book reviews as well as documents illustrative of state practice such as case law, legislation, treaties and statements from government officials. Use the library's online catalog to locate other digests and yearbooks. Perform a keyword search for the words "digest," "yearbook" or "year book," and a geographical designation. Hein Online, in its *Foreign & International Law Resources* database, provides access to many yearbooks, however the most recent volumes are not available in this database.

¹² See RESTATEMENT (THIRD) OF THE FOREIGN RELATIONS LAW OF THE UNITED STATES § 102, cmt. b (1987) (noting that the practice of states includes diplomatic acts and instructions, public measures, other government acts and official policy statements).

1. Digest of United States Practice

Digest of United States Practice in International Law. 1989-

This is the most current version. The library also owns prior versions. Selections from the *Digest* are available on the State Department website: <http://www.state.gov/s/l/c8183.htm>
Location: Stack-1 Call no. JX21 .D54 & Film Call no. JX237 .H334

2. Yearbooks of Other Countries and Regions

Yearbooks from other countries and regions are available in print in the Gordon D. Schaber Law Library and in PDF format on Hein Online. In the library catalog perform a keyword search for the term “yearbook” or “year book” and the name of the country or region.

VI. International Organizations

Intergovernmental organizations contribute to the formation of law in various ways. They may promote, create, interpret or enforce international law. Non-governmental organizations may promote treaties, publish studies, and consult with governments. To locate research guides on international organizations look at the websites listed in Section II above, search the law library catalog, or use a search engine.

A. Locating Records and Documents of International Organizations

Many organizations offer access to their records and other documents through their websites. The websites of the World Trade Organization, the European Union and the Council of Europe, for example, provide founding documents, treaties, and records of dispute settlements. For those searching for United Nations documents, the research guide from the United Nations Dag Hammarskjöld Library is a good starting point.

AccessUN.

This index provides information on locating United Nations documents, publications, official records, and treaties. Some full text documents are available. Available online (1966-) and as a CD (1946-).

Location: Access online via the library catalog or database page CD version is available in the ICC.

Council of Europe.

This website contains, among other things, case law from the European Court of Human Rights and the full text of treaties entered into by the 47 member states.

Site: <http://www.coe.int>

ODS (United Nations) Official Document System.

ODS provides free public access to the full text of official United Nations documentation back to 1993 for most types of documents.

Site: <http://documents.un.org/welcome.asp?language=E>

United Nations Documentation: Research Guide.

This is a research guide from the U.N.'s Dag Hammarskjöld Library.

Site: <http://www.un.org/Depts/dhl/resguide>

World Trade Organization.

The WTO website provides information on the organization, the text of virtually all unrestricted WTO documents, selected GATT documents, and records of dispute settlements.

Site: <http://www.wto.org>

VII. International Courts and Arbitral Tribunals

Judicial and arbitral decisions may be looked to as evidence of international law.¹³ Although tradition and modern court rules discount the role of *stare decisis* in international law, in practice international courts often rely on previous decisions for guidance. Court and arbitral decisions of international organizations may be available on the organization's website or in print. Lexis and Westlaw offer access to some court and arbitral decisions. Additional titles concerning international arbitration and adjudication may be found in the library catalog under the following subjects: "Arbitration, International – Cases" and "International law – Cases."

A. Websites of International Courts or Tribunals

European Court of Justice

Site: <http://curia.europa.eu>

European Court of Human Rights

Site: <http://www.echr.coe.int/echr>

Inter-American Court of Human Rights

Site: <http://www.corteidh.or.cr/index.cfm>

International Court of Justice

Site: <http://www.icj-cij.org>

International Criminal Court

Site: <http://www.icc-cpi.int>

B. Selective Listing of Case Reporters of International Courts and Tribunals

Annotated Leading Cases of International Criminal Tribunals.

This series contains opinions and documents from the criminal tribunals for Rwanda and the former Yugoslavia and the Special Court for Sierra Leone.

Location: Treatise Call no. KZ6310 .A56 1999

International Human Rights Reports.

Location: Stack-1 Call no. K3239.23 .I58

International Law Reports.

This reporter contains selected judicial and arbitral decisions from national and international courts and tribunals.

¹³ Section 103 of the *Restatement (Third) of the Foreign Relations of the United States* provides that judgments and opinions of international and national judicial and arbitral tribunals should be accorded substantial weight in determining whether a rule has become international law.

Location: Stack-1 Call no. JX68 .I55

Publications of the European Court of Human Rights. Series A. Judgments and Decisions.
Location: Stack-1 Call no. K3239.23 .E97 Ser.A

Reports of Cases Before the Court of Justice and the Court of First Instance. Court of Justice of the European Communities.
Location: Treatise Call no. KJE924.5 .C69

Reports of International Arbitral Awards. United Nations.
Location Stack-1 Call no. JX1991 .U55, Fiche Cab.A-Sec.10 & Hein Online

Reports of Judgments, Advisory Opinions and Orders. International Court of Justice.
Location: Stack-1 & Fiche Cab.A-Sec.07 Call no. JX1971.6 .A244

World Trade Organization Dispute Settlement Decisions: Bernan's Annotated Reporter.
Location: Stack-1 Call no. K4610 .W667 1998

C. Lexis and Westlaw

Lexis provides limited reporting of arbitration cases. The World Trade Organization Dispute Settlement database is available under the topic "International Trade." Cases of the International Court of Justice and European Court of Justice are available under the topic "International Law." Human rights cases from the European Court of Human Rights and *Butterworths Human Rights Cases* can be found under the topic "International Law."

Westlaw offers access to decisions of international dispute resolution organizations in the "International Organizations & Institutions" library and to international court cases in the "Court & Tribunal Cases" library. Both of these can be found by following this path: International/Worldwide Materials > Multi-National Materials.